OFFICER REPORT

Case No: 25/00927/S73 **Removal/Variation of Conditions**

Proposal: **Variation of conditions 3 (Demo old before new), 5 (Biodiversity Method Statement), 6 (Barn Owl Mitigation Strategy) and 10 (Bin Store) pursuant to 24/01996/FUL**

Location: **Rectory Farm Morborne Road Folksworth**

Applicant: **Mr And Mrs Chamberlain**

Grid Ref: **514504 290699**

DESCRIPTION OF SITE AND APPLICATION

This application relates to a 0.31ha site located approximately 1km north of the village of Folksworth. The site hosts a farmhouse with attached barns and detached agricultural buildings of varying size. The site is served by an existing access onto Morborne Rd.

This Section 73 (S73) application relates to application number 24/01996/FUL for the demolition of existing buildings and house to be replaced with a new self-build 4 bed dwelling.

This application seeks to vary conditions 3 (Demo old before new), 5 (Biodiversity Method Statement), 6 (Barn Owl Mitigation Strategy) and 10 (Bin Store) pursuant to 24/01996/FUL. The following amendments are proposed under this S73 application:

- Vary the trigger point associated with the demolition of Rectory Farm and associated outbuildings from 'prior to construction of the foundation slab of the new dwelling hereby permitted' to '6 months after first occupation of the new dwelling hereby permitted' of condition 3. The applicant seeks to amend the trigger point to be able to live in the dwelling while constructing the new dwelling.
- Conditional information submitted for conditions 5, 6 and 10 to vary the wording of the conditions to compliance conditions.

Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

NATIONAL GUIDANCE

The National Planning Policy Framework (12th December 2024) (NPPF 2024) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2024 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).'
The NPPF 2024 sets out the Government's planning policies for (amongst other things):
* delivering a sufficient supply of homes;
* building a strong, competitive economy;
* achieving well-designed, beautiful and safe places;
* conserving and enhancing the natural, built and historic environment.

Planning Practice Guidance and the National Design Guide are also relevant and material considerations.
For full details visit the government website: https://www.gov.uk

PLANNING POLICIES
Huntingdonshire's Local Plan to 2036 - adopted May 2019
*LP1: Amount of Development
*LP2: Strategy for Development
*LP4: Contributing to Infrastructure Delivery
*LP5: Flood Risk
*LP6: Waste Water Management
*LP10: The Countryside
*LP11: Design Context
*LP12: Design Implementation
*LP14: Amenity
*LP15: Surface Water
*LP16: Sustainable Travel
*LP17: Parking Provision and Vehicle Movement
*LP25: Housing Mix
*LP30: Biodiversity and Geodiversity
*LP31: Trees, Woodland, Hedges and Hedgerows
*LP33: Rural Buildings

Supplementary Planning Documents (SPD) and Guidance:
*Huntingdonshire Design Guide SPD (2017)
*Huntingdonshire Townscape and Landscape Assessment SPD (2022)
*Developer Contributions SPD (2011)
*Cambridgeshire Flood and Water SPD (2024)
*Huntingdonshire Tree Guidance Note 3
*Annual Monitoring Report, regarding housing land supply.

Local policies are viewable at https://www.huntingdonshire.gov.uk

RELEVANT PLANNING HISTORY
24/01996/FUL-Demolition of existing buildings and house to be replaced with a new self-build 4 bed dwelling- Permitted 16.01.2025

24/00094/FUL-Demolition of existing buildings and house to be replaced with a new 4 bed dwelling- Withdrawn 08.08.2024

CONSULTATIONS
CCC Highways - No objection. The Highway Authority has reviewed the planning application and noted the applicant's request to vary Condition 3, allowing demolition of the existing buildings up to six months after occupation of the new dwelling. This change would reduce available space on-site for construction and demolition vehicles, potentially impacting the Public Highway. To mitigate this, the Authority recommends that additional conditions be included in any planning permission granted, alongside those previously advised.

Urban Design Officer- No objection. Bin storage details are now included on revised Proposed Block Plan dwg JPT/CLN/0423/003 Rev F and comprises a timber-stained mono-pitch store (2290mm L x 910mm W and 1213mm H). The store would be concealed from Morborne Road, behind the existing hedgerow. Urban Design raise no objections.

Environmental Health Officer-No objection to the variations proposed.

REPRESENTATIONS
No third-party representations received in support or objection received at the time of determination.

SUMMARY OF ISSUES

Planning Practice Guidance (PPG) recognises that new issues may arise with granted planning permission, which may require the modification to approved proposals. The guidance advises that a new planning application will be required if modifications are fundamental or substantial. Where fewer substantial changes are proposed a non-material amendment application can be submitted. Alternatively, a Section 73 application, where there is a relevant condition that can be varied, can be submitted to address modifications to granted permission.

The PPG advises that "where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission unless they have already been discharged".

The main issues to be considered in the determination of this application are as follows: -
*Principle of development
*Design and Visual Amenity
*Biodiversity and Ecology
*Other Matters

*Principle of Development
The proposed amendments are set out above and all other parts of the development remain unchanged and therefore the previous planning permissions remain relevant and unamended.

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. In this instance, the application seeks to vary the trigger point for demolition as detailed in condition 3 and pursuant to 24/01996/FUL. Furthermore, conditional information associated with Conditions 5 (Biodiversity Method Statement), 6 (Barn Owl Mitigation Strategy) and 10 (Bin Store) of 24/01996/FUL has been submitted and this application also seeks to vary these conditions to compliance conditions.

It should be noted that the principle of development has been established and will not be considered as part of this application. In determining an application under this section, Officers have regard to the development plan and all other material considerations.

*Design and Visual Amenity
This Section 73 application includes updated bin storage details to address Condition 10 of planning permission 24/01996/FUL. The revised Proposed Block Plan (drawing JPT/CLN/0423/003 Rev F) shows a timber-stained mono-pitch bin store measuring 2290mm (L) x 910mm (W) x 1213mm (H), positioned discreetly behind the existing hedgerow to remain hidden from Morborne Road. The Urban Design Officer has reviewed the submission and raised no objection. If this application is approved, Condition 10 of 24/01996/FUL shall be carried forward as a compliance condition.

*Biodiversity and Ecology
Conditions 5 (Biodiversity Method Statement) of 24/01996/FUL sought the following details prior to slab level:
"No development above slab level shall take place until a Biodiversity Method Statement which provides details of how the recommendations contained in table 6 of the submitted Preliminary Ecological Appraisal (by Arbtech and dated 10/01/2024) will be carried out has been submitted to and approved in writing by the Local Planning Authority. The details shall include but not be limited to; specification, location, timing, an implementation programme, maintenance, and monitoring. The development shall be carried out in accordance with the approved details."

The application is accompanied with a Biodiversity Method Statement by Lingna Consultancy and dated the 14/03/2025.

The document accords with the wording of the condition and details the specification, location, timing, an implementation programme, maintenance, and monitoring of the biodiversity mitigation and enhancement measures detailed in the PEA. The submitted details are considered sufficient to discharge the condition. The submitted details ensure the conservation and enhancement of on-site biodiversity in accordance with Policy LP30 of the Huntingdonshire Local Plan to 2036. If this application is approved, Condition 5 of 24/01996/FUL shall be carried forward as a compliance condition.

Condition 6 (Barn Owl Mitigation Strategy) of 24/01996/FUL sought the following details prior to slab level:
"No development above slab level shall take place until a Barn Owl Mitigation Strategy which provides detail on measures to implemented during and post development following an inspection of building (B1) for evidence of nesting owls. Barn Owl Mitigation Strategy shall detail of how the recommendations pursuant to birds contained in table 6 of the submitted Preliminary Ecological Appraisal (by Arbtech and dated 10/01/2024) will be carried out has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details."

This application is accompanied with a Barn Owl Mitigation Strategy by Lingna Consultancy and dated the 14/03/2025.

Mitigation measures for nesting birds and barn owls are detailed in the report and include the following: all works to buildings will be scheduled outside the nesting season (March to August). If this is not possible, a qualified ecologist must conduct a pre-works survey for breeding birds, and if active nests are found, works will be paused until chicks have fledged or the nest is inactive. Building B1 must be inspected prior to works to confirm if it remains a feeding roost for barn owls. During construction, lighting must be directed away from nest boxes and buildings, and any permanent lighting must also avoid illuminating nesting sites. Additional mitigation measures outlined in the report include the provision of nesting opportunities and the retention of areas of unmanaged grassland to support connectivity with adjacent habitats.

The submitted details accord with the wording of the condition and ensure the conservation and enhancement of on-site biodiversity in accordance with Policy LP30 of the Huntingdonshire Local Plan to 2036. If this application is approved, Condition 6 of 24/01996/FUL shall be carried forward as a compliance condition.

*Other Matters
This application seeks to vary the trigger point associated with the demolition of Rectory Farm and associated outbuildings from 'prior to construction of the foundation slab of the new dwelling hereby permitted', of condition 3 imposed on 24/01996/FUL, to '6 months after first occupation of the new dwelling hereby permitted'. The applicant seeks to amend the trigger point to be able to live in the dwelling while constructing the new dwelling.

Condition 3 of planning permission 24/01996/FUL was imposed to ensure clarity and to confirm that the development would be carried out in accordance with the submitted and approved details. Its inclusion was based on the proposal's compliance with Local Plan Policies LP10 and LP33, which formed the basis of the application's acceptability.

The applicant proposes the following wording for the condition:
"The existing dwelling known as Rectory Farm and associated outbuildings indicated on plan Site Location, Existing Floor and Elevation Plans (JPT/CLN/0423/001 Rev B) received by the Local Planning Authority 10/01/2025 shall be demolished in its entirety 6 months after first occupation of the new dwelling hereby permitted."

The recommended trigger point is not considered to alter the reasoning for implementing the original condition.

During the course of the application, the Local Highway Authority (LHA) reviewed the proposal and noted the applicant's request to vary Condition 3, allowing demolition of the existing buildings up to six months after occupation of the new dwelling. This amendment would reduce the available space on-site for construction and demolition vehicles, potentially affecting the Public Highway. To mitigate this impact, the LHA recommends that additional conditions be attached to any planning permission granted, in addition to those previously advised.

In light of the above, the alteration sought to the wording of condition 3 is therefore considered acceptable, subject to the imposition of additional conditions recommended by the LHA.

Section 73 Planning Application
If approved, an application under Section 73 of the Town and Country Planning Act 1990, in effect issues a new, separate, planning permission. Subsequently, the conditions applied to the previous permissions to which this application relates must be reviewed against the conditions test set out in paragraph 57 of the NPPF 2024. Should the conditions pass the test they shall be included on any approval of this application.

The wording of condition 1 (Time Limit) imposed on 24/01996/FUL will be amended so to not extend the time within which the works must be started in accordance with Section 91 of the Town and Country Planning Act 1990.

The trigger point associated with the demolition of Rectory Farm and associated outbuildings from 'prior to construction of the foundation slab of the new dwelling hereby permitted', of condition 3 imposed on 24/01996/FUL, shall be amended to '6 months after first occupation of the new dwelling hereby permitted'.

Conditions 5 (Biodiversity Method Statement), 6 (Barn Owl Mitigation Strategy) and 10 (Bin Store) of 24/01996/FUL shall be amended to compliance conditions as detailed above.

Conditions C2 (Approved Plans), C4 (Self-Build Dwelling), C7 (External Lighting), C8 (Accessible and Adaptable Dwellings), C9 (Water efficiency) imposed on 24/01996/FUL shall be replicated on this application under section 73 of the Town and Country Planning Act 1990.

The amendment reduces available on-site space for construction and demolition vehicles. In response, and based on the Local Highway Authority's comments, additional conditions are recommended to mitigate potential impacts on the Public Highway.

*Conclusion
Having regard to national and local planning policies, and having taken all relevant material considerations into account, it is recommended the application should be approved for the proposed amendments. It is recommended that the wording of all conditions on the previous permission (24/01996/FUL) be replicated on this application under section 73 of the Town and Country Planning Act 1990, excluding conditions 3, 5, 6 and 10 and those detailed above, which shall be amended as outlined above.

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CONTACT OFFICER:
Enquiries about this report to **Charlotte Dew**