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Dear West Berkshire Council

Land Opposite Nightingale Farm, Wantage Road, Leckhampstead, Newbury (the Site)

Planning Application (ref: 23/02913/FULMAJ) (the Planning Application)

We act for John Duffield, the freehold owner of property adjacent to the Site. We also act for Marcham Farms Limited, which farms the land north and east of the site. We are writing on behalf of our clients to object to the Planning Application made by CYO Seeds (the **Applicant**) for the development of agricultural barns to accommodate workshop, office and associated vehicle storage for agricultural seed proceeding business, including agricultural worker's dwelling and seasonal accommodation, solar panels and external lighting (the **Development**). We are writing to request that the Council refuse to grant planning permission for the Development in light of our objection.

Our objection is made on the following grounds:

1. Inadequacy and deficiency of information in the Planning Application documents;
2. Failure to conserve and enhance the AONB; and
3. Lack of justification of the need for the proposals.

The relevant legislation and policy is set out in Schedule 1 to this letter. Where reference is made to legislation or policy, please refer to Schedule 1 for the detail.

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The Development falls within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). It is the primary responsibility of the Council as the Local Planning Authority to comply with their statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of the AONB¹.

The National Planning Policy Framework (NPPF) is a material consideration that must be taken into account when deciding planning applications for planning permissions. With regards to applications within an AONB², great weight should be given to conserving and enhancing the landscape and scenic beauty in AONB. The scale and extent of development within these areas should be limited, regardless of whether the development proposed is considered to be ‘major development’³. The consideration of applications for development should include an assessment of the need for the development, the scope of developing outside the AONB or meeting the need for it in some other way, and any detrimental effect on the environment, landscape and any recreational opportunities.⁴

The Planning Application fails to demonstrate that the proposals are in line with planning policy, will conserve and enhance the AONB, and will successfully mitigate any negative effects arising from issues such as light pollution, views and traffic impacts, all of which are detrimental to the tranquillity of the AONB. The lack of information in the planning documents means that the Council are clearly unable to properly, fairly and robustly assess and determine the Planning Application in accordance with the requirements of the NPPF and local plan policy, and in light of their duty to seek to further the purpose of conserving and enhancing the AONB. Given that the Planning Application cannot be properly determined on the basis of the information provided, **we respectfully request that, initially, additional information is provided by the Applicant and a further consultation opportunity is subsequently provided.** Our requests are set out in more detail in the Conclusion section.

In any event, the proposed Development is unacceptable development for its location. The Site is situated in the ‘Downland with Woodland’ landscape of the AONB, a landscape type that remains “*a deeply rural landscape, with a strong sense of peacefulness and tranquillity*”. As previous nearby planning refusals and unsuccessful appeals have demonstrated, proposals of this scale and siting would cause harm to the character and appearance of the rural area and the AONB and **should be refused in order to ensure the conservation and enhancement of the AONB.**

1. INADEQUACY AND DEFICIENCY OF INFORMATION IN PLANNING APPLICATION

1.1 Lighting

- 1.1.1 The long term goals for AONB, and in particular the Downland with Woodland landscape area in which the Site is located, include preserving the sense of remoteness unaffected by light pollution, fundamental to the enjoyment and appreciation of the

¹ Section 85(1A) of the Countryside and Rights of Way Act 2000 as inserted by section 245 of the Levelling Up and Regeneration Act 2023.

² See paragraph 182 of the NPPF.

³ *Monkhill Ltd v Secretary of State for Housing, Communities and Local Government [2019] EWHC 1993 (Admin)*

⁴ See paragraph 183 of the NPPF.

landscape. However, there is a critical lack of information regarding lighting, both in terms of what is proposed, and its impact on the AONB:

- 1.1.2 The NPPF requires local planning authorities to limit the impact of light pollution when making decisions. Additionally, Policy DE08 of the AONB Management Plan states that applicants must avoid and reduce light pollution that threatens the integrity of the dark night skies over the North Wessex Downs.
- 1.1.3 Part 5 of the West Berkshire Quality Design Supplementary Planning Document outlines what each application should be accompanied by, including the following:
 - (a) a lighting appraisal examining alternatives, along with the types and shapes of the lighting to be used. It is beneficial if the Council are advised of the nature of the use of the lighting proposed, e.g. the likely users, the proposed frequency of use, and the hours of function in both summer and winter;
 - (b) for each light, the upward waste light ratio and beam angle, which would normally be expected to be kept below 70 degrees. For each lighting column/bracket it would be beneficial to identify its colour and show its height; and
 - (c) the location of the lighting shown on the site plan to reveal the area to be lit relative to the surrounding area.

This level of detail is not provided for in the application documents.

- 1.1.4 As noted in the application documents, the detail of the lighting scheme is not finalised. Very little detail is provided on lighting. The Planning Statement briefly states that no rooflights are proposed, and that most of the visible facades have been designed to have minimal to no glazing to reduce light spill.
- 1.1.5 No further details of the proposed external lighting is provided, and neither is there any information as to the operational hours of lighting (e.g. whether or not there will be external lighting on 24 hours of the day during summer months). We are aware that the Applicant is in discussions with the Council in relation to a restriction on the use of the external lighting, requiring it to be turned off by 10pm. In the event that planning permission is granted, we would strongly suggest that the permission is subject to an appropriate condition limiting the use of the external lighting to stricter time limits; 10pm is far too late, particularly in the winter months, and so the time limits in the condition will need to be nuanced to at least when the sun sets throughout the year.
- 1.1.6 There is therefore insufficient evidence to properly assess whether or not the Development will have an unacceptable impact due to light pollution. The Planning Application cannot, therefore, be properly considered in light of the requirements in the NPPF, local plan and AONB Management Plan. This is of particular importance given

the situation of the Development within the AONB, and in particular within a part of the AONB in which clear skies and tranquillity is especially protected.

- 1.1.7 This lack of information means that the Planning Applications fails to demonstrate that the development is in compliance with the policy requirements and ultimately the development plan. If the external lighting is still to be finalised, and there is no clarity as to the actual impact of light pollution on the AONB, then the Council cannot properly determine whether or not the Planning Application is in accordance with the development plan and therefore acceptable.

1.2 Design

- 1.2.1 It is unclear from the application documents both what (1) the proposed design of the Development is anticipated to be, subject to a few drawings, and (2) the process of the design evolution to get to the chosen design was, which clearly takes into account the constraints and limitations of designing a development situated in the AONB.
- 1.2.2 Policy DE02 of the AONB Management Plan requires that high standards of design are encouraged, including comprehensive landscaping and traditional building styles that respect historic settlement patterns and the distinctive character of the AONB. Policy CS24 of the Council's Core Strategy similarly requires new development to demonstrate high quality design that respects and enhances the character and appearance of the area. Good design also relates to the functionality of the development, and new developments must contribute positively to local distinctiveness and sense of place.
- 1.2.3 The planning application documents, including the Design and Access Statement, fails to sufficiently demonstrate that 'good design', in accordance with the requirements of the development plan, has been achieved through a sensitive and robust assessment of options and alternatives. In fact, the Design and Access Statement states that "*the overriding aim is to create a new base of operations for the agricultural company that will increase operational efficiency*", rather than ensure a design proposal via a robust design development process that respects and enhances the character and appearance of the area. The design proposals fail to properly and sensitively consider the requirements of designing within an AONB and fail to consider the key characteristics of the area to which they should be sympathetic.
- 1.2.4 The Design and Access Statement sets out that analysis of agricultural buildings in the local vicinity was carried out, and some images are provided, but it ultimately fails to properly consider the AONB Landscape Character Assessment and AONB Management Plan, the constraints and sensitivities of the surrounding area, and establish how the design proposals have been designed accordingly. There are also no images or photographs provided in the Design and Access Statement to show how the Development is anticipated to look in its wider context. It is therefore extremely difficult

for the Council to accurately envisage how the Development will look and fit in to the sensitive landscape and surrounding area.

- 1.2.5 The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires Design and Access Statements to (among other things), explain the design principle and concepts that have been applied to the development and demonstrate the steps taken to appraise the context of the development⁵. The Design and Access Statement provided with the application documents fails to properly demonstrate the design appraisal in the context of the development and, as such, fails to comply with the requirements in the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 1.2.6 Given this lack of detail, and lack of clarity as to how the proposals have been designed to respect and enhance the character and appearance of the area, an area that has been characterised as a “*quiet rural landscape*” with vernacular building materials that include “*red brick and clay tile with thatch and weatherboard*”⁶, the proposals cannot be properly scrutinised as to whether or not they constitute ‘good design’ in accordance with the development plan and one which respects and enhances the area in which they are situated. As outlined above, the Council cannot, therefore, accurately assess whether or not the Planning Application should be granted.

1.3 Impact on views

- 1.3.1 As outlined in the Landscape and Visual Impact Assessment, there will be substantial changes in the grassland, resulting in significant changes to the site’s landscape, as well as impacts on views from neighbouring public rights of way and transient views from Wantage Road. The proposals are for buildings of a much greater scale than the current derelict barn, and consequently would be visible in the landscape from wider viewpoints.
- 1.3.2 As mentioned above, the Site is situated in the Downland with Woodland landscape type, within the Brightwalton Downs character area. The North Wessex Downs Landscape Character Assessment states that the one of the key management requirements of the Downland with Woodland landscape type is to conserve and enhance the “*downland summits, strong skylines and open panoramic views*”⁷. In relation to the Brightwalton Downs specifically, a key issue is “*localised visual intrusions...on the open summits and skylines, which would impact on the secluded rural character*”⁸, with one of the key features to be conserved the “*open downland*

⁵ Section 9(3) Town and Country Planning (Development Management Procedure) (England) Order 2015

⁶ See pg. 93 of the North Wessex Downs Landscape Character Assessment – Key Characteristics of the Brightwalton Downs

⁷ Paragraph 9.16, pg. 88 of the North Wessex Downs Landscape Character Assessment

⁸ Paragraph 9.27, pg. 94 of the North Wessex Downs Landscape Character Assessment

summits and views”⁹. As required by Policy CS14 of the Council’s Core Strategy, any new development must contribute positively to local distinctiveness and sense of place.

- 1.3.3 The planning application documents conclude that the changes to views as a result of the Development would be almost entirely screened, subject to a few ‘public glimpses’ from nearby public rights of way and transient views from Wantage Road, which will be reduced by screening through proposed planting. However, nowhere in the planning application documents are there any images or photographs showing this proposed screening in situ, and precisely how it will sufficiently and adequately screen the development from the views identified, particularly those views from the numerous public rights of way in the vicinity of the Property from which members of the public expect to enjoy the ‘openness’ and ‘tranquillity’ of the AONB.
- 1.3.4 The conclusions as to the construction and operational effects of the Development on the landscape are insufficient and fail to be substantiated with robust evidence. The LVIA claims that the use of planted screening will ensure that the Development fits in with the surrounding landscape and as such successfully mitigates the landscape effects. This is not demonstrated at all with any images or photographs, let alone verified materials, and so it is impossible to determine whether or not such mitigation is adequate and successful in its aims.
- 1.4 No robust evidence is provided to substantiate the claims from which the conclusions are drawn, namely that the limited view of the development, the short period of exposure to users of Wantage Road, the high level of planting proposed, and the strengthening of the existing boundaries mean that the effects on the rural character would be minimal.
- 1.5 The lack of the above information means that the Planning Application cannot be properly assessed. This is even more so the case given that the Development is within the AONB, and that the local planning authority is under a statutory duty to seek to further the purpose of the conservation and enhancement of the AONB. Without this information and images, this cannot be properly and adequately carried out, and the statutory duty on the Council to seek the preservation and enhancement of the AONB be complied with.
- 2. FAILURE TO CONSERVE AND ENHANCE THE AONB**
- 2.1 As outlined at the outset, the Council is under a statutory duty to seek to further the purpose of conserving and enhancing the natural beauty of the AONB. The NPPF requires great weight to be given to conserving and enhancing the AONB, and the consideration of applications should include an assessment of any detrimental effect on the environment, landscape and recreational opportunities.

⁹ Paragraph 9.28, pg. 95 of the North Wessex Downs Landscape Character Assessment

- 2.2 The key issues and management goals for the AONB, in particular, the landscape type and character area in which the Site is situated, is set out below. Whilst limited information is provided as outlined in section 1 above, it is clear that the proposals are of an increased scale and bulk to the derelict farm buildings already on the site, that there will be additional views of the Development from across the open landscape, including from nearby public rights of way, and that there will be an increase, albeit an unknown one, on light pollution in an area that is specifically characterised as having dark night skies.
- 2.3 Previous planning decisions, summarised at section 2.6 and Schedule 1, also provide further evidence to support the view that the proposals are not appropriate, nor appropriately justified, as being suitable for their location. The impacts as a result of light pollution, impact on views across the landscape, traffic impacts, the scale and bulk of the proposals, the introduction of residential accommodation and industrial processes do not preserve the sense of remoteness, tranquillity, and dark night skies fundamental to the area, and do not respond positively to the local context, landscape features and components of natural beauty¹⁰.
- 2.4 **The North Wessex Downs AONB Management Plan (2019-2024) and the North Wessex Downs Landscape Character Assessment (2002)**
- 2.4.1 The Management Plan formulates the local planning authority's policy for the management of the AONB, with its purpose to consider the conservation and enhancement of the natural beauty of the AONB with continuity and consistency over time. The AONB Management Plan is an important consideration in the preparation of the Council's Core Strategy and a material consideration to be considered when determining planning applications. It is driven by the primary purpose of the AONB designation – conservation and enhancement of natural beauty.
- 2.4.2 As is made clear in the AONB Management Plan, the *“sense of remoteness and tranquillity is fundamental to the character of the North Wessex Downs AONB. It is central to the enjoyment and appreciation of the landscape. Dark night skies in the AONB contrast dramatically with surrounding urban areas. The absence of artificial light allows the full majesty of the night skies and stars to be appreciated unimpeded by the night time glow of our major urban areas”*¹¹ and that these *“special perceptual qualities are fragile and under threat from a variety of factors”*¹².
- 2.4.3 It also states that concerns raised by residents and users of the landscape over loss of these special perceptual qualities will inform decisions on particular development proposals. New uses or new developments that individually or cumulatively result in a

¹⁰ As is required by Area Delivery Plan Policy 5 of the Council's Core Strategy

¹¹ See paragraph 7.15 of the AONB Management Plan

¹² See paragraph 7.16 of the AONB Management Plan

material increase in lighting, noise and / or activity into the countryside are likely to be opposed.¹³

- 2.4.4 The long term goals in the Management Plan are that the AONB will be a place:
- (a) where land use, management and development are driven by an overarching principle of stewardship of the protected landscape;
 - (b) where new buildings and other forms of development display high quality design worthy of one of England's designated finest landscapes;
 - (c) where a sense of remoteness and tranquillity predominates, and where vast night skies can thrill the eye, unaffected by light pollution; where these special qualities are recognised in development decisions within the setting of the region, so that the natural beauty of the AONB is protected; and
 - (d) where development responds to genuine local need and where new buildings show continuity with the past, respecting and complementing the beauty of the landscape and the character of local vernacular building materials and styles.
- 2.4.5 The site falls within the 'Downland with Woodland' area of the AONB. These are generally very sparsely populated and, as outlined in the Landscape Character Assessment, the overall management objective is to conserve and enhance the secluded rural character of the landscape type and its special qualities of peacefulness and tranquillity. Key issues for this landscape type include¹⁴:
- (a) New large free-standing dwellings as replacement dwellings in the open countryside;
 - (b) The **loss of rural character** through suburbanising influences from new development (new fencing, **lighting**, signage, **parking areas**, paved footpaths, **loss of native hedgerows and creation of new garden areas**);
 - (c) Impact on **dark skies and tranquillity** due to high powered **external lighting** especially where poorly directed or in an exposed location (not usually subject to planning control);
 - (d) Substantial new farm buildings where unjustified, poorly designed or located in exposed locations;
 - (e) Development that results in a material **loss of tranquillity and / or impact on dark night skies** within the North Wessex Downs or its setting; and

¹³ See paragraph 7.16 of the AONB Management Plan

¹⁴ Paragraph 7.37, pg. 79 of the AONB Management Plan

- (f) Measures which have an urbanising effect on AONB character and are thus generally inappropriate include lighting that allows spillage or glare.

2.4.6 The site is further characterised as being within the Brightwalton Downs. As outlined in the Landscape Character Assessment, key issues at Brightwalton Downs include **increased traffic** on the narrow rural lane network making them dangerous for walking and riding and loss of **tranquillity**¹⁵.

2.4.7 The Management Plan also states that when preparing planning applications, those responsible should make reference to:

- (a) The AONB Management Plan
- (b) Relevant AONB position statements and guidance notes
- (c) The North Wessex Downs Integrated Landscape Character Assessment
- (d) The Historic Landscape Character Assessment

2.5 Traffic impacts

2.5.1 Policy DE09 of the AONB Management Plan states that development that would substantially increase traffic volume in sensitive areas should be resisted. Policy CS13 of the Core Strategy sets out requirements for applications that generate a transport impact (outlined in paragraph 2.2.3 above). Road safety is a key consideration for all development.

2.5.2 The NPPF also requires development to be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, and to ensure that safe and suitable access to the site can be achieved for all users. Any significant impacts from the development on the transport networks or on highway safety should be mitigated, and that development should be refused on highway grounds if there would be an unacceptable impact on highway safety.

2.5.3 As outlined in the Planning Application documents, the Applicant's business operates a mobile service which sees vehicles travelling from site to farms to clean and process harvested crops. Eight (8) vehicles operating during the two seed cleaning seasons (Jan-March and Jul-Oct), during which period the vehicles leave the site in the morning and return in the evening. There is no further detail as to these timings, or how early or late these increased traffic movements will be.

2.5.4 Wantage Road is a countryside road which, as noted in the application documents, generally has fast-moving traffic. A Transport Statement is provided with the Planning Application, which notes that the average speeds are around 60mph, and HGV traffic currently comprises on average less than 1% of the total traffic flow passing the site. 15

¹⁵ Paragraph 9.16, pg. 87 of the North Wessex Downs Landscape Character Assessment

accidents were recorded in the 5-year period to May 2023. The Development will add an additional 28 vehicles per day onto the current daily traffic flow. A proportion of this new traffic (around 10%) will be HGV traffic or traffic of an agricultural nature. The Statement also notes that the seasonal worker who will reside on the Development will not have access to a car and trips off-site will need to be arranged with the on-site manager.

- 2.5.5 The Transport Statement is brief and does not cover any mitigation proposed. The assessment of the impact on highway safety is limited, and focuses only on past accidents that have occurred, rather than the increase in probability of any future accidents given the increase in traffic and HGV vehicles on a fast-moving road. The on-site seasonal workers will not have car access, and the limited public transport in the vicinity of the Site means that they will not have easy access to leave the Site for any basic needs i.e. food shopping. No timings are given for the likely traffic movements, and when the HGV movements are proposed to be travelling to and from the site.
- 2.5.6 The fact that the Site is within an AONB is not referred to in the Transport Statement, and it is not demonstrated how the traffic impacts have regard to the remoteness and tranquillity of the area.
- 2.5.7 The Planning Application is therefore not in compliance with Policy DE09 of the AONB Management Plan and Policy CS13 of the Core Strategy and does not ensure the conservation and enhancement of the AONB.

2.6 Previous planning decisions

- 2.6.1 There have been a number of planning applications in the vicinity of the site of the proposed Development which have been refused on grounds similar and akin to those that are raised here, namely that they fail to conserve and enhance the AONB.
- 2.6.2 Planning permission¹⁶ was sought on land to the immediate west of the proposed Development for a replacement dwelling with one significantly largely, with a detached garage and outbuilding. The scale of the development is similar to that proposed in the Planning Application. This was refused on the basis that the increased height and design will result in an oversized dwelling in a visually prominent position, and would fail to ensure an appropriate form of development at a “*sensitive rural location within the AONB*”. This would be “*visually harmful to the character and local distinctiveness of this rural area the natural beauty of the North Wessex Downs AONB*”. The redline plan is included at Figure 1 below.

¹⁶ [23/00929/FUL - replacement dwelling](#)



Figure 1

- 2.6.3 Planning permission¹⁷ was sought for the construction of a replacement dwelling, driveway and associated landscaping on land opposite the Site. This was refused on the basis that the site is within open countryside in the AONB, and the replacement dwelling would, by virtue of its siting, scale and form, harm the visual character of the countryside and the North Wessex Downs AONB. The development would be situated on agricultural land which gradually increases in height further away from the roadside and as such would be visible in the landscape from wider viewpoints. It was also refused on the basis that the development represents a disproportionate increase in size compared to the existing dwelling and *“fails to preserve or enhance the prevailing pattern of development in this part of the AONB”*.

¹⁷ [19/01837/FULD - construction of replacement dwelling, driveway and associated landscaping](#)

2.6.4 This refusal was appealed, and the appeal subsequently failed. The Inspector in the appeal noted that one of the characteristics of this area of the AONB was its openness. It was held that the introduction of residential development and associated activity into this part of the site would **erode the existing open aspect and encroach onto the countryside**. Although the Inspector did note that consideration had been made to the overall design, the proposed materials and the provision of additional landscaping, it was considered that although they would together serve to offset some of the impact, the overall scale, bulk and massive would be overly prominent and on balance the proposal would fail to conserve the landscape and scenic beauty of the AONB. It was concluded that the development would harm the character and appearance of the area and therefore fail to preserve the natural beauty of the AONB. The redline plan for this application is included at Figure 2 below.



Figure 2

- 2.7 A summary of other relevant appeal decisions is included at Schedule 2 to this letter.
- 2.8 The protection of the tranquillity of the AONB is clearly paramount. This overriding aim, coupled with the lack of conclusive evidence on light pollution, good design, and impact on views provided in the planning application documents, means that the Planning Application cannot be properly considered in light of Policy DE07, Policy DE08, Policy LA06, Policy DE01 and Policy DE02 of the AONB Management Plan, as well as Area Delivery Plan Policy 5, Policy CS14 and Policy CS19 of the Council’s Core Strategy, and therefore cannot be approved whilst complying with the duty of the Council to seek to further the purposes of conserving and enhancing the natural beauty of the area.

3. NEED NOT JUSTIFIED

3.1 Need for worker's dwelling and seasonal accommodation is not justified

- 3.1.1 The need for the proposals has not been adequately justified. There is insufficient information about the need for on-site worker accommodation, as is required by Policy C5 of the Housing Site Allocations Development Plan Document.
- 3.1.2 The Development consists of an agricultural worker dwelling and seasonal worker accommodation. It is stated in the Planning Statement that the agricultural worker accommodation and seasonal worker accommodation is ancillary to the main agricultural use of the site, and that the seasonal worker accommodation will only be occupied from January to March and July to October, and is therefore not a dwelling house under the Use Class Order. There has been no further assessment to justify that the worker's dwelling and seasonal accommodation is ancillary to the primary agricultural use; the courts have held that there must be a functional tie to the primary use and the test is whether the use is 'ordinarily incidental' to the primary use, to be applied restrictively. Without more information it is not possible to establish whether workers' accommodation represents ordinary and reasonable practice or what is normally done in connection with the main use, and whether the scale of accommodation proposed goes beyond what can be considered to be ancillary. This analysis has not been carried out. This is an important point that goes to whether what has been applied for is correct.
- 3.1.3 The Planning Statement contains a brief section on the accommodation proposed (section 4.3.1) but does not state anywhere in this section why it is essential to the use of the land. Policy C5 of the Housing Site Allocations DPD requires detailed evidence to be submitted to show the relationship of the proposed housing and the rural enterprise to demonstrate why the accommodation is required for work at that location.
- 3.1.4 In accordance with Policy C5, housing to accommodate rural workers will only be permitted where the following is demonstrated:
- (a) It is **proven as essential** to the continuing use of land and buildings for agriculture, forestry or a rural enterprise.
 - (b) **Detailed evidence is submitted** showing the relationship between the proposed housing and the existing or proposed rural enterprise and **demonstrating why the housing is required** for full time work in that location.
 - (c) It is **demonstrated that there are no suitable alternative dwellings** that could be made available in that location to meet the need. This includes those being used as tourist or temporary accommodation or existing buildings suitable for residential conversion.

- (d) It must be **shown why the housing need cannot be met by existing or proposed provision** within existing settlement boundaries.
- (e) The financial viability of the business is demonstrated to justify temporary or permanent accommodation.
- (f) The size, location and nature of the proposed dwelling is **commensurate with the needs of the enterprise**; and well related to existing farm buildings or associated dwellings.
- (g) The development has **no adverse impact on the rural character** and heritage assets of the area and its setting within the wider landscape. **Where it affects the AONB the impact on its special qualities and natural beauty of the landscape will be the overriding consideration.**

3.1.5 The supporting text of the policy clearly confirms that the Council’s preference for rural workers’ accommodation is for such provision to be located in nearby towns or villages or in existing properties near to their place of work, which would avoid the need for new dwellings in the countryside, and that being employed in a rural location is not sufficient to qualify as a rural worker with an essential housing need. It is further emphasised that suitable alternative buildings that should be considered before creating a new dwelling unit are existing vacant residential buildings or buildings suitable for conversion to residential use.

3.1.6 The Planning Statement states that the current staff live close to the existing site, and one of the justifications for choosing the current site was that “*the proposed site needs to be within a few miles [to the existing site] to ensure the safety and happiness of staff members*”. This is at odds with the proposals to have onsite worker accommodation.

3.1.7 Nowhere in the planning application documents does it consider any alternative options that could be made available to meet the need for worker accommodation, again a requirement of Policy C5. The policy is also clear that where the proposal will affect the AONB, the impact on its special qualities and natural beauty of the landscape will be the overriding interest.

3.2 **Lack of consideration of alternative sites**

3.2.1 With regards to alternative options, the Planning Statement confirms that an appraisal of sites was carried out. The sites were reviewed on the basis of a list of requirements and practicalities for the operation of the business. These included the following:

- (a) Geographical location: the site must be within a short distance from the A34 and the access road must be suitable for mobile seed processors;

- (b) Access for staff: the current staff live close to the existing site, and the proposed site therefore needs to be within a few miles to ensure the employees' safety and happiness;
- (c) Layout and practicalities: allow for opportunities to allow processing vehicles to manoeuvre the site and provide renewable energy generation and storage on site;
- (d) Representation / client-facing: be in an agricultural setting rather than in an industrial unit.

3.2.2 None of the requirements or considerations relate to the area being within an AONB, or potential effects on the landscape and character of the area.

3.2.3 It is stated that the Site was chosen because it fits the requirements outlined above. No further detail is provided as to exactly what other sites were assessed, how these failed to fit the requirements, and why the chosen site was deemed the most suitable in light of the requirements and the alternative options assessed.

3.3 The Planning Application is therefore not in compliance with Policy C5 of the Housing Site Allocations Development Plan Document and consequently does not ensure the conservation and enhancement of the AONB.

4. CONCLUSION

4.1 As outlined above, the Planning Application fails to provide sufficient information and evidence to allow the Council to make a properly informed decision as to its acceptability and compliance with the development plan and, consequently, to accurately assess whether or not planning permission should be granted. We therefore respectfully request that the Council:

4.1.1 Initially, requests the following additional information from the Applicant:

- (a) Full details of external lighting proposals;
- (b) Details regarding the design evolution process;
- (c) Images and photographs showing the proposals in relation to the wider landscapes;
- (d) Images showing the proposals from the various viewpoints discussed in the LVIA;
- (e) Images and photographs showing the proposed screening mitigation measures proposed;
- (f) Further information justifying the need for onsite worker accommodation; and
- (g) Further information regarding the alternative site options considered and the appraisal carried out; then

4.1.2 Allow for a further opportunity for consultation on the additional information received.

4.2 In any event, given the information provided it is clear that the proposals in the Planning Application are not suitable for its sensitive location, that they result in detrimental impacts on light pollution, traffic impacts and views from across the landscape in an area that is characterised by its openness, tranquillity and dark night skies, and consequently fails to conserve and enhance the natural beauty of the AONB. This view is further reinforced by the various planning refusals and rejected planning appeals relating to development that is akin to that in scale and kind as that proposed in the Planning Application in the vicinity of the Site.

Yours sincerely

CMS

CMS Cameron McKenna Nabarro Olswang LLP

SCHEDULE 1 RELEVANT POLICY AND LEGISLATION

5. LEGISLATION

- 5.1 **Section 85(1) Countryside and Rights of Way Act 2000:** “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.”
- 5.2 **Section 245 Levelling Up and Regeneration Act 2023** inserting a new Section 85(1A) into the Countryside and Rights of Way Act 2000: “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty”.

6. NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

6.1 Paragraph 182:

“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.”

6.2 Paragraph 183:

“When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development⁶⁴ other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:

- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
- c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

6.3 Paragraph 191:

“Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.”

7. THE NORTH WESSEX DOWNS AONB MANAGEMENT PLAN (2019-2024)

7.1 **Policy LA03:** Use the North Wessex Downs Integrated Landscape Character Assessment to inform policy and decision making across the AONB and its setting.

7.2 **Policy LA06:** Ensure that all development in or affecting the setting of the AONB conserves and enhances the character, qualities and heritage of the North Wessex Downs landscape.

7.3 **Policy DE01:** Encourage all proposals for new development, redevelopment and re-use to conserve and enhance the natural beauty of the North Wessex Downs. Oppose forms of development that fail to conserve and enhance the character and quality of the AONB and its setting and to make reference to the AONB’s published guidance.

7.4 **Policy DE02:** Encourage high standards of design, comprehensive landscaping where required, traditional building styles, energy conservation and innovation that respect historic settlement patterns and the distinctive character of the North Wessex Downs.

7.5 **Policy DE07:** Resist noise-generating developments and activities within both the AONB and its setting.

7.6 **Policy DE08:** Avoid and reduce light pollution, including control of lighting schemes or other developments that threaten the integrity of dark night skies over the North Wessex Downs.

8. WEST BERKSHIRE CORE STRATEGY (2006-2026)

8.1 **Area Delivery Plan Policy 1** states that there will be more limited development in the open countryside, and that only appropriate limited development in the countryside will be allowed, focussed on addressing identified needs and maintaining a strong rural economy. In the explanatory notes to this policy, it is states that any development in the North Wessex Downs AONB will be more restricted than in the general countryside, reflecting the national designation of the landscape.

- 8.2 **Area Delivery Plan Policy 5** states that the North Wessex Downs AONB will have appropriate and sustainable growth that conserves and enhances its special landscape qualities. New housing allocations will be focused on the rural service centres and service villages within the North Wessex Downs, with the emphasis on meeting identified local needs. With regards to environment, it also states that in recognising the area as a national landscape designation, development will conserve and enhance the local distinctiveness sense of place and setting of the AONB whilst preserving the strong sense of remoteness, tranquillity and dark night skies, particularly on the open downland. Development will respond positively to the local context, and respect identified landscape features and components of natural beauty.
- 8.3 **Policy CS13 (Transport)** requires development that generates a transport impact to (a) reduce the need to travel, (b) improve and promote opportunities for healthy and safe travel, (c) improve travel choice and facilitate sustainable travel particularly within, between and to main urban areas and rural service centres, (d) demonstrate good access to key services and facilities, (e) minimise the impact of all forms of travel on the environment and help tackle climate change, (f) mitigate the impact on the local transport network and the strategic road network, (g) take into account the West Berkshire Freight Route Network, and (h) prepare Transport Assessments/Statements and Travel Plans to support planning proposals in accordance with national guidance.
- 8.4 **Policy CS14 (Design)** states that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area, and makes a positive contribution to the quality of life in West Berkshire. Good design relates not only to the appearance of a development, but the way in which it functions. Considerations of design and layout must be informed by the wider context, having regard not just to the immediate area, but to the wider locality. Development shall contribute positively to local distinctiveness and sense of place.
- 8.5 **Policy CS16 (Flooding)** states that development within areas of flood risk from any source of flooding, including Critical Drainage Areas and areas with a history of groundwater or surface water flooding, will only be accepted if it is demonstrated that it is appropriate at that location, and that there are no suitable and available alternative sites at a lower flood risk. Development within areas of flood risk from any source of flooding, including Critical Drainage Areas and areas with a history of groundwater or surface water flooding, will only be accepted if it is demonstrated that it is appropriate at that location, and that there are no suitable and available alternative sites at a lower flood risk.
- 8.6 **Policy CS18 (Green Infrastructure)** states that developments resulting in the loss of green infrastructure or harm to its use or enjoyment by the public will not be permitted. Green infrastructure is the network of multi-functional green space, and includes woodlands, grasslands, derelict open land, urban farms and land used for permaculture.

8.7 **Policy CS19 (Historic Environment and Landscape Character)** requires particular regard to be had to ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character.

9. HOUSING SITE ALLOCATIONS DEVELOPMENT PLAN (2006-2026)

9.1 **Policy C1 (location of housing in the countryside)** notes that there is a presumption against new residential development outside the settlement boundaries, with exceptions to this including housing to accommodate rural workers (if the requirements of Policy C5, outlined below, are met). The proposed site is not within any of the settlement boundaries. Planning permission will not be granted where the proposal harms or undermines the existing relationship of the settlement with the open countryside, where it does not contribute to the character and distinctiveness of a rural area, including the natural beauty of the AONB or where development would have an adverse cumulative impact on the environment or highway safety.

9.2 **Policy C3 (design of housing in the countryside)** requires the design of new housing, including rural exception sites (i.e., accommodation to house rural workers) must have regard to the impact individually and collectively on the landscape character of the area and its sensitivity to change. Development should be designed having regard to the character of the area in which it is located taking account of the local settlement and building character. It should also have regard to 'Quality Design' – West Berkshire Supplementary Planning Document, Conservation Area Appraisals and community planning documents such as Parish Plans and Town and Village Design Statements, the design principles set out in the North Wessex Downs AONB Management Plan and on the rural environment.

9.3 **Policy C5 (housing relating to rural workers):** Housing to accommodate rural workers will only be permitted where the following are demonstrated:

a) It is **proven as essential** to the continuing use of land and buildings for agriculture, forestry or a rural enterprise.

b) **Detailed evidence is submitted** showing the relationship between the proposed housing and the existing or proposed rural enterprise and **demonstrating why the housing is required** for a full time work in that location.

c) It is demonstrated that there are **no suitable alternative dwellings** or that could be made available in that location to meet the need. This includes those being used as tourist or temporary accommodation or existing buildings suitable for residential conversion.

d) It must be **shown why the housing need cannot be met by existing or proposed provision** within existing settlement boundaries.

e) The financial viability of the business is demonstrated to justify temporary or permanent accommodation.

f) The size, location and nature of the proposed dwelling is **commensurate with the needs** of the enterprise; and well related to existing farm buildings or associated dwellings.

g) The development has **no adverse impact on the rural character** and heritage assets of the area and its setting within the wider landscape. **Where it affects the AONB the impact on its special qualities and natural beauty of the landscape will be the overriding consideration.**

The supporting text of the policy clearly confirms that the Council's preference for rural workers' accommodation is for such provision to be located in nearby towns or villages or in existing properties near to their place of work, which would avoid the need for new dwellings in the countryside and that being employed in a rural location is not sufficient to qualify as a rural worker with an essential housing need. It is further emphasised that suitable alternative buildings that should be considered before creating a new dwelling unit, are existing vacant residential buildings or buildings suitable for conversion to residential use.

10. QUALITY DESIGN – WEST BERKSHIRE SUPPLEMENTARY PLANNING DOCUMENT (2006)

10.1 Part 5 – External Lighting

10.1.1 **Paragraph 1.6.2:** Applicants are advised to have regard to the type of location in designing lighting proposals and devising techniques for limiting light pollution. In intrinsically dark or low district brightness areas lighting should be omitted, or if fulfilling an essential requirement should be carefully designed and controlled to minimise its impacts.

10.1.2 **Paragraph 1.6.3:** Design of lighting needs careful consideration. Light should be directed downwards and at the target wherever possible. If there is no substitute to upwards lighting, guards should be used or it must be shielded by buildings or planting. The colour, height and spacing between lighting structures should be in harmony with its setting. Furthermore by conforming to published standards it should be sufficient to illuminate the target and not over light it.

10.1.3 **Paragraph 1.6.4:** If the lighting proposal is for a site rather than just an object, it should ideally follow a hierarchy with minimum illumination around the perimeter.

10.1.4 **Paragraph 1.6.5:** An appraisal of the need for lighting must be undertaken to find out if the benefits offset the costs, if the proposal could proceed without lighting and what alternative measures might exist (such as CCTV or improved site layout). This will ensure that only lighting proposals which are necessary to the general use of developments are allowed.

10.1.5 **Paragraph 1.7:** The following details should be provided with applications:

- (a) Evidence that a lighting appraisal has been carried out should also be provided along with the lighting types and shapes to be used. It would also be beneficial

if the Council is advised of the nature of the use of the lighting proposed. This includes the purpose and use, the likely users, the proposed frequency of use, and for new non-residential development the hours of function in both summer and winter.

- (b) For each light provide the upward waste light ratio and beam angle, which would normally be expected to be kept below 70 degrees. Higher than average columns will allow for lower angles. For each lighting column/bracket it would be beneficial to identify its colour and show its height
- (c) The location of lighting should also be shown on a site plan as this will reveal the area to be lit relative to the surrounding area.

11. LOCAL TRANSPORT PLAN FOR WEST BERKSHIRE (2011-2026)

- 11.1 **Policy LTP K2 (minimising congestion)** requires the Council to tackle congestion to minimise delays and improve air quality, including to mitigate the impacts of increased demand for travel arising from new developments.
- 11.2 **Policy LTP K8 (road safety)** requires the Council to work towards creating a safer road environment, including addressing high risk routes and sites with appropriate scheme.
- 11.3 **Policy LTP K13 (new development)** states that the Council will manage the transport and travel aspects of development in a way that supports the local transport goals, focussing on ensuring Transport Assessments are of an acceptable standard and use relevant modelling tools, that appropriate measures are developed to mitigate the impacts of development on transport networks, ensuring Travel Plans are developed, ensuring traffic impacts do not adversely affect safety, and do not adversely affect the environment, especially the rural character of the roads, rural communities and the AONB.

SCHEDULE 2
APPEAL DECISIONS IN NORTH WESSEX DOWNS AONB

1. APPEAL REFERENCE APP/W0340/A/14/2221743

- 1.1 Application for the erection of an agricultural building which was refused. The key issue was the effect of the proposal on the character and appearance of the area with regard to the location in the AONB. The proposal was within open countryside, and the surrounding area characterised by open fields.
- 1.2 The proposed agricultural building would be used primarily for the storage of hay/straw and fertiliser. Some views would be gained from the surrounding area, public vantage points and from the access road. Although the existing barn established built form on the site, the proposed building would be substantially larger in footprint and therefore scale. Due to the scale and siting of the proposed building and associated works, it would result in a significant structure that would be overly dominant and would cause harm to the open countryside and the AONB.
- 1.3 It was therefore decided that by virtue of its scale and siting would cause harm to the character and appearance of the rural area and the AONB. As a result, the proposal is contrary to Policies ADPP1 ‘Spatial Strategy’, ADPP5 ‘North Wessex Downs Area of Outstanding Natural Beauty’, CS14 ‘Design Principles’ and CS19 ‘Historic Environment and Landscape Character’ of the West Berkshire Core Strategy (2012).
- 1.4 The Inspector acknowledged that there is a need for the proposal to meet agricultural requirements and that it would make a contribution to the rural economy, but Inspector considered such contribution to be very small.

2. APPEAL REFERENCE APP/W0340/W/16/3161487

- 2.1 Application for the retention of existing timber lodge as farm worker accommodation which was refused. It was noted that the NPPF advises against new isolated homes in the countryside other than in a limited number of special circumstances. These include where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside.
- 2.2 **Policy C5** of the [then] emerging Housing Site Allocations Development Plan Document (HSADPD) permits new dwellings in the countryside related to a rural enterprise provided certain criteria are met. These include where it is essential to the continuing use of land and buildings for agriculture or a rural enterprise and where it is demonstrated that there are no suitable alternative dwellings available, or that could be made available, in the locality to meet the need. This policy was accorded **significant weight by the Inspector**.
- 2.3 The Inspector states that it is first necessary to consider whether there is a physical need for a worker to be present at most times of the day and night. The Inspector was not persuaded that there is an essential need.

3. APPEAL REFERENCE APP/W0340/A/12/2176157

3.1 Application for the demolition of existing buildings/structures and the erection of 4 live/work units with associated parking, landscaping, new access and relocation of bus stop.

3.2 There was no obvious justification of there being 4 live/work units. No information was provided to demand the live/work unit, and the Inspector considered it was not a sustainable location, including the need to rely on a car.

3.3 Further, the scale of the new build was not appropriate to the character of the area. There would be visual impacts including limited views from the public footpath to the west.

4. APPEAL REFERENCE APP/W0340/A/06/2024491

4.1 Application for 2 log cabins for staff accommodation which was refused.

4.2 The main were whether it was essential to the operation of the main stable use, and the effect of the proposals on the AONB.

4.3 Evidence was given emphasising the need for there to be close, 24 hour supervision of racehorses in training for security and animal health and welfare reasons. Inspector agreed that without such provision, the functional operation of the establishment might not be viable.

4.4 However, even where functional need for the workers accommodation was established, this was held to be outweighed by the permanent material harm the proposal would cause to the AONB. The proposals would significantly increase the intensity of development on the site. The log cabins proposed were not of a design which had any association with the vernacular building styles or materials typical of the AONB. The design would appear incongruous within the setting and would strike a discordant note when considered against the existing character and appearance of the AONB. The design was therefore found to be unacceptable and therefore would not favour the conservation of the beauty of the landscape, visual quality and amenity of the AONB.