

SUPPLEMENTARY INFORMATION

Planning Committee

8 November 2012

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Agenda Item 18

CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

8 November 2012

WRITTEN UPDATES

Agenda Item 6

12/01049/F

**25 Ironstone Hollow,
Hook Norton**

- The Arboricultural Officer has no objections to the works, but is considering a TPO to protect the tree-belt in the long term.

Agenda Item 8
Fringford

12/01285/F

Land at Glebe Court, Stoke Lyne Rd.

- Following publication of the Officers report, the applicant commissioned and submitted an acoustic report dealing with the noise issues raised. The report concluded that the noise emissions from the washer would be “less than marginal significance and is unlikely to have an adverse impact on the local community.”
- Following receipt of the acoustic report, two objectors commented that there were errors within the report and it could not categorically be stated that washing vehicles would not impact on the amenities of adjoining occupiers. Errors reported were that the wrong decibel threshold was used (43DbA for industrial sites instead of 39DbA for residential sites), there is no indication of the type of washer used, no measurements were taken from adjoining residential properties, wind direction etc..
- The Anti-Social Behaviour Manager (ASBM) has commented that the acoustic report included a number of references that are not relevant to the exercise being undertaken. These at best make the report difficult to follow. Moreover, there are references to the World Health Organisations guidelines that are not relevant to the British Standard used for noise assessment.

Equally, in the document reference is made to carrying out distance attenuation calculations using the method described in ISO 9613 Part 2:1996. It would be appropriate to use this method if the BS 4142:1997 assessment was being made using noise data measured at a location other than the application site and the nearest noise sensitive property or where calculations were being made from manufacturers supplied data. This was not undertaken as part of the report. Reference is also made to noise assessments being carried out for processes regulated under the Integrated Pollution Prevention and Control (IPPC) regime. The pressure washing operation under consideration is not an IPPC process so references to this area of control are misleading.

Focusing on the BS4142 process itself it is not clear from the report exactly what specification of pressure washer was used. Details of the make and model or its rating in terms of power or capacity should have been reported. Equally no description is given as to how the equipment was used has been

included. Recent personal experience with a car wash in Banbury has shown that the amount of noise produced when a flat panel of a vehicle is washed differs significantly from the amount of noise produced when the washer jet passes over an area of the vehicle such as a wheel arch or bumper. From the information given it is not possible to say how the equipment as being used when the measurements were taken.

The ASBM further comments that from the results table he has not been able to see how the 'Specific noise' level used in the BS 4142 assessment has been derived. Until this has been done further comment on the report would at best be speculative.

Therefore, it is not considered that the acoustic assessment submitted by the applicant demonstrates that noise from the washer will not harm the amenities of adjoining occupiers to an unacceptable level and the recommendation to refuse stands.

Since the above comments were made the ASBM has had further contact with the applicants noise consultants , and he has further commented as a result

I can confirm that I have now had the opportunity to speak with Mr Ian Broom, the author of the noise report submitted in support of the above planning application. Mr Broom was able to confirm that his British Standard 4142:1997 assessment was carried out using measurements made whilst pressure washing of a vehicle was taking place. He further advised that the measured value he used for his calculation was derived by adjusting the angle of the pressure washer lance to to produce the greatest amount of noise.

On this basis his calculation show that the rated level of noise produced by pressure washing is not likely to give rise to complaints. This is off course dependant on the same equipment used in the testing exercise being used when the site is in operation Equally background noise levels can vary but on the basis of this assessment there would have to be a considerable difference to render the use fo the equipment unacceptable

- The applicant has also written to Members, highlighting errors they consider have been made in the report. These are as follows:

1. Description of the development is "Installation of vehicle wash facility". The application is not a resubmission of application 12/00382/F which sought permission for the "change of use of land from agricultural to the parking of commercial and agricultural vehicles, change of use of an agricultural building to mixed commercial and agricultural use, installation of a temporary storage and dewatering facility for wet street sweepings and a commercial vehicle washing facility."

2. Paragraph 5.8 of the report states with the agents Design and Access Statement commercial vehicles are sited on agricultural land behind the clamp. The agent states that the vehicles are not within the land controlled by the Enforcement Notice. The report does not state that the vehicles are within the Enforcement Notice area, rather that they are parked on agricultural land.

3. Paragraph 5.29 states that the application would “create a depot at the site for the repair, maintenance, wash down, emptying and parking overnight of commercial vehicles...” This is an error within the report. However, the application would create a depot for the applicants use to wash down vehicles in his ownership.

4. Paragraph 5.32 states that the “expansion of the commercial enterprise into the site and barn...” Reference to “the barn” is an error.

5. Paragraph 5.33 refers to an “increase in vehicle numbers visiting the site”. The agent believes this phrase refers to the previous application 12/00382/F. However, changing the use of the land to allow the wash down of vehicles, where no permission currently exists, will undoubtedly, increase vehicle numbers visiting the site.

6. Paragraph 5.12 states that “No appeal against this decision was made.” referring to application 12/00382/F. This should read, “No appeal against this decision has been made” as the applicant has until 24th November 2012 to make an appeal.

The agent has also states that the “bund and hardstanding” are permitted development under Part 6, Class A of the Town and Country (General Permitted Development) Order as amended. This is correct where an agricultural notification for the development is submitted to the Local Planning Authority for consideration and determination (Part 6, Class d(i) refers). No such application has been submitted. Therefore, as the works are retrospective, the applicant cannot submit an agricultural notification and must submit a full planning application.

Agenda Item 9 **12/01293/F**

OS 3431, Blackthorn Rd. Launton

- 2 addition letters of representation have been received from local residents objecting to this application. Most of the issues raised are not new and are identified in para 2.2 of the report. With regard to new issues raised, the dayrooms are said to be more like permanent bungalows but these dayrooms are a standard and recommended feature of gypsy and traveller sites so need to be accommodated on site. Also the Council is asked to delay the decision on this application until the 'Needs Assessment' has been carried out but to refuse the application on grounds of prematurity only, would not be advised by your officers. The application is in now and should be determined on the evidence we have today. In any event, the recommendation is for a temporary use which should adequately address this point.

Agenda Item 10 **12/01321/OUT**

4 The Rookery, Kidlington

- Changes to the report include:

Revised contribution detailed in Para 5.46

Outdoor Sports - **£11,527.00**

Off-site LAP/Recreation - **£18,468.00**

Total contribution : £53, 741.82

- Revised condition no. 20

That before the development is first occupied, the footway on The Phelps (immediately south of the proposed site access) shall be surfaced to Oxfordshire County Council specification, details of which shall be submitted to and approved in writing prior to the commencement of the development.

- **One further letter received from the objector at no. 67 The Phelps who comments:**

"I have read the report and recommendations of the Highways Officer in respect of the application and note that no objection is raised subject to compliance with certain issues of design and completing full access submissions.

I am surprised that yet again the critical issue of the cycle path / footpath which will be affected does not seem to have sounded any warnings.

Whatever the pro's and con's of all the other arguments surrounding this application there is one point on which everybody seems to agree, this is that the risk to users of this amenity will be increased, even the single representation which supports the application acknowledges this point.

This is not a trivial issue and I am surprised that more attention has not been given to it as to ignore it will be likely to lead to costly unintended consequences.

This footpath / Cycle path cannot be made safe by way of barriers as is the case at all other points where such paths cross The Phelps.

It is impossible for anybody to maintain that no accident or injury will occur at this junction as a result of conflicting vehicle movements which will occur should any permission be granted. It is reasonable to state that statistically accidents are likely to occur.

Therefore should the committee grant permission for the development in its present form they will create a hazard where no hazard currently exists.

Consequently the issue of liability for any accident which occurs in the future arises. i.e. is there any possibility that CDC could be held liable in any case brought against it by an injured party.

In order to clarify and ascertain the exact position on this point we have sought the view of legal counsel in this area, the advice received is as follows

This situation would be an exception to the general rule that there can be no legal claim for damages against a Council for granting or refusing planning permission or for any other decision or action taken (or for inaction or delay) in connection with the exercise of their regulatory planning powers, no matter what financial loss might be incurred by others as a result.

The Planning committee should be aware of the risk as to future financial

liability to which the Council would be opening itself if it were to grant planning permission in the face of the serious safety risk that has been drawn to its attention. The committee should be aware of the decision of the Court of Appeal in Kane v. New Forest District Council [2001] EWCA Civ 878, whereby a local planning authority was held liable for the serious injuries sustained by a pedestrian using an unsafe access onto a highway from a footpath forming part of a development authorised by a planning permission granted by the authority. In the event of death or injury being caused as a result of conflicting vehicle movements arising from the development now proposed, the Council would undoubtedly be joined in any resulting action for damages, and would be potentially liable to pay substantial damages and costs to any such victim in the circumstances of this case.

The Planning committee should also be aware that there is clear judicial authority (recently confirmed by the judgement of the Supreme Court in Health and Safety Executive v Wolverhampton City Council [2012] UKSC 34) that the potential financial consequences of determining a planning application in a particular way is a material consideration which should properly be taken into account by a local planning authority in deciding whether or not to grant planning permission. The risk as to damages to which a grant of planning permission would expose the Council in this case is clearly such a material consideration, which can and must be taken into account in the determination of this application.”

This advice seems unambiguous.

It appears that neither the planning department nor the highway authority have considered this point. I make no criticism of either department for this, it appears that the responsibility of the reporting planning officer is for matters within the boundary of the proposal and highways take the view that the ultimate responsibility for a grant of permission lies with CDC.

As already mentioned there is no doubt as to the increased risk which will arise, and there can be no doubt that the risk arises as a result of any approval which might be granted and therefore little argument that CDC will expose itself future liability.

As there is a clear, simple and demonstrably better alternative access available to this site it seems incomprehensible that the planning committee would contemplate exposing itself or CDC to the risk outlined above.

Clearly refusing to allow access via The Phelps will have some effect on any layout, density or design of development but it not so severe as to preclude the possibility of the applicant bringing forward a profitable and more appropriate alternative.

It seems ironic that the applicants only major concession to the objections raised by the committee to the original application is his willingness to make relatively small financial contributions to CDC, and yet continue to expect that a permission should be granted to a scheme which, inevitably, will result in CDC facing very significant liability but at no risk whatsoever to the applicant.

- In response to this, OCC as local highway authority have commented further:

I have reviewed the attached letter from Mr Smith, the contents of which I note.

Mr Smith refers to a cycle path / footpath, and I understand that he is

referring to the adopted footpath to the south of No 67 The Phelps. This path is shown on our Land & Highway Records maps as a footpath, and hence would not originally have been designed as a cycle path. Mr Smith is concerned about the risk to users of this footpath crossing The Phelps in relation to the new traffic that will be generated by the proposed development. It is worth noting that the extent of the highway boundary along The Phelps outside No.67 is approx. a metre adjacent to the carriageway so the hedge at No 67 should be trimmed back to ensure that it does not overhang or obstruct this part of the highway.

I have discussed this case with Mr Smith a few times, and considered the points he has raised in my assessment of this planning application and my formal consultation response. The footpath south of No 67 enters The Phelps at the point of the turning head, and hence pedestrians will already need to give way to vehicles travelling to the end of the cul-de-sac and using the turning head to manoeuvre. The proposed development is likely to generate 4 additional vehicular movements in the peak hour onto The Phelps, i.e. a small number. A rumble strip proposed at the access point to the new development will reduce vehicle speeds on entry to and exit from The Phelps.

I have advised Mr Smith that the planning application has been assessed against national and local highway standards and guidance, in the interests of highway safety. It is the view of the Local Highway Authority that the proposed new development meets these standards, including the requirements of the National Planning Policy Framework, which states that 'development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'.

On the subject of accident risk, an accident might happen to anyone at any time as there is always a human factor involved which cannot be predicted. The general view that an accident might happen cannot be used to prevent development from coming ahead where a development is considered to meet the necessary highway standards.

I am not familiar with the details of the case law to which Mr Smith refers (Kane v. New Forest...), however believe that it involved an incident where the District Council in its capacity as a local planning authority had approved a plan for the construction of a footpath by a developer in such a position that it created a hazard at the point that it met the existing public highway controlled by the County Council. Thus the New Forest case does not appear directly comparable to this application.

- Cllr Alaric Rose has commented upon the late representation referred to above by commenting that he feels that the use of the Nursery Close entrance for all properties would make more sense on logistical and environmental grounds as it would shorten any routes taken to and from the new properties.

- Procedural amendment to the application:

The development location has been amended to 1 – 7 Ingleby Paddocks, Enslow, which now includes all the properties identified within the red line of the site.

- **Bletchington Parish Council – strongly objects** on the following grounds:
 - Development was granted with these conditions, without them the development would not have been approved. Removing them on one house would set a precedent for the other houses in the complex.
 - The reason for the removal of the conditions is because they are experiencing problems in selling the house. If they were able to sell the property as a private dwelling it would defeat the object of the design
 - CDC have insisted in the past few months that Enslow requires business accommodation, not residential. Planning Committee have recently refused applications for residential units on this basis. To approve this request will leave them with no credibility at all
- 6 Letters of support have been received from the neighbouring properties at Ingleby Paddocks.
 1. **Mr & Mrs Beckley of, Field House, 1 Ingleby Paddocks** – operate an IT Social Media Business and also export of new cars.

They support the application with the following comments:

“We agree that the mix of young families in this work environment is not appropriate for either the businesses or the families for the reasons set out in Mr & Mrs Lucas' planning statement.

We are also extremely frustrated with the lack of infra-structure that is not conducive to a working business.

When we purchased the property we had great difficulty in obtaining finance we were given conditional offers in principle by Barclays, Coventry & HSBC. All declined after survey when the commercial element became apparent. Eventually got a loan from the Buckingham at 5% above base rate!

Carter Jonas had five purchasers pull out on day of exchange prior to us. Field House was built in 2008 but unsold till October 2010.

The evidence that Mr and Mrs Lucas have gathered regarding the marketing of their property and the problems that they are having with re-mortgaging are extremely concerning and stressful. It seems that the financing situation is even worse than it was when we purchased”.

2. **Mr & Mrs Mason of Paddock House, 2 Ingleby Paddocks** – operate a champagne importing business

They support the application with the following issues and comeents:

“We embraced the Live/Work concept offered by this development, as it seemed to offer the opportunity to run our fledgling business, and balance this with a higher-quality home life, but with lower environmental impact e.g. commuting etc.

We have had a number of challenges that have limited our business and imposed upon our home life:

1. Mortgage: Lending market now very different to 2006 i.e. when the properties were approved and then constructed. Council for Mortgage Lending (CML) state that “Live/work is a very young and small market. Most lenders prefer not to spend a lot of time creating policies and processes specially for marginal markets”. We are unable to obtain a mortgage from “High Street” lenders e.g. Abbey National, HSBC. We are now on a *Standard Variable* rate as Lenders will not consider this property a suitable risk
2. “Flex”: No ability to easily vary the Live/Work space i.e. Design & Layout issues. The proportion of Live/ Work cannot be adapted to suit changing business climate. We had to shutdown our Champagne importing business, due to the change in EU law, as we could not use the Residential space for storage of alcohol.
3. Insurance: Insurers charge a higher rate as part of the property is business usage. So the whole property is charged at a higher rate. Commercial Insurance even though part of the property is Residential
4. Potential Issues if part of the Work space is used as residential. So as there is no provision for “flex” we may be penalized for using the B1 space as Residential e.g. Bathroom, Bedroom space etc.
5. Live/ Work premis:
Goals include “are likely to be attractive as start-up business premises for local businesses” and
“Combining residential living space and employment floor space in the same building provides a highly sustainable form of development, in most cases reducing the need to travel for the occupier”: The location of Enslow means that travel is necessary, for clients and business owners, as there is no accessible local transport
6. Non-eco Energy usage. Entire premise uses a single source heating system .Non environmentally friendly, expensive and inefficient. No zoning is possible. The entire premise is heated to provide warmth to the Work element. Massively inefficient and increases Fuel costs.
7. Local Sustainability. The rural location of the hamlet on Enslow and the lack of transportation negate Sustainability. There are no provisions or incentive for Small Businesses or New Businesses operating in our Live-Work cluster. The idea of “clustering” to foster business growth cannot happen at Ingleby Paddocks. The design and location preclude the setup of many small businesses operating together. There is no local economy supported by adequate infrastructure.
8. Residential Road Safety Issues. Given the access to our business is via shared Access we have had a number of incidents, where children from the neighbouring properties, have been involved in close calls with delivery vehicles and business callers
9. Cannot rent the property. However we cannot take up their offers as the conditions forbid the rental of the property.

3.Mr & Mrs Rendell of Crofters, 3 Ingleby Paddocks – operate a picture framing business

They support the application with the following comments:

“We are the owners of Crofters in the Ingleby Paddocks development and have lived here since January 2010. We are writing to support the proposal to review the conditions that are currently applied to the properties and is being initiated by our neighbours, Kerri and Michael Lucas ('The Dell', No 4 Ingleby Paddocks).

We are in a similar situation to our neighbours The Threiplands and Lucas's that our business plans were to expand; the family picture framing business to Crofters has not come to fruition, due to a number of factors.

Firstly the downturn in the economy hasn't helped along with the integration of the business and family areas of the house.

Having preschool children aged 5, 3, 3 we soon realized it would be impossible to incorporate the working environment, separately from our families needs. With the office being part of the garden and linked into the house, the children had constant access to this area. Equally when they needed to be asleep, it is just to close to be sufficiently quiet.

Secondly we have found the banks are refusing to lend to a live/work property. We have banked with Nat West for 23 years and they flatly refused to offer a mortgage and told us “we do not lend to live / work properties.” Nationwide also told us the same story along with Tesco's.

The competitive mortgage rates that we have consistently achieved over the past 17 years / 3 previous properties and remortgaging 6 times over that period are now not available.

It is a constant worry and very stressful having 3 young children with the fear of being imprisoned in an unsaleable and unworkable property, and not able to agree a competitive mortgage deal. My employment is in the Construction industry and my fear is job safety and living in a family home with the threat of not being able to secure a mortgage is wrong.

Only 20% of the property is a work element, therefore we are being penalized 100% of the family home.

Our final point is that when our children want to travel to school by bicycle to the local school 1 mile away we have to drive half way to make it safe enough for them to get to School and fear when they move to secondary school there is no accessible bus stop and the nearest bus stop is a deathly walk.

We fell in love with the property “Crofters” at Ingleby Paddocks a lovely family home in the Countryside with great potential with Live/Work, a home to raise a family in ideal surroundings with the plan to expand the family picture framing business, this didn’t work out to plan.

We now realise maybe we were blinded, as at the time the Solicitor we used for the purchase – Paul Quigley at Blake Laphorn called us the day of exchange to ask “are you sure you want to go through with such a complicated house purchase” and that we couldn’t exchange today as were to many complications, the words of an expert in his field, he admitted he had viewed the property himself.

What were we to do, our previous house at the time was packed, the new owners of our house ready to move in a short time.

Crofters had fallen through four times already all for the same reason, now we realise why. We are in an extremely difficult situation, a property we would be unable to sell, a property we are unable to remortgage – we are trapped, yet this is predominantly a family home, please please help us.

Our other main concern is the high volume of commercial vehicles on the development, we as residents drive respectfully and slowly, delivery drivers do not and there have been several close misses, involving children and vehicles, there are no footpaths for them to walk on, turning areas are very dangerous and our driveway in particular is constantly used as a turning bay for delivery vehicles, when they cannot reverse correctly, which has resulted in damage to the surface of the driveway, flower pots and even a child’s bike, it is only a matter of time before there will be a serious accident on the development,

We would therefore like to formally support the application that Kerri and Michael Lucas are making on our behalf and would be happy to provide any further evidence or information to progress this.

4. Mr & Mrs Threipland of Hawthorne House, 5 Ingleby Paddocks – operate a Footprint Business Coaching

They support the application with the following comments:

“From a Business Perspective:

Some of the issues are of a property design nature, but at the end of the day we hadn’t recognised the difficulty of running a business within a primarily residential area. The consequence is that I regularly have to rent space at an office in Banbury and Reading to be able to conduct my business, which is very telephone and web based conferencing. This has defeated the objective of moving to Ingleby Paddocks. The icing on the cake has now been the financial recession, which has reduced small businesses like my own to take on the risks of live/work, so when we tried to sell towards the end of last year we had little to no interest.

From a Family Perspective:

The infrastructure (In Particular Public Transport and Walking Pavements) around Ingleby Paddocks has not been developed since

we moved in 5 year ago so we always have to drive to do anything as a family. Even the Bus Company refused to pull in to the entrance to the Paddocks to pick up kids and take them to school as they said this was unsafe due to the traffic on the road! This has caused us to increase car use rather than reduce, which was the hope. In addition, like our neighbours, we too have had great difficulty to find another Bank to consider mortgaging our property and allowing us to find the most competitive quote. This is causing us serious concern as we are 'hand-cuffed' to our current provider.

Overall, we were initially supportive of the principle of Live/Work, however we found that in reality the design of Live/Work in Ingleby Paddocks has not proved to work effectively. We fully support Kerri and Michael Lucas's Planning Statement and hope the council are able to consider the situation and find some degree of resolution for".

5. **Mr & Mrs Measday of Dairy Cottage, 6 Ingleby Paddocks** – operate an office services business and electrics company

They support the application with the following comments:

Following recent emails from Kerri Lucas of The Dell, Ingleby Paddocks, Enslow, we would like to introduce ourselves as the owners of Dairy Cottage, Ingleby Paddocks, Enslow.

We have been kept uptodate on the ongoing Planning Application, numbered above, by Kerri & Michael, and would like to put on record our full support of their case.

We agree that the current property conditions are restrictive, and support the idea of them being lifted.

During our own investigation into this matter, we had been advised that it was more beneficial for just one property to persue this issue, rather than a mass application. We are therefore grateful to the Lucas's for keeping us uptodate on a matter that we hope comes to a positive conclusion for all Ingleby Paddocks residents.

6. **Mr & Mrs Francis of Stable Cottage, 7 Ingleby Paddocks**

They support the application with the following comments:

"The principal reason is that our practical experience of a 'live-work' property is totally unsuitable to family life.

When we moved in we had 1 child and although after settling into the property working from home was difficult I continued to try. When our second child came along in 2011, working from home became virtually impossible due to the layout of the residential space upstairs being so close to the office space. Holding meetings in my home office or making phonecalls is very difficult owing to the family noise level and demands of 2 young children. As a result I mainly work at an alternative office in Witney which has significantly increased my company's costs and my carbon footprint (I had originally wanted to reduce my mileage to reduce this).

Also from a family point of view with 2 young children we do have to travel everywhere by car as there is no public transport that we can easily access. Due to the lack of footpaths we are unable to walk anywhere from the property as we are on the A4095 and cannot access our local shop, post box, or pub on foot.

In addition we have significant equity in our property and although we did manage to secure a mortgage, owing to the type of property we have not been able to access the most competitive rates as lenders have not been overly keen to lend on this type of property”.

7. One additional letter from the applicant’s mother in support of the applicant:

“As a mother I am very concerned about the stress that Kerri and Michael and their 3 boys are experiencing as a result of the predicament they find themselves in at Ingleby Paddocks. I am aware that one of their neighbours has already become very seriously ill and she contributes some of it to the stress of these tied properties. I really do not want to see any of my family suffer serious illness for the same reason.

I totally appreciate the reasons for the planning conditions when the original applications were made and I can see that the Planning Authority was very cautious and concerned that a live/work scheme might be used as a backdoor route to avoid an otherwise strictly controlled regime which prevents residential development in the open countryside. If Kerri and Michael had been the developers here, I would understand the continuing caution. However, Kerri and Michael bought the property fully embracing the idea of live/work and it seemed an ideal situation for them at that time.

However, as they have said in their application, they were the second family to buy on the site, when it was still incomplete. The infrastructure they were expecting has not followed, the public transport is very poor, there are no pavements and it is very unsafe for the children to get around. Both sets of grandparents help Kerri and Michael with the childcare and since moving in we have regularly collected the boys by car from their school drop off point at the Rock of Gibraltar as none of us consider it safe for the children to walk alongside that very busy road without pavements. If the boys want to visit friends or go anywhere outside the home, they have to be taken there by car and there is very limited public transport and no other safe method.

As the boys are growing up, it is more difficult with transport as they feel trapped and isolated, but it is also a time when Kerri can start to expand her business. However I know that she has found it difficult to do that because of the lack of infrastructure. In the normal course of events and in these circumstances, it would be normal to sell up and move on but it appears they are unable to do this because they are unable to sell and are therefore trapped. I understand that it is not a Planning Officer's nor a Planning Committee's role to consider personal circumstances or to sympathise with such a predicament, but

the fact is that Kerri cannot expand her business and they cannot re-cycle their home because of the planning conditions. The economic climate has clearly made it more difficult for everyone to get finance, but this is particularly difficult at Ingleby Paddocks because it is a live/work development. Financial institutions simply will not lend to live/work owners.

As a local resident, I fully support Planning Authorities protecting our open countryside and protecting employees when considering change of use of business premises. However, the fact is that at Ingleby Paddocks, the Planning Authority has already allowed large family houses to be built in the open countryside (albeit with an added 20% business element).

Removing the Planning conditions would in my opinion:

1. make make no difference to the fact these large family homes at Ingleby Paddocks are existing, are in the open countryside and will be now be there for ever,
2. will not reduce local employment as nobody on the site apart from the owner occupiers are employed,
3. reduce the carbon footprint as there would be less trips by car to the site (as acknowledged by the yourself and the Highways Liaison officer),
4. make it more likely that the properties could be re-cycled more frequently and therefore made available housing stock for local people or those wishing to move into the area,
5. may increase the revenue to the Local Authority as the business rates element (currently paid directly to Central Government) may revert to council tax and
6. make no difference whatsoever to the character of the area or the amenities of the occupants of the adjoining premises or other residents and businesses in the locality”.

- **Further comments from applicant in respect to points raised in the Committee Report:**

Highways Authority

“The comment clearly indicates that the infrastructure is poor for the live/work property and the intended positive environmental impact that was intended in the original plans has not been met. The infrastructure is also not conducive to a working business. There is no indication that the infrastructure will improve. They have indeed stated that reverting to residential would reduce the negative environmental impact.

Bletchington Parish Council

I note the objection but the fact that the properties exist and that permission

was granted only on the live/work basis is not enough to object to removing the conditions. Just because it is not the norm to build residential properties in Enslow does not help our predicament. As the Highways Agency pointed out the buildings ARE in existence. The owners of the 7 properties on the Ingleby Paddocks development purchased with the intention of embracing the live/work idea. However, it was an untried/untested concept in a rural location. We have been the 'laboratory animals' in this situation and should now be released from the onerous conditions as we have experienced that they are not sustainable.

The reason for our application is not just because we are finding it difficult to sell. We are also finding it difficult to finance and difficult to run and grow a business from the location because of the infrastructure and layout of the property. The laid back rural postal route (with post arriving after 2.30 pm each day) makes it impossible for my business to run smoothly and professionally. Our children's happy lives are restricted by the business use of the property and their safety is also at risk because of the business traffic that enters the development. The lack of public transport and pathways means increased carbon footprint because the only feasible method of transport is a vehicle.

Planning applications for residential units in Enslow have recently been refused because of the poor infrastructure. In our opinion, future commercial applications should also be refused for this reason. We would not advise anyone to try to run a business from this location. However, our property ALREADY EXISTS and we should have the freedom to chose whether we stay here or not.

The fact that we cannot sell or re-finance means that we are trapped and our personal and business lives are constrained. A planning condition should not put that amount of stress on a business or a family. I would like to re-iterate that we should not be punished for an untried/untested concept.

I am quite upset after writing this e-mail. Bletchingdon Parish Council clearly do not know how this whole situation is impacting on us. All they are interested in is future planning issues. That does not solve the burdensome issues Ingleby Paddocks currently has".

“Para 5.2

You refer to the planning history of the development and numerous attempts to have the restrictions changed and removed. These applications were not made by any of the current owners of the properties. They were made by the builder and the developer to attempt to increase the value of the properties and make them easier to sell. All current owners bought with a view to comply with and embrace the planning conditions. Reality is, while living here, we have discovered that the site is not sustainable as a live/work site. Our application has been made therefore on that basis and not for the same reasons as the builder and developer.

We would like to add that we are the only owners out of the 7 that have attempted to use the property as it was intended to be used. A proper office based business with staff. All other owners are using their properties more like home working. They all have other business premises working at their own business offices (away from the site) or that of their employer or client.

Para 5.3 & 5.4

You mention that the Live/work concept is becoming more popular - Indeed the concept was becoming more popular but that is in urban areas where the infrastructure supports the concept and the mix of business and residential leans more heavily to the business element being typically 70% business and 30% residential. The workable projects have been shop fronts with flats above. Not large family homes. In our case it is 20% business and 80% residential. Also in these urban areas it has proved impossible to enforce the restrictions. Hackney Council's review of live work supports that.

There was recently a rural case in Staffordshire Moorlands District Council, application 09/00636/FUL - The Gables, Ashenurst Hall Farm, Ashenurst Lane, Bradnop, Staffordshire. This was a rural live/work site where an application similar to ours was granted. All they had was marketing evidence of inability to sell and none of the practical elements of how an office based business struggles to operate in a rural location.

Para 5.40

You should have received over the past few days several e-mails/letters of support from the other residents of the development. I believe that they are all experiencing the same issues as us regarding running a business from the property and the mix of family and business. They have also experienced issues regarding finance but have not all tried to sell.

We know that the other 6 houses all support our application. They have not experienced the impact of the restrictions to the extent that we and the owners of No 5 have. However, as time goes on I am sure that you will receive applications from other properties on this site.

Para 5.41

Refers to **EMP5 Protection of Existing Employment sites**. None of the 7 properties employ people from outside the residence. Therefore at the present time, there are no employees apart from the owner occupiers, to protect. I believe I have demonstrated in my application how difficult it is to employ people in my business due to the lack of public transport etc, and Condition 12 does of course restrict the number of any employees to two anyway. Therefore there is not the potential in the property for the employment of a substantial number of people. Removing the conditions would not in my opinion result in a loss of any local employment opportunities.

This paragraph also refers to **Policy SLE 1: Employment development**. Again, I would suggest that we have demonstrated in our application that retaining the business part of the premises is not economically viable. I am not able to expand or grow my business here and if I have no option but to set up my business elsewhere, (as my husband and other residents on the site have done), the business part of the house would have to remain unused and empty. The nature of the build and the planning restrictions mean that I cannot consider permitting another business to occupy and use the premises and cannot use it for any other purpose than B1 use. As a small growing business, I cannot afford to expand and take on staff and new premises at the same time while paying for and leaving the B1 element of my house empty.

Para 5.43

Reference to Human Right Act Article 8 - you state that businesses do not enjoy the rights of Article 8. However, the business element of this case is

only 20%. 80% is represented by private family/individuals. Therefore I consider that Article 8 should be referred to in this matter. It can be argued that The Councils right is not absolute in this matter because it's right is not proportionate or necessary and it's enforcement of the restrictions cannot take place without the private lives of individuals being compromised.

Para 6.1 - Conclusion

Original permission was granted because of the following

1. It was considered to be a unique development intended to reduce traffic generation. We believe this was an un-tried and un-tested concept in this area. The fact is, that it has not **reduced** traffic generation by co-locating residential and commercial elements, it has **increased** traffic generation.
2. It was not considered remote being close to the established centres of population at Bletchington and Kirtlington. The recent refusal at nearby 'By Ingleby' says the exact opposite! The refusal there was because it is '*in the open countryside, in a remote location with a general lack of services and facilities, inaccessible by public transport*'. We agree. The site is remote, there is a general lack of services and facilities and it is inaccessible by public transport.
3. It was hoped that it would bring employment to the area - there is not one person employed from outside of the development.

In my opinion, the only valid reason that the Planning Officer has refused our application is that it would mean there is a development of large houses in the open countryside. These houses now exist. The original planning permission was granted by the Planning Committee because they thought that the live/work concept was a good idea and we purchased the property also thinking this. The fact that the live/work concept is not sustainable here should not be a reason for refusing our application. It was an untested concept that now needs to be removed as Article 8 of the Human Rights Act is clearly being breached.

Recommendation

I believe we have demonstrated in our application that live/work on this particular development is not sustainable and does not restrict commuting. Additionally, it has not been possible to re-cycle any of the units back into the market as anticipated. Removing the conditions would, I agree, erode the principle of live work in our property but it would make little difference to how they are currently used because the majority of the properties on the site are used as home working properties not fully functional offices. The fact that the property is now built and 80% of it does amount to a large house in the open countryside already. It is only the 20% business element which is in question and if we are unable to re-cycle the property back into the market because we are unable to sell for all the reasons given in the planning application, that 20% will only remain available as a work space until I can facilitate moving my business elsewhere. In that event, it will have to remain empty and vacant as it cannot be made available for other employment or any other purpose.

I recommend that the restrictions should be removed and the house change to C3 residential use. Reference to home working can be encouraged but should not impose any restrictions on the property. If the Committee do not vote in our favour, we will appeal as we are completely trapped in our current

situation”.

Agenda Item 12 **12/01365/CM** **Alkerton Quarry**

- We have been made aware that OCC has now determined this application, and therefore we have **withdrawn this application from the agenda**

Agenda Item 14 **1201301/F** **Land rear of Old Coach House, Queens Ave. Bicester**

- Bicester Town Council: objects to the application on grounds of overdevelopment, garden grabbing and traffic implications for the area
- In response, the HPPDM considers that the principles of 'overdevelopment' and 'garden grabbing' are only relevant if, as a consequence, harm is caused. In this case, it is considered that there is enough space on the land to accommodate a property without harming identified neighbours or other interests or those of the host property which is left with insufficient garden space proportionate to the plot. Traffic implications are already covered in para 5.18 of the main report and there will be no additional impact compared to the approved scheme.