

Committee: Planning Committee
Date: Thursday 2 July 2009
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor Fred Blackwell (Chairman)	Councillor Rose Stratford (Vice-Chairman)	
Councillor Ken Atack	Councillor Alastair Milne Home	Councillor Chris Smithson
Councillor Maurice Billington	Councillor David Hughes	Councillor Trevor Stevens
Councillor Colin Clarke	Councillor James Macnamara	Councillor Lawrie Stratford
Councillor Mrs Catherine Fulljames	Councillor D M Pickford	Councillor John Wyse
Councillor Michael Gibbard	Councillor G A Reynolds	
Councillor Eric Heath	Councillor Leslie F Sibley	

Substitutes

Councillor Luke Annaly, Councillor Rick Atkinson, Councillor Nick Cotter, Councillor Mrs Diana Edwards, Councillor Andrew Fulljames, Councillor Timothy Hallchurch MBE, Councillor Russell Hurle, Councillor Kieron Mallon, Councillor P A O'Sullivan, Councillor George Parish, Councillor Nicholas Turner and Councillor Barry Wood

AGENDA

1. **Apologies for Absence and Notification of Substitute Members**

2. **Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting

3. **Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

4. **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. **Minutes** (Pages 1 - 8)

To confirm as a correct record the Minutes of the meeting of the Committee held on 11 June 2009.

Planning Applications

6. **Sainsbury Supermarket Ltd, Oxford Road, Banbury** (Pages 11 - 40) **08/02605/F**

7. **2 Laburnum Grove, Banbury** (Pages 41 - 45) **09/00662/F**

Enforcement Action

8. **Quarterly Enforcement Report** (Pages 46 - 49)

Report of Head of Development Control and Major Developments

Summary

To inform and update Members of the progress of outstanding formal enforcement cases and to inform Members of various caseload statistics.

Recommendation

It is **RECOMMENDED** that the Committee resolves to accept this report and the content of the appendices.

Review and Monitoring Reports

9. **Decisions subject to various requirements - Progress Report** (Pages 50 - 51)

Report of the Head of Development Control and Major Developments

Summary

This is a standard report item the aim of which is to keep Members informed upon applications which they have authorised decisions upon subject to various requirements which must be complied with prior to the issue of decisions.

Recommendation

It is **RECOMMENDED** that the Committee resolve to accept this position statement.

10. Appeals - Progress Report (Pages 52 - 53)

Report of the Head of Development Control and Major Developments

Summary

This is a standard report item, the aim of which is to keep Members informed upon applications which have been determined by the Council, where new appeals have been lodged, Public Inquiries/Hearings scheduled or appeal results received.

Recommendation

It is **RECOMMENDED** that the Committee resolves to accept this position statement.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwell-dc.gov.uk or 01295 221587 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item. The definition of personal and prejudicial interests is set out in Part 5 Section A of the constitution. The Democratic Support Officer will have a copy available for inspection at all meetings.

Personal Interest: Members must declare the interest but may stay in the room, debate and vote on the issue.

Prejudicial Interest: Member must withdraw from the meeting room and should inform the Chairman accordingly.

With the exception of the some very specific circumstances, a Member with a personal interest also has a prejudicial interest if it is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice the Member's judgement of the public interest.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Queries Regarding this Agenda

Please contact Alexa Coates, Legal and Democratic Services alexa.coates@cherwell-dc.gov.uk (01295) 221591

Mary Harpley
Chief Executive

Published on Wednesday 24 June 2009

Agenda Item 5

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 11 June 2009 at 4.00 pm

Present: Councillor Fred Blackwell (Chairman)

Councillor Rose Stratford (Vice-Chairman)

Councillor Ken Atack
Councillor Colin Clarke
Councillor Eric Heath
Councillor Alastair Milne Home
Councillor David Hughes
Councillor James Macnamara
Councillor D M Pickford
Councillor G A Reynolds
Councillor Leslie F Sibley
Councillor Chris Smithson
Councillor Trevor Stevens
Councillor John Wyse

Substitute

Members: Councillor Andrew Fulljames (In place of Councillor Mrs Catherine Fulljames)
Councillor Russell Hurle (In place of Councillor Lawrie Stratford)
Councillor P A O'Sullivan (In place of Councillor Michael Gibbard)
Councillor Barry Wood (In place of Councillor Maurice Billington)

Apologies for absence were received from Councillors Catherine Fulljames, Michael Gibbard and Lawrie Stratford

Officers: Jenny Barker, Major Developments Team Leader
Bob Duxbury, Development Control Team Leader
Mike Buxton, Planning Enforcement Team Leader
Paul Manning, Solicitor
Rebekah Morgan, Trainee Planning Officer
Tony Ecclestone, Communications Officer
Alexa Coates, Senior Democratic and Scrutiny Officer
Michael Sands, Trainee Democratic and Scrutiny Officer

Declarations of Interest

Councillors declared interests with regard to the following agenda items:

7. Garage Block adjacent to 32 Langford Gardens, Bicester.

Councillor Leslie F Sibley, Prejudicial, as a member of Bicester Town Council and member of Charter Housing.

Councillor Rose Stratford, Prejudicial, as a member of Bicester Town Council and member of Charter Housing.

8. 20 Newton Purcell, Oxon, MK18 4AY.

Councillor Rose Stratford, Personal, as an acquaintance of the applicant.

9. 20 Newton Purcell, Oxon, MK18 4AY.

Councillor Rose Stratford, Personal, as an acquaintance of the applicant.

11. Thorpe Lane Depot, Thorpe Lane, Banbury OX16 4UT.

Councillor Alastair Milne Home, Personal, as a member of Banbury Town Council planning committee who may have previously considered the application.

Councillor Barry Wood, Prejudicial, as a member of the Executive.

Councillor Colin Clarke, Personal, as a member of Banbury Town Council who may have previously considered the application.

Councillor G A Reynolds, Prejudicial, as a member of the Executive and Portfolio Holder for Environment, Recreation and Health.

Councillor James Macnamara, Prejudicial, as a member of the Executive.

Councillor Ken Atack, Personal, as a member of the Executive.

Councillor Leslie F Sibley, Prejudicial, as a member of Charter Housing who had made decisions on financial assistance to the Council.

12. Willy Freund Youth Centre, Dover Avenue, Banbury OX16 0JE.

Councillor Alastair Milne Home, Personal, as a member of Banbury Town Council planning committee who may have previously considered the application.

Councillor Barry Wood, Prejudicial, as a member of the Executive.

Councillor Colin Clarke, Personal, as a member of Banbury Town Council who may have previously considered the application.

Councillor G A Reynolds, Prejudicial, as a member of the Executive and Portfolio Holder for Environment, Recreation and Health.

Councillor James Macnamara, Prejudicial, as a member of the Executive.

Councillor Ken Atack, Personal, as a member of the Executive.

Councillor Leslie F Sibley, Prejudicial, as a member of Charter Housing who had made decisions on financial assistance to the Council.

19 **Petitions and Requests to Address the Meeting**

The Chairman advised the committee that requests to speak would be dealt with at each item.

20 **Urgent Business**

There was no urgent business.

21 **Minutes**

The minutes of the meeting held on 21 May 2009 were agreed as a correct record and signed by the Chairman.

22 **The Garage, High Street, Charlton on Otmoor, Oxfordshire, OX5 2UQ**

The committee considered a report of the Head of Development Control and Major Developments for the redevelopment of the existing coach depot by the erection of five dwellings (1 x four bed, 3 x three bed, 1 x two bed), together with associated landscaping, covered parking and access (as amended by drawings numbered 07058-P11, P12, P13, P14, P15 and P16 received 08/05/09 with agent's email of same date).

Mr Raymond Cole spoke in objection to the application on behalf of Mr and Mrs Mason.

Mr Peter Uzzell spoke in support of the application on behalf of the applicant.

The committee considered the impact of the development on the green belt, suitable development in rural areas, the need for affordable housing in rural areas and the impact on local amenity.

In reaching their decision the committee considered the Officer's report, presentation and written update and the presentations of the objector and supporter.

Resolved

That application 08/02493/F is deferred to enable further negotiations to be held with the applicant concerning layout and affordable housing.

23

Garage Block adjacent to 32 Langford Gardens, Bicester

The committee considered a report of the Head of Development Control and Major Developments for the demolition of 2 garage blocks and the erection of 3 no. three bedroom houses and alterations to the street layout.

Rachel Taylor and Cllr Bolster, Ward Member, spoke in objection to the application.

The committee considered the impact on parking and access for emergency vehicles and the impact of the development.

In reaching their decision the committee considered the Officer's report, presentation and written update and the objector's presentations.

Resolved

That application 09/00523/F is approved subject to the following conditions:

- 1) 1.4A – Full Permission: Duration Limit (3 years) (RC2)
- 2) 2.0A – Details of Materials and External finishes (RC4) Insert 'dwellings'
- 3) 4.13CD – Parking and Manoeuvring area retained (RC13BB)
- 4) 14.12AA -Surface, Laid out etc (RC14A) insert 'parking'

24

20 Newton Purcell, Oxon, MK18 4AY

The Committee considered a report of the Head of Development Control and Major Developments for a two storey rear extension and removal of concrete garage and construction of new double garage.

The committee considered the impact of the development on the rural character of the building and the materials used.

In reaching their decision the committee considered the Officer's report and presentation.

Resolved

That application 09/00575/F is approved subject to the following conditions:

- 1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) That the external walls of the extension shall be constructed in natural weathered limestone which shall be laid, dressed, coursed and pointed in accordance with a sample panel (minimum 1m2 in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority prior to the construction of the development hereby permitted.
- 3) That full design details of the thatching shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.
- 4) That full design details of the window/joinery shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.
- 5) That, notwithstanding the provisions of Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the garage(s) shown on the approved plans shall not be converted to provide additional living accommodation without the prior express planning consent of the Local Planning Authority.

25

20 Newton Purcell, Oxon, MK18 4AY

The committee considered a report of the Head of Development Control and Major Developments for a two storey rear extension and removal of concrete garage and construction of new double garage.

The committee considered the impact of the development on the rural character of the building and the materials used.

In reaching their decision the committee considered the Officer's report and presentation.

Resolved

That Listed buildings consent 09/00576/LB is approved subject to the following conditions:

- 1) That the works to which this consent relates shall be begun not later than the expiration of three years beginning with the date of this consent.

- 2) That the external walls of the extension shall be constructed in natural weathered limestone which shall be laid, dressed, coursed and pointed in accordance with a sample panel (minimum 1m² in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority prior to the construction of the development hereby permitted.
- 3) That full design details of the thatching shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.
- 4) That full design details of the window/joinery shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.

26

3A - 3B Cotefield Farm, Oxford Road, Bodicote OX15 4AQ

The committee considered a report of the Head of Development Control and Major Developments for the use of units for the sale of goods by auction for up to 30 days per year.

Joe Smith the applicant spoke in support of the application. Veronica Hammond also registered to speak and allowed Joe Smith to speak on her behalf.

The committee considered the impact the use would have the vibrancy of the town centre, public demand for auction house, sequential testing and the suitability of the use in a rural location.

In reaching their decision the committee considered the Officer's presentation, report and written update and the supporter's presentation.

Resolved

That application 09/00580/F is approved subject to the following conditions:

- 1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) That this permission shall ensure for the benefit of J S Auctions only and of no other persons whatsoever, and shall not ensure for the benefit of the land. Upon the applicant ceasing to occupy the building, it shall revert to its former use.
- 3) The use of the premises for the sale of goods by auction shall not exceed 30 days in any calendar year.

27 **Thorpe Lane Depot, Thorpe Lane, Banbury OX16 4UT**

The committee considered a report of the Head of Development Control and Major Developments for the erection of a lean-to for parking of sweeper vehicles.

The committee were satisfied with the evidence presented by the Officers.

In reaching their decision the committee considered the Officer's report and presentation.

Resolved

That application 09/00611/CDC is approved subject to the following condition:

- 1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

28 **Willy Freund Youth Centre, Dover Avenue, Banbury OX16 0JE**

The committee considered a report of the Head of Development Control and Major Developments for alterations and extensions to the existing youth club facility to provide accessible toilet and inclusive access to the detached smaller hall by linking the two buildings.

The committee were satisfied with the evidence presented by Officers.

In reaching their decision the committee considered the Officer's report, presentation and written update.

Resolved

That application 09/00629/CDC is approved subject to the following conditions:

- 1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) That the materials to be used for the external walls and roof of the development hereby permitted shall match in terms of colour, type and texture those used on the existing building.
- 3) Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall there after be permanently retained and maintained for the parking of cycles in connection with the development.

- 4) That the parking and manoeuvring areas shall be retained in accordance with the plans hereby approved and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

29 **Decisions Subject to Various Requirements - Progress Report**

The committee considered a report of the Head of Development Control and Major Developments which updated member on decision which were subject to various requirements.

Resolved

That the position statement is accepted.

30 **Appeals Progress Report**

The committee considered a report of the Head of Development Control and Major Developments which updated members on applications where new appeals had been lodged, public inquires/hearing scheduled or appeals results received.

Resolved

That the position statement is accepted.

31 **Mike Buxton Retirement**

The committee thanked Mike Buxton, Enforcement Team Leader, for his hard work and contribution to planning committee with over 35 years of service.

The meeting ended at 7.45 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

2 JULY 2009

PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

Human Rights Implications

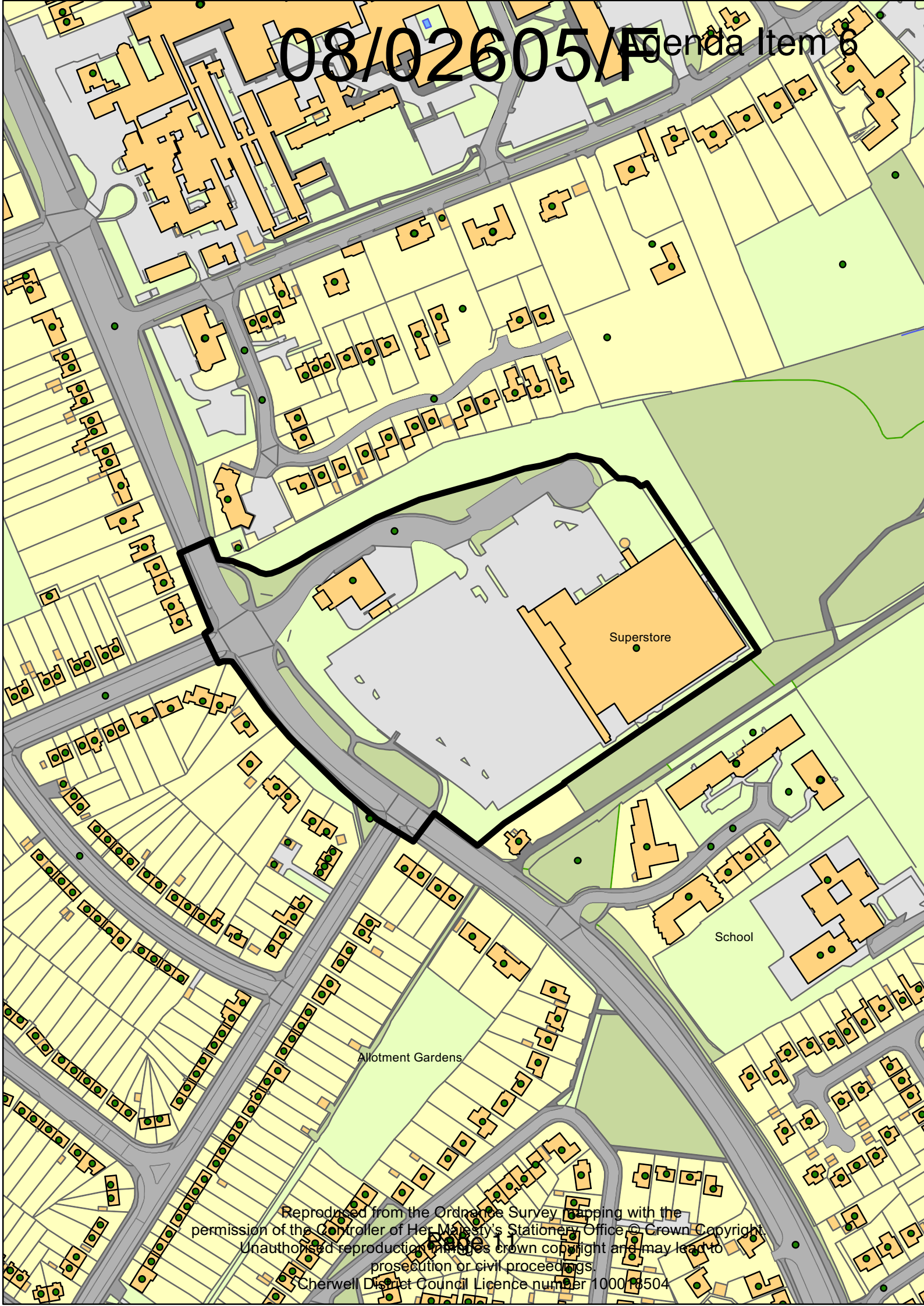
The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

Background Papers

For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision notices or letters containing previous planning decisions relating to the application site.

Applications

	Site	Application No.	Ward	Recommendation	Contact Officer
6	Sainsbury Supermarket Ltd, Oxford Road, Banbury	08/02605/F	Banbury Calthorpe	Approval	Tracey Morrissey
7	2 Laburnum Grove, Banbury	09/00662/F	Banbury Easington	Approval	Caroline Ford

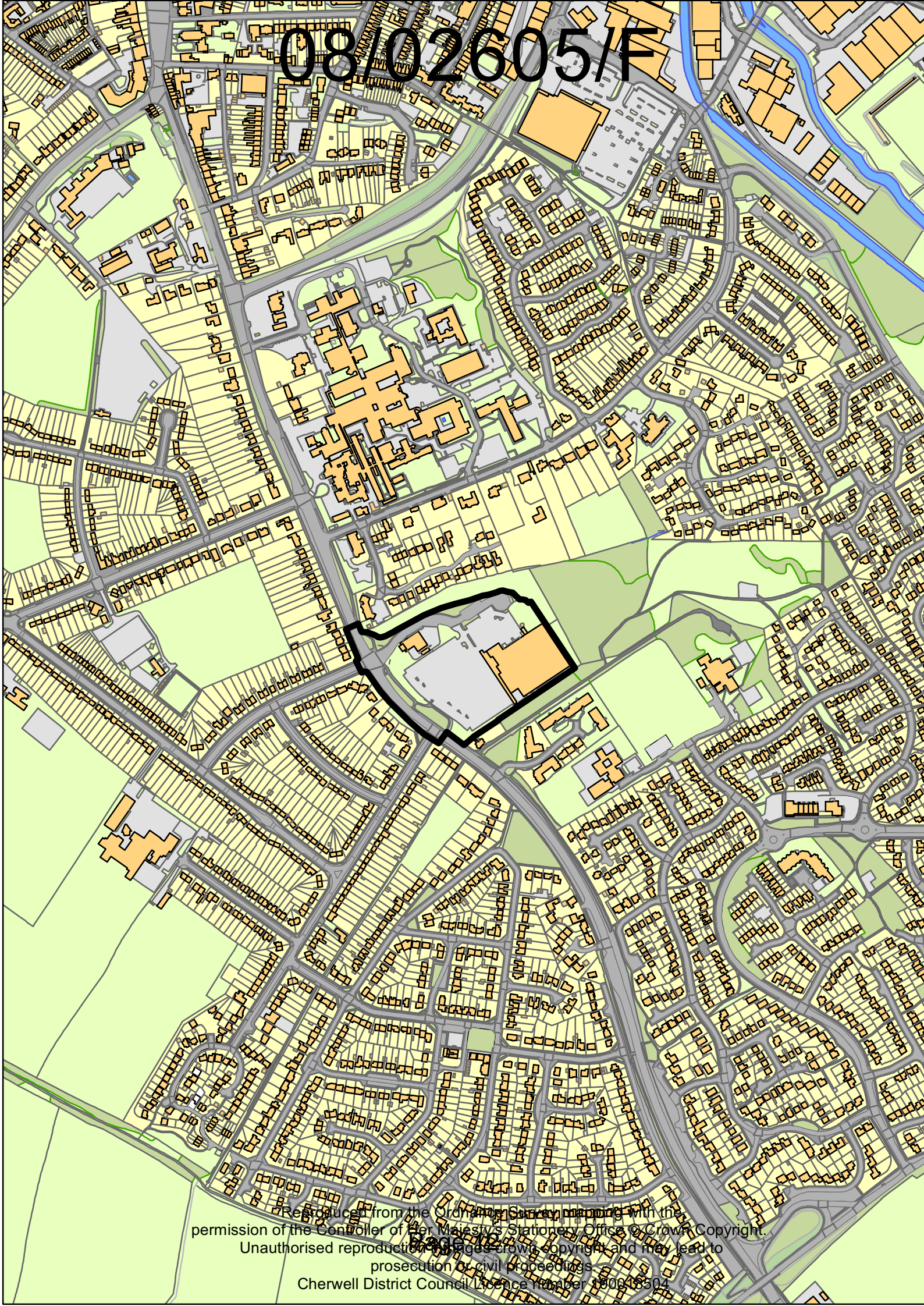


Superstore

School

Allotment Gardens

08/02605/F



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Application 08/02605/F	No:	Ward: Banbury Calthorpe	Date Valid: 12.01.08
Applicant:	Sainsbury Supermarket Ltd		
Site Address:	Oxford Road, Banbury		

Proposal: Extension to existing food store including associated alterations and improvements to car park, service yard and landscaping

1. Site Description and Proposal

- 1.1 This application relates to the existing Sainsbury's supermarket located on the Oxford Road and southern outskirts of the town centre. The store is accessed from the Oxford Road/Farmfield Road intersection via a traffic-controlled junction, adjacent to the existing Sainsbury's owned petrol filling station.
- 1.2 The supermarket occupies the site along with associated customer parking and a service yard and the petrol filling station. The car parking area is at surface level and comprises a total of 463 car parking spaces.
- 1.3 The existing supermarket with a Gross Internal Area (GIA) of 6,728m² and 4,329m² Net Sales area (comprising 3,679m² net convenience goods and 650m² net comparison goods), sells convenience goods and a range of clothing, toys, homeware, books, home entertainment, stationery and seasonal goods and also provides a pharmacy service to its customers.
- 1.4 This application proposes the erection of a 2185m² (GIA) two storey extension to the northern side of the building. The extension involves the provision of some 1674m² net of additional sales floor space and 426m² to non-sales warehouse area bringing the GIA footprint up from 6,728m² to 8,913m². In terms of actual floorspace provision within the store, this would comprise 6,003m² net floorspace, and will include 2,324m² net of comparison goods floorspace.
- 1.5 The proposed extension would enable a more wide-ranging offer of non-food comparison goods to be sold from the store which is currently restricted to 15% of the net retail sales floorspace (Condition no. 11 of permission reference 98/01066/F in respect of an extension to the store). The store would increase its current non-food range and in addition would broaden this range to include lighting, storage and car care products, providing floorspace devoted to comparison goods to equate to approximately 39% of the total sales area of the store. In addition it would help solve the existing problem of in-store congestion at peak times by re-arranging the existing floor space to include wider aisles and enlarged/improved circulation areas, the store would also provide changing rooms.
- 1.6 Internal alterations would include the provision of a new restaurant at first floor level along with a lift, WC's, a staff domestic area and a new explore and learn educational facility unit. The existing layout would remain largely unaltered however the area previously used for the restaurant would be used for the checkout line as it moves forward closer to the shop front glazing.

- 1.7 A new entrance lobby is proposed which would be entered by customers from either side and this new element will be a light glazed box projecting to the front of the store with trolley storage areas to either side. The existing customer WC's would also be relocated near to the new lobby area along with a new lift.
- 1.8 A small extension is also proposed to allow for a home delivery service to operate. Part of the existing ground floor backup area is to be utilized for sales as the staff domestic area is to be relocated to the first floor.
- 1.9 With regards to the external works the proposed extension will be constructed over an area of existing parking reducing the number of spaces from 463 to 426. In addition to the retained car parking, 30 no. cycle parking spaces are proposed to be provided.
- 1.10 The service yard is to be reshaped, however, the unloading dock area is to remain as existing. A new walled enclosure to the yard facing the car park is proposed in addition to 2 no. sections of 3m and 3.5m high acoustic fencing which will reduce noise projecting towards the properties along Hightown Leyes. The recycling facility is to remain near to its existing location but closer to the new acoustic fencing.
- 1.11 The car parking layout remains largely unaltered, however the circulation system (following an amended scheme) is to be altered to have a store front entry only junction.
- 1.12 The layout of the extension and alterations to the car parking areas of the proposed store maintains the existing vehicular access route into the site. Alterations to the junction were initially proposed; however this aspect of the scheme has been revised and will be covered later in the report as part of the highway/transportation assessment.

2. Application Publicity

- 2.1 The application was advertised in the local press and a site notice was posted. The final date for comment was 10th April 2009.
- 2.2 7 letters of representation have been received concerning:
- Carparking layout is dated and should be completely changed to allow safer walking areas for customers and staff moving trolleys
 - Trees along the Oxford Road should be retained.
 - No drop off or pick up points designated
 - Junction should be unchanged as it would lose landscaping and cause problems with traffic and hazards that were resolved some years ago.
 - More deliveries would cause more traffic and congestion
 - Out of town store should not be allowed to get larger, town centre site should be used.
 - Acoustic fencing should be erected before building work starts
 - Little consideration has been given to people who walk to the store
 - The adjacent repeater station site should be used as a slip road into the site.

1 letter received from Consultants on behalf of WM Morrison Supermarkets objecting on the grounds that:

- Consideration of the proposal in respect of PPS6 terms – quantitative and qualitative need, scale, sequential approach, retail impact and accessibility and consider that the applicants fail the tests of PPS6 because:
- Their qualitative need is a symptom of their store successfully competing with town centre stores, which has resulted in town centre facilities significantly under trading when compared to their company average performance. This is rectified by clawing back trade currently lost from the town centre not providing more floorspace in an out-of centre location.
- The applicants have not satisfied the sequential test and justified why other sites identified are not suitable.
- Do not agree that the qualitative deficiencies experienced at the Sainsbury's store justify the inability of the applicant to consider the disaggregation of their business model.
- The impact of an improved store on existing poor performing town centre food stores could have a serious adverse impact on Banbury Town Centre.
- The store if improved is likely to attract a greater number of car borne customers.

3. Consultations

3.1 Banbury Town Council – no objection but suggest the following:

- Acoustic fencing erected prior to the commencement of the development
- Traffic circulation should be reversed to have entry only in front of the store
- Changes to the junction should not be considered as the proposed widening of Oxford Road to allow two lanes of traffic merging would create serious problems.
- Traffic signals at the junction should allow northbound traffic to turn right with southbound traffic stopped for 15 seconds.

3.2 Oxfordshire County Council Highway Authority – no objections subject to the S106 details being secured and the (suggested) conditions.

See transportation and highway and parking for further assessments.

3.3 Head of Planning and Affordable Housing - In February 2006 CB Richard Ellis were instructed by Cherwell District Council to undertake an assessment of future retail capacity within Cherwell together with an overview of other PPS6 town centre uses. Two of the key project requirements were:

- Identify the quantitative and qualitative 'need' for both food and non food retail floorspace in the District to 2021;
- Identify potential sites and provide recommendations on a preferred strategy in order to enable the Council to make strategic choices about the scale and type of need, where growth should be accommodated and how it can be used most effectively to strengthen the town centre function in the three main urban areas and the wider network of existing centres within the District;

The study contained a number of findings which will be important in considering the proposal. As the proposal is for comparison goods, the following highlights the findings of the study in relation to this.

- Banbury is an accessible centre with good road, rail and bus connections.
- The provision of easily accessible out-of-town foodstores in Banbury means that expenditure currently leaks from the town centre and stores are under trading.
- It is estimated the existing non-central main foodstores as a group (are achieving combined sales in 2006 of approximately £406m. This is about the level which they would achieve if they were all trading at their estimated company average level (£404m). Thus as a group, the existing non-central main foodstores in the catchment area do not appear to be over-trading.
- By making no allowance for increases in market shares, there will be sufficient expenditure growth in the catchment area to support additional comparable goods retail floorspace of approximately 9,436m² net by 2011, raising to 20,176m² net by 2016, 36,380m² net by 2021 and 47,180m² net by 2026, if forecast growth is per capita expenditure occurs.
- The results of the capacity assessment (Appendix K) whilst demonstrating that there is no capacity for additional convenience floorspace over the Plan period does identify capacity for approximately 47,180m² of comparison floorspace by 2026. The study recommends the Council seek to make provision within the emerging LDF to accommodate in the region of 20,000m² net of comparison floorspace – sufficient to meet the identified need to 2016.
- The identification of additional capacity does not automatically provide the justification for further out-of-centre retail development, however, this capacity should, in accordance with PPS6, be directed to existing centres and, we would expect a certain element will be ‘clawed back’ by town centre retail developments.
- The study identifies vacant premises and sites (some of which are identified in the Non-Statutory Cherwell Local Plan 2011) which could be redeveloped for retail use.

The findings of the PPS6 assessment show that there is capacity for additional comparable goods in the catchment area. These findings would in principle support the proposals for new comparison goods. However, the study also highlights how this need should not be used to justify locating this in out of town locations. Town centre spending is leaking to the supermarkets already. It is likely that the proposal will add to this and the convenience of having both convenience and comparable uses in one location could increase leakage from the town centre further.

The PPS6 study shows how there are premises and sites available in Banbury town centre to accommodate retail uses and PPS6 and PPS1 are clear about how development should be located in town centres.

- 3.4 Anti-Social Behaviour Manager - The Team has historically, received a number of noise complaints associated with activities on the above site. The complaints have included allegations that delivery vehicles have been left idling on the service road

approaching the loading bay area, the noise can be heard from the loading bays themselves and that the use and servicing of the recycling areas has given rise to noise.

In the applicant's specialists report these factors have been recognized (with the exception of the servicing of the recycling bays) and quantified. The effect of the various noise sources has been modelled and their impacts assessed. Where mitigation is required to achieve the previously established noise targets for the site this has been included in the report.

Safer Communities and Community Development therefore would not object to the granting of planning permission for the proposed development subject to the following conditions:

1. That the additional noise barriers described in section 5.1 of the report are installed prior to the first use of the altered loading area and that these barriers are maintained in good order thereafter.
2. That all measures contained in the operating schedule described in section 6 of the Noise Assessment report shall be conditioned.
3. That the recycling area shall not be emptied or otherwise serviced before 08:00 or after 18:00 hrs Mon –Sat and at no time on Sundays, Bank or Public Holidays.

It should also be noted that we have received a number of complaints during the construction phase of the initial store and the last extension. The applicants must therefore be aware that the Anti Social Behaviour Team will be imposing restricted hours of working for the construction of the store extension.

- 3.5 Head of Economic Development and Estates - Since the closure of the supermarket occupied by Somerfield, there has been no specialist supermarket situated in the Town Centre, and limited food shopping options available. Concerns have been raised about this by a significant number of residents who do not find it easy to access the out of town stores. There is a clear demand for a foodstore in the town centre, but any additional capacity provided out of town is likely to reduce the prospects of a tenant being found for a town centre store.

The Council has identified the Bolton Road site as a regeneration area, as noted in the Retail assessment included in the application. At this time no planning brief has been prepared for this site, although that work is planned for this year. The statement at paragraph 2.43 of the applicant's retail assessment is incorrect. The Council has yet to undertake sufficient work to establish the range of uses which may be provided on the Bolton Road site, and it may well be that comparison floorspace of the type proposed by Sainsbury's is included.

The appropriate location for food and comparison goods floorspace is in the town centre, and the Council will be seeking to bring forward the Bolton Road site, with work on the planning policy commencing shortly. Any further out of town development will increase the diversion of trade away from the town centre, and will make it more difficult to attract tenants to this site.

There are currently a number of empty comparison goods floor space empty in the town centre that should be considered further.

- 3.6 Environmental Protection Officer - The phase 1 and 2 geotechnical and geo environmental report submitted with this application identified levels of ground gas at the development site which may pose an unacceptable risk and gas protection measures have been proposed to mitigate this risk. I would recommend that condition 8.13 is applied to this application decision although the first two phases of this condition have been adequately addressed already.
- 3.7 Head of Building Control and Engineering Services – there will be no implications for surface water drainage. Parking should be assessed on actual peak demand as existing and then increased pro-rata upwards to assess likely future demand, then assessment whether residual parking will be adequate. The increased attraction of the supermarket would not have a significant impact on the Oxford Road itself. The effect is most likely to be felt at the exit from the site, where queues and delays could be longer. A view will have to be taken in due course on whether to reduce these queues at the expense of the Oxford Road traffic.
- 3.8 Landscape and Arboricultural officers – notwithstanding that Sainsbury's may not decide to widen the carriageway at the present time, and that the County Council will monitor the junction, it needs to be established what impact the proposed road widening would have on the adjacent beech trees prior to a decision being made. Requests a tree protection plan and tree root survey.

There are concerns about planting native species close to footpaths because of overhanging.

It is considered that there should be a 1m wide strip of low groundcover between the path and higher plants. It isn't very clear from the applicant's drawing what they intend. The landscape officer is not very keen on native roses in an area like this as they spread very rapidly and are likely to be a thorny nuisance. They would prefer to see *Acer campsetre*, *Cornus* or *Viburnum opulus*.

It is advised that cultivation of root areas should be by hand and the landscape officer suggests the need to have a detailed planting plan for monitoring purposes.

- 3.9 Thames Valley Police – Would prefer windows in the new first floor staff area on the nw elevation, as the blank wall will be alongside a relatively secluded area of parking for the disabled and for adults with children – absence of natural surveillance could leave vehicles vulnerable. One or more window would be a deterrent but it is understood that this could have implications for overlooking to Hightown Leyes properties.
- 3.10 Banbury Civic Society – content with the extension and changes to car park but object to the changes to the junction on the grounds of highway safety and loss of amenity as a result of loss of trees and vegetation along the Oxford Road
- 3.11 Thames Water – no objection
- 3.12 Environment Agency – no objection

4. Relevant Planning Policies

4.1 SOUTH EAST Plan Policies

SP2 - REGIONAL HUBS

SP3 - URBAN FOCUS AND URBAN RENAISSANCE

TC1 - STRATEGIC NETWORK OF TOWN CENTRES – Banbury is identified as a Primary Regional Centre. This network of town centres will be a focus for those town centre uses is set out in PPS6.

TC2 - NEW DEVELOPMENT AND REDEVELOPMENT IN TOWN CENTRES

CC6 – SUSTAINABLE COMMUNITIES AND CHARACTER OF THE ENVIRONMENT

C4 – LANDSCAPE AND COUNTRYSIDE MANAGEMENT

CC7 – INFRASTRUCTURE AND IMPLEMENTATION

BE1 – MANAGEMENT FOR AN URBAN RENAISSANCE

T1 – TRANSPORT-MANAGE AND INVEST

T4 – PARKING

T5 – TRAVEL PLANS AND ADVICE

RE2 – SUPPORTING NATIONALLY AND REGIONALLY IMPORTANT SECTORS AND CLUSTERS

RE3 – EMPLOYMENT AND LAND PROVISION

CO5 – TRANSPORT

4.2 Adopted Cherwell Local Plan Policies – C28, C30, ENV1

4.3 Non-Statutory Cherwell Local Plan 2011 Policies – TR2, TR3, TR4, TR5, TR11, D1, D2, D3, D5, D9, S9 and S1 which is based on guidance in PPG6, now replaced by PPS6 and provides that development proposals that generate an increased demand for travel should be located in accordance with the sequential approach. Accessible out-of-centre locations should only be considered if there are no town centre or edge-of-centre sites available.

4.4 PPS1 states that Planning Authorities should focus development in existing centres to promote vitality and viability, social inclusion, more sustainable forms of transport and reduce the need to travel.

4.5 PPG13 promotes more sustainable transport choices for people, accessibility to jobs and shopping by public transport, walking and cycling and reducing the need to travel, especially by private car.

4.6 PPS6 states that the government's key objective for town centres is to promote their vitality and viability by planning for growth and development of existing centres; and promoting and enhancing existing centres by focusing development in such centres and encouraging a wide range of services in a good environment, accessible by all.

PPS6 is considered further below. A draft version of PPS6 was published for consultation and it has been followed by a consultation draft of PPS4 (May 2009) incorporating draft revisions to PPS6

5. Appraisal

5.1 This application follows the early pre-application consultation and has been revised taking into account feedback received during the consultation exercise. Specifically revisions to the scheme include:

- The re-configuration and reduction of the extension from 2,614m² to 2,185m² (GIA) with part repositioned at first floor level
- Internal reconfiguration of the existing foodstore resulting in an additional 123m² sales area more than the previous extension scheme (1,551m² to 1,674m² sales area extension)
- Removal of the decked car park and re-arrangements of the car park and recycling centre
- Retention of existing service yard arrangements
- Relocation of restaurant from ground to first floor
- Introduction of a new 'Explore and Learn Centre' at first floor level.

5.2 The proposal raises a number of planning issues, which are as follows and will be address separately:-

1. Planning Policy
2. Highway/transportation
3. Parking
4. Design
5. Effect on locality
6. Explore and Learn Educational Facility

5.3 1. Planning Policy

In support of the planning application, the applicant's agent White Young Green (WYG) submitted, *inter alia*, a revised (final) Planning and Retail Statement dated December 2008, the first (draft) Retail Statement (RS) dated December 2007 was submitted along with the pre-application submission. GVA Grimley were commissioned to consider, by the Council, both Retail Statements (and updates) and the quantitative and qualitative need for the proposed development along with an assessment on the application of the sequential approach and impact on Banbury town centre, based on the requirements of PPS6 and in light of the retail need and site selection established in the Cherwell District Council Retail Study (CDCRS) undertaken in 2006.

- 5.4 WYG and GVA have taken into consideration the impact of the current economic climate/recession and Banbury town centre health check, taking into account current vacant premises and other potential sites other than those identified in the Non-Statutory Cherwell Local Plan 2011.
- 5.5 Policy S1 of Non-Statutory Cherwell Local Plan 2011 – is based on guidance in PPG6, now replaced by PPS6 and provides that development proposals that generate an increased demand for travel should be located in accordance with the sequential approach. Accessible out-of-centre locations should only be considered if there are no town centre or edge-of-centre sites available.
- 5.6 PPS6 remains the relevant national planning policy guidance for the determination of the proposals at the current time and requires the applicants to consider matters of need, scale, the sequential approach, impact and accessibility.
- 5.7 PPS6 was introduced in 2005 and the timescale for the publication of a replacement PPS is uncertain, although a further consultation draft of revised policy has been published in May 2009 (PPS4). In the meantime, relatively little weight can be attached to the consultation draft changes, although they do provide some insight into current government thinking.
- 5.8 In parallel with the new consultation draft, the government has published a draft Good Practice Guide prepared by GVA Grimley which provides further clarification on the application of the sequential approach and the new impact test. While both the consultation draft changes and the Good Practice Guide remain in draft, in considering the current proposals GVA have had regard to the potential implications of these documents, as well as the current planning policy guidance in PPS6 which will continue to be the key guidance against which the current proposals fall to be determined.
- 5.9 The proposed revisions to the PPS appear to reinforce the government's objectives to promote choice, competition and improved productivity attaching more weight to qualitative need considerations. However, the emerging policy statement removes the requirement for applicants to demonstrate need, and as such the main thrust of government policy looking ahead, is likely to be on the key requirements of the sequential approach and a new wider impact test.
- 5.10 The consultation draft also highlights the importance attached to inclusive design and sustainable development. The requirement to demonstrate that all proposals are readily accessible by alternative means of transport is also maintained in the consultation draft. A specific requirement is proposed to assess whether the proposal over a life time has been planned to limit carbon dioxide emissions. It is anticipated that both current and future planning policy guidance is likely to place increased emphasis on these considerations, in addition to the more conventional retail policy tests, i.e. the sequential approach and impact testing.
- 5.11 In considering applications for, inter alia, extensions to existing facilities, applicants are required to demonstrate the following (Para 3.4, PPS6)
- the need for scale and form of floorspace proposed;
 - that the proposals are of an appropriate scale to the role of the centre;
 - that the applicant has adopted a sequential approach to site selection insofar as there are no more central sites for the proposed floorspace;
 - that the proposals will not lead to an unacceptable impact on the vitality and viability of the town centre;

- and the proposals are genuinely accessible by alternative means of transport to their intended catchment.

5.12 Para. 3.29 of PPS6 also advises that “the impact on existing town centres of the proposed extension should be given particular weight, especially if new and additional classes of goods or services for sale are proposed. In addition, where establishing need is concerned, local planning authorities should establish that the evidence presented on the need for further floorspace relates specifically to the class of goods proposed to be sold. The sequential approach is relevant to extensions where they exceed 200 square metres.

5.13 **The Need for the Development**

PPS6 is clear that need must be demonstrated for any application for a main town centre use in an edge-of centre or out-of-centre location. The need for any retail proposal would be assessed on its quantitative and qualitative need. PPS6 indicates that when assessing need and capacity for additional retail developments, local planning authorities should place greater weight on the quantitative need for additional floorspace. However, the qualitative considerations should also be taken into account (PPS6, paragraph 2.33).

5.14 Quantitative Need

PPS6 states at paragraph 2.34 that,

“In assessing quantitative need for additional development when preparing its development plan documents, a local planning authority should assess the likely future demand for additional retail and leisure floorspace, having regard to a realistic assessment of:

- existing and forecast population levels;
- forecast expenditure for specific classes of goods to be sold, within the broad categories of comparison and convenience goods and for main leisure sectors; and
- forecast improvements in productivity in the use of floorspace.

Such an assessment should provide sufficient information on which to base strategic choices about where growth should be accommodated and how it can be used most effectively to strengthen or regenerate existing centres, and to address deficiencies in the existing network of centres.”

The CDCRS undertaken in 2006 identified this future demand and provision.

5.15 In auditing both the draft (Dec 2007) and Final (Dec 2008) Retail Assessments, GVA concluded that there is a quantitative need for substantial comparison shopping floorspace in the Banbury area, based on the current market share of the town centre and out of centre provision and current and forecast expenditure within the area. The analysis made took into account known commitments and found that there is still more than sufficient quantitative need for the scale of additional comparison shopping floorspace proposed at the current time, it was also found that this need is likely to increase further as a consequence of forecast spending growth (£100m by 2013 and £161m by 2016).

- 5.16 Notwithstanding this analysis, WYG were asked in April 2009 to consider what the effects of the current economic recession had on the CDCRS and their quantitative need assessments, and in particular lower forecast expenditure growth to determine its implications for forecast retail needs. This exercise was necessary, as the CDCRS was undertaken in December 2006 and the final RS was undertaken in December 2008, and did not factor in the effect of the current recession on expenditure growth projections.
- 5.17 Following receipt of the revised assessment and after taking into account the proposal and retail commitments, the exercise was found that there is still substantial comparison goods expenditure capacity in Banbury to support the scale of floorspace proposed (£53.5m-£60.4m by 2014 and £98.4m-£106.1m by 2016)
- 5.18 The analysis also took into account the number of vacant retail units within the town centre, and especially consideration of the empty Woolworths store. However, the CDCRS demonstrates that there is a need of approx. 47,180m² net floorspace by 2026 and LDF provision should be 20,000m² net floorspace need by 2016. Taking into account vacant retail floorspace in the town centre which is in the region of 5,000m² net floorspace, and a potential site in the town centre, which is not an allocated site offering approx. 3,500m² and the proposed Sainsbury's extension (1,674m²) this amounts to 10,174m² of net retail floorspace. There is still a capacity within the town centre for additional comparison floorspace of 9,826m², and whilst this is based on the CDCRS assessment, prior to the recession, it is considered that, even with the effects of the economic downturn the proposal will not provide over and above that identified need in additional comparison floorspace.
- 5.19 Qualitative Need
- PPS6 also states at paragraph 2.35 that
- "In assessing the qualitative need for additional development when preparing its development plan documents, a key consideration for a local planning authority will be to provide for consumer choice, by ensuring that:
- an appropriate distribution of locations is achieved, subject to the key objective of promoting the vitality and viability of town centres and the application of the sequential approach, to improve accessibility for the whole community; and
 - provision is made for a range of sites for shopping, leisure and local services, which allow genuine choice to meet the needs of the whole community, particularly the needs of those living in deprived areas (see also paragraphs 2.55–2.58)."
- 5.20 Paragraph 2.33 also advises that "in assessing the need and capacity for additional retail and leisure development, Local Planning Authorities should place greater weight on quantitative need for additional floorspace for the specific types of retail and leisure developments"
- 5.21 WYG's RS has identified the qualitative need for the proposed floorspace which focuses on the evidence of:
- problems with localized congestion in the sales and circulation areas in the vicinity of the non-food offers and the entrance to the store

- the limited scope to create more attractive and innovative product displays and layouts
 - Observations and customer feedback concerning the limited range of comparison goods on offer. They draw comparisons between the non-food offer of the Sainsbury store, and other large stores in the area including Tesco, and indicate that at 15% of total sales floorspace, the non-food offer of the Sainsbury store in Banbury is below consumer expectations and does not match the applicant's business model.
 - The importance of the store as the only walkable and easily accessible foodstore which is able to serve local residents in the southern part of Banbury
- 5.22 The assessment made by GVA concludes that the applicant has demonstrated that there is, to some extent, a qualitative need to improve the layout and range in choice of goods available in the store to match Sainsbury's 'business model', which is a legitimate policy objective and to meet consumer expectations.
- 5.23 In conclusion, taking all matters into account including the current economic climate, the applicant has demonstrated that there sufficient expenditure and comparison goods floorspace capacity in the Banbury catchment area to justify a need for the proposed floorspace along with the applicant's agreement to restrict comparison goods floorspace to a maximum of 2324m². Therefore given this conclusion, and having regard to the government's intention to drop the 'needs test' in any event, it is not considered that this represents a legitimate ground for objection to the current proposals.
- 5.24 **The Sequential Approach**
- The government's 'town centres first' policy, which underpins the sequential approach, remains a key element of PPS6 and is expected to be incorporated largely unchanged in the replacement PPS4. This places the onus on the applicants to demonstrate that they have thoroughly assessed alternative options, and have taken a flexible approach to meeting their requirements. However, it recognises the role of alternative business models and does not seek arbitrary subdivision of individual stores. In essence, the guidance calls for realism both on the part of local planning authorities and applicants, and that when assessing possible alternative sites, regard is had to their suitability, viability and availability.
- 5.25 In seeking to promote town centres, PPS6 requires a sequential approach to be adopted. Consideration of site selection requires development to be directed to the following locations (PPS6, paragraph 2.44):
- existing town centres (within the primary shopping centre) in the first instance;
 - edge-of centre locations (within 300m of the town centre; then
 - out-of-centre locations (a location which is not in or on the edge of a centre but not necessarily outside the urban area).

- 5.26 Para. 3.15 of PPS6 states that “In applying the sequential approach, and considering alternative sites, operators should be able to demonstrate that in seeking to find a site in or on the edge of existing centres they have flexible about their proposed business model in terms of the following considerations:
- The scale of the development
 - The format of their development
 - Car parking provision
 - Scope for disaggregation”
- 5.27 The purpose of this exercise is to explore the possibility of enabling the development to fit onto more central sites by reducing the footprint of the proposal. However, para. 3.18 of PPS6 goes onto advise that “a single retailer should not be expected to split their proposed development into separate sites where flexibility in terms of scale, format, carparking and scope for disaggregation has been demonstrated”.
- 5.28 Material to the consideration of disaggregation is Sainsbury’s business model and they have demonstrated in the RS para 4.36 and 6.10, essentially they are not a comparison goods retailer and do not operate stand alone comparison goods stores. Sainsbury’s business model is quite different from that of a comparison good retailer. Their comparison goods range is offered as an ancillary element of their main convenience goods range. Therefore a viable unit for them would need to accommodate both a range of convenience goods and comparison goods.
- 5.29 Key to this aspect WYG advise that:
- Increasing the range of comparison goods will benefit customers carrying out their main food shop
 - Additional convenience not only manifests itself in time savings for the customer but will also reduce the need to travel
 - Sainsbury’s store is an important, valuable and essential foodstore for residents living in the southern area of Banbury. Residents would be disadvantaged if the Sainsbury’s store was relocated to the town centre
- 5.30 Whilst the issue of disaggregation is material to the consideration of the sequential approach, and that to disaggregate the comparison goods into the town centre would not necessarily fit with Sainsbury’s business model, this is just one element of adopting the sequential approach. Essentially if there are sequentially preferable sites within and on the edge of the town centre, these should be taken into account in the overall exercise.
- 5.31 Therefore as part of the sequential approach exercise, sites in the town centre and on the edge of centre have been identified in accordance with this PPS6 requirement. There are significant town centre development opportunities in and on the edge of Banbury town centre, which could be suitable, viable and available within the medium term to accommodate planned new development, and which could accommodate some elements of the need which would be met by the expanded Sainsbury store.

5.32 The sites considered as part of the sequential exercise are Bolton Road and Calthorpe Street, these are edge of centre sites, there is then the emerging Crown House site (off junction of Cherwell Street and Bridge Street and adjacent Christchurch Court), this is a site within the town centre. Other sites, such as land at White Lion Walk and Church Walk, George Street/Pepper Alley and Lower Cherwell Street have also been considered along with the existing vacant retail units including the former Woolworths store. The key sites considered viable sequentially preferred sites are Bolton Road, Calthorpe Street, Woolworths and the Crown House site.

5.33 Bolton Road

Land at Bolton Road is identified as a key redevelopment site and the Council's aspirations involve comprehensive development including a convenience goods foodstore together with car parking and residential development. A brief summary of the site and current position is as follows:

- 5.34
- The site is identified in both the Non-Statutory Cherwell Local Plan 2011 and the retail study for a "comprehensive mixed use redevelopment".
 - No development brief has been prepared for the site
 - The Council have not yet determined the amount of retail floorspace achievable.
 - The Bolton Road site is a key site in Banbury and is a medium term priority to support the vitality and viability of the town centre.
 - Following the closure of Somerfield a convenience food store would be sought for this site and is seen as a means of addressing the balance between town centre and out-of-centre convenience provision in Banbury.
 - A foodstore would need to form part of a mixed use scheme which includes the provision of a replacement multi-storey car park and some residential floorspace.
 - Cherwell District Council is a major landowner on the site and is currently aiming to promote its development over the medium term through allocation in the emerging Local Development Framework.

5.35 Officers consider that both the Bolton Road and Calthorpe Street sites are sequentially preferable sites as they are key development opportunities within the town centre and that a Town Centre Strategy promoting these sites will form part of the Council's LDF. However they are not considered to be viable sequentially preferable sites in the short term as it cannot be reasonably demonstrated that there is a realistic prospect of the sites coming forward within 5 years (i.e. that they are suitable, viable and deliverable), despite the sites' likely availability within 5 years, but it is too early to say that the development will be promoted within that time and an indication of the floorspace to be gained.

5.36 Former Woolworths site:

- In terms of size the unit measure a total of 2,437m² gross. WYG have consulted Experian Goad and have found that the unit consists of 1,540m² floor space at ground floor level. The proposed extension to Sainsbury's involves 2,185m² gross / 1,674m² net floorspace.
- The ground floor area of the Woolworths site cannot physically accommodate the identified need for a larger Sainsbury's convenience store or even the proposed extended floorspace.
- The opening hours of the shopping centre (9.00am – 5.30pm) and the

distance of car parking from the units are likely to significantly effect the viability of the unit for a foodstore operated who would seek to be open longer hours and have car parking nearer to their store.

- 5.37 GVA have considered WYG's assessment on the question of vacant units and their continued assertion that the need identified is locationally specific. GVA accept that elements of the identified need could be regarded as location specific e.g. improving the internal layout of the store, and some improvement to the range of comparison goods available to match the aspirations of the operators' business model. However, this does not remove the key policy requirement to consider the availability of alternative sites and/or vacant units
- 5.38 GVA have reviewed WYG's comments in relation to the Woolworth's unit. Notwithstanding the indications that the unit may not currently be available, in practice a short term delay in its availability would not in itself be a reason to disregard this. Nor is Sainsbury's decision not to operate free standing comparison retail stores a reason to discount suitable sites/vacant units capable of meeting identified comparison shopping needs from retailers who are prepared to develop and operate such stores. The key consideration in policy terms is the suitability, viability and availability of sites and units capable of meeting the identified need, which in this case is largely defined as a general comparison shopping floorspace need within the Banbury area, rather than a location specific need for a significant expansion of the Sainsbury's store.
- 5.39 Notwithstanding this point of principle, GVA recognise that the needs identified in the CDCRS are for additional floorspace i.e. they would be in addition to reoccupation of the Woolworth unit and other potential vacant units within the centre. Furthermore, GVA consider the proposed extension of Sainsbury's, while to some extent duplicating the type of goods which could be sold from the Woolworth's unit, is unlikely to materially affect demand for the reoccupation of this unit, or undermine the vitality and viability of Banbury Town Centre.
- 5.40 Crown House site
- An emerging site within the town centre is the Crown House site, this site is part of the regeneration area designated by Policy S5 of the Non-Statutory Cherwell Local Plan 2011. A stand alone scheme has come forward and at this stage is only at pre-application discussion. The scheme would involve the construction of a 3 storey building with a ground floor convenience retail provision and the further two floors for comparison goods. Essentially the site is suitable for redevelopment in principle; however there are a number of site constraints to overcome in order to provide a scheme that is viable.
- 5.41 Notwithstanding that, Officers consider this site to be sequentially preferable and is a development opportunity that will contribute significantly to the town centre should a scheme be approved, however the site is not immediately available and would therefore not be a sequentially available site in the short term. Furthermore, in any event it is also relevant to consider this Crown House Site and other sites against the scale of potential identified need, and whether there is any evidence that the Sainsbury proposals will prejudice the delivery of these town centre opportunities. It is considered that this is not the case, the additional limited floorspace proposed by Sainsbury's is unlikely to delay, stall or otherwise impair the development of any

sequentially preferable town centre sites or other retail proposals coming forward.

5.42 In conclusion therefore, it is considered that whilst there are sequentially preferable sites, with good development opportunities within and on the edge of the town centre, the applicants have applied the sequential approach have satisfactorily demonstrated that there are no immediately suitable, viable or available alternative sites on which to meet the identified need and furthermore, the limited scale of the development proposed by Sainsbury's is unlikely to prejudice these sequentially preferable sites coming forward in the short to medium term.

5.43 **Impact**

PPS6 states at paragraph 2.48 that "Making additional sites available for development may have both positive and negative impacts on existing centres. Positive benefits are likely to be strongest where additional development takes place in the centre, or by an expansion of the centre, followed by edge-of- centre sites where a development would be well connected to the centre and result in a significant number of linked trips and clawback expenditure. Where a site is proposed to be allocated in an edge-of-centre or out-of-centre location, local planning authorities should assess the impact that the potential development of the site would have on centres within the catchment of the potential development. Where the potential development of a site or sites proposed to be allocated in a centre would substantially increase the attraction of the centre and could have an impact on other centres, the impact on other centres will also need to be assessed".

5.44 GVA previously concluded that the proposals are unlikely to lead to any significant adverse impact on the vitality and viability of Banbury town centre, taking into account the effect of the recession and current expenditure capacity the same conclusion has been drawn. WYG's impact analysis has showed that the proposed extension will have no material effect on the trading position of Banbury town centre, it is likely that the proposed development would draw trade mainly from the out-of-centre retail stores.

5.45 Based on Banbury's current performance as demonstrated by the town centre healthcheck, and even allowing for the possibility of more modest levels of expenditure growth over the next 2-3 years, this still suggests that the levels of impact arising from the proposals are unlikely to undermine any current or planned investment in the town centre or otherwise adversely impact on the vitality and viability of the town centre.

5.46 WYG provided updated figures on the CDCRS comparison Goods Capacity of Banbury town centre and taking into account more conservative expenditure growth rates and after taking into account the proposal and other identified commitments, it has been concluded that there will still be a surplus expenditure capacity to support additional comparison goods floorspace of between £13.8million to £21.1million by 2012, which is expected to increase to circa £100million by 2016. To put these figures into context, WYG estimate that the total turnover of the proposed extension is only £5.9million.

5.47 GVA have examined the applicant's impact assessment. Again, using base data derived from the Council's own study, the applicant estimates that the turnover of Banbury town centre is currently circa £328.3million and is expected to increase to £376.6million by 2010, which is the year they have used for testing impact. Based on their assumption that the proposal will only achieve a turnover of £5.9million, and

only circa 45% of this, or £2.6million, will be diverted from the town centre, the impact will be significantly less than 1%. Again to put these figures into their proper context, on this basis the proposal would not have any measurable effect on the current performance of Banbury town centre, and would only marginally reduce the significant scale of forecast growth in the centre's turnover up to 2010.

- 5.48 GVA have undertaken some sensitivity testing of the applicant's figures, and in particular considered the implications of the proposals assuming they achieve a significantly higher turnover, and draw a much higher proportion of their trade from retailers in the town centre as opposed to retail parks and other foodstores. In practice, the assumptions GVA have tested, represent the very worst case scenario, and still point to an overall impact of less than 3% which will be significantly offset by forecast growth in comparison goods spending in Banbury town centre. On either basis, therefore, it is considered that there would be no sound basis to refuse the proposals based on WYG's current impact on Banbury, or based on any likely adverse impact on its vitality and viability.
- 5.49 Equally, in the context of the scale of capacity arising in the Banbury area, even reflecting the lower consumer spending growth which is now predicted, the analysis suggests there will be significant, and growing capacity for additional convenience and comparison retail floorspace in Banbury town centre, over and above the planned extension at Sainsbury's.
- 5.50 In conclusion, it is considered that the applicant's have sufficiently demonstrated that the scale of the development proposed will not have any measurable adverse effects on the vitality and viability of Banbury Town Centre. In the circumstances, and given that the key town centre opportunities identified are likely to come forward over the medium to longer term period during which additional comparison expenditure capacity is expected to be generated, it is considered that the proposals would not have any discernable effect on planned investment in Banbury town centre, or undermine the Council's aspirations to bring forward significant retail and other town centre uses on its key development sites in the centre.

5.51 **Ensure that the site is Accessible**

PPS6 states at paragraph 2.49

The Government is seeking to reduce the need to travel, to encourage the use of public transport, walking and cycling and reduce reliance on the private car, to facilitate multipurpose journeys and to ensure that everyone has access to a range of facilities. Good access to town centres is essential. Jobs, shopping, leisure and tourist facilities and a wide range of services should therefore be located in town centres wherever possible and appropriate, taking full advantage of accessibility by public transport. In selecting appropriate sites for allocation, local authorities should have regard to:

- whether the site is or will be accessible and well served by a choice of means of transport, especially public transport, walking and cycling, as well as by car; and
- the impact on car use, traffic and congestion.

Guidance on transport assessment, accessibility analysis and parking matters is set out in Planning Policy Guidance Note 13: Transport (PPG13).

- 5.52 A Transport Impact Assessment and a supplementary Transport Assessment (STA) have been provided in support of the proposal which has been considered by the County Council as local highway authority. The conclusions of this have been reported in the Highway and transportation sub-heading 2 this report.
- 5.53 The Sainsbury's store on the Oxford Road meets an identified need and provides a convenience store for the residents in the southern part of the town, which counter balances the stores in the north of the town (Tesco and Aldi). Essentially the store is accessible by modes other than the private car in the form of cycling, walking and public transport. A community bus service also drops and picks up at the store.
- 5.54 It is therefore considered that given alternative forms of transport to and from the store, it is clearly accessible.

5.55 **Policy Summary & Conclusions**

In summary, GVA consider the latest WYG retail assessment provides further clarification on the points identified in their previous review, particularly in relation to the scale and nature of the proposals. There is a quantitative need for the scale of floorspace proposed, there are sound qualitative arguments and the scale of the proposal is appropriate to Banbury's role in the retail hierarchy. While GVA do not agree that the needs identified are entirely 'location specific' they accept that there are qualitative deficiencies in the range of non-food goods available, which can only realistically be met by the proposed extension.

- 5.56 Having reviewed the sequential site analysis GVA and Officers are satisfied the assessment identifies no proposals for significant comparison shopping floorspace within or on the edge of the centre, which could be regarded as suitable, viable or available and in a reasonable timescale.
- 5.57 Members will note that an objection to the proposal has been raised by the Head of Economic Development and Estates with regards to the down turn in the market and the suggestion that more out of town comparison goods space will have limited impact on the town centre is suspect when there are a significant number of shops seeking tenants. Whilst these comments are appreciated, based on the comments received from GVA which has taken into account all updated information and facts and figures which include the effects of the recession, the review of some 11 town centre/edge of centre sites and vacant town centre premises Officers do not consider that a reason to refuse the application could be sustained on the grounds that the proposed extension will have a detrimental impact on the vitality and viability of the town centre in the long term.
- 5.58 Officers are content that it has been sufficiently demonstrated that the very limited scale of development proposed by Sainsbury's is unlikely to materially reduce the capacity identified to accommodate new development on the sequentially preferable sites, or to prejudice them coming forwards in due course.
- 5.59 It is considered therefore in conclusion that the Sainsbury's expansion proposals are not of sufficient scale or significance to have any measurable adverse effects on the vitality and viability of Banbury town centre. There is a significant unmet need

for additional comparison goods floorspace in the centre. And finally the key sequentially preferable redevelopment sites identified in the centre are likely to be capable of accommodating further retail and other key town centre uses over time, but are not readily available in the short term. Officers are content that the applicant has complied with the requirements of PPS6 and taking into account the emerging guidance contained in PPS4, the development proposed is acceptable in policy terms.

5.60 **2. Highway/transportation**

The applicants have completely revised their scheme to remove the decked car park from their initial consultation exercise in 2007. They have also now advised that in agreement with the County Council that the proposed highway improvements to the junction, which involve the creation of another lane on the northern side of the Oxford Road and the reinstatement of a two lane forward formation to the southern approach is not to be automatically implemented as part of the scheme, it has therefore been removed from the scheme as part of the amendments received on 30th March 2009 and an agreement with the County Council. If and when it will be implemented is to be considered at a later stage following a monitoring exercise of the junction capacity over the next 5 years. A commuted sum would be provided as part of a S106.

5.61 Having considered the submitted Supplementary Transport Assessment (STA), which has been produced to address the previous concerns raised (25/02/09), Oxfordshire County Council have considered each element in turn:

5.62 Traffic Generation

Concern was previously raised that the December 2008 Transport Assessment (TA) did not provide a robust justification to support its assumption used for deriving the trip generation. The STA has provided additional evidences which show that the TA's prediction of 9.7% increase in traffic is comparable to other Sainsbury's store extensions in similar type of locations. In addition, the STA has also included analysis of research reports (i.e. TRICS report 95/2, etc) previously undertaken to study the impact of vehicular generations and pass-by/diverted trips associated with food store extensions, which also showed that the TA's trip generation is acceptable.

5.63 HGV tracking plan for servicing

The submitted tracking plans demonstrate that it is possible for delivery vehicles (i.e. HGVs) to enter, turn around and leave in a forward direction safely within the service yard.

5.64 Junction Capacity Assessment

Following initial comments regarding the highway authority's concerns with the junction capacity assessment, additional turning count and queue surveys were undertaken at the A4260 Oxford Road/ Farmfield Road junction to ensure the validity of the base year junction operations modelled. The validation exercise showed that the traffic model provides comparable queue lengths to those observed on site. It is therefore considered that the traffic model is capable to provide a realistic representation of the current junction operations, and as such provide a

robust basis for predicting future junction capacities.

- 5.65 The junction assessment results show that the existing junction will operate above capacity in 2014 with background traffic plus traffic generated from the committed 'College Field' development. The results showed a Practical Reserve Capacity of -26% during the Friday peak and -16% during the Saturday peak.
- 5.66 With the proposed junction improvement (includes widening of the A4260 Oxford Road on its eastern side) the junction is predicted to operate slightly above capacity in 2014 with background traffic, 'College Field' development traffic and additional traffic generated from the proposed store extension. The results showed a Practical Reserve Capacity of -2.2% during the Friday peak and -7.2% during the Saturday peak.
- 5.67 The comparison of junction assessment results demonstrated that the proposed junction arrangement would improve capacity at the junction so that it will operate slightly better (with the addition of traffic generated by the proposed store extension) than the existing junction without the additional flows generated by the proposed store extension.
- 5.68 However, there have been concerns raised by residents and local members with the proposed junction improvements in terms of its layout i.e. will revert to similar layout before existing, possibly causing merging conflicts. Therefore it has been agreed further monitoring of the junction (after the extension is opened) will be carried out by OCC prior to any improvements. If the monitoring demonstrates a need for junction improvements, these will be carried out by OCC. Any improvements required will be funded by a financial contribution by the applicant, which will be held by OCC for 5 years, if such monies have not been used for the junction improvements they will be repaid to the applicant.

5.69 Financial Contributions (Summary S106 Agreement details)

It has been agreed that the methodology for the BITLUS (Banbury ITS) contribution is acceptable i.e. the updated figure BITLUS figure for new trips, using November 2008 prices (latest available) is £2,070. This contribution (associated with 9.7% trip generation) will be paid via a S106 Agreement and will be £192,500 (at current Nov 08 prices). In terms of payment triggers, 50% (£96,250) commencement of work on site and 50% (£96,250) on first occupation of extension. The contribution is to go towards BITLUS and any other transport services or infrastructure (including public transport). This figure may go up with the monitoring of traffic prior to commencement of development (base figure) and subsequent ones after 6 months of opening, but avoiding any seasonal peaks i.e. Christmas & Easter. The ITS contribution will also be used to monitor the junction to assess if improvements are required.

- 5.70 The cost of the (indicative) junction works being £260,000 has been agreed by OCC. For the S106 Agreement it has been agreed this figure is to be paid to OCC prior to first occupation of the store extension and will be held by the County. If after 5 years after receipt the £260k has not been used for junction improvements it will be repaid to the applicant. The £260k will have to be index linked – suggest November 08 Baxter Index Price to match ITS figure.

- 5.71 As part any future works land in the ownership of the applicant will have to be dedicated as public highway land, in addition to the agreed wayleave for the traffic signals; these items will have to be included within the S106. There will also be an OCC admin fee of £3,750 (which does not include legal fees).
- 5.72 In conclusion therefore, it is considered that by way of a monitoring exercise, the applicant and the County Council will assess the capacity of the junction in a pragmatic way as there would be no point in undertaking junction improvement works if they are not actually necessary. By monitoring the situation for a 5 year period, the County Council will make a considered assessment of the likely implications should they arise from the proposed development.
- 5.73 **3. Parking**
The car parking area is at surface level and comprises a total of 463 car parking spaces. This number will be reduced to 426 a loss of approx 8% of the current parking provision. Of the 426 parking spaces, 24 no. will be for disabled use (currently 19 no.) and 20 no. will be for parent and child use (currently 18 no.), these space will be repositioned within the car park. In addition, 30 no. cycle parking spaces are to be provided.
- 5.74 Also proposed as part of the parking scheme is the alteration to the circulation system. An entry only way into the car park will be provided (amendment to original scheme). It was originally proposed as a exit only junction which was considered to be hazardous and a cause for inconvenience to the users of the car park, having to wait for the incoming traffic flow to ease and then 'run the gauntlet' over two lanes of traffic to exist the site.
- 5.75 Exit from the car park is also improved by the removal of kerb to allow a 6m radius curve adjacent to the north-westerly parking spaces, it will result in the loss of some vegetation, but will allow greater visibility at this tight corner of the car park. The proposal also involve additional planting/landscaping around the site.
- 5.76 The Supplementary Transport Assessment (STA) has included additional car park accumulation survey (carried out on 6th and 7th of March 2009) which showed that the original parking survey (on 7th and 8th of November 2008) is representative of the existing car parking situation at the existing store. The STA has demonstrated, through parking capacity assessments, that the proposed car park has sufficient capacity to accommodate the proposed development, where the proposed car park would operate at 90% capacity during peak period.
- 5.77 The applicant has agreed to monitor the car park capacity following development and, if necessary, introduce mitigation measures such as implementation of a limit on the maximum duration of stay to ensure the proposed development would not result in the car park operating over capacity, especially during festive peak periods.
- 5.78 The highway authority recommend that a condition be attached to ensure the details of the monitoring mechanism and mitigation measures are submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

5.79 The applicant has agreed to provide 30 cycle parking spaces as part of the development proposals, with the cycle parking usage monitored and reviewed accordingly in the store's Travel Plan. This is acceptable to the County Council and also Cherwell District Council.

5.80 It is considered that the revised carpark circulation system is now acceptable and overcomes previous concerns raised. The amount of car parking is also acceptable, but it is also acknowledged by the applicant that at peak measures must be introduced to ensure that there is no back up onto the highway as a result of no parking provision. Which essentially is not only in the interests of highway safety, but also in their own interests, as customer will not use the store if parking is a problem. The development proposals therefore accord with PPG13 and relevant development plan policies.

5.81 **4. Design**

The proposed extension is designed to be in keeping with and complementary to the existing building in terms of its scale and overall appearance and built form by continuing the existing pallet of materials, reconstituted stone band and brickwork into the front façade of the extension thereby creating connectivity between the two. A new glazed entrance lobby will be the focal point on the building. And new glazing to the front elevation of the existing building will not only allow more light to filter into the store, but will update the appearance of the existing store building.

5.82 The addition of the first floor element to the existing building will be higher than the existing glazed lobby feature, by approx. 1 m. the majority of the first floor facing west will be glazed. The comments made by the Thames Valley Police regarding the lack of windows on the northern elevation are appreciated, however, mindful of the neighbouring properties along Hightown Leyes, and notwithstanding the existing belt of trees separating, windows inserted in this elevation would undoubtedly result in loss of amenity and privacy from overlooking to the occupiers of these properties, especially during the winter months. This elevation does however appear to remain a long blank, unrelieved elevation facing north.

5.83 Overall, it is considered that the extension, in design terms will have no greater impact than the existing store, but along with the new glazing design features the appearance of the building will be updated without compromising the visual amenity of the locality.

5.84 **5. Effect on locality**

Whilst several letters of objection have been received to the proposed scheme, they relate to the loss of trees along the Oxford Road in connection with the junction improvements, which the principle of which has been covered in the highway section of this report. However, 3 no. trees are to be removed should the junction improvement go ahead, but these are not covered by a TPO unlike others along this part of the Oxford Road, and they are not worthy of such protection as their contribution to Oxford Road is limited. Additional information and surveys are however required to establish the impact on those trees covered by preservation orders and this will be conditioned accordingly along with mitigation measures to ensure their longevity.

5.85 Comments from neighbours about the erection of acoustic fencing have also been noted and are echoed in the comments from the Anti-Social Behaviour Manager. This element of the scheme along with a new walled enclosure to the yard facing the car park is crucial to the amenity of the those neighbours along Hightown Leyes. However through the provision of 2 no. sections of 3m and 3.5m high acoustic fencing, which will also improve the recycling area from a noise perspective, the amenities of these residents will be enhanced. The erection of this fencing will however need to ensure that it will not have detrimental impact on the trees in this landscape belt, again this will be conditioned accordingly.

5.86 **6. Explore and Learn Educational Facility**

A new feature proposed is an Explore and Learn facility, located on the first floor which can be used to provide additional education for 5-14 year olds. This new unit having a floor area of 103m² and amounting 0.05% of the overall extended floor area will provide a tutorial service after normal school hours. Explore and Learn are a separate organization from Sainsbury, but provide this service in a number of other stores around the country. They operate on a maximum of 30 students being privately educated at any one time and a ratio of 6 students to 1 tutor. Therefore for 30 students there should be 5 tutors. Further details can be found on their website www.explorelearning.ltd.uk

5.87 This facility is one that could be provided within the town centre, as are a number of schools and day nurseries although these cater for younger children. However, the concept is clearly seen as one of convenience and reduces the need to travel to an alternative location to seek private tuition for the child, the child learns whilst the parent shops. The scheme is successful in other locations and whilst it could be seen to be taking away a use from the town centre, on balance given that it is a relatively small percentage of the proposed extension, it is considered that the impacts of this facility on the town centre are minimal. The size of the facility will however be conditioned accordingly to restrict any further increase in size and capacity.

5.88 **CONCLUSION**

It is your officers considered opinion that the applicant has demonstrated that there are no suitable, viable or deliverable sequentially preferable sites within the town centre. And, notwithstanding the amount of vacant premises and potential development sites within the town centre, the impact of this relatively small scale extension on the viability of the town centre is minimal, there is, even in this current economic downturn sufficient expenditure capacity within the catchment area to support an additional comparable goods retail floorspace of approx. 1,674m² as proposed. This is further supported by the applicant's agreement to limit floorspace for comparison goods to 2324m² in total. The proposal accords with the requirements of PPS6.

5.89 In terms of the loss of parking provision, it has been demonstrated that the car park at peak times is 90% capacity. Therefore an 8% loss of parking spaces will not have any serious impact on parking provision at the supermarket, this is with the exception of Easter and Christmas periods, when the car park will be monitored and time limit restrictions will be imposed as necessary.

- 5.90 The County Highway Authority and the applicant's transport consultants have reached agreement on measures aimed at accommodating additional traffic flows arising from the development, monitoring traffic generations over a 5 year period and improving arrangements for pedestrians and cyclists visiting the store. A travel plan will be produced by the applicant which is to be approved by the County Council that will be implemented at the store to encourage staff to reduce the amount of private car use and to use non-car modes of transport. In all, these measures should ensure that the store (and extension) is accessible by modes of travel other than the car whilst the overall effect on travel patterns, traffic generation and car use will be examined by the monitoring exercise included in the head of terms for the S106 agreement with County Council.
- 5.91 The design, scale, and siting of the proposed extension is respectful of its context and will have no greater impact than the existing store building which and is well screened by existing trees and landscaping along the Oxford Road and around the site's boundaries.
- 5.92 In conclusion, it is considered that the proposal satisfies the objectives of the development plan and central government advice on such developments and meets the requirements of the County Highway Authority on parking, highway and transportation matters. The proposal will not seriously harm the amenities of any neighbouring property or the locality in general and subject to the applicant entering into a S106 legal agreement with Oxfordshire County Council and the following conditions the application is recommended for approval.

6.	RECOMMENDATION:
	<p>Approve - subject to the applicant entering into a legal agreement with the County Council to secure financial contributions of £455,750 that will be divided :</p> <p>£192,000 contribution to go towards BITLUS and any other transport services or infrastructure (including public transport).</p> <p>£260,000 contribution to (indicative) junction works and monitoring of the junction over a 5 year period.</p> <p>£3,750 administration fee</p> <p>and the following conditions:</p> <p>1. 1.4A Full Permission: Duration Limit (3 years) (RC2)</p> <p>2. 2.0 Details of Materials and External Finishes (RC4)</p>

3. That the ground floor area of the extension hereby permitted shall be used only for the purposes falling within Class A1 specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and that the total net sales floorspace within the extended store shall not exceed 6003 sq.m and that the total net sales floorspace for comparison goods within the store shall not exceed of 2324 sq.m as detailed on page 6 of the WYG Retail Assessment (dated December 2008).

Reason: To preserve the vitality and viability of Banbury Town Centre and to comply with the advice in PPS6 : Planning for town centres.

- 4 That the total floor area of explore and learn facility shall not exceed 103 sq.m

Reason : In order to control the use permitted and to ensure that there is sufficient provision for car parking within the site in the interests of highway safety and to comply with Government advice contained in PPG13: Transport

- 5 That prior to the commencement of the development a method statement of the proposed acoustic barrier fencing installation to the north of the service yard and recycling area and described in section 5.1 of the Noise Assessment report (dated December 2008), shall be submitted to and approved in writing by the Local Planning Authority and that the acoustic fencing shall be installed prior to the commencement of the construction of the extension and that these barriers are maintained in good order thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment and to secure a reduction in the level of noise emanating from the site during the construction phase of the development proposed and from the premises thereafter and to comply with the advice in PPG24: Planning and Noise and Policy C4 of the South East Plan 2009 and Policies C28, C30 and ENV1 of the adopted Cherwell Local Plan.

6. That all Service yard mitigation and management measures contained in the operating schedule described in section 6 of the Noise Assessment report (dated December 2008) shall be implemented and maintained as such at all times thereafter. (RC53AB)

- 7 That the recycling area shall not be emptied or otherwise serviced before 08:00 or after 18:00 hrs Mon –Sat and at no time on Sundays, Bank or Public Holidays. (RC53AB)

8. That before the first occupation of the store extension the proposed car parking layout & service area is to be provided in accordance with the plan hereby approved, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter. (RC13BB)

9. 4.14CC (RC66A) – cycle parking

10. 4.14DD (RC66A) – green travel plan

- 11 Prior to the first occupation of the store extension, details of the proposed car park capacity monitoring mechanism and mitigation measures are submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason : To ensure the proposed development would not result in the car park operating over capacity and in the interests of highway safety and to comply with Government advice contained in PPG13: Transport

12. In the event that the junction capacity works are found to be necessary, no works or development along the Oxford Road shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) has been agreed in writing with the Local Planning Authority. This scheme shall include:

- a) a plan that shows the position, crown spread and Root Protection Area (paragraph 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
- b) the details of each retained tree as required at paragraph 4.2.6 of BS5837 in a separate schedule.
- c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.
- d) written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works.
- e) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).
- f) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
- g) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).

- h) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).
- i) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.
- j) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)
- k) the details of the working methods to be employed for the installation of highway within the Root Protection Areas of retained trees in accordance with the principles of “No-Dig” construction.

Reason : (RC72A)

13. Prior to the commencement of the development hereby permitted a phased risk assessment shall be carried out by a competent person in accordance with current Government and Environment Agency Guidance and Approved Codes of Practice, such as CLR11, BS10175, BS5930 and CIRIA 665. Phases 1 and 2 have been addressed as part of the Geotechnical and Geo environmental Report (dated November 2007). Details of Phase 3 shall be submitted to and approved in writing by the Local Planning Authority;

Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken. (COMPLETED AND ACCEPTABLE)

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals. If contamination is found by undertaking the Phase 2 investigation then Phase 3 shall be undertaken. (COMPLETED AND ACCEPTABLE)

Phase 3 requires that a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use to be submitted to and approved in writing by the Local Planning Authority (LPA). The remediation shall be carried out in accordance with the approved scheme and the applicant shall provide written verification to that effect.

The development shall not be occupied until any approved remedial works, have been carried out and a full validation report has been submitted to and approved in writing by the Local Planning Authority. In the event that gas protection is required, all such measures shall be implemented in full and confirmation of satisfactory installation obtained in writing from a Building Control Regulator.

Reason : (RC80)

Planning Notes

1. U1 – Construction Sites
2. Q1 – legal agreement

Approval, subject to :-

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

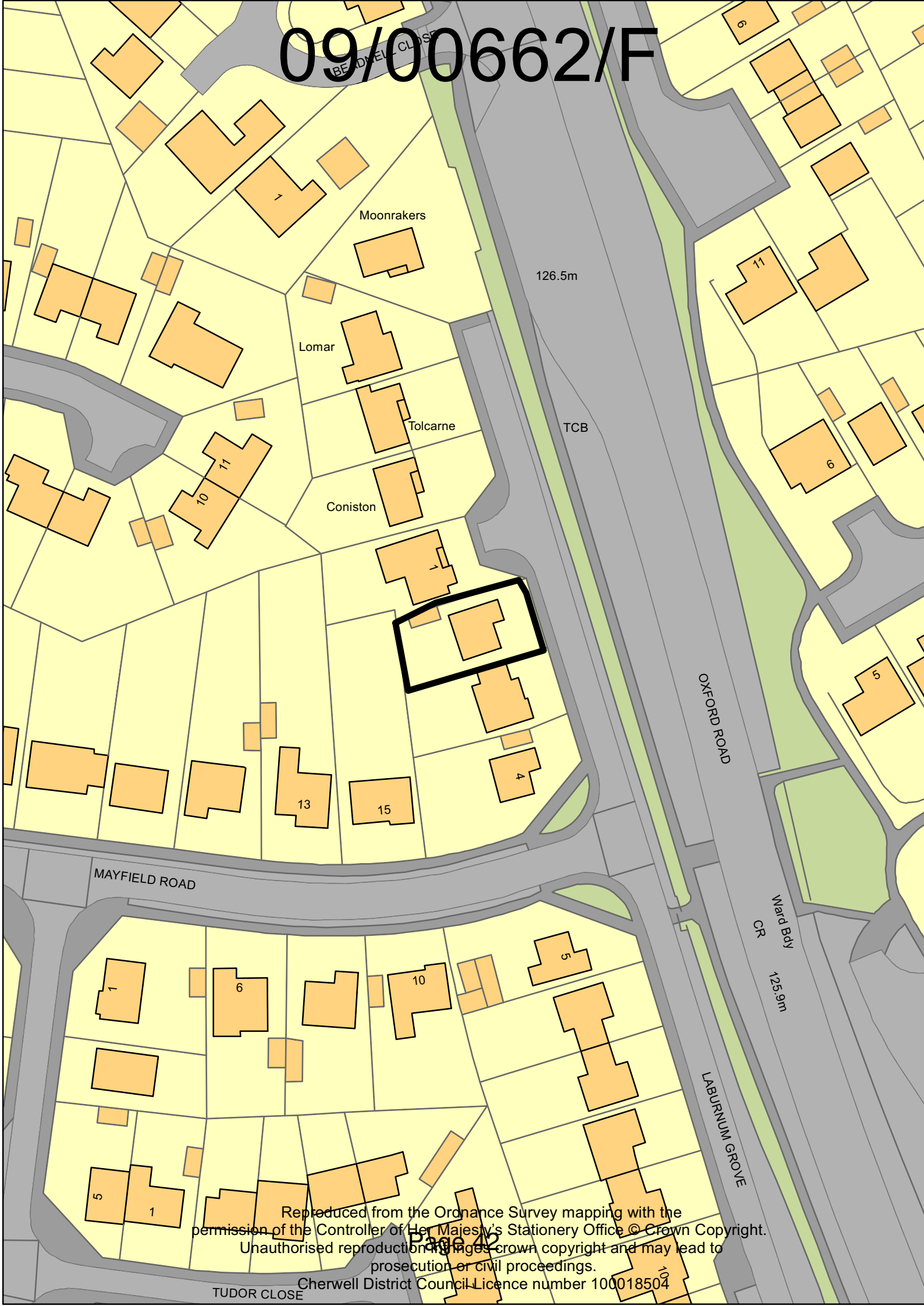
The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal complies with the provisions of PPS6: Planning for Town Centres and meets the requirements of the County Highway Authority on parking, highway and transportation matters in accordance with PPG13: Transport and the proposal is of a design, form and scale that will not seriously harm the amenities of any neighbouring property or the locality in general. As such the proposal is in accordance with PPG24: Planning and Noise, Policies BE1, C4, CO5, CC6, CC7, SP2, SP3, TC1, TC2, T1, T4, T5, RE2 and RE3 of the South East Plan and Policies, C28, C30 and ENV1 of the adopted Cherwell Local Plan, Policies TR2, TR3, TR4, TR5, TR11, D1, D2, D3, D5, D9, S9 and S1 of the Non-Statutory Cherwell Local Plan 2011. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Tracey Morrissey

TELEPHONE NO: 01295 221812



09/00662/F



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TUDOR CLOSE

Application 09/00662/F	No:	Ward: Easington	Banbury	Date Valid: 20/05/09
Applicant:	Mr C Barnes			
Site Address:	2 Laburnum Grove, Banbury			

Proposal: Removal of flat roof over dining area. Construction of a single storey front extension. Form lean to roof over extension and dining area

1. Site Description and Proposal

- 1.1 The site is a detached property constructed from brick and render with a tile roof and uPVC windows and doors. It is situated in a residential area of Banbury outside of the conservation area. There are no listed buildings within proximity of the site. The property has a staggered relationship with the neighbouring properties with number 1 set back on its plot and number 3 set slightly forward. The site is close to the Oxford Road, and a large hedge forms the boundary between Laburnum Grove and the Oxford Road. To the front of the site, a low brick wall and fence form the boundary.
- 1.2 This application seeks consent to remove the flat roof over the dining area and to construct a single storey front extension to extend 2.2m from the existing front elevation, however only 0.9m further than the existing dining room element. A lean to roof would then be installed over the extension and the existing dining room. The extension would measure 3.5m to the ridge of the roof. The materials are proposed to match those used on the existing dwelling.
- 1.3 Application B.672/72 (approved) Changes to front elevation and conversion of garage to lounge

2. Application Publicity

- 2.1 The application has been advertised by way of press notice and neighbour letter. The final date for comment is 02/07/2009.

3. Consultations

- 3.1 To date no comments have been received from Banbury Town Council
The Council's Contaminated Land Officer raises no objections but requests a planning note be included
- 3.2 To date no letters of objection have been received.

4. Relevant Planning Policies

- 4.1 The South East Plan: Policy BE1

4.2 Adopted Cherwell Local Plan: Policies C28 and C30

5. Appraisal

5.1 The key issues are:

- Impact upon visual amenity
- Impact upon neighbouring amenity
- Impact on highway safety

5.2 In terms of the impact of the development on the visual amenity of the area, it is considered no undue detrimental impact will be caused. Although the Council does not normally encourage front extensions, in this case, given the staggered relationship of the neighbouring properties and the fact that the extension will not extend significantly further forward than the existing dining room element it is considered the extension will have little harm. The materials to be used will match the existing dwelling, which is appropriate. Furthermore, the pitched roof will enhance the appearance of the building. The proposal therefore complies with policy C28 of the adopted Cherwell Local Plan.

5.3 Limited neighbour impact will be caused given the extent of the proposed works and the distance from the neighbours to the proposed extension. 1 Laburnum Grove is set back on its plot and to the north compared to the neighbour. Number 1 is set away from the shared boundary and therefore given this distance, it is unlikely any impact will be caused by loss of light, loss of privacy or over dominance. With regard to 3 Laburnum Grove, this neighbour is also set away from the shared boundary with the site and has a garage between the main dwelling of number 2 and the proposed extension, therefore further limiting the impact. It is considered that no undue impact will be caused to the residential amenity of either neighbouring property given the extent of the works and the distance away from the proposed extension. The proposal complies with policy C30 of the adopted Cherwell Local Plan.

5.4 No highway safety issues arise from the proposed works.

5.5 The Council's Contaminated Land Officer comments that the site is underlain by the marlstone rock formation, which is likely to contain elevated concentrations of naturally arsenic and therefore requests a planning note be included.

5.6 Given the above assessment, it is considered that the proposal would not cause undue harm to neighbouring or visual amenity. Furthermore it would not be detrimental to highway safety. As such and having had regard to the adopted Cherwell Local Plan and the Non-Statutory Cherwell Local Plan 2011, the application is recommended for approval subject to conditions.

This application is brought before Members of the Planning Committee for consideration as the applicant is an employee of Cherwell District Council.

6. Recommendation

Approval; subject to the end of the 21 day consultation period, the receipt of any comments from Banbury Town Council and the following conditions:

- 1. 1.4A (RC2) [Full permission: Duration limit (3 years)]**
- 2. 2.6 (RC5) [Materials to match existing]**

Planning Note

Z

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of the site and surrounding area and has no undue adverse impact upon the residential amenities of neighbouring properties or highway safety. As such the proposal is in accordance with Policy BE1 of The South East Plan and Policies C28 and C30 of the adopted Cherwell Local Plan. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

CONTACT OFFICER: Caroline Ford

TELEPHONE NO: 01295 221823

Agenda Item 8

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

2 JULY 2009

REPORT OF HEAD OF DEVELOPMENT CONTROL AND MAJOR DEVELOPMENTS

QUARTERLY ENFORCEMENT REPORT

1 Introduction and Purpose of Report

- 1.1 To inform and update Members of the progress of outstanding formal enforcement cases and to inform Members of various caseload statistics.

2 Wards Affected

- 2.1 All Wards

3 Effect on Policy

- 3.1 None

4 Contact Officer(s)

- 4.1 Bob Duxbury (Ext: 1821)

5 Background

- 5.1 This is the third quarterly planning enforcement report since the Committee agreed to the new format at the 9 October 2008 meeting.

6 The Present Situation

- 6.1 Since the 2 April 2009 report, progress where possible, has been made on the formal enforcement cases listed on the schedule attached to this report (appendix 1).
- 6.2 The second element of this report relates to the planning enforcement statistics which provide information relating to the number of cases closed and reasons why since 1 April 2009 to the date of print. The statistics also show the number of enforcement cases registered, closed and ongoing since 1 April 2009 (appendix 2). By the next quarterly report we will be in a position to compare like for like statistics as we will have a full quarter of records.
- 6.3 Overall, the statistics show a continuous and consistent level of activity since the Enforcement Team was created in April 2008. The total number of cases registered in 2008/9 was 666, with 562 closed and 104 ongoing.

7 Financial Effect and Risk Management

- 7.1 The risk assessment was approved by Rosemary Watts (Ext. 1566) (Risk) and Eric Meadows (Ext. 1552) (Financial)

7.2 Risk Assessment – Where relevant the risk of taking enforcement action is that costs could be awarded against the Council in any appeal if this action was considered to be unreasonable. The risk of not taking enforcement action at this time is that a complaint could be made to the Local government Ombudsman in respect of not pursuing an apparent breach of control.

7.3 Financial Effects – It is anticipated that the cost of taking enforcement action could be met from the existing budgets.

7.4 Efficiency Savings – There are no efficiency savings arising from this report.

8 Recommendations

8.1 It is RECOMMENDED that the Committee resolves to accept this report and the content of the appendices.

Background Papers:

None

Appendix 1

EXPLANATION OF REASONS FOR CASE CLOSURE

Enforcement Action (legal action taken on pie chart): When the Planning Authority has resolved to take formal enforcement action either through Committee authority or officer delegated powers.

Voluntary Action (sign removed; unauthorised use ceased; unauthorised works removed on pie chart): When the breach has been remedied by the voluntary action of the transgressor.

Planning Application: When a retrospective planning application or Certificate of Lawfulness (existing) is submitted as a consequence of investigations.

Permitted Development: When, following investigation, the alleged breach is permitted development in accordance with the GPDO.

Not Development: When, following investigation, development (in accordance with the definition in the T&CP Act) has not taken place.

No Further Action: When, following investigation, the breach is so minor that it would not be expedient to take any action or for the transgressor to put it right.

Unsustained Complaint (no evidence of breach): When, following investigation, there is no planning related work taking place or there is nothing taking place at all.

Note:

There are historic categories shown on the chart which are no longer being used such as 'miscellaneous'. These categories were originally introduced prior to the creation of the current categories (above). 'Miscellaneous' was a catch-all for many forms of potential unauthorised development.

STATISTICAL ANALYSIS OF CASES

Cases Registered From

01.04.08 to 31.03.09 = 666 Cases

01.04.09 to 18.06.09 = 175 Cases

Cases Closed Between

01.04.09 to 31.03.09 = 562 Cases

01.04.09 to 18.06.09 = 84 Cases

Cases Ongoing Between

01.04.09 to 31.03.09 = 104 Cases

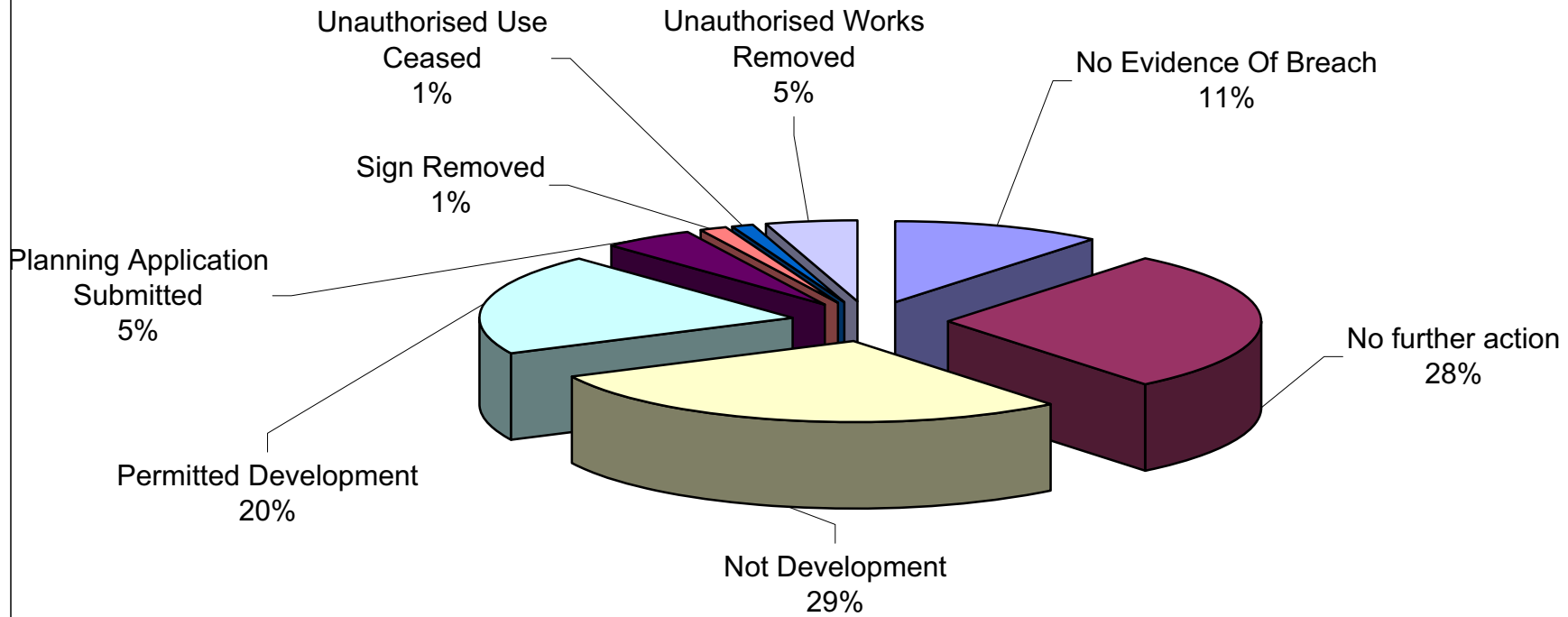
01.04.09 to 18.06.09 = 91 Cases

Planning Enforcement Cases - Number of cases closed by reason

Dates Between 01/04/2009 and 18/06/2009

Appendix 2

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Agenda Item 9

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE 2 JULY 2009

REPORT OF THE HEAD OF DEVELOPMENT CONTROL AND MAJOR DEVELOPMENTS

DECISIONS SUBJECT TO VARIOUS REQUIREMENTS – PROGRESS REPORT

1 Introduction and Purpose of Report

- 1.1 This is a standard report item the aim of which is to keep Members informed upon applications which they have authorised decisions upon subject to various requirements which must be complied with prior to the issue of decisions.
- 1.2 An update on any changes since the preparation of the report will be given.

2 Wards Affected

- 2.1 All wards

3 Effect on Policy

- 3.1 Nil.

4 Contact Officer(s)

- 4.1 R Duxbury (Ext 1821).

5 The Committee to note that the following applications remain outstanding for the reasons stated:

5.1 Subject to Legal Agreement with Cherwell District Council and Oxfordshire County Council

01/00662/OUT	Begbroke Business and Science Park, Sandy Lane, Yarnton – Subject to legal agreement re: off-site highway works, green travel plan, and control over occupancy now under discussion. Revised access arrangements refused 30 October 2008. Appeal dismissed. The possible enforcement consequences of this decision will be discussed with the landowners.
05/01337/F	Land NE of Oxford Road, West of Oxford Canal and East of Bankside, Banbury. Subject to Section 106 Agreement with other side for engrossment.
07/00422/F	Bicester Town Centre Scheme – Subject to a detailed S106 legal agreement – with other side for engrossment.
07/01106/OUT	Land to south East of A41 Oxford Road, Bicester. Subject to departure procedures and legal agreements with Oxfordshire County Council re: off-site transportation contributions and HGV

routeing during construction.

- 08/01171/OUT Pow Wow water site, Langford Lane, Kidlington subject to agreement re transport infrastructure payments.
- 08/02208/F Building 249, Heyford Park, Upper Heyford
Subject to legal agreement to secure vacating of premises at end of temporary term.
- 08/02511/F Part of A Site DSDC Bicester.
Subject to legal agreement with OCC re: highway infrastructure/green travel. Secretary of State indicated that she will not call application in.

5.2 Subject to Other Matters

- 08/00709/F Former Lear site, Bessemer Close, Bicester. Subject to legal agreement with Oxfordshire County Council
- 08/00876/F Chilling Place Farm, Piddington. Subject to legal agreement re occupancy of main house and ancillary accommodation.
- 08/02541/F Land adj Exeter Farm, and N Cassington Road Yarnton. Not Called-In.
- 08/02594/F Legal agreements complete and planning permission issued.
- 09/000038/OUT Calthorpe House, Calthorpe St. Banbury. Subject to legal agreement re: off-site infrastructure.

6 Risk Assessment, Financial Effects and Contribution to Efficiency Savings

- 6.1 The following details have been approved by Rosemary Watts (Risk) (Ext 1560) and Eric Meadows (Financial) (Extension 1556).
- 6.2 Risk assessment – this is a monitoring report where no additional action is proposed. As such there are no risks arising from accept the recommendation.
- 6.3 Financial effects – there are no additional financial effects for the Council arising from this report.
- 6.4 Efficiency savings – there are no efficiency savings arising from this report.

7 Recommendations

- 7.1 It is **RECOMMENDED** that the Committee resolve to accept this position statement.

Background papers: All papers attached to the planning application files referred to in this report.

Agenda Item 10

CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

2 JULY 2009

REPORT OF THE HEAD OF DEVELOPMENT CONTROL AND MAJOR DEVELOPMENTS

APPEALS – PROGRESS REPORT

1 Introduction and Purpose of Report

- 1.1 This is a standard report item, the aim of which is to keep Members informed upon applications which have been determined by the Council, where new appeals have been lodged, Public Inquiries/Hearings scheduled or appeal results received.
- 1.2 A verbal update on any changes since the preparation of the report will be given.

2 Wards Affected

- 2.1 All wards in the District.

3 Effect on Policy

- 3.1 Nil.

4 Contact Officer(s)

- 4.1 Bob Duxbury (extension 1821)

5 New Appeals

- 5.1 08/02183/F – Hill Side, Ardley Road, Middleton Stoney appeal by Mr A Grenfell against the refusal of planning permission for a new vehicular access and parking area – written reps
- 5.2 08/01149/F and 08/01150/LB – Stone Holt, Kenhill Road, Shenington appeals by M T Goodwin against the refusal of planning permission and listed building consent for the erection of a conservatory – inquiry requested.

6 Forthcoming Public Inquiries and Hearings between 2 July 2009 and 23 July 2009

- 6.1 Hearing 10.00am 8 July 2009 Council Chamber Bodicote House, Bodicote to consider an appeal by _____ against the service of an enforcement notice alleging a breach of planning control – at Foxhill Farm, Ardley Road, Ardley

7 Results

- 7.1. The Inspectors appointed by the Secretary of State have:-
- 7.2 Allowed the appeal by Mrs L Wearing against the refusal of planning permission (application reference No. 08/01904/F) for the construction of a two-storey and single storey extension

to provide an annexe to the cottage at 23 Round Close Road, Adderbury (delegated). The Inspector considered that the development would preserve both the character and the appearance of the Conservation Area as the extension would appear reduced in scale, recessive and not a dominant feature in the overall perception of the dwelling, and that adequate car parking can be provided.

8 Risk Assessment, Financial Effects and Contribution to Efficiency Savings

- 8.1 The following details have been approved by Eric Meadows (Ext 1552) (Financial) and Rosemary Watts (Ext 1566) (Risk)
- 8.2 Risk assessment – this is a monitoring report where no additional action is proposed. As such there are no risks from accepting the recommendation.
- 8.3 Financial effects – the cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary revenue estimate.
- 8.4 Efficiency savings – there are no efficiency savings arising from this report.

9 Recommendations

- 9.1 It is **RECOMMENDED** that the Committee resolves to accept this position statement.

Background Papers:

All papers attached to the planning application files reported in this report.