

**Committee:** Planning Committee  
**Date:** Thursday 22 October 2009  
**Time:** 4.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

### **Membership**

**Councillor Fred Blackwell  
(Chairman)**

**Councillor Ken Atack**

**Councillor Maurice Billington**

**Councillor Colin Clarke**

**Councillor Mrs Catherine**

**Fulljames**

**Councillor Michael Gibbard**

**Councillor Eric Heath**

**Councillor Rose Stratford (Vice-Chairman)**

**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 Lawrie**

**Stratford**

**Councillor John Wyse**

### **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 - 9)

To confirm as a correct record the Minutes of the meeting of the Committee held on 1 October 2009.

## **Planning Applications**

- |     |   |                     |
|-----|---|---------------------|
| 6.  | <b>OS Parcel 9875 Adjoining Oxford Canal and North of The Gables, Woodstock Road, Yarnton</b> (Pages 12 - 32) | <b>09/00768/F</b>   |
| 7.  | <b>The Lodge, Horton Hill, Horton Cum Studley, Oxford, OX33 1AY</b> (Pages 33 - 38)                           | <b>09/01178/F</b>   |
| 8.  | <b>The Otmoor Lodge Hotel, Horton Hill, Horton Cum Studley, Oxford</b> (Pages 39 - 47)                        | <b>09/00937/OUT</b> |
| 9.  | <b>The Otmoor Lodge Hotel, Horton Hill, Horton cum Studley, Oxford, OX33 1AY</b> (Pages 48 - 51)              | <b>09/00936/F</b>   |
| 10. | <b>OS Parcel 8844, Rose Lodge, Middleton Road, Bucknell, OX25 4TA</b> (Pages 52 - 60)                         | <b>09/01016/F</b>   |
| 11. | <b>11 Claypits Close, Banbury, Oxfordshire, OX16 9GN</b> (Pages 61 - 64)                                      | <b>09/01196/F</b>   |

## **Review and Monitoring Reports**

### 12. **Decisions Subject to Various Requirements** (Pages 65 - 66)

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 resolves to accept this position statement.

### 13. **Appeals Progress Report** (Pages 67 - 68)

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](mailto:democracy@cherwell-dc.gov.uk) or 01295 221591 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 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](mailto:alexa.coates@cherwell-dc.gov.uk) (01295) 221591

**Mary Harpley**  
**Chief Executive**

Published on Wednesday 14 October 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 1 October 2009 at 4.00 pm

Present: Councillor Fred Blackwell (Chairman)

Councillor Rose Stratford (Vice-Chairman)

Councillor Ken Atack

Councillor Colin Clarke

Councillor Mrs Catherine Fulljames

Councillor Michael Gibbard

Councillor Eric Heath

Councillor David Hughes

Councillor James Macnamara

Councillor D M Pickford

Councillor G A Reynolds

Councillor Trevor Stevens

Councillor Lawrie Stratford

Councillor John Wyse

Substitute

Members: Councillor Russell Hurle (In place of Councillor Chris Smithson)  
Councillor Barry Wood (In place of Councillor Maurice Billington)

Officers: Jameson Bridgwater, Head of Development Control & Major Developments  
Bob Duxbury, Development Control Team Leader  
Caroline Roche, Planning Officer  
Craig Forsyth, Communications Officer  
Alexa Coates, Senior Democratic and Scrutiny Officer  
Michael Sands, Trainee Democratic and Scrutiny Officer

## 65 **Declarations of Interest**

### **8. Bodicote House, White Post Road, Bodicote, Banbury, Oxon.**

Councillor Barry Wood, Prejudicial, as a Member of Executive.

Councillor D M Pickford, Prejudicial, as a Member of Executive.

Councillor G A Reynolds, Prejudicial, as a Member of Executive.

Councillor Ken Atack, Prejudicial, as a Member of Executive and a Member of the Accommodation Board.

Councillor Michael Gibbard, Prejudicial, as a Member of Executive.

**10. Shipton-On-Cherwell Quarry, Shipton-On-Cherwell, Oxon.**

Councillor Lawrie Stratford, Prejudicial, as a Member of Oxfordshire County Council Planning Committee who would consider the application.

Councillor Mrs Catherine Fulljames, Prejudicial, as a Member of Oxfordshire County Council Planning Committee who would consider the application.

**12. Enforcement and Legal Action: The Former Cattle Market, Merton Street, Banbury.**

Councillor Michael Gibbard, Personal, as a Member who had been quoted in the Banbury Guardian on the application.

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

There were no petitions or requests to address the meeting.

67 **Urgent Business**

There was no urgent business.

68 **Minutes**

The Minutes of the meeting held on 10 September 2009 were agreed as a correct record and signed by the Chairman.

69 **33 Oxford Road and Land to the rear of nos.35-59 Oxford Road, Bodicote, Banbury, Oxon**

The Committee considered a report of the Head of Development Control and Major Developments for the demolition of 33 Oxford Road and the erection of 23 dwellings.

The Committee sought clarification on condition 19 which related to application 05/01337/OUT and were advised the permission could not be implemented prior to the implementation of permitted development. The Committee were advised that planning permission for 05/01337/F had been issued following completion of the legal agreement.

In reaching their decision the Committee considered the Officers report, written update and presentation.

**Resolved**

That application 09/00939/F be approved subject to the completion of a S106 Agreement covering Affordable Housing, Children's Play Space and Financial contributions.

And of the following conditions:

1. SC1.4A
2. SC2.0
3. SC3.0 – (d) details to also include planting of small trees along the Southern edge of the development. (e) Details also to include planting of an avenue of trees through the entrance road to the site, through to the point of exit of the proposed pathway link to Bankside.
4. SC3.4A – North East, 2metres
5. SC3.10 – Reason as stated
6. SC3.5 – trees, tree, tree
7. SC3.7A
8. SC4.0A Prior to the construction of the dwellings
9. SC4.6 – 0.6m
10. SC4.9A
11. SC4.10A
12. SC4.13CC
13. SC4.14C
14. SC4.21A
15. SC6.2
16. SC6.3
17. SC6.6A
18. 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. Each phase 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 historic and current 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.

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, make an assessment of the risks, including those off site, 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.

Phase 3 requires that a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use 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- It is suspected that this site and/or nearby land and water may be contaminated as a result of former industrial use(s) or otherwise. To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Policy ENV12 of the adopted Cherwell Local Plan.

19. The permission hereby granted shall not be implemented prior to the lawful implementation of any development permitted pursuant to the planning application reference 05/01337/OUT for residential development and associated facilities of land to the east and including the provision of a primary school, Community Park and other local facilities.
20. No development shall commence until a S278 Agreement has been entered with the County Council for the access works necessary within the public highway.
21. No development shall be commenced until details and plans of the screening fence/Wall to be provided alongside Nos 31 and 35 Oxford Road have been submitted to and approved in writing by the Local Planning Authority. The approved fencing/walling shall be installed prior to the commencement of the works on site and thereafter be maintained at all times.
22. Provision shall be made within the layout to accommodate a footpath/cyclepath link between the site and land to the East and the footpath/cyclepath shall be provided up to the boundary of the site in the position approved to an adoptable standard.
23. That no means of access whatsoever shall be formed or used between the land identified in this application and Canal Lane.
24. No external lighting whatsoever shall be placed on the rear walls or roof of the buildings or sited in the rear gardens of plots 7-15 inclusive without the prior express planning consent of the Local Planning Authority.



25. That the approved Bat mitigation detailed in the Ecological Survey commissioned in June 2009 by Jonathan Flint shall be implemented in full as part of the development and all bat boxes installed as part of the approved mitigation scheme shall not be removed or destroyed and if they become damaged shall be repaired or replaced and thereafter properly maintained.

Councillor Debbie Pickford requested that her abstention from the vote be recorded as she had not been present for the whole of the Officer's presentation and debate.

70 **OS Parcel 1319 South of Paddington Cottage, Milton Road, Bloxham, Oxon**

The Committee considered a report of the Head of Development Control and Major Developments for the erection of a 60-bed care home and 44 retirement dwellings.

The Committee considered the local need for housing of this type and discussed the need for this type of facility in rural areas especially when faced with an ageing population. The Committee discussed the potential difficulty on balancing a local need with the needs of the District. Members also discussed the suitability of the site in terms of its proximity to village amenities and local transport.

In reaching their decision the Committee considered the Officers report, written update and presentation.

**Resolved**

That application 09/00965/OUT be refused for the following reasons:

1. The application does not demonstrate that it meets an identified local housing need or would be delivered in a time scale to meet that need or deliver high quality development and given its location beyond the built up limits of the village is contrary to PPS3, South East Plan policies SP3, H3, Cherwell Local Plan policies C8, C7, H13, C13 and Non Statutory Local Plan policies H1a and H19.
2. The proposed development generates a need for infrastructure, open space and affordable housing, which in the absence of a satisfactory planning obligation, would not be adequately met and as such is contrary to South East Plan policy CC7, H3, Cherwell Local Plan policy H5 , R12 and Non Statutory Plan Policy H7 and R8.

71

**Bodicote House, White Post Road, Bodicote, Banbury, Oxon**

The Committee considered a report of the Head of Development Control and Major Developments for the extension of the current car park to accommodate an additional 28 spaces.

The Committee were satisfied with the evidence presented by Officers.

In reaching their decision the Committee considered the Officers report and presentation.

**Resolved**

That application 09/01085/CDC be approved subject to the following conditions:

- 1) SC 1.4A (Time – 3 years)
- 2) SC 4.13CD (Parking and manoeuvring area as plan, specification to be submitted and approved)

72

**The Green Barn, Stoke Lyne Road, Stratton Audley, Bicester, OX27 9AT**

The Committee considered a report of the Head of Development Control and Major Developments for the demolition of an agricultural barn and erection of two pairs of semi-detached houses.

The Committee considered the relevant planning policies and suggested that if the development was outside the boundary of the village only a rural exception site, containing 100% affordable housing could be considered as acceptable development on the site. The Committee also discussed the previous appeal decisions on the site.

In reaching their decision the Committee considered the Officers report, written update and presentation.

**Resolved**

That application 09/01118/F be refused on the following grounds:

1. The erection of two pairs of semis on the site does not represent a conversion of an existing building, infilling within the built-up limits of the settlement or a significant environmental improvement but rather an unacceptable sporadic ribbon development extending beyond the built-up limits of the village into the open countryside which together with the necessary vision splays and footpath required for highway safety would detract from the rural character and visual amenities of the street scene contrary to policies C8, H14 and H18 of the adopted Cherwell Local Plan. Policy C4 of the South East Plan, Policies H16 and H19 of the non-statutory Cherwell Local Plan and PPS7:Sustainable Developments in Rural Areas.

2. By virtue of the size and design of the dwellings, their positioning on the site and inevitable presence of domestic trappings which would result as a product of the development, the proposal would fail to preserve or enhance the character of the Stratton Audley Conservation Area, the boundary of which abuts the site, contrary to Policy BE6 of the South East Plan and PPG15: Planning and the Historic Environment.

73

**Shipton-On-Cherwell Quarry, Shipton-On-Cherwell, Oxon**

The Committee considered a report of the Head of Development Control and Major Developments for the temporary use of the existing haul road, running to the South and East of the site, for the transportation of minerals and waste materials.

The Committee considered the possibility of noise pollution that might occur through increased vehicle movement.

In reaching their decision the Committee considered the Officers report and presentation.

**Resolved**

That Oxfordshire County Council be advised that Cherwell District Council objects to the proposed temporary consent on the grounds that it will adversely affect the amenities of the residents of Shipton-On-Cherwell and therefore run contrary to Policy ENV1 of the adopted Cherwell Local Plan and Policies GB7 and EN3 of the Non-Statutory Cherwell Local Plan.

74

**Tree Preservation Order (No. 8) 2009 Ash Tree at 1 The Phelps, Kidlington, Oxon**

The Committee considered a report of the Head of Development Control and Major Developments which sought confirmation for an unopposed Tree Preservation Order relating to an Ash Tree at 1 The Phelps, Kidlington.

**Resolved**

That Tree Preservation Order (No. 8) be confirmed without modification.

75

**Enforcement and Legal Action: The Former Cattle Market, Merton Street, Banbury**

The Committee considered a report of the Head of Development Control and Major Developments which sought to bring the Committees attention to the failure of the developer to provide LAPs (Local Area for Play), LEAPs (Local Equipped Area for Play), a NEAP (Neighbourhood Equipped Area for Play), a Community building with sports changing rooms and sports/playing pitches as required by the Legal Agreement tied to the land and development.

Officers updated Members on a letter received from the planning agents on behalf of the developer.

The Committee considered the importance of ensuring developers fulfilled the Section 106 responsibilities and supported the issue of an injunction as soon as possible. The Committee discussed the need to include Parish and Town Councils in consultation on the terms of the Section 106 Agreement as many of the responsibilities were passed on to the local Councils.

In reaching their decision the Committee considered the Officers report and presentation.

**Resolved**

That the Committee authorises, subject to the Head of Legal and Democratic Services being satisfied as to the evidence, the application for legal proceedings by way of a court injunction to enforce the terms of the section 106 Agreement in respect of the non-compliance detailed above, such authorisation to include the instituting and continuing of the proceedings to final judgement and any enforcement of the judgement. The application for the injunction would seek to prevent the occupation of further properties on the development until such time as the agreement has been complied with, as well as requirements to take positive steps to achieve compliance.

76 **Quarterly Enforcement Report**

The Committee considered a report of the Head of Development Control and Major Developments which updated Members on the progress of outstanding formal enforcement cases and informed Members on various caseload statistics.

Members requested that enforcement action relating to ENF 13/08 be taken as soon as possible. Members also discussed ENF 38/04 and the need to consider taking direct action.

The Committee noted the recommendation relating to 09/00059/EUNDEV to rescind enforcement action.

**Resolved**

That the report be accepted.

77 **Decisions Subject to Various Requirements**

The Committee considered a report of the Head of Development Control and Major Developments which updated Members on decisions which were subject to various requirements.

**Resolved**

That the position statement be accepted.

78 **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 inquiries/hearings scheduled or appeal results received.

**Resolved**

That the position statement be accepted.

The meeting ended at 6:35 pm

Chairman:

Date:

# Agenda Annex

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

22 October 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**

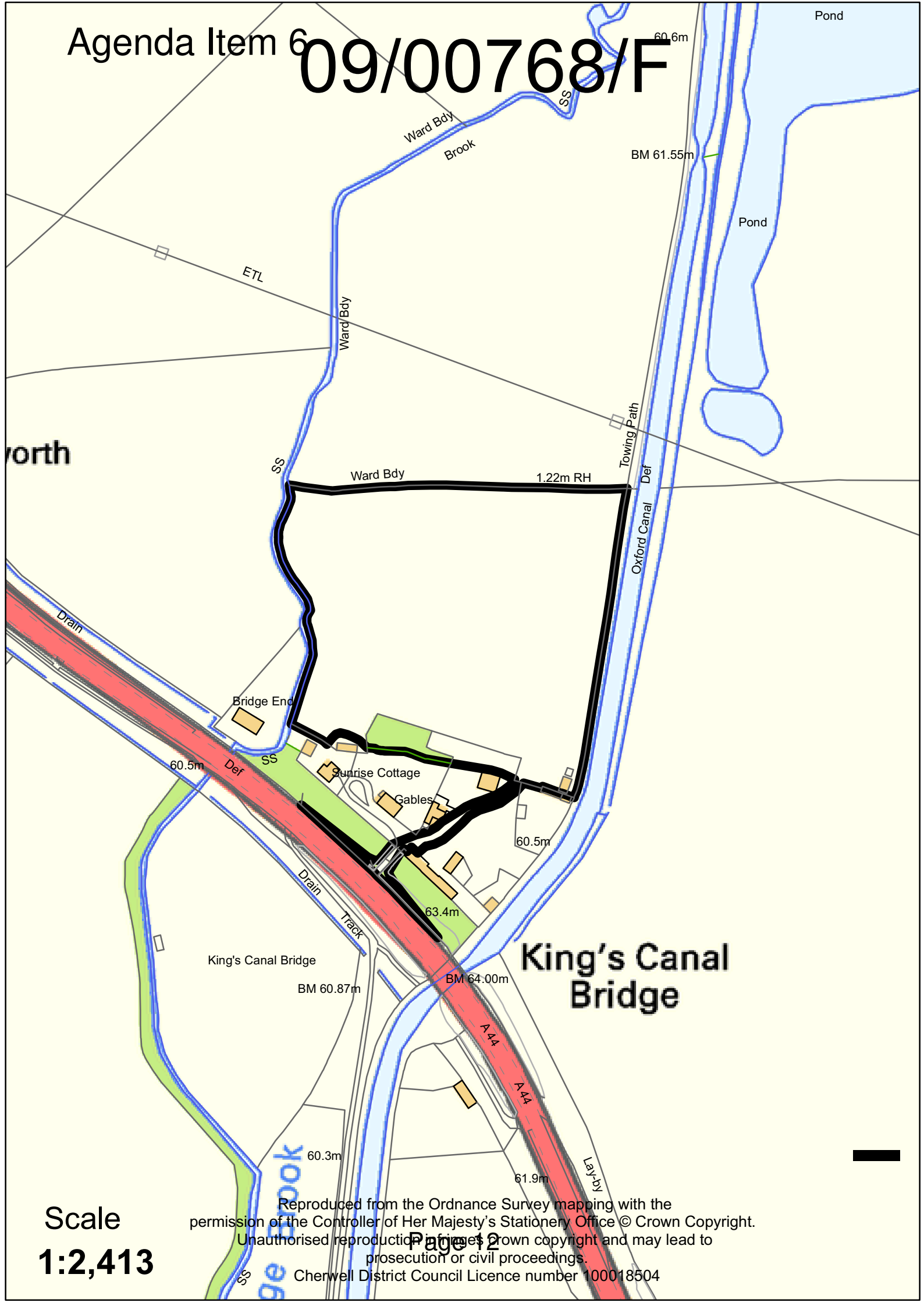
The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations 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

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
<b>6</b>	OS Parcel 9875 Adjoining Oxford Canal and North of The Gables, Woodstock Road, Yarnton	09/00768/F	Yarnton, Gosford and Water Eaton	Refusal	Caroline Roche
<b>7</b>	The Lodge, Horton Hill, Horton Cum Studley, Oxford, OX33 1AY	09/01178/F	Otmoor	Refusal	Bob Duxbury
<b>8</b>	The Otmoor Lodge Hotel, Horton Hill, Horton Cum Studley, Oxford	09/00937/OUT	Otmoor	Refusal	Bob Duxbury
<b>9</b>	The Otmoor Lodge Hotel, Horton Hill, Horton cum Studley, Oxford, OX33 1AY	09/00936/F	Otmoor	Approval	Bob Duxbury
<b>10</b>	OS Parcel 8844, Rose Lodge, Middleton Road, Bucknell, OX25 4TA	09/01016/F	Caversfield	Approval	Graham Wyatt
<b>11</b>	11 Claypits Close, Banbury, Oxfordshire, OX16 9GN	09/01196/F	Banbury Ruscote	Approval	Rebekah Morgan



North

## King's Canal Bridge

Scale  
**1:2,413**

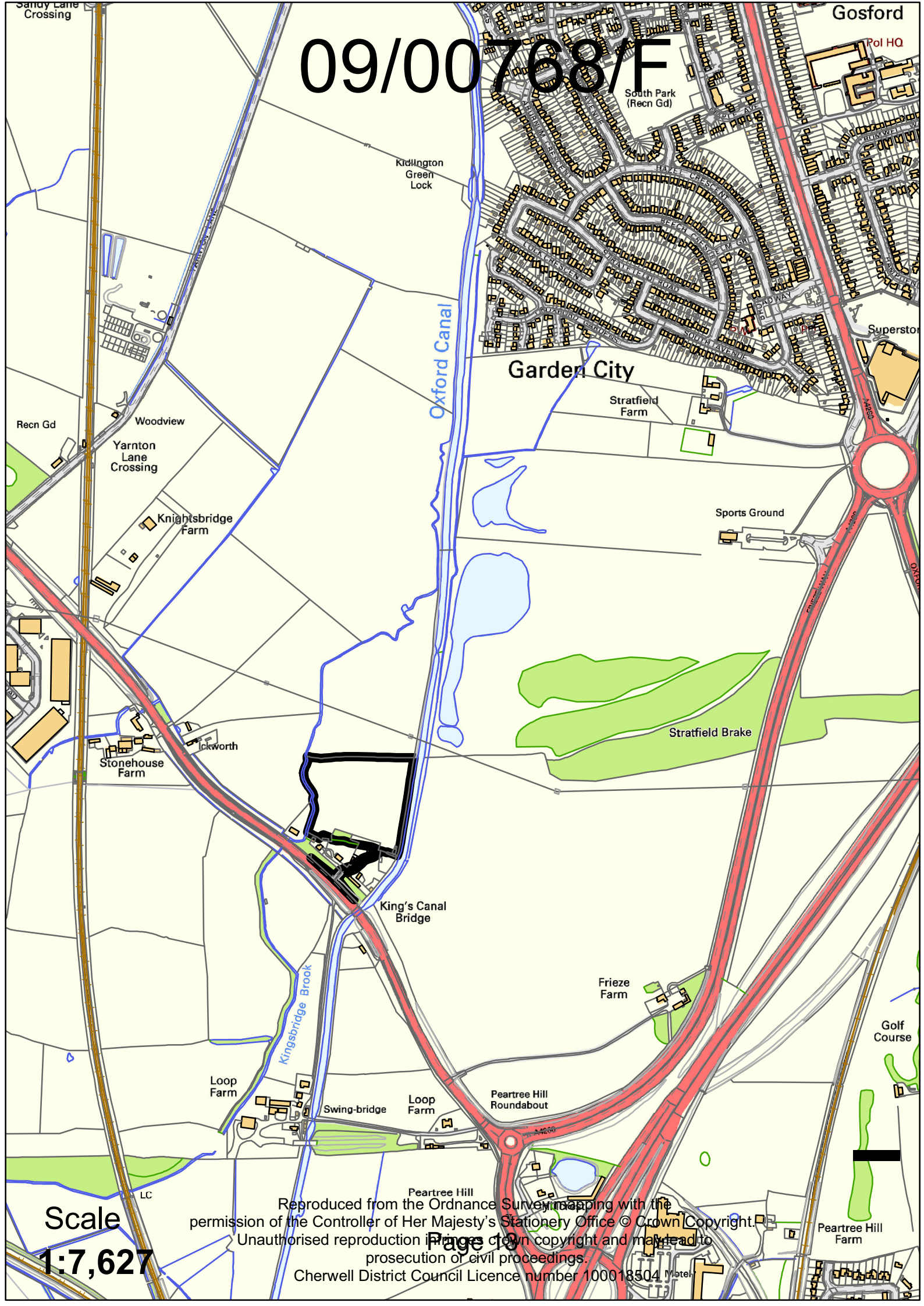
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09/00768/F



Scale  
1:7,627

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<b>Application No:</b> 09/00768/F	<b>Ward:</b> Yarnton, Gosford and Water Eaton	<b>Date Valid:</b> 18 August 2009
<b>Applicant:</b>	MHJ Ltd and Couling Holdings	
<b>Site Address:</b>	OS Parcel 9875 Adjoining Oxford Canal and North of The Gables, Woodstock Road, Yarnton	

**Proposal:** Proposed 97 berth canal boat basin with facilities building; mooring pontoons; service bollards; fuel; pump out; 2 residential managers moorings; entrance structure with two-path bridge, facilities building with WC's shower and office; 48 car parking spaces and landscaping.

## 1. Site Description and Proposal

- 1.1 The application site is located to the south east of Yarnton and south west of Kidlington. It is situated and accessed to the north of the A44, adjacent to the western side of the Oxford Canal. The access runs through the existing industrial buildings located at The Gables and the site is to the north of these buildings.
- 1.2 The site has a total area of 2.59 hectares and consists of low lying, relatively flat, agricultural land. There are a number of trees and hedgerows that identify the boundary of the site.
- 1.3 The site is within the Oxford Green Belt, it is adjacent to a classified road and the public tow path, it is within the flood plain, contains BAP Priority Habitats, is part of a proposed Local Wildlife Site and is within 2km of SSSI's.
- 1.4 The application consists of the elements set out above in the 'proposal'. It is not intended that, other than the manager's moorings, these moorings be used for residential purposes. The submission is supported by an Environmental Statement, Supporting Statement and a Design and Access Statement.
- 1.5 **Relevant Planning History**  
The current application is the third to be submitted for the same proposal. 08/00762/F and 08/01909/F were both withdrawn. The most recent withdrawn application was not proceeded with as a number of issues remained outstanding and there was insufficient time for these to be resolved. The issues that were not satisfactorily covered in the submission included an assessment of Green Belt policy, highways objections, ecology, landscaping and Environment Agency objections.

Other applications that are worth noting relate to a site adjacent to the canal and to the south of, but not adjoining, the application site. The first (06/01950/F) was for the retrospective change of use of the land from a storage use to a boat yard. The second (08/01408/F), was for the erection of 1.8m timber picket fence and iron gates around site perimeter, installation of crane pad and erection of replacement office building. This was considered appropriate as the fencing and crane pad were not considered to harm the openness of the Green Belt. The office building was considered to be an ancillary building to serve the wider boatyard and the

recreational use of the canal.

## 2. Application Publicity

2.1 The application was advertised by way of site notice, press notice and neighbour notification letters. The final date for comment was 18 September 2009.

2.2 5 letters of objection have been received. The reasons for objecting include;

- The development would compromise the openness of the countryside and is inappropriate development in the Green Belt. It will result in the erosion of the existing gap between settlements and special circumstances have not been demonstrated
- The green belt and its importance has not been addressed in the submission
- Impact on local environment including the SSSI, Pixey Mead, water voles. Features of ecological importance will be destroyed
- Concern that visitors to the marina will create a more direct route to the shops across the Stratfield Brake sports pitches rather than using the formal footpath
- Signage should be provided to direct walkers around the pitches.
- Surfacing work should be carried out on existing paths as these will be used more frequently
- The development will result in increased litter in and around the site
- It will effect the existing flood plain which will increase problems for the recreation ground and areas of housing in Kidlington
- May result in a boat hire business or proposals for a restaurant which will result in increase traffic movements
- Safety at the access is a concern
- Lighting within the site may result in pools of light which has an urbanising influence
- The bunds alter the contours of the landscape
- The moorings are not residential so will do nothing to relive the pressure on the canal

Amongst the letters of objections were representations from Oxford Preservation Trust, Stratfield Brake Sports and Recreation Ground Management Committee, Oxford Green Belt Network.

2.3 10 letters of support have been received. The reasons for support include;

- Ideal location close to existing boat yard
- Already barges moored up in this location, the number of these needs to be reduced as they currently obstruct access
- It is tucked away from the road, and hidden from view
- It does not compromise Kidlington or Yarnton
- Oxford needs a facility like this as the problem has become more acute by the closure of the moorings at Jericho.
- The basin is not residential therefore it will not impact on local services
- It would improve the area and great use of the canal for the public
- It will be an asset to the surroundings
- There are more boats on inland waterways now than when they were built

and the number will continue to increase

- Marinas bring social and economic benefits to an area
- Many marinas already exist in the Green Belt and they appear more like lakes surrounded by trees, they can encourage wildlife and are environmentally friendly
- The number of buildings proposed is minimal
- Oxford Canal is a gateway to the River Thames and boaters would wish to moor within easy reach and or leave their boats for short periods in close proximity to it
- Development such as this should be supported to encourage a renaissance of the canals
- There is a footpath link to Peartree Park and Ride
- Fuelling and pump out facilities are required in the vicinity of Oxford for local moorers and visitors
- There will be no flooding as the canals are controlled by British Waterways
- The issues raised by Stratfield Brake Management Committee in relation to the paths and litter are issues that could be resolved at any time.
- The sports ground already causes noise and floodlights have been allowed there

Amongst the letters of support were representations from the Inland Waterways Association, the Yacht Harbour Association.

### 3. Consultations

- 3.1 **Gosford and Water Eaton Parish Council** objects to the application for the following reasons;
- The proposal is in the Green Belt and the need has not been satisfactorily demonstrated
  - The site is within flood plain and the drainage analysis does not prove that the development will not exacerbate existing flood conditions.
  - The adequacy of the parking is questioned
  - The appropriateness of the new highway arrangements is also questioned and traffic movements may be greater than predicted by the developers
  - It is not clear how residential use will be prevented or if boats will be made available for hire
  - The Council does not wish to see Stratfield Brake being used as a route to the shops in Kidlington, if it is to be used then signs should be provided to prevent straying off the paths
  - Use of such a facility and surrounding paths may lead to increase in litter
  - Proposal may effect ecology and there is evidence of water voles in the area.
- 3.2 **Kidlington Parish Council** objects to the application as the siting is contrary to Policy R9 of the adopted Cherwell Local Plan, it is inappropriate development in the green belt and the vehicular access onto the A44.
- 3.3 **Oxfordshire County Council's Highway Liaison Officer** states that that access to the site is substandard in terms of visibility, however, the application has resolved the problem by amending the access to prohibit the right turn in/out and proposes to carry out works to the parking layby on the A44 north of the access to restrict the 'u'

turn.

The proposed marina use, if non-residential, would be a low traffic generator with few movements at peak hours.

The existing commercial /residential uses served by the same access will benefit (in safety terms) from the use of the improved access. The benefit will outweigh the additional risk resulting from the additional vehicular movements associated with the proposed use.

The site is well served by a premium bus route and is located at the junction of cycleways. Summertown is within reasonable cycling distance and supermarkets at Kidlington are 'walkable' along the adjacent public footpath network.

The principle of the vehicular access improvement together with the layby works, as shown on the application drawings is acceptable. The improvement scheme, constructed in accordance with an approved design and S278 Agreement, must be in place prior to the use of the site as a marina.

The principle of the boat access/bridge/ footpath/towpath alterations is acceptable. The access/bridge should be constructed in accordance with an approved design and S278 Agreement. Orders for closure, temporary and permanent, of the footpath/towpath are made by Cherwell District Council and are subject to objection.

The Highway Authority concludes that it has no objections subject to,

- The boats being moored shall not be for residential use
- Prior to first use the access and layby opposite shall be improved in accordance with a scheme to be submitted and approved
- The boat access to the canal, together with the bridge and footpath/towpath diversion shall be constructed in accordance with a scheme to be submitted and approved
- S278 Agreement and Orders to secure the above
- Parking as plan
- The use of SUDS for all hard surfaces
- £20,000 contribution toward the improvement of the public footpath surfacing adjacent to the site.

3.4 **Oxfordshire County Council's Developer Funding Officer** has suggested that if the marina is to provide permanent moorings then contributions should be made towards service infrastructure.

3.5 **Oxfordshire County Council's Archaeologist** has stated that a geophysical survey was attempted on this site as part of pre-application work for an earlier application (08/01909/F) but current ground conditions prevented the area from being investigated. Following this a trenched evaluation was attempted but due to ground water the investigations could not go any deeper than the top of the alluvial cover which would be covering any archaeological deposits. The archaeological potential for this site has yet to be established but is thought to be high based on archaeological features recorded in the vicinity. A condition is recommended should the application be approved.

3.6 **Oxfordshire County Council, as Strategic Planning Authority** has made the following comments.

PPG2 promotes the use of green belt land for providing opportunities for outdoor recreation near urban areas and PPG2 and NSCLP policy GB1 allow for the development in the green belt of essential facilities for outdoor recreation which preserve its openness and do not conflict with the purposes of including land in it. Whilst providing essential facilities associated with the marina (a shower and office block), this application also includes a car park for 48 vehicles. This would impact on the openness of the green belt and undermine purposes of including land in the green belt, particularly the need to preserve the landscape setting of Oxford and to safeguard the countryside from encroachment, contrary to policy CO4 of the SE Plan. The proposed scheme is therefore inappropriate green belt development: it should only be allowed in very special circumstances i.e. where there is an overriding need and lack of alternative sites for the development, or it would bring benefits which outweigh the green belt policy objection. Policy TSR22 of the SE Plan identifies that there is a shortage of moorings throughout the region; however, we have no information in this directorate on the scale of need which should be met in Oxfordshire/Cherwell without commissioning further work. The developer's site search would not appear to be exhaustive in that it concludes this is "probably" the most appropriate location for the marina at the southern end of the Oxford Canal. If minded to permit, the district should be satisfied that there is a need for a marina on the scale proposed which could not be accommodated on an alternative site or there are other benefits which outweigh the policy objection.

Leisure, recreational and tourism strategy: Creating healthy, thriving communities is one of this Council's priorities and a strategic objective of Oxfordshire 2030, with recreation and leisure being central to maintaining a good quality of life. The development of a marina would help promote healthy lifestyles as it would encourage participation in a range of waterway based activities. The development would also be in line with policy TSR2 of the SE Plan which looks to support proposals for upgrading inland waterways and associated facilities for recreational use. The proposed development is adjacent to Oxford and would be likely to bring benefits to the local economy in both Oxford and Cherwell in terms of increased visitor expenditure. Increasing tourism activity would help to foster a world class economy (also a County priority and objective of Oxfordshire 2030) and is in line with SE Plan policy TSR7 which prioritises Oxford as an area for tourism development, indicating that integration of the city's tourism market with inland waterways would encourage longer stays.

Public Rights of Way and Infrastructure – There is no objection in principle. Public rights of way, cycle-tracks and areas of accessible natural green space are significant multi-purpose walking, cycling and horse-riding resources and, particularly on the urban fringe of larger settlements, offer a means of connecting with and accessing the surrounding local countryside and contributing to a healthier population. These resources also support the economy through tourist and visitor-spend on products and services. It is important that the quality of these resources is protected and enhanced to better meet the public's current and future needs. Given the pressure that these routes will be put under contributions are sought to improve infrastructure in line with policy CC7 of the SE Plan.

Minerals and Waste: There is sand and gravel within this site and the application therefore needs to be considered against policy SD10 of the Oxfordshire Minerals



and Waste Local Plan on protection of mineral resources. The quantity of potentially workable sand and gravel is small and the deposit is of relatively poor quality (i.e. clayey); this mineral deposit is therefore not considered to be of sufficient significance to warrant an objection to this proposal on mineral safeguarding policy grounds.

Policy SD10 of The Oxfordshire Minerals and Waste Local Plan - *Mineral resources will be conserved for the benefit of future generations. Development which would sterilise or make the extraction of a mineral significantly more difficult will not be permitted unless it can be shown that the need for the development outweighs the economic and sustainability considerations relating to the mineral resource.*

Archaeology: The archaeological potential for this site has yet to be established but is thought to be high based on archaeological features recorded in the vicinity. The County Archaeologist recommends, should planning permission be granted, the applicant should be responsible for implementing a staged programme of archaeological work in accordance with PPG16 and the Local Plan.

Transport: The comments of the Council as Transport and Highways authority will be sent separately in the normal way. There is no objection in principle as the current application overcomes previous concerns. The proposal is for recreational moorings which would be a low generator of traffic with few peak movements. In sustainability terms the site is within walking distance of the nearest bus stop which is connected to a premium bus route, is around 1km away from Kidlington and its services and is located near to public foot and cycle paths; if the district is minded to permit the permission it should restrict use to recreational leisure use and require the use of SUDs (Sustainable Urban Drainage Systems) for all hard surfaces.

Local members' views: The Local Member, Cllr Michael Gibbard, has raised concerns in relation to the proposed access, and highway safety issues and the impact the development would have in transport terms. Transportation is responding to these issues directly with him.

Conclusion: The canal provides a range of opportunities for leisure, recreation and tourism and the construction of a marina in close proximity to Oxford would increase opportunities to participate in a healthy lifestyle and bring additional visitor expenditure into the local economy. However the proposal is inappropriate Green Belt development, contrary to national policy advice in PPG2 and policy CO4 of the SE Plan. If minded to permit, the district should be satisfied that the applicant has demonstrated very special circumstances which out weigh the policy objection.

RECOMMENDATIONS:

It is RECOMMENDED that the County Council informs Cherwell District Council that:

- a) it supports the development of leisure, recreational and tourism related development which contributes to this Council's priorities and the strategic objectives of Oxfordshire 2030 relating to healthy and thriving communities and development of a world class economy and which is in line with SE Plan policies TRS3 and TRS7.
- b) It objects to the development proposed in application no 09/00768/F as it is for inappropriate development in the green belt contrary to national policy advice in PPG2 and SE Plan policy CO4

- c) If minded to permit, the district should be
- (i) satisfied that the applicant has demonstrated very special circumstances which outweigh the policy objection; and
  - (ii) planning permission should be subject to a s106 to secure contributions to improvements to Public Rights of Way; restrict the use of the marina to recreational leisure use; and require the use of SUDs (Sustainable Urban Drainage Systems) for all hard surfaces.

3.7 In the response from the **Council's Head of Planning and Affordable Housing Policy** the relevant policies are listed and the following comments are made.

Green belt policies - It is noted that under the previous application (08/01909/F) which was withdrawn, it was concluded after researching marina proposals in the Green Belt elsewhere that although the proposal is for a recreation use, the scale and nature of the project constitutes inappropriate development in the Green Belt. As such very special circumstances need to be demonstrated by the applicant to show that the harm, by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.

The supporting statement to the application uses the results of a national survey on demand and the percentage of users using the Oxford Canal to conclude that there is a need for an additional 468 new berths on the Oxford Canal by 2015. The benefits of the development are cited as being able to meet part of this demand and offering the Oxfordshire economy the opportunity to capture more tourist-based revenue. The applicant states the site is uniquely suited due to:

- Close proximity to inter-regional and intra-regional motorway network
- Close to major tourist destination of the City of Oxford
- It will be an economic catalyst to the future regeneration of the Oxford Canal
- It will capture growing tourist expenditure in central Oxfordshire

Other benefits are given as being relieving congestion on existing linear moorings on the south Oxford Canal and offering secure moorings from vandalism, with modern facilities.

As part of the case for very special circumstances the applicant should demonstrate that there are no other suitable sites available. Whilst a "sequential test" of sites has been included as part of the application this focuses on sites in the southern stretch of the Oxford Canal, the majority of which are also within the Green Belt. The proposal is to serve existing boat owners who use the canal network (rather than for residential moorings or boat hire). The site's locational advantages are cited as offering good access to boat owners, allowing a natural marina to be developed that is more attractive to boat users, offering a rural location with close proximity to the amenities of Yarnton and Kidlington and Oxford City Centre being within easy reach, and the canal linking to the River Thames at Oxford to the Grand Union Canal at Napton. However a strong case has not been made in the submission as to why this particular location is required and why a site in a non-Green Belt location is unsuitable.

The sequential test is also not that comprehensive or consistent: no mention is made of the ecological value of the application site under the environmental column and the power lines in the vicinity of the site at Frieze Farm appear to be as close to



the application site.

The site is currently a low-lying agricultural paddock and the proposal will therefore have some impact on the openness of the Green Belt. Impact on openness does not just consist of the visual impact but also impact on the level of activity in the area, and the additional traffic generated by the proposal will therefore have an effect. The site is also located in the "Kidlington Gap", a particularly narrow and vulnerable section of the Green Belt between Oxford and Kidlington. However the proposed building being single story and the proposed bund surrounding the site together with the nature of the proposals would help to reduce the visual impact.

Recreation policies - The proposal would contribute to the objectives of policy R14 in providing enhanced facilities for canal users but does not comply with policy R16 in that the site is not within or immediately adjacent to a settlement.

Environmental policies - The site is a proposed Local Wildlife Site located within the Lower Cherwell Valley Conservation Target Area and the proposal will lead to loss of BAP habitat. Minor mitigation is proposed but no compensation is suggested for the loss of BAP habitat or connectivity between sites in the CTA.

EIA - In view of the stated need for additional canal boat moorings and the known interest in provision of such facilities elsewhere in the area it is appropriate for the Environmental Statement to take cumulative impacts into account, but this has not been included as part of the submission.

Conclusion - Whilst the proposal would result in improved facilities for canal users in my view a convincing case has not been made as to why the facility needs to be in this location and why a non-Green Belt location is unsuitable. As such on the evidence currently available I do not consider that very special circumstances have been demonstrated sufficient to outweigh the harm that the proposal would cause, principally to the ecological value of the site.

- 3.8 The **Council's Landscape Officer** makes the following comments;  
There doesn't appear to have been any systematic evaluation of the scheme for its landscape and visual impact. They claim that there will be little effect without ever analysing it. There isn't any assessment of existing character or quality.

The site is low lying and there is currently limited visibility from the tow path. Views in will be opened up when an access is created onto the canal, although these won't be of major significance. The site isn't visible from the A44. The proposed access seems to run through the existing yard which isn't at all attractive and doesn't form an inviting approach to the Marina.

Landscape impact isn't a major consideration with these proposals unlike the access but I have concerns about the quality of the proposals:

- The Non -technical summary claims they will plant fruit trees, but there are none on the planting plan. They aren't proposing reed beds at all, rather marginal planting.
- The birds eye views show the site without any boats, cars or human activity - totally unrealistic.
- There doesn't appear to have been any consideration of construction phase effects. Nor is there any mention of lighting at night from buildings or boats.

- The design is poor with the basin dominated by a track round the basin and car parking, a few unattractive buildings and a lack of structure within the planting.

Further correspondence between the agent and the Landscape Officer has not done enough to overcome these initial concerns/comments.

- 3.9 The **Council's Rural Development and Countryside Manager** makes the following comments;  
Policy R4 of the adopted Cherwell Local Plan states "The Council will safeguard the existing public rights of way network. Development over public footpaths will not normally be permitted." The explanatory Paragraph goes on to say "However, in exceptional circumstances where a satisfactory alternative is proposed the Council may be prepared to accept a diversion."

Policy R4 of the non-statutory Local Plan states "The Council will safeguard and, where possible, enhance the existing public rights of way network. Development over public rights of way will not be permitted unless a suitable diversion can be secured which will not prejudice public rights"

The proposed diversion is relatively small, it seems unlikely that its line would prejudice public rights or cause significant inconvenience to the public. However, the ramped bridge over the marina entrance may be of concern to mobility impaired walkers.

Diversion of FP16 would need to be done with a Public Path Order (PPO) order under s.257 of TCPA'90. This is a separate process to the Planning application, and works affecting FP16 should not be carried out until a PPO has been confirmed.

Temporary closure of the path during the works would be dealt with under a separate procedure by OCC.

The agent supplied the following information in relation to the proposed footbridge;  
*The design was carried in accordance with the Disability Discrimination Act and building regulations and is similar to a tow path bridge recently constructed at Mercia Marina. The slope is 1:20. The surface is compacted scalping with a crushed stone dressing.* This detail is considered acceptable.

- 3.10 The **Council's Environmental Protection Officer** states that records show a small historical pond which has been in-filled approximately 220 metres to the south east and a historical canal wharf 200 metres to the south of the development. There are no other potentially contaminative sources on the site. A planning informative is recommended in the event of approval.

- 3.11 The **Council's Head of Recreation and Health** states that Oxfordshire Narrowboats at Lower Heyford have a thriving business and is unsure that there is sufficient business to support another development of this size between Oxford and Banbury. A development in Banbury or between Banbury and Cropredy would be of greater benefit.

- 3.12 The **Council's Ecology Officer** makes the following comments;

Protected species: The mitigation plan proposes a pre-works survey of water voles prior to development work commencing. It should be pointed out that there are optimum times for surveying water voles and that a mitigation plan including proposed timings of works should be agreed prior to any permission given. The 2008 survey confirmed evidence of water vole burrows within the area to be affected by works. Along with our records along that stretch of canal their presence should be presumed. The proposals for the new banks could offer an enhancement for water voles if appropriately managed - an ongoing management plan for the site should be included with review periods built in to accommodate any changes which may need to be made in the future as any established habitat matures.

From a previous site visit I suggest that the mature tree to be removed along the canal may have potential to support bats and needs to be checked for this prior to removal. Any hedge sections or trees should only be removed outside of the bird breeding season.

Habitats: Sections of hedgerow to be removed may come under the Hedgerow Regulations 1997 (this only appears to have been assessed at a general level in the ecological surveys). Hedgerows are UKBAP habitats and therefore any parts to be removed should be replaced as far as possible with a native species mix to maintain this level of habitat. Woodland planting on site should use native species of local provenance where possible and those which are typical of the area - particularly important on this sensitive site.

The site itself is an important UK BAP priority habitat coming under Floodplain grazing marsh (it also comes under the Cherwell BAP 2005-2010). We have an obligation therefore to maintain and enhance these habitats and support their recreation and sympathetic management where possible. I'm not convinced that the current plans for turf removal and reestablishment will be successful as the hydrology and topography of the site will have changed following the removal of the ditch and construction of embankments. However even if successful reestablishment of some of the grassland interest is achieved the proposed works still represent a significant loss of this habitat type overall. As the NVC survey carried out this summer was inadequate and permission has not been achieved to assess the sites LWS status it should be assumed that the site qualifies as an LWS with sufficient botanical interest. We therefore have an obligation under PPS9 to conserve these sites and look for opportunities to enhance them. The aims of the Conservation Target Area within which this site falls are to manage and restore lowland meadows and wet grassland, therefore the proposed works would be contrary to the achievement of these aims for this area. Is there any potential for off-site habitat creation as compensation?

- 3.13 **Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust** objects to the application on the grounds that the proposals would have significant negative impacts on biodiversity. In summary, the site is a proposed Local Wildlife Site which supports UK BAP priority habitats. The surveys submitted are not adequate and there is insufficient information to assess the site against the Local Wildlife Site criteria. Whilst some retention of turfs to be used on embankments has been proposed to help mitigate the loss of the majority of BAP priority grassland habitat. Changes in the hydrology of remaining areas of grassland as a result of the proposals may also impact negatively on their botanical interest. The proposals are therefore contrary to policy which protects BAP priority habitats and Local Wildlife

Sites. The site falls within the Lower Cherwell Valley Conservation Target Area; this is one of 36 areas identified across the County as being a strategic area for focusing conservation effort in order to assist in the delivery of National Biodiversity Action Plan (BAP) targets.

After further communication between BBOWT and the agent for the application the agent has suggested conditions in relation to providing a habitat restoration and management scheme. However, confirmation has not yet been received from BBOWT as to whether these are sufficient to overcome their concerns.

3.14 **Natural England** objects to the proposal for the following reasons;

- Insufficient information to determine the effect on the Oxford Meadows SAC and further information is needed in relation to the effect of the development on the water regime, including water flows and quality of Kingsbridge Brook to the west of the development , and therefore the hydrological effect on the SAC and SSSI.
- Impact on Pixey and Yarnton Meads SSSI
- Whilst the proposal is not directly connected with or necessary to the management of the site in order to advise whether it is likely to have a significant effect on a European site the applicant should provide a hydrological report which assesses the effect of the development on the water regime, including water flows and quality of Kingsbridge Brook.

After further communication between the agent and Natural England there is still concern that as the Kingsbridge Brook is directly connected to the SSSI and SAC there is potential for significant negative effects on the designated site as a result of changes to the water regime.

3.15 **The Environment Agency** has not provided a full response as the FRA requires an assessment of the modelling and these files have not yet been provided by the agent/applicant.

3.16 **British Waterways** has made the following comments (in summary)

- The well screened tree and hedge line on the northern and most of the western boundary and this together with the additional planting, will add more ecological value compared with the site currently.
- The design of the marina is aimed at being low key, maximising landscaping and ecological potential in this part of the Green belt.
- There are other marinas in the Green belt that do not prejudice the openness of the Green Belt.
- The applicant has pointed out the demand for such basins and British Waterways endorses this.
- Marinas are needed to reduce congestion on the main canal and provide security and facilities for boaters.
- The canal is a fixed asset and marinas have very specific requirements including geology, topography and need sufficient water and to be safely located for navigation.
- There is a limited choice of location for such facilities.
- The application shows that there are very few potential alternative sites for a similar basin on the southern section of the Oxford Canal.
- Thames Water supports the application and requests the inclusion of an

informative if the application is approved.

- 3.17 **Thames Water** has no objections with regard to water infrastructure. Given the proposed method of treating domestic waste water there is unlikely to be any impact on the public sewerage system. However it is recommended that if the application is approved a condition be included to require petrol and oil interceptors to be fitted to parking facilities.
- 3.18 **London Oxford Airport** raises no objections to the proposal but states that the development is proposed close to a busy operational airport and could be subject to aircraft noise and high structures may require a safeguarding study.
- 3.19 **Thames Valley Police Crime Prevention Design Advisor** is concerned about access to the site from the towpath and the new footbridge. Moored boats and parked cars can be at risk. The developers have described a mixture of fencing and defensive planting being used and there is no intention of allowing public access into the marina from the towpath or bridge. A condition is required to ensure the site is satisfactorily secured should the application be approved.

## 4. Relevant Planning Policies

- 4.1 Adopted Cherwell Local Plan  
**GB1** – Development in the Green belt  
**GB2** – Change of use of land within the Green Belt for outdoor recreation  
**H26** – Residential canal moorings  
**C1** – Protection of sites of local nature conservation  
**R7** – The Oxford Canal  
**R9** – New facilities for canal users
- 4.2 Non-Statutory Cherwell Local Plan  
**GB1** – Development in the Green Belt  
**GB2** – Change of use of land within the Green Belt for outdoor recreation purposes  
**H28** – Residential canal moorings  
**R14** – Protection and enhancement of the Oxford Canal and River Cherwell through the control of development  
**R16** – New facilities for canal users  
**EN24** – Protection of sites and species
- 4.3 South East Plan  
**SP3** – Urban focus for development  
**SP5** – Green Belts  
**CC1** – Sustainable development  
**CC8** – Green infrastructure  
**C5** – Rural-urban fringe  
**TSR2** – Rural tourism  
**TSR7** – Priority areas for tourism  
**CO1** – Core strategy  
**CO4** – Green Belt  
**NRM5** – Conservation and improvement of biodiversity

- 4.4 National Policy  
**PPG2 – Green Belts**  
**PPS9 – Biodiversity and Geological Conservation**  
**PPG17 – Planning for Open Space, Sport and Recreation**

- 4.5 The Council's **Tourism Strategy** highlighted the Oxford canal as being an underused resource, particularly in Banbury, but other than that is not locationally specific.

## 5. Appraisal

- 5.1 The main issues to consider in the assessment of the application are;

- Green Belt Policy
- The demand for marinas and location
- Visual impact
- Highway Safety
- Ecology, hydrology and flooding
- Other issues

5.2 **Green Belt Policy**

PPG2 states that there is a general presumption against inappropriate development within Green Belts. Inappropriate development is, by definition, harmful to the Green Belt and it is for the applicant to show why permission should be granted. Very special circumstances to justify inappropriate development will not exist unless harm by reason of inappropriateness, and other harm, is clearly outweighed by other considerations. It goes on to state that the construction of new buildings inside a Green Belt is inappropriate unless it is...essential facilities for outdoor sport and outdoor recreation...and for other uses of land which preserve the openness of the Green belt and which do not conflict with the purposes of including land in it.

Policy GB1 of the adopted Cherwell Local Plan reflects the guidance above. Policy GB2 of the same Plan specifically relates to outdoor recreation and states that, the change of use of land within the Green Belt for outdoor recreation purposes will normally be permitted provided:

- (i) there is no overriding agricultural objection;
- (ii) the visual impact on the rural landscape is not unduly harmful;
- (iii) there is no conflict with other policies in this plan.

Planning permission for new buildings related to such uses will only be granted if they are small in scale and it can be demonstrated that they are essential and ancillary to the use of the land and can be located unobtrusively.

The submission acknowledges that the site is within the Green belt and states that 'the marina is recreation and will preserve the openness of the green belt' and 'it will satisfy the qualifications in GB2 and the buildings will be as small as possible to fulfil the function'. It also gives 5 examples where marinas have been approved in the Green Belt and states that this indicates a precedent of marinas in the Green Belt. It also provides information relating to the national and regional demand for moorings and a sequential test relating to the flood risk assessment.

What the submission fails to do is consider whether or not the proposal constitutes inappropriate development in the Green Belt. The submission fails to fully assess

and explain any link between Green Belt policy, demand for moorings and the results of the sequential test. By virtue of the fact that the information detailed in the above paragraph has been included in the submission suggests that the applicants consider that a marina is an appropriate form of development in the Green Belt. This may go some way to explaining why there is no direct reference to 'very special circumstances' to justify the development.

Whilst the proposed facilities building, waste disposal building and fuel containers may be essential and the minimal required for the function of the marina, this is not considered sufficient justification as they are not essential for an existing recreational function but only necessary to serve the proposed marina which also has to be considered against Green Belt Policy.

The proposal involves the creation of a large body of water, the regrading of the landscape, the creation of bunds and laying of hard standing for up to 48 cars. Whilst some of these physical changes may not have an adverse impact on the openness of the area the reality is that up to 97 canal boats and 48 cars could be present in the marina at any one time and it is the impact of this that is likely to have an adverse effect on the openness of the Green Belt. This would therefore constitute an inappropriate form of development.

The proposal also consists of 2 berths for residential purposes to accommodate managers. This is tantamount to the introduction of new dwellings in the Green Belt which in itself is contrary to Green Belt Policy.

Whilst the submission does not directly refer to very special circumstances it is possible to consider the demand for new moorings and locational constraints to assess whether there may be a justification for allowing inappropriate development in the Green Belt.

### 5.3 **The demand for marinas and location**

The submission states that there is a nation wide demand for 11,700 new berths by 2015 and that demand is likely to be highest on the top ten canals, of which the Oxford Canal is number 7 in the rankings. The submission goes on to state that there is a need for a further 468 berths on the Oxford Canal by 2015. The need for off-line moorings and marinas along the Oxford Canal is not disputed and is in fact supported by British Waterways and other recreational bodies. However acknowledging that there is a demand does not mean that all proposals that contribute to this demand should be approved. The appropriateness of the location is an important consideration.

There are Local Plan and South East Plan policies that support and encourage development that contributes to the continued use of the Canals. For example R7 of the Cherwell Local Plan states that through the control of development the Council will seek to protect and enhance the recreation roles of the Oxford Canal and River Cherwell. However Policy R9 then states that with the exception of appropriately sited small car parks and picnic areas, new facilities for canal users will normally only be permitted when they are located within or immediately adjacent to settlements. This site is not considered to be adjacent to a settlement as three dwellings and commercial premises do not constitute a settlement. The policy seeks to ensure that new canal developments of this nature are located within or adjacent to settlements so that they are accessible to local amenities and have a

minimal impact on the open countryside. Therefore the proposal does not comply with this local plan policy.

Whilst the application is supported by a sequential test, submitted for the purposes of the flood risk assessment, it is recognised in the comments from the Council's Head of Planning and Affordable Housing Policy that it is inconsistent and not comprehensive. It does not demonstrate why there is a particular need for a marina in this specific location as opposed to alternative sites outside the Green Belt and located in or adjacent to settlements. For example, more suitable sites include the potential for a marina as part of the Bankside development or Canalside redevelopment.

#### 5.4 **Visual impact**

The site is already partially visible from the towpath as the boundary trees and hedges do not provide a solid screen. This will continue to be the case until new vegetation is established. The inlet to the marina and new footbridge over the inlet will be obvious additions to the area. Glimpses of the marina and associated parking, bunds and building will also be achieved from the footpath over Kings Bridge/A44. Longer distance views from other public paths and roads will not be easily achieved. This means that the proposal is therefore unlikely to have a significant adverse impact on the wider landscape and only have a localised visual impact. Given the nature of the development the creation of an open area of water is unlikely to have an adverse visual impact and the use of this water by canal boats is not out of character with the area but the overall mass of moored boats and parked cars and the manmade structures associated with the function of the marina will result in some harm to the landscape. The fact that landscape impact is not in itself a significantly detrimental factor does not alter the view that the proposal constitutes inappropriate development in the Green Belt that affects the openness of it.

It is also considered that the proposed development has not sufficiently considered the layout and landscaping of the site (see the Council's Landscape comments above).

#### 5.5 **Highway safety**

The site is to be served by an existing access off the A44. The access currently serves a group of three dwellings and commercial premises. The speed limit along this road is 60mph and the access is located on a slight bend and on a gradient reducing in height from the canal bridge. The current access does not meet vision standards and is also substandard in relation to construction, geometry, gradient and width. Earlier submissions failed to adequately deal with these issues. However the scheme has been amended to prohibit right hand turns into and out of the site. This is proposed by altering the layout of the junction and installing a bollard and 'island' arrangement with additional signage.

A further concern was raised by the LHA in relation to the potential to use the informal lay-by opposite the site to carry out u-turns. The plans include alterations to this lay-by to discourage u-turns and require vehicles to use the roundabouts to change direction.

The application states that the proposal is for recreational moorings, with the exception of two managers residential moorings. Therefore this results in fewer



overall traffic movements and less peak time movements than if the proposal was for residential moorings. This also removes the requirement for contributions to infrastructure other than highways contributions.

To control access into the marina and prevent unauthorised access it is intended to install electric gates at the entrance of the marina.

In response to these proposed measures the Highway Authority raise no objections to the proposal therefore in relation to highway safety the proposal is considered acceptable. However if the application were to be approved contributions to highway improvements would need to be secured.

#### 5.6 **Ecology, Hydrology and Flooding**

Comments from Natural England and BBOWT raised concerns about the impact of the proposal on sites of ecological interest. Particular reference is made to impact on water voles and the need for mitigation and ongoing management plans. The ES acknowledges that a water vole mitigation strategy should be developed but there is no detail as to what this may involve.

The developer's ecologist has suggested methods of transplanting turfs of species rich grassland to mitigate against the loss of important ecological features. However further comment in relation to this has not yet been received from Natural England or BBOWT.

The agent is seeking to resolve these outstanding issues and updates will be provided if further relevant progress is made.

In relation to BAP habitats, PPS9 states that:

*Through policies in plans, local authorities should also conserve other important natural habitat types that have been identified in the Countryside and Rights of Way Act 2000 section 74 list, as being of principal importance for the conservation of biodiversity in England and identify opportunities to enhance and add to them'.*

The submission fails to demonstrate that the identified habitats will be enhanced by the development.

The Environment Agency has not been in a position to provide detailed advice on the matter as they required modelling information which to date has not been provided.

#### 5.7 **Other relevant issues**

##### **Environmental Impact Assessment (EIA)**

The proposal was previously screened in 2006 and it was concluded that, at the time, the development did not constitute EIA development therefore an Environmental Statement was not required. However, when reviewing this position in relation to the current application it was determined that an Environmental Statement was required. This was due to the fact that as well as the development exceeding the relevant thresholds and it being in a sensitive area the site has also been designated as being within a UK Biodiversity Action Plan (UKBAP) priority habitat, a Local Wildlife Site and the Lower Cherwell Conservation Target Area (CTA). An Environmental Statement (ES) was submitted to support the application.

Circular 02/99 – Environmental Impact Assessment and DETR Guide to Procedures (2000) sets out what information should be included in an ES and a checklist of matters to be considered for inclusion. This sets out that an ES should include, at least the following information (in summary);

- a description of the development
- a description of the measures envisaged in order to avoid, reduce and if possible, remedy significant adverse effects
- data required to identify and assess the main effects which the development is likely to have on the environment
- the main alternatives studied by the applicant or the main reasons for choice, taking into account the environmental effects
- a non-technical summary.

Whilst the submitted ES attempts to deal with individual issues in relation to ecology, flooding, highway safety etc there is no detailed assessment of the environmental effects that demonstrates direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the project. The submitted ES is simply a collection of independent reports with little or no elaboration or explanation on the overall environmental effects. There are examples in the ES where conclusions have been reached with no supporting information submitted to justify the conclusion. For example on page 10 of the ES it states that ‘the Land and Visual Impact Assessment show the proposed marina will have no adverse visual impact on its most immediate receptors, including the nearby A44’. However, no Land and Visual Impact Assessment has been submitted and the receptors have not been listed.

The purpose of the EIA process is to establish the likely effects of a proposal and for the ES to set out the required mitigation measures to overcome these potential effects. Case law has determined that it is not appropriate to delay the formation of mitigation measures and allow this to be resolved through conditions. In this case, if the application were to be approved based on the information submitted there would be a requirement to condition mitigation and management details to be submitted therefore the ES also fails to meet the EIA requirements on this basis.

Having assessed the submitted ES against the guidance relating to EIA it is considered that it is inadequate. The guidance states that where the developer fails to provide enough information to complete the ES the application can be determined only by refusal.

#### Supply of water

One consideration that officer’s thought relevant is the supply of water into the marina and the impact this has on the overall amount of water in the canal. British Waterways has clarified this and has explained that the water is allocated to new canal marina developments on a case by case basis and developers usually check there is sufficient supply prior to submitting formal proposals for planning approval. If a scheme is not permitted or not built within a certain time frame British Waterways can then allocate the water to other developments.

The scheme also seeks to demonstrate that there is a sufficient supply of water in relation to lockage and water demand.

#### Detail of the submission

A boat marina could consist of both recreational and storage functions. Whilst the submission states that the marina is for recreational purposes it is not clear exactly how it will be run and what controls there will be in relation to the period of time boat owners could remain in the marina with their boats. The submission refers to the fact that 'boaters and overnight visitors will be able to access the toilets and showers in the marina facilities' and the 'aim is to produce a marina that is environmentally pleasing so that boaters are just as happy staying on their boats as they would be plying the canal'. This implies overnight stays in the marina. Whilst the Highway Authority has not objected to the proposal and has stated that a non-residential marina will be a low traffic generator, there is potential for greater traffic movements in and out of the site if boat owners remain on their boats in the marina for more than one night, as they may require provisions from nearby shops. It is not clear from the submission or consultation responses if the potential for consecutive overnight stays has been considered.

5.8 **Conclusion**

Given the above assessment it is not considered that the submission demonstrates that there are any special circumstances that outweigh the principle issue that this is inappropriate development in the Green Belt. Furthermore the proposal has not been supported by an adequate ES to comply with the EIA regulations and adverse impacts on biodiversity and flooding have not been fully considered nor adequate mitigation measures proposed. Therefore the proposal is recommended for refusal for the reasons set out below.

## **6. Recommendation**

### **Environmental Statement**

**Regulation 21 of The Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999 requires that where an EIA application is determined by a local planning authority the authority will inform the secretary of state and the public of the decision. The authority must also make available for public inspection the content of the decision and any conditions, the main reasons and considerations and a description of the main measures to avoid, reduce and off set adverse impacts.**

**It is therefore recommended that this report (minus the summary of consultation responses) and the reasons for refusal are approved as setting out the main reasons and considerations with regard to the ES to comply with the requirements of Regulation 21 of The Town and Country Planning (Environmental Assessment)(England and Wales) Regulations 1999.**

### **Planning Application**

**Refusal for the following reasons;**

- 1. The site is within the Green Belt and detached from existing settlements and the proposed development is not considered to be appropriate development as set out in Planning Policy Guidance Note 2 and the adopted Local Plan. The development will be prejudicial to the openness of the Green Belt and no special circumstances have been demonstrated to outweigh the harm caused. Therefore the proposal is contrary to Policy GB1, GB2 and R9 of the adopted Cherwell Local Plan, GB1, GB2 and R16 of the non-statutory Cherwell Local**

**Plan, SP5 of the South East Plan and PPG2.**

- 2. The Environmental Statement accompanying the application is unsatisfactory in that it is not explicit in terms of the scale and scope of the proposal or the impact of the development and the effects on the environment.**
- 3. The proposal does not include a satisfactory Flood Risk Assessment and as such it has not been demonstrated that the site would not be affected by flooding or result in flooding elsewhere and as such is contrary to the advice in PPS25.**
- 4. The proposal fails to adequately demonstrate that harm will not be caused to areas of BAP priority grassland, protected species or the nearby SSSI and Special Area of Conservation. The proposal is therefore contrary to Policy C1 of the adopted Cherwell Local Plan, Policy EN24 of the non-statutory Cherwell Local Plan, Policy NRM5 of the South East Plan and PPS9.**
- 5. The proposed development generates a need for financial contributions for highways improvements, which in the absence of a satisfactory planning obligation, would not be adequately met and as such is contrary to Policy CC7 of the South East Plan and Policy TR4 of the Non-Statutory Cherwell Local Plan.**

**CONTACT OFFICER: Caroline Roche**

**TELEPHONE NO: 01295 221816**

09/01178/F

Agenda Item 7

(PH)

GREEN

THE

Horton-cum-Studley

Scale  
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# 09/01178/F



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**1:2,541**

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<b>Application</b> 09/01178/F	<b>No:</b>	<b>Ward: Otmoor</b>	<b>Date Valid: 27.08.09</b>
<b>Applicant:</b>	B A Property Management Ltd C/o Victor C Brown, The Studio, 7 Mill Lane, Horton Cum Studley, Oxford, OX33 1DH.		
<b>Site Address:</b>	The Lodge, Horton Hill, Horton Cum Studley, Oxford, OX33 1AY		

**Proposal:** Variation of Condition 7 of 07/02478/F. Phasing of construction of shop, hotel facilities and housing.

## 1. Site Description and Proposal

1.1 This application relates to a planning permission for 4 houses that was approved in May 2008 subject to a condition that:

“That the hotel extension permitted under planning permission ref. No. 06/01927/OUT shall be built concurrently and the houses hereby approved shall not be occupied until the hotel extension is complete and ready for use”.

That permission followed earlier resolutions to approve and a permission for combined development involving substantial extensions to the hotel and houses which were permitted to ensure the future viability of the pub/restaurant/hotel as a village facility. The planning history is recounted in more detail in the report on 09/00937/F also before this Committee.

1.2 The proposal is to substitute an alternative phasing arrangement for the houses and the hotel extension. The applicant proposes that Condition 7 is amended to state that the hotel extension is to be constructed in two phases: the first to comprise the construction of the first 2 houses (Units 1 and 2) and the construction of a minimum of 4 bedrooms associated with the hotel on the earlier of 6 months after the sale of the last of Units 1 and 2 or two years from completion of the construction of those units. The proposed shop is to form part of the first phase and to be complete and ready for trading prior to the occupation of the houses. The second phase to comprise the construction of the remaining 2 houses (Units 3 and 4) and the construction of a minimum of 6 further bedrooms associated with the hotel on the earlier of 6 months after the sale of the last of Units 3 and 4, or two years from the completion of the construction of these units.

1.3 The application is accompanied by confidential documents setting out the financial situation relating to this proposal. However, the documents supplied are considered to be of limited value as they lack the apparent robustness in forecasting necessary to demonstrate that the revised phasing will ensure the future viability of the business.

1.4 This application should be considered alongside the current applications for the revised proposals for the hotel extension (09/00937/F) and the shop (09/00936/F) which are also reported on this agenda, and the contents of those reports are also relevant in considering this proposal.

## **2. Application Publicity**

- 2.1 The application was advertised by individual letters to neighbouring properties and by site notice. The final date for comments was 30 September 2009.
- 2.2 Two letters of representation have been received from local residents who comment that:
- The applicant is now seeking to separate the building of the houses from the hotel extension.
  - Three storey houses are not in character with The Green.
  - Overdevelopment.
  - The hotel is not needed or wanted within the village.
  - If the public house is not profitable during prosperous times, how is it expected to be during a recession.
  - Allowing the houses to be built given the danger of the hotel never being extended.
  - Anger and frustration from this proposal running on for years.
  - Previous emphasis on 23 bedrooms needed to return hotel to profitability, but this application invalidates the previous rationale.
  - With only 4 and then 6 bedrooms proposed no need to build 4 large houses if no longer seeking to fulfill previous scale of development.
  - Draws attention to the long-term desire of this applicant for residential development on this site.
  - Developer is using the current financial downturn as a pretext to significantly alter the conditions of the existing planning approvals. The economy will recover in time. To accede to the request will seriously weaken control of what is already a highly contentious project. It would completely change the emphasis of this project, replacing a strategy to return the hotel to profitability, with a drive to build houses at any cost.
- 2.3 Some of the representations received with respect to 09/00937/F also express concern about the phasing of the hotel and houses.

## **3. Consultations**

- 3.1 Horton-Cum-Studley Parish Council comments awaited (due to be considered by them on 08.10.09).





cessation of trading and closure.

- 5.3 Notwithstanding the above comments from the applicants the Head of Development Control and Major Developments considers that there is a substantial risk that the hotel extension will not be built in its entirety and that therefore the approval of housing contrary to policy will not achieve its stated aims off securing the long-term future of the facility for the village through the funding of the extensions.

## **6. Recommendation**

**Refuse on the grounds that:**

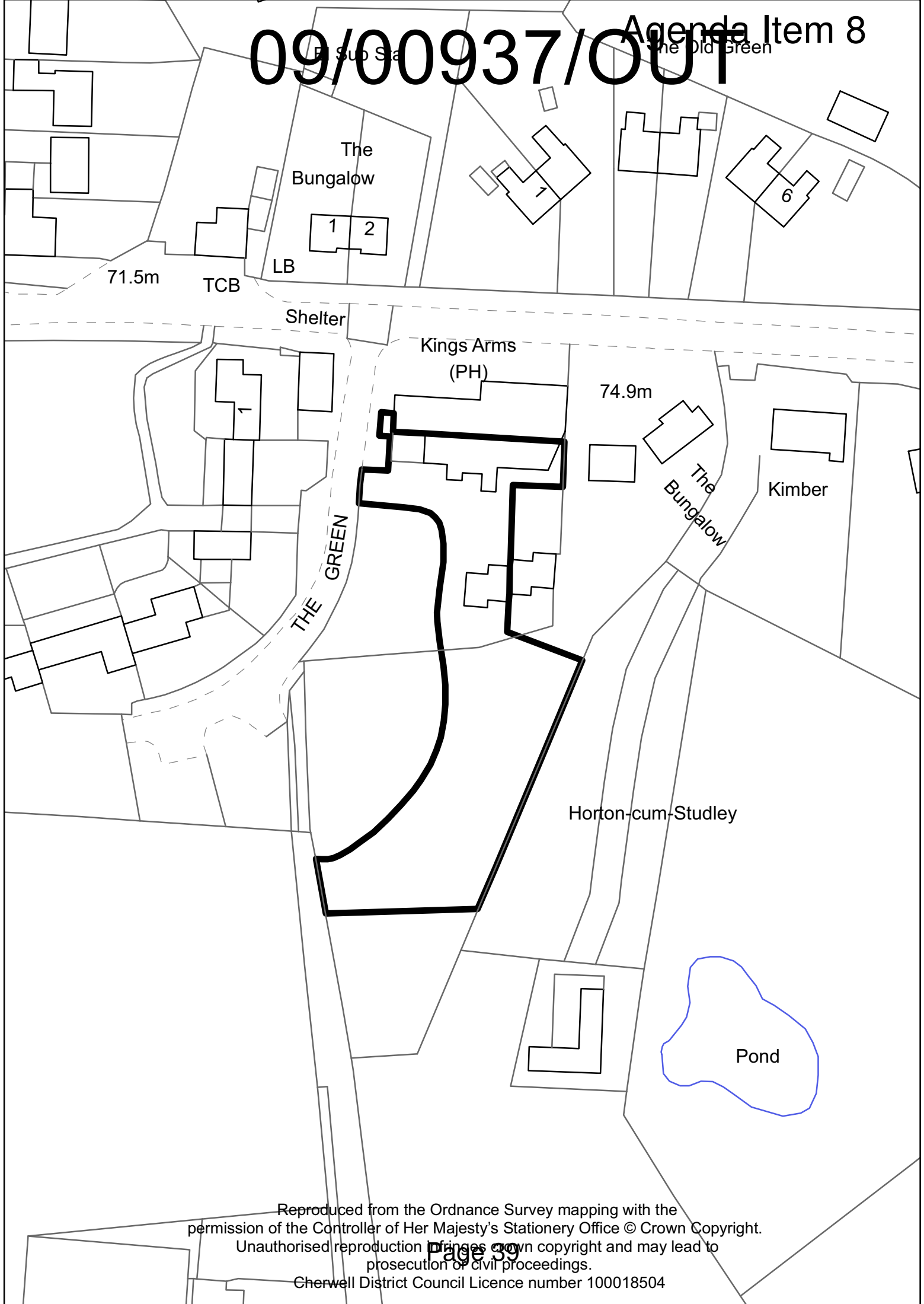
**The amended phasing of the provision of the hotel accommodation introduces significant uncertainty into the construction of the majority of the proposed hotel extension contrary to the reasons for the original grant of planning permission for the houses (which are contrary to normal Green Belt policy), that decision being taken to ensure the future long-term viability of the hotel/pub/restaurant business. The houses would therefore represent inappropriate development in the Green Belt that is contrary to Policy CO4 of the South East Plan and Policy GB1 of the adopted Cherwell Local Plan and the very special circumstances case now advanced is no longer sufficient to outweigh the normal strong presumption against such inappropriate development.**

**CONTACT OFFICER: Bob Duxbury**

**TELEPHONE NO: 01295 221821**

09/00937/OUT

Agenda Item 8



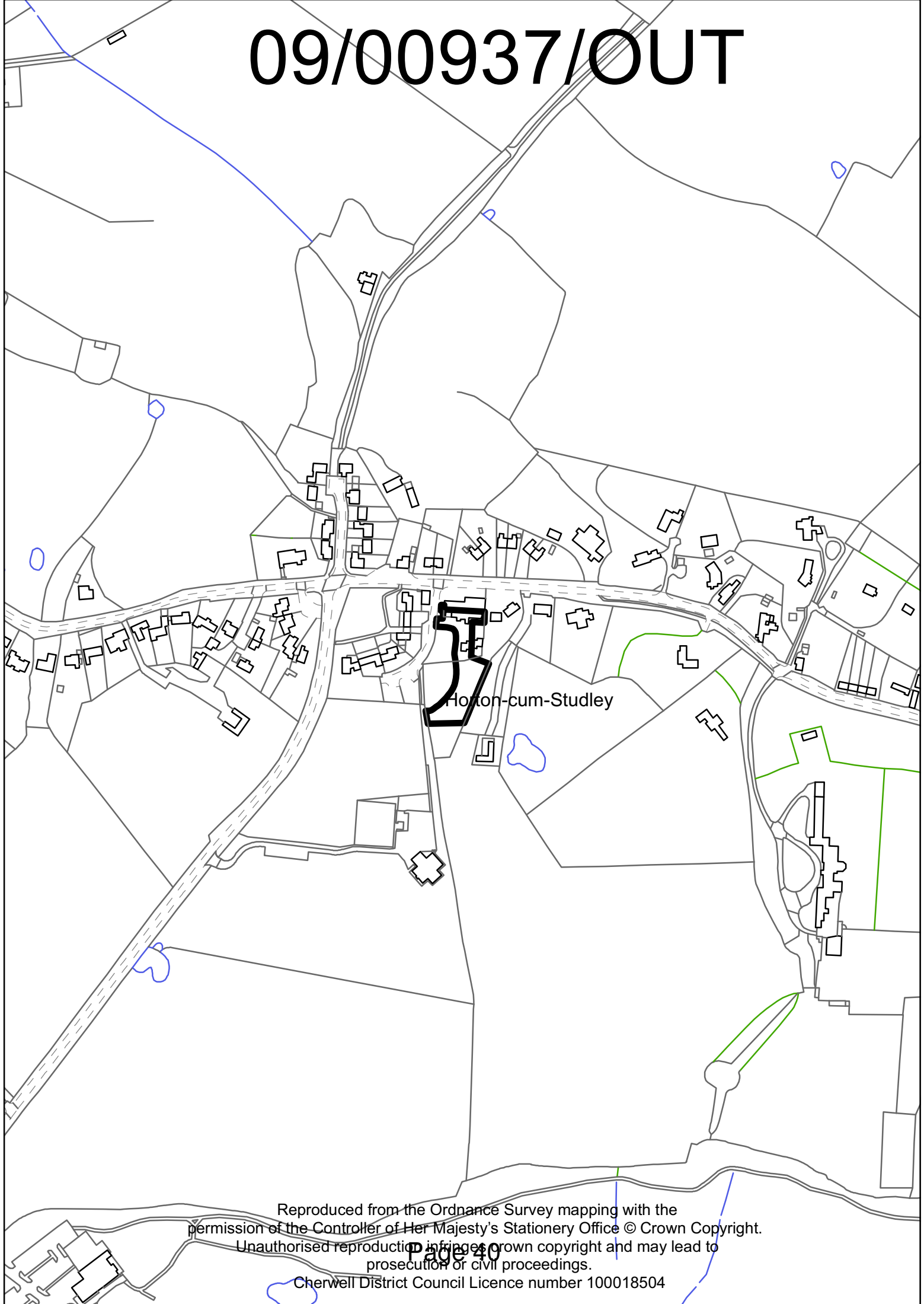
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# 09/00937/OUT



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<b>Application No:</b> 09/00937/OUT	<b>Ward:</b> Otmoor	<b>Date Valid:</b> 13.07.09
<b>Applicant:</b>	B A Property Management	
<b>Site Address:</b>	The Otmoor Lodge Hotel, Horton Hill, Horton Cum Studley, Oxford	

**Proposal:** Extension to hotel to form 23 additional bedrooms, ancillary facilities, car park and access

## 1. Site Description and Proposal

- 1.1 This application seeks outline planning permission for the extension of the public house/restaurant/hotel complex which is centrally located within this Green Belt Village. This site has a complex planning site history (see Section 5 below). The proposal seeks consent for a two storey extension across the back of the existing building and a three storey wing to the rear of that, at right angles to the main building stretching to and partly incorporating an existing two storey annex building to the rear. A car park for 48 cars is proposed further to the south. The four houses adjacent, approved in 2008, will be separated from the hotel extension by the access road to the car park.
- 1.2 The proposed extension is proposed to be built in phases, the initial phase being the 3 storey section at right angles to the rear of the existing hotel. All of the shell of this part of the building would be built, but only the ground and part of the first floors would be fitted out as the new lobby and bedrooms.

## 2. Application Publicity

- 2.1 The application has been advertised by individual letters to neighboring property and by site notices. The final date for comment was 21 August 2008.
- 2.2 Letters of representation have been received from six local residents who object to the proposals on the following grounds:-
- Large scale proposal out of character with village
  - Loss of light to properties in The Green
  - Loss of view to Green Belt and Studley Priory from properties in The Green
  - Will allow hotel to become conference facility increasing noise pollution especially at night
  - The green roadway is small and unsuitable to serve the development, and will cause a hazard to children playing
  - Junction of The Green with main village that is busy and adjacent to school bus stop
  - Road forms pedestrian access to village hall
  - Light pollution from bedrooms
  - Competition to village hall for events such as wedding receptions to the

detriment of the funding of the hall

- Lack of demand for extra bedrooms – hotel rarely full
- Anticipate extended time span for construction
- Car parking encroaches into Green Belt – why so much?
- Need for comprehensive assessment of all elements of the proposal
- Disagree with enabling concept of house
- Overlooking and loss of privacy
- Expressing concern that the funding arrangements are complicated and long winded causing long term blight to adjacent properties
- No up to date business cards made
- Concern about protected species on land nearby
- Overdevelopment and overdomination of properties on The Green
- Loss of wall to The Green frontage
- Need for a shop is questionable
- Amount and type of development may encourage CDC to reclassify Horton-Cum-Studley from current 'C' classification
- Temporary financial downturn should not be taken as reason for restructuring the previous linkage arrangements for timing the construction of the houses and hotel extension
- Seeks use of Section 106 powers to prevent any further development of this site

- 2.3 The Oxford Green Belt Network express concern about the mass of the proposed extension, its impact upon the openness of the Green Belt and about the size of the proposed car park. The 3 storey block linking the annex will create a structure which is out of keeping in this sensitive Green Belt location in their opinion they say it will cut out existing views and does not seem very neighbourly. There appears to be a large element of enabling development tied up with what is proposed and there is a real prospect, in their opinion, that the development will drag on in a piecemeal fashion for a long time and that the construction will be detrimental to living conditions for nearby properties.

### **3. Consultations**

- 3.1 Horton Cum Studley PC report that they were equally split in their opinions on this proposal, with 2 members in favour (but expressing concerns about overdevelopment and traffic but want to support a pub and shop in the village), whilst 2 members object to the proposal on the grounds of overdevelopment, traffic affecting safety of pedestrians going to the hall/playing fields/school bus stop, Green Belt, loss of privacy and light pollution.
- 3.2 The Council's Environmental Protection Officer comments that there are unlikely to be land contamination issues but recommends a planning note.
- 3.3 The Council's Ecology Officer has requested that submission of a survey for great crested newts and other reptiles which may use the rough grassed area at the southern end of the site as foraging areas from known habitats nearby. A reptile survey has been requested.
- 3.4 Oxfordshire County Council has raised queries concerning the amount of parking provided, but has latterly confirmed that they raise no objections.

## 4. Relevant Planning Policies

- 4.1 South East Plan – Policy SP5 (Green Belts); CC6 (sustainable communities); TSR2 (rural tourism); TSR5 (tourist facilities) and C4 (Green Belt)
- 4.2 Adopted Cherwell Local Plan – Policies GB1, S28, T2, T5, C2
- 4.3 The non-statutory Cherwell Local Plan 2011  
The following policies are relevant – Policies, GB1, GB1a, S25, T2 and T5

## 5. Appraisal

- 5.1 The principal issues in this case are
- (i) the history of planning applications on this site, and the state of variations in this case
  - (ii) Green Belt policy and the very special circumstances case
  - (iii) Tourism policy
  - (iv) Impact upon residential amenity
  - (v) Traffic matters
  - (vi) Biodiversity matters

### 5.2 Planning History

- 5.3 The applicant has submitted a series of applications since 2004 these are summarised below:-

- 04/02395 Resolution to approve in May 2005 for extension to hotel to form 19 bedrooms and construction of four town houses with associated parking (contrary to recommendation) subject to departure procedures and the applicants entering into a legal agreement to ensure the provision of the intended shop. The Secretary of State did not call in application. Legal agreement drafted but not completed (overtaken by next application)
- 06/00537/F Planning permission granted in June 2006 for extension to form 23 bedrooms with 4 detached houses/garages subject to legal agreement re provision of shop.
- 06/01927/OUT Outline planning permission granted in December 2006 for 20 bedroom extension to hotel, shop/PO and 4 dwellings. This revised scheme had the extension and houses in a much tighter grouping near the rear of the existing hotel.
- 07/02478/F Planning permission for 4 detached houses approved in May 2008. Variation on the siting of the houses originally submitted as reserved matters is reserved matters pursuant to 06/01927/OUT, but cannot be

treated as such because siting was not a reserved matter.

- 09/00549/F Proposal for 5 dwellings. Application withdrawn.

- 5.4 This application is also accompanied by two others 09/00936/F for the erection of an extension to the front of the hotel/public house a shop unit and an application which seeks to vary the condition placed upon 07/02478/F which provided the timing of the linkage between the hotel extension and the houses (09/01178/F) (see separate reports). These three applications should be assessed as a complete group explaining the applicant's intentions.
- 5.5 It will be noted that following the overturn of recommendation in May 2005 the principal of a substantial extension to the hotel in part funded by the enabling development of four houses has been accepted by the Council. Those decisions were based on the perceived need for the Council to assist the applicant in the taking of exceptional measures to ensure the future continued provision of a public house/restaurant as a much needed facility for the village. The schemes have also sought to re-provide a shop for the village following the closure of the previous shop approximately 4 years ago.
- 5.6 The June 2006 approval (06/00537/F) gave detailed planning permission for a 3 storey wing extending at right angles from the rear of the hotel along the frontage to The Green. The top floor was shown accommodated within a mansard roof, and was no higher than the existing hotel. Windows on the west elevation, facing the properties in The Green were limited to bathrooms or corridors. The later outline planning permission (06/01927/OUT) showed the bedroom extension on a 3 storey structure parallel to and adjoining the rear of the existing hotel, with the houses also close in to the rear of the hotel.
- 5.7 As described in para 1.1 above this proposal is further variation with the 3 storey wing centrally located on the rear of the hotel, extending at 90 degrees. It will reach further south than previous proposals, but will be set further away from the rear of houses in The Green, and will be partly shielded from them by the intervening new houses proposed. Illustrative plans of the new proposal have been provided together with a composite elevation showing both the proposed hotel extension and the approved houses. These will be shown at committee.
- 5.8 **Green Belt Policy and the very special circumstances case**
- 5.9 The approved Green Belt washes across the village of Horton-Cum-Studley. In 2005 the HDPS advised that in his opinion the proposal to construct nineteen bedrooms and four houses was inappropriate development which was contrary to Green Belt policy. That recommendation was not accepted; the Members considered that on balance the need to ensure the future viability of this last facility in the village outweighed the normal presumption of refusal. That application was advertised as a departure but the Secretary of State chose not to intervene. The early 2006 application was deemed therefore to not need departure procedures as this was largely of the same scale and nature. The later 2006 application had even less intrusion into the Green Belt.



- 5.10 In this proposal the scale of the development is similar to the 2005 and 2006 cases, and does not have any worsened impact upon the openness of the Green Belt or its objectives. It of course remains inappropriate development as defined in PPG2 and therefore should be refused unless the very special circumstances case is sufficient.
- 5.11 The third application (09/01178/F) in this package of proposals is to change the phasing arrangements for the houses relative to the hotel extension (see report). It will be noted that the HDCMD has concluded by recommending refusal of that application on the grounds that the amended phasing introduces significant uncertainty into the undertaking of the majority of the hotel extension thereby undermining the reason for the original grant of planning permission for the houses, which was to ensure the long-term viability of the hotel/pub/restaurant business. In the applicant's design and access statement accompanying this application the same rationale as previously is used as the very special circumstances why this permission should be granted. In your officers opinion however, as the proposed phasing arrangements only guarantee the provision of 10 bedrooms, and even that is in a phased way, the future economic well-being of the business cannot be assured and therefore the very special circumstances case that was previously accepted is seriously weakened. It is considered that the very special circumstances case no longer outweighs the strong presumption against this form of development in the Green Belt, and that the proposal should be refused planning permission.
- 5.12 **Tourism Policy**
- 5.13 Policy T2 of the Cherwell Local Plan and of the NSCLP indicates that within the build up limit of a settlement provision of new hotels will generally be approved provided they comply with other policies of the Plan (the newer policy specifically notes that the development should be compatible with the size and character of the settlement and should not lead to excessive traffic or environmental impact in the locality). The adopted Local Plan is silent about extensions to existing hotels either in the countryside or in a settlement. The NSCLP notes that extensions to existing hotels in the countryside will be acceptable subject to considerations about scale and impact on the countryside. Whilst neither policy set is a complete match for this situation, it is clear that if the assessment is that the scheme is acceptable on traffic, scale and countryside impact terms then such a scheme can be in line with the tourism policies of the Local Plan. The other issues are addressed below.
- 5.14 **Impact Upon Residential Amenity**
- 5.15 The main issues under the heading are
- Scale and over domination
  - Overlooking
  - Disturbance from access and use of car park
  - Design
- 5.16 The scale of the outline proposal to extend the hotel is as that approved in mid 2006 (that permission was just lapsed (June 2009)) it will be located further away from the houses in The Green and therefore will be less imposing upon them, although it

will be nearer to the houses in the east, but the nearest property is in the ownership of the applicant, and those further away have screening on their boundaries.

- 5.17 Despite the increased distance of the extension from the properties in The Green there may be an increased incidence of overlooking, as previously no bedroom had west facing windows. The windows in west facing bedrooms in this proposal are approximately 35 metres from the nearest houses. The east facing windows are however, only 13 metres from the boundary. This could be a concern if the adjacent house were in separate ownership/occupation, and if they were to be anything other than corridors/bathrooms. This could be ensued at a later time. There will be overlooking of the rear of one of the new houses proposed at short range. This is unfortunate but cannot be avoided in the current layout. Any occupier of this property would be aware of this relationship however.
- 5.18 The route of access to the car park remains close to the rear of the hotel and no additional disturbance is anticipated.
- 5.19 The design of the building is a reserved matter for later consideration. However, the illustrative plans submitted show a 3 storey building with the top floor within a mansard style roof. Whilst not following the pattern of the adjacent building this will keep the overall height of the building lower, whilst maximising the use of the top floor and therefore minimising the footprint. In this location, screened from view to some extent by the approved houses, this is considered acceptable. It follows the design concept of the previously approved scheme. The HDCMD has a concern about how this mansard design will adjoin the existing gable and rear roof slope, but this can gain be addressed at the reserved matters stage.
- 5.20 **Traffic and Parking**
- 5.21 The traffic generation will not be altered from that considered in 2006, with the same level of facilities proposed. The previously approved car park only showed 29 spaces access off The Green, with the existing parking to the frontage remaining. The current proposal has a car park with 48 space to the rear and 12 to the frontage, some set aside for the shop. This growth in car parking provision should ensure that there are no on-street parking issues which otherwise may interrupt the free flow of traffic in The Green or Horton Hill.
- 5.22 **Biodiversity Matters**
- 5.23 A reptile survey has not been provided. The Council cannot therefore be assured that protected species are not going to be detrimentally affected by this proposal.

## **6. Recommendation**

**Refuse on the following grounds:**

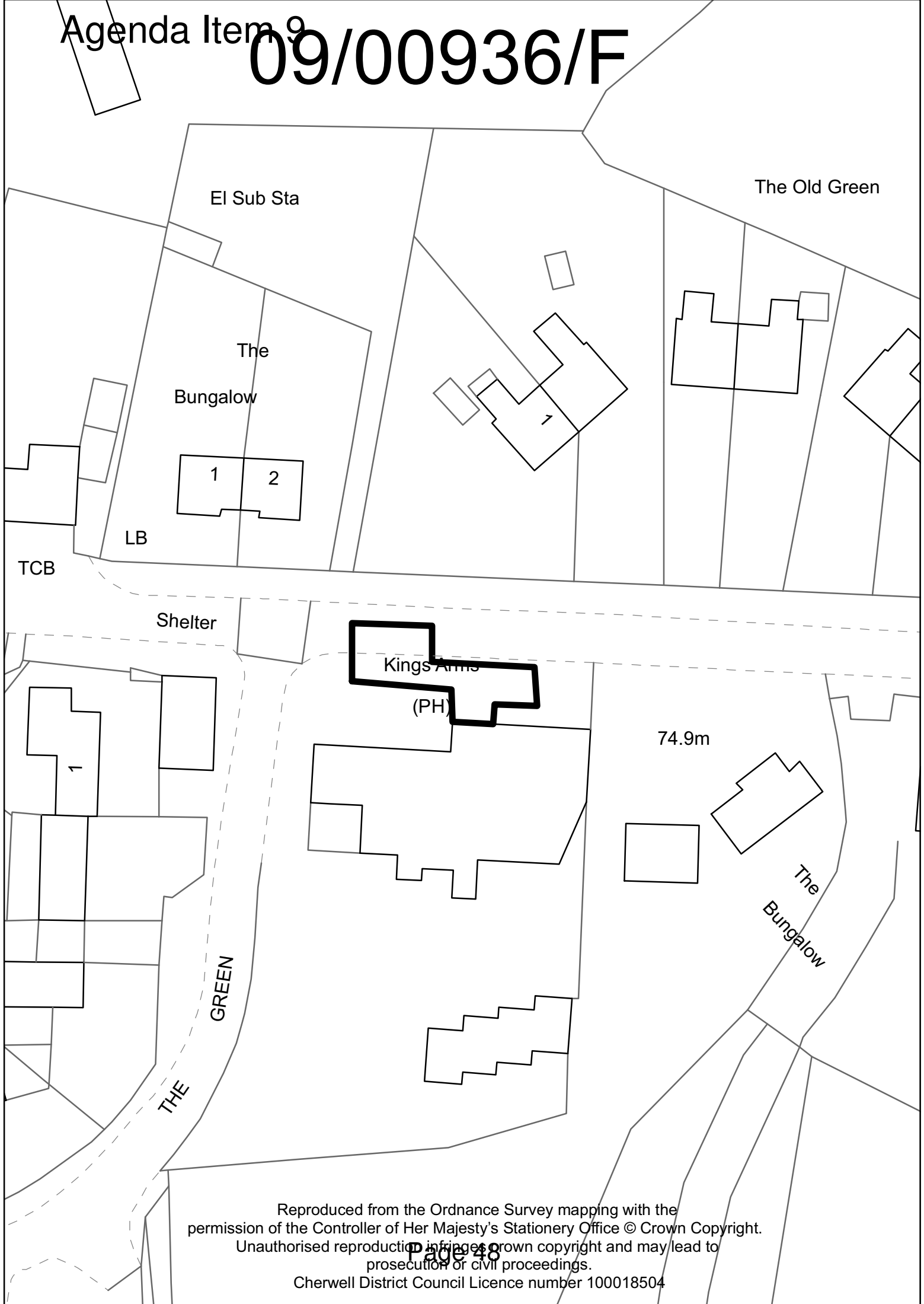
- 1. The hotel extension and associated car park are inappropriate developments in the Oxford Green Belt. The Local Planning Authority consider that this**

**scheme, with the phasing proposed, will not ensure the future economic viability of the business and therefore the retention of this facility for the village, and that therefore the very special circumstances advanced do not outweigh the strong presumption against inappropriate development in the Green Belt. The proposal would therefore be contrary to Policy CO4 of the South East Plan and Policy GB1 of the adopted Cherwell Local Plan.**

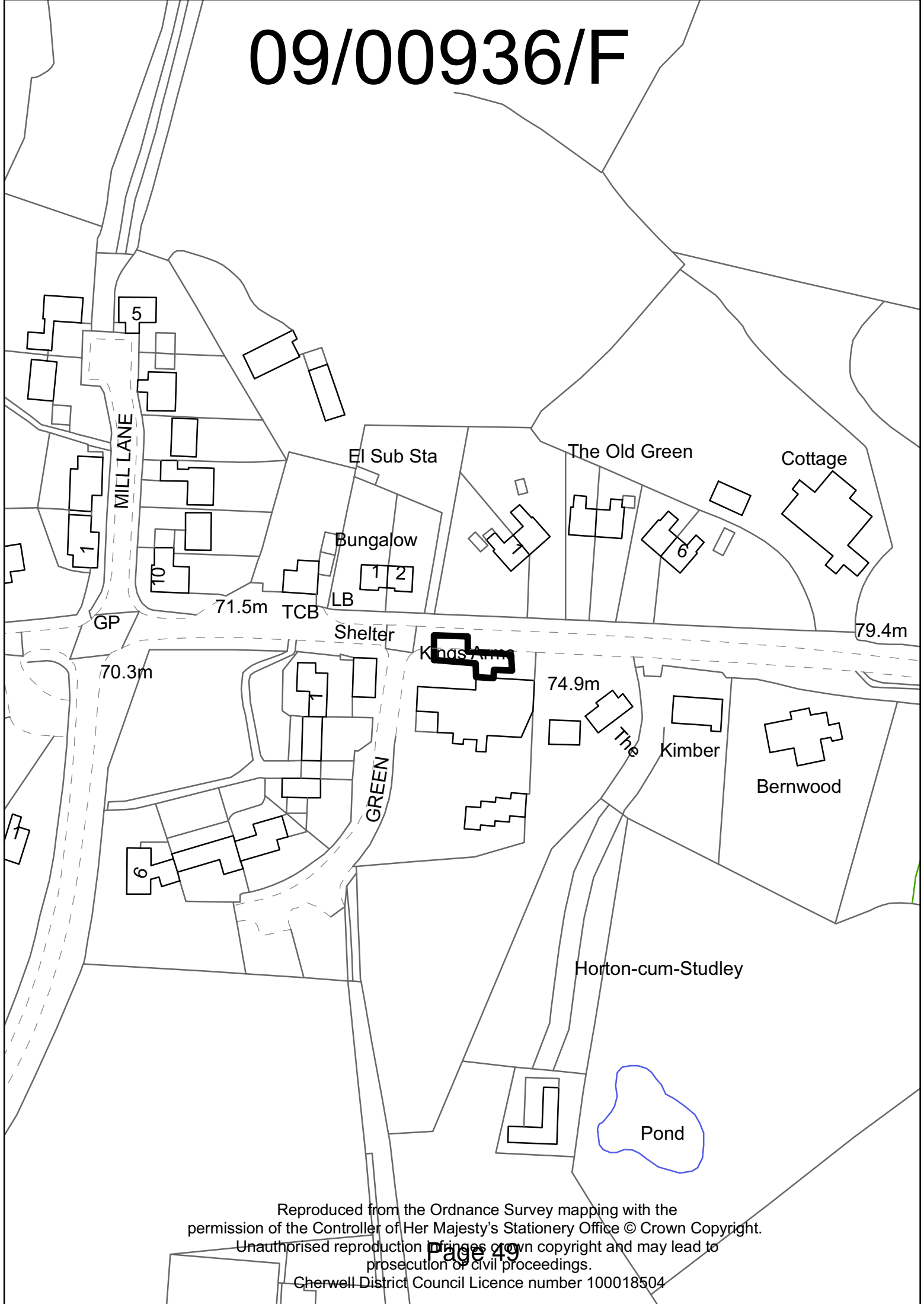
- 2. The applicant has failed to submit a reptile survey, as requested, and therefore the Council cannot be satisfied that the development will not cause harm to the habitat of a protected species and therefore the proposal is contrary to Policy NRM5 of the South East Plan and Policy C2 of the adopted Cherwell Local Plan.**

**CONTACT OFFICER: Bob Duxbury**

**TELEPHONE NO: 01295 221821**



# 09/00936/F



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<b>Application</b> 09/00936/F	<b>No:</b>	<b>Ward: Otmoor</b>	<b>Date Valid: 13.07.09</b>
<b>Applicant:</b>	B A Property Management c/o agent		
<b>Site Address:</b>	The Otmoor Lodge Hotel Horton Hill Horton cum Studley Oxford OX33 1AY		

**Proposal:** Construction of single storey shop (A1 use)

## 1. Site Description and Proposal

- 1.1 This application proposes the construction of a single storey extension to the front of the hotel/pub/restaurant building which sits prominently in the centre of the village. It would measure 8 metres x 7 metres and will provide a small shop with a trading area of 41 sq metres. It is proposed to be constructed in natural stone under a natural slate roof, to match the existing hotel building. It will be located largely on a raising terrace area, so it will not detract from the forecourt parking which exists across the whole frontage of the existing building.

## 2. Application Publicity

- 2.1 The application was advertised with individual letters to adjoining property and a site notice. The final date for comments was 21 August 2009.
- 2.2 Letters have been received from local residents in conjunction with the related application (09/00937/OUT). Three of these letters make reference to the shop proposal. They raise no objections to the shop, but all express concern about its future viability with many locals now using the Stanton St. John shop instead.

## 3. Consultations

- 3.1 Horton-cum-Studley Parish Council raise no objections.
- 3.2 Oxfordshire County Council (as local highway authority) raise no objections subject to conditions re usage and ramp details. They comment that the parking across the forecourt of the building may be in the public highway and therefore not exclusive to this proposal or the larger facility.
- 3.3 The Council's Ecology officers and Environmental Protection Officer raise no objection to this application.

## 4. Relevant Planning Policies

- 4.1 Adopted and 'saved' Cherwell Local Plan Policy S28 states  
"Favourable consideration will be given to proposals for small shops or extensions to existing shops required to serve local needs subject to other policies in the Plan"

The village lies within the Oxford Green Belt so policy GB1 of the adopted Local Plan is also relevant.

- 4.2 Policy S25 and GB1 of the non-statutory Cherwell Local Plan continue the approach of the adopted Local Plan.

## 5. Assessment

- 5.1 Please see para 5.5 of the report on 09/00937/OUT for the planning history of this site. It will be seen that the sequence of applications for the hotel extension etc have persistently included the provision of a shop. A legal agreement associated with 06/00537/F was completed which ensures the provision of a shop for a period of not less than 10 years. It also specifies a minimum size (38 sq metres), prescribes a minimum range of goods, and minimum opening hours.
- 5.2 This application proposes the relocation of the shop from this frontage to The Green, to the more prominent position on the Horton Hill frontage. It is considered to be of appropriate design and size. The forecourt parking on Horton Hill will continue to be available. A ramp is proposed to ensure disabled access.
- 5.3 It would not be appropriate to require a legal agreement as referred to in 5.1 above for this application. Only in the event of the renewal of the previous permissions for the hotel and housing development would it be appropriate to roll forward such an agreement.

## 6. Recommendation

**Approve subject to**

1. SC 1.4
2. SC 2.6
3. SC 6.15a Class A1

### **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 will not cause undue harm to the character or amenity of the vicinity and will provide an appropriate facility in this village. As such the proposal is in accordance with Policy 5.28 of the adopted Cherwell Local Plan. 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: Bob Duxbury**

**TELEPHONE NO: 01295 221821**

Trowpool Spinney

Water Tower

SS

103.4m

102.1m

Scale  
1:2,431

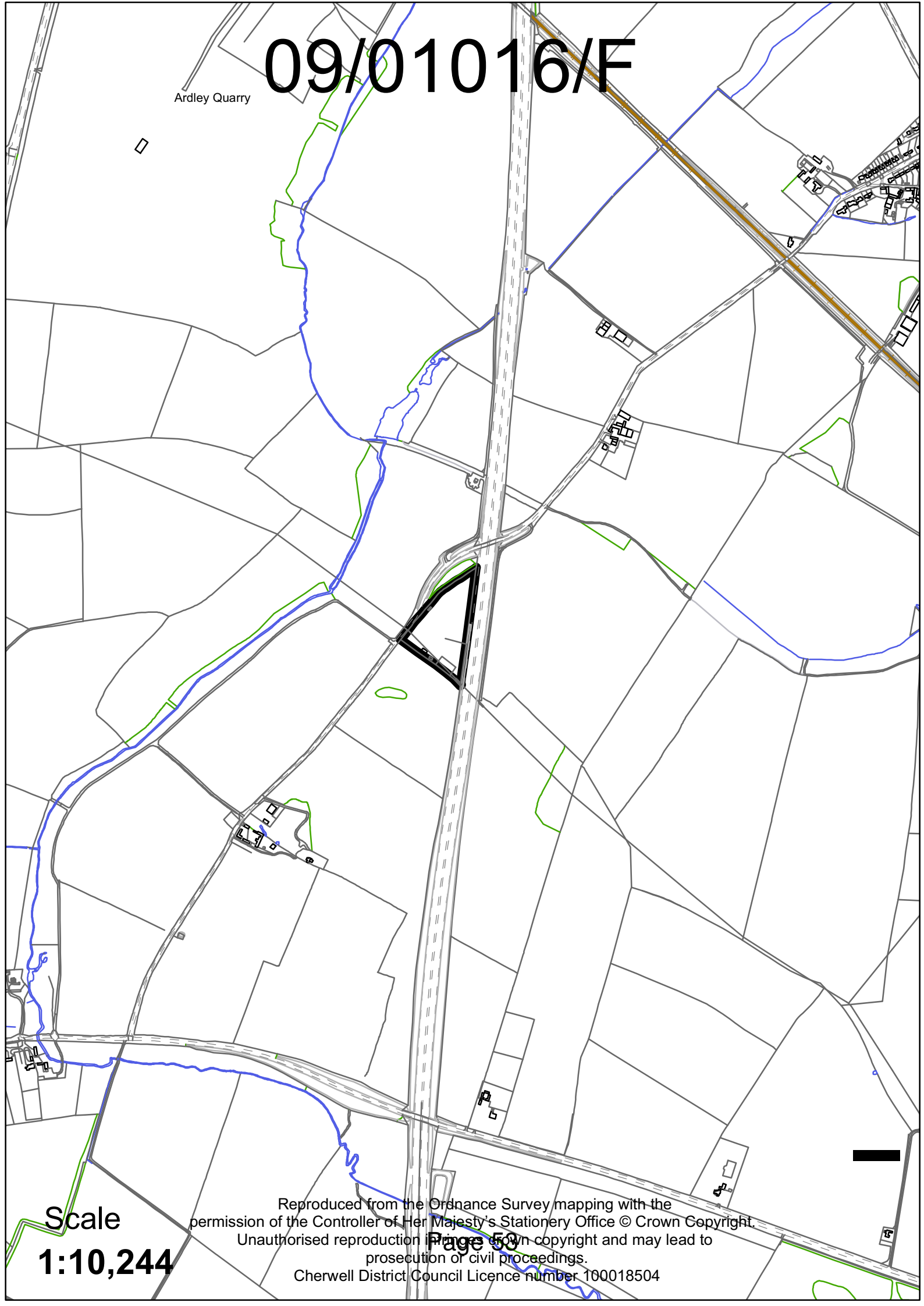
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# 09/01016/F

Ardley Quarry



Scale  
**1:10,244**

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<b>Application</b> 09/01016/F	<b>No:</b>	<b>Ward: Caversfield</b>	<b>Date</b> 03/08/2009	<b>Valid:</b>
<b>Applicant:</b>	Mr. L. Gardiner			
<b>Site Address:</b>	OS Parcel 8844, Rose Lodge, Middleton Road, Bucknell OX25 4TA			

**Proposal:** Temporary retention (3 years) of mobile home, creation of dog training track, kennels and associated parking area – resubmission of 09/00149/F.

## 1. Site Description and Proposal

- 1.1 The proposal seeks the retention of a mobile home at the site and the creation of a greyhound training track with associated parking. The development also includes kennelling for 28 dogs, a control room and garage. The retention of the mobile home and garage are a retrospective element of the application.
- 1.2 The site lies within a rural location, adjacent to the M40. The site is approximately 3.5 miles west of Bicester and 1 mile east of Middleton Stoney. The land forms a triangular parcel of land, bounded to the east by the M40 and Middleton Road to the west. Mature landscaping is present around the entire site. An existing access lies to the south of the site leading to the mobile home and parking areas.

## 2. Application Publicity

- 2.1 The application has been advertised by way neighbour letters and a site notice. The final date for comment was 31/08/09
- 2.2 No letters of representation have been received.

## 3. Consultations

- 3.1 **Middleton Stoney Parish Council** – The Parish Council wishes to object to the application on the following grounds: As this is a rural site, domestic development should not normally be permitted.
- 3.2 **Bucknell Parish Council** – Object on the following grounds: Development in the countryside, impact on highway safety, noise and fumes from M40 could impact on users of the site and escape of animals could impact on highway safety.
- 3.3 **Highways Agency** – No objection.
- 3.4 **Natural England** – No comments

- 3.5 **Rhodes Rural Planning and Land Management** – See appraisal below.
- 3.7 **Landscape Officer** – The proposals appear to be inappropriate in character to the hedgerow field pattern of the area, and will therefore require substantial mitigation through the considered use of tree and thicket planting, along with a management regime to ensure successful establishment and longevity of the scheme for years to come. Because that landscaping is so important and integral to the approval of this development I strongly advise the applicant to employ the services of a fully qualified landscape architect.

## 4. Relevant Planning Policies

- 4.1 South East Plan 2009 – Policy CC6
- 4.2 Adopted Cherwell Local Plan 1996 – Saved Policies H18, C28 and C30
- 4.3 Planning Policy Statement 7: Sustainable Development in Rural Areas

## 5. Appraisal

- 5.1 The key issues to be considered in this case are:-
- The history of previous applications on the site; and
  - Assessment against policy.
- 5.2 **Planning History**
- 5.3 The application site has been the subject of a number of planning applications and appeals. The site was granted planning permission in 1997 for the following:
- 97/01827/F Siting of four bedroom bungalow for 2 years;
  - 97/01828/F Change of use of agricultural land to greyhound schooling, training track and bungalow.
- 5.4 In July 2000, a further permission was allowed under application 00/00980/F for the retention of the bungalow for a further period of one year. In November 2004, an enforcement notice was served on the land (ENF. 31/03 and ENF. 16/04) for the following:
- A change of use of the land to use for storage of materials and construction of a greyhound training track and kennels, and;
  - Change of use of the land to residential use and siting of mobile home.
- 5.5 The enforcement notices were served as it was considered by the LPA that a lawful start of the development approved under the 1997 applications had not begun within the 5 year period as conditions attached to those permissions had not been discharged. The applicant appealed the enforcement notices. However, the Inspector agreed that the developments were not lawful and upheld the notices.
- 5.6 In 2006 the applicant submitted a further application (06/01647/F) for the continued use of the land for greyhound schooling/training, the formation of the greyhound

track and the erection of a bungalow and kennels. This application was refused on the grounds that the applicant had failed to demonstrate that the enterprise had a reliable and viable future. That decision was appealed against and subsequently dismissed in 2008.

- 5.7 As part of this proposal the LPA consulted Mr. Paul Rhodes of Rhodes Rural Planning and Land Management to assess the proposal. Mr. Rhodes assessed the 2006 application and also attended the hearing that led to the appeal being dismissed in 2008. In dismissing the appeal, the Inspector took note of the previous permissions the LPA had approved at the site and stated that these permissions were insufficient to outweigh the inconsistency with PPS7. Moreover, the Inspector concluded that the application was 'substantially deficient in many significantly material ways.'
- 5.8 The planning history of the site is a material consideration to the determination of the proposal. It is clear that the applicant has been living at the site since 1997 and despite planning approvals to allow the proposal, the applicant has failed to start the enterprise. Moreover, it has been over 13 years since the applicant has been engaged in any business relating to the training of greyhounds. It should also be noted that the business referred to in the description of the development has not started. These matters are also material considerations.

#### **Assessment Against Policy**

- 5.9 The application has been submitted placing reliance under Annex A to Planning Policy Statement 7: Sustainable Development in Rural Areas. The applicant has stated that in order to ensure that the safety and welfare of the dogs at the site is maintained, it is essential for the applicant to live on the site. Whilst not strictly defined as an exception dwelling within Annex A, paragraph 15 of PPS7 does refer to other occupational dwellings.
- 5.10 Annex A to PPS7 states that in order to justify temporary accommodation to support and existing or newly created enterprise, it should be demonstrated that that there is:
- (i) clear evidence of a firm intention and ability to develop the enterprise concerned (significant investment in new farm buildings is often a good indication of intentions);
  - (ii) functional need (see paragraph 4 of this Annex);
  - (iii) clear evidence that the proposed enterprise has been planned on a sound financial basis;
  - (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
  - (v) other normal planning requirements, e.g. on siting and access, are satisfied.
- 5.11 Saved policy H18 of the Adopted Cherwell Local Plan 1996 also allows new dwellings within the countryside provided it is, 'essential for agriculture or other existing undertakings...'
- 5.12 Saved policy H18 defines 'essential' as a 'proven necessity for a worker to live at or

very close to the site of their work. In addition, H18 also states that 'where there is any doubt that a dwelling is required for the proper functioning of an enterprise...it will be necessary to supply adequate financial information to demonstrate that the proposals are sound.

- 5.13 The applicant has engaged the services of Kernon Rural Consultancy to assist in these matters and financial information is supplied as part of the application.
- 5.14 Rhodes Rural Planning (RRP) have been engaged by CDC to assess the proposal against PPS7 and they have reported that, given the history of the site, the applicant has failed to provide robust evidence that there is a clear intention and ability to develop the enterprise.
- 5.15 In addition to this, RRP also queried the following:
- whether permanent accommodation is actually required,
  - whether the isolation rooms within the kennelling meets GBGB (Greyhound Board of Great Britain) requirements,
  - would the applicant satisfy the GBGB licensing requirements, and
  - the return on capital is flawed,
- 5.16 The agent acting of behalf of the applicant responded to the above and clarified the issues relating to essential accommodation and provided a letter from GBGB that the kennels would meet their requirements.
- 5.17 With regard to licensing, the applicant has stated that to be fully GBGB licensed the premises (or at least planning permission for the premises) needs to be provided before he can apply. There is no information from either party claiming that the applicant cannot or will not be able to meet GBGB licensing requirements.
- 5.18 Rule 213 of the GBGB's Rules of Racing state that, 'all premises shall be provided with over-night supervision to the satisfaction of the Stipendiary Steward' With this in mind, it can be construed that accommodation should be provided to comply with this requirement.
- 5.18 With regard to the return in capital investment, the agent has re-assessed the Year 3 return on capital investment and reports that a return on capital of 6.5% would be realised. This is considered acceptable given that agricultural enterprises return approximately 2.5%.
- 5.19 Therefore, the applicant has demonstrated that the enterprise meets the expectations of Annex A, except for paragraph 12(i): Is there clear evidence of a firm intention and ability to develop the enterprise concerned?
- 5.20 As stated earlier, the applicant has been at the site for a number of years and failed to establish the enterprise in question. The applicant's agent has responded to this by stating that,

'It is true that the applicant has owned the land for over 10 years and has not, as yet, developed the business. It is also true, and is an inescapable consideration, that he has never had consent for kennels and, since 2002, he has had no planning permission in place for the track or mobile home so that he could develop the business. It is also true, and an inescapable consideration, that since 2001 he has

been undergoing cancer treatment.'

- 5.21 It is accepted that the applicant has had personal difficulties that have prohibited him starting the enterprise. Nevertheless, the fact remains that he has failed to create any type of business during his tenure at the site.

However, the test within PPS7 is whether the applicant has a firm intention and ability to develop the enterprise concerned. Cherwell District Council has previously approved applications at the site and it would be reasonable to recommend granting a temporary permission again, providing the enterprise is started within a reasonable period. This would ensure that there is indeed a firm intention and ability to develop the enterprise.

- 5.22 Therefore, despite the length of time the applicant has resided at the site, it is recommended that the application be recommended for approval subject to a condition requiring the enterprise to be substantially developed within 6 months of the date of the permission.

5.23 **Conclusion**

- 5.24 The applicant has met the tests as set out within Annex A to Planning Policy Statement 7: Sustainable Development in Rural Areas regarding functional and financial requirements. However, there remains a doubt whether the application has a firm intention and ability to develop the enterprise. In order to overcome this concern a condition requiring the enterprise to be substantially developed within 6 months of the date of the permission is recommended.

- 5.25 Therefore, the application is recommended for approval subject to the following conditions.

**6. Recommendation**

**Approval, subject to the following conditions:**

- 1. That the kennels and training track hereby approved shall be substantially completed within 6 months of the date of this permission.**

**Reason - To ensure that the enterprise concerned is started within a reasonable time.**

- 2. That at the expiration of 3 years from the date of this permission the building(s) and training track shall be removed from the site and the land shall be restored to its former condition on or before that date.**

**Reason - The building, because of its design and siting, is not suitable for permanent retention and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.**

- 3. That this permission shall enure for the benefit of the applicant and his dependents only and of no other persons whatsoever, and shall not enure for the benefit of the land. Upon the applicant ceasing to occupy the building, it shall revert to its former use.**

**Reason - This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent in accordance with Saved Policy H18 of the adopted Cherwell Local Plan.**

- 4. That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-**
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,**
  - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,**
  - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.**

**Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.**

- 5. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.**

**Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan**

- 6. The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: 08543 02A and 08543 03A dated Oct 2008.**

**Reason - To ensure that the development is carried out in a satisfactory manner in accordance with saved policy C28 and C30 of the Adopted Cherwell Local Plan 1996 and policy D4 of the Non-Statutory Cherwell Local Plan 2011**

- 7. That no goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open without the prior express planning consent of the Local Planning Authority.**

**Reason - In order to safeguard the visual amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan.**

**REASON 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. Incorporating and adhering to the above conditions, the development is considered to be acceptable on its planning merits as the proposed development is appropriate in its context and would not have a detrimental impact on the character and appearance of the area nor neighbouring amenity and highway safety. As such the proposal is in accordance within policy CC6 of the South East Plan 2009, saved policy H18, C28 and C30 of the Adopted Cherwell Local Plan 1996 and the advice within Annex A to Planning Policy Statement 7: Sustainable Development in Rural Areas and the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.**

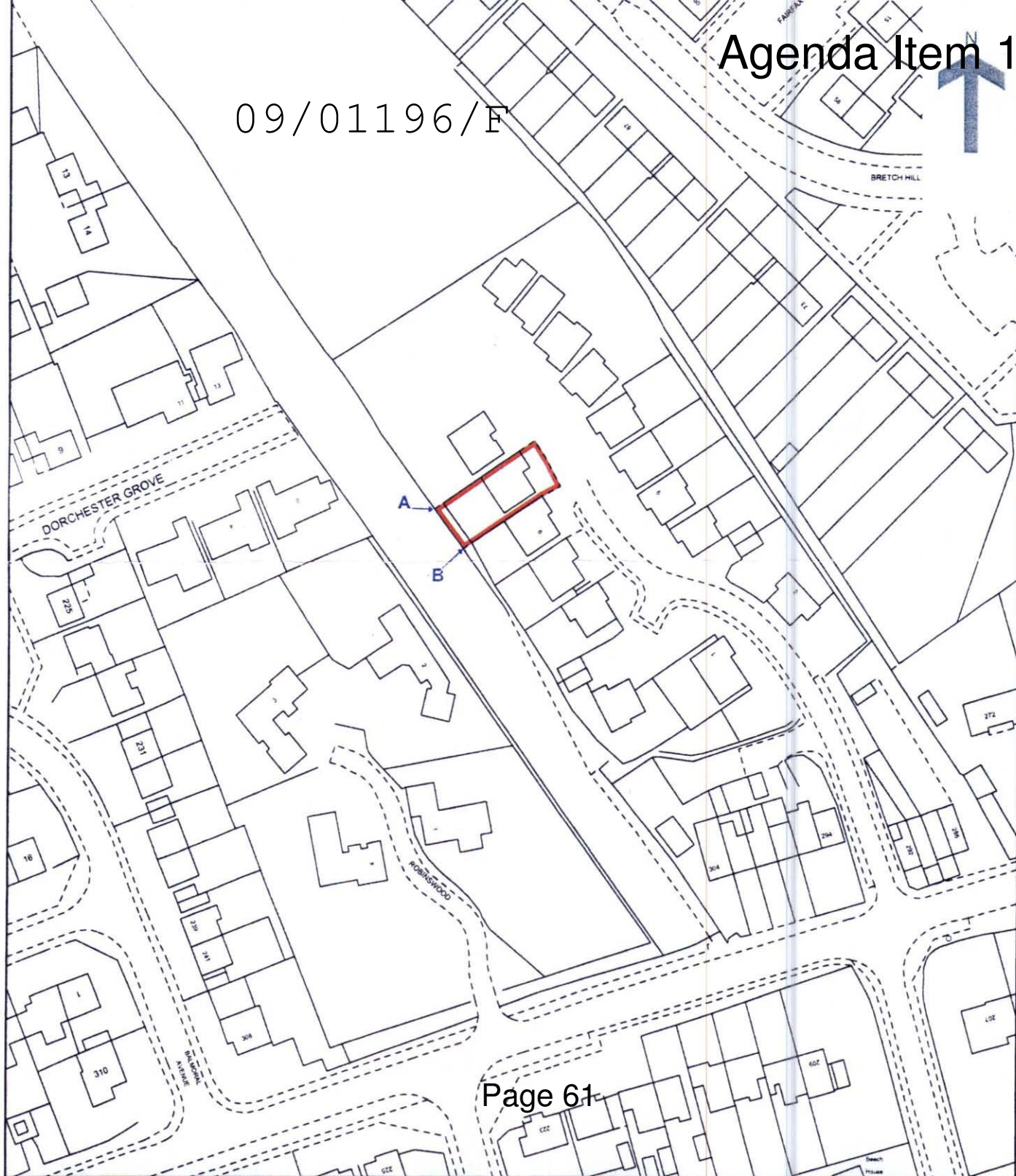
**CONTACT OFFICER: Graham Wyatt**

**TELEPHONE NO: 01295 221811**





09/01196/F



BLOCK PLAN 1:500



09/01196/F



PROPOSED  
-SHED.

<b>Application</b> 09/01196/F	<b>No:</b>	<b>Ward:</b> Ruscote	<b>Banbury</b>	<b>Date Valid: 02/09/09</b>
<b>Applicant:</b>	Mr David Spilsbury			
<b>Site Address:</b>	11 Claypits Close, Banbury, Oxfordshire, OX16 9GN			

**Proposal:** Erection of shed

## 1. Site Description and Proposal

- 1.1 The application site is a detached residential property situated in West Banbury. The property has a large rear garden with 1.8m close board fencing along the boundaries.
- 1.2 The proposal is to erect a timber shed measuring 1.83m wide and 2.44m long, with a maximum height of 1.95m

## 2. Application Publicity

- 2.1 The application has been advertised by way of site notice, neighbour letter and press notice. The final date for comment was 22 October 2009.
- 2.2 At the time of writing the report, no third party comments were received.

## 3. Consultations

- 3.1 Banbury Town Council – no objections received
- 3.2 Cherwell District Council's Environmental Protection Officer – raises no objections

## 4. Relevant Planning Policies

- 4.1 Policies BE1 and CC6 of the South East Plan 2009
- 4.2 Policies C28, C30 and ENV12 of the adopted Cherwell Local Plan 1996

## 5. Appraisal

- 5.1 With regards to visual amenity, the proposed shed is of a standard design which is a common feature within residential areas. The shed will not be visible from the public domain and will not be visually intrusive. The proposal complies with Policies BE1 and CC6 of the South East Plan and Policy C28 of the adopted Cherwell Local Plan.
- 5.2 With regards to neighbouring amenity, the shed is to be positioned at the far end of the rear garden and therefore will not impact on the general outlook from the neighbouring properties. The shed will not create any harmful overlooking of the

neighbouring properties and will not be detrimental to neighbouring amenity. The proposal complies with Policy C30 of the adopted Cherwell Local Plan.

- 5.3 With regards to contaminated land, the application site is a former landfill site with potential gas contamination issues. The Council's Environmental Protection Officer has suggested mitigation measures to reduce the risk to the users of the shed.

## **6. Recommendation**

**Approval, subject to conditions**

- 1) SC 1.4A (Time – 3 years)

**Planning Note:**

The applicant is advised that there is a gas risk associated with the site. Therefore it is recommended that a gap (100mm) should be maintained between the concrete slab and the base of the shed to allow free flowing ventilation beneath the shed.

### **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. As such the proposal is in accordance with Policies CC6 and BE1 of the South East Plan 2009 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:** Rebekah Morgan

**TELEPHONE NO:** 01295 221822

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

22 OCTOBER 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 in the southern part of District.

#### 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 October 2008. Appeal dismissed. New application for access to be submitted October/November 2009.
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.
08/02511/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.

- 08/02605/F Sainsburys, Oxford Road, Banbury  
Subject to legal agreement with Oxfordshire County Council re: highway infrastructure.
- 09/00939/F 33 Oxford Road and land rear of 35-59 Oxford Road, Bodicote.  
Subject to legal agreement concerning affordable housing, play provision and off site infrastructure contributions.

## 5.2 Subject to Other Matters

- 08/00709/F Former Lear site, Bessemer Close, Bicester. Subject to legal agreement with Oxfordshire County Council

## 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.

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

22 OCTOBER 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 None

#### 6 Forthcoming Public Inquiries and Hearings between 22 October 2009 and 19 November 2009

- 6.1 None

#### 7 Results

- 7.1 Inspectors appointed by the Secretary of State have:
- 7.2 **Dismissed the appeal by Mr T Beckett against the refusal of application 09/00048/F for a one bedroom dwelling adjoining 2 Grimsbury Drive Banbury (Delegated)** – The Inspector found that the appeal site is not large enough to accommodate a separate dwelling without appearing awkward and contrived. The sub-division of the plot in the manner proposed would be at odds with the existing pattern of development. Whilst finding that no harm would be caused to the living conditions of occupiers of 8 Manor Road this did not outweigh the harm caused to the character and appearance of the area.

- 7.3 **Dismissed the appeal by Mr T Beckett against the refusal of application 09/00209/F for two No one bedroom flats adjoining 16A Dexter Close Banbury (Delegated)** – In the Inspector's view, the overall siting, scale and bulk of the proposal is acceptable. With regard to traffic and parking requirements, the Inspector found that the proposal would cause harm to highway safety contrary to the guidance set out in PPG 13 and the aims of T4 of the South East plan which indicate that residential parking should have regard to local circumstances.
- 7.4 **Allowed the appeal by Wroxton and Balscote Parish Council against the imposition of conditions nos. 2, 7, 8 and 9 of 08/01659/F relating to a new community hall at land adjoining Butchers Meadow, Shutford Road, Balscote, Banbury (Committee)** – The Inspector did not consider that the proposed cladding would appear incongruous or harmful to the character and appearance of the area (Condition No 2) and concluded that conditions 7, 8, and 9 ( access, parking and manoeuvring areas) were not necessary having regard to highway safety as use of the existing drive in its present form for pedestrian access would not lead to conflict with PPG 13.

## **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.