

Committee: Planning Committee
Date: Thursday 28 January 2010
Time: 4.00 pm
Venue Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor Fred Blackwell
(Chairman)
Councillor Ken Attack
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 - 12)

To confirm as a correct record the Minutes of the meeting of the Committee held on 10 December 2009.

Planning Applications

- | | | |
|-----|--|---------------------|
| 6. | Land Parcel, 2783 Main Street, Great Bourton (Pages 15 - 21) | 09/01299/F |
| 7. | Church End, Church Street, Somerton (Pages 22 - 28) | 09/01411/F |
| 8. | Church End, Church Street, Somerton (Pages 29 - 35) | 09/01412/LB |
| 9. | 10 Strawberry Terrace, Bloxham, Banbury, Oxfordshire, OX15 4PA (Pages 36 - 41) | 09/01522/F |
| 10. | Holly Close, Main Street, Sibford Gower (Pages 42 - 55) | 09/01586/F |
| 11. | Land at Colne Close, Bicester (Pages 56 - 60) | 09/01739/CDC |
| 12. | Verge To Front of 2 to 12 Braithwaite Close, Banbury, Oxfordshire, OX16 0WN (Pages 61 - 65) | 09/01740/CDC |

Information and Other Reports

13. **Request for a variation of the S106 Agreement relating to the proposed development at South West Bicester - Application 06/00967/OUT** (Pages 66 - 85)

Report of Head of Development Control and Major Developments

Summary

To enable Members to consider a request to vary the S106 Agreement in relation to the development at South West Bicester and determine whether or not to accept the variation of the Agreement.

Recommendations

The Planning Committee is recommended to:

- (1) Agree the variation of the S106 Agreement in accordance with the attached schedule of Heads of Terms.

Tree Preservation Orders

14. Tree Preservation Order (No 12) 2009 Lime Tree at 14 Main Street, Mixbury (Pages 86 - 88)

Report of Development Control and Major Developments

Summary

To seek the confirmation of an unopposed Tree Preservation Order relating to a Lime Tree at 14 Main Street, Mixbury (copy plan attached as Annex 1)
Tree Preservation Order No. (12/2009).

Recommendation

The Planning Committee is recommended to:

- (1) Confirm the Order without modification.

Enforcement Action

15. Quarterly Enforcement Report (Pages 89 - 108)

Report of Head of Development Control and Major Developments

Summary

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

Recommendation

The Planning Committee is recommended to:

- (1) Accept this report.

Review and Monitoring Reports

16. Decisions Subject to Various Requirements (Pages 109 - 111)

Report of Head of Development Control and Major Developments

Summary

This report aims to keep members informed upon applications which they have authorised decisions upon to various requirements which must be complied with prior to the issue of decisions.

An update on any changes since the preparation of the report will be given at the meeting.

Recommendation

The Planning Committee is recommended to:

- (1) Accept the position statement.

17. Appeals Progress Report (Pages 112 - 114)

Report of the Head of Development Control and Major Developments

Summary

This report aims 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 achieved.

Recommendation

The Planning Committee is recommended to:

- (1) Accept the position statement.

18. Exclusion of Public and Press

The following report contains exempt information as defined in the following paragraph of Part 1, Schedule 12A of Local Government Act 1972.

3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Members are reminded that whilst the following item has been marked as exempt, it is for the meeting to decide whether or not to consider it in private or in public. In making the decision, members should balance the interests of individuals or the Council itself in having access to the information. In considering their discretion members should also be mindful of the advice of Council Officers.

Should Members decide not to make a decision in public, they are recommended to pass the following recommendation:

“That, in accordance with Section 100A (4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of that Act.”

19. Bodicote Park

Joint Report of Head of Development Control and Major Developments and Head of Legal and Democratic Services

**** Exempt report will be circulated under separate cover to Committee Members ****

Information about this Agenda

Apologies for Absence

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

Declarations of Interest

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

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

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

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

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

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

Queries Regarding this Agenda

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

Mary Harpley
Chief Executive

Published on Wednesday 20 January 2010

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 10 December 2009 at 4.00 pm

Present: Councillor Fred Blackwell (Chairman)

Councillor Ken Attack
Councillor Colin Clarke
Councillor Mrs Catherine Fulljames
Councillor Michael Gibbard
Councillor Eric Heath
Councillor Alastair Milne Home
Councillor James Macnamara
Councillor G A Reynolds
Councillor Trevor Stevens
Councillor John Wyse

Substitute Members: Councillor Andrew Fulljames (In place of Councillor Maurice Billington)
Councillor Russell Hurle (In place of Councillor Rose Stratford)

Apologies for absence: Councillor Rose Stratford
Councillor Maurice Billington
Councillor David Hughes
Councillor D M Pickford
Councillor Leslie F Sibley
Councillor Lawrie Stratford

Officers: Jameson Bridgwater, Head of Development Control & Major Developments
Jenny Barker, Major Developments Team Leader
Tracey Morrissey, Senior Planning Officer
Sue Christie, Legal Officer
Natasha Clark, Trainee Democratic and Scrutiny Officer

126 **Declarations of Interest**

Members declared interest with regard to the following agenda items:

4. Land Adjoining and to the North of M40 Motorway.

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

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

Councillor Ken Atack, Personal, as a resident of Wardington Parish Council which would be affected by the scheme and as he had written to Planning Officers commenting on the proposed temporary A361 closure.

Councillor G A Reynolds, Personal, as comments he had made regarding the scheme had been reported in the local press.

Councillor James Macnamara, Prejudicial, as the Member who raised the issue of funding the scheme in the 2008/2009 budget.

10. Willy Freund Centre, Dover Avenue, Banbury, OX16 0JE.

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

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

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

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

Councillor Ken Atack, Prejudicial, as a member of Executive.

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

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

The Chairman advised the Committee that requests to address the meeting would be dealt with at each item.

128 **Urgent Business**

The Chairman stated that he had agreed to admit one item of urgent business to the agenda on the Land Adjoining and the North of M40 Motorway, on the grounds that a decision was required on the application before the next meeting of the Planning Committee.

129 **Minutes**

The Minutes of the meeting held on 19 November 2009 were agreed as a correct record and signed by the Chairman.

130 **Communications**

Councillor Reynolds made a statement regarding comments he had made at the Planning Committee of 19 November 2009, apologising for any offence he may have caused and providing assurance that his comments had not been intended to cause offence.

Land Adjoining and to the North of M40 Motorway

The Committee considered a report of the Head of Development Control and Major Developments on an application for the construction of engineering works to form the Banbury flood alleviation scheme. The works would comprise the construction of an earth embankment adjacent to the Oxford Canal, the local excavation of earth and clay material to construct the embankment, realignment of two sections of the River Cherwell, the raising of an 850m long section of the A361. The whole works to the north of the M40 would increase the floodwater storage capacity of the existing natural floodplain. There would also be the construction of a secondary embankment and floodwalls at Wildmere Industrial Estate to lesson the risk of flooding to industrial premises on that estate (as amended by drawing Nos 07012501 P04 and 07012502 P05 received 03/08/09 and Addendum to Environmental Statement considering CPO No. 4 and Cropredy Bridge Registered Historic Battlefield received 5 November 2009).

Mr Geoff Bell of the Environment Agency spoke in favour of the Application as a representative of the Applicant.

The Committee noted that the application was of strategic importance for the Banbury area. Members expressed concerns about the impact of traffic in the area while the A361 was closed for the engineering works and commented on the importance of consultation with the parish councils in the area throughout the process.

The Committee requested that Officers write to Oxfordshire County Council and South Northamptonshire County Council advising them of the Planning Committee's concerns about the traffic diversions and the need for weight limits on rural roads during the temporary closure of the A361 and seeking assurance that it would be properly monitored.

In reaching their decision the Committee considered the Officers' report, presentation and written update and the presentation of the public speaker.

Resolved

That application 09/00570/F be approved subject to the following:

- 1) That authority be delegated to the Head of Development Control and Major Developments to grant Full Planning Permission subject to no new objections (issues not addresses within the Officers' report) in relation to the addendum to the Environmental Statement having been received from consulted parish councils by Thursday 17 December 2009

And the following conditions:

- 1) 1.4A – 3 years time limit (RC2)
- 2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the approved schedule of plans and documents attached

- 3) No development shall commence on site until the applicant has secured a staged programme of archaeological investigation in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. (RC61AA)
- 4) No development shall commence on the temporary crossing of the Oxford Canal until detailed plans of the proposed works and restoration measures have been submitted to and approved in writing by British Waterways and the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until details of the protective fencing and other root protection measures to be erected/implemented in order to protect existing trees and hedges to be retained as shown on the approved plans have been submitted to and approved in writing by the Local Planning Authority. The approved fencing shall be erected before development affecting those trees/hedges commences and the fencing shall thereafter be retained in situ at all times until such development is complete. The land so enclosed shall be kept clear of all materials, machinery and temporary materials at all times nor shall any fires be lit within the fencing. (RC72A)
- 6) 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 (including all boundaries to the route of the A361) which shall include details of all proposed tree, hedgerow and shrub planting including their species, number, sizes and positions, together with grass/wildflower seeded/turfed areas. (RC10A)
- 7) That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with a landscape implementation phasing plan which has been submitted to and approved in writing by the Local Planning Authority before any development commences. (RC10A)
- 8) No development shall take place until a maintenance schedule for the landscape planting for a minimum period of 5 years has been submitted to and approved in writing by the Local Planning Authority. The landscaping shall be maintained in accordance with the maintenance schedule at all times thereafter. (RC10A)
- 9) Monitoring equipment such as Inclinometers, shall be installed on the M40 embankment adjacent to borrow area RA6 and shall be retained in situ in good working order at all times thereafter until the completion of the embankment works in the vicinity.
- 10) All temporary storage and working areas and temporary accesses shall be removed on completion of the development hereby approved and the ground restored and landscaped in accordance with the approved landscaping scheme within the first available planting season following

completion of the development unless otherwise agreed in writing by the Local Planning Authority. (RC10A)

- 11) The development hereby permitted shall not encroach within 3m of the M40 highway boundary.
- 12) No development shall commence until details of the proposed surfacing materials to be used in the construction of the proposed permissive footpath have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 13) No development shall take place until a Working Method Statement and Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority which specifies the following;
 - The methodology and timings of any vegetation and habitat removal (including the felling of any trees identified as potentially supporting bat roosts) and engineering works to minimise the impacts on any potential protected species which may have colonised the site since the Environmental Statement was produced
 - Information on the dates, timings and methodology for the construction of any habitat mitigation and compensation proposals, including the mitigation measures provided in the Environmental Statement, and the long term management and maintenance of any habitats created, retained or enhanced.All development shall thereafter take place in accordance with the approved Method Statement and Management Plan. (RC85A)
- 14) The development shall be carried out in accordance with the Flood Risk Assessment (FRA) (Black and Veatch, July 2004 & Banbury FAS PPS25 Practice Guide – Appendix C FRA Pro-forma) and the mitigation measures therein unless otherwise previously approved in writing by the Local Planning Authority. (RC88A)
- 15) If, during development, contamination not previously identified is found to be present on the site then no further development (unless otherwise previously agreed in writing by the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, for an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with (RC81)
- 16) Operations that involve the destruction and removal of vegetation or buildings (or parts of buildings) shall not be undertaken during the months of March to July inclusive, unless otherwise previously approved in writing by the Local Planning Authority.
- 17) No development shall take place that affects any public right of way until full details of any enhancement, improvement, diversion or closure have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

And the following Informatives

- 1) Any raised, new, diverted route of footpaths should be of the same width as the existing footpath. A planning permission does not authorise the diversion of a public footpath and there is a separate statutory procedure for such diversions.
- 2) Temporary closures of the footpath will be needed and warning signs will be required at new junctions.
- 3) With respect to construction works to be carried out in close proximity to Public Rights of Way, please note the following standard requirements:-
 - The routes must be kept clear, unobstructed, safe for users, and no structures or material placed on the right of way at all times.
 - There must be no interference or damage to the surface of the right of way as a result of the construction. Any damage to the surface of the path must be made good by the applicant, specifications for any repair or surfacing work must be approved by this authority.
- 4) All works will be carried out via an Agreement with Northamptonshire County Council and Oxfordshire County Council under Section 278 of the Highways Act 1980. No works should be carried out until the applicant has submitted a detailed design of the scheme and the scheme approved in writing by the Highway Authorities. All diversion routes will need to be included in the Agreement.
- 5) Measures will need to be in place to prevent rat running during the construction phase to protect the highway network and local villages. These measures need to be agreed in writing by the Highway Authority and will be carried out by way of a Section 278 Agreement and should involve consultation with local parishes.
- 6) The applicant will be required to enter into a Section 59 and/or 60 Agreement under the Highways Act 1980 to address any damage to local roads.
- 7) The landscaping required to form the highway boundary after any land dedication associated with the CPO will be subject to written agreement with the Highway Authority.
- 8) Natural England can provide advice on the scope and suitability of any Working Method Statement and Ecological Management Plan.
- 9) The applicant is advised to contact Paul Maison at British Waterways on 01908 302506 in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways Code of Practice for works affecting British Waterways and also further consultation should take place in respect of drawing no. 07 012 501 P04 regarding Area A proposed wet woodland and Ox-Bow lake and Area RA6 (South) raised area-source of earth for main

embankment. The area's after use plan for restoration could include potential facilities linked to the canal.

10) X1

132 **Land At Tusmore Park, West Of Manor Farm, Hardwick Road, Hethe**

The Head of Development Control and Major Developments advised the Committee that this application had been withdrawn at the request of the applicant.

133 **Annexe Adjacent Applegate, East End, Hook Norton, Oxfordshire, OX15 5LH**

The Committee considered a report of the Head of Development Control and Major Developments which recommended approval of an application to demolish a single storey bungalow and build a 1 ½ storey outbuilding and detached timber garage. The application was a resubmission of 09/00642/F with a changed design and access statement.

The application had been adjourned from the previous meeting to allow for a site visit.

The Committee considered the impact of the development on the conservation area. Members of the Committee remarked that there was currently a variety of building styles in the area. The Committee considered whether the development constituted infilling. Members of the Committee also raised concerns about the visual impact and the effects of the development on neighbouring properties.

In reaching their decision, the Committee considered the Officers' report, presentation and written update and the presentations of the objectors and supporters at the Planning Committee meeting of 19 November 2009.

Councillor Clarke proposed that application 09/01302/F be refused. Councillor Milne Home seconded the proposal. The vote to refuse the application was lost and the motion fell.

Councillor Gibbard proposed that application 09/01302/F be approved. Councillor Wyse seconded the proposal.

Resolved

That application 09/01302/F be approved subject to the following conditions:

- 1) SC 1.4A Duration limit – 3 years (RC2)
- 2) SC 2.2BB Samples of the Roofing Materials (RC4A) 'tiles/slates' 'new dwelling and garage/store building'
- 3) SC 2.3CC Natural Stone Sample Panel (RC5B) 'new dwelling'

- 4) SC 2.2AA Timber Walling Sample ((RC4A) 'garage/store building')
- 5) SC 2.9AA Obscure Glass Windows (RC6A) 'first floor bathroom window' 'south'
- 6) SC 5.14AA Joinery Details (RC5AA) 'windows and doors'
- 7) SC 4.13CD Parking and Manoeuvring Area Retained (RC13BB)
- 8) That the means of vehicular access to and from the site shall be taken only from Austin's Way. (RC13BB)
- 9) SC 6.6AB No Conversion of Garage (RC35AA)
- 10) SC 6.2AA Residential - No Extensions (RC32A)
- 11) SC 6.3A Residential – No New Windows (RC33)
- 12) SC 3.2AA Retained tree (RC10A)
- 13) SC 3.3AA Scheme to be submitted to protect retained trees (RC72A)
- 14) SC 3.5AA Notice of Tree Works and Major Operations (RC73A)
- 15) SC 3.11AA Prohibited Activities (RC73A)
- 16) SC 3.14A Site supervision (RC73A)
- 17) That full details of the enclosures to be provided along the boundaries of the site, including a boundary (with the exception of a pedestrian access) along the southern boundary of the site to prevent vehicular access, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and such means of enclosure, shall be erected prior to the first occupation of the dwelling. (RC12AA)
- 18) That the roof lights shown on the approved plans shall have a cill height of no less than 1.8m above internal floor height. (RC6A)
- 19) That the overall height of the garage be reduced by a minimum of 1m

134

Ambrosden Court, Merton Road, Ambrosden, Bicester, Oxfordshire, OX25 2LZ

The Committee considered a report of the Head of Development Control and Major Developments on an application which sought the erection of 9 dwellings to the West and South of Ambrosden Court with associated garaging to the rear of the site and alterations to the existing access to Merton Road.

The Committee considered the impact of the development on the area. The Committee also expressed concern that part of the site was in a flood zone.

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

Resolved

That application 09/01346/OUT be refused for the following reasons:

- 1) The proposed development of this site for residential purposes, due to its siting outside the built up limits of a Category 1 settlement fails to comply with the adopted Policy H13 of the Cherwell Local Plan, Policy H15 of the Non-statutory Cherwell Local Plan 2011 and CC1 of the South East Plan 2009.
- 2) The layout of the site and number of units proposed fails to respect the established settlement pattern resulting in an incongruous, prominent, urbanising and discordant built form in a backland position to the serious detriment of the established character and layout of the village and detracting from its rural setting and open countryside adversely affecting the visual amenities of the area contrary to central government guidance contained in PPS3, Policies C7, C27 and C30 of the adopted Cherwell Local Plan and Policies D1, D3 and EN34 of the Non-statutory Cherwell Local Plan 2011.
- 3) The application site partially lies within Flood Zones 2 and 3 and in the absence of an acceptable Flood Risk Assessment it fails to comply with the requirements set out in central Government Guidance as contained in Planning Policy Statement 25: Development and Flood Risk and is contrary to Policy NRM4 of the South East Plan 2009.
- 4) The application fails to secure the provision of affordable housing in accordance with Non Statutory Cherwell Local Plan Policy H7 and Planning Policy Statement 3.

135

Ivy Cottage, Main Street, North Newington, OX15 6AJ

The Committee considered a report of the Head of Development Control and Major Developments which recommended refusal of an application for the restoration of and alterations to an existing cottage including a new thatched roof, demolition of the existing single story extension and, and vehicular access with turning facility.

This item had been deferred from the previous meeting to allow for a site visit.

Mr Robert Sutton spoke in favour of the application as the applicant's agent.

The Committee considered the impact of the development on the street scene and the impact of the development on the rural character of the building and the materials used. The Committee also discussed the need for a bat survey to be carried out at the site before building commenced.

In reaching their decision, the Committee considered the Officers' report, presentation and written update and the presentation of the public speaker.

Resolved

That application 09/01410/F be approved subject to the following conditions:

- 1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents; plan numbers - 24007-10A, 11B, 12A, 13A, 14, 15.
- 3) That the external walls and roofs and garden wall shall be constructed of local vernacular materials in accordance with a revised schedule of materials and finishes that shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- 4) That full design details of all masonry and joinery details; shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.
- 5) No works shall take place to the existing cottage until such time as a protected species survey has been carried out by a suitably qualified Ecologist in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority. Should any protected species be present a mitigation strategy shall be prepared and submitted to and approved in writing the Local Planning Authority prior to work commencing and thereafter carried out in accordance with the approved mitigation scheme.

136

Willy Freund Centre, Dover Avenue, Banbury, OX16 0JE

The Committee considered a report of the Head of Development Control and Major Developments on an application which sought consent for a single storey extension to provide a covered link to an existing small hall and administration office facilities.

The Committee was satisfied with the evidence presented by Officers.

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

Resolved

That application 09/01476/F be approved subject to the following conditions:

- 1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- 2) That the materials to be used for the external walls and roof of the development hereby permitted shall match in terms of colour, type and texture those used on the existing building.

137 **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.

138 **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 noted.

139 **Constitutional Amendments - Public Speaking and Scheme of Delegation**

The Committee considered a report of the Head of Development Control and Major Developments and the Head of Legal and Democratic Services on the progress and operation of public speaking at Planning Committee, proposed constitutional amendments to the Planning Committee procedure rules and the scheme of delegation and an amendment to the Planning Committee cycle (from three weekly to four weekly).

The Committee commended Officers for the successful implementation of the Planning Improvement Plan and noted the smooth transition to a single Planning Committee which was operating well.

Resolved

- 1) That the amendments to the Planning Committee public speaking procedure rules be recommended to Council with an implementation of May 2010.

- 2) That the amendments to the Scheme of Delegation be recommended to Council to take effect after the full Council meeting on 18 January 2010.
- 3) That it be recommended to full Council that Planning Committee be held on a four weekly cycle with an implementation date of May 2010.

The meeting ended at 5.40 pm

Chairman:

Date:

PLANNING COMMITTEE

28 January 2010

PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

Human Rights Implications

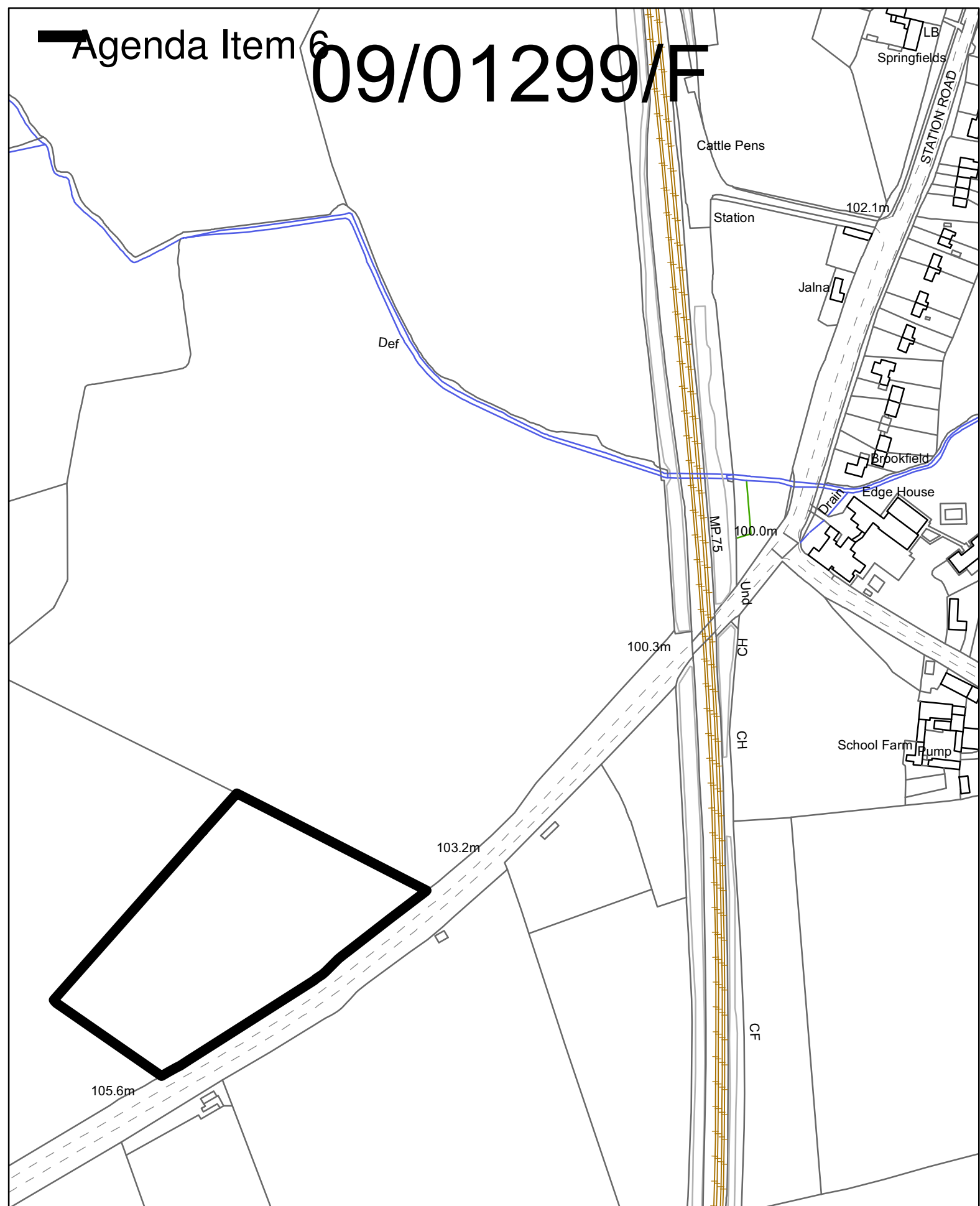
The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations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

Background Papers

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

Applications

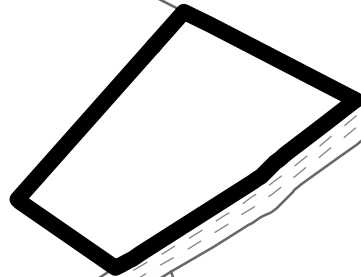
	Site	Application No.	Ward	Recommendation	Contact Officer
6	Land Parcel 2783 Main Street Great Bourton	09/01299/F	Cropredy	Refusal	Andrew Lewis
7	Church End, Church Street, Somerton	09/01411/F	The Astons and Heyfords	Refusal	Laura Bailey
8	Church End, Church Street, Somerton	09/01412/LB	The Astons and Heyfords	Refusal	Laura Bailey
9	10 Strawberry Terrace, Bloxham, Banbury, Oxfordshire, OX15 4PA	09/01522/F	Bloxham and Bodicote	Approval	Caroline Ford
10	Holly Close Main Street Sibford Gower	09/01586/F	Sibford	Approval	Andrew Lewis
11	Land at Colne Close, Bicester	09/01739/CDC	Bicester Town	Approval	Simon Dean
12	Verge To Front Of 2 to 12 Braithwaite Close, Banbury, Oxfordshire OX16 0WN	09/01740/CDC	Banbury Ruscote	Approval	Rebekah Morgan



Scale 1:2,667

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09/01299/F



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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 09/01299/F	Ward: Cropredy	Date Valid: 30th October 2009
Applicant:	Michael McTaggart	
Site Address:	Land Parcel 2783 Main Street Great Bourton	

Proposal: Erection of block of 6 no. stables (2 no. to be used as Tackroom and food/hay storage) and erection of barn and rest room with track from main gate and change of use of the land for the keeping of horses

1. Site Description and Proposal

- 1.1 The application site lies approximately 400 metres east of the village of Great Bourton fronting the main road connecting the village to Cropredy. The main line railway that separates the villages is some 200 metres further east. The land is at a level several metres below Great Bourton and is clearly open and viewable from the main road as it leaves the village.
- 1.2 The application site is a grassed field, 1.6 hectares (4 acres) in size, not quite rectangular in shape, with a gentle undulation, measuring 120 metres by 80 metres across its central points. Its boundaries are well defined by hedging with odd trees. There are the remnants of a building in the far corner of the site. There is a gated entrance from the corner of the field to the road across a grass verge.
- 1.3 The proposed development consists of a number of distinct elements. In the far corner of the field is a barn/restroom. L shaped, it measures 15.4 metres by 20 metres at its widest and would be faced with timber panelling under a shallow pitched roof. A second building backs onto the road. It measures 22 by 4.3 metres and contains 4 stable enclosures and 2 tack rooms; it will also be constructed with timber cladding under felt roofing. The field will also be subdivided by 3 bar fencing to create smaller paddocks and there will be a gravelled drive to the barn/restroom although the first 6 metres will be concreted. In notes submitted with the application reference is made to a 1.83 metre gate at the entrance although there are no details of this. In fact the application is characterised by a number of anomalies and ambiguities arising, possibly, by two sets of drawings being submitted, one scaled plans, the other more illustrative. There is a design and access statement but this does not help explain why the field needs to be subdivided, the rationale for the buildings size, shape, use or appearance, or why so many buildings are required for a relatively small site.

2. Application Publicity

- 2.1 The application has been advertised by way of a site and press notice. In fact the

application was advertised for a second time after the address and application site location were clarified. The date for comments was extended to 24th December 2009. A number of comments have been made which are set out below,

2.2 Two objections have been received:

- Too small a field for 6 horses, proliferation of equestrian development, detract from rural landscape, problem with flooding if 1960's drain gets blocked, inaccuracies in the plan, effect on my hedge and water meter pit, concerned at need for restroom and possible future use, undesirable urban appearance.
- Spurious applications should not be permitted, resist suburban mish mash, gross overdevelopment, applicant lives 20 miles away, support Parish council objections

3. Consultations

- 3.1 Cropredy Parish Council object:
Overdevelopment, an area of flooding and run off will increase with risk of flooding school and adjacent properties.
- 3.2 Bourtons Parish Council object:
Area of high landscape value; open landscape important to the setting of the villages; stable block, barn all intrusive, visible from village and roads and paths; inadequate grazing for number of horses; no demonstrable need for the development as a whole, for the barn, rest room; land prone to flooding, the tracks should be permeable; gate too big; any planting should be native; lack of consultation; need for security; creeping urbanization. If approved the Parish council request a number of conditions be imposed such as no equestrian use, no security lighting, no windows or doors (visible from the road), native planting, no parking of horseboxes or caravans, retain hedge, stables for horses only, manure removed from site and redesign access.
Thank you for re-advertising the application.
- 3.3 County Archaeologist, Oxfordshire County Council: The area is of some archaeological interest and a condition is recommended to secure a watching brief whilst development is undertaken.

4. Relevant Planning Policies

- 4.1 **Planning Policy Statement 1 (PPS1): Delivering sustainable development**
Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas
- 4.2 **Regional Spatial Strategy for the South East (The South East Plan) 2009**
Policy C4: Landscape and Countryside Management
BE5: Village Management
- 4.3 **Adopted Cherwell Local Plan November 1996 (ACLP 1996)**

Policy C28: Layout, design and external appearance of new development
Policy AG5: Development Involving Horses
Policies C7,C8: Landscape Conservation
Policy C12: Area of High Landscape Value
Policy C14: Trees and Landscaping

4.4 Non-Statutory Cherwell Local Plan 2011 (NSCLP 2011)

Policy EN1: Conserve/Enhance the Environment
Policy D1: Urban Design Objectives
Policy D3: Local Distinctiveness
Policy EMP11: Development Involving Horses
Policies EN30, EN31: Countryside Protection
Policies EN34,EN35: Landscape Character
Policy EN36: Landscape Enhancement
Policy EN47: Archaeology

5. Appraisal

- 5.1 The application raises two main issues:
- Whether the principle of development is acceptable; and
 - Does it cause harm to the landscape and the wider visual amenity of the area

5.2 The Principle of Development

It is the policy of the Council (policy AG5 ACLP96) to permit development involving horses subject to three conditions, that it does not have an adverse impact on the character and appearance of the countryside; it would not adversely affect neighbouring properties; and that it complies with other relevant policies. The first and last points will be further discussed below but as a planning unit it enjoys a high degree of separation from the nearest residential properties together with an element of screening by trees and hedging. PPS7 is also sympathetic to the recreational and economic effects of equestrian activities providing environmental quality and countryside character are maintained.

5.3 Impact on the appearance, quality and character of the Countryside and its Landscape.

The site is part of a large open swathe of countryside that because of its environmental quality has been designated as being of High Landscape Value (HLV). In these areas the scale and type of development has to be carefully controlled, especially siting and design of new buildings, policy C13 of the ACLP 96 is applicable. The site is prominent in that landscape, fronting the Great Bourton/Cropredy road and being highly visible from the village of Great Bourton, particularly from the road as it emerges from the village and at which point the field is seen against the slope of the Cherwell Valley with the tree lined railway embankment beyond.

- 5.4 Policy C8 of the ACLP 96, which applies to any proposal beyond the built up limits of settlements, states sporadic development in the open countryside will generally

be resisted, policy C7 also states that development will not be permitted if it causes harm to the topography and character of the landscape and policy C28 requires new development to be sympathetic to the rural context of the site, especially in Areas of HLV.

5.5 Two buildings are proposed. The first a 6 bay stable block. Local residents have challenged the balance between the size of the plot and whether it is capable of accommodating that number of horses (although two of the bays are indicated for storage.) Certainly the need for the second building is unclear and it is this building which is bigger and in the more prominent part of the site intruding into the skyline when viewed from the west. New structures in the rural landscape should be limited, and when proposed should be carefully sited and designed to minimise their impact which is not the case here.

5.6 It is considered the proposed buildings are going to stand out in the landscape, the stable block being at the front of the site behind the hedge that runs alongside the main road. It will therefore be partly screened but not hidden. The more bulky barn/restroom will be even more prominent because though it is to the rear of the site it is on a rise. To reduce the visual impact of these buildings, landscaping could be of assistance and although illustrative planting is shown on the submitted drawings, it is not felt it will be totally effective and therefore the proposal conflicts with the development plan, including policy AG5, and should be refused.

5.7 **Other Issues**

Design and Appearance

The visual appearance of the two buildings together with the other elements of the scheme has been subject of some strong criticism by local interests. However the buildings themselves are low slung and would be constructed in timber cladding (actual details of materials can be controlled by condition) so in themselves may be considered to be inoffensive. In the view of the Officers, it is the size of the buildings combined with their position in prominent locations that is objectionable and the effect they have on the landscape and the open countryside surrounding the site.

5.8 **Flooding**

It is a criticism of the scheme that the land where the development is proposed floods and the new building and hard surfacing will exacerbate this. In fact the site is not in an area considered to be one likely to cause flood risk problems, furthermore the building's footprints are not huge. There is of course an extended drive which seems unnecessary if the building it is proposed to access was located to a more appropriate position, assuming there is one on the application site. And the Council could ensure, if permission were to be granted, that conditions could be imposed to secure permeable surfacing and the site was sustainably drained.

5.9 **Archaeology**

The site is in an area where prehistoric archaeology has been found, certainly there is a prehistoric field system south of the site and there are cropmarks which indicate medieval farming in the area. However, the advice of the County Archaeologist is not to object to the development but that if permission was granted a condition be imposed to secure a watching brief when development was undertaken.

5.10 **Conditions**

Government advice is that planning permission should only be refused where there are clear and sound reasons to do so and if conditions can be imposed to overcome those reasons for refusal they should be used. In this case officers have concluded that permission should be refused and that conditions cannot overcome the reason for refusal. They have also carefully considered conditions suggested by the Parish Council if permission were granted and whilst some may be appropriate others fail to pass the tests laid down in government advice either because they are unreasonable, unenforceable or could be dealt with by other legislation.

6. Conclusion

Having fully considered all the details submitted with the application and taken into account comments made by third parties, this application has been determined in accordance with the development plan and is considered to be unacceptable on its planning merits as the proposed development will adversely impact on the character of the countryside. It is therefore recommended that Committee refuse planning permission for the reason set out below.

7. Recommendation

It is recommended that planning permission is refused for the following reason:

- 1. The erection of the two proposed stables and barn/restroom buildings of the size and in the positions proposed would, if approved, be an intrusive development harming the topography and character of the landscape and erode the open character and appearance of the countryside contrary to policies C5 and BE5 of the South East Plan 2009, policies AG5, C7, C8, C13 and C28 of the Adopted Cherwell Local Plan 1996 and policies EMP11, EN30, EN31 and EN34 of the Non Statutory Cherwell Local Plan 2011.**

CONTACT OFFICER: Andrew Lewis

TELEPHONE NO: 01295 221813



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09/01411/F



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Application 09/01411/F	No:	Ward: Astons and Heyfords	Date Valid: 18 November 2009
Applicant:	Mr & Mrs Eastwood		
Site Address:	Church End, Church Street, Somerton		

Proposal: Demolition of single storey extension and construction of single storey link to existing outbuilding. Outbuilding converted to living accommodation

1. Site Description and Proposal

- 1.1 This application seeks planning consent for the demolition of a single storey, lean-to extension on the rear of the property, conversion of an existing rear outbuilding to provide ancillary living accommodation and erection of a glazed link/covered yard at the rear.

The property was listed in 1988, and was originally part of a farmhouse, forming a terrace of vernacular stone, rural buildings, which has since been converted to form a single dwelling.

The property is located within the Somerton Conservation Area, and adjoins the neighbouring Grade II listed cottage. St James's Church, which is a Grade I listed building lies directly to the west of the site, and public footpath no. 349/4 runs north-south past the western side of the plot. The site is also located within an Area of High Landscape Value.

- 1.2 The dwelling has been extended at single storey level to the rear in the form of a simple lean-to and at two storey level on the rear, which has been finished in white/cream render.

2. Application Publicity

- 2.1 The application has been advertised by site notice, neighbour letter and press notice. The final date for comment was 1 January 2010.
- 2.2 Four letters of support has been received, and in summary state that the planning application will further enhance the environment that is Church Street, particularly when viewed from the adjoining churchyard, will preserve the setting of the Grade I listed church and will improve the character and appearance of the Conservation Area by replacing an unsightly corrugated roof building with a high quality, slate roofed construction.

3. Consultations

- 3.1 Somerton Parish Council has **no objection** to the proposal.
- 3.2 Oxfordshire County Council Highway Authority has **no objection** to the application.

- 3.3 Conservation Officer - **objects** to the proposal.
- 3.4 Oxfordshire County Councils Planning Archaeologist, Richard Oram, recommends the attachment of a planning note regarding archaeological finds.
- 3.5 English Heritage – Do not wish to offer any comments on the proposal, and recommend that the application be determined in accordance with national and local Policy guidance, and on the basis of the Council's specialist conservation advice.

4. Relevant Planning Policies

- 4.1 PPG 15: Planning and the Historic Environment
- PPS 9: Biodiversity and Geological Conservation and accompanying Circular 06/05
- 4.2
- 4.3 South East Plan 2009 – Policies CC6, BE1, BE6 and T1
- 4.4 Adopted Cherwell Local Plan 1996 – Saved Policies C2, C28 and C30

5. Appraisal

- 5.1 The key issues to consider are:
 - Relevant planning history
 - The character and appearance of the Conservation Area,
 - Highway safety,
 - Neighbour amenity,
 - Setting of the Grade II and Grade I listed buildings,
 - Protected Species
- 5.2 **Relevant planning history**

08/02195/F & 08/02196/LB– Refused. These applications related to the demolition of the existing single storey rear extension and outbuilding and construction of a single/one and a half storey extension. The proposal was considered to represent a disproportionate, unsympathetic and dominant extension, harmful to the setting of the listed building and character and appearance of the Conservation Area.
- 5.3 **Impact upon the character and appearance of the Conservation Area**

Government guidance contained within PPG 15 states that *“The Courts have recently confirmed that planning decisions in respect of development proposed to be carried out in a conservation area must give a high priority to the objective of preserving or enhancing the character or appearance of the area. If any proposed development would conflict with that objective, there will be a strong presumption against the grant of planning permission...”*

- 5.4 Policy BE6 of the South East Plan also states that Local Authorities should *“...support proposals which protect, conserve and, where appropriate, enhance the historic environment and the contribution it makes to local and regional distinctiveness and sense of place.”*
- 5.5 Due to the considerable differences in the ground level between the churchyard and the application site, parts of the rear of the property are prominent and visible from the churchyard. Glimpses of the rear elevation are available from the public footpath, the most prominent parts being the two storey rear gable projection and the outbuilding.
- 5.6 The majority of the proposed alterations will not be particularly prominent or visible features from public vantage points within the Conservation Area. Glimpses of the top of the glazed lantern will be obtained from the footpath, and the glazed link, new window opening on the west elevation of the outbuilding and parts of the leaded roof will be visible from the churchyard.
- 5.7 The HDC&MD therefore considers that given the limited visibility and prominence of the proposed alterations from views within the public domain, the proposal would protect and preserve the character and appearance of the Conservation Area, in accordance with the guidance contained within PPG 15 and Policy BE6 of the South East Plan 2009.
- 5.8 **Impact on Highway Safety**
Oxfordshire County Council Highway Authority has no objection to the proposal on highway safety grounds. The HDC&MD concurs with this viewpoint as the proposal would not create any additional demand for parking provision. The proposal therefore accords with Policy T1 of the South East Plan 2009.
- 5.9 **Impact on Neighbour Amenity**
The nearest neighbouring property (No. 1 Church Cottages) adjoins the application site. The majority of the alterations are contained within the courtyard area, the flat leaded roof section sitting below the level of the boundary wall. The adjoining boundary wall between the two properties is proposed to be elevated to form a parapet wall, but this will sit below the existing eaves by approximately 0.5m. As such, it is not considered that the proposal would cause detrimental harm to neighbour amenity by way of overbearing or overshadowing.

The new window opening within the outbuilding is positioned on the west elevation,

and as such, will not result in any detriment to residential amenity by way of overlooking.

5.10 **Impact on the setting of the Grade II and Grade I listed buildings**

Paragraph 2.12 of PPG 15 advises that 'Authorities are required by Section 66 (1) of the Act , in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses'.

5.11 Paragraph 3.13 advises that where successive applications for alteration / extension to a listed building are made, it needs to be borne in mind that minor works of indifferent quality, which may seem individually of little importance, can cumulatively be very destructive of a building's special interest.

5.12 Policy C28 of the Cherwell Local Plan states that *"control will be exercised over all new development...to ensure that the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of the development. In sensitive areas such as conservation areas...development will be required to be of a high standard and the use of traditional local building materials will normally be required."*

5.13 The HDC&MD considers that the size and scale of the proposed extension and alterations, with the exception of the conversion of the outbuilding, is disproportionate and unsympathetic to the setting of the existing dwelling and the adjoining Grade II listed building. The proposal is neither minor nor sympathetic to the architectural and historic character of the building, and is therefore contrary to the advice contained in PPG 15, Policy BE6 of the South East Plan and Policies C28 and C30 of the Adopted Local Plan.

5.14 **Impact on protected species**

Natural England guidance states that disused or little used buildings built pre-20th century with entrances that bats could fly through have an increased probability of being used by bats, an animal species that is afforded statutory protection by The Wildlife and Countryside Act 1981. PPS 9 places a duty upon Local Planning Authorities to request a bat survey to be undertaken prior to determination of a planning application for works that could potentially affect bats. The applicants submitted a bat survey with the application, which concluded that the outbuilding is not being used as a roost site by bats, and has an extremely low potential to shelter

an undetected bat roost. However, it recommends appropriate mitigation measures, should the presence of bats/other protected species be detected during the course of the works. The HDC&MD therefore considers that the proposal pays proper regard to protected species, in accordance with Government advice contained in PPS 9 and Policy C2 of the Adopted Local Plan.

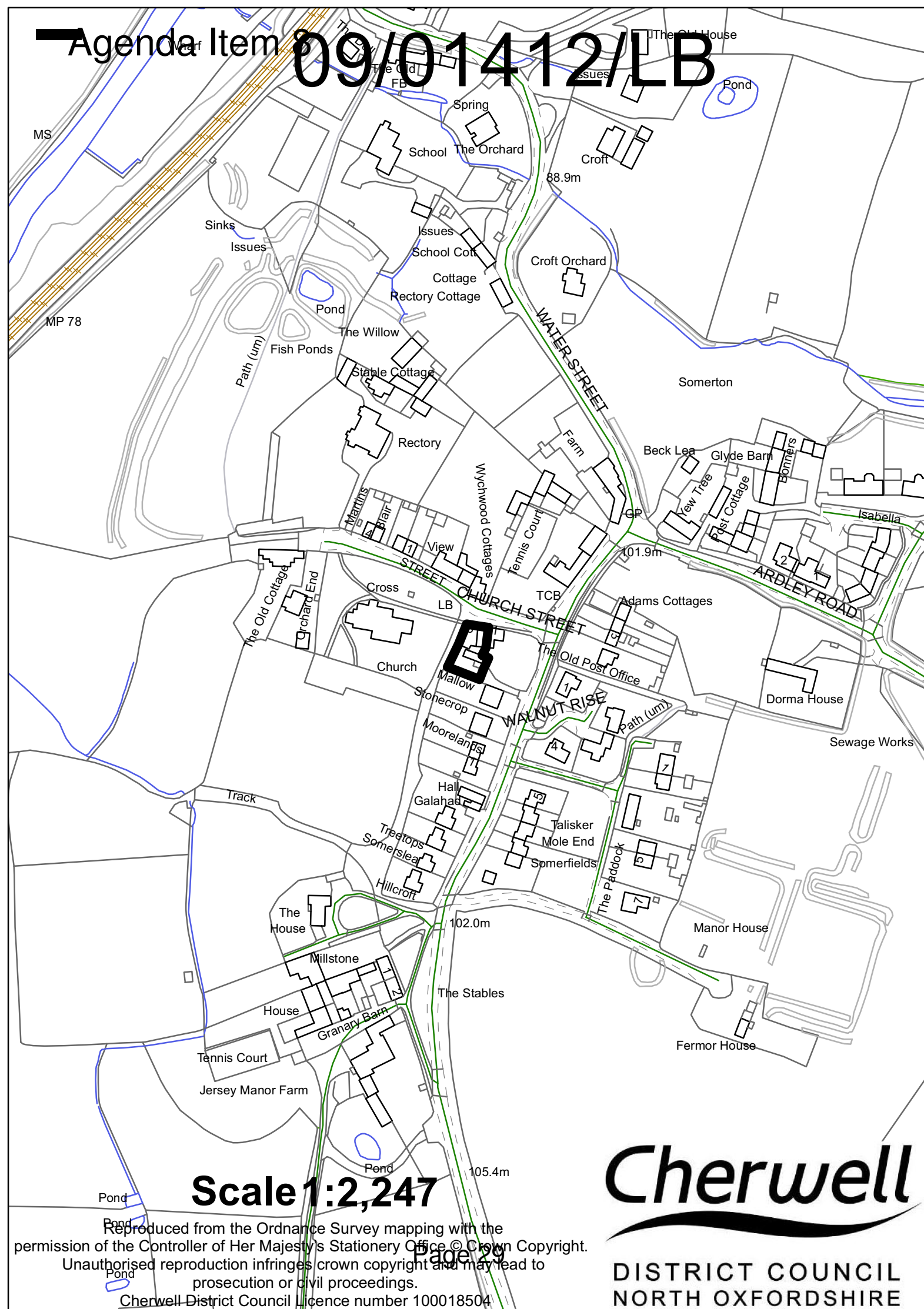
6. Recommendation

Refuse, on the following grounds

That the proposed development, by reason of its design and scale does not represent a minor and sympathetic addition to the existing listed building and is therefore considered to be unsympathetic and significantly detrimental to the character and appearance of the original dwelling. The proposed development is therefore contrary to Government guidance within PPG15: Planning and the Historic Environment, Policies CC6, BE1 and BE6 of the South East Plan 2009 and saved Policies C28 and C30 of the adopted Cherwell Local Plan 1996.

CONTACT OFFICER: Laura Bailey

TELEPHONE NO: 01295 221824



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09/01412/LB

Church

View

and Cottages

Tennis Court

CHURCH

STREET

Cross

LB

TCB

Shelter

CHURCH STREET

101.9m

St James's

Church

Mallow

Cottage

Stonecrop

Cottage

Moorelands

WALNUT RISE

WALNUT

Scale 1:500

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Application 09/01412/LB	No:	Ward: Astons and Heyfords	Date Valid: 18 November 2009
Applicant:	Mr & Mrs Eastwood		
Site Address:	Church End, Church Street, Somerton		

Proposal: Demolition of single storey extension and construction of single storey link to existing outbuilding. Outbuilding converted to living accommodation

1. Site Description and Proposal

- 1.1 This application seeks listed building consent for the demolition of a single storey, lean-to extension on the rear of the property, conversion of an existing rear outbuilding to provide ancillary living accommodation and erection of a glazed link/covered yard at the rear.

The property was listed in 1988, and was originally part of a farmhouse, forming a terrace of vernacular stone, rural buildings, which has since been converted to form a single dwelling.

The property is located within the Somerton Conservation Area, and adjoins the neighbouring Grade II listed cottage. St James's Church, which is a Grade I listed building lies directly to the west of the site, and public footpath no. 349/4 runs north-south past the western side of the plot. The site is also located within an Area of High Landscape Value.

- 1.2 The dwelling has been extended at single storey level to the rear in the form of a simple lean-to and at two storey level on the rear, which has been finished in white/cream render.

2. Application Publicity

- 2.1 The application has been advertised by site notice, neighbour letter and press notice. The final date for comment was 1 January 2010.
- 2.2 Four letters of support has been received, and in summary state that the planning application will further enhance the environment that is Church Street, particularly when viewed from the adjoining churchyard, will preserve the setting of the Grade I listed church and will improve the character and appearance of the Conservation Area by replacing an unsightly corrugated roof building with a high quality, slate roofed construction.

3. Consultations

- 3.1 Somerton Parish Council – has **no objection** to the proposal.
- 3.2 Oxfordshire County Council Highway Authority has **no objection** to the application.

- 3.3 Conservation Officer - **objects** to the proposal.
- 3.4 Oxfordshire County Councils Planning Archaeologist, Richard Oram, recommends the attachment of a planning note regarding archaeological finds.
- 3.5 English Heritage – Do not wish to offer any comments on the proposal, and recommend that the application be determined in accordance with national and local Policy guidance, and on the basis of the Council's specialist conservation advice.

4. Relevant Planning Policies

- 4.1 PPG 15: Planning and the Historic Environment
- 4.2 South East Plan 2009 – Policy BE6
- 4.3 Adopted Cherwell Local Plan 1996 – Saved Policy C18

5. Appraisal

- 5.1 The key issue to consider is:
- Impact on the setting, character, architectural and historic fabric of the listed building
- 5.2 **Impact on the setting, character, architectural and historic fabric of the listed building**
The Conservation Officer has offered the following comments in respect of the proposal, outlined in paragraphs 5.3 – 5.7 below:
- 5.3 ***The site***
Church End Cottage is a Grade II listed vernacular stone dwelling fronting directly onto the highway. The property originated as a farmhouse; recorded on the 1765 enclosure map as Middle farm. The enclosure map represents the building as an L-shaped building; the main range along the lane, the service wing and attached outbuilding along the tchure that runs perpendicularly away from the Church Street between the churchyard and the farmhouse. As would be expected a number of other outbuildings are indicated to the rear of the main house.
The 1887 OS map shows the original building now divided into cottages and possibly extended eastward along Church Street, the outbuildings that currently stand to the rear of the main cottage buildings (S of the main building to create a small yard) are also shown as existing.



- 5.4 *The original C18 and C19 buildings are of the traditional linear plan form so often found throughout the villages in this area. Traditionally any additions to such a building would follow this linear arrangement; as has been the case here with the addition of more humble accommodation on the east gable of the main dwelling. The cottage has a perpendicular service wing which is again located traditionally at one end of the rear elevation.*
- In recent times the two cottages nearest the church have been reunited into one dwelling; Church End Cottage.*
- 5.5 *The site is bounded by a footpath which runs down the plot between the cottage and the Church of St James (Grade I). There are considerable ground level differences between the cottage plot and the much higher grave yard which results in a certain amount of over-looking from the churchyard; it is therefore the case that the rear of the plot is not hidden away and due to the public nature of the church results in the rear of the cottage plot contributing more significantly to the character and appearance of the setting of the church and the conservation area.*
- 5.6 **The design, scale and layout**
- The proposal includes a rear extension that masks the entire rear elevation of the property; linking the main dwelling with the C19 outbuilding by covering over the yard formed between them. The resultant massing of the building thus created is bulky and completely at odds with the traditional massing of historic village dwellings which usually have a rectilinear plan form. There is no historic precedent for buildings such as the farmhouse and utility barn to be joined across the rear courtyard; the distance is too far and the resultant structure contrived in order to achieve this. The resultant extension has a footprint some 43% that of the original cottage. The extension, although partially hidden by the service wing, can be seen*

from the public domain. The resultant extended cottage is lumpen in appearance; the extension is far too large and unsympathetic for the property.

- 5.7 *There are a number of design issues. The existence of a first floor window to the rear of the cottage introduces the need to add a glazed pitched roof element into the flat roof to provide borrowed light. This element whilst necessary for providing light to the stair introduces unwanted complexity into the roof. The proposal leaves a residual courtyard. The scheme introduces fully glazed doors – not a traditional feature. The palette of building materials should be limited; the timber boarding of the external wall to the dining area is also considered excessive.*
- 5.8 Paragraph 2.12 of PPG 15 advises that 'Authorities are required by Section 66 (1) of the Act , in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest which it possesses'.
- Paragraph 3.13 advises that where successive applications for alteration / extension to a listed building are made, it needs to be borne in mind that minor works of indifferent quality, which may seem individually of little importance, can cumulatively be very destructive of a building's special interest.
- 5.9 The comments of the Conservation Officer, contained in paragraph 5.5 above in respect of the visibility of the rear of the property and its contribution to the character and appearance of the Conservation Area are noted. However, the majority of the proposals will not be prominent or visible from the public domain. Glimpses of the rear elevation are available from the public footpath, but it is not considered that the proposal would be prominent from public view points within the Conservation Area. In this regard, the HDC&MD considers that the proposal would preserve the character and appearance of the Conservation Area, and would not adversely affect the setting of the Grade I listed church.
- 5.10 The HDC&MD considers that the size and scale of the proposed extension and alterations, with the exception of the conversion of the outbuilding, is disproportionate and unsympathetic to the setting of the existing dwelling and the adjoining Grade II listed building. The proposal is neither minor nor sympathetic to the architectural and historic character of the building, and is therefore contrary to the advice contained in PPG 15, Policy BE6 of the South East Plan and Policy C18 of the Adopted Local Plan.

6. Recommendation

Refuse, on the following grounds

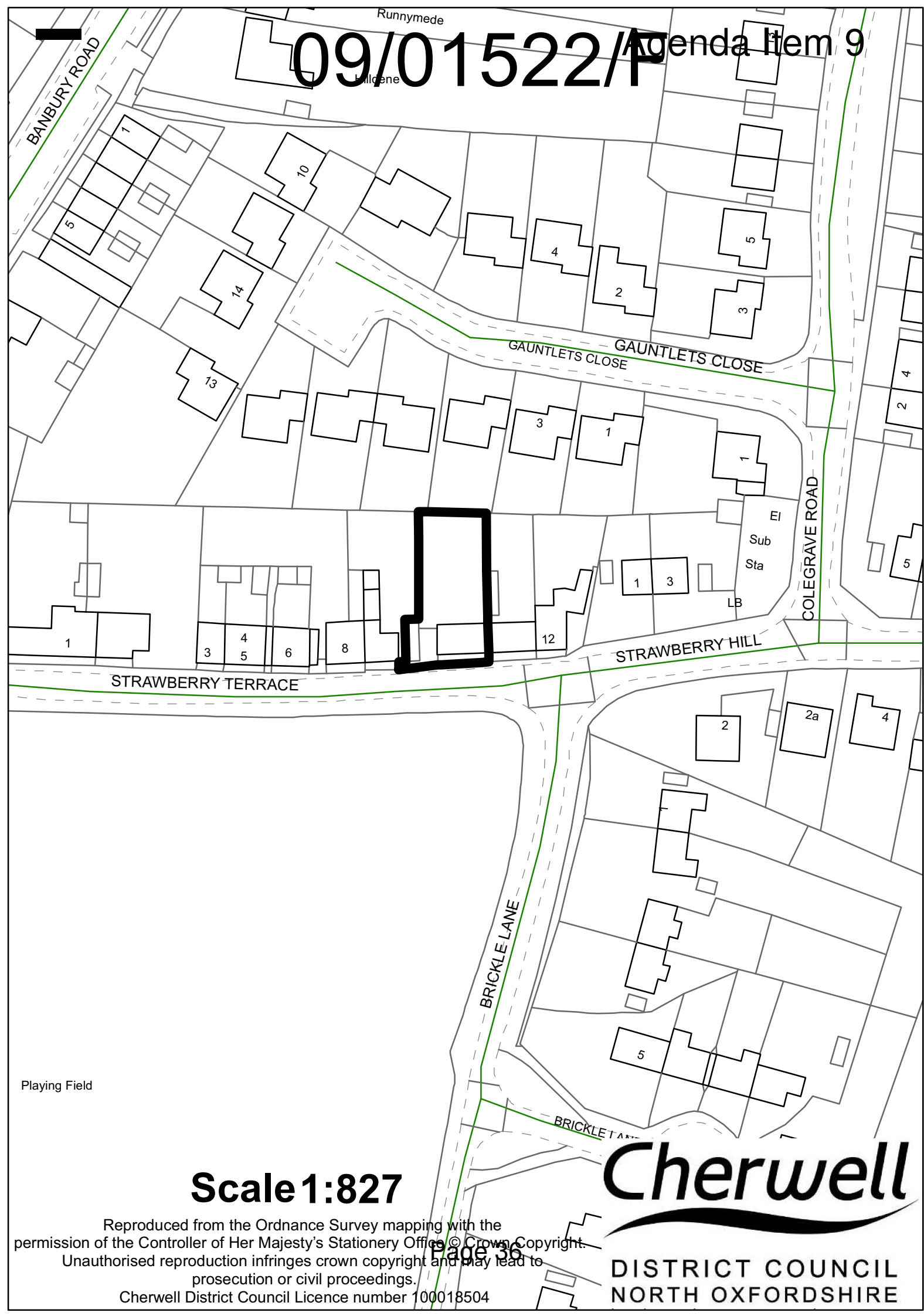
That the proposed development, by reason of its design and scale does not represent a minor and sympathetic addition to the existing listed building and is therefore considered to be unsympathetic and significantly detrimental to the character and appearance of the original dwelling. The proposed development is therefore contrary to Government guidance within PPG 15: Planning and the Historic Environment, Policy BE6 of the South East Plan 2009 and saved Policy C18 of the adopted Cherwell Local Plan 1996.

CONTACT OFFICER: Laura Bailey

TELEPHONE NO: 01295 221824

09/01522/P

Agenda Item 9



Scale 1:827

Cherwell

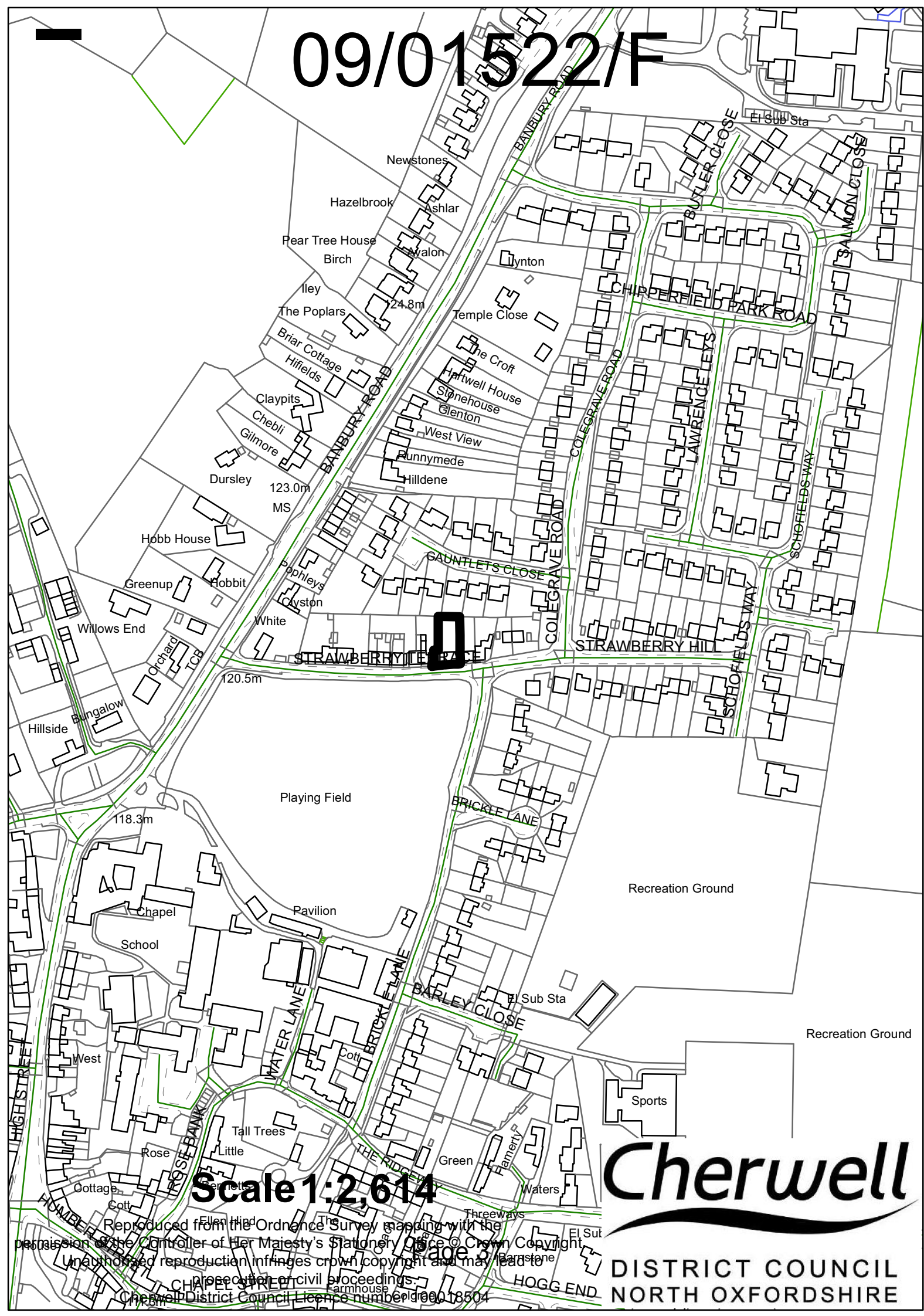
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09/01522/F



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Application 09/01522/F	No:	Ward: Bloxham and Bodicote	Date 19/11/2009	Valid:
Applicant:	Mrs Karey Morley			
Site Address:	10 Strawberry Terrace, Bloxham, Banbury, Oxfordshire, OX15 4PA			

Proposal: Rear two storey extension

1. Site Description and Proposal

- 1.1 10 Strawberry Terrace is an end of terrace red brick built property with a slate roof and some timber and some UPVC windows and doors. There is currently a UPVC conservatory situated to the rear of the property. The end wall of the property is currently rendered. The property is situated within the Bloxham Conservation Area; however there are no listed buildings within proximity of the site. There are no other site constraints needing to be taken into consideration.
- 1.2 This application seeks permission for a rear two storey extension, with a single storey element adjacent to the shared boundary with the adjoining neighbour. The proposed extension is to be constructed from red brick with a slate roof and timber windows and doors. The extension is to extend by 3.9m will cover the whole of the rear elevation of the dwelling with a cat slide type roof arrangement over both extensions, however will be set down from the ridge of the main dwelling to ensure the extension is subservient to the existing dwelling.
- 1.3 The history of this dwelling is as follows:
98/00860/F (Permitted) Single storey extension at rear
06/00799/F (Permitted) Two storey and single storey rear extension (This extension is the same as that currently proposed but has not been implemented and the permission has now expired).

2. Application Publicity

- 2.1 The application has been advertised by way of site notice, press notice and neighbour letter. The final date for comment is 25/12/2009.

3. Consultations

- 3.1 To date no comments have been received from Bloxham Parish Council
Cherwell District Council's Conservation Officer comments that this is a re-submission of 06/00799/F and would recommend approval subject to conditions.
Oxfordshire County Council (Highways) raises no objections
- 3.2 To date no letters of objection have been received.

4. Relevant Planning Policies

- 4.1 PPG15: Planning and the Historic Environment
- 4.2 The South East Plan: policies BE1 and BE6
- 4.3 Adopted Cherwell Local Plan: policies C28 and C30

5. Appraisal

- 5.1 The proposed extension, the subject of this application, has previously been approved in 2006 under delegated powers; however this permission has now lapsed. This previous decision is a material consideration in the assessment of this application, along with any changes to planning policy since the previous decision was made. With regard to planning policy, the Oxfordshire Structure Plan is no longer valid, however The South East Plan has replaced this and some policies within the adopted Cherwell Local Plan have been deleted following a review of Cherwell policy by the Secretary of State in 2007. The change in policy has not resulted in any significant changes that would affect the proposals under consideration as part of this application. Furthermore, there have been no changes in site circumstances. An assessment of the impact of the proposal on visual amenity, the character and appearance of the conservation area, neighbouring amenity and highway safety will now be made to fully assess the proposal.

- 5.2 Visual impact and impact on the character and appearance of the conservation area
With regard to the visual impact, the proposed extension will be set to the rear of the property and therefore the only visible part will be the side wall. This wall is to be constructed from red brick, similar to the main dwelling, which is appropriate and acceptable. The extension appears subservient which helps to improve the impact of the development on the visual amenity of the area. The use of matching materials with the brick, slate and timber windows and doors, further ensures the development is acceptable causing no harm to visual amenity and preserving the character and appearance of the conservation area. Conditions are recommended in relation to the materials to be used, which were also attached to the previously approved application. The proposal complies with policy C28 of the adopted Cherwell Local Plan.

The comments of the Council's Design and Conservation Officer are noted. The conditions recommended below as part of this application reflect the conditions which were imposed under application 06/00799/F, along with the recommended condition relating to the need for the use of conservation roof lights given that these would be visible in the conservation area. However the other conditions suggested by the Conservation Officer (relating to the requirement for details of the joinery to be submitted and the use of lime mortar and Brett Martin or similar rain water goods) are not reasonable or necessary in this case.

- 5.3 Neighbour impact
The impact upon neighbouring amenity is considered acceptable. In terms of the attached neighbour to the east (11), the single storey element will be adjacent to this neighbour, which is unlikely to cause any impact by loss of light, loss of privacy or over dominance. The single storey element will replace an existing conservatory,

have eaves height of 2.2m adjacent to the shared boundary, will have a pitched roof sloping away from this neighbour and there is a brick wall forming the boundary between the extension and this neighbour, which further limits the impact. One window is to be moved closer to the adjoined neighbour (11); however, this work could be carried out under permitted development. The two storey element will be set 3.5m from the shared boundary with the adjoined neighbour, which is an acceptable distance and again the roof slopes away from this neighbour. The impact on this neighbour is considered acceptable. With regard to the neighbour to the west (9), this neighbour is set some distance from the proposed extensions and is unlikely to experience any undue detrimental impact. The distance between the proposed extension and the neighbours to the rear is acceptable and will not cause any undue harm.

The previously approved application included a condition restricting permitted development rights for new windows in the walls or roof of the two storey extension. Given changes to the General Permitted Development Order in 2008, (where any new windows in a side elevation at first floor level would need to be obscurely glazed and non-opening unless any part of the window which could be opened would be more than 1.7m above the level of the floor of the room in which they serve to be permitted development) this condition is not considered necessary to be attached to this application. The development complies with policy C30 of the adopted Cherwell Local Plan.

5.4 Highway Safety

The Local Highway Authority raises no objections to the scheme and there are two off road parking spaces available for the property (garage and drive) therefore the proposal is considered acceptable on highway safety grounds.

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

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

6. Recommendation

Approval; subject to the following conditions:

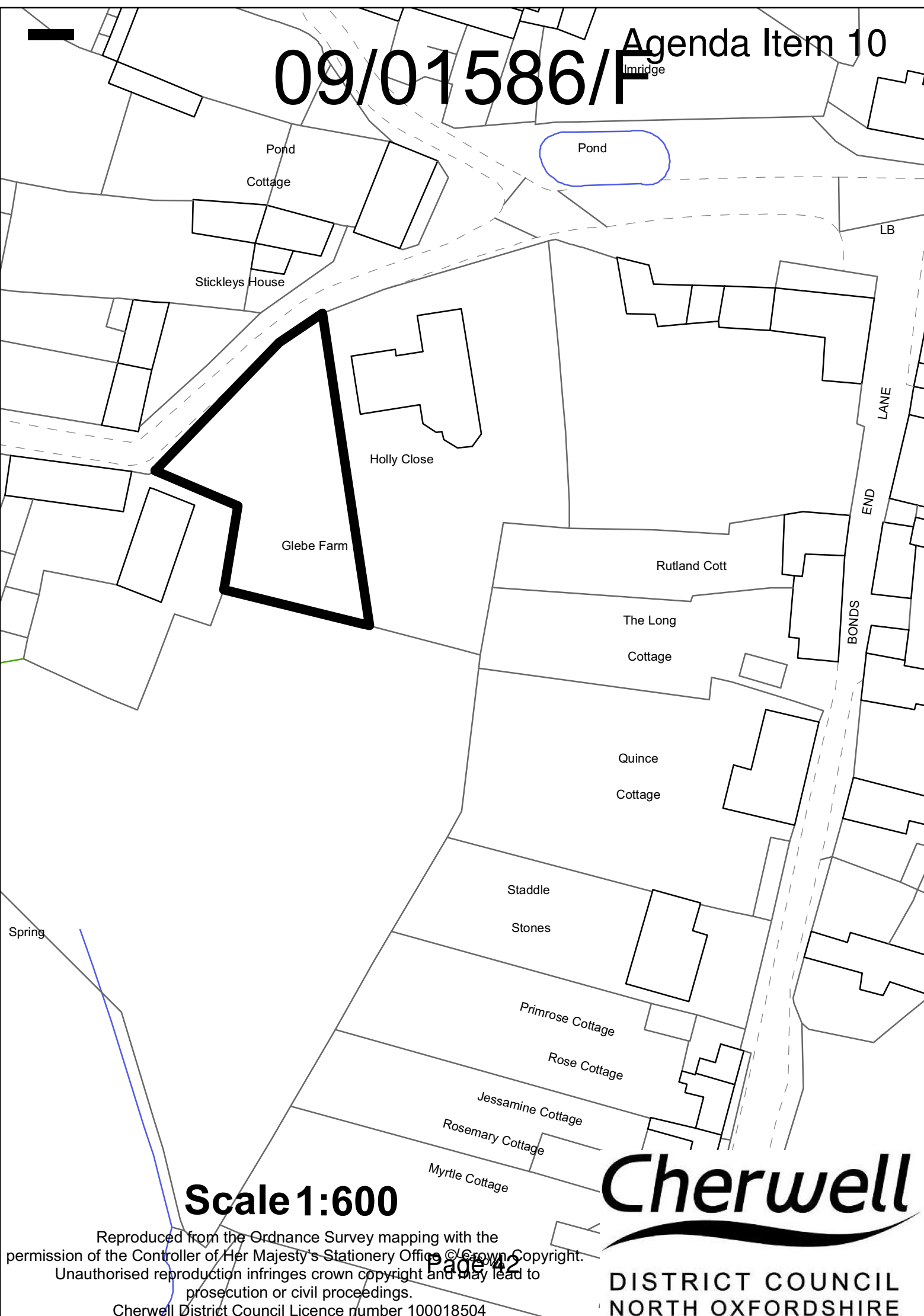
1. **1.4A (RC2) [Full permission: Duration limit (3 years)]**
2. **Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: P470/03c, P470/05d, P470/04c, P470/01, P470/02 and site and block plan.**
Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy BE1 of the South East Plan 2009.
3. **2.2BB (RC4A) [Samples of roofing materials] insert 'slate' 'extension'**
4. **2.3EE (RC5B) [Sample panel of brickwork] insert 'extensions'**
5. **5.19A (RC4A) [Conservation roof light]**

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 the proposal also has no undue adverse impact upon the residential amenities of neighbouring properties or highway safety. Furthermore, the development preserves the character and appearance of the conservation area. As such the proposal is in accordance with PPG15: Planning and the Historic Environment, Policies BE1 and BE6 of The South East Plan and Policies C28 and C30 of the adopted Cherwell Local Plan. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted.

CONTACT OFFICER: Caroline Ford

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Scale 1:600

Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

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Application No: 09/01586/F	Ward: Sibford	Date Valid: 6 November 2009
Applicant:	Mr Keith Manning	
Site Address:	Holly Close Main Street Sibford Gower	

Proposal: Proposed erection of a detached dwelling and the creation of an opening in the stone boundary wall for vehicular access from the highway, and the erection of a new boundary fence - resubmission of 09/00990/F

1. Site Description and Proposal

- 1.1 Holly Close is a modern detached house located on the western side of the village of Sibford Gower. Its design is somewhat unusual. Constructed of stone, the front façade is relatively solid with the majority of the fenestration to the rear. There is a parking /turning area at the front with a projecting garage. The roof is notable as it has shallow pitch to the front and steeper pitch to the rear. It has a large garden to the side and rear, mainly lawn but with some shrubbery and two trees to the rear. It is the side garden which forms the application site. To the lane at the front is a stone wall with a dense hedge behind and above it.
- 1.2 The property fronts a narrow lane without footpaths that serves a handful of houses in the village before becoming the access track to Rye hill Farm. Of those properties five opposite or adjacent to the application site are listed Grade II. They form an eclectic mix of former farmhouses or cottages. The most significant for this application are: Glebe Farm adjacent the site which is 17/18th century, three storied including rooms in roof with dormers, built in ironstone rubble under a stone slate roof. Lane Head opposite is late 17th century and was once two dwellings. Again ironstone construction but under a thatched roof. Stickleys House is 17th century of rubble ironstone under a stone slate roof. It has been subject to a number of alterations including a porch and windows.
- 1.3 These buildings, together with their neighbours, form an interesting relationship to each other and the way they front the road. Some are side on, others full faced to the street. Their almost random juxtaposition, variety in design and height is what gives this part of the village its main character. One other notable feature nearby is the village pond, the well housing for which is also listed. The village was designated a conservation area in 1988.
- 1.4 The proposal is to erect a two storey, 4 bedroomed house set behind Holly Close and a distance of about 12 metres behind the lane. A new access will be created of about 3 metres width in the wall/hedge to the lane. A drive and turning area with parking for 2/3 cars is shown to the front of the property. A garage proposed as part of a previous application has been omitted from the current scheme.
- 1.5 The house itself is like most buildings roundabout, modest in its design concept. To be constructed of natural stone and slate, the architect has designed the house with the flank walls rising up to create parapet gables within which sits the main roof.

There are chimneys at either end to give a certain balance. The fenestration is mainly narrow casement. The east elevation is blank and only windows at ground floor to the west.

- 1.6 The building has a T shaped footprint. Its internal floorspace is 146m². Immediately to the rear, created by the slight change in levels, is a raised patio/terrace. The rear garden is approximately 12 metres deep and 16 metres wide.
- 1.7 This application is a revised submission to an application (ref 09/00990/F) which was submitted and withdrawn last year. That had followed on from pre application discussions at the start of 2009 when the applicant was advised, without prejudice, the Planning Authority found the basic principles of the scheme now subject of the current proposal acceptable. The main difference between the current proposal and the one with drawn is the reorientation of the house, the deletion of a freestanding garage at the front of the site, the revised location and a reduction in the degree of engineering for the access.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice, press notice and neighbour's letters. The last date for comments was 17th December 2009. A number of public, statutory and internal comments have been made which are set out below.
- 2.2 The Council has received 9 individual letters of objection from:

Lane End; Glebe Farm; Stickleys House; Whitt's End; Rye Hill Farm; Highfield; Long Barn House; South Cottage, Pond Cottage

A letter signed by some 26 local households objecting to the development has also been submitted.
- 2.3 The main objections are listed as:

Principle/Policy

- Rural area of outstanding beauty
- Conservation area
- Contravenes intention of a conservation area (2)
- Surrounded by Grade II listed buildings (3)
- Most attractive part of the village
- Precedent (3)
- (Deleterious) Affect on character of the area
- Special village, additions have generally been sympathetic
- Urbanisation/suburbanisation of the countryside
- The development is not brownfield and not urban
- History of development in the area being resisted
- A&D statement should weight PPS7 and PPS15 more
- If developed the house should be more modest and utilise the existing access via Holly Close

The Building

- Large house crammed in to inadequate plot (2)
- Too near the road
- Estate type development-detrimental to traditional appearance of lane and listed properties surrounding
- Off the shelf design
- Over dense
- Would dominate the skyline
- Conflicts PPS3/PPS1, not good design
- Holly Close only modern house in area
- More obtrusive commercial estate style house, higher than listed buildings
- Difference in levels means new building will tower over the listed buildings
- No details on type of stone proposed
- Proposal lacks detail on design and construction

Affect on Residential Property

- Overshadowing/overlooking/invasion of privacy to dwellings near site
- Effect of flooding to Glebe Farm (2)
- Loss of privacy and light (to Lane End)
- Encroach on views (to Stickleys House)
- Loss of view (of countryside) from Pond Cottage
- Compromise privacy to Pond Cottage
- Overlooking from proposed (raised) patio of Glebe Farm, and loss of light

Landscape/Visual Amenity

- Greenfield site
- Loss of view (from Lane End)
- Adverse effect on setting of pond and surrounding cottages (2)
- Holly Close designed with shallow roof and behind wall, little visual impact (20)

Traffic and Access

- Narrow road, no room for parking
- Added traffic to single track road
- Only room for 1 parking space
- Parking insufficient (3)
- Access from narrow lane
- Access should be shared with Holly Close
- Entrance too narrow, difficult to negotiate if cars parked
- Hazardous access
- Traffic congestion

- Obstruction for emergency vehicles (3)
- Dangerous manoeuvre on to lane from entrance
- Access opposite (Stickleys House), dangerous
- Increased volume of traffic
- Danger to children who play in lane (2)
- Access poorly positioned, poor visibility
- Not enough room to park and manoeuvre vehicles (if 3 cars parked)
- Cars would have to reverse along the lane
- Potential increase in parking on Main Street
- Vision splays below national guidelines
- No footpath, no street lighting, so road design guidelines should not be relaxed

Environmental Impact

- Inconsiderate/exacerbate parking around the pond (2)
- Effect from construction traffic
- Effect on grass verges (2)
- Threat to wildlife (of pond-ducks and frogs, greater crested newts) (2)
- Effect on nearby badger set

Other Issues

- Overloading utilities
- Noise/disturbance/pollution (from construction) (3)
- Destruction of part of stone wall (2)
- Relocation of electric cables intrusive (2)
- Affect on watercourses could effect foundations
- No local consultation
- No consultation with neighbour (Glebe Farm)
- No mention of watercourse from pond through Glebe Farm or the flood risk
- Design and access statement is misleading
- The close boarded fencing is inappropriate

3. Consultations

- 3.1 Sibford Gower Parish Council object:
 Welcomes changes, further discussions and new approach
 Policy EN40 NSCLP-understand and respect place and architectural language-if not, resist development
 Limited information on construction, build and appearance
 Policy C28- will not integrate into character of local area
 Note improvements to access and removal of garage but do not overcome our concerns
 Parking/turning area not adequate-County do not understand the problem
 Loss of privacy to Lane Head-contrary to policy C30

Does not make a positive contribution to conservation area, contrary to policy C28 (ACLP) and EN39 and EN40 (NSCLP)

- 3.2 The Highway Authority have no objection subject to conditions
- 3.3 The Environmental Protection Officer recommends a contaminated land condition
- 3.4 The Arboricultural Officer has no objections and advises:
There is one Apple tree and one Whitebeam situated to the rear of the proposed building. Neither of these provides a significant contribution to the local area as previous management has meant they have been maintained as small trees. A thick formal hedge is situated along the western edge of the site providing a visual screen to the adjacent house. Some of the hedge will be removed to provide access to the new site however a sufficient amount can be retained to maintain the screen.
I question how new trees can be planted within the existing hedge without causing damage to it given its dense canopy (and I would expect root system too). I suggest that the post development planting should be re-sited.
- 3.5 The County Archaeologist recommends the use of an informative if there are finds during construction.
- 3.6 The Conservation Officer comments:

The site

The site lies in a sensitive location within Sibford Ferris conservation area and close to the grade II listed Glebe Farm, Lane Head, Stickleys House and Pond Cottage. The proposal is to split the garden of the existing Holly Close, which is a modern building dating from the late 20th century, and build a new detached dwelling with garage adjacent.

The principle

My main concern is the principle of a dwelling in this location. The historic settlement pattern indicates that this area has traditionally been open to the south. The insertion of Holly Close itself is regrettable but further infill on this site would create an enclosed feeling to the lane and be detrimental to the character and appearance of the conservation area. In addition the setting of the large number of surrounding listed buildings will be damaged by the addition of this dwelling to what is already an overcrowded area.

The design, scale and layout

The design and materials of the building do make some reference to the local character and architectural styles but the overall volume and height appear overlarge for this site.

The orientation and arrangement of buildings on the site is very sub-urban with little thought given to the importance of the streetscape. The creation of a new access onto the lane will break-up the sense of enclosure created by the existing stone wall and further urbanise a characteristically rural area of the village. Setting the building back from the road is out of keeping with the settlement pattern.

The front door with adjacent small window is also a design detail more befitting a modern estate house; a quick inspect of neighbouring properties shows that within the locality the front door stands alone under a bracket-supported canopy porch.

This critically reduces the porch-width to that of the door only so that the canopy is not an over-heavy feature.

It is recommended planning permission be refused, however if minded to grant permission, relevant conditions to a new building in a conservation area should be attached:

- stone sample panel
- sample tile
- joinery details
- Brett Martin RWG
- Also access should be through Holly Close's current driveway.

4. Relevant Planning Policies

- 4.1 Planning Policy Statement 1 (PPS1): Delivering sustainable development
Planning Policy Statement 3 (PPS3): Housing
Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas
Planning Policy Guidance 13 (PPG13): Transport
Planning Policy Guidance 15 (PPG15): Planning and the Historic Environment
- 4.2 **Regional Spatial Strategy for the South East (The South East Plan) 2009**
BE5: Village Management
Policy H5: Housing Design and Density
- 4.3 **Adopted Cherwell Local Plan November 1996 (ACLP 1996)**
Policy H12, H13: Housing in rural areas/Category 1 settlements
Policy C28: Layout, design and external appearance of new development
Policy C27: Historic Settlement patterns
Policy C30: Design of new residential development
Policy C33: Retain undeveloped gaps-if needed for setting of a listed building
Policy C14: Trees and Landscaping
Policy TR5: Parking
- 4.4 **Non-Statutory Cherwell Local Plan 2011 (NSCLP 2011)**
Policy H15: Housing in rural areas/Category 2 settlements
Policy EN1: Conserve/Enhance the Environment
Policy D1: Urban Design Objectives
Policy D3: Local Distinctiveness
Policy D4: Quality of Architecture
Policy TR11: Parking
Policies EN34, EN35: Landscape Character
Policy EN36: Landscape Enhancement

5. Appraisal

- 5.1 It is the Officer's view the application raises the following main issues:

- The principle of the development
- The layout, design and appearance of the proposed house and the impact on the conservation area
- Impact on local residents and
- Access, parking and highway safety

The Principle of the Development

- 5.2 The thrust of government policy is towards sustainable development and to make best use of previously developed land which for the purposes of the current application includes domestic gardens. The main focus for housing in rural areas is in existing towns and service centres but to meet need new housing should also be provided in villages (PPS7). Policy BE5 of the South East Plan encourages new development provided the distinctive character of the village is not damaged.
- 5.3 The policy of the Council is to permit new housing in rural areas within existing settlements. (Policy H12 ACLP96) Villages are categorised as to their suitability for development and Sibford Gower is a Category 1 settlement where infilling and minor development are permissible subject to other policies of the Development Plan (Policy H13 ACLP96). In short, this means that Sibford Gower is considered to have the physical characteristics and range of services to enable them to accommodate housing growth. (It should be noted in the NSCLP 2011, policy H15, Sibford Gower becomes a category 2 settlement although this still permits infilling). Infilling is defined as the development of the gap in an otherwise continuous built up frontage suitable for one or two dwellings and, in the present case, the proposal seems to fit that description.
- 5.4 It is therefore considered that, subject to other policies, the principle of development this land for housing is acceptable

The Layout, Design and Appearance of the Proposed House and the Impact on the Conservation Area

- 5.5 The application site is in a conservation area and in close proximity to a number of listed buildings therefore extremely careful consideration has to be given to the proposal in particular the desirability of preserving the setting of the listed buildings and whether the proposal preserves or enhances the character and appearance of the conservation area. (PPG 15).
- 5.6 The proposed building has been set back into the site partly for functional reasons, to provide access and parking, but it also results in the view along the lane being preserved from the pond past Pond Cottage to Lane End. The Conservation Officer's advice is this form of development is out of keeping with the settlement pattern but if one looks at the context of the site it is difficult to agree that is an essential characteristic of the street pattern or even of the village. Properties along the lane face it and are tight to it, others are at right or oblique angles, and some are in fact set back e.g. Wyatts Close and Yew Tree House. It is the mixed and diverse nature of the layout of buildings that in fact forms one of the feature characteristics of the village. It is therefore considered the proposal conforms to policy C27 ACLP 96 and respects the historic settlement pattern.
- 5.7 If local residents wish to preserve the garden in order to protect their view and

outlook, there is also a second argument that the present openness somehow preserves the setting of the listed building (in line with policy C33 ACLP) and which has been considered by the Conservation Officer. In fact, if the building came forward tight to the front boundary this may be correct, but it does not, it is set back. And furthermore, the current value of the open space to the setting of Glebe Farm, Lane End and Stickleys House are somewhat out of proportion to the reality. There are no public views across the site. There is also a strong sense of enclosure provided by the wall and hedge fronting the lane, features which will remain unchanged in the streetscape and in their relationship to the listed buildings. It is not considered there is any conflict with policy C33 and that the proposed building respects its context.

- 5.8 The design of the building has come in for some strong criticism. In the words of the Architect "the design proposes to closely match the traditional properties with regard to material, roof pitch and fenestrations etc.... Its proportions reflect Glebe Farmhouse." Looking at it more closely, the scale of the building is not dissimilar to Glebe Farm, the internal heights have been kept to a minimum so the overall height to ridge should not be as great as the farmhouse which of course is tall enough to enjoy a second floor in the roofspace. It also apes the farmhouse's flank wall which rises up to create a parapet gable within which the roof is seated with chimneys at either end to give balance. It is also felt the steeply pitched roof is characteristic of the design we should be looking for and not the low scale, odd quirkiness of Holly Close. In fact Government advice is not to "copy their older neighbours" but that new buildings should "follow fundamental architectural principles of scale, height, massing and alignment and use appropriate materials" and it is suggested this is the case here.
- 5.9 That is not to say the detailed design is perfect, the concern about the canopy and some of the fenestration expressed by the Conservation Officer is shared and it is recommended a condition be imposed to delete these elements from the scheme. However the basic design principles are considered to be correct and if the house itself is somewhat plain that in itself, in this location, is not a bad thing. As a result it reflects back the glory of the listed buildings and their setting without detracting from them.
- 5.10 A final point to which Committee's attention is drawn is the issue of the new access and whether it somehow causes a breach to the sense of enclosure given by the wall and hedge. Firstly the gap created is only (approximately) 3 metres. How significant is that? In fact it will be limited. Secondly it is argued by some that allowing the house will create an enclosed feeling to the detriment of the character and appearance of the conservation area. There is therefore a degree of contradiction here. It is suggested the wall and hedge does give a sense of enclosure and this is not a bad thing. It is not considered the proposed house, which will be set back 12 metres behind the hedge will impinge or even heighten the sense of enclosure but have a neutral effect.
- 5.11 In conclusion it is felt the development, if permitted, will have a neutral effect overall and where "development leaves the character and appearance unharmed"... "the object of preservation has been achieved" (PPS15)

Impact on Local Residents

- 5.12 Although a large number of residents have objected to the scheme and claimed their amenities will be adversely affected by the development, in reality the properties previously mentioned in the introduction, together with Holly Close, are the ones directly affected.
- 5.13 Even though the applicant resides in Holly Close, the impact of this development on that property is still a material consideration and there is some impact due to the orientation and proximity of the two properties, and the set back of the proposed house. However, even though there will be an element of overshadowing particularly later in the day, it is not considered sufficient to justify refusing planning permission. The flank wall of the proposed house is blank so there will be no overlooking or loss of privacy.
- 5.14 Glebe Farm, bounds the application site to the west. Glebe farm is side on and angled slightly to the new house. At its closest point, corner to corner, it is only 9 metres apart. However the new house would be north and east of the Farm so sun and daylight reduction will be minimal. The only windows in the west flank elevation facing Glebe Farm are at ground floor level and serve a utility room and kitchen; there is also a living room French door opening onto the patio which at its closest point would be less than 15metres distant. The flank wall of Glebe farm is largely blank; there is a large window at high level. There are several windows in the rear elevation. It should also be mentioned there is a slight difference in levels between the two properties, the application site being slightly higher. Nevertheless, because of the distance between the two house, they are at an angle to each other, and the scope for screening on the boundary, it is concluded that the impact on Glebe Farm will not justify refusal of planning permission.
- 5.15 Stickleys House, Pond Cottage and Lane Head are on the opposite side of the lane. Lane Head is a low slung cottage at right angles to the proposed house and faces, as its name suggests, the lane. Its main windows will not be significantly overlooked, nor because of the distance will it lose daylight/sunlight. Stickleys House is a larger more imposing dwelling and directly out looked by the proposed house but at a distance of some 25 metres. This distance together with the form and layout of the existing dwelling with main windows facing the lane rather than the proposed house, it is not considered the new development will adversely affect the amenities of occupants of the dwelling. Pond Cottage looks towards the pond but has two windows in the gable facing the application site. However the distance between the existing and proposed dwellings is in excess of 25 metres and the impact not considered to be unacceptable.
- 5.16 All these properties in some form complain they will lose their outlook and to some degree each will be affected but, as Committee will be aware, loss of view is not considered a material reason to refuse planning permission. It is also accepted there may be other effects on these and other properties near-by but none are of such consequence to justify refusing planning permission.

Access, Parking and Highway Safety

- 5.17 A reason for the previous scheme being withdrawn was due to problems about parking and the access to it. The Highway Authority is now satisfied that the

proposed arrangement is satisfactory and will not be detrimental to highway safety. Although the lane to which access is proposed is narrow and with no footpaths, it is a no through road and the level of traffic generated by the number of properties using it is low. Furthermore, it has now been possible to create a visibility splay through the setting back of the stone wall in front of Holly Close; the original house maintains its access and parking area. On site a turning area is shown to enable cars to enter and leave the site in forward gear.

- 5.18 For a house of the size proposed 2 parking spaces are normally required and the area of proposed hard surfacing is capable of providing at least two spaces and maintaining the turning area. One other issue associated with this amount of hard surfacing is a requirement to ensure it is properly, sustainably, drained.

Other Issues:

Amenity Space (for the Proposed and Existing House):

- 5.19 It is required (Policy C30 ACLP96) that an acceptable standard of amenity and privacy is provided for new, or converted, houses. The existing house will retain and enjoy a private garden of some 50 by 30 metres. The new house is approximately 12 metres deep and 15 metres wide which in itself is considered acceptable and certainly not cramming as suggested by some residents, in fact the setting of the proposed house is considered to be quite spacious. There is one issue however that needs to be taken into account, and that is, ironically, the rear garden will not enjoy a high degree of privacy, being overlooked to an extent by the rear dormer and windows of Glebe Farm. Is this in itself a reason to refuse planning permission? Certainly the degree of overlooking can be mitigated by planting, and it is recommended that a landscaping condition be imposed in which a tree is strategically positioned to shield the garden of the proposed house. This does mean the telegraph pole in the garden may also need to be relocated but, on balance, taking all these issues into account, and bearing in mind any future occupier will be able to assess and judge for themselves whether the degree of overlooking is so bad, and that it is not of habitable rooms only garden, the level of privacy affected does not appear to justify refusal of permission.

Lack of Information

- 5.20 Some concern has been expressed that details have not been provided on construction, facing materials, etc. In fact Building Regulations will deal with the former point and with regard to facing materials and the finished appearance of the building, it is normal practice to impose appropriate conditions requiring samples to be submitted to ensure the development enhances the conservation area. One other point to make at this stage is with regard to water and the alleged movement of it across the site. In this case the applicant would need to engage an engineer if there was thought to be ground condition problems and to ensure water run off was satisfactorily disposed of and not just diverted to adjacent properties.

Wildlife/ Effect on the Pond

- 5.21 The distance to the pond from the proposed house is some 60 metres and in reality the effect of this development upon it will be limited as it will on any other flora or

fauna in the area. It is alleged there is other wildlife in the vicinity but it is not considered the present site provides a haven, refuge or shelter for them.

Precedent

- 5.22 It has been suggested that to allow this will somehow open the floodgates for similar development in the locale. In fact it is difficult to think of any site in the vicinity where such a development could be proposed but even if there were one, like this application, it will have to be taken on its merits. In this case the Officers have weighed the merits and considered potential harm based on this scheme at this site.

Landscaping

- 5.23 The indicative planting seems to be inappropriately designed and needs to be further enhanced. This can be controlled by appropriate condition.

Conclusion

- 5.24 The proposed development follows the thrust of government policy to make best use of previously developed sites and conforms to the broad range of policies applicable from the Development Plan. It handles sensitively the erection of a new building in close proximity to a group of historic listed buildings and preserves their setting. It does not adversely affect neighbouring properties nor does it cause demonstrable harm or significantly impinge on the character or appearance of the village or Conservation Area but, in any case, conditions can be used to minimise any such impact. It is therefore recommended planning permission be granted subject to the conditions laid out below.

6. Recommendation

Grant planning permission subject to the following conditions:

1. 1.4A
2. **Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: 0780/02E; 0780/03B**
Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy BE1 of the South East Plan 2009.
3. **This permission shall specifically exclude the details of the canopy and hall window shown on plan(s) No 0780/03B. Revised details of the canopy shall be submitted to, and approved in writing by, the Local Planning Authority before the start of work on site and only the revised details shall be implemented. REASON: To enable the Local Planning Authority to give further consideration to these details and in the interest of design and to ensure a satisfactory appearance to the building in accordance with policy C28 of the adopted Cherwell Local Plan.**
4. 2.0A

5. 2.3AA-house
6. 2.2BB
7. 5.18A
8. 5.14A-house
9. 4.13CD
10. 4.0AB-as plan. ...occupation ...house
11. 4.5AA-measuring-as plan 0780/02E
12. No development will commence until a sustainable drainage scheme is implemented in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. Reason: To prevent the increased risk of surface water flooding and improve water quality and in the interests of sustainability in accordance with policy EN15 of the non statutory Cherwell Local Plan.
13. 3.0A
14. 3.1A
15. 3.7BB

Informatives:

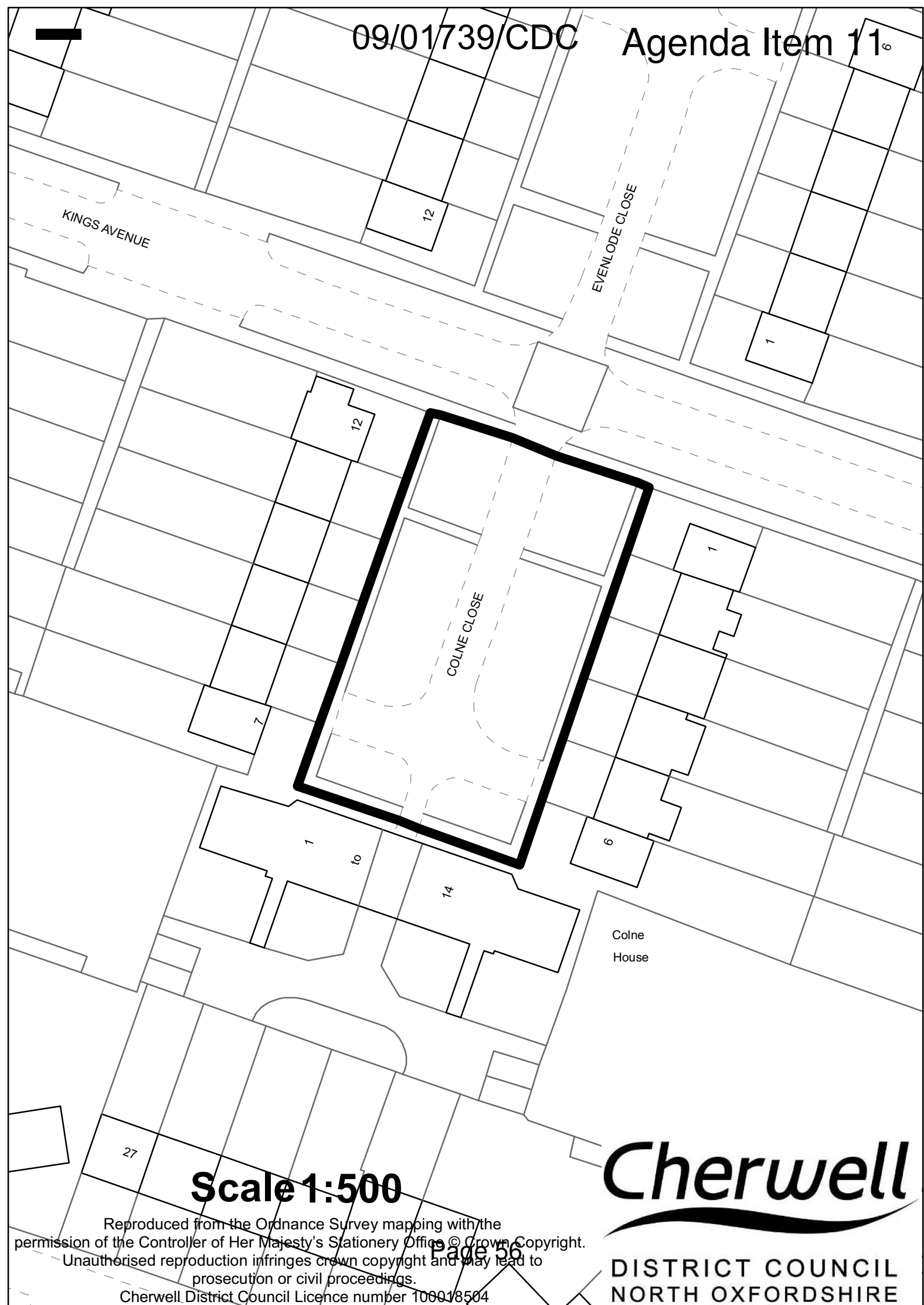
1. O1

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 does not harm the visual amenity of the area, preserves the setting of the nearby listed buildings, and preserves the character and appearance of the conservation area. Furthermore, it has no undue adverse impact upon the residential amenities of neighbouring properties or highway safety. As such the proposal is in accordance with Planning Policy Statement 1 (PPS1): Delivering Sustainable Development, Planning Policy Statement 3 (PPS3): Housing, Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas, and PPG15: Planning and the Historic Environment, Policies BE5 and H5 of The South East Plan and Policies H12, H13, C27, C28, C30 and C33 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.

CONTACT OFFICER: Andrew Lewis

TELEPHONE NO: 01295 221813



Scale 1:500

Cherwell

**DISTRICT COUNCIL
NORTH OXFORDSHIRE**

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Winterbourne

Evenlode

House

Garage

Bicester
Hospital

Spring

Scale 1:1,600

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Cherwell

**DISTRICT COUNCIL
NORTH OXFORDSHIRE**

Application 09/01739/CDC	No:	Ward: Bicester Town	Date Valid: 02/12/09
Applicant:	Cherwell District Council		
Site Address:	Land at Colne Close, Bicester		

Proposal: Creation of 22 parking spaces on existing grass area

1. Site Description and Proposal

- 1.1 Originally granted planning permission in the mid 1950's, Colne Close is one of six Closes facing onto a central area, perpendicular to Kings Avenue. These central areas are currently grassed, with a turning head and limited paved areas to the end. There is no existing parking provision.
- 1.2 Proposal is for 22 parking spaces, surfaced with permeable block paving, to be created on the existing grassed area in the courtyard area to the front of the properties.
- 1.3 Similar schemes have been carried out to the North West of the site, approved under 06/01705/CDC.

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 is 15 January 2010.
- 2.2 One letter was received in support of the application. This contributor also raised concerns over the trees on the site. These comments are addressed below.

3. Consultations

- 3.1 Bicester Town Council – no objections, but request that a permeable surface be used
- 3.2 Local Highways Liaison Officer – no objections, subject to conditions
- 3.3 Thames Water – no objections

4. Relevant Planning Policies

- 4.1 PPG 13 – Transport
- 4.2 Policy BE1 of the South East Plan 2009
- 4.3 Policy C28 of the adopted Cherwell Local Plan 1996
- 4.4 Policy TR5 of the Non Statutory Cherwell Local Plan 2009

5. Appraisal

- 5.1 The application is before the Committee as the Council owns the land and is making the application. It was originally to be determined at the (cancelled) meeting on 07 January.
- 5.2 At present, the grassed area within Colne Close is regularly used for the parking of cars; with vehicles driving over the kerbs and along the grass to park clear of the highway. There is significant evidence of this on site, with rutted grass and mud.
- 5.3 The proposal will provide a properly surfaced and accessible parking area and it is considered that this will improve the visual appearance of the area as well as the parking situation. The parking area is proposed in permeable block paving.
- 5.4 The trees at the end of Colne Close are recognised as an important feature of this area; their retention is shown on the drawings and further required by a suggested condition.
- 5.5 There are no highway safety issues arising from the proposal, and it is considered that the creation of the spaces will improve the situation on Colne Close, in line with the relevant policy requirements.
- 5.6 The County Council Highways Liaison Officer is satisfied with this assessment and position.

6. Recommendation

That the application be approved, subject to conditions

- 1) SC 1.4A (Time – 3 years)
- 2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the Drawing 'E4615-2' and the details outlined in the Design and Access statement, submitted with the application dated 29/09/09.
Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy BE1 of the South East Plan 2009.
- 3) SC 4.13CD (Parking and manoeuvring area as plan, specification to be submitted and approved)
- 4) SC 4.0AB insert "first use" and "parking area" (Access to be constructed in accordance with the specification to be attached.
- 5) SC 3.13 (Retain trees) – remove reference to 'effective screen' from reason

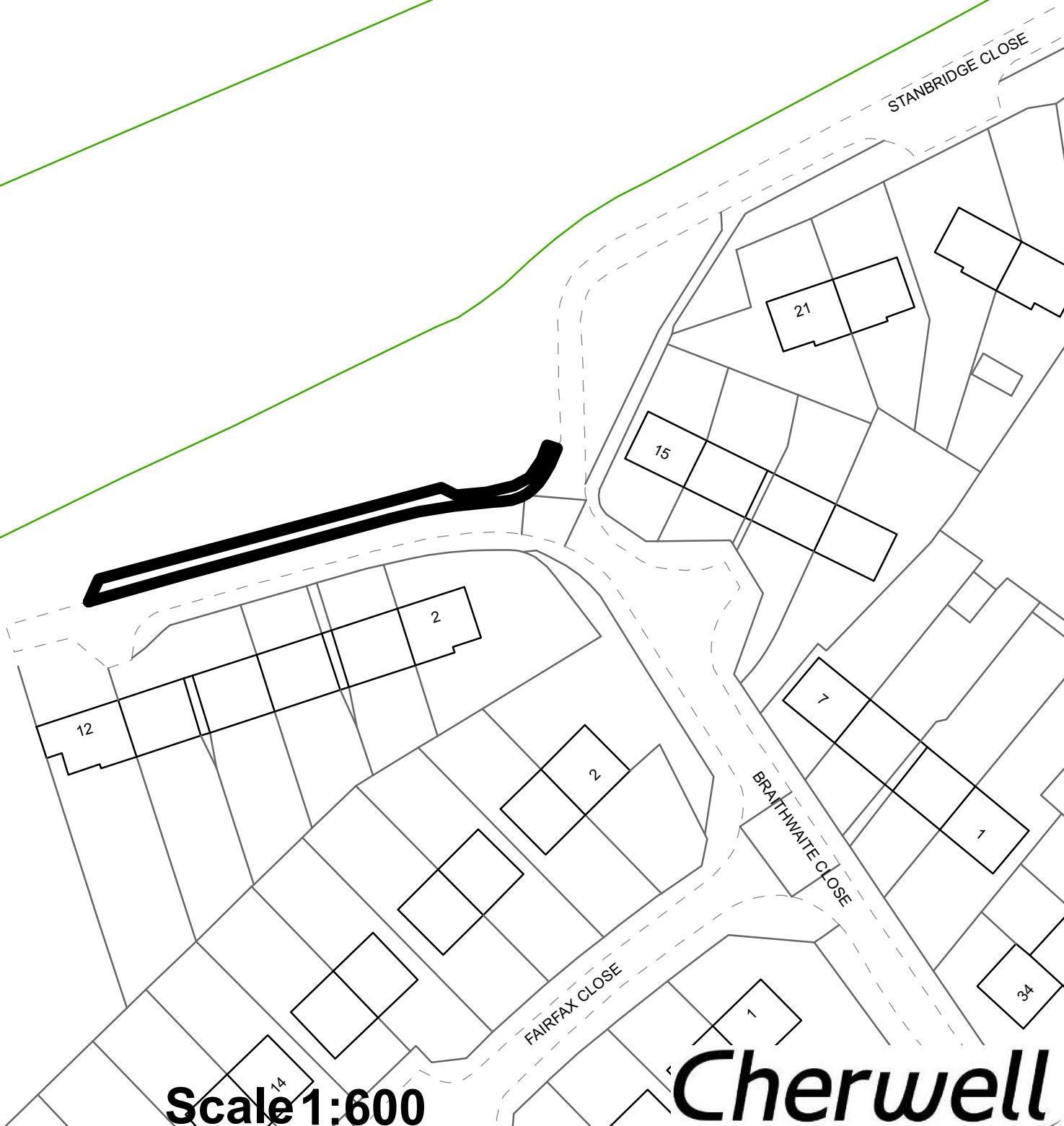
SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

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 proposed work is appropriate and will not unduly impact on neighbouring

properties, the character of the context of the development or highway safety. As such the proposal is in accordance with government guidance contained within PPG13 – Transport, Policy BE1 of the South East Plan, Policy C28 of the adopted Cherwell Local Plan 1996 and Policy TR5 of the Non Statutory Cherwell Local Plan 2011. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Simon Dean

TELEPHONE NO: 01295 221814



Scale 1:600

Cherwell

**DISTRICT COUNCIL
NORTH OXFORDSHIRE**

09/01740/CDC

Play Area

STANBRIDGE CLOSE

BRAITHWAITE CLOSE

FAIRFAX CLOSE

LENNOX GARDENS

Scale 1:1,250

Page 62

Cherwell

**DISTRICT COUNCIL
NORTH OXFORDSHIRE**

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Application No:09/01740/CDC	Ward: Banbury Ruscote	Date Valid: 14 December 2009
Applicant:	Cherwell District Council	
Site Address:	Verge To Front Of 2 to 12 Braithwaite Close Banbury, Oxfordshire, OX16 0WN	

Proposal: Creation of 6 parking spaces on existing grass area

1. Site Description and Proposal

- 1.1 Braithwaite Close is situated within a residential area of Banbury which is characterised by semi-detached, two storey brick properties. Nos. 2 to 12 Braithwaite Close face onto a large park area which serves the surrounding residential area.
- 1.2 The proposal is for 6 parking spaces, surfaced with permeable block paving, to be created on a section of the grass immediately adjacent to the road.

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 14 January 2010.
- 2.2 No letters of representation have been received as a result of this notification.

3. Consultations

- 3.1 Banbury Town Council – Comments Awaited
- 3.2 Oxfordshire County Council Highways – no objections, subject to a condition

4. Relevant Planning Policies

- 4.1 PPG13: Transport
- 4.2 South East Plan Policies: BE1 and T4
- 4.3 Adopted Cherwell Local Plan 1996 Saved Policy: C28

5. Appraisal

- 5.1 The proposal stands to be assessed mainly against issues relating to visual amenity and highway safety.
- 5.2 At present, the grassed area directly adjacent to Braithwaite Close is regularly used for the parking of cars. It is clear that local residents use this area for parking and there is significant evidence of this on site, with rutted grass and mud.

- 5.3 With regard to the impact of the proposal upon visual amenity, the proposed parking areas would comprise a very small percentage of the amenity area. There is evidence that residents frequently use the grassed area for the parking of vehicles, therefore it is not considered that the parking of a row vehicles adjacent to the road (once the hardstanding has been laid) would be detrimental to visual amenity. Furthermore the extent of the loss of amenity area would be minimal; the park area is of a substantial size and this minor encroachment will not have a detrimental impact on its use. It is considered that the proposal will be an environmental enhancement.
- 5.4 The proposal will provide a properly surfaced and accessible parking area which will improve the current unsightly parking problem. Permeable concrete blocks to cover the parking areas are proposed, which will provide a sustainable drainage system.
- 5.5 There are no highway safety issues arising from the proposal, and it is considered that the creation of the spaces will improve the situation on Braithwaite Close. The proposal is as a result of parking issues in this area and consequently designated parking area will resolve this problem for the residents.
- 5.6 Given the above assessment, it is considered that the proposal would not cause undue harm to visual amenity or highway safety. The proposal complies with the relevant development plan policies.
- 5.7 The application is brought before Members of the Committee due to the fact that Cherwell District Council is the applicant.

6. Recommendation

Approval; subject to conditions

1. **S.C.1.4A (RC2) [Time]**
2. **S.C 4. 13CD (Parking and manoeuvring area as plan, specification to be submitted and approved)**
3. **Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans: Drawing 'E4613' and the details outlined in the Design and Access statement, submitted with the application dated 14/12/09. Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy BE1 of the South East Plan 2009.**

Planning Note(s)

1. **The applicant is advised that they may be required to enter into a Section 38 Agreement with the County Council in relation to the adoption of the parking spaces within the highway.**

**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 proposed work is of an appropriate scale and will not unduly impact on amenities of neighbouring properties, the character of the locality or highway safety. As such the proposal is in accordance with government guidance contained within PPG13 – Transport, Policy BE1 of the South East Plan, Policy C28 of the adopted Cherwell Local Plan 1996 and Policy TR5 of the Non Statutory Cherwell Local Plan 2011. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Rebekah Morgan

TELEPHONE NO: 01295 221822

Planning Committee

Request for a variation of the S106 Agreement relating to the proposed development at South West Bicester – Application 06/00967/OUT

28 January 2010

Report of Head of Development Control and Major Developments

PURPOSE OF REPORT

To enable Members to consider a request to vary the S106 Agreement in relation to the development at South West Bicester and determine whether or not to accept the variation of the Agreement.

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To agree the variation of the S106 Agreement in accordance with the attached schedule of Heads of Terms.

Executive Summary

Introduction

- 1.1 The planning application for the development of South West Bicester for '*Outline - Up to 1585 no. dwellings; health village to include health and employment uses and elderly persons nursing home; B1 and B2 employment uses; local centre comprising of shops, a pub/restaurant, children's day nursery, offices and a community centre; 2 no. primary schools and 1 no. secondary school; a hotel; a sports pavilion; formal and informal open space; a link road between A41 and Middleton Stoney Road/Howes Lane junction; associated new roads, junctions, parking, infrastructure, earthworks and new accesses to agricultural land (as amended by plans and documents received 24.10.06)*' was granted planning permission in June 2008. The application was

accompanied by a S106 Agreement which was completed on the 27 June 2008.

- 1.2 The Agreement accompanying the application was entered into by the site owners, the District Council and the County Council and provided for the provision of infrastructure and facilities necessary to serve the development proposed. The provisions of the existing agreement, the subject of this report, come into effect on the commencement of the development.
- 1.3 In April 2009 a report and a proposal were received from Countryside Properties setting out issues with regard to the viability of the proposed development and seeking a variation of the S106 Agreement that had been entered into in June 2008. A revised proposal for the variation of the agreement was received in September 2009. These proposals are considered further below.

Proposals

- 1.4 The approach to the Council by Countryside Properties in April 2009 provided the following summary of the current position;
- 1.5 *'Countryside Properties (Bicester) Ltd's objective is to commence development of Whitelands Farm at Bicester at the earliest opportunity. Since obtaining planning permission in June 2008, there has been a dramatic change in the economic environment, triggered by recession. The fall in the housing market has had a significantly detrimental effect on the commercial viability of development schemes such as at Whitelands Farm.'*
- 1.6 The approach was accompanied by an open book financial appraisal of the development (which is confidential as it is commercially sensitive). The appraisal concluded that; *'The current scheme shows a significant deficit derived from the current appraisal rendering the scheme unviable. This has resulted in the scheme commencement being delayed from the anticipated start date of March 2009. It is unlikely that Countryside Properties (Bicester) will be willing to commence development until there has been a substantial market recovery or a relaxation of some planning obligations.'*
- 1.7 To make the scheme viable and enable an early start on site Countryside Properties proposed the modification of the S106 agreement by *'re-basing the indexation provisions, deferring the Sports Village and Education contribution triggers, adjusting the A41 roundabout trigger and bringing forward the Perimeter Road trigger, in addition to reducing the allocation of affordable housing to 2.5% across the whole site the scheme can be made viable to avoid further delays in the programmed commencement,'*

- 1.8 This approach raised a number of issues for the Council including; the reliability of the financial appraisal, the importance of South West Bicester to housing delivery and affordable housing delivery, the importance of the delivery of the proposed infrastructure and facilities and the timing of them, alternatives to enable development to commence on the site. These are considered further as part of the background information to the report below.
- 1.9 The initial proposed modification was not considered acceptable due to the very limited amount of affordable housing that would be provided and the absence of any mechanism to make up the shortfall in affordable housing should the market improve over the life of the development.
- 1.10 Revised Proposal
- 1.11 In September 2009 a revised proposal was received from Countryside Properties for the variation of the S106 Agreement. This suggested the following;
- 1.12 *On an initial phase of 212 units 10% would be affordable. This 10% (21 units) would be provided on land transferred to the Council or its nominated RSL for £1 plus vat. The remaining 20% affordable housing (42 units) would be carried over to the rest of the development which would have 33% affordable housing to deliver a total of 30% across the scheme as a whole.*
- 1.13 *The perimeter road to be brought forward to a trigger point of 500 occupations as opposed to the current 650 trigger point.*
- 1.14 *All other S106 financial contribution triggers delayed by 150 units (excludes monitoring fees and payment of commuted sums)*
- 1.15 *The indexation date for the payments changed to January 2010.*
- 1.16 *A minor variation to the drafting of the agreement to enable the location and mix of affordable housing to be dealt with on a parcel by parcel basis rather than on a phase basis as at present.*
- 1.17 A schedule of the Heads of Terms of the original agreement and proposed changes is attached at Appendix A.
- 1.18 This proposal has been the subject of consultation with the County Council, Head of Housing and the Recreation and Health Improvement Manager and their views are considered below.
- 1.19 The County Council have indicated that generally they accept the deferral of the payment of financial contributions by 150 units although towards the end of the development (when it is anticipated viability will have improved) payments to return to the original schedule, that indexation re-basing as proposed is acceptable, that the deferral of the provision of the A41 roundabout and the first part of the perimeter road

to 150 occupations and the bringing forward of the completion of the perimeter road (from 650 dwellings to 500) are acceptable. Agreement has also been reached to be able to make contributions across the breadth of infrastructure required for the site, a longstop date being provided for the completion of the perimeter road (completion within 12 months of the construction of the 425 dwelling or 500 dwellings whichever is the sooner) and the ability to accept an offer of the transfer of the Park & Ride site within 3 months of the completion of the A41 roundabout (rather than 3 months of completion of the peripheral road as in existing agreement).

- 1.20 The Head of Housing has considered the proposal. The land offered for 100% affordable housing is considered constrained and a bit remote from the rest of the development but this is off set by being close to existing amenities in the town itself. However it is considered that the site would be very good for extra care housing but this would delay the provision of general needs housing for Bicester. There are a number of other sites that could deliver general needs affordable housing in the same time scale.

- 1.21 There is a need for housing delivery which the development at South West Bicester could make a valuable contribution towards. However it is highly likely that unless there is a dramatic improvement in the housing market in 2010/11 that the site will not come forward without some assistance through the modification of the S106 Agreement. If the S106 is modified as outlined above Countryside will undertake to commence work on site within 6 months of the first reserved matters approval. The Council has currently received 7 reserved matter applications for the site for highway infrastructure and first phase of residential development on the site.

- 1.22 The provision of affordable housing and the delivery of mixed tenure communities are key aims of the planning system. However the current proposal would maintain the over all number of affordable dwellings, all be it that there would be slower delivery of the affordable dwellings than originally planned, and two parcels would not be mixed tenure. Whilst this is not the Council's preferred approach it is considered preferable to the overall reduction in the number of affordable units or the potential continuing delay in bringing the site forward.

- 1.23 The impact of the proposed delay in the payment of financial contributions and re indexation are considered to be manageable although this may have some impact on the timing of delivery of facilities and infrastructure.

- 1.24 The bringing forward of the delivery of the perimeter road is welcomed. The completion of the peripheral road at the earliest opportunity would benefit not only this development but also other development and proposals in the town.

- 1.25 The variation in the agreement to enable affordable housing

requirements to be dealt with on a parcel basis are considered an amendment to the agreement that will assist in the practical delivery of the affordable housing throughout the site.

Conclusion

- 1.26 Whilst it is regrettable to have to consider the amendment of a recently completed agreement the housing market has been hit hard by the recent recession. The proposed scheme at South West Bicester has been shown not to be viable in the current market under the existing agreement. Despite the current economic climate there remains a need for housing to be delivered and the development at South West Bicester could make a valuable contribution to this.
- 1.27 The proposed changes to the S106 agreement maintain the overall level of affordable housing, infrastructure and facilities previously agreed. The main impact is on the timing of delivery of the financial contributions which is likely to have knock on impacts on the timing of some infrastructure. The other impact is on the absence of mixed tenure development in two early parcels of development (the first 212 market and 21 affordable dwellings) but this could through the transfer of land to CDC enable an extra care scheme to be considered that would not otherwise be accommodated on site.
- 1.28 On balance it is therefore considered that the proposal to vary the S106 agreement is acceptable and is therefore recommended for approval as outlined above.

Background Information

- 2.1 S106A of the Town & Country Planning Act 1990 (as amended) allows for S106 Agreements to be modified by agreement between the authority by whom they are enforceable and the persons against whom the obligation is enforceable. S106B allows for applications to be made for modification and allows for a right of appeal but such requests can not be made within 5 years of a S106 agreement being entered into. The modification of the current agreement can therefore only be done by agreement between the parties at the present time.
- 2.2 The proposed variation to the S106 Agreement at South West Bicester raises a number of issues which are considered further below;
- 2.3 Housing Delivery
- 2.4 If the modification of the S106 Agreement is not accepted it is likely to delay the implementation of development at South West Bicester and therefore it is necessary to consider what if any impact this would have

on housing delivery.

- 2.5 The delivery of housing within the District is monitored against requirements in the South East Plan and for the maintenance of a five year supply of deliverable housing sites required by PPS3. The Annual Monitoring Report (AMR) for housing delivery in 2009 was considered by the Council's Executive in November 2009 and concluded;
- Housing completions for 08/09 were 426 and are expected to remain low in 09/10 and 10/11 as economic recovery occurs and before completions are recorded on new strategic, and other major, housing sites;
 - The district has 4.0 years supply of deliverable housing land over the period 2009-2014 rising to 4.5 years from 2010 to 2015;
 - Net affordable housing completions in 08/09 were 87, compared to the minimum average annual target of 100 dwellings set by the Housing Strategy. Gross completions (i.e. including acquisitions and not allowing for losses) were 122. The total net supply since 2001 is now 816, an average of 102 per annum;
- 2.6 The AMR assumes housing delivery from the South West Bicester site commencing 2010/11. The AMR has highlighted the potential difficulties that the District is facing with regard to housing delivery. The delay in strategic sites coming forward, such as South West Bicester, will cause further difficulties with housing delivery. The delay in housing delivery also impacts on the delivery of affordable housing as a significant number of new affordable homes have been delivered through S106 agreements in connection with new housing development. Although affordable housing delivery has to date been maintained on target it is likely to become increasingly difficult if overall housing delivery does not improve.
- 2.7 If the delivery of the development at South West Bicester does not commence in 2010 it may be necessary to consider the release of other sites to maintain housing delivery.
- 2.8 Delivery of Infrastructure and Facilities
- 2.9 This Council has always sought to negotiate S106 Agreements in accordance with the advice in Circular 05/05 that states that agreements must be; relevant to planning, necessary to make the proposed development acceptable in planning terms, directly related to the proposed development and reasonable in all other respects. Therefore there are no items secured within the current agreement that could be removed without having a serious consequence on the future development and in many cases the town as well.
- 2.10 Reliability of the financial appraisal
- 2.11 Development finance is a specialist area and given the importance of ensuring that the appraisal provided was accurate and reflected the

true picture regarding the viability of the development, consultants (Divers Jonas) were appointed to review the appraisal. They concluded that although there were some discrepancies within the appraisal that *'viability is likely to be an issue in the current market'*.

- 2.12 A number of the discrepancies identified within the appraisal have been resolved but on the treatment of some issues within the appraisal such as land value it has not been possible to reach an agreed position. However your officers are satisfied that the appraisal does demonstrate the difficulty with the viability of the scheme and the work on reviewing the appraisal has led to a revised offer by Countryside Properties which is set out above. The Council's consultants concluded that the revised proposal *'appears to be a considerable concession on Countryside's part and we believe Countryside have put forward a reasonable proposal'* subject to the number of units and revision to the S106 triggers being acceptable to the Councils.
- 2.13 Alternative Approaches to Enable Development to Commence
- 2.14 A number of approaches have been explored to assist the viability of the proposed development. Given the current difficult conditions for house building the government announced the availability of Kick Start funding to assist stalled housing schemes. Two rounds of funding have been available to date and each time Countryside Properties have bid for funding, with support of the RSL's, District and County Council. Regrettably neither bid has been successful.
- 2.15 Potential alterations to the scheme have also been considered including increasing density, the use of a second primary school site (not required for educational purposes) for housing and the impact of a future LDF allocation of adjacent land. All these alterations would require a new planning application to be made. The consideration of a larger site could be premature prior to the LDF core strategy progressing to adoption. An increase in density would require a substantially revised application and design code for the site which would take considerable time to put together and deal with. It has been indicated that Countryside Properties will pursue an application for housing on the second primary school site and that this will accommodate approximately 46 additional dwellings. Countryside Properties advise that including the school site in the value will not on its own generate sufficient value to avoid the need to consider the variation of the S106 agreement.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The importance of facilitating the site at South West Bicester coming forward for development in 2010.
- 3.2 The acceptability of the proposed modification of the S106 Agreement, particularly for Cherwell with regard to the redistribution of affordable housing on the site.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One	Refuse the modification of the S106 which is likely to delay the start of development and could lead to a further application being submitted to enable an appeal with regard to planning obligation requirements.
Option Two	Approve the modification of the S106 Agreement to enable work to commence of the development.
Option Three	Seek to negotiate different modifications to the S106 Agreement to enable development to commence.

Consultations

Oxfordshire County Council	Generally the County Council can accept the deferral of the payment of financial contributions by 150 units although towards the end of the development (when it is anticipated viability will have improved) payments to return to the original schedule, that indexation re-dating as proposed is acceptable, that the deferral of the A41 roundabout and the first part of the perimeter road to 150 occupations. The above are subject to agreement to be able to vire contributions across the breadth of infrastructure required for the site and a longstop date being provided for the earlier completion of the perimeter road.
Head of Housing	The land offered for 100% affordable housing is considered constrained and a bit remote from the rest of the development but this is off set by being close to existing amenities. However it is considered that the site would be very good for extra care housing but this would delay the provision of general needs housing for Bicester. There are a number of other sites that could deliver general needs affordable housing in the same time scale.

Recreation & Health Improvement Manager	In light of the revised proposals the SW Bicester Sports Village Project Board will have to re-consider the timetable for the construction of the sports facilities. Access to the area designated for the sports village will be dependant on the construction of the road network for the development which gives some uncertainty to when work can commence on the sports pitches. Therefore, a longstop date for the provision of access and services to the sports village area would allow the Project Board to programme the procurement of a contractor and secure the additional external funding required.
Head of Building Control & Engineering Services	No objection
Arts and Visitor Services Manager	No objection
Landscape Services Manager	No comments received.

Implications

Financial:	<p>There will be some reduction in commuted sum figures through re indexation from January 2010 and some financial contribution payments will be made later than previously agreed. However neither of these implications are considered to have a significant impact on the delivery of infrastructure or facilities.</p> <p>Comments checked by Eric Meadows, Service Accountant 01295 221552</p>
Legal:	<p>Formal modification of the S106 Agreement will be necessary to give effect to the variations proposed which in turn will enable the development to go ahead. The legal costs of such a modification would be met by the developer.</p> <p>Comments checked by Pam Wilkinson, Principal Solicitor 01295 221688</p>
Risk Management:	<p>There are no risks arising from this report other than those in relation to the development taking place outlined in the report.</p> <p>Comments checked by Rosemary Watts, Risk Management & Insurance Officer 01295 221566</p>

Wards Affected

Ambrosden & Chesterton

Document Information

Appendix No	Title
Appendix 1	Schedule of Heads of Terms and proposed modification
Background Papers	
Planning Application 06/00967/OUT Planning Obligation dated 27 June 2008	
Report Author	Jenny Barker, Team Leader Development Control & Major Developments
Contact Information	01295 221828 jenny.barker@Cherwell-dc.gov.uk

SW Bicester Heads of Terms

	2008 Agreement		Proposed Variation
			Commencement of development within 6 months of the granting of the first reserved matter.
1	30% Affordable Housing	CDC	
	<p>Selected RSLs Bromford & Paradigm (50/50 split between both)</p> <ul style="list-style-type: none"> • 70% social rented • 20% shared ownership • 10% intermediate rent • 50% lifetime homes • 2% mobility units • House Type Mix (agreed) • Cascade (to be in S106) • Phased delivery throughout the site in clusters of no more than 10 social rented units or 15 with no more than 10 being social rented. 		<p>1st phase (212 units) 10% affordable housing (21 units) to be provided through the transfer of land to CDC.</p> <p>33% affordable housing over the rest of scheme.</p> <p>Delivery phased on a parcel basis but cluster sizes and other requirements to remain as previously stated.</p>
2	Provide 17.29 hectares of land for formal sports	CDC	
	<ul style="list-style-type: none"> • Provide 17.29 ha of land • Provide construction access to the pitch site within 12 months of commencement of development • Contribution to pitches to serve the development of £540,800 • Commuted sum for maintenance of pitches to serve the development of £491,090 plus 		<p>Contribution to pitches and pavilion to serve the development paid on occupation of 250 dwellings or within 12 months of the transfer of the land which ever is the sooner.</p> <p>Commuted sum to be paid on transfer of the pitches as existing agreement.</p>

	<p>additional sum if required for transfer of the pitches to the secondary school.</p> <ul style="list-style-type: none"> • Contribution to pavilion £780,000 • Provide for a maximum of 3.08 ha (from the 17.29 ha) to be sold or leased to the County Council, with a joint use agreement for continued public use, on letting of a contract for the construction of the secondary school • Indexation BCIS all in tender price index 		Indexation base date Jan 2010
3	Contribution to sports centres	CDC	
	<ul style="list-style-type: none"> • Contribution to indoor sport provision £385,000 • Payment in two equal portions on the occupation of 200 and 500 dwellings • Indexation BCIS all in tender price index 		<p>Payment in 2 equal portions on the occupation of 350 and 650 dwellings</p> <p>Indexation base date Jan 2010</p>
4	Local Centre	CDC	
	<ul style="list-style-type: none"> • Identify site for local centre and retail, community, public house/restaurant, children's nursery and employment use • Market retail floor space in accordance with a marketing strategy • Provide shared use public car parking in accordance with an agreed scheme 		No change
5	Community centre	CDC	
	<ul style="list-style-type: none"> • Design and detailed works specification and programme for construction to be agreed prior to 300 dwellings • Provide the community centre in 		

	<p>accordance with the agreed details prior to the occupation of 500 dwellings.</p> <ul style="list-style-type: none"> • Commuted sum for maintenance £45,938 • Indexation BCIS all in tender price index 		Indexation base date Jan 2010
6	Funding for a Community Development Officer	CDC	
	<p>Funding for part time post for 3 years in accordance with brief equating to £32,433 (4th quarter 05 cost). Payment to be provided 12 months prior to the community hall being completed.</p> <p>Indexation 2% above bankers base rate</p>		Indexation base date Jan 2010
7	Provide land for hotel development	CDC	
	Market the site of 1ha for hotel development in accordance with a marketing strategy. Site to be kept available until the 1000 dwellings have been completed.		No change
8	Safeguard land for a community hospital and GP Surgery	CDC	
	Identify a site for a community hospital and for a GP Surgery and make available the land to the NHS or PCT for these purposes for a period of no less than 5 years from commencement of development for the hospital and 3 years for the GP Surgery.		No change
9	Provide the land in the Health Village for health use and a nursing home	CDC	
	Market the land available for health uses or		No change

	elderly persons nursing home in accordance with an agreed marketing strategy until 1000 dwellings have been completed.		
10	Provide land for employment generating development	CDC	
	Market the site for employment generating development in accordance with an agreed marketing strategy until 1500 dwellings completed.		No change
11	Ecological mitigation & monitoring	CDC/OCC	
	<ul style="list-style-type: none"> • Provide a management, mitigation and habitat creation plan of ecological mitigation, habitat creation and management identified in ES (ecological plan) • Appoint and fund an ecologist to monitor the ecology, mitigation and habitat creation measures on the site from commencement of development to two years post completion of the development • Ecologist to provide monitoring reports on at least a 6 monthly basis • Ecologist to provide advice on amendments to the management plan, on at least a six monthly basis, based on the outcomes of monitoring and mitigation carried out. 		No change
12	Informal Open Space	CDC	
	<ul style="list-style-type: none"> • Layout the informal open space 		

	<p>commensurate with adjacent phases of development.</p> <ul style="list-style-type: none"> • Complete the laying out of the informal open space alongside the Pingle Brook and on the Southern edge of the development prior to 500 dwellings being occupied if not already provided • Maintain areas for 12 months • Transfer the open space to CDC with the appropriate commuted sum (based on 15 years maintenance). • Indexation on commuted sum 2% above bankers base rate 		Indexation base date Jan 2010
13	General amenity and play areas	CDC	
	<ul style="list-style-type: none"> • Provide NEAP & LEAPs and LAPs in agreed locations • Layout and provide areas in accordance with SPG and prior to occupation of any adjacent dwelling. • Maintain areas for 12 months • Transfer areas with commuted sum (based on 15 years maintenance) based on agreed rates • Indexation on commuted sum 2% above bankers base rate 		Indexation base date Jan 2010
14	Public Art	CDC	
	<ul style="list-style-type: none"> • Provide £175,425 to fund and maintain art works • Commission works in association with 		Transfer public art contribution to CDC if art works have not been provided in accordance with the public art strategy by 1150 th dwelling

	CDC and public art strategy <ul style="list-style-type: none"> • Transfer works to CDC with appropriate commuted sum • Indexation on commuted sum 2% above bankers base rate 		Indexation base date Jan 2010
15	Incorporate energy efficient designs and technology throughout the development	CDC	
	<ul style="list-style-type: none"> • That no more than 40% dwellings meet at least BREEAM EcoHomes good ratings and all other properties to meet very good rating. • That non residential buildings to meet BREEAM EcoHomes 40% of floor space meets good rating and 60% very good rating. 		No change
16	Refuse Bins and recycling banks	CDC	
	<ul style="list-style-type: none"> • £60 per dwelling, £40 per apartment payable on occupation • agreed site for recycling banks to be provided in the local centre. Site to be provided prior to the occupation of 500 dwellings • Cost of provision of recycling banks (£1500) • Indexation 2% above bankers base rate 		Indexation base date Jan 2010
17	Structural planting	CDC	
	<ul style="list-style-type: none"> • Submit scheme and programme for structural mitigation planting • Commence landscape mitigation planting, 		No change

	within 12 months from the commencement of development <ul style="list-style-type: none"> • Complete no later than occupation of 800 dwellings or completion of the perimeter road, whichever is the sooner • Maintain for 15 years • Thereafter make provision for the retention of the structure planting 		
18	Maintain Whitelands Farm & Buildings	CDC	
	<ul style="list-style-type: none"> • Maintain the farm house and in a good state of repair • Agree which farm buildings to be maintained or removed. • Agree level of maintenance for the retained farm buildings and carry out the agreed maintenance 		No change
19	Maintenance of balancing ponds	CDC	
	<ul style="list-style-type: none"> • Agree design and construction specification for balancing ponds • Construct ponds and maintain for 12 months • Transfer to CDC • Funding to cover 15 years maintenance of the balancing ponds • Indexation BCIS all in tender price index 		Indexation base date Jan 2010
20	Provide the Perimeter Road	OCC	
	<ul style="list-style-type: none"> • Provide a perimeter road between A41 and Middleton Stoney Road/Howes Lane junction. Access into the site from the 		Access from the A41 roundabout and perimeter road to be provided prior to 150 dwellings being completed.

	perimeter road to be prior to occupation of 100 dwellings.		
	<ul style="list-style-type: none"> Perimeter road completed by the time 650 dwellings being occupied 		Completion at 500 Dwellings or within 12 months of the completion of 425 dwellings, which ever is the sooner.
21	Provide a site for a Primary School	OCC	
	Provide a freehold serviced site of 2.2 ha of net useable land for a primary school for £1.		No change
22	Provide the site for the Secondary School	OCC	
	Provide a freehold site of 3.14ha identified on the master plan for a secondary school. That part of the site required to meet the need of the development transferred for £1 the remainder to be at agricultural land value.		No change
23	Education Contribution	OCC	
	<p>£10 million (2Q06) in instalments as below to provide a primary school (2 form entry), part of a school/facility for secondary aged pupils, and temporary provision if required.</p> <ol style="list-style-type: none"> 1. £100,000 on implementation 2. £300,000 occupation of 50 dwellings 3.£5,800,000 occupation of 150/200 dwellings 4.£400,000 occupation of 300 dwellings 5.£3,400,000 occupation of 600/1000 dwellings <p>Indexation BCIS all-in tender price index</p>		<ol style="list-style-type: none"> 1. £100,000 occupation of 150 dwellings 2. £300,000 occupation of 200 dwellings 3.£5,800,000 occupation of 300/350 dwellings 4.£400,000 occupation of 450 dwellings 5.£3,400,000 occupation of 750/1000 dwellings <p>Indexation base date Jan 2010</p>
24	Transport Works	OCC	

	Provide traffic calming / management to Middleton Stoney Road including the provision of at least two controlled pedestrian crossings.		Complete by occupation of 350 dwellings or two years from the completion of the A41 roundabout works whichever is the sooner.
25	BicITLUS and Rail Infrastructure Contributions	OCC	
	£994,000 (4Q05) paid in instalments 1.£59,807 on implementation 2.£160,000 occupation of 400 3.£160,00 occupation of 800 4. £160,00 occupation of 1000 5. .£160,00 occupation of 1200 Rail payment £295,000 occupation of 600 Indexation Baxter composite index		1.£59,807 on occupation of 150 dwellings 2.£160,000 occupation of 550 dwellings 3.£160,00 occupation of 950 dwellings 4. £160,00 occupation of 1150 dwellings 5. .£160,00 occupation of 1350 dwellings Rail payment £295,000 occupation of 750 Indexation base date Jan 2010
26	Travel plan and travel plan co-ordinator	OCC	
	<ul style="list-style-type: none"> A travel plan co-ordinator to be appointed by the applicant. A travel plan to be produced and agreed together with appropriate monitoring 		No change
27	Other County Contributions including libraries, waste, social and health care etc	OCC	
	£600,000 (4Q06) paid in instalments 1. £100,000 occupation of 300 2. £110,000 occupation of 600 3.£120,000 occupation of 800 4.£130,000 occupation of 1000 5.£140,000 occupation of 1200 Indexation BCIS all-in tender price index		1. £100,000 occupation of 450 2. £110,000 occupation of 700 3.£120,000 occupation of 900 4.£130,000 occupation of 1000 5.£140,000 occupation of 1200 Indexation base date Jan 2010

28	Public Transport	OCC	
	Bus service specification to be attached to S106 Bus services to be provided to link the site to Bicester and to Oxford through local and strategic services, including evening and weekend services. The bus services will be provided via a service level agreement rather than via contributions to the Highway Authority.		No Change
29	Park & Ride Site	OCC	
	Provide land (for £1) for a potential park and ride site sufficient to accommodate a 500 car facility, circa 2ha Offer to transfer within 3 months of completion of the perimeter road.		Offer to transfer within 3 months prior to the completion of the A41 roundabout
31	Bonds	OCC	
	Bonds to secure the delivery of the major contributions to education infrastructure to be provided.		No change
32	Monitoring fees	OCC/CDC	
	£11,750 OCC £11,200 CDC		No change

Planning Committee

Tree Preservation Order (No 12) 2009 Lime Tree at 14 Main Street, Mixbury

28 January 2010

Report of Head of Development Control and Major Developments

PURPOSE OF REPORT

To seek the confirmation of an unopposed Tree Preservation Order relating to a Lime Tree at 14 Main Street, Mixbury (copy plan attached as Annex 1)
Tree Preservation Order No. (12/2009)

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To confirm the Order without modification

Background Information

- 2.1 The Scheme of Reference and Delegation authorises the Head of Development Control and Major Developments to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to believe that the tree in question is under imminent threat and that its retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.
- 2.2 The above mentioned Tree Preservation Order was authorised by the Head of Development Control and Major Developments and made on 26 November 2009. The statutory objection period has now expired and no objections were received to the Order.

Key Issues for Consideration/Reasons for Decision and Options

3. None

Implications

Financial: The cost of processing the Order can be contained within existing estimates.

Comments checked by Eric Meadows, Service Accountant PH & E, 01295 221552

Risk Management: The existence of a Tree Preservation Order does not remove the landowner's duty of care to ensure that such a tree is structurally sound and poses no danger to passers by and/or adjacent property. The TPO legislation does contain provisions relating to payment of compensation by the Local Planning Authority in certain circumstances, but these relate to refusal of applications to carry out works under the Order and no compensation is payable for loss or damage occurring before an application is made.

Comments checked by Rosemary Watts, Risk Management & Insurance Officer, 01295 221566

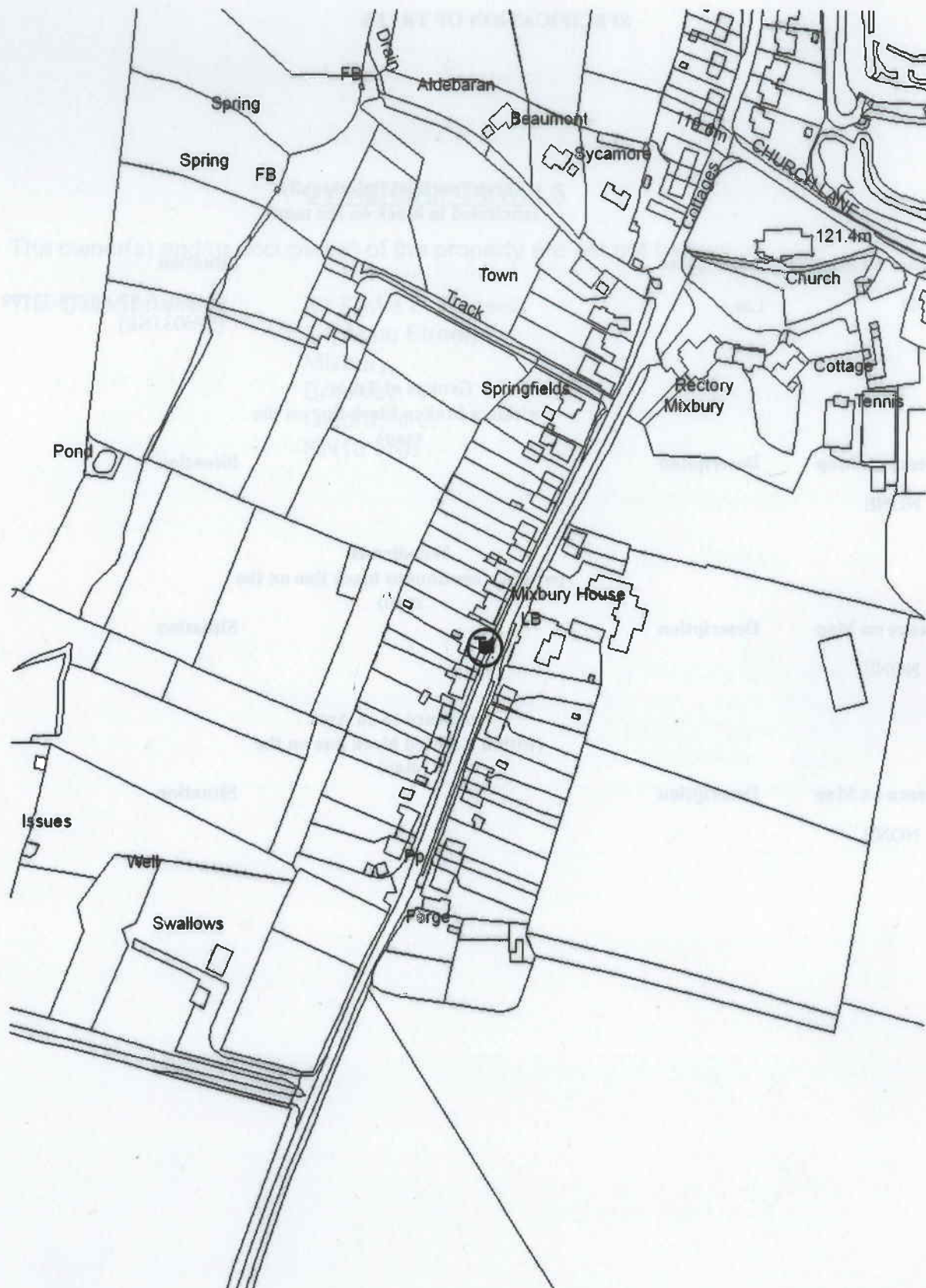
Wards Affected

Fringford Ward

Document Information

Appendix No	Title
Appendix 1	Plan
Background Papers	
TPO file reference 8389	
Report Author	Richard Hurst, Senior Legal Assistant
Contact Information	01295 221693 richard.hurst@Cherwell-dc.gov.uk

TPO ref. 12/2009



Agenda Item 15

Planning Committee

Quarterly Enforcement Report

28 January 2010

Report of Head of Development Control and Major Developments

PURPOSE OF REPORT

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

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept this report.

Details

Background

- 1.1 The last quarterly report was given to this Committee on 1 October 2009, and this report continues the regular reporting on enforcement matters in this new quarterly format, which commenced in October 2008.

The Current Situation

- 2.1 Appendix One provides a comprehensive listing of those cases which have progressed to formal action of one type or another. Significant efforts continue to be made to close down some of the older and complex cases but inevitably given the appeal process, compliance periods and the ability for applicants to submit further revising applications, some cases are still continuing after a number of years but it should be noted how many cases are annotated as appearing for

the last time.

- 2.2 Overall, the Council's success rate when taking formal action is good, with no enforcement notice appeals upheld this last year. Of course an appeal still delays the compliance time even if the Inspectorate leave the compliance period unaltered.
- 2.3 Members will note that 22 cases in Appendix One relate to buildings and land at former RAF Upper Heyford. The result of the main Heyford inquiry was received on 12 January 2010. The result of that appeal will potentially have a significant effect upon the future course of events for these enforcement cases. A careful analysis of the decision will be undertaken and a report will be made to a future meeting explaining the cases which are now moribund and those that that may need to continue.
- 2.4 Turning to Appendices 2 and 3, these give the basic statistics of the number of cases which are investigated and their outcome. This represents the main body of work for the enforcement staff: they day to day dealing with the large number of disparate cases that come to the department by mail, e-mail and telephone with a number being made anonymously. We undertake to carry out initial investigations within ten days, and do achieve that target, with a large number being looked at within 24 and 48 hours.
- 2.5 In Council year 08/09 666 cases were handled. A substantial proportion of these subsequently prove to be either not development or are "permitted development" not requiring planning permission. These latter cases however still involve considerable levels of activity with at the least the provision of an explanation to the complainants as to why action cannot be taken. The enforcement team are now encouraging the making or applications for Certificates of Lawful Development in such circumstances enabling formal decisions to be made and recorded.
- 2.6 In the first 9 months of this Council year (09/10) the number of cases investigated is 527. There is therefore a growth in the case load for the officers concerned despite the economic climate and the reduction in planning application numbers. In a number of cases persuasion is used to ensure unauthorised activities are stopped, works undone or planning applications are submitted, without the need for formal action. This activity is all 'hidden' within the statistics, but it is often more effective in time and resource terms than formal action, which after all should only be used as a last resort.

Implications

Financial: It is anticipated that the cost of taking enforcement action can be met within existing budgets. The move

towards increased use of CLUE applications may open up a small income stream. The cost implications with regards to action at Heyford Park will be addressed in the future report.

Comments checked by Eric Meadows, Service Accountant 01295 221556

Risk Management:

Where it is relevant to do so the risk of taking formal enforcement action is that costs could be awarded against the Council in any appeal that proceeds to a hearing on inquiry if this action is subsequently considered to have been unreasonable. The risk of not taking effective and timely action is that a complainant could make a complaint to the Local Government Ombudsman.

Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221560

Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Enforcement and Prosecution Quarterly Report – 28 January 2010
Appendix 2	Planning Enforcement Cases- Number of cases closed by reason
Appendix 3	Explanation of reasons for case closure
Background Papers	
None	
Report Author	Bob Duxbury, Development Control Team Leader
Contact Information	01295 221821 bob.duxbury@Cherwell-dc.gov.uk

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
PROS 27/03 4.09.03 PROS 13/06 15.06.06	Hanwell Fields Banbury	Breach of Sec 106 agreement relating to LAPS & LEAPS and laying out of informal open space	Court order 04.09.08	Various dates in 2009	N/A	N/A	N/A	CDC actively pursuing the transfer of the remaining sports pitches and parks
ENF 31/03 16.10.03 ENF 16/04 15.01.04	Rose Lodge Bucknell Lane Middleton Stoney	Mobile home	Notices served 24.11.04	03.01.05	Planning Appeal 06/01647/F Dismissed 07.08.08 09/00149/F 09/01016/F	Enforcement appeal dismissed 30.06.05	30.06.06	New application approved 23.10.09 with conditions- 1 condition remains to be agreed regarding the landscaping scheme. Development commenced. This item will not appear next time
ENF 38/04 25.11.04 ENF 21/05 13.10.05	OS 2000 Land NE of Rectory Close, Wendlebury	(i) Summerhouse jetties and decking, (ii) Bridge	Notices served 18.05.05 8.12.05	29.09.05	(i) 04/02713/F (ii) 05/01603/F	Dismissed 05.02.07	05.10.07	Witness statement completed and has now been sent to legal for consideration of prosecution action
ENF 2/06 16.02.06 09/00686/ PCN	Bodicote Post Office 43-45 Molyneux Drive Bodicote	Non-compliance with approved plans 04/01317/F Works not completed by 1 November 2009	Enforcement Notice served 24.01.07 29.11.09	07.09.07	09/00315/F			15.05.09 undertaking made to the court by Mr & Mrs Ayres who also agreed to pay £250.00 towards the Council's costs Works proceeding but unlikely to be completed by the compliance date. PCN served - extension given until 4.01.10 to respond

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 5/08 Delegated	Corner Farm Oakley Road Horton-cum-Studley	Use of land as a builders/ engineers yard	Enforcement Notice served 28.02.08	12.10.08 & 12.04.09				Compliance of the 12.10.08 element has been achieved. Landscaping to be completed in this planting season 2009/10 Landscaping materials now on site
ENF 14/07 Delegated	Corner Farm Oakley Road Horton-cum-Studley	Use of land as builders yard, lighting columns, building as a builders office and store	Enforcement Notice served 28.06.07	09.02.08 & 09.06.08		Dismissed 05.08.08	05.08.09 and 05.03.10	Offices still occupied, Fennels to re-locate within the site, letter expected. Verbal update to be given
ENF 16/07 08/00726/ UNDEV Delegated	OS Parcel 0006 Foxfield Farm, Ardley	Stationing of caravan, erection of sheds, fencing & containers in conjunction with use of land for residential, storage and employment	Enforcement Notice served 17.10.08	3.12.09	06/01542/F appeal dismissed 9.11.07 09/01064/F	Enforcement Appeal withdrawn	24 June 2010	Appeal withdrawn 24 June 2009. New planning application to be submitted early Jul 2009. Application approved 4.12.09 subject to conditions This will not appear next time
ENF 34/07 15.11.07	Bradscot, Cross Hill Road, Adderbury	Extension not built in accordance with approved plans	Enforcement Notice served 19.05.08	30.09.08	05/01040/F and 05/01041/LB approved 08/00349/F refused 09/00801/F wdn 16.07.09 09/01181/F 09/01182/LB	Appeal dismissed 9.02.09	09.08.09	Appeal decision received- notice varied, compliance period extended to 6 months New applications 09/01181/F & 09/01182/LB approved subject to condition that works are completed by 15 January 2010 Verbal update to be given

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps and Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 38/07 13.12.07	33-34 Merton Street, Banbury	House not built in accordance with approval	On hold pending compliance with conditions		a)05/01156/F b)08/00076/F Appeal dismissed 27.11.08 against conditions imposed c) 09/00521/F ref 29.04.09 09/01113/F		27.05.09	Following dismissed appeal, compliance with conditions required. SV 09/06/09 revealed car port still blocked off. If no appeal received against 09/00521/F and still no compliance with conditions, enforcement action to be pursued. Application approved 13.10.09 This item will not appear next time
ENF 6/08 Delegated	OS Parcel 2348 West of Point to Point House, Mollington	Farm building	Enforcement Notice served	25.10.08	Retrospective 07/02517/F Appeal dismissed 10.12.08	Appeal dismissed 10.12.08	01.06.09	Compliance period extended from 10.04.09 following request from owner regarding the requirements of the lambing season. Building has been demolished. Conditions discharged This item will not appear next time
ENF 9/08 10.04.08	Plot 2 adj. to Oxford Canal, Appletree Lane, Cropredy	Mixed use of land – part agricultural land, part storage and domestic paraphernalia						Owner has been willing to tidy site and restore all land back to agriculture. Legal have written to the owners to request the removal of remaining offending items. Owner claims offending items should be in plot 1 and will be amending the plot plan appropriately.

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 12/08 10.04.08	Plot 5 adj. to Oxford Canal, Appletree Lane, Cropredy	Mixed use of land for agric, garden assoc with mooring of narrow boat on adj canal, & storage of vehicles, caravans & trailers						Legal department are satisfied that the use has been established. This item will not appear next time
ENF 13/08 09/00705/ ECOU 10.04.08	Plot 6 adj. to Oxford Canal, Appletree Lane, Cropredy	Garden use associated with the mooring of a narrow boat on the adj canal and storage use	5.01.10	16.05.10				Notice served requiring use to cease.
ENF 14/08 10.04.08	Plot 7 adj to Oxford Canal, Appletree Lane Cropredy	Garden use associated with the mooring of a narrow boat on adj canal						Site reviewed by Officers. Evidence reveals use and development have intensified within the last ten years. Legal have invited a retrospective planning application before enforcement action is pursued.
PROS 15/08 10.04.08	Wabag Aynho Road Adderbury	Failure to comply with S 106 relating to remedial works On public open space			02/02002/F			Owner of the open space to be pursued for compliance with S 106

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF LB 18/08 26.06.08	Greystones Middle Street Islip	Removal of stonesfield slates and insertion of velux window in north elevation	Listed building Enforcement Notice served 03.11.08	15.09.09	04/00035/F 04/00036/LB	Appeal dismissed 7.08.09	7 August 2012	Hearing 16.06.09. Wording of the notice varied, compliance period extended, appeals dismissed 7 August 2009
ENF 19/08 Delegated	22 Milton Street Banbury	Dormer window	Enforcement Notice served 10.09.08	05.05.09	Revised application 08/01600/F refused 22.08.08. 09/00764/F refused 10.08.09	Appeal Dismissed Appeal dismissed 21.12.09	11.11.09	Appeals dismissed 11.05.09 New application 09/00764/F refused 10.08.09. Letter to be sent 11.10.09 and remind owner 4 weeks left to comply Letter has been sent giving 7 days to comply or prosecution action is to be pursued
08/00604/BCON	Lince Lane Copse	Breach of conditions 02/02064/F						Letter to be sent to the occupiers requesting a timetable for compliance with conditions regarding footpath and car park-
08/00609/ECOU 18.08.05	Lone Barn Stoke Lyne	Storage of Building materials. Use of land as extended residential etc Curtilage with domestic paraphernalia	Enforcement notice served 20.10.08	01.01.09		Appeal Dismissed	10.10.09	Appeal Dismissed 10.07.09 Site visit to be carried out to establish if compliance has been achieved

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
08/00775/E BCON Delegated	Rock of Gibraltar PH Enslow Wharf Enslow	Breach of condition 2 of 07/01247/F relating to removal of awning	Enforcement notice served 17.11.08	22.01.09	08/00825/F Planning Appeal dismissed 8.09.09	EBCON & EBCONLB Dismissed 08.09.09	8.11.09	Appeals dismissed 08.09.09 Compliance period extended to 2 months – Canopy removed, frame still to be removed. Letter sent stating 7 days to comply or prosecution action will follow
09/00030/ EPCN	Bicester Golf & Country Club, Akeman St, Chesterton	Non-compliance with condition 7 That the overnight accommodation shall be occupied only by members of the Club, their guests and members of visiting golf societies.	PCN served 23.01.09		03/01050/F			Premises being advertised as overnight accommodation available to the public. Response to requisition received and legal are considering the evidence. Counsel's opinion obtained and is being considered. New application received 09/01357/F – approved subject to conditions This item will not appear next time
09/00059/ EUNDEV	Field Cottage Fritwell Road Fewcott Ardley with Fewcott	Part of land for the stationing of a mobile home			09/00887/CLUE approved			Clue application approved. This item will not appear next time
09/00060/ ECOU Committee (29.01.09)	Field Cottage Fritwell Road Fewcott Ardley with Fewcott	COU from agricultural to domestic garden	Requisitions served		09/00290/CLUE			Replies received. Domestic features removed. This item will not appear next time

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
09/00159/ EBCON	Land adjoining Home Farm Clifton	Breach of condition 14 relating to vision splay requirements	Requisition served 1106.09		05/00266/F 09/00944/F			New Planning application 09/00944/F refused 14.09.09 Meeting held on site, works to be undertaken
09/00226/ EBCON	JK News 43 The Fairway Banbury	Breach of condition 1 requiring alterations to the ventilation unit	Notice served 30.09.09	30.10.09	07/02554/F			Air conditioning unit removed, premises vacated 30.09.09 This item will not appear next time
09/00286/ ECOU	OS Parcel 8000 adjacent to the street from Wigginton to Hook Norton Wigginton	Change of use from agriculture to B1 light industrial use			08/00365/F			Following meeting with officers planning application and clue applications to be submitted. Other unauthorised buildings are being removed.
09/00288/ EBCON	Building and land south of Manor Farm and west of Priory Cottage adjoining Mollington Road Claydon	The building is not being used for agricultural purposes in breach of condition 4 of 05/01829/F			05/01829/F			Site visit carried out, It appears that a residential use is taking place. Clue to be submitted by 28.01.10. If not, enforcement action to follow.
09/00293/ EBCON	The Potteries High Street Barford St Michael	Breach of condition 10 of 04/01151/F relating to car park surfacing	Notice served 23.07.09	23.09.09	04/01151/F			Works completed to the satisfaction of the Council 16/10/09 This item will not appear next time

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
09/00296/ EUNDEV	Poultry Houses Glebe Farm Street from A4221 to Stoke Lyne Fringford	Mobile Home	Notice served 30.10.09					Clue refused, appeal to be lodged. Mobile home sold and is to be removed from site
09/00572 EUNDEV	Land at Patrick Haugh/Harris Road, Upper Arncott	containers						Requisitions returned. Enforcement action to be pursued
09/00674/ PCN	ON263435 Land NE of Fenny Compton Road, Claydon	Suspected change of use of land from agriculture to mixed use , amenity plot / business						PCN returned. Enforcement action to be pursued
09/00675/ PCN	ON 265598 Land NW of Boddington Road, Claydon	Suspected change of use of land from agriculture to storage						PCN returned. Planning permission granted elsewhere for storage. Monitoring ongoing
09/00/ PCN	ON 267012 Land North of Boddington Road, Claydon	Use of land as an amenity plot						Requisitions returned. Enforcement action to be pursued

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
09/00 PCN	ON 279333 Land North of Boddington Road Claydon	Use of land as an amenity plot						Requisitions sent, not returned. Enforcement action to be pursued
09/00687 PCN	5 Milton Street Banbury	Satellite dishes						PCN drafted
09/00689/ EUNDEV	Dogwood Public House Kidlington	Childrens play equipment	Notice served 4.12.09	13 February 2010	08/01783/F			
09/ 00 EUNDEV	Bicester Sweepers Glebe Farm Fringford	Unauthorised use of barn						Clue refused, appeal to be lodged. Further Clue to be submitted
09/00710/ PCN	OS parcel 3349 & 4668, NW of A361 Cropredy	Suspected breaches of planning control – change of use to residential	8.12.09					Requisitions returned. Enforcement notice to be served
	Cattle Market Site Banbury	Breaches of the S 106 agreement	Injunction authorised 1 Oct 2009					8.01.10 undertaking given by the developers to complete the community building and hand it over by March 2010

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
Heyford Park Appeals					Main Appeal - 08/00716/OUT for new settlement of 1075 dwellings, together with assoc works and facilities including employment uses, community uses, school playing fields and other physical and social infrastructure. Related CA consent appeals.			Planning Inquiry took place between 30 September and 24 October. 2008. Inspector to prepare report for the Secretary of State regarding the main appeal and related conservation area consent appeals. Inspector's report completed and is with the Secretary of State. Planning permission granted 11 January 2010 A decision now needs to be made on the process to determine the outstanding enforcement appeals at Heyford Park.
ENF 20/06 27.07.06 PROS 3/08 Delegated	Former Walon site	Use for car storage and distribution in breach of 04/01690/F	Notice served 28.11.06	09.01.07				Only part compliance of enforcement notice. Delegated resolution to prosecute for failure to comply with the requirements to restore land and buildings to original condition. Consulting English Heritage regarding the external finishes of hangers
ENF 2/07 Delegated	Building 3209	Commercial storage in breach of 05/01969/F	Notice served 23.01.07	6.03.07		Appeal dismissed 1.11.07	01.11.08	Full compliance expected by mid January 2009 after which time a criminal investigation will be undertaken. Partially complied

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 30/07 Delegated	Building 345	Use for storage, processing and distribution of timber and timber products	Notice served 14.12.07	25.01.09		Appeal received		
ENF 31/07 Delegated	Northern Bomb Stores	Storage and distribution of fireworks	Notice served 14.12.07	25.01.09		Appeal received		
ENF 32/07 Delegated	Southern Bomb Stores	Storage of fireworks	Notice served 14.12.07	25.01.09		Appeal received		
ENF 33/07 Delegated	Building 325	Use of building and hardstanding for storage, refurbishment of cranes and access equipment	Notice served 14.01.08	18.02.09		Appeal received		
ENF 35/07 Delegated	Building 320	Use for storage and distribution of timber and timber products	Notice served 11.01.08	15.02.09		Appeal received		

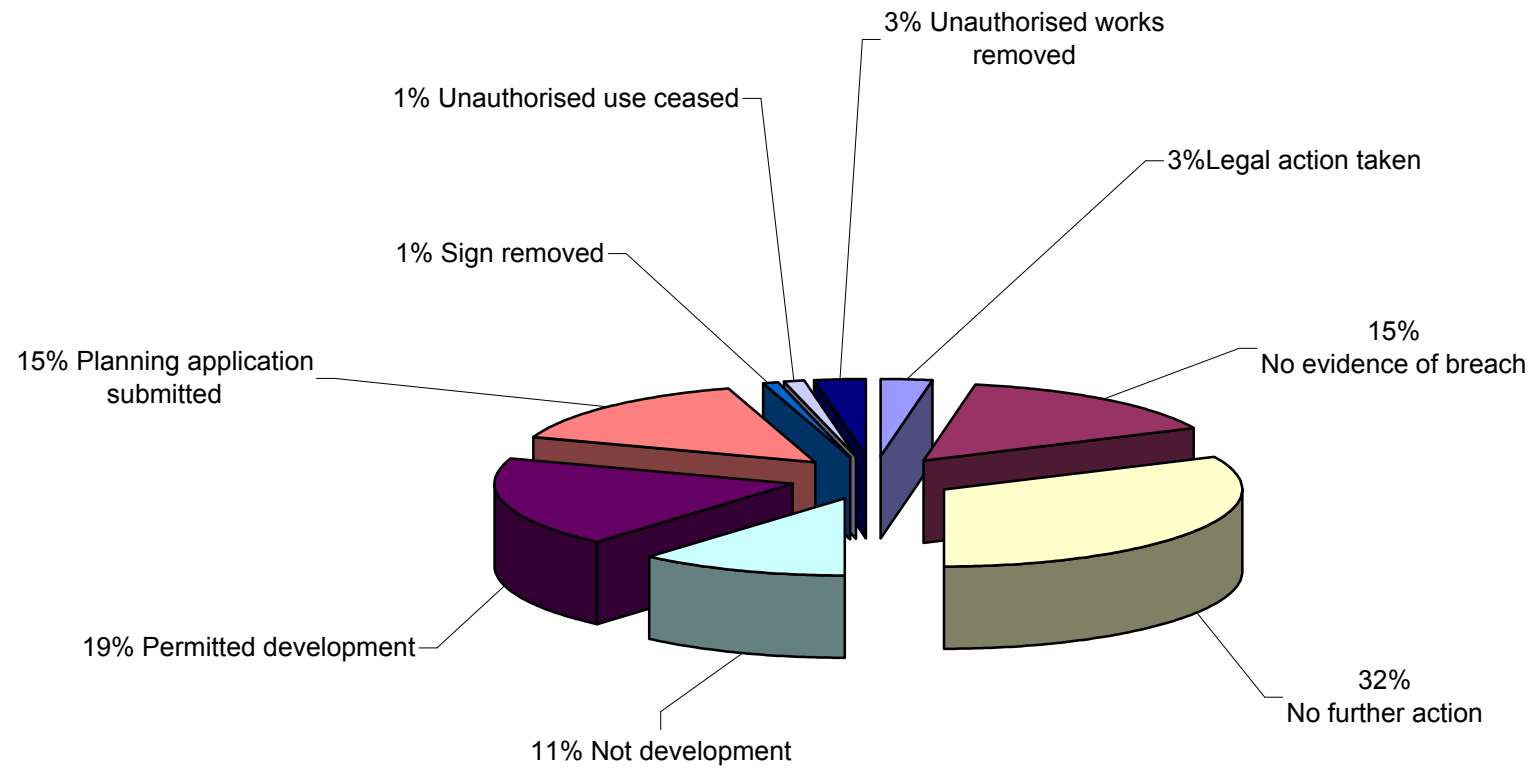
Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 36/07 Delegated	Buildings 88 and 381	Continued use as storage and assembly of environmental control equip	Notice served 22.01.08	4.03.09		Appeal received		
ENF 37/07 Delegated	Building 442	Continued use as a training facility	Notice served 6.02.08	14.03.09		Appeal received		
ENF 7/08 Delegated	Building 41	Change of use to temporary residential class C3 accommodation	Notice served 16.05.08	20.06.09		Appeal received		
ENF 16/08 Delegated	Building 293	Change of Use to light industry (screen printers)	Notice served 22.07.08	29.08.09		Appeal received		
ENF 17/08 Delegated	Building 221	Change of Use of part of building for timber machining, fabrication, woodworking and admin office by Darks Ids Ltd	Notice served 11.09.08	15.10.09		Appeal received		
ENF 21/08 17.07.08	Land and buildings	Change of Use of land and buildings by Paragon in breach of 07/01260/F	Notice served 3.09.08	6.10.09		Appeal received		

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 22/08 17.07.08	Buildings	Change of use of buildings by Paragon in breach of 07/01259/F	Notice served 3.09.08	6.10.09		Appeal received		
ENF 23/08 17.07.08	6 lamp posts	Use by Paragon in breach of 07/01262/F	Notice served 10.09.08	11.10.09		Appeal received		
ENF 24/08 17.07.08	2 lamp posts	Use by Paragon in breach of 07/01264/F	Notice served 9.09.08	10.10.09		Appeal received		
ENF 25/08 17.07.08	Building 2002	Change of use in breach of 07/01268/F	Notice served 2.09.08	3.10.09		Appeal received		
ENF 26/08 17.07.08	Building 3205	Change of use of building in breach of 07/01265/F	Notice served 2.09.08	3.10.09		Appeal received		
ENF 27/08 17.07.08	Trench and concrete	Change of use in breach of 07/01266/F	Notice served 2.09.08	3.10.09		Appeal received		
ENF 28/08 17.07.08	3 Hardened aircraft shelters	Change of use in breach of 07/01267/F	Notice served 2.09.08	3.10.09		Appeal received		

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 29/08 17.07.08	Liquid petroleum gas tanks and air intake duct	Use by Paragon in breach of 07/01263/F	Notice served 8.12.08	19.01.10		Appeal received		
ENF 30/08 Delegated	Building 103	Use of building by Kingsground narrow boats	Notice served 14.11.08	22.12.09		Appeal received		
ENF 32/08 Delegated	Building 3053	Change of use to B8 storage by NOC	9.10.08	14.11.09		Appeal received		
ENF 33/08 Delegated	Building 3031	Change of Use of bldg to storage of vehicles assoc to management and operation of press and marketing vehicles by Parkers	Notice served 19.01.09	2.03.10		Appeal Received 2.03.09		

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 34/08 Delegated	Building 221	Change of Use to management and operation of press and marketing vehicles by Parkers	Notice served 10.10.08	17.11.09		Appeal received		

Planning Enforcement Cases - Number of cases closed by reason
Dates between 01/10/2009 and 18/01/2010



EXPLANATION OF REASONS FOR CASE CLOSURE

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

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

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

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

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

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

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

Note:

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

STATISTICAL ANALYSIS OF CASES

Cases Registered From

01.04.08 to 31.03.09	=	666 Cases
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01.04.09 to 18.01.10	=	527 Cases
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Cases Closed Between

01.04.09 to 31.03.09	=	562 Cases
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01.04.09 to 18.01.10	=	440 Cases
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Cases Ongoing Between

01.04.07 to 31.03.09	=	48 Cases
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01.04.09 to 18.01.10	=	132 Cases
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Agenda Item 16

Planning Committee

Decisions Subject to Various Requirements – Progress Report

28 January 2010

Report of Head of Development Control and Major Developments

PURPOSE OF REPORT

This report aims to keep members informed upon applications which they have authorised decisions upon to various requirements which must be complied with prior to the issue of decisions.

An update on any changes since the preparation of the report will be given at the meeting.

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

Details

The following applications remain outstanding for the reasons stated:

Subject to Legal Agreement with Cherwell District Council

- 1.1 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.

- 1.2 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 routing during construction. Redrafted agreement with other side
- 1.3 08/01171/OUT Pow Wow water site, Langford Lane, Kidlington
- Subject to agreement re transport infrastructure payments.
- 1.4 08/02511/F Part of A DSDC Bicester
- Subject to legal agreement with OCC re:highway infrastructure/ green travel. Secretary of State indicated that she will not call application in.
- 1.5 08/02605/F Sainsburys, Oxford Road, Banbury
- Subject to legal agreement with Oxfordshire County Council re: highway infrastructure. Agreement with other side for signing
- 1.6 09/01254/F Former USAF housing S of Camp Rd. Upper Heyford
- Subject to legal agreement re public transport and education funding
- 1.7 09/01357/F Bicester Golf and Country Club. Akeman St. Chesterton
- Subject to finalisation of appropriate traffic mitigation matters with OCC

Subject to Other Matters

- 1.8 08/00709/F Former Lear Site, Bessemer Close, Bicester
- Subject to legal agreement with Oxfordshire County Council

Implications

Financial: There are no additional financial implications arising for the Council from this report.

Comments checked by Eric Meadows, Service Accountant 01295 221556

Legal: There are no additional legal implications arising for the Council from this report.

Comments checked by Pam Wilkinson, Principal Solicitor 01295 221688

Risk Management: This is a monitoring report where no additional action is proposed. As such there are no risks arising from accept the recommendation.

Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221560

Wards Affected

All

Document Information

Appendix No	Title
-	None
Background Papers	
All papers attached to the planning applications files referred to in this report	
Report Author	Bob Duxbury, Development Control Team Leader
Contact Information	01295 221821 bob.duxbury@Cherwell-dc.gov.uk

Planning Committee

Appeals Progress Report

28 January 2010

Report of Head of Development Control and Major Developments

PURPOSE OF REPORT

This report aims 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 achieved.

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

Details

New Appeals

1.1 None

Forthcoming Public Inquiries and Hearings between 28 January 2010 and 18 February 2010

2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Mr Andrew Thorburn against the refusal of 09/00764/F for the removal of existing dormer and replacement with a smaller one at 22 Milton Street Banbury (Delegated)** – The Inspector commented “since the existing dormer does not have the benefit of planning permission, I attach little weight to it as a fall-back position and hence little significance to the comparison between the two. In any event, I consider that the proposed dormer would still appear as an incongruous and alien addition to the simple form of the house. I conclude that the proposed dormer would be harmful to the character and appearance of the terrace and, as such, would neither preserve nor enhance the character or appearance of the Conservation area.”
- 3.2 **Allowed the appeals by Mr Robert West against the refusal of 09/00572/LB and 09/00571/F for the removal of the rear lean –to, and the replacement with a new room, and restoration of the rear external wall of the building and the boundary walls at 2 The Green Swalcliffe (Delegated)** – In the Inspector’s view, the scale and appearance of the proposal would not challenge the primacy of the original house or confuse its original layout. Rather, it would be a subservient and sensitive addition and so in this sense would be seen as minor. Accordingly, the proposed scheme would preserve the special architectural or historic interest of this Grade II listed building and would preserve the character or appearance of the Swalcliffe Conservation Area.
- 3.3 **Dismissed the appeal by Kevin White against the refusal of 09/00378/F “to lower kerb at the rear of my property on the Banbury Road so we can take our vehicles off the road “at 3 Buckingham Road Bicester (Delegated)** - The Inspector stated that “As there is not the requisite inter-visibility between drivers emerging from the site and the drivers of vehicles on Banbury Road I am of the view that collisions between vehicles could occur. I share the Council’s view that the manoeuvring of vehicles off the site onto Banbury Road creates a situation whereby a pedestrian, especially a small child running along the footway, could be placed in danger due to the lack of inter-visibility between pedestrians and drivers.”

Implications

Financial:

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 estimate.

Comments checked by Eric Meadows, Service Accountant 01295 221556

Legal:

There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.

Comments checked by Pam Wilkinson, Principal Solicitor 01295 221688

Risk Management:

This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.

Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221560

Wards Affected

All

Document Information

Appendix No	Title
-	None
Background Papers	
All papers attached to the planning applications files referred to in this report	
Report Author	Bob Duxbury, Development Control Team Leader
Contact Information	01295 221821 bob.duxbury@Cherwell-dc.gov.uk