

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

### **Membership**

|   |  |
|---|--|
| <b>Councillor Fred Blackwell (Chairman)</b> | <b>Councillor Rose Stratford (Vice-Chairman)</b> |
| <b>Councillor Ken Atack</b>                 | <b>Councillor Maurice Billington</b>             |
| <b>Councillor Colin Clarke</b>              | <b>Councillor Nick Cotter</b>                    |
| <b>Councillor Mrs Diana Edwards</b>         | <b>Councillor Mrs Catherine Fulljames</b>        |
| <b>Councillor Michael Gibbard</b>           | <b>Councillor Chris Heath</b>                    |
| <b>Councillor Alastair Milne Home</b>       | <b>Councillor James Macnamara</b>                |
| <b>Councillor D M Pickford</b>              | <b>Councillor G A Reynolds</b>                   |
| <b>Councillor Leslie F Sibley</b>           | <b>Councillor Chris Smithson</b>                 |
| <b>Councillor Trevor Stevens</b>            | <b>Councillor Lawrie Stratford</b>               |

### **Substitutes**

|                                      |  |
|--------------------------------------|--|
| <b>Councillor Luke Annaly</b>        | <b>Councillor Norman Bolster</b>         |
| <b>Councillor Andrew Fulljames</b>   | <b>Councillor Timothy Hallchurch MBE</b> |
| <b>Councillor David Hughes</b>       | <b>Councillor Russell Hurle</b>          |
| <b>Councillor Kieron Mallon</b>      | <b>Councillor P A O'Sullivan</b>         |
| <b>Councillor George Parish</b>      | <b>Councillor Nicholas Turner</b>        |
| <b>Councillor Douglas Williamson</b> | <b>Councillor Barry Wood</b>             |

## **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 - 7)

To confirm as a correct record the Minutes of the meeting of the Committee held on 7 October 2010.

## **Planning Applications**

- |     |   |                   |
|-----|---|-------------------|
| 6.  | <b>Former USAF Housing South Of Camp Road Upper Heyford</b><br>(Pages 10 - 31)                    | <b>10/00640/F</b> |
| 7.  | <b>OS Parcel 2678 Adj A34 By Hampton Gay And Poyle Hampton</b><br>(Pages 32 - 54)                 | <b>10/00839/F</b> |
| 8.  | <b>Land South of Bernard Close. Berkeley Homes Site, Cassington Road, Yarnton</b> (Pages 55 - 67) | <b>10/01302/F</b> |
| 9.  | <b>175A Warwick Road, Banbury</b> (Pages 68 - 72)   | <b>10/01371/F</b> |
| 10. | <b>29 Red House Road, Bodicote, Banbury</b> (Pages 73 - 77)                                       | <b>10/01409/F</b> |

## **Other Reports**

11. **Discharging of S106 Agreement - Dingers Cottage, The Dickredge, Steeple Aston** (Pages 78 - 84)

Report of Strategic Director Planning, Housing and Economy

### **Summary**

Discharge of S106 Agreement in order that the original cottage and the annexe can be used separately and independently rather than be restricted to family use only.

### **Recommendation**

The meeting is recommended:

- (1) To confirm the discharge of the S106 Agreement

## **Tree Preservation Orders**

**12. Tree Preservation Order (no.12/2010) Two Ash Trees at 5 Fletcher Road, Yarnton (Pages 85 - 87)**

Report of Strategic Director Planning, Housing & Economy

### **Summary**

To seek the confirmation of an unopposed Tree Preservation Order (no.12/2010) relating to two ash trees at 5 Fletcher Road, Yarnton (copy plan attached as Appendix 1).

### **Recommendation**

The meeting is recommended:

- (1) To confirm Tree Preservation Order (no.12/2010) without modification

**13. Tree Preservation Order (no.13/2010) Sycamore tree at The Old Dairy, Charlton on Otmoor (Pages 88 - 97)**

Report of the Strategic Director Planning, Housing and Economy.

### **Summary**

To seek the confirmation of an opposed Tree Preservation Order (no.13/2010) relating to a Sycamore tree at The Old Dairy, Charlton on Otmoor (copy plan attached at appendix 1).

### **Recommendation**

The meeting is recommended:

- (1) To confirm Tree Preservation Order (no.13/2010) at the site of The Old Dairy, Charlton On Otmoor without modification in the interest of public amenity.

**14. Tree Preservation Order (no.20/2010) Sycamore trees at Beam End, Hook Norton (Pages 98 - 103)**

Report of the Strategic Director Planning, Housing and Economy.

### **Summary**

To seek the confirmation of an opposed Tree Preservation Order (no.20/2010) relating to Sycamore trees at Beam Ends, Hook Norton (copy plan attached at Appendix 1).

## **Recommendation**

The meeting is recommended:

- (1) To confirm Tree Preservation Order (no.20/2010) at the site of Beam Ends, Hook Norton without modification in the interest of public amenity.

## **Review and Monitoring Reports**

### **15. Decisions Subject to Various Requirements (Pages 104 - 106)**

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 meeting is recommended to:

- (1) Accept the position statement.

### **16. Appeals Progress Report (Pages 107 - 109)**

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.

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk) or 01295 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 Michael Sands, Legal and Democratic Services michael.sands@cherwell-dc.gov.uk (01295) 221554

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

Published on Wednesday 27 October 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 7 October 2010 at 4.00 pm

Present: Councillor Fred Blackwell (Chairman)  
Councillor Rose Stratford (Vice-Chairman)

Councillor Ken Atack  
Councillor Mrs Catherine Fulljames  
Councillor Michael Gibbard  
Councillor Chris Heath  
Councillor Alastair Milne Home  
Councillor David Hughes  
Councillor James Macnamara  
Councillor D M Pickford  
Councillor G A Reynolds  
Councillor Leslie F Sibley  
Councillor Chris Smithson  
Councillor Trevor Stevens  
Councillor Lawrie Stratford  
Councillor Barry Wood

Apologies for absence: Councillor Maurice Billington  
Councillor Colin Clarke  
Councillor Nick Cotter  
Councillor Mrs Diana Edwards

Officers: John Hoad, Strategic Director - Planning, Housing and Economy  
Bob Duxbury, Development Control Team Leader  
Ross Chambers, Solicitor  
Mark Harrison, Arboriculture Officer  
Simon Dean, Trainee Planning Officer  
Michael Sands, Trainee Democratic and Scrutiny Officer

## 72 **Declarations of Interest**

Members declared interest with regard to the following agenda items:

### **9. The Indian Pantry, 65 Calthorpe St, Banbury.**

Councillor G A Reynolds, Prejudicial, as a Member of the Licensing Sub-Committee that considered the application.

Councillor Michael Gibbard, Prejudicial, as a Member of the Licensing Sub-Committee that considered the application.

73 **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.

74 **Urgent Business**

There was no urgent business.

75 **Minutes**

The Minutes of the meeting held on 9 September 2010 were agreed as a correct record and signed by the Chairman.

76 **Whitmore Arms, Main Street, Hethe, Bicester OX27 8ES**

The Committee considered a report for the change of use of premises from Class A4 (public house) to Class C3 (residential).

Mr Nick Aldworth spoke in objection to the application as a resident of Hethe.

Mr Iain Hodgson spoke in favour of the application as the applicant.

The Committee considered the loss of this important village amenity and the marketing exercises carried out by the applicant.

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

**Resolved**

That application 10/01340/F be refused for the following reasons:

- (1) The proposal has failed to adequately demonstrate that the business is unviable in the longer term such that closure is inevitable. The marketing price is likely to be too high and there is insufficient evidence to show how that valuation was arrived at. On this basis, the loss of this village service which serves the basic needs of the local community cannot be justified at this time in accordance with policy S29 of the adopted Cherwell Local Plan and policy S26 of the non-statutory Cherwell Local Plan.
- (2) The pub is grade II listed and forms part of the established Hethe Conservation Area and its loss would seriously undermine its historic importance as a social venue and meeting place thereby harming the heritage asset of the Conservation Area contrary to central government advice contained in PPS5: Planning for the Historic Environment.

- (3) The proposal represents an unsustainable development as it would fail to improve the viability, accessibility or community value of an existing service and facility which is contrary to central government advice contained in PPS1 - Delivering Sustainable Development and PPS7 – Sustainable Development in Rural Areas.

77 **The Otmoor Lodge, Horton Hill, Horton cum Studley, Oxon, OX33 1AY**

The Committee considered a report for the variation of condition 7 of planning application 07/02478/F to permit the project to be constructed in two phases.

The Committee was satisfied with the evidence presented.

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

**Resolved**

That application 10/01021/F be approved subject to:

- i) the applicant entering into a legal agreement concerning the maximum cessation of works between phases 1 and 2 of the hotel extensions and the physical treatment of phase 1 in that eventuality.
- ii) the following conditions:
  - (1) That the part of the hotel extension permitted under planning permission references 06/01927/OUT and 09/01697/REM and 09/00936/F are shown in red on the drawings submitted with this application shall be built concurrently with houses 1 and 2 permitted under 07/02478/F and that thereafter that part of the hotel extension permitted under the above permissions and shown in blue of the drawings submitted with this application shall be built concurrently with houses 3 and 4 of the houses permitted under 07/02478/F. Neither of the houses in each phase shall be occupied until the related phase of the hotel is complete and ready for use.

78 **Wardington House Nursing Home, Wardington, Banbury**

The Committee considered a report for a new bedroom extension to Wardington House Nursing Home.

The Committee were satisfied with the evidence presented.

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

**Resolved**

That application 10/01055/F be approved subject to the following conditions:



- (1) SC1.4a [Full Permission: Duration Limit] (3 years) (RC2)
- (2) Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement dated July 2010, RSK Carter Ecological letter dated 14 September 2010, and drawings numbered 001A, 004D, 005D, 006C, 059A, 060G, 063F, 068B, 070J, 072C, 073A, 074B, 075A, 076A, 077A, 078C, 082A, 083C, 084B and 086A.
- (3) SC2.2a [Samples of Walling Materials] (RC4a) insert: 'ashlar stone', 'extension'
- (4) That the ashlar stone (sample to be agreed in accordance with condition 2) shall be laid in random course height which, other than any quoin stones included on the corners of the extension, shall not exceed a bed depth of 22cm. (RC4a)
- (5) SC2.2bb [Samples of Roofing Materials] (RC4a) insert: 'roofing materials', 'extension'
- (6) SC5.5 Submit New Design Details] (RC4a) insert: 'doors, windows, dormer windows and rooflights'
- (7) SC3.0a [Submit Landscaping Scheme] (RC10a)
- (8) SC3.1 [Carry Out Landscaping Scheme and Replacements (RC10a)
- (9) SC4.14bc [Plan of Car Parking Provision (Unspecified number of spaces)] (RC15aa)
- (10) That the three best practice measures listed on page 3 of the RSK Carter Ecological Animal Walk Over Survey dated 14 September 2010 relating to the removal of grass cuttings, vegetation and the felling of the Holly Trees shall be strictly adhered to.
- (11) SC9.6a [Fire Hydrants] (RC87a)

79 **Land to the West and South of Numbers 7 to 26 The Green, Chesterton**

The Committee considered a report for the erection of sixty three dwellings, new village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping.

Mrs Lorna James spoke in objection to the application as a resident of Chesterton.

Councillor Philip Clarke spoke in favour of the application as a Member of Chesterton Parish Council.

Mr John Walbank spoke in favour of the application as a resident of Chesterton.

The Committee considered the impact the proposed development would have on the countryside, given that it was contrary to both the adopted and non-statutory local plan policies. The Committee also considered the potential benefits the proposed development would bring to village amenities.

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

**Resolved**

That application 10/01278/OUT be refused for the following reasons:

- (1) The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone. A development of this scale is inappropriate given the size of village and existing level of provision of village facilities. As such the proposed development is contrary to the saved policies H13, H18 and C7 of the adopted Cherwell Local Plan and Planning Policy Statement 3 Housing.
- (2) In the absence of a satisfactory unilateral undertaking or any other form of S106 Legal Agreement the Local Planning Authority cannot guarantee that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, contributions to playing pitches, education facilities, library facilities and transport measures will be provided, which would be contrary to Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.

80 **The Indian Pantry, 65 Calthorpe St, Banbury**

The Committee considered a report for the variation of condition 5 of 08/02513/F to extend the operational use of the premises to Monday – Thursday 11am to 11pm, Friday and Saturday 11am to 1am, Sunday and Public Holidays 11am to 11pm.

The Committee considered the impact that the proposed change of opening hours would have on neighbouring properties.

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

**Resolved**

That application 10/01282/F be approved subject to the following conditions:

(1) That at the expiration of 6 months from the date hereof the opening hours specified in this application shall be discontinued and shall revert to those set out in Condition 5 of Application Ref 08/02513/F.

(2) That the operational use of the premises shall be restricted to the following times:-

Monday to Thursday - 11am to 11pm

Friday and Saturday - 11am to 1am

Sunday and Public Holidays - 11am to 11pm

81 **Tree Preservation Order (No. 16) 2010 Sycamore tree at Turnstile House, Barford St. Michael**

The Committee considered a report which sought the confirmation of an opposed Tree Preservation Order relating to a Sycamore tree at Turnstile House, Barford St Michael.

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

**Resolved**

That Tree Preservation Order No.16 2010 be confirmed without modification.

82 **Tree Preservation Order (No. 17) 2010 Sycamore tree at Hill House, Workhouse Lane, Bloxham**

The Committee considered a report which sought the confirmation of an opposed Tree Preservation Order relating to a Sycamore tree at Hill House, Workhouse Lane, Bloxham.

The Committee considered the safety and location of the tree.

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

**Resolved**

That Tree Preservation Order No. 17 2010 be confirmed without modification.

83 **Tree Preservation Order (No. 18) 2010 three Hazel trees, six Plum trees, one Apple tree and one Rowan tree at 12 Valentia Close, Bletchington**

The Committee considered a report which sought the confirmation of an unopposed Tree Preservation Order relating to three Hazel trees, six Plum trees, one Apple tree and one Rowan tree at 12 Valentia Close, Bletchington.

**Resolved**

That Tree Preservation Order No. 18 2010 be confirmed without modification.

84 **Quarterly Enforcement Report**

The Committee considered a report which updated Members on the progress of outstanding formal enforcement cases and informed Members of caseload statistics.

**Resolved**

That the report be accepted.

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

The Committee considered a report which updated Members on decisions which were subject to various requirements.

**Resolved**

That the position statement be accepted.

86 **Appeals Progress Report**

The Committee considered a report 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.

The meeting ended at 6.45 pm

Chairman:

Date:

## CHERWELL DISTRICT COUNCIL

### PLANNING COMMITTEE

4 November 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.

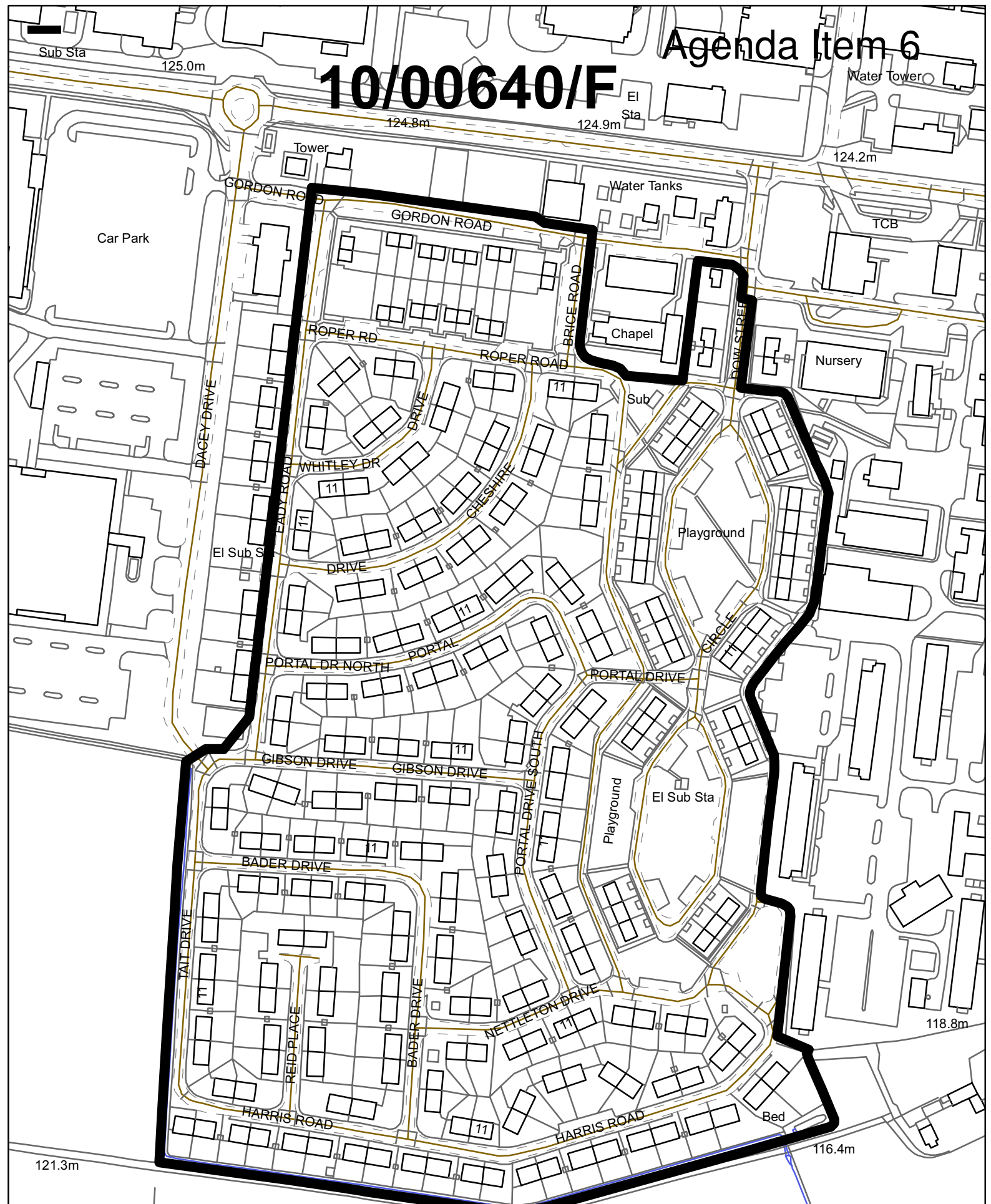
#### **Background Papers**

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

|    | <b>Site</b>   | <b>Application No.</b> | <b>Ward</b>                          | <b>Recommendation</b> | <b>Contact Officer</b> |
|----|---|------------------------|--------------------------------------|-----------------------|------------------------|
| 6  | Former USAF Housing<br>South Of Camp Road<br>Upper Heyford                          | 10/00640/F             | The Astons<br>& Heyford              | Approval              | Andrew<br>Lewis        |
| 7  | OS Parcel 2678 Adj A34<br>By Hampton Gay And<br>Poyle                               | 10/00839/F             | Kirtlington                          | Approval              | Andrew<br>Lewis        |
| 8  | Land South of Bernard<br>Close. Berkeley Homes<br>Site, Cassington Road,<br>Yarnton | 10/01302/F             | Yarnton,<br>Gosford &<br>Water Eaton | Approval              | Caroline<br>Roche      |
| 9  | 175A Warwick Road,<br>Banbury   | 10/01371/F             | Banbury<br>Ruscote                   | Approval              | Simon<br>Dean          |
| 10 | 29 Red House Road,<br>Bodicote, Banbury   | 10/01409/F             | Bloxham &<br>Bodicote                | Approval              | Emily<br>Shaw          |

# 10/00640/F



**Scale**  
**1:2,500**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. page 10  
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
 Cherwell District Council Licence number 100018504

A detailed map of the Cherwell area in North Oxfordshire, showing a network of roads, rivers, and building footprints. A specific building complex in the center is highlighted with a thick black border. The map includes various colored lines representing different types of roads and water bodies.

**10/00640/F**

**Scale**  
**1:24,000**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright.  
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
Cherwell District Council Licence number 100018504

**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE



|                                      |  |                                  |
|--------------------------------------|--|----------------------------------|
| <b>Application No:</b><br>10/00640/F | <b>Ward:</b><br>The Astons and Heyfords              | <b>Date Valid:</b><br>26.04.2010 |
| <b>Applicant:</b>                    | Dorchester Heyford Park Group Ltd                    |                                  |
| <b>Site Address:</b>                 | Former USAF Housing South Of Camp Road Upper Heyford |                                  |

**Proposal:** Permanent change of use of 253 existing military dwellings for residential class C3

## 1. Site Description and Proposal

- 1.1 The application site for this proposal is on part of the former USAF Upper Heyford base, specifically to the south side of Camp Road and to the west of the main centre of the settlement. It forms the residential character area known in the Planning Brief and Conservation Area Appraisal for RAF Upper Heyford as "Airmen's housing and bungalows". It includes 255 dwellings, primarily the prefabricated bungalows which are of a prefabricated construction built to an American specification. There are also groups of more solid 2-storey housing, notably the rendered terraced houses that date from the 1920's built around Carswell Circle, a group of red brick houses also built around a green south of Carswell Circle and a group of red brick semi-detached housing fronting Camp Road.
- 1.2 These dwellings are all covered by a temporary planning permission first granted in 1998 that permitted the change from their military associated use and which has been renewed every five years or so, most recently in March of this year (ref 09/01254/F). The temporary permission also covers other community buildings that are not part of the current application for example the church, community centre and nursery. This permission does not expire until March 2015.
- 1.3 The current application proposes to retain all the dwellings and road layout as existing with demolition of two bungalows, 5 and 7 Portal Drive South. The rationale for their removal is to create an arterial vehicular route that will link the retained dwellings with those proposed to be constructed to the east. This could facilitate a bus service through the estate in line with the masterplan approved at appeal earlier this year and which will be discussed in more detail below.
- 1.4 The area has limited open space, mainly the centre of Carswell Circles North and South, and has few trees or other significant vegetation.

## 2. Application Publicity

- 2.1 The application was advertised in the press, by site notice and by neighbour notification. It was clear for determination on 26<sup>th</sup> July 2010.
- 2.2 In addition, it is understood the applicants sent individual letters to all residents dated 1<sup>st</sup> June 2010 encouraging them to write to the Council in support of the application. There was also an on site exhibition and display. A standard letter was produced for residents to complete and send in. The Council have received 151 of these responses (not all signed or addressed) which request the permanent retention of the majority of these homes. Additional comments were also received in conjunction with these letters including:
- There is a good community spirit
  - The dwellings are basically sound
  - Good environment for children
  - Children settled at school
  - The structure is here it just needs updating
  - There is a lack of affordable housing
  - Work on the base so convenient
  - Elderly, would not like to relocate
  - The bungalows have a country cottage effect
  - Able to accommodate pets
  - Surrounded by countryside
  - Quiet surroundings
  - My home has been adapted
  - Residents want long term security
  - The bungalows should be retained as low cost rented housing
  - All properties should be affordable to current tenants-social housing, private rented or affordable purchase
  - They form part of the heritage of Upper Heyford
  - Would prefer a brick building
  - Interested in purchase- but need to see upgrade first
  - What would happen if homes go?
  - Spacious-for wheelchair user
  - Bungalows not energy efficient
  - Bungalows need updating
- 2.3 A petition signed by approximately 100 residents has been submitted by the Residents and Community Development Association. It states the residents are in favour of the application. They have been victims of circumstance. They wish there to be a stop to the waste of public money and uncertainty. They urge permanent planning permission is granted.
- 2.4 In addition, individual letters have been received from:
- 1 Larsen Road-local residents views should prevail and they support the application
  - 42 Harris Road (x3)-The properties are neglected but can be refurbished; the estate is shabby but decent and safe; the estate functions well; if permission was refused 250 families would be homeless and cause a gap in the rented sector market; many residents have lived here a long time and

deserve security; the estate is unique and a historical document that should be preserved; it is not about bricks and mortar but a community

- The Oxford Trust for Contemporary History:

Whilst supporting the application to retain the dwellings, when considering the above application the LPA is being asked, as it must, to have regard to the recent appeal, both the inspector's report and the advice of the Secretary of State.

The inspector's report considers whether policy OSP H2 requires that the re-development should be supported only on the condition that it is 'enabling development'. As Ms Mair reasoned,

19.33...but for the need to address its legacy, such a proposal as this seems unlikely to be supportable in policy terms, the LPA need to consider in what way, if any, can this be distinguished from the first test of legitimising 'enabling development' Ms Mair went on,

19.35 ...the scale of the development should be limited to that **necessary** to secure those interests...19.85 ...**changes of use** should serve and be subservient to achieving...heritage interest...(emphasis added)

There is no reasoning in the final decision which rebuts these findings. Whilst the permission granted on appeal can represent a fall back position, this new application signifies a lack of intention to carry out the wholesale redevelopment which was approved and indicates that an entirely different approach is now to be taken. The duty remains with the LPA to apply the policy and other material considerations as it now finds them.

It may assist to refer to the following extract from the judgment in the case of *Young v Oxford City Council* sets out the way in which the principle of enabling development applies.

The essence of a scheme of 'enabling development' is that the public, typically the community in a particular area, accepts some disbenefit as a result of planning permission being granted for development which would not otherwise gain consent, **in return for a benefit funded from the value added to the land by that consent** ...(emphasis added)

The issue of substance in this case is whether planning permission was granted because the development of the mews houses was acceptable in its own right, or whether it was granted on the basis that it was a proposal which would not otherwise obtain consent, but that consent was justified in return for a benefit funded from the value added to the land by that consent.

The LPA should consider whether permission for either permanent or temporary dwellings can be justified in the absence of a planning obligation

which accords with and goes towards achieving the purposes set out in OSPH2. It is appropriate that the LPA have regard to what Mr Keen said on its behalf at the Inquiry,

24...What would otherwise be 'unacceptable in planning terms' on PPG13 grounds is rendered acceptable in H2 by the three 'public benefits': environmental improvement, heritage conservation, and the achievement of a satisfactory living environment.

The apparent discrepancy between the inspector's acceptance of these submissions and the final decision, which does not provide an alternative interpretation of OSPH2, is hard to explain. However, the absence of a legal challenge does not relieve the LPA of the duty to continue to apply the development plan policy in a proper and intelligible way.

Uncontested evidence was provided to the public inquiry that the rent from the 300 existing dwellings was over £2million pa. Indeed the 'value added to the land by the consent' referred to in *Young* could be very substantial. There are a number of pressing needs for funds to enable the conservation of the Cold War heritage, not least the appointment of a curator and education officer said in evidence given to the inquiry by the NOC expert on cultural heritage to be of the 'highest priority'. The viable heritage project envisaged by OTCH (in the absence of the feasibility studies which the LPA and developer have as yet failed to carry out) would require substantial further funding.

Policy OSP H2 is addressed by the applicants Planning Supporting Statement. Para 3.4 (iii) claims that by '...preserving what is already there...', the application meets the requirement of OSP H2 to enable the conservation of the site as a military base with Cold War associations. The LPA must decide whether the requirements of OSP H2 are being met simply by keeping the existing dwellings or whether the three objectives set out in OPS H2 require the redevelopment of the site to enable something more?

If the application is supported by the LPA it will be interesting to see what conditions/obligations are attached and the formal reasons for the approval which address the points made in this letter.

### **3. Consultations**

#### **3.1 Oxfordshire County Council Developer Funding Officer:**

The Heads, as in the case of the Education/other matters Heads, are for a deed of variation to the extant planning obligations in the public inquiry UU (Jan & Feb

2009) it's specific variation by agreement in June 2010 and also the current temporary residential permission agreement of Mach 2010.

**General:**

For clarity I refer the proposed Heads alpha-numerically; also COUP = Change of Use Permission

G1 Granting and subsequent Implementation of the Change of Use will constitute the delivery of 253 (or thereabouts if numbers change e.g. 251 dwellings) "New Build Dwellings" as defined in the main UU (UH 04).

G2 Granting, Implementation and occupation of any of the 253 dwellings will constitute commencement of development of a new building within the Development Area (pursuant to the planning permission within main UU).

For the avoidance of doubt this will mean that the Construction Start Date, the Commencement Date and the Development Area Commencement Date shall be deemed to have taken place.

G3 The window to submit the Councils Undertaking will be extended to [12] months after the Implementation of the Change of Use permission for the 253 dwellings

G4 Monitoring and admin fee for the s106 - £1,500

G5 Prior to Implementation of a Change of Use Permission (COUP) the extant planning obligations shall remain in force.

G6 The various quarterly returns/notifications will need to be reviewed and tied in to and added to to accommodate various changes in the variation agreement.

**Transport Related**

T1 The provision of the Bus Services bond in as much as it relates to the housing occupations can be relaxed to the occupation at Heyford Park of 350 dwellings,. As set out in G1 above a dwelling includes both the existing dwellings (those that are not demolished) and all replacement dwellings and also the new build dwellings. i.e. dwellings means all types of dwelling.

T2 The Bus Services payments in as it relates to the housing occupations can also be relaxed to the occupation of 350 dwellings rather than the occupation of the 50<sup>th</sup> new build dwelling.

T3 The annual payments of the £26,000 towards the existing bus service provision will need to be extended such that it continues until the major contributions (as set out in Appendix 9 of the main UU) kick in. So if the kick in of the major contributions is after September 2014 (1 year after the

proposed/actual public Transport payment No. 5 in the March 2010 agreement) the annual payments will need to continue. They shall also continue at a slightly higher level of £32,000 pa and be index linked.

T4 The Sustainable Transport Fund trigger can be relaxed to 1 year following the granting of planning permission (following the PI outcome and plus the c6 month JR period).

We have kept the apportionment of the contributions towards the education infrastructure relatively simple – ignoring for the moment the other elements such as the Early Years provision and the Special Educational needs provision. The former, in the public inquiry amounted to a £800k plus element of the overall £11M Education sum. Converted to an amount per child that equated to £9,300. According to the population forecasts for the 253 units and the proposed 108 affordable units (assuming for the sake of argument they are both assessed as you suggest, i.e. market dwellings) they would yield around 35 early years children. A composite contribution amounting to £325,500.

So if the market assessment was used I would want the Early Years factors of the overall education contributions to be brought into the equation.

The net result would be a reduction of the Education contribution from my figure of £1,829,245 to £1,759,301 (your figure of £1,434,056 plus the £325,500).

We are all said and done not fully addressing the education impacts of the proposals as we are focusing pro rata contributions on the DfE rates which be the DfE's own admission are not reflective of the costs of building new school accommodation which we envisage, for instance the considerable abnormal costs expected in delivering the new schools are not factored in to the simple cost multiplier methodology. Also the impacts upon the secondary age schools will exceed the averages used so far.

So, as regards the schools infrastructure payments I would be willing to advise my Education officers that a contribution of **£1.76M** rather than the £1.83M would be reasonable.

Regarding the point about the secondary contributions (based on the new rather the extension rate), I would be willing to recommend the inclusion of a clawback provision (for the difference) subject to the longstop being 10 years.

Finally, the travel costs. The preparedness in not calling for the bulk of the primary education contributions in accordance with the extant S106s and the fact that the likely stalling of the development will lead to the increased need to transport children to remote schools rather than catering for their needs in the new maintained primary school. In the spirit of compromise, if for the sake of argument you are using the market occupation assumption for the 108 units – 14 primary children, then applying that pro rata to the 27 in my compromise aff/mkt mix to the capitalised sum for the 5 years would result in a sum of just over £90,000.

In summary I would be willing to recommend to my Education officers: £1.76M towards infrastructure and £90k towards primary travel.

### 3.2 Cherwell District Council's Head of Housing Service:

Because this housing has been let under temporary consent it requires a 30% contribution for affordable housing.

The affordable housing will be provided as new build accommodation. A 108 units have been secured as this number represents 30% of the total 'new' development including the units submitted as part of this application. This will require a separate planning application to be approved and the permission on this application will not be implementable until permission is obtained.

These units are likely to be proposed in two areas of the new development and would therefore be in clusters which are larger than the Council would normally accept.

The applicant has agreed that the affordable housing will transferred to a registered provider at a cost of £12,750 per square meter which although considerably less than the initial price quoted will not enable the delivery of housing for social rent without some social housing grant being provided. The Council has also negotiated that the affordable housing contribution could be made by way of free serviced land.

#### **Impact on current residents**

Many of the current residents have lived on the site as private tenants for a number of years and a strong community has been established. In 2007 the Council's Executive agreed a lettings plan for any proposed development which gave priority for affordable housing on the site to existing residents. The agreement with the developer therefore involves a survey being undertaken with all residents. This survey will identify the mix and tenure of new housing required to best meet the needs of the current residents. Households will be assessed for priority for the initial 108 units. Those households who are prioritised for these units will remain in their current housing until the new housing is provided. Other residents will retain their priority for any new affordable housing which is developed on the wider site. The Council cannot prevent these residents being served with notice by the site owners prior to any further affordable housing being completed on the site. The developer has agreed that if it is necessary to serve notice these will be phased over a 4 year period.

### 3.3 The Council's Urban Design and Conservation Officer:

The existing bungalows south of Camp Road are military housing and are occupied by civilians under a series of temporary consents. Unlike the remainder of the site there is no consent issued by the appeal decision as these homes were proposed to

be demolished in the appealed master plan.

The bungalows have no architectural merit. They have some historic significance but I am not convinced that this is so great as to require them to be retained in their entirety. They are not identified in either the jointly commissioned Conservation Plan or the Conservation Area Appraisal or the SPD as of significance, nor did the Inspector comment adversely on their demolition. The retention of these buildings is a commercial preference not driven by heritage.

The adopted SPD states that the bungalows are:

*not considered of any particular architectural or historic importance and therefore there is no requirement to retain them for these reasons. Furthermore, the retention of all the existing housing, due to its form and layout would make it very difficult to provide an integrated and satisfactory settlement. Redevelopment of some areas of existing housing is therefore anticipated..... Therefore, the retention of some existing housing, in addition to that at Larsen Road, Soden Road and Carswell Circle, could be considered provided it acceptably integrates into the framework of the new settlement and is served by appropriate infrastructure.*

The adopted SPD also refers to possible retention of a representative sample, which I suggest could be the group to the north of the Officers' housing north of Camp Road, where the juxtaposition of housing types and age would be interesting.

Policy H2 seeks a comprehensive plan for the whole site. Although the documentation supporting the application includes a plan indicating that the consented masterplan can be delivered whilst the bungalows are retained, it would leave the whole settlement significantly short of the 1075 dwellings for which permission has been granted and we know that that is not the intention of the applicant.

I have the following concerns

- The very low density of the bungalows either requires greatly increased densities to be achieved within the boundary of the area with consent for the settlement or additional land outside the consented master plan to be developed to achieve 1075 dwellings. There is no agreement as to whether either is acceptable in principle and indeed where any extra land should be. The emerging master plan indicates around 13 hectares of additional land for development around the settlement in locations that appear to have the potential to cause harm. 13 hectares of land is equivalent to an additional 455 dwellings at a density of 35 dph. These include
  - The Rousham vista, where we have asked the visual impact be assessed, albeit winter impacts will not be able to be assessed at present
  - All along the southern edge where areas proposed as paddock on the approved masterplan are to be retained as housing
  - Along the eastern boundary where the open setting of the officers'



housing, which is always placed on the extremities of these air bases, is to be infilled.

In the light of the lack of an agreed master plan for the whole settlement I consider that it is premature to be considering the grant of any permanent consents

- The retention of so many of these bungalows has implications on the master plan which have not been resolved.
  - Firstly it is known that the highways are not adoptable. Therefore it is not known, for example, whether the public transport operators would be willing to run buses down these streets and what the position is with respect to drainage etc.
  - Secondly as each street comprises buildings of the same appearance and type strung out along the roads, the environment is monotonous and not legible, and this results in poor place making as required by PPS 1 and PPS 3.
  - Thirdly the retention of such a large number of bungalows means that this block is difficult to integrate into the masterplan, as sought by the SPD
- We will need evidence to demonstrate how these dwellings, already 40-50 years old and of solid concrete construction with inadequate insulation etc, can be brought up to present day standards of thermal insulation etc, cost effectively in order to justify the sustainability argument in the light of not making best use of land.

Departure from the approved master plan will need to be explained and justified and to demonstrate that no harm ensues. In short, my position is that, at present, we do not have information that demonstrates that no harm to either heritage assets or landscape impact will result from the retention of the bungalows. On the contrary, I believe there is the potential for harm to result. I also consider that the retention of so many bungalows adversely impacts on the legibility of the masterplan and the integration of the existing with the new and therefore that this is a reduction in quality over the approved master plan.

The application is premature in advance of an agreed master plan for the whole site. The applicant should be asked to withdraw the application and resubmit once there is an agreed master plan for the whole site against which to assess this proposal.

3.4 The Council's Safer Officer- No observations

3.5 Upper Heyford Parish Council:  
Wholeheartedly support. Houses are there and residents want to remain in them

3.6 Middleton Stoney Parish Council: No objection

3.7 Steeple Aston Parish Council: No objection. Support the retention of the dwellings in line with OSP policy H2 ;support the provision of a high proportion of affordable housing; and would support their modernization, provision of supporting

infrastructure and landscaping

3.8 English Heritage:

No wish to comment in detail. No objection in principle

The dwellings are of no architectural value and limited historical value. Their retention should not threaten the loss of buildings of greater significance or the place as a whole. If the buildings are kept it is likely 400 dwellings elsewhere will need to be accommodated. This may impact on the historic nature of the base. To grant consent until a new masterplan is agreed is premature.

3.9 Oxfordshire County Council-Highways

This site is part of a wider site with extant outline permissions granted consent on appeal. With this respect certain highway aspects should tie in with the masterplanning elements of the wider picture. As proposed this does not happen. I would hope that with appropriate conditions this tie in will be satisfactory. The conversion of these dwellings to C3 must not detract from their inclusion in the wider context of the extant permission in respect of general impact and highway requirements.

Development Layout

The development layout is not changing. However it is noted that one dwelling is shown as being demolished to provide a space through for a road. This is meant to delivering the wider masterplan aim of improved links within the site and a bus route.

Bus Routes: a bus route is indicated. It is different to the wider planned route intended for the wider development proposal. The route indicated uses streets which are far too narrow. There is no proposal in the application which would indicate that this is to be addressed. Conflict with other road users is likely to occur. However I would prefer to take a holistic view and provide for the bus route which is being considered on the wider scheme.

I do not see the need to bring forward the bus service or the contribution under consideration in the wider context. However the provision of the bus route must be secured so as not to prejudice future requirements.

Parking: parking is declared at 2 spaces per dwelling. I assume that this is all within private ownership and not on street. This needs to be verified. I would expect that this would help with keeping vehicles from parking on street. However, whilst this is a higher number than ideally recommended, I am content with this sort of provision in this location.

Internal Layout: the internal layout road is not shown as extending to the limit of the application area. A revised plan is required. It should be clarified that some of the road layout is new provision. To meet the requirements of the wider internal layout this new road is essential. The width and construction of this new road is not declared within the application. More details are required in this respect.

Transport Impact

This has no traffic impact in terms of increase. The generation of the dwellings remain unchanged. I have not required a transport assessment in this case. The contribution in traffic impact terms of this site is included in the overall assessment of the wider extant permissions.

Recommendations

I have no objections to this proposal however I make the following recommendations:

Drawings 23824/001/003 and 004 must be withdrawn from the application.

The new road and dwelling demolition must be secured for the future provision of

the bus route which is part of the wider masterplan.

The provision of changes to the road structure and layout (including traffic regulation orders) of the bus route must be protected within this consent.

Revised drawings are submitted and agreed which detail all of the above as soon as possible or at least protected so as to accord with the wider masterplan.

If the planning authority view is that these requirements will be delivered by discussions and agreements under the extant outline consent then 'informatives' will suffice. Otherwise suitable conditions will be required.

Subsequently, the Planning Officer has sought clarification on a number of points and as a result the County have advised that:

The County didn't take on board those related points with regard to infrastructure and transport provision under the existing and proposed s106 agreement in responding as Highway Authority to the application -the Transport advice so far given on that application is to be considered provisional and the position is to be confirmed shortly.

A further communiqué has been received requesting financial contributions to transport, in particular, bus services.

3.10 Environment Agency:

No objections to the proposed development as submitted.

Regarding surface water flood risk we have read section 3.24 of the *Planning Support Statement*, produced by Pegasus Planning Group, dated 20 April 2010, PPG ref: CIR.D.0291. We look forward to being consulted on the proposed new masterplan and receiving the surface water drainage details associated with planning approval reference 08/00716/OUT.

3.11 Thames Water Utilities:

Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

On the basis of information provided, Thames Water would advise that with regard to water infrastructure we would not have any objection to the above planning application.

## 4. Relevant Planning Policies

4.1 National Planning Guidance contained in:

- PPS1-Delivering Sustainable Development
- PPS3-Housing
- PPS5-Planning for the Historic Environment
- PPS7-Sustainable Development in Rural Areas

4.2 Oxfordshire Structure Plan 2016

- Saved Policy H2-Upper Heyford

4.3 Adopted Cherwell Local Plan 1996 (ACLP)

- H5-Affordable Housing
- H18-New dwellings in the countryside
- C28-Design Policy
- C27: Historic Settlement patterns
- C30: Design of new residential development
- C23-Conservation Areas

#### Non Statutory Cherwell Local Plan (NSCLP)

- UH1, UH2, UH3, and UH4-Upper Heyford
- H1-Housing location
- H3-Efficient Use of Land
- H4-Housing Type
- H7-Affordable Housing
- TR11-parking
- D1/D5-Design/public realm

#### 4.4 Draft Core Strategy-February 2010

- Heyford is identified as the major single location for growth other than Banbury and Bicester. Of course the Strategy is an emerging document that has little weight at the present time.

#### 4.5 In addition:

- Planning Obligations Interim Planning Guidance (April 2007)
- RAF Upper Heyford Conservation Area -Designated April 2006
- RAF Upper Heyford Planning Brief (SPD adopted 5<sup>th</sup> March 2007)

## 5 Planning History

- 5.1 The site has a long planning history. Of particular relevance to this application is the application allowed on appeal, planning reference 08/00716/OUT.

## 6 Appraisal

### 6.1 Background

- 6.2 The former base at Heyford has had a somewhat tumultuous recent planning history culminating in the appeal decision in January of this year to grant planning permission for a new settlement of 1075 dwellings including employment and community uses, school and infrastructure. It was subject to 71 conditions and a s106 agreement to make significant provisions towards community undertakings and securing heritage interests. The masterplan approved as part of this planning permission showed the land subject of this application redeveloped for housing.

- 6.3 In the course of the appeal inquiry which lasted many months, the site was sold and the current application is submitted in the name of the new owner. They have come forward with a modified concept for developing the site which in broad terms keeps the employment uses on the flying field in line with the appeal decision, proposes a new commercial centre at the heart of the settlement and looks afresh at the

residential side of the development. As part of that re-assessment they propose to keep 253 dwellings on the south side of Camp Road, mainly bungalows but also houses. As with all such proposals there are advantages and disadvantages and these are set out below.

- 6.4 Certainly the scheme raises a number of issues but the main ones are:
- The Principle of Development and Compliance with the Development Plan
  - Impact on the Conservation Area
  - Access and Highways
  - Affordable Housing
  - Section 106 Agreement

6.5 **The Principle of Development and Compliance with the Development Plan**

6.6 The Development Plan is in a state of transition and requires a basic recital. The main thrust of the South East Plan (SEP) was to encourage sustainable development in or adjacent to urban areas. However this has now been revoked.

6.7 The Structure Plan (OSP) which had effectively been replaced by the SEP included, unusually for such a strategic document, a site specific policy for Upper Heyford. This policy, H2, was saved by the SEP and remains in place despite the revocation of the regional plan. Due to the significance of this policy and the development now proposed the policy is reproduced in full:

***Upper Heyford***

***H2 a) Land at RAF Upper Heyford will provide for a new settlement of about 1000 dwellings and necessary supporting infrastructure, including a primary school and appropriate community, recreational and employment opportunities, as a means of enabling environmental improvements and the heritage interest of the site as a military base with Cold War associations to be conserved, compatible with achieving a satisfactory living environment.***

***b) Proposals for development must reflect a revised comprehensive planning brief adopted by the district council and demonstrate that the conservation of heritage resources, landscape, restoration, enhancement of biodiversity and other environmental improvements will be achieved across the whole of the former air base in association with the provision of the new settlement.***

***c) The new settlement should be designed to encourage walking, cycling and use of public transport rather than travel by private car. Improvements to bus and rail facilities and measures to minimise the impact of traffic generated by the development on the surrounding road network will be required.***

- 6.8 The supporting text states (para 7.7):  
*“Land declared surplus by the Ministry of Defence at the former airbase at Upper Heyford represents an opportunity to achieve an appropriate balance between environmental improvements to a rural part of Oxfordshire, conservation of the heritage interest from the Cold War, and re-use of some existing buildings and previously developed land located in the former technical and residential core area of the base. However, the scale of development must be appropriate to the location and surroundings. The County Council is opposed to the development of a large new settlement due to the site’s relatively isolated and unsustainable rural location, the threat of urbanisation in a rural area, the location of the site in relation to Bicester with which it would compete for investment in services and facilities, and*

*conflict with the objectives of Government planning policy in PPG13 to provide accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel by car\*. Therefore, the Plan provides for modest development of about 1,000 houses. There are about 300 existing houses on the site of which some or all could be retained or demolished, but the total limit of about 1,000 dwellings will be the determining factor. This proposal has been recognised by the First Secretary of State as 'an exception to normal sustainability objectives as a means of facilitating the remediation of the former airbase to enable the site to present a more environmentally acceptable face than it does now.'*

- 6.9 Material to this application is the line that “*some or all could be retained or demolished*”. Para 7.8 continues:  
*“Proposals for development must be in accordance with a revised comprehensive planning brief for the site adopted by Cherwell District Council. Care should be taken to ensure that the heritage interest of the site as an air base with Cold War associations, landscape restoration and biodiversity are all taken into account in deciding appropriate measures.”*
- 6.10 The adopted Local Plan is largely silent on Heyford, the non-Statutory Cherwell Local Plan 2011 reinforces OSP H2 setting out in policies UH1-UH4 a large number of conditions requiring compliance in order to seek a comprehensive approach to its development. It set out the need for a Comprehensive Development Brief (CDB) for the site and this was produced and approved as supplementary planning guidance in 2007
- 6.11 The retention of the dwellings subject of this application had never been a formal requirement although the housing that predates the development of the site by the Americans, Carswell Circle, is identified as of architectural merit and making a positive contribution to the conservation area (designated in 2006). In terms of the bungalows which form the dominant building group in this location, they are considered of “no architectural merit” and that there is no planning requirement to retain them”. It is suggested a sample group could be kept “to represent occupation of the base by USAF personnel”. The CDB concludes “more efficient use of the land would result from redevelopment.” This assessment reflects the character analysis set out in the Conservation Area Appraisal, the whole of the base site being designated a conservation area in 2006.
- 6.12 Looking slightly further ahead, the Core Strategy identifies the site as providing 1,000 homes but is otherwise rather light with reference to the former base. It also has limited weight compared with the other Plan documents.
- 6.13 So, whilst the Planning Authority had been working towards a comprehensive package of development at Heyford in which the primary aim has been to seek a satisfactory lasting arrangement for the whole site as a means of enabling development in the form of environmental improvements and conservation of the heritage interests of the site, the bungalows in particular have been assumed to be part of the redevelopment package. This has been due, not just because they lack an aesthetic quality and have been considered to have limited enhancement value to the conservation area, but also because they provide homes of limited quality because of poor insulation and limited internal amenity standards. However a demonstration scheme by the applicants on two bungalows elsewhere on the site

has shown they can be brought up to modern standards with a modest investment and with external works to the structure to improve their appearance. Officers therefore feel that whilst their retention was not considered to constitute a “lasting arrangement” they have had to reassess the position and now accept they can be satisfactorily integrated into a larger scheme.

6.14 This leads on to a number of further points of which members should be aware centring on the masterplan for the site.

6.15 **Heyford Park Masterplan**

6.16 The Council is currently working with the developer on future schemes for the former base in terms of the masterplan approved at appeal. The retention of the bungalows runs contrary to this. The Officers therefore have been reluctant to support the current proposal in advance of a new and approved masterplan. The applicant's know this and have been employing their best endeavours to submit a fresh application encompassing a revised masterplan. It is anticipated this will be submitted at the beginning of November.

6.17 One of the implications in agreeing this application is the very low density of the bungalows requires the boundary of the proposed developable settlement area to be expanded and for parts of the site to be at a higher density than elsewhere and envisaged in the current approved masterplan. However, members will be aware of the change in national guidance of density guidelines and it is now largely in the domain of Local Authorities to agree density appropriate for the site. Members have recently had a presentation on the changes proposed to the masterplan and seen the alterations suggested by the applicant. In principle, but without prejudice to future determination of the masterplan application when received, these changes were considered not to be unacceptable.

6.18 **Impact on the Conservation Area**

6.19 The former air base was designated a Conservation Area in 2006. Clearly the housing around Carswell Circle is the most significant element of this part of the area but the bungalows themselves can also be said to be preserving and enhancing the character and appearance of the conservation area because of their historic significance, rather than any architectural quality, in line with the advice contained in PPS5, certainly in the applicant's submission it is argued their retention is seen as having a neutral impact but which will be enhanced by capital investment in the retained dwellings.

6.20 The views of English Heritage on this issue are particularly crucial and whilst they consider the application premature in advance of the masterplan they do not object.

6.21 One other factor that is material but to which Officers give little weight at present is the site is subject, in its entirety, to an application for world heritage status. At present it is with English heritage before any formal submission to UNESCO.

6.22 **Access and Highways**

6.23 In essence the proposed layout and access remains as existing with one significant change. Two bungalows are proposed to be demolished to facilitate a circular route

around the site for buses, cyclists and pedestrians. At present buses cannot penetrate the site and the route is somewhat convoluted for vehicular and non vehicular traffic. This is welcomed by the Highway Authority and the Planning Officers. More significant changes are envisaged elsewhere on Heyford Park but are not part of the considerations for this scheme and are likely to come forward when the masterplan is revised.

6.24 One stumbling block has been delays in securing agreement on contributions towards transport improvements required as part of OSP H2, the NSCLP and the CDB. This has now been agreed between the County Council and applicant with an annual sum being provided to improve bus services (£26,000) rising on completion of the 350th dwelling to £120,000. This will contribute towards improving the poor accessibility of the site in its rural location.

6.25 **Affordable Housing**

6.26 It had always been a central part of the policy to redevelop Heyford that a significant element of the proposed housing would be affordable. This was secured at appeal through a complex Unilateral Undertaking in which the retention of the bungalows was not envisaged. Considerable negotiations have taken place to seek a revised agreement and whilst the terms and conditions have not been fully agreed the principles have.

6.27 They do not include the retention of any of the bungalows as social housing. This has been resisted by the applicant who has, and in fairness in line with the Council's interim planning guidance on social housing, to provide free serviced land or built units elsewhere on the base. Location has not been agreed and would need to be subject of a separate planning application but it is likely to be a site north of Camp Road for housing and flats in the trident area. The number of units provided is based on 30% of the retained units plus factoring in the new building to give a total of 108 new build units.

6.28 One of the benefits of the proposed development is that there is a strong and vibrant community resident at Heyford. However, those residents that may be entitled to social housing will not be able to continue to reside in the bungalows. However, they will be able to continue to occupy their homes until the new build dwellings are constructed. Other residents who wish to stay in their homes and can afford to, are likely to be given the opportunity to purchase them. It is understood Dorchester Group also intend to maintain a considerable number of the currently dwellings as part of their property portfolio for rent.

6.30 **Section 106 Agreement**

6.31 In line with the Council's interim Planning guidance on Planning Obligations the applicant is required to provide:

Play areas

Existing play areas to be retained improved and secure long term. Future provision in line with the development plan and SPD. Where effected by development they should be replaced

Informal Open Space



Retain and secure long term management of existing Provision for further development in line with the development plan and SPD

Sports Pitches

Existing sports pitches to be made available for use. Additional pitch to be provided unless otherwise agreed

Indoor Sports

Contribution of £65,200, payment on occupation of 50th new dwelling

Nursery

Existing nursery to be retained or marketed. Market if not provided

Shop

Retain or market. Market if not provided

Bins

Financial contribution of £60 per new dwelling

Community Hall

To be retained

Public Art

Contribution of £25,000 for the new build

Security Fence

To be removed and a scheme of boundary treatment to be agreed.

Monitoring Sum

A sum of £2,000 to be paid on commencement of development. A sum of £5,000 to be paid on commencement of development of the new build

On affordable housing Committee should be advised:

The retention of the dwellings requiring the 30% social housing provision leads to the requirement for new build which also require 30% social housing and gives us 108 new build dwellings. These will require a contribution of their own as set out above.

The social housing provision is agreed to be either £1,275 per metre (+ Build index) or free serviced land (FSL).

We have not formally identified the land for the social housing development. We do not have an agreed density or mix of housing types or tenure (this is to be subject of a survey of residents to find out their need). Following on from this we do not have the size of land to be agreed. There is of course no detailed approval of any scheme

**7 Conclusion**

- 7.1 The application is recommended for approval subject to conditions as and a s106 agreement. Members should be aware however that negotiations on the legal agreement have become very protracted and the Officers cannot deny they fear it may prove difficult to enforce some of the terms as currently drafted. Legal advice is

still being exchanged and any further progress on these discussions will be reported orally at Committee.

## **6. Recommendation**

### **Approval subject to:**

- (i) the conditions set out below and
- (ii) the applicant entering into a section 106 agreement with the District and County Council as outlined above

### **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.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 None of the dwellings that form part of this permission shall be occupied under the terms of this permission until the two bungalows 5 and 7 Portal Drive South have been demolished. Written notice shall be given to the Council seven days in advance of their demolition

REASON: To ensure that the premature demolition of the buildings does not take place to the detriment of the special character and appearance of the Conservation Area and in advance of an agreed scheme for the circular access route in order to comply with the Structure Plan policy H2, the non Statutory Cherwell Local Plan 2011 policy UH1 and the government advice contained in PPS5 and PPS13.

- 3 Neither 5 nor 7 Portal Drive South shall be demolished until a scheme has been submitted to and approved by the Local Planning Authority for the laying out of a new circular access route around the estate and a legally binding contract for the carrying out of the works is made and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority, or in the absence of such a contract an alternative confirmation of commencement of the development has been submitted to and agreed in writing by the Local Planning Authority.

REASON: To ensure that the premature demolition of the buildings does not take place to the detriment of the special character and appearance of the Conservation Area and in advance of an agreed scheme for the circular access route in order to comply with the Structure Plan policy H2, the non Statutory Cherwell Local Plan 2011 policy UH1 and the government advice contained in PPS5 and PPS13.

- 4 That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,

- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

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

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

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

- 6 The existing open space and play areas shall be retained, maintained and made available to the public at all reasonable hours.

Reason - To ensure that provision is maintained for recreational facilities to serve the residents of the site and to comply with Policy R12 of the adopted Cherwell Local Plan.

#### **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 Planning (Listed Buildings and Conservation Areas) Act 1990, Government advice contained within PPS5, in accordance the Revised Comprehensive Planning Brief, the development plan and other material considerations. The development is considered to be acceptable on its merits as the proposal preserves the character and appearance of the Conservation Area. The development is considered to be acceptable on its planning merits as the proposal will enable the existing residents to remain on the site in a lasting arrangement. As such the proposal is in accordance with Policy H2 of the Oxfordshire Structure Plan 2016 and UH1 of the Non Statutory Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the

application should be approved and planning permission granted subject to appropriate conditions, as set out above.

**CONTACT OFFICER: Andrew Lewis**

**TELEPHONE NO: 01295 222183**

**10/00839/F**

**Agenda Item 7**

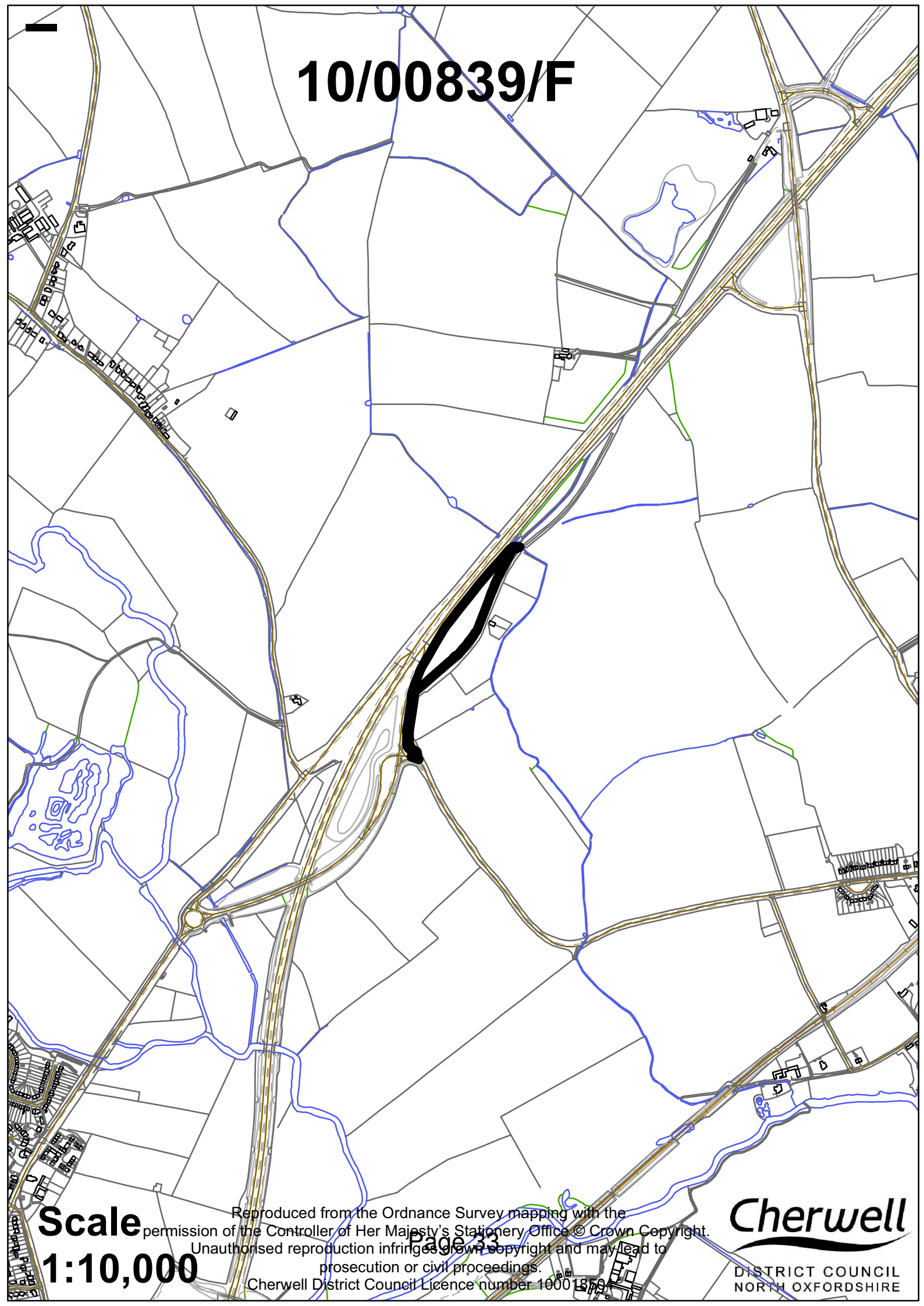


**Scale**  
**1:2,000**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright. **Page 32**  
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
Cherwell District Council Licence number 100018504

**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**10/00839/F**



**Scale**  
**1:10,000**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Cherwell District Council Licence number 10001879

**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

|                                      |   |                                  |
|--------------------------------------|---|----------------------------------|
| <b>Application No:</b><br>10/00839/F | <b>Ward: Kirtlington</b>  | <b>Date Valid:</b><br>28.06.2010 |
| <b>Applicant:</b>                    | Mr David Goddard C/o Romani Gypsy Advisory Group S/W, Mrs Sally Woodbury, Altona Park, Hillfarrance, Taunton, Somerset,TA4 1AN. |                                  |
| <b>Site Address:</b>                 | OS Parcel 2678 Adj A34 By Hampton Gay And Poyle   |                                  |

**Proposal:** Change of use of land for British Romani gypsy families; 8 mobile homes; 8 touring caravans for nomadic use only and 8 utility day rooms.

## 1. Site Description and Proposal

- 1.1 The application site is a relatively isolated location on the eastern side of the A34. In terms of proximity to the nearest settlement, it is approximately 1.5km east of Hampton Poyle, 1.5km west of Islip and 1.5km north of Kidlington. There is one farm within about 500 metres, Field Barn, on the west side of the A34.
- 1.2 The site is of a linear shape with a north-east to south-west axis. It is approximately 1.72 hectares in size and about 300 metres long and 60 metres at its widest point. It is bounded to the west by the elevated A34 and its slip road, and to the east by a track that originally ran to Heathfield before construction of the A34. Beyond that are open fields. At its northern tip is a small brook that runs into the Cherwell. At its southern end is a gated access to the minor road linking the A34 junction to Islip.
- 1.3 At present the site is undeveloped, open, grassed with bramble that seems to be cut twice a year. There is hedging that forms a strong screen around the boundary of most of the site interspersed with odd trees. The Heathfield track also has some trees and vegetation alongside it.
- 1.4 The proposed development is to provide a site for an extended gypsy family. It will consist of 8 pitches. Each pitch is enclosed and will have a mobile home (61m x 12.2m), a day room (6m x 5m), 2 parking spaces, septic tank and space for a touring caravan (7.65 x 2.44m). Each pitch is served by a new access way that runs inside the western boundary. There will be grassed paddocks to the north and south, and a children's play area to the north. The homes are single storey, of a prefabricated construction and contain 2 bedrooms. The day rooms are also single storey and contain wash room and kitchen facilities.

## 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 15<sup>th</sup> July 2010. A number of public, statutory and internal comments have been made which are set out below.

2.2 61 letters have been received, with one exception all object. (Copies of all correspondence can be seen on the Council's web site) In summary, the main planning concerns raised are:

- Green belt-inappropriate development (37)
- Effectively a commercial development (in green belt) (3)
- No special circumstances/justification (3)
- In flood plain/increases risk of flooding (15)
- Flooding of the site (2)
- Risk of pollution/contamination of site/health of occupiers (3)
- Risk of pollution/contamination from site (10)
- Will act as a dam to floodwater
- Risk of pollution to River Cherwell.
- Effect on health of occupiers (4)
- More appropriate site should be found
- Tantamount to a housing development
- Applicants should buy house (2)
- Dangerous access/junction/road (10)
- Danger to road users (3)
- Increase in traffic (4)
- Poor public transport
- Adverse effect on ecology of adjacent area (Partletts Piece), a safe environment for wildlife and wild flowers. (2)
- Adverse effect on natural environment, visually, ecologically
- Proposal should not over-ride established planning principles
- Support provision of gypsy accommodation: elsewhere/on brownfield land/nearer other similar sites/nearer services (5)
- Adequate provision in area
- Lack of consultation (2)
- The application should be supported as an exception to green belt policy. Positive steps are required to preserve the gypsy way of life. Gypsies are a traditional part of rural life. Their culture is being lost. There is a national shortage of sites. The land of limited use.

## 3. Consultations

3.1 Hampton Gay and Poyle Parish Council object to possible congestion on the A34, waste removal and water ingress in to cess-pits

3.2 Kidlington Parish Council object: contrary to PPG2, no need in this location and inappropriate access



3.3 Islip Parish Council objects to planning application 10/00839/F. The following is a summary of an extensive submission:

1. The site is in the Green Belt
2. The land is not in public ownership, so that the level of care, services, and management is not subject to direct democratic accountability.
3. The site is bounded on its long northern boundary by the sliproad off the A34; this carries a large volume of traffic travelling at high speed, some of which turns into the B4027 past the entrance to the proposed site. In addition to this, traffic crosses the slip road at high speed in order to avoid traffic flowing along the slip road. Therefore traffic turning off or crossing the slip road would present a serious traffic hazard, particularly to slow-moving vehicles entering or leaving the proposed site and to children.
4. The site floods frequently because surface water runs off the agricultural land to the south when the land is wet and there is moderate or heavy rain; the clay substratum does not allow the topsoil to drain rapidly. In 1998 and 2007, the River Cherwell and its subsidiary streams and ditches overflowed their banks and caused extensive flooding at the level of the site in, e.g., Islip, where in 1998 the Cherwell flowed up the valley of the River Ray. The confluence of tributary streams and ditches and of the Cherwell itself close to the proposed site present a strong risk of river flooding in addition to flash-flooding.
5. There are no known mains services – water, gas, electricity, sewage.
6. There is no proposal to install mains sewage; the susceptibility of the site to flooding will compromise sewage treatment and present a health hazard to the occupants of the site and to the general public.
7. The nearest bus-stop is one mile either way at Gosford or at Islip along busy roads; the road towards Islip has no pavement.

The Parish Council challenge a number of assertions in the applicant's design and access statement including that the lane has been used by gypsies in the past, the Council's requirement for social housing being relevant to this application and the applicant's address is not specified. It also points out that not all the plots will be occupied by the applicant family.

Concern is expressed at potential business use and the lack of services to the site.

The Parish Council understands that the land is subject to river and flash flooding. In the absence of mains sewerage, the Parish Council assumes that a septic tank solution would be proposed. Such a system must be inappropriate within an area subject to flood risk. The possibility of sewerage entering the water course system due to flooding is unacceptable, and would be a real risk to residents of the site, to Islip, and to surrounding areas. As already mentioned the River Cherwell floods upstream of the River Ray in extreme flood conditions.

The Parish Council feel the allocation of sites should be subject to the normal planning process

The Parish Council would like the result of application 07/02707/F to be taken into account. Permission was given 12th August 2008 by CDC for 21 existing gypsy and traveller mobile home sites at Bicester Trailer Park, Oxford Road, Chesterton,

to be used by non-gypsies in addition to gypsies. The main factor in the decision was evidence that there was insufficient local demand from gypsies and travellers. As this decision was both recent and related to a site within a very few miles of Islip, the Parish Council believes that the argument that there are sufficient sites locally should be remembered in the present case.

The Parish Council understands that if permission were to be given for a private site in Cherwell, then the number of private pitches would contribute to CDC's target under the South-East plan. The Parish Council is therefore very keen indeed that proper process be observed, i.e. that Cherwell District Council, if it is obliged to provide pitches, should propose specific sites - so that these can be debated by council tax payers, and so that CDC takes proper democratic responsibility for the specification of sites.

The Local Development Framework includes policy H8:

Applications for planning permission for sites not allocated in Delivery Development Plan will be expected to demonstrate that any site proposed is required to meet an identified need in Cherwell and that the above sequential approach and criteria have been applied. The proposal does not appear to the Parish Council to satisfy the criteria set out in the draft LDF as specified above. "Exceptional circumstances" are not defined. The Parish Council does not understand *exceptional circumstances* to mean the normal requirements of access to healthcare and education, which have presumably been available to the applicant and his family to date.

The Parish Council would be pleased to receive CDC's assurance that it will continue to maintain the Green Belt, and that CDC therefore understands that "New gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: 'Green Belts' (PPG2)." The circular makes clear that an "exceptional limited alteration to the defined Green Belt boundary" (i.e. an exception site) would be proper only where "no other suitable sites outside the Green Belt exist." Alternatives should be explored before Green Belt locations are considered.

The Parish Council expects CDC to comply with its own policies (*reference is made to the Non Statutory Cherwell Local Plan 2011*), with those of the *Oxfordshire Structure Plan 2011* referred to in DCLP, and with Department of the Environment's revised *Planning Policy Guidance: Green Belts (PPG2)* published in January 1995 also referred to in DCLP.

3.4 Traveller Projects Officer, Oxon County Council supports the application: well suited to the purpose, excellent location, good access/egress, no close neighbours

3.5 Minerals Officer, Oxon County Council: No objection

Developer Funding Officer, Oxfordshire County Council: In the County's view, this proposal should not be permitted unless developer contributions are guaranteed through a S106 deed so shortfalls do not increase and supporting service infrastructure may be provided. This is in line with Policy CC7 of The South East Plan. (A sum of £5,1048).

3.6 The Highway Agency offers no objection

3.7 Highways, Oxfordshire County Council:

The proposal would provide 8 plots for travellers on an area described as 'wasteland' by the submitted application form. I consider each plot would accommodate a family and would exhibit transport characteristics similar to a 2/3 bedroom dwelling. Currently the site is vacant and benefits from a vehicular access, which I assume provided for a previous agricultural use. The site is adjacent to the A34 but is remote from any settlements, associated services and amenities.

In general, the site would not be considered appropriate for habitable accommodation, given its isolated location and future residents' reliance upon private car, contrary to PPG13 and PPS3. However, due consideration must be given to Circular 1/06 and specifically paragraph 66, *'projected vehicle movements for gypsy and traveller sites should be assessed on an individual basis for each site. Proposals should not be rejected if they would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant.'* It is my opinion that the number and distribution of trips, resulting from the proposal, would not have any significant impact upon the local highway network and, therefore sustainability, in terms of transport, is not ground for refusal.

A detailed plan of the access to the highway has not been included within the submission. The existing field access would need upgrading to ensure appropriate visibility and geometry are provided. The existing access is approximately 30m, centre line to centre line, from the adjacent crossroads. Whilst greater separation would be desirable the proximity of the access to the junction is acceptable. Accident data at the junction have been interrogated and do not raise any significant concern; in the last five years all accidents have been of slight severity and due to driver error, 4 of 5 accidents resulting from eastbound traffic failing to give way. Appropriate visibility can be provided at the access subject to some cutting back of the vegetation in the highway verge. A condition is recommended to ensure appropriate geometry and space are available at the access to allow for simple manoeuvring to and from the site.

The proposed internal layout of the site allows appropriate provision for parking and turning. All surfaces should be drained appropriately and incorporate SUDS.

The submitted plans and documents do not include any lighting; any lighting that may be provided must ensure the adjacent highway is shielded from any direct light source.

In summary, the Local Highway Authority does not wish to object, in principle, to the granting of planning permission subject to conditions.

3.8 Environment Agency:

We have examined the Flood Risk Assessment (FRA) ref: 9069/1 produced by Prior Associates, dated August 2010. We are satisfied with the principles and are able to remove our objection to the proposed development. The proposed development will only be acceptable if the measures are implemented and secured by way of a planning condition on any planning permission.

3.9 Thames Water: no objection on water or sewerage infrastructure grounds

3.10 The Council's Anti-Social Behaviour Officer has no observations

3.11 The Council's Landscape Service's Manager:

The site layout is acceptable to me and does not impact too much on the existing trees on the hedged NE boundary. It is essential to ensure that there is no root damage caused to these trees during the site works, as these trees provide amenity, and some screening to the site. I would like to see protective chestnut paling fencing erected to the extent of the canopies prior to works commencing or alternatively the NE fence to the plots and play area is to be installed first to protect the root areas.

The linear space between the tree/hedge and the and the fence is to be defined a grass land which may be subject to horse grazing, an so I think it is appropriate to install a low paddock fence between the existing boundary hedge for the purpose of keeping the horses/ponies from grazing trees and hedge. Certain species, fruit and seeds are poisonous to horses such as ragwort and acorns but I am sure the applicant is already aware of this.

The paddock areas to the north and south must be reinforced with paddock fencing to ensure that the existing NE and NW boundary hedges are protected from grazing horses/ponies. The northern area is missing from the plan and it will be necessary to see this area on a scaled drawing.

The hedge on the NW boundary adjacent the A34 would normally be allowed to attain a sufficient height to screen the tops of the caravans and mobile homes from the A34, however this hedge will be outside the control of the applicant because its ownership and maintenance responsibility rests with OCC Highways. In order to provide further screening of the site for drivers on the A34, and any potentially hazardous glare from the site, I recommend Hawthorn and Field Maple hedging with small trees to the frontages of each of the plots.

Each section of hedge will be between the entrance and the corner of the plot and planted inside the fence to for protection from grazing and vehicles. The hedge plants to be planted at 450 mm apart in staggered rows 450 mm apart (details to be shown on a landscape proposal drawing). A small tree is to be planted within each of the rows at various distances from the gate post to reduce uniformity (also to be shown on the landscape proposal drawing). The trees are to be allowed to attain their full height whereas the hedge to be sided up and maintained to a minimum height of 3 metres. I recommend Field Maple tree (*Acer campestre*) supplied as 10-12 cm standards.

All existing trees and hedges to be retained and indicated as such on the landscape proposal drawing. The NE boundary hedge is to be maintained to a minimum height of 3 metres and sided up when necessary. This is to maintain an effective screen from adjacent land to the NE.

3.12 The Council's Ecology Officer recommends:

- Removal of any vegetation outside of the bird breeding season, March-August, or under the supervision of an Ecological watching brief following a check for nesting birds
- Landscaping and any new planting should comprise native species of local provenance and opportunities to enhance retained and existing habitats detailed in line with PPS9
- Trees and hedgerows to be retained should be adequately protected during development works in line with BS 5837:2005 (trees in relation to construction).
- Continued protection and safeguarding of the boundary features (in particular the south eastern boundary) is required post construction by a buffer zone of semi natural habitat. This area could be managed for wildlife in line with PPS9 which promotes protection and enhancement of biodiversity.

3.13 The Oxford Green Belt Network (OGBN)

It would appear to us that the new application is similar, if not identical, to the earlier one, but that the present application involves some further discussion about the flood risk. We are not experts in flood risk but would point out that the site in question is very close to the River Cherwell which has been the cause of flooding in the Kidlington/Gosford area in recent years. In these days of climatic uncertainty there might also be a hazard to low lying ground in the form of sudden downpours as well as from river flow. We wonder what might happen to the proposed septic tanks in circumstances where there is very heavy rainfall and floodwater running from the adjoining land.

As we said in response to the previous application, the site is in open Green Belt countryside, not in or on the edge of any existing settlement and, as such, must be deemed inappropriate development according to paragraph 3.4 in PPG.2 on Green Belts which deals with limited extensions and infilling. So far as gypsy sites in particular are concerned, you will be familiar with the paragraph on such sites in Annex E of PPG.2 which states that "Gypsy sites are not regarded as being among those uses of land which are normally appropriate in Green Belts. Green Belt land should not therefore be allocated for gypsy sites in development plans."

We have noted what is said about travelling communities in the emerging Cherwell Core Strategy and note that Policy H8 states that the Council will consider locations **outside** (our emphasis) the Green Belt. By inference therefore the Council is not prepared to consider locations, like the one in the present application, which is within the Oxford Green Belt. Even if it were outside the Green Belt, this particular location would not satisfy the criteria relating to the suitability of sites for travellers as set out in the Council's policy. The site is adjacent to a very busy A.34 and to the Kidlington slip road where vehicles exit at high speed. It seems to us to be a highly unsuitable location for anyone to be expected to live on account of the problems of noise, pollution from vehicles, and the danger from traffic especially to children and to stray animals.

We were surprised to see the site in question described as waste land and the reference in the Application to the absence of trees on or adjacent to the site. It is our understanding that nearby land has some real ecological and wildlife interest. It is admitted in the Design and Access Statement that the site is in the Green Belt,

but the comment is made that the site is "not a flowing meadow but a small piece of waste land." With specific reference to this comment, we would draw attention to the statement in paragraph 1.7 of PPG.2 that "the quality of the landscape is not relevant to the inclusion of land within a Green Belt or to its continued protection. The purposes of including land in Green Belts are of paramount importance to their continued protection, and should take precedence over the land use objectives."

Unless we have missed it, we have not observed any claim in the application that very special circumstances exist to overcome the presumption against inappropriate development. But we have read what is said about access to health care and education. It is our view that such concerns can be better addressed at a more suitable, non-Green Belt and non-rural location, and that they do not amount to special circumstances in this case.

We trust that the District Council will observe its own, and national guidelines on Green Belts, and refuse this application

|      |  |
|------|--|
| 3.14 | <u>Oxford Preservation Trust</u> : proposal undermines the open and green character of the area, contrary to PPG2. |
|------|--|

#### 4. Relevant Planning Policies

- 4.1 Planning Policy Statement 1 (PPS1): Delivering sustainable development  
 Planning Policy Guidance 2 (PPG2): Green Belts  
 Planning Policy Guidance 13 (PPG13): Transport  
 Planning Policy Guidance 25 (PPG25): Development and Flood Risk

Circular 1/2006-Planning for Gypsy and Traveller Caravan Sites

4.2 **Adopted Cherwell Local Plan November 1996 (ACLP 1996)**

Policy GB1: Development in the Green Belt  
 Policies C7, C8: Landscape Conservation  
 Policy C28: Layout, design and external appearance of new development  
 Policy C14: Trees and Landscaping  
 Policy TR5: Parking

NB the policy for Caravan Sites for Gypsies (H24) has not been saved

4.3 **Non-Statutory Cherwell Local Plan 2011 (NSCLP 2011)**

Policy GB1: Development in the Green Belt  
 Policy H26 Caravan Sites for Gypsies  
 Policy EN1: Conserve/Enhance the Environment  
 Policy TR11: Parking  
 Policies EN34, EN35: Landscape Character  
 Policy EN36: Landscape Enhancement

4.4 **Draft Core Strategy 2010**

At the present time little weight can be given to this document. Policy H8 sets out the draft policy for Travelling Communities and Green Belts under policy SD12

#### 4.5 **Planning Obligations Interim Planning Guidance-2007**

- 4.6 A report was produced by the Heads of Planning and Housing to Executive on 3<sup>rd</sup> August 2009 on pitches and plots for Gypsies and Travellers. It was agreed to support the South East Plan in terms of numbers and distribution of plots. This includes a provision amongst the 67 Local Authorities of 1064 pitches for gypsies/travellers (15.9 average) of which Cherwell should provide 15; and for travelling showpeople 302 (average 11) of which Cherwell should provide 11. The South East Plan has, of course, subsequently been revoked.

### **5. Appraisal**

- 5.1 This application raises a multiplicity of planning issues and with a complex policy background complicated by the revocation of the South East Plan and regular Government statements on the subject of gypsies and travellers. While the trend in unauthorized encampments and trespass by travelers is going down the trend in unauthorized developments has been going up as a small minority of travelers bypass the planning system and develop sites without planning permission. This is not the case here where the applicant has sought to comply with the requirements of the Council and in particular the Environment Agency (see flood risk below). A previous application (ref 10/00036/F) having been submitted and withdrawn when the Flood Risk assessment failed to meet the terms and condition set out in PPS25, particularly after the Environment Agency remodelled the flood plain in this area whilst that application was current.

It is considered the main issues for consideration in this case are:

- The principle of Development, including need
- Green Belt
- Visual Amenity
- Flood Risk
- Access, Parking and Highway Safety
- Other Material considerations
  - Environment for Occupiers and access to services
  - Impact on residential amenity
  - Trees, vegetation and landscape
  - Business Use
  - Ecology
  - S106 requirements

#### 5.2 **The Principle of Development**

- 5.2.1 The most relevant planning document in consideration of the use proposed at this site is still Circular 1/06 on Planning for Gypsy and Traveller Sites albeit that the Government has announced changes are likely to be proposed as top down traveller site provision has failed to deliver enough permanent pitches. The Housing Act 2004 and circular 1/2006 require Local Planning Authorities to assess and make new accommodation provision for Gypsies and Travellers.

5.2.2 The main intentions of the circular include (amongst other things):

- to increase significantly the number of gypsy and traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3-5 years;
- to underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- to identify and make provision for the resultant land and accommodation requirements.

Para' 21 of the circular makes clear that the production of Gypsy and Traveller Accommodation Assessments (GTAA's) will inform the preparation of Development Plan Documents.

5.2.3 A Gypsy and Traveller Accommodation Needs Assessment (GTAA) was produced in 2006 by consultants (Tribal) for all authorities in the Thames Valley area. Cherwell's need was identified as being 11 additional permanent pitches (2006-2011) although, there is a mistake in the calculations and the need identified is actually for 12 pitches.

At April 2006, Cherwell had 48 pitches, however, since then there has been a net loss. Planning permission (07/02707/F) has been granted for non-Gypsy use of part of the Bicester Trailer Park site (resulting in a loss of about 10 pitches), permission has been granted for 2 pitches at Mollington (08/00604/F & 09/00622/F) and personal permission (09/01064/F) has been granted for a pitch at Ardley adjacent to the M40 Therefore, at the present time, the district has 40 or 41 pitches (41 with Ardley) and has seen a net loss of 8 or 7 pitches since 2006. Therefore the net loss of pitches since 2006 increases the requirement to 20 or 19 pitches (2006-2011).

5.2.4 The circular had intended that the GTAA's would also inform the vision of Regional Spatial Strategies which would identify pitch numbers for each individual local planning authority in the light of GTAA's and a strategic view of needs across the region. To assist this process, an Oxfordshire partnership (including this Council) agreed advice for submission to the former Regional Assembly on the number of Gypsy and Traveller pitches required to 2016 and how distribution might be made strategically having regard to the results of the GTAA. The partnership's advice was that the level of need was lower than that suggested by the GTAA and that the need for Cherwell (based on the distribution of existing sites) was for 11 pitches from 2006 to 2016. The net loss of pitches since 2006 increases this to 19 or 18 pitches. An alternative, shared distribution approach (rather than being based on the location of existing sites) was also submitted by the Oxfordshire. This suggested 8 pitches for Cherwell for the same period. The net loss since 2006 increases this to 16 or 15 pitches.



5.2.5 In February 2010, a regional Examination in Public (EiP) into accommodation provision for the Travelling Communities took place (South East Plan single issue review). The South East England Partnership Board's (SEEPB) recommendations to the former Secretary of State included that Cherwell should provide an additional 15 pitches (on top of the 2006 baseline position) for Gypsies and Travellers from 2006 to 2016 (the net loss in pitches since 2006 increases this to 23 or 22 pitches). SEEPB also recommended that where Local Development Plan Documents look beyond 2016, onward requirements could be calculated on the basis of 3% compound growth. These figures were a matter of debate at the Examination.

5.2.6 However, on 6 July 2010 the Secretary of State for Communities and Local Government announced the revocation of Regional Strategies with immediate effect and provided guidance for Local Planning Authorities. In respect of the travelling communities, the guidance states:

*“Local councils are best placed to assess the needs of travellers. The abolition of Regional Strategies means that local authorities will be responsible for determining the right level of site provision, reflecting local need and historic demand, and for bringing forward land in DPDs. They should continue to do this in line with current policy. Gypsy and Traveller Accommodation Assessments (GTAAAs) have been undertaken by all local authorities and if local authorities decide to review the levels of provision these assessments will form a good starting point. However, local authorities are not bound by them. We will review relevant regulations and guidance on this matter in due course.”*

5.2.7 At the time of writing, it is not known whether a new GTAA will be prepared or when new regulations and guidance will be produced. However, the net loss of 8 or 7 pitches since 2006 in itself suggests, more or less, a need for the 8 pitches proposed in the current application. The Oxfordshire partnership's conclusion that there is a need for 11 or 8 pitches (2006 – 2016) in Cherwell in addition to the 2006 baseline position is the lowest of the estimates produced to date and suggests, at the present time, that there will still be unmet need even if the current application were to be approved.

### 5.3 Green Belt

5.3.1 ODPM circular 01/2006 clarifies that new gypsy and traveller sites in the Green Belt are normally inappropriate development, as defined in Planning Policy Guidance 2: 'Green Belts' (PPG2) and that national Green Belt policy applies equally to applications for planning permission from gypsies and travellers and the settled population.

The circular states that criteria-based policies for the location of gypsy and traveller sites should not depart from national planning policy as set out in PPG2. Such a policy has been included in the draft Core Strategy (February 2010) but at the present time the draft strategy carries very little weight. Most of the district lies outside the Green Belt and the draft Core Strategy envisages

that it should be possible to identify a sufficient number of sites beyond the Green Belt boundary. In accordance with PPG2 there needs to be very special circumstances to justify the grant of permission.

- 5.3.2 The applicant have stressed that the special need in this case comes from the personal circumstances of the applicant's family there being elderly relatives and young children needing regular and specialist hospital treatment at the John Radcliffe hospital. Certainly paragraph 58 of circular 01/2006 makes clear that the personal circumstances of the applicant can be material. This and the need for additional permanent pitches explained above would potentially contribute to demonstrating very special circumstances.
- 5.3.3 However, if Committee are concerned by the application's permanent nature, it has the ability to use personal conditions restricting the occupation of the site to the applicant and requiring that when the land ceases to be occupied by the applicant that all the buildings and other structures on site are removed and the land restored to its existing condition. This sort of condition is sometimes considered contrary to Circular advice on use of conditions but in the examples used They are not considered unreasonable because firstly, most of the structures on site are prefabricated, and secondly the conditions set out at the end of this report are examples taken from advice produced by the Planning Inspectorate for use by its own Inspectors.
- 5.3.4 Paragraph 49 of circular 1/2006 makes clear that alternatives should be explored before Green Belt locations are considered. At this time it is believed there is no capacity on existing sites and nor would there be 8 pitches available elsewhere in Cherwell. A lack of capacity is another possible factor in demonstrating very special circumstances to permit this development.

#### 5.4 **Visual Amenity**

- 5.4.1 "The visual amenities of the Green belt should not be injured by proposals for development within or conspicuous from the Green Belt."

In this case the site is well screened to the west by the elevated carriageway and embankment of the A34. Furthermore, the site has wrap around screening by virtue of the existing trees and hedging. This can be supplemented by further planting. The scale of the development and the structures proposed is of a low key design and by the use of appropriate facing materials can be made to be even less obtrusive.

#### 5.5 **Flood Risk**

- 5.5.1 A previous application reference 10/00036/F was withdrawn following an objection from the Environment Agency as, despite an assessment being done to comply with their requirements; the Environment Agency remodelled the floodplain whilst the application was processed. The site was largely outside the flood zone and even now is only partially in it and zone 2, where there is between 1 in 100 and 1 in 1000 year risk of flooding, as opposed to the higher probability of flooding zone 3 where the chance of flooding is greater than 1 in 100 years.

- 5.5.2 That application was therefore withdrawn, the current application submitted with a new assessment to comply with the Environment Agency's advice but again they objected. A further assessment was done and the Environment Agency has finally accepted it this version.
- 5.5.3 In the latest FRA, Section 4.6 indicates that the 1 in 100 year flood level with an allowance for climate change of 61.86 m AOD (the design flood level) which is being applied to this site may be overestimated, yet in the absence of further modelling it is the most appropriate level to apply. This level is accepted as the most appropriate for the site and the minimum floor level of 62.16 m AOD for both the mobile homes and the dayrooms detailed in Section 5.1.
- 5.5.4 The applicant has agreed, and the Environment Agency accepted, the approach of raising the ground beneath the mobile homes, dayrooms and caravans, whilst leaving the garden and parking areas at existing levels.
- 5.5.5 It is also accepted that the volume for volume approach to the provision of flood storage compensation detailed in Section 5.3 of the FRA (as opposed to level for level) on the grounds that the floodplain is wide and open in this area, and the site is on the very edge of the floodplain.
- 5.5.6 In the FRA, the main vehicular access route could be flooded to a depth of 600mm during the design flood event although a dry route of pedestrian access has been provided. Depths such as this along the main access route would make emergency vehicle access difficult during a flood event. The applicant should liaise with the LPA to agree the scope of an emergency response and evacuation plan.
- 5.6 Access, Parking and Highway Safety**
- 5.6.1 Access to the site exists to the Islip road and notwithstanding the concerns of local residents is considered by the Highway Authority to be acceptable. The Highway Agency has raised no objection to the proposed development. The accident records have been checked for the junction with the A34 and it is not considered to be of "significant concern". This is subject to the advice that visibility at the site entrance should be improved and, if the application is approved, a condition is recommended to be imposed to achieve this. The likely traffic generation is unlikely to be significant and the local highway network has the capacity to cope with both the number and type of vehicles the development would generate.
- 5.6.2 Once off the public highway there is a short drive to the main part of the site along a former roadway with enough width for vehicles to pass. When on to the main part of the site there is provision for vehicles to enter and leave the site and each individual plot in forward gear.
- 5.6.3 Parking is provided at the level of two spaces per unit which is considered appropriate and reflective of the size and type of units proposed

**5.7 Other Material considerations:  
Environment for Occupiers and access to services**

- 5.7.1 Circular 01/2006 states that issues of sustainability are important and that authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services.

The nearest services and facilities are likely to be those at Islip and Kidlington which are relatively nearby (within 2 km) and within the travelling distance envisaged by policy H8 as proposed in the draft Core Strategy. Cycling to Islip could also be a reasonable option. Islip has a railway station, primary school, playgroup, shop, pubs, recreation and community facilities and a medical practice. The site is therefore in an acceptable location for a gypsy and traveller site in terms of access to services and facilities and travelling distances.

There is some concern about permitting a residential use immediately adjacent to a duelled section of the A34(T) next to a busy slip road in terms of securing an acceptable living environment particularly as the occupiers of the site will include people in poor health and children. Paragraph 5 of circular 01/2006 states, *“Research has consistently confirmed the link between the lack of good quality sites for gypsies and travellers and poor health and education...”*. However in the recent appeal decision at Ardley, adjacent to the M40 (06/01542/F) a personal permission was granted and the likely living environment was not cited by the Inspector in allowing the appeal. Certainly, in discussions with the applicant, the environment was not considered unacceptable notwithstanding a fair degree of traffic noise evident on site. Screen fencing is proposed on that boundary to reduce it although this will probably have limited effect due the road’s elevated level.

**5.7.2 Impact on residential amenity**

In terms of any direct impact on the residents of Islip, Hampton Poyle or Kidlington from noise, light, privacy, etc, the separation distance is significant, 1.5km, and therefore the proposed development would not adversely effect amenity.

**5.7.3 Trees, vegetation and landscape**

The site is already well screened by the hedges and trees around the boundary. Furthermore, there are additional trees and hedging to the east that line the track and adjacent fields giving a double layered screening effect. The proposed physical development, the new access drive, buildings and hard-standings, are well away from vegetation and will not adversely impact upon them. Nevertheless, it is recommended that if permission is granted conditions are imposed to protect existing vegetation and to supplement what is already there by further indigenous planting.

**5.7.4 Business Use**

In comments received from the public there is concern the site could be used for commercial activity. It is Officer’s understanding that is not the intention of the applicant in this case but a condition can be imposed preventing business use on the site. Monitoring can take place if the development commences.

### 5.7.5 Ecology

The site has been walked by the Council's ecology officer and whilst it may have limited on site ecological value, it is possible it could act as part of a wildlife corridor as there is a pond and watercourse nearby. It is recommended that an informative be attached to any permission advising if any protected species is found during development, works must stop immediately and an ecological consultant or the Council's ecologist contacted for further advice before works can proceed.

In addition, there is an opportunity on site for a scheme of bio-diversity enhancement that can be achieved through the use of conditions.

### 5.7.6 S106 requirements

The County Council have requested contributions are sought towards education, libraries, museums, etc but in this case the development is below the threshold set in the Council's Planning Obligations Interim Planning Guidance so is not being pursued in this case.

## 5.8 Conclusion

5.8.1 Taking the wide range of issues applicable in this case, the argument is a finely balanced one.

5.8.2 This report has referred mainly to the government guidelines for this type of development in green belt locations. The most relevant and applicable local policy on caravan sites is H26 from the NSCLP 2011. This asks if:

- There is a demonstrable need that cannot be met on existing or appropriate alternative sites?
- Does it cause environmental harm?
- Does it cause harm to residential amenity?
- Can the site be serviced?
- Is it accessible to services and schools?

All these questions can be answered positively.

5.8.3 Turning to Green Belt, the proposal may be considered to be inappropriate development. However there are considered to be special circumstances: the need for additional permanent pitches, the likely unavailability of pitches on existing sites in Cherwell and the personal circumstances of the proposed occupiers should also be considered.

5.8.4 There is one requirement arising from its location in the green belt and that is, if Committee accept the Officer's requirement, the application has to be referred to the Communities and Local Government Secretary as a departure from the development plan.

## 6. Recommendation

Approval, subject to:

- (i) Departure Procedures
- (ii) 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.  
Reason – To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2) This permission does not authorise the use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006  
Reason -This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with policy C28 of the adopted Cherwell Local Plan, and to comply with Government advice contained in ODPM Circular 01/2006
- 3) The occupation of the site hereby permitted shall be carried on only by Mr David Goddard and his resident dependants and for no other persons whatsoever, and shall not enure for the benefit of the land. When the land ceases to be occupied by David Goddard the use hereby permitted shall cease and all caravans, structures, materials and equipment brought on to the land in connection with the use, including the mobile homes, day rooms, hard standings and internal access road, shall be removed. Within 3 months of that time the land shall be restored to its condition before the use commenced.  
Reason -This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with policy C28 of the adopted Cherwell Local Plan, and to comply with Government advice contained in ODPM Circular 01/2006
- 4) Mobile homes and touring caravans shall only be positioned in the approved locations as shown on drawing 0970/02, unless otherwise agreed in writing by the local planning authority. There shall be no more than 8 pitches on the site and on each of the 8 pitches hereby approved no more than two caravans shall be stationed at any time, of which only one caravan shall be a residential mobile home.  
Reason -This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and in accordance with policy C28 of the adopted Cherwell Local Plan, and to comply with Government advice contained in ODPM Circular 01/2006
- 5) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Prior Associates, dated August 2010, ref: 9069, and the following mitigation measures detailed within the FRA:
  - a) Finished floor levels of both mobile homes and day rooms shall be set no lower than 61.86 mAOD as detailed in Section 5.1.2 and 5.1.3 of the FRA.

- b) On each plot, ground levels will be lifted beneath the fixed structures and caravan but will remain at existing levels for the garden and parking spaces, as detailed in Section 5.2.2 of the FRA.
- c) The access track will be lifted above 61.9 m AOD for the length of the eight plots, in accordance with Section 5.6.2 of the FRA.
- d) Flood storage compensation shall be provided as detailed in Section 5.3.3 of the FRA.
- e) An emergency pedestrian access gate shall be provided to the A34, as detailed in Section 5.6.1 of the FRA.
- f) There shall be no impermeable surfacing as part of the development (except for roofs of the mobile homes and fixed structures), in accordance with Section 5.7.3 of the FRA.

Reason-To reduce the impact of flooding on the proposed development and future occupants, whilst minimising the impact of the development on the floodplain, to ensure safe access and egress from and to the site, to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided and to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to comply with Government advice contained in PPG25: Development and Flood Risk

- 6) Prior to commencement of development, a plan at a scale of not less than 1:100 of the proposed vehicular access to Islip Road shall be submitted to and approved in writing by Local Planning Authority. Prior to occupation the approved access shall be constructed in accordance with the approved details and no other means of vehicular access shall be formed or used between the land and the highway.  
Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in PPG13: Transport.
- 7) Prior to development, appropriate vision splays shall be provided in accordance with a plan to be submitted to and approved in writing by the Local Planning Authority; and subsequently the splays shall be retained unobstructed above 0.6m.  
Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in PPG13: Transport.
- 8) That, before any of the dwellings are first occupied, the proposed internal access route, turning, parking and manoeuvring areas shall be constructed, laid out in accordance with the submitted plan 0970/02, surfaced and sustainably drained in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. This permission shall specifically exclude the use of tarmac as specified for the internal access road on drawing 0970/02.  
Reason - To ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in PPG13: Transport.

9) That the external walls and roof(s) of the mobile homes and dayrooms shall be constructed in accordance with a schedule of materials and finishes which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

10) Any mobile home which is to be constructed/provided on land falling within Noise Exposure Category B (as defined by PPG24: Planning and Noise) shall be insulated against the source(s) of environmental noise such that noise levels do not exceed those specified in current World Health Organisation Guidance on noise levels for habitable rooms. Details of the insulation to be provided must be submitted to and approved in writing by the Local Planning Authority and installed in accordance with the approved scheme prior to the first occupation of the specified dwellings.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with advice in PPG24: Planning and Noise, Policies C30 and ENV1 of the adopted Cherwell Local Plan.

11) No works or development shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) and boundary hedging has been agreed in writing with the Local Planning Authority. This scheme shall include:

- a) a plan that shows the position, crown spread and Root Protection Area (paragraph 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
- b) the details of each retained tree as required at paragraph 4.2.6 of BS5837 in a separate schedule.
- c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.
- d) written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works.
- e) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).
- f) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.
- g) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).
- h) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).
- i) the details of any changes in levels or the position of any



proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.

- j) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)
- k) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the Root Protection Areas of retained trees.
- l) the details of the working methods to be employed for the installation of drives and paths within the Root Protection Areas of retained trees in accordance with the principles of "No-Dig" construction.
- m) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.
- n) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.
- o) the details of the method to be employed for the stationing, use and removal of site cabins within any Root Protection Areas (para. 9.2.3 of BS5837).
- p) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).
- q) the timing of the various phases of the works or development in the context of the tree protection measures.

Reason - To ensure the continued health of retained trees and in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan.

12) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the reinforcement of the boundary hedging
- (d) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

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

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

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

14) Before the use commences screened provision for the storage of refuse (wheelie bins) and recycling facilities shall be made in accordance with details as submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be retained solely for their intended purpose and refuse and recycling items shall be placed and stored only in this storage area.

Reason: In the interests of the amenity of occupiers of the proposed accommodation and to comply with Policy ENV1 of the adopted Cherwell Local Plan.

15) Before the use commences, screened and covered provision for the storage of cycles shall be made in accordance with details as submitted to and approved in writing by the Local Planning Authority. Thereafter the facilities shall be retained solely for their intended purpose and cycles shall be placed and stored only in this storage area.

Reason: To protect the amenities which ought to be enjoyed by the occupiers of the proposed residential properties and to encourage the use of cycles in compliance with Government advice set out in PPG 13:Transport.

**Informatives:**

1 The applicant is advised that all works to which this permission relates must be carried out strictly in accordance with the plans, drawings and other relevant supporting material submitted as part of this application and hereby approved. The Planning Department must be immediately advised of any proposed variation from the approved documents and the prior approval of this Council obtained before any works are carried out on the site. This may require the submission of a further application. Failure to comply with this advice may render those responsible liable to enforcement proceedings which may involve alterations and/or demolition of any unauthorised building or structures and may also subsequently lead to prosecution.

2 Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a license may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

- 3 Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

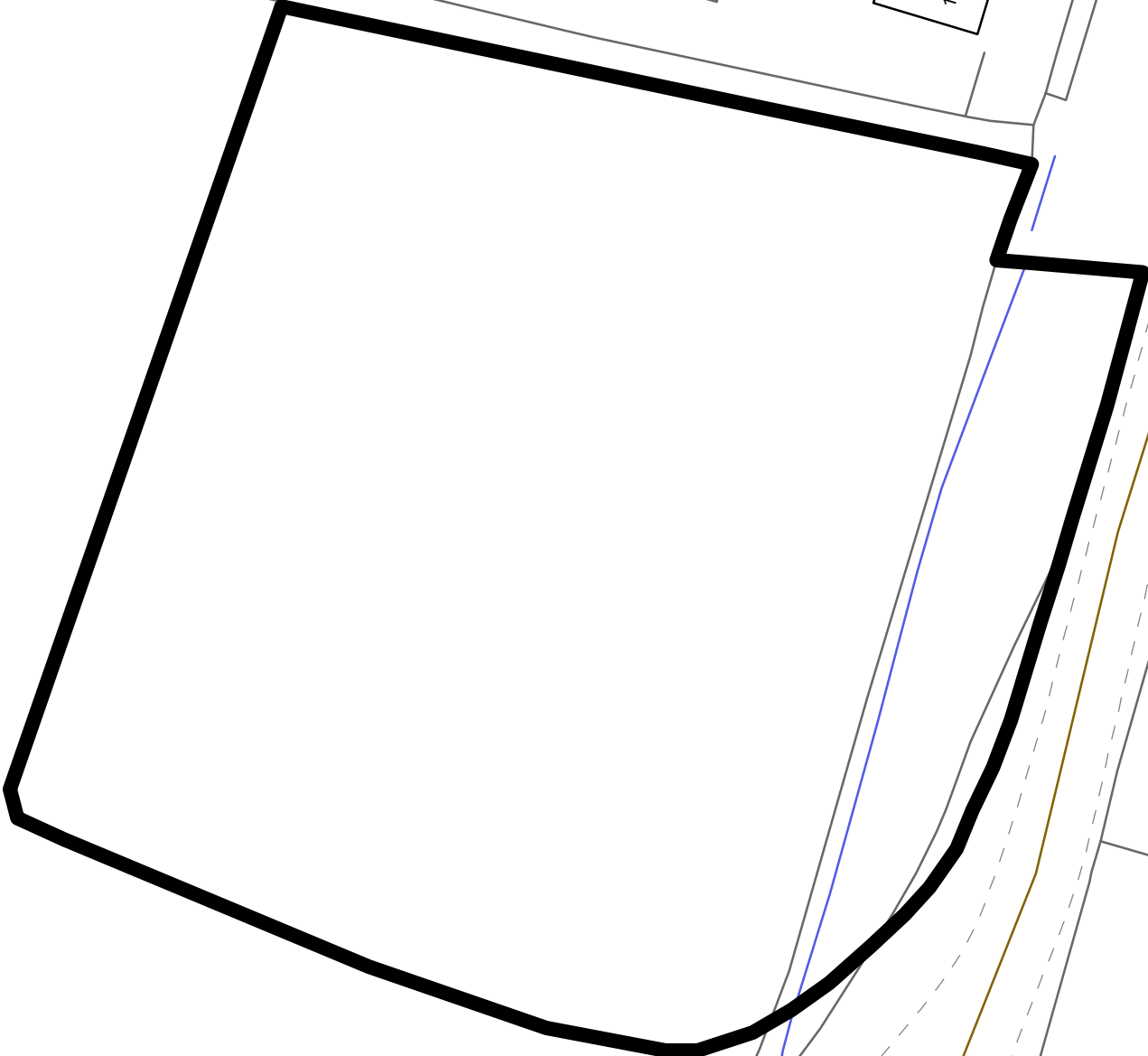
**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

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 it takes full account of the special circumstances of the applicant without causing harm to the acknowledged interests of the green belt, highway safety and visual amenities of the area. As such the proposal is in accordance with Government advice contained within PPS1 Delivering Sustainable Development, PPG2: Green Belts PPG13 Transport, ODPM Circular 01/2006, Policy C28 of the adopted Cherwell Local Plan and H26 of the Non Statutory Cherwell Local Plan. Public comments have been received in response to consultation both for and against the planning application. Whilst the comments of all third parties are fully acknowledged Officers have concluded that the objections raised are not sufficient to warrant refusal of the planning application. Statutory undertakers raise no objection to the proposals subject to the imposition of appropriate conditions requiring the submission and approval of further detailing. 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: Andrew Lewis**

**TELEPHONE NO: 01295 221813**

# 10/01302/F



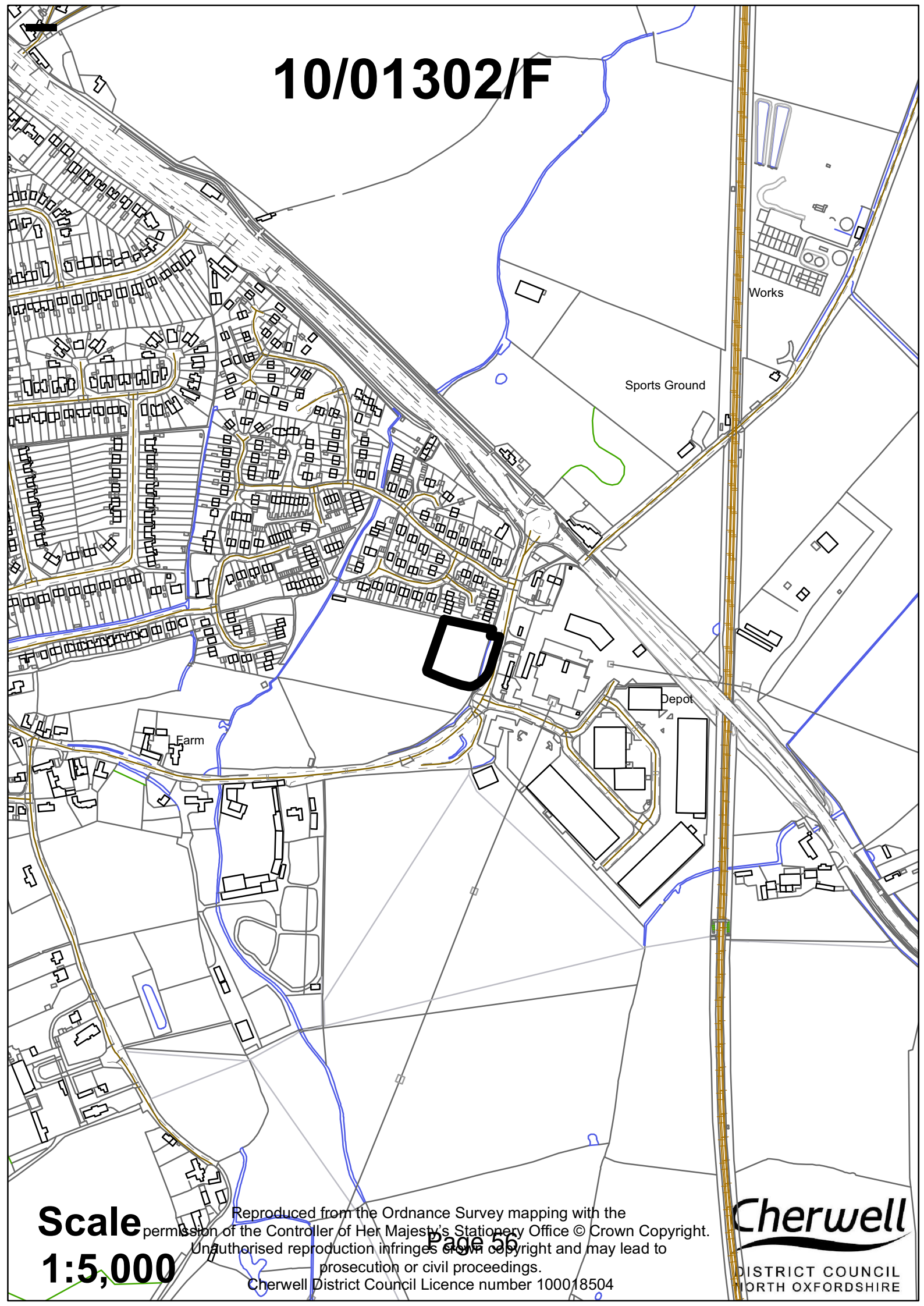
CASSINGTON ROAD

Drain

**Scale**  
**1:500**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
Cherwell District Council Licence number 100018504

# 10/01302/F



**Scale**  
**1:5,000**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright.

page 56  
Unauthorized reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Cherwell District Council Licence number 100018504

**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

|                                  |   |  |                                    |
|----------------------------------|---|--|------------------------------------|
| <b>Application</b><br>10/01302/F | <b>No:</b>  | <b>Ward:</b><br>Yarnton,<br>Gosford and Water<br>Eaton | <b>Date Valid:</b> 20 July<br>2010 |
| <b>Applicant:</b>                | Berkeley Homes (Oxford & Chiltern) Ltd<br>Abingdon                            |  |                                    |
| <b>Site Address:</b>             | Land South of Bernard Close. Berkeley Homes Site, Cassington Road,<br>Yarnton |  |                                    |

**Proposal:** Erection of Extra Care Home

## 1. Site Description and Proposal

- 1.1 The site is located to the south of Bernard Close and west of Cassington Road, in the north eastern corner of the site currently being developed for residential housing. The site already benefits from planning permission for a 64 bed nursing home.
- 1.2 This scheme differs as 50 extra care units are proposed. The units comprise one or two bedrooms, a private bathroom and a private kitchen and living area. Although the number of units is less there is an increase in the number of proposed bedrooms and the overall internal floor space. This increase results in a slightly larger footprint and scale of building, with a reduced provision of outside space and car parking.

As well as the private living accommodation the building includes provision for a communal lounge and dining area, a kitchen, laundry, staff room and office, buggy store, hobby room and one guest bedroom.

The access to the site is gained off the access road into the new residential development. There is provision on site for 12 parking spaces and 1 disabled space with cycle parking also being provided on site.

A communal garden is provided with semi-private patios provided for ground floor apartments. The site itself is proposed to be bounded by a 1.2 m high post and rail fence and a 1.5 m high stone wall with defensive planting.

### Planning History

08/02541/F – Erection of 168 dwellings

08/02594/F – Erection of 64 bed nursing home – approved

## 2. Application Publicity

- 2.1 The application was advertised by way of press notice, site notice and neighbour notification letter. The final date for comment was 8 October 2010. No letters of objection have been received.

### 3. Consultations

3.1 **Yarnton Parish Council** raises no objections

3.2 **The Local Highway Authority** submitted a holding objection as the submission lacked a robust justification on the level of parking being provided. However at the time of writing the report it is understood that the applicant has provided the Highway Authority with further details which address the concerns. An update will be provided at Committee.

**The Council's Chief Engineer and Building Control Manager** raises no objections as the infrastructure is designed to accommodate such a change.

**The Council's Strategic Housing Officer** has no objections with regard to the principle of the change to an extra care facility but would want to ensure that at least 30% of the units were secured in perpetuity as affordable.

**The Council's Ecology Officer** is satisfied that as the site has been cleared there is no need to make full comments. However should any vegetation have grown back consideration should be given to nesting birds during further clearance is recommended, avoiding the nesting season March-September inclusive.

**The Council's Landscape Architect** has made detailed comments in relation to landscaping issues, many of which can be addressed through an appropriately worded landscaping condition. However in summary he states;

- Southern and eastern elevations of the building will have marked visual impact on the street scene and must be mitigated by large trees. These will have benefit for Cassington Road and the access road.
- Trees should be planted in the car park area
- A hedge should be provided for privacy to the residents garden
- The landscaping should take account of the fact that for many residents the landscaping context is only accessible visually through windows or patio doors.
- Account should be taken of the fact that elderly residents may need assistance with walking either with human support or sticks and frames. Some may also be in wheelchairs.
- Plants with seasonal variety should be incorporated into the landscaping as well as those that attract wildlife such as butterflies

**The Environment Agency** has no objections to the proposal provided the comments and conditions from earlier letters relating to the previous application are taken into consideration. The new proposal will not affect the agreed flood risk assessment.

**The County Council**, as the Mineral Planning Authority raises no objections to the application on the grounds of mineral sterilization.

**Thames Valley Police Crime Prevention Design Advisor** has no objections to the application as the submission refers to Secured by Design which is an important factor in ensuring the safety and security of residents. It is requested that requiring a Secured by Design accreditation is included as a condition or informative if permission is granted.

**Thames Water** makes the following comments (in summary);

- With regard to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer.
- There is an inability of the existing waste water infrastructure – a condition should be imposed requiring that development shall not commence until a drainage strategy detailing any on and/or off site drainage works has been submitted to and approved by the local planning authority.
- Petrol/oil interceptors should be fitted to all car parking facilities
- A fat trap should be installed on all catering establishments
- In relation to water infrastructure an informative should be attached

## 4. Relevant Planning Policies

### 4.1 Adopted Cherwell Local Plan

H4 – Housing schemes for the elderly and people with disabilities

H16 – Proposals for the development of the land shown on the proposals map at Yarnton as white land

TR1 – Improvements to or contributions towards transport infrastructure

C28 – Standards of layout, design and external appearance

C30 – Development compatible with the appearance, character, layout and scale of existing dwellings in the vicinity, provide appropriate standards of amenity.

### 4.2 Non-Statutory Cherwell Local Plan

H1b – Residential development permitted on sites within list and on proposals map

H6 – Provision of housing schemes for older people and for people with disabilities.

H14 – Proposals for development on land north of Cassington Road, Yarnton.

PPS3 - Housing

PPS5 – Planning for the Historic Environment

## 5. Appraisal

5.1 The main issues for consideration of this application are;

- Planning policy
- Visual impact, design and setting of listed building
- Neighbour impact
- Impact on flooding and water infrastructure
- Biodiversity
- Highway safety
- Planning Contributions and affordable housing

### 5.2 Planning Policy

The adopted Cherwell Local Plan allocates the wider site of which this site forms a small parcel of, as 'white land' as part of Policy H16. It states;

*'During the period of this plan the Council will resist proposals for the development of land shown on the proposal map at Yarnton as white land'.*

Policy H1b of the Non-statutory Cherwell Local Plan, a material consideration in the assessment of applications, allows the development of the wider site for residential



development and Policy H14 sets out criteria that the development should meet.

The development of the wider site for residential was established through the approval of an outline planning application in 2007. In May 2009 planning permission was granted for the development of the wider site for 168 dwellings. This excluded the parcel of land which is the subject of this application. In April 2009 planning permission was granted for the construction of a 64 bed nursing home on the site. Whilst this form of development did not form part of the criteria set out in Policy H14 of the Non-Statutory Cherwell Local Plan it was considered acceptable as a C2 nursing home was of a similar character to that of the residential environment in which it would sit.

Whilst the developments referred to above did not comply with Policies H16 of the adopted Cherwell Local Plan Members were minded to approve them and they proceeded through the appropriate departure procedures. The applications were accepted by the Government for the South East as departures and the applications permitted. Therefore the principle of development of residential and nursing accommodation on the site is established. The residential scheme is currently under construction and there remains an extant consent for the nursing home.

Policy H4 of the adopted Cherwell Local Plan and Policy H6 of the Non-Statutory Plan encourage schemes for housing for the elderly in locations which are within convenient reach of shops, community facilities and public transport. The location of the development is considered to be sustainable given its village location and the good access to public transport. Therefore these policies are complied with.

As the principle of development is established and this current application is of a similar nature to the nursing home it is considered that the principle of an extra care development on this site is acceptable.

Compliance with other policies referred to above will be considered throughout the rest of the report.

#### Visual Impact, design and setting of listed buildings

In terms of orientation the proposed building is on the same footprint of the previously approved nursing home. However due to the creation of larger private units of accommodation, although fewer in number, a small increase in the length of each wing and the depth of the building is proposed. This increase amounts to approximately 1 metre on each elevation. Similarly the accommodation now comprises of a ground floor and two upper floors. Whilst this amounts to an additional floor of accommodation the actual increase in height is between approximately 0.1m and 2 metres in some places. This relatively small increase in height is achieved by accommodating the majority of the upper floor within the roof space. The mass of the building inevitably appears larger than that previously approved, the residential properties on Bernard Close and the newly constructed buildings on the rest of the site. However, in reality the highest part of the roof (the corner of Cassington Road and the access road) is no higher than the approved and built corner dwelling on the opposite side of the access road). The design of the corner also replicates the opposite corner dwelling creating a focal point and a clear entrance into the site.

The building has been designed with a variety of ridge and eaves heights and a mix

of stone and brick and tile and slate. This choice of materials matches those used on the rest of the site. There is also some variety in the windows. All these elements help to break up long elevations whilst internally a uniform layout is achieved.

Areas of communal garden are provided to the north east and south of the proposed building, as was the case with the previous scheme for the nursing home. This provides an opportunity for landscaping which will soften the public elevations and provides a set back from road frontages and existing residents.

The courtyard into which the access leads is created by the layout of the building and accommodates the main pedestrian access into the building, the parking area and some small garden areas which are bounded by new hedges.

The proportions of the building are to a certain extent dictated by the institutional nature of the building however it has been designed so as to integrate into the rest of the new development. It will appear large but it is not considered to be detrimental to the character and appearance of the area.

The nearest listed property within the vicinity of the site is located approximately 37 metres to the north east of the proposed building. It is separated by Cassington Road and an element of existing and proposed vegetation. The listed building has an unusual setting as it stands alone on a parcel of land surrounded by access roads and industrial development to the rear. It also lacks a defined curtilage. Whilst the proposed building will to some extent affect the wider setting of the listed building it is not considered that the affect will be detrimental to the immediate setting of the building.

Based on the above assessment it is considered that the development complies with Policy C28 of the adopted Cherwell Local Plan in relation to design standards and guidance within PPS5 relating to the historic environment.

#### Neighbour impact

There are two properties across the Cassington Road, directly opposite the proposed building. These are approximately 36 metres away and separated by the road. Whilst the outlook from the front of the property will change the adverse impact will be minimal as sunlight, day light and privacy are unlikely to be affected. The nearest property to the development is 12 Cassington Road. A distance of 16 metres is retained between the new building and its side elevation. This is the same as was approved with the nursing home. Whilst the building now accommodates an additional floor the overall height of this element is only 0.1m greater than that already approved. The internal layout has also changed and the nearest windows in the side elevation serve the living areas and bedrooms to a small number of units. However overlooking should be minimal as a result of the planting along the boundary. It is not considered that the scheme is materially different in relation to its impact on 12 Cassington Road.

It is also relevant to consider the impact of the development on the future residents of the newly constructed properties. The properties along the access road are located a minimum of 17 metres from the south elevation of the building. These are predominantly two storey properties. Although there is an additional storey proposed for the extra care building it is not considered that the dominance or

overlooking resulting from the building will be significantly greater than that which would have occurred from the nursing home proposal. The distance between the frontages is not uncommon and the same distances can actually be seen in relation to some of the properties on Bernard Close to the north of the site.

Given the above assessment it is not considered that the proposal will cause undue harm to the residential amenities of existing or future residents it is therefore considered that the proposal complies with Policy C30 of the adopted Cherwell Local Plan.

#### Impact on flooding and water infrastructure

The impact of the development on flooding and water infrastructure was fully explored in relation to the full application for 168 dwellings and the original nursing home application. There was sufficient supporting information on these applications for the Council to be satisfied that the implications of flooding and water infrastructure could be appropriately dealt with. Further detail was also required through conditions and these have now been discharged. The submission sets out that the required measures have now been put in place through the development of the residential site. Therefore it is considered that the proposal for the extra care units will not result in any additional flooding or issues with the supply of water and disposal of waste water.

#### Biodiversity

Under the previous consents the site has been cleared. In relation to biodiversity the development was permitted as this part of the site was not considered to support any protected species. Given that the site has now been cleared it is unlikely that this position has altered. However there are some retained but not protected trees and vegetation along the northern and eastern boundaries. There is also a drainage ditch between the Cassington Road and the proposed garden therefore the developers will be required to have regard to these features.

#### Highway safety

The Local Highway Authority had submitted a holding objection on the grounds that the submission did not adequately describe the way in which extra care units of accommodation operate or a justification as to the level of parking proposed. There was concern that as the units were self contained and many of them contained up to two bedrooms that the occupants could be younger, more mobile and potential accommodate two residents in each, potentially resulting in some residents having cars, increasing the requirement for parking provision. However this holding objection was relayed to the developers who are now liaising with the Local Highway Authority. It is understood that further information has been provided to the Highway Authority and this is being considered. It is likely that with appropriate conditions relating to how the building is operated and age restrictions that the matters can be appropriately addressed. However it is worth noting that it is the current intention for the building to be operated by Housing 21. Housing 21 have confirmed that the parking provision is sufficient for the way in which their facilities run. It is likely that issue will be clarified prior to the date of Committee therefore an update will be provided.

#### Planning Contributions and affordable housing

The previous application for a nursing home included a legal agreement between the applicants and the County Council, securing contributions towards library stock

and travel plan monitoring.

Whilst the application has been submitted on the basis of the accommodation being under a C2 use class (communal homes for the elderly) officers have assessed the application on the basis that the use is within C3 (sheltered housing with flats, service flats and apartments) as the units are self-contained and residents could, if they choose, not utilise the communal facilities thus making the units more akin to residential flats. This categorisation therefore triggers the requirements for additional infrastructure contributions such as affordable housing, monetary contributions towards the provision of bins and additional library contributions. The applicant has provided a general agreement to pay the additional sums in relation to libraries and bins but has queried the requirement in relation to affordable housing.

The Council requires that 30% of the units be secured in perpetuity as affordable units. The Older Peoples Housing Strategy identified the need for 81 extra care units in Kidlington (for affordable and market) and 109 units in Rural South by 2021. There will be very few opportunities to provide these due to general lack of suitable development sites in the area.

It is likely that if an operator such as Housing 21 develop the scheme 100% of the units will be affordable, however the Council cannot control this so would seek to secure 30% affordable housing through a legal agreement. The applicant has however stated that the site cannot support any affordable housing due to its viability. An initial viability assessment was submitted by the applicant which they state demonstrates that the scheme would not be viable if it provided affordable units of accommodation. The viability appraisal needs further review and consideration by officers in order that Members are appropriately advised. It is anticipated that this will be completed by the time of the committee and an update will be provided. Policy H5 of the Cherwell Local Plan identifies that affordable housing should only be required if it is viable to do so. If the scheme is demonstrated to unviable with the requirement for affordable housing it would be unreasonable to refuse the application on this basis. However if grant funding were available that would alter the viability and could make the delivery of affordable housing feasible as part of the scheme. At the current time a bid has been made for HCA funding and the outcome of the bid is unknown. In addition both this Council and Oxfordshire County Council have already committed to providing some grant funding to facilitate affordable provision within the scheme, although it is unlikely that this would amount to 30% affordable housing.

In the circumstances it is considered necessary to secure a legal agreement to deliver affordable housing as part of the scheme as at the very least the grant from the Council's would ensure some provision. However if there was further grant available from the HCA or the scheme was shown to be sufficiently viable to make some contribution then the Council would seek to secure up to 30% affordable housing within the scheme through a S106 agreement. Given the present uncertainty it is recommended that the S106 is subject to a cascade mechanism that required 30% affordable housing and if this was shown not to be viable to secure as much affordable housing as could be achieved with the grant available.

#### Conclusion

The principle of the development of this site for nursing care has previously been established. This application will alter the type of accommodation provided,

although ultimately it will still provide care for the elderly or infirm. Whilst officers consider the units to fall within a different use class because of the facilities provided the nature of the building remains similar. The building itself will increase in size from that previously approved but it is not considered that these changes will result in any detriment to neighbouring amenities or the visual appearance of the area. It is likely that issues relating to parking provision can be resolved through the provision of further information and the inclusion of planning conditions. The applicant is prepared to pay the additional contributions resulting from the changes to the proposal but is submitting that the development is not viable if the scheme is required to provide affordable units. However the grant from the Councils can ensure at least some affordable housing can be delivered as part of the scheme and a cascade mechanism is proposed in a S106 agreement to maximize what can be delivered.

## **6. Recommendation**

### **Approval subject to;**

- a) The Local Highway Authority agreement that the parking provision is sufficient
  - b) The completion of a S106 agreement to secure the delivery of affordable housing with a cascade mechanism to secure up to 30% based on the viability of the scheme and availability of grant funding
  - c) the completion of an agreement or receipt of a unilateral undertaking to secure the remaining necessary contributions
  - d) the following conditions
1. SC 1.4A Full Permission: Duration Limit (3 years) (RC2)
  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: 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 Government Guidance within PPS1: Delivering Sustainable Development
  3. SC 2.2AA Samples of walling materials (RC4A) 'brick, stone and render' 'extra care building'
  4. SC 2.2BB Samples of roofing materials (RC4A) 'slate/tiles' 'extra care building'
  5. SC 3.0A Submit Landscaping Scheme (RC10A)
  6. SC 3.1A Carry out landscaping scheme (RC10A)
  7. SC 5.5AB Submit Design Details (RC4A) 'windows and doors'
  8. SC5.9AB Archaeological Watching Brief (RC28AA)
  9. Prior to the first occupation of the extra care building the vision splays for the development shall be provided and shall not be obstructed by any object, structure, planting or other material. (RC13BB)
  10. The development shall be carried out in accordance with the details of the submitted Travel Plan dated August 2010. (RC66A)
  11. SC 4.13CD Parking and Maneuvering Area Retained. (RC13BB)
  12. SC 4.14CC Cycle Parking (RC66A)
  13. That the rated level of noise emitted from any externally located plant or equipment shall not exceed the background sound pressure level by more than 5dB when measured in accordance with British Standard BS 4142:1997 nearby dwellings. (RC53AB)
  14. That service vehicles shall not arrive at or depart from site before 08:00 hours or

- after 18:00 hours on any day. (Emergency services and other related emergency organizations being exempt). (RC49A)
15. Any vegetation to be cleared that is likely to support breeding birds shall be undertaken outside of the breeding bird season (March to August inclusive). (RC86A)
  16. Any trees proposed for felling as part of the scheme hereby approved must be checked for use by bats by a suitably qualified ecologist prior to felling and their advice must be followed. (RC85A)
  17. Development shall be carried out in accordance with the approved surface water drainage scheme. Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the scheme.
  18. Prior to the commencement of development a scheme for the provision and management of a buffer zone alongside the water course on the frontage of the site shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The scheme shall include:
    - Plans showing the extent and layout of the buffer zone
    - Details of the planting scheme (for example native species)
    - Details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term.
 Reason: Development that encroaches on riparian habitat has a potentially severe impact on their ecological value. This is contrary to government policy in Planning Policy Statement 1 and Planning Policy Statement 9 and to the UK Biodiversity Action Plan. Land alongside any water course is particularly valuable for wildlife and it is essential this is protected. Article 10 of the Habitats Directive also stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity. Such networks may also help wildlife adapt to climate change.
  19. Development in accordance with the waste water disposal details previous approved. Reason: Although we are not aware of any capacity issues for sewerage infrastructure this condition is needed to ensure that increased flows into the system are accounted for before the development commences to protect the environment.
  20. SC 9.6A Fire hydrants (RC87A)
  21. SC 3.7AA Boundary Enclosure Details (RC12AA)
  22. That the building shall be used solely for the purpose of extra care accommodation as set out in the submission.
  23. That the extra care units be occupied only by residents of 65 years of age and over. For reasons of highway safety.
- Planning notes
1. Q1 – Legal agreement
  2. No materials, plant or temporary structures of any kind should be deposited on or adjacent to the public footpath 12, that may obstruct the public from using the route while development takes place, nor should there be any encroachment on to the

existing width, or change in the route of the path.

3. Under the terms of the Water Resources Act 1991, and the Land Drainage byelaws 1981, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the Rowel Brook main river.
4. The site is on low permeability alluvium over clay. Any visibly contaminated or odorous material encountered on the site during the development work, must be investigated. The Planning Authority must be informed immediately of the nature and degree of contamination present.

Any SUDS from roads and car or lorry parking areas would need to incorporate suitable measures for protection of water quality. This is likely to include measures to mitigate the discharge of hydrocarbons to ground or surface water. Details of treatment techniques are outlined in CIRIA Report C609. The Environment Agency would wish to be consulted on any protection measures.

There must be no direct discharge of listed substance direct to groundwater, as this would be a breach of the Groundwater Regulation 1998. In particular hydrocarbons in drainage from road/car parking areas. As such the EA require verification of the drainage arrangements for the car parking area. Any permeable paving for areas of car parking areas must not discharge direct to ground water.

The EA would require confirmation of whether the permeable paving for car parking discharge to ground. If there is a discharge to ground the EA would require confirmation of the depth of the base of the permeable paving area, any attenuation incorporated in the permeable paving area and the depth of groundwater at this site.

The Control of Pollution (Oil Storage) (England) Regulations 2001 apply to all above ground water commercial oil storage in tanks over 200 litres in volume. This means that tanks should be fit for purpose and have secondary containment (or bund) sufficient to contain 110% of the tanks contents. The secondary containment must be impermeable to oil and water and not have any drainage valve. All the tanks ancillary equipment (valves, deliver hose, gauges, vent) must be within the cartilage of the secondary containment bund. The regulations have other stipulations and full information can be found at [www.environment-agency.gov.uk/osr](http://www.environment-agency.gov.uk/osr) or from Pollution Prevention Guidance Note 2 for Above Ground Tanks or PPG26 for Drums and Intermediate Bulk Containers.

From 6 April 2008 it is a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000.

Should Members agree with the recommendation a summary of reasons for the grant of planning permission is set out below.

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND

**RELEVANT DEVELOPMENT PLAN POLICIES**

The Council as local planning authority has determined the application having taken into account all representations received. Although the site is not allocated for development in the adopted Cherwell Local Plan the Council considers the following material considerations sufficient to justify the granting of planning permission. The site is identified for development under Policy H14 of the Non Statutory Cherwell Local Plan 2011. It is considered that this application would not cause harm to existing residential or visual amenity, highway safety, existing trees on the site, existing ecology, archaeology or drainage. As such and having regard to the adopted Cherwell Local Plan, the Non Statutory Cherwell Local Plan 2011 and all other material considerations, including Government guidance, the proposal is in accordance with H4, TR1, C28 and C30 of the adopted Cherwell Local Plan.

**CONTACT OFFICER: Caroline Roche**

**TELEPHONE NO: 01295 221816**



10/01371/F

CR

181



**Scale**  
**1:200**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationary Office © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Page 68

Cherwell District Council Licence number 100018504

**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

10/01371/F

RUSCOTE

NEITHROP

Scale  
1:5,000

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Cherwell District Council licence number 46904350.

**Cherwell**

CHERWELL DISTRICT COUNCIL  
OXFORDSHIRE

|                                  |                            |                         |                |                           |               |
|----------------------------------|----------------------------|-------------------------|----------------|---------------------------|---------------|
| <b>Application</b><br>10/01371/F | <b>No:</b>                 | <b>Ward:</b><br>Ruscote | <b>Banbury</b> | <b>Date</b><br>08/09/2010 | <b>Valid:</b> |
| <b>Applicant:</b>                | Councillor Alyas Ahmed     |                         |                |                           |               |
| <b>Site Address:</b>             | 175A Warwick Road, Banbury |                         |                |                           |               |

**Proposal:** Conversion of roof space above existing 1<sup>st</sup> floor flat to studio flat – re-submission of 10/00475/F

## 1. Site Description and Proposal

- 1.1 The application site is a flat over an existing shop, fronting onto the Warwick Road. The site is accessed by a service road adjacent to the Warwick Road/Orchard Way/Ruscote Avenue junction area.
- 1.2 The proposed conversion of the roof, and the addition of a dormer to the rear will create an independent flat, accessed from a communal stairwell serving both flats.
- 1.3 The application is placed before the committee for determination as the applicant is an elected Member of this Council representing the Banbury Neithrop Ward.

## 2. Application Publicity

- 2.1 The application has been advertised by way of site notices, press notice and neighbour letters. The final date for comments was 14 October 2010.
- 2.2 Letters of objection to the originally proposed hours were received from residents of two nearby addresses. Material comments raised were as follows;
  - Impact on (and by) parking, and associated impact on residential amenity

## 3. Consultations

- 3.1 Banbury Town Council – no comments received, however the Town Council did not object to the original application.
- 3.2 Head of Housing Services – no objections to this revised scheme; the previous issues of room sizes and amenity space have been addressed.
- 3.3 County Highways Liaison Officer – no objections, given the existing parking controls and the edge of town-centre location.

## 4. Relevant Planning Policies

- 4.1 National Policy Guidance:
  - PPS1 – Delivering Sustainable Development
  - PPS3 – Housing
  - PPG13 - Transport
- 4.2 Local Policy in the Adopted Cherwell Local Plan 1996:
  - Policy C28 – Layout, design and external appearance to be compatible with the character of the context of a development proposal
  - Policy C30 – Through the exercise of design control, development should provide acceptable standards of privacy and amenity
  - Policy C31 – Compatibility of proposals in residential areas

## 5. Appraisal

- 5.1 As an application to create an additional residential unit above an existing flat and shop, within an existing mixed use area, adjacent to residential areas, the proposal must be considered with regard to its impact on residential amenity, the compatibility of the proposed residential use with the business uses, and issues of highway safety.
- 5.2 The proposal is considered to be acceptable, in the light of the above policies, with regard to residential amenity. This Council's Private Sector Housing Team is now satisfied that the proposal is capable of providing sufficient levels of privacy and amenity for the occupants. In addition, the proposal is considered to ensure sufficient levels of privacy and amenity for the occupants of surrounding properties. The dormer window, whilst a new and non-original feature in this block, does not cause any unacceptable overlooking, loss of privacy or other loss of amenity. The distances from the windows in the proposed dormer to the flats to the rear and to the other properties on Cromwell Road, Orchard Way and Orchard Close; are all in excess of the minimum distances required by this Council's Design Guide. The proposed side facing windows, which illuminate the stairs and communal hallways of the flats, are to be restricted to obscure glazing by condition. It is considered that this will mitigate any potential for harmful overlooking or loss of privacy for the adjacent property.
- 5.3 The proposal is also considered to be acceptable in terms of its impact on the character and appearance of the street-scene. The proposed dormer to the rear will be of limited visibility from the public domain, and the roof-lights to the front have minimal impact.
- 5.4 That the residential use is compatible with the ground floor retail is not at issue as there is established residential use to the first floor units.
- 5.5 Whilst the comments of the contributors to the application are noted, it is considered that the proposal is acceptable in highway safety terms. There is space to the rear of the units which could be used for parking, but it is beyond the remit of this application to require further details. The location of the site, relatively close to the town-centre means that specific parking provision is not necessary for a unit of this type.
- 5.6 The proposal is therefore considered to comply with the relevant policies of the adopted Cherwell Local Plan as well as national guidance and is therefore recommended for approval.

## **6. Recommendation**

### **Approval, subject to the following conditions;**

- 1) SC 1\_4A (Time for implementation)
  
- 2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the plans and documents submitted with the application.

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 government guidance in PPS1 – Delivering Sustainable Development.

- 3) SC 2\_9AA insert “proposed first and second floor side facing windows” and “South-East” (Obscurely glazed windows to comply with Policy C30)

### **Planning Notes**

- 1) T1 – Third party rights

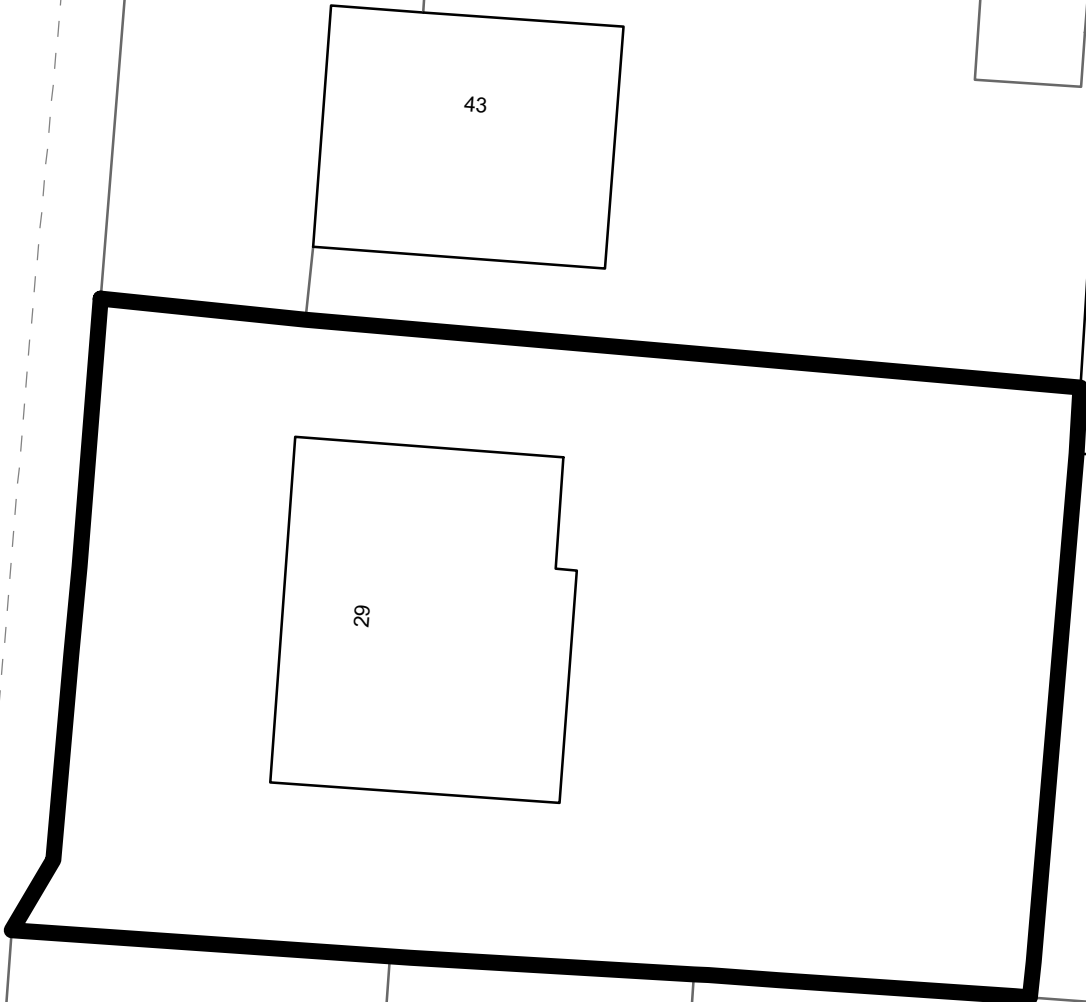
### **Summary of Reasons for the Grant of Planning Permission and Relevant Development Plan Policies**

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 development is appropriate and will not unduly impact on the neighbouring properties, public, private or any other amenity, or the appearance of the street-scene. In addition, the proposal makes efficient use of existing housing stock and contributes to the mix of housing in this area. As such the proposal is in accordance with government guidance contained in PPS1 – Delivering Sustainable Development, PPS3- Housing; and Policies C28, C30 and C31 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

**CONTACT OFFICER: Simon Dean**

**TELEPHONE NO: 01295 221814**

# 10/01409/F



**Scale**  
**1:200**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.  
Cherwell District Council Licence number 100018504

10/01409/F

Bodicote

**Scale**  
**1:5,000**

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright.

Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings.

Cherwell District Council Licence number 100018504

**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

|                                  |                                      |   |                           |               |
|----------------------------------|--------------------------------------|---|---------------------------|---------------|
| <b>Application</b><br>10/01409/F | <b>No:</b>                           | <b>Ward: Bloxham and</b><br><b>Bodicote</b> | <b>Date</b><br>15.09.2010 | <b>Valid:</b> |
| <b>Applicant:</b>                | Mrs Christine Timms                  |   |                           |               |
| <b>Site Address:</b>             | 29 Red House Road, Bodicote, Banbury |   |                           |               |

**Proposal:** Fence to Northern boundary of front garden

## 1. Site Description and Proposal

- 1.1 The application site is located within a modern estate layout within the village of Bloxham. The site comprises a detached two storey dwelling which has an attached garage to the north. There is an open garden to the front of the property and a private garden is located to the rear of the dwellinghouse. The front garden is currently enclosed to the north by a 2 metre high hedge and to the south and to either side of the dwelling by a 1.9 metre high timber fence. The site is located within an area of High Landscape Value.
- 1.2 This application seeks planning permission for the erection of a timber fence to the northern boundary, measuring 1.9 metres and reducing to 1.5 metres to the front of the site. The fence is to be painted green to match the existing fence to either side of the property and to the south. Planning permission is required for the fence because the original planning permission for the dwelling included a condition to retain open frontages without enclosures.

## 2. Application Publicity

- 2.1 The application has been advertised by a press notice and neighbour letters.
- 2.2 No third party letters have been received.

## 3. Consultations

- 3.1 Parish Council – no objections
- 3.2 Local Highway Authority – no objections

## 4. Relevant Planning Policies

- 4.1 **Planning Policy Statement 1 (PPS1)**
- 4.2 **Cherwell Adopted Local Plan November 1996**  
Policy C28: Layout, design and external appearance of new development



## 5. Appraisal

- 5.1 The existing front garden is currently enclosed to the north by a 2 metre high hedge and to the south and to either side of the dwelling by a 1.9 metre high timber fence. The erection of a 1.9 metre high fence on the northern boundary in place of the existing hedge would in my opinion respect the appearance of the existing enclosures on the site and within the locality. In visual terms the proposed fence would sit comfortably within the street scene and would be considered to be in accordance with Local Plan policy C28.
- 5.2 The proposed fence would not restrict any views from the site onto the adjacent highway, it would actually improve the vision to the north. The proposal would therefore not adversely affect highway safety.
- 5.3 The proposed fence would be located in place of the existing 2 metre high hedge and sited 2 metres from the side of the neighbours property. The proposed fence would not be considered to cause any undue harm to the occupiers at number 43 Rookery Close and certainly would not cause any harm over and above that of the existing hedge.

## 6. Recommendation

**Approval**, 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.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and following plans:
  - Plan 1 Site Location Plan
  - Plan 2 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 Government Guidance within PPS1: Delivering Sustainable Development

3. The fence shall be painted forest green to match the colour of the existing fence panels to the south.

Reason: To ensure the development is finished in colour in harmony with the existing features within the locality to comply with Policy C28 of the Cherwell Local Plan.

**Reason for the grant of planning permission**

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. Incorporating and adhering to the above conditions, the development is considered to be acceptable on its planning merits as the proposed development is of a scale, siting and appearance appropriate within the locality which would not adversely affect highway safety or neighbouring residential amenity. As such the proposal is in accordance with saved Policy C28 of the adopted Cherwell Local Plan and guidance contained within PPS1: Delivering sustainable development. For the reasons given above<sup>3</sup> and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

**CONTACT OFFICER: Emily Shaw**

**TELEPHONE NO: 01295 221822**

## Planning Committee

### Discharging of S106 Agreement at Dingers Cottage, The Dickredge, Steeple Aston

4 November 2010

### Report of Strategic Director Planning, Housing and Economy

#### PURPOSE OF REPORT

To seek the discharge of S106 Agreement in order that the original cottage and the residential accommodation/annex development can be used separately and independently rather than be restricted to family use.

This report is public

#### Recommendations

---

The meeting is recommended:

- (1) To confirm the discharge of the S106 Agreement

#### Executive Summary

---

##### Introduction

- 1.1 Planning permission was granted for the construction of a “single storey side extension, rebuild rear extension, double garage with storeroom and residential accommodation to rear” at Dingers Cottage in 1999 under application 99/00925/F. To date only the garage and residential accommodation (annex) have been constructed.
- 1.2 The 1999 consent was subject to a S106 legal agreement that effectively restricted the use of the cottage and residential accommodation/annex to family use only, and until recently this has been the case with the exception of the cottage being used by a family friend for approx. 10 months in 2005/06.
- 1.3 The one bedroom annex was originally constructed to accommodate the applicants’ elderly mother who owned Dingers Cottage. Upon completion of the garage and annex, the applicants’ mother moved into the annex and the applicant moved into Dingers Cottage and thereafter cared for his elderly mother until her death in 2003. The annex then remained unoccupied for

about 2 years, whilst refurbishment works were undertaken.

- 1.4 The applicant then moved into the annex to allow refurbishment works to be undertaken to Dingers Cottage and has remained in the annex ever since. With the exception of the family friend staying in Dingers Cottage for 10 months in 2005, the cottage has been occupied by family members on and off, until the beginning of 2010. Since then the cottage had remained empty, until recently, whereby it is now being occupied by an elderly family friend, who was potentially homeless.
- 1.5 By allowing this friend (Mrs Lester-George) to occupy Dingers Cottage, the applicant is currently in breach of the S106 Agreement.

### **Proposals**

- 1.6 In order to regularise the occupancy the applicant has applied to discharge the legal agreement to allow both the annex and Dingers Cottage to be occupied independently and separately and not just restricted to family use.
- 1.7 The applicant has applied for the planning obligation to be discharged. No modifications are proposed short of a full discharge. The question to be asked in determining whether to discharge the obligation is whether it continues to serve a useful purpose. If it no longer serves a useful purpose it shall be discharged.
- 1.8 **The current obligation** reads as follows:

The Owner (and successors in title and assign hereby covenants and undertakes with the Council that she:

- a) shall not erect or create or cause or permit to be erected or created any dwelling on the Land other than the existing dwelling known as Dingers Cottage and the Development.
- b) shall not use or occupy the Development or cause or permit the Development to be used or occupied for any purpose other than as a garage and for residential use ancillary to the existing dwelling known as Dingers Cottage, The Dickredge, Steeple Aston by the Owner
- c) shall, on ceasing to occupy the Land, ensure that that part of the Development comprising the living accommodation adjoining the garage be converted into a garden store/sun room for use solely in connection with the Land by the owners of the Land.
- d) Shall not convert the Development to provide additional living accommodation
- e) Shall not sell, let or occupy the Development or cause or permit the Development to be sold, let or occupied independently of the existing

dwelling known as Dingers Cottage, The Dickredge, Steeple Aston.

- f) Shall not sell, let or occupy the existing dwelling known as Dingers Cottage, The Dickredge, Steeple Aston or cause or permit the said existing dwelling to be sold let or occupied independently of the Development.
- g) Shall not claim any compensation in respect of any other provisions hereof
- h) Shall forthwith on completion of this Deed of Agreement pay to the Council its legal costs of and in connection with this Deed of Agreement.

1.9 **What purpose does this fulfil?** The legal agreement was originally set up to prevent the separate and independent use of the annex for the following reasons:

- Highway safety: Oxfordshire County Council as local highway authority had concerns about the intensification of traffic using The Dickredge, as it is a narrow road, that lacks a turning facility and footway and its junction with the Heyford Road is also substandard. Traffic generated as a product of the separate use would result in further hazard and would be detrimental to the safety of other road users.
- The physical relationship with the pattern of development on the north-western side of the Dickredge in the context of a separate dwelling is poor.

1.10 Does it continue to serve a **useful purpose?** S106A (6) provides that an authority which receives an application for modification or discharge of a planning obligation may determine it by refusing it; or, if the obligation no longer serves a useful purpose, by discharging it; or, if the obligation continues to serve a useful purpose but would serve that purpose equally well with the modifications specified by the applicant, by consenting to the modifications sought. The Secretary of State considers that the expression "no longer serves any useful purpose" should be understood in land use planning terms. (Circular 05/2005 A20)

1.11 As set out in 1.9 above, Oxfordshire County Council as local highway authority had concerns about the independent use of the annex and cottage during the consideration of the 1999 application. However, as part of the consultation for this current application to discharge the legal agreement, the following comments were made:

1.12 "No objection subject to two no. parking parking spaces for each unit. Due regard has been given to the present use of the annex, its history and location. It is considered that in view of the recent history and location, it is unreasonable to recommend other than approval subject to conditions".

1.13 The Parish Council have raised an objection to the application on the following grounds:

"Concerned that the amount of parking normally on the site may well indicate a used car business being carried out from the property. Please take note of neighbours' comments. The original application in which S106 was agreed

we felt was necessary at the time and whilst we have no objection to the family use being removed, the property should be kept under one ownership. Parking and access on the road is a continuing issue. Vehicles owned by the owners of this property are frequently parked in other residents spaces”.

- 1.14 Given the response from the County Council and notwithstanding the comments made by the Parish Council it is considered that should this application be refused on highway grounds, the reasoning of such would not be supported by the local highway authority and therefore I do not consider that any reason to refuse the application in this regard could be sustained at appeal.
- 1.15 In respect of the second reason for the legal agreement, this is more subjective. Essentially a dwelling has been created in the garden of a 3 no. bedroom cottage. Impact on neighbouring residential amenity, parking provision and amenity space are factors to consider, when considering the acceptability of such a development.
- 1.16 Essentially the resultant amenity space for Dingers Cottage would be a small courtyard that would be enclosed for privacy. The annex accommodation in turn would have a large garden area and access to the annex would be past the side and rear of Dingers Cottage. Whilst this garden size arrangement is not ideal, and not particularly commensurate with the size of the two units, it could be said that not everyone desires a large garden and therefore a small courtyard would be welcomed by some.
- 1.17 The garage/annex has an external staircase and small balcony on the north-eastern elevation that would potentially overlook the amenity area and rear of Dingers Cottage.
- 1.18 The majority of the windows in the annex accommodation are on the north-eastern and northern elevations but it is considered that none of these will directly overlook Dingers Cottage or the other neighbour at The Cottage. No letters of representation have been received from any neighbour.
- 1.19 Whilst there were concerns about the relationship of the annex accommodation and Dingers Cottage and the surrounding pattern of development from an amenity and form and character perspective, it is considered that essentially, the harm is relatively minor and whilst the site is within a Conservation Area, the building already exists, its residential use would continue and therefore on balance the relationship is considered acceptable in this particular case.
- 1.20 The applicant has provided an indicative plan demonstrating that parking provision could be provided for both dwellings along with bin storage areas, fencing and amenity areas.
- 1.21 However, Members are advised that by confirming the discharge of this planning obligation no conditions could be imposed restricting permitted development rights and securing the provision of 2 no. parking spaces suggested by the local highway authority. Also the applicant could continue to construct the extensions to Dingers Cottage that were approved under the 1999 consent.

## Conclusion

- 1.22 Taking into account the above assessment and history relative to this site, it is considered that the S106 no longer serves a useful purpose and it is therefore recommended that Members confirm the discharge of the entire obligation detailed in the covenants at paragraph 1.8 which will allow the two units to be sold, let or occupied separately and independently.

## Background Information

---

- 2.1 S106A of Town and Country Planning Act 1990 as substituted by S12 Planning and Compensation Act 1991
- 2.2 Sections 46 and 47 of the Planning and Compulsory Purchase Act 2004
- 2.3 Circular 05/2005 : Planning Obligations
- 2.4 SI 1992 no. 2832 The Town and Country Planning (Modifications and Discharge of Planning Obligations) Regulations 1992

## Key Issues for Consideration/Reasons for Decision and Options

---

None

## Consultations

---

The application has been advertised by way of a site notice, press notice and neighbour notification

**[Consultee]** Oxfordshire County Council as Local Highway Authority – see paragraphs 1.11 and 1.12

**[Consultee]** Steeple Aston Parish Council - see paragraph 1.13

**[Consultee]** Strategic Housing Officer - Whilst this is not strictly one for affordable housing, this has come to our attention due to the need to utilise empty properties wherever possible to meet housing need. Whilst I understand that there is a need to restrict highways access to the property it does not seem to me this is achieved by restricting use to family members only. I understand there is a prospective tenant for the property who does not drive and whose family are already living in the village and who is potentially homeless and it seems in commonsense terms entirely reasonable she should be allowed to rent the property.

I would be grateful if you could consider amending the restriction to allow this woman to occupy. If not there is a danger that she will present as homeless causing increased cost to the Council in prevention or placement work.

## Implications

---

**Financial:** The cost of discharging the legal agreement will be borne by the applicants. There are no direct financial implications from discharging the legal agreement.

Comments checked by Joanne Kaye, Service Accountant  
PHE 01295 221545

**Legal:** This is an application to modify or discharge a planning obligation pursuant to section 106A Town and Country Planning Act 1990. Section 106A(6) gives the local planning authority the power to determine this application.

Comments checked by Ross Chambers, Solicitor 01295  
221690

**Risk Management:** If the Council refuses to agree to discharge the S106, the matter could be subject to an appeal and if it is considered that the Council have behaved unreasonably by refusing to agree to its discharging, costs could be made against it.

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

## Wards Affected

---

The Astons and the Heyfords

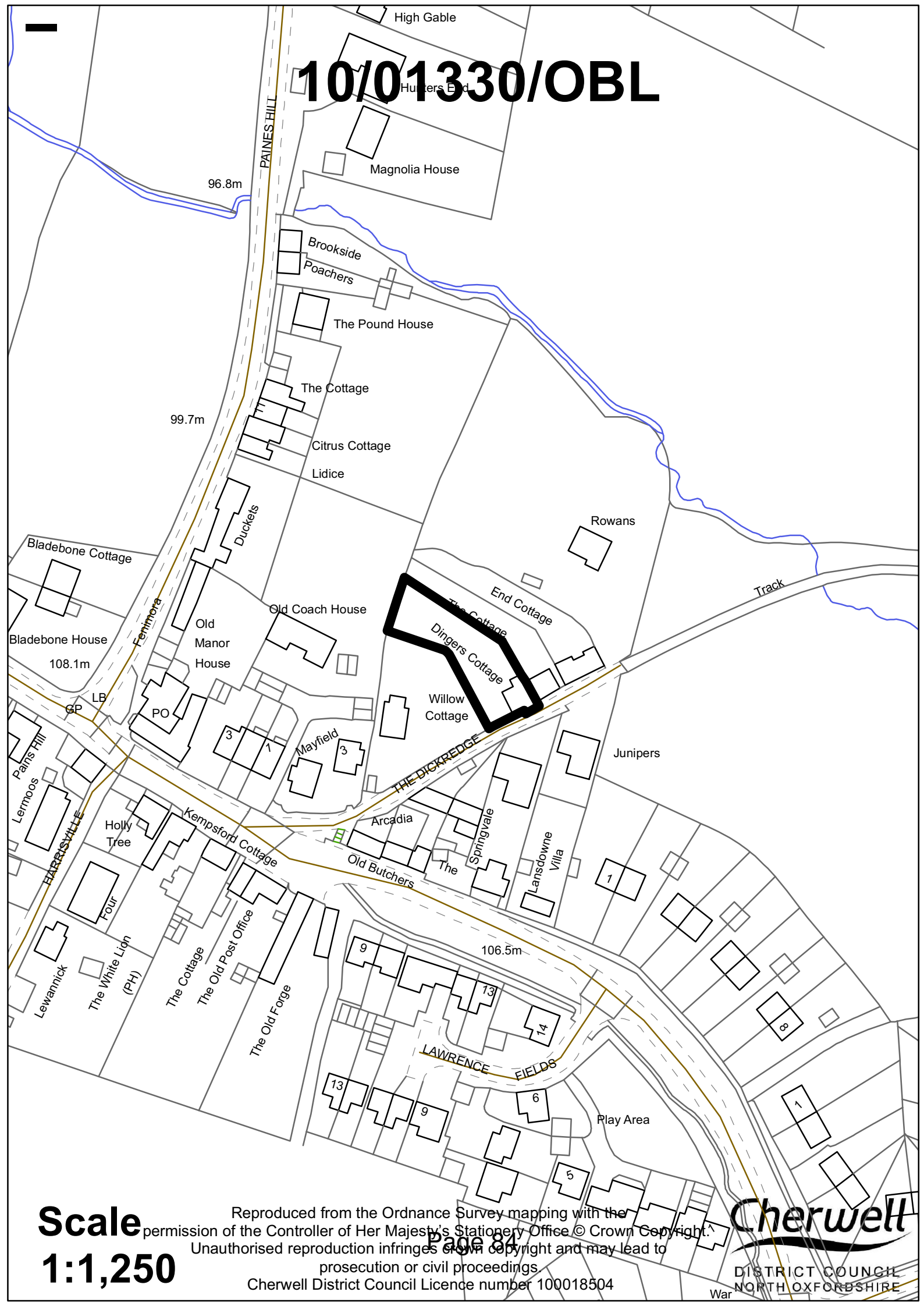
## Document Information

---

| Appendix No  | Title   |
|--|---|
| Appendix 1   | site location plan                                  |
| <b>Background Papers</b>                           |   |
| 99/00925/F – approved 5 <sup>th</sup> October 1999 |   |
| <b>Report Author</b>                               | Tracey Morrissey, Senior Planning Officer           |
| <b>Contact Information</b>                         | 01295 221812<br>tracey.morrissey@Cherwell-dc.gov.uk |



10/01330/OBL



Scale  
1:1,250

Reproduced from the Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright.

page 81  
Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings

Cherwell District Council Licence number 100018504

**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

War

# Agenda Item 12

## PLANNING COMMITTEE

### Tree Preservation Order (no. 12/2010) Two Ash trees at 5 Fletcher Close, Yarnton

4 November 2010

### Report of Strategic Director Planning, Housing & Economy

#### PURPOSE OF REPORT

To seek the confirmation of an unopposed Tree Preservation Order relating to two ash trees (copy plan attached as Annex 1) at 5 Fletcher Close, Yarnton Tree Preservation Order No. (14/2010)

|                       |
|-----------------------|
| This report is public |
|-----------------------|

#### Recommendations

---

The meeting 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 or in his/her absence the Development Control Team Leader or the Team Leader - Development Control & 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 and made on 17 May 2010. The statutory objection period has now expired and no objections were received to the Order.

## **Key Issues for Consideration/Reasons for Decision and Options**

---

3.1 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**

---

Yarnton, Gosford and Water Eaton

### **Document Information**

---

| <b>Appendix No</b>         | <b>Title</b>   |
|----------------------------|--|
| Appendix 1                 | Plan   |
| <b>Background Papers</b>   |  |
| NONE                       |  |
| <b>Report Author</b>       | Michael Sands, Trainee Democratic & Scrutiny Officer |
| <b>Contact Information</b> | 01295 221554<br>michael.sands@Cherwell-dc.gov.uk     |

THE GARTH

25

35

45

*Handwritten note: Fletcher Close*

T1

T2



7

6

2

1

FLETCHER CLOSE

13

11

1

DASHWOOD AVENUE

EI Sub Sta



This copy has been produced specifically for Landscape Management purposes.  
**NO FURTHER COPIES MAY BE MADE.**  
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes crown copyright and may lead to prosecution or civil proceedings. 100018304 (2010)

Scale: 1:569  
Date: 01/03/2010  
Map Ref: CRO/PI412

## PLANNING COMMITTEE

### Tree Preservation Order (no.13/2010) Sycamore tree at The Old Dairy, Charlton on Otmoor

4 November 2010

### Report of Strategic Director Planning, Housing and Economy

#### PURPOSE OF REPORT

The purpose of this report is to advise Members of objections received to the above-mentioned Tree Preservation Order and to seek a decision on whether or not to confirm the Order.

This report is public

#### Recommendations

The meeting is recommended

- (1) To confirm Tree Preservation Order (no.13/2010) at the site of The Old Dairy, Charlton on Otmoor without modification in the interests of public amenity.

#### Executive Summary

##### Introduction

- 2.0 Upon receipt of a planning application for the property adjacent to The Old Dairy, a site visit was undertaken to assess the impact of the proposal on any vegetation noted to be within influencing distance. The close proximity of the tree to the proposed development led the visiting officer to believe the tree required increased legal status to provide a greater level of protection during and post development.

##### Proposals

- 3.0 The tree located within a conservation area and under a foreseeable level of threat is considered to have a high level of amenity value. It is therefore proposed that the tree become subject of a Tree Preservation Order without modification.

## **Conclusion**

- 4.0 Members are asked to confirm the above Tree Preservation Order under the following powers:

Statutory powers are provided through :

*Section 198 Town and Country Planning Act 1990.*

*Town and Country Planning (Trees) Regulations 1999*

The Scheme of Reference and Delegation authorises the Head of Development Control and Major Developments or in his/her absence the Development Control Team Leader or the Team Leader - Development Control & 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.

The power to confirm Tree Preservation Orders remains with the Planning Committee.

The above mentioned Tree Preservation Order was authorised by the Head of Development Control and Major Developments and made on 14 May 2010. The statutory objection period has now expired and one objection was received to the Order.

## **Background Information**

- 5.1 The Order relates to 1 No sycamore (*Acer pseudoplatanus*) located within the boundary and rear garden of The Old Dairy, High Street, Charlton on Otmoor (see plan attached as Annex 1).
- 5.2 The Tree Preservation Order was made on the 14/05/2010 as a result of a site visit undertaken to assess the impact of a submitted planning application (ref: 10/00798/F) for a proposed development on a neighbouring property.
- 5.3 Due to the insufficient information regarding the protection of the tree during the proposed development, the officer considered the level of risk presented to the tree to be unacceptable. A TEMPO evaluation was undertaken to assess the suitability of the tree for a TPO with the cumulative total achieving a score of 17 points. This clearly indicated the tree to be suitable for a TPO, additionally the officer considered the implications of the development application and decided to make the tree subject to a provisional TPO.
- 5.4 One letter of objection has been received from Mr T. Pollard regarding the making of this TPO. A copy of this letter forms Annex 2 to this report.

The letter received is summarised below:

**5.5 The objection received from Mr Pollard states that:**

- a) There is no particular amenity value to this tree (T1) due to its rear garden location and that the tree is not noticeable from the public highway unless specifically looked for. The tree casts excessive shade onto the garden of 'Fox Cub Cottage' and 'The Old Dairy' and reduces the occupant's abilities to fully enjoy the gardens.
- b) As a result of a lapse in management, the garden has multiple self-seeded sycamore trees and should not be allowed to become overgrown and regress into woodland. Mr Pollard states that a utility line passes through the crown of the which will have an impact regarding future pruning works and concerns are also stated regarding the potential impact of the tree upon the adjacent underground services and drains of 'The Old Dairy' and 'Fox Cub Cottage'.
- c) Mr Pollard does not consider the tree to be a rare species and questions the relevant factor within the TEMPO assessment.
- d) Mr Pollard does not consider the tree to be under any form of threat as the proposed development is to be constructed on a shallow raft foundation.
- e) The tree reduced the amenity values of both properties.

**Key Issues for Consideration/Reasons for Decision and Options**

**Considerations:**

- 6.0 The sycamore (T1) has achieved a height and spread that enables a significant proportion of the crown to be viewed from the High Street. This visibility and prominence are clear indicators of the potential amenity value of this tree. It would be expected for a tree of this size to cast a level of shade across garden areas. As the tree has not been managed for a while, it may be possible for the LPA to allow a certain level of works to be undertaken on the tree which may improve lighting. Works may include crown raising, crown thinning or specific branch removal/reduction.
- 6.1 The objection point regarding the garden and the potential for it to regress to woodland is a management/maintenance issue which will have little or no bearing upon the status of the sycamore or its health and well-being. A significant proportion of the self-seeded trees mentioned are of such a size that their removal will be exempt from the normal conservation area 'notice' and any additional self-seeded trees that require a form of notice for works would not be considered suitable for a TPO due to the fact that it would not be expedient due to the presence of the existing protected tree.

- 6.2 There are utility lines which pass within close proximity to the crown and which in the future will require pruning works to facilitate clearances. Due to the height of the utility lines and the anticipated area of the crown to be influenced, I believe that it is possible to maintain the amenity value of the tree whilst still providing adequate clearances. Sympathetic pruning operations undertaken by the service provider working in accordance with their Code of Practice and liaising with the LPA.
- 6.3 The sycamore tree scored points during the TEMPO evaluation on the factor relating to 'Trees of particularly good form, especially if rare or unusual'. The sycamore scored points on it being of particularly good form alone with no additional consideration or points scored on it being a rare or unusual form.
- 6.4 The objection letter states that the tree (t1) is not under threat from the development and does not therefore justify the points scored within the TEMPO. Due to an effective planning process, the tree was afforded adequate protection during and post development and therefore suffered minimal, if any damage as a result of the application. However, the tree is still considered to be under a level of threat due to reduced light levels, potential maintenance costs and issues with drains.
- 6.5 Mr Pollard raises concerns over the tree reducing the amenity value of both properties. Although understandable, I consider this to be a subjective view point. Persons viewing the properties may have different opinions on the visual relationships or influences on the tree and the adjacent dwellings.

**Reasons for Decision:**

- 7.0 Due to the potential nuisance issues raised, I consider it appropriate to confirm the TPO now rather than later and then to work closely with the owners regarding appropriate future management.
- 7.1 The tree has a suitable and adequate level of amenity value and adds to the character of the conservation area. The TEMPO assessment (Tree Evaluation Method for Preservation Orders) supports this conclusion.
- 7.2 The nuisance and future management issues raised maybe valid however, there are pruning techniques yet to be considered which may reduce or remove these nuisance issues. Problems associated with roots and drains should be assessed by a qualified drainage expert to assist in providing appropriate recommendations.

**Options:**

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

|            |   |
|------------|---|
| Option One | Refuse the TPO and retain the tree protected under conservation Area legislation. |
|------------|---|



Option Two Confirm the TPO without modification, retain and manage the tree as appropriate.

**Consultations:**

Charlton on Otmoor

**Implications:**

Financial: The cost of this Tree Preservation Order can be met from approved Estimates.

Comments checked by E.Meadows, (Service Accountant) 01295 221552

Legal: The Committee should confirm the Order if it is in the interests of amenity to preserve the tree. The property owner has not produced an expert's report to support his objections.

Comments checked by N. Bell, Solicitor (01295 221687)

Risk Management: The position relating to risk assessment is that the existence of a Tree Preservation Order does not remove the landowner's duty of care to ensure that such trees are structurally sound and pose 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 R. Watts, Risk Management & Insurance Officer (01295 221566)

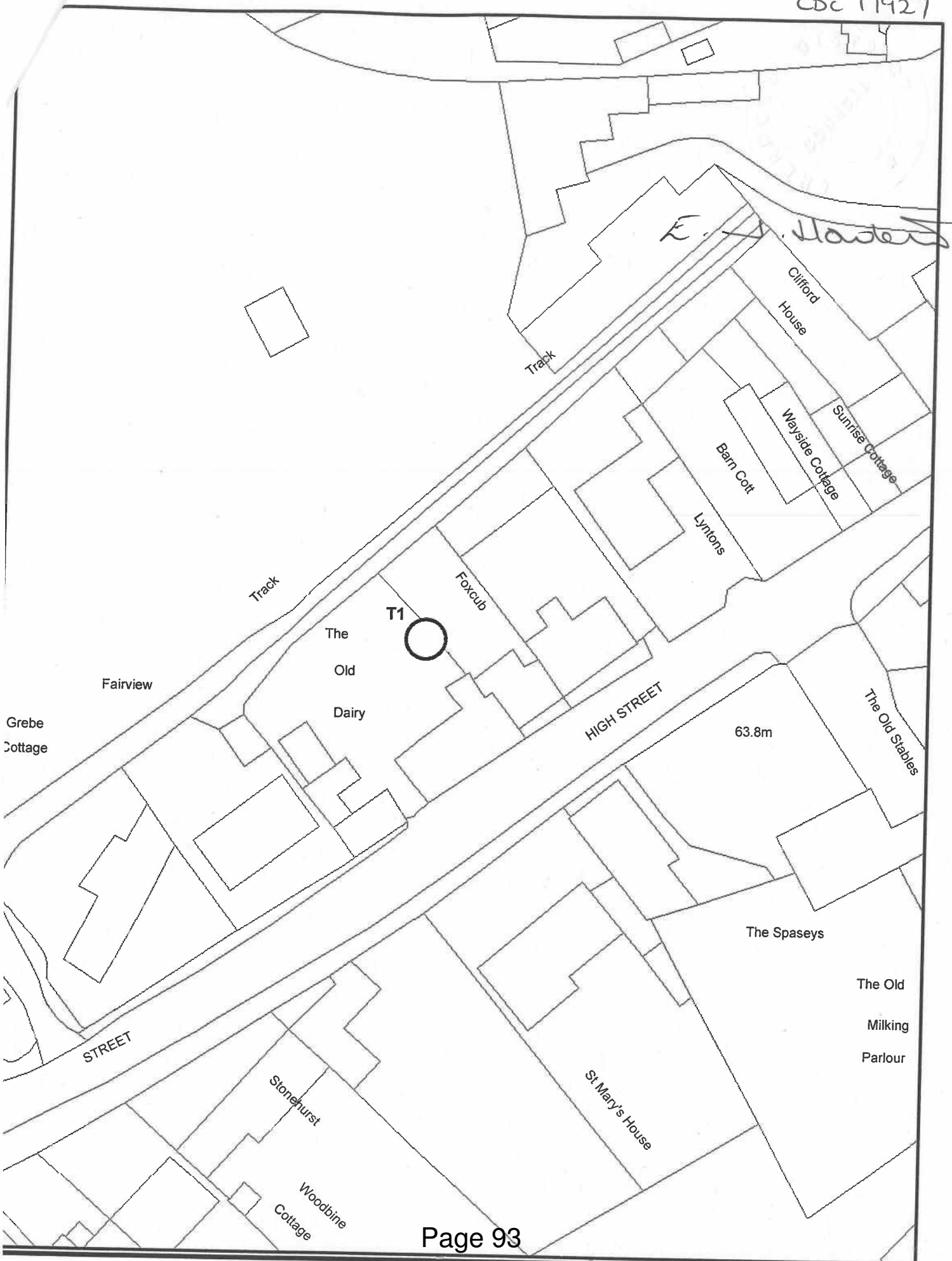
**Wards Affected:**

Otmoor

**Document Information**

| Appendix No         | Title   |
|---------------------|---|
| Appendix 1          | Site Map                                      |
| Appendix 2          | Copy of objection letter                      |
| Appendix 3          | Copy of TEMPO document                        |
| Background Papers   |   |
| N/A                 |   |
| Report Author       | Jon Brewin Arboricultural Officer (south)     |
| Contact Information | 01295 221708<br>jon.brewin@Cherwell-dc.gov.uk |

*E. A. Hodder*



Legal And  
Democratic Services

-2 JUN 2010

Fox Cub Cottage  
High Street  
Charlton on Otmoor  
Kidlington  
Oxfordshire  
OX5 2UQ

Tel: 01865 331462

Legal & Democratic Services  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire  
OX5 2UQ

31 May 2010

Dear Sir

**The Cherwell District Council Tree Preservation Order (No. 13/2010)  
Sycamore Tree at The Old Dairy, High Street, Charlton On Otmoor, Oxon, OX5 2UQ**

We are writing to object to the above tree preservation order and enclose a document stating our reasons for objecting to the making of this order.

We also enclose for your information a copy of a report prepared by an arborist in connection with the planning application.

Yours faithfully



**T M Pollard  
P A Blackwood**

## TREE PRESERVATION ORDER (NO.13/2010)

### Sycamore tree at The Old Dairy, High Street, Charlton on Otmoor

#### REASONS FOR OBJECTION

1. **AMENITY VALUE**

In order to warrant a TPO the tree has been considered to have a "High" amenity value. There is no particularly outstanding amenity value of the tree, yet the tree has been awarded a Score of 3 under TEMPO Guidance for Public Visibility.

The tree is sited in a private garden at the rear of the Old Dairy. It has a very limited view and is not noticeable from the public highway unless specifically looked for.

The tree effectively robs that property (The Old Dairy) of daylight to habitable rooms and effectively shades that garden and also the adjoining garden of Fox Cub Cottage. The tree is approximately 1 meter from the boundary wall between these two properties and reduces the amenity and enjoyment of the rear garden at Fox Cub Cottage quite considerably by shading 75% of the garden for the majority of the day. Both The Old Dairy and Fox Cub Cottage are well over 100 years old, whereas the tree is approximately 60 years old.

2. **CONDITION AND HEALTH**

The tree is a common sycamore tree (*Acer pseudoplatanus*) and has been very little disturbed during its lifetime. However, this is due to lack of positive management rather than intent.

There are many other sycamore saplings present in the garden of The Old Dairy, which also are not being managed properly, and unless some active management is taken in the near future, the whole garden will become overgrown with sycamore trees.

Please note that this is a residential garden and should not be allowed to regress into woodland. The close presence of the saplings to the subject of this TPO may also seriously affect the health and condition of the tree itself.

Currently, there are overhead electricity cables running through the crown of the tree.

These cables supply electricity to properties on High Street, including The Old Dairy.

In the near future, several mature branches will need lopping in order to protect the electricity supplies to these properties.

The drains from Fox Cub Cottage run at the rear of that property, within the root protection area of this tree and are clearly at risk of invading roots from the sycamore. Quite likely, The Old Dairy is in a similar situation.

3. **OTHER FACTORS**

The tree receives a Score of 2 under TEMPO Guidance for good form and being rare of unusual specimen. As stated above the sycamore is a common sycamore – *Acer pseudoplatanus* which cannot be considered rare.

4. **EXPEDIENCY**

The tree receives a Score of 3 under TEMPO Guidance yet there is no threat to the tree from the owner of Fox Cub Cottage.

The planning application for Fox Cub Cottage is for a small Porch and Storage Sheds at the rear of the property, with shallow raft foundations which will not pose any threat to the sycamore tree.

5. **CONCLUSION**

The sycamore tree which is the subject of this TPO, is not a suitable tree to be so close to these old properties which lie within this Conservation Area. It is there only because of mismanagement. It is not an unusual specimen and is more in danger from the negative management of its surroundings than from any other threat. It is causing loss of daylight

and amenity to The Old Dairy and loss of amenity and enjoyment of the garden to Fox Cub Cottage.

It is highly likely that in the very near future some branches will need lopping to protect electricity supplies to properties on High Street, including The Old Dairy. The roots of this tree will almost certainly affect the drains of some properties on High Street at some time in the future, if not already doing so.

**The tree already has protection as it is within the Conservation Area. We do not agree that it is a suitable subject for a Tree Preservation Order.**

**T M Pollard  
P A Blackwood**

**31 May 2010**

# TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE (Refer to guidance note for definitions)

**Surveyor:** Paul Almond      **Date:** 27/04/2010      **Species:** Acer  
**Location:** Rear of The Old Dairy High Street Charlton On Otmoor  
 Oxfordshire OX5 2UQ  
**TPO Ref (if applicable):** \_\_\_\_\_ **Tree/Group No:** \_\_\_\_\_ **Owner (if known):** \_\_\_\_\_

### Part 1: Amenity assessment

**a) Condition & suitability for TPO** (*Relates to existing context and is intended to apply to severe irremediable defects only*)

|                                     |                                 |          |
|-------------------------------------|---------------------------------|----------|
| <input checked="" type="checkbox"/> | 5) Good Highly suitable         | Notes    |
| <input type="checkbox"/>            | 3) Fair Suitable                |          |
| <input type="checkbox"/>            | 1) Poor Unlikely to be suitable |          |
| <input type="checkbox"/>            | 0) Dead Unsuitable              |          |
| <input type="checkbox"/>            | 0) Dying/dangerous* Unsuitable  |          |
| <b>Sub Total</b>                    |                                 | <b>5</b> |

**b) Retention span (in years) & suitability for TPO** (*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*)

|                                     |                         |          |
|-------------------------------------|-------------------------|----------|
| <input type="checkbox"/>            | 5) 100+ Highly suitable | Notes    |
| <input checked="" type="checkbox"/> | 4) 40-100 Very suitable |          |
| <input type="checkbox"/>            | 2) 20-40 Suitable       |          |
| <input type="checkbox"/>            | 1) 10-20 Just suitable  |          |
| <input type="checkbox"/>            | 0) <10* Unsuitable      |          |
| <b>Sub Total</b>                    |                         | <b>4</b> |

**c) Relative public visibility & suitability for TPO** - *Consider realistic potential for future visibility with changed land use*

|                                     |   |          |
|-------------------------------------|---|----------|
| <input type="checkbox"/>            | 5) Very large trees with some visibility, or prominent large trees Highly suitable        | Notes    |
| <input type="checkbox"/>            | 4) Large trees, or medium trees clearly visible to the public Suitable                    |          |
| <input checked="" type="checkbox"/> | 3) Medium trees, or large trees with limited view only Suitable                           |          |
| <input type="checkbox"/>            | 2) Young, small trees, or medium/large trees visible only with difficulty Barely suitable |          |
| <input type="checkbox"/>            | 1) Trees not visible to the public, regardless of size Probably unsuitable                |          |
| <b>Sub Total</b>                    |   | <b>3</b> |

**d) Other factors** - *Trees must have accrued 7 or more points (with no zero score) to qualify*

|                                     |  |          |
|-------------------------------------|--|----------|
| <input type="checkbox"/>            | 5) Principal components of arboricultural features, or veteran trees     | Notes    |
| <input type="checkbox"/>            | 4) Tree groups, or members of groups important for their cohesion        |          |
| <input type="checkbox"/>            | 3) Trees with identifiable historic, commemorative or habitat importance |          |
| <input checked="" type="checkbox"/> | 2) Trees of particularly good form, especially if rare or unusual        |          |
| <input type="checkbox"/>            | 1) Trees with none of the above additional redeeming features            |          |
| <b>Sub Total</b>                    |  | <b>2</b> |

### Part 2: Expediency assessment - *Trees must have accrued 9 or more points to qualify*

|                                     |                               |          |
|-------------------------------------|-------------------------------|----------|
| <input type="checkbox"/>            | 5) Immediate threat to tree   | Notes    |
| <input checked="" type="checkbox"/> | 3) Foreseeable threat to tree |          |
| <input type="checkbox"/>            | 2) Perceived threat to tree   |          |
| <input type="checkbox"/>            | 1) Precautionary only         |          |
| <b>Sub Total</b>                    |                               | <b>3</b> |

### Part 3: Decision guide

0 - Do not apply TPO    1-6 TPO indefensible    7-10 Does not merit TPO    11-14 TPO defensible    15+ Definitely merits TPO

**Total Score** 17      **Decision:** Qualifies for TPO

#### Comments

Large healthy tree good form and provides visual amenity from public highway.

## PLANNING COMMITTEE

### Tree Preservation Order (no.20/2010) Sycamore trees at Beam Ends, Brick Hill, Hook Norton

4 November 2010

#### Report of Strategic Director Planning, Housing & Economy

#### PURPOSE OF REPORT

To seek the confirmation Tree Preservation Order no 20/2010 with one objection relating to Sycamore trees at the site of Beam Ends, Brick Hill, Hook Norton, OX15 5QA (copy plan attached as Annex 1)

This report is public

#### Recommendations

---

The meeting is recommended

- (1) To confirm Tree Preservation Order (no. 20/2010) at the site of Beam Ends, Brick Hill, Hook Norton, OX15 5QA without modification in the interest of public amenity.

#### Summary

---

#### Introduction

- 1.1 The District Council made an emergency TPO in September 2010 following a site visit to assess a planning application and a subsequent section 211 (Town and Country Planning Act 1990) notification to undertake tree works to the tree which lies within the Hook Norton conservation area.
- 1.2 The trees are 4 no. individual Sycamore trees and two multi stemmed trees made up of 8 stems all in the early stages of maturity.
- 1.3 Guidance in determining the suitability of a tree for a TPO is provided by the TEMPO method (Tree Evaluation Method for Preservation Orders). This has been undertaken and the results included in this document as appendix 2.

The trees are in prominent positions, being situated on a raised garden visible from the Brick Hill and Croft Road providing a significant contribution to the local amenity as well as wildlife and environmental benefits to the local area. One letter objecting to the TPO has been

received from:

- i. Catherine Ashley-Boulton of Beam Ends, Brick Hill Hook Norton

The objections and due consideration are as follows:

- a. The retaining wall on which the trees are situated is at risk of being damaged and collapsing due to the root action of the trees, which may in turn undermine the stability of the trees.

CDC It is noted that due to the position of the trees in relation to the retaining wall, a risk of damage is present as the tree roots in contact with the wall increase in size.

The trees have been growing on the bank for an estimated 30 – 40 years and will have produced anchoring roots to support them. There is no evidence to suggest any movement of the root plates suggesting that they are unstable at the present time.

There is no evidence provided by the engineers report to suggest that the wall is in fact unsafe at the present time and refers possibilities in the future. The retaining wall has collapsed in the past, the reason for the collapse is not clear and it has been repaired with the trees in situ.

The engineers report does not explore any engineering solution to strengthen the retaining wall reducing the likelihood of future failure.

- b. "The trees are causing a loss of light to the adjacent properties.

CDC There is no obligation for tree owners to ensure uninterrupted light.

- c. The TPO plan and schedule are not clear.

CDC The TPO plan is based on the Arboricultural report provided and aerial photographs of the site.

The confusion arising from the plan arises from 2 trees noted as a group (G1) and marked as 8 trees. The group is in fact made up of 2 trees comprising a total of 8 stems. This has now been clarified with the applicant.

- e. The TPO was made after the 6 week conservation area notification deadline.

CDC There is no time restraints on the making of a Tree Preservation Orders in relation to Conservation Area notifications.

Tree Preservation Order 20/2010 was made through the correct procedure and process.

## **CONCLUSION**

1. It is recommended that the Committee confirm Tree Preservation Order



20-10 without modification.

### **Background Information**

1. Statutory powers are provided through :
  - i. Section 198 Town and Country Planning Act 1990.
  - ii. Town and Country Planning (Trees) Regulations 1999
- 1.2 The Scheme of Reference and Delegation authorises the Head of Development Control and Major Developments or in his/her absence the Development Control Team Leader or the Team Leader - Development Control & 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.
- 1.3 The above mentioned Tree Preservation Order was authorised by the Head of Development Control and Major Developments and made on 9 April 2009. The statutory objection period has now expired and one objection was received to the Order.

### **Key Issues for Consideration/Reasons for Decision and Options**

None

### **Implications**

|                         |  |
|-------------------------|--|
| <b>Financial:</b>       | The cost of processing the Order can be contained within existing estimates.<br><br>Comments checked by Eric Meadows, Service Accountant PH & E 01295 221552   |
| <b>Risk Management:</b> | 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.<br><br>Comments checked by Rosemary Watts, Risk Management & Insurance Officer 01295 221566 |

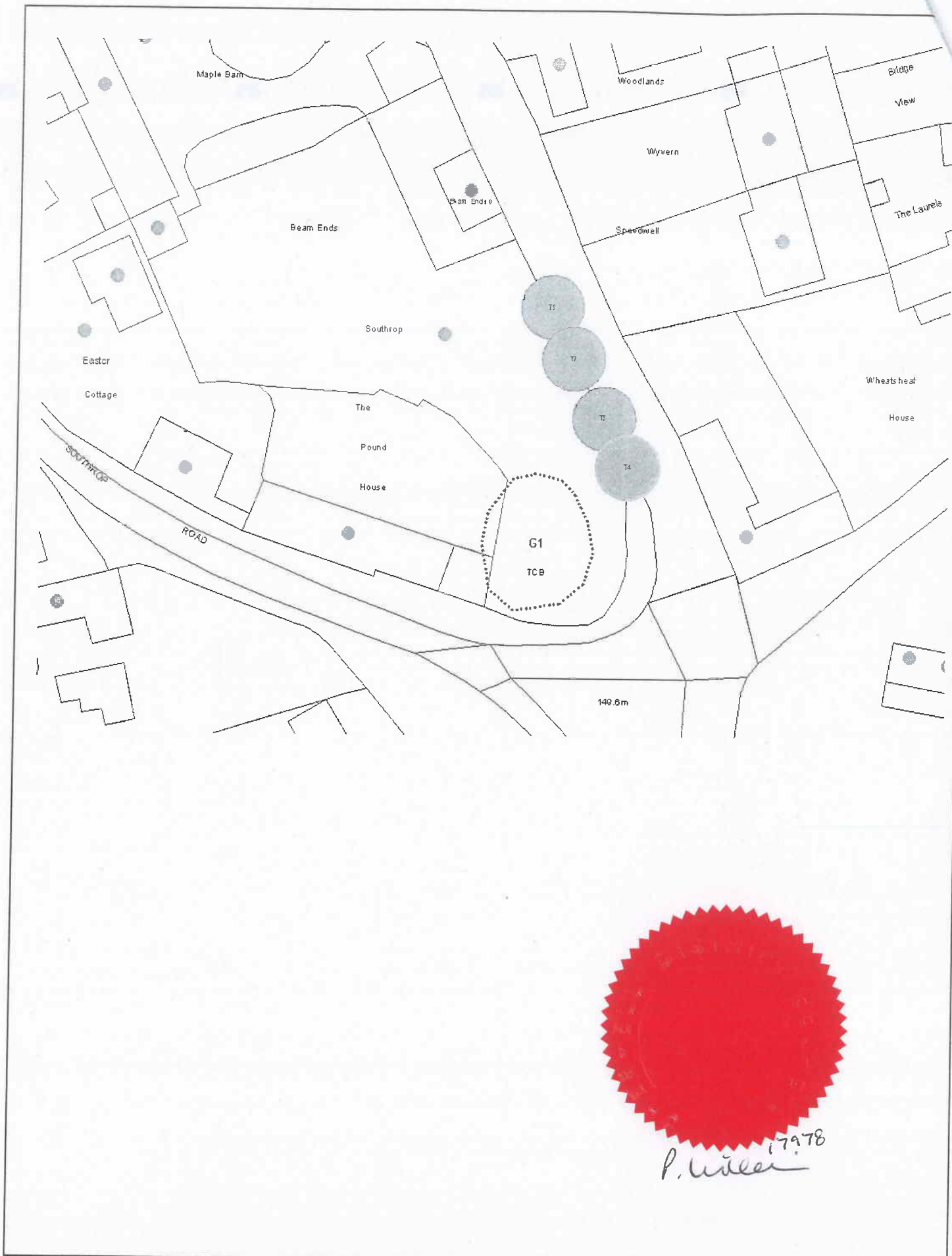
### **Wards Affected**

Hook Norton Ward

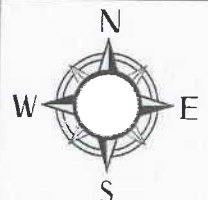
## Document Information

---

| <b>Appendix No</b>         | <b>Title</b>                                     |
|----------------------------|--|
| Appendix 1                 | Plan   |
| Appendix 2                 | TEMPO assessment                                 |
| Appendix 3                 | TEMPO assessment guidance notes                  |
| <b>Background Papers</b>   |  |
| TPO file reference 05-10   |  |
| <b>Report Author</b>       | Mark Harrison                                    |
| <b>Contact Information</b> | 01295 221804<br>mark.harrison@Cherwell-dc.gov.uk |



*P. Wilson* 17978



# TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

## SURVEY DATA SHEET & DECISION GUIDE (Refer to guidance note for definitions)

**Surveyor:** M Harrison      **Date:** 23/09/10      **Species:** 6 no. Sycamores  
**Location:** Beam Ends  
**TPO Ref (if applicable):** \_\_\_\_\_ **Tree/Group No:** \_\_\_\_\_ **Owner (if known):** Catherine Ashley Boulton

### Part 1: Amenity assessment

**a) Condition & suitability for TPO** (*Relates to existing context and is intended to apply to severe irremediable defects only*)

|                                     |                                 |  |
|-------------------------------------|---------------------------------|--|
| <input type="checkbox"/>            | 5) Good Highly suitable         | Notes<br><i>Young trees of reasonable form and shape. Only Minor dead wood throughout the crown. Close to adjacent buildings but this can be addressed by minor pruning. No other obvious defects noted.</i> |
| <input checked="" type="checkbox"/> | 3) Fair Suitable                |  |
| <input type="checkbox"/>            | 1) Poor Unlikely to be suitable |  |
| <input type="checkbox"/>            | 0) Dead Unsuitable              |  |
| <input type="checkbox"/>            | 0) Dying/dangerous* Unsuitable  |  |
| <b>Sub Total</b>                    |                                 | <b>3</b>   |

**b) Retention span (in years) & suitability for TPO** (*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*)

|                                     |                         |   |
|-------------------------------------|-------------------------|---|
| <input type="checkbox"/>            | 5) 100+ Highly suitable | Notes<br><i>Young trees with the potential for reasonable future development. The adj wall should be monitored.</i> |
| <input type="checkbox"/>            | 4) 40-100 Very suitable |   |
| <input checked="" type="checkbox"/> | 2) 20-40 Suitable       |   |
| <input type="checkbox"/>            | 1) 10-20 Just suitable  |   |
| <input type="checkbox"/>            | 0) <10* Unsuitable      |   |
| <b>Sub Total</b>                    |                         | <b>2</b>  |

**c) Relative public visibility & suitability for TPO** - *Consider realistic potential for future visibility with changed land use*

|                                     |   |   |
|-------------------------------------|---|---|
| <input type="checkbox"/>            | 5) Very large trees with some visibility, or prominent large trees Highly suitable        | Notes<br><i>Tree has limited visibility from outside the close but can be seen from all houses within the Close and contributes to its character.</i> |
| <input checked="" type="checkbox"/> | 4) Large trees, or medium trees clearly visible to the public Suitable                    |   |
| <input type="checkbox"/>            | 3) Medium trees, or large trees with limited view only Suitable                           |   |
| <input type="checkbox"/>            | 2) Young, small trees, or medium/large trees visible only with difficulty Barely suitable |   |
| <input type="checkbox"/>            | 1) Trees not visible to the public, regardless of size Probably unsuitable                |   |
| <b>Sub Total</b>                    |   | <b>4</b>  |

**d) Other factors** - *Trees must have accrued 7 or more points (with no zero score) to qualify*

|                                     |  |          |
|-------------------------------------|--|----------|
| <input type="checkbox"/>            | 5) Principal components of arboricultural features, or veteran trees     | Notes    |
| <input type="checkbox"/>            | 4) Tree groups, or members of groups important for their cohesion        |          |
| <input type="checkbox"/>            | 3) Trees with identifiable historic, commemorative or habitat importance |          |
| <input type="checkbox"/>            | 2) Trees of particularly good form, especially if rare or unusual        |          |
| <input checked="" type="checkbox"/> | 1) Trees with none of the above additional redeeming features            |          |
| <b>Sub Total</b>                    |  | <b>1</b> |

### Part 2: Expediency assessment - *Trees must have accrued 9 or more points to qualify*

|                                     |                               |  |
|-------------------------------------|-------------------------------|--|
| <input checked="" type="checkbox"/> | 5) Immediate threat to tree   | Notes<br><i>Section 201 notice of removal.</i> |
| <input type="checkbox"/>            | 3) Foreseeable threat to tree |  |
| <input type="checkbox"/>            | 2) Perceived threat to tree   |  |
| <input type="checkbox"/>            | 1) Precautionary only         |  |
| <b>Sub Total</b>                    |                               | <b>5</b>                                       |

### Part 3: Decision guide

0 - Do not apply TPO    1-6 TPO indefensible    7-10 Does not merit TPO    11-14 TPO defensible    15+ Definitely merits TPO

**Total Score** **15**      **Decision:** **Merrits TPO**

*Comments*  
**Trees suitable for a tree preservation order.**

## Planning Committee

### Decisions Subject to Various Requirements – Progress Report

4 November 2010

### Report of Strategic Director Planning, Housing & Economy

#### 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. Pre-application meetings held in August and October. New application expected imminently

- 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 10/00388/OUT Land adj 35 Crouch Hill Road, Banbury  
Subject to amendment of existing legal agreement concerning affordable housing and on-site and off-site infrastructure contributions.
- 1.5 10/00644/F Former Dashwood School, Marlborough Place, Banbury  
Subject to legal agreement re off-site infrastructure contributions
- 1.6 10/00765/F Land SW Wickes, Launton Rd. Bicester  
Subject to legal agreement re public art and off-site highway infrastructure
- 1.7 10/00806/OUT Land at Arncott Hill Farm Buchanan Rd. Arncott  
Subject to legal agreement re affordable housing and on-site/off-site infrastructure contributions; comments of Environment Agency and departure procedures
- 1.8 10/00807/OUT Land SW Orchard Close, Arncott  
Subject to legal agreement re affordable housing and on-site/off-site infrastructure contributions; comments of Environment Agency and departure procedures
- 1.9 10/00967/OUT Oak Farm, Milcombe  
Subject to legal agreement concerning affordable housing and on-site/off-site contributions
- 1.10 10/00981/F Yarnton House, Rutten Lane, Yarnton  
Subject to supplemental agreement linking application to original approval

1.11 10/01021/F

Otmoor Lodge, Horton-cum-Studley

Subject to legal agreement concerning building phases and interim appearance

### Implications

---

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

Comments checked by Joanne Kaye, Service Accountant 01295 221545

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

Comments checked by Nigel Bell, 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<br>bob.duxbury@Cherwell-dc.gov.uk |

# Agenda Item 16

## Planning Committee

### Appeals Progress Report

4 November 2010

### Report of Strategic Director Planning, Housing & Economy

#### 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 meeting is recommended:

- (1) That the position statement be accepted.

#### Details

---

##### New Appeals

- 1.1 **10/00892/F – College Farm Pinchgate, Bletchingdon** – appeal by Mr A J Willcox against the refusal of planning permission for the conversion and extension of the existing barn building, including the construction of a link building to the main house (including the demolition of the crosswing building) – Written Reps

##### **Forthcoming Public Inquiries and Hearings between 4 November 2010 and 2 December 2010**

- 2.1 **None**



## Results

### Inspectors appointed by the Secretary of State have:

- 3.1 **Allowed the appeal by Mr D Hessler against the refusal of application 09/01784/LB for the widening of access to existing driveway (retrospective) at 1 South Green, Kirtlington (Delegated)** – The Inspector stated “ I am not persuaded that the grass verges are a significant or defining feature of the Conservation Area. Certainly, the village green itself is an important landscaped space within the village and is identified as such in the Kirtlington Conservation Area Appraisal and a revised draft of the conservation area appraisal currently under preparation. However, as I have already noted, the green itself is not affected by the development. This leads me to conclude that the development preserves the character and appearance of the Kirtlington Conservation Area”

## 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 Joanne Kaye, Service Accountant 01295 221545

**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 221566

## Wards Affected

---

All

## Document Information

---

| Appendix No | Title |
|-------------|-------|
| -           | None  |

|   |  |
|---|--|
| <b>Background Papers</b>  |  |
| All papers attached to the planning applications files referred to in this report |  |
| <b>Report Author</b>  | Bob Duxbury, Development Control Team Leader   |
| <b>Contact Information</b>  | 01295 221821<br>bob.duxbury@Cherwell-dc.gov.uk |