

Committee: Planning Committee
Date: Thursday 7 October 2010
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

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

Substitutes

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

AGENDA

- 1. Apologies for Absence and Notification of Substitute Members**
- 2. Declarations of Interest**

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

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

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

4. **Urgent Business**

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

5. **Minutes** (Pages 1 - 9)

To confirm as a correct record the Minutes of the meeting of the Committee held on 9 September 2010.

Planning Applications

- | | | |
|-----|--|---------------------|
| 6. | The Otmoor Lodge, Horton Hill, Horton cum Studley, Oxon, OX33 1AY (Pages 12 - 22) | 10/01021/F |
| 7. | Wardington House Nursing Home, Wardington, Banbury (Pages 23 - 30) | 10/01055/F |
| 8. | Land to the West and South of Numbers 7 to 26 The Green, Chesterton (Pages 31 - 60) | 10/01278/OUT |
| 9. | The Indian Pantry, 65 Calthorpe St, Banbury (Pages 61 - 65) | 10/01282/F |
| 10. | Whitmore Arms, Main Street, Hethe, Bicester OX27 8ES (Pages 66 - 77) | 10/01340/F |

Tree Preservation Orders

11. **Tree Preservation Order (No. 16) 2010 Sycamore tree at Turnstile House, Barford St. Michael** (Pages 78 - 84)

Report of Strategic Director Planning, Housing & Economy

Summary

To seek the confirmation of an opposed Tree Preservation Order relating to a Sycamore tree at Turnstile House, Barford St. Michael (copy plan attached as appendix 1) Tree Preservation Order No. (16/2010)

Recommendation

The Planning Committee is recommended to:

- (1) Confirm Tree Preservation Order 16-10 at the site of Turnstile House, Barford St. Michael OX15 0RF without modification in the interest of public amenity.

12. Tree Preservation Order (No. 17) 2010 Sycamore tree at Hill House, Workhouse Lane, Bloxham (Pages 85 - 92)

Report of Strategic Director Planning, Housing & Economy

Summary

To seek the confirmation of an opposed Tree Preservation Order relating to a Sycamore tree at Hill House, Workhouse Lane, Bloxham (copy plan attached as appendix 1) Tree Preservation Order No. (17/2010)

Recommendation

The Planning Committee is recommended to:

- (1) Confirm Tree Preservation Order 17-10 at the site of Hill House, Workhouse Lane, Bloxham, OX15 4PH without modification in the interest of public amenity.

13. Tree Preservation Order (No. 18) 2010 three Hazel trees, six Plum trees, one Apple tree and one Rowan tree at 12 Valentia Close, Bletchington (Pages 93 - 95)

Report of Strategic Director Planning, Housing & Economy

Summary

To seek 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 (copy plan attached as appendix 1) Tree Preservation Order No. (18/2010)

Recommendation

The Planning Committee is recommended to:

- (1) Confirm the Order without modification.

Enforcement Action

14. Quarterly Enforcement Report (Pages 96 - 113)

Report of the Strategic Director Planning, Housing and Economy

Summary

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

Recommendation

The Planning Committee is recommended:

- (1) To accept this report.

Review and Monitoring Reports

15. Decisions Subject to Various Requirements - Progress Report (Pages 114 - 116)

Report of Strategic Director Planning, Housing and Economy

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 117 - 118)

Report of Strategic Director Planning, Housing and Economy

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 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 29 September 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 9 September 2010 at 4.00 pm

- Present: Councillor Fred Blackwell (Chairman)
Councillor Rose Stratford (Vice-Chairman)
- Councillor Colin Clarke
Councillor Michael Gibbard
Councillor Chris Heath
Councillor Alastair Milne Home
Councillor James Macnamara
Councillor G A Reynolds
Councillor Leslie F Sibley
Councillor Trevor Stevens
Councillor Lawrie Stratford
- Substitute Members: Councillor Andrew Fulljames (In place of Councillor Mrs Catherine Fulljames)
Councillor David Hughes (In place of Councillor Maurice Billington)
Councillor Russell Hurle (In place of Councillor Chris Smithson)
Councillor P A O'Sullivan (In place of Councillor Mrs Diana Edwards)
- Apologies for absence: Councillor Ken Atack
Councillor Maurice Billington
Councillor Mrs Diana Edwards
Councillor Mrs Catherine Fulljames
Councillor D M Pickford
Councillor Chris Smithson
- Officers: John Hoad, Strategic Director - Planning, Housing and Economy
Bob Duxbury, Development Control Team Leader
Nigel Bell, Solicitor
Jane Dunkin, Senior Planning Officer
Ross Chambers, Solicitor
Michael Sands, Trainee Democratic and Scrutiny Officer

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Declarations of Interest

Members declared interest with regard to the following agenda items:

7. Oak Farm, Milcombe, Banbury, Oxfordshire, OX15 4RS.

Councillor Chris Heath, Personal, as she had discussed the application with Milcombe Parish Council.

8. Former Allotment Site Rear of Miller House and 33a, Miller Road, Banbury.

Councillor Alastair Milne Home, Personal, as a Member of Banbury Town Council.

Councillor Colin Clarke, Personal, as a Member of Banbury Town Council.

Councillor Michael Gibbard, Personal, as Porfolio Holder for Planning and Housing.

Councillor Rose Stratford, Personal, as a Member of Banbury Town Council.

64 **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.

65 **Urgent Business**

There was no urgent business.

66 **Minutes**

The Minutes of the meeting held on 12 August 2010 were agreed as a correct record and signed by the Chairman.

67 **Land South West of and Adjoining Wickes, Launton Road, Bicester**

The Committee considered a report for the erection of a class A1 discount food store with associated car parking, access and landscaping.

The Committee considered the access arrangements to the site and the potential loss of employment land.

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

Resolved

That application 10/00967/OUT be approved subject to:

(i) the applicant entering into a legal agreement concerning contributions with regards to public art and off-site highway infrastructure, and

(ii) the following conditions:

1) SC 1.4 Full permission : Duration limit 3 years

- 2) Except where otherwise stipulated by conditions on this permission the development shall be carried out in accordance with the following drawings: Location Plan drg no. L1, Block Plan drg no. B1, Drg nos. D103B, D200, D201, D202, D203 and the Design and Access Statement.
- 3) That the Class A1 discount foodstore hereby permitted shall enure for the benefit of Aldi Stores Ltd only and not for any other operator or purpose whatsoever, including any other purpose in Class A1 of the Schedule to the Town and County Planning (Use Classes)(Amendment)(England) Order 2005 and that the total net sales floorspace shall not exceed 990 sqm.
- 4) Notwithstanding the provisions of Section 55(2)(a)(i) of the Town & Country Planning Act 1990 (as amended by Section 49 of the 2004 Act) and Article 2A of the Town & Country Planning (General Development Procedure) Order 1995 and Class A of Part 8, Schedule 2 of the Town & Country Planning (General Permitted Development) Order 1995 and its subsequent amendments, no internal operations increasing the floorspace available within the building hereby permitted shall be carried out without the prior express planning consent of the Local Planning Authority.
- 5) SC2.0A Details of materials and finishes
- 6) SC2.13A Demolition of existing buildings
- 7) SC3.0A Submit landscaping scheme
- 8) SC3.1A Carry out landscaping scheme
- 9) SC3.7AA Boundary enclosure details
- 10) Prior to the commencement of the development, a scheme of drainage (incorporating SUDS where appropriate) shall be submitted to and approved by the Local Planning Authority. Thereafter, the approved scheme of drainage shall be implemented prior to the first use of the development.
- 11) That before the development is first occupied, the access, parking and manoeuvring areas shall be provided in accordance with the submitted plans and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.
- 12) That before the development is first occupied the cycle parking shall be provided in accordance with the submitted plans.
- 13) No development shall commence within the application area until the applicant, or their agents or successors in title, has secured the implementation of a staged programme of archaeological investigation and mitigation in accordance with a written scheme of investigation that shall first be submitted to and approved by the

Local Planning Authority. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication. The work shall be carried out by a professional organisation acceptable to the Local Planning Authority

- 14) Prior to the commencement of the development hereby permitted, taking into account the recommendations within the MWH Environmental Statement (dated 2007) and the Ground Investigation (South West) Ltd, Interpretative Ground Investigation Report (dated July 2010) submitted with this application, further assessment to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.
- 15) If contamination is found by undertaking the work carried out under condition 14, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.
- 16) If remedial works have been identified in condition 15, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 15. A verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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Oak Farm, Milcombe, Banbury, Oxfordshire, OX15 4RS

The Committee considered a report for the erection of twenty nine residential dwellings with private gardens and car parking.

Mr Cliff Potter spoke in objection to the application as Chairman of Milcombe Parish Council.

Mr Arron Twamley spoke in favour of the application as the applicant's agent.

The Committee expressed concern regarding the density of the proposed development and the potential impact on traffic volume. Members also discussed parking provision and the access arrangements to the site.

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

Resolved

That application 10/00967/OUT be approved subject to:

- (i) Applicant entering into Section 106 Agreement with District and County Council's to secure developer contributions as set out in paragraph 5.3.2 and to the 30% affordable housing requirement referred to at 5.4.1-5.4.3
- (ii) Departure procedures

The following conditions:

- 1) SC1.0A Approval of reserved matters details (RC1)
- 2) SC1.1 Outline expiry of application for reserved matters (RC1)
- 3) SC1.2 Outline duration limit (RC1)
- 4) SC2.15AA That no more than 29 dwellings shall be accommodated on the site.
- 5) SC3.0A Submit Landscaping Scheme.
- 6) SC3.1A Carry Out Landscaping Scheme
- 7) SC3.10A Open Space
- 8) Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.
- 9) If a potential risk from contamination is identified as a result of the work carried out under condition 8, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's

'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

- 10) If contamination is found by undertaking the work carried out under condition 9, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.
- 11) If remedial works have been identified in condition 10, the remedial works shall be carried out in accordance with the scheme approved under condition 10. The development shall not be occupied until a verification report (referred to in PPS23 as a validation report), that demonstrates the effectiveness of the remediation carried out, has been submitted to and approved in writing by the Local Planning Authority.
- 12) That the development hereby permitted shall be carried out in accordance with the recommendations made in the RSK Initial Ecological Survey dated June 2010, in particular the Method Statement (Appendix 6) which sets out measures for habitat retention and enhancement and avoidance of harm.
- 13) That the development hereby permitted shall be carried out in accordance with the recommendations made in the RSK Bat and barn Owl Survey dated June 2010, in particular the Method Statement (Appendix 6) which sets out measures for replacement bat roosting habitat, avoidance of harm/destruction of unidentified bat roosts, replacement barn owl roosting habitat and avoidance of harm in relation to barn owls.
- 14) SC9.6A Fire Hydrants
- 15) Prior to the commencement of the development an archaeological Written Scheme of Investigation shall be submitted to and approved in writing by the Local Planning Authority.
- 16) Following the approval of the Written Scheme of Investigation referred to in condition 14, no development shall commence within the application area until the applicant, or their agents or successors in title, have implemented a staged programme of archaeological investigation and mitigation, which shall be carried out by a professional archaeological organisation (acceptable to the Local Planning Authority) in accordance with the Written Scheme of

Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication.

69 **Former Allotment Site Rear of Miller House and 33a, Miller Road, Banbury**

The Committee considered a report for ten single bedroom flats together with eleven parking spaces and access way.

The Committee considered the design and layout of the proposed development. Members also discussed the access arrangements.

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

Resolved

That application 10/01053/F be approved subject to:

- 1) SC 1.4A Full Permission: Duration Limit (3 years) (RC2)
- 2) SC 2.0A Details of Materials and External Finishes (RC4A)
- 3) SC 2.2AA Samples of walling materials 'brick' 'building' (RC4A)
- 4) SC 2.2BB Samples of roofing materials 'tile' 'building' (RC4A)
- 5) SC 2.10A Floor Levels 'building' (RC7A)
- 6) SC 3.3AA 'remove point K and M' (RC72)
- 7) That a plan detailing the access road widening to 4.5m for the first 10 metres from the highway shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. The access shall be provided in accordance with the agreed details prior to the development being brought into use.
- 8) SC 4.13BC '11 car parking spaces and one visitor space'
- 9) Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The submitted scheme shall incorporate Sustainable Urban Drainage System. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any part of the building hereby approved. All drainage works shall be laid out and constructed in accordance with the Water Association's current edition "Sewers for Adoption".

- 10) That a Construction Management Plan shall be submitted to and approved by the Local Planning Authority prior to development commencing on site. The proposed development shall be carried out in accordance with the details approved.
- 11) That full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure shall be erected prior to the first occupation of the dwelling.
- 12) Prior to the development being occupied full details of the bin storage areas, in the form of elevational details and material details, shall be submitted and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 13) 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:
 - a. Drawing number 10/605-LP RevA
 - b. Photo Montage – proposed Miller Road Development
 - c. Design and access Statement received on the 5th August
 - d. Drawing number 10/605-01
 - e. Drawing number 10/605-02
 - f. Drawing number 10/605-03
 - g. Drawing number 10/605-04
 - h. Drawing number 10/605-05
 - i. Drawing number 10/605-06
 - j. Drawing number 10/605-07
- 14) 14. SC 8.13 Contaminated land Phased condition (RC80)
- 15) 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:
 - Design and access statement received 5th August 2010
 - 10/605-LP Location Plan
 - 10/605-02 Rev A Proposed site layout plan
 - 10/605-01 Rev A Proposed site plan
 - 10/605-03 Proposed north and south street elevations
 - 10/605-04 proposed east and west street elevations
 - 10/605-05 proposed ground floor flat layout plans
 - 10/605-06 proposed first floor flat layout plans

- 15) That prior to the first occupation of any part of the development hereby permitted fire hydrants shall be provided or enhanced on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
- 17) Site clearance shall be undertaken under an ecological watching brief to check for signs of badgers or reptiles prior to the removal of areas of vegetation.
- 18) Should any evidence of active badger setts be discovered, or reptiles be found on the site works shall cease immediately and the advice of a qualified ecologist sought before any further works are carried out.

Councillor Michael Gibbard requested that his abstention from the vote be recorded.

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

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

Resolved

That the position statement be accepted.

71 **Appeals Progress Report**

The Committee considered a report of the Head of Development Control and Major Developments which updated Members on applications where new appeals had been lodged, public inquiries/hearings scheduled or appeal results received.

Resolved

That the position statement be noted.

The meeting ended at 6:20 pm

Chairman:

Date:

PLANNING COMMITTEE

7 October 2010

PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

Human Rights Implications

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

Background Papers

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

Applications

	Site	Application No.	Ward	Recommendation	Contact Officer
6	The Otmoor Lodge, Horton Hill, Horton cum Studley, Oxon, OX33 1AY	10/01021/F	Otmoor	Approval	Bob Duxbury
7	Wardington House Nursing Home, Wardington, Banbury	10/01055/F	Cropredy	Approval	Jane Dunkin
8	Land to the West and South of Numbers 7 to 26 The Green, Chesterton	10/01278/OUT	Ambrosden & Chesterton	Approval	Caroline Roche
9	The Indian Pantry, 65 Calthorpe St, Banbury	10/01282/F	Banbury Grimsbury	Approval	Simon Dean
10	Whitmore Arms, Main Street, Hethe, Bicester OX27 8ES	10/01340/F	Fringford	Refusal	Rebecca Horley

10/01021/F

Sheet

Kings Arms

(PH)

Bungalow

New

House

GREEN

THE

Horton-cum-Studley

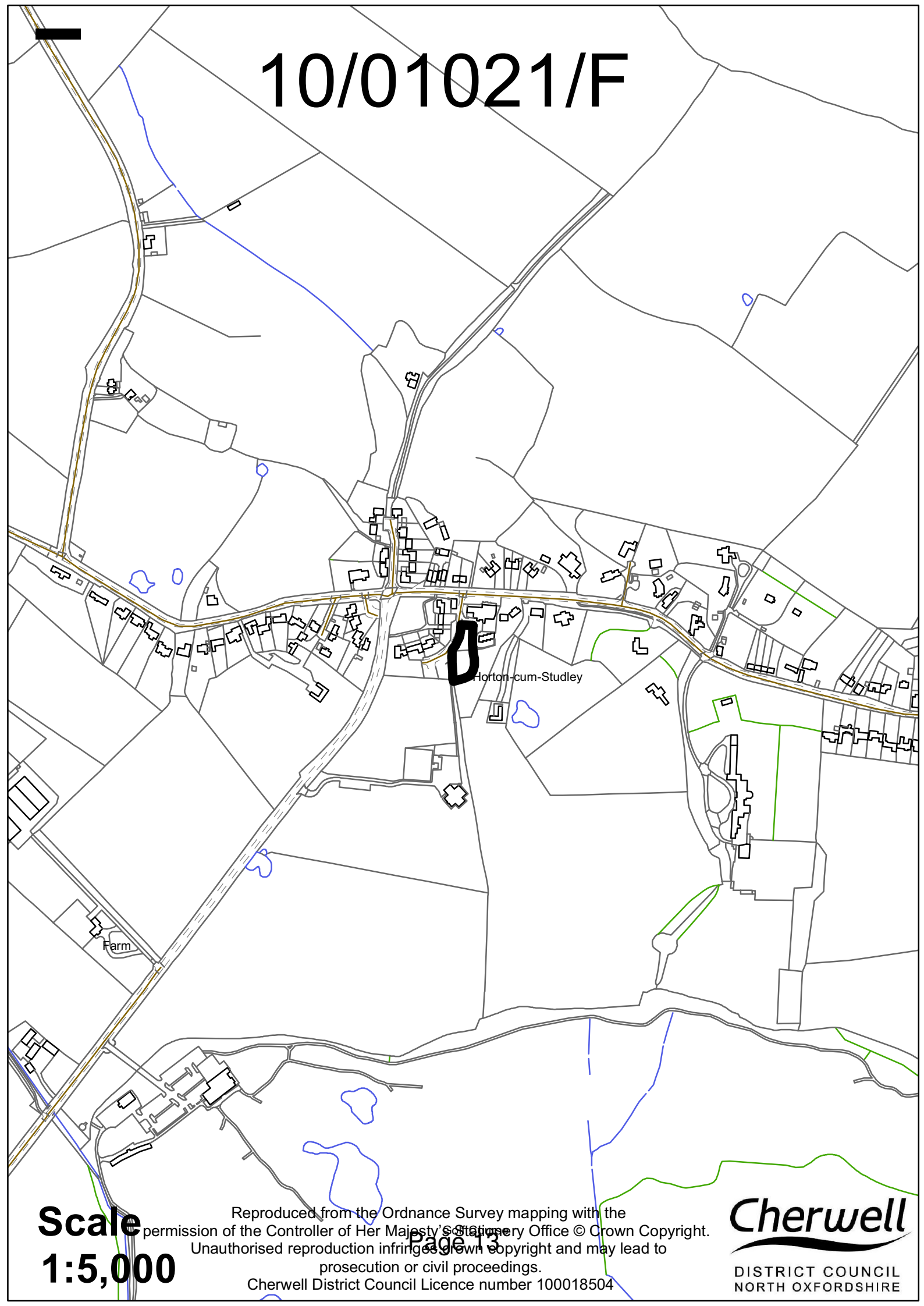
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10/01021/F



Horton-cum-Studley

Farm

Scale
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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 10/01021/F	Ward: Otmoor	Date Valid: 05.07.10
Applicant:	B A Property Management Ltd, c/o Victor C Brown Architect, The Studio, 7 Mill Lane, Horton cum Studley, Oxford, OX33 1DH	
Site Address:	The Otmoor Lodge, Horton Hill, Horton cum Studley, Oxon, OX33 1AY	

Proposal: Variation of condition 7 of 07/02478/F. To permit the project to be constructed in two phases.

1. Site Description and Proposal

1.1 This applications relates to a planning permissions for 4 houses that was approved in May 2008 subject to a condition that

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

That permission followed earlier resolutions to approve and a permission for combined development involving substantial extensions to the hotel and for 4 houses which were permitted to ensure the future viability of the pub-restaurant/hotel as a village facility. The planning history of the site is recorded in more detail below in Section 5 of the report.

1.2 The proposal is to substitute an alternative phasing agreement for the houses and the hotel extension. The applicant proposes that condition 7 is amended to state that the development will be undertaken in two phases

- First phase will comprise the construction of house units 1 and 2, the proposed shop (approved under ref no 09/00936/F), ten bedrooms and hotel facilities as identified in red on the submitted drawings.
- The second phase would comprise house units 3 and 4 and the remaining hotel bedrooms and facilities as identified in blue on the submitted drawings.

All of the first phase will be built concurrently, and likewise all of the second phase would be built concurrently.

2. Application Publicity

2.1 The application has been advertised by individual letter to neighbouring properties and by site notice. The final date for comments was 11 August 2010.

2.2 Eight letters of object have been received from local residents who comment that (in summary)

- Reworking of previous application for phasing that has been previously

refused – attention drawn to reasoning of previous refusal.

- Hotel currently closed – is there a need for the development?
Rationale behind original permission floored – still no shop after 5 years.
- Succession of applications each proposing a larger and more intrusive development.
- Applicant originally contended that 20 bedrooms necessary for viability – now only half that number could be provided initially with no timescale governing the provision of the remainder – uncertainty covering completion of the hotel/return to viability.
- Adjacent properties blighted by threat of high density development.
- Adverse impact upon residents of extended construction through phasing.
- It should be got on with rather than continuing to string out the planning/construction process.
- Phasing draws into question the pretext for the original approval and seeks reconsideration of the scale of development allowed.
- If permission is granted the permission should include strict stipulations on the provision of the facilities, specifying extent, opening hours and a requirement that they are maintained for a significant duration.

3. Consultations

- 3.1 Horton cum Studley PC are unanimously opposed to this application. They are dismayed that the covenant that they lifted 3 years ago in consideration for the continued provision of a village shop and pub has simply not materialised. They say that they now find themselves in the position where the economic conditions in which the covenant was lifted have changed beyond recognition. Not only have villagers had to make other arrangements with regards to shopping but the applicants original business plans have also been amended to fit economic opportunities, and continue to do so. They say they have no shop and the provision of a pub has now been withdrawn and closed for months. They consider they must oppose this proposal which has no relation to the original applications and involves two stage development.
- 3.2 OCC (as local highway authority) raise no objections subject to the continuation of the previous conditions.

4. Relevant Planning Policies

- 4.1 Adopted Cherwell local plan policies GB1 and S28.
- 4.2 Non-statutory Cherwell Local Plan policies GB1, GB1a and S25

5. Appraisal

- 5.1 The principal issues in this case are:-
- i) the history of planning applications/decisions on this site
 - ii) Green Belt policy and the very special circumstances case originally advanced.
 - iii) impact upon residential amenity
- 5.2 Planning History

The planning history of applications/decisions can be summarised as follows:-

- 04/02395 - Resolution to approve in May 2005 for extension to hotel to form

19 bedrooms and construction of four town houses with associated parking (contrary to recommendation) subject to departure procedures and the applicants entering into a legal agreement to ensure the provision of the intended shop. The Secretary of State did not call in application. Legal agreement drafted but not completed (overtaken by next application).

- 06/00537/F - Planning permission granted in June 2006 for extension to form 23 bedrooms with 4 detached houses/garages subject to legal agreement re provision of shop.
- 06/01927/OUT - Outline planning permission granted in December 2006 for 20 bedroom extension to hotel, shop/PO and 4 dwellings. This revised scheme had the extension and houses in a much tighter grouping near the rear of the existing hotel.
- 07/02478/F - Planning permission for 4 detached houses approved in May 2008. Variation on the siting of the houses originally submitted as reserved matters is reserved matters pursuant to 06/01927/OUT, but cannot be treated as such because siting was not a reserved matter.
- 09/00549/F - Proposal for 5 dwellings. Application withdrawn.
- 09/00936/F - Planning permission granted for single storey shop extension to front of existing building.
- 09/00937/OUT - Planning permission refused for amended design for extension to hotel to form 23 bedrooms.
- 09/01178/F - Planning permission refused for variation of condition 7 of 07/02478/F re phasing of construction of shop, hotel facilities and housing. The reason for refusal was that:-

“The amended phasing of the provision of the hotel accommodation introduces uncertainty into the construction of the majority of the proposed hotel extension undermining the reasons for the original grant of planning permission for the houses (contrary to normal Green belt policy), which decision was taken to ensure the future long-term viability of the hotel/pub/restaurant business. The houses would therefore represent inappropriate development that is contrary to Policy CO4 of the South East Plan and Policy GB1 of the adopted Cherwell Local Plan; the previously expressed very special circumstances are diminished to the extent that they are considered to no longer outweigh the normal strong presumption against such inappropriate development”

- 09/01697/REM – Reserved matters approval given to design of extension to form 20 bedrooms and ancillary facilities, shop and post office and 4 dwellings.

5.3 Obviously the most significant of the above applications to the determination of this application is that considered for a similar description proposal which was considered by the Committee in October 2009 09/01178/F above. I attach as annex 1 the report on that application. It will be seen from para 1.2 of that report that the proposal phasing was quite different.

5.4 Impact upon previously advanced Green Belt case

In the appraisal section of the report on Annex 1 it will be noted that the HDCMD considered that there was a substantial risk that the hotel extension (which was proposed in 3 or 4 stages) would not be built in its entirety and that therefore the approval of housing contrary to policy would not achieve the originally stated aims of securing the long-term future of the facility for the village through the funding of the extensions.

5.5 This proposal simplifies the phasing and simplifies the build process and the ability to continue to trade throughout. The first phase provides the shop (in the prominent frontal position approved in 2009) and 10 bedrooms, together with two of the dwellings allowed under the 2007 provision. As noted in para 5.2 of Annex 1 the applicants estimate that the construction of 10 bedrooms will allow the business to break even. There is undeniably still a risk that phase two of the development will not occur but the applicants have indicated that with this phasing it will make arrangements of appropriate funding simpler and achievable. They also have indicated that they wish and intend to move straight onto phase two.

5.6 Given the continued economic climate your officers consider that it is appropriate for the Council to reconsider its position in the light of this revised phasing proposal. Whilst acknowledging the continued risk of the full development not occurring, and therefore the facility not returning to the full economic health originally proposed it is considered that the Council should appeal this proposal and thereby support this local business, which will therefore continue to provide the best commercial shop/pub/restaurant/hotel facilities in the village.

5.7 Impact on residential amenity

As the development is unchanged the impact of the finished development is as previously considered acceptable under 07/02478/F and 09/01697/REM. The local residents draw attention to their perceptions that they will suffer on-going construction activities and disturbance/disruption as a consequence of the division of the development into two phases. In response we consider that the scheme is readily divisible without undue extra build time caused by the sub-division. Whilst there may be a break in construction the actual build periods shall be similar, and there is no reason to suppose that there will be undue problems during an interim cessation. It is recognised that the planning phase of this proposed development has been protracted and unsettling due to the uncertainty attached to a scheme varying regularly, but approval of this will enable a prompt start on site.

5.8 If this application is successful the applicant's attention has already been drawn to the need to amend Condition 5 of 06/01927/OUT, which contains a similar phasing condition, and to consider the implications for the Section 106 agreement re facility provision which exists.

6. Recommendation

Approval, 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 condition;
 - 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.

Reason: to avoid only the houses being built, which were only approved in 2006 on the basis that they will assist in the funding of the construction of the hotel extension and thereby help return the village facility in accordance with Policy S29 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 development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits and whilst the proposal does not accord with Policy G4 of the Oxfordshire Structure Plan 2016 and Policy GB1 of the adopted Cherwell Local Plan, it is only a relatively minor variation on planning permissions 06/00537/F and 06/01927/OUT, and the continued facilitation of the retention of the public house hotel and reinstatement of the shop/post office outweigh the normal presumption against development in the Green Belt. For the reasons given above and having regard to all other matters raised, the Council considered that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Bob Duxbury

TELEPHONE NO: 01295 221821

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

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

1. Site Description and Proposal

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

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

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

- 1.2 The proposal is to substitute an alternative phasing arrangement for the houses and the hotel extension. The applicant proposes that Condition 7 is amended to state that the hotel extension is to be constructed in two phases: the first to comprise the construction of the first 2 houses (Units 1 and 2) and the construction of a minimum of 4 bedrooms associated with the hotel on the earlier of 6 months after the sale of the last of Units 1 and 2 or two years from completion of the construction of those units. The proposed shop is to form part of the first phase and to be complete and ready for trading prior to the occupation of the houses. The second phase to comprise the construction of the remaining 2 houses (Units 3 and 4) and the construction of a minimum of 6 further bedrooms associated with the hotel on the earlier of 6 months after the sale of the last of Units 3 and 4, or two years from the completion of the construction of these units.
- 1.3 The application is accompanied by confidential documents setting out the financial situation relating to this proposal. However, the documents supplied are considered to be of limited value as they lack the apparent robustness in forecasting necessary to demonstrate that the revised phasing will ensure the future viability of the business.
- 1.4 This application should be considered alongside the current applications for the revised proposals for the hotel extension (09/00937/F) and the shop (09/00936/F) which are also reported on this agenda, and the contents of those reports are also relevant in considering this proposal.

2. Application Publicity

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

3. Consultations

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

3.2 Oxfordshire County Council (as Local Highway Authority) raise no objections.

4. Relevant Planning Policies

4.1 South East Plan Policies SP5 (Green Belts)
 CC6 (Sustainable Communities)
 TSR2 (Rural Tourism)
 CO4 (Green Belt)

4.2 Adopted Cherwell Local Plan Policies GB1 and S28.

4.3 Non-Statutory Cherwell Local Plan 2011 Policies GB1, GB1a and S25

5. Appraisal

5.1 It should be recalled that four houses in this Green Belt location are contrary to Green Belt policy which is restricted to infill development defined as the development of a small gap in an otherwise built-up frontage suitable for the erection of one or two dwellings. South Area Planning Sub-Committee's decision in May 2005 to agree (contrary to recommendation) with the four houses was part of a package where the money from the housing development would fund the provision of a large (19-bed) extension to the hotel which would in turn secure the future well-being of the hotel/pub/restaurant, which is the last facility in the village. That rationale was carried forward through the 2006 and 2007 applications. The phasing was simple. As set out in Para 1.1 above the houses and the extension were to be built simultaneously. The current proposal is to deliver the hotel extension in 3 phases, (i) 4 bedrooms and the shop (ii) 6 bedrooms (iii) the remaining 13 bedrooms (it is not specified whether this would be in one phase or in further sub-phases). It should be noted that the proposed condition only relates to the first 10 bedrooms and in a worse case scenario could take in excess of five years. There is therefore no certainty that the full scheme will ever be completed. This causes the Head of Development Control and Major Developments to have severe concerns about whether the benefit of securing the future long-term viability of the business will be delivered.

5.2 It is possible to draw from the confidential financial situation report from the applicant's agent that the downturn in the economy has reduced the value of the housing site by 50% and that even the cost of building/equipping the first 10 bedrooms will be more than double the value of the housing site. The applicant indicates that ideally he would wish to build the whole development, but that any increase in the number of rooms will improve the financial situation of the business. The applicant's accountant has estimated that the construction of 10 bedrooms will allow the business to break even/make small profit. It is also noted that additional bedrooms will enable the hotel to be more effective in the conference/wedding sector, further improving the viability of the business. It is also explained that the delay in utilising previous consents has been caused by issues concerning covenants, causing the submissions of revised applications. The applicant has given assurances that all funds raised from the sale of the housing sites will be invested in the construction of the hotel facilities. Finally they indicate that if these phased development proposals prove unacceptable they would have to consider

cessation of trading and closure.

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

6. Recommendation

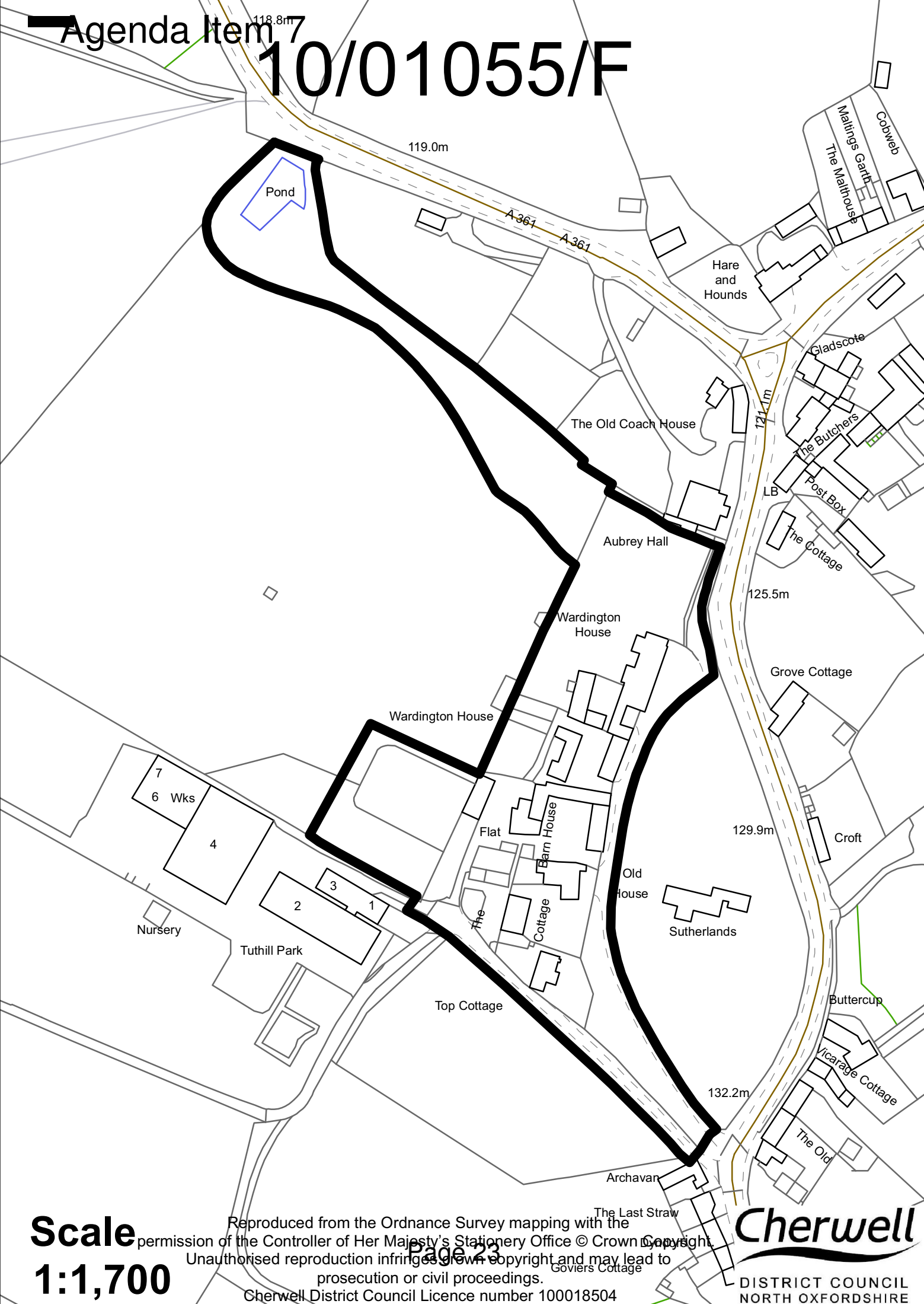
Refuse on the grounds that:

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

CONTACT OFFICER: Bob Duxbury

TELEPHONE NO: 01295 221821

10/01055/F

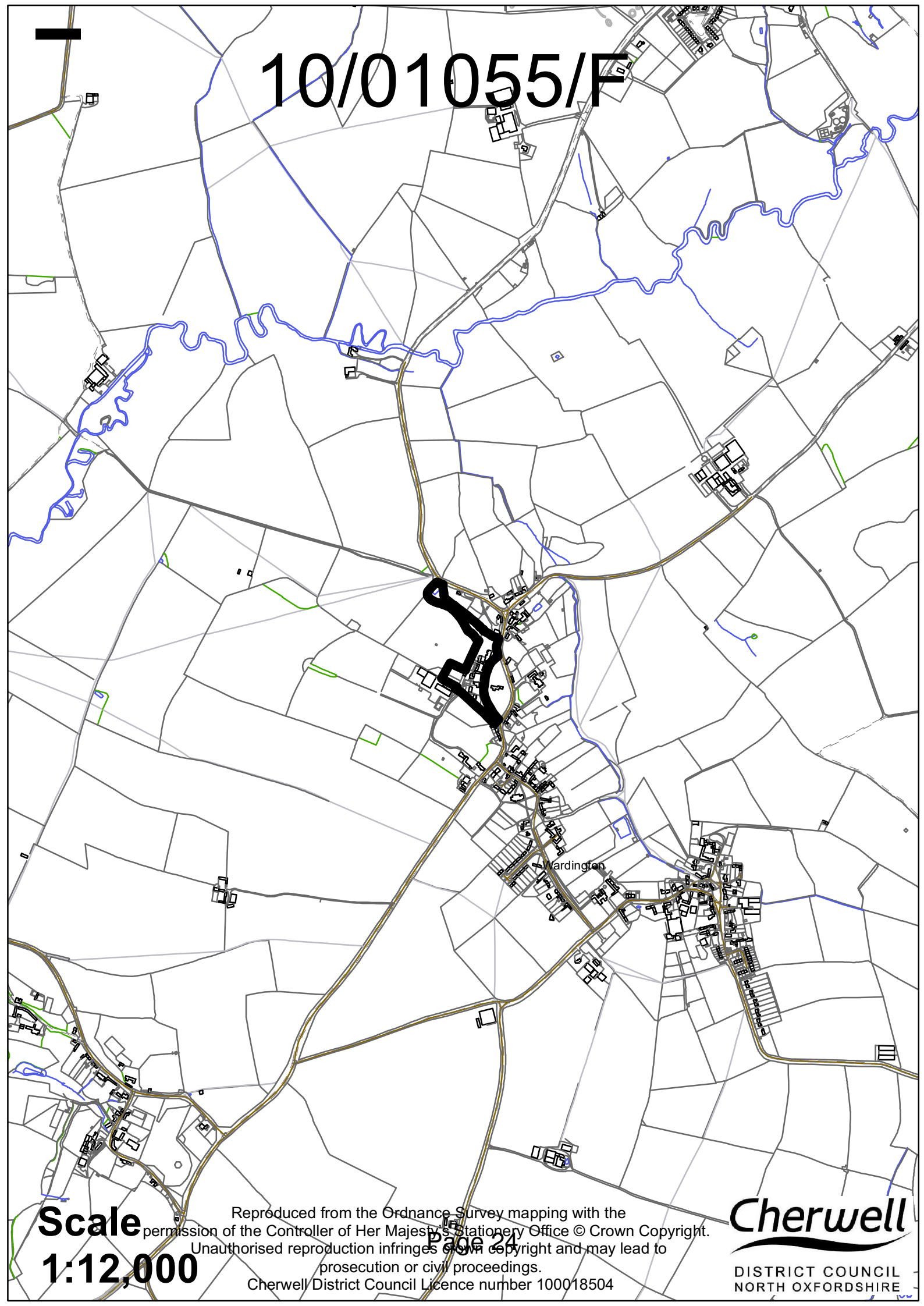


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DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 10/01055/F	Ward: Cropredy	Date Valid: 14/07/10
Applicant:	Mr George Tuthill, Wardington House Partnership	
Site Address:	Wardington House Nursing Home, Wardington, Banbury	

Proposal: New bedroom extension to nursing home

1. Site Description and Proposal

- 1.1 Wardington House was built in 1795 and the Nursing Home founded in 1964. The building is not listed however it lies within the Wardington Conservation Area and the setting of nearby listed buildings. The building is constructed from ironstone rubble with a plain tiled roof and has been significantly altered and extended over time in a piecemeal fashion. The building sits on a large plot including formal and non-formal gardens designed for the enjoyment of the residents. The building is accessed by a long driveway and as such is not easily viewed from the public domain. A significant and mature planting belt exists between the building and the Banbury Road, which is on lower ground than the site itself.
- 1.2 The Nursing Home cares for people with Alzheimer's disease, providing accommodation for 60 residents. The existing accommodation is such that many residents share rooms and do not have access to their own en suite bathroom, meaning that only six of the existing 67 bedrooms comply with the current recognised standards for a nursing home facility. The extension is proposed to provide 22 new bedrooms and enable the home as a whole to provide 60 bed spaces, 54 of which would meet the current standards. The provision of the extension would not result in an increase in the number of residents accommodated at the Home.
- 1.3 The extension to Wardington House Nursing Home would be adjoined to the northern gable, extending the frontage by 22.5m and then turning through 90 degrees to create an elevation of 21.7m. In all, the extension will provide an additional 1,413sqm of floor space arranged over three floors. Whilst a design break would be provided between the existing and the proposed (frontage slightly stepped in) the rooflines are proposed to run through at the same height to achieve level access from the existing building through to the proposed, which is a requirement for the circulation spaces within the home for residents.
- 1.4 The extension would be faced with ironstone (ashlar) and the roof covered in plain tiles. The design includes projecting bays with flat roofs and flat roofed dormer windows to be in keeping with the style of the existing building and to provide an appropriate amount of daylight and outlook for the residents.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice, site notice and neighbour notifications. The final date for comment was 19 August 2010.

- 2.2 No letters of representation have been received from third parties as a result of this publication exercise.

3. Consultations

- 3.1 **Wardington Parish Council** raises no objections to the proposed extension
- 3.2 The Council's **Conservation Officer** discusses the proposals at length, concluding that the extension would leave a clear gap between it and the listed building therefore not being detrimental to the listed building. Furthermore, the design and materials are appropriate for the extension, subject to some minor amendments, and as such it would preserve the character and the appearance of the Wardington Conservation Area.
- 3.3 The Council's **Landscape Architect** refers to the extent to which the extension will be viewed from the public domain (possible glimpses) and the extent to which some trees will be lost and the garden altered. A landscaping scheme is required via planning condition.
- 3.4 The Council's **Chief Engineer** raises no objections in relation to drainage
- 3.5 The Council's **Building Control Manager** is satisfied with the proposals in principle, however states that a full fire safety strategy would be required.
- 3.6 The Council's **Private Sector Housing Manager** states that as the proposal needs to comply with the Care Standards Act 2000 and associated Care Homes Regulations 2001 the size and layout of the proposal meets the standards that are enforceable under the housing Act 2004 as such no concerns/observations are raised.
- 3.7 The Council's **Ecology Officer** required a Phase 1 ecology survey which was carried out and submitted during the application process. The Ecology Officer comments that although brief [the report] does address the main points of concern regarding ecology on the site, namely badger and reptiles. A precautionary approach to reptile mitigation should be taken as detailed at the end of the report, which should be conditioned.
- 3.8 The County Council's **Highway Liaison Officer** raises no objections stating that the proposal extends the buildings but not the number of bedrooms.
- 3.9 The County Council's **Developer Funding Officer** wishes to secure a legal agreement for an appropriate financial contribution to mitigate the effects of this development if implemented, before any planning permission is granted. A contribution of £440 toward library book stock is required together with an administration fee of £100.
- 3.10 The County Council's **Archaeologist** states that the possibility of finds occurring during the course of construction should be borne in mind, in which case the applicant is asked to notify the County Archaeologist in order that he make a site visit or otherwise advise as necessary.

4. Relevant Planning Policies

4.1 National Planning Policy

PPS1: Delivering Sustainable Development
PPS5: Planning for the Historic Environment
PPS9: Biodiversity and Geological Conservation
PPG13: Transport

4.2 Adopted Cherwell Local Plan

C2: Development affecting protected species
C7: Landscape Conservation
C9: Scale compatible with a rural
C13: Area of High Landscape Value
C28: Layout, design and external appearance of new development
C30: Design of new residential development

4.3 Non-statutory Cherwell Local Plan:

D3: Local Distinctiveness
D6: Design of new residential development
EN24: Protection of sites and species
EN34: Landscape Character
EN39: Conservation Area and Listed Buildings: General Principles
EN40: Conservation Area
EN44: Listed Buildings Setting
TR5: Road Safety

5. Appraisal

5.1 The main issues to consider in the determination of this application are as follows:

Principle
Visual Amenity/Conservation Area
Setting of Listed Buildings
Landscape Impact
Ecology
Highway Safety/Public Right of Way
Residential Amenity
Developer Contributions

5.2 Principle

5.2.1

Wardington House Nursing Home is an established business and as referred to above, the extension is required in order to upgrade the existing facilities for residents. The proposal does not represent a new residential unit/or units due to the reorganisation of the internal arrangement for existing residents which would not attract any additional residents to the settlement. As such the proposal cannot be considered to be providing for an increase in the population of Wardington. The proposal therefore is considered as an extension only to the existing building and its established use and is not therefore considered to be contrary to the provisions of housing policies, such as H14 of the adopted Cherwell local Plan which refers to category 2 settlements such as Wardington. SDPHE therefore considers the proposal to be acceptable in principle subject to other material planning considerations which are discussed below.

5.3 Conservation Area/Visual Amenity

5.3.1 As referred to above the site is screened from the public domain by existing substantial and mature vegetation, as such it is not viewed during the summer months and very limited views would be gained during the winter months (particularly as the Banbury Road is on much lower ground than the application site). Despite the size of the extension and its prominence on the application site, it would not appear as an incongruous addition. The extension has been appropriately designed and makes appropriate use of materials. As set out by the Council's Conservation Officer, it is respectful of the existing house without being a direct copy, including some modern elements such as the flat roofed front projecting bays. Furthermore suitable materials are proposed which would compliment the existing building (natural ironstone, plain tiles and timber or metal windows). The proposal therefore complies with PPS1, PPS5, Policy C28 of the adopted Cherwell local Plan and Policies D3, EN39 and EN40 of the non-statutory Cherwell Local Plan.

5.4 Setting of Listed Buildings

5.4.1 There are a number of listed buildings situated within close proximity to Wardington House Nursing Home, however most are either not viewed within views of this property or are situated on the opposite side of the Banbury Road and as such are screened from the proposal by the mature boundary planting. Aubrey Hall however is situated adjacent to the northern site boundary of Wardington House Nursing Home and as such the proposed extension will be situated within the setting of this building. As referred to above, the height of the extension will be maintained at the height of the existing home, and as such would be 3.8m taller than the ridge of Aubrey Hall which is situated on lower ground. Whilst the height of the extension has the potential to appear overbearing in terms of its impact upon the setting of Aubrey Hall, a gap of 17.5m would be achieved between the two buildings, a relationship which the Council's Conservation Officer considers to be appropriate, and which together with proposed planting to be secured via a landscaping conditions would in SDPHE's view be enough to protect the setting of Aubrey Hall without causing detrimental harm. For this reason, it is considered that the proposed extension would not cause undue harm to the setting of Aubrey Hall, in accordance with advice contained within PPS5 and Policy EN44 of the non-statutory Cherwell Local Plan.

5.5 Landscape Impact

5.5.1 The comments of the Council's Landscape Architect are noted, SDPHE considers that subject to an appropriate landscaping scheme which addresses the issues raised, the proposed extension would not cause undue harm to the wider landscape or the area of High Landscape Value within which it is located, as such the proposal complies with Policies C7 and C13 of the adopted Cherwell Local Plan.

5.6 Ecology

5.6.1 The comments of the Council's Ecologist are noted. The Animal Walk Over Survey did not identify any evidence of badgers or reptiles on the site for the extension, although there is potential for access by these species. It notes that the orchard and areas of less formal garden would be more appealing to these species. Best practice measures to preserve/enhance habitats are recommended which form a condition recommended below. The EC Habitats Directive requires a system of strict protection of animal species be established to prohibit the deterioration or destruction of their breeding sites or resting places. It is considered that this

Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. Subject to the condition referring to habitat protection and enhancement, SDPHE is satisfied that the proposal pays proper regard to advice contained within PPS9 and that appropriate mitigation measures are proposed and can be secured. As such the application complies with PPS9, Policy C2 of the adopted Cherwell Local Plan and Policy EN24 of the non-statutory Cherwell Local Plan.

5.7 Highway Safety/Public Right of Way

5.7.1 Due to the fact that the reorganisation of the internal layout of the building would not result in the increase in the number of residents, achievable by the additional space proposed within the extension, the demand for parking provision within the site remains the same. For this reason, the County Council Highway Liaison Officer raises no objections to the proposed extension. With regard to the impact of the proposed extension upon the nearby public right of way, this shares an access adjacent to the site access only (some 100m from the proposed extension), as such, it would not be affected by any increase in traffic to the site (which is not expected in any event). For the above reasons, the application complies with PPG13: Transport and Policy TR5 of the non-statutory Cherwell Local Plan.

5.8 Residential Amenity

5.8.1 The only neighbouring property potential affected by the proposed extension is Aubrey Hall. The distance between this dwelling and the proposed extension would be 17.5m. Whilst the north elevation of the extension would include bedroom windows, Aubrey Hall does not have any windows facing the site. Furthermore, a 2.8m high red brick wall exists between the two sites which would help to protect private outside spaces. Given the relationship between the two buildings, SDPHE is satisfied that the extension would not cause harm to the neighbouring property by way of loss of light, privacy or by being overbearing. As such the proposal complies with PPS1, Policy C30 of the adopted Cherwell Local Plan and Policy D6 of the non-statutory Cherwell Local Plan.

5.9 Developer Contributions

5.9.1 The requirements of the County Council are noted, however SDPHE does not consider them to be reasonable. The extension would not result in the increase of the number of residents to be accommodated at the Nursing Home and due to the standards of living amenity that the home is expected to achieve, there will be no increase in the number of occupants in the future, as such it is not considered that there would be any greater pressure put on the local infrastructure in terms of library stock. Therefore the securing of a contribution via a s106 agreement is not reasonable or necessary.

5.10 Conclusion

5.10.1 The proposed extension to Wardington House Nursing Home is considered to be acceptable in principle and would not result in causing harm to neighbouring or visual amenity, the character and the appearance of the Wardington Conservation Area or the setting of nearby listed buildings and would not give rise to concerns relating to Highway Safety, Ecology, Archaeology or Landscape Impact. For the reasons stated and having had regard to relevant planning policy and guidance, the application is recommended for approval.

6. Recommendation

Approval; 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, 070H, 072C, 073A, 074B, 075A, 076A, 077A, 078C, 082A, 083C, 084A and 086A. 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 PPS1: Delivering Sustainable Development.
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. Reason – To protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of PPS9: Biodiversity and Geological Conservation and Policy C2 of the adopted Cherwell Local Plan.
11. SC9.6a [Fire Hydrants] (RC87a)

NB: All references to SEP in reasons to be replaced with relevant PPS/PPG references.

Planning Notes

1. O1 [Archaeology]
2. U1 [Construction Sites]
3. X1 [Biodiversity/Protected Species]

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

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. The application proposal is considered to be acceptable on its planning merits as the proposal would not cause harm to neighbouring or visual amenity, the character and the appearance of the Wardington Conservation Area or the setting of nearby listed buildings. Furthermore the proposal is acceptable in terms of highway safety, landscape impact, ecology and archaeology. As such, the proposal is in accordance with government advice contained within PPS1: Delivering Sustainable Development, PPS5: Planning for the Historic Environment, PPS9: Biodiversity and Geological Conservation and PPG13: Transport, Policies C2, C7, C9, C13, C28 and C30 of the adopted Cherwell Local Plan and Policies D3, D6, EN24, EN34, EN39, EN40, EN44 and TR5 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 the conditions as set out above.

CONTACT OFFICER: Jane Dunkin

TELEPHONE NO: 01295 221815

10/01278/OUT



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Bignell Park

Chesterton

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DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 10/01278/OUT	No:	Ward: Ambrosden and Chesterton	Date Valid: 18/08/2010
Applicant:	Hill Residential		
Site Address:	Land to the West and South of Numbers 7 to 26 The Green, Chesterton		

Proposal: Outline - Erection of 63 dwellings, new village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping.

Context

This application is principally the same as the application determined on 21 July 2010 following the Planning Committee's resolution on 15 July 2010. The application was 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.*

An appeal has been lodged against this decision

There have been no substantial changes to the proposal or the way in which the application is submitted since the previous submission therefore the agent for the proposal was asked to provide the Council with additional information in order to clarify the reason for the resubmission and demonstrate that the reasons for refusal are addressed. The following information was provided by Carter Jonas, the agents;

I am writing further to your emails dated 15th September 2010 requesting further justification for the planning application for the above site with particular reference to the reasons for refusal of the previous planning application (LPA Ref: 10/01278/OUT).

It should be noted that the planning application is strongly supported by Chesterton Parish Council. The development will provide improved sports facilities for the whole village, including a new village hall/sports pavilion, larger playing pitches and off-road parking. The submission of a second planning application will allow Members another opportunity to consider the benefits of the scheme for Chesterton.

Impact on Character and Appearance of the Countryside

The Applicant accepts that the proposed development will extend the built up area of Chesterton beyond the village boundary. However, we consider that this will not cause harm to the surrounding countryside.

This was recognised in the Planning Officer's Report on the previous planning application, which stated that visual impact would 'not be so great as to warrant refusal on these grounds.' The summary of reasons for granting planning permission in the Officer's Report acknowledged that the development would result in high quality housing, which would minimise and mitigate the landscape and other impacts.

In addition, neither the Council's Urban Design Officer nor the Landscape Officer raised any concern about the landscape impact.

Members have not yet had the opportunity to visit the site and assess the potential impact of the development on the ground. We suggest that a site visit would be beneficial to Members and propose that a site visit be conducted prior to the Development Control meeting at which this application is to be discussed.

Scale of Development

It should be noted that Chesterton has been identified by Cherwell District Council as one of the most sustainable settlements in the District. This is recognised in both the Draft Core Strategy (February 2010) and the evidence base for the Local Development Framework, in particular the Cherwell Rural Areas Integrated Transport and Land Use Study (CRAITLUS). It is identified in the Draft Core Strategy as a location for future development for this reason.

We consider that the location of the development outside of (but immediately adjacent to) the village boundary is outweighed by the need for local housing to meet a shortfall in Cherwell District's 5-year housing land supply. In addition, the proposal includes significant community benefits, such as the extended sports pitches and parking, a new village hall/sports pavilion, a children's play area and 19 affordable homes, which could not be delivered without the level of development proposed.

Legal Agreement

A S106 Agreement was being drafted in consultation with the Council when the previous planning application was determined. This work is ongoing and a S106 Agreement will be completed by the County Council, District Council, Parish Council and the Applicant in connection with this application. This will include provision for financial or in kind contributions to affordable housing, open space/play space, play pitches, education, libraries and transport measures.

The first application was submitted principally on the basis that the Council cannot demonstrate a 5 year rolling supply of deliverable (available, suitable and achievable) housing land. The extent of this shortage has changed since the earlier application when there was considered to be a 4.6 year supply of deliverable housing land. However, the current shortage in terms of housing numbers equates to 68 dwellings. This is due to the

fact that since the earlier application for this site Planning Committee have resolved to grant planning permission for two developments at Arncott and two developments in Banbury which bring the current rolling supply of deliverable housing land to 4.9 dwellings in returning to a five year supply.

1. Site Description and Proposal

- 1.1 This application is for outline consent for 63 dwellings and associated development as set out in the proposal above. The dwellings are proposed to be located to the western section of the site whilst the sports pitches, village hall/pavilion and majority of the play space are proposed to the eastern section of the site. The site for housing is currently agricultural land whilst the area for recreation is currently used as such. 30% of the dwellings are proposed to be affordable units.
- 1.2 The northern boundary of the site is bounded by the rear enclosures of residential properties, the eastern boundary runs parallel with the road whilst the other boundaries are onto open agricultural land. The site is relatively flat in its topography.
- 1.3 With the exception of the access and layout all other matters are reserved for consideration through the submission of a reserved matters application should this application be approved.
- 1.4 Although this application is in outline the layout of the site is to be considered and a plan showing the layout has been submitted. Also submitted for consideration is a Design and Access Statement (revised since the earlier submission), Supporting Statement (also revised since the earlier submission), Consultation Statement, Transport Statement, a revised Flood Risk Assessment, Archaeological Evaluation, Extended Phase 1 Habitat survey and a Code for Sustainable Homes Ecological Assessment.
- 1.5 Planning History
The details of the most recent application are covered in the Context section above. There have been four other applications relating to sections of the site. These are set out below;

10/00377/F – Replacement pavilion – Permitted (Work has commenced on site)

CHS.79/00008 – Outline – Erection of detached house – Refused/Appeal dismissed

CHS.76/00094 – Cricket Pavilion - Approved

CHS.75/00428 – Retention of wooden building and continued use as pavilion - Approved

2. Application Publicity

- 2.1 The application was advertised by way of a site notice, press notice and neighbour notification letters. The final date for comment is 4 October 2010 (due to the site notice having to be re-dated). Any letters received after the drafting of this report but prior to the date of Committee will be reported to Members at the Committee meeting.
- 2.2 To date 2 letters/emails of objection have been received from residents of Chesterton.
- As the application remains the reasons for objecting have not changed and are the same for the previous application. (These are summarised below in the previous comments)
 - Reference has been made to the site notice which states that 'the proposed development does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated'.
 - Since previous objections the Parish Hall has recently been upgraded over the course of the summer
 - The current development at Kingsmere in Bicester contains sports facilities which should be more than adequate for the local area without the need to develop further facilities at Chesterton. Furthermore, the sports pavilion at Chesterton suffered arson and is currently being rebuilt.
 - There has been no change in circumstances since the previous application therefore see no reason to warrant a reversal of the decision

One nearby resident does not object to the proposal but considers that the access should be off the road from the A41 close to where the current pavilion is situated. This would prevent the traffic building up in Green Lane and, by creating a forked junction with the current land, it would act as a traffic calming measure.

2 letters/emails have been received to date in support of the application the reasons for support are summarised below;

- Chesterton village hall is woefully inadequate for purpose
- parking on the road by the field when there is sporting event is dangerous
- Local cost houses will be much needed boost to local families and we feel that the disadvantages far outweigh the loss of green field and extra traffic
- Scheme would be of great benefit to village as a whole
- Access to any form of indoor sports facility necessitates a car journey as does the purchase of groceries
- Scheme provides potential for indoor sport and village shop
- The proposal would benefit the village, something which financially it would be unable to provide on its own
- Please reconsider the refusal – in my experience most villagers support the scheme

18 letters were received from neighbouring residents in relation to the previous application. The majority of which objected to the proposal. The main reasons for objecting are set out below;

- The site is outside the scope of the current Local Plan and the LDF has not been approved therefore this application is premature
- The villages category 2 status means only infill is allowed
- Proposed development would increase size of village by 20%
- Increase in traffic movements, already too high as a result of traffic avoiding Bicester Village
- No need to improve the sporting facilities as most of the participants live outside of the village
- More houses will lead to increase in crime
- The village will lose its identity and will begin to merge with Bicester
- The access will cause an inconvenience for existing residents of Green Lane, it would be better placed at the bend in the road to the south east and a round about introduced at the junction
- There are already enough houses being built at South West Bicester and North West Bicester
- People visiting the sports ground and pavilion will not drive through the estate to access them, they will park next to the field and on the grass verges
- There are insufficient spaces provided for the proposed uses
- Noise and disturbance from the village hall
- Loss of view, night-time darkness lost from existing properties
- Too much landscaping will block light from the rear of properties and result in leaf fall in the garden
- Village already has village hall and school hall for functions and they are adequate. A new hall would deprive the school of income and be an additional burden on the village
- Chesterton Football Club could use pitches run by Bicester Sports Association
- The location of the new facilities is not good as the existing facilities are central to the village
- The layout seems to suggest there will be further developments
- The school is currently oversubscribed
- Power supplies will be overloaded further as a result of the development
- The sports hall is akin to a bribe
- Approval of this scheme will set a precedent
- The Parish Council vote was split 50/50 and there has not been another vote since submission of this application

No such letters have been received in response to this application, but it should be assumed that these previous correspondents remain opposed to the proposal.

3. Consultations

3.1 **Chesterton Parish Council** has submitted two responses to the application and registers its support for the application and makes the following comments;

- Previous application was recommended for approval; we, with the support of a substantial number of residents, supported it and we therefore wish to continue this support
- We feel that Members did not appreciate the benefits we had negotiated and understandably, were confused at the original hearing after the

Government's change of planning regulation (scrapping the RSS) and having just discussed the Adderbury application.

- Adderbury's application was opposed by over 300 residents and recommended for refusal by the planning officer; Chesterton's application was opposed by 18 residents and recommended for approval.
- Would like to repeat what we believe are the significant 'planning gains' for Chesterton
 - Provision of affordable housing – 30% about 20 units. Parish Plan which is still in progress identifies a need amongst local young couples and parents with older children
 - Off road car parking – 30 spaces and provision for additional 'soft' parking will help prevent dangers and congestion. Previous solutions investigated have proved prohibitive due to cost.
 - New community centre – to replace existing village hall which is too small for many activities and generates complaints from residents about on-street parking. New hall would allow Chesterton Playgroup to expand, growth of youth based activities and increased use by local over 60s group.
 - New children's play area next to community centre will benefit playgroup and local toddlers and hirers for birthday parties. The current play area results in noise complaints from residents as it adjoins their gardens
 - Improved playing field provision allows upgrade to provide for both senior and junior players
 - School – 63 homes will assist in securing the future of the village school, at present only 30% of pupils live in Chesterton village and there is significant number of out-of-zone pupils from Bicester itself where there will be new primary schools in the near future. This provision could have a deleterious impact on pupil numbers at Chesterton School
 - Shop – The provision of a new and much larger Community Centre could release the existing Village Hall for alternative usage such as a shop. The Parish Plan Committee have identified this need and earlier this year discussed this possible provision, having been presented with a petition from residents and given overtures made to us by a possible provider.
- Do recognise that there are 'drawbacks', these are seen as;
 - Additional traffic on Green Lane in short term, currently working with Oxford Highways on local traffic calming measures and do not feel that the development will have a material effect
 - The development will impact on views from back gardens and houses affecting approximately 15 houses – the developers are planning landscaping to minimise the impact
 - Loss of 'greenfield' agricultural land
 - Do have concerns that the planned access may not be ideal. Highways do not see this as a problem and we are happy to accept this.
- The new hall and adjacent improved surrounding facilities will give us the opportunity to create a real village centre plus a shop and thriving Primary School
- Ask that these points be reconsidered more fully when the time comes and would ask for an official site visit so that the benefits can be fully appreciated.

3.2 **The Council's Head of Planning Policy and Economic Development** has made the following comments;

3.2.1 I understand the proposal is very similar to planning application 10/00547/OUT

which was refused planning permission on 21 July 2010 and on which I provided comments on 4 May 2010. I would therefore refer you to my previous comments taking account of the subsequent revocation of the South East Plan (6 July 2010) and the following changes in circumstances:

3.2.2 Until recently the required rate of housing delivery was that specified in the revoked South East Plan (670 per annum equating to 13,400 dwellings from 2006-2026). Revocation means that there is presently no housing target for the district to meet and therefore no definitive requirement to input into the five year land supply calculation. Guidance issued by the Secretary of State for Communities and Local Government on 6 July includes the following advice:

- local planning authorities will be responsible for establishing the right level of local housing provision in their area;
- some authorities may decide to retain their existing housing targets that were set out; others may decide to review their housing targets; reviewing authorities should quickly signal their intention to undertake an early review so that communities and land owners know where they stand;
- housing numbers in plans will still need to be justified; it is important for the planning process to be transparent, and for people to be able to understand why decisions have been taken;
- local authorities should continue to collect and use reliable information to justify their housing supply policies and defend them during the LDF examination process; they should do this in line with current policy in PPS3;
- Regional Strategy targets can be replaced with 'option 1 numbers' if that is the right thing to do for the area concerned; authorities may base revised housing targets on the level of provision submitted to the original Regional Spatial Strategy examination (Option 1 targets), supplemented by more recent information as appropriate. These figures are based on assessments undertaken by local authorities; any target selected may be tested during the examination process especially if challenged and authorities will need to be ready to defend them;
- authorities still have to provide a 5 year land supply.

3.2.3 On 15 July 2010 a '*Supplementary report following the announcement on 6th July of the revocation of Regional Spatial Strategies: Implications for 5 Year Housing Supply and Current Planning Applications*' was presented to the Council's Planning Committee. Members were advised "...to exercise caution in considering the refusal of planning applications on the basis of a revised lower housing target until such time as work has been done to present an appropriate target backed by the proper evidence." The report stated, "*The Secretary of State's announcement makes clear that some authorities may decide to retain their existing housing targets and that others may decide to undertake a review. He advises that authorities that decide to review their housing targets '...should quickly signal their intention to undertake an early review so that communities and land owners know where they stand'. The possibility of a review is being considered together with other issues arising from revocation of the RSS....However, at the present time applications should be considered on the basis of material planning matters relevant to individual applications, mindful of the need to maintain a delivery of*

housing in the district but equally mindful of the fact that there is no set housing target within the district against which to calculate whether we have a five years supply.” Members resolved that the supplementary report be noted.

- 3.2.4 On 19 July 2010, the (full) Council made the following resolution as a result of a Member motion:

“This Council welcomes the letter from Eric Pickles MP signalling a clear intent to release us from the constraints of the SE Plan. The Council instructs Officers to continue work on a Local Development Core Strategy, but to progress on the basis of meeting the locally proposed housing target originally endorsed by Councillors and included in the submission of the draft plan to the Government (11,800 to 2026). In general terms the Council anticipates this may result in a Core Strategy that creates less pressure on Banbury to expand beyond its natural boundaries, less pressure on Rural Areas to accept housing growth, and a firming up of housing growth for Bicester in line with its Eco Town status.

The Council will welcome any proposals from Government that can incentivise District Council Planning Authorities to encourage economic and housing growth.

The Council instructs Officers to write to the LGA and the CLG welcoming local decision making in respect of housing numbers and calls on the Government not to introduce surrogates for Regional Plans such as County Structure Plans.”

- 3.2.5 At the time of writing, there has been no formal completed review of the district's housing target and no testing of the 11,800 figure. Therefore, at this time, it is not possible to apply a reliable and justifiable alternative to the former requirement of 13,400 in current land supply calculations.
- 3.2.6 It is considered that at the present time, continuing to use the 13,400 figure in housing land supply calculations is the most defensible position in the absence of any formal review of the district's housing target.
- 3.2.7 At the time of considering the previous Green Lane application (15 July 2010), it was the view of officers that the district had a 4.6 year supply of deliverable housing land for period 2010-15 (i.e. for the current monitoring year 2010/11). This was based on a 13,400 requirement, the conclusions of the 2009 Annual Monitoring Report which showed a 4.5 year supply for 2010/11, but also having regard to two new sites subsequently shown to be deliverable since the AMR was produced: firstly, on 18 February 2010, the Planning Committee resolved to grant permission for 33 social housing units (20 net) at Orchard Way, Banbury (09/01776/F); and secondly, on 11 March 2010, the Committee resolved (having regard to housing land supply considerations) to grant permission for 61 dwellings on land south of Milton Road, Bloxham (09/01811/F). These decisions increased supply for 2010/11 from 4.5, as reported in the AMR, to 4.6.
- 3.2.8 On 12 August 2010, the Planning Committee resolved to grant permission for a further three planning applications subject to the completion of legal agreements:

- 10/00806/OUT - Part land at Arncott Hill Farm, Buchanan Road, Upper Arncott, 17 dwellings
 - 10/00807/OUT - Land South west of Orchard Close and Adjoining Murcott Road, Upper Arncott, 50 dwellings
 - 10/00907/F - Old Stanbridge Hall, Banbury School, Ruskin Road, Banbury, 70 extra care units
- 3.2.9 On 9 September 2010, the Planning Committee resolved to grant permission for another application:
- 10/01053/F - Former Allotment Site Rear of Miller House and 33a, Miller Road, Banbury, 10 flats
- 3.2.10 These developments are considered to be deliverable by 31 March 2015, the end of the current 5 year rolling period. **The sum of these developments brings the current rolling supply of deliverable housing land to 4.9 years and a shortfall of some 68 dwellings in returning to a five year supply.**
- 3.2.11 I am conscious that there is a current planning appeal against the refusal of planning permission on 25 May 2010 for 65 homes on land south of Milton Road, Adderbury (10/00270/OUT). Should that appeal be allowed before this application is considered, it would reduce the presently identified shortfall to some 3 dwellings, and at this particular time, there would be not, in my view be a sufficient housing land supply reason to 'consider favourably' the current greenfield proposal beyond the built-up limits of Chesterton within the meaning of paragraph 71 of PPS3. I am also aware that there is one other planning application with the Council that could increase the supply of deliverable housing land: an outline application for 140 dwellings on land south of Talisman Road, Bicester (09/01592/OUT). This would of course eliminate the currently identified shortfall if it were approved.
- 3.2.12 Please note, however, that a comprehensive review of housing land supply will take place within the next two months to inform the 2010 Annual Monitoring Report.
- 3.2.13 In conclusion, at the present time and in the absence of a completed review of the district's housing target, it is considered that there remains a need to increase the supply of housing that will be delivered over the period 2010 to 2015 so that the rolling supply of deliverable land increases further towards 5 years for the year 2010/11. Whilst PPS3 provides for some flexibility, whilst the district's land supply calculations do not take into account small, unidentified windfalls, and whilst there has recently been significant movement back towards a five year supply, it is currently felt that ahead of a new comprehensive review of housing land supply for the forthcoming 2010 AMR, there remains a need for additional deliverable housing supply. The Council's position on this could, however, change if other planning applications are approved, or appeals are allowed, which return the district to a 5 year housing supply (or to a point considered close enough) or if the next comprehensive review of housing land supply (expected to be undertaken over the coming months) were to show an improvement in housing delivery forecasts.
- 3.3 The **Council's Urban Design Officer** has stated that the comments will remain the same as nothing has changed except the Design and Access Statement seems more analytical. In relation to the previous scheme she made the following comments;

- 3.3.1 In terms of conservation: This site lies immediately adjacent to Chesterton Conservation area and opposite Chesterton Lodge (now Bruern Abbey School) which is a grade II listed building. The conservation area appraisal mentions the importance of the open fields surrounding the conservation area and I consider those to the north west down to the Gagle Brook to be most sensitive as they are small scale and well vegetated; less so to the south here where the landscape is open, flat with a wide field pattern creating a fairly featureless landscape. It also identifies a view west from Chesterton Lodge as positive. The curtilage of Chesterton Lodge is heavily screened by mature trees and vegetation and only glimpse views are afforded from the curtilage in a westerly direction. Because the residential development is proposed to be sited behind the sports pitches, which are in their current location, I do not consider that the proposal will harm either the setting of the conservation area or the setting of the listed building and in this respect is acceptable.
- 3.3.2 In terms of urban design, the indicative layout submitted demonstrates that the number of dwellings for which permission is sought can be comfortably accommodated on the site. Some of the design principles established, such as the frontage to the sports pitches and the variety of views and spaces along the roads within the development are those which I would wish to see inform any RM application and in this respect the application is acceptable. However I do consider that the Design and Access Statement falls short of what is required by circular 01/06 in that it does not explain and justify the scale, appearance or landscape approach to the site. Para 89 requires the parameters of the upper and lower limits of height width and depth for each building to establish a 3D building envelope, even for outline applications.
- 3.4 The **Council's Landscape Planning Officer** has not commented on this resubmission but in relation to the previous application made the following comments;
- 3.4.1 The development, due to the flat land of the site and surroundings can be screened by established hedges to the boundaries, adjacent field hedges/trees and roadside hedgerows. The occupiers of The Green will experience the construction noise/dust and visual impact of the finished development. I think it is, therefore essential to plant the landscape buffer to the northern site boundary (identified in the Design and Access Statement) at the earliest opportunity, preferably before construction commences so that the occupiers of The Green can benefit from this planting early as possible (this to be legalised in the 106 Agreement). It is important that residents of the Green are consulted on this proposal to ensure that shade and root and branch encroachment issues are addressed - some occupiers may wish to have open views of the playing field from their property.
- 3.4.2 The adjacent woodland is defined as a BAP priority habitat, and it would therefore be appropriate to increase the site's biodiversity through the implementation of wildlife corridors and native/ornamental planting for cover and food sources.
- 3.4.3 Existing Trees and Hedgerows
It is important to retain the existing field boundary hedges and trees. A minimum maintenance height is required above ground level to ensure that the established hedgerows screen the site from users of Green Lane to the east and the north. There are existing trees with the hedgerow that are worth retaining and protecting during the course of the works.

3.4.4 Ownership and Preservation

I am concerned about the longevity of the hedgerows on the boundaries of the proposed gardens. Where the occupiers may remove pieces of hedgerow and exposing views of the development and also planting inappropriate species, such as conifers in rural area. A condition must be attached to ensure the hedgerows are retained, but this does not always protect native hedgerows on garden boundaries where they are eventually removed by the occupiers. I suggest the deed of sale to include a clause whereby the purchaser are under obligation to maintain the hedgerow and trees on their boundary in perpetuity, replacing any dead plants with similar species. This would be reinforced by a drawing showing the hedgerow fenced off from the gardens with maintenance access gates for the occupiers. The buffer planting to the southern garden boundaries of The Green dwellings to be subject to the above legal agreement to ensure its preservation.

3.4.5 Play Area Provision.

On the initial layout drawing. With the play area on the new corner of the playing field will be removed to accommodated the playing field extension and the play provision shortfall for the rural south, identified in CDC's Cherwell Green Space Strategy 2008 -2016, it is essential that this development goes some way to address this shortfall. CDC,s SPG, Recreation and Amenity Open Space Provision, July 2004 specifies a LEAP for the 50 dwelling threshold. A LAP is required for the younger children and this can be accommodated within the site if it is moved from its present proposed position approximately 40 m to the east to ensure it lies within the 100 m walking range as defined in the SPG. As the LEAP is to be near the pavilion (as shown in the Design and Access Statement) I would prefer it to be open to surveillance from the adjacent proposed dwellings for the reasons of security, and the views would also incorporate the playing field and the pavilion.

3.4.6 Sports Pitch Proposals

The orientation of the pitches must be reconsidered. The east/west axis proposed has health and safety implications for player when the high balls are kicked against the sun. Sport England recommends an orientation between 55 and 325 degrees. If the sports pitches are re-oriented 90 degrees so that their axis is north/south this would be acceptable, however the cricket wicket will need to be re-orientated and the pavilion relocated.

3.5 The **Council's Head of Building Control and Engineering Services** has stated that the applicant has addressed all the issues that were raised following the earlier submission for this site, and therefore I have no objections in principle to this application.

3.5.1 The proposed foul and surface water sewerage systems include foul and surface water pumping stations, and on and off line surface water attenuation features. The pumping stations and on-line attenuation must be designed and constructed to Thames Water's standards and adopted by them. If the off line attenuation cannot be adopted by them it must be designed and constructed to Oxfordshire County Council's standard and adopted by them instead. For this, a commuted sum will be payable to Oxfordshire County Council.

3.6 The **Council's Environmental protection Officer** has not responded in relation to this application but in response to the previous submission stated that as this is a

sensitive development it is recommended that the full phased contamination conditions are imposed.

- 3.7 **Oxfordshire Country Council's Strategic Planning** officer has stated that as the scheme remains unchanged there is nothing further to add to the previous comments. However they expect the District Council to take account of existing local plan policies and emerging policies contained in LDF work to date. It is also asked that if the Council is minded to approve the scheme contributions to necessary transport and non-transport infrastructure should be secured. The previous views of OCC's Strategic Planning department are set out below;

Comments:

Main Strategic Policy issues:

- 3.7.1 **Housing supply:** Cherwell District Council currently does not have a 5 year supply of land for housing. PPS3 (para 71) states that where local planning authorities cannot demonstrate an up to-date 5 year supply of available, suitable and achievable sites, they should consider favourably planning applications for housing, subject to a number of considerations including whether the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in, and the spatial vision for the area and does not undermine wider policy objectives. The emerging draft spatial strategy seeks to focus growth outside of Bicester, Banbury and Kidlington on meeting local needs and directs it to the larger, more sustainable villages with a wide range of services; development in the open countryside would be strictly controlled. This development is for more than double the scale of development proposed for each Central Oxfordshire category B village (approximately 28 dwellings over the whole plan period – to be achieved through infilling and conversions) and would be located in open countryside. The proposed development is of a scale and location which would not be consistent with the planned distribution of housing and approach to growth envisaged in the emerging Core Strategy.

- 3.7.2 **SE Plan Regional Spatial Strategy:** Chesterton is a medium sized rural community with a population of approximately 850 people and about 280 households; development of an additional 63 dwellings in Chesterton would represent an approximate 23% increase in households and a similar percentage rise in population. Policy BE5 of the SE Plan on village management supports limited small-scale development that can help meet the specific local housing needs of rural settlements and sustain local services and facilities; however, the scale of this development is not 'small-scale' and would be inconsistent with the policy. Furthermore it is a strategic objective of Oxfordshire 2030 and a County Council priority to create healthy and thriving communities; a development of this size would be difficult to integrate and would be contrary to this intention. Apart from the local primary school, the village has very few facilities with residents having to travel over 2km to Bicester or beyond to access jobs, services and facilities. Although the village does have access to a reasonable level of public transport service (apart from on Sundays) in reality I would expect people to choose to travel by private car.

Development which leads to an increased need to travel by motorised means would be inconsistent with the thrust of PPG13, SE Plan policy CC2 which seeks to reduce the need to travel as a means to mitigate climate change, SE Plan policy T1 which seeks to locate development so as to reduce journey lengths and policy B5 which requires all development to be subject to rigorous sustainability criteria.

- 3.7.3 **Infrastructure and Service Provision: SE Plan policy CC7:** The application is being considered by the County's developer funding team who are responding

separately in the normal way. The scale of the proposed development would generate additional demands for County services and facilities, especially schools. The local primary school does not have spare capacity; if sufficient spaces could not be created, the children from the new development (or children from other villages within the catchment who would otherwise attend the school) would need to be accommodated in, and transported to, other nearby schools where places could be provided. If the district council is minded to permit the proposal, permission should be subject to a Section 106 agreement to secure any necessary contributions and improvements to service infrastructure in line with SE Plan policies CC7, and CO1.

- 3.7.4 **Affordable housing and mix:** The Supporting Statement says that the proposal would provide 30% affordable housing. This would be contrary to policy CO3 of the SE Plan which states that at least 40% of all new housing in the Central Oxfordshire sub region should be affordable. The development would deliver a mix of 2, 3, 4 and 5 bedroom dwellings which would be broadly consistent with policy H4 of the SE Plan which seeks to provide housing to support the needs of the whole community.
- 3.7.5 **Development in the open countryside:** The development would extend the built up area of the village further into open countryside. The district is best placed to assess the impact of the development on the landscape setting of the village.
- 3.7.6 **Resource use, climate change and environmental issues:** Environment and climate change are County Council priorities and Oxfordshire 2030 objectives. The SE Plan seeks to achieve sustainable development through policy CC1 and to adapt to and mitigate climate change outlined in policy CC2.
- a. The Supporting Statement accompanying the application says that the development would incorporate sustainable drainage measures (SUDs) to reduce any impact on the receiving local sewerage network. This approach would be consistent with policy NRM4 of the SE Plan; and
- b. The Design and Access statement explains that the proposed development would be designed to achieve Level 3 of The Code for Sustainable Homes. This would be in line with policy CC4 of the SE Plan and the Oxfordshire Sustainable Construction Advice Note (2009), which has been approved by Cherwell for development control purposes.
- 3.7.7 **Transport and Highways:** The Council as Highways Authority is currently assessing the proposals and their comments will be sent separately to the District in the normal way. If the district is minded to permit the proposal, permission should be subject to a legal agreement to secure contributions to any necessary improvements to transport.
- 3.7.8 **Local Member Views:** No comments received.
- 3.7.9 **RECOMMENDATIONS:** It is RECOMMENDED that the County Council from a strategic policy perspective informs Cherwell District Council that:
- a) It objects to the development proposed in application no 10/00547/OUT on the grounds that:
- (i) it would be large scale development which would generate significant additional population in a village which lacks a reasonable range of jobs, services and facilities and would be likely to give rise to increased travel by motorised means, particularly by private car. As such it is contrary to the sustainability objectives of SE Plan policy BE5 for village management, SE Plan policy CC2 which seeks to reduce the need to travel as a means to mitigate climate change, SE Plan policy T1 which seeks to locate development so as to reduce journey lengths and to the thrust of PPG13. It would also run counter to the strategic objectives of Oxfordshire 2030 and this Council's priorities for creating healthy, thriving communities;

- (ii) it does not meet the SE Plan requirement in policy CO3 that 40% of all new housing in Central Oxfordshire should be affordable;
- b) It supports in principle development in villages of an appropriate scale to meet identified local needs including for affordable housing and to sustain the socioeconomic well-being of the local community; and
- c) However, should the district be minded to permit the development,
 - (i) it should be satisfied that the scale of development would meet an identified local need and there are other material considerations which outweigh the SE Plan policy affordable housing requirement;
 - (ii) permission should be subject to a legal agreement to secure contributions to any necessary supporting transport infrastructure and non- transport service infrastructure, including additional primary school accommodation at an appropriate school.

- 3.8 **The County Council's Highway Department** has made the following comments;
- 3.8.1 The submitted TS states that there is unlikely to be an impact on the local highway network from the proposed development due to capacity within the highway network and the expected low vehicular trips to be made a peak times. I suspect such a statement has/will raise concern from the residents of Chesterton due to the congestion problems that can occur along the A41 which encourages rat running from vehicles heading towards Bicester through the village; this is an issue Oxfordshire County Council has acknowledged and is liaising with the Parish Council about. Although this problem is acknowledged, an assessment has to be made on the proposal submitted on its merits and reading through (and checking) the information provided within the TS, it is my opinion the information is deemed reasonable.
- 3.8.2 A review of the accident data for the area has been carried out, and has highlighted a few incidents that have occurred within the last 5 years. Looking through the information provided it appears the incidents that occurred were down to driver error rather than the characteristics of the local highway network. In light of this data it is considered that the proposed development is unlikely to increase the number of recorded accidents in this area.
- 3.8.3 The proposed 63 units to be located in the village of Chesterton will be served by a limited range of facilities (only a primary school, nursery, public house), which can only mean that new residents will have to travel over 2km to Bicester or beyond to access a wider selection of facilities as well as job opportunities etc. It is acknowledged there is a reasonable public transport service to Chesterton which runs around every two hours (no Sunday service)(*The applicant has advised that a service runs every half hour*). However it is my opinion that the majority of trips in/out of the village will be made by the private car which is contrary to the guidance within PPG13 and Policies CC2, T1 and B5 of the SE Plan. If this development is to be considered sustainable in terms of transport by promoting alternative travel modes to the village then that of the private car - it is deemed reasonable (and essential) that the proposed development provides a significant contribution towards enhancing the existing public transport services.
- 3.8.4 The proposed access arrangements for the site meet the required design standards for a road in this location i.e. appropriate vision splay(s) can be achieved with the removal of vegetation within highway land and the red-line area. The distance between the proposed entrance into the proposed site and the junction of

the Woodlands is acceptable; subject to the 30mph speed limit being extended, the existing gateway & traffic calming feature being relocated and additional calming features being introduction (which can be agreed at a later date).

- 3.8.5 A shallow ditch runs along the frontage of the site (and to the western boundary), which should be considered when SUDS is designed/incorporated into the development.
- 3.8.6 The emergency access arrangements for the proposed village hall is acceptable, but only for emergency use as the vision available at the access point onto the road in this location is well below the required standards. This access will need to be improved to OCC specifications prior to first occupation of the village hall. This emergency access will need to be gated; any gate must be set back 10m from the back-edge of the carriageway to deter any vehicles with trailers (maintenance vehicles) from overhanging onto the road.
- 3.8.7 The existing vehicle access into the playing field must be permanently closed to vehicular traffic by the means of reinstating the footway and full face kerbing. Such works must be completed prior to the first occupation of the development. Pedestrian access to site to remain, but will require either a gate or collapsible bollard to deter misuse and maintenance access.
- 3.8.8 As part of the proposed off-site works a new footway is proposed to link up the site to the existing network along Green lane, which is acceptable (and essential). All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement.
- 3.8.9 The proposed parking levels of 1 bedroom = 1 space, 2/3 bedrooms = 2 spaces and 4+ bedrooms = 2+ spaces (on merit) is acceptable. 30 spaces for the village half with overspill parking appears acceptable; although 5% should be allocated for disabled users.
- 3.8.10 In my opinion, overall the submitted TS appears reasonable.
- 3.8.11 **Layout comments**
Proposed vision splays at new entrance into site are acceptable (subject vegetation clearance).
- 3.8.12 Calming features into the site are not visible and will be required which is a detail that can be looked into if/when reserved matters application is submitted (if this application is successful).
- 3.8.13 Parking levels – the proposed levels of 1 bedroom = 1 space, 2/3 bedrooms = 2 spaces and 4+ bedrooms = 2+ spaces (on merit) is acceptable. Please note the Local Highway Authority will only consider a garage/car port as an off-street parking space when the internal dimensions are 6m x 3m. Cycle parking being provided is acceptable for the village hall; although such facilities should be sheltered.
- 3.8.14 There appears to be no visitor parking being provided within the site – these could be incorporated into the layout of the site and act as calming features if constructed appropriately. Also would deter obstructions from on-street parking.

- 3.8.15 A tracking plan will be required to demonstrate refuse vehicles can turn within the site.
- 3.8.16 Collapsible bollards or lockable gates will be required for the proposed pedestrian link (by football pitches) as well as the emergency access to deter misuse and allow maintenance vehicles access.
- 3.8.17 There are no internal vision splays shown for vehicular entrances, including entrance into proposed sports pavilion i.e. there a few plots that have boundary wall obstructing visibility. This will require attention for any future proposals.
- 3.8.18 There should be footway links on both sides of the entrance into the site.
- 3.8.19 It is expected that the proposed site will be offered for adoption to the Local Highway Authority via a S38 Agreement; if this to be the case the development will need to be constructed to an acceptable OCC standard. However, for dwellings within plots of less than 5 units the streets/roads that serve them will remain private.
- 3.8.20 Slight concern that vehicles associated with the proposed village hall/sport pavilion and children's play area may park within the development instead using the parking area being provided. Suggest measures are considered to deter this, such as high full face kerbing and planting/fencing.
- 3.8.21 Drainage comments – feedback from the Drainage team is that the submitted drainage design (same as previous application) is not acceptable under the Floods & Water Management Bill and the existing stone drain must be investigated. Drainage of the site is essential and must accord with SUDS (guidance can be sought from OCC's Drainage Engineer Gordon Hunt 01865 815571).
- 3.8.22 **Financial Contributions & Legal Agreements**
The proposed development is likely to add additional pressures to the existing public transport services (stated within submitted TS); therefore a contribution towards these services is required. There is one service which Oxfordshire County Council subsidises for Chesterton – the 25/25A service, £167k per annum (3 year contact = £501,000).
- 3.8.23 Oxfordshire County Council continues to seek an enhancement to the existing 25/25A service from one bus an hour to two (increase in service frequency) as well as provide Sunday services.
- 3.8.24 The Public Transport Subsidy, Rights of Way & Transport contributions are to be secured via a S106 Agreement. All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement. If the development is to be offered for adoption to the Local Highway Authority the developer must enter into a S38 Agreement.
- 3.8.25 **Summary**
The proposed 63 dwellings will be located off Green Lane (classified unnumbered road) and will be provided with an acceptable access arrangement (including emergency access arrangements). The submitted TS has demonstrated there is

unlikely to be an impact on the local highway network from the proposed development.

3.8.26 A review of the accident data for the area has been carried out, which found a few incidents had occurred; looking at the information provided the incidents involved were down to driver error rather than the characteristics of Green Lane.

3.8.27 A review of public transport, pedestrian and cycle accessibility was undertaken as well as consideration to the proposed sites parking levels and current local and government policy guidance.

3.8.28 There are a number of design details for the site that will require further consideration if a reserved matters application is to be submitted to the Local Planning Authority in the near future

3.8.29 All the off-site works will require a Section 278 legal agreement with the Local Highway Authority, which will need to be part of a S106 Agreement.

3.8.30 **Conclusion**

Taking the above into account it is my opinion that recommending refusal on highway safety grounds would not be appropriate or sustainable at appeal; therefore I recommend conditions are imposed (as well as securing the required financial contributions and off-site works by legal agreement).

3.9 **Oxfordshire County Council's Archaeologist** makes the following comments (in summary);

- Site already been subject of Archaeological field evaluation
- Number of features recorded within the site but concluded that the majority were unlikely to be archaeological in nature
- One feature positively identified – undated stone lined field drain
- Considered that area has low potential for archaeological deposits to be present
- Records indicate presence of known archaeological finds nearby
- If finds do occur should notify County Archaeologist
- Informative required

3.10 **The Environment Agency** removed their objections to the earlier scheme following the submission of a revised Flood Risk Assessment. In relation to this scheme they have stated that providing the new scheme does not affect the agreed drainage strategy then the comments and conditions in response to the earlier scheme still apply.

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

- Inability of the existing waste water infrastructure to accommodate the needs of the application. However this can be resolved by the inclusion of a planning condition.
- No comments in relation to water infrastructure, except the inclusion of an informative.

3.12 **Natural England** has no objections but made the following comments (in summary)

- The site is not near to any SSSI's
 - The LPA should consider impact on protected species
 - Advise that any landscaping/planting schemes use native species of local provenance
 - Recommend that existing wildlife habitats and corridors are retained including species-rich hedgerows and trees within the site
- 3.13 The **Crime Prevention Design Advisor** has no objections to the preliminary layout but makes the following comments;
- Designing out crime principles are achieved with the surveillance of the parking square, the LAP and the recreation ground.
 - Homes adjacent to the access road entrance should have windows overlooking the street
 - If the hall is to have a drinks licence it should attain Secured by Design standards for Licensed Premises
 - Would welcome greater emphasis on how the development will directly address crime prevention and community safety.
- 3.14 The **Council's Rural Development and Countryside Manager** has made the following comments;
- No existing public rights of way are affected by the proposal.
 - Pedestrian access should also be allowed via the emergency access road at the south east corner. This would be an obvious desire line link to the wider public rights of way network via Chesterton FP3 and FP4. A gap or pedestrian gate should be installed to accommodate it.

4. Relevant Planning Policies

4.1 Adopted Cherwell Local Plan

- H5 – Affordable housing
- H12 – Housing in rural areas
- H13 – Category 1 Villages
- H18 – New dwellings in the countryside
- C7 – Topography and character of landscape
- C8 – Resist sporadic development in open countryside
- C28 – Standards of layout, design and external appearance
- C30 – Character of built environment
- R12 – Public open space

4.2 Non-Statutory Cherwell Local Plan

- H1a – Availability and suitability of previously developed sites
- H4 – Types/variety of housing
- H8 – Rural exception sites
- H16 – Category 2 Villages
- H19 – New dwellings in the countryside
- EN30 – Sporadic development in the countryside
- EN34 – Conserve and enhance the character and appearance of the landscape
- D3 – Local distinctiveness
- R6 – New or extended sporting and recreation facilities

- R8 - Provision of children's play space
- R9 – Provision of amenity open space

4.3 **PPS 3 – Housing**
PPS7 – Sustainable Development in Rural Areas
PPG13 – Transport

5. Appraisal

5.1 Although this application is essentially the resubmission of a scheme that has previously been determined by the Council it is important to reconsider all the relevant issues. The main issues to consider remain the same as for the previous application with the exception of the previous refusal reason which is now a material consideration. The main issues are as follows –

- Planning Policies
- Housing delivery and need
- Landscape and historic impact
- Design and neighbouring amenities
- Highway impact
- Other material considerations including the implications of the previous refusal

Each of the above points will be considered in turn, taking into account the earlier reason for refusal.

5.2 Planning Policies

5.2.1 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as countryside (i.e. previously undeveloped land) where there is a presumption against general residential development on unallocated sites without any special justification.

5.2.2 Policy H13 of the adopted Local Plan states that new residential development within Category 1 settlements, such as Chesterton, is restricted to infilling, minor development within the built up area of the settlement and the conversion of existing buildings; subject to other policies in the Local Plan.

5.2.3 Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings.

5.2.4 The development of this site is clearly an extension into the open countryside as the built up limits of the village can be defined as the rear boundaries of the properties on Green Lane. The development is therefore contrary to Policies H13 and H18 of the adopted Cherwell Local Plan.

5.2.5 The application site has no specific allocation in the Non-Statutory Local Plan and is therefore defined as open countryside.

5.2.6 In the drafting of the Non-Statutory Cherwell Local Plan Chesterton was re-categorised as a Category 2 Village. Policy H16 restricts development to conversions and infilling within the built up limits of the village. Policy H19 states

that permission will only be granted for the construction of new dwellings beyond the built-up limits of settlements when it is essential for agriculture or other existing undertakings, or to provide a small, low-cost, affordable housing exception site to meet a specific and identified local housing need that cannot be satisfied elsewhere.

5.2.7 The proposal is contrary to Policies H16 and H19 of the Non-Statutory Local Plan for similar reasons to those outlined above in relation to the adopted Cherwell Local Plan.

5.3 Housing Delivery and Need (SE Plan and PPS3)

5.3.1 The Council's current position on housing delivery is set out in the comments of the Head of Planning Policy and Economic Development set out in detail at 3.2 above. However based on the Council's current position there is considered to be less than a five year housing land supply, as required by PPS3. This deficit has reduced significantly since July when this scheme was first considered by Members at Planning Committee, given the approval of schemes at Bloxham, Arncott and Banbury. Based on current figures the actual number of units required to meet the five year supply is 68. This scheme would close this gap to within 5 dwellings. However for the current proposal to impact on the figures it would need to be demonstrated that it would be delivered by March 2015. Despite the application being in outline only the proposal seeks to demonstrate that this can be achieved due to the following factors;

- A letter confirming the applicant has the benefit of a formal Option Agreement to purchase the land subject to planning permission being granted. They must exercise their right to purchase within a strict period of time after planning permission is granted.
- Hill Residential are prepared to accept a condition requiring the submission of reserved matters one year after the grant of outline planning permission and a condition to implement the development one year from a subsequent approval of reserved matters
- The applicant has a clear understanding of the requirements of PPS3 and these have been addressed in the submission.

5.3.2 Given this commitment from the developers and to encourage the scheme to be delivered within the next five years it seems reasonable to shorten the timescales of both the outline and reserved matters applications to be no more than two years in total. Whilst an outline application is less favourable in deliverability terms than a detailed application, as the final design of the scheme is not being considered, the ability to adjust the time limits on any approval means that the overall time limit could be the same as that imposed on other applications for residential development such as those at Milton Road, Bloxham and Arncott. Furthermore this scheme has not reserved the layout for future consideration therefore the only matters to consider at reserved matters stage are appearance and landscaping.

5.3.3 In addition to seeking to demonstrate deliverability PPS 3 requires sites coming forward to meet the following requirements ;

- provide high quality housing;
- provide a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;

- be suitable site for housing, including its environmental sustainability;
- represent an effective and efficient use of land;
- be in line with planning for housing objectives;
- reflect the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives

5.3.4 Chesterton is a Category 1 village in the adopted Cherwell Local Plan. Although it is allocated as a Category 2 Village in the Non-Statutory Cherwell Local Plan and a Category B village in the Draft Core Strategy it is still considered to be one of the District's more sustainable villages in terms of the presence of local facilities including a primary school, playgroup, pubs and recreation and community facilities, and also its proximity to Bicester. Therefore it is considered capable of accommodating further housing development in the interests of meeting the needs of rural communities, particularly the need for affordable housing. This scheme provides a mix of market and affordable dwellings (30%). Therefore in a development of 63 houses this results in 19 affordable units. Although there is no parish housing needs survey there are 16 people on the Housing Register with connections to Chesterton. Furthermore there is a wider need for affordable housing, therefore this provision has the potential to contribute towards this need. It is therefore considered that the development provides an appropriate level of affordable dwellings as well as it contributing to the shortfall in housing land supply.

5.4 Landscape and Historic Impact

5.4.1 The site is not within any locally or nationally designated landscapes and it is difficult to obtain any long distance views of the site. Given the relatively flat landscape and the presence of field hedgerows and trees it is difficult to achieve any clear views of the site from the footpaths to the south. Views from a distance of approximately 250m will be achieved from the road to Little Chesterton but the indicative landscaping is likely to soften the development edge. The site for dwellings is also not viewed in association with any building of historic interest as the pitches intervene, creating some separation between the historic part of the village and the proposed development.

5.4.2 The comments of the Council's Urban Design Officer and the Landscape Officer at 3.3 and 3.4 above explore this in more detail but ultimately don't raise concerns about the visual harm, landscape impact or harm to the character and appearance of the nearby Conservation Area or the setting of listed buildings.

5.4.3 It is noted that allowing this development would change the appearance of the locality but given the assessment above and the opinions of the Urban Design Officer and Landscape Officer it is not considered to result in particular harm. Despite this extension to the village and encroachment onto open countryside it is considered that the visual impact would not be so great as to warrant refusal on these grounds.

5.4.4 Adverse impact on the character and appearance of the countryside formed part of the Council's refusal reason in July. This view clearly differs from the view reached above by Council officers. Both Officers and Members recognised that the development would result in an extension to the built limits of the village but Members clearly considered that the resultant visual impact caused sufficient harm to warrant a refusal. Impact on the character and appearance of the countryside and general visual impact is a subjective matter and it is not uncommon for

different conclusions to be reached.

5.4.5 As far as landscape impact is concerned there has been no change to the scheme since the consideration of the previous application that would lead to officers reaching a different conclusion to that set out above.

5.5 Design and neighbouring amenities

5.5.1 The application has been submitted in outline only but the layout is being considered. The layout plan shows that the proposed number of units can be accommodated in a satisfactory manner providing satisfactory living environments, sufficient parking and a good standard to layout and design compatible with the neighbouring properties.

5.5.2 The layout itself shows a central road running from the Green Lane access point through to the sports pitches. There are a number of small cul-de-sacs that spur off the main road and in the northern section of the site there is a small square created by properties being set back from the frontage. There are strong frontages along the entire length the road whilst the buildings successfully 'turn corners' into the smaller roads. Whilst being approximately 35 to 45 metres away from the pitches the properties closest to them have their frontages facing them. This provides good natural surveillance for the recreational areas and also provides an attractive frontage which will be viewed across the pitches from the road to the east.

5.5.3 With the exception of a few units in the 'square', each property has off road parking with the majority having a garage, and all the properties benefit from generous sized gardens. The smallest of which and of which there is only one example, measures 10 metres in length.

5.5.4 The proposed scheme results in a housing density of approximately 30 dwellings per hectare. This density is likely to be greater than that found elsewhere in Chesterton but it meets the minimum density which was recommended in PPS3 Housing prior to its revision in June of this year. This is therefore considered to be appropriate for a village location.

5.5.5 There appears to be sufficient space between the proposed hall/pavilion and the residential houses for it not to cause a nuisance yet it will be sufficiently overlooked.

5.5.6 Although detailed elevations have not been provided the scale parameters have been provided which demonstrate that properties will be of a traditional scale, in keeping with others in the village. Details of the materials will be determined at reserved matters and controlled by condition. The Council's Urban Design Officer has considered the proposals and is generally happy with the indicative layout and design of the scheme.

5.5.7 As the layout of the scheme is part of the consideration at this outline stage it is possible to do an accurate assessment of the potential neighbour impact. The only properties that could be affected by the actual built form of the dwellings are those properties on Green Lane whose gardens back onto the site.

5.5.8 The existing properties not only benefit from gardens of over 25 metres in length

they enjoy some of the amenity provided from an open aspect agricultural field. The proposed development is to the south of the existing properties but the minimum gap between the rear elevations of the existing and proposed properties is approximately 41 metres. This is almost more than double the Council's informal space standard for achieving development that does not cause adverse overlooking or overbearing. Even though the detailed elevations have not been provided it is not considered that given the distances between the properties the positioning of windows in rear elevations will be of significance in terms of overlooking.

5.5.9 The outlook for these existing properties will change but the planning system is not able to protect private views. Substantial landscaping is shown on the layout plan which some residents have expressed some concern over. Landscaping is a matter to be considered at Reserved Matters stage and is something that can be considered in liaison with individual residents.

5.5.10 Some residents have expressed concerns about the impact that the development will have on their amenities in terms of parking and road congestion. These are issues that are covered below at 5.6.

5.6 Highway Impact

5.6.1 The Local Highway Authority has provided detailed comments on highway safety and impact at 3.8 above. However in general terms there is satisfaction that there would be no sustainable reason to refuse this application on highway safety grounds. Despite the concerns of neighbours in relation to congestion, especially at weekends the highway network is considered capable of supporting this increase in properties. The access is also considered to be acceptable subject to the revision of the speed restriction close to the proposed access.

5.6.2 It is also considered that the residential and recreational uses have been provided with sufficient parking to meet the relevant standards. Unfortunately it will not be possible to completely prevent people from parking on verges if they choose not to utilise the provided parking but measures can be incorporated into the scheme and the running of the recreation facilities to ensure those visiting the facilities are encouraged to use the parking.

5.7 Other Considerations

5.7.1 Planning Obligation

The proposed development would generate a need for infrastructure and other contributions that need to be secured through a planning obligation, to enable the development to proceed. Negotiations are underway which seek to secure sufficient contributions towards the infrastructure required as part of this development. There has been an in principle agreement from the applicant to pay all the requested contributions which include;

- Affordable housing
- LAPS and LEAP
- Public art
- Highways and public transport contributions
- County Council Education contributions
- County Council Library contributions
- County Council Day Centre for the Elderly contributions

- County Council waste recycling contributions
- County Council Museum Resource
- District Council refuse bin contributions
- District and County Council administration/monitoring fees

- 5.7.2 The list above does not include the standard requirements for offsite sports contributions. This is because the developer has offered, in addition to the above contributions, and over and above the usual requirements for such a scale of development, the provision of two sports pitches and sports pavilion/village hall as part of the scheme. As these elements form part of the application they can be secured by the S106 agreement and will be required to be laid out and constructed to the specification of the Council.
- 5.7.3 Whilst the Council has not requested a viability assessment relating to the proposal it is considered that the proposed provision of these village facilities is viable in relation to the number of houses being provided.
- 5.7.4 In 3.7 above the County Council's Strategic Planning response states that the local primary school does not have spare capacity and has limited room to expand. It is therefore suggested that children would have to be accommodated and possibly transported to other nearby schools and contributions would have to be paid for improvements to service infrastructure. However to clarify, the County Council's Developer Funding Officer has stated that the Primary School is oversubscribed but that development of primary schools at South West Bicester is expected to augment that existing at Chesterton. Therefore the contributions which are being sought will go towards the provision of further Primary provision. It is also worth noting that Chesterton Parish Council feel that the development will generate children for the village school which will help secure its future.
- 5.7.5 Previous application
The previous application and the decision reached is a material consideration in the assessment of this application. Since the previous report to committee there has been no substantial change to the scheme or in the way in which the application was submitted and although significantly reduced there remains a shortage in the 5 year housing land supply. The way in which the housing land supply is calculated has been questioned since the previous application, in light of the revocation of the South East Plan, however the Council is continuing to use the figures as set out in the South East Plan as there is no sound evidenced based alternative at this current time. The only material change in circumstances since the previous application is the Council's refusal of that application. Whilst this is material and an important point for consideration the principle concern of Members was the impact a development of this scale would have on the character and appearance of the countryside. Whilst this reason for refusal was not expressed in the previous report to Committee it is acknowledged that the level of harm can be weighted differently and different conclusions can be reached about what is essentially a subjective matter. However as there has been no material changes to the circumstances of this case it is difficult for officers to reach a different recommendation to that made on the previous application.
- 5.7.6 Other issues which have progressed since the previous application which are worthy of note are the fact that the Council is now undertaking a comprehensive review of housing land supply across the district and there is an appeal in progress

for both the previous application for this site and the refused application for land South of Milton Road in Adderbury. The submission of the Council's Statement for the appeal for this site has been postponed until after the consideration of this application by Planning Committee, and the decision for the site in Adderbury can be expected by the end of 2010.

5.7.7 Progress is continuing to be made on the negotiation of the S106 agreement therefore it is hoped that in the event of an approval this can be satisfactorily concluded within the application target date. Therefore on its own and in these circumstances with significant time still to run on the application this would not be a reasonable reason for refusal.

5.8 Conclusion

The application is for development beyond the built up limits of Chesterton in the open countryside. As such the application is contrary to both the adopted and Non Statutory local plan policies. However, given the current position on housing land supply which is still below five years it is necessary to consider if it would be appropriate to release this site for development. This scheme, by providing 63 new dwellings, 30% of which are affordable, and demonstrating deliverability is considered to contribute to this housing land supply. In addition to contributing towards this shortage the proposal can meet the other tests set out in PPS3 (set out in the Head of Planning and Affordable Housing Policy section above). Furthermore it provides facilities that are recognised as being required and supported by the Parish Council.

Based on the conclusions reached above it is therefore recommended that this application be approved subject to the conditions set out below.

6. Recommendation

Approval subject to;

- a) **Completion of the Section 106 agreement**
- b) **The following conditions**

Suggested conditions if approved;

1. SC 1.0A Approval of reserved matters details (RC1)
2. SC 1.1 Outline expiry of application for reserved matters (RC1) Delete 'three' and insert 'one'
3. SC 1.2 Outline duration limit (RC1) Delete 'two' and insert 'one'
4. SC 2.15AA Number of dwellings (outline) (RC8A) '63'
5. Layout in accordance with plan no. 033-002 Preliminary Layout
6. SC 3.0A Submit landscaping scheme (RC10A)
7. SC 3.1A Carry out landscaping scheme (RC10A)
8. SC 3.10A Open space (RC12B)
9. 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 in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. **Reason:** The development may lead to sewage flooding; to ensure sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

10. SC 9.4A Carry out mitigation in ecological report (RC85A) 'section 6.3'Extended Phase 1 Habitat Survey' 'Middlemarch Environmental' 'March 2010'
11. Standard contamination conditions
12. That prior to work commencing on site the proposed means of access (including vision splays) onto the Green Lane is to be formed, laid out and to the approval of the Local Planning Authority and constructed strictly in accordance with the highway authority's specifications and that all ancillary works specified shall be undertaken. (RC13BB)
13. That the vision splays shown on drawing 033-002 shall not be obstructed by any object, structure, planting or other material height. (RC13BB)
14. That the internal vehicle access vision splays shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and that the land and vegetation within the splays shall not be obstructed by any object, structure, planting or other material height. (RC13BB)
15. That before any of the dwellings are first occupied the whole of the estate roads, footpaths and pedestrian/cycle links shall be laid out, constructed, lit and drained and if required temporary or permanent traffic calming to the Oxfordshire County Council's Specifications. (RC14AA)
16. That, before any of the dwellings are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained (SUDS) in accordance with the specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. (RC14AA)
17. Before the development is first occupied the parking and manoeuvring areas shall be provided in accordance with the plan (*to be agreed at reserved matters stage*) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times. (RC13BB)
18. That all construction traffic serving the development shall enter and leave the site through the new access; wheel washing facilities on construction sites (for HGVs) should also be requested (when appropriate). Construction travel plan also required i.e. no HGVs through middle of village. (RC18AA)
19. SC 6.6AB No conversion of garage (RC35AA)
20. That prior to the commencement of building work plans detailing the extension of the 30mph speed limit, the relocation of the existing traffic calming features and additional features shall be submitted to and approved in writing by the Local Planning Authority. The improvements works shown on the approved plans shall be completed prior to the first occupation of the development. (RC13BB)
21. SC 9.6 Fire Hydrants (RC87A)
22. No development shall take place until a scheme to deal with surface water drainage for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
The scheme shall also include:
 - Greenfield runoff rate at 6l/s as detailed in the FRA
 - Details of tanked permeable paving as mentioned in drawing no. MS40631-SK100 submitted with the FRA H423/03
 - Details of diversion of the surface water runoff for the northern and western areas of the development to the drainage ditch without pumping

- Details of the size of pump and volumes of runoff that need to be stored after diverting the northern and western areas into the brook
- Details of the pumped surface water to be pumped into the drainage ditch to the west of development as detailed in the FRA H423/03
- The designated flood route to pavilion car park for temporary flood storage in the event of flood failure

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system in line with PPS25 and PPS9

23. No development approved by this permission shall be commenced until a scheme for the improvement of the existing sewerage system has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved. No occupation of dwellings approved by this permission shall occur until the scheme for improvement of the existing sewage system has been completed.

Reason: The foul drainage from this development will drain to Bicester Sewage Treatment Works. It is essential that the developer confirms with the sewerage undertaker that; a) sufficient capacity remains to properly deal with the additional load and b) the sewerage conveying foul drainage to these works has sufficient hydraulic capacity.

Suggested planning notes if approved;

- a) Q1 – Legal agreement
- b) O1 – Archaeology
- c) Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames water pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- d) It is now a legal requirement to have a site waste management plan (SWMP) for all new construction projects worth more than £300,000. The level of detail that your SWMP should contain depends on the estimated build cost, excluding VAT. For projects estimated at between £300,000 and £500,000 (excluding VAT) the SWMP should contain details of the:

- Types of waste removed from the site
- Identity of the person who removed the waste
- Site that the waste is taken to

For projects estimated at over £500,000 (excluding VAT) the SWMP should contain details of the:

- Types of waste removed from the site
- Identity of the person who removed the waste and their waste carrier registration number
- A description of the waste
- Site that the waste was taken to
- Environmental permit or exemption held by the site where the material is taken

At the end of the project, you must review the plan and record the reasons for any differences between the plan and what actually happened.

You must still comply with the duty of care for waste. Because you will need to record all waste movements in one document, having a SWMP will help you to ensure you comply with the duty of care. Further information can be found at

www.netregs-swmp.co.uk

The car parking areas of the development should be drained via an oil separator to reduce the risk of oil pollution. The developer should consult Agency Pollution Prevention Guidelines NO 3 to ascertain the appropriate type. A download can be obtained from www.environment-agency.gov.uk/ppg

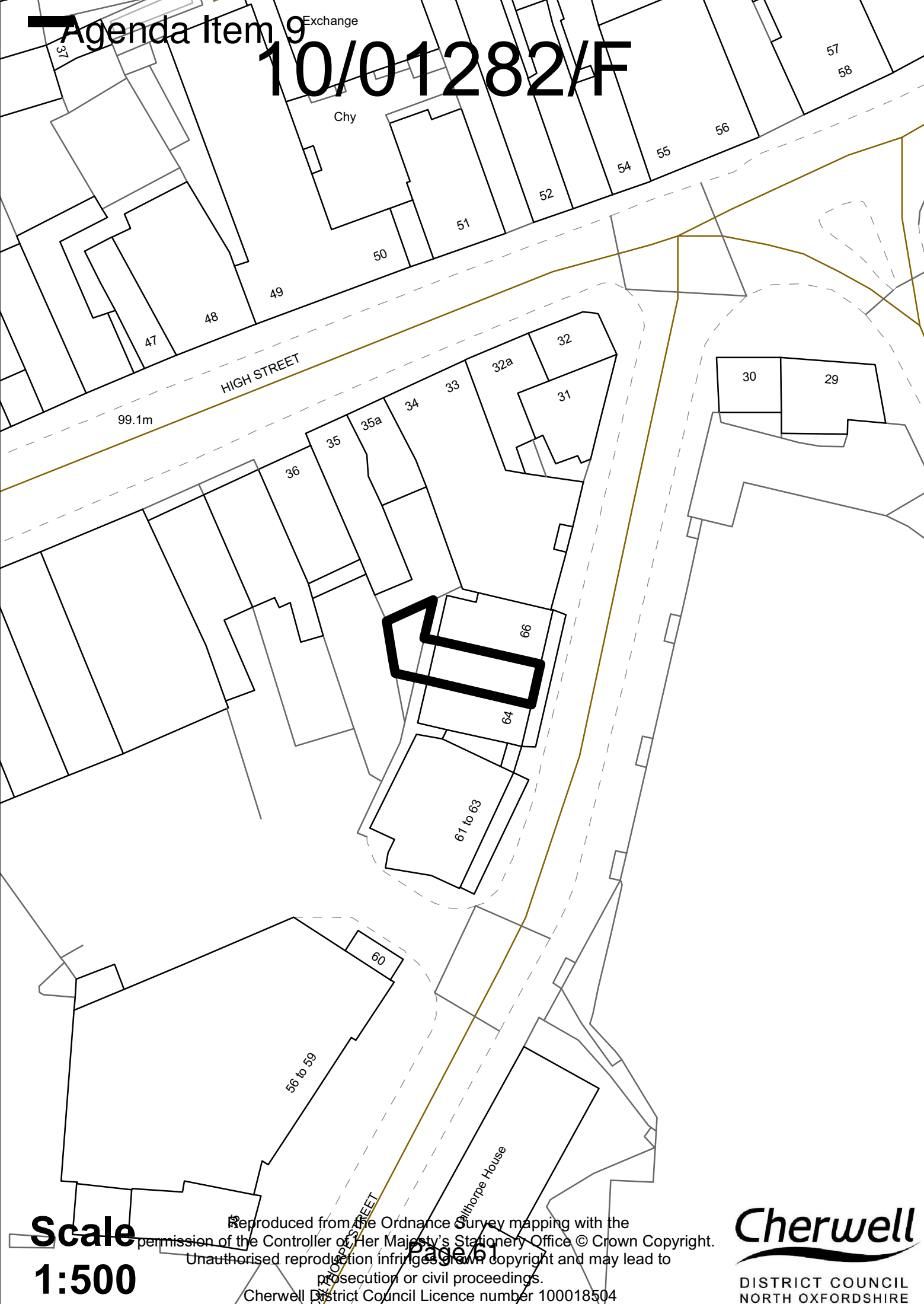
SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. Although a departure from the development plan, it is considered to be acceptable on its planning merits as the proposal would not cause serious harm to the character or appearance of the countryside area, residential amenity or highway safety and adequate provision is made for open space, affordable housing and other essential local infrastructure. Further, the need for the site to be developed to accord with the Council's strategy for meeting housing delivery requirements, development that results in high quality housing and minimises and mitigates landscape and other impacts has led the Council to consider the proposal acceptable. As such, the proposal is in accordance with government advice contained in PPS1 - Delivering Sustainable Development, PPS3 – Housing, PPS7 – Sustainable Development in Rural Areas and PPG13 – Transport and Policies C7, C8, C28 and C30 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, and a legal agreement to secure the essential infrastructure requirements.

CONTACT OFFICER: Caroline Roche

TELEPHONE NO: 01295 221816

10/01282/F



Scale
1:500

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BANBURY

Bank

Scale
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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 10/01282/F	Ward: Banbury Grimsbury and Castle	Date Valid: 19/08/2010
Applicant:	Mr Riasat Sadiq	
Site Address:	The Indian Pantry, 65 Calthorpe St, Banbury	

Proposal: Variation of Condition 5 of permission 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 (as amended by email received on 16 September)

1. Site Description and Proposal

- 1.1 The application site is a hot-food takeaway, in a ground floor unit underneath the 18 flats at The Counting House on Calthorpe Road. The unit was changed from the originally consented retail use to a hot-food takeaway under application 08/02513/F, approved in February 2009.
- 1.2 The original permission for hot-food takeaway use limited the opening hours by condition as follows;
 - Monday to Thursday – 11am to 11pm
 - Friday and Saturday – 11am to 12am
 - Sunday and Public Holidays – 11am to 10pm
- 1.3 This application originally proposed to extend the opening hours as follows;
 - Monday to Thursday – 11am to 1am
 - Friday and Saturday – 11am to 2am
 - Sunday and Public Holidays – 11am to 12am
- 1.4 The opening hours originally applied for (in para 1.3 above) were approved by this Council's Licensing Sub Committee on 20th August.
- 1.5 Following Officer feedback and consultee comments, the applicant has agreed to amend this application as follows;
 - Monday to Thursday – 11am to 11pm
 - Friday and Saturday – 11am to 1am
 - Sunday and Public Holidays – 11am to 11pm
- 1.6 The application is placed before the committee for determination following a successful call-in request by the ward member.
- 1.7 There is a second application relating to the site, which is a retrospective application to regularise the erection of a storage building (10/01258/F refers) which is due to be determined under delegated powers.

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 27 September 2010.

2.2 Letters of objection to the originally proposed hours were received from residents of four flats above and from three Councillors. Material comments raised were as follows;

- impact on residential amenity (through increased noise, disturbance and anti social behaviour)

Non material comments raised were as follows;

- issues of ownership of the land associated with the business use

2.3 In addition to the letters of objection received, the proposals at the site have received some coverage in the Banbury Guardian, especially with regard to the publicity of the application, however, the application has been publicised in line with statutory requirements. An initial shortcoming in the completeness of the pattern of consultation has been corrected and has still allowed sufficient time for response.

3. Consultations

3.1 Banbury Town Council – no comments received at the time of writing this report. Any further comments received will be reported at the meeting.

3.2 The Council's Anti Social Behaviour Manager has suggested the amended hours now being considered. He notes that the current dynamic of the businesses in Calthorpe St produces limited amounts of noise and associated anti-social behaviour, and that any significant extension to the take-away opening hours would increase the potential for noise and anti-social behaviour.

4. Relevant Planning Policies

4.1 National Policy Guidance:
PPS1 – Delivering Sustainable Development
PPS4 – Planning for Sustainable Economic Growth

4.2 Local Policy in the Adopted Cherwell Local Plan 1996:
Policy C31 – Compatibility of proposals in residential areas
Policy ENV1 – Development likely to cause detrimental levels of pollution (including noise, smell and other disturbance)

5. Appraisal

5.1 As an application to vary a condition attached to a previous approval, the principal issue to consider is the acceptability of the proposal when weighed against the reason for the original condition.

5.2 The original condition was imposed in order to “safeguard the amenities of the area and to comply with...Policies C31 and ENV1 of the adopted Cherwell Local Plan”. This proposal must therefore continue to comply with that condition in order to be acceptable.

5.3 It is clear from the comments received during the course of the application, both from Councillors, local residents and internal consultees, that the originally proposed extended hours were not acceptable against the requirements of the relevant policies.

- 5.4 The amended opening hours now proposed, as suggested by the Anti Social Behaviour Manager, represent only a small increase in the opening hours already in operation (i.e. increasing from midnight to 1am on Saturday night/Sunday morning). These opening hours are considered to be compatible with the mixed residential/ town centre context of the area; offering a reasonable balance between the amenity of the residential units and the typical town-centre uses, which are to be expected in this type of area.
- 5.5 Whilst the originally applied-for extended hours were approved by the Licensing Committee, it is not considered that this extant licensing approval overrides the need to consider the impact of the proposal upon, and compatibility with residential amenity.
- 5.6 The amended proposal is therefore considered to comply with Policies C31 and ENV1 of the adopted Cherwell Local Plan, and is therefore recommended for approval.

6. Recommendation

Approval, subject to the following conditions;

- 1) SC 1_4A (Time for implementation)
- 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

Reason – In order to safeguard the amenities of the area and to ensure the compatibility of the commercial use with the residential elements, in accordance with Policies C31 and ENV1 of the adopted Cherwell Local Plan 1996.

Planning Notes

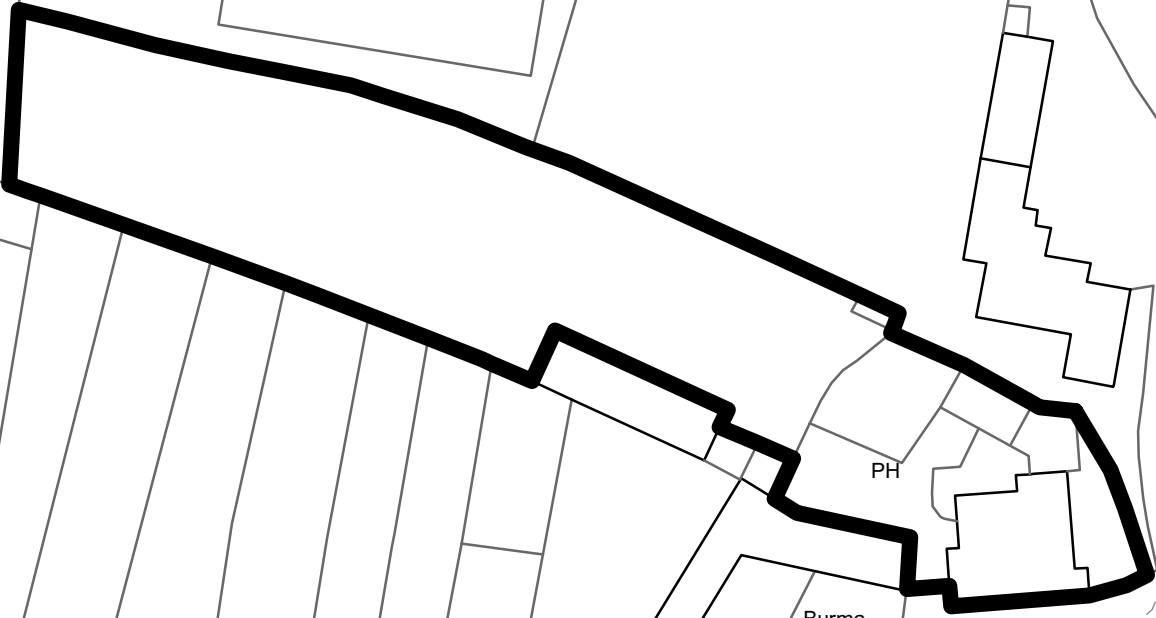
- 1) T1 – Third party rights
- 2) The applicant is reminded that this consent only varies the requirements of Condition 5 of 08/02513/F. All of the other conditions attached to that approval must be complied with for the use of the unit as a hot-food takeaway to remain lawful in the light of that application.

CONTACT OFFICER: Simon Dean

TELEPHONE NO: 01295 221814

10/01340/F

Hethe



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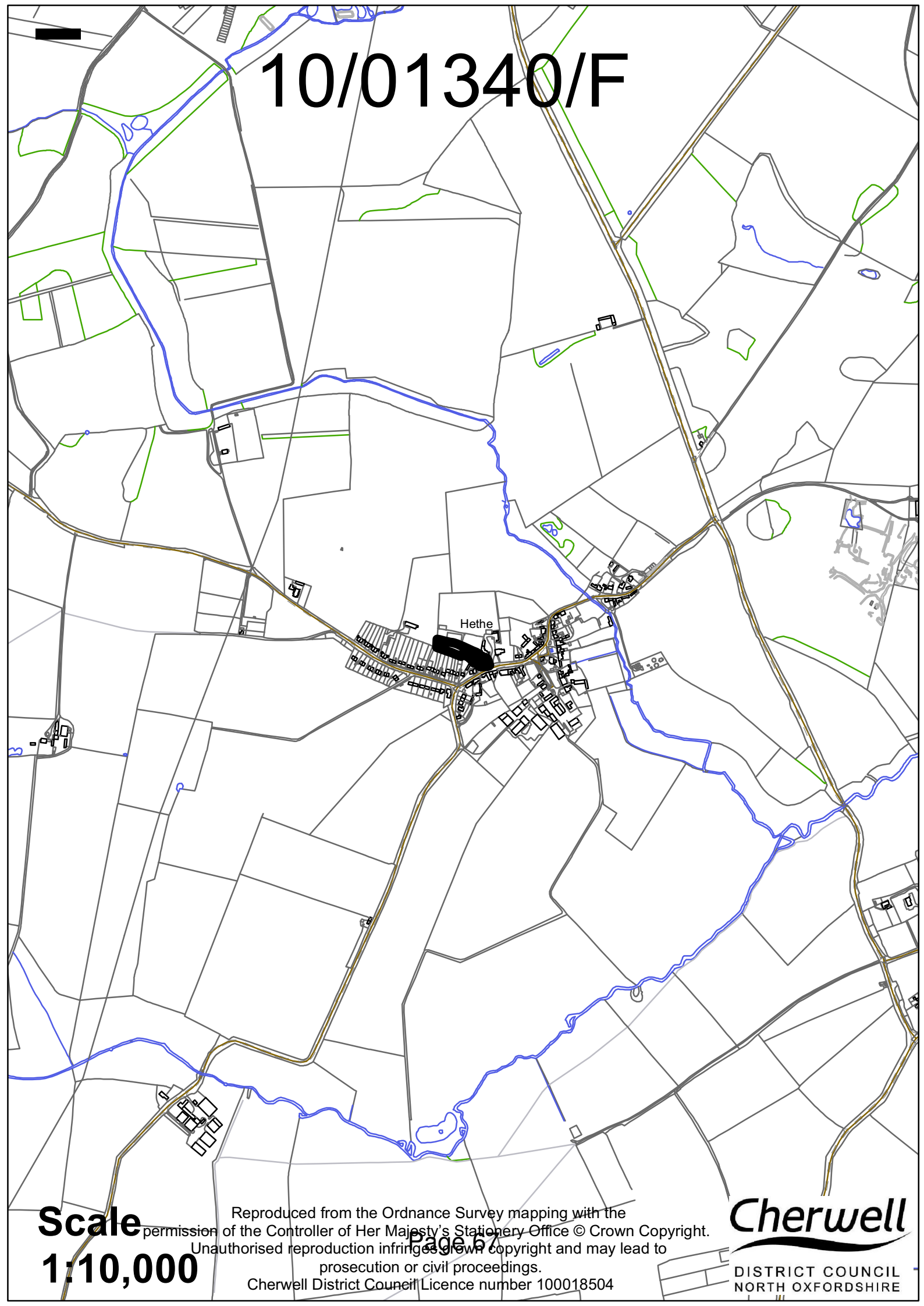
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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

10/01340/F



Hethe

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 10/01340/F	Ward: Fringford	Date Valid: 31.08.2010
Applicant:	Mr Iain Hodgson c/o agent JPPC, Bagley Croft, Hinksey Hill, Oxford	
Site Address:	Whitmore Arms, Main Street, Hethe, Bicester OX27 8ES	

Proposal: Change of use of premises from Class A4 (public house) to Class C3 (residential)

1. Site Description and Proposal

- 1.1 The Whitmore Arms public house is located in the centre of Hethe, north of Main Street. The village is compact and largely linear in form with most properties facing onto Main Street and Hardwick Road. The Whitmore Arms is Grade II listed as are the properties either side and facing. It is also within the Conservation Area though the site boundary extends beyond the Conservation Area boundary to the west where the pub garden meets the boundary with the village hall to the rear. Aside from the village hall, the character of the area is almost wholly residential with the pub being the only commercial property.
- 1.2 The Whitmore Arms is a 2 storey detached building which is stone built with brick end stacks and a steeply pitched slate roof. Entrances to the building are at the sides and there is a C19th porch on the east side though it is advised that this is not used as the principle entrance. Entrance is generally on the west side, adjacent to the car park, via the rear flat roofed extension that houses the toilet facilities. Also to the rear are other stone built additions including the malthouse, used for storage and the mono-pitched pool room.
- 1.3 To the front of the premises is a tarmac forecourt and there is a gated access to the pub car park to the west of the building. Off street parking is available for around 10 spaces and the remainder of the site forms the beer garden which extends to approximately 0.4 hectares of grassed area.
- 1.4 The inside of the pub comprises a ground floor which is given over to the commercial use of the building and the main bar area forms the trading space. One internal door leads onto the flat roof rear extension (the most used entrance and the toilet facilities). Another door leads onto the kitchens and access to the outside and the poolroom. There is also a cellar. Access to the first floor is via the kitchen which leads to residential accommodation in the form of a lounge room, 2 bedrooms, a box room (used as an office) and a bathroom. This accommodation is currently not used.
- 1.5 The Whitmore Arms remains licensed and still trades as a public house serving food and drink. This application seeks to change to the use of the premises from Class A4 use (public house) to Class C3 use (residential). No internal or external alterations are proposed. The application is supported by evidence relating to the commercial viability of the public house, a structural report and statement regarding the marketing exercise. Of particular interest are the conclusions that can be drawn from the viability assessment by Thomas E Teague, as follows:

- 1.5.1 The turnover figures over the last 10 years or so show an initial increase and then over the last 2 years an 'alarming' drop is recorded. This is attributed to a number of factors including supermarket competition, the smoking ban, high leasehold rents coupled with lack of discounts, two consecutive poor summers and the economic downturn. Beer level sales equate to what they were in the 1930s. The most successful pubs are generally food-led and for the Whitmore Arms to increase its turnover would require this change in focus in order to attract a wider customer base than just the village.
- 1.5.2 For the Whitmore Arms to provide a food offer at this level would require a superior kitchen, improved parking and better toilet facilities. The actual pub trade area is quite small for the number of covers that would be required as only up to 25 covers could now be achieved. Therefore an extension would be needed or it would be possible to utilise the malthouse but these options would require some considerable investment (£60,000). This is unlikely to happen because the working expenses of the Whitmore Arms shows that it is being 'run on a shoestring'. Wage bills have been cut as has the repairs programme. There is insufficient profit to pay the mortgage (which is now interest only), earn an income and invest in the business. The business has been de-registered for VAT purposes. These factors would strongly suggest that the Whitmore Arms would not be likely to attract a serious bidder at this time.
- 1.5.3 There may be other ways of attracting more custom other than introducing a food based establishment though these usually necessitate the pub having a better than average sales proposition. Factors such as ambience, character, exceptional setting or the quality of the landlord may be important. The pub is already real ale led and it features on the pub-walk website. Hethe is a Conservation Area and the pub is listed so this offers some historic aspect but it is not on a main route. Diversification into other village services such as a post office is largely only achieved in larger villages.
- 1.5.4 In examining the development potential of the pub, the site is quite sizable with plenty of open land and there are underused outbuildings. Unfortunately, these would require some considerable upgrade and investment to bring them into use. The advice is that in the current economic climate it would be an extremely high risk strategy to take this option up. It is further advised that the upper floors do not lend themselves to private let as it is quite small and that to extend the car park would lead to conflict issues with the garden/play space.
- 1.5.5 At the heart of the concept of viability is Fair Maintainable Trade (FMT) which is the amount of trade that a reasonable competent operator could achieve given the facilities on the site and its location. Paragraphs 22.2 onwards of the viability assessment are particularly noted. Until relatively recently the level of trade was reasonable (£80,000 turnover) given the circumstances of facilities and location but really should have been (£100,000) so the pub has been undertrading. Margins of 58% profit should be achieved and an income of £23,000 is a fair net profit norm. However, in the current market and given the circumstances at this pub with increasing overheads and underinvestment, the owner could only expect earnings of £10,000.
- 1.5.6 The viability report touches on the difference the proprietor of the pub can make to the success or otherwise of a pub. The applicant in this case has owned and operated the pub for more than 10 years now and can be considered as an experienced publican. Also, in this case it would be likely to take more than just a change in personalities as capital investment would be essential here to move it

away from predominantly wet sales which would be required due to the collapse of beer sales.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice, neighbour letter and press notice. The final date for comment is 8 October 2010.
- 2.2 At the time of writing, 29 letters of objection had been received from local residents principally raising concerns with regard to:
- Social impact – This is the only commercial premises in the village. All others have closed and moved over to high cost residential housing. This has forced many established families out of the village as affordable housing is less available. The village pub still provides a centre of social activity for many people in the village, some of whom are too elderly to travel elsewhere or have no means to travelling given the lack of frequent public transport. The only other place is the village hall but that has little atmosphere is tends only to be used for specific bookings. The village needs a central hub which is best served by the pub as it is a really important part of British society. Facilities need to stay in the village as it fulfils the current coalition government’s ‘Big Community’ strategy by supporting the local environment. To accept the submission would also contravene the North Oxfordshire Rural Strategy 2009 which outlines the needs to protect and support tourism and local jobs.
 - Historical – The Whitmore Arms and its predecessors have existed in this ancient village for hundreds of years. There is no reason why, with the appropriate management and investment, that it should not continue to do so.
 - Commercial – Policy S29 of the Cherwell Local Plan refers to not being able to resist the loss of pub facilities if they are proven to no longer be commercially viable. Whilst the Whitmore Arms is undoubtedly struggling to do business, its long term future could be assured with effective management and investment. There are many rural pubs in the Cherwell District that are marketing themselves successfully. The fact that the current owner may not be able to bring that management and investment to the premises, is not of itself a reason to permit this change of use. The pub could offer other activities, facilities and services including post, teas and coffees. It could be more family friendly. The current owner is sending business elsewhere and the pub is badly managed.
- 2.3 One letter has been received from a local resident who claims that The Butchers Arms is accessible as it is just half a mile by footway and offers food and drink. The campaign against the application is unrealistic in todays world. There is no social activity in the village, never mind the pub. The quality of the landlord has a bearing on the success of a pub.

3. Consultations

- 3.1 Hethe Parish Council – Comments awaited
- 3.2 Oxfordshire County Council (Highways) - **No objection.**
- 3.3 The Council’s Conservation Officer – **No objection**
The application does not propose any alterations to the fabric of the building, and is

therefore an 'in principle' application. It is understood that should the change of use be implemented, a further application will be necessary in order to change the building physically from a pub to a dwelling.

The pub is a late 17th/early 18th century building with 20th century modifications to the interior and rear. It is constructed on coursed limestone with a steeply pitched slate roof (indicating a former thatched roof). There are numerous blocked up windows/doors on the front elevation, possibly suggesting that this building was formerly used as a dwelling, although a structural survey would need to be undertaken to provide dates for each element of the building. The listing description states that the building was named after Thomas Whitmore who lived at Hethe House from 1808-1811. Before this it was known as the 'Maltster's Arms', possibly in reference to the malthouse which still stands at the rear of the building.

The early 19th century parish registers record an innkeeper in the village, and it may be safe to assume that this was within the Whitmore Arms. There is no written evidence to suggest that the building was or was not used as a public house before this time, as it was common practice in rural locations for people to brew their own ale and sell the surplus. Due to the malthouse, it may be that the Whitmore Arms started off life in this fashion before becoming a proper public house. Therefore, it can be summarised that the building has been used as a brewhouse and public house since the late 18th or early 19th century.

The building appears to be structurally sound despite its numerous alterations over the past centuries. The general layout includes a bathroom, 3 bedrooms, a study and two attics, together with the large open bar and kitchen on the ground floor. The pub retains several attractive historic features, such as the large fireplace in the main bar, and the quirky entrance to the attic from the first floor. It also has some less sympathetic alterations, including the flat-roofed toilet block to the rear, and the narrow fireplace in the main bar which does not draw efficiently. Upstairs, all the original floors have been removed and boarding placed over the joists. This is regrettable, but offers the opportunity to start with a 'clean slate' upstairs. The kitchen to the rear is not original, but is still historic, possibly being late 18th/early 19th century with a large fireplace (blocked).

There are arguments for and against the change of use from pub to dwelling:

For:

the building is preserved as it is used, rather than left to fall into disrepair as the landlord cannot afford to maintain it;
any application for alterations would need to include the removal of the 20th century toilet block and repairs to the outside walls

Against:

the village loses an historic part of its character and a rural amenity – the nearest public houses are at Fringford and Stoke Lyne

Simply because permission is granted does not mean that it needs to be implemented immediately. The villagers have the opportunity to show their support for the pub, or there is time for another landlord to try their hand at keeping the pub open.

- 3.4 Campaign for Real Ale (CAMRA) – **Object.** At the time of finalising this report, comments were received and in brief, the conclusions that are reached are as follows:

1. The pub remains viable and is a valuable community asset which should not be lost.

2. The submitted viability report by Thomas E Teague fails to answer the critical question about the pubs potential if it had a management dedicated to it.
3. With no supporting valuation for the business at that time the offers for sale may have been carried out at inflated valuations for the purposes of this application.
4. It's historic and traditional context is its unique selling point and would attract distant trade. Aside from its historic features, it benefits from having lots of space for other activities such as Aunt Sally, pub garden, parking and an adjacent football pitch. Success of pubs does not always have to be food led sales – many village pubs are successful yet are 'wet-led'.
5. The average population to pub ratio is in excess of 1000:1 in a 5 mile radius and this is well above the national average.
6. That the pub is not making sufficient profit to invest is spurious as most investment is speculative. Restoration of the pub to its former glory would doubtless assist with regaining the lost and generating new trade.
7. Parking provision is commensurate to its size and there is space for more if required. 6 spaces are available to front of the pub as well as the 10 to the rear.
8. There is lots of potential for multiple use. Football teams are regular users, there is scope for a children's play area, accommodation, a shop or micro-brewery.
9. The owner of the pub is crucial to its success and little is being done to improve the situation. All the evidence points to a neglect by the owner of the fabric of the building and grounds and of the customer base by alienating regular users through disagreement and inhospitable conditions. It can hardly be a coincidence that trade declined the moment the business was first offered for sale.
10. The market is dominated by multinational brewers whose sales are indeed falling but the market suited to the Whitmore Arms for cask real ales from small and regional brewers remains buoyant.
11. The toilet facilities are in a decent state of repair and the kitchen does not require as much investment as the Teague report suggests. Overall a figure of £60,000 investment is unjustified and should not justify the claim of non-viability.
12. The asking price is still too high. We are aware of at least one experienced local landlord who would be interested in the pub.

4. Relevant Planning Policies

- 4.1 Central Government Guidance in the form of:
 Planning Policy Statement 1: Delivering Sustainable Development
 Planning Policy Statement 5: Planning for the Historic Environment
 Planning Policy Statement 7: Sustainable Development in Rural Areas
 Planning Policy Guidance 13: Transport
- 4.2 Adopted Cherwell Local Plan 1996 Saved Policies: S29 – Local Shops
- 4.3 Non-Statutory Cherwell Local Plan 2011 Policies: S26 – Local Shops
- 4.4 Local Development Framework (LDF) - Draft Core Strategy (February 2010). Whilst at this time little weight can be given to this document, in terms of it being a material consideration, it should be noted that the Council's 'Vision for Villages and Rural Areas' is that local services should be protected, maintained and improved wherever possible. The Council's vision of seeking to sustain and support villages is so that they can remain a vibrant focus for rural life. There is a Community Objective (LO22) to meet the needs of rural communities for services. Hethe is not

identified as an area of growth.

- 4.5 Cherwell Rural Strategy 2009 – 2014. The Sustainable Community Strategy (SCS) is primarily a communities plan. The Rural Strategy is one of a series of medium term plans which implement the themes and priorities of the SCS. The Local Development Framework (LDF) is a spatial plan identifying key issues on the Rural Strategy which include the need to ensure convenient access to services and facilities. One key objective is to retain and improve rural services e.g. pub.

5. Appraisal

- 5.1 The main issues for consideration are:

- Policy Context
- Viability Assessment
- Marketing Exercise
- Impact on the village community
- Effect on the heritage assets

5.2 Policy Context

Government Guidance in the form of PPG's and PPS's are material planning considerations. PPS1 highlights the point that sustainable development is the core principle underpinning planning. A main factor in this is to address accessibility (both in terms of location and physical access). This will in turn reduce the need to travel and encourage accessible public transport provision.

- 5.3 One of the key Government objectives, outlined in PPS7, is to raise the quality of life and the environment in rural areas through the promotion of thriving, inclusive and sustainable rural communities ensuring people have decent places to live by improving the quality and sustainability of local environments and neighbourhoods. It seeks to promote more sustainable patterns of development by providing appropriate leisure opportunities to enable urban and rural dwellers to enjoy the wider countryside. Community services and facilities should be supported particularly where they would benefit those rural residents who would find it difficult to use more distant service centres.

- 5.4 Emerging policies of this Council, through the LDF retain this theme and the adopted Cherwell Local Plan policy S29 remains relevant and is the principle policy consideration. This policy states that 'Proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted'. The supporting text to the policy, however, notes that this Council recognises that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term. It is further noted from The non-statutory Cherwell Local Plan that consideration should be given as to whether the business is financially viable following genuine attempts to market the business for a reasonable length of time and at a realistic price and that there is no prospect of provision of the service continuing.

5.5 Viability Assessment

Assessment of viability is generally undertaken under 5 tests including how the business is trading at present, its trade potential, competition, sale and advice.

- 5.6 The pub became a freehouse in 1996 and was bought by a publican who then traded for 2 years and 9 months before selling on to the applicant. The applicant has now owned the pub for over 10 years and it continues to trade as a pub

predominantly wet-led with an emphasis on real ales.

- 5.7 With regard to how the business is trading at present, it is accepted that if the trend of recent years is to continue then the pub would not be generate sufficient income to keep the pub open in the longer term. Insufficient profits are being obtained to have a reasonable standard of living and to invest in the business. However, this does not mean that the pub is unviable and it is noted that the timing of the downward trend and the decision to sell coincide.
- 5.8 Turning to the trade potential, it is considered that all the indicators would lead to the conclusion that it does have a sound future. Success of the pub business does not have to rely on the captive audience of the villagers and does not have to be food led if there are other features to offer. The Whitmore Arms does have a unique offer sufficient to attract custom. It is a listed building with historic features and in a historic setting of the Conservation Area. It is in the countryside and accessible to walkers on public footpath routes through Hethe. It is close to the football pitches and is easily accessible to players. It has presence on the main road with off street parking. It has lots outside space for other activities including for families and sufficient space inside for accommodation for any future operator.
- 5.9 Evidence from this and other cases would strongly suggest that it is the landlord who can be key to the success or otherwise of a pub. The Teague report reveals that where there were once strong links to, for example, other village clubs as a means of income, these are no longer in place. Whether or not this is a deliberate act on the part of the landlord cannot be proven so must be discounted. However, what is significantly revealed by this is that these areas of possible income are out there and do exist so can be exploited.
- 5.10 It is noted that the pub does need some capital investment and that in the current economic conditions support from banks for lending is difficult. The Teague report states that lending sources are increasingly shunning pubs that have low turnovers. However, the unique selling points of the pub together with the figures revealing that it did, not so long ago, have a healthy turnover, would suggest that the position can be recovered to the benefit of the listed building.
- 5.11 Although the pub is isolated and in a small village this does not mean it can't be viable, it just makes it harder and requires a 'unique selling proposition'. It is considered that the Whitmore Arms already possesses sufficient of these and that they should be exploited. The pub was successful not so long ago and the business is not threatened by other competition. It is considered that the evidence presented by the applicant regarding the viability of the business is insufficient to suggest that this position cannot be recovered and that viability can't be achieved in the longer term.
- 5.12 Marketing Exercise
The pub was first marketed at £475,000 by a reputable national agent in November 2007 and they continuously marketed the premises until November 2008. Full descriptions were sent out to 164 potential purchasers resulting in 9 viewings but none resulted in finding a suitable purchaser for the business. In December 2009, having been advised that the price was too high, the property was remarketed at a £80,000 discount from the original asking price (approximately 17% discount). The pub was advertised on business websites, private and specialist websites. One viewing was made and they were only interested in using the premises as a private residence.

- 5.13 The agents sales particulars promoting the pub are considered sound but further examination of the actual price needs to be undertaken. It would seem that a valuation of the pub first began by a structural survey. Before purchasing the pub the applicant undertook a structural survey which offered a valuation for residential use of the whole property only. This is not considered to be a sound starting basis for a marketing exercise for a pub because it should be about the business and not about the buildings and the principle component in the valuation should be historic turnover and turnover potential.
- 5.14 The original asking price was reportedly based broadly on the selling price of the Sow and Pigs in Poundon which was a similar type of pub but nothing is known about the viability or otherwise of that pub and this is essential information. The Teague report advises that potential buyers are concerned only with actual trade and actual profit and “if a pub cannot be shown to be profitable it will fail to sell”. It is, therefore, considered that the original asking price is not based on a sound judgment. The current asking price is also, therefore, distorted particularly as it is stated that it reflects turnover, but that too is not considered to be a fair reflection on the pubs past success not so long ago.
- 5.15 The submission argues that dropping the asking price further would not reflect its true market value but on the basis that the pub ‘is only worth what someone is prepared to pay for it’ then this conclusion is not accepted. If it cannot be properly argued that the loss of the pub would not harm the interests of acknowledged importance (i.e the community, the Conservation Area etc) then its loss should be resisted. This would further assist in stabilising the market for a confident sale of the pub if it is no longer of any interest to the current owner.
- 5.16 Impact on the village community
The Whitmore Arms is the only pub in the village. In its current state it is described by the Teague report as ‘adequate’, the kitchen is ‘fit for purpose’, the bar is ‘attractive and welcoming’. There is a pub in Fringford (The Butcher’s Arms) which is approximately one mile away but the route along an unlit road and/or the public footpath across the fields makes the journey by foot or bicycle a little arduous, though possible. When considering the accessibility of alternative pubs it has been found that as a general guide there is an 800m threshold when considering how far people are prepared to walk.
- 5.17 The only other publicly available venue for villagers to meet socially would be the village hall. This facility is less central to the village than the pub but remains accessible and there would appear to be potential here to provide extended facilities if required by the villagers. However, these would always be organised events and a village hall cannot replace a venue that would allow more spontaneous gatherings.
- 5.18 Residents of Hethe have to leave the village for all their day to day needs. Education and health services are provided elsewhere and none of this is unusual in small communities of around 300 population. It would seem apparent that residents are also going elsewhere for entertainment including eating and drinking out and the pub is not supported by local people for whatever reason.
- 5.19 In policy terms a pub could be described as an essential service and its loss as an important community facility is now widely recognised as being an important material consideration. The social needs of the village could be met elsewhere with there being a pub nearby (one mile to the Butcher’s Arms) and with use of the village hall, but essentially the Butcher’s Arm is in Fringford, not Hethe and the

village hall is not a public house. It is considered that The Whitmore Arms being established, central and on the main road is a superior facility as the hub of the village and should be retained for the social needs of the villagers. The Teague report states 'There is no substitute for having a fully licensed premises available'.

5.20 Effect on the heritage assets

The property is grade II listed and it lies within the Conservation Area. These are aspects about the pub which are considered key to providing a unique pub offer so as to better promote the pub and increase its attractiveness to a wider customer base. The pub has been part of the village since the 18th century and its loss would reverse its historic importance as a social venue. Although it is argued that capital investment is required to bring the pub back to its former glory, it is essentially sound and work on it, whilst preferred is not essential to save it.

5.21 The application as presented reveals no internal or external works and any required would need listed building consent. The history of the pub is that it was most likely originally a domestic dwelling so few structural alterations are likely to be necessary. Selling the premises to a private buyer for residential use would present an opportunity to perhaps remove insensitive works and repair the structurally unsound malthouse and the need for various works would be reflected in the selling price. However, this can also be achieved by keeping it as a pub, though it is recognised that such improvements may not be financially feasible immediately.

5.22 It concluded that the effect on the listed building is unlikely to be harmful in part because of its likely historic beginnings as a residence. Conversion to a dwelling would not require intrusive works. However, with regard to the effect on the heritage asset of the Conservation Area which was established in March 1988, it is considered that this proposed development would undermine the pub's historic importance as a social venue and meeting place and it should be continued to be appropriately protected.

5.23 Conclusions

Government policy is clear in supporting the need to create sustainable communities and this policy would be undermined by the loss of this village facility. The adopted local plan seeks to retain services which serve the basic needs of the local community though it is recognised that this may not always be possible if it is proven not to be financially viable to do so in the longer term.

5.24 The findings of the Teague report, which has detailed the existing situation and what would be required for the pub to succeed as a viable and attractive business to any prospective purchaser, are not wholly accepted. The view is taken that if the business were to be run in an alternative way it could be viable. The pub has been marketed by a reputable agent over a 3 year period with no interest for its existing use though it is considered likely that the valuation may be too high.

5.25 Any alterations that would be required for its conversion to a house are anticipated not to be extensive given its likely beginnings as a domestic property in its past but the effect on the heritage asset of the Conservation Area is unacceptable as it would undermine its historic importance as a social venue and meeting place.

6. Recommendation

Refusal, on the following grounds:

- 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.**

CONTACT OFFICER: Rebecca Horley

TELEPHONE NO: 01295 221837

Planning Committee

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

7 October 2010

Report of Strategic Director Planning, Housing & Economy

PURPOSE OF REPORT

To seek the confirmation Tree Preservation Order no 16-10 with one objection relating to a Sycamore tree at the site of Turnstile House, Barford St. Michael OX15 0RF (copy plan attached as Annex 1)

This report is public

Recommendations

The Meeting is recommended:

- (1) To confirm Tree Preservation Order 16-10 at the site of Turnstile House, Barford St. Michael OX15 0RF without modification in the interest of public amenity.

Summary

Introduction

- 1.1 The District Council made an emergency TPO 30th June 2010 following a site visit to assess a section 211 (Town and Country Planning Act 1990) notification to undertake tree works to the tree which lies within the Barford St. Michael conservation area.
- 1.2 The tree is a fully mature Sycamore tree (a tree which has reached the typical shape and habit of the species and is within the last two thirds of its expected life).

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 tree is not in a prominent position within the village, however being such a large tree can still be seen from the main road through the village. It provides a contribution to the local amenity although this is limited to the rear of the surrounding properties. The tree is important as wildlife habitat providing significant wildlife and environmental benefits to the local area. One letter objecting to the TPO has been received from:

- i. Mr Johnathan M Hindle, Turnstile House, Barford St. Michael, Oxon, OX15 0RF.

13. The objections and due consideration are as follows:

- a. "The TPO has been made for the wrong reasons and is not necessary". (Mr Hindle never intended to remove the tree)

CDC Following a section 201 notification* from Mr Hindle, a TEMPO (Tree Evaluation Method for Preservation Orders) assessment was undertaken on the trees (Appendix 2) due to their stature and future potential in the wider landscape. One tree included in the application was considered worthy of a Preservation order and one was not.

* Town and country planning (Trees) regulations 1999 section 201 notifications requires that for trees situated within a conservation area, six weeks prior notice be given before work is undertaken to trees above 75mm at 1.5m above ground level.

The human rights of the objectors and others affected by the decision, i.e. Article 1 of the first protocol – right to peaceful enjoyment of possessions and Article 8 protection of the right to respect ones private and family life, home and correspondence, were taken into consideration by the amenity value checklist (TEMPO assessment) completed when the Tree Preservation Order was made. To confirm the Order does not place a disproportionate burden on the owner, who retains the right to make applications for works to the tree.

Conclusion

- 2.1 All the issue raised by the objector has been addressed through normal, proper procedure and the decision to place a tree preservation order on the tree was made without bias or malice, based purely on the trees merits. Therefore it is recommended that the Committee confirm Tree Preservation Order 16-10 without modification.

Background Information

- 3.1 Statutory powers are provided through :
- ii. Section 198 Town and Country Planning Act 1990.
 - iii. Town and Country Planning (Trees) Regulations 1999
- 3.2 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.
- 3.3 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

- 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

Deddington

Document Information

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



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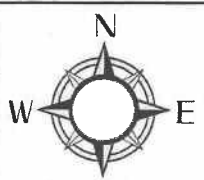
CDC 17958



**Tree Preservation Order No 16/2010
The Old Turnstile OX15 0RQ**

Page 82

Scale	1:2500
Date	14/07/2010



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The scale shown is approximate and should not be used for accurate measurement.

Surveyor: Mark Harrison Date: 30/04/10 Species: Poplar

Location: Karcher (UK) Ltd. Beaumont Road

TPO Ref (if applicable): _____ Tree/Group No: _____ Owner (if known): Karcher (UK) Ltd.

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 <i>The tree has no obvious irremediable defects.</i>	
<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		
Sub Total			5

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 <i>Tree has the potential to continue to provide landscape value for 40 yrs +. It is a reasonable distance from the permanent buildings and any branches eventually touching the adjacent building can be addressed without damaging the tree. Roots which are probably from this tree are encroaching on the car park and lifting the concrete surface. (Downgraded to 10-20 yrs because of roots)</i>	
<input type="checkbox"/>	4) 40-100 Very suitable		
<input type="checkbox"/>	2) 20-40 Suitable		
<input checked="" type="checkbox"/>	1) 10-20 Just suitable		
<input type="checkbox"/>	0) <10* Unsuitable		
Sub Total			1

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 <i>Tree is visible from A423 and is likely to increase in size and therefore become more visible.</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		
Sub Total			4

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		
Sub Total			1

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

<input type="checkbox"/>	5) Immediate threat to tree	Notes <i>Conservation area notification for the removal of the tree to allow for car park re surfacing.</i>	
<input checked="" type="checkbox"/>	3) Foreseeable threat to tree		
<input type="checkbox"/>	2) Perceived threat to tree		
<input type="checkbox"/>	1) Precautionary only		
Sub Total			3

1.1 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 **14**

Decision: **Warrants TPO**

(1)

Comments

Highly visible tree, although a life expectancy of 10 - 20 yrs has been allotted, over 40 yrs life expectancy could be achieved if a suitable method of surfacing the adjacent car park can be found.

Agenda Item 12

Planning Committee

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

7 October 2010

Report of Strategic Director Planning, Housing & Economy

PURPOSE OF REPORT

To seek the confirmation Tree Preservation Order no 17-10 with one objection relating to a Sycamore tree at the site of Hill House, Workhouse Lane, Bloxham, OX15 4PH (copy plan attached as Annex 1)

This report is public

Recommendations

The meeting is recommended

- (1) To confirm Tree Preservation Order 17-10 at the site of Hill House, Workhouse Lane, Bloxham, OX15 4PH without modification in the interest of public amenity.

Summary

Introduction

- 1.1 The District Council made an emergency TPO 30th June 2010 following a site visit to assess a section 211 (Town and Country Planning Act 1990) notification to undertake tree works to the tree which lies within the Bloxham conservation area.
- 1.2 The tree is a Sycamore tree in the early stages of maturity (a tree which has reached the typical shape and habit of the species and is within the first/second third of its expected life).

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.

It is in a prominent position, being situated as it is, on an incline visible from the High Street, Bloxham 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. Mr Andrew R. Dixey, Hill House, Workhouse Lane, Bloxham OX15 4PH.

1.3 The objections and due consideration are as follows:

- a. The tree “is self seeded and has grown from a relatively small and manageable tree” over the last 20 years.

CDC The suitability for the installation of Tree Preservation Orders is assessed on the relation and contribution of the tree to the local surroundings regardless of whether deliberately planted or self seeded.

The term manageable is wide ranging and may relate to a variety of issues arising from the tree. These issues may vary from shade and leaf fall, which are not normally considered valid reasons for pruning protected trees, to the danger it poses to health, safety and damage to property in addition to its general health.

It is accepted that management requirements will increase in relation to its influence on the immediate surroundings as a tree increases in size.

The presence of a TPO does not prevent management. Necessary works can still be carried out and simply requires an application to the local planning authority. If the works are reasonable and necessary consent will be granted. If there are concerns about the safety of the tree then the TPO makes allowance for this under exemptions to the TPO (section 5)

- b. “The tree is growing on an unstable bank”

CDC It has long been established that tree roots increase the stability of slopes by forming a framework by which soils are held together.

- c. The tree “trunk is close to the perimeter stone wall of the property which we have had to repair because of root damage”

CDC It is noted that due to the proximity of the tree to the adjacent wall that a risk of damage to the wall is present as the tree increases in size. This is generally considered minor damage and engineering solutions can generally be found e.g. bridging roots to allow for an increase in girth without displacing the stones

or bricks in the wall.

- d. “The canopy overhangs the power lines and we have suffered branch fall in the past during high winds”

CDC It is not clear from the objection how large the branch which fell was or whether any damage was caused. There is no evidence on the tree to suggest any large branches have been lost and therefore I assume that the branch referred to was relatively small.

It is normal for trees to contain an amount of dead wood. This can be removed without affecting the overall visual amenity of the tree and means they are dealt with in a controlled manner. Please refer to the consideration given to point a.

- e. The objector disagrees with the view of the Arboricultural Officer in Part 1 section a of the TEMPO assessment undertaken on the tree. (TEMPO guidance notes have been included as appendix 3 for the committee)

CDC Although the assessment is the opinion of the Arboricultural officer and differing views could be argued, The assessment of the suitability of the tree has been carried in the spirit of the guidance assessing the tree on its merits.

The human rights of the objectors and others affected by the decision, i.e. Article 1 of the first protocol – right to peaceful enjoyment of possessions and Article 8 protection of the right to respect ones private and family life, home and correspondence, were taken into consideration by the amenity value checklist (TEMPO assessment) completed when the Tree Preservation Order was made. To confirm the Order does not place a disproportionate burden on the owner, who retains the right to make applications for works to the tree.

Conclusion

- 2.1 All the issues raised by the objector can be addressed through the normal application process. Therefore it is recommended that the Committee confirm Tree Preservation Order 17-10 without modification.

Background Information

- 3.1 Statutory powers are provided through :
 - ii. Section 198 Town and Country Planning Act 1990.

iii. Town and Country Planning (Trees) Regulations 1999

- 3.2 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 Team Leader – Development Control and Major Developments to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to believe that the tree in question is under imminent threat and that its retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.
- 3.3 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

- 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

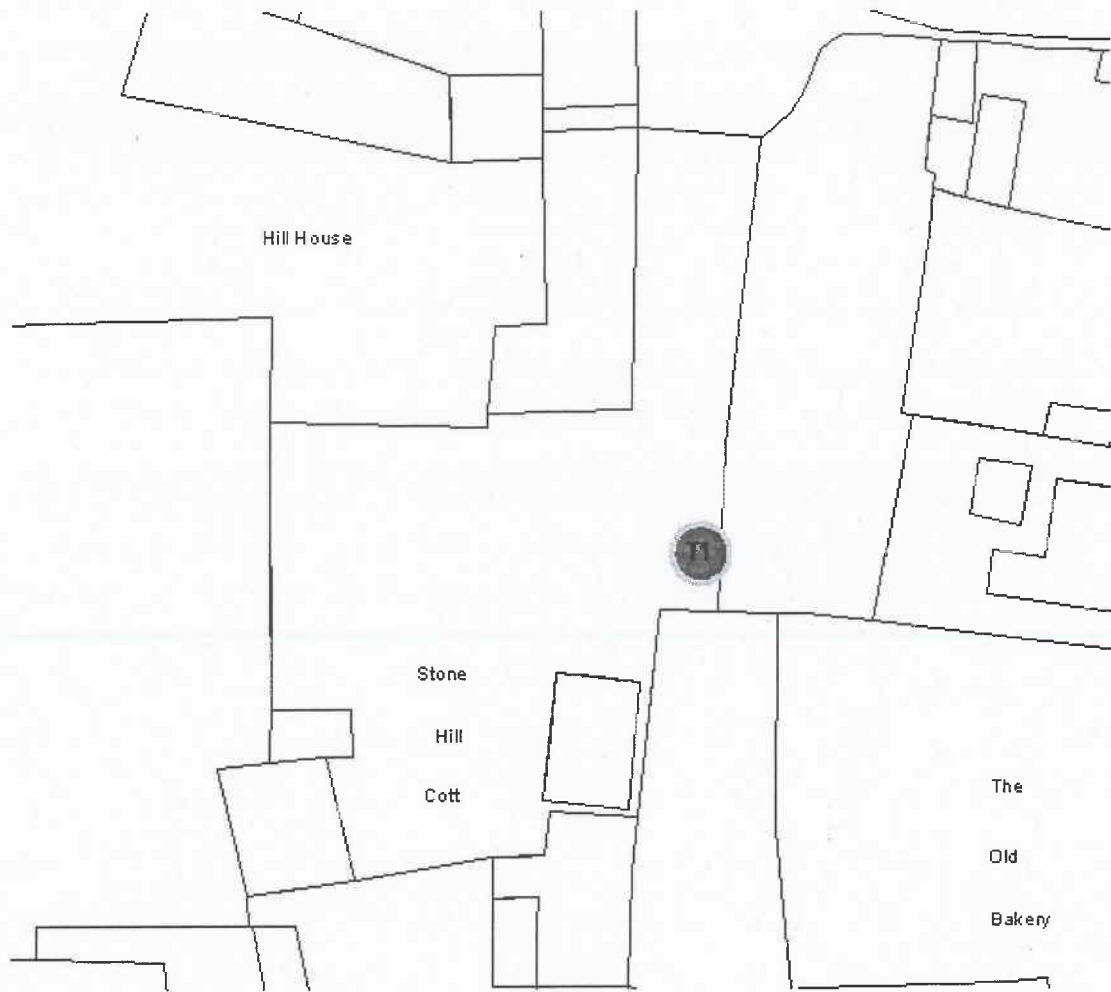
Wards Affected

Bloxham and Bodiocote

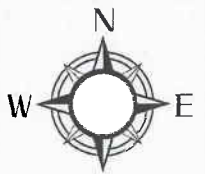
Document Information

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

17/2010



3518102
3374111
COC 17948
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Surveyor: Mark Harrison Date: 30/04/10 Species: Poplar

Location: Karcher (UK) Ltd. Beaumont Road

TPO Ref (if applicable): _____ Tree/Group No: _____ Owner (if known): Karcher (UK) Ltd.

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 <i>The tree has no obvious irremediable defects.</i>	
<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		
Sub Total			5

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 <i>Tree has the potential to continue to provide landscape value for 40 yrs +. It is a reasonable distance from the permanent buildings and any branches eventually touching the adjacent building can be addressed without damaging the tree. Roots which are probably from this tree are encroaching on the car park and lifting the concrete surface. (Downgraded to 10-20 yrs because of roots)</i>	
<input type="checkbox"/>	4) 40-100 Very suitable		
<input type="checkbox"/>	2) 20-40 Suitable		
<input checked="" type="checkbox"/>	1) 10-20 Just suitable		
<input type="checkbox"/>	0) <10* Unsuitable		
Sub Total			1

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 <i>Tree is visible from A423 and is likely to increase in size and therefore become more visible.</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		
Sub Total			4

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		
Sub Total			1

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

<input type="checkbox"/>	5) Immediate threat to tree	Notes <i>Conservation area notification for the removal of the tree to allow for car park re surfacing.</i>	
<input checked="" type="checkbox"/>	3) Foreseeable threat to tree		
<input type="checkbox"/>	2) Perceived threat to tree		
<input type="checkbox"/>	1) Precautionary only		
Sub Total			3

1.1 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 **14**

Decision: **Warrants TPO**

(1)

Comments

Highly visible tree, although a life expectancy of 10 - 20 yrs has been allotted, over 40 yrs life expectancy could be achieved if a suitable method of surfacing the adjacent car park can be found.

Agenda Item 13

Planning Committee

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

7 October 2010

Report of Strategic Director Planning, Housing & Economy

PURPOSE OF REPORT

To seek 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 (copy plan attached as Annex 1) Tree Preservation Order No. (18/2010)

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 by the Strategic Director Planning, Housing and Economy and made on 27 August 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.

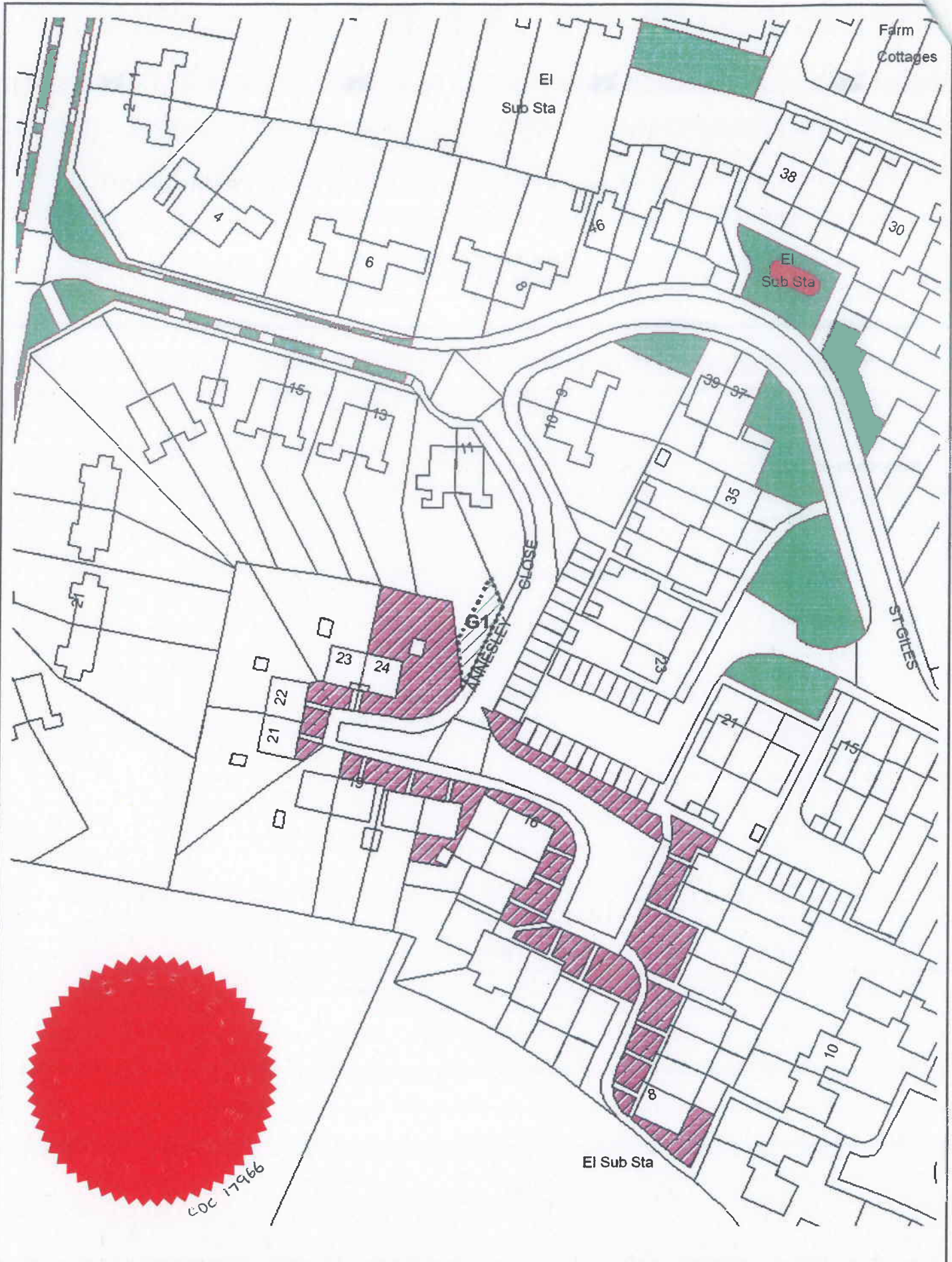
Comments checked by Rosemary Watts, Risk Management & Insurance Officer 01295 221566

Wards Affected

Kirtlington

Document Information

Appendix No	Title
Appendix 1	Plan
Background Papers	
Report Author	Michael Sands
Contact Information	01295 221554 michael.sands@Cherwell-dc.gov.uk



**Tree Preservation Order No 18/2010
Land rear of 11 & 12 Valencia Close,
Bletchington**

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Scale	1:1000
Date	24/08/2010

The scale shown is approximate and should not be used for accurate measurement.



Planning Committee

Quarterly Enforcement Report

7 October 2010

Report of Strategic Director Planning, Housing and Economy

PURPOSE OF REPORT

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

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept this report.

Details

Background

- 1.1 The last quarterly report was given to this Committee on 20 May 2010, and this report continues the regular reporting on enforcement matters in this format which commenced in October 2008.

The Current Situation

- 2.1 Appendix One provides a comprehensive history of those cases which have progressed to formal action of one type or another. I am pleased to be able to report that the continued effort to close down some of the older cases is being successful, albeit that some inevitably continue to appear. This is due to the complexity of the legislation and the availability of challenges/delaying tactics for the potential recipient of enforcement action.

- 2.2 It should be noted that a number of cases have been successfully closed since the May report, and are indicated as not appearing on future reports.
- 2.3 You will recall that in May I reported that the enforcement investigation team had been reduced in strength through retirement . As part of the Councils medium term financial strategy the post has not been filled. The level of complaints to be investigated has not reduced and therefore it has been necessary to prioritise our investigation of complaints. I anticipated that there may therefore be an increase in the time to provide a response to complaints. The case management system introduced as part of the planning improvement plan has however enabled the enforcement team to maintain an overview of the complaints and ensure that they are effectively dealt with. This has been aided by the increased support provided by the planning housing and economy admin support team in the initial research and recording of all enforcement enquiries.
- 2.4 Members will be aware that the end of Appendix One is dominated by those related to former RAF Upper Heyford. Enforcement notices have now been withdrawn that related to uses which were granted permission on appeal. Other notices relate to buildings in the settlement area that the appeal proposed demolition of and other buildings on the flying field that in the appeal proposals were shown as a nil use or a different use but are in use. To resolve these cases further planning applications will need to be submitted and discussions are on going with Dorchester with regard to this.
- 2.5 Appendix Two provides the basic statistics related to this service

Implications

- Financial:** It is anticipated that the cost of taking enforcement action can be met within existing budgets. The cost implications with regards to action at Heyford Park will be addressed in a future report.
Comments checked by Eric Meadows, Service Accountant 01295 221556
- Legal:** There are no additional legal implications arising for the Council from this report.
Comments checked by Pam Wilkinson, Principal Solicitor 01295 221688
- Risk Management:** Where it is relevant to do so the risk of taking formal enforcement action is that costs could be awarded

against the Council in any appeal that precedes to an inquiry or hearing if this action is subsequently considered to have been unreasonable. The risk of not taking effective an timely action is that a complaint could be made by a complainant to the Local Enforcement Ombudsman.

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

Wards Affected

All

Document Information

Appendix No	Title
Appendix One Appendix Two	Enforcement and Prosecution Quarterly Report Case and Closure Statistics
Background Papers	
None	
Report Author	Bob Duxbury, Development Control Team Leader
Contact Information	01295 221821 bob.duxbury@Cherwell-dc.gov.uk

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
PROS 27/03 4.09.03 PROS 13/06 15.06.06	Hanwell Fields Banbury	Breach of Sec 106 agreement relating to LAPS & LEAPS and laying out of informal open space	Court order 04.09.08	Various dates in 2009	N/A	N/A	N/A	CDC actively pursuing the transfer of the remaining sports pitches and parks Legal department have sent a letter to Taylor Wimpey
ENF 38/04 25.11.04 ENF 21/05 13.10.05	OS 2000 Land NE of Rectory Close, Wendlebury	(i) Summerhouse jetties and decking, (ii) Bridge	Notices served 18.05.05 8.12.05	29.09.05	(i) 04/02713/F (ii) 05/01603/F	Dismissed 05.02.07	05.10.07	Successful prosecution in the Magistrates Court. Notice has been complied with. This item will not appear next time
ENF 2/06 16.02.06 09/00686/ PCN	Bodicote Post Office 43-45 Molyneux Drive Bodicote	Non-compliance with approved plans 04/01317/F Works not completed by 1 November 2009	Enforcement Notice served 24.01.07 29.11.09	07.09.07	09/00315/F			15.05.09 undertaking made to the court by Mr & Mrs Ayres who also agreed to pay £250.00 towards the Council's costs Works proceeding but unlikely to be completed by the compliance date. PCN served - extension given until 4.01.10 to respond – Application submitted 10/00267/F and approved subject to condition to comply by the end of August 2010. Report to be taken to November committee meeting

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 14/07 Delegated	Corner Farm Oakley Road Horton-cum-Studley	Use of land as builders yard, lighting columns, building as a builders office and store	Enforcement Notice served 28.06.07	09.02.08 & 09.06.08		Dismissed 05.08.08	05.08.09 and 05.03.10	Offices still occupied, Fennels to re-locate within the site, letter expected.
ENF 9/08 10.04.08	Plot 2 adj. to Oxford Canal, Appletree Lane, Cropredy	Mixed use of land – part agricultural land, part storage and domestic paraphernalia						Owner has been willing to tidy site and restore all land back to agriculture. Legal have written to the owners to request the removal of remaining offending items. Owner claims offending items should be in plot 1 and will be amending the plot plan appropriately. Verbal update to be given
ENF 13/08 09/00705/ ECO 10.04.08	Plot 6 adj. to Oxford Canal, Appletree Lane, Cropredy	Excavation of the land to create a sunken vehicle storage area	5.01.10	16.05.10		Appeal received 16/02/2010 Inquiry Tues 5 August 2010		Wording of enforcement notice corrected. Appeal allowed, Notice Quashed. This item will not appear next time
ENF 14/08 10.04.08	Plot 7 adj to Oxford Canal, Appletree Lane Cropredy	Garden use associated with the mooring of a narrow boat on adj canal						Site reviewed by Officers. Evidence reveals use and development have intensified within the last ten years. Legal have invited a retrospective planning application before enforcement action is pursued. Legal unable to trace the owner. Verbal update to be given

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
PROS 15/08 10.04.08	Wabag Aynho Road Adderbury	Failure to comply with S 106 relating to remedial works On public open space			02/02002/F			Owner of the open space to be pursued for compliance with S 106
ENF LB 18/08 26.06.08	Greystones Middle Street Islip	Removal of stonessfield slates and insertion of velux window in north elevation	Listed building Enforcement Notice served 03.11.08	15.09.09	04/00035/F 04/00036/LB	Appeal dismissed 7.08.09	7 August 2012	Hearing 16.06.09. Wording of the notice varied, compliance period extended, appeals dismissed 7 August 2009
ENF 19/08 Delegated	22 Milton Street Banbury	Dormer window	Enforcement Notice served 10.09.08	05.05.09	Revised application 08/01600/F refused 22.08.08. 09/00764/F refused 10.08.09	Appeal Dismissed Appeal dismissed 21.12.09	11.11.09	Successful prosecution in the Magistrates court 2 July 2010. Fined £200.00 and ordered to pay the Council's costs of £1950.00
08/00604/ BCON	Lince Lane Copse	Breach of conditions 02/02064/F						Letter to be sent to the occupiers requesting a timetable for compliance with conditions regarding footpath and car park-

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
09/00286/ ECOU	OS Parcel 8000 adjacent to the street from Wigginton to Hook Norton Wigginton	Change of use from agriculture to B1 light industrial use			08/00365/F			Following meeting with officers planning application and clue applications to be submitted. Other unauthorised buildings are being removed.- Planning application to be submitted. To be followed up by Officers
09/00288/ EBCON	Building and land south of Manor Farm and west of Priory Cottage adjoining Mollington Road Claydon	The building is not being used for agricultural purposes in breach of condition 4 of 05/01829/F			05/01829/F			Site visit carried out, It appears that a residential use is taking place. Clue submitted and being determined. Requisitions served relating to enforcement action.
09/00572 EUNDEV	Land at Patrick Haugh/Harris Road, Upper Arccott	containers	04/02/2010	18/06/2010	Appeal received 15.03.10	In progress		Appeal decision awaited
09/00579/ EUNDEV	Land adjacent to 24 Spindleside Bicester	Metal shed	22.02.2010	5 May 2010				Shed has been removed. This item will not appear next time

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
09/00674/ PCN	ON263435 Land NE of Fenny Compton Road, Claydon	Suspected change of use of land from agriculture to mixed use , amenity plot / business	17.11.09					PCN returned. Enforcement action to be pursued – Meeting held with British Waterways solicitors. BWB seeking legal opinion and will liaise with CDC
09/00675/ PCN	ON 265598 Land NW of Boddington Road, Claydon	Suspected change of use of land from agriculture to storage						PCN returned. Planning permission granted elsewhere for storage. Monitoring ongoing- Meeting held with British Waterways solicitors. BWB seeking legal opinion and will liaise with CDC
09/00/ PCN	ON 267012 Land North of Boddington Road, Claydon	Use of land as an amenity plot						Requisitions returned. Meeting held with British Waterways solicitors. BWB seeking legal opinion and will liaise with CDC
09/00 PCN	ON 279333 Land North of Boddington Road Claydon	Use of land as an amenity plot						Requisitions sent, not returned. Meeting held with British Waterways solicitors. BWB seeking legal opinion and will liaise with CDC

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
09/00689/ EUNDEV	Dogwood Public House Kidlington	Childrens play equipment	Notice served 4.12.09	13.02.10	08/01783/F			Equipment removed. Notice complied with This item will not appear next time.
09/ 00 EUNDEV	Bicester Sweepers Glebe Farm Fringford	Unauthorised use of barn						Clue refused, appeal to be lodged. Further Clue approved. This item will not appear next time.
09/00710/ PCN 10/00008/ ECOU	OS parcel 3349 & 4668, NW of A361 Williamscot	Breaches of planning control – change of use to residential	8.12.09 Notice served 2.02.10	 16.09.10				
10/	286-304 Broughton Road (Claypits Close) Banbury	Breach of S106 LAP	Injunction to be served		05/00173/OUT			26.08.10 Letter received from Linden Homes giving undertaking to CDC regarding the provision of LAP
10/00208/ ECOU	Grange Farm Chesterton	Change of use of land to provide a site for a mobile home						Instructions sent to legal Requisitions served Notice being drafted

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
10/00209/ ELISTED	Heyford House 13 Church Lane Lower Heyford	Works to the roof of the building			08/02013/F 08/02015/LB 09/00693/F 09/00694/LB			Instructions sent to legal Requisitions served
10/00218/ ELISTED	Sundial Cottage Shutford	UPVC windows						Instructions to legal Requisitions served. Owner has applied to English Heritage to have the property de-listed. If that is unsuccessful agent has stated that windows will be removed. English Heritage have rejected the de-listing and an application for timber windows will be submitted within the next 3 weeks.
10/00263/ ECOU	Heathfield Nursing Home Heathfield	Travellers camp						
10/00264/ ELISTED	11 Daisy Hill Duns Tew	Conservatory						Instructions to legal 29 July 2010 Meeting to be held on site Application to be submitted within the next 2 weeks
10/00265/ ELISTED	8 Horse Fair Banbury	Removal of cill and erection of decking						Instructions to legal 28 July 2010 Requisitions served
10/00266/ PROS	20 Horse Fair Banbury	Unauthorised signs						Instructions to legal 2 August 2010 Valid application to be submitted by 13 September or court action will proceed. 2 applications 10/01378/LB and 10/01377/ADV have been registered.

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
10/00268/ ELISTED	Neithrop House Warwick Road Banbury	Satellite dishes						Instructions to legal 2 August 2010 Requisitions served
10/00309/ ECOU	Land north of Tythe Farm Shutford Road North Newington	Unauthorised storage of items on land						Instructions to legal 6 September 2010 Application submitted 10/01375/F
10/00329/ EBCON	Villiers Park House School Lane Middleton Stoney	Breach of condition no. 9 of 08/00816/F Reconstructed stone wall to be demolished and rebuilt in natural stone			06/01979/F 08/00816/F			Instructions sent to legal 20/09/2010

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
Heyford Park Appeals					Main Appeal - 08/00716/OUT for new settlement of 1075 dwellings, together with assoc works and facilities including employment uses, community uses, school playing fields and other physical and social infrastructure. Related CA consent appeals.			Planning Inquiry took place between 30 September and 24 October. 2008. Inspector to prepare report for the Secretary of State regarding the main appeal and related conservation area consent appeals. Inspector's report completed and is with the Secretary of State. Planning permission granted 11 January 2010 A decision now needs to be made on the process to determine the outstanding enforcement appeals at Heyford Park.
ENF 2/07 Delegated	Building 3209	Commercial storage in breach of 05/01969/F	Notice served 23.01.07	6.03.07		Appeal dismissed 1.11.07	01.11.08	Full compliance expected by mid January 2009 after which time a criminal investigation will be undertaken. Partially complied
ENF 30/07 Delegated	Building 345	Use for storage, processing and distribution of timber and timber products	Notice served 14.12.07	25.01.09		Appeal received		Use ceased, permission allowed on appeal. Notice withdrawn. This item will not appear next time

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 31/07 Delegated	Northern Bomb Stores	Storage and distribution of fireworks	Notice served 14.12.07	25.01.09		Appeal received		Buildings not in use, but allowed on appeal. Notice withdrawn. This item will not appear next time
ENF 32/07 Delegated	Southern Bomb Stores	Storage of fireworks	Notice served 14.12.07	25.01.09		Appeal received		
ENF 33/07 Delegated	Building 325	Use of building and hardstanding for storage, refurbishment of cranes and access equipment	Notice served 14.01.08	18.02.09		Appeal received		Use ceased, allowed on appeal, external storage controlled by new planning permission. Notice withdrawn. This item will not appear next time
ENF 35/07 Delegated	Building 320	Use for storage and distribution of timber and timber products	Notice served 11.01.08	15.02.09		Appeal received		Use ceased, planning permission allowed on appeal. Notice withdrawn. This item will not appear next time
ENF 36/07 Delegated	Buildings 88 and 381	Continued use as storage and assembly of environmental control equip	Notice served 22.01.08	4.03.09		Appeal received		
ENF 37/07 Delegated	Building 442	Continued use as a training facility	Notice served 6.02.08	14.03.09		Appeal received		

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 7/08 Delegated	Building 41	Change of use to temporary residential class C3 accommodation	Notice served 16.05.08	20.06.09		Appeal received		
ENF 16/08 Delegated	Building 293	Change of Use to light industry (screen printers)	Notice served 22.07.08	29.08.09		Appeal received		
ENF 17/08 Delegated	Building 221	Change of Use of part of building for timber machining, fabrication, woodworking and admin office by Darks Ids Ltd	Notice served 11.09.08	15.10.09		Appeal received		Allowed on appeal, external storage controlled by new permission Notice withdrawn. This item will not appear next time
ENF 21/08 17.07.08	Land and buildings	Change of Use of land and buildings by Paragon in breach of 07/01260/F	Notice served 3.09.08	6.10.09		Appeal received		
ENF 22/08 17.07.08	Buildings	Change of use of buildings by Paragon in breach of 07/01259/F	Notice served 3.09.08	6.10.09		Appeal received		

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 23/08 17.07.08	6 lamp posts	Use by Paragon in breach of 07/01262/F	Notice served 10.09.08	11.10.09		Appeal received		
ENF 24/08 17.07.08	2 lamp posts	Use by Paragon in breach of 07/01264/F	Notice served 9.09.08	10.10.09		Appeal received		
ENF 25/08 17.07.08	Building 2002	Change of use in breach of 07/01268/F	Notice served 2.09.08	3.10.09		Appeal received		
ENF 26/08 17.07.08	Building 3205	Change of use of building in breach of 07/01265/F	Notice served 2.09.08	3.10.09		Appeal received		Allowed on appeal Notice withdrawn. This item will not appear next time
ENF 27/08 17.07.08	Trench and concrete	Change of use in breach of 07/01266/F	Notice served 2.09.08	3.10.09		Appeal received		
ENF 28/08 17.07.08	3 Hardened aircraft shelters	Change of use in breach of 07/01267/F	Notice served 2.09.08	3.10.09		Appeal received		
ENF 29/08 17.07.08	Liquid petroleum gas tanks and air intake duct	Use by Paragon in breach of 07/01263/F	Notice served 8.12.08	19.01.10		Appeal received		

Enforcement and Prosecution Quarterly Report – 7 October 2010

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 30/08 Delegated	Building 103	Use of building by Kingsground narrow boats	Notice served 14.11.08	22.12.09		Appeal received		
ENF 32/08 Delegated	Building 3053	Change of use to B8 storage by NOC	9.10.08	14.11.09		Appeal received		
ENF 33/08 Delegated	Building 3031	Change of Use of bldg to storage of vehicles assoc to management and operation of press and marketing vehicles by Parkers	Notice served 19.01.09	2.03.10		Appeal Received 2.03.09		Allowed on appeal Notice withdrawn. This item will not appear next time
ENF 34/08 Delegated	Building 221	Change of Use to management and operation of press and marketing vehicles by Parkers	Notice served 10.10.08	17.11.09		Appeal received		Allowed on appeal, external storage controlled by new permission Notice withdrawn. This item will not appear next time

Appendix 2

EXPLANATION OF REASONS FOR CASE CLOSURE

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

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

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

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

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

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

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

Note:

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

STATISTICAL ANALYSIS OF CASES

Cases Registered From

01.04.09 to 31.03.10 = 629

01.04.10 to 22.09.10 = 222

Cases Closed Between

01.04.09 to 31.03.10 = 596

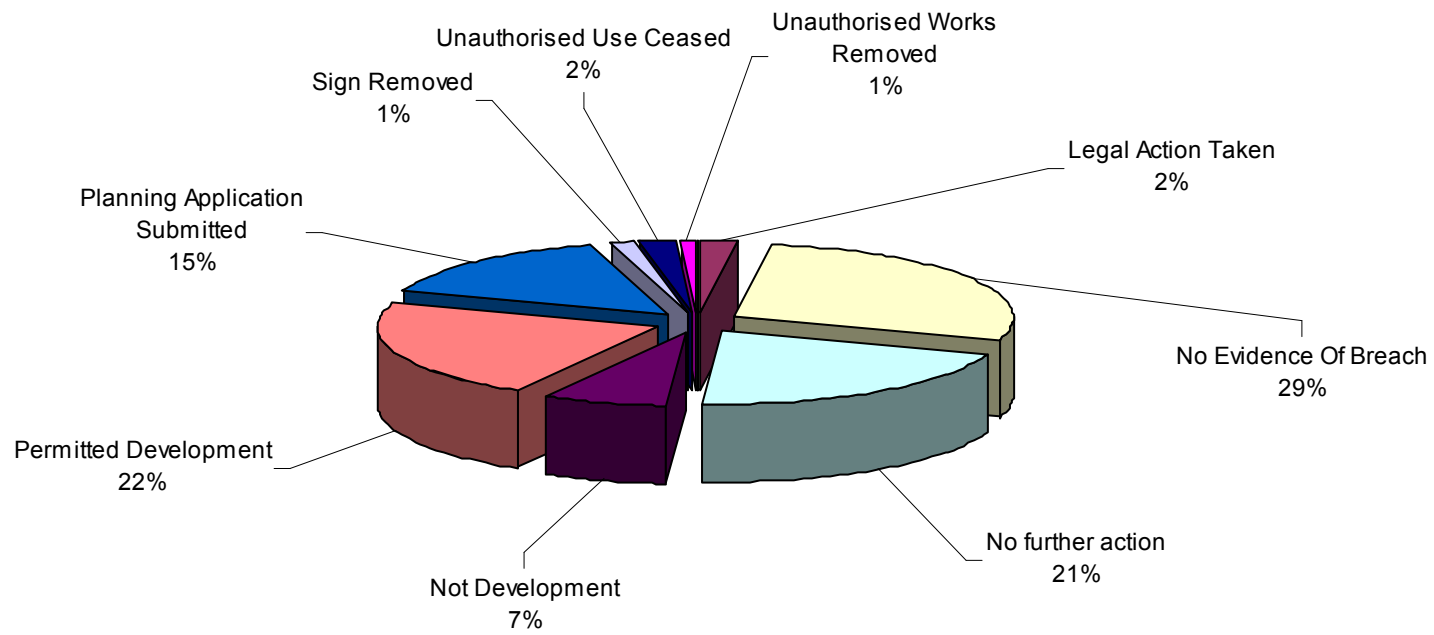
01.04.10 to 22.09.10 = 138

Cases Ongoing Between

01.04.09 to 31.03.10 = 23

01.04.10 to 22.09.10 = 83

Planning Enforcement Cases - Number of cases closed by reason
Dates between 01/04/2010 to 22/09/2010



Planning Committee

Decisions Subject to Various Requirements – Progress Report

7 October 2010

Report of Strategic Director Planning, Housing and 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 meeting held 19.8.10. 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 10/00385/F Land adj. Publishing House, Telford Rd. Bicester
Subject to legal agreement concerning off-site transportation contribution. Agreement completed – permission issued
- 1.5 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.
- 1.6 10/00644/F Former Dashwood School, Marlborough Place, Banbury
Subject to legal agreement re off-site infrastructure contributions
- 1.7 10/00765/F Land SW Wickes, Launton Rd. Bicester
Subject to legal agreement re public art and off-site highway infrastructure
- 1.8 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
- 1.9 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
- 1.10 10/00967/OUT Oak Farm, Milcombe
Subject to legal agreement concerning affordable housing and on-site/off-site contributions

1.11 10/00981/F

Yarnton House, Rutten Lane, Yarnton

Subject to supplemental agreement linking application to original approval

Implications

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

Comments checked by Eric Meadows, Service Accountant 01295 221556

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

Comments checked by 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 bob.duxbury@Cherwell-dc.gov.uk

Agenda Item 16

Planning Committee

Appeals Progress Report

7 October 2010

Report of Strategic Director Planning, Housing and 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) To accept the position statement.

Details

New Appeals

- 1.1 **09/01505/F- Manor Farm, Canal Road, Thrupp**- appeal by Roger Marshall, Worton Farm Ltd against the refusal of planning permission for the removal of condition 9 of 97/01944/F to allow continued use of the barn/garages by local enterprises and uses not necessarily incidental to the use of Manor Farm – Written Reps

Forthcoming Public Inquiries and Hearings between 7 October 2010 and 4 November 2010

- 2.1 **Hearing starting at 10.00am on Thursday 14 October 2010**, Sor Meeting Room, Bodicote House, Bodicote to consider the appeal by

Mr A Lavin against the refusal of planning application 08/01343/F for the erection of new build bedrooms 11-60 incl (previously approved 06/00568/F) at The Oxfordshire Inn, Heathfield, Bletchingdon.

Results

3.1 **None**

Implications

Financial: The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.

Comments checked by Eric Meadows, Service Accountant 01295 221552

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