

Committee: Planning Committee
Date: Thursday 2 December 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 4 November 2010.

6. Revocation of the Regional Spatial Strategy (Pages 10 - 16)

Report of Head of Planning Policy and Economic Development

Summary

To inform members of the High Court ruling on 10 November which overturned the Secretary of State's revocation of Regional Strategies earlier this year and to consider the consequences of this.

Recommendation

That Members of the Planning Committee note the report and the implications of the re-establishment of Regional Spatial Strategies with regard to determining planning applications.

Planning Applications

- | | | |
|-----|--|---------------------|
| 7. | Land off Bicester Road A43, Gosford, (Pages 19 - 33) | 10/01346/F |
| 8. | Land South West of Bicester adjoining Oxford Road and Middleton Stoney Road, Bicester (Pages 34 - 43) | 10/01381/OUT |
| 9. | 4 Church Lane, Hornton (Pages 44 - 48) | 10/01470/F |
| 10. | 4 Church Lane, Hornton (Pages 49 - 52) | 10/01471/LB |
| 11. | 226 Chatsworth Drive, Banbury (Pages 53 - 57) | 10/01541/F |

Other Reports

12. **Variation of Obligation which Limits Internal Area of the Property to 950 square feet and Removes Permitted Development Rights at 5 Fiveacres, Murcott** (Pages 58 - 63)

Report of Strategic Director Planning, Housing and Economy

Summary

To seek the discharge of S106 planning obligations relating to 5 Fiveacres, Murcott so that the internal area of the property is not restricted and the property benefits from permitted development rights.

Recommendations

The Planning Committee is recommended to:

- (1) Allow the discharge of S106 planning obligations as set out.

Review and Monitoring Reports

13. **Decisions Subject to Various Requirements** (Pages 64 - 66)

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 is recommended to:

- (1) Accept the position statement.

14. **Appeals Progress Report** (Pages 67 - 69)

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 24 November 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 4 November 2010 at 4.00 pm

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

Councillor Ken Atack
Councillor Colin Clarke
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 Trevor Stevens
Councillor Lawrie Stratford

Substitute Members: Councillor David Hughes (In place of Councillor Maurice Billington)

Apologies for absence: Councillor Maurice Billington
Councillor Chris Smithson

Officers: John Hoad, Strategic Director - Planning, Housing and Economy
Jenny Barker, Major Developments Team Leader
Andrew Lewis, Senior Planning Officer
Ross Chambers, Solicitor
Michael Sands, Trainee Democratic and Scrutiny Officer

87 **Declarations of Interest**

Members declared interest with regard to the following agenda items:

9. 175A Warwick 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.

10. 29 Red House Road, Bodicote, Banbury.

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

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

88 **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.

89 **Urgent Business**

There was no urgent business.

90 **Minutes**

The Minutes of the meeting held on 7 October 2010 were agreed as a correct record and signed by the Chairman.

91 **Former USAF Housing South of Camp Road Upper Heyford**

The Committee considered a report for the permanent change of use of 253 existing military dwellings for residential class C3 use.

The Committee considered the need to ensure suitable transport arrangements were put in place for the proposed development. Members also considered the need for a primary school on site and the issue of unadopted roads.

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

Resolved

That application 10/00640/F be approved subject to:

- (i) the conditions set out below and
- (ii) the applicant entering into a section 106 agreement with the District and County Council as outlined in the officers report and written update.

Conditions:

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

- (2) None of the dwellings that form part of this permission shall be occupied under the terms of this permission until the two bungalows 5 and 7 Portal Drive South have been demolished. Written notice shall be given to the Council seven days in advance of their demolition
- (3) Neither 5 nor 7 Portal Drive South shall be demolished until a scheme has been submitted to and approved by the Local Planning Authority for the laying out of a new circular access route around the estate and a legally binding contract for the carrying out of the works is made and evidence of the contract has been produced to and agreed in writing by the Local Planning Authority, or in the absence of such a contract an alternative confirmation of commencement of the development has been submitted to and agreed in writing by the Local Planning Authority.
- (4) That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.
- (5) That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.
- (6) The existing open space and play areas shall be retained, maintained and made available to the public at all reasonable hours.

OS Parcel 2678 Adj A34 by Hampton Gay and Poyle Hampton

The Committee considered a report for the change of use of land for British Romani gypsy families; 8 mobile homes, 8 touring caravans for nomadic use only and 8 utility day rooms.

The Committee considered the impact the proposed development may have on the green belt and the proximity of the site to the A34 road. Members also expressed concern regarding the lack of amenities for the site.

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

Resolved

That application 10/00839/F be refused for the following reason:

The site lies within an area of open countryside designated as green belt where there is a presumption against inappropriate development and where approval will not be given, except in very special circumstances, for development. In this case the Local Planning Authority do not consider there are very special circumstances which outweigh the presumption against inappropriate development and it is considered the proposal will adversely affect this attractive, open, rural landscape by introducing obtrusive and incongruous development including mobile homes, caravans, outbuildings, hardstandings, an improved access and new road and general domestic paraphernalia which will cause harm to the openness and character of the landscape and the green belt. This would be contrary to Policies GB1 of the adopted Cherwell Local Plan and GB1 of the Non-Statutory Cherwell Local Plan 2011 as well as advice set out in PPG2-Green Belts

93 **Land South of Bernard Close, Berkeley Homes Site, Cassington Road, Yarnton**

The Committee considered a report for the erection of an extra care home.

Members were satisfied with the evidence presented.

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

Resolved

That application 10/01302/F be approved subject to:

- a) The Local Highway Authority agreement that the parking provision is sufficient
 - b) The completion of a S106 agreement to secure the delivery of affordable housing with a cascade mechanism to secure up to 30% based on the viability of the scheme and availability of grant funding
 - c) the completion of an agreement or receipt of a unilateral undertaking to secure the remaining necessary contributions
 - d) the following conditions
- (1) SC 1.4A Full Permission: Duration Limit (3 years) (RC2)

- (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
 - Drawing no. PL10 Rev B – Site Location Plan, Proposed Site/Roof Plan
 - Drawing no. PL11 Rev A – Proposed Floor Plans
 - Drawing no. PL12 – Proposed Elevations (Context)
 - Drawing no. PL13 Rev A – Proposed Elevations sheet 1 of 3
 - Drawing no. PL14 – Proposed Elevations sheet 2 of 3
 - Drawing no. PL15 – Proposed Elevations sheet 3 of 3
- (3) SC 2.2AA Samples of walling materials (RC4A) 'brick, stone and render' 'extra care building'
- (4) SC 2.2BB Samples of roofing materials (RC4A) 'slate/tiles' 'extra care building'
- (5) SC 3.0A Submit Landscaping Scheme (RC10A)
- (6) SC 3.1A Carry out landscaping scheme (RC10A)
- (7) SC 5.5AB Submit Design Details (RC4A) 'windows and doors'
- (8) SC5.9AB Archaeological Watching Brief (RC28AA)
- (9) Prior to the first occupation of the extra care building the vision splays for the development shall be provided and shall not be obstructed by any object, structure, planting or other material. (RC13BB)
- (10) The development shall be carried out in accordance with the details of the submitted Travel Plan dated August 2010. (RC66A)
- (11) SC 4.13CD Parking and Maneuvering Area Retained. (RC13BB)
- (12) SC 4.14CC Cycle Parking (RC66A)
- (13) That the rated level of noise emitted from any externally located plant or equipment shall not exceed the background sound pressure level by more than 5dB when measured in accordance with British Standard BS 4142:1997 nearby dwellings. (RC53AB)
- (14) That service vehicles shall not arrive at or depart from site before 08:00 hours or after 18:00 hours on any day. (Emergency services and other related emergency organizations being exempt). (RC49A)
- (15) Any vegetation to be cleared that is likely to support breeding birds shall be undertaken outside of the breeding bird season (March to August inclusive). (RC86A)

- (16) Any trees proposed for felling as part of the scheme hereby approved must be checked for use by bats by a suitably qualified ecologist prior to felling and their advice must be followed. (RC85A)
- (17) Development shall be carried out in accordance with the approved surface water drainage scheme.
- (18) Prior to the commencement of development a scheme for the provision and management of a buffer zone alongside the water course on the frontage of the site shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The scheme shall include:
 - Plans showing the extent and layout of the buffer zone
 - Details of the planting scheme (for example native species)
 - Details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term.
- (19) Development in accordance with the waste water disposal details previous approved. Reason: Although we are not aware of any capacity issues for sewerage infrastructure this condition is needed to ensure that increased flows into the system are accounted for before the development commences to protect the environment.
- (20) SC 9.6A Fire hydrants (RC87A)
- (21) SC 3.7AA Boundary Enclosure Details (RC12AA)
- (22) That the building shall be used solely for the purpose of extra care accommodation as set out in the submission.
- (23) That the extra care units be occupied only by residents of 65 years of age and over. For reasons of highway safety.

94

175A Warwick Road, Banbury

The Committee considered a report for the conversion of roof space above the existing first floor flat to a studio flat – which was a re-submission of application 10/00475/F.

Members were satisfied with the evidence presented.

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

Resolved

That application 10/01371/F be approved subject to the following conditions:

- 1) SC 1_4A (Time for implementation)

- 2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the plans and documents submitted with the application.
- 3) SC 2_9AA insert "proposed first and second floor side facing windows" and "South-East" (Obscurely glazed windows to comply with Policy C30)

95 **29 Red House Road, Bodicote, Banbury**

The Committee considered a report for the erection of a fence to the northern boundary of the front garden.

Members were satisfied with the evidence presented.

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

Resolved

That application 10/01409/F be approved subject to the following conditions:

- (1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.
- (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and following plans:
 - Plan 1 Site Location Plan
 - Plan 2 Block Plan
- (3) The fence shall be painted forest green to match the colour of the existing fence panels to the south.

96 **Discharging of S106 Agreement - Dingers Cottage, The Dickredge, Steeple Aston**

The Committee considered a report which sought to discharge the Section 106 Agreement in order that the original cottage and the residential accommodation/annex development can be used separately and independently rather than be restricted to family use.

Members were satisfied with the evidence presented.

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

Resolved

That the Section 106 Agreement relating to Dingers Cottage be discharged.

97 **Tree Preservation Order (No.12/2010) Two Ash Trees at 5 Fletcher Close, Yarnton**

The Committee considered a report of the Strategic Director Planning, Housing and Economy which sought the confirmation of an unopposed Tree Preservation Order relating to two ash trees at 5 Fletcher Close, Yarnton.

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

Resolved

That Tree Preservation Order No. 12/2010 be confirmed without modification.

98 **Tree Preservation Order (No.13/2010) Sycamore tree at The Old Dairy, Charlton on Otmoor**

The Committee considered a report of the Strategic Director Planning, Housing and Economy which sought the confirmation of an opposed Tree Preservation Order relating to a sycamore tree at The Old Dairy, Charlton on Otmoor.

Resolved

That Tree Preservation Order No.13/2010 be confirmed without modification.

99 **Tree Preservation Order (No.20/2010) Sycamore trees at Beam Ends, Hook Norton**

The Committee considered a report of the Strategic Director Planning, Housing and Economy which sought the confirmation of an opposed Tree Preservation Order relating to a sycamore tree at Beam Ends, Hook Norton

Resolved

That Tree Preservation Order No.20/2010 be confirmed without modification.

100 **Decisions Subject to Various Requirements**

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

Resolved

That the position statement be accepted.

101 **Appeals Progress Report**

The Committee considered a report of 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 6.35 pm

Chairman:

Date:

Agenda Item 6

Planning Committee

Revocation of the Regional Spatial Strategy

2 December 2010

Report of Head of Planning Policy and Economic Development

PURPOSE OF REPORT

To inform members of the High Court ruling on 10 November which overturned the Secretary of State's revocation of Regional Strategies earlier this year and to consider the consequences of this.

This report is public

Recommendation

That members of the Planning Committee note the report and the implications of the re-establishment of Regional Spatial Strategies with regard to determining planning applications.

Introduction

Members will recall that in on 6th July, the Secretary of State, Eric Pickles MP, formally revoked existing Regional Strategies (including the South East Plan) under powers available to him under s79(6) of the Local Democracy Economic Development and Construction Act 2009. At the same time, the Secretary of State provided some guidance for Local Authorities which sought to provide clarification on the impact of the revocation and how Local Planning Authorities should continue to bring forward their Local Development Frameworks and determine planning applications.

The decision by the Secretary of State to revoke Regional Spatial Strategies has since been challenged through the courts by house builder Cala Homes. On 10th November, it was announced that this legal challenge had been successful in the High Court. The consequence of this is that the decision by the Secretary of State in July has been overruled, and therefore Regional Spatial Strategies (including the South East Plan) are re-established as part of the development plan. Regional and sub-regional policies, including those on housing, employment, transport, the environment and minerals and waste, are reinstated.

The purpose of this report is to consider the consequences of this latest decision, particularly in relation to housing land supply.

Two reports on the revocation of Regional Strategies were brought before this Committee at its meeting on 15th July. The matter was of immediate concern to this Council in view of the fact that, at the time, the Council did not have a five year supply of land for housing (as required by Planning Policy Statement 3) and was in the process of considering planning applications for residential development in that context. Under the South East Plan, the district's calculation of the 5 year supply was based on an overall housing requirement of 13,400 homes from 2006 to 2026.

The question the Planning Committee was asking at that time was whether, in the absence of the figures in the South East Plan, (1) what was the proper basis for considering the total number of homes that the district should be planning for, and therefore (2) what constituted a five year housing land supply?

The conclusions to the advice that I gave you on that occasion were as follows:-

"In summary, members are 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 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."

This advice has informed the recommendations made by officers to planning applications since that time and, in the absence of a justified, alternative figure, officers have continued to apply the 13,400 as a working housing figure until such time that there is an evidence based figure arrived at through the Core Strategy process. The Council (on 19 July) has instructed officers to progress the Core Strategy on the basis of meeting the local proposed draft South East Plan requirement of 11,800 and this is being tested along with other options.

Background Information

Cala Homes challenged the Secretary of State's revocation made under powers set out in section 79 (6) of the Local Democracy, Economic Development and Construction Act 2009, on two grounds; firstly, that the Secretary of State acted outside his statutory powers in circumventing the need for Parliamentary scrutiny of such a fundamental change to the planning regime, and secondly that under European law the environmental effects of removing the strategies have to be considered.

The case was heard in October and the Judge's ruling announced on 10th November.

The Government sent a letter to all local planning authorities in response to this decision on the same day, and this is referred to below.

Key Issues for Consideration

A number of questions follow from this decision. These are:-

- What response has the Government given to this ruling?
- What impact does this ruling have upon decisions which this Council now makes on planning applications?
- What is likely to happen next?

These are now considered in turn.

- 1) What response has the Government given to this ruling?

The Government has made it very clear that the High Court ruling does not, in any way, deflect it from its announced intention to ultimately abolish Regional Spatial Strategies. Commenting on the announcement, Communities minister Bob Neill MP said:

"This judgement changes very little. Later this month we will be introducing the Localism Bill to Parliament, which will sweep away the controversial regional strategies. The Government remains firmly resolved to scrap this layer of confusing red tape. Instead, we will work with local communities to build more homes. This was a commitment made in the Coalition Agreement and in the general election manifestoes of both coalition parties. We intend to deliver on it."

- 2) What impact does this ruling have upon decisions which this Council now makes on planning applications?

The main impact of this decision is that, because the South East Plan still forms part of development plan, the Council should still have regard to all its policies, where material, in determining planning applications.

As well as housing policies, this includes policies on employment, transport, the environment and minerals and waste. After 6th July, the Council stopped citing any policies in the South East Plan in its Planning Committee reports and in decisions on planning applications. As of 10th November, it must, for the time being, start to do so again. This will be reflected in other reports on this agenda as appropriate.

A key matter, however, is over how we consider issues around housing numbers. With the re-establishment of the South East Plan, the housing target for Cherwell District (13,400 homes between 2006 and 2026) becomes – again – part of the development plan and therefore the formal basis on which we calculate our five year housing land supply until such time that Regional Strategies are abolished or replaced as a result of changes to the planning system expected to be delivered through the forthcoming Localism Bill.

In practice, this should make no difference to our decision making process. I set out in the introduction to this report the summary advice which officers gave to this Committee in July. This strongly advised the Committee to continue to using the figures in the South East Plan for the time being. This advice has provided the policy basis for subsequent decisions on planning applications. Because we have taken this position, there is therefore no requirement to change that advice to you now, except of course to make clear that the housing figures in the South East Plan now have statutory weight (again) as part of the development plan and therefore, contrary to what is stated in the second (above quoted) paragraph of my July advice, there is a set housing target within the district against which to calculate whether we have a five years supply.

Members may be aware that appeals have been lodged against some of the planning applications that it refused over the summer period. These are for:-

- 65 homes on land south of Milton Road, Adderbury (10/00270/OUT) and
- 63 dwellings on land next to The Green, Chesterton (10/00547/OUT).

Had the Council, in determining these applications, sought to apply a different overall housing land requirement from that in the South East Plan, these appeals would need to be considered vulnerable in the light of the re-establishment of the South East Plan. Because the council did not do this, our position now in these appeals is more robust.

The Planning Inspectorate has published advice for its inspectors on the impact of the Cala Homes judgement. This reinforces the key message that, until further announcement, and/or legislation to formally repeal or revoke RS is implemented, the Cala decision means that the Regional Strategy is part of the development plan on an ongoing basis. This will be used, as appropriate, by the council in handling appeals.

In making it clear that the South East Plan is re-established, the Committee should still, however, be aware of the view of the Government expressed in a letter sent to all local authorities immediately following the announcement. This stated (amongst other matters):-

The effect of this decision is to re-establish Regional Strategies as part of the development plan. However the Secretary of State wrote to Local Planning Authorities and to the Planning Inspectorate on 27 May 2010 informing them of the Government's intention to abolish Regional Strategies in the Localism Bill and that he expected them to have regard to this as a material consideration in planning decisions.

*.....The Bill is expected to begin its passage through Parliament before Christmas, and will return decision-making powers in housing and planning to local authorities. **Local Planning Authorities and the Planning Inspectorate should still have regard to the letter of the 27 May 2010 in any decisions they are currently taking.** (my emphasis).*

In making appropriate recommendations to this Committee, officers will have regard to this advice.

A final point to make on this matter is in relation to the five year housing supply itself. In the summer, as stated above, the Council did not have a five year housing land supply. This had originally been reported in the Annual Monitoring Report in November 2009.

The Annual Monitoring Report is updated annually and the latest update was presented to Executive on 1st November. This reported that the district had returned to a 5 year housing land supply and that there is not now a housing supply reason to consider favourably applications for 10 or more dwellings on sites not included within the district's supply of deliverable sites.

3) What is likely to happen next?

As stated above, the Government's intention is that the Localism Bill will abolish the statutory basis upon which Regional Spatial Strategies are prepared. At the time of writing this report, the Localism Bill had not been published, however we understand that it will be laid before Parliament before the end of November.

This Council is continuing to prepare its Core Strategy and as we do so, we will be considering a locally housing target which responds to the Motion agreed by Council in July 2010. It is likely that we will have undertaken this work, and prepared a revised development strategy for the district, before the localism bill is given Royal Assent.

In the event that the Council has agreed a development strategy before the bill is enacted, consideration will need to be given to the weight that can be attached to this strategy at that time. We will advise members again, having regard to the fact that it is likely that the South East Plan will still in place as part of the development plan.

In summary:-

1. Notwithstanding the re-establishment of Regional Strategies by the High Court ruling, it is highly probable that Regional Strategies are likely eventually to be formally abolished when the Localism bill is passed.
2. For the meantime, the Council should still have regard to policies in the South East Plan in determining planning applications and in calculating the basis upon which any five year supply of housing land is calculated. In particular, the advice I gave Planning Committee in July that it should be cautious about considering the refusal of any planning application on the basis of a housing target which is lower than that set out in the South East Plan still holds true.
3. We are also advised by Government to have regard to the Secretary of State's intention to return decision making powers to local planning authorities through the localism bill.
4. In the event that the Council has agreed a proposed alternative level of housing growth before the South East Plan is finally revoked or abolished, officers will advise you as to the weight to attach to this alternative strategy at that time.

Implications

Financial:

Whilst this announcement creates a period of increased uncertainty for the planning service, it is not anticipated that this will have any financial impact on the Council.

Comments checked by Joanne Kaye, Service Accountant 01295 221545

Legal:

The Localism bill, when enacted, may introduce significant changes for the Council's plan making function. Until this time, the Council will need to give full statutory weight to the policies of the South East Plan and carefully consider the weight that should be given to other planning advice coming from Government.

Comments checked by Nigel Bell, Solicitor 01295 221687

Risk Management: Careful consideration of the legal implications above should ensure no risk to the reputation of the Council.

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

Wards Affected

All

Document Information

Background Papers

- Letter from Secretary of State to Chief Planning Officers - 27 May 2010
- Letter from Secretary of State to Chief Planning Officers - 6 July 2010
- Report to the Planning Committee on 15th July 2010: Letter from the Secretary of State for Communities and Local Government (27 May 2010) on the Abolition of Regional Strategies: Implications of the for 5 Year Housing Supply and Current Planning Applications
- Report to the Planning Committee on 15th July 2010: Supplementary report following the announcement on 6th July of the revocation of Regional Spatial Strategies: Implications of the for 5 Year Housing Supply and Current Planning Applications
- Advice produced by The Planning Inspectorate for use by its Inspectors – Regional Strategies – Impact of Cala Homes Litigation

Report Author	Philip Clarke – Head of Planning Policy and Economic Development
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CHERWELL DISTRICT COUNCIL

PLANNING COMMITTEE

2 December 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.

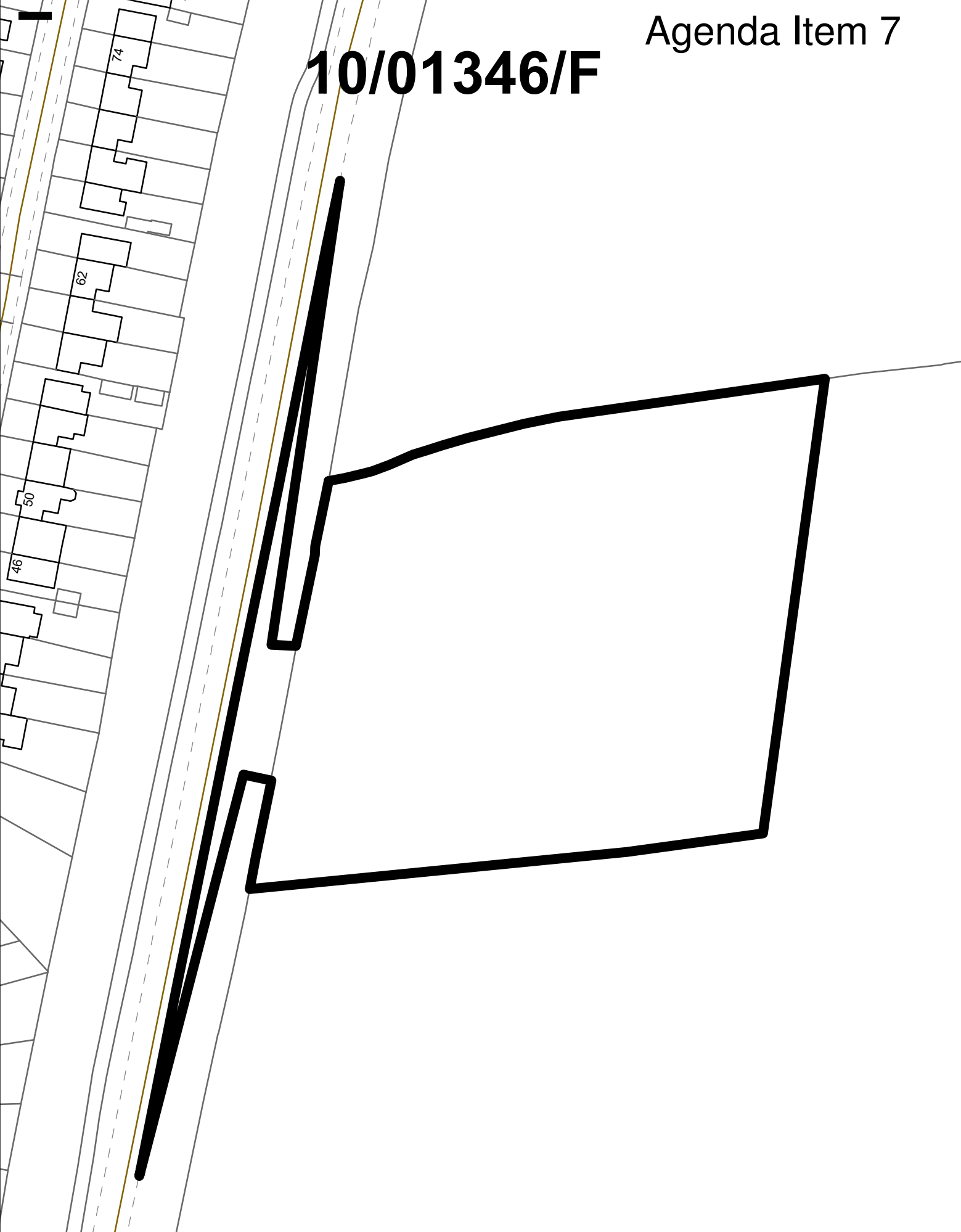
Background Papers

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
7	Land off Bicester Road A43, Gosford,	10/01346/F	Yarnton, Gosford and Water Eaton	Approval	Paul Ihringer
8	Land South West of Bicester adjoining Oxford Road and Middleton Stoney Road, Bicester	10/01381/OUT	Ambrosden and Chesterton	Approval	Linda Griffiths
9	4 Church Lane, Hornton	10/01470/F	Wroxton	Approval	Simon Dean
10	4 Church Lane, Hornton	10/01471/LB	Wroxton	Approval	Simon Dean
11	226 Chatsworth Drive, Banbury	10/01541/F	Banbury Calthorpe	Approval	Simon Dean

10/01346/F



Scale
1:1,000

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10/01346/F



Kidlington

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 10/01346/F	Ward: Yarnton, Gosford and Water Eaton	Date Valid: 02/09/10
Applicant:	Kidlington Parish Council	
Site Address:	Land off Bicester Road A43, Gosford,	

Proposal: New burial ground

1. Site Description and Proposal

- 1.1 Located within the Oxford Green Belt and beyond the built limits of Gosford and Water Eaton, the application site takes up part of a large field sandwiched between the A43 Bicester Road and Water Eaton Lane. The field, which is currently being used for grazing livestock, is known locally as Middle Field. Abutting the Bicester Road on its western edge and the tree lined boundary with another field to the north, the site, which is adjacent to the highway verge, is approximately 1.1 hectares in size and roughly rectangular in shape.
- 1.2 This proposal seeks permission to use the site as a burial ground, which would meet the needs of the local population for approximately 80 years (50 burials a year). Kidlington's current cemetery is to the immediate north and west of St. Mary's Church and has almost exhausted the available space for new interments. St Mary's Church is approximately 2km to the north of the application site.
- 1.3 Aside from the burial area itself which will be interwoven with footpaths, the cemetery will require the erection of a wooden clad maintenance building, a parking area and the formation of a new access on to the main road. A new footpath will link the site to a pedestrian crossing point.

2. Application Publicity

- 2.1 The application has been advertised by way of press notice and neighbour letter. The final date for comment was the 22nd October 2010.

Letters have been received from six of the neighbouring residence. The following issues were raised:

Material planning comments:

- Possible contamination of water sources
- Highway safety - people walking to the site would have to cross a busy road
- Insufficient parking
- No viable public transport links
- Traffic noise
- Proximity to housing
- Difficult to keep the site secure
- Absence of professional ecological advice
- Proposal lacks appropriate amenities

Non material comments:

- Other sites and options have not been fully explored
- Site selection at odds with advise from Cluttons desk top survey conducted 8 years ago
- Site selection based on affordability not suitability
- The Parish Council has already acquired the site
- Strategy for burial grounds at odds with Banbury and Bicester Town Councils
- Impact of possible further expansion
- Lack of public consultation by Kidlington Parish Council and Gosford and Water Eaton Parish Council
- Parish Councils have also failed in their duty to protect the environment and conduct their business in an open, efficient and considerate way
- Neighbour notifications for the application should have covered wider area

3. Consultations

3.1 Gosford and Water Eaton Parish Council declare an interest in the proposal - the application was prepared by the Clerk of the Council.

3.2 The Environmental Protection Officer provided the following comments:

“I have looked into this further, spoken to a concerned local resident, spoken to the Environment Agency and seen some more information relating to ground conditions on the site. After reviewing this information and information from the World Health Organisation on the impact of cemeteries on the environment and public health, this development is very unlikely to pose a risk to the human health of nearby residents, regardless of the presence of a land drain (which has not been identified in any site investigations submitted to date) in this field or not.

“My assessment of the risk to human health from previous land uses is as my response to the planning consultation i.e. does not require further assessment.

“My assessment of the risk to human health under Part 2A of the Environment Protection Act 1990 would be that this development would not represent a significant possibility of significant harm.

“I have spoken with the EA who have concluded that it is not a risk to controlled waters and that the ditch adjacent to this development isn't a controlled surface water feature as there is no underlying aquifer or surface water feature which is in connected with a river or stream. Having spoken to a resident of Water Eaton Lane, they had expressed concern regarding bacterial contamination being transported by groundwater and posing a risk to human health by being in occasional surface water flooding (following heavy rainfall) in some of the gardens and road on Water Eaton Lane.

“I have also queried the EA's 2005 advice as it seems to contradict itself by recommending a likely condition of no burials within 10 metres of a field drain and then more recently responding to the planning consultation with a low risk to controlled waters and no conditions although the site is within 10 metres of a ditch.

“I have not currently received a response from the EA but research into this matter has shown that this recommendation may have come from a World Health Organisation document (attached) on the impact of cemeteries on the environment and public health. This document includes the recommended 10 metre stand off

from a field drain following the conclusion that:

In cemeteries, human corpses may cause groundwater pollution not because of any specific toxicity they possess, but by increasing the concentrations of naturally occurring organic and inorganic substances to a level sufficient to render groundwaters unusable or unpotable. Viruses are fixed to soil particles more easily than bacteria and they are not carried into groundwaters in large numbers. Nevertheless, pathogenic organisms are largely retained at or near the soil surface. Because of these features, the risk of pollution would seem to be greatest for users of wells, which access a shallow water-bearing stratum.

“As this site is not likely to impact controlled waters i.e. groundwaters or surface waters, due to its low sensitivity (as concluded in recent EA correspondence) and it is 120 metres from the nearest garden on Water Eaton Lane (which does not draw its drinking water supply from the groundwater) this development does not represent a significant risk to human health from pathogens carried in water, regardless of the presence, or absence, of land drains within 10 metres of the development.”

- 3.3 The Environment Agency initially concluded in a short statement that the development presented a low environmental risk. Following objections from the neighbouring residents the Environment Agency conducted a thorough review of the case and provided the following comments:

“Further to our previous letter of 19 October 2010 we have reviewed the details of this planning application again following the notification of concerns from local residents that this proposal may cause pollution.

“Reference has been made to the possible presence of land drains on the site. Having reviewed the site investigations again, it is clear that five boreholes were drilled in the vicinity of the site (the wider 10 acre field) and one within the site boundary itself. This verified that there was 15cm of topsoil over at least 4 metres of clay. The British Geological Survey map of this area confirms this is Oxford Clay.

“Further soil sampling was carried out for Kidlington Parish Council in which 6 trial trenches and two trial graves were dug on site. This again confirmed the presence of clay soils and low infiltration rates. Neither of these investigations found evidence of any field drains within the site.

“A local resident has sent us a photograph of field drain taken from a neighbour’s property, but this alone does not give any direct information about the site. If there were drains on site we would have expected them to have been uncovered when trial trenches were dug.

“Water moves through Oxford Clay at extremely slow rates and inhibits the flow of contaminants related to burials making this a suitable site for this use. It is commonly used to line landfill sites for the same reason and will also be the reason the field is prone to becoming waterlogged. Therefore, it is our professional opinion that this site presents little risk of pollution from burials.”

- 3.4 Thames Water has no objections to the scheme.

- 3.5 The OCC Highways Authority provided the following comments:

“The submitted application is for the construction of a burial ground located within the Parish of Gosford & Water Eaton, off the Bicester Road. The burial ground will

be served by a new vehicle access, car parking etc. The site is located within reasonable walking distance of the built up areas of Gosford and Kidlington, which has good public transport links.

“There is an existing footway and cycle link opposite the site which runs the majority of the Bicester Road and links up with the rest of network in the surrounding area.

“Street lighting is provided along the Bicester Road.

“Accident data has been reviewed within the area, two reported accidents causing personal injury have been recorded – however these were down to driver error rather than the characteristics of the Bicester Road.

“Traffic generation – it is estimated that a burial ground will receive around 70 funeral events a year, which works out around 6 burials a month. Associated traffic movements with these events do vary i.e. around 10 – 15 vehicles per funeral. However it is my opinion such movements are not considered significant to justify a refusal on highway safety grounds when funerals generally take place outside the usual peak hours of traffic times.

“Due to the traffic expected to be generated by the proposed burial ground a right turn lane is not considered appropriate at this time.

“Access arrangements – the proposed access meets the required visibility standards of 4.5m x 120m for a 40mph speed limit. Vegetation within the required visibility splays (both ways) will require cutting back and maintained. The proposed geometry (radii) of the access will need to be a minimum of 8m rather than the 7.5m shown on the submitted plan.

“The access into the site is to be gated – such a gate is to be set back a minimum of 10m from the back-edge of the carriageway of the Bicester Road to prevent maintenance vehicles with trailers causing an obstruction (or other vehicles).

“A crossing point from the existing footway network opposite the site and a new section of footway into the site is to be provided – this has been assessed acceptable; however consideration in the design of these works must be given to partially sighted pedestrian etc.

“The crossing point, additional footway and new access works will require the applicant to enter into a S278 Agreement with Oxfordshire County Council – these works must be completed prior to the first use of the site.

“Car parking – the proposed levels of 18 spaces + overspill spaces when required is acceptable. A space for a maintenance vehicle, 2 x motorcycles is acceptable. Disabled park space being provided meets the required standard.

“I note no cycle parking is being provided; I suggest 5 Sheffield stands are to be provided for visitors to the site. Cycle parking facilities need to be sheltered and secure.

“Drainage Comments – OCC’s drainage team has the following comments:

1. Applicant is to provide detailed design for swale i.e. such as depth of soil;
2. Side slopes of swale should be 1 in 4 – amended plan required;
3. Applicant is to provide detailed design for infiltration drain – and needs to specify type of materials to be used;

4. Porous pipe in filter drain must be a minimum 150mm diameter;
5. Culvert under the access road near Bicester Road must be minimum of 450mm diameter ;
6. For further information on SUDS applicant can refer to C697 – The SUDS Manual, Author CIRIA.

** the above drainage details can be secured via planning condition being imposed for a scheme to be approved by the LPA prior to work commencing on site.*

“Taking the above into account it is my opinion that recommending a refusal on highway safety grounds would not be appropriate or sustainable at appeal.”

3.6 The Ecologist raises no objections to the proposal subject to condition

3.7 The Council’s Arboriculturalist provided the following comments:

“The open ridge and furrow site is bordered by an existing mixed blackthorn and hawthorn hedgerow containing individual maturing trees of predominantly oak, ash, maple and poplar.

“A survey has been provided by applicant but was not undertaken or presented in accordance with BS5837:2005. Therefore a significant amount of information regarding the dimensions and condition of the trees included is absent from the document.

“A section of hedgerow is proposed for removal to accommodate access from the main Bicester Road, this is acceptable and the loss of species should be mitigated in the landscaping proposal. Some basic information has been provided by the applicant regarding landscaping proposals however, more detailed information is required regarding species, quantities, planting specifications and management proposals etc.

“Generally, I no arboricultural objections to the proposed burial site providing all precautionary measures are taken to ensure the retained hedgerows and trees are adequately protected.”

3.7 The Mineral Planning Authority does not object to the application on the grounds of mineral sterilisation.

3.8 CPRE accept the principle of the development but query the need for a large tool shed near the road and likely traffic implications. CPRE would like to see conditions promoting wildlife enhancement. The perceived lack of consultation with local residents has also been queried.

3.9 County Archaeological Officer raises no objections subject to informative.

4. Relevant Planning Policies

- 4.1 PPS1: Delivering Sustainable Development
PPG2: Green Belts
PPS9: Biodiversity and Geological Conservation
PPG13: Transport
PPS23 Planning and Pollution Control
PPS25: Development and Flood Risk

- 4.2 Policies CO4, S6, T4, NRM4 and BE1 of the South East Plan 2009
- 4.3 Saved Policies GB1, ENV1, ENV12, H5, H15, C2, C4, C27 and C28 and C31 of the adopted Cherwell Local Plan

5. Appraisal

5.1 The Principle

There is no specific Government guidance or Local/Regional Plan Policy relating to the siting of new burial grounds. However, although only a material consideration, Policy R11 of the Non-Statutory Cherwell Local Plan does set out generic criteria against which all new community facilities should be considered. Aside from the usual siting and design issues, it requires that such development should be accessible to the population for which it is intended. The SDPHE has concluded that the proposed development complies with this policy as will be become apparent later on in the report.

- 5.2 The application site is located within the Oxford Green Belt and the proposal therefore has to accord with the relevant green belt policy and guidance. Cemeteries are one of the few types of development that are deemed to be appropriate in such sensitive locations and are specifically referred to in both PPG2 and Policy GB1 of the adopted Cherwell local Plan.

- 5.3 Whilst recognising this point the CPRE questioned the impact of the maintenance building on the openness of the green belt, arguing that it will be disproportionately large (footprint of approx. 26m²). A cemetery on a plot size of 1.1 hectares will however need a significant amount of equipment to be maintain the site properly (the building is not too dissimilar in size to the one used to maintain the existing cemetery). At a height of just 2.5m the building, which abuts the boundary with the road, will be largely obscured from the passing public by the existing hedging/trees and once the rest of the planting is established should not be visible from outside the site. The SDPHE is therefore satisfied that the scheme does not conflict with the aims and objectives for the Oxford Green Belt.

5.4 Site Selection

The need for additional burial space in the Kidlington area has been on the Parish Council's agenda for sometime. Indeed, specific mention was made to the future shortfall in paragraph 7.69.1 of the Non-Statutory Cherwell Local Plan 2011. The first significant step taken by the Parish Council to identify a new site was made at the end of 2002 when they approached a firm of surveyors to undertake a desk top study of potential sites in and around the village. Using seven different 'material considerations', such as proximity to residential properties, the surveyor's report identified ten possible locations. Given the limitations of some of the sites, mainly relating to the geology and conflicting nearby land uses, the Parish Council was able to reduce the number of 'possibles' to just three.

- 5.5 Aside from the application site, an area of land to the west of the existing cemetery (the preferred site at this stage) and a field off Sandy Lane were forwarded to the Environment Agency for further scrutiny. The Environment Agency discounted an extension to the existing cemetery (shallow groundwater) and raised concerns regarding the Sandy Lane option. This left the application site as the preferred option. The only negative levelled against the site during the selection procedure was the disturbance, created by traffic travelling along the nearby A34, to those attending a future burial.

- 5.6 Notwithstanding the objections of some of the neighbouring residents regarding the scope and findings of the selection procedure, the SDPHE is satisfied that there are no obvious sites omitted from the original survey and that the analysis of the options available was sufficiently rigorous. It should be noted that the Parish Council having made their decision sought the advice of other agencies, such as the Local Highways Authority and an archaeological contractor, to highlight any other potential stumbling blocks before submitting an application.
- 5.7 Contamination
The Parish Council, in contacting the Environment Agency (EA) at an early stage, recognised the importance of establishing whether there were likely to be any problems with ground and water contamination. Both the Council's Environmental Protection Officer (EPO) and the EA concluded at a very early stage in the application process, on the evidence available, that the proposed cemetery constituted a very low risk.
- 5.8 Two families who live on Water Eaton Lane disputed these findings and submitted a plethora of evidence querying the validity of the conclusions reached. Both the EA and EPO were asked to reappraise the application in the light of the evidence submitted by these local residents.
- 5.9 Following a detailed analysis of this information, both the EA and EPO confirmed their original findings. Whilst acknowledging that their advice would have altered if a drainage system had been found under the site, the EA is satisfied that as the 6 trial trenches, excavated in various locations within the site, provided no such evidence it is highly unlikely that any active drains will be found once people are interred into the ground. However, in the event that drains are found once graves start to be excavated, a condition is recommended requiring an appropriate mitigation strategy. The SDPHE therefore concludes that the development complies with Government guidance contained within PPS23.
- 5.10 Highway Safety and Access to the Site
Despite concerns raised by some local residents, the OCC Highways Officer is happy that the new access will not pose a risk to highway safety. The vision splay, once some of the vegetation is cut back, will be appropriate for a road with a 40mph speed limit. Further, as the Highways Officer observes most movements to and from site will take place outside usual peak hours of traffic and therefore poses less of a risk - it should be noted that this stretch of the Bicester Road has a good safety record.
- 5.11 Likewise, local concerns over the number of parking spaces (18 plus an overspill area) are not shared by the Highways Officer who calculates that the space provided is adequate.
- 5.12 In order to improve pedestrian access to the site, a crossing point will be constructed to the south of the vehicular access. This will provide a link to the floodlit footpath and cycle way on the opposite side of the Bicester Road. The Highway Officer concludes that the site is within walking distance of both Kidlington's and Gosford built-up areas and that it would be within easy reach of the local bus network. Although it would be difficult to argue that the cemetery would be within easy walking distance to all parts of Kidlington, the SDPHE is nonetheless satisfied that the burial ground complies with Policy R11 of the Non-Statutory Cherwell Local Plan in that it is accessible to the population for which it is intended.
- 5.13 Neighbour Amenity

As the desktop study conducted by the firm of surveyors in 2002 reasoned, most people would object to a cemetery being opened in close proximity to their home. Notwithstanding the fact that it is in an accessible location, this site benefits from the fact that it will have a limited impact on the neighbouring residents, the closest of which live on Cromwell Way a minimum of 50m away on the opposite side of Bicester Road. The closest neighbours on the cemetery side of the road will be approximately 120m from the site's boundary. The SDPHE is satisfied that the new hedging and trees proposed for the southern and eastern boundaries and the strengthening of the existing boundaries will successfully mitigate any potential loss of amenity and that the development therefore complies with Policy C31 of the adopted Cherwell Local Plan.

5.14 Ecology

PPS9: Biodiversity and Geological Conservation places a duty upon Local Planning Authorities to ensure that a protected species survey be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. PPS9 states that "It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

5.15 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, "Local Planning Authorities should consult Natural England before granting planning permission" and paragraph 99 goes onto advise that "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision."

5.16 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that "every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity" and;

5.17 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that "a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions".

5.18 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.

5.19 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

- 1) is the development needed for **public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature** (development).
- 2) Is there any **satisfactory alternative**?
- 3) Is there **adequate mitigation** being provided to maintain the favourable conservation status of the population of the species?

5.20 Therefore where planning permission is required and protected species are found to be present at the site or surrounding area, Regulation 9(5) of Conservation Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local Planning Authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council's Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.

5.21 In respect of planning applications and the Council discharging of its legal duties, case law has shown that:

- 1) if it is clear/perhaps very likely that **Natural England will not grant a licence** then the Council should refuse planning permission
- 2) if it is likely that **Natural England will grant the licence** then the Council may grant planning permission
- 3) if it is **unclear/uncertain** whether Natural England will grant a licence then the Council must refuse planning permission (Morge has clarified Woolley)

[R (Morge) v Hampshire County Council – June 2010 Court of Appeal case]
[R (Woolley) v Cheshire East Borough Council – May 2009 High Court case]

NB: Natural England will not consider a licence application until planning permission has been granted on a site, therefore if a criminal offence is likely to be committed; it is in the applicant's interest to deal with the 3 derogation tests at the planning application stage.

5.22 In this case, following the submission of additional information by the Parish Council, the Council's Ecologist has not raised an objection to the proposed scheme. She has however sought further clarification in respect of how the development will mitigate any potential affects on the local reptile population as well as requiring a strategy for dealing with badger setts should any be found once works commence.

5.23 Consequently, it is considered that art.12(1) of the EC Habitats 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. The proposal therefore accords with PPS9 and policies C2 and C4 of the Adopted Cherwell Local Plan.

5.24 Community Involvement

A number of the objectors including those most likely to be affected by the proposed burial ground are unhappy that they were not properly kept informed by either of the

Parish Councils involved in the proposal. Although it is argued by the Parish Councils that the process was open and transparent, it is nonetheless unfortunate that residents feel aggrieved about the perceived lack of consultation prior to the submission of the application. The Parish Council has since taken the time during the application process to appease some of the neighbouring residents by meeting with some of them and providing additional information and further clarification.

5.25 Conclusion

As is true with all the sites considered, the application site does not tick every box; it is further away from the church than is desirable and will be exposed to some background noise from passing traffic. However, in respect of all the other key considerations, the site is considered to comply with Government guidance contained within PPS1: Delivering Sustainable Development, PPG2: Green Belts, PPS9: Biodiversity and Geological Conservation, PPG13: Transport, PPS23 Planning and Pollution Control and PPS25: Development and Flood Risk and Policies CO4, S6, T4, NRM4 and BE1 of the South East Plan 2009 and Policies GB1, ENV1, ENV12, H5, H15, C2, C4, C27 and C28 and C31 of the adopted Cherwell Local Plan. The SDPHE is therefore satisfied that approval be recommended for the proposed burial site.

6. Recommendation

Approved, subject to the following conditions:

- 1. 1.4A - Full Permission: Duration Limit (3 years) (RC2)**
- 2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the approved plans and supporting documents received in the office on the 2nd September 2010.**

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government guidance contained with PPS: Delivering Sustainable Development and Policy BE1 of the South East Plan 2009.

- 3. That prior to commencement of work on site the proposed means of access onto the Bicester Road (A43) 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.**

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

- 4. Prior to the commencement of work on site vision splays measuring 4.5 metres x 120 metres shall be provided to each side of the access. These vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding or growing above 0.6metres as measured from carriageway level.**

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

- 5. Before the development is first used the parking and manoeuvring areas shall be provided in accordance with the submitted plan 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.

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

6. Prior to the first use of the proposed development the new footway and crossing point along the Bicester Road (A43) shall 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.

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

7. The gate hereby approved to be set back a minimum of 10m from the back-edge of the Bicester Road (A43).

Reason - In the interests of highway safety and to comply with Government advice contained in PPG13: Transport.

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

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

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

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

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

10. Should any badger setts be found before or during the implementation of this permission all work must cease and advice must be sought from a qualified ecologist. All recommendations made by the ecologist shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.

Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy C2 of the adopted Cherwell Local Plan.

11. That a method statement relating to the protection of reptiles shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The works shall be undertaken in accordance with the approved details.

Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy C2 of the adopted Cherwell Local Plan.

12. An arboricultural Method Statement and Tree Protection Plan, undertaken in accordance with section 7.0 of BS5837:2005, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The works shall be undertaken in accordance with the approved details.

Reason – To ensure the continued health of retained trees and in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

13. Should any evidence of a drainage system be found as a result of the works hereby approved or following the excavation of any of the graves, all work must cease and advice must be sought from the Local Planning Authority. A drainage scheme shall be submitted to and approved in writing by the Local Planning Authority before any further excavation on site can commence. The development shall be carried out in accordance with the details so approved.

Reason - To prevent pollution of groundwater and in order to comply with Government advice in PPS25: Development and Flood Risk, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

Planning Notes

1. The County Archaeologist has indicated that the proposal does not appear to directly affect any presently known archaeological sites. However, the County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact : County Archaeologist, Department of Leisure and Arts, Oxfordshire County Council, Central Library, Westgate, Oxford, OX1 1DJ (Telephone 01865 815749).
2. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be

necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

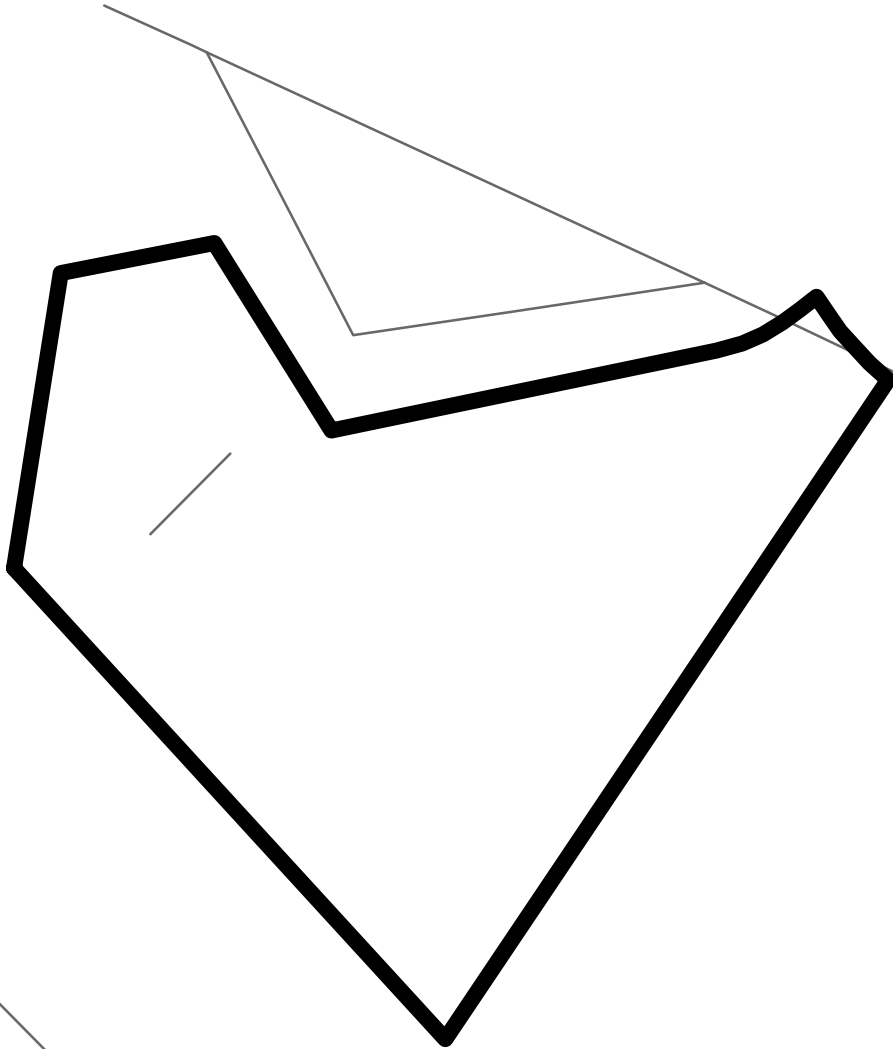
SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposed cemetery is appropriate and will not unduly impact on the neighbouring properties or compromise highway safety and public health. As such the proposal is in accordance with Government advice contained within PPS1: Delivering Sustainable Development, PPG2: Green Belts, PPS9: Biodiversity and Geological Conservation, PPG13: Transport, PPS23 Planning and Pollution Control and PPS25: Development and Flood Risk and Policies CO4, S6, T4, NRM4 and BE1 of the South East Plan 2009 and Policies GB1, ENV1, ENV12, H5, H15, C2, C4, C27 and C28 and C31 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Paul Ihringer

TELEPHONE NO: 01295 221817

10/01381/OUT



Scale
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

10/01381/OUT



Chesterton

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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 10/01381/OUT	No:	Ward: Ambrosden and Chesterton	Date 21/09/2010	Valid:
Applicant:	Countryside Properties (Bicester) Ltd			
Site Address:	Land South West of Bicester adjoining Oxford Road and Middleton Stoney Road, Bicester			

Proposal: Outline – Construction of up to 46 dwellings with associated amenity space, car parking, access roads and public open space.

1. Site Description and Proposal

- 1.1 The application site comprises 1.4ha within the wider 116ha S.W. Bicester development site which was granted consent for mixed use development including 1585 houses in 2008 under application number 06/00967/OUT. The site is roughly triangular in shape and comprises undeveloped agricultural land, although it has not been used for such purposes for some time.
- 1.2 The site is approximately 0.3km from the current southern boundary of Bicester, which is defined by Middleton Stoney Road. The village of Chesterton lies approximately 0.8km to the south west of the site. A triangular copse just to the north will be retained. The site is flat and there are no trees or any other features within the site itself. The buildings of Whitelands Farm lie immediately to the south.
- 1.3 The site will be accessed via the new internal main principle spine road. This site was originally allocated within the larger S.W. Bicester development as a reserve school site for a second primary school should it be required. This application therefore now seeks consent for the site to be developed for residential purposes and illustrative schemes submitted with the application identify that it can accommodate up to 46 units. Reserved matter applications have been approved for the initial infrastructure proposals to enable development to commence on the wider S.W. Bicester site. The drainage has been installed and the first section of the spine road is currently under construction.

2. Application Publicity

- 2.1 The application was advertised by way of site notices, a notice in the local press and neighbour notification letters. As a result of the above publicity, 1 letter of objection has been received from a resident in Tubbs Close whose concerns relate to increased pollution levels including traffic, noise, light, domestic vermin and crime and loss of panoramic views over the English countryside, and fails to understand why the already plentifully concreted land at RAF Bicester has to be preserved intact in glorification of war while the country itself and all that it symbolised has to be sacrificed to developers, in mockery of those who lost their lives in its defence.

3. Consultations

- 3.1 Chesterton Parish Council raise no objections
- 3.2 Bicester Town Council has no objections

- 3.3 Highways Authority raise no objections and considers that the Traffic Assessment as submitted which demonstrates that the expected minor increase in traffic movements is unlikely to have adverse effects upon the operation of local junctions is reasonable.
The layout should accord with the standards within the approved Design Code and a tracking plan will need to demonstrate that refuse vehicles can turn within the site. A financial contribution towards the Bicester Transport Strategy will be required, as too will a contribution towards rail upgrade.
A number of conditions are recommended should planning consent be forthcoming.
- 3.4 Thames Water advise in respect of surface water drainage that the developer must ensure that proper provision is made for drainage to ground water courses or a suitable sewer, and recommends an informative be attached advising that Thames Water will aim to provide customers regarding water pressure etc. This proposal is acceptable on the condition that this site is connected with proposals for the adjacent Whitelands Farm development. No surface water systems to be adopted by Thames Water. Any on site foul sewers required for adoption will require specific agreement with Thames Water Development Services.
- 3.5 Environment Agency has no objections, but recommends a number of conditions.
- 3.6 Oxfordshire County Council – Developer Funding seek see 106 Contributions in relation to infrastructure requirements for schools, education, Library, Day Resource Centre for the elderly, strategic waste, museum, adult learning, fire and rescue together with an administration fee.
- 3.7 Cherwell District Council – a number of internal consultees have requested Section 106 contributions for infrastructure provision Sec 106 requirements include informal open space provision, LAP provision, 30% affordable housing, i.e. 13 units and public art.
- 3.8 Cherwell District Council – Chief Engineer advises that all highway and drainage work should conform to the infrastructure master plan. Porous paving required for all roads and drawings. All sustainable drainage to be adopted by OCC. OCC should be consulted for specifications and commuted sums payable.
- 3.9 Cherwell District Council – Landscape Architect raises no objections subject to the provision of appropriate open space and play space and that the adjacent woodland and calcareous grassland are appropriately protected, and Sec 106 contributions in respect of open space and play provision.
- 3.10 Cherwell District Council –Biodiversity and Countryside Officer has requested that consideration be given to the incorporation of bird habitat into the development.
- 3.11 Cherwell District Council – Head of Planning Policy and Economic Development advises that this application site is 1.4ha of agricultural land within the site of the S.W. Bicester urban extension allocated in the Non-Statutory Cherwell Local Plan 2011 and granted outline permission (06/00967/OUT) in June 2008. The 46 dwellings would be additional to the 1585 already permitted.
Provided it has been confirmed by OCC that this second primary school site is no longer required to accommodate the permitted urban extension, there is no policy objection to the proposal in the interests of making effective and efficient use of land within a site already approved for an urban extension.
This site is also included in the District's 5 year land supply as a deliverable housing site. This in itself carries no policy weight but the loss of the site as a residential development could undermine the districts housing land supply position.

- 3.12 Cherwell District Council – Urban Design raises no objection. The site is not covered by the Design Code for the rest of the Kingsmere Development but the accompanying Design and Access Statement draws material from the approved code to explain and justify the proposals. It does so adequately and consistently. The illustrative layout adequately demonstrates that 46 units can be accommodated on the site.

4. Relevant Planning Policies

- 4.1 Policy H 13 of the Non-Statutory Cherwell Local Plan identifies this site as part of the S.W. Bicester urban extension as a mixed use development to include up to 1585 dwellings
- 4.2 Policy C28 of the Adopted Cherwell Local Plan seeks to exercise control over all new development to ensure standards of design are sympathetic to the character of its context.
Policy C30 relates to housing development and seeks to ensure that it is compatible with existing dwellings in the vicinity of the site.
Policy H5 seeks affordable housing provision on substantial new residential schemes where there is a need.
- 4.3 Policies CC1, CC4 and CC6 of the South East Plan are relevant in seeking sustainable development and high quality design.
Policy CO3 of the South East Plan promoted Bicester as a main location for housing development.
Policy NRM4 seeks the incorporation of SUDS within all new developments
- 4.4 PPS1 ‘Delivering Sustainable Development’
PPS3 ‘Housing’
PPS9 ‘Biodiversity’
PPG13 ‘Transport’

5. Appraisal

- 5.1 The main issues for consideration include, the principle of the development, the need for the reserve school site, access and traffic, ecology and landscape impact.
- 5.2 Principle of Development
As previously stated, this site was part of the original development proposed for S.W. Bicester which was granted outline planning permission in June 2008 under application number 06/00967/OUT. This particular site at that time was identified as a reserve primary school site should it be needed to serve this new urban extension. The site is therefore included within that allocated within Policy H13 of the Non-Statutory Cherwell Local Plan. The development of this site is reliant upon the wider S.W. Bicester development being progress to provide the access network and utilities.
The proposal which seeks consent for the erection of up to 46 dwellings therefore within the limits of the above urban extension is acceptable in principle and does not result in any further encroachment into the open countryside. The development of 46 dwellings results in a density of approximately 33 dwellings per hectare. This accords with the range of densities across the site and this area of the development which is most appropriately located within the Avenue Character Area of Kingsmere Development.

HDC & MD therefore considers that subject to all other material planning considerations, the proposal is acceptable in principle and accords with the principle of development as set out in the policies above.

5.3 Loss of Second Primary School Site

During the initial consideration and allocation of the S.W. Bicester site for development in the Non-Statutory Cherwell Local Plan it was indicated that there may be a need for two primary schools to be provided to serve the new development and any other shortfall within the town. The site in question was therefore included as part of the master plan as one of the sites for a primary school. However as the outline application progressed it became evident that only one primary school would be required, and this site would therefore not be needed. As the outline application had progressed so far at that time the applicants made the decision not to amend the application at that time but to continue with the determination of the application.

Having regard to the above therefore no objections have been raised relating to the loss of this site as a primary school and there will be no significant impact on the educational needs of Bicester and the alternative use, residential, is considered appropriate.

5.4 Impact on the Adjacent Woodland and Wildlife Corridor

The site is located just to the south of an existing small area of woodland which is to be retained and protected as part of the development of S.W. Bicester. The woodland in question is triangular in shape and stands in isolation from other groups of trees and hedges within the site, but will be enhanced by the provision of a green corridor and wildlife corridor from the Middleton Stoney road down through the site and to its south linking through with other green routes within the development. The development site is located to the south of this woodland and will not encroach upon the tree protection areas which have already been identified by a full arboricultural report already produced in conjunction with the S.W. Bicester development.

5.5 Landscape and Visual Impact

Whilst the proposed residential development will be visible from the surrounding area it will be seen in relation to and as part of the wider S.W. Bicester development, and will therefore be bordered to the north and east by residential properties and therefore viewed against this urban extension background.

The proposed residential development is within the building parameters set out in the Environmental Statement accompanying the 2006 outline application for the S.W. Bicester development. The development of this site for residential purposes rather than as a school site is unlikely to significantly alter the overall visual impact of the scale of the development.

The copse to the north of the site has been subject to a full arboricultural survey and a tree protection plan and copse management plan have been submitted as part of the outline Section 106 requirements. This proposal will not impact and encroach into that area.

It is considered therefore that this development will be acceptable in terms of its landscape and visual impact.

5.6 Ecology

Full ecological surveys were undertaken in connection with the outline consent including a phase 1 habitat survey, and it is accepted that the change of use of this site from a school site to residential will not affect the conclusions of that Environmental Statement. The site does not have a high ecological value being a former arable field.

Prior to submitting this application agents on behalf of the applicant revisited the application site advised that as the site had been under arable cultivation since the

last survey in 2004 and is still ploughed on a biennial basis and therefore there was little likelihood that any features of ecological interest developing with no significant boundary features within the area.

HDC & MD therefore considered that an additional ecological survey was unnecessary and that the conclusions of the Environmental Statement submitted in 2006 which found nothing of any significance on this part of the site.

5.7 Access and Traffic

As previously stated, this part of the development is reliant on the wider South West Bicester scheme being progressed to provide the access network and utilities. Work on the wider S.W. Bicester mixed use development has commenced, the drainage has been installed and works to the main spine road and roundabout entrance on to the Middleton Stoney road commenced in August 2010. These works are now well underway with completion expected by the new year.

A Traffic Assessment has been submitted as part of the application. WSP undertook a traffic assessment as part of the wider outline consented scheme in addition to the assessment made in the Environmental statement. The 2006 assessment however made no allowance for trips associated with this part of the site due to its reserved status, and therefore the trips associated with this new residential scheme must be considered as additional trips generated into the network.

The Traffic Assessment concluded that overall, compared to the traffic movement generated by the S.W. Bicester development as a whole that the additional trips generated by this development would not be significant and therefore would not alter the conclusions of the Environmental statement submitted as part of the wider outline scheme. Oxfordshire County Council as Highway Authority do not disagree with this conclusion and made no objections to the proposal subject to the imposition of a number of conditions.

5.8 Flood Risk

A Flood Risk Assessment was submitted and accepted by the Environmental Agency as part of the wider S.W. Bicester development. This part of the development is in Flood Zone 1 and not at risk of fluvial flooding. The drainage design strategy provides specific requirements to manage surface water on this development parcel and the detailed design for the main sewer has been approved by the Environment Agency and OCC who will adopt the systems. The Environment Agency have not raised any objections to the development proposed subject to the imposition of a number of conditions.

5.9 Conclusion

Having regard to the above assessment it is considered that the proposal for the erection of up to 46 residential dwellings on this reserved school site is acceptable. It will provide additional affordable housing and will help to meet the Council's housing land supply targets. The development will not cause significant harm to the visual – of the locality and will not impact significantly upon the local infrastructure. The application is therefore recommended for approval subject to the applicants entering into – see 106 Agreement relating to additional infrastructure provision as stated above and a number of conditions.

6. Recommendation

Approval, subject to;

a) **The applicants entering into a Section 106 Agreement in respect of the items specified above.**

b) **The following conditions and planning notes:-**

1. sc1.0A
2. sc1.1
3. sc1.2
4. sc2.0(A) "dwellings and garages" and "boundary walls"
5. sc2.10(A) "development"
6. sc2.15(AA) 46
7. sc3.0(A)
8. sc3.1(A)
9. sc3.7(AA)
10. sc3.10(A)

11. The development permitted by this planning permission shall only be carried out in accordance with the approved Reflection on Flood Risk document dated September 2010, and the following mitigation measures detailed within this document:

1. The surface water drainage scheme shall be designed to infiltrate or attenuate (where infiltration is not possible) surface water from storms upto and including the 1 in 10 year storm event, as detailed in Section 1.4.2 of the Reflection on Flood Risk document.
2. The design of the surface water drainage system shall be designed in accordance with the surface water strategy and catchment layout drawing 19.3/D/006 rev L, as set out in Section 1.6.1 of the reflection on Flood Risk document.
3. The surface water drainage system shall be in accordance with the Design Code dated July 2008 for the wider Kingsmere development, as detailed in Section 1.8 of the Reflection on Flood Risk document.
4. Permeable paving shall be used on all minor roads within the parcel, as detailed in Section 1.4.2 of the Reflection on Flood Risk document.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and provide environmental enhancements through the use of a suitable mix of SUDS techniques.

12. No development approved by this planning permission shall take place until a surface water drainage scheme 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.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat amenity, and ensure future maintenance of the drainage system. To prevent the potential pollution of the underlying aquifer from the use of soakaways in contaminated land.

13. If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, and amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: The geology under the site is Cornbrash Limestones (Secondary A Aquifer aquifer has the potential to be contaminated. This is in accordance with Local Plan Policy ENV7 (Development affecting water quality) adopted 1996.
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 (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 (RC13BB)
16. sc4.10AA after drained insert "SUDS".
17. That 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, surface, drained (SUDS) and completion and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times.
18. Prior to the commencement of the development hereby approved, a construction travel plan shall be submitted to and approved in writing by the local planning authority which shall also include details of wheel washing facilities (RC18AA)
19. sc4.21(aa)
20. sc9.11(A)

Planning Notes

1. I enclosed copy letter Thames Water and Environment Agency
2. Q1
3. U1
4. X1
5. In the submission of reserved matters details for approval it is expected that the new scheme will follow closely the details identified in the Design and Access Statement which has been based on the Design Code produced for the S.W Bicester development.
6. Consideration should be given to the provision of bird and bat nesting provision within the development in the interests of improving biodiversity within the site.

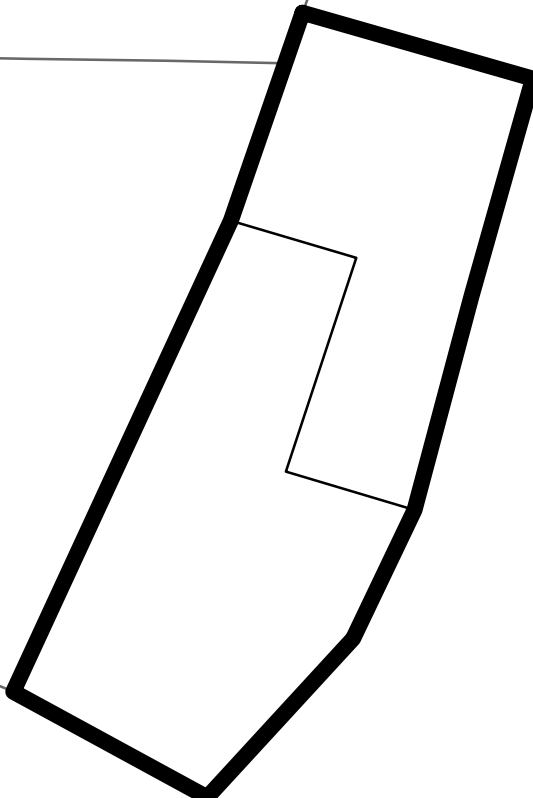
Summary of Reasons for the Grant of Planning Permission and Relevant Development Plan Policies

Does not cause demonstrable harm to the character of the local landscape, residential amenity and highway safety and will be seen in conjunction with the wider S.W Bicester development. As such the proposal is in accordance with Policies CC1, CC4 and CC6, C03 and NRM4 of SE Plan, and Policy C28 and C30 of adopted Cherwell Local Plan.

CONTACT OFFICER: Linda Griffiths

TELEPHONE NO: 01295 227998

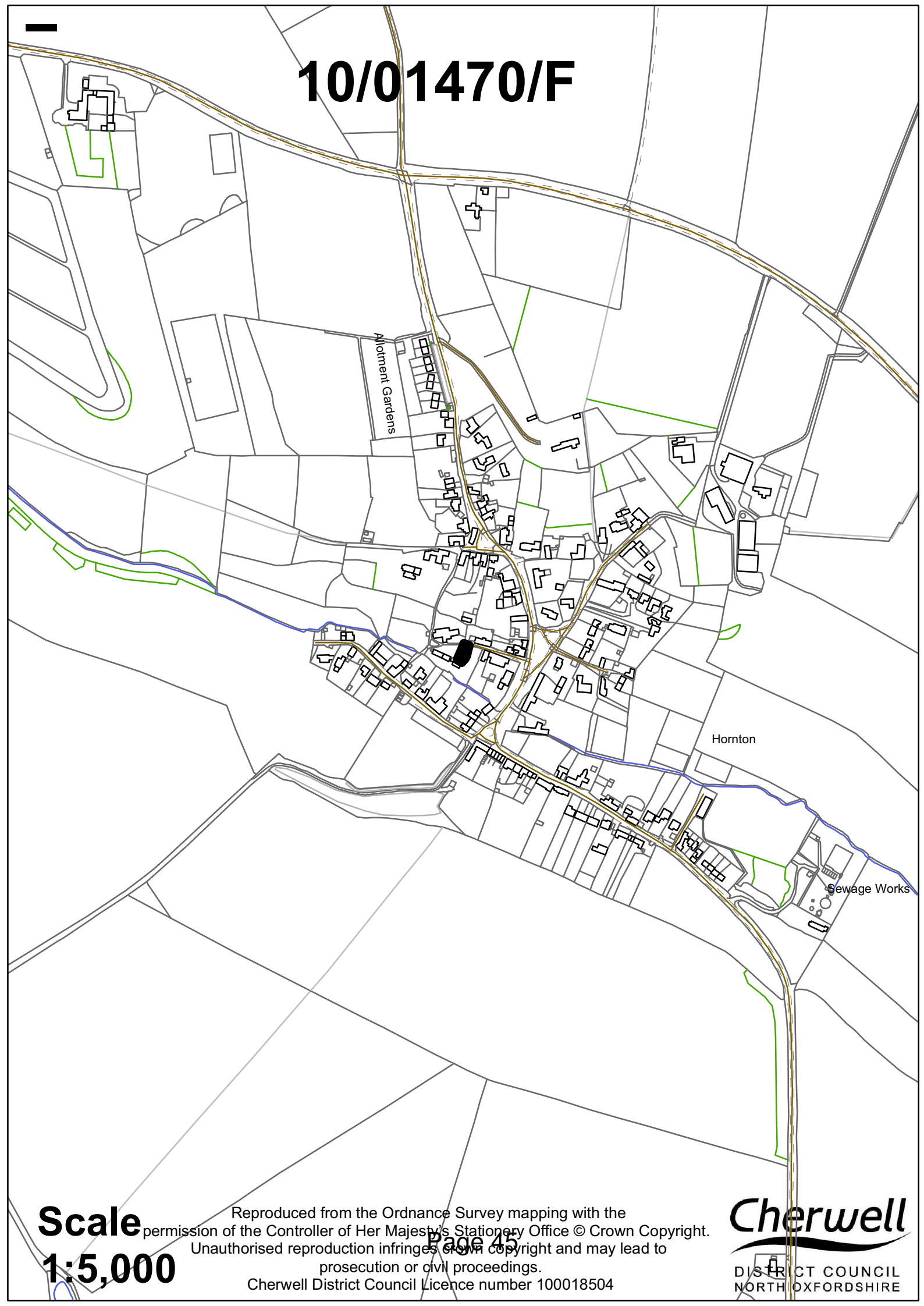
Church



Scale
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10/01470/F



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NORTH OXFORDSHIRE

Application 10/01470/F	No:	Ward: Wroxton	Date Valid: 21/10/10
Applicant:	Mr George Gilkes		
Site Address:	4 Church Lane, Hornton		

Proposal: Close boarded boundary fence 2 metres high and shed (part retrospective). Raise chimney stack to 1.8m

1. Site Description and Proposal

- 1.1 The application site is a small, thatched, detached, Grade II listed cottage within the Hornton Conservation Area. The site is immediately adjacent to the Grade I listed St John the Baptist Church.
- 1.2 The proposal is for the erection of a 2m close boarded timber fence along the boundary of this property with the Churchyard, and along the corner of the boundary of this site with the neighbouring driveway. The scheme also includes the erection of a block built, timber clad shed, with a mono-pitch roof in the rear garden, adjacent to the boundary. The alteration to the chimney stack (an increase in height of one course of bricks) is to allow the installation of a wood-burning stove (the subject of a separate application) in compliance with the relevant Building Regulations for thatched roofs.
- 1.3 The application is placed before the Committee for determination as the applicant is a member of staff.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice, site notice and neighbour letters. The final date for comments was 25th October 2010. Any comments received between the writing of the report and the Committee meeting will be reported at the meeting.
- 2.2 Two letters of support for the application have been received.

3. Consultations

- 3.1 Hornton Parish Council – no objections
- 3.2 Conservation Officer – no objections
- 3.3 Ecology Officer – no objections

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
PPS1 – Delivering Sustainable Development
PPS5 – Planning for the Historic Environment

- 4.2 Regional Policy in the South East Plan 2009:
CC1 – Sustainable Development
BE6 – Management of the Historic Environment

- 4.3 Local Policy in the Adopted Cherwell Local Plan 1996:
Policy C13 – Areas of High Landscape Value
Policy C28 – Layout, design and external appearance to be compatible with the character of the context of a development proposal
Policy C30 – Through the exercise of design control, development should provide acceptable standards of privacy and amenity

5. Appraisal

- 5.1 The proposal is to be considered in terms of its impact on neighbouring, public and private amenity, as well as in terms of its impact on the historic environment.

- 5.2 The proposed shed is considered acceptable in the above terms; its cladding in timber will reduce its visual impact. Public views will be limited owing to the fall of the land from Church Lane, and the private nature of much of the surrounding property. Limited views may be possible from the Churchyard, but the current line of trees does much to reduce any visual impact. The size is somewhat large, but given the improvement offered by the removal of the other sheds, the size is acceptable.

- 5.3 The fencing, whilst a harsher, more urban form of enclosure than the original hedging, is considered to be acceptable. From the Churchyard, the fencing is largely screened by the existing trees, and the section facing into the neighbouring driveway is relatively short and will sit partly behind the existing stone wall.

- 5.4 The proposal is therefore considered to accord with the provisions of Policies C28 and C30 of the Local Plan; the elements of the proposal are sympathetic to the character and the context of the development and the street-scene and provide standards of amenity and privacy which are considered acceptable to this authority. In addition, the proposal does not harm the setting of the Listed Building and preserves the character and the appearance of the Conservation Area.

6. Recommendation

Approval, subject to

i) the receipt of consultation comments from English Heritage (a statutory requirement as the proposal affects the setting of a Grade I Listed Building)

ii) the following conditions;

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

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with government guidance in PPS1 – Delivering Sustainable Development.

- 3) SC 2_8A (colouring) “shed cladding and fencing”
- 4) SC 5_7B (Making good in materials to match)

Planning Notes

- 1) T1 – Third party rights

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

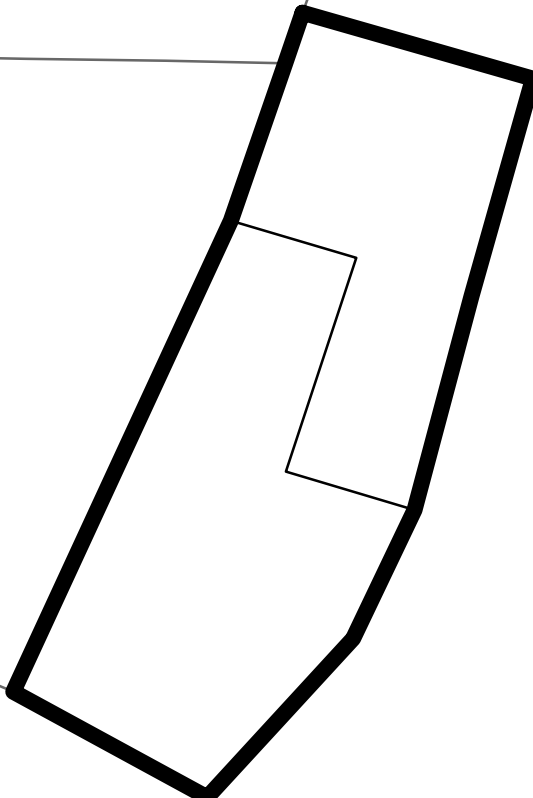
The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposed development is appropriate and will not unduly impact on the neighbouring properties, public, private or any other amenity, or the appearance of the street-scene. In addition, the proposal is considered acceptable in terms of its impact on the setting of the Listed Buildings, the character of the Conservation Area, and the local landscape designation. As such the proposal is in accordance with government guidance contained in PPS1 – Delivering Sustainable Development, PPS5 – Planning for the Historic Environment; Policies CC1 and BE6 of the South East Plan 2009; and Policies C13, 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.

CONTACT OFFICER: Simon Dean

TELEPHONE NO: 01295 221814

10/01471/LB

Church



Scale
1:200

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DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 10/01471/LB	No:	Ward: Wroxton	Date Valid: 21/10/10
Applicant:	Mr George Gilkes		
Site Address:	4 Church Lane, Hornton		

Proposal: Installation of log burner, relocate immersion tank and associated internal works. Raise chimney stack to 1.8m and satellite dish

1. Site Description and Proposal

- 1.1 The application site is a small, thatched, detached, Grade II listed cottage within the Hornton Conservation Area. The site is immediately adjacent to the Grade I listed St John the Baptist Church.
- 1.2 The alteration to the chimney stack (an increase in height of one course of bricks) is to allow for the installation of a wood-burning stove in compliance with the relevant Building Regulations for thatched roofs and for various other associated internal works. A satellite dish is proposed on the south elevation of the chimney stack.
- 1.3 The application is placed before the Committee for determination as the applicant is a member of staff.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice, site notice and neighbour letters. The final date for comments was 25th October 2010. Any comments received between the writing of the report and the Committee meeting will be reported at the meeting.
- 2.2 Two letters of support for the application have been received.

3. Consultations

- 3.1 Hornton Parish Council – no objections
- 3.2 Conservation Officer – no objections

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
PPS5 – Planning for the Historic Environment
- 4.2 Regional Policy in the South East Plan 2009:
BE6 – Management of the Historic Environment
- 4.3 Local Policy in the Adopted Cherwell Local Plan 1996:
Policy C18 – Listed Building Consent

5. Appraisal

- 5.1 Special regard has been paid to the desirability of preserving the building, its setting and/or any features of special architectural or historical interest which it possesses; the proposal is not considered to be contrary to this aim or that of the relevant policy and is therefore considered acceptable. In addition, the proposal is considered, on balance to be minor and sympathetic to the architectural and historic character of the building.
- 5.2 The internal alterations are relatively minor and relate to improving the living conditions within the property; an aim which is welcomed at all levels of Listed Building Policy.
- 5.3 The proposed satellite dish will be sited in the same location as the existing TV aerial, and will have a minimal, reversible impact.
- 5.4 The alteration to the chimney is a minor alteration, arising from Building Regulations requirements in connection with log burners and thatched roofs.
- 5.5 This proposal will therefore offer a substantial improvement to the quality of, and recognition of the significance of the Listed Building and will allow the building to be brought fully back into use as a dwelling, thereby securing its future.

With regard to conditions, it is considered that the applicant has offered sufficient details in the DAS, Application Forms and drawings for the conditions suggested to be sufficient.

6. Recommendation

Approval, subject to the following conditions;

- 1) SC 1_5A (Time for implementation specific to Listed Buildings)
- 2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the plans and documents submitted with the application.

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with government guidance in PPS5 – Planning for the Historic Environment.

- 3) SC 5_7B (Making good in materials to match)

SUMMARY OF REASONS FOR THE GRANT OF LISTED BUILDING CONSENT 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 proposal is acceptable on its merits as it is considered on balance to be minor and sympathetic to the architectural and historic character of the building. Special regard has been paid to the desirability of preserving the building, its setting and/or any features of special architectural or historical interest which it possesses; the proposal is therefore in accordance with government guidance contained in PPS5 – Planning for the Historic Environment, Policy BE6 of the South East Plan 2009 and Policy C18 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 listed building consent granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Simon Dean

TELEPHONE NO: 01295 221814

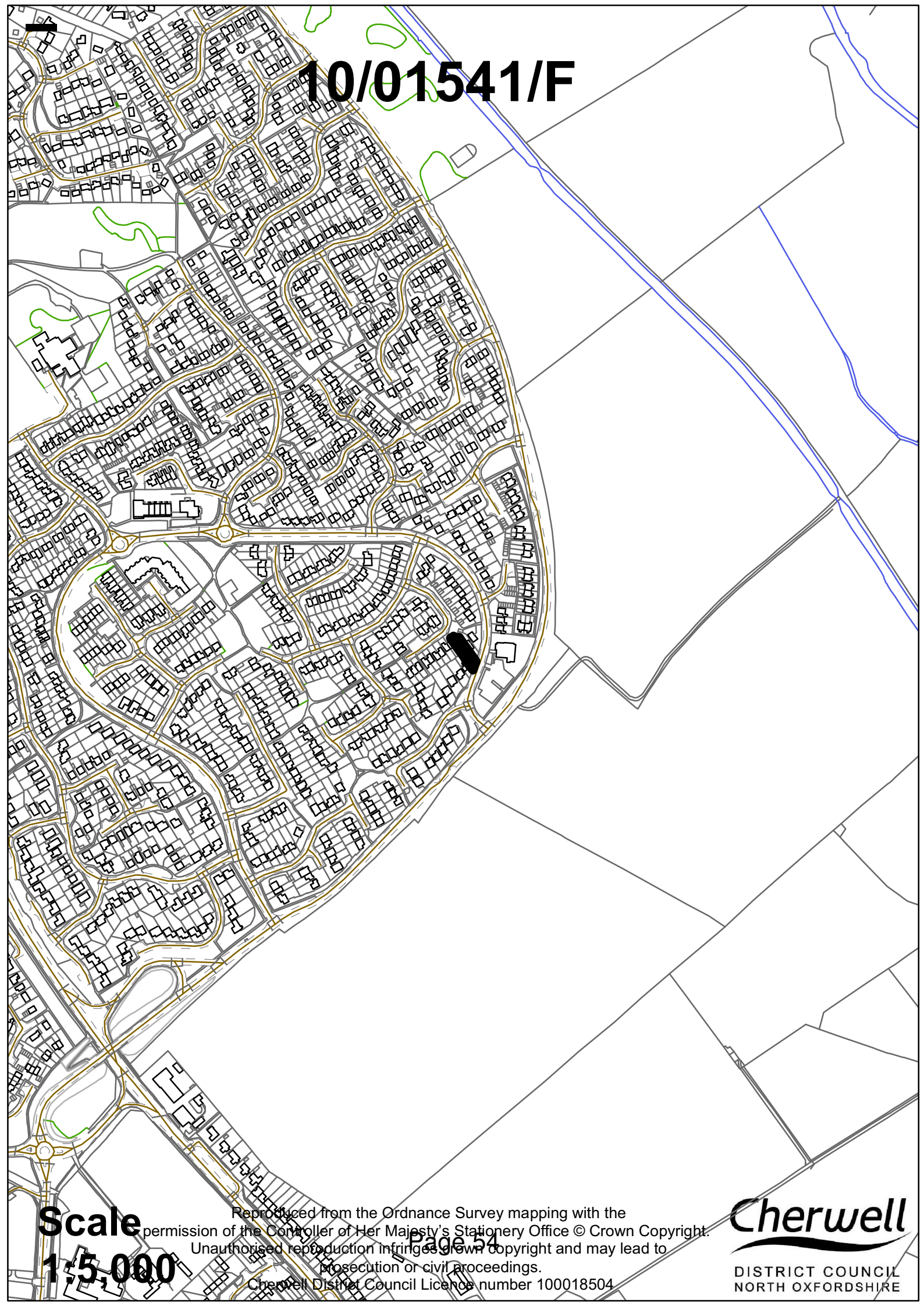
10/01541/F



Scale
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Application 10/01541/F	No:	Ward: Calthorpe	Banbury	Date 11/10/2010	Valid:
Applicant:	Mr M Riaz				
Site Address:	226 Chatsworth Drive, Banbury				

Proposal: First floor front extension, two storey side extension and single storey rear extension

1. Site Description and Proposal

- 1.1 The application site is a detached property within a planned residential estate, in red brick with PVC panel detailing under a tiled roof.
- 1.2 The proposal is for a first floor front and side extension, increasing the size of the front bedroom and providing a store to the side; as well as a rear single storey extension, replacing the existing conservatory.
- 1.3 The application is placed before the committee for determination as the applicant is a member of staff.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice and neighbour letters. The final date for comments was 18 October 2010.
- 2.2 One letter of objection has been received from occupiers of the neighbouring property to the South West, raising concerns of overlooking and loss of privacy, as well as various third-party legal issues which are not material considerations.

3. Consultations

- 3.1 Banbury Town Council – no objections
- 3.2 County Highways Liaison Officer – no objections

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
PPS1 – Delivering Sustainable Development
PPS3 – Housing
PPG13 - Transport
- 4.2 Regional Policy in the South East Plan 2009:
CC1 – Sustainable Development
BE1 – Management for an Urban Renaissance
- 4.3 Local Policy in the Adopted Cherwell Local Plan 1996:
Policy C28 – Layout, design and external appearance to be compatible with the character of the context of a development proposal
Policy C30 – Through the exercise of design control, development should provide acceptable standards of privacy and amenity

5. Appraisal

- 5.1 The proposal is considered acceptable in terms of its impact on neighbouring properties, impact on the amenity of occupants of the application site and the appearance of the street-scene. The location and size of the proposal and the relationship of the site to neighbouring properties means that there will be no unacceptable neighbour impact in terms of loss of light, overshadowing, loss of privacy or other detrimental effect on amenity.
- 5.2 The proposed single storey rear extension does not project any further to the rear than the existing conservatory, so any impact of the proposal as a whole on the properties along Badger Way is no different to the current arrangement. The windows in the proposed front and side extensions are not considered to cause harm to the privacy or amenity of any neighbouring properties, following amendments to reduce the likely harm.
- 5.3 The proposal will be visible from the public domain, but this is not considered to be unacceptable.
- 5.4 Whilst the comments of the contributors to the application are noted, most of their comments relate to separate, third-party legal matters. The issue of overlooking, relating to the windows in the first floor side extension has been considered; the relationship of the two properties to each-other is considered acceptable.
- 5.5 The proposal is therefore considered to accord with the provisions of Policies C28 and C30 of the Local Plan; the extension is sympathetic to the character of the context of the development and is compatible with the scale of the dwelling and the street-scene and provides standards of amenity and privacy which are considered acceptable to this authority.

6. Recommendation

Approval, subject to the following conditions;

- 1) SC 1_4A (Time for implementation)
- 2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents;
 - drawing P/09/0083/001 Rev A (received on 18 November 2010)
 - drawing P/09/0083/002 Rev A (received on 18 November 2010)
 - drawing P/09/0083/003 Rev A (received on 18 November 2010)
 -

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with government guidance in PPS1 – Delivering Sustainable Development.

- 3) SC 2_6AA (Materials to match)

Planning Notes

- 1) T1 – Third party rights

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

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposed development is appropriate and will not unduly impact on the neighbouring properties, public, private or any other amenity, or the appearance of the street-scene. As such the proposal is in accordance with government guidance contained in PPS1 – Delivering Sustainable Development; Policies CC1 and BE1 of the South East Plan 2009; and Policies C28 and C30 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Simon Dean

TELEPHONE NO: 01295 221814

Agenda Item 12

Planning Committee

Variation of obligation which limits internal area of the property to 950 square feet and removes permitted development rights at 5 Fiveacres, Murcott

2 December 2010

Report of Strategic Director Planning, Housing and Economy

PURPOSE OF REPORT

To seek the discharge of S106 planning obligations relating to 5 Fiveacres, Murcott so that the internal area of the property is not restricted and the property benefits from permitted development rights.

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To allow the discharge of S106 planning obligations as set out.

Executive Summary

Introduction

- 1.1 5 Fiveacres is a detached dwelling situated in the village of Murcott within the Oxford Green Belt.
- 1.2 Fiveacres is a small residential cul de sac granted planning permission in 1990. The planning history is as follows:
- 1.3 CHS.710/90 (Permitted) Demolition of all intensive rearing housing and development of village housing with 11 dwelling units. Creation of new access (Outline and Reserved Matters) (Attached S106 legal agreement)

CHS.565/93 (Permitted) Erection of 3 detached dwellings – plots 1, 2 and 3 variation on design of dwellings approved on permission number RM.CHS.710/92(2)

Specifically relating to 5 Fiveacres:

97/00120/F (Refused) First floor side extension to form bedroom and enlarge bedroom.

Proposals

- 1.4 As can be seen from the planning history, permission was granted in 1990 for the development of this site for 11 dwelling units. As part of the approval, 3 affordable units were included (on plots 1, 2 and 3) (discount market houses). To retain these as more affordable units, an obligation was included within the S106 agreement to limit the internal area of these three particular dwellings to 950 Square Feet and to remove their permitted development rights (Schedule 2, Part 1, Classes A, B, C and D of the Town and Country Planning (General Permitted Development) Order). The dwellings were originally approved as a terrace of three properties.
- 1.5 Further to the original approval for the site, an application was approved (CHS.565/93), to vary the design of the dwellings on plots 1, 2 and 3 and in particular that they would be detached dwellings rather than a terrace of three.
- 1.6 It should also be noted that an application was submitted under application 97/00120/F to extend number 5 Fiveacres, which was refused for two reasons, one of which being:
 1. When permission was granted for the development which embraces the application property, a formal legal agreement was entered into with the Council. This included, inter alia, a covenant to restrict the internal floorspace of the dwelling on the application site to 950 sq ft (88 square metres). The purpose of the covenant was to ensure that some of the houses on the Five Acres development were affordable specifically with the local community in mind. The extension negates the long term intention to maintain a supply of lower cost housing and is, therefore, unacceptable.
- 1.7 As can be seen from the planning history, it was originally important to try to keep these three dwellings as more affordable and that permission to extend the dwelling in 1997 was refused for this reason. Legal and Democratic Services have advised that case law has established that there are four essential questions which should be considered in considering an application under S106A: What is the current obligation? What purpose does it fulfil? Is it a useful purpose? And if so, would the obligation serve that purpose equally well if it had effect subject to the modifications?
- 1.8 S106A (6) provides that an authority which receives an application for modification or discharge of a planning obligation may determine it by refusing it (the planning obligation shall continue to have effect without modification); or, if the obligation no longer serves any useful purpose, by discharging it; or, if the obligation continues to serve a useful purpose, but would serve that purpose equally well if it had effect subject to modifications specified in the application by consenting to the modifications sought. The Secretary of State considers that the expression "no longer serves any useful purpose" should be understood in land use planning terms.

- 1.9 The current obligations in the S106 Agreement and the purpose they were intended to fulfil have been set out in paragraph 1.4. It is accepted that at the time the agreement was entered into, the included clause served a useful purpose. However at the current time, the applicant believes their property to be worth in the value of between £360,000 to £370,000. This is not considered to be realistically 'affordable' and therefore due to the rise in house values over the years it is unlikely these dwellings could be classified as affordable any longer.
- 1.10 It is therefore considered that this clause of the S106 agreement no longer serves a useful purpose as even with the clause; the three dwellings are not particularly affordable. It is therefore considered reasonable in the circumstances to allow the planning obligations which limit the internal area and restrict permitted development rights to be discharged.
- 1.11 The removal of these elements of the agreement would allow the property to benefit from permitted development rights, which would allow the usual minor extension and alteration of the property allowed under The Town and Country Planning (General Permitted Development) Order (amendment, 2008) Schedule 2, Part 1. However planning permission would still be required for any development which does not constitute permitted development.

Conclusion

- 1.12 It is considered that in the circumstances, those obligations in the S106 agreement which limit the internal area of 5 Fiveacres and restrict permitted development rights should be discharged. It is considered that these obligations no longer serve a useful purpose as they do not ensure that the property is affordable.

Background Information

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

Key Issues for Consideration/Reasons for Decision and Options

None

Consultations

The application has been advertised by way of a site notice, press notice and neighbour notification. The Parish Council and Local Ward Member have also been consulted. The last date for comment is 26/11/2010. No third party comments have been received to date, however any comments received will be verbally reported at committee.

Implications

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

Comments checked by Emma Warburton, Management Support Officer, 01295 227936.

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

Comments checked by Ross Chambers, Solicitor, 01295 221690

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

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

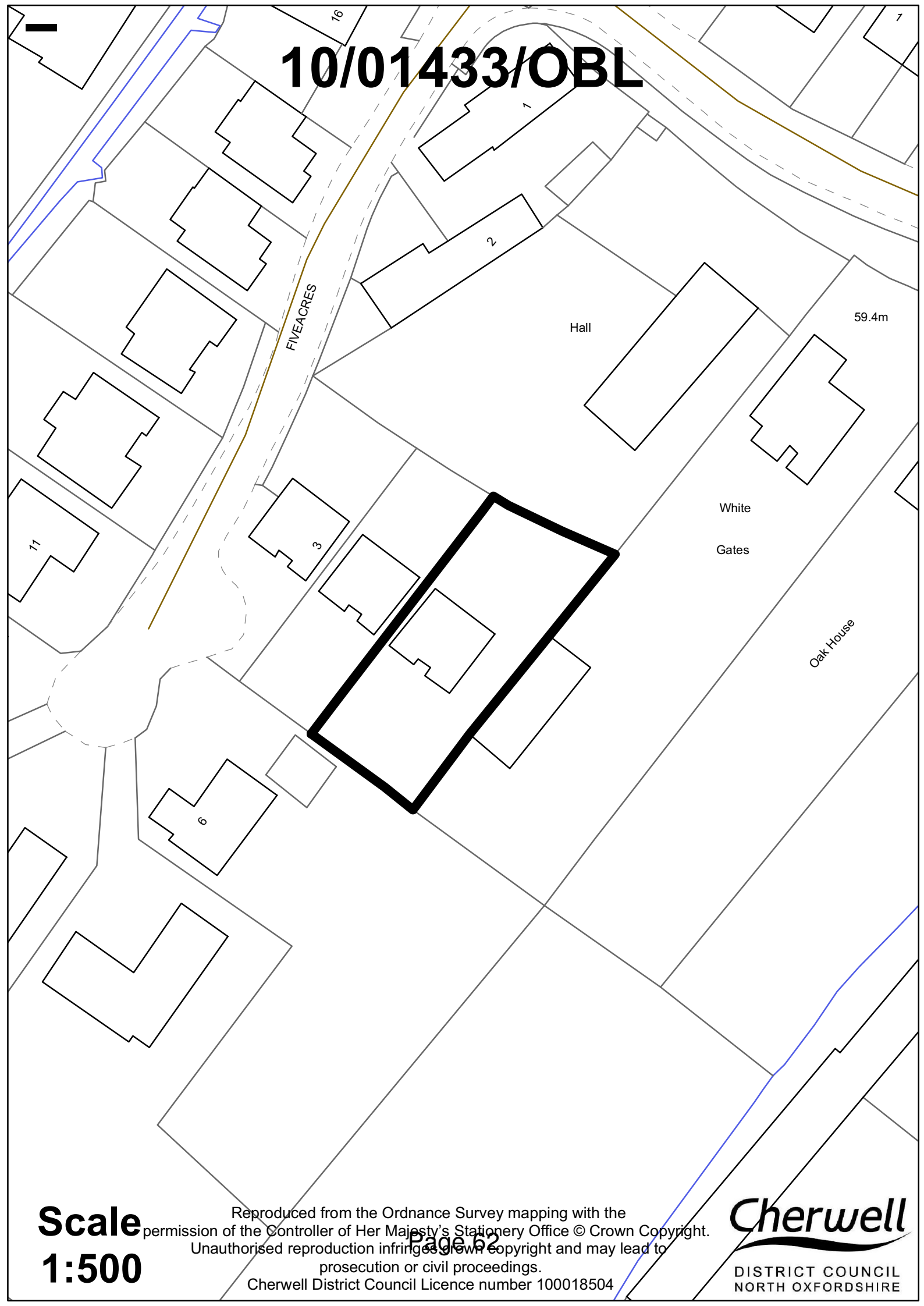
Wards Affected

Otmoor

Document Information

Appendix No	Title
Appendix 1	Site location plans
Background Papers	
Application number CHS.710/90	
Report Author	Caroline Ford, Assistant Planning Officer
Contact Information	01295 221823 caroline.ford@Cherwell-dc.gov.uk

10/01433/OBL



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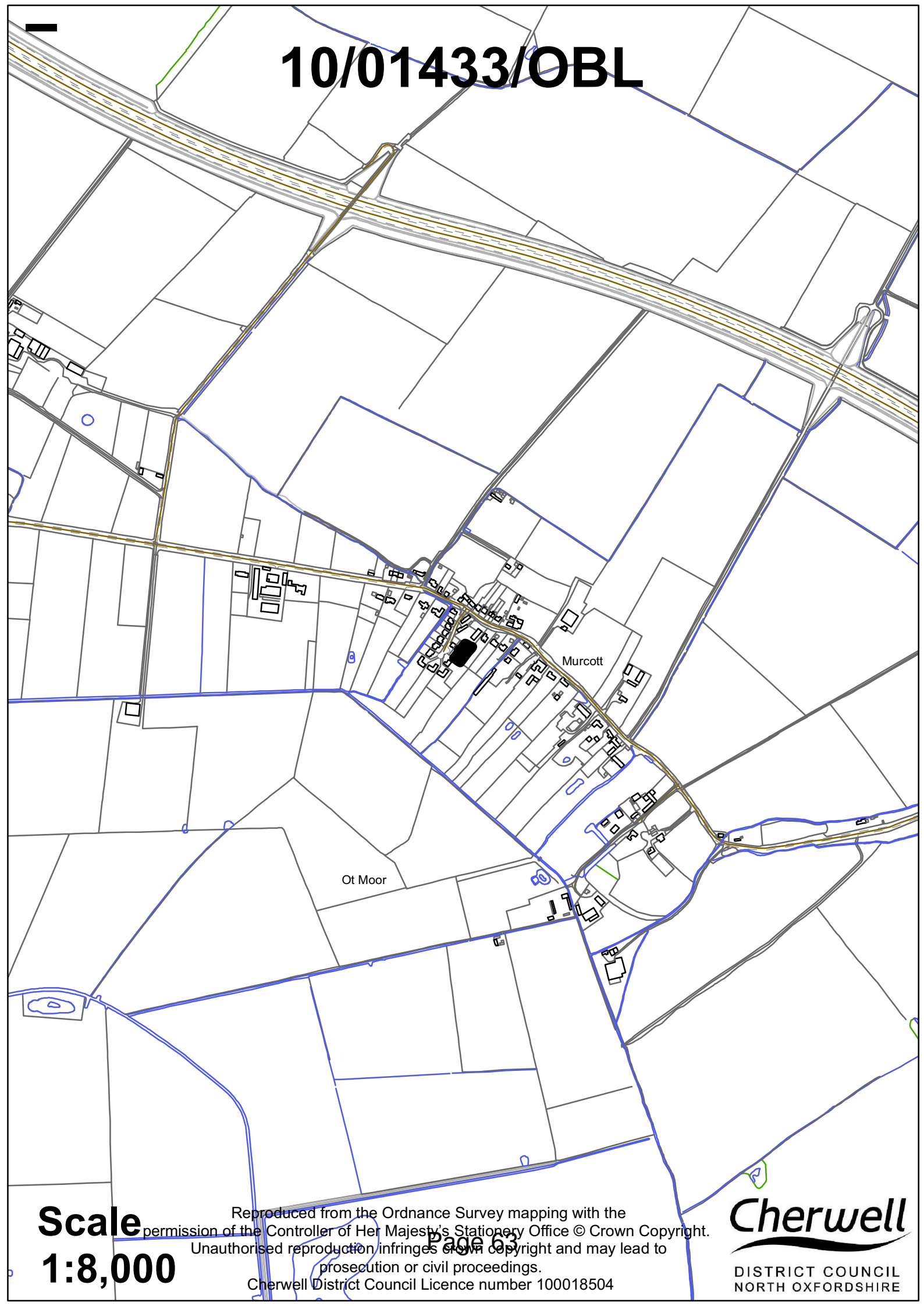
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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

10/01433/OBL



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Agenda Item 13

Planning Committee

Decisions Subject to Various Requirements – Progress Report

2 December 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 meetings held in August and October. New application expected imminently

- 1.2 07/01106/OUT Land to South East of A41 Oxford Road, Bicester
Subject to departure procedures and legal agreements with Oxfordshire County Council re:off-site transportation contributions and HGV routing during construction Agreement completed and decision issued.
- 1.3 08/01171/OUT Pow Wow Water Site, Langford Lane, Kidlington
Subject to agreement re transport infrastructure payments.
- 1.4 10/00388/OUT Land adj 35 Crouch Hill Road, Banbury
Subject to amendment of existing legal agreement concerning affordable housing and on-site and off-site infrastructure contributions.
- 1.5 10/00640/F Former USAF housing South of Camp Rd, Upper Heyford
Subject to legal agreement concerning on and off site infrastructure and affordable housing
- 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 Arcott Hill Farm Buchanan Rd. Arcott
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, Arcott
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
- 1.12 10/01021/F Otmoor Lodge, Horton-cum-Studley
Subject to legal agreement concerning building phases and interim appearance
- 1.13 10/01302/F Land south of Bernard Close, Yarnton
Subject to legal agreement concerning on and off site infrastructure and affordable housing

Implications

- Financial:** There are no additional financial implications arising for the Council from this report.
Comments checked by Joanne Kaye, Service Accountant 01295 221545
- Legal:** There are no additional legal implications arising for the Council from this report.
Comments checked by Nigel Bell, Solicitor 01295 221688
- Risk Management:** This is a monitoring report where no additional action is proposed. As such there are no risks arising from accept the recommendation.
Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221560

Wards Affected

All

Document Information

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

Planning Committee

Appeals Progress Report

2 December 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 Planning Committee is recommended to:

- (1) Accept the position statement.

Details

New Appeals

- 1.1 **10/00584/OUT – 14 Charlbury Close, Kidlington-** appeal by Mr Mudd against the refusal of planning permission for the construction of a single storey detached dwelling to accommodate elderly relative- Written Reps
- 1.2 **09/01879/CLUE – Lone Barn, Stoke Lyne, Bicester-** appeal by Mr David Morgan against the refusal of a Certificate of lawful use existing for the use of the building as a dwelling and the surrounding land as residential cartilage – Written Reps
- 1.3 **10/01220/F – Land adjacent to the Old School, Farriers Close, Fringford** – appeal by Brandon Gate Homes Ltd against the refusal of planning permission for 1 no. three bedroom dwelling – Written Reps

Forthcoming Public Inquiries and Hearings between 2 December 2010 and 6 January 2011

2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Mr A Thorburn against the refusal of application 10/00165/F for a rear extension to terraced cottage to provide loft bedroom and improve first floor bedroom and removal of existing dormer at 22 Milton Street Banbury (Delegated)** – The Inspector concluded that the proposed development because of its adverse effect on the character and appearance of the existing dwelling and terrace, would not preserve the character and appearance of the Banbury Conservation Area. The Inspector acknowledged the appellant's understandable desire to improve the existing accommodation. However, this consideration did not outweigh the harm identified, particularly as there is no reason to believe the accommodation could not be improved in a manner that would ensure the character and appearance of the conservation area is preserved.
- 3.2 **Dismissed the appeal by Mr & Mrs A Gordon against the refusal of application 10/00117/F for the erection of one dwelling and associated works at land adjoining Bon Accord, Middle Barton Road, Duns Tew (Delegated)** – In the Inspector's view, the proposal would harm the rural character of Duns Tew, because it would erode the open character of the site and the adjoining rear gardens. This led the Inspector to conclude that the proposed development would not preserve the character and appearance of the Duns Tew Conservation Area. Although the Inspector noted the Council's concern about limited visibility at the access to the site on Middle Barton Road, he did not consider that this was sufficiently serious in highway terms for the appeal to fail on this point.
- 3.3 **Allowed the appeal by A C Lloyd against the refusal of application 09/01450/F for the change of use of the land, previously used as railway land, for the erection of five residential properties at land adjacent to DJ Stanton Ltd, Station Road, Hook Norton (Delegated)** – The Inspector's overall conclusion is that the appeal site lies on the edge of Hook Norton where the former railway embankment could be utilised as a definable limit to this part of the settlement.

The site benefits from its containment by the vegetation which has grown around it and which would help to screen the development. Consequently, the Inspector was satisfied that it would not be detrimental to the character and appearance of the area nor contrary to the provisions of the development plan.

- 3.4 **Varied and subsequently upheld the enforcement notice 09/00572/EUNDEV served by the Council following an appeal by Mr D Barnes in relation to the stationing of 3 containers at land at Patrick Haugh Road, Arncott (Delegated)** – The Inspector stated “The containers could be removed at any time simply by lifting them onto a lorry. In physical terms all that the notice requires is the simple removal of the containers and their contents. Three months is clearly adequate to arrange and carry out such operations” The Inspector varied the notice by deleting the requirement to restore the land to a state suitable for agricultural use as this requirement went beyond what is necessary to remedy the breach of control.

Implications

- Financial:** The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.
- Comments checked by Joanne Kaye, Service Accountant 01295 221545
- Legal:** There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.
- Comments checked by Pam Wilkinson, Principal Solicitor 01295 221688
- Risk Management:** This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.
- Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221566

Wards Affected

All

Document Information

Appendix No	Title
-	None
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