

Committee: Planning Committee
Date: Thursday 8 September 2011
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor Rose Stratford (Chairman)	Councillor Alastair Milne Home (Vice-Chairman)
Councillor Ken Atack	Councillor Fred Blackwell
Councillor Colin Clarke	Councillor Tim Emptage
Councillor Mrs Catherine Fulljames	Councillor Michael Gibbard
Councillor Chris Heath	Councillor David Hughes
Councillor Russell Hurle	Councillor Mike Kerford-Byrnes
Councillor James Macnamara	Councillor George Parish
Councillor D M Pickford	Councillor G A Reynolds
Councillor Trevor Stevens	Councillor Lawrie Stratford

Substitutes

Councillor Maurice Billington	Councillor Kieron Mallon
Councillor Norman Bolster	Councillor Leslie Sibley
Councillor Paul O'Sullivan	Councillor O'Sullivan
Councillor Diana Edwards	Councillor Nicholas Turner
Councillor Andrew Fulljames	Councillor Douglas Williamson
Councillor Timothy Hallchurch MBE	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 - 46)

To confirm as a correct record the Minutes of the meeting of the Committee held on 11 August 2011.

Planning Applications

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|-----|---|---------------------|
| 6. | Land Between Birmingham London Rail Line and Gavray Drive, Bicester
(Pages 49 - 106) | 10/01667/OUT |
| 7. | 35 The Rydes, Bodicote (Pages 107 - 112) | 11/00819/F |
| 8. | Penrose House, 67 Hightown Road, Banbury (Pages 113 - 123) | 11/00820/F |
| 9. | The Bell Inn, High Street, Hook Norton (Pages 124 - 132) | 11/00894/F |
| 10. | Former J A Pye Oxford Ltd site, Langford Locks, Kidlington, OX5 1HZ
(Pages 133 - 149) | 11/00906/F |
| 11. | 42 South Bar Street, Banbury (Pages 150 - 157) | 11/00974/F |
| 12. | 42 South Bar Street, Banbury (Pages 158 - 162) | 11/00975/LB |
| 13. | Land at Station Road, Enslow (Pages 163 - 174) | 11/01071/OUT |
| 14. | 21 and 22 Portland Road, Milcombe, Banbury, Oxfordshire, OX15 4RL
(Pages 175 - 187) | 11/01081/F |
| 15. | 237 Balmoral Avenue, Banbury (Pages 188 - 192) | 11/01127/F |

Tree Preservation Orders

16. **Tree Preservation Order (No.8/2011) Wellingtonia Tree at the Vicarage, Cropredy** (Pages 193 - 195)

Report of the Strategic Director Planning, Housing and Economy

Summary

To seek confirmation of unopposed Tree Preservation Order (No.08/2011) Wellingtonia Tree at The Vicarage, Cropredy.

Recommendations

The Planning Committee is recommended to:

- (1) Confirm the Order without modification

17. Tree Preservation Order (No.09/2011) Norway Maple Tree at 17 Old School Close, Caversfield (Pages 196 - 198)

Report of Strategic Director Planning, Housing and Economy

Summary

To seek confirmation of unopposed Tree Preservation Order (No.09/2011) Norway Maple tree at 17 Old School Close, Caversfield.

Recommendations

The Planning Committee is recommended to:

- (1) Confirm the Order without modification

Enforcement Action

18. Quarterly Enforcement Report (Pages 199 - 209)

Report of the Strategic Director Planning, Housing and Economy

Summary

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

Recommendation

The Planning Committee is recommended to:

- (1) Accept this report.

Review and Monitoring Reports

19. Decisions Subject to Various Requirements (Pages 210 - 213)

Report of the Strategic Director Planning, Housing and Economy

Summary

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

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

Recommendation

The Planning Committee meeting is recommended to:

- (1) Accept the position statement.

20. Appeals Progress Report (Pages 214 - 217)

Report of the 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) 221589 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 Part 5 Section A of 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 Natasha Clark, Legal and Democratic Services natasha.clark@cherwell-dc.gov.uk (01295) 221589

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Please ensure that any device is switched to silent operation or switched off.

Sue Smith
Chief Executive

Published on Wednesday 31 August 2011

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 11 August 2011 at 2.00 pm

Present: Councillor Alastair Milne Home (Vice-Chairman, in the Chair)

Councillor Ken Atack
Councillor Fred Blackwell
Councillor Colin Clarke
Councillor Mrs Catherine Fulljames
Councillor Chris Heath
Councillor David Hughes
Councillor Russell Hurle
Councillor Mike Kerford-Byrnes
Councillor James Macnamara
Councillor D M Pickford
Councillor G A Reynolds
Councillor Trevor Stevens

Substitute Members: Councillor Maurice Billington (In place of Councillor Rose Stratford)
Councillor Mrs Diana Edwards (In place of Councillor Lawrie Stratford)
Councillor P A O'Sullivan (In place of Councillor Michael Gibbard)
Councillor Leslie F Sibley (In place of Councillor George Parish)

Also Present: Martin Tugwell, Deputy Director for Growth and Infrastructure, Oxfordshire County Council (for agenda item 6)

Apologies for absence: Councillor Rose Stratford
Councillor Tim Emptage
Councillor Michael Gibbard
Councillor George Parish
Councillor Lawrie Stratford

Officers: John Hoad, Strategic Director - Planning, Housing and Economy
Bob Duxbury, Development Control Team Leader
Jenny Barker, Major Developments Team Leader
Caroline Roche, Planning Officer
Ross Chambers, Solicitor
Natasha Clark, Senior Democratic and Scrutiny Officer

Declarations of Interest

Members declared interests in the following agenda items:

6. Bicester Eco Town Exemplar Site Caversfield Oxfordshire.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor G A Reynolds, Personal, as a Member of Cherwell District Council Executive and Oxfordshire County Council.

Councillor Leslie F Sibley, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Maurice Billington, Personal, as a Member of Oxfordshire County Council.

8. Unit 1 Adj Topps Tiles, Southam Road, Banbury.

Councillor Alastair Milne Home, Personal, as a Member of Banbury Town Council, which had been consulted on the application.

Councillor Colin Clarke, Personal, as a Member of Banbury Town Council, which had been consulted on the application.

9. Unit 1 Adj Topps Tiles, Southam Road, Banbury.

Councillor Alastair Milne Home, Personal, as a Member of Banbury Town Council, which had been consulted on the application.

Councillor Colin Clarke, Personal, as a Member of Banbury Town Council, which had been consulted on the application.

11. St Georges Barracks, Arcott Wood Road, Arcott, Bicester.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Leslie F Sibley, Personal, as a Member of Bicester Town Council, which had been consulted on the application and Prejudicial, as an employee of the MOD.

12. Former DLO Caversfield, Skimmingdish Lane, Caversfield.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Leslie F Sibley, Personal, as a MOD employee as the land was formerly an MOD site and a Member of Bicester Town Council, which had been consulted on the application.

13. Former DLO Caversfield, Skimmingdish Lane, Caversfield.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Leslie F Sibley, Personal, as a MOD employee as the land was formerly an MOD site and a Member of Bicester Town Council, which had been consulted on the application.

14. Former DLO Caversfield, Skimmingdish Lane, Caversfield.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Leslie F Sibley, Personal, as a MOD employee as the land was formerly an MOD site and a Member of Bicester Town Council, which had been consulted on the application.

15. Former DLO Caversfield, Skimmingdish Lane, Caversfield.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Leslie F Sibley, Personal, as a MOD employee as the land was formerly an MOD site and a Member of Bicester Town Council, which had been consulted on the application.

16. Former DLO Caversfield, Skimmingdish Lane, Caversfield.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Leslie F Sibley, Personal, as a MOD employee as the land was formerly an MOD site and a Member of Bicester Town Council, which had been consulted on the application.

17. 144 Oxford Road, Kidlington, Oxfordshire, OX5 1EA.

Councillor Maurice Billington, Personal, as a Member of Kidlington Parish Council, which had been consulted on the application.

19. Unit 3A, Bessemer Close, Bicester OX26 6QE.

Councillor D M Pickford, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

Councillor Leslie F Sibley, Personal, as a Member of Bicester Town Council, which had been consulted on the application.

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

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

52 **Urgent Business**

There was no urgent business.

53 **Minutes**

The Minutes of the meeting held on the 14 July 2011 were agreed as a correct record and signed by the Chairman, subject to the following amendment to Minute number 35: Declarations of Interest.

Councillor Leslie Sibley, Personal, as a Member of Bicester Town Council.

54 **Bicester Eco Town Exemplar Site Caversfield Oxfordshire**

The Committee considered a report for the development of Exemplar phase of NW Bicester Eco Town to secure full planning permission for 394 residential units and an energy centre (up to 400 square metres), means of access, car parking, landscape, amenity space and service infrastructure and outline permission for a nursery of up to 350 square metres (use class D2), a community centre of up to 350 square metres (sui generis), 3 retail units of up to 770 square metres (including but not exclusively a convenience store, a post office and a pharmacy (use class A1)), an Eco-Business Centre of up to 1,800 square metres (use class B1), office accommodation of up to 1,100 square metres (use class B1), an Eco-Pub of up to 190 square metres (use class A4), and a primary school site measuring up to 1.34 hectares with access and layout to be determined. Consideration of the application had been deferred from the 14 July 2011 meeting.

Martin Tugwell, Deputy Director for Growth and Infrastructure, Oxfordshire County Council, advised the Committee that the County had been working closely with the District and the Applicants to address concerns the County had previously raised. He reported that there was;

- An understanding that it is entirely appropriate for the local authorities to seek to secure an appropriate contribution towards the cost of additional service and infrastructure needs arising from a proposed development;
- An understanding that the current application is the first element of a much larger project - accordingly there are costs that will be incurred as a consequence of that fact, costs which will impact on its ability to contribute to some of the service and infrastructure needs arising from it;
- An acceptance that those needs need to be seen in the context of the overall project - as such there is a need to understand in greater detail the masterplan and with it the overall viability of the overall project;
- An acceptance that the time taken to complete the S106 legal agreements provides the opportunity for the applicant to use their work on the masterplan to set out to the local authorities that wider case;
- An understanding that the County Council will be a co-signatory to the S106 agreement and that its signature will be dependent upon satisfactory progress being made with the masterplan and economic viability work for the overall project

On the basis that the proposed recommendations strike a balance between enabling the applicant to make progress with the work required but that at the same time protect the need for an appropriate contribution to be made

towards the additional infrastructure and services that are needed to make it sustainable.

The Committee discussed the emerging Masterplan for the site. Some Members commented that there were still a number of outstanding areas that required further information for consideration. Members requested that Officers provide regular progress updates to the Committee. The Committee agreed that the ecotown proposal would contribute to improving Bicester as in addition to providing housing, it would also bring industry to the town.

The Lead Member for Finance (Councillor Atack) advised that the Committee that he had discussed Members' concerns about certain financial aspects of the proposal with the Council Head of Finance/Section 151 Officer. The Committee noted the feedback from the Lead Member for Finance and agreed it provided assurance for Members regarding the financial arrangements.

Councillor Mrs Fulljames requested recorded vote. Councillor David Hughes seconded the proposal. Members voted as follows:

Councillor Atack	For
Councillor Billington	For
Councillor Blackwell	For
Councillor Clarke	For
Councillor Edwards	For
Councillor Mrs Fulljames	Against
Councillor Heath	For
Councillor Hughes	For
Councillor Hurle	For
Councillor Kerford-Byrnes	For
Councillor Milne-Home	For
Councillor O'Sullivan	For
Councillor Pickford	For
Councillor Reynolds	For
Councillor Sibley	For
Councillor Stevens	For

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

The applicant was asked to note that concerns around funding for infrastructure and service needs must be addressed through the masterplan and an outline application for the whole of the NW Bicester site. Prior to the completion of the S106 agreement satisfactory progress on the masterplan must have been made including an agreed way forward for the wider development to fund the necessary service needs arising from the increase in population from the NW Development as a whole.

Resolved

That application 10/01780/HYB be approved subject to:

- (a) Confirmation that the scheme meets building for life Silver Standard
- (b) The conclusion of a review of the viability work (carried out on an open book basis)
- (c) Completion of a S106 agreement (in accordance with the Heads of Terms set out below but subject to the clarification of the infrastructure fund as identified in the report)

Heads of Terms of Planning Obligation	
Requirement	Terms
Provide phasing plan	<ul style="list-style-type: none"> • Provide plan of agreed phasing • Build in accordance with the phasing unless otherwise agreed.
Affordable Housing	<ul style="list-style-type: none"> • Provide 96 dwellings for rent and 23 for shared ownership in accordance with the agreed mix. • Build the affordable housing in each phase , as identified on the plans, prior to the occupation of 50 % of market phasing • Construct to HCA Design Quality Standards • Construct as Lifetimes Homes Standard • Properties let in accordance with a nominations agreement and local lettings plan.
Community Governance	<ul style="list-style-type: none"> • Agree the form of the initial management body (for the avoidance of doubt it may comprise employees of A2) and form and constitution of interim partnership board, provide the programme of activity of the management body and define list of functions the body will be responsible for prior to commencing work • Provide accommodation on site for the management body/partnership board and their employees • Establish the management body prior to the first occupation of a dwelling • Establish the interim partnership board at the request of identified partners or no later than the occupation of 200 dwellings. • Provide and agree details of the funding

	<p>for the running of the management body and interim partnership board and the carrying out of its functions as identified</p> <ul style="list-style-type: none"> • Provide £100k to enable the partnership board and other stake holders to assess and develop the options for the Local Management Organisation.
<p>Community Engagement, Development & Capacity Building</p>	<ul style="list-style-type: none"> • Agree a programme for the local management body to deliver community engagement, development and support for sustainable lifestyles or pay CDC the sum of £100k prior to the occupation of the first dwelling.
<p>Ecological & Landscape Management and play areas</p>	<ul style="list-style-type: none"> • Provide and agree an Ecological and Landscape Management Plan prior to implementation • ELMP to cover objectives for management, management body, management regime, monitoring, funding, process for agreeing variations to plan, proposals for community involvement and phased implementations. • Where the ELMP comprises various elements in different ownership or control, the compatibility between elements is to be demonstrated; • Implement the agreed ELMP • Either put in place agreed ring fenced fund for maintenance by the management body or transfer the open space to CDC with a commuted sum based on CDC's standard rates. Unless otherwise agreed in writing • Fence each area of open space prior to work starting on the adjacent building phase • Complete laying out of open space in the first planting season following commencement on a building phase • Provide allotments and incidental open space & play areas prior to the occupation of any dwelling within 30m • That the open space shall be available to the public in perpetuity • That the open space shall be retained in a

	<p>single ownership by A2 Dominion, the local management organisation or the Local Authority unless otherwise agreed.</p> <ul style="list-style-type: none"> • Maintain all areas to meet ELMP or attached specification as a minimum • No services through open space and landscape areas unless agreed in writing by LPA
<p>Non Residential retail/office/nursery/community hall</p>	<ul style="list-style-type: none"> • Planning application for the retail store and community hall to be submitted within 12 months of grant of planning permission or occupation of 100 dwellings whichever is the sooner. • Marketing strategy to be agreed and implemented • Store & Hall to be provided prior to occupation of 250 dwellings, unless an interim scheme for local retail provision to meet the day to day needs of the residents and programme for permanent provision of the Store and Hall have been agreed. • Prior to the occupation of the 50th dwelling provide a temporary community meeting place. Retain until permanent provision is available. • Application for remaining facilities to be made prior to the occupation of 250 dwellings • No more than 350 dwellings to be occupied until the offices, nursery and further retail premises have been provided unless a suitable alternative provision has been agreed and implemented prior to that date. • Make the public house site available and market until developed or 5 years post completion of the development. • Transfer the hall to management body with a commuted sum for maintenance & management for the benefit of residents on the site • Agree details of measures to make available food produced locally

Eco Business Centre	<ul style="list-style-type: none"> • Transfer fully remediated / serviced site to CDC prior to 100 dwellings being completed (at nominal sum of £1)
Employment, Skills & Training	<ul style="list-style-type: none"> • Set up and maintain until all development is complete on application site web site to attract local suppliers and enable them to compete for work on the construction of the development • Agree details of local supply chain events to promote opportunities for local companies shall be provided and such opportunities shall be made available during construction works on site. • Provide details of commitments to provide apprenticeships (minimum 10) to people with local connections (5 mile radius) • Agree details and provide sustainable skills training for local people. • Prior to the commencement of development agree a scheme to market home working on the site. • Prior to commencement of development, agree and implement a programme with Bicester Job Club to identify employment opportunities related to construction work on the site and skills and training to assist local people to access the job opportunities. The programme to include the delivery of workshops to introduce opportunities to job seekers and assist employers to recruit. • Work with the Bicester Job Club to ensure local people are aware and have access to all job vacancies arising from construction on site.
Transport & Access	<ul style="list-style-type: none"> • No residential or non residential occupations until travel plan agreed • Monitor mode share annually but with agreed residents survey after five years post commencement then biannually until 10 years post completion • Monitor carbon from transport from the occupation of the 50th dwelling until 10 years post completion.

	<ul style="list-style-type: none"> • Monitor mode share in accordance with agreed details • If targets are not achieved pay the following sums; Year 5 £10,000, Year 7 £20,000, Year 9 £30,000, Year 11 £40,000, Year 13 £50,000, Year 15 £100,000. • Appoint/fund a travel plan co-ordinator to implement the travel plan • Provide £100k to fund cycling incentives and agree the use of the fund to deliver the cycling incentives in the travel plan including feasibility for cycle hire scheme. • Agree a management scheme for un-allocated residential parking and neighbourhood centre parking prior to first occupations • Prior to commencement agree an electric vehicle scheme including the provision of car charging points for individual residents and for visitors to the site and incentives to use electric vehicles • Prior to occupation of the first dwelling agree a car club scheme including identifying parking bays and funding to support the scheme. Occupy no more than 200 dwellings until the scheme is in place. • Provide the bus service from the first occupation in accordance with an agreed timetable, to provide at least a ½ hourly service, after 200 dwellings deliver a 15 min service until 10 years post completion. • No development to commence until off site highway works identified are secured including an agreed timetable for delivery. • No occupations until Banbury Road footpaths, cycleway and pedestrian crossing have been provided. • Fund transport order for Banbury Road
<p>HGV routeing agreement</p>	<ul style="list-style-type: none"> • No development to commence until the a Routeing Agreement is in place for construction traffic

	<ul style="list-style-type: none"> • No occupation of non residential buildings until Routeing Agreement is in place
<p>Education</p>	<ul style="list-style-type: none"> • Within 12 months of commencement of construction or occupation of 50 dwellings which ever is the sooner, offer transfer to OCC or in default CDC for £1 a fully remediated, serviced site of 1.34 ha of developable land in accordance with the boundaries and levels shown on drawing no 7170-UA001881-03 • Transfer to be completed within 3 months of acceptance of offer; • Transfer of land to comply with the terms of the OCC School Site Requirements for Residential Development (draft) document unless otherwise agreed. • Provide a plan to show service connections to the site in accordance with the attached specification • Safeguard land for the extension of the school
<p>Waste</p>	<ul style="list-style-type: none"> • Agreed site for a recycling banks in the local centre shall be provided prior to the occupation of 50 dwellings. If it is not possible to secure the permanent site by this stage of a development temporary provision shall be made in accordance with agreed details until such time as permanent provision has been made. • Agree and Implement a construction waste management plan (zero waste to landfill) and monitor compliance. • Prior to implementation identify space and programme to deliver community swap shop days. • Prior to implementation provide the Sustainable Waste Management Plan identifying waste reduction measures to ensure waste targets are met, their implementation, monitoring and measures to be implemented should waste from the development exceed targets.

<p>Energy Centre</p>	<ul style="list-style-type: none"> • Provide a detailed scheme, including phasing and amount of PV, for the delivery of the energy strategy. In the event that zero carbon development to PPS1 definition can not be delivered on site agree a scheme for off site allowable solutions in Bicester for the benefit of the community. • Deliver the energy centre building and centralised heat and power distribution in accordance with the agreed scheme • Prior to occupation each dwelling shall have the PV provided and connected • Maintain energy centre in operation for 25 years
<p>Construction Standards to achieve Eco Town Requirements</p>	<ul style="list-style-type: none"> • Provide code for sustainable homes design assessment demonstrating that each dwelling meets Code for Sustainable Homes level 5 or higher prior to commencement of construction of each phase. • Prior to occupation provide post construction certificate demonstrating each dwelling is built to Code 5 • Provide BREEAM design assessment prior to commencement of construction demonstrating that each non residential building is designed to BREEAM excellent • Prior to occupation provide post construction certificate demonstrating each building has achieved BREEAM excellent • Prior to any relevant infrastructure works taking place provide a CEEQUAL excellent certificate for the works • Agree scheme for local sourcing of materials • All building control procedures shall be undertaken by Local Authority Building Control to allow appropriate public verification and learning process for construction innovation on the site. This shall not prevent the seeking of an NHBC guarantee in addition to LABC. • Ensure all contractors register for

	Considerate Contractor scheme
SUDs	<ul style="list-style-type: none"> • Provide SUDs to adoptable standard • Provide a scheme and funding for secure future maintenance
Monitoring of Eco Town Standards	<ul style="list-style-type: none"> • Agree a monitoring scheme and fund the monitoring of the eco town standards in accordance with the attached schedule until completion of the whole of the NW Bicester site.
Overage	<ul style="list-style-type: none"> • Provide 25% of any additional profit over that used as a baseline in agreed HCA viability assessment as a contribution to Infrastructure fund (see above) (after 23%) then 50% to P3)
Financial Contributions to Infrastructure Fund	<ul style="list-style-type: none"> • To pay the Council in staged payments to be agreed a sum of no less than £3.5m index linked. • The infrastructure fund to be used solely for the delivery of infrastructure related to the development of the site. • The sum of £3.5m and the cost of delivering the bus service (£1,000,000) to be underwritten such that there is certainty over delivery of the funding.
Indexation & bonds	<ul style="list-style-type: none"> • Agree indexation and security of payments
Obligation Monitoring	<ul style="list-style-type: none"> • Pay on completion to CDC the sum to monitor the legal agreement

(d) That in accordance with the provisions of Regulation 21 of the Town & Country Planning (Environmental Assessment) (England & Wales) Regulations 1999 that this report is approved as setting out the main reasons, considerations and measures proposed with regard to the ES.

(e) The following conditions

Full Permission – 393 dwellings, Energy Centre,

(1) SC1.4A Standard Time Limit

Outline Permission Time Limits

(2) SC1.0A Standard time Limit

(3) SC1.1

- (4) SC1.2
- (5) SC1.3 measures to achieve zero carbon energy use as defined in PPS 1Eco Towns, through on site solutions.
- (6) Prior to work commencing on the non residential elements of the development, a design code shall be provided covering the distribution of land uses, form of buildings, street frontage, materials, servicing, parking, sustainability features. The Design Code shall be approved in writing prior to the submission of reserved matters for any element of the local centre and thereafter the reserved matters shall be made in accordance with the agreed Code.
- (7) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the attached schedule of plans and documents received 1/7/11.

Housing Standards

- (8) All dwellings shall be constructed to meet Joseph Rowntree Foundation Life Time Homes standard.
- (9) Each building shall be provided with high speed broadband (no less than 100mbs)
- (10) Prior to occupation each dwelling shall be provided with a real time information system in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
- (11) Prior to work commencing on each phase details of how each dwelling achieves good day lighting by achieving at least 2 points of the Code for Sustainable Homes level 5 for day lighting shall be submitted to and approved in writing by the LPA. The development shall thereafter be carried out in accordance with the approved details and such that each dwelling achieves good day lighting.
- (12) Prior to commencement of development on each phase a study , by a suitably qualified person, shall be submitted to and approved in writing by the local planning authority, demonstrating that the design of the buildings is such that over heating will not occur and that heat island effects have been minimised. The development shall thereafter be carried out in accordance with the agreed details.
- (13) All properties shall be constructed to meet Secured by Design standards unless otherwise agreed in writing by the Local Planning Authority.
- (14) The Panter Hudspeth house designs shall be constructed with the passive ventilation and thermally massive floors as set out in the Design and Access Statement accompanying the application.

Energy Strategy

- (15) Each dwelling shall be provided with solar PV prior to occupation.

- (16) The pipework to deliver the district heating system shall be provided to each dwelling prior to occupation.

Notwithstanding Conditions

- (17) Notwithstanding the details submitted details of the positioning of bicycle and bin stores on each phase shall be submitted to and approved in writing by the LPA prior to the commencement of the construction of any dwelling on the phase. The development shall thereafter be carried out in accordance with the approved details.
- (18) Full details of the boundary enclosures for each dwelling shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development on each phase forming part of the site. The approved boundary enclosures shall thereafter be provided prior to the dwelling they serve being occupied.
- (19) Notwithstanding the details submitted details of the fenestration, roof verge and eaves, cills, lintols and infill panels for each phase will be submitted to and approved in writing by the Local Planning Authority prior to work commencing on that phase. Thereafter the buildings shall be constructed in accordance with the approved details.
- (20) Notwithstanding the details submitted, details of revised designs of Plots 139- 142, 276, 277, 288, 289, 292, 319, 355, 356, 376, 319, 296 – 299 and the detailing of the terraces to ensure the creation of an acceptable street scene shall be submitted to and approved in writing by the local authority prior to work commencing on the plots. The plots shall be constructed in accordance with the revised approved details.
- (21) Notwithstanding the details submitted a parking scheme for each phase shall be submitted to and approved in writing by the local planning authority prior to work commencing on the agreed phase. The approved parking shall thereafter be provided in accordance with the approved plan.
- (22) Prior to work commencing on any phase, details of the streetscape, including front boundary treatment to any buildings, treatment of street parking, street landscape, hard and soft landscape details, street furniture and play features in homezones shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the details approved.

Construction Details

- (23) SC2.10A floor levels 'dwelling'
- (24) A Construction Environment Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.
- (25) 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, a remediation strategy detailing how this unsuspected contamination shall be dealt with. The remediation strategy shall be implemented as approved.

- (26) SC9.1 services underground
- (27) Prior to work commencing a report shall be submitted outlining how carbon emissions from the construction process and embodied carbon have been minimised. No work shall commence until the report has been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the plan.

Materials

- (28) SC2.0 Non Residential
- (29) SC2.1A dwellings
- (30) Details of the construction and planting of the green roofs and details of the maintenance programme that will ensure the delivery and long term maintenance of the roofs shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of any dwellings. The green roof shall then be constructed and maintained in accordance with the approved details.

Highway Conditions

- (31) No development shall commence on site for the Exemplar development until a Construction Management Travel Plan providing full details of the phasing of the development and addressing each construction activity within each phase has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority) prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction & delivery traffic during and routes to the Exemplar development site. The approved Plan shall be implemented in full during the entire construction phase and shall reflect the measures included in the Construction Method Statement received.
- (32) Notwithstanding the details shown on drawing no.s 7154 -UA001881-3 & 7155- UA001881-3 a revised plan of adoptable highways including vision splays shall be submitted to and approved in writing prior to the commencement of development on any phase. The roads, lanes and homezones shall thereafter be constructed in accordance with the proposed details.
- (33) That prior to the commencement of work on the Exemplar development the proposed South Entrance Works between the land and the highway and the off site cycle links shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken.
- (34) Prior to any dwelling being on the northern fields the access from the B4100 shall be formed laid out and constructed strictly in accordance

with Oxfordshire County Council's specification and be available for use.

- (35) Before the proposed North and South Entrances are first used the existing accesses serving the Exemplar site onto the B4100 (Banbury Road) shall be permanently stopped up by the means of full face kerbing (where appropriate), the reinstatement of the highway verge, ditch and hedge/boundary structures (fence or stone wall) and shall not be used by any vehicular traffic whatsoever.
- (36) Notwithstanding the details shown details of the locations and facilities to be provided at each bus stop including Real Time Information shall be submitted to and be approved in writing by the Local Planning Authority prior to the occupation of the first dwelling on the site. The bus stops and facilities s21hall thereafter be provided in accordance with the approved details.
- (37) No development shall commence on any phase of the development until the full design and construction details, including vision splays, bridge details, surfacing, planting, traffic calming of the roads, paths, bridges and other parts of the access routes are submitted to and approved in writing by the Local Planning Authority. The phase shall thereafter be constructed in accordance with the approved details.
- (38) Details of the final surface treatment of each road shall be submitted to and approved in writing by the LPA prior to the construction of each road, lane, homezone or public footpath .The road, lane, homezone or path shall thereafter be constructed in accordance with the approved details.
- (39) That, before any of the dwellings are first occupied, the proposed vehicular accesses, driveways, parking courts, parking areas and turning areas that serve those dwellings shall be constructed, laid out, surfaced and in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority) prior to the commencement of development.
- (40) No development shall commence on any phase until a lighting scheme for the pedestrian, cycle and vehicle routes are submitted to and approved in writing by the Local Planning Authority and the Local Highway Authority. Such lighting shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken unless otherwise approved in writing.
- (41) Details of the bus only link shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of development of the northern fields.
- (42) That before any dwelling is first occupied the estate roads and footpaths between that dwelling and the B4100 shall be laid out, constructed, lit and drained to the Oxfordshire County Council's

'Conditions and Specifications for the Construction of Roads'. No dwelling shall be occupied in the northern fields until the bus only link has been provided.

- (43) That no surface water from the Exemplar development shall be discharged onto the adjoining highway and a scheme to prevent this occurrence shall be submitted to and approved in writing by the Local Planning Authority and constructed prior to the commencement of building operations.
- (44) SC 4.13CD (Parking & turning areas) after approved insert 'except as modified by condition 13'

Drainage

- (45) All properties shall be provided with rainwater harvesting in accordance with the details shown on drawing no. 7163-UA001881-03.
- (46) Development should not be commenced until: Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.
- (47) Development shall not commence until a drainage strategy detailing any on or off site drainage works has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.
- (48) SC9.7 Hyder Consulting and received 24 June 2011.
- (49) No development approved by this permission shall begin until a scheme to avoid the risk of ground water flooding in accordance with Section 2.4.3 of the Flood Risk Assessment 3501-UA001881-UU41R-03 (Hyder, June 2011) has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
- (50) No development approved by this permission shall begin until a scheme to provide level for level floodplain compensation in accordance with Section 3.5 of the Flood Risk Assessment 3501-UA001881-UU41R-03 (Hyder, June 2011) has been submitted to, and approved in writing by, the local planning authority. The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

- (51) No development approved by this permission shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and to OCC adoptable standards, and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

Capacity to contain the 1 in 30 year storm event with the drainage attenuation and conveyance features.

- the ability to manage storm events up to and including the 1 in 100 year storm event (with a 30% allowance for climate change) safely on site, while avoiding risk to properties and others.
- A range of best practice sustainable drainage techniques including permeable paving, swales, basins, ponds and wetlands in accordance with the drainage strategy ref. 7501-UA001881-UP21R-02 and Section 4 of the Flood Risk Assessment 3501-UA001881-UU41R-03 (Hyder, June 2011).
- Measures to increase discharges into the local watercourses to improve local biodiversity.
- Full planting schedules utilising species of native and local provenance of each SUDs feature including proposed wetland features.
- No infiltration of surface water into the ground where there is a presence of contaminated land unless it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

Landscaping & Open Space

- (52) SC3.4 AA Hedge/tree protection delete' boundaries' 2m
- (53) The translocation of hedges as shown on drawing no.s 8003-UA001881-04, 8004 UA001881-04, 8005 UA001881-04 shall commence in the first planting season following the commencement of development and completed within 12 months of the commencement of works. No dwelling within 30m of the translocated hedgerow shall be occupied until such time as the hedge has been translocated.
- (54) Should any translocated hedgerow die or be removed within 5 years of the works being carried out a replacement hedge shall be planted in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The replacement hedge shall be properly maintained for a minimum of five years from planting.
- (55) Prior to the commencement of construction the open space either side of the streams shall be fenced in accordance with BS 5837 to prevent the incursion of construction vehicles working elsewhere on the site or damage during construction. No service trenches, drains or other excavations shall take place within the open space. Where works are necessary within the open space areas relating to the adjustment of ground levels, construction of bridges, footpaths and swales, details of

construction areas and adjustment of the fencing to accommodate works shall be submitted to and approved in writing prior to any work taking place within the open space area. The fencing shall thereafter be moved in accordance with the approved details and on the completion of the works the fencing shall be reinstated in the original position.

- (56) Prior to the commencement of construction the hedge buffers and allotments shall be fenced in accordance with BS 5837 to prevent the incursion of vehicles or damage during construction. No service trenches, drains or other excavations shall take place within the hedge buffers or allotments.
- (57) SC3.3A
- (58) SC3.5A
- (59) SC3.16
- (60) SC3.12
- (61) SC3.14
- (62) The development hereby permitted shall be carried out in accordance with the recommendations and specifications set out in the Arboricultural Method Statement (AMS) and/or the Tree Protection Plan (TPP) submitted by Hyder Consulting (UK) Ltd dated 19/11/2010 unless otherwise agreed in writing by the Local Planning Authority.
- (63) That prior to the commencement of any development on the site, notwithstanding the details submitted, full details, specification and construction methods for all purpose built tree pits and associated ground level surfacing materials shall be approved in writing by the Local Planning Authority. Details must also include specifications for the installation of associated below ground, load-bearing root pits and trenches and soil type required to accommodate the planting and future development of the proposed trees. The works shall be implemented in accordance with the approved details.
- (64) 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, positions and planting densities (where appropriate), 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 including the final surfacing there of.

- (d) details of SUDs features including proposals for lining features to retain water
 - (e) details of any proposed changes in levels
 - (f) details of the design and construction of bridges within areas of open space
- (65) 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 a building(s) within a phase or on the completion of the ground works within the river corridor, 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.
- (66) SC3.10
- (67) Details of the rainwater harvesting for the allotment sites shall be submitted to and approved in writing by the Local Planning Authority.
- (68) Prior to first occupation of any residential property a scheme to enable each new resident to choose a fruit tree for their garden or to be provided elsewhere on the site shall be submitted to and approved in writing by the LPA. The scheme shall thereafter be implemented in accordance with the agreed details.
- (69) Details of the laying out and management of the allotments shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of any dwellings. The allotments shall thereafter be provided and managed in accordance with the approved scheme.

Ecology

- (70) Prior to the commencement of construction on each field the site shall be checked by a suitably qualified ecologist to ensure that there is no presence of protected species that have moved on to the site since previous surveys have taken place and could be harmed by the development. Should protected species be found details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the Local Planning Authority. The development shall not commence in each existing field until the field has been confirmed to be clear of protected species.
- (71) Prior to work commencing details of a scheme for the location of bat, bird, Owl and invertebrate boxes in each phase of development will be submitted to and approved in writing by the Local Planning Authority. Prior to work commencing on any phase the location of the bat, bird, owl and invertebrate boxes shall be submitted to and approved in writing by the local planning authority. The bat, bird, owl and invertebrate boxes shall be installed in accordance with the approved scheme and prior to the occupation of any building on which they are agreed to be located.

- (72) An Ecological Construction Method Statement shall be submitted to the local planning authority and approved in writing prior to work commencing. The method statement shall address potential impacts of development on bio diversity to ensure no net loss and ensure the net gain identified is delivered. The approved Ecological Construction Method Statement shall thereafter be implemented in accordance with the approved details.
- (73) No development approved by this permission shall begin until details of pedestrian and cycle watercourse crossings have been submitted to, and approved in writing by, the local planning authority. The approved design shall be implemented as agreed..
- (74) No lighting shall be provide within the stream corridor, except that necessary across the road bridges, and no external lighting shall be provided immediately adjacent that creates light overspill to the stream corridor, unless it has first been submitted to and approved in writing by the Local Planning Authority.
- (75) No development approved by this permission shall begin until a scheme for the provision and management of the compensatory habitat pond complex as shown on plan ref. 8001 UA001881 04 has been submitted to and agreed in writing by the local planning authority and implemented as approved. Thereafter the development shall be implemented in accordance with the approved scheme prior to the completion of phase 1.
- (76) The translocation of hedgerows shall take place outside of the bird breeding season and prior to any work commencing on the translocation of hedgerows they shall be checked by an ecologist for the presence of hedgehogs and reptiles. Should these species be present they shall be removed in accordance with the mitigation set out in the environmental statement.

Waste

- (77) A Site Waste Management Plan, which shall demonstrate how zero construction waste will be sent to landfill, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction.

Other

- (78) Details of an assessment of the rated level of noise emitted from the energy centre against background noise levels measured 3.5m from the front façade of plot 359, demonstrating that rated level of noise from the energy centre is at least 5dB below background noise levels, when measured in accordance with BS4142 1997, shall be submitted to the local planning authority and approved in writing prior to work commencing on the construction of any building on the site. The energy centre shall thereafter be built with any acoustic measures outlined in the report and necessary to achieve the stipulated noise level.

- (79) Within 6 months of the implementation of the planning permission an Employment Implementation Plan to deliver the employment identified in the Employment Strategy shall be produced and submitted to and approved in writing by the Local Planning Authority. Thereafter the approved plan shall be implemented.
- (80) Details of the marketing of properties on the site including details of how they will be marketed to encourage home working and to promote sustainable transport shall be submitted to and approved in writing by the Local Planning Authority prior to the sale of properties on any phase. The marketing with regard to home working and sustainable transport shall thereafter be in accordance with the approved details unless otherwise approved in writing by the Local Planning Authority.
- (81) SC 9.6 (fire hydrants)

Construction Standards for Non Residential

- (82) Reserved matters for the non residential buildings shall closely follow the design approach for the local centre outlined at pages 48-50 of the design and access statement.
- (83) All non residential buildings shall be constructed to BREEAM EXCELLENT.
- (84) Details of the provision of highspeed broadband for the proposed offices, eco business centre and community hall shall be submitted to and approved in writing by the LPA prior to the commencement of construction.
- (85) Details of the cycle parking and facilities such as lockers and showers to facilitate cycling shall be submitted with each Reserved Matter submission relating to a building.
- (86) Details of the cycle parking and facilities such as lockers and showers to facilitate cycling shall be submitted with each Reserved Matter submission relating to a building.
- (87) Details of the cycle parking and facilities such as lockers and showers to facilitate cycling shall be submitted with each Reserved Matter submission relating to a building.
- (88) All buildings shall be constructed with rainwater harvesting.

Restriction of Use

- (89) The maximum size of any one retail premises shall be 400m² and all other retail units shall be a maximum size of 150m². The retail units shall not be amalgamated.
- (90) The Eco Business centre shall be used for B1 purposes only and no other use within the Town & Country Planning Use Classes Order.

Drainage

- (91) Surface water shall be dealt with through the use of sustainable urban drainage techniques in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Councillor Macnamara did not vote on this application as he had not been present for the whole of the item.

55 **Select France, 2 Fiveacres, Murcott, Kidlington, Oxfordshire, OX5 2RP**

The Committee considered a report for the erection of 1 No. detached cottage. The application was a re-submission of application number 10/01311/F.

Mr Timothy Brown, a local resident, spoke in objection to the application.

Mr Robert Brown, the applicant, spoke in favour of the application.

The Committee was satisfied with the evidence presented.

In reaching their decision, the Committee considered the Officers' report, presentation and the addresses of the public speakers.

Resolved

That application 10/01311/F be approved, subject to the following conditions:

- (1) 1.4A (RC2) [Full permission: Duration limit (3 years)]
- (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: application forms, design and access statement and drawing number BRO/11/01 B
- (3) 2.3DD (RC5B) [Natural stone – Limestone – (Not weathered)] insert 'dwelling and rear boundary wall'
- (4) 2.2BB (RC4A) [Samples of roofing materials] insert 'slate' 'dwelling'
- (5) 5.5BB (RC5B) [Painted timber windows]
- (6) 2.10A (RC7A) [Floor levels] insert 'dwelling'
- (7) 2.13AA (RC8A) [Demolition of Buildings – before commencement of the development]
- (8) 4.13CD (RC13BB) [Parking and manoeuvring area retained]
- (9) Notwithstanding the approved plans, the first floor window in the north east elevation of the dwelling shall not be installed. (RC6A)

- (10) The development hereby permitted shall be carried out in accordance with the recommendations set out Bat Survey report by Cotswold Wildlife Surveys dated 13 May 2011 unless otherwise agreed in writing by the Local Planning Authority. (RC85A)
- (11) 6.2AA (RC32A) [Residential – No extensions]
- (12) 6.3A (RC333) [Residential – No new windows]

56 **Unit 1 Adj Topps Tiles, Southam Road, Banbury**

The Committee considered a report which sought approval for alternations to the existing building comprising external alterations at ground floor level: including installation of new shop front and entrance feature (front elevation) and new fire escape door (rear elevation); internal alterations: including installation of mezzanine floor, 3 no. fire escape staircases, 1 no. feature customer staircase and new customer lift and consequential reconfiguration of car parking.

Martin Way, the applicant, addressed the Committee in favour of the application.

Councillor Clarke proposed that the application be refused. Councillor Milne Home seconded the proposal. The proposal was voted on and subsequently lost.

Councillor Heath proposed that the application be approved. Councillor Billington seconded the proposal.

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

Resolved

- (1) That application 11/0266/F be approved.
- (2) That authority be delegated to the Strategic Director Planning, Housing and Economy, in consultation with the Chairman of Planning Committee, to confirm the conditions.

57 **Unit 1 Adj Topps Tiles, Southam Road, Banbury**

The Committee considered a report which sought planning permission for the variation of condition no. 6 of outline planning application 01/01358/OUT (which restricted the sale of certain goods from the premises) to allow an increased range of goods to be sold from the unit.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 11/00267/F be approved, subject to the following conditions:

- (1) Time Limit (RC1)
- (2) That the retail use of the unit shall be limited to building materials, DIY home and garden improvement products, hardware, self assembly and pre-assembled furniture, household furnishings, craft and hobbies products, non-durable household goods, floor coverings, motor accessories, electrical goods and office supplies and for no other purpose whatsoever notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, other than the ancillary sale of sweets or food consumption on the premises, providing the area given over to the sale of such items does not exceed 10% of the floor area of the unit.
- (3) The retail unit hereby permitted shall not be subdivided to enable any single unit to comprise less than 465 square meters (5,000sq.ft) gross floorspace.
- (4) That no goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open without the prior express permission of the Local Planning Authority

58 **Land South of Blackwood Place and Molyneux Drive and North West of Cotefield Farm, Oxford Road, Bodicote**

The Committee considered a report for a residential development of 82 No. dwellings.

Paul McCann, the applicant, addressed the Committee in favour of the application.

The Committee considered the highway impact of the proposed development.

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

Resolved

That application 11/00617/OUT be refused for the following reasons:

- (1) The proposed development would be contrary to Policies H13 and H18 of the adopted Cherwell Local Plan, Policies H15 and H19 of the Non-Statutory Cherwell Local Plan 2011 which seek to guide residential development to allocated sites or sites within the existing built-up limits of settlements. In this case the site is not allocated for development in either the adopted or Non-Statutory Local Plan but lies outside the existing built-up limits of the settlement. It is therefore classed as countryside where its development would constitute an unjustified and undesirable intrusion into the countryside surrounding the village of

Bodicote, which would be contrary to the policies intended to protect the character and appearance of the countryside. Furthermore the development would increase the outward spread of the village intruding into the unspoilt countryside surrounding the village, neither preserving nor enhancing the Area of High Landscape Value, contrary to Policy C13 of the adopted Cherwell Local Plan and Policy EN34 of the Non-Statutory Cherwell Local Plan.

- (2) In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches, education facilities, library facilities, fire infrastructure and transport measures will be provided, which would be contrary to Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.

59

St Georges Barracks, Arncott Wood Road, Arncott, Bicester

The Committee considered a report which sought approval for a three storey Single Living Accommodation (SLA) building (BC1220) with associated service road and hard and soft landscaping.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 11/00722/F be approved subject to:

- (a) The applicant providing a unilateral undertaking relating to the monitoring fee to secure the recommendations of the agreed Travel Plan, and
- (b) The following conditions:
- (1) SC1.4 (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 listed below:
Planning, Design and Access Statement dated May 2011 by Atkins, and dwg nos.
ATK/DR/LS/BC/1002/0001
ATK/DR/LS/BC/1002/0002
ATK/DR/CI/BC/1002/9501
CBS-DR-AR-MO-BC1002-101-10 Rev 02
CBS-DR-AR-MO-BC1002-101-20 Rev 03
CBS-DR-AR-MO-BC1002-101-30 Rev 03

CBS-DR-AR-MO-BC1002-120-00 Rev 04

CBS-DR-AR-MO-BC1002-120-01 Rev 03

- (3) That the landscaping scheme shall be carried out strictly in accordance with drawing numbers FIGURE LS BC1002 01, 02 and 03, unless otherwise agreed in writing by the Local Planning Authority. (RC10A)
- (4) SC3.1A (RC10A)
- (5) That before the development is first occupied the access track shall be constructed, surfaced, laid and marked out, drained and completed in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development (RC14AA)
- (6) Full design details of the drainage (SuDs) including calculations and soakage tests shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. (RC67AA)
- (7) The development hereby permitted shall be carried out in accordance with the recommendations made under Chapter 5 'Coordination, Implementation & Monitoring' of the Framework Travel Plan Report by Atkins dated May 2011 and the details of the Final Travel Plan to be formulated and agreed in consultation with the County Council unless otherwise agreed in writing by the Local Planning Authority. (RC13BB)
- (8) The development hereby permitted shall be carried out in accordance with the recommendations set out in Extended Phase 1 Habitat Survey by Thomson Ecology dated April 2011 unless otherwise agreed in writing by the Local Planning Authority. (RC85A)
- (9) An archaeological watching brief shall be undertaken to monitor intrusive groundworks associated with the accommodation block's foundations and associated services and access roads.
- (10) The development hereby permitted shall be carried out in accordance with the recommendations and specifications set out in the Arboricultural Method Statement (AMS) and/or the Tree Protection Plan (TPP) submitted by Atkins dated 01/03/2011 unless otherwise agreed in writing by the Local Planning Authority.
- (11) No works or development shall take place until a scheme of supervision for the arboricultural protection measures has been approved in writing by the Local Planning Authority. This scheme will be appropriate to the scale and duration of the works and should include details of:
 - a) induction and personnel awareness of arboricultural matters,
 - b) identification of individual responsibilities and key personnel,
 - c) timing and methods of scheduled arboricultural site monitoring, record keeping, and the subsequent submission of information to the LPA.
 - d) procedures for dealing with variations and incidents.

The Local Planning Authority may require the scheme of supervision to be administered by a qualified arboriculturist approved by the Local Planning Authority but instructed by the applicant.

- (12) The development hereby permitted shall be used as single living accommodation for military training purposes only and shall not be used for any residential purpose, temporary or permanent.
- (13) Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.
- (14) If a potential risk from contamination is identified as a result of the work carried out under condition 13, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.
- (15) If contamination is found by undertaking the work carried out under condition 14, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.
- (16) If remedial works have been identified in condition 15, the remedial works shall be carried out in accordance with the scheme approved under condition 15. The development shall not be occupied until a verification report (referred to in PPS23 as a validation report), that demonstrates the effectiveness of the remediation carried out, has been submitted to and approved in writing by the Local Planning Authority.

Former DLO Caversfield, Skimmingdish Lane, Caversfield

The Committee considered a report for the change of use and conversion of buildings to form 160 new dwellings, construction of 27 new dwellings, change of use of lodge building (building 19) to a shop/café, change of use to B8 storage (building 50 only), two new accesses to Skimmingdish Lane, car parking, landscaping and all ancillary development.

Helen Moore, the applicant, addressed the Committee in favour of the application and the associated applications 11/00805/F, 11/00153/LB, 11/00806/LB and 11/00152/CAC.

Members of the Committee commended the proposals for the development of the historic site and commented that the development would not create additional traffic movements in the local vicinity.

Some Members of the Committee raised concerns that there was no provision for affordable housing on the site and that the proposal was not sufficiently viable for other section 106 contributions.

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

Resolved

That application 11/00805/F be approved subject to:

- (a) 11/00151/F also being approved.
- (b) A legal agreement to:
 - a. Ensure that one scheme is not Implemented without the other (11/00151/F and 11/00806/F)
 - b. Set out a phasing scheme for development
 - c. Secure a maintenance scheme for the landscaping and upkeep of the buildings
- (c) Authority being delegated to Officers to agree final approval of the list of plan numbers, and the precise wording of the S106 Agreement and conditions.
- (d) The following conditions:
 - (1) SC 1.4A Full Permission: Duration Limit (3 Years) (RC2)
 - (2) SC 2.0A Details of Materials and External Finishes (RC4A) (new build development)
 - (3) SC 2.2AA Samples of Walling Materials (RC4A) (new build development)
 - (4) SC 2.2BB Samples of Roofing Materials (RC4A) (new build development)

- (5) SC 3.0A Submit Landscaping Scheme (RC10A)
- (6) SC 3.1A Carry Out Landscaping Scheme and Replacements (RC10A)
- (7) That the development hereby permitted shall be carried out in accordance with the recommendations and specifications set out in the Arboricultural Method Statement (AMS) and/or the Tree Protection Plan (TPP) submitted by Hayden's Arboricultural Consultants dated 19th October 2010 unless otherwise agreed in writing by the Local Planning Authority. (RC85A)
- (8) SC 3.3AA Scheme to be submitted to protect retained trees (RC72A) (a-h)
- (9) SC 3.4AA Retain Existing Hedgerow/Tree Boundary (with access) (RC11A) (North and east boundary – height of 2m)
- (10) SC 3.5AA Notice of Tree Works and Major Operations (RC73A)
- (11) SC 3.6A Reinforce Hedge (RC11A) (north and east boundary)
- (12) SC 3.11AA Prohibited Activities (RC73A)
- (13) SC 3.12A Restriction on Service Trenches Close to Trees (RC59A)
- (14) SC 3.14A Site supervision (RC73A)
- (15) SC 3.16 Details of services (RC58B)
- (16) SC 3.7AA Submit Boundary Enclosure Details (More than one dwelling) (RC12AA)
- (17) SC 4.0AB Access, Specification Proposed (...m or as plan) (RC13BB)
- (18) Prior to the first use of the proposed accesses onto Skimmingdish Lane vision splays measuring 2.4 metres x 43 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. (RC13BB)
- (19) That, before the proposed access is first used, the existing access onto Skimmingdish Lane shall be permanently stopped up by means of reinstatement of the highway verge, full face kerbing and any planting to the approval of the Local Planning Authority and in accordance with the highway authority's specifications and shall not be used by any vehicular traffic whatsoever. (RC13B)
- (20) That before the proposed development is first occupied the internal pedestrian and cycle route and access/entrance onto the footway/cycleway along the A4421 is to be formed and laid in accordance with details to be submitted to and approved by the Local Planning Authority and constructed strictly in accordance with the Highway authority's specifications and that all ancillary works specified shall be undertaken. (RC13B)

- (21) SC 4.13CD Parking and Manoeuvring Area Retained (RC13BB)
- (22) SC 4.14BC Plan of Car Parking Provision (Unspecified number of spaces) (RC15AA)
- (23) SC 4.14CC Cycle Parking (RC66A)
- (24) SC 6.1AA Residential – Open Fronts (Retail open character) (RC30A)
- (25) SC 6.2AA Residential – No Extensions (RC32A)
- (26) SC 6.3A Residential – No New Windows (RC33)
- (27) SC 9.4A Carry out mitigation in ecological report (RC85A)
- (28) Prior to the commencement of development a scheme for play provision shall be submitted to and approved by the Local Planning Authority and shall be implemented in accordance with a timescale also agreed in writing with the LPA
- (29) Prior to the commencement of development the applicant shall submit to the Local Planning Authority for approval details of a scheme of acoustic insulation to the SE and SW facades of building 44/45 such that an internal noise level of 35 dB(A) can be achieved with windows closed. Additional silenced mechanical ventilation will also be required to the same rooms. The approved scheme of sound insulation shall be installed and fully operational prior to the first occupation of the dwellings.
- (30) For those dwellings falling within areas of the site identified as falling within Noise Exposure Category B the applicant shall submit to the LPA for approval details of a scheme of acoustic insulation such that an internal noise level of 35 dB(A) can be achieved with windows closed. The approved scheme of sound insulation shall be installed and fully operational prior to the first occupation of the dwellings.
- (31) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by GH Bullard and Associates, dated February 2011, reference 020/2011/3 ADDENDUM FRA and the following mitigation measures detailed within the FRA:
 - 1. Surface water discharge rates shall be disposed of via infiltration, in accordance with Section 2 of the FRA
 - 2. The surface water drainage system shall include the use of ponds and soakaways, in accordance with Section 2 of the FRA.
- (32) 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 hydro geological 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.

- The scheme shall also include details of the future maintenance of the system
- Run off from the road and car parking area could result in elevated levels of contaminants (particularly hydrocarbons), which may pose a risk to controlled waters. We require details confirming that surface water drainage from high risk areas are isolated and do not enter infiltration systems.
- The scheme shall be designed to include the protection of groundwater quality

(33) No development approved by this planning permission shall take place (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), until the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing by the Local Planning Authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

(34) Prior to occupation of any part of the permitted development , a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

61

Former DLO Caversfield, Skimmingdish Lane, Caversfield

The Committee considered a report for the erection of 8 dwellings in addition to the proposals in application 11/00151/F and associated works.

The Committee considered the application in conjunction with application 11/00151/F and maintained the same comments: Members of the Committee commended the proposals for the development of the historic site and commented that the development would not create additional traffic movements in the local vicinity.

Some Members of the Committee raised concerns that there was no provision for affordable housing on the site and that the proposal was not sufficiently viable for other section 106 contributions.

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

Resolved

That application 11/00805/F be approved subject to

- (a) 11/00151/F also being approved.
- (b) A legal agreement to;
 - i. Ensure that one scheme is not Implemented without the other (11/00151/F and 11/00806/F)
 - ii. Set out a phasing scheme for development
 - iii. Secure a maintenance scheme for the landscaping and upkeep of the buildings
- (c) Authority being delegated to Officers to agree final approval of the list of plan numbers, and the precise wording of the S106 Agreement and conditions.
- (d) Conditions: As appropriate from planning application 11/00151/F.

62

Former DLO Caversfield, Skimmingdish Lane, Caversfield

The Committee considered a report which sought approval for the refurbishment and alterations to listed buildings, including some partial internal and external demolition in association with their conversion to residential use and use of building 50 for storage purposes.

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

Resolved

That application 11/00153/LB be approved subject to:

- (a) Authority being delegated to Officers to agree final approval of the list of plan numbers, and the precise wording of the S106 Agreement and conditions.
- (b) The following conditions:
 - (1) SC1.5A Listed Building: Duration Limit (3 years) (RC3)
 - (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:
 - (3) That any replacement, repairs and making good of external walls and roofs shall be constructed in accordance with a detailed schedule and specification of materials and finishes which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved. Samples of materials shall be provided if requested.
 - (4) SC 5.7C Making Good in Materials to Match (RC27AA)
 - (5) SC 5.1AB Safeguard Existing Buildings (RC24AA)
 - (6) SC 5.2AB Hand Demolition and Safeguard Existing Buildings (RC24AA)
 - (7) SC 5.4A Protect Existing Architectural Features (RC26A)
 - (8) SC 5.3AA Demolition of Buildings (RC25A)
 - (9) SC 5.3C No Other Works Except as Plans (RC27AA)
 - (10) SC 5.13AB Building Recording (RC63AA)
 - (11) That all new or replacement windows, doors and openings shall be in accordance with details to no less than 1:10 (including cross section, plan, elevation, glazing and colour/finish) which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved. (RC79A)
 - (12) SC 5.16B Details of damp proof course (RC27AA)
 - (13) SC 5.5AB Submit New Design Details (RC27AA) – flooring, ceiling, wall treatments
 - (14) SC 5.5AB Submit New Design Details (RC27AA) – staircases, the method of breaking through the first floor slab and fixing details
 - (15) The use of cement is not permitted unless for the purposes of repairing similar or otherwise agreed in writing by the Local Planning Authority. (RC27AA)

- (16) The use of modern plaster is not permitted unless for the purposes of replacing or repairing similar or on approved partition walls or otherwise agreed in writing by the Local Planning Authority. (RC27AA)
- (17) SC 5.5AB Submit New Design Details (RC27AA) – any new external steps, ramps and handrails
- (18) SC 5.5AB Submit New Design Details (RC27AA) – external access gates

63

Former DLO Caversfield, Skimmingdish Lane, Caversfield

The Committee considered a report which sought approval for proposals to alterations to building 22 to provide 3 dwellings.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 11/00806/LB be approved subject to:

- (a) Authority being delegated to Officers to agree final approval of the list of plan numbers, and the precise wording of the S106 Agreement and conditions.
- (b) The following conditions:
 - (1) SC.5A Listed Building: Duration Limit (3 years) (RC3)
 - (2) Plans condition
 - (3) That the external walls and roofs of the new dwellings shall be constructed in accordance with a detailed schedule and specification of materials and finishes which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved.
 - (4) SC 5.7C Making Good in Materials to Match (RC27AA)
 - (5) SC 5.1AB Safeguard Existing Buildings (RC24AA)
 - (6) SC 5.2AB Hand Demolition and Safeguard Existing Buildings (RC24AA)
 - (7) SC 5.3AA Demolition of Buildings (RC25A)
 - (8) SC 5.3C No Other Works Except as Plans (RC27AA)
 - (9) SC 5.13AB Building Recording (RC63AA)

- (10) That all new or replacement windows, doors and openings in the original building and new structures shall be in accordance with details to no less than 1:10 (including cross section, plan, elevation, glazing and colour/finish) which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved. (RC79A)
- (11) SC 5.16B Details of damp proof course (RC27AA)
- (12) SC 5.5AB Submit New Design Details (RC27AA) – flooring, ceiling, wall treatments
- (13) The use of cement in the retained building is not permitted unless for the purposes of repairing similar or otherwise agreed in writing by the Local Planning Authority. (RC27AA)
- (14) The use of modern plaster in the retained building is not permitted unless for the purposes of replacing or repairing similar or on approved partition walls or otherwise agreed in writing by the Local Planning Authority. (RC27AA)

64

Former DLO Caversfield, Skimmingdish Lane, Caversfield

The Committee considered a report which sought approval for proposals for the demolition of building 2 (shooting range), removal of roof on building 19 (guard room), removal of accretion on building 28 (mess), partial demolition of building 44/45 (mortuary and ambulance garage) and demolition of garages.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 11/00152/CAC be approved subject to:

- (a) Authority being delegated to Officers to agree final approval of the list of plan numbers, and the precise wording of the S106 Agreement and conditions.
- (b) The following conditions:
 - (1) SC 1.4A (RC2) Duration limit, 3 years
 - (2) SC 5.7B (RC27A - delete reference to C18 of the adopted Local Plan)

144 Oxford Road, Kidlington, Oxfordshire, OX5 1EA

The Committee considered a report for the demolition of the existing detached building (residential and retail use) and construction of new building incorporating 3 No. retail units and 1 No. 2 storey dwelling and 5 No. flats with parking and amenity space.

Chris Pack spoke in objection to the application as a member of Kidlington Parish Council.

Members of the Committee raised concerns that the proposals constituted overdevelopment. The Committee considered highway safety issues and noted that the Highways Authority had raised no objections.

Councillor Billington proposed that that the application be refused. Councillor Clarke seconded the proposal. The proposal was voted on and subsequently lost.

Councillor Stevens proposed that the application be approved. Councillor Pickford seconded the proposal.

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

Resolved

That application 11/00875/F be approved subject to the receipt of amended plans and the following conditions:

- (1) 1.4A (RC2) [Full permission: Duration limit (3 years)]
- (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: application forms, design and access statement and drawing numbers 179610:1, 179610:2, 179610:6 submitted with the application and amended drawing numbers 179610:3A, 179610:4A and 179610:5A received in the department on 3 August 2011. For the avoidance of doubt, the commercial rubbish area shall not be installed at the front of the site.
- (3) 2.2AA (RC4A) [Samples of walling materials] insert 'brick' 'building'
- (4) 2.2BB (RC4A) [Samples of roofing materials] insert 'tile' 'building'
- (5) 2.8A (RC4A) [Colouring: walls etc] insert 'render'
- (6) 2.9AA (RC6A) [Obscured glass windows] replace 'the' with 'any' (no insert in gap) 'north and south' add an 's' to 'elevation' add at end 'and shall be fixed shut unless any opening element is at least 1.7m above the floor level in the room in which it serves except for the lounge window on the north elevation of the building shown on drawing number 179610:4A'

- (7) 2.10A (RC7A) [Floor levels] insert 'building'
- (8) 4.13CD (RC13BB) [Parking and manoeuvring area retained] after 'areas' insert 'and cycle areas' after 'vehicles' insert 'and bicycles'
- (9) 4.12AA (RC14AA) [.....Surface, laid out etc] insert 'access drive'
- (10) 3.7AA (RC12AA) [Submit boundary enclosure details] after 'the site' insert 'including the metal railing to the front of the site' delete after 'such means of enclosure' insert 'shall be erected prior to the first use of the building'
- (11) That full design details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such lighting. The lighting shall be installed in accordance with the approved details. (RC95A)
- (12) 6.15AA (RC40AA) [Use class (specified)] after first 'the' insert 'three retail' insert into gap 'A1'
- (13) No deliveries shall take place to or from the site before 08.00 hours or after 18.00 hours on any day.
- (14) That full design details of any proposed mechanical ventilation systems to be installed in the building shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any such equipment. The equipment shall be installed in accordance with the approved details.
- (15) That a plan showing the commercial rubbish area removed from the front of the site and its proposed position to the rear of the site shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The development shall be carried out in accordance with the approved details. (RC4A)

66 **Land north of DeeJay Farm and south of Chestnut Road, Mollington, Oxon**

The Committee considered a report which sought approval for proposals for the erection of 6 no. affordable housing dwellings and associated works.

Members of the Committee commented that whilst affordable housing and rural exception sites were generally supported, proposals for such schemes were not always appropriate.

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

Resolved

That application 11/00829/F be refused for the following reasons:

- (1) The proposal constitutes built development outside the built up limits of the settlement and within the open countryside. It does not accord with the Policy H6 of the adopted Cherwell Local Plan (with regards to rural exception sites) as there has been no need established for the house types proposed and there are no secure arrangements to restrict the occupancy of the development to ensure that it would continue to meet local needs in the long term. The proposal is therefore contrary to, National Planning Guidance PPS1, PPS3 and PPG 13, Policies BE1, BE6, T1, H1, H3, H4, H5 of the South East Plan and Policies H6 and H14 of the adopted Cherwell Local Plan.
- (2) The proposal, by reason of its siting, design and appearance is considered to be out of keeping with the general form and character of the surrounding residential development and the development unnecessarily encroaches significantly into the open countryside contrary to established countryside protection policies contained within PPS7: Sustainable Development in Rural Areas. The application is therefore contrary to the provisions of PPS1: Delivering Sustainable Development, Policy BE1 of the South East Plan and Policies C27, C28 and C30 of the adopted Cherwell Local Plan.

67

Unit 3A, Bessemer Close, Bicester OX26 6QE

The Committee considered a report which sought retrospective approval for the change of use from B8 to B2 and installation of roller-shutter door to side elevation and drainage to rear of unit. The application was a re-submission of 11/00482/F.

Mr Dewi Lewis, a local resident, addressed the Committee in objection to the application.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 11/00995/F be refused for the following reason:

The use of the building for the B2 use being undertaken (the cutting and milling of stone material such as granite, quartz and marble) gives rise to unacceptable levels of noise to the detriment of the amenities of adjoining residential occupiers at Fallowfields. The proposal is therefore contrary to the advice contained within PPG24: Planning and Noise and policy ENV1 of the Adopted Cherwell Local Plan 1996

Land South West of Bicester adjoining Oxford Road and Middleton Stoney Road, Bicester.

The Committee considered a report for the construction of up to 46 dwellings with associated amenity space, car parking, access roads and public open space.

Members of the Committee raised concerns about whether the proposals were the most suitable use of the site. The Committee noted that the development complied with relevant planning policies.

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

Resolved

That application 11/01052/OUT be approved Approve Subject to:

- (a) The applicants entering into a Section 106 Agreement with the local authority in respect of the items detailed in the report.
- (b) The following conditions and planning notes:

Conditions

- (1) That no development shall be commenced until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
- (2) That in the case of the reserved matters, application for approval shall be made not later than the expiration of three years beginning with the date of this permission.
- (3) That the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval if the last reserved matters to be approved.
- (4) That 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. Transport Assessment dated September 2010 site location plan 180601x/SLP and Design and Access statement dated July 2011.
- (5) That a plan showing the details of the finished floor levels of the proposed dwelling(s) in relation to existing ground levels on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.

- (6) That the external walls and roof(s) of the dwelling(s) shall be constructed in accordance with a schedule of materials and finished which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved.
- (7) That no more than 46 dwellings shall be accommodated on the site.
- (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 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.
- (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.
- (10) That full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure, in respect of those dwellings which it is intended shall be screened, shall be erected prior to the first occupation of those dwellings.
- (11) Prior to the commencement of the development hereby permitted details of the provision, landscaping and treatment of open space/play space within the site shall be submitted to and approved in writing by the Local Planning Authority. The open space/play space, once approved shall be landscaped, laid out and completed in accordance with the details approved and within a time period to be first approved

in writing by the Local Planning Authority and thereafter retained as open space/play space.

- (12) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk document dated September 2010, and the following mitigation measures detailed within the document.
1. The surface water drainage scheme shall be designed to infiltrate or attenuate (where infiltration is not possible) surface water from storms up to and including the 1 in 10 year storm event, as detailed in Sections 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.
- (13) 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.
- (14) 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, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.
- (15) That the internal vehicle access vision splays shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and that the land and vegetation within the splays shall not be obstructed by any object, structure, planting or other material height.

- (16) That, before any of the dwellings are first occupied, the whole of the estate roads and footpaths and pedestrian/cycle links (*except for the final surfacing thereof*) shall be laid out, Constructed, lit and drained and if required temporary or permanent traffic calming to the Oxfordshire County Council Specifications.
- (17) That, before any of the dwellings are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained (SUDS) in accordance with the specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- (18) Before the development is first occupied the parking and manoeuvring areas associated with the dwellings shall be provided in accordance with the plan (to be agreed at reserved matters stage) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times.
- (19) Prior to work commencing a Construction Management Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.
- (20) Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".
- (21) A Local Area of Play (LAP) shall be provided in accordance with the Council's adopted policy. Details of the siting and design of the LAP shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and thereafter it shall be provided in accordance with the approved details prior to the occupation of any dwelling.
- (22) No works or development shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) has been agreed in writing with the Local Planning Authority. This scheme shall include:

- a) a plan that shows the position, crown spread and Root Protection Area (paragraph 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan.
 - b) the details of each retained tree as required at paragraph 4.2.6 of BS5837 in a separate schedule.
 - c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.
- (23) That the development of the reserve school site for residential purposes shall be designed in accordance with the Avenue Character Area and shall be developed wholly in accordance with the requirements of the approved design code accompanying the outline application 06/00967/OUT dated July 2008 (RCA).
- (24) That prior the first occupation of any part of the development hereby permitted fire hydrants shall be provided or enhanced on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Planning Notes

- (1) 1 Thames Water
- (2) Q1 Legal Agreement
- (3) U1
- (4) X1
- (5) In the submission of reserve matters details for approval it is expected that the new scheme will follow closely the details identified in the Design & 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 resting provision within the development in the interests of improving biodiversity within the site.

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.

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Appeals Progress Report

The Committee considered a report which updated Members on applications where new appeals had been lodged, public inquiries/hearings scheduled or appeal results received.

Resolved

That the position statement be accepted.

The meeting ended at 6.30 pm

Chairman:

Date:

PLANNING COMMITTEE

8 September 2011

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

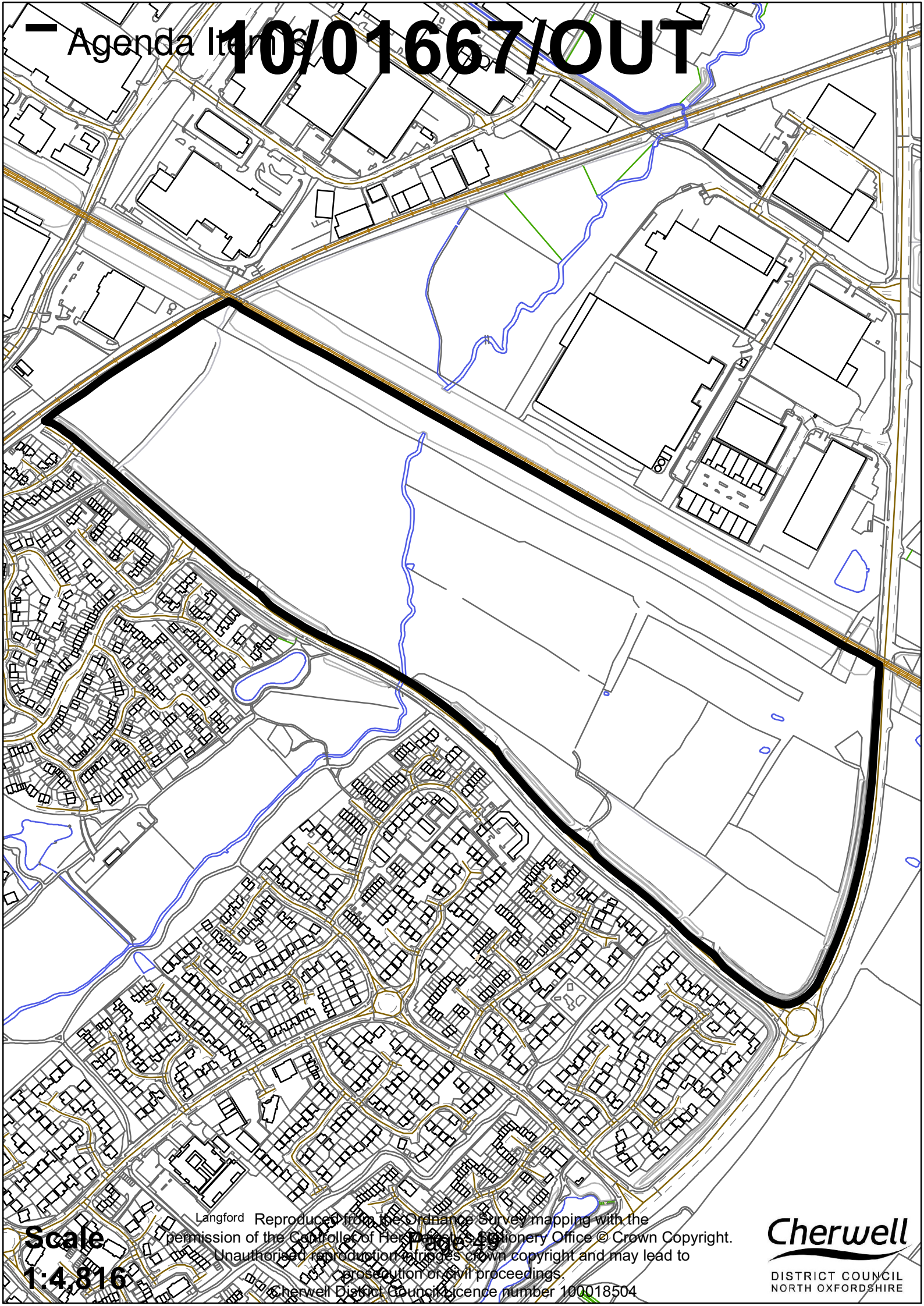
The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations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

Site	Application No.	Ward	Recommendation	Contact Officer
6 Land Between Birmingham London Rail Line and Gavray Drive, Bicester	10/01667/OUT	Bicester South	Approval	Rebecca Horley
7 5 The Rydes, Bodicote	11/00819/F	Bloxham & Bodicote	Approval	Simon Dean
8 Penrose House, 67 Hightown Road, Banbury	11/00820/F	Banbury Calthorpe	Approval	Simon Dean
9 The Bell Inn, High Street, Hook Norton	11/00894/F	Hook Norton	Refusal	Simon Dean
10 Former J A Pye Oxford Ltd site, Langford Locks, Kidlington, OX5 1HZ	11/00906/F	Kidlington North	Approval	Tracey Morrissey
11 42 South Bar Street, Banbury	11/00974/F	Banbury Easington	Approval	Simon Dean
12 42 South Bar Street, Banbury	11/00975/LB	Banbury Easington	Approval	Simon Dean
13 Land at Station Road, Enslow	11/01071/OUT	Kirtlington	Refusal	Paul Ihringer
14 21 and 22 Portland Road, Milcombe, Banbury, Oxfordshire, OX15 4RL	11/01081/F	Bloxham & Bodicote	Approval	Caroline Ford
15 237 Balmoral Avenue, Banbury	11/01127/F	Banbury Easington	Approval	Simon Dean

Agenda Item 10/01667/OUT



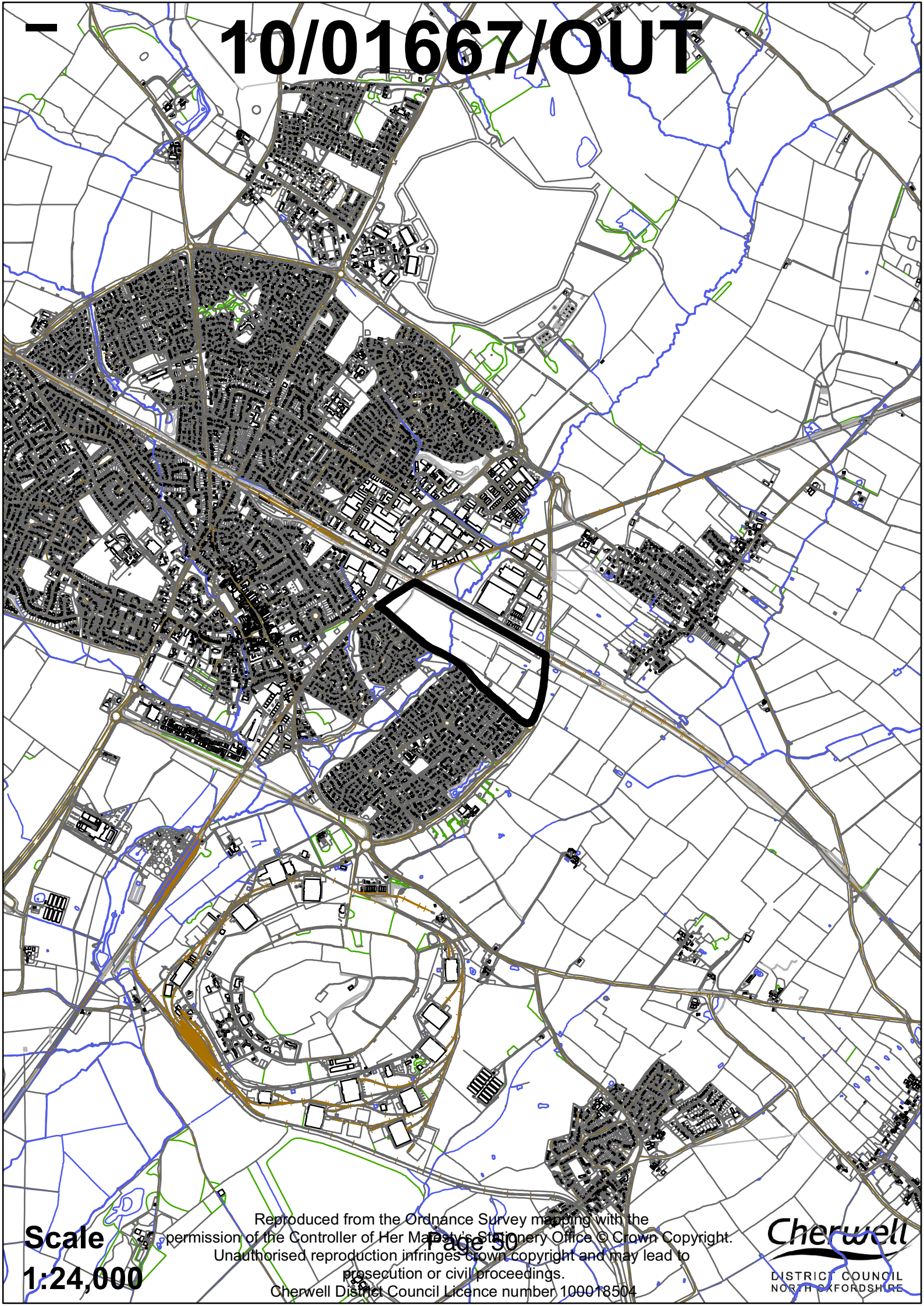
Scale
1:4,816

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

10/01667/OUT



Scale
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: **Ward: Bicester South** **Date Valid: 03/11/10**
10/01667/OUT

Applicant: Gallagher Estates Ltd, Mr David Keyes, Gallagher House, Gallagher Business Park, Warwick, CV34 6AF

Site Address: Land Between Birmingham London Rail Line and Gavray Drive, Bicester

Proposal: Extension of time limit to 04/02797/OUT: Residential Development

1. Site Description and Proposal

1.1 Site

This 24.5 hectare undeveloped site is situated to the east of Bicester town centre within the urban area. It is bound by railway lines to the north and west. Langford village residential area lies to the south of the site. Access to the site is directly off the ring road to the east.

1.2 Proposal

This application seeks an extension of time limit for the implementation of the application 04/02797/OUT which was allowed at appeal for residential development in outline only with all matters reserved. The Inspector's decision, dated 12 July 2006, is attached at Appendix A, together with the conditions imposed which included the requirement for the submission of a masterplan, design codes and an ecological construction method statement. There is also a Section 106 agreement related to this decision (not appended). Due to the nature of this application, the detail of the proposal is not repeated in this report. The extant permission (04/02797/OUT) expired on 12 July 2011.

1.3 Relevant Planning History

- 05/01035/F – this was a duplicate application to 04/02797/OUT and submitted whilst that application was under consideration at appeal. The application was refused.
- In November 2007 Planning Committee considered a report on the submissions made by the developer to seek approval for the Master Plan, design codes and the ecological construction method statement (ECMS). Committee approved a wildlife management plan, the design code document and the Master Plan in all respects other than the drainage strategy which had attracted objections from ecologists who had been involved in the appeal. Approval of the ECMS was withheld until the drainage matters were resolved and encouraged an application under Condition 14 relating to drainage matters.
- 09/00584/F – As the Master Plan was not approved, condition 8 of the original permission was not cleared. The applicant wished to apply for a reserved matters submission to establish the roads and drainage layout and the details of this would allow the clearance of condition 8 but the wording of condition 8 precluded this submission as a reserved matter. Application 09/00584/F sought to amend this dilemma and permission was granted to vary condition 8 (relating to drainage) of the 04/02797/OUT consent allowing the wording to be changed so that the submission of a roads and drainage application could be made prior

to the approval of the Master Plan. All other reserved matters applications will still have to await the clearance of the Master Plan.

- 09/00909/REM – as yet undetermined application for the roads and drainage infrastructure.

2. Application Publicity

- 2.1 The application has been advertised by site notice, neighbour letter and press notice. The final date for comment was 10 December 2010. No third party representations have been received from neighbouring properties representing private interests but the following comments have been received from various bodies representing ecological interests including BBOWT, Natural England, Butterfly Conservation and a third party representation from Bioscan (UK) Ltd.
- 2.2 Objections have been raised on the following grounds:
- i. Insufficient up to date baseline information with respect to protected species
 - ii. Insufficient information and assessment with respect to the downstream impacts on two SSSIs.
 - iii. Insufficient information regarding the potential hydrological effect of the proposed development on the retained Local Wildlife Site
 - iv. Insufficient consideration of the butterfly interest.
 - v. The assessment does not provide full, secured mitigation and enhancement measures.
 - vi. The proposals do not demonstrate a net gain in biodiversity.
 - vii. The proposals do not accord with current legislation and policy.
 - viii. The Extension of Time application process has been misunderstood.
 - ix. The housing need case no longer exists
 - x. A new Environmental Impact Assessment should be undertaken.
 - xi. The site is not in a sustainable location
- 2.3 Butterfly Conservation's latest formal correspondence was received on 2 August and later followed up by email mainly regarding the White-letter Hairstreak on 9 August. This organisation is in fundamental disagreement with the conclusions of the applicant's ecologist (EDP) in terms of the proposed developments impact on the butterflies.
- The Black Hairstreak will be adversely impacted and will almost certainly die out. The colony is nationally important. The mitigation programme will not provide any benefit for at least 10 years and will be too late to save the colony. The Brown Hairstreak will be similarly affected though the colony will not die out completely. The 9 August survey revealed its continued presence. To this end it is recommended that the proposed development east of the Langford Brook needs to be downsized.
 - Small Heath has a low presence and is likely lost at this site and whilst this is not desirable Butterfly Conservation accept it does not alone justify modification of the development proposals.
 - White-letter Hairstreak is likely to be present owing to the amount of elm on the site and other sitings to the west of Bicester. A hatched egg was found on 9 August which was likely to have been laid in the summer of 2010 (not this summer). This is proof that it breeds at the site and not just frequents it.
- Butterfly Conservation hold the view that the presence of the White-letter Hairstreak along with the Brown and Black Hairstreaks and the commoner Green and Purple

Hairstreaks makes Gavray Drive one of the few sites in the UK where all five can be seen. Alongside the Greater Crested Newts this would make the site worthy for consideration as an SSSI.

- 2.4 Berks, Bucks & Oxon Wildlife Trust (BBOWT). The site has significant local wildlife interest and the development proposes direct land take from a designated Local Wildlife Site (LWS). The biodiversity value of the site should be assessed in the light of complete baseline information in order to ensure compliance with PPS9. The previous decision in 2006 concluded the harm to the LWS was outweighed by the need for new housing.

3. Consultations

- 3.1 Whilst all the responses to the consultation exercise are detailed on the core file, available electronically via our website, a summary of the submissions received is provided below. It should be noted that the government advice on this type of 'renewal' application is that the Council has discretion on whom to consult and should adopt a proportionate approach.
- 3.2 Bicester Town Council: No objection. Concerns are expressed that the application is not being progressed within the original timeframe and if it should go on for longer than 24 months the land ought to revert to employment use
- 3.3 Environment Agency: No objection. It is understood that the sequential and exceptions test issues have now been satisfactorily addressed. The remaining issues can be achieved through conditions.
- 3.4 Thames Water: The existing waste infrastructure is not able to accommodate the needs of the application unless a Grampian style condition is imposed regarding the drainage strategy detailing any on and/or off site works. Matters relating to water supply can be dealt with by informative.
- 3.5 Oxfordshire County Council (Planning Policy): No objection provided that the permission is subject to the existing Section 106 being varied and amended so that the proposed indicative school site is on a part of the site that is not within the 1:50 year flood zone. Also a revised master plan should be submitted that takes into account the relocation of the school site and the latest ecological information. A condition should be imposed so that flood remediation works on the school site is approved prior to the development taking place. The County Council also state that ecological matters should be resolved in accordance with their Annex 1. The latest advice is that CDC should seek an updated Environmental Impact Assessment.
- 3.6 Oxfordshire County Council (Highway Authority): No objection, subject to Section 106 requirements.
- 3.7 The Council's Head of Planning & Affordable Housing Policy: No objection, subject to consideration of material policy changes. This site is included as a deliverable site in the district's housing supply in view of its status as an approved, available and achievable site. It is currently part of the district's 5 year land supply and as a strategic site for some 500 dwellings it is significant. It remains a suitable location for residential development and the LDF work on employment land issues assumes that this site will be developed primarily for housing. The development will need to

comply with the requirements relating to sustainability found in Policies NRM11 and CC4 of the SE Plan and the Council's adopted Planning Advice Note on Sustainable Construction Dec 2009.

- 3.8 Natural England: A holding objection was issued on 19 May recommending that the Environmental Statement be updated or supplemented to ensure that the issues of the Greater Crested Newt and the Brown and Black Hairstreak butterflies have been dealt with. At the time of writing Natural England still have an outstanding objection to the application based on the drainage and qualities of the stone to be used in the foundations of the road and drainage areas. It is Natural England's advice that all of the issues need to be weighed in the balance when considering the appropriateness of the scale and extent of the proposed development for this site. They make it clear that because there is no recourse through criminal proceedings if habitat is destroyed or butterfly populations wiped out, it is all the more important that these species are properly considered in the planning process.
- 3.9 The Council's Ecologist: Comments that having reviewed all the latest information regarding protected species there is no objection to the application subject to conditions to ensure surveys are undertaken just prior to development particularly with regard to the European Protected Species and the White-letter Hairstreak butterfly.
- 3.10 Launton Parish Council: No objection

4. Policy Considerations

National Policy Guidance

- PPS1 (Jan 2005) and Climate Change Supplement published Dec 2006 – Delivering Sustainable Development
- PPS3 (as amended June 2011) - Housing
- PPS4 (Dec 2009) – Planning for Sustainable Economic Growth
- PPS9 (Aug 2005) – Biodiversity and Geological Conservation sets out the Governments objectives for conserving and enhancing biological diversity in England to ensure that planning permissions not only avoid mitigation or compensate for harm but always seeks ways to enhance and restore biodiversity.
- PPG13 – Transport
- PPG24 – Planning & Noise
- PPS25 (March 2010) – Development & Flood Risk – provides advice on assessing flood risk in connection with development and requires the provision of FRAs and sequential tests where development occurs in Flood Zone 3
- Draft National Planning Policy Framework – July 2011

South East Plan
2009 Policies

- Spatial Strategy - SP3 urban focus and renaissance
- Cross Cutting - CC1, CC2, CC3, CC4, CC6 and CC7 – sustainable development & communities, climate change, resource use, construction and character of the environment
- Housing - H1, H2, H3 and H5 – deliverability, affordability, design and density
- Transport - T1 & T4 – management, investment and parking
- Natural Resource Management - NRM1, NRM2, NRM4, NRM5 & NRM11 – sustainable water resources, ground water quality, flood risk management, conservation & improvement of biodiversity, design for energy efficiency and renewable energy
- Countryside & Landscape Management - C4 and C5 – landscape and countryside management and rural/urban fringe
- Management of the Built Environment - BE1 - management for an urban renaissance
- The Secretary of State's intention to withdraw all RSS's in accordance with the Localism Bill

Adopted Cherwell
Local Plan 1996
saved policies

- EMP1 – Employment site
- TR1 – Transport
- R12 – Public open space provision in housing developments
- C1 – Nature conservation
- C2 – Development affecting protected species
- C4 – Promotion and creation of new habitats
- C28 – Design, layout etc standards
- C30 – Housing standards

Cherwell Local
Development
Framework (LDF)
Draft Core
Strategy 2010

The draft document went through the first round of public consultation in the Spring of 2010. The second draft is due out shortly for further public comment. It indicates the strategy that the Council is putting forward and contains a series of key objectives and a number of policies highlighting a focus of growth in and around Bicester with limited growth elsewhere. Policies seek to mitigate and adapt to climate change and ensure sustainable construction methods including SuDs.

- SD1 – Mitigating and Adapting to Climate Change
- SD5 – Sustainable Construction
- SD6 – Sustainable Drainage Systems
- SD8 – Protection and Enhancement of Biodiversity & the Natural Environment
- SD11 – Local Landscape Protection and Enhancement
- SD13 – The Built Environment

5. Appraisal

5.1 Extension of Time Limit Applications

An extension to the time limit for implementing planning permission is a relatively new and temporary procedure designed to make it easier to keep planning permissions alive for longer during the economic downturn. It grants a new

permission for the development authorised by the original permission but differs from an ordinary planning permission in terms of the amount of information required to be submitted by the applicant, the consultee requirements and the fee. It is still considered against the development plan and material considerations under s.38(6) of the 2004 Act.

- 5.1.1 As the application has been previously approved, this application is to be assessed in terms of whether any material change in circumstances have occurred since the last permission which would lead the Council to form a different opinion thereby altering the decision. Where a s106 agreement relates to the land, the Communities and Local Government (CLG) Guidance recommends that a short supplementary deed be prepared and signed which links the new application to the previous obligation.
- 5.1.2 With regard to Extension to Time applications, Local Planning Authorities should *'focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission'*
- 5.2 Changes to Development Plan Policy since Approval of Previous Application
With regard to the development plan, the Oxfordshire Structure Plan 2016 is no longer in force. The South East Plan Regional Spatial Strategy May 2009 has been reinstated as part of the development plan and this document is now a material consideration. Insofar as the policies of the SE Plan which replace those of the Structure Plan, there is no significant altering of the position which would materially affect the outcome save those which relate to the greater emphasis on sustainability. Furthermore, some of the adopted Cherwell Local Plan Policies previously referred to have not been saved.
- 5.3 Government Guidance
PPS1 establishes the overarching objectives of land use planning in facilitating and promoting sustainable development. It also outlines the importance of good urban design as an essential component in improving the quality of the environment. PPS1 illustrates the importance of bringing forward suitable land in appropriate locations. The inspectors report on the previous permission considered the sustainability issue of this site concluding that it was a 'relatively sustainable location, with reasonably good links to the town centre and other facilities....by means other than the private car'. The proposal is also considered to be compliant with PPS1 as it provides good connections between homes and jobs, thereby promoting opportunities for local employment and sport and recreation.
- 5.3.1 There is also now a supplement to PPS1 relating to climate change (published in 2007) which seeks to ensure that development is delivered more efficiently, thereby producing less harmful emissions. Again sustainability is key to this and as the site is considered to be a sustainable location, further improved efficiency levels can be pursued at the detailed stage.
- 5.3.2 PPS3 relates to housing and states that sites should be available, suitable and achievable, all of which apply to this site. The deliverability has, we are advised, only been affected by the difficulties in the housing market which have affected sites across the country. The proposal aims to deliver 500 dwellings which would make a significant contribution to the Cherwell's 5 year housing land supply. The

LDF work undertaken to date assumes that this site will be developed for housing and not employment. With sufficient employment land available, the development of this site also complies with PPS4's particular requirements to deliver sustainable economic growth.

5.3.3 PPS9 sets out the Governments objectives for conserving and enhancing biological diversity in England to ensure that planning permissions not only avoid mitigation or compensate for harm but always first seek ways to enhance and restore biodiversity. Compliance with this policy is addressed under separate heading (paragraph 5.5) below. Similarly PPS25 relating to flood risk is considered under a separate heading (paragraph 5.6) below.

5.3.4 The thrust of government guidance continues to be geared towards ensuring the developments are sustainable. The previous decision was undertaken under regional guidance which had key principles which sought to use urban areas as the main foci for development, to provide sufficient dwellings (especially affordable housing) for those who need to live and work in the region and more sustainable use of transport facilities and natural resources. Access to jobs, services and facilities should be less dependent on longer distance movement. Another key principle was that there should be continued protection and enhancement of the region's biodiversity.

5.4 New Material Considerations to be Taken into Consideration

Referring to this extension of time limit application, the documents that are being considered are identical to those submitted with the previous application (04/02797/OUT). Having visited the site there appear to be no on site material changes in circumstance and the site contains no built structures. In terms of planning policy and guidance up to date consultation responses have been received in relation to more detailed matters including protected species, contaminated land, flood risk and developer contributions. Within the fundamental requirement to consider the development plan policies, the key issues which have emerged are considered to be ecology, flood risk, highways and Section 106 requirements. Consultations on these matters have been carried out under the government guidance which advises that the Council has discretion on whom to consult and should adopt a proportionate approach.

5.5 Ecology/Protected Species

PPS9 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."

5.5.1 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application, as prescribed by Regulation 3(4) of the Conservation (Natural Habitats etc) Regulations 1994 (as amended). Under art.12(1) of the EC Habitats Directive, Member States requires that a system of strict protection of animal species be established to prohibit the deterioration or destruction of their breeding sites or resting places. The result is

that there is in practice two linked systems of regulation. First under reg. 39(1)(d) it is a criminal offence to damage or destroy a breeding site or resting place but under reg.44 this does not apply if a licence has been granted for such operations and Natural England being that licensing authority. Secondly where planning permission is required reg.3(4) 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 might be met.

- 5.5.2 Para. 98 of Circular 06/05 states that Local Planning Authorities should consult Natural England before granting planning permission and the views of Natural England would clearly have to be given substantial weight. The Circular at para 121 affords protection to specific species of animals listed in Schedule 5 (see Table 2, Annex A of this Circular) under Part I of the Wildlife and Countryside Act 1981 (as amended). The Circular at para 123 also advises that Natural England is responsible for issue licences under section 10(1)(d) of the Protection of Badgers Act 1992 where it is necessary to interfere with a badger sett in the course of development.
- 5.5.3 It is clear that ecological matters are a material consideration that requires up-to-date assessment under the Wildlife and Countryside Act. Consideration is needed to be given on the impact of a development upon protected species and their habitats. Great Crested Newts, which are a protected species, have been identified on an adjacent site. Natural England refers to the Ecological Survey Report which identified the newts, which was submitted with the previous application and requires further information from the applicant to satisfy three tests which are required to be met under Regulation 53 of the Habitats Regulations. Further information is also required which sets out how Great Crested Newts fit into the wider management regime of the Informal Open Area. The applicant has provided further information in response to Natural England's comments and those from other ecology groups.
- 5.5.4 It is noted that since the approval of the original outline application some work has taken place to prepare a detailed Ecological Construction Method Statement (ECMS) and Wildlife Management Plan (WMP) which has involved all interested ecology groups. This work will inform the Reserve Matters application and the level of information now available is greater so we are better informed about likely impacts as fewer assumptions are made. Natural England's original holding objection recommended that the Environmental Statement be updated or supplemented to ensure that the Great Crested Newt and the Brown and Black Hairstreak butterflies have been adequately dealt with. This has been done and your officers hold the view, therefore, that it is unlikely that any further ecological information is required that would significantly or materially alter the outline proposals. An ECMS is still required by condition on this permission.
- 5.5.5 With regard to impacts on the nearby SSSI's these are some 5.5km and 7.5km away and in normal circumstances this Authority would not seek further comment on this if developments are more than 2km away. Nevertheless, Natural England has objected considering that the SSSI's will be harmed (consistent with their comments on the Reserve Matters application). The issues raised are very detailed matters relating to the use of certain materials which may affect the water quality and changes in water flows. These can be adequately conditioned at

Reserve Matters stage and ought not to affect the principle of development at the site. A similar conclusion is drawn in relation to impacts on the Local Wildlife Site and which cannot be wholly concluded without reference to the detailed drainage design proposals and SUDs techniques.

- 5.5.6 Turning to the butterfly interests, both the ECMS and WMP include specific and detailed measures to protect their habitat including section 106 obligations with respect to the Marsh Fritillary Butterfly. It should be noted that the Brown and Black Hairstreaks and Small Heath butterflies are not legally protected (other than from sale only) under the Wildlife and Countryside Act. The Black Hairstreak is not listed as an important species in the NERC Act nor is it a UK Biodiversity Action Plan Species. The Brown Hairstreak and Small Heath are listed under the NERC Act such that reasonable steps should be taken to conserve them but there is no specific national or local Biodiversity Action Plan for them. Whilst over time their importance or otherwise may change and professionally ecologists may debate this, for the purpose of an extension to time outline application such as this, there has to be a sensible line drawn whereby we can allow for the time for that debate to continue. Indeed, since this report was last prepared for Committee in May, Butterfly Conservation have very recently notified us of confirmation that a White-letter Hairstreak egg has been found. It is considered that this can be appropriately be dealt with by Grampian style condition given that it is not a legally protected species.
- 5.5.7 Of greater interest is the effect on the European Protected Species (EPS) as it is these that require a licence from Natural England and the Council's ecologist has confirmed that this is not likely to be refused. This is backed up by the technical approval given from Natural England in 2007 regarding the greater crested newts (GCN) which have been taken account of all the way through.
- 5.5.8 This Council has a duty to determine whether any proposed development meets the requirements of the EC Habitats Directive if there is a likelihood that there are EPSs present. There are 3 derogation tests, the first two of which (that of imperative reasons of overriding public need and there being no satisfactory alternative) are often difficult to reconcile with private developments but in this case this is a consented site for housing which will contribute to the Council's housing land supply and provide affordable housing and schooling within a sustainable location and which has been allocated for development in any event. The third test relates to there being no detriment to the 'favourable conservation status' of the identified species (most notably the GCN). Again there is evolving evidence and there are measures in place to protect the GCNs during the construction phase and to deliver ecological enhancements and habitat creation. These will be detailed in the ECMS, subject to condition.
- 5.5.9 Bats and otters are also EPS's and very recently (Easter 2011) further survey work has been undertaken on the latter despite the site conditions not suggesting a likely presence. It has been found that there is no significant evidence of their presence so there would be no contravention to their strict protection. That same survey also revealed no significant evidence of water vole (a UK protected species). As for the badgers, again ground conditions would preclude their likely presence and no evidence has ever been found of badger setts within the site. There is no apparent reason or indication that a licence from Natural England would be refused for any of the work that would have implications for the EPSs.

5.5.10 The view is held 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 Greater Flexibility for Planning Permissions guidance suggests that on extension of time applications we should seek further information if the EIA for the original application needs updating and that we should consult Natural England and other agencies which we have done. It concludes that any updated environmental information can normally be done by means of a supplementary ES and again this advice has been followed. The view is held that the proposal accords with PPS9 and policies C2 and C4 of the Adopted Cherwell Local Plan.

5.6 Flood Risk

PPS25 was introduced in December 2006 to address Development and Flood Risk. As a result there is a need to apply a 'sequential test' approach to the site. Of particular interest is that the development proposed is classed as a 'more vulnerable development' and as such the Exceptions Test must also be completed and be acceptable to the Council. The Environment Agency has withdrawn its objection on grounds of flood risk to this outline planning application subject to conditions which are to be finalised once the EA are confident that the sequential and exceptions test issues have been addressed.

5.6.1 Your officers are confident that the report prepared by the applicants adequately addresses the pertinent issues identified by the EA. The sequential test is designed to ensure that sites that are at a lower risk of flooding are developed in preference to higher risk areas and the exceptions test (applied only after the sequential test has been applied) provides a method of managing flood risk while still allowing necessary development to occur.

5.6.2 In its current state the site partially lies within Flood Zone 3 though the very recent EA approved Flood Risk Assessment would put the entire site in Flood Zone 1. The Cherwell and West Oxfordshire Level 1 Strategic Flood Risk Assessment was published in April 2009 reviewing all sites including existing commitments benefitting from planning permission and allocation and sites proposed for development through the LDF. This noted that this site at Gavray Drive included land within all 3 zones. The highest classification of zoning in the site (a very small area) has been given over to provide open space only so not a vulnerable use. This acknowledges the adopted Local Plan policy EMP1 which identified a central recreational area dividing the site and containing the floodplain of the Langford Brook.

5.6.3 The Gavray Drive site has been allocated for development in one form or another since 1987 and is still an allocated site in the adopted Cherwell Local Plan (albeit for a less vulnerable use). That part of the site most at risk from flooding is given over to less vulnerable uses and although part of the development site is within the existing floodplain it is a site where floodplain compensation can be undertaken to ensure no loss of floodplain volume takes place. The proposal has clearly sought to avoid development almost entirely from zones 2 and 3 and in seeking to apply a flood risk based approach the risk of flooding at Gavray Drive is very small and therefore acceptable in this regard.

5.7 Highway Safety

The application has been supported by design information explaining the layout of the site and updated traffic data. It is agreed that this site is a sustainable location and the County Council, as highway authority, note that since the change in the status of Bicester in relation to its Eco status a town wide approach to changing travel and promoting sustainable modes should be encouraged in line with Cherwell's One Shared Vision document. This does not affect the principles of the sites development or the progress of this application to extend the life of the application but more a suggestion as to the transport mitigation that might be sought through the Section 106 contributions.

5.8 Requests for Developer Contributions

Although no specific requests have been made in writing, consideration has been given to up-dating the financial developer contributions, but these cannot be reasonably required given the existing s106 which relates to the land and the CLG guidance referred to above. The existing s106 agreement secures the following: affordable housing and contributions to CDC in the form of indoor and outdoor sport, provision and maintenance of children's play space and amenity and public open space and village hall. Contributions are also payable to the County for education, the Bicester Integrated Transport and Land Use Strategy, library infrastructure, social and health care provision, waste management and museum services. This agreement is still binding on this application and at this time there is no intention to alter the clauses of the s106 agreement which will link to any new permission by simple supplementary deed. Whilst the County Council would like the Section 106 agreement to be reviewed as they feel that the existing layout to which it refers cannot adequately protect the school playing fields from flooding, this is considered to be a detailed matter and should not unduly influence the decision to approve this outline application. The flooding issue is considered to be adequately addressed above and that there are sufficient mitigation measures in place.

5.9 Conclusions

This application was deferred from the 19 May Planning Committee due to late representations from two principle consultees, namely the Environment Agency and Natural England and the view is held that these matters have now been properly addressed and the issues resolved. Given the above assessment, it is concluded that there have not been any material changes in circumstances that would alter the outcome for permission to be granted at this site for the development proposed subject to various conditions some of which are new or have been revised from the previous decision notice.

5.10 Given the requirements set out in Regulation 53 of the Habitats Regulations, further assessment of the impact of the proposal upon Great Crested Newts and bats may be required closer to the time that the development is actually due to start. This action is also recommended with regard to badgers and the White-letter Hairstreak. The documents submitted with this application are identical to the scheme which was previously approved in outline. The proposed scheme remains in accordance with Government Guidance, including the principle guidance on such extension of time applications and the Council's Development Plan in principle as it meets sustainable objectives and would be developed at an appropriate density within an existing residential area. The proposal would not result in a risk to highway safety or flooding and would result in securing developer contributions towards Local

Infrastructure.

6. Recommendation

Approval, subject to:

- a) the applicant entering into an agreement to link the existing Section 106 to this permission to secure the required contributions;
- b) the following conditions:
 1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application site plan drawing no. JJG014/101 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 PPS1: Delivering Sustainable Development.
 2. No development shall be started on any phase until full details of the siting, scale, design, layout and external appearance of all buildings, landscaping and all means of access within that phase, the provision of infrastructure and the laying out of open space, (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority. The reserved matters submissions shall be in accordance with the Approved Master Plan and Design Codes, unless otherwise approved in writing by the Local Planning Authority. (RC1)
 3. In the case of the reserved matters, application for the first reserved matters approval shall be made not later than the expiration of three years from the date of this permission and the last no later than five years from the date of this permission. (RC1)
 4. The development to which this permission relates shall be begun not later than whichever is the later of the following dates:
 - a. the expiration of five years from the date of the grant of outline permission
 - b. the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
 5. No building on the site shall exceed 3 storeys in height.(RC7A)
 6. The residential development shall be at a range of densities as set out in the Design Codes but at not less than 30 dwellings per hectare in any phase and to achieve an average density of not less than 35 dwellings per hectare across the site. (RC4A)
 7. No more than 500 dwellings shall be built on the site. (RC8A)
 8. A strategy for public consultation in respect of the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This shall include details of the consultation process to be carried out whilst construction works are proposed, carried out and completed on the site including consultation on Design Codes, Master Plans, Ecological Construction Method Statement and reserved matter applications. The approved consultation strategy shall thereafter be implemented and complied with at all times unless any alteration or variation has first been agreed in writing with the Local Planning

Authority. (RC4A)

9. That with the exception of an application for the approval of the detailed design and strategy of the surface water drainage and for the layout of the internal road network no other reserved matters applications shall be made or development commenced until the submitted Master Plan has been approved in writing by the Local Planning Authority. The Master Plan shall include:
- c. an overall layout plan showing the distribution of all principle land uses throughout the site, including residential, primary school, areas of open space, the retained County Wildlife Site, and the means of access thereto, including the general alignment of the access roads and principal pedestrian and cycle routes,
 - d. the character areas to be covered by Design Codes,
 - e. details of the landscape structure, mitigation planting and hedge/tree protection corridors, including a scheme for hedgerow retention/removal if proposed and agreed,
 - f. the phases and parcels of the development to which the Affordable Housing Parcel Scheme relate,
 - g. details of the foul, surface and land drainage from the site and the development including surface water control measures and balancing, sewers and connections,
 - h. the location of the neighbourhood equipped area of play (NEAP) and the boundaries and principal features of the flood plain area.
 - i. results of the ecological surveys carried out within the 12 months preceding its submission including how any harm to biodiversity has been avoided, mitigated against and compensated for to result in a net enhancement to biodiversity.

Thereafter, the development shall be carried out in accordance with the approved Master Plan.

Reason - To prevent the increased risk of flooding, to improve water quality, to ensure that flora & fauna (in particular nationally important populations of brown hairstreak, black hairstreak and white letter hairstreak butterflies) are protected, to ensure the development does not result in a loss of biodiversity and in order to comply with Government advice in PPS25: Development and Flood Risk, PPS9: Biodiversity and Geological Conservation and Policies NRM4 and NRM5 of the South East Plan 2009.

10. No reserved matters applications shall be made or development commenced until Design Codes for the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the Approved Design Codes. The Design Codes shall include:
- a. the character, mix of uses and density of each phase or parcel identified on the Master Plan to include the layout of blocks and the structure of public spaces,
 - b. the character and treatment of the perimeter planting to the development areas,
 - c. the building height, scale, form, design features and means of enclosure that will form the basis of the character of each phase or parcel,
 - d. the street form, hierarchy and features that will be used to restrict traffic speeds and create legibility and requirements for street furniture,
 - e. the approach to car/cycle parking within the phases and parcels and the level of car/cycle parking to be provided to serve the proposed uses,
 - f. the materials to be used within each character area,
 - g. the treatment of the hedge corridors and retained trees and local areas of play within each phase or parcel,
 - h. measures to ensure energy efficiency and compliance with BRE Eco Homes

- good/very good ratings,
- i. measures to ensure the retention of the footpaths through the built development and their enhancement for walkers.

Reason – To ensure the satisfactory appearance of the completed development, to ensure energy and resource efficiency practices are incorporated into the development and to comply with Government advice contained in PPS: Planning and ‘Climate Change’ Supplement to PPS1, Policies BE1, CC2 and CC4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

11. The Master Plan and Design Codes shall be submitted to the Local Planning Authority within 18 months of the date of this permission. (RC4A)
12. The Ecological Construction Method Statement (ECMS) shall be approved in writing by the Local Planning Authority prior to any work commencing on the site pursuant to this permission. All work on site shall thereafter be in accordance with the approved ECMS, unless any alteration or variation has first been agreed in writing by the Local Planning Authority. (RC85A)
13. An implementation plan shall be submitted to and approved in writing by the Local Planning Authority prior to development commencing. This shall include the timing of the provision of mitigation planting, major infrastructure, access roads, laying out of the open spaces and the development of any proposed phases or parcels.

Reason – To ensure that any infrastructural and other requirements of the development are appropriately mitigated in order to comply with Government guidance in PPS3: Housing, Policies H3, C4 and CC7 of the South East Plan 2009 and Policies C28 and R12 of the adopted Cherwell Local Plan.

14. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by JBA dated March 2010 and the following mitigation measures detailed within the FRA:
 1. A flood storage compensation scheme shall be provided in accordance with Section 5 of the FRA.
 2. Finished floor levels shall be set no lower than 67.3m AOD, in accordance with Section 6.1.2 of the FRA.
 3. Ground levels within the developed areas which encroach into the 1 in 100 year flood extent with an allowance for climate change shall be raised to at least 67m AOD as set out in Section 6.1.1 of the FRA.
 4. The surface water drainage scheme shall include permeable paving, water butts and ponds as detailed in Section 6.2.2.

Reason: To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided, to reduce the impact of flooding on the proposed development and future occupants, to ensure safe access and egress from and to the site, to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and in order to comply with Government advice in PPS25: Development and Flood Risk and Policy NRM4 of the South East Plan 2009.

15. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro

geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include an assessment of the capacity of the receiving drainage network.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the scheme and in order to comply with Government advice in PPS25: Development and Flood Risk and Policy NRM4 of the South East Plan 2009.

16. No development on any phase or parcel shall commence until a scheme for disposal of surface water, including phased works and maintenance thereof, attenuation and storage and on-site balancing arrangements, reflecting current best practice for sustainable urban drainage, have been submitted to and approved in writing by the Local Planning Authority. No development shall take place other than in accordance with the approved scheme.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and in order to comply with Government advice in PPS25: Development and Flood Risk and Policy NRM4 of the South East Plan 2009.

17. No development shall take place within the site until the applicant has secured the implementation of a stage programme of archaeological investigation measures in accordance with a written scheme which shall be submitted to and approved in writing by the Local Planning Authority. The programme of work shall include all processing, research and analysis necessary to produce an accessible and usable archive and full report for publication. The work shall be carried out by a professional archaeological organisation acceptable to the Local Planning Authority.

Reason – To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in PPS5: Planning for the Historic Environment and Policy BE6 of the South East Plan 2009.

18. No development shall commence until a scheme for the disposal of surface water, including phased works and the maintenance thereof, attenuation, storage and on-site balancing arrangements, reflecting current best practice for sustainable urban drainage, has been submitted to and approved in writing by the Local Planning Authority. No development shall take place other than in accordance with the approved scheme. (RC67AA)

19. Prior to the commencement of the development details of any flood storage works shall be submitted to and approved in writing by the Local Planning Authority and thereafter development shall take place in accordance with those approved details. (RC88A)

20. No development shall commence until a scheme for dealing with foul drainage from the site, including any phased works, has been submitted to and approved in writing by the Local Planning Authority. The foul drainage shall thereafter be carried out in accordance with the approved scheme. (RC23AA)

21. Details of the siting and design of the Local Areas of Play (LAPs) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of

development in any phase or parcel and thereafter provided in accordance with the approved details, prior to the occupation of any dwelling situated within 30 metres of the perimeter of the LAP. (RC92A)

22. Prior to the construction of any dwelling in any phase of the development a noise assessment, including any necessary mitigation measures, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any dwelling any necessary mitigation measures shall be completed in accordance with the approved assessment. (RC53AB)
23. Hedges and trees identified for retention shall be protected by a buffer zone on either side measured at least one metre beyond the existing canopy spread of the hedgerow and trees prior to any agreed pruning or reduction works. The buffer zone shall be fenced prior to any work on the phase or parcel taking place, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved fencing shall thereafter be retained during all construction activity. (RC73A)
24. That within 3 to 6 months before works commence on site a survey to check for badger activity shall be undertaken and a report of the findings and recommendations shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved recommendations. (RC85A)
25. That within 3 to 6 months before works commence on site a survey to check for bat activity shall be undertaken and a report of the findings and recommendations shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved recommendations. (RC85A)
26. No works of site clearance, demolition or construction shall take place unless or until an egg search survey report for White letter Hairstreak (survey to be carried out by Butterfly Conservation on behalf of the applicant in the November/ December preceding the submission of the survey report and covering the entire proposed development site and any accessible land within a 50m buffer and the report to include details of species & population present, potential impacts and how impacts will be avoided and mitigated and compensation and enhancement measures) has been submitted to and approved in writing by Cherwell District Council. Any works must, thereafter, be carried out in accordance with the approved scheme.

Reason: To ensure the protection of a potentially nationally important population of white letter hairstreak butterflies and to ensure the development is in accordance with the NERC Act (2006), PPS9 and SE plan policy NRM5 and that the development results in biodiversity enhancement in accordance with the NERC Act (2006), PPS9 and SE plan policy NRM5.

27. A scheme for the provision of fire hydrants shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of construction of each phase and shall thereafter be implemented in accordance with the agreed details. (RC87A)
28. Details of the location of all site compounds, access thereto and construction site parking, as well as a scheme for their subsequent removal and restoration of the land, shall be submitted to and approved in writing by the Local Planning Authority prior to

their establishment. The compounds, accesses and parking shall be located and subsequently removed in accordance with the approved details. (RC91)

29. That prior to the first occupation of the development a scheme for the provision of street nameplates, including their location and full design details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason - In the interests of amenity, to ensure the creation of a pleasant environment, in the interests of highway safety and to comply with Government advice contained in PPG13:Transport and Policy C28 of the adopted Cherwell Local Plan.

30. That prior to the first occupation of the development the street nameplate details approved under condition 29 shall be installed, retained and maintained in accordance with those details.

Reason - In the interests of amenity, to ensure the creation of a pleasant environment, in the interests of highway safety and to comply with Government advice contained in PPG13:Transport and Policy C28 of the adopted Cherwell Local Plan.

Planning Notes:

1. Q1 – Legal agreement
2. With regard to condition 14, the applicant is advised that the Environment Agency expects compensatory storage to be provided on a level-for-level basis to ensure that the replacement storage performs in the same way to that which is lost during a flood event. The proposed compensation scheme does not quite achieve full level-for-level compensation as there is a loss in the available storage of 59m³ below 66.65m AOD. However, this loss will not increase flood risk to nearby properties because the lost volume is replaced between 66.65 and 66.7m AOD. This volume will become available before any properties are put at risk. An overall slight betterment in flood storage is being offered of 20m³.
3. With regard to condition 15, the applicant is advised that for the Environment Agency to find free discharge beyond the 1 in 30 year storm event acceptable, it must be demonstrated that the receiving drainage network has sufficient capacity to receive water at unattenuated rates without causing flooding, during storm events up to and including the design storm event. Otherwise, we will expect Greenfield runoff rates to be maintained up to and including the design storm event.
4. With regard to condition 16, the applicant is advised that under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws 1981, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the Langford Brook, designated a 'main river'. Waste from the development must be re-used, re-cycled or otherwise disposed of in accordance with waste management legislation and in particular the Duty of Care. Further information can be obtained from your local Environment Agency office.

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

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal is acceptable in principle and pays proper regard to the character and appearance of the site and surrounding area and has no undue adverse impact upon

the residential amenities of neighbouring properties, protected species or highway safety. The proposal represents a sustainable development and will not increase flood risk. As such the proposal is in accordance with Government Guidance contained within PPS1, PPS3, PPS4 , PPS9, PPG13 and PPS25, Policies SP3, CC1, CC2, CC3, CC4, CC6, H1, H2, H3, H5, T1, T4, NRM1, NRM2, NRM4, NRM5, NRM11, C4, C5, BE1, CO1 and CO3 of the South East Plan 2009 and Policies EMP1, TR1, C1, C2, C4, C28 and C30 of the adopted Cherwell Local Plan. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

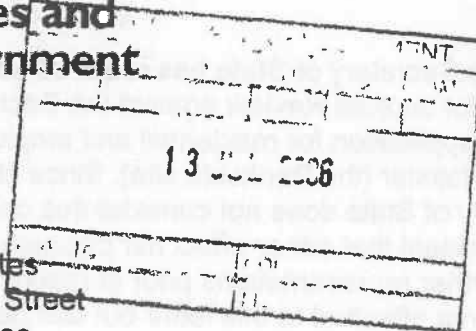
CONTACT OFFICER: Rebecca Horley

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Our Ref APP/C3105/A/05/1179638

12 July 2006

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY GALLAGHER ESTATES LIMITED
LAND NORTH OF GAVRAY DRIVE, BICESTER, OXFORDSHIRE
APPLICATION REF: 04/02797/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Nigel Payne, BSc (Hons) DipTP MRTPI MCMI, who held a public inquiry between 14 March 2006 and 24 March 2006 into your client's appeal against Cherwell District Council's failure to determine an application for outline planning permission. The development proposed is residential development (including affordable housing) incorporating a county wildlife site together with land reserved for a primary school, community facilities, public open space, rail chord and structure planting, in accordance with application number 04/02797/OUT, dated 24 December 2004.
2. On 7 June 2005, the Secretary of State recovered the appeal for her own determination, in pursuance of section 78 of the Town and Country Planning Act 1990.

Inspector's Recommendation and Summary of the Decision

3. The Inspector recommended that outline planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation to grant outline planning permission subject to conditions. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

4. In reaching her decision, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for her to assess the environmental impact of the application.

5. Since the close of the Inquiry, the Secretary of State has received correspondence relating to a Pre-Action Protocol for Judicial Review against the Secretary of State's decision not to call in a planning application for residential and employment development on another site in Bicester (the Bankside site). Since she is proposing to allow this appeal, the Secretary of State does not consider this challenge to raise any new issues relevant to this appeal that either affect her decision or require her to refer back to the parties for further representations prior to reaching a decision. The relevant correspondence is not attached to this letter but can be made available upon request to this office.

Policy Considerations

6. In deciding the application, the Secretary of State has had regard to section 38 (6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
7. In this case, the development plan comprises the Regional Spatial Strategy (RSS) for the area in the form of Regional Planning Guidance Note 9 (RPG9), approved in March 2001; the Oxfordshire Structure Plan (OSP) 2016, adopted in October 2005, the Cherwell Local Plan, adopted in November 1996. The Non-Statutory Cherwell Local Plan (NSCLP) was adopted as interim policy for development control purposes by the Council in December 2004. For the reasons given in IR85, the Secretary of State agrees with the Inspector that the weight that can reasonably be attached to its proposals and policies is materially reduced. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR10-21
8. The Secretary of State notes that the RSS for the South East is currently under review. However, as this is at an early stage in its preparation, she affords it limited weight
9. Other material considerations that the Secretary of State has taken into account include Planning Policy Guidance note 3 (PPG3): *Housing*; Planning Policy Statement 6 (PPS6) *Planning for Town Centres*; Planning Policy Statement 9 (PPS9): *Biodiversity and Geological Conservation*, Planning Policy Guidance 13 (PPG13) *Transport*, Circular 11/95: *The Use of Conditions in Planning Permission*, and Circular 05/2005: *Planning Obligations*.
10. The Secretary of State has taken into account the Consultation Paper on Planning Policy Statement 3 (PPS3) *Housing*, published on 8 December 2005 but, as the draft document may be subject to change, she affords it very little weight.

Main Issues

11. The Secretary of State agrees with the Inspector that the main considerations in determining the current application are those listed in IR83. Before turning to those matters, she has also considered the relationship of the proposals to the development plan

The relationship of the proposal to the development plan

12. The Secretary of State concludes that the site is allocated for employment use in the Cherwell Local Plan adopted in 1996 and in the Non-Statutory Cherwell Local Plan, and that this proposal would therefore conflict with those development plan policies. The Secretary of State notes that an early version of the Non-Statutory Cherwell Local Plan did allocate the site for housing and she agrees with the Inspector that it was not a matter of dispute at the inquiry that the site is suitable in principle for residential development (IR84-85).
13. The Secretary of State also concludes that the proposals do not conflict with those development plan policies identified in IR10-17, IR19 and IR21, relating to housing, biodiversity and ecology, economic development, and concentrating new development on the larger urban areas. However, given the specific allocation of this site for employment uses, the Secretary of State concludes that the proposals are not in accordance with the development plan taken as a whole. She has therefore gone on to consider whether there are any material considerations that indicate she should determine the appeal other than in accordance with the development plan.

Whether the site should be retained for future employment uses or used now for new housing

Housing

14. For the reasons given in IR84, the Secretary of State agrees with the Inspector that it is now appropriate to reconsider this site's allocation for employment, in line with national PPG3 guidance. The Secretary of State also agrees with the Inspector that the fact that the Cherwell Local Plan is now essentially out of date strongly reinforces this conclusion (IR85).
15. With regard to the housing supply situation, the Secretary of State agrees with the Inspector that the delivery of housing units in Bicester and the district as a whole has been materially below strategic requirements and there is a pressing local need for affordable housing (IR86). For the reasons given in IR86-88, the Secretary of State shares the concerns of the Inspector regarding the dependence on one large site to provide most of Bicester's new housing needs over the period to 2016.
16. The Secretary of State agrees with the Inspector that any delay in development on the South West Bicester site would exacerbate an already unsatisfactory situation in terms of underperformance against OSP requirements in 2007/8, 2008/9 and 2009/10, whereas this site could provide 500 new houses in the early years to 2016, and thereby make an important contribution to "filling the gap" (IR89).

Employment

17. The Secretary of State agrees with the Inspector that there is a more than adequate supply of employment land and premises in the area to meet Bicester's contribution to Cherwell District Council's Draft Economic Development Strategy of 6,000 new jobs across the district as a whole by 2011 (IR90). For the reasons given in IR90, she also agrees that that strategy should take precedence over the NSCLP. The Secretary of State also agrees with the Inspector that it has not been demonstrated

that there is a realistic prospect of the site being utilised for new employment provision in the foreseeable future (IR92) She has particularly borne in mind the fact that the site has now remained undeveloped for approaching 20 years, since it was first identified as suitable for employment development. For these reasons and the reasons given in IR90-95, the Secretary of State agrees with the Inspector that the local strategy for economic development would not be undermined by the early use of this site to help provide the houses needed in the town to meet the requirements of the Oxfordshire Structure Plan, and concludes that the site should be used now for new housing, to help meet strategic requirements and local needs, including for affordable housing, rather than being retained for possible future employment development.

Whether residential development would give rise to an unacceptable increase in the need to travel, particularly by private car

18. The Secretary of State agrees with the Inspector, for the reasons given in IR97-101, that residential development on this site would not give rise to an unacceptable increase in the need to travel, including by private car, particularly when compared to the alternative of mainly B1 employment use

Whether the scheme would result in significant harm to the ecological interest of the site and, if so, whether that harm is outweighed by an overriding need for the development

19. The Secretary of State notes the criticisms made regarding the Environmental Impact Assessment process and specific aspects of the proposals (IR103) and agrees with the Inspector that it is inevitable that the fragmentation of the County Wildlife Site would increase to a degree (IR104). However, the Secretary of State agrees with the Inspector that the suggestion that employment development would have less impact than housing on the environmental value of the eastern part of the site is unsupported by evidence, other than the potential effect of access by new residents over the retained County Wildlife Site (IR105).
- 20 For the reasons given in IR106-109, the Secretary of State agrees with the Inspector that no significant environmental effect was omitted from the Environmental Impact Assessment process and that the chance discovery of a marsh fritillary butterfly on the site could not reasonably have been anticipated. She further agrees with the Inspector that the baseline data provided has been adequate to assess the likely significant environmental effects of the proposals.
- 21 The Secretary of State agrees with the Inspector that, for the reasons given in IR110-116, taking into account all the planning conditions and provisions of the S106 agreement, the scheme would not result in significant harm to the ecological interest of the site. Such harm that would arise is clearly outweighed by the need for new housing to meet local requirements in this sustainable location (IR111-116).

Other matters

- 22 For the reasons given in IR117-119, the Secretary of State agrees with the Inspector, that there is no archaeological objection in principle to the development of the site, and that the surface water drainage proposals for the site are suitable and acceptable.

Conditions and Obligations

- 23 The Secretary of State has considered the proposed conditions and national policy as set out in circular 11/95. She concludes that the conditions are necessary, relevant to planning and the development permitted, and are enforceable, precise and reasonable in all other respects. She also concludes that the planning obligation submitted to the inquiry is necessary and relevant to the proposed development and meets the policy tests of Circular 05/05.

Overall Conclusion

- 24 The Secretary of State concludes that the appeal site's allocation for employment development means that the appeal proposal is not in accordance with the development plan. However, she also concludes that the proposal will contribute to the supply of housing, and particularly affordable housing, in the early years to 2016. She also concludes that releasing this site for housing will not undermine the local strategy for economic development, that the site is a sustainable one, and that the scheme would not result in significant harm to the ecological interest of the site. Overall the Secretary of State concludes that those material considerations which favour allowing the appeal are of sufficient weight to determine the appeal other than in accordance with the development plan.

Formal Decision

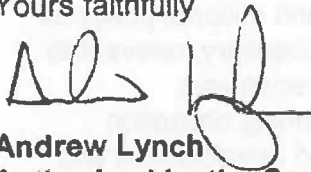
- 25 Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby allows your client's appeal and grants outline planning permission for residential development on land north of Gavray Drive, Bicester, Oxfordshire in accordance with application number 04/02797/OUT dated 24 December 2004, subject to the conditions appended to Annex A of this letter.
- 26 An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
27. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
- 28 This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

- 29 A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within 6 weeks of the date of this letter.

30. A copy of this letter has been sent to Cherwell District Council and interested third parties

Yours faithfully



Andrew Lynch
Authorised by the Secretary of State
to sign in that behalf

Annex A

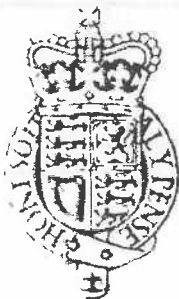
Conditions

- 1 No development shall be started on any phase until full details of the siting, scale, design, layout and external appearance of all buildings, landscaping and all means of access within that phase, the provision of infrastructure and the laying out of open space, (hereafter referred to as reserved matters) have been submitted to and approved in writing by the local planning authority. The reserved matters submissions shall be in accordance with the Approved Master Plan and Design Codes, unless otherwise approved in writing by the local planning authority
- 2 In the case of the reserved matters, application for the first reserved matters approval shall be made not later than the expiration of three years from the date of this permission and the last no later than five years from the date of this permission.
- 3 The development to which this permission relates shall be begun not later than whichever is the later of the following dates:
 - the expiration of five years from the date of the grant of outline permission,
 - the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
- 4 No building on the site shall exceed 3 storeys in height.
- 5 The residential development shall be at a range of densities as set out in the Design Codes but at not less than 30 dwellings per hectare in any phase and to achieve an average density of not less than 35 dwellings per hectare across the site.
- 6 No more than 500 dwellings shall be built on the site.
7. A strategy for public consultation in respect of the development shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. This shall include details of the consultation process to be carried out whilst construction works are proposed, carried out and completed on the site including consultation on Design Codes, Master Plans, Ecological Construction Method Statement and reserved matter applications. The approved consultation strategy shall thereafter be implemented and complied with at all times unless any alteration or variation has first been agreed in writing with the local planning authority.
8. No reserved matters applications shall be made or development commenced until a Master Plan has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the Approved Master Plan. Any revisions to the Approved Master Plan shall also be made by submission in writing and shall not be implemented unless or until approved in writing by the local planning authority. The Master Plan shall include:
 - (a) an overall layout plan showing the distribution of all principal land uses throughout the site, including residential, primary school, areas of open space, the retained County Wildlife Site and means of access thereto, including the general alignment of the access roads and principal pedestrian and cycle routes;

- (b) the character areas to be covered by Design Codes,
 - (c) details of the landscape structure, mitigation planting and hedge/tree protection corridors, including a scheme for hedgerow retention/removal and the timing of removal if proposed and agreed,
 - (d) the phases and parcels of the development to which the Affordable Housing Parcel Scheme relate,
 - (e) details of the foul, surface and land drainage from the site and the development including surface water control measures and balancing, sewers and connections;
 - (f) the location of the neighbourhood equipped area of play (NEAP) and the boundaries and principal features of the flood plain area
9. No reserved matters applications shall be made or development commenced until Design Codes for the site have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the Approved Design Codes. The Design Codes shall include:
- (a) the character, mix of uses and density of each phase or parcel identified on the Master Plan to include the layout of blocks and the structure of public spaces;
 - (b) the character and treatment of the perimeter planting to the development areas;
 - (c) the building height, scale, form, design features and means of enclosure that will form the basis of the character of each phase or parcel;
 - (d) the street form, hierarchy and features that will be used to restrict traffic speeds and create legibility and requirements for street furniture;
 - (e) the approach to car/cycle parking within the phases and parcels and the level of car/cycle parking to be provided to serve the proposed uses;
 - (f) the materials to be used within each character area;
 - (g) the treatment of the hedge corridors and retained trees and local areas of play within each phase or parcel,
 - (h) measures to ensure energy efficiency and compliance with BRE Eco Homes good/very good ratings;
 - (i) measures to ensure the retention of the footpaths through the built development and their enhancement for walkers
10. The Master Plan and Design Codes shall be submitted to the local planning authority within 12 months of the date of this permission.
11. An Ecological Construction Method Statement (ECMS) shall be submitted to and approved in writing by the local planning authority prior to any work commencing on the site pursuant to this permission. All work on site shall thereafter be in accordance with the approved ECMS, unless any alteration or variation has first been agreed in writing by the local planning authority.

- 12 An implementation plan shall be submitted to and approved in writing by the local planning authority prior to development commencing. This shall include the timing of the provision of mitigation planting, major infrastructure, access roads, laying out of the open spaces and the development of any proposed phases or parcels.
- 13 No development shall take place within the site until the applicant has secured the implementation of a staged programme of archaeological investigation measures in accordance with a written scheme which shall be submitted to and approved in writing by the local planning authority. The programme of work shall include all processing, research and analysis necessary to produce an accessible and usable archive and full report for publication. The work shall be carried out by a professional archaeological organisation acceptable to the local planning authority.
- 14 No development shall commence until a scheme for the disposal of surface water, including phased works and the maintenance thereof, attenuation, storage and on-site balancing arrangements, reflecting current best practice for sustainable urban drainage, has been submitted to and approved in writing by the local planning authority. No development shall take place other than in accordance with the approved scheme.
- 15 Prior to the commencement of development, details of any flood storage works shall be submitted to and approved in writing by the local planning authority, and thereafter, development shall take place in accordance with those approved details.
- 16 No development shall commence until a scheme for dealing with foul drainage from the site, including any phased works, has been submitted to and approved in writing by the local planning authority. The foul drainage shall thereafter be carried out in accordance with the approved scheme.
- 17 Details of the siting and design of Local Areas of Play (LAPs) shall be submitted to and approved in writing by the local planning authority prior to the commencement of development in any phase or parcel and thereafter provided in accordance with the approved details, prior to the occupation of any dwelling situated within 30 metres of the perimeter of the LAP.
- 18 Prior to the construction of any dwelling in any phase of the development a noise assessment, including any necessary mitigation measures, shall be submitted to and approved in writing by the local planning authority. Prior to the occupation of any dwelling any necessary mitigation measures shall be completed in accordance with the approved assessment.
- 19 Hedges and trees identified for retention shall be protected by a buffer zone on either side measured at least one metre beyond the existing canopy spread of the hedgerow and trees prior to any agreed pruning or reduction works. The buffer zone shall be fenced prior to any work on the phase or parcel taking place, in accordance with details that have first been submitted to and approved in writing by the local planning authority. The approved fencing shall thereafter be retained during all construction activity.
- 20 A scheme for the provision of fire hydrants shall be submitted to and approved in writing by the local planning authority prior to the commencement of construction of each phase and shall thereafter be implemented in accordance with the agreed details.

21. Details of the location of all site compounds, access thereto and construction site parking, as well as a scheme for their subsequent removal and restoration of the land, shall be submitted to and approved in writing by the local planning authority prior to their establishment. The compounds, accesses and parking shall be located and subsequently removed in accordance with the approved details.



Report to the First Secretary of State

The Planning Inspectorate
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by **Nigel Payne** BSc (Hons) DipTP MRTPI MCMi

an Inspector appointed by the First Secretary of State

Date 4 May 2006

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY GALLAGHER ESTATES LIMITED

against

CHERWELL DISTRICT COUNCIL

Inquiry held on 14 - 24 March 2006

Land North of Gavray Drive, Bicester, Oxfordshire OX26 6EO

File Ref(s) APP/C3105/A/05/1179638

File Ref: APP/C3105/A/05/1179638

Land North of Gavray Drive, Bicester, Oxfordshire OX26 6EO.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
- The appeal is made by Gallagher Estates Limited against Cherwell District Council
- The application ref 04/02797/OUT is dated 24 December 2004
- The development proposed is residential development (including affordable housing) incorporating a county wildlife site together with land reserved for a primary school, community facilities, public open space, rail chord and structure planting

Summary of Recommendation: The appeal be allowed and outline planning permission granted subject to conditions.

Procedural Matters

- 1 On 7 June 2005 the First Secretary of State issued a direction using his powers under Section 79 and Paragraph 3 of Schedule 6 of the Town and Country Planning Act 1990 that he should determine the appeal as it raises issues relating to residential development of 5 or more hectares or 150 or more dwellings This followed the lodging of an appeal against non-determination of an outline planning application on 6 May 2005
- 2 Cherwell District Council (CDC) resolved on 23 June 2005 that, had they been able to do so, they would have refused the application for seven reasons
 - 1) *The proposed residential and ancillary development of this site is contrary to the allocation of this site for employment generating development in the adopted Cherwell Local Plan and the non-statutory Cherwell Local Plan 2011 which has been adopted as interim policy for development control purposes The Council does not accept that the applicant's arguments concerning alleged lack of employment land demand and the need to increase housing supply in areas of under delivery are sufficient to outweigh this policy objection*
 - 2) *The development would be likely to give rise to an increase in the need to travel, particularly by private car, contrary to the principles of sustainability guiding the location of new development in the Oxfordshire Structure Plan 2011 Policy G1*
 - 3) *In the absence of a Section 106 legal obligation the Local Planning Authority consider that the proposal is contrary to Policy G3 of the Oxfordshire Structure Plan 2011 in that the required contributions to on-site and off-site infrastructure is not guaranteed or secured*
 - 4) *In the absence of evidence to the contrary the Local Planning Authority (and the Environment Agency) are not convinced that the parts of the site proposed for development are not within the floodplain of the Langford Brook Development of such areas is contrary to Policy ENV8 of the adopted Cherwell Local Plan and Policy E7 of the non-statutory Cherwell Local Plan 2011 and the advice contained in PPG 25 "Development and Flood Risk"*
 - 5) *In the absence of evidence to the contrary the Local Planning Authority consider that the development of the site may adversely affect an area of archaeological interest and is therefore contrary to Policy C26 of the adopted Cherwell Local Plan and Policy ENV7 of*

the non-statutory Cherwell Local Plan 2011 and the advice contained in PPG 16 "Archaeology and Planning"

6) The proposal affects the possible habitat of the marsh fritillary butterfly (a species included in Annex II of the European Habitats Directive) and protected by the Wildlife and Countryside Act 1981 (as amended) Until such time as further investigation of this issue and the possible need to amend the proposal has been undertaken the Council consider that the proposal is contrary to Policy C2 of the adopted Cherwell Local Plan and Policy EN24 of the non-statutory Cherwell Local Plan 2011 and the advice contained in paras 44-48 of PPG 9 "Nature Conservation"

7) In the absence of evidence to the contrary the Local Planning Authority (and Thames Water) consider that the development may have an adverse effect upon the sewerage system and water supply to nearby communities due to the possible inability of the existing systems to cope with the increased demand placed upon by this development As a consequence, the development would be contrary to Policy EN9 and EN12 of the non-statutory Cherwell Local Plan

- 3 On 11 August 2005 the First Secretary of State, having considered the content of the Environmental Statement (ES) accompanying the planning application and having regard to Regulation 2(1) and Schedule 4 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, required the appellant to supply "further information" on the following A) the effect on the rare marsh fritillary butterfly, in view of the observed presence on the site and the potential value of the site as habitat; B) flood risk in view of objections from the Environment Agency and C) archaeology in view of the anticipated presence of Romano-British and Iron Age settlements in the area
- 4 It was confirmed at the opening of the inquiry that the application was in outline with all matters of detail reserved for subsequent determination and that plans C – F inclusive were for illustrative and/or information purposes only I have made my recommendation on this basis I undertook an accompanied site visit on the afternoon of 16 March and inspected the site, surroundings, and various locations mentioned during the inquiry in and around Bicester again, unaccompanied, on 24 March
- 5 A Statement of Common Ground (SCG) was agreed between the Appellants, Cherwell District Council and Oxfordshire County Council before the inquiry opened (Doc 3) During the giving of evidence a few minor corrections were made to the proofs and appendices and I have made the necessary alterations
- 6 A Section 106 legal agreement (Doc 5) was submitted before the end of the inquiry with signed copies made available two weeks later All the obligations and undertakings contained therein are consistent with those made known and discussed at the inquiry and I have therefore taken it into account as a material consideration
- 7 This report includes a description of the site and surroundings, the policy framework, the planning history, the proposals, agreed facts, a summary of the representations made at the inquiry and my conclusions and recommendation A list of appearances, documents (including proofs of evidence and appendices) and plans is also attached, together with a schedule of Core Documents (CDs) (Doc 6) Site and Surroundings
- 8 This essentially flat site, of approximately 24.5 ha and containing no built structures, lies on the south eastern side of Bicester, roughly 1.3 km from the town centre and to the north of Langford Village, a large modern residential area. It is bounded by the elevated

Birmingham to Marylebone rail lines to the north, with Bicester Park, a large distribution centre, beyond. The town's Eastern by-pass is to the east, Gavray Drive to the south and the Oxford to Bicester railway line at ground level to the west. Although nominally agricultural land of Grade 3b quality, the site appears to be largely unfarmed at present, with limited use for casual recreation by local residents.

- 9 It is split into two distinct parts by the Langford Brook, with a largely open field to the west comprising about one third of the total site. To the east, the land is divided into a number of smaller parcels by extensive hedges and lines of trees, some of which are the subject of Tree Preservation Orders (TPO), indicative of an older surviving field pattern and more traditional methods of farming. This area currently provides a wide variety of habitats for flora and fauna with running and standing water areas, patches of damp grass, scrub, hedgerows and grassland. This is reflected in the local designation of the central part of the site, east of the Langford Brook, as a County Wildlife Site (CWS). Two public footpaths cross the site. One runs north-south close to the western boundary from Tubbs Lane through to Bicester Park passing under the railway, whilst the other runs east-west from Gavray Drive, just east of the brook, to the site's eastern boundary.

Planning Policy

- 10 At present, the relevant regional planning guidance is contained in RPG 9, approved in March 2001, as amended. The key principles (para 3.5) include the use of urban areas as the main foci for development, the provision of sufficient dwellings (especially affordable housing) for all those who need to live and work in the region and more sustainable use of transport facilities and natural resources. In particular, access to jobs, services and facilities should be less dependant on longer distance movement, with increased ability to meet normal travel needs through safe walking, cycling and public transport.
- 11 Another key principle is that there should be continued protection and enhancement of the region's biodiversity, particularly internationally and nationally important nature conservation areas. Policy E2 seeks positive action to achieve the targets set out in Biodiversity Action Plans (BAP) through planning decisions and other measures. Development plans should give priority to specific species and habitats of international, national and sub-regional importance identified therein by conserving and enhancing existing wildlife habitats, encouraging the management of land for nature conservation as part of development proposals and identifying locations for habitat management, restoration and creation.
- 12 In the Western policy area, which includes Oxfordshire, para 4.22 encourages economic development strategies to build on existing strengths, such as the high skills and knowledge base, to ensure sustainable growth. Regarding development plans, policy RE3 says that local economic development strategies should be fully taken into account, reflecting capacity in terms of labour, land and transport, local strengths and changing work/living patterns. Policy RE4 adds that businesses should be located in areas well served by sustainable modes of transport, with forms of development that maximise environmental and social benefits, such as mixed uses, encouraged.
- 13 The Council says (Evans para 9.2) that the emerging regional spatial strategy for the South East will identify Bicester as capable of helping to realise the potential of the sub region to support high value employment, partly due to its proximity to Oxford. The appellants point out (Keene para 3.24) that the County Council is envisaging a further phase of significant new housing growth in Bicester, of either 2,000 or 4,000 more houses up to 2026, as a result

- of the emerging regional spatial strategy. However, this is at an early stage in its preparation and can therefore only be accorded limited weight.
- 14 At the time of the Council's consideration of this application, the Oxfordshire Structure Plan (OSP) 2011 was extant. However, this has since been superseded by the OSP 2016, adopted in October 2005, albeit containing similar strategic policies. In particular, policy G1 follows the key principles of RPG 9 in seeking to concentrate new development on the larger urban areas, such as Bicester, in locations where a reasonable range of services and facilities exist or can be provided and the need to travel, particularly by car, reduced with walking, cycling and the use of public transport encouraged. Policy G2 aims to improve the quality and design of schemes, whilst G3 refers to the provision of the necessary infrastructure to accompany new development and G6 seeks the incorporation of best practice in energy efficiency and resource conservation.
 - 15 In relation to housing, policy H1 makes provision for 9,350 new dwellings in Cherwell between 2001 and 2016, of which about 3,300 are identified for Bicester as one of the main locations in the county. Regarding employment, policy E1 says that, amongst other things, development should provide for activities that contribute to regional and local economic priorities, such as the educational, scientific and technological sectors. Such development should be located in or adjoining urban areas (or existing concentrations) with good access to housing by non car modes, as well as incorporating sustainable transport features.
 - 16 Policy E3, relating to the main towns, including Bicester, seeks to achieve an appropriate balance between the number and type of jobs and the size and skills of the local workforce, as well as providing for the expansion and relocation of existing businesses or those which need to be located in the area. The supporting text, at para 6 17, adds that Bicester could benefit from the expansion of knowledge and science based firms, moving on from research and development to manufacturing, due to its location close to Oxford and within the Oxford – Cambridge arc on the proposed East–West rail link.
 - 17 On biodiversity, policy E2 states that sites of at least national importance, such as Special Areas of Conservation (SAC), National Nature Reserves (NNR), Sites of Special Scientific Interest (SSSI) and those which support specially protected species, will be protected from damaging development. On other sites of acknowledged nature conservation importance, development will only be permitted if there is an overriding need or if damage to the ecological interest can be prevented by the use of conditions or obligations. Paras 5 6 and 5 7 of the supporting text refer to the Oxfordshire BAP and the need for planning policies to help safeguard, maintain and expand biodiversity resources associated with priority habitats or species, of which there should be no further net loss within the county.
 - 18 The Cherwell Local Plan (CLP), adopted in November 1996, allocates the site for employment uses under policy EMP1, with a central recreational area dividing it and containing the floodplain of the Langford Brook. Although it was prepared in a strategic context which preceded even that of the OSP 2011 and was originally intended to cover the period up to 2001, it remains the adopted Local Plan for the area. Most of its policies, including those relevant to this appeal, are “saved” under the transitional arrangements of the Planning and Compulsory Purchase Act 2004.
 - 19 Policy C1 says that development resulting in loss or damage to SSSIs or other areas of designated wildlife or scientific importance will not normally be permitted and that the Council will seek to protect sites of local nature conservation value, where the potential adverse effects of development will be a material consideration. Development that would

adversely affect any species protected under the 1981 Wildlife and Countryside Act and the EC Habitats Directive 1992 will not normally be permitted under policy C2

- 20 The Non Statutory Cherwell Local Plan 2011 (NSCLP) was adopted as interim policy for development control purposes by the Council in December 2004. Policy EMP1 continues to allocate the site mainly for employment generating development but policy T29 also reserves an area of land in the north west corner for a connecting railway and rail based multi modal public transport interchange, including a new station
21. Policy EN22 states that development proposals should retain features of nature conservation value and enhance them wherever possible. Conditions or obligations will be sought to secure protection, management or compensatory measures where appropriate. Where development may affect a known or potential site of nature conservation value, an ecological survey to establish the likely impact will be required under policy EN23. Under policy EN24, proposals that would result in damage to or loss of a site of ecological (or geological) value will not be permitted unless i) for an internationally important site there is no alternative solution and imperative reasons of overriding public interest, ii) for a nationally important site the reasons for the development clearly outweigh the ecological value and national policy to safeguard the network of such sites or iii) for a site of regional or local importance, the reasons clearly outweigh the ecological value. In all cases, damage must be kept to a minimum. Policy EN25 seeks the creation of new habitats, particularly those concerning priority habitats or species, in development proposals, including where such areas would further opportunities for environmental education and passive recreation

Planning History

- 22 The site has been identified for development since the adoption of the Bicester Local Plan in 1988 and formed part of an outline permission (CWS 329/87) for an urban extension at South East Bicester granted in July of that year. This allocated the land for employment development, with recreation on the central floodplain area, and was confirmed, in part, by a subsequent outline permission (CWS 937/88) that also covered a large area of land to the north of the railway lines in July 1991. In March 1996, the Council refused a full application (96/00321/F) by Unipart for B2 industrial buildings on the eastern end of the site for noise generation and nature conservation reasons

The Proposals

- 23 The scheme involves the erection of up to 500 new dwellings, including 30% affordable housing, with a range of size and type of units, together with land reserved for a primary school and community facilities to the west of the Langford Brook, which would be incorporated into a linear public open space. An arc of land in the north west corner of the site would also be reserved for a railway chord, to enable a link to be constructed between the two rail lines bordering the site at some time in the future, although a new station/multi modal transport interchange is no longer envisaged. To the east of the brook, in the central part of the site and dividing the residential development into two separate elements, an area of approximately 6.5 ha would be retained as a CWS, with limited public access. All vehicular access would be taken from four points along Gavray Drive, which have already been constructed as part of the Langford Village development

Other Agreed Facts

- 24 A letter dated 17 January 2006 from the Environment Agency (SCG App 2) confirms that they no longer have any objections to the scheme on the grounds of flood risk or surface

water runoff, subject to the imposition of appropriate detailed conditions. In the light of a letter dated 7 September 2005 from the Planning Archaeologist at Oxfordshire County Council (OCC) (SCG App 3), CDC acknowledged that there were no archaeological objections to a duplicate application considered on 8 December 2005. Similarly, an e-mail dated 13 January 2006 from Thames Water (SCG App 4) advises that they now have no reason to object to the surface water drainage proposals for the scheme. Accordingly, these "reasons for refusal" (nos 4, 5 and 7) are now agreed to have been overcome.

- 25 In addition, English Nature and Butterfly Conservation no longer object to the proposals, being content with the Marsh Fritillary Strategy (MFS) contained within the legal agreement (Doc 5), and CDC is also now satisfied that the overall scheme would comply with the policies referred to in "refusal reason" 6, as well as paras 44 - 48 of PPG 9. The legal agreement provides a mechanism to secure the long term retention, enhancement and management of the CWS. Hence, CDC provided no evidence on this matter for the inquiry. The agreement also confirms that all necessary on and off site infrastructure, as referred to in "refusal reason" 3, is capable of being provided and that the relevant financial and other contributions required would secure implementation at an appropriate point during the development of the site for new housing. It is also now common ground that all necessary services for 500 new dwellings and associated facilities are or could readily be made available via Gavray Drive to enable the development to commence without delay.

The Case for Gallagher Estates Limited (summary of the material points)

- 26 Although the development plan for the area consists of RPG 9 (as updated by the Regional Transport Strategy of July 2004), the OSP 2016 and the CLP, adopted in November 1996, the latter is now old and substantially out of date in many respects, not least in terms of compliance with relevant national guidance. Having been prepared to implement a structure plan approved as long ago as February 1992, CDC has recently confirmed as much in setting out their Local Development Scheme (LDS) (CD 41). In contrast, the OSP was adopted as recently as October 2005 and should therefore prevail in the event of conflict. It is noteworthy that the first "reason for refusal" does not rely on any alleged conflict with either RPG 9 or the OSP, whilst the second refers only to policy G1 of the OSP 2011.
- 27 The "reasons for refusal" also refer to the NSCLP but the history of that document, including the fact that at one stage it formally endorsed the use of this site for new housing, rather than employment, confirm that it should carry very limited weight in this case. In particular, CDC having abandoned the attempt to complete the statutory process in the face of a very high level of objections, none of which have been considered by an independent Inspector, the plan represents nothing more than an expression of the Council's view concerning the appropriate form of development on this site. Moreover, the document itself acknowledges on page 2 that it will be substantially out of date by 2006 because of the adoption of the OSP 2016. Nor is its progress being monitored for the reasons explained in para 7.3 on page 11 of the Annual Monitoring Report (AMR) (CD 40). In conclusion, it is considered that both the CLP and NSCLP should only carry weight to the extent that they are consistent with the adopted OSP 2016.
- 28 It is also relevant that OCC certified the Revised Deposit Draft Local Plan as being in conformity with the OSP 2011, with the Gavray Drive land allocated for new housing and the Pre - Inquiry Changes version, with the site returned to identification for employment development. Notwithstanding that the plan is considered as a whole in this respect, had it been regarded as a site whose location/size and/or characteristics were of strategic

importance, this could not have occurred, irrespective of land allocations elsewhere in and around the town

- 29 There is no issue between the Appellants and CDC as to the site's suitability for new housing and that it could be brought forward quickly, thereby making an early and effective contribution to meeting local housing needs (Keene para 3 39). This is important in the context of the recent failure to meet the strategic housing requirements of the OSP 2011, the need to maximise the delivery of new dwellings and the fact that new greenfield sites are agreed to be necessary. Moreover, the bulk of new housing relied on in the NSCLP is on one major, complex, site at South West Bicester (SWB), all of which is acknowledged in a recent Council Report to Committee (CD 54 paras 9 12 & 9 13). These comments reflect the Urban Potential Study (CD 15 paras 4 1 – 4 4), the LDS (CD 41 p 22) and the AMR (CD 40 paras 2 3, 4 2 & 4 3). The latter confirms the accumulative shortfall of 442 dwellings in relation to the OSP 2011 and that, without new allocations, there would be a shortfall of 505 dwellings by 2016.
- 30 With regard to new housing allocations in Bicester, even with no slippage, the relevant DPD would not be adopted until October 2009 at the earliest. It is partially dependent upon the outcome of the Employment Land Review, which is already late. The earliest any such sites could be relied upon to deliver completions would be about 2011. Nor, as the AMR makes clear (CD 40 para 10 9, p 23), is there any reserve of possible sites to make up the identified shortfalls, taking into account the relatively small amount of previously developed land available for new housing and the recent completion of the large sites at Slade Farm and Bicester Fields Farm (CD 40 Appendix 6 Table 2).
- 31 Given the very limited contribution from windfall sites of 17 units per annum (CD 40 Appendix 6 Table 5), CDC is critically dependent on the SWB site, as the new housing trajectory (Evans Appendix 5) confirms. It assumes that there will be no delays to that scheme from a "call in" inquiry or judicial review or for any other reasons. However, the optimistic completion figures for that site assumed in the NSCLP in December 2004 have since been progressively revised downwards as a result of a more rigorous assessment of deliverability. The latest estimate in September 2005 is that 620 dwellings could be built by 2011, assuming a start on site in mid 2007. Even this is highly questionable having regard to the delays that have already arisen with the development brief and submission of the planning application, as well as the complexities of development arising from the requirements of policy H13A of the NSCLP.
- 32 Assuming that the site comes forward in due course, it is not likely to be rapidly advanced and outside of SWB available contributions to local housing land supply are extremely limited. Even on the most favourable assumptions, there would be a shortfall of around 400 dwellings by 2008/9 and 2009/10 (Evans Appendix 5) against the OSP requirements. Should SWB fail to deliver as currently expected, for any number of possible reasons, an even more serious shortfall will develop with, at present, no alternatives available. In their evidence, the Council acknowledges that there has been a failure to meet the OSP requirements to 2001 and to 2011 and that without new greenfield sites coming forward there will be a failure to meet the OSP requirements to 2016, as contributions from SWB are not likely to be significant for some time to come. It is also accepted that this proposal reflects the guidance in para 31 of PPG 3 and would not undermine the housing strategy or create an over supply locally.
33. In summary, the development plan strategy for Bicester requires the provision of a significant amount of new housing in the town up to 2016, but the Council is now relying

almost entirely on one large site at SWB to achieve the OSP target, as the two large sites which have provided the majority of recent dwelling completions are both now finished. The SWB scheme is very controversial locally and will presumably continue to be opposed by many objectors. At best, this may well result in delays to the start of any development as the Council is belatedly recognising, as demonstrated in various committee reports during 2005, which clearly illustrate the decay in expectations of new housing delivery over time.

- 34 Regarding affordable housing, paras 3.30 and 3.35 of the NSCLP confirm the critical position in Cherwell, supported by the work of consultants in November 2004 (CD16) identifying an annual need of 686 units. This compares to actual delivery of only 337 over the last 4 years in the district. There is no evidence of any attempt to address this current shortfall and yet the Council resists the advice of paras 42 and 42(a) of PPG 3 in respect of this site, where around 150 new affordable dwellings could be provided quickly.
- 35 Both PPG 13 and PPS 6 are clear in relation to major generators of travel demand that they should be focused on city, town and district centres that are highly accessible and that offices are a key town centre use. If the NSCLP had been properly prepared it would have followed a sequential approach to site selection for such uses but the Council has undertaken no assessment of need for office or other B1 space. Nevertheless, it promotes out of centre development of that nature on this site. Analysis of the Urban Potential Study (CD15) shows that there are sites of varying sizes and types available for such uses in more central locations than Gavray Drive. There is no market assessment to demonstrate that the site is the only one suitable and available to meet a particular need and it is not an attractive location for the types of large office occupiers that the Council is apparently keen to attract.
- 36 The first "reason for refusal" does not allege any conflict with RPG9 or the economic strategy policies of the OSP. These aim to build steadily on local strengths and ensure that premises are available in appropriate locations for small businesses, local firms and those that need to be in Oxfordshire but not on a scale that encourages significant in-commuting, or attracts large footloose firms or B8 operations. This reflects advice in para 6 of PPG 4.
- 37 OSP policy E3 refers to an appropriate and not an exact "balance", whereas the Council's strategy at para 4.4 of the NSCLP precisely aligns the number of employed people with the number of jobs to be created. However, the Council's recent Draft Economic Development Strategy (Brisbane Appendix 11) looks for, broadly speaking, 6,000 new jobs across the district as a whole, not 6,000 in Bicester, by 2011. It is conceded by CDC that there is no support anywhere in government guidance for the approach set out in para 4.39 of the NSCLP and that these two figures are irreconcilable. As the district figure postdates that in the NSCLP it should be taken as correct. It is the "exact balance" approach that leads CDC to seek to retain this site for employment use, but if that approach is wrong in principle then the Council's stance on the future use of the site deserves to be reconsidered.
- 38 It is also relevant that independent consultants looked at the appropriate use for the site for CDC when the draft NSCLP was being prepared. Their report (Keene Appendix 5) reaches clear conclusions supporting the allocation of the site for housing and there was no criticism of their work when it was reviewed (Keene Appendix 4). In fact, it was endorsed with regard to the location and accessibility of the site and its suitability for housing. The main reason for the later rejection of their conclusions was the rail station proposal and the juxtaposition of housing and employment, but the former no longer applies as neither the new station nor the proposed transport interchange are going to come forward. The conclusions of the independent consultants, applying up to date government guidance in a clear and consistent way, were set aside on a basis which is no longer relevant or applicable.

- 39 The agreed elements of employment land supply are listed in para 9 2 of the SCG This supply, significantly supplemented by available modern premises and opportunities for redevelopment at outmoded ones (a total vacant available space of almost 42,000 sq m) appears to match well with the strategic aspirations of the OSP for the town It is fully endorsed by the Council's well advanced Economic Development Strategy (Brisbane Appendix 11), which looks to recycle urban land rather than simply provide new sites The ample current supply can meet anticipated future requirements arising from the OSP strategy, with a range of size and type of premises available to match appropriate demand
- 40 The site was fully marketed between 1996 and 1999 for new employment development The Council accepts that it would be unreasonable to have expected that to continue once the CLP review process was underway. Even so, the availability was well known, including to CDC as the site remains on their schedules. Neither CDC nor anyone else is aware of any serious interest since the refusal of the Unipart scheme or of any current enquiry that would require the use of such a site in the locality Now, employment land at SWB is also potentially available as it is being brought forward by its promoters.
41. Nor have the Council provided any evidence to demonstrate that the site will be taken up by the market or of any serious concern about employment land supply in the town In fact, their recent actions in considering the release of half of the Bessemer Road site for housing and refusing permission for a B1 scheme on land allocated in the CLP for employment at Skimmingdish Lane indicate the opposite Whilst very unfortunate that the promised employment land review is not yet available, there is no other evidence to support the claim of a shortage of employment land to meet market needs in Bicester All the market evidence, including that prepared for the Council, such as the Oxford Innovations Report (CD49), points in the other direction In these circumstances, the only result of keeping the site available for employment use would be to reinforce the negative market impression of Bicester as an unattractive location for major commercial investment
- 42 The economic analysis undertaken for the Appellants (Brisbane Appendix 8) is robust, credible and properly formulated It concludes that a balance between jobs and working population of about 82% would be achievable, without employment development on this site, and appropriate in the Bicester context Bicester is not only in the Oxford Travel to Work Area but is strategically acknowledged as a source of labour to help meet the need for employees there Consequently, the OSP and Local Transport Plan contain proposals to further improve high quality public transport links
- 43 Appendix 6 of the SCG confirms that there has been no new B1 development in the town between 2000 and 2004, but there is no suggestion that this arises from any limitation or problem with land supply. The Council accepts that there is no evidence of a current demand for employment development on this site and cannot point to any recent enquiry that would have required it to be made available Nor have they made any attempt to assess the potential viability of B1 development having regard to local rental values and site infrastructure costs
- 44 It is common ground that there has not been a single office letting of over 5,000 sq ft in Bicester in the last three years and that this is due to the market rather than any absence of premises or opportunities Accordingly, there is no basis for the assertion that a site of this size should be retained against some possible future requirement, when the range of land and premises available elsewhere in the town and on older sites suitable for redevelopment provide a more than adequate supply Any suggestion that new housing should be "back end

- loaded” over the next decade to allow employment provision in Bicester to “catch up” would be entirely inconsistent with the requirements of the OSP and should be rejected.
- 45 Notwithstanding the absence of both an up to date assessment of employment land provision and requirements in Bicester and the testing of opportunities for more centrally located sites for B1 uses, provided a realistic view is taken of achievable levels of self containment and economic growth in the town, there is a more than adequate supply of sites and premises, including for re-development. This is available to meet any reasonable requirement for employment land in the future, without this site.
- 46 Section 11 and Appendix 7 of the SCG confirm that there is no issue in relation to highways infrastructure or capacity, nor with regard to the accessibility by public transport and otherwise of the site. It is agreed that neither the new station nor the transport interchange proposal identified in the NSCLP will come forward. It is also now common ground that, even on the reduced scale now envisaged by CDC, B1 employment development on this site would generate more vehicle movements than residential use, particularly at peak hours. Despite assertions implicit in the second “reason for refusal” and identification as a key consideration in the County Council’s evidence, with the significant number of additional journeys arising from employment development on the site, there would be no reduction in the total vehicle mileage travelled when compared to residential use, rather the opposite, as indicated by the supplementary note produced at the inquiry (Doc 15 – final appendix).
- 47 Moreover, a largely B1 employment scheme, with the inevitable on site parking, would be located outside a town centre or centrally located site, with no new transport interchange or station. It would increase traffic flows on the local road network during peak times and require significant highway improvements to a greater degree than residential development. Some of those improvements cannot be guaranteed as deliverable on existing highway land. The costs involved would also have an influence on overall viability in circumstances where the economics of employment development are already unfavourable.
- 48 Taking into account current bus and rail services, especially to Oxford, and policy initiatives to assist local people who work away from Bicester to use public transport, there is no evidence to support the view that new housing, rather than employment, would produce or exacerbate unsustainable patterns of travel, particularly by private car. Both Councils accept that the juxtaposition of new employment with existing housing does not necessarily lead to lower levels of car use. National policy recognises that self containment, as regards jobs, people and dwellings, is not something to be looked at in relation to towns the size of Bicester but on a rather more strategic scale. Therefore, the advice in para 42(a) of PPG 3 should be applied and this site released for new housing, supported by appropriate transport/accessibility measures, as agreed in the Section 106 legal obligation, including enhancing public transport links to Oxford.
49. Whilst it predated the coming into force of the 2004 Act and the publication of PPS 1, the extensive pre-application community consultation conducted for the Appellants clearly followed the spirit and intentions of both. The outcome is therefore relevant and material, albeit not conclusive in itself, representing a properly established and locally informed view on the appropriate use for this land, due to the care and rigour of the exercise.
- 50 The ecological concerns raised by the BBOWT and Mr Woodfield are not shared by English Nature (EN), Butterfly Conservation (BC) or the County Ecologist (CE), each of whom has been directly involved in the formulation of the ecological strategy associated with this proposal. Unlike the objectors, these organisations have taken a holistic view of

the overall package and endorsed the positive benefits arising from the carefully formulated and fully funded proposals. The overall scheme, as now proposed, will represent a substantial enhancement of ecological resources, both within Bicester and more widely. Without it, the interest of the site will gradually expire, as evidenced by the processes already underway, with no prospect of any significant benefits enduring.

- 51 Regarding the EIA process, Schedule 4 para 4 of the Regulations requires a consideration of the "likely significant effects", not a consideration of all effects. It is also fundamental to the process that a view is taken on the scope of the EA at an early stage. In this case, the scoping was properly considered by a group of relevant and informed consultees, including EN, CE and the Council, who had the benefit of earlier survey work. It was properly conducted by suitably qualified people.
52. Paras 7.31 and 7.126 – 135 of the ES Volume 1 and Table 5 in Chapter 7 of Volume 2 demonstrate that suitably scoped and competently implemented bat surveys were carried out, the results considered and professional judgement applied to their ecological significance, all in accordance with the regulations. The full details of the surveys undertaken since the discovery of a Marsh Fritillary butterfly (MFB) on the site, as well as the ground truthing exercise, have been provided, with a judgement again applied that is not disputed by other competent bodies. The fact that it was missed in previous surveys is not indicative of a lack of competence, given that the site had been the subject of numerous extensive surveys by others, none of which had identified the MFB interest.
- 53 Paras 7.143 - 5 and 7.192 of the ES clarify the position in relation to invertebrates and none of the scoping work or comments on the scoping identified the need for any more significant surveys than were in fact undertaken. At paras 7.13 – 17 and 7.20, the ES makes clear the limitations of the surveys carried out but there was no indication of need for any more detailed work because the impact on the identified invertebrate habitat would not change and had been more than adequately addressed in the scheme.
- 54 Both the main text of the ES and appendices to Chapter 7 draw attention to the site's designation as a CWS and the reasons for that, including identification as lowland meadow. Examples include the table at p 148 of Volume 1, the reference at 7.9 (iii) to an earlier report and Appendices 1, 2, 6 and 11. The species list does not purport to be complete and the ES reaches conclusions with regard to the MG4 grassland (para 7.88 of Volume 1) that are similar to those of the BBOWT in appendix 2 of their inquiry evidence. Overall, no significant environmental effect has been overlooked in the process and, as a whole, it stands as an appropriate and legally satisfactory document.
- 55 Overall, national planning guidance encourages the reallocation of sites identified for employment, where such a use has not come forward, for new housing, in order to make full and most effective use of land suitable for development. In addition, major offices should be directed to town centre, or edge of centre, locations in accord with PPS 6. Where new housing delivery is a priority, as in Cherwell, this should be properly reflected in the decision making process to enable suitable sites to make an early and effective contribution to meeting local needs for both open market and affordable housing.

The Case for Cherwell District Council (summary of the material points)

- 56 Five of the seven grounds originally put forward as "refusal reasons" have since been resolved to the Council's satisfaction, subject to the imposition of appropriate conditions and the Section 106 legal agreement. However, the first two remain at issue between the Council and the Appellants. These relate firstly to residential use being contrary to the

allocation of the land for employment development in the adopted CLP and NSCLP and secondly, the sustainability of the location in the context of OSP 2011 policy G1

- 57 With the exception of the railway chord, recreation area and CWS, the site should remain allocated for employment as there is little other land in Bicester that could be developed immediately for this purpose. Although the Council no longer intends to reserve any part of the site for a multi-modal transport interchange, it is important for the future prosperity of the town that an appropriate supply of land for new employment remains available. The site is already served with appropriate road and sewerage infrastructure, having first been identified as suitable for employment as part of a comprehensive development of the eastern side of the town many years ago, the majority of which is now complete. If developed for housing instead, it would be to the detriment of Bicester in terms of strategic planning and economic considerations, as the Council seeks to achieve a more appropriate balance of housing and jobs and to change the dormitory character of the town by reducing out commuting. The loss of a vital element of the local employment "offer" will make Bicester less able to accommodate new and/or relocating businesses.
- 58 Commercial growth in the town has been dominated by warehousing and distribution uses in recent years. However, the Council considers that there is sufficient demand in the Bicester area to be confident that the site would be developed for mainly B1 and some B2 employment purposes in the near future, and at least within the OSP period to 2016, if this proposal is dismissed and serious marketing efforts are made, in contrast to the lack of activity since 1999. In particular, the town is in a favourable strategic position in both the Milton Keynes–Oxon–Bucks sub region and the Oxford–Cambridge arc and in a key location to take advantage of growth in the knowledge based sectors of the economy, as recognised by the County and District Councils. This is likely to give rise to increased demand for B1 space as a proportion of commercial property but much of the current local stock is old and unsuitable for modern needs, with opportunities for regeneration limited by fragmented ownerships and competition from other areas.
- 59 In accordance with the NSCLP, the use of the site should be mainly for B1 purposes, with some B2 industrial space on the eastern part of the site, away from existing residential areas and between the B1 development and the rail lines. It is not considered suitable for B8 (storage and distribution) schemes, nor mainly for B2 (industrial) use. The fact that permission was refused for a large B2 scheme on the eastern part in 1996 (Unipart) does not mean that the site is somehow inherently unsuitable for B1 offices, high tech, research and development or light industry, nor some limited B2 use on appropriate parts.
- 60 New employment land is required to meet the needs of a growing population and improve the balance between housing and jobs, thus enhancing sustainability. Essentially, this is the only site able to meet the short term requirement for new B1 development in the town. It is capable of providing for the expansion/relocation of existing local firms, the requirements of new businesses needing to locate in the Bicester area and a substantial number of jobs readily accessible from adjoining residential areas, notably Langford Village, by non car modes. The Council is concerned that much needed employment growth will not take place if current suitable allocations are lost to housing and that this would be likely to set an unwelcome precedent, encouraging owners of other employment land allocations to postpone development in the hope of obtaining a residential permission in the future.
- 61 Whilst housing delivery in the district has been below the strategic requirement, the Council is now working successfully with GOSE to resolve matters and is in a good position to meet the OSP targets to 2016. For example, last year's annual completions figure of 677 was

above the requirement of 623, with a significant urban extension on the southern edge of Banbury likely to be approved soon, as the First Secretary of State has now confirmed that it will not be "called-in" for his decision (Doc 27). Moreover, completions in recent years have on average exceeded the new OSP requirement in Bicester of 220 houses per year. The proposed SWB urban extension will provide the majority of the remaining dwellings required up to 2016. Nevertheless, the LDF Site Allocations DPD for Bicester and Central Oxfordshire, expected to be adopted in October 2009, will identify sites for more houses to ensure that delivery is not restrained by supply. This will be in time to provide for completions by 2016, if required. Consequently, there is no compelling need for new housing that should outweigh development plan policy in respect of this site. It remains needed for employment use and therefore the national policy guidance at para 42(a) of PPG 3 does not assist the case that the site should be developed for housing instead.

- 62 The Council acknowledges that there is a pressing need for more affordable homes across the district and that this site could provide around 150 such units at an early date (30% of 500). However, another way to help local people afford the housing that they need is to increase incomes and the Council's Economic Development Strategy aims to help by improving the range and quality of jobs in Bicester. This requires that land, such as this site, is readily available for modern businesses. Therefore, in this case, the need for both general market and affordable housing is outweighed by the need to preserve the land for employment uses and improve the sustainability of the town as a whole.
- 63 It is accepted that the site is in a reasonably sustainable location and that the likely weekday trip generation from employment will be greater than that from a residential use of the same site size, particularly in peak hours. Nevertheless, there are two main reasons for the Council's position that this scheme would be likely to give rise to an increase in the need to travel, particularly by private car, contrary to the principles of sustainability. Firstly, more housing will mean more out commuting, so worsening the present imbalance between jobs and housing in the town. The Census data for 2001 shows that a high proportion of Bicester's working adults travel relatively long distances to work, with over 60% going 5 km or more. If this land is used for housing, the current high rate of out commuting would increase, together with the overall need to travel. This is a prime concern of the OCC and the key reason that they support the use of the land for employment, rather than residential. In addition, other local employment sites would have to be found so that the traffic generated by those uses will be present in the town at some stage in the future in any event.
- 64 Secondly, the location and characteristics of the site make it relatively more sustainable for employment than residential. In particular, the town centre is approximately 1.3 km away and not many new residents would choose to walk, particularly with shopping, given the distance and nature of the pedestrian route, which involves crossing the railway line. Similar constraints apply in relation to links to other facilities, which would deter new residents from walking or cycling and encourage private car use for relatively short trips.
- 65 Economic growth is central to the national aim of delivering sustainable development and up to date planning and transport policies, such as those in the OSP to 2016, seek to promote modern business development in Bicester. The objective of strategic and local policies in both planning and economic fields is to create a better balance between the number of jobs and the employment needs of the population, to improve the quality and type of local work opportunities and to increase wages, so reducing out commuting and the dormitory characteristics of the town. This site remains needed for employment development, is readily available, and provides the necessary flexibility in terms of Bicester's employment offer. It has the capability of accommodating new and/or relocating

businesses of the scale and type required to make a significant change to the character and sustainability of the town and surrounding area. Accordingly, there are no material considerations arising that should outweigh the development plan policy allocation of the site as employment land and this appeal should be dismissed.

Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (the material points)

- 66 The development would result in the irrevocable direct loss and significant fragmentation of the important habitats that comprise this meadow complex and were the main reason for its designation as a CWS. The habitat that occurs on this site is a rare one, even on a European scale, with less than 1,500 ha of MG4 type (lowland meadow) grassland in the UK, and it represents a major resource in terms of Cherwell District. Contrary to popular belief, SSSIs are not necessarily the most important habitats in the UK but rather a “representative sample”, with other areas being of equal quality despite their lack of designation. Recent growing recognition of the importance of particular habitats for nature conservation and the establishment of the UK’s BAP led to the formalisation of a list of habitats deemed to be of the highest importance under the Countryside and Rights of Way (CROW) Act 2000. This requires, in Section 74, the publication of a list of habitats of principal importance for the conservation of biodiversity and imposes a duty to further their conservation.
- 67 The appellants’ ecological witness concurs with the identification of habitats within the area of the site to be developed as subject to Section 74 of the CROW Act 2000, the application of which is not limited to species. The Trust has recent experience of MG4 type grassland habitat creation in the county on a 60 ha site but does not expect plant communities there to meet the definition of Section 74 habitat for between 10 and 20 years and no other such successful projects have been documented to date. In particular, the MFS, as part of a five year proposal, is unlikely to achieve habitat restoration to compensate for the loss of species rich ancient grassland within this timeframe.
- 68 Whilst the most significant impact will be the direct loss of habitat, the proposal will also result in the fragmentation of remaining habitats, as well as the loss of important links between and around them. Ultimately, this will lead to decreased species diversity and therefore more damage to the existing nature conservation interest of the site, as has been the case elsewhere for butterfly and invertebrate populations. For example, the ES identifies areas such as fields 2 and 3, as well as hedgerow 5, as being of high importance to an invertebrate assemblage that is assessed as being of County importance.
- 69 In the Trust’s view, the lack of remaining opposition to the scheme from EN and BC does not alter the fact that the best future for the nature conservation interests on the eastern part of this site would be in the absence of any development. Notwithstanding, there is no objection to residential development west of the Langford Brook and a clear preference for employment development, rather than residential, to the east if this part of the site must be built on, as it is anticipated that less damage to nature conservation concerns would arise due to factors such as layout, density and public access.
- 70 With regard to the proposed ecological mitigation strategy, the timescale is inadequate and the resources insufficient to acquire any suitable land elsewhere in the locality. It would not properly compensate for the direct loss and fragmentation of habitats that would arise. PPS 9 (Key Principle 11) makes it clear that planning decisions should seek to “maintain, and enhance, restore or add to biodiversity conservation interests”. However, this proposal would neither protect nor enhance the biodiversity found on the site and the damage to the ecological resource has not been “kept to a minimum” in accordance with policy EN 24 of

the NSCLP. The enhancements proposed will not compensate for what will be lost, even if their secured management could be assured. Nor is it possible to prevent damage to the CWS by conditions or obligations, due to the nature and scale of the development, the only way to prevent harm to this ecological resource is to dismiss the appeal.

Mr D Woodfield (the material points)

71. The objections to this proposal are based on experience as a professional ecologist, which demonstrates that this is a site of exceptional importance to nature conservation. In this case failure to comply with professional standards has contributed to poor decisions about the type and extent of development that might be suitable for this site. Although the appellants have submitted further information since the original ES, this has not properly addressed the inadequacies of the baseline information and therefore the EIA remains unsound. In particular, the May 2005 discovery of marsh fritillary on the site, a fully protected butterfly species of national and international conservation importance, not only suggests that the evaluation of the site's ecological resource put forward by the appellants required revision but also exposed the fact that, in many respects, the earlier survey work was short of accepted standards.
72. Since then, despite the opportunity to rectify the deficiencies by undertaking further survey work to bring the ES up to standard, the appellants focussed almost exclusively on the marsh fritillary and, as previously, that work too has been based on a scientifically flawed application of inappropriate methods at the wrong time of year. The results are therefore at best inconclusive and at worst lack credibility. For example, despite strong indications of the site's wider importance for invertebrates, the failure to carry out a formal survey shows a disregard for accepted professional standards. Moreover, vegetation surveys were carried out in accordance with a substandard methodology and at an inappropriate season, resulting in key plant species being missed and nationally important grassland types being misidentified, incorrectly classified or undervalued. Similarly, critical deficiencies in relation to the surveys carried out for bats have not been rectified.
73. Amassing high quality baseline data is an essential prerequisite to a robust assessment of environmental impacts, whereas inadequate information can result in flawed assessments of value and a low level of confidence in the conclusions drawn from it. Both national guidance (Circular 06/2005) and case law (*R v Cornwall County Council ex parte Jill Hardy* – Queen's Bench Division, Harrison J – 22 September 2000) confirm the need for planning authorities to take account of "full" environmental information to ensure compliance with the EIA regulations.
74. The inadequacies of the baseline surveys provide sufficient grounds upon which to dismiss the appeal, in accord with the guidance in Circular 06/2005, for example paragraph 99. Moreover, in respect of bats and marsh fritillary, and their status under European and UK legislation, there is a legal precedent indicating that the survey work submitted does not meet the requirements of the Town & Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999, thereby exposing any permission to possible challenge through the courts.
75. Notwithstanding the severe limitations of the original ES and later further information, it is apparent that the site contains ecological resources of substantive importance, justifying its designation as a CWS, in accordance with set criteria used in Oxfordshire. Although it is now common ground that only about 19% of the total CWS site area will be directly lost through this scheme, there would also be significant indirect impacts on the remainder, with

attendant effects on rare habitats and fauna, including specially protected and Section 74 species. In particular, the remaining portion of the CWS will be severed from the designated area to the east of the site, beyond the ring road, and the open countryside beyond, thereby compromising its ability to function as a coherent unit with habitat connections off-site. Moreover, the "beneficial" impacts anticipated for the long term assume that the ecological interest of the retained CWS can be secured through management. This is likely to be incompatible with the implicit assumption in the ES that it will be available for "informal recreation" and the pressures arising from proximity to housing, as well as its relatively small size. Consequently, it will lose both its intrinsic habitat value and its carrying capacity for individual species of interest within a few years of the first houses being occupied.

- 76 The key resource is the priority habitat "Lowland Meadow", including those communities with clear affinities to the MG4 and MG5 grasslands of the National Vegetation Classification, the bulk of which is found in fields 5, 6, 7, 11 and 12, identified in the ES. The direct loss of part of these areas of rare grassland would be a significant impact. In addition, the combined loss of adjoining fields 2, 3, and 4, which have an important role to play in supporting the site's invertebrate and herpetofauna assemblages, would have a further significant effect on a resource of county value.
- 77 In relation to national policy, para 9 of PPS 9 says that regional and local sites "have a fundamental role to play in meeting national biodiversity targets" and the around 10 ha of grassland habitats of "priority" importance under the UK BAP on this site are of "principle importance to biodiversity", in accordance with paras 11 and 14 of that guidance and paras 84 and 85 of Circular 06/2005, following the CROW Act 2000. The loss of part of the lowland meadow habitat, together with degradation of the remainder in the short to medium term, and the loss of the only currently known site for marsh fritillary in the county will be the most significant impacts.
- 78 The proposed mitigation strategy is incompatible with the other uses to which the area will be subjected and the negative effects compounded by the small size and fragmentation of the remaining resource. Moreover, the initial surveys carried out have indicated that scarce bat species could be present on the site but no further work has been carried out and no proper attempt made to assess the presence or absence of bat roosts. Legal precedent indicates that it is not sufficient to rely on a condition of permission to address this matter.
- 79 Although the land west of the Langford Brook is of minimal ecological importance and could reasonably be developed, this particular scheme would be severely damaging to biodiversity on the remainder of the site having been apparently drawn up in ignorance of key aspects of the ecological value. It conflicts with national law and local planning policies and the appeal should therefore be dismissed whilst a better long term solution is sought for the site.

Representations at the Inquiry

- 80 In response to my invitation, one local resident, Mr P Green, spoke briefly and essentially in support of the scheme and subsequently provided a written version of his comments (Doc 24). These can be summarised as follows, "The opinions of local residents regarding the real human issues involved in planning decisions need to be taken into account. It appears as though the Council's arguments for rejecting the housing option are unsupported by the facts and that there is more concern about the future of insects and amphibians than the welfare of those resident colonies of homo sapiens most directly affected".

Public Consultation

81 In relation to both the application subject to this appeal and a subsequent duplicate scheme (ref 05/01035/OUT), a large number of local residents, mainly from Langford Village to the south of the site, wrote to the Council to register their support in principle for residential, rather than industrial, development on the site

Written Representations

82 Chesterton Parish Council, in a letter of 8 June 2005 to PINS, supports the appeal confirming that they have no objections to the granting of outline planning permission for residential development (including affordable housing) and amenities.

Conclusions

83 In the light of all of the evidence and the debate at the inquiry, the written representations and my inspections of the site and surroundings, I consider that the main issues in this appeal are firstly, whether the site should be retained for future employment uses or used now for new housing, secondly, whether residential development would give rise to an unacceptable increase in the need to travel, particularly by private car and thirdly, whether the scheme would result in significant harm to the ecological interest of the site and, if so, whether that harm is outweighed by an overriding need for the development. References in square brackets give the sources in the preceding paragraphs on which they are based.

Housing

84 As confirmed in the SCG, there is no dispute that the site is suitable in principle for residential development [29], having been included in the revised deposit draft of the NSCLP for that purpose [28]. Moreover, that version of the plan was certified by the OCC as being in conformity with the OSP 2011, from which it may be taken that its use for new housing, rather than employment, did not in itself raise issues of significance for the implementation of the county strategy in relation to Bicester [28]. A report by independent consultants also endorsed the use of the site for new housing, including in terms of accessibility and location, whereas the CDC's later decision to revert to an employment allocation appears to have been strongly influenced by the transport interchange proposals, which have now been dropped [38]. Whilst I understand the preference of both Councils for mainly B1 use on a site that has been identified since 1988 and could provide a major boost to the town's employment offer, national guidance in PPG 3, notably para 42 (a), confirms that it is now appropriate to reconsider such long standing allocations that have not been taken up in the light of all relevant circumstances.

85 The fact that the CLP is now essentially out of date, having been drawn up in relation to much earlier strategic policies and before most of the currently relevant national guidance, such as PPG 3, strongly reinforces this conclusion [26]. In addition, I consider that the rather tortuous history of the emergence of the NSCLP, together with the failure to complete the statutory process so that it has not been the subject of independent examination or the testing of the many objections, materially reduce the weight that can reasonably be attached to its proposals and policies [27]. The effective abandonment of the multi-modal transport interchange proposal also suggests a certain lack of credibility in the NSCLP proposals for this site, at least in respect of the sustainability credentials for employment development comprising mainly B1 uses [46].

86 Turning to housing supply, the SCG confirms that in previous years the delivery of new units in Bicester and the district as a whole has been materially below strategic requirements, with little evidence of positive action to address the situation until very recently [61]. The CDC also acknowledges a pressing local need for more affordable homes [62] and that there are no outstanding constraints to the early commencement of housing development on this site [29]. Although efforts are now being made to bring forward the major NSCLP allocation at SWB, and a planning application is expected soon, CDC estimates suggest that, even on the most recent and optimistic assumptions of a start on site in mid 2007, only about 620 new dwellings are likely to be completed by 2011.

87 Moreover, the programme for adoption of the relevant land allocation DPD for Bicester in the LDS indicates that it would not take place until late 2009 at best, so completions on any other new sites identified therein could not be relied upon until 2011 at the earliest [30]. In

the absence of any significant areas of previously developed land within the existing built up area of the town deemed suitable for housing redevelopment [30], and a very limited supply of other/small windfall sites [31], it is clear that there is a heavy reliance on the SWB site if the OSP requirements are to be met

- 88 In the light of all the evidence, I share the concern regarding dependence on one large site to provide most of the town's new housing needs over the period to 2016, if only because experience elsewhere suggests that such schemes are often the subject of delays to commencement and completions for reasons largely unconnected to the operation of the land use planning system itself, such as valuation and negotiations between landowners and developers [31] When the present uncertainties surrounding the grant of outline planning permission, including legal agreements, major highway improvements and all other matters that have to be resolved first are taken into account, I doubt that actual delivery rates at SWB would correspond to those currently estimated by CDC, if only because of a delayed start date [32]
- 89 However, even if they do, there would still be significant short term underperformance in completions, measured against OSP requirements, of around 400 dwellings in 2007/8, 2008/9 and 2009/10, if no further greenfield sites are identified [32] Any delay, for whatever reason, at SWB would therefore exacerbate an already unsatisfactory situation, resulting in an even greater cumulative failure to meet delivery targets [29] In contrast, this site could provide 500 new houses in the early years of the remaining plan period to 2016 and thereby make an important contribution to "filling the gap" Otherwise, it is my judgement that the shortfall would be of such a scale as to raise concerns in relation to the implementation of strategic policies for the distribution and delivery of new housing around the county and meeting local needs in Bicester Similar considerations apply in respect of the provision of affordable housing, particularly in the light of the relatively poor record of provision over recent years [34]

Employment

- 90 Para 9 2 and Appendix 6 of the SCG identify a substantial supply of available land and premises in and around the town for B class employment If just the sites listed in para 9 2, including SWB, were to be developed it is estimated that over 3,700 new jobs would be provided, taking no account at all of re-use of the almost 42,000 sq m of presently vacant floorspace (or the possible expansion of the Bicester Village retail complex) [39] To my mind, such provision would more than adequately meet the town's contribution to the objective in the CDC's Draft Economic Development Strategy of 6,000 new jobs across the district as a whole by 2011 [37] It would also be consistent, in my judgement, with policy E3 of the OSP, which seeks an "appropriate" and not an exact balance between the numbers of economically active persons and jobs in Bicester To the extent that there is any conflict between this strategic aim and the contents of the NSCLP, it is clear that the adopted and more recent OSP must take priority [27]
- 91 The absence of an up to date comprehensive assessment of employment land provision and requirements in the district is unhelpful in assessing the potential of the town for economic growth However, the information that is available strongly supports the view that there is a readily available supply of a variety of size and type of sites and premises, including those suitable for re-development, to more than meet current market demand and reasonable future requirements [45] The fact that CDC has not carried out any analysis of other opportunities closer to the town centre than this site and their responses to a recent proposal on land allocated for employment development in the CLP at Skimmingdish Lane, as well

- as the potential re-development of the Bessemer Road site, do not demonstrate a serious concern over the lack of land or buildings for employment uses in and around the town [41]
- 92 Nor is there any evidence of a current interest in the site for mainly B1 use, either from potential occupiers or prospective developers [40] Moreover, CDC appears to have given no consideration to matters such as infrastructure costs or rental values and therefore the likely economic viability of new employment development here [41] In such circumstances, I do not attribute the lack of interest simply to the absence of marketing after 1999 This is particularly so as the site has now remained undeveloped for approaching 20 years, since it was first identified as suitable for employment development, during which time it was actively marketed and only the Unipart scheme has come forward to the planning application stage
- 93 The very low level of activity in office lettings (of over 5,000 sq ft) and for new B1 development in Bicester in recent years serves only to strengthen the conclusion that the site is not likely to be developed in the near future should it remain allocated for employment development [43] It is clearly not attractive to the market at present and there is no suggestion of public investment or compulsory purchase to alter this situation Nor, in my opinion, is this likely to alter significantly in the short term given the availability of other sites and premises in the town and the development costs in relation to the returns expected, as well as the less favoured location on the eastern side of town compared to SWB [44]
- 94 I conclude that there is a more than adequate supply of land and premises available in Bicester to meet current needs, an example being the more centrally located Station Approach area, where new B1 offices would be consistent with PPS 6 Also, it seems to me that the presently anticipated future employment requirements of the town, in accordance with the OSP, would be more readily met at SWB in a more commercially attractive and equally sustainable location, with good links to Oxford and the M40 motorway This should mean that the major new employment site in Bicester is better suited to meet any needs arising from knowledge and science based firms from the Oxford area, in accordance with para 6 17 of the OSP Additionally, much of the traffic generated would not have to pass around part of the town's by pass system, as would be the case with Gavray Drive
- 95 In the absence of a full review of provision, it has not been demonstrated that there is a realistic prospect of the site being utilised for new employment provision in the foreseeable future Even if the likelihood of new employment development taking place on the site in the near future was less clear cut, I consider that the urgent need for new housing provision described above should take priority under current circumstances and in accordance with PPG 3 para 42 (a) With reference to the tests therein, I conclude that this site no longer needs to be retained as an allocation for employment use and that the proposal meets the criteria in para 31 for the reasons set out elsewhere in this report It would be consistent with the strategy of the OSP and would not lead to an over provision of housing
- 96 In my judgement, the local strategy for economic development would not be undermined by the early use of this site to help provide the houses needed in the town to meet the requirements of the OSP I therefore conclude on the first main issue that the site should be used now for new housing, to help meet strategic requirements and local needs, including for affordable housing, rather than being retained for possible future employment development, particularly when that seems unlikely to occur under current circumstances

Sustainability

- 97 Neither the CDC nor any other party disputes that the site is in a relatively sustainable location, with reasonably good links to the town centre and other facilities, such as the town's railway stations, by means other than the private car [46 & 63] Whilst a few are marginally beyond the 2km walking distance favoured in PPG 13 as most likely to replace short car trips, the majority of local services can be accessed more easily, by walking (or cycling) along fairly flat and direct routes, including to the south in Langford Village. Although some involve the pedestrian level crossing of the very lightly utilised Oxford – Bicester rail line, as I saw on my visits, the route is well used by the public.
- 98 The site is also well placed for access to the town's cycle network. In particular, Gavray Drive forms part of the Sustrans National Cycle Network, providing a convenient route between the town centre to the west and east towards Launton. In addition, Chiltern Rail runs a taxibus service to and from Bicester North station, which currently passes close to the site and is readily capable of diversion to serve it (Baker paras 3.22 – 3.26). Taking into account the financial contributions to be made via the legal agreement (Doc 5), to help improve public transport services in the locality, I am satisfied that this scheme would constitute a sustainable form of development in accord with national guidance, regional strategy and strategic/local planning policies, notably G1 of the OSP 2016, in terms of location and accessibility.
- 99 There are no outstanding highway infrastructure or capacity objections and it is also agreed that, if the site were developed for mostly B1 employment as currently envisaged by CDC, the total vehicle mileage generated would be significantly greater than for residential (and associated) use [46 & 63]. Both Councils also accept that more extensive and costly off site highway improvements would be required for employment use, rather than housing [47]. In relation to out commuting, the 2001 Census data appears to confirm that, whilst a relatively high proportion of Bicester's working adults leave the town itself for jobs, a significant percentage do so to travel to Oxford, rather than any further afield [63]. This pattern of movement, providing vital support to the economy of the city, is not inconsistent with the overall county strategy and is to be reinforced by further investment in improving public transport links under the OSP and Local Transport Plan, following the Bicester Integrated Transport Study [48].
- 100 Building a new multi-modal transport interchange on the north western part of the site would clearly enhance its credentials as a sustainable location for new offices and other forms of employment development. However, now that only the rail chord linking the two lines is likely to be progressed, that major potential advantage no longer weighs in favour of B1 employment use, compared to residential [46]. In my opinion, even though the link should lead to an improvement in rail services for the town as a whole, it would not directly improve the accessibility of the site itself such that major generators of travel demand should be located there. Accordingly, the CDC's reliance on this site to achieve an exact balance between jobs and working population in Bicester, implicit if not explicit in the NSCLP, now seems to be flawed in principle and over optimistic in practice. This is particularly so given the town's strategic relationship with the city of Oxford, which is essentially endorsed by the OSP strategy.
- 101 Whilst creating a closer balance between the numbers of jobs available locally and the economically active residents in Bicester is a generally desirable aim, it has to be tinged with reality. For example, it is common ground that simply putting new employment alongside existing housing does not necessarily lead to lower levels of car usage or out

commuting [48] In this instance, the available evidence suggests that, for the former at least, the opposite will be the case, in comparison to residential development. This is partly due to the overall size and relatively peripheral location of the site. However, it is also a factor of the proposed emphasis on B1 office development, which is a major generator of travel demand and ought ideally to be sited in or on the edge of town centres in accord with national guidance such as PPS 1, PPS 6 and PPG 13 [59]. I conclude on the second issue that residential development on this site would not give rise to an unacceptable increase in the need to travel, including by private car, particularly when compared to the alternative of mainly B1 employment use.

Ecology

- 102 Both District and County Councils, English Nature and Butterfly Conservation are all now satisfied with the ecological baseline information, evaluation and assessment in the ES (CD 28) and ES Additional Information – Ecology (CD 34). In addition, the ECMS (Doc 28) and MFS (CD 35) are also deemed by those organisations to be appropriate mechanisms for implementing the ecological strategy via planning conditions and the legal agreement respectively (SCG para 10.2). Nor does anyone object to development west of the Langford Brook for ecological reasons [81].
- 103 However, BBOWT and Mr Woodfield make detailed criticisms and raise numerous concerns regarding both the EIA process and specific aspects of the proposals, including that there would be significant harm to the rare lowland meadow habitat east of the Langford Brook. This is one of the habitats of principal importance for biodiversity under Section 74 of the CROW Act 2000 and Annex C of Circular 06/2005 [66]. However, only about 3 ha of a total CWS of around 16.5 ha (roughly 19%), which is not subject to any statutory designations, would be lost to development, leaving approximately 6.5 ha west of the by-pass and just over 6 ha to the east [75].
- 104 Inevitably, the fragmentation of the CWS already created by the road would increase to a degree and this would have an effect on the remaining habitats currently present on the site [68]. Nevertheless, two extensive and similarly sized areas would remain and be positively managed for nature conservation purposes, with the western area at least in public ownership, unlike at present. Moreover, a significantly larger area would be retained under this proposal to the west of the road and east of the Langford Brook than under any of the alternative allocations for employment (or housing) use in the CLP and the various drafts of the NSCLP. The alternative scenario of no development would mean the likely continued degradation of most, if not all, of the ecological interest of the site in the absence of positive management of the grasslands. As I saw on my visit, this is already evident in certain respects, including overgrowth and scrub encroachment, arising from the lack of agricultural activity such as cutting and grazing [50].
- 105 The suggestion that employment development would have less impact than housing on the environmental value of the eastern part of the site is unsupported by evidence, other than the potential effect of access by new residents over the retained CWS. Provided that this is limited as proposed, I see no real difference arising given that a central area would remain undeveloped, but presumably without the agreed funding for future management under the employment option. Taking into account the needs of modern business operations, including for parking, delivery and circulation space, as well as the practicalities of building sizes and dispositions relative to one another, I do not agree that a mainly B1 use layout would, in fact, be more flexible and better able to retain existing site features, such as trees, hedges and ponds, or the linkages and corridors between them, than new housing.

- 106 Turning to the EIA process itself, the inquiry evidence confirms that the initial scoping was undertaken in consultation with the relevant bodies and organisations, including EN and the CE [51]. Appropriately qualified and experienced people, with the advantages of earlier studies of the site and local knowledge, were involved [51]. Consequently, I am satisfied that no significant environmental effect was omitted from the process. The chance discovery of a single adult female MFB (*Eurodryas aurinia* - a protected species) on the site by Mr Woodfield in May 2005 could not reasonably have been anticipated by previous surveyors/researchers, given the absence of sightings of the species in the county over recent years [52]. This "omission" has now been rectified through the ES Additional Information and MFS, including special measures relating to Field 7, where a single MFB larval web has been observed, in the legal agreement. In my judgement, the less than optimal timing of some of this work does not undermine the basis of the strategy that has now emerged and agreed with BC and others to address this matter.
- 107 The fact that, ideally, other strategies might be preferable from the narrow perspective of the establishment of a sustainable breeding colony of this species on this site does not alter my conclusion, which has to be based on wider considerations. This is particularly so when the allocation of the site for development in an adopted local plan preceded its identification as a CWS, the MFB was previously thought to be extinct in the county and the unknown provenance of the single specimen observed in May 2005. Notwithstanding the presence of the plant with which it is most closely associated (devil's-bit scabious), as all the experts at the inquiry agreed, the extensive history of previous attempts at re-introduction at various locations and the distance of the site from the nearest known surviving colonies, as no other MFB has been noted within 15km of the site in the last 10 years and no other suitable habitat known or identified within a 4km radius, suggests that a "rare colonisation event" is unlikely to have occurred.
- 108 The ES also confirms that the bat and reptile surveys were properly carried out, having first been scoped, and competent professional expertise and judgement applied to the results, according to their ecological significance [52]. Similarly, based on the originally agreed scoping, sufficient attention was given to potential impacts on invertebrate colonies on the site [53]. This did not identify or justify the need for any more detailed survey work, given that the likely effects could be reasonably assessed on the information collected and had already been taken into account in the proposed design/layout of the scheme. Whilst more detail could have been provided in some instances, the test is whether further work was needed to assess the likely significant effects, as it is not necessary to consider every possible limited or very detailed effect that would not have an influence on the form or content of the proposal. As para 98 of Circular 06/2005 confirms, there is no requirement to carry out additional surveys to satisfy professional curiosity.
- 109 Similarly, the omission of a few plant species present on the site from a list which did not purport to be comprehensive does not invalidate the conclusions arising. The fact that the ES effectively reached much the same conclusions as the BBOWT in relation to the nature and value of the lowland meadow grassland habitat on the site reinforces this conclusion, in my view [54]. Accordingly, I am satisfied that the baseline data provided has been adequate to assess the likely significant environmental effects, following suitable initial scoping. Therefore, I consider that this case is clearly distinguishable from "*R v Cornwall County Council ex parte Jill Hardy - 2000*", referred to on page 49 of "*Planning for Biodiversity and Geological Conservation - A Guide to Good Practice*" - ODPM et al - March 2006.

- 110 With regard to mitigation, local experience suggests that it may well take many years to extend and fully recreate the lowland meadow type grassland habitat, so as to meet the Section 74 definition, within the retained part of the CWS [67]. Notwithstanding, the advantages of an agreed management strategy with appropriate funding and public ownership of the land should ensure that the overall ecological value of this area is maintained and materially enhanced over time. Together with the ECMS to apply during the construction period, this should help to retain biodiversity in accord with the second key principle of PPS 9 and paras 84/85 of Circular 06/2005, on a site of local importance and in relation to protected species. The retention of existing features such as trees, hedges and ponds and the creation of new ones, together with links between them, as indicated on the illustrative development framework plan (plan D), would also be of relevance in this respect, not least with regard to invertebrates, consistent with the fourth and fifth key principles of PPS 9.
- 111 I recognise the concerns expressed regarding the possible detrimental environmental impact on the retained CWS area of unlimited public access for recreational purposes [75]. However, only limited access over a small number of defined routes is envisaged through the area, which will be under public ownership by the District Council and with funding for active management by an appropriate body. In such circumstances, it is reasonable to assume that these potentially conflicting interests can be satisfactorily and sustainably managed over time to ensure that ecological interests are not materially prejudiced. Examples of the successful management for nature conservation of grassland areas adjacent to new housing are described in the recent Good Practice Guide referred to above.
- 112 The MFS will not lead directly to the acquisition of additional land in compensation for the loss of about 3 ha of the present CWS [70]. It should, however, provide the opportunity to establish a sustainable meta-population of the butterfly in the locality, if at all possible, thereby restoring an element of biodiversity which had, apparently, been lost, in accord with PPS 9 and para 85 of Circular 06/2005. To my mind, such an outcome would be a clear net benefit of the proposals, particularly when compared to the alternatives, as the present situation on the site is not expected to continue for long without positive action.
- 113 In conclusion, at the regional and strategic levels, policies E2 of RPG 9 and EN2 of the OSP confirm that biodiversity should be maintained and enhanced through planning decisions and damaging development prevented on sites supporting specially protected species. By reference to the relevant legislation, policy C2 of the CLP also opposes development that would adversely affect protected species, whilst C1 seeks to promote the general interests of nature conservation. I agree with the CDC, EN, BC and the CE that, taken as a whole, the scheme does not conflict with these policies. In the NSCLP, policy EN22 says that features of nature conservation value should be retained and enhanced, wherever possible, such as through the use of conditions and obligations and the provision of compensatory measures where appropriate, as proposed in this case.
- 114 Regarding ecological surveys, policy EN23 requires their submission in connection with schemes affecting sites of nature conservation value, with the supporting text adding that they should be carried out by reputable consultants, using recognised methods appropriate to the task. In terms of protecting sites and species, policy EN24 states that the reasons for the development must clearly outweigh the ecological value if a proposal resulting in the loss of or damage to such sites is to be permitted and any damage kept to a minimum. Policy EN25 says that development adversely affecting protected species will not be permitted, whilst EN27 aims to secure new habitats in connection with development, particularly for priority species. Again, in common with the CDC and other relevant

bodies, I conclude that, overall, the requirements of these policies would be met and that damage to the ecological resource would be kept to a minimum. Moreover, I also consider that the survey work and mitigation/compensation measures now agreed as part of the proposals are consistent with the guidance in para 99 of Circular 06/2005.

- 115 Taken together, both the ES and the subsequent additional information have identified the likely significant environmental effects of the proposed development, in accordance with Schedule 4, Para 4 of the Regulations. For the reasons explained above I do not accept the view that there was any material failure to apply appropriate professional standards in the implementation of the EIA process and related studies. The significant package of protection/compensation measures would make a contribution to the unimproved grassland resource in the county, consistent with the relevant national, regional and local BAPs for the habitat types and protected species on the site. Accordingly, I conclude that neither the scale nor the extent of the development proposed need result in the destruction or significant harm to the ecological value or wider nature conservation interest of the CWS as it currently exists and as it would be if no further action is taken.
- 116 Therefore, I conclude on the third main issue that, overall, and taking into account all the planning conditions and provisions of the Section 106 legal agreement, including those that would apply in respect of mitigation for the loss of part of the CWS and the enhancement of the remainder, the scheme would not result in significant harm to the ecological interest of the site. Such harm that would arise as a result of the reduction in size of the CWS and the limited increase in fragmentation of the habitats present is clearly outweighed by the need for new housing to meet the requirements of the OSP for the town and district in this sustainable location, on a site which has been allocated for development for many years but is no longer needed for employment use.

Other matters

- 117 Regarding the other "further information" sought in relation to the original ES, additional archaeological work has been undertaken. A report of June 2005 by Cotswold Archaeology confirms that the area of the site to the north west of the Langford Brook has no significant features and low archaeological potential. Taken together with the earlier investigation of the south eastern part of the site by Oxford Archaeology in 1997, this confirms that, subject to a condition requiring a staged programme of investigation, there is no archaeological objection in principle to the development of the site.
- 118 On flood risk, it has now been confirmed that the existing surface water balancing ponds to the south of Gavray Drive were constructed with capacity to serve development on the land to the north of the road. Given that residential development is likely to have a lower impermeable area than commercial, thereby reducing anticipated flows, it is now common ground that the surface water drainage proposals for the site are suitable and acceptable.
- 119 I have also borne in mind the unusually strong level of public support for new housing on the site, albeit as an alternative to employment use, as reflected in letters to the Council and the results of the two extensive consultation exercises undertaken by the Appellants [49]. I conclude that the appeal should be allowed and outline planning permission granted subject to conditions and the provisions of the Section 106 legal agreement.

Conditions and Obligations

- 120 A list of suggested conditions (Doc 4) was fully discussed and agreed during the inquiry. In addition to the standard time limits for outline applications (applicable at the time of

submission) (nos 1-3), I accept the consensus view of the parties that, taking into account the nature and scale of the scheme subject to EIA, any permission should be limited to no more than 500 dwellings (no 6) and that no building should exceed three storeys in height (no 4). Similarly, in order to make the best use of land and achieve consistency with both PPG 3 and policy H3 of the OSP, an average density of not less than 35 dwellings per hectare, with not less than 30 dph in any phase, should be required across the site (no 5).

121 Discussions between the appellants and the District Council prior to the inquiry led to agreement that a Master Plan should be prepared and approved, before any reserved matters are submitted (no 7) and that the scheme should also be subject to Design Codes for the various phases (no 8). Having received an assurance from the Appellants that the 12 month time limit was considered adequate due to the amount of work completed to date, I endorse this approach to achieving a high quality design and layout as both appropriate and reasonable in the circumstances.

122 Although an unusually full and detailed level of public consultation has already been carried out by the Appellants in connection with this application (and a duplicate one), it was common ground that the local community should continue to be closely involved in decisions on the details of the scheme. This would include in relation to the Master Plan, Design Codes and Ecological Construction Method Statement, in addition to reserved matters applications. The proposed condition (no 10) would ensure that a public consultation strategy is prepared and followed, consistent with the advice in PPS 1 and the Council's Statement of Community Involvement.

123 All parties are also agreed that, given the sensitivity of that part of the site to the east of the Langford Brook in nature conservation terms, an ECMS (no 11) is essential if it is to be built on and I agree. In the light of all of the above, I further agree on the necessity of an implementation plan (no 12), to co-ordinate the timing of the various elements of additional preparatory work and the construction of the development itself, including in relation to any distinct phases or sub-phases, in compliance with policies G3 and H3 of the OSP.

124 Regarding archaeology (no 13), surface water drainage (no 14), flood storage works (no 15) and foul drainage (no 16), previous objections in principle to the scheme have been withdrawn by the relevant bodies and organisations [24 & 25] on the strict understanding that appropriately worded conditions are imposed, to ensure that their detailed concerns over implementation are properly addressed. All the currently available evidence, including from the Council [56 & 57], points to these matters being readily capable of resolution at reasonable cost and within a relatively short timescale. Consequently, I consider it essential that such conditions are imposed to safeguard the interests identified and ensure that adequate infrastructure is provided alongside the new housing and associated facilities.

125 Again, there is no dispute that appropriate and suitably located play areas need to be provided on the site (no 17), nor that noise assessments (no 18) should be undertaken before any new dwellings are occupied. I too am satisfied that such conditions meet the necessary tests in this instance. Although the exact details were debated at the inquiry, a consensus also emerged regarding the best methods for the proper protection of retained trees and hedges during the construction period and I am content that this would be achieved by the proposed condition's wording (no 19). Whilst I questioned the strict necessity for a condition requiring provision of fire hydrants in each phase to be the subject of an agreed scheme, the Appellants said that this would not be onerous and the District and County Councils pointed to the costs and difficulties of "retro-fitting", once the scheme had

been designed, let alone implemented, even in part. On balance, therefore, I take the view that this condition would not be unreasonable in the circumstances.


126 Finally, bearing in mind the relative proximity of existing housing to the south of Gavray Drive, a requirement to provide details of temporary site compounds and construction site parking seems sensible in order to minimise any impacts on the residential amenities of adjoining occupiers, in accord with the ES.

127 The signed legal agreement provides for a number of significant financial contributions to be made towards local services and facilities, each of which has been individually negotiated with the organisations concerned. In particular, contributions would be made towards education facilities, to enable the building of a new primary school, as well as the provision of public open space, play areas, landscaping and the CWS on the site, and indoor/outdoor sports pitches/centres and improvements to the Langford Village Hall off site, including their transfer into public ownership and for future maintenance. Local bus service and highway improvements, including at the Neunkirchen/Seelscheid Way, London Road and A41 junction, as well as other increased service provisions for the area, would also be funded. In addition, the legal agreement confirms the detailed arrangements for 30% of the new dwellings to be affordable housing, of which 88% would be in the social rented sector, including the transfer of land to a Registered Social Landlord at no cost.

128 Based on the advice in Circular 05/2005, I consider that all the matters addressed in the agreement are relevant to planning and directly related to the development proposed by virtue of the impacts otherwise imposed on services and facilities in Langford Village and Bicester. Moreover, in my opinion, the contributions agreed with the relevant authorities are related in scale and kind to the scheme in both physical and practical terms and reasonable in other respects, as well as necessary if the application is to be permitted.

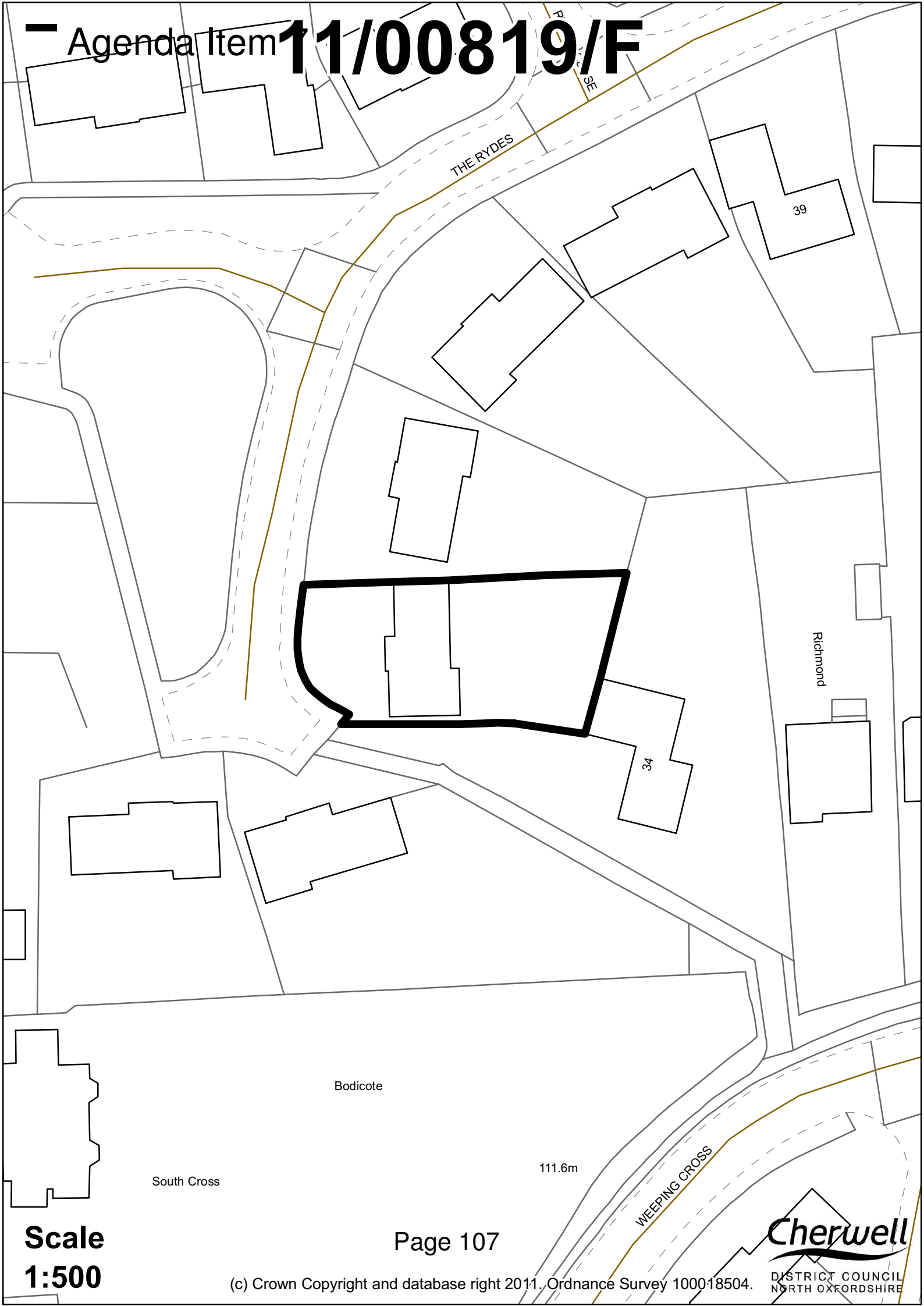
Recommendation

129 I recommend that the appeal be allowed and outline planning permission granted subject to the conditions set out in Annex A, (the wording of which have been slightly modified from the agreed list (Doc 4) in the interests of clarity and brevity).



Inspector

Agenda Item 11/00819/F



THE RYDES

39

34

Richmond

Bodicote

South Cross

111.6m

WEeping CROSS

Scale
1:500

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

11/00819/F



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 11/00819/F	No:	Ward: Bloxham and Bodicote	Date 18/07/2011	Valid:
Applicant:	Mr and Mrs Cautley			
Site Address:	35 The Rydes, Bodicote			

Proposal: Proposed extension and alterations – re-submission of 11/00230/F

1. Site Description and Proposal

- 1.1 The application site is a detached, dark brick built property with an attached single storey garage, and a large open fronted garden. The site is within a planned, low density residential estate towards the Eastern edge of Bodicote; the estate is adjacent to, but not within the Bodicote Conservation Area.
- 1.2 The proposal is for a first floor extension over the garage, with a two storey gabled extension to the rear.
- 1.3 The application is placed before the committee for determination following a request from the local Member,, and following the original refusal of the application by the Committee at the May meeting (see Appendix 1).
- 1.4 Following the refusal of the original application, the design of the scheme has been amended to remove the timber cladding originally proposed, and to introduce a step down in the ridge of the side extension. This lowering of the ridge height has lead to the introduction of a dormer window in the front roof-slope of the extension to address the loss of ceiling height internally. The relationship of the proposal to the properties to the rear remains as in the previous application.
- 1.5 The refusal of the original application was appealed against shortly after the decision was issued. This appeal decision has now been received and planning permission was granted subject to conditions on 03 August (see Appendix 2).
- 1.6 In determining that appeal, the Inspector noted that several of the other dwellings in The Rydes have been altered or extended. He also notes that *“the stepping down between the existing and proposed ridge lines is unnecessary to retain the character and appearance of the host property”* and that *“the proposal would not significantly harm the character and appearance of the surrounding area... [or]... result in a dominant and visually intrusive form of development”*. The Inspector also made specific reference to the impact of the proposal on the objectors to the scheme, noting that *“by reason of the separation distance there would not be an unacceptable impact...by reason of overlooking or loss of privacy...[or]... by reason of either the loss of daylight and sunlight or being a visually dominant form of development... [and that]... the proposed development would not adversely harm the living conditions of the occupiers of the neighbouring properties”*.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice (following the amendment to advertisement procedures). The final date for comments was 11 July 2011.

- 2.2 One letter of objection has been received from an agent acting on behalf of the occupiers of the neighbouring property to the East (essentially to the rear of the site), expressing concerns over;
- the appropriateness of the scheme in terms of the character and appearance of the wider estate
 - loss of light
 - visual amenity
 - loss of privacy

The agent acting for the contributor has also highlighted the importance of consistency in planning decisions and the importance of the appeal system in the planning process.

3. Consultations

- 3.1 Bodicote Parish Council – strongly object to the scheme;
- harm to the street-scene and character of the estate (as a result of design details and material choices)
 - loss of privacy
 - loss of light

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
PPS1 – Delivering Sustainable Development
- 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 In order to assess the acceptability of this proposal, there are two main issues to consider; the appropriateness of the design for the location (and in the light of the relevant policies in the Plan); the impact of the proposal on the amenity of the neighbouring properties, and the impact of the appeal decision for the original scheme on the determination of this scheme.
- 5.2 Turning first to the appropriateness of the design the scheme has been reduced in response to the original reasons for refusal and now no longer features the timber cladding or flush-ridge. As a result of introducing the step-down to the ridge a dormer window has been added to the front elevation.
- 5.3 Whilst the Parish Council maintain an objection to this element of the scheme, and particularly to the dormer window, the same form of extension has been approved elsewhere in The Rydes (at number 32 under application reference 10/00500/F) and received no similar objections.

- 5.4 In assessing the design of the extension, it is also necessary to consider the impact of the proposal on the amenity of the neighbouring properties. Given the layout of the estate, and the orientation of the properties, the principal impact is upon #34, which effectively sits to the rear of this property (the gable wall of #34 forms the end boundary of the garden to #35).
- 5.5 The proposed extension will be 13m from the nearest point of the neighbouring property (the gable wall), and approximately 18m from the nearest facing window of the neighbouring property. It is important to note however that the element of the neighbouring property which faces the application site does not contain a habitable room; it is instead the front door to the house, with the garage door adjacent and a downstairs bathroom behind. It is not disputed that the proposal will have an impact on the outlook from the front door of the neighbouring property; but as the impact is on a non-habitable room, it is not considered unacceptable
- 5.6 The proposal is not therefore considered to cause an unacceptable, refuse-able loss of light or privacy to the neighbours, nor is it considered that the privacy of the occupants of the application site would be harmed by the proposal.
- 5.7 This assessment of the lack of harm to the amenity of the neighbours caused by this extension is reinforced by the appeal decision for the original scheme as set out above.
- 5.8 The proposal will be visible from the public domain in two regards; the first floor element over the existing garage will be visible from the street, and the rear element will be visible from the path running from Weeping Cross through to The Rydes, between 33 and 35. The appearance of the scheme from both views is considered acceptable, and again this assessment is supported by the earlier appeal decision.
- 5.9 In addition to the consideration set out above, it is also important to have regard to the content and implication of the appeal decision relating to the original application. Elements of this have been set out in Section 1 above, but fundamentally, approval of the original scheme at appeal must lead to this scheme to being considered acceptable.
- 5.10 The appeal decision sets out that the original proposal will not have an unacceptable impact on the neighbouring properties and as this scheme is of a lesser scale in terms of its impact on the street-scene, it cannot be considered unacceptable in that regard.
- 5.11 As noted above, the Parish Council have maintained their objection to the dormer, but this very similar to one already approved. Similarly, whilst they object to the render to the rear of the property, the Inspector also found this to be acceptable.
- 5.12 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. It is therefore recommended for approval, subject to conditions.

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 WG06-002A (received on 01 July 2011)
 - drawing WG06-006E (received on 01 July 2011)
 - drawing WG06-007E (received on 01 July 2011)
 - drawing WG06-008E (received on 01 July 2011)
 - the details set out in the application forms

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.

Planning Notes

- 1) T1 – Third party rights
- 2) U1 – Construction sites
- 3) County drainage notes

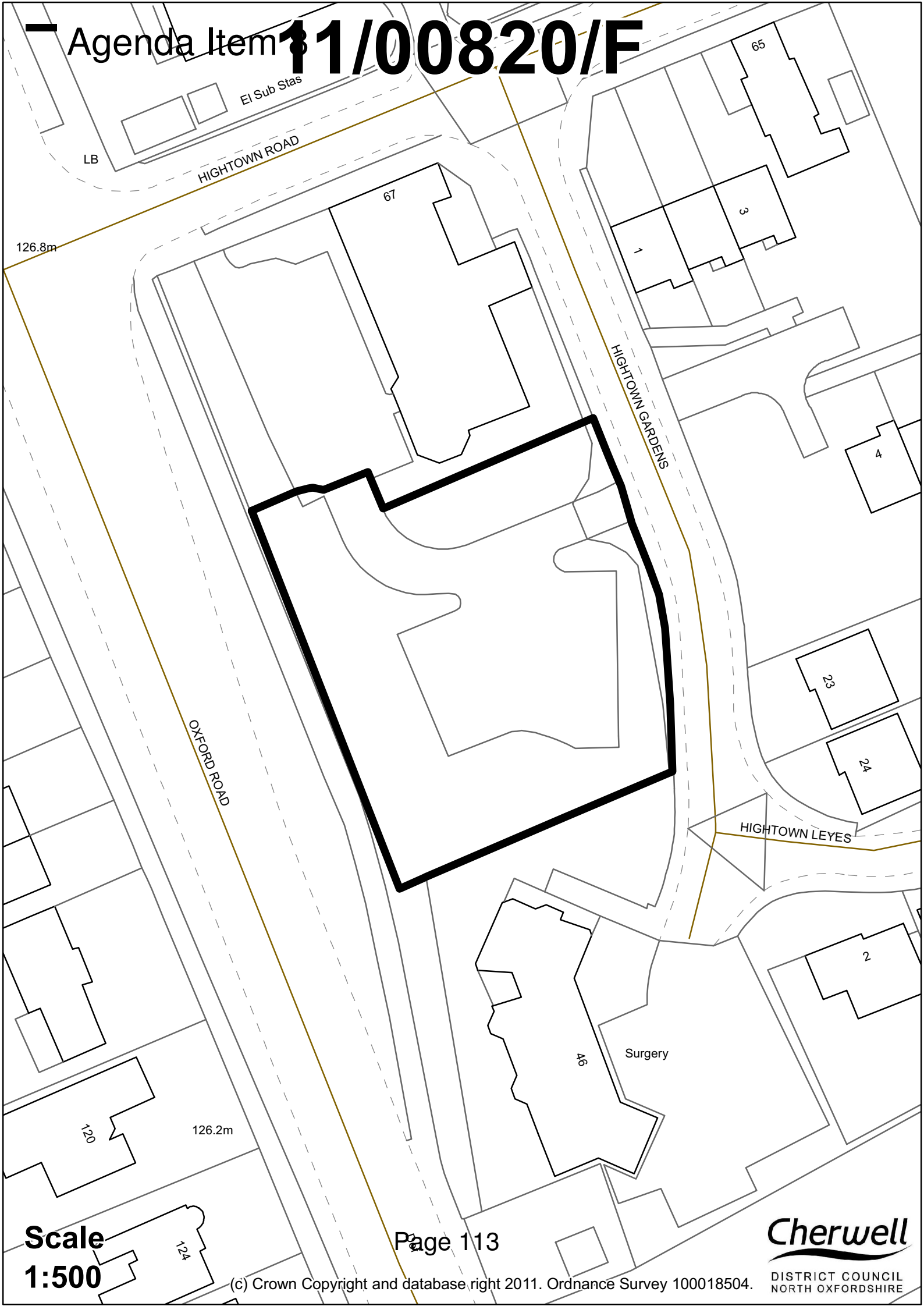
Summary of Reasons for the Grant of Planning Permission and Relevant Development Plan Policies

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

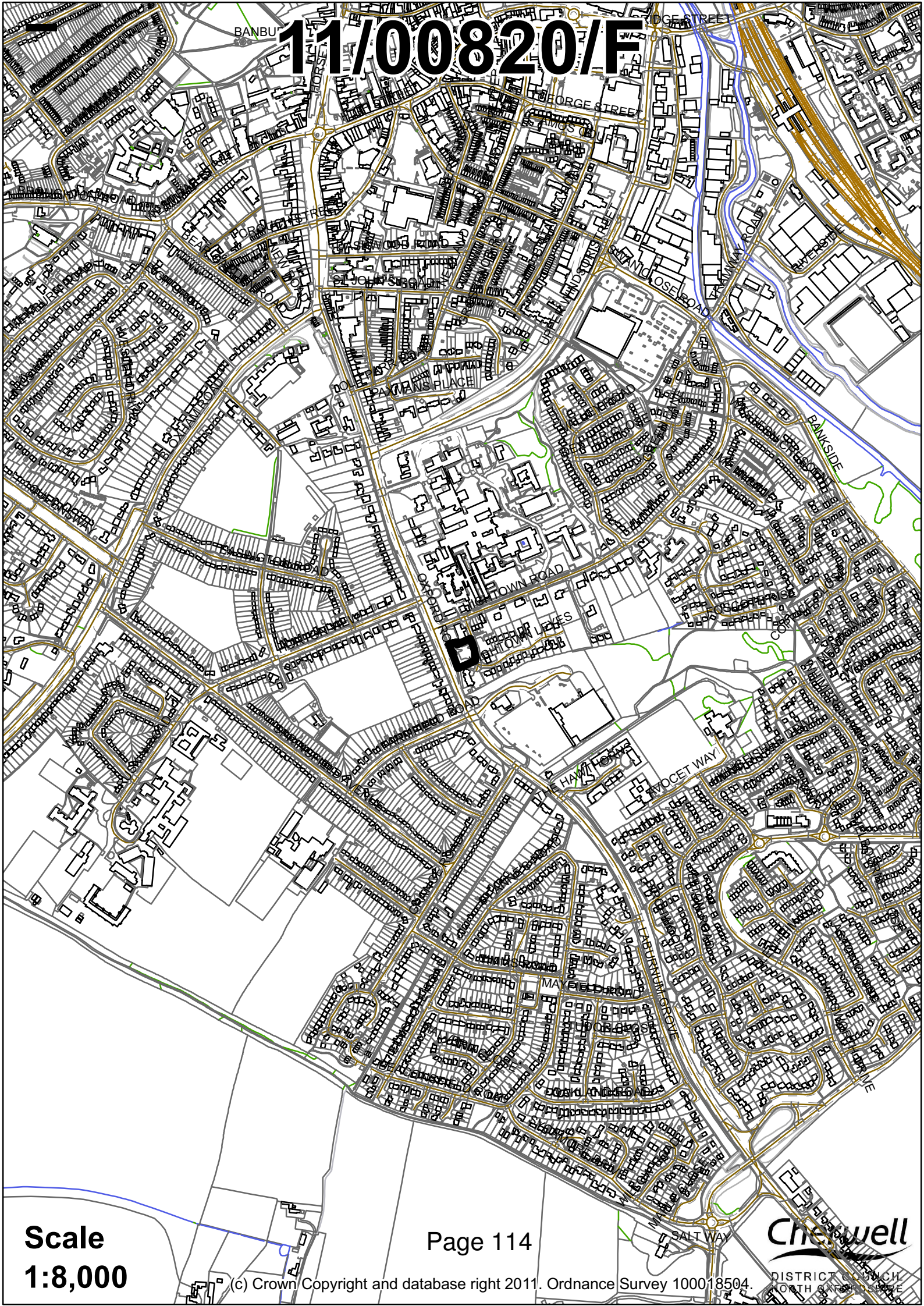
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Cherwell
DISTRICT COUNCIL
NORTH NORTHAMPTON

Application 11/00820/F	No:	Ward: Calthorpe	Banbury	Date 23/05/2011	Valid:
Applicant:	Kingerlee Homes				
Site Address:	Penrose House, 67 Hightown Road, Banbury				

Proposal: Construction of 14 no. apartments including associated landscaping

1. Site Description and Proposal

- 1.1 The application site is land attached to Penrose House; a large Edwardian building, on the corner of Hightown Road and Oxford Road, with Hightown Gardens to the rear/side. There is an extant consent for the conversion of Penrose House to twelve flats, and consent for twelve new-build flats on this site (04/01395/F refers). The new-build element of that earlier scheme was the subject of an application to extend the time-limit for implementation earlier this year (10/01087/F refers).
- 1.2 This application is a new approach to the new-build element of the extant scheme; it proposes two additional flats within a slightly amended design and form. The amended design, form and materials are a response to the changing size of the protected tree within the site and to the desire of the developer to incorporate high standards of sustainable design and to minimise the energy demand of the building.
- 1.3 The site is within the Banbury Conservation Area, identified as being within the 'Southern Villa Suburb' area. The Conservation Area boundary surrounds this site, with the Oxford Road and Hightown Leyes lying outside the Conservation Area.
- 1.4 Penrose House is locally, but not statutorily listed; one of the buildings on the hospital site, opposite the entrance to Hightown Leyes is Grade II listed.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice and site notices. The final date for comments was 30 June 2011.
- 2.2 No third party comments were received.

3. Consultations

- 3.1 Banbury Town Council – no objections.
- 3.2 County Highways Liaison Officer – no objections, subject to the re-imposition of appropriate conditions.
- 3.3 Thames Water – no objections, notes that a build-over agreement is not required.
- 3.4 Building Control – no comments.

- 3.5 Head of Safer Communities – no objections.
- 3.6 Private Sector Housing – no objections.
- 3.7 Planning Policy – no objections, but did note that the site is included in the current 5-year supply housing figures.
- 3.8 Thames Valley Police – no objections, request note regarding Secured by Design.
- 3.9 Oxfordshire County Council Development Funding Officer – no objections, seeks the re-imposition of previous conditions and the securing of contributions to mitigate the impact of the proposals on education, museums and waste provision within the County.
- 3.10 Head of Recreation and Health – no objections, requests provision of funding to secure improvements to off-site sports provision.
- 3.11 Conservation Officer – no comments received.
- 3.12 Ecology Officer – no objections, but wishes to remind the applicant of their responsibility towards protected species.
- 3.13 Urban Design – no comments received, but commented at pre-application stage that design principles were explored prior to the 2004 scheme.

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
 - PPS1: Delivering Sustainable Development
 - Climate Change Supplement to PPS1
 - PPS3: Housing
 - PPS5: Planning for the Historic Environment
 - PPG13: Transport
- 4.2 Regional Policy in the South East Plan 2009:
 - CC1 – Sustainable Development
 - BE1 – Management for an Urban Renaissance
 - BE6 – Management of the Historic Environment
 - T4 - Parking
- 4.3 Local Policy in the Adopted Cherwell Local Plan 1996:
 - C23 – Retention of features contributing to character or appearance of a conservation area
 - C28 – Layout, design and external appearance to be compatible with the character of the context of a development proposal
 - C30 – Design of new residential development
 - C31 – Compatibility of proposals in residential areas

5. Appraisal

- 5.1 The main issues for consideration in this application are;
 - policy context
 - principle of development

- design, layout and amenity
- impact on the heritage assets
- sustainability

5.2 Policy Context

5.3 As applications must be determined in line with the development plan unless other material considerations are indicated otherwise, the main policy considerations for an application of this sort are to be found in the adopted Cherwell Local Plan 1996. The relevant policies in that plan, set out in Section 4 above, seek to ensure that layout, design and external appearance of new development are of a high quality and appropriate for the character of an area. Furthermore, the policies in the local plan seek to retain features which make a positive contribution to the character of a Conservation Area.

5.4 Similarly, the proposals must be considered against the requirements of regional policy as set out in the South East Plan 2009. Like the local plan, these policies seek to ensure design and development appropriate to the historic context of the site (the Conservation Area in this case) and ensure that all development contributes to the delivery of sustainable development.

5.5 Relevant national policy is expressed through the planning policy statements set out above; the most important to this case, taking into account the planning history of the site is PPS3, which seeks to deliver the most efficient use of housing land, where it can be delivered in a sustainable manner. The emphasis on sustainable development, set out in PPS1 and the Climate Change Supplement is also important in this case, when considering the differences between the consented and approved schemes.

5.6 Principle of development

5.7 As mentioned in the introduction, the principle of this development has already been established through a series of applications dating back to 2004. Whilst the original applications pre-dated the Conservation Area designation, the principle of development was re-established with that in mind in early 2011 (application 10/01087/F refers). Although the extant scheme is for twelve apartments and the proposed scheme is now for fourteen, the fundamental principles are considered to remain the same, and the increase in the scale of the development is so relatively minor as to not affect the underlying acceptability of the proposal.

5.8 As PPS3 encourages efficient use of housing land, and as this proposal sets out delivery of an additional two units in a sustainable location, the principle is considered to remain acceptable. The further acceptability of the principle is also informed by the detailing of the scheme; the landscaping, highway safety issues, materials and relationship to the character of the context of the site.

5.9 Design, layout and amenity

5.10 The design of the proposal is a response to a number of factors; the constraints on the site (most notably the large, protected Copper Beech tree in the centre of the site) and the design of the previously approved scheme. As such, this proposal is essentially a refinement of the original scheme, with the form and layout amended to suit the requirements of the client and better suit the construction method chosen.

5.11 The mass of the building, dictated by the trees and scale of the overall scheme has

been broken up in a style which reflects a contemporary interpretation of the 'Queen-Anne' style of Penrose House. The elevations are characterised by a series of feature elements (windows, glazed elements, entrance-framing) whilst the string coursing and render colours, atop a red-brick plinth provide further references to Penrose House. The flat-roofs and broken parapets are intended to add to the clearly contemporary design, which takes its cues from the important features of Penrose House and the surrounding area.

- 5.12 The layout of the flats has been considered by the Council's Private Sector Housing Officer and they have no comments to make on the scheme. The proposal provides for more generous floor space than the previous scheme, and provides 14 two-bedroom, two-bathroom units. Of the fourteen units, only two are single-aspect, but these are both South-facing.
- 5.13 Penrose House is still currently use for office accommodation, but there is (subject to the signing of the Section 106 agreement) an extant consent for its conversion to flats. As a result, when considering the amenity of the occupiers of this building, regard must be paid to the compatibility of the proposed residential use with the current office use, and the consented residential use. Both are considered to be acceptable; the office use is not considered likely to cause an unacceptable impact on the amenity of the occupiers of this site, and the relationship between the new build flats and the converted flats is also acceptable in terms of any overlooking, loss of privacy and over-dominance.
- 5.14 The proposal is considered acceptable in terms of impact on the surrounding properties, including those on the Oxford Road and Hightown Leyes. The relationship of the site to these properties is acceptable in terms of any overlooking, loss of privacy and over-dominance.
- 5.15 With regard to views of the proposal from the public domain, it is clear that a building of this size and scale in this location will be visible from the public domain. However, given the relative scale of this building to Penrose House (600mm lower than the main ridge, and 1300mm below the uppermost ridge) the appearance of the development is not considered unacceptable, but is instead considered to offer a well-designed attractive addition to the street-scene which will complement the existing historic environment and wider context. A landscaping scheme is also proposed to soften the appearance of the proposal.
- 5.16 As a result, the proposal provides for above average standards of amenity and privacy which are acceptable to, and welcomed by, this Council.
- 5.17 Impact on the heritage assets
- 5.18 As the site is within the Banbury Conservation Area and Penrose House is locally listed, the proposal must be considered in terms of its impact on these heritage assets.
- 5.19 With regard to the Conservation Area, the proposal must either preserve or enhance the character or appearance of the Conservation Area. It is considered that the proposal preserves the character of the Conservation Area through the use of design, materials and layout which respect and reference the existing high-quality development which has given the area a character considered worthy of special protection. Furthermore, it is considered that the proposal, by virtue of its contemporary design, contextually appropriate materials and subservient scale, enhances the appearance of the Conservation Area through the addition of high

quality new development. The limited colour palette proposed, and the vertical emphasis to the elevations further improves the careful relationship between this new development and the sensitive context.

5.20 As Penrose House is locally listed consideration must be given to the impact of this proposal on the significance of Penrose House as a heritage asset. It is considered that whilst this proposal (and indeed, the previously consented schemes) does have an impact on the setting of Penrose House, this is not so severe as to cause unacceptable harm to the setting or significance of Penrose House. Given the distance from the site to the statutorily listed building to the North and the intervening screening and buildings, it is considered that the proposal does not harm the setting of that listed building.

5.21 Sustainability

5.22 PPS1 seeks the delivery of development which is not only of a high-quality in design terms, but also places a strong emphasis on sustainable development. This is reinforced by the Climate Change Supplement to PPS1.

5.33 The developer of this scheme is committed to the sustainable design, construction and use of this building. Kingerlee Homes aspire to deliver a truly sustainable form of development; making the most use of passive gains, incorporating innovative thinking, innovative design and construction techniques to provide highly insulated and air-tight buildings, which can significantly reduce the environmental impact of the construction and use of the building as well as offer materially reduced energy consumption in-use.

5.34 Evidence of this sustainable approach to the design is shown in the orientation of the building, the arrangement of the glazing, the walling materials and the coatings proposed (rendered 'thermoplan' block-work). It is considered therefore that the proposal accords with the intention of the government with regards to sustainable development and provides an opportunity to demonstrate sustainable, modern development in a sensitive historic context.

5.35 Developer contributions

5.36 As the application is a major development in an urban area the scheme is liable for developer contributions to mitigate the impact of the proposal on the infrastructure of the town; contributions to the District Council are required for the provision and maintenance of outdoor sports facilities. Contributions to the County Council are required for the improvement of education, library, community and waste facilities. It should be noted that this application was submitted before the coming into effect of the latest draft supplementary planning document on planning obligations which lowered the threshold for the provision of affordable housing, and therefore no provision has been sought.

5.37 Conclusions

5.38 Taking the above consideration into account as well as the development plan, the proposal is considered to be an acceptable type, form and scale of development which is appropriate for the character and context of the site. It is fundamentally a revision to a previously approved and implementable scheme. Notwithstanding that, the proposal responds well to the constraints of the site; it will not cause harm to the protected tree in the site and should offer an improved setting to it over the extant scheme. Furthermore, the scheme is acceptable in terms of its impact on the

heritage assets. It will not cause unacceptable harm to the amenity of neighbouring properties or occupiers of the site nor will it have an undue effect on highway safety and convenience. In addition, the proposal demonstrates the way in which contemporary development can be delivered in a sustainable manner in a sensitive environment.

6. Recommendation

Approval, subject to

i) the applicants entering into a Section 106 obligation with the District and County Councils to secure financial contributions towards;

- a) the provision and maintenance of outdoor sports facilities in the locality/town**
- b) the improvement of education, library, community and waste facilities in the locality/town**

ii) the imposition of the following conditions;

1) SC 1_4A (Time limit for implementation)

2) That the development hereby permitted shall be constructed in accordance with a full schedule of materials and finishes (including samples where appropriate) which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved. Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

3) That full design details of the fenestration to be used on the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details. Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter unless agreed in writing with the local planning authority. Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan.

5) 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:-

- details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- 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,
- details of the hard surface areas, walls, trellis screens, pavements, pedestrian areas, crossing points and steps. Reason - In the interests of the visual amenities of the area and

to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan.

6) That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation. Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan.

7) The protection of any existing tree to be retained in accordance with the approved plans and particulars shall be achieved as follows:

- no equipment, machinery or material shall be brought onto the site for the purposes of the development until fencing has been erected in accordance with plans and particulars which shall have been previously approved by the Local Planning Authority in writing;
- if that fencing is broken or removed during the course of carrying out the development, it shall be promptly repaired or replaced in accordance with the approved plans and particulars;
- the fencing shall be maintained in position during the course of construction and until all equipment, machinery and surplus material has been moved from the site;
- within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of on above or below the ground, the ground level shall not be altered, no excavation shall be made, nor shall any fires be lit, without the prior written consent of the Local Planning Authority; and
- no tree to be retained in accordance with the approved plans and particulars shall be cut-down, up-rooted, topped, lopped or destroyed, nor any hedge within the site cut down or grubbed out without the prior approval in writing by the Local Planning Authority. Reason - In the interests of the visual amenities of the area and to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan.

8) Prior to the commencement of any works on the site, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development hereby permitted 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 existing trees and hedgerows are retained in a safe and healthy condition and are not adversely affected by construction works, in the interests of visual amenity and to comply with Policy C28 of the adopted Cherwell Local Plan.

9) That prior to the construction of the new building, the existing means of access between the land and the highway shall be improved, laid out and constructed strictly in accordance with the specification of the means of access attached hereto, and that all ancillary works therein specified shall be undertaken in accordance with the said specification. Reason - In the interests of highway safety and to comply with government guidance contained in PPG13: Transport.

10) That prior to the first occupation of the proposed flats, the proposed pedestrian access between the land and the highway shall be formed, laid out and constructed strictly in accordance with the approved plans. Reason - In the interests of highway safety and to comply with government guidance contained in PPG13: Transport.

11) That, before the development is first occupied the access drive shall be constructed, surfaced, laid and marked out, drained and completed in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Reason - In the interests of highway safety, to ensure a satisfactory standard of construction, layout and drainage for the development and to comply with government guidance in PPG13: Transport.

12) That prior to the first occupation of the development hereby approved full details shall be submitted for the prior approval in writing of the Local Planning Authority of the arrangements for the provision of cycle parking facilities and refuse facilities, and thereafter these facilities shall be fully implemented as approved. These facilities shall be constructed and made available for use by residents prior to the occupation of the residential units in the new block or in the converted Penrose. Reason - In the interests of sustainability and to ensure a satisfactory form of development, suitable for the location of the site within a Conservation Area, in accordance with government guidance in PPS1: Delivering Sustainable Development and PPS5 – Planning for the Historic Environment.

13) Prior to the construction of the new building vision splays measuring 2.4 metres x 33 metres shall be provided to each side of the access and retained unobstructed thereafter. Reason - In the interests of highway safety and to comply with government guidance contained in PPG13: Transport.

14) Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The approved surface water and foul sewage drainage schemes shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption". Reason - To ensure satisfactory drainage of the site in the interests of public health and to avoid flooding of adjacent land and property and to comply with government guidance contained in PPS25: Development and Flood Risk.

15) The development shall not begin until a scheme for protecting the habitable rooms in the new building from noise from Oxford Road to achieve an internal sound level of 35 dB (A) with windows closed at night has been submitted to and approved in writing by the Local Planning Authority and all works which form part of the approved scheme shall be completed before any of the flats in the new building are occupied and thereafter the scheme shall be permanently retained in accordance with the approved details. Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy C30 of the adopted Cherwell Local Plan.

16) All construction traffic for the development shall enter and leave the site in accordance with a detailed scheme and method statement to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby permitted. The method statement shall include temporary access arrangements, the construction operating hours on site, arrangements for deliveries to the site, the location of any temporary compounds and site offices, the design/location of any hoardings, the storage of building materials, the arrangement for the parking of contractors' vehicles and details of wheel-washing or road sweeping arrangements. The construction of the development shall be carried out in accordance with the approved details and all temporary buildings or structures shall be removed on completion of the development and the land restored to its former condition or in accordance with the approved plans, as appropriate. Reason - In the interests of highway safety and to minimise the disturbance to neighbouring properties during the construction period, in accordance with government advice in PPG13: Transport.

17) 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 and the materials and finishing details included therein. 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.

Planning Notes

- 1) T1 – Third party rights
- 2) O1 – Archaeology
- 3) X1 – (add details of District Ecologist for further info re: Swift enhancements)
- 4) I – “The Thames Valley Police ‘Secured By Design’ team”
- 5) I – “Thames Water Development Planning Department”

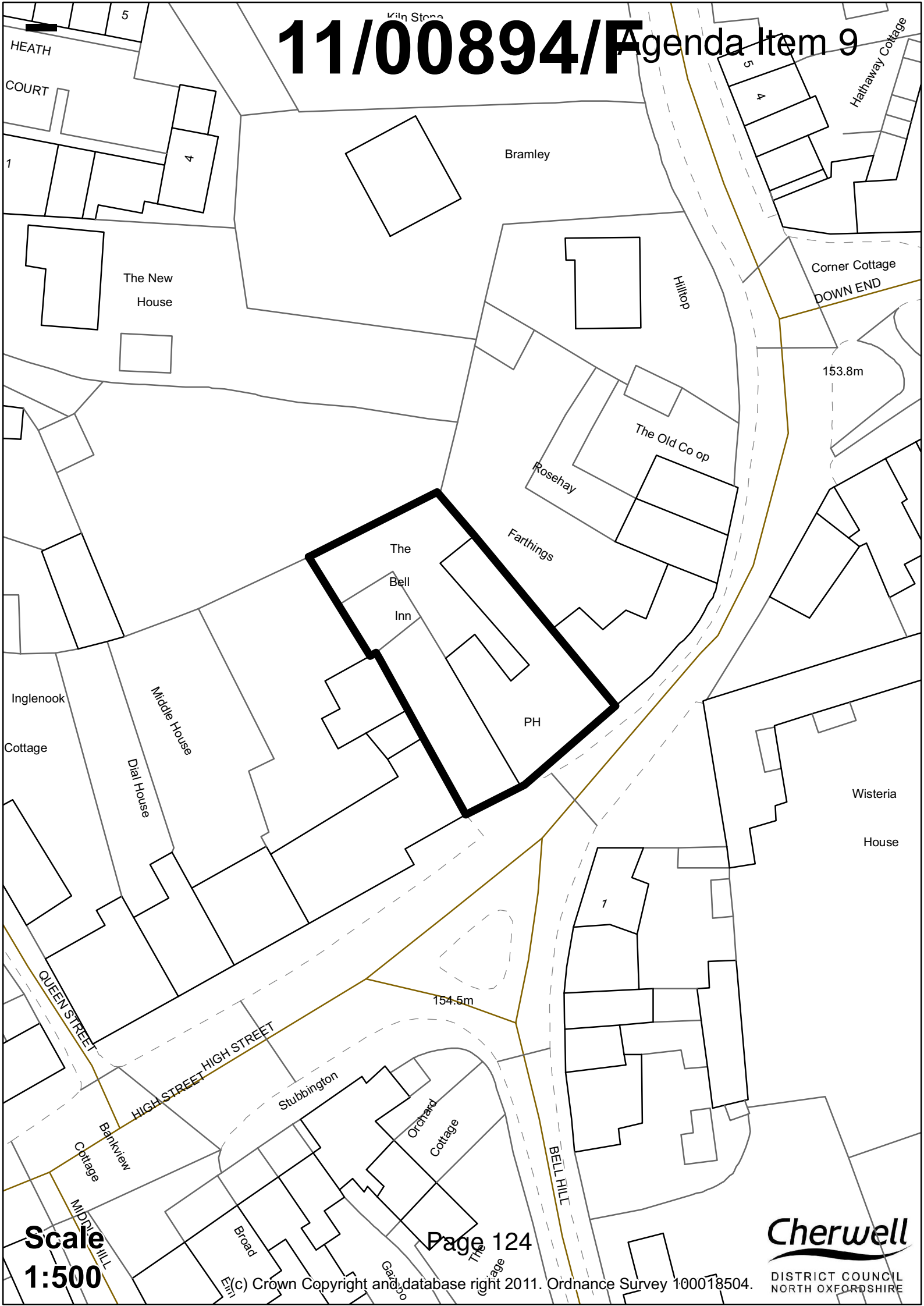
SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of its surroundings, as well as the character and appearance of the Banbury Conservation Area, the setting of Penrose House and existing trees protected by a Tree Preservation Order and has no undue adverse impact upon the residential amenities of neighbouring properties or highway safety through traffic generation or parking. As such the proposal is in accordance with government guidance contained in PPS1: Delivering Sustainable Development, PPS3: Housing, PPS5: Planning for the Historic Environment and PPG13: Transport; in addition, the proposal complies with Policies BE1, CC1 and T4 of the South East Plan 2009 and Policies C23, C28, C30 and C31 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Simon Dean

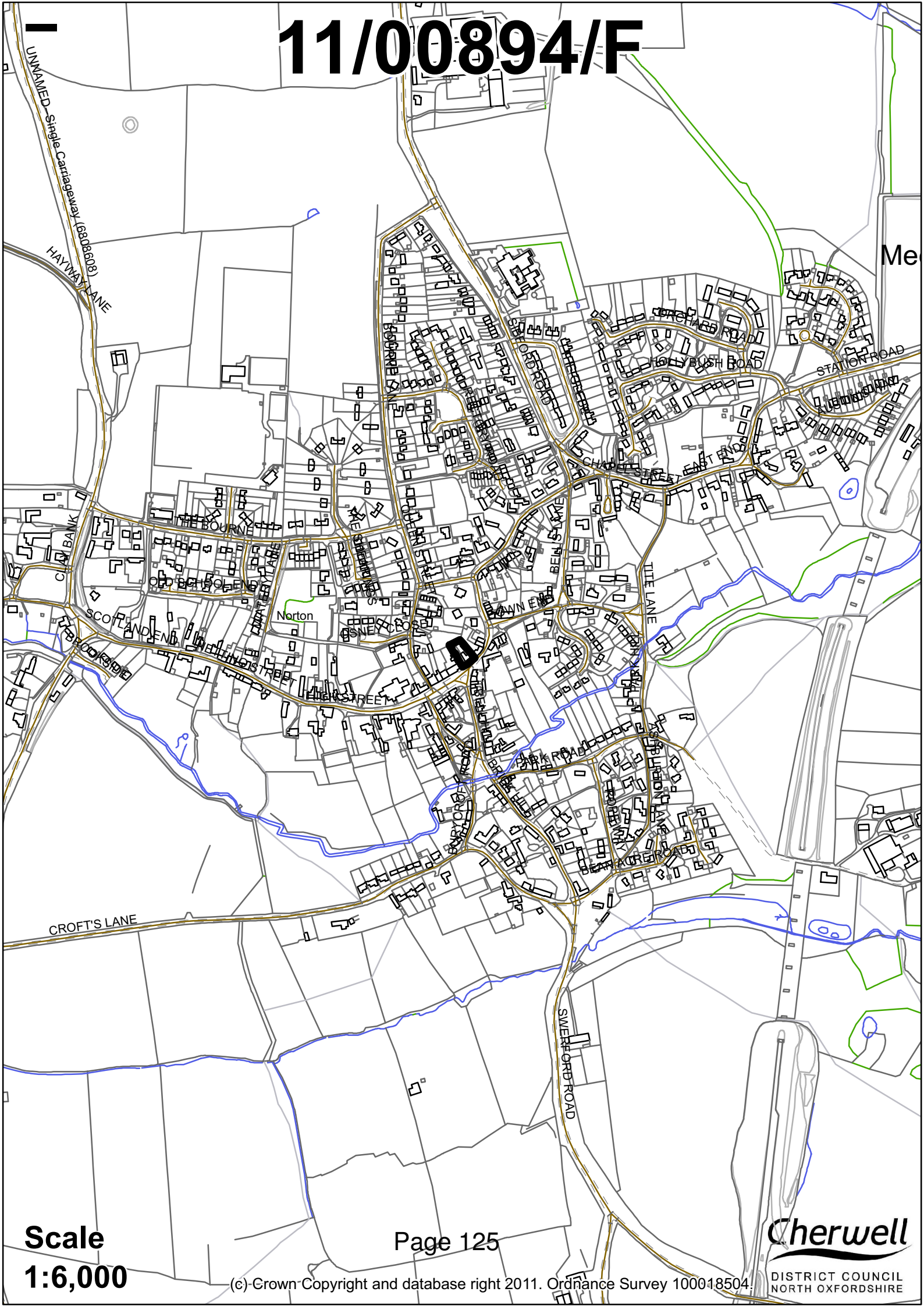
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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 11/00894/F	No:	Ward: Hook Norton	Date 02/06/2011	Valid:
Applicant:	Mr Pete Cape			
Site Address:	The Bell Inn, High Street, Hook Norton			

Proposal: Change of use from Public House (A4) to residential use

1. Site Description and Proposal

- 1.1 The Bell Inn is a Grade II listed public house in the centre of Hook Norton, within the Conservation Area (in the village centre character area as identified in the 2007 appraisal).
- 1.2 The building is in coursed ironstone rubble, with ironstone quoins and a steeply pitched plain tile roof. The fenestration, stonework and detailing to the building are indicative of the past of the building and add to its special historic interest.
- 1.3 The proposal is for the change of use of the property from a public house to a private dwelling. Although such a change of use would require internal alterations (and therefore Listed Building Consent) as no details or drawings been provided the application is dealt with on an 'in-principle' basis.
- 1.4 The application sets out that Punch Taverns have been marketing the site since August 2006, and that the current selling agents were instructed to market the property in October 2010. The submission further sets out that the pub had to be closed between August and November 2010 as no tenant was available to operate the site at that time.
- 1.5 The Bell is currently occupied and trading, albeit at a "nominal rent with full discounts" in order to try and maintain the business in the interim.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice and press notice. The final date for comments was 14 July 2011.
- 2.2 Letters of objection have been received from fourteen local addresses, raising material planning objections including;
 - the loss of an important social/community facility
 - adverse heritage impact in terms of the character of the Conservation Area
 - the state of the building is not adequate justification for the non-viability of the business
 - the viability and/or potential of the business has not been fully or properly assessed
 - the value of the Bell to the village is partly derived from its independence from the Hook Norton Brewery
 - highway safety implications of the conversion to residential use
- 2.3 A petition was also received, with 111 signatures, largely from Hook Norton, but

also further afield. The petition sets out the importance of the pub to the character of the village, the importance of choice (provided by this pub) and the social/community importance of the pub.

- 2.4 One letter of support was received, supporting the application for its benefit to the condition of the listed building.

3. Consultations

- 3.1 Hook Norton Parish Council – did not object to the application.
- 3.2 Conservation Officer – notes that the application is ‘in-principle’ only and that any Listed Building issues would have to be dealt with separately at a later stage. Notes also that approval could allow the building to be restored, and any application for internal changes would have to enhance the interior and exterior of the building, but also that approval would lead to the loss of a village amenity and therefore lead to a change in the character of the Conservation Area.
- 3.3 North Oxfordshire Branch of CAMRA – object to the application as contrary to policy; consider that the application does not properly assess the viability of the business as required by the relevant policies and makes unsupported conclusions. They also note that it is self defeating to use the physical condition of the pub as evidence of non-viability.

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
PPS1 – Delivering Sustainable Development
PPS4 – Planning for Sustainable Economic Growth
PPS5 – Planning for the Historic Environment
- 4.2 Regional Policy in the South East Plan 2009:
CC1 – Sustainable Development
BE5 – Village Management
BE6 – Management of the Historic Environment
- 4.3 Local Policy in the Adopted Cherwell Local Plan 1996:
S29 – Loss of existing village services
- 4.4 Local Policy in the non Statutory Cherwell Local Plan 2004
S26 – Loss of existing village services
- 4.5 Draft national policy expressed through the draft National Planning Policy Framework (NPPF), published for consultation in August 2011, but acknowledged as capable of being a material consideration.

5. Appraisal

- 5.1 The main issues for consideration in this application are
- policy context
 - viability (and the adequacy of the submission in that regard)
 - impact on the village community
 - impact on the heritage assets
- 5.2 Policy Context

- 5.3 As all planning applications must be determined in accordance with development plans unless material considerations are indicated otherwise, the logical starting point for this application is the adopted Local Plan. The importance of village services and amenities is set out in Policy S29 of the adopted Cherwell Local Plan 1996. This policy states that *“Proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted”*. The supporting text to the policy sets out that in adopting that policy the Council *“recognises the importance of village services, particularly the local shop and pub, to the local community and will seek to resist the loss of such facilities whenever possible. However, it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term”*.
- 5.4 This importance is further reinforced by Policy S26 of the non-statutory Cherwell Local Plan 2004, which similarly states that *“Proposals that will result in the loss of an existing village service which serves the basic needs of the local community will not be permitted, unless there is conclusive evidence that the provision of the service is no longer viable and that it cannot be made viable.”* Like the adopted-Plan policy, the supporting text sets out that the Council cannot approve such applications unless it is *“satisfied that there is conclusive evidence, following genuine attempts to market the property and/or business both locally and in wider specialist publications for a reasonable length of time, and at a realistic price that there is no prospect of provision of the service continuing”*.
- 5.5 The Draft Core Strategy, published in February 2010 also seeks to promote a good quality of life for villages and rural areas through protecting, maintaining and improving local services (*“Our Vision for our Villages and Rural Areas”* p116). Furthermore Hook Norton is identified as a village to which future housing development will be directed further emphasising the importance of ongoing provision of community services.
- 5.6 Relevant regional policy expressed through the South East Plan, in Policies CC1, BE5 and BE6 similarly seeks the protection of key village services and amenities, recognising their importance for the character of villages and recognising the threat *“resulting from a loss of services”*.
- 5.7 Central government policy relating to cases of this nature is expressed through PPS1 and Policy EC13 of PPS4 (which has largely replaced PPS7). These set out that the government is committed to *“developing strong, vibrant and sustainable communities and to providing community cohesion in both urban and rural areas”* (PPS1, para 14) and to *“promoting thriving, inclusive and locally distinctive rural communities”* (PPS4, para 10). This support for community cohesion and inclusion ties in to the overarching sustainability agenda driving planning at a national level, seeking to create and retain sustainable communities.
- 5.8 This policy direction is reinforced by the draft National Planning Policy Framework, published for consultation in August 2011. Whilst this document is not yet adopted policy and therefore carries limited weight, it is capable of being a material consideration and is indicative of the general ‘direction of travel’ of central government policy. The NPPF further emphasises the importance of *“strong, vibrant and healthy communities”* and stresses that *“decisions should... [promote]... vibrant places”* and should *“facilitate social interaction and inclusive communities”*. The Localism Bill similarly places strong emphasis on Community rights. It recognises, through the ‘community right to buy’ that local life would not be the same without

many local assets and seeks to empower local communities to keep sites in public use and part of local life.

- 5.9 It is clear therefore that central government policy is supportive of and recognises the importance of the retention of community facilities, of which a public house is one.

Viability

- 5.10 As set out in the policy context above, the issue of viability is an important element in assessing the acceptability or otherwise of an application of this sort. The policies require that the application must clearly demonstrate the lack of viability of a business such as this in order for an application to succeed. Demonstrating viability requires an assessment of the trade at present, the trade potential, competition, sales and advice.
- 5.11 The application was submitted with a brief statement from the commercial letting agents which set out the time for which the business had been advertised. This statement concludes by noting that no interest was received for continued licensed use and that all interest was instead for use as private residential. The statement concludes that *“the lack of demand for continued licensed use provides a very strong argument to demonstrate that this particular pub is unviable given the alternate provisions and amenities already serving the residents of Hook Norton”*.
- 5.12 Following feedback from Officers, Everard Cole (the selling agents acting for Punch Taverns, the owners of The Bell Inn) provided some more viability information which set out that trade had declined over the past four years and is now unsustainable due to a combination of factors; the loss in trade due to the smoking ban, the rise in Beer Duty, aggressive discounting by supermarkets and (in this case specifically), the strength and variety of competing outlets nearby.
- 5.13 This later information also sets out the limitations of the wet-led sales from this location, and also cites the physical condition of the building (and its status as a Listed Building) as being major constraints to the viability of the business.
- 5.14 The applicant also provided a Design & Access Statement which summarised the Everard Cole report whilst also setting out the constraints on the viability as a result of the physical and structural condition of the fabric of the building. The applicants set out that as *“the consensus opinion seems to be that Hook Norton is well-catered for with its 3 existing pubs and that The Bell is unviable”* the heritage assets (the Conservation Area and the Listed Building) would benefit from the conversion of the pub to a dwelling and that the application should be approved as a result.
- 5.15 The marketing information has not however, set out any reductions in the advertised sale price, or any further efforts made by the vendors to improve the chances of selling The Bell as a business rather than as a residential development opportunity. In addition, the argument for the non-viability of the business is made solely on the basis of wet-sales, despite the sales particulars making reference to food sales (referring to the restaurant and trade kitchen) potential. Furthermore, the argument that the pub is not viable on wet sales alone, and that the food offer cannot be increased/improved due to the investment required is circular and self-defeating.
- 5.16 Impact on the village community

- 5.17 The impact of the implementation of a proposal such as this on a rural community has the potential to cause harm to the character of the village and the level of community facilities provided. Despite the existence of two other public houses within the immediate confines of the village (and a third further away from the village on the Milcombe – Whichford Road) the loss of this facility would remove a facility which serves a different clientele to the other facilities in the village. The importance of community facilities is reflected in the content and direction of national government policy as well as in the adopted Local Plan Policy. The importance of village facilities is further emphasised by the ‘saving’ of the 1996 Local Plan Policy and the expansion of the scope and requirements of that policy in the non-statutory Local Plan Policy of 2004.
- 5.19 The level of public objection to the scheme also highlights the importance of The Bell as a social facility in the village; over one-hundred people signed a petition in the pub objecting to its closure, and residents of fourteen local properties wrote in to object to the scheme. In a village the size of Hook Norton, with three existing pubs also supported, this clearly demonstrates the importance of the facility to a section of the village.
- 5.20 Impact on the heritage assets
- 5.21 As the building is Grade II listed and lies within the Hook Norton Conservation Area, the impact of the proposal on these heritage assets must also be considered in determining this application.
- 5.22 Turning first to the Listed Building issues; it is clear from the submission that the structure of The Bell has suffered from a lack of maintenance over the last few years which has in turn led to the deterioration in the physical condition of the building. However, this does not in itself mean that the change of use to a private dwelling would improve the special interest of the listed building. Approving the change of use may lead to the necessary works being carried out to improve the condition of the roof and walls of the structure, but there is no guarantee of this in the application. The condition of the Listed Building is of course a matter of concern, and if the condition of the building were to significantly deteriorate there are further options available to the Council.
- 5.23 With regards to the Conservation Area, the relevant primary legislation requires that planning applications in such areas must preserve or enhance the character or appearance of the Conservation Area. Changing The Bell from a public house to a private residence would change the character of the Conservation Area as it would alter the appearance and use of this prominent building in the centre of the Conservation Area. Similarly the works would change the appearance of the Conservation Area as a functional public house has a very different appearance to a private residence, albeit a converted public house. The applicant has noted that the Conservation Area Appraisal highlights The Bell as having been originally built as a dwelling. Officers are aware of this but do not consider that it gives any further weight to the current proposal.
- 5.24 In determining therefore whether the proposal would preserve or enhance the character or appearance of the Conservation Area, it is clear that the proposal can only be assessed in terms of enhancing the Conservation Area as changing the use of a building cannot be considered as preservation. Whilst the building would remain, the fundamental character of it would be changed as a result of its use changing. In assessing whether the proposal would enhance the character or appearance of the Conservation Area, the consideration again comes back to the

physical condition of The Bell. Repair and restoration of the fabric of the structure would enhance the appearance of the Conservation Area, but the building does not have to be a private dwelling to do this. As to whether the change of use itself enhances the character of the Conservation Area, Officers are unconvinced, especially when the proposal is considered in the light of the intention of the national, regional and local policies which seek to retain community facilities.

5.25 Conclusions

5.26 Determining any application for the change of use of a public house to a private residential dwelling always causes difficulties as it represents the imposition of social and community considerations by the state upon commercial decisions made by private companies.

5.27 Notwithstanding that, Officers consider that this proposal does not satisfy the tests set out in adopted Policy S29 or non-statutory Policy S26 as the evidence presented is not sufficient to satisfy this Council that the business is no longer viable and cannot be made viable.

5.28 In reaching that conclusion, Officers have had regard to the comments of contributors suggesting possible other methods of maintaining the public and community use of the building. Officers are also mindful of comments concerning the structure of the building and the impact of this on the viability of this on the business. The point has been made, by CAMRA, contributors to the application, and Appeal Inspectors on other similar schemes that this is a self-defeating circular argument which is not justification for the change of use.

5.29 Whilst the applicant does correctly note that there are other pubs within the village and that as a result, the loss of this facility would not lead to the loss of the only village amenity of this type, it is considered that the three pubs within the village serve different markets. As such, the loss of this pub would lead to the loss of an important service for part of the community. For this reason, the proposal is considered unacceptable in Policy terms. Officers accept that Members may have some reservations over this approach, but from research the existence of other public houses in the immediate vicinity is not always sufficient to mitigate against the harm to the character of the area and the community through the loss of the facility. Inspectors have previously held that the overarching aim of government planning policy (as expressed in PPS1 and PPS4, outlined above) to create sustainable communities and help ensure diverse economic activity supports refusal of applications such as this where the viability of the business appears to be marginal.

5.30 In conclusion therefore, it is considered that whilst the information submitted does demonstrate that The Bell is not viable at present, there is not sufficient evidence to suggest that it cannot be made viable, and that the loss of this amenity would cause harm to the character and community of the village. The level of public objection to the application is considered to be material evidence of this.

5.31 The application is therefore recommended for refusal as being contrary to Policy S29 of the adopted Cherwell Local Plan, Policy S26 of the non-statutory Cherwell Local Plan, Policy BE5 of the South East Plan and government advice contained in PPS1, PPS5 and PPS6.

6. Recommendation

Refusal; for the reasons set out below.

1. The proposal would result in the loss of a village service which on the basis of the application and the contributions received is not conclusively demonstrated as being no-longer viable. As such, the loss of the service would lead to an unacceptable impact on the character of the area and the local community and would therefore be contrary to Policy S29 of the adopted Cherwell Local Plan 1996, Policy S26 of the non-statutory Cherwell Local Plan 2004, Policies CC1, BE5 and BE6 of the South East Plan 2009 and government guidance contained in PPS1 – Delivering Sustainable Development, PPS5 – Planning for the Historic Environment, PPS7 – Planning for Sustainable Economic Growth, and the future direction of the planning system set out in the draft National Planning Policy Framework.

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Agenda Item 11/00906/F

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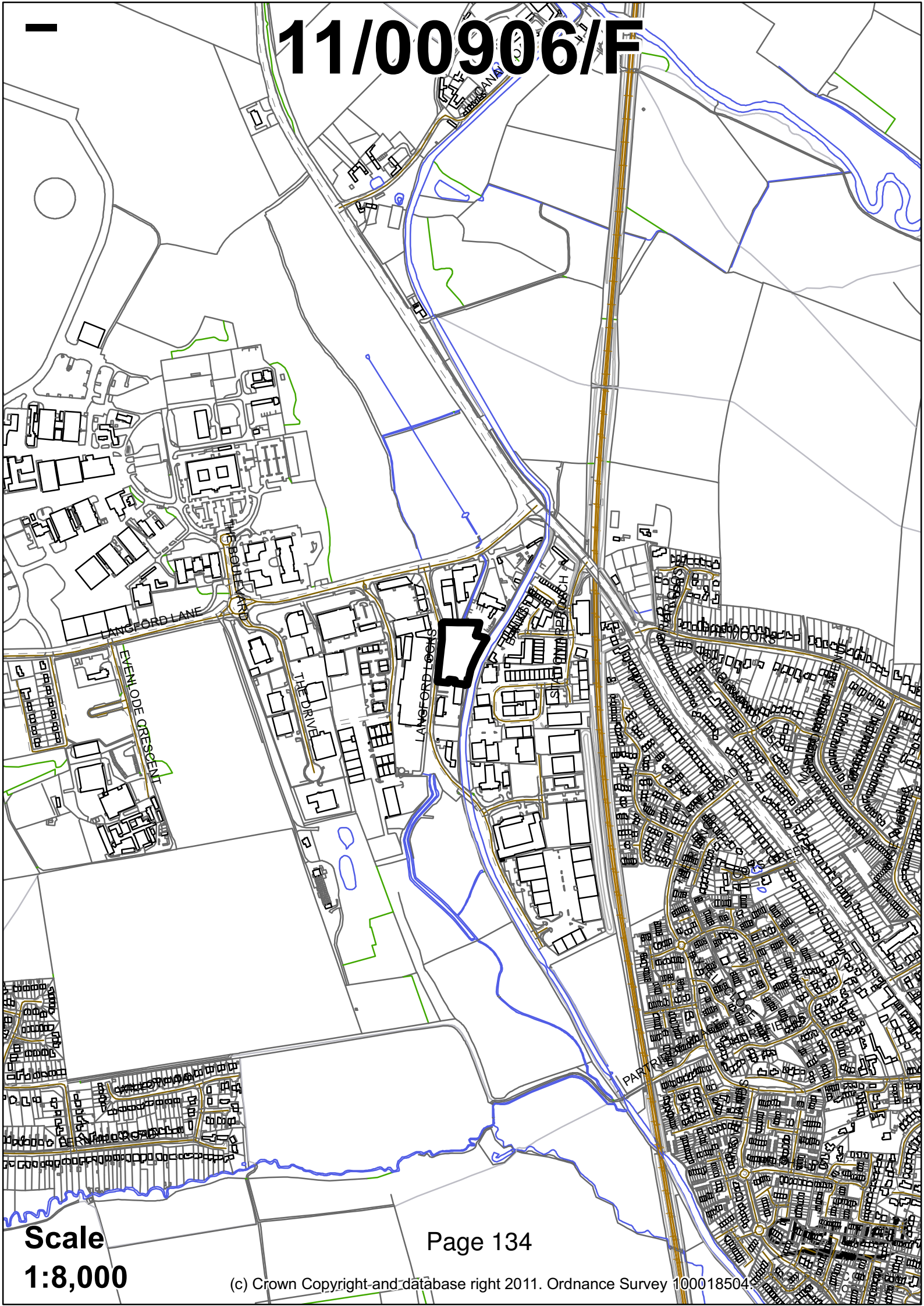
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

11/00906/F



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Application 11/00906/F	No:	Ward: Kidlington	Date 04/07/2011	Valid:
Applicant:	Glenmore Commercial Estates			
Site Address:	Former J A Pye Oxford Ltd site, Langford Locks, Kidlington, OX5 1HZ			

Proposal: Erection of 4 no. two storey buildings for B1, B2 or B8 use with associated vehicle access and parking

1. Site Description and Proposal

- 1.1 This application relates to an irregular shaped 0.72 hectare site measuring approx 110m long and at its widest 80m which is located on the eastern side the Langford Locks approach road between Moss Plastics and Oxford Canal. The surrounding area is populated by a heavy mix of two and three storey B1, B2 and B8 use. The site is currently used partly as car parking and is exposed along its northern, western and southern boundaries, but is screened by mature trees and hedgerow along the eastern boundary separating the site from the canal towpath. It would appear that in this stretch of the canal British Waterways allows for residential moorings. The site is at a slightly higher level than the highway with 3 no. vehicular access points, a foul sewer and pumping station are present in the centre of the site and a main river/culverted watercourse runs beneath and Rushy Meadows SSSI is located SW of the site.
- 1.2 This application follows a series of permissions on the site which are outlined in the history below, however apart from Phase I, none of Phase II consents have been implemented. This current application seeks permission to erect 4 no. two storey buildings with a gross floor area of 3,684m² / 39,659 sq.ft, to accommodate 30 no. speculative units for a mixture of B1, B2 and B8 uses providing a flexible approach to commercial occupancy. The applicant is a developer of small industrial estates, providing units of 1,000 – 5,000 sq.ft for sale or rent for new and growing small business.
- 1.3 The units will be constructed to shell and core stage with minimum power and lighting fittings and designed to be adaptable with scope for office/business premises and workshop/storage space incorporating mezzanines equal to 50% of the ground floor area in 26 of the units, the other 4 no. units are 100% two floor units. The development is to incorporate high standards of sustainable design to minimise the energy demand of the building and will achieve a BREEAM rating of 'Very Good'.
- 1.4 The application has been supported by a Design and Access Statement dated May 2011, Transport Assessment dated December 2010, Phase I Habitat Scoping Survey and Protected Species Assessment dated June 2011 and Reptile Survey report dated July 2011, BREEAM Industrial 2008 pre-assessment report dated 16th

2. Application Publicity

- 2.1 The application has been advertised by way of site notices. The final date for comments was 18th August 2011.
- 2.2 No third party comments were received.

3. Consultations

- 3.1 Kidlington Parish Council – Supports the retention of the existing B1 and B8 use of the site, but object to the introduction of B2 use which could be detrimental to the surrounding environment including the Green Belt. The B2 use on this site is not compatible with Policy EMP3 of the adopted Cherwell Local Plan.
- 3.2 Oxfordshire County Council (Highways) – no objection to the principle of commercial development with parking, cycle and vision splay standards considered to be acceptable however raise the following issues:
- Concern in respect to the B8 use being located on this site due to the likely HGV movements being generated.
 - If B8 is to be approved the local highway authority would require a Routeing Agreement for HGV traffic to prevent HGV movements via Kidlington.
 - It is unclear how HGVs will access, load, unload and leave any of the blocks or where they will turn ie. No tracking plans have been submitted for assessment
 - Requires a developer contribution of £10,317 towards transport infrastructure in Kidlington as part of a S106 agreement.
 - Development to accord to SUDS
- 3.3 Oxfordshire County Council (Minerals) - no objection on the grounds of mineral sterilisation
- 3.4 Oxfordshire County Council (Archaeological) - The proposal does not appear directly to affect any presently known archaeological sites. However, our records do indicate 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 asked to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary.
- 3.5 Oxfordshire County Council (Drainage) - The roof water run-off from the proposed development will need to go to soakaway or attenuated within the site boundary and not into the highway drainage system. Permission must be sought and approved by Thames Water where run-off is proposed to go into the public surface water sewer. The drainage designs shown attenuation of surface water but the rate of run off still

needs to be agreed with the relevant Authority.

New hardstandings and hardened surfaces should be Suds compliant, ie Permeable or positively drain into a soak-away or attenuated within the site boundary. Surface water from the site should be dealt with within the site boundary and not enter onto the highway and into the highway drainage system. Approval must be sought and approved by Thames water where run-off is proposed to go to the public surface water sewer.

- 3.6 British Waterways – no objection subject to conditions. Seeks developer contributions of £6,000 to be paid to British Waterways for towpath improvements in the area. This sum would be used to help mitigate against any increase in maintenance costs as a result of additional usage by those using the towpath to access the site.
- 3.7 Environment Agency – no objection subject to conditions.
- 3.8 Natural England – subject to the development being carried out in accordance with the submitted plans, there is no objection subject to conditions in respect to impact on SSSI. Comments in respect to Ecology surveys should be sought from in-house ecologist.
- 3.9 Ecology Officer – from the submitted surveys it appears that there are no major ecological issues, but the survey does not mention water voles, which records indicate may be present along that stretch of the canal. It could be that that particular bank alongside the site is unlikely to harbour water voles due to its configuration or substrate, but a statement is needed to that fact. If there is potential for them to be using the bank we need conditions to ensure that they are not disturbed.
- The removal of any woody shrubs or trees on the site must be carried out outside of the bird breeding season.
- There is an opportunity to provide biodiversity measures on the site in the form of planting that will encourage wildlife. Low level directional lighting would also benefit biodiversity.
- 3.10 Head of Safer Communities – comments awaited.
- 3.11 Landscape Officer – Whilst there are a number of mature trees and hedgerow species present on the site there is no objection in principle subject a detailed landscape layout and management plan to be provided as part of a condition
- 3.12 Rights of Way Officer – the public right of way along the canal towpath is unaffected so no objection.
- 3.13 London Oxford Airport – no objection

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
- PPS1: Delivering Sustainable Development and Climate Change Supplement
 - PPS4: Planning for Sustainable Economic Growth
 - PPS9: Biodiversity and Geological Conservation
 - PPG13: Transport
 - PPS23: Planning and Pollution Control
 - PPG24: Planning & Noise
 - PPS25: Development and flood risk
- Draft National Planning Policy Framework – July 2011
- 4.2 Regional Policy in the South East Plan 2009:
- CC1: Sustainable Development
 - CC2: Climate change
 - CC4: Sustainable design and construction
 - CC7: Infrastructure and implementation
 - RE1: Contributing to the UK's long term competitiveness
 - RE3: Employment and land provision
 - RE5: Smart growth
 - NRM2: Water quality
 - NRM4: Sustainable flood risk management
 - NRM5: Conservation and improvement of biodiversity
 - NRM9: Air quality
 - NRM10: Noise
 - BE1: Management for an Urban Renaissance
 - BE2: Suburban intensification
 - T4: Parking
- 4.3 Local Policy in the Adopted Cherwell Local Plan 1996:
- EMP3: Employment generating development
 - C1: Nature conservation
 - C4: Ecology – habitat creation
 - C5: Ecology – protection along the Oxford canal and river Cherwell
 - C14: Trees and landscaping
 - C28: Layout, design and external appearance to be compatible with the character of the context of a development proposal
 - ENV7: Water quality
 - ENV12: Contaminated land

5. Appraisal

- 5.1 The main issues for consideration in this application are;
- policy context
 - history and principle of development
 - design, layout and amenity
 - highways
 - ecology

- sustainability

5.2 Policy Context

As applications must be determined in line with the development plan unless other material considerations are indicated otherwise, the main policy considerations for an application of this sort are to be found in the adopted Cherwell Local Plan 1996. The relevant policies in that plan, set out in Section 4 above, seek to ensure that layout, design and external appearance of new development are of a high quality and appropriate for the character and context of an area.

5.3 Similarly, the proposals must be considered against the requirements of regional policy as set out in the South East Plan 2009. Like the local plan, these policies seek to ensure that development is appropriate for the context of the site and surrounding environment, contributes to the delivery of sustainable development and economic growth.

5.4 Relevant national policy is expressed through the planning policy statements set out above; the most important to this case, taking into account the planning history of the site is PPS4, which seeks to deliver the sustainable economic development and supports existing business sectors whilst making the most efficient use of previously developed land which is suitable for re-use. The emphasis on sustainable development, set out in PPS1 and the Climate Change Supplement is also important in this case and protection and enhancement of biodiversity and ecology as detailed in PPS9. Issues of Flooding and noise are considered under PPS25 and PPS24.

5.5 History and principle of development

As stated above, this site and adjacent site have been the subject to several applications over the last 8 years. Part of wider site to the south, the land was to be developed in phases, with a B1 office development as Phase I, permitted in 2003 and now forms Latimer House and Beaumont House with Phase II relating to this application site, under 05/02266/OUT consented a second B1 office development complex in the form of 4 no. buildings providing 4650m² of floor space. During the consideration of this application, it was confirmed by the applicant that the culverted watercourse beneath the site had been previously diverted and therefore the development would not therefore involve building over a culverted watercourse.

5.6 Following on from this, planning permission was granted under 08/00852/F for 2 no. three storey B1 office blocks, with a gross floor area covering 4940m², but this permission has not been implemented and expired in June this year. Previous to that, under application 07/01426/F permission was granted for a similar scheme for the construction of 2 no. three storey B1 office buildings.

5.7 This site is classified an existing acceptable employment site in both the Adopted and Non-Statutory Cherwell Local Plan 2011. Policy EMP3 of the Adopted Cherwell Local Plan and EMP4 of the Non-Statutory Cherwell Local Plan 2011 are criteria based and seek to avoid harm to the character and appearance of the locality, residential amenity, highway safety and visual impact, as well as facilitating small scale businesses.

5.8 Taking the above history into account, it is considered that the principle of commercial development remains acceptable. The further acceptability of the principle is also informed by the detailing of the scheme; the landscaping, highway safety issues, materials and relationship to the character of the context of the site and mitigation measures in respect to ecology. Also material to this case is the market, as no development has taken place since the last approved scheme in 2008, it is clear that there is no overriding demand for B1 office accommodation within the locality. The proposal therefore seeks consent for flexible commercial accommodation which can be used for B1, B2 and B8 occupiers, allowing use of the site for small or growing businesses.

5.9 The comments made by Kidlington Parish Council are noted, however the SDPHE does not consider that the B2 use of part of the site would cause significant harm to the character of the surrounding area. The site is within a mixed use commercial area and not in the Green Belt or indeed on land abutting the Green Belt. Commercial units further south at Oxonian Park, Langford Locks were granted a consent under 07/01300/F for a similar flexible B1, B2 and B8 use, and this site actually abuts the Green Belt, SSSI and residential development. The occupancy of these units has not caused any deterioration of the area. The principle of the development is therefore acceptable and accords with Policy EMP3 of the adopted Cherwell Local Plan and seeks to provide sustainable economic development in accordance with guidance contained in PPS4.

5.10 Design, layout and amenity

The scale of the development is considered appropriate for the context of the site, the height of the buildings are relative to the neighbouring office development ranging from 7.5m to 8.2m (ridge height) and the layout of the buildings and associated parking allow space around the site without the development appearing cramped within it. The design and choice of uniform material is contemporary but respectful of neighbouring buildings and context and appropriate landscaping will enhance the site. The 3 no. existing vehicular access points are to be maintained and will serve all 4 no. blocks.

5.11 Policy C5 of the Adopted Cherwell Local Plan and NRM5 of the South East Plan 2009 seek to protect and where appropriate enhance the Oxford Canal and biodiversity measures, and supports enhanced public access and opportunities for recreation amenity provided by canal corridors. Whilst no boundary detail has been illustrated on the proposed layout, should any fencing be proposed then feature fencing along the canal towpath should be provided and pedestrian/cycle access onto the canal towpath, allowing access to this corridor. This will enhance the Oxford Canal and will encourage its use as method of recreation and sustainable transport. The development does not seriously harm the amenities of this waterway.

Highways

5.12

PPG13 and Policy TR4 of the South East Plan 2009 seeks to ensure standards of road safety and parking provision are maintained, encouraging alternative methods of transport and the provision of cycle parking to OCC standards and seek

developer contributions towards infrastructure and transport funding.

- 5.13 Whilst the County Council as local highway authority raise no objection in terms of commercial development occupying the site, concerns about the use of the site for B8 occupation raise issues in respect to the type of vehicle likely to access the site. Essentially provision should be made for HGV vehicles to enter, park and manoeuvre within the site without detriment to other highway users. Clearly a large HGV parked on the access road within the is unacceptable as it would result in an obstruction and vehicles waiting on the highway to access the site. Therefore in order to overcome these concerns the applicant's agent has advised that the site is modelled on previously developed sites and has provided illustrations of other schemes elsewhere, which demonstrates that the site is able to accommodate HGV's in terms of access, parking and manoeuvring. Therefore a further drawing illustrating parking areas for HGV's in the site free of the access road has been submitted and has also agreed to a condition preventing Block D from being used for B8 use. Further comments from OCC on this latest drawing are awaited and will be provided in a Committee update.
- 5.14 In respect to the requirement of a Routeing Agreement, whilst these serve a genuine purpose in some instances, it would be difficult to enforce on this site and therefore it has been agreed that this is not necessary. However the applicant has been made aware of the concern and has agreed to add that no HGVs should go through Kidlington centre on route to the site as part of any sale/lease agreement with future occupiers.
- 5.15 Vehicle and cycle parking provision is acceptable in the form of 69 vehicle spaces which includes disabled and light goods parking and 26 cycle stands. Taking the above into account the SDPHE considers that the proposal is acceptable in highway terms and accords with PPG13: Transport and Policy T4 of the South East Plan 2009.
- 5.16 Ecology
- PPS9 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."
- 5.17 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application, as prescribed by Regulation 3(4) of the Conservation (Natural Habitats etc) Regulations 1994 (as amended). Under art.12(1) of the EC Habitats Directive, Member States requires that a system of strict protection of animal species be established to prohibit the deterioration or destruction of their breeding sites or resting places. The result is that there is in practice two linked systems of regulation. First under reg. 39(1)(d) it is a criminal offence to damage or destroy a breeding site or resting place but under

reg.44 this does not apply if a licence has been granted for such operations and Natural England being that licensing authority. Secondly where planning permission is required reg.3(4) 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 might be met.

5.18 Para. 98 of Circular 06/05 states that Local Planning Authorities should consult Natural England before granting planning permission and the views of Natural England would clearly have to be given substantial weight.

5.19 It is clear that ecological matters are a material consideration that requires up-to-date assessment under the Wildlife and Countryside Act. Consideration is needed to be given on the impact of a development upon protected species and their habitats. No protected species have been identified on the site and Natural England and the Ecology Officer have been duly consulted, their comments have been taken into account and form the basis of the ecology conditions. In respect to water voles, this particular part of the canal is used as residential moorings and the bank is concreted along this stretch, it is therefore unlikely to harbour water voles. However to ensure that none are affected, a further survey should be undertaken prior to the commencement of the development and the findings considered further as part of a suitable condition as required by the Ecologist.

5.20 With regard to impacts on the nearby SSSI, Natural England raise no concerns subject to conditions. Suitable landscaping will be incorporated into the site to provide opportunities for biodiversity. 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 Policy C2 and C4 of the adopted Cherwell Local Plan.

5.21 Sustainability

PPS1 seeks the delivery of development which is not only of a high-quality in design terms, but also places a strong emphasis on sustainable development. This is reinforced by the Climate Change Supplement to PPS1.

5.22 The developer of this scheme is committed to the sustainable design, construction and use of these buildings; making the most use of passive gains, incorporating innovative thinking, innovative design and construction techniques to provide highly insulated and air-tight buildings, which can significantly reduce the environmental impact of the construction and use of the buildings as well as offer materially reduced energy consumption in-use. A BEEAM rating of Very Good can be achieved which takes account of land use and ecology, materials, energy, water, transport, waste, pollution, health and well being and overall management of the site.

5.23 It is considered therefore that the proposal accords with the intention of the government with regards to sustainable development and provides an opportunity to demonstrate modern development that contributes to sustainable economic growth.

5.24 Developer contributions

As the application is a major development there is a potential for developer contributions to mitigate the impact of the proposal and in this case on transport infrastructure in Kidlington. The County Council has requested a sum of £10,317 towards the necessary transport infrastructure and the applicant has agreed to this and therefore this will be secured through the necessary S106.

Also to be secured through the legal agreement is £6,000 to be paid to British Waterways, for towpath improvements a figure sought previously and agreed given that the canal is a sustainable transport corridor and a place for recreational use by future occupiers of the proposed development.

5.25 Conclusions

Taking the above consideration into account as well as the development plan, the proposal is considered to be an acceptable type, form and scale of development which is appropriately designed for the character and context of the site. It is a way forward to develop this acceptable employment site that delivers flexible, sustainable economic development. Notwithstanding that, the proposal responds well to the constraints of the site; it will not cause harm to ecology, amenity nor will it have an undue effect on highway safety and convenience. The proposal is therefore acceptable and complies with the relevant development plan policies.

6. Recommendation

Approval, subject to

the applicants entering into a Section 106 obligation with the District and County Councils to secure financial contributions towards;

- **transport infrastructure in Kidlington**
- **maintenance of the Oxford Canal towpath to be paid to British Waterways.**

ii) the imposition of the following conditions;

1) SC 1_4A (Time limit for implementation)

2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter unless agreed in writing with the local planning authority.

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

3) 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 and landscape management of the site which shall include:-

- tree and hedgerow protection measures

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

-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,

-details of the hard surface areas, walls, trellis screens, pavements, pedestrian areas, crossing points and steps.

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

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

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

5) The protection of any existing tree to be retained in accordance with the approved plans and particulars shall be achieved as follows:

- no equipment, machinery or material shall be brought onto the site for the purposes of the development until fencing has been erected in accordance with plans and particulars which shall have been previously approved under condition no. 3 by the Local Planning Authority in writing;

- if that fencing is broken or removed during the course of carrying out the development, it shall be promptly repaired or replaced in accordance with the approved plans and particulars;

- the fencing shall be maintained in position during the course of construction and until all equipment, machinery and surplus material has been moved from the site;

- within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of on above or below the ground, the ground level shall not be altered, no excavation shall be made, nor shall any fires be lit, without the prior written consent of the Local Planning Authority; and

- no tree to be retained in accordance with the approved plans and particulars shall be cut-down, up-rooted, topped, lopped or destroyed, nor any hedge within the site cut down or grubbed out without the prior approval in writing by the Local Planning Authority.

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

6) Prior to the commencement of any works on the site, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development hereby permitted 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 existing trees and hedgerows are retained in a safe and healthy condition and are not adversely affected by construction works, in the interests of visual amenity and to comply with Policy C28 of the adopted Cherwell Local Plan.

7) Before the development is first occupied the access road, parking and manoeuvring areas shall be provided in accordance with the plan (D001-P4) hereby approved and shall be constructed, laid out, surfaced (bound material), drained (in accordance with SUDS) in accordance with full details which shall be submitted for the prior approval in writing of the Local Planning Authority and shall be completed and retained unobstructed except for the access, parking and manoeuvring of vehicles at all times.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction, layout and drainage for the development and to comply with government guidance in PPG13: Transport.

8) That prior to the first occupation of the development hereby approved full details shall be submitted for the prior approval in writing of the Local Planning Authority of the cycle parking facilities and refuse facilities and thereafter these facilities shall be fully implemented as approved. These facilities shall be constructed and made available for use prior to the occupation of the development and retained unobstructed thereafter.

Reason - In the interests of sustainability and to ensure a satisfactory form of development, in accordance with government guidance in PPS1: Delivering Sustainable Development and PPG13: Transport.

9) Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority, the drainage scheme shall incorporate oil interceptors in conjunction with permeable paving in the car parking areas. The approved surface water and foul sewage drainage schemes shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

Reason - The groundwater in the alluvium is likely to be shallow and we need to prevent the direct discharge of dissolved or free phase hydrocarbons to groundwater. Therefore surface water run off from large car parks should pass through an oil interceptor and a suitable unsaturated zone should be maintained between the base of any soakaway and the water table. Also to ensure satisfactory drainage of the site in the interests of public health, ecology and to avoid flooding of adjacent land and property and to comply with Policies C1 and ENV7 of the adopted Cherwell Local Plan and Government guidance contained in

PPS9, PPS23 and PPS25.

10) Prior to the commencement of the development and notwithstanding condition no. a further survey shall be carried out to investigate the presence or otherwise of water voles, the survey and results shall then be submitted to the Local Planning Authority and if water voles are found to be present alongside the site, appropriate mitigation measures shall be agreed and implemented prior to the commencement of development to ensure they are not disturbed during the course of the development works.

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of PPS 9: Planning and Biodiversity, Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

11) That full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure shall be erected prior to the first occupation of the development.

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

12) That prior to the commencement of the development, full design details of the proposed lighting to fixed to the buildings or within the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason – In order to safeguard the amenities of the locality and in the interests of the Biodiversity opportunities for the site in accordance with the requirements of PPS9: Planning and Biodiversity, Policy NRM5 of the South East Plan 2009 and Policies C2 and C28 of the adopted Cherwell Local Plan.

13) Prior to the commencement of development, a working method statement covering the diversion of the Thrupp Ditch culvert in accordance with Option 1 of the Drainage Strategy Report, Project No:170.0001/A (Nola Design, May 2011) and in particular Annex 6.14 (overlay on Drawing SK10 Rev P0), 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.

Reason – The construction phase of any proposed development affecting the Thrupp Ditch culvert poses significant risks of flooding and in order to comply with Government advice in PPS25: Development and flood risk and Policy NRM4 of the South East Plan 2009.

14) 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, an amendment to the Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason– The site is situated over alluvium (Secondary A Aquifer) and the solid geology under this is the Cornbrash Limestone (Secondary A Aquifer) and these need to be protected from any potentially contaminative activities that have taken place on this site.

The site had issues with contamination in particular with an historic fuel spill, but the site investigation reports provided to date have satisfied our concerns. The data in the site investigation report was 8 years old and part of this land has been used as a car park in this interim period. It is recommend that the developer uses caution during construction and deal with any hydrocarbon contamination encountered to comply with Policy ENV12 of the adopted Cherwell Local Plan and PPS23 and PPS25.

15) That prior to the occupation of the units hereby permitted full design details of any method of mechanical ventilation to be installed within the premises shall be submitted to and approved in writing by the Local Planning Authority. The ventilation system shall be installed and operated in accordance with the approved details thereafter.

Reason – In order to safeguard the amenities of the area in accordance with C28 and ENV1 of the adopted Cherwell Local Plan.

16) That notwithstanding the approved plans and documents, none of the units within Block D shall be used for the purposes of Class B8of the Schedule of the Town and Country Planning (Use Classes) (Amendment)(England) Order 2005.

Reason - In the interests of highway safety and to comply with government guidance in PPG13: Transport and T4 of the South East Plan 2009

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

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

18) The development hereby permitted shall be carried out in accordance with the recommendations set out in the Phase 1 Habitat Scoping Survey and Protected Species Assessment by CP Ecology dated June 2011 and Reptile Survey Report by CP Ecology dated July 2011 unless otherwise agreed in writing by the Local Planning Authority.

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of PPS 9: Planning and Biodiversity, Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

19) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the documents submitted with the application and the following drawings: M900P0, D002P2, D003P2, D004P2, D005P2, D006P2, D007P2, D009P2, D010P2 and amended drawing no. D001P4 received 26/08/11,

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.

Planning Notes

1) T1 – Third party rights

2) O1 – Archaeology

3) The applicant is advised by the Environment Agency that all sewage or trade effluent should be discharged to the foul sewer if available subject to the approval of Thames Water Utilities or its sewerage agent.

4) The applicant is advised by the Environment Agency that the Control of Pollution (Oil Storage)(England) Regulations 2001 apply to all above ground commercial oil storage in tanks over 200 litres in volume. This means that tanks must be fit for purpose and have secondary containment (or bund) sufficient to contain 110% of the tanks contents. The secondary containment must be impermeable to oil and water and not have any drainage valve. All the tank's ancillary equipment (valves, delivery hose, gauges, vent) must be within the curtilage of the secondary containment or bund. The Regulations have other stipulations and full information can be found on: www.environment-agency.gov.uk/osr or from Pollution Prevention Guidance note 2 for above ground tanks or note 26 for drums and IBCs.

5) The applicant is advised by the Environment Agency that under the terms of the Water Resources Act 1991, and the Thames Regional Byelaws, 1981, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 (eight) metres of the top of the bank of the Thrupp Ditch, designated a 'main river'. This includes the proposed culvert diversion. A consent application should include:

- Full details of the proposed culvert diversion including working method statement.
- Full details of any temporary works required to facilitate the diversion of the culvert.
- Details of any proposed trash screen at the entrance to the culvert as we may wish to access/clear any such structure during a flood event. It should be noted that responsibility for any such structure would remain with the owner.

Following the completion of the diversion the Environment Agency will require a site specific survey to GPS benchmark showing the exact line of the diverted culvert to allow us to update our Main River Map.

6) The applicant is advised by Oxfordshire County Council as Local Highway Authority that HGV traffic should be deterred from using the route through Kidlington centre to access this site. It has been agreed with the applicant's agent that this informative can be included in any agreement with future occupiers of the development.

7) The applicant is advised that any form of signage attached to buildings or within the site may require Advertisement Consent which is a separate permission to planning approval.

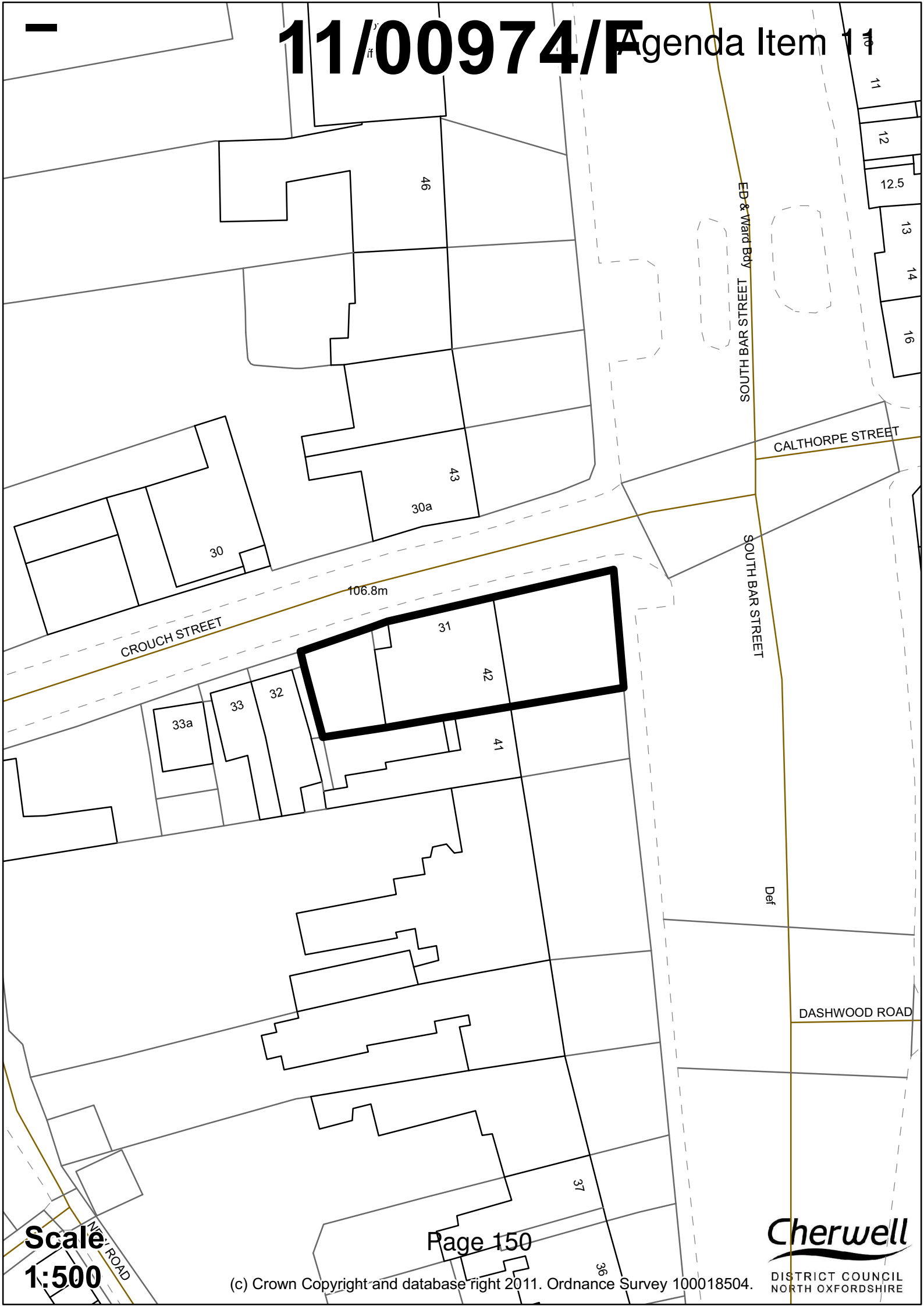
SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of its surroundings, has no undue adverse impact upon ecology, flood risk, highway safety or amenity of the locality. As such the proposal is in accordance with government guidance contained in PPS1, PPS4, PPS9, PPG13, PPS23, PPG24 and PPS25 and Policies BE1, BE2, CC1, CC2, CC4, CC7, RE1, RE3, RE5, NRM2, NRM4, NRM5, NRM9, NRM10 and T4 of the South East Plan 2009 and Policies C1, C2,

C4, C5, C14, C28, EMP3, ENV7 and ENV12 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.

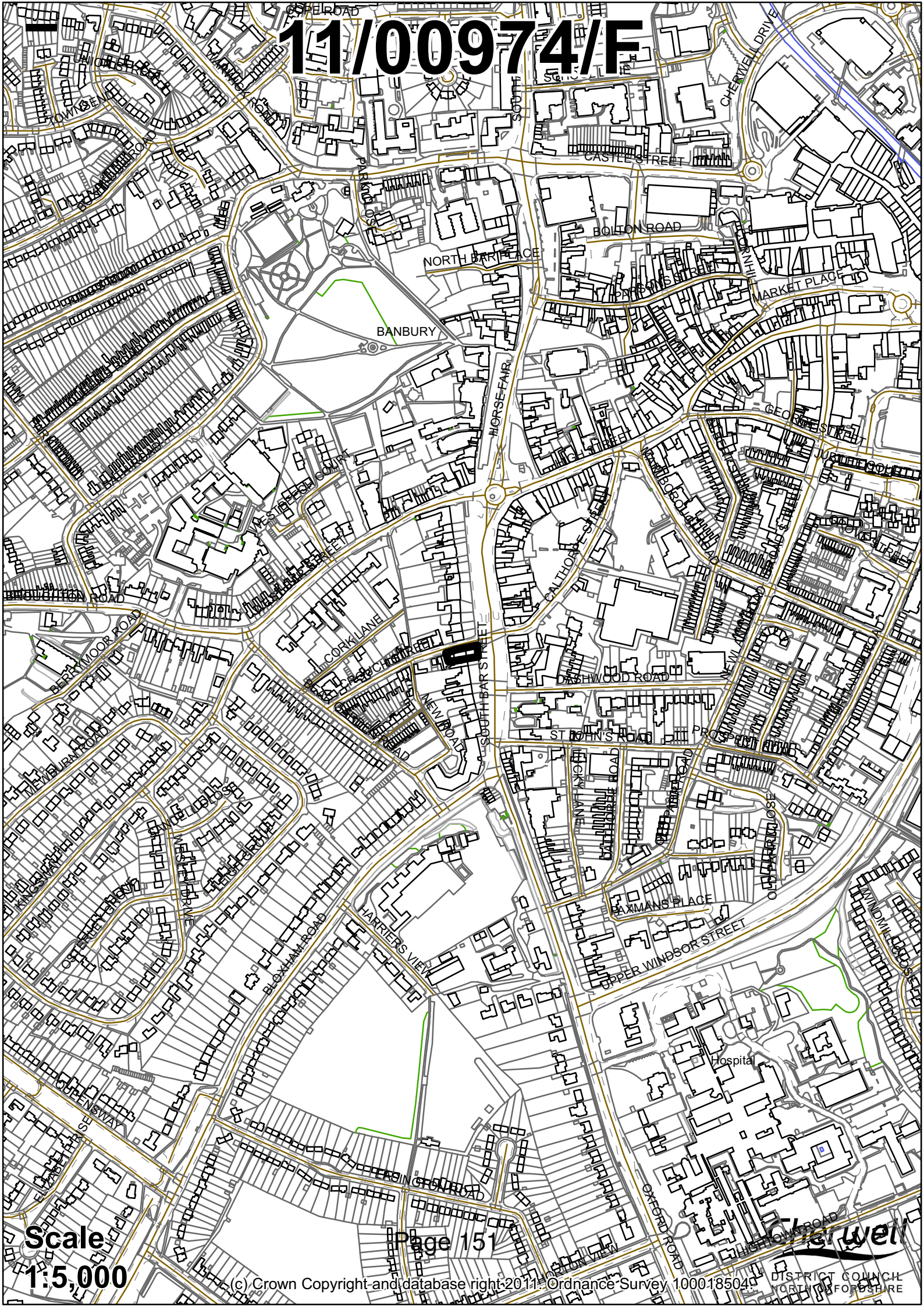
CONTACT OFFICER: Tracey Morrissey

TELEPHONE NO: 01295 221812



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Application No: 11/00974/F	Ward: Easington	Banbury	Date 17/06/2011	Valid:
Applicant:	Response – Mr John McLaughlin			
Site Address:	42 South Bar Street, Banbury			

Proposal: Conversion of existing offices to 13 no. apartments to include rear service area and bicycle store

1. Site Description and Proposal

- 1.1 The application site is a Grade II listed, office building within the Banbury Conservation Area, within the setting of several other Grade II and II* listed buildings. Originally a dwelling, the building has been used as offices for several years. It is currently vacant.
- 1.2 This application is for the conversion of the building to provide 13 apartments, to be owned and managed by The Response Organisation. The proposals involve very little external change; renovation of the windows and doors is proposed and the alteration of the rear of the (relatively recent) stairwell to the rear will be altered to provide balcony space. Despite being Grade II listed, the building has a 1970's reinforced concrete internal shell and floors, meaning the office spaces are open plan. Creating the flats will therefore require the addition of walls. The lift shaft is existing.
- 1.3 The Response Organisation is a charity which provides 'transition' accommodation providing support for people with mental health problems, whilst allowing an increasing degree of independence. As such, the flats are wholly self contained and are considered to fall under Use Class C3 (dwelling houses) rather than a residential institution under the C2 classes.
- 1.4 The site has a long history of applications and approvals for conversion to residential use. There is an extant consent for conversion to nine flats, originally granted under 05/01452/F. That consent was extended in 2010 under 10/01465/F. The provision of thirteen flats on the site has also been previously approved, with a consent granted in 2007 under 07/01457/F.
- 1.5 Listed building consent for the works has also been applied for under 11/00975/LB.

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice and site notices. The final date for comments was 28 July 2011.
- 2.2 No third party comments were received.

3. Consultations

- 3.1 Banbury Town Council – no objections.

- 3.2 Anti-Social Behaviour Officer – no objections.
- 3.3 Planning Policy Officer – no objections, notes that circumstances have not changed since the previous consents.
- 3.4 Conservation Officer – no objections.
- 3.5 Private Sector Housing Officer – considers the scheme to be overall satisfactory, but has concerns over the basement flats and some of the kitchen layouts.
- 3.6 Strategic Housing Officer – no objections, notes that The Response Organisation are seeking to provide this accommodation as part of their contractual agreement with the County Council.
- 3.7 County Highways – no objections, no contributions required.
- 3.8 County Drainage – no objections, notes that no external changes are proposed.
- 3.9 County Archaeologist – no objections, requests note.
- 3.10 District Health and Recreation Department – request developer contributions to provide offsite sports provision.
- 3.11 County Funding Officer – requests developer contributions to offset the impact of the proposal on library, education, waste, adult learning and museum facilities.
- 3.12 Thames Water – no objections, notes that a build-over agreement is not required.
- 3.13 English Heritage – no objections, notes that the application should be determined in line with in-house specialist advice.

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
PPS1: Delivering Sustainable Development
PPS3: Housing
PPS5: Planning for the Historic Environment
PPG13: Transport
- 4.2 Regional Policy in the South East Plan 2009:
CC1 – Sustainable Development
BE1 – Management for an Urban Renaissance
BE6 – Management of the Historic Environment
T4 - Parking
- 4.3 Local Policy in the Adopted Cherwell Local Plan 1996:
C23 – Retention of features contributing to character or appearance of a conservation area
C28 – Layout, design and external appearance to be compatible with the character of the context of a development proposal
C30 – Design of new residential development
C31 – Compatibility of proposals in residential areas

5. Appraisal

- 5.1 The main issues for consideration in this application are;
- policy context
 - principle of development
 - design, layout and amenity
 - impact on the heritage assets
 - developer contributions
- 5.2 Policy Context
- 5.3 As applications must be determined in line with the development plan unless other material considerations are indicated otherwise, the main policy considerations for an application of this sort are to be found in the adopted Cherwell Local Plan 1996. The relevant policies in that plan, set out in Section 4 above, seek to ensure that layout, design and external appearance of new development are of a high quality and appropriate for the character of an area. Furthermore, the policies in the local plan seek to retain features which make a positive contribution to the character of a Conservation Area.
- 5.4 Similarly, the proposals must be considered against the requirements of regional policy as set out in the South East Plan 2009. Like the local plan, these policies seek to ensure design and development appropriate to the historic context of the site (the Conservation Area in this case) and ensure that all development contributes to the delivery of sustainable development.
- 5.5 Relevant national policy is expressed through the planning policy statements set out above; the most important to this case, taking into account the planning history of the site is PPS3, which seeks to deliver the most efficient use of housing land, where it can be delivered in a sustainable manner.
- 5.6 Principle of development
- 5.7 As mentioned in the introduction, the broad principle of this development has already been established through a series of applications dating back to 2005 with consent granted and currently extant to convert the building to provide nine flats. As also mentioned, there have been historic applications granted for conversion of the building to thirteen flats. The principle of this development is therefore clearly established. As there has been no material change in policy since the previous consents, and as PPS3 still seeks to encourage efficient use of housing land in sustainable locations, the principle of the development remains valid.
- 5.9 Design, layout and amenity
- 5.10 The design and layout of the flats has been informed by the scale of accommodation to be provided, the need to respect the historic fabric of the building with regard to window openings and the space standards required by the client.
- 5.11 The layout of the flats has been considered by the Council's Private Sector Housing Officer and they consider that the scheme is satisfactory overall. They do have reservations over the level of light available to the basement flats and the layout of some of the kitchen units, but they do not consider that any of these would represent any form of actionable hazard. It is therefore proposed to approve the scheme, but to make the applicant aware of the comments of the Private Sector

Housing Officer.

- 5.12 When considering the amenity of the occupiers of this building, regard must be paid to the compatibility of the proposed residential use with the surrounding office uses. The uses are considered to be compatible and the relationship acceptable; the office uses is not considered likely to cause an unacceptable impact on the amenity of the occupiers of this site, and the relationship between the proposed flats and the houses on Crouch Street is also considered acceptable in terms of any overlooking or loss of privacy.
- 5.13 With regard to the appearance of the street-scene, the proposal will not have a significant effect. The windows and overall external appearance of the site will remain as existing, albeit renovated and in-use.
- 5.14 As a result, it is considered that the proposal provides for above average standards of amenity and privacy which are acceptable to, and welcomed by, this Council.
- 5.15 Impact on the heritage assets
- 5.16 As the site is within the Banbury Conservation Area, statutorily listed itself and within the setting of several other listed buildings, the proposal must be considered in terms of its impact on these heritage assets.
- 5.17 With regard to the Conservation Area, the proposal must either preserve or enhance the character or appearance of the Conservation Area. It is considered that the proposal preserves the character of the Conservation Area through the sympathetic conversion of the building, providing accommodation with limited impact on the external appearance of the building or the wider Conservation Area.
- 5.18 The proposals are considered to be acceptable in terms of their impact on the special interest of the listed building; they do not cause harm or loss of significance to the special interest of the building, and bringing the building back into use will help to ensure the long term physical security and preservation of the building.
- 5.19 Similarly, the minor external changes proposed ensure that the proposal does not harm the significance or setting of the surrounding listed buildings.
- 5.20 Developer contributions
- 5.21 As the application is a major development in an urban area the scheme is liable for developer contributions to mitigate the impact of the proposal on the infrastructure of the town; contributions to the District Council are required for the provision and maintenance of outdoor sports facilities. Contributions to the County Council are required for the improvement of education, library, community and waste facilities.
- 5.22 It should be noted that this application was submitted before the coming into effect of the latest draft supplementary planning document on planning obligations which lowered the threshold for the provision of affordable housing, and therefore no provision has been sought.
- 5.23 Conclusions
- 5.24 Taking the above consideration into account as well as the development plan, the proposal is considered to be an acceptable type, form and scale of development which is appropriate for the character and context of the site. It is fundamentally a

revision to a previously approved and implementable scheme. Notwithstanding that, the proposal responds well to the constraints of the site; it will not cause harm to the setting or significance of the designated heritage assets. It will not cause unacceptable harm to the amenity of neighbouring properties or occupiers of the site nor will it have an undue effect on highway safety and convenience, through the provision of a limited number of parking spaces and significant number of bicycle storage spaces.

6. Recommendation

Approval, subject to

i) the applicants entering into a Section 106 obligation with the District and County Councils to secure financial contributions towards;

- a) the provision and maintenance of outdoor sports facilities in the locality/town**
- b) the improvement of education, library, community and waste facilities in the locality/town**

ii) the imposition of the following conditions;

1) SC 1_4A (Time limit 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 PPS5 – Planning for the Historic Environment.

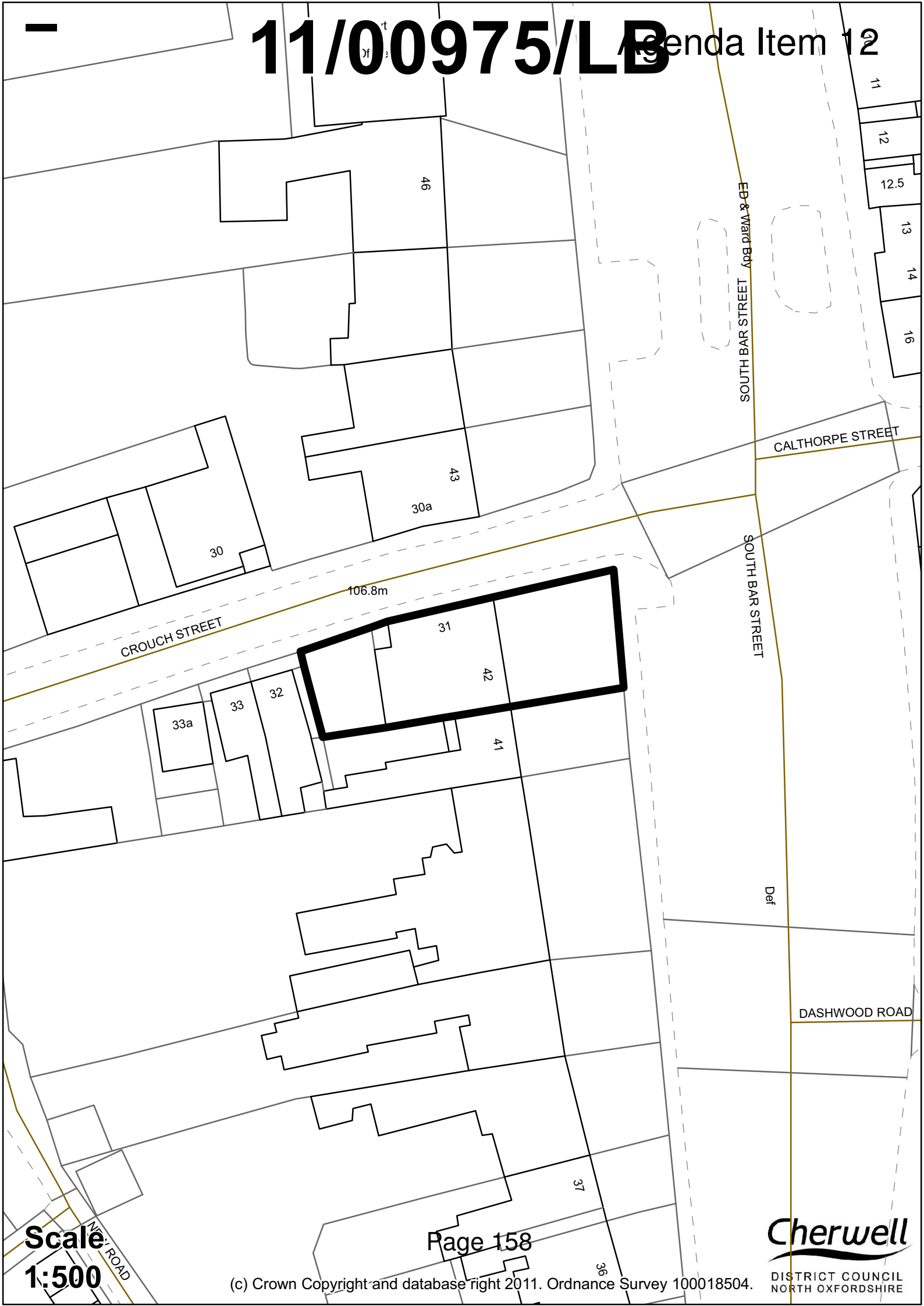
Planning Notes

- 1) T1 – Third party rights
- 2) U1
- 3) X1
- 4) O1 – Archaeology
- 5) I – “County Drainage Engineer”
- 6) I – “Private Sector Housing Officer”

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

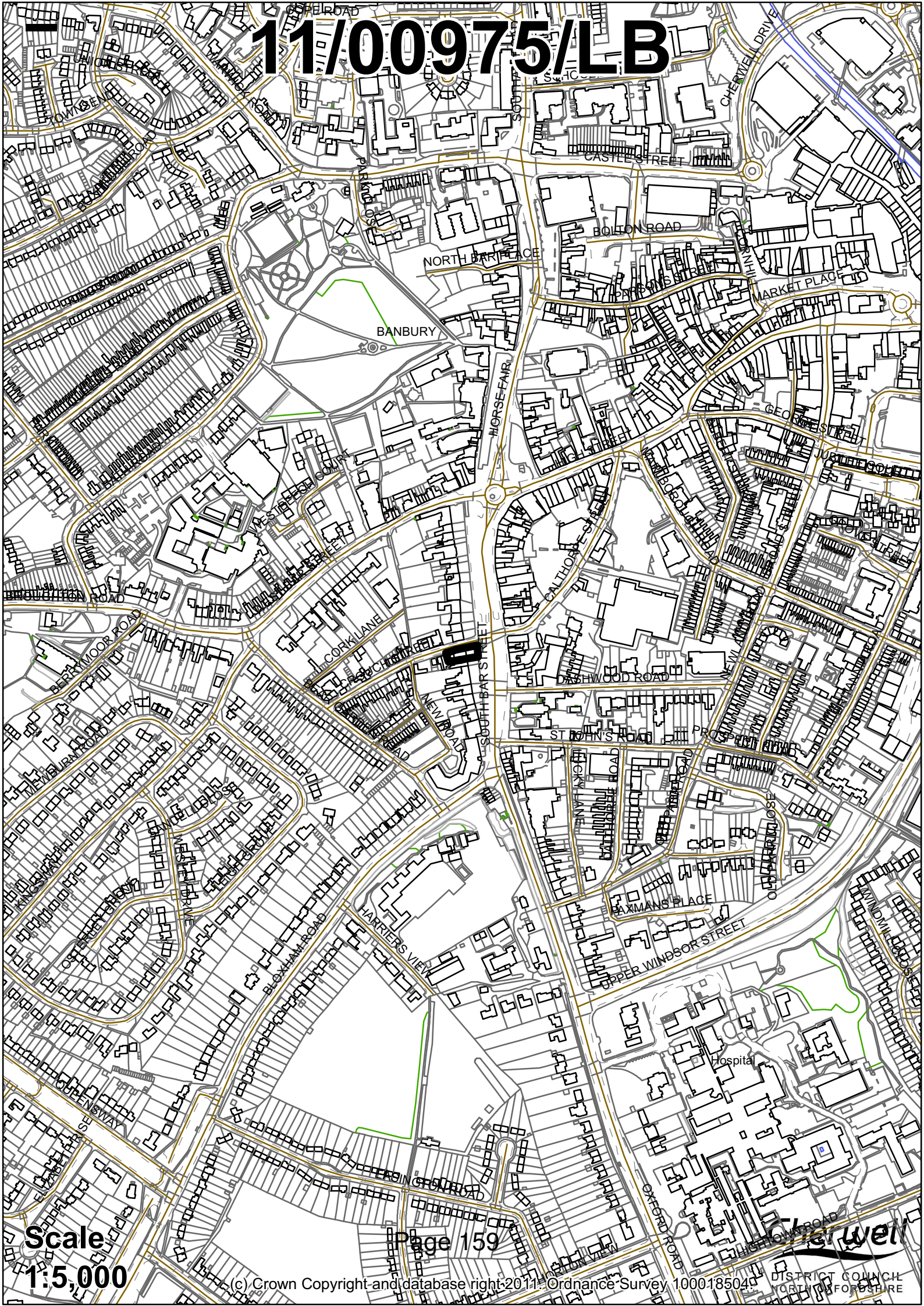
The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of its surroundings, as well as the character and appearance of the Banbury Conservation Area, the setting or significance of the listed building or the surrounding listed buildings. Furthermore, the proposal has no undue adverse impact upon the residential amenities of neighbouring properties or highway safety through traffic generation or parking. As such the proposal is in accordance with government guidance contained in PPS1: Delivering Sustainable Development, PPS3: Housing, PPS5: Planning for the Historic Environment and PPG13: Transport; in addition, the proposal complies with Policies BE1, CC1 and T4 of the South East Plan 2009 and Policies C23, C28, C30 and C31 of the adopted Cherwell Local Plan. For the reasons given above and having regard to

all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.



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Application 11/00975/LB	No:	Ward: Easington	Banbury	Date 17/06/2011	Valid:
Applicant:	Response – Mr John McLaughlin				
Site Address:	42 South Bar Street, Banbury				

Proposal: Conversion of existing offices to 13 no. apartments to include rear service area and bicycle store.

1. Site Description and Proposal

- 1.1 42 South Bar is a Grade II listed office block within the Banbury Conservation Area, close to the town centre. The building is a large, prominent corner site, with a rusticated ground floor, with composite-order pilasters framing the elevations and moulded stone window frames. The main entrance to the building fronts South Bar, but the Crouch Street elevation is similarly detailed, albeit without the extension to the porch. The interior of the building was replaced with a reinforced concrete structure in the early 1970s as part of a scheme to convert the site into offices. The listing of the building followed that development.
- 1.2 The proposal is for the conversion of the building into thirteen apartments with associated works. The proposal involves the renovation of the existing windows and doors, alteration to the internal layouts (currently essentially open plan with demountable internal partitions) to create the flats and internal spaces, and alterations to the rear stairwell to create enclosed balcony spaces.
- 1.3 The application is placed before the Committee for determination as it is the tandem application to a major planning application (reference 11/00974/F).

2. Application Publicity

- 2.1 The application has been advertised by way of a press notice and site notices. The final date for comment was 28th July 2011.
- 2.2 No third party comments were received.

3. Consultations

- 3.1 Banbury Town Council – no objections
- 3.2 Conservation Officer – no objections, subject to conditions as set out below

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 Whilst the scheme as a whole (the conversion of the building to flats) is a ‘major development’ the works, in terms of their impact on the historic fabric and special interest of the building are considered minor (in policy terms). The inside of the building was replaced with a reinforced concrete structure in the early-1970’s and as such, it is the facades which represent the main historic interest of this site.
- 5.3 The proposal does not significantly alter the appearance of the facades of the building; it proposes renovation and overhaul of all of the existing 4-pane width timber single glazed sash windows and repair where necessary to the external walls. The balconies and windows being added to the rear are within a modern extension, added to provide additional stairs in the 1970s works and the lift shaft to the interior of the building is an existing feature.
- 5.4 This proposal will therefore offer a substantial improvement to the quality of, and understanding of the significance of the Listed Building and will allow the building to be brought fully back into active use, thereby securing its future.

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)
- 4) SC 5_5AA (Design details) “internal staircase”

SUMMARY OF REASONS FOR THE GRANT OF LISTED BUILDING CONSENT AND RELEVANT DEVELOPMENT PLAN POLICIES

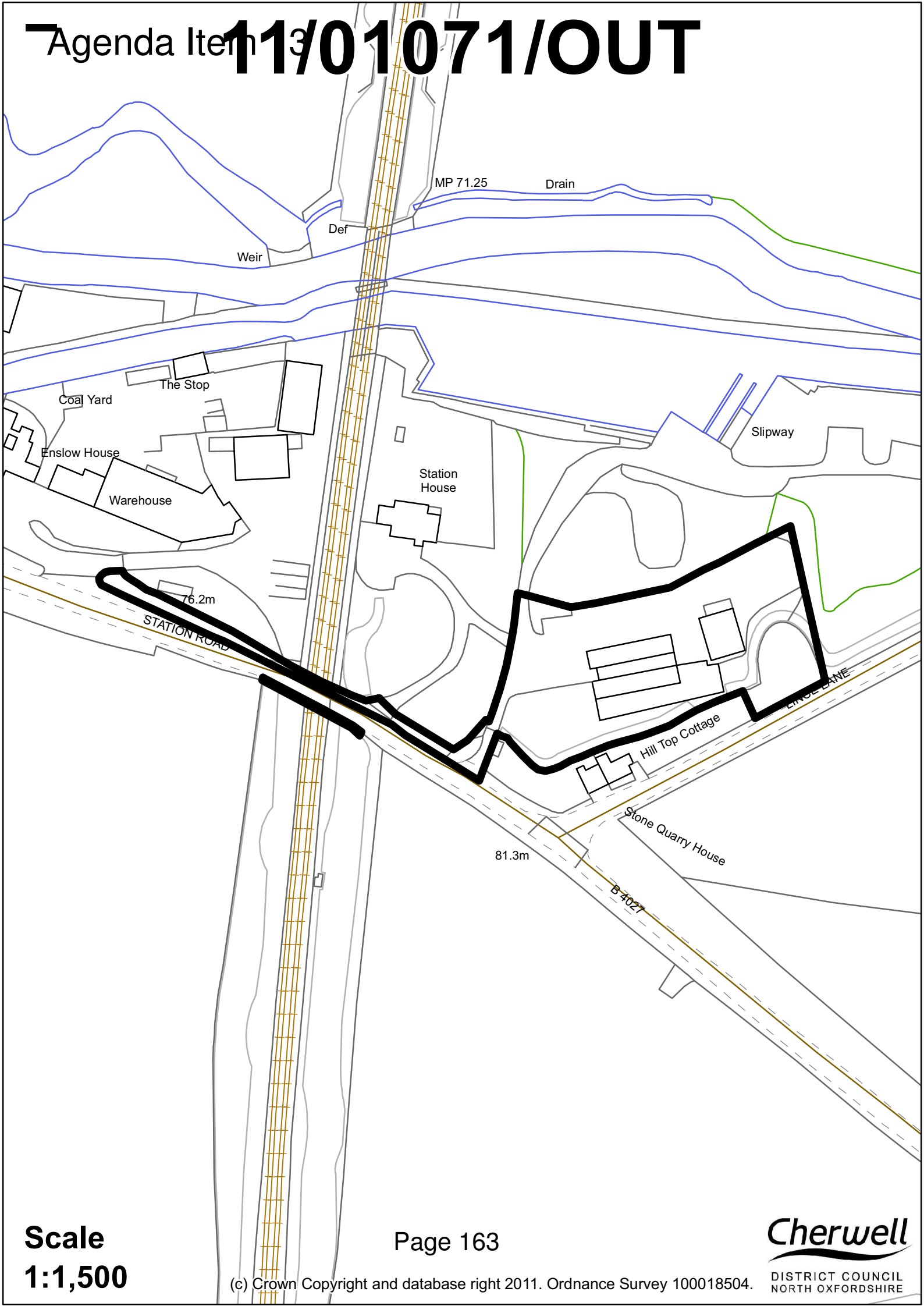
The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The proposal is acceptable on its merits as it is considered on balance to be minor and sympathetic to the architectural and historic character 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

Agenda Item 11/01071/OUT



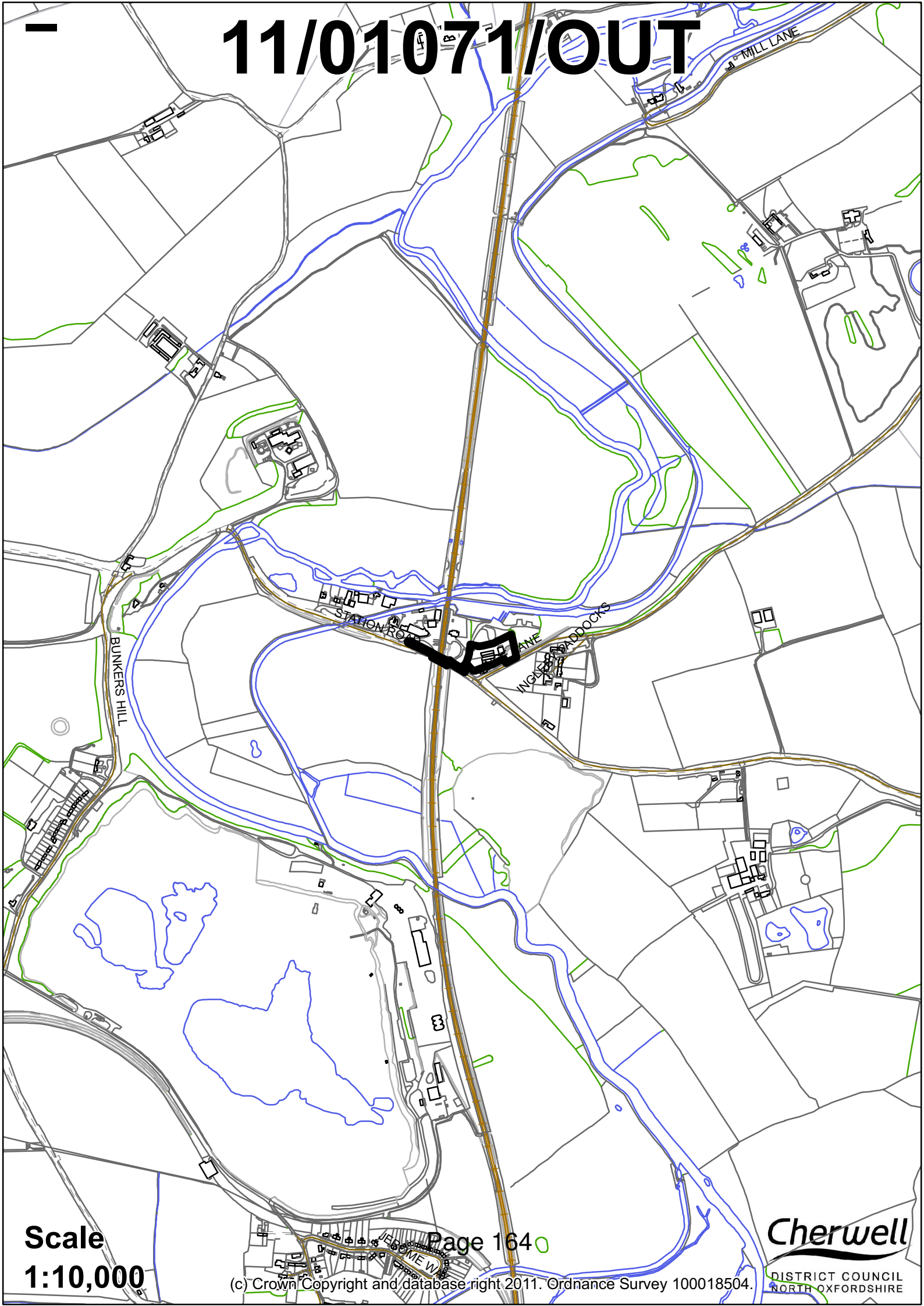
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NORTH OXFORDSHIRE

11/01071/OUT



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 11/01071/OUT	Ward: Kirtlington	Date Valid: 08/07/10
Applicant:	Minns Estates Ltd.	
Site Address:	Land at Station Road, Enslow	

Proposal: Demolition of existing buildings, erection of an office building and seven residential dwellings

1. Site Description and Proposal

- 1.1 The application site, often still referred to as the B-Line Business Centre (the former occupier), is located in close proximity to the junction of Lince Lane (A4095) and Station Road (B4027). The access to the site is taken from Station Road and is shared with Station House and a marina development situated alongside the Oxford Canal on the valley floor. Roughly rectangular in shape and cut into a hillside, the site currently contains a mixture of portable buildings and former agricultural buildings that have been converted for business use. Aside from Station House which is to the west, the only other residential properties in close proximity are Hill Top Cottage and Stone Quarry House which are to the south and overlook the business units.
- 1.2 The site is located just outside the Oxford Green Belt - the B4027 forms the northern boundary of the Green Belt in this part of the district. Although the Environment Agency had previously contended that B-Line was in flood zone 2 - given its elevated position in respect of the canal, however, they have now amended their records. Whether the land lies within the small loose knit hamlet of Enslow is debatable. Enslow only has a handful of residential properties, the majority of the built-form being made up of industrial/business units located in close proximity to the canal.
- 1.3 The proposal seeks to demolish the existing buildings and replace them with an office building near the entrance to the site, and 7 new dwellings overlooking the valley floor. Two of the houses have been identified as affordable. The application is in outline form, and all matters other than access have been reserved for future consideration. The two semi-detached affordable houses would have three bedrooms and the remaining properties would be detached four-six bedroom dwellings, some of which would have integral garages. The office building would provide 158 square metres of floor space and has been allocated eight demarcated parking spaces. As part of the development the access is to be improved and a new footpath linking the site to the Rock of Gibraltar public house would be constructed along Station Road.
- 1.4 Some members may recall that there is extant outline planning permission on this site (09/00647/OUT) for replacement B1 office/industrial units. The two buildings approved have a combined footprint of 1,620 square metres. An application submitted last year for 11 new dwellings and a B1 building (10/00187/OUT) was

withdrawn prior to being heard at Committee. It was recommended for refusal on five grounds: the principle; an absence of a satisfactory legal undertaking; loss of an employment site; an inadequate design and access statement; and the omission of an ecology survey from the application documents. Earlier this year an application for five dwellings (11/00367/OUT) was refused under delegated powers for two reasons: the principle; and the loss of an employment site.

2. Application Publicity

- 2.1 The application has been advertised by way of press notice and site notice. The final date for comment was the 12th August 2011. No correspondence has been received as a result of this consultation process at the time of writing this report.

3. Consultations

- 3.1 Bletchingdon Parish Council has raised no objections
- 3.2 The Head of Planning and Affordable Housing Policy has made the following comments:

The site is an existing employment site, located at Enslow, adjacent but outside the green belt boundary. The loose-knit form of Enslow means that whether the site lies within or outside its built-up limits will require detailed consideration.

The site has been subject of previous redevelopment proposals in the past. Most recently, an application was refused for the demolition of existing employment buildings and erection of five detached dwellings.

This current application is for the demolition of employment buildings and erection of 1,700ft of Class B1 development and the erection of 7 dwellings (including 2 affordable). The application form states there will be a loss of 55 sqm of employment floorspace, although the supporting planning statement suggests an equivalent number of jobs will be sustained.

The main issues to consider are:

- . the loss of an existing rural employment land*
- . whether the employment generating development (redevelopment) is acceptable*
- . Whether the site is a suitable location for residential development*

Protection of Rural Employment

PPS4 states (EC12.1c) that LPAs should take account of the impact on the supply of employment sites and premises and the economic, social and environmental sustainability of the area when considering planning applications involving the loss of economic activity.

The South East Plan requires LPAs to address the economic needs of rural communities (policies RE3, BE5) and saved policy EMP4 seeks to encourage economic activity in the rural areas (para' 3.50).

EMP 5 in the Non-Statutory Cherwell Local Plan (NSCLP) 2011 seeks the protection of existing employment sites in rural areas. Redevelopment of an existing employment site within or adjoining a village to a non-employment re-use will not be permitted unless (i) it can be demonstrated that there would be substantial planning benefit or (ii) the applicant can demonstrate that every reasonable attempt has been made to secure suitable employment re-use.

The Council's Employment Land Review (2006) recommends that all premises and land currently in B class use should remain allocated and be protected for employment generating activity. Monitoring information in the AMR does not demonstrate that there is surplus (or shortage) of employment land in rural areas.

The proposed development would lead to some loss of employment space/potential for this rural area. A case is not being made that employment use of the site is no longer viable. Whether there would be substantial and demonstrable planning benefit as a result of the proposal requires detailed consideration. This should include whether the suggested financial contribution to the construction of a permitted village hall/ school is necessary to make the proposed development acceptable and whether it is fairly and reasonably related in scale and kind. Consideration should also be given to whether the proposed development in itself would result in 'planning benefit' as it is intended in the policy.

As the proposal is proposing some employment generating development, Policy EMP4 (for employment generating, including redevelopment) in the Adopted and NSCLP will also need consideration. The proposed layout shows the position of the new employment building to be located near the entrance of the site (rather than further to the rear, as the existing buildings are) therefore you should give consideration as to whether the proposal can be carried out without 'undue detriment to residential amenity, the highway network, village character, the appearance and character of the landscape and the environment generally'.

Suitable location for residential development

Enslow is a category 3 village in both the saved policies of the adopted local plan and in the Non-Statutory Plan. Policies H15 and H17 respectively restrict development within such villages to conversions and new dwellings essential for agricultural undertakings. The proposed scheme is neither, and therefore does not comply with these policies. The village category implies it is a remote location with a general lack of services and facilities, inaccessible by public transport and generally an unsustainable location for residential development.

As a 'regulation 25' consultation document, the Council's Draft Core Strategy carries little weight. However, it sets out proposed directions of growth for the district having regard to available evidence. I am of the view the proposed development would be contrary to the emerging approach on housing distribution.

The housing supply proposed is less than 10 dwellings and therefore I do not consider it to be a case where the district's housing land supply is significant.

However the beneficial provision of 2 affordable homes which would be erected for a scheme of 7 dwellings is noted.

Efficient use of land

You should also consider whether the proposed units represent an efficient use of land.

Conclusion

In conclusion detailed consideration will need to be given as to whether the loss of some employment generating floorspace and the disadvantages of locating 7 dwellings in a relatively unsustainable location, would be outweighed by the benefits of the proposal or other material considerations.

- 3.3 OCC Highways Department had not commented at the time of writing this report.
- 3.4 The Urban Design Officer had not commented at the time of writing this report.
- 3.5 The Landscape Officer is concerned about whether the levels have been clearly thought through particularly in relation to the proposed office building. She also questions the acceptability of removing trees from the site.
- 3.6 The Ecology Officer has no objections subject to condition
- 3.7 The Environmental Protection Officer had not commented at the time of writing this report.
- 3.8 The Arboricultural Officer has no objections at this stage of the application process.
- 3.9 OCC Drainage Officer has no objections at this stage of the application process.
- 3.10 London Oxford Airport has no objections providing that any cranes required to carry out the works comply with the recognised practice for safe use.

4. Relevant Planning Policies

- 4.1 PPS1: Delivering Sustainable Development
PPS3: Housing
PPS4: Planning for Sustainable Economic Growth
PPS7: Sustainable Development in Rural Areas
PPS9: Biodiversity and Geological Conservation
PPG13: Transport
PPS23 Planning and Pollution Control
- 4.2 Policies BE1, BE5, CO3, RE3 and T4 of the South East Plan 2009
- 4.3 Saved Policies ENV12, H5, H15, C2, C4, C27 and C28 and C30 of the adopted Cherwell Local Plan
- 4.4 Policies H1a, H1b, H7, H17, D1, D3, EMP5, OA1, TR4, EN25, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011

5. Appraisal

The principle of the development

- 5.1 In the absence of a saved policy in the adopted Cherwell Local Plan (CLP) the Council's position, as regards the protection of existing rural employment sites, is best articulated in Policy EMP5 of the Non-Statutory Cherwell Local Plan 2011 (NSCLP). This policy states that the loss of employment land in or adjacent to villages will only be countenanced if there is a *substantial and demonstrable planning benefit* or the applicant has made reasonable efforts to find an alternative employment re-use.
- 5.2 Until very recently part of the site was occupied (Colourful Coffins) for business purposes. The Head of Planning Policy also confirms that the most recent review of employment land in the district recommended that all existing B class employment land should be protected. More recent monitoring information revealed that there is neither a surplus nor a deficit of such land within the district. The applicant has therefore acknowledged that they are reliant on demonstrating that they comply with the former of these two criteria. As the existing buildings are relatively well screened from the public domain, the removal of what are admittedly unappealing structures could not be said to represent a compelling planning gain. It is although worth remembering that there is an extant permission for replacement business units already in place (09/00647/OUT).
- 5.3 The argument put forward to justify the loss of the employment site is therefore focused on the following purported planning gains: the provision of much need housing including affordable housing; a new employment generating activity; and a provision of funds to a community project (via a unilateral undertaking).
- 5.4 For planning purposes Enslow, a sparsely populated settlement with limited facilities, is identified as a category 3 settlement (Policy H15 of the CLP) which groups together the smallest villages and hamlets in the District. Policy H15 of the CLP limits increases to the housing stock in such settlements to conversions and agricultural worker dwellings. The proposed development therefore runs contrary to this policy and indeed emerging policy which takes it lead from PPS3. This Government guidance promotes development in sustainable locations '*which offer a good range of community facilities*'. Furthermore, even if the development did comply with policy, the Council would require that at least two of the properties were made affordable anyway. The provision of affordable housing can therefore not be considered to represent a *planning benefit*.
- 5.5 Whilst the proposed development does incorporate some new office space, this is still a relatively token amount when compared with the aforementioned 2009 scheme which had approval for over ten times the amount of floor space (1,620m² compared with 158m²). This extant permission also makes the argument about the removal of the unsightly redundant structures which currently occupy the site.
- 5.6 The final are perhaps only possible *substantial and demonstrable planning benefit* is the £250,000 offered to help with the construction of a new village hall and possible new school in the nearby village of Bletchingdon (planning permissions 10/01712/F and 07/02608/F refer). It is noteworthy that whilst within the parish of Bletchingdon, the applicant is offering support to a community scheme outside Enslow. This is

perhaps not surprising given that Enslow does not have a population large enough to support facilities such as a school or a village hall.

- 5.7 Whilst the funding of a community project does represent a planning gain, it should not be the principle justification for circumventing a fundamental planning policy objection. By accepting this as a rationale it would be effectively countenance the sale of permissions. The size of the contribution appears somewhat arbitrary and is not driven by the scale of the development or the impact of the proposals upon village facilities
- 5.8 It could be argued by the applicant that this is a one off, in that proposals for new village halls and schools come forward on a very infrequent basis. However, there are other community led schemes, of perhaps equal planning merit, e.g. affordable housing sites, which are considered on a more regular basis. It is therefore not inconceivable that large landowners will seek to make a donation of land in return for a permission elsewhere which would otherwise be contrary to policy. To some extent this approach is heralded by the draft National Planning Policy Framework and the Localism Bill in which local communities may in the future be able to plan for the facilities and housing growth they consider appropriate. However that will have to have been planned in a rational way, with a more collaborative local community involvement.
- 5.9 Although not identified specifically as a planning benefit, the applicant is also running a sustainability argument, contending that the proposed development, when compared with the extant 2009 permission, will reduce the number of traffic movements to and from site by approximately 70%.
- 5.10 Whilst not disputing these findings, it is worth noting that all the figures are hypothetical and that no assessment is made of the current potential. However, even taken at face value, this argument is fundamentally flawed as by accepting reduction in traffic movements, in isolation, a precedent would be set whereby a large proportion of rural employment sites within the District could be legitimately identified for a similar change of use. Enslow has a disproportionate number of businesses when compared to the handful of residential properties.
- 5.11 This traffic argument has only really been successfully employed previously, where there has been an obvious benefit to a neighbouring community. An example of which would be taking heavy goods traffic away from narrow village roads - paragraph 4.81 of the NSCLP refers. Business activity from this site has/would have a limited impact on a small proportion of local population.
- 5.12 In support of the application reference is made to the potential precedent set by the Ingelby Farm development (05/00535/OUT) which is on the opposite side of Lince Lane. In that case Members gave approval for the replacement of a kennelling facility with seven live-work units. Since approving this scheme control over the 'work' element has been relaxed by planning permissions 07/01242/F and 08/01239/F (granted on appeal). Although in theory there are sustainability related benefits to be derived from the live-work concept, in reality ensuring that residents/developers share and adhere to this vision has proven to be very difficult.

Notwithstanding the merits of live-work units, and the Ingelby Farm development in particular, the SDPHE notes that the proposed dwellings do not conform to the definition of live-work units. The Ingelby Farm approval is therefore considered to have little bearing on this current application.

Highway safety

- 5.13 Although the Local Highways Authority had not commented on the application at the time of writing, they have not previously objected to recent schemes to redevelop the site. As there have been no changes to the immediate environment in the intervening time it is unlikely that a different conclusion will be reached.

Design

- 5.14 Although design and layout are a reserved matter, the applicant has attempted to address criticisms levelled at the 2010 application by providing a comprehensive analysis of the local built vernacular and also submitting various cross sections and views in to the site. The Urban Design Officer had not commented at the time of writing this report.

Protected species

- 5.15 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.”
- 5.16 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.”
- 5.17 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;
- 5.18 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”.
- 5.19 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.

5.20 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?

5.21 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. 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]

5.22 **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.**

5.23 In respect to the application site, an ecology survey was undertaken by James Johnston Ecology dated 8 September 2010 which concluded that the site had

'between negligible and low nature conservation value. The report concluded that there were no bats currently roosting on site, but recommended that a precautionary bat survey be undertaken. The Council's Ecologist confirmed the findings of the report and that the emergence survey could be dealt with at the reserved matters stage.

- 5.24 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 Policy C2 and C4 of the adopted CLP.

S106 agreement

- 5.25 Notwithstanding the unilateral undertaking to make a donation to the construction of the village hall in Bletchington, no negotiations have been entered into in respect of a S106 Agreement. As this development compromises more than six dwellings such an agreement is a pre-requisite of any approval. Arrangements with regards to the affordable housing would be necessary and contributions would be expected for open space/play space; off-site playing pitches; off-site indoor sports facilities; education facilities; library facilities; and transport measures. The application should not be approved in its absence.

Conclusion

- 5.26 This proposal is not considered to be acceptable in principle, for the reasons set out above, the SDPHE concludes that this proposal is contrary to Policies H5, H15, R12, and C28 of the adopted Cherwell Local Plan and Policies H1a, H1b, H7, H17, D1, D3, EN25, EMP5, OA1, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.

6. Recommendation

Refusal

- 1. Enslow is a Category 3 settlement as defined in the adopted Cherwell Local Plan. Policy H15 of the adopted Cherwell Local Plan states that within such settlements new residential development will be restricted to the conversion of non-residential buildings or where an essential need for agriculture, or other existing undertaking, can be established. It is the opinion of the Local Planning Authority that the proposal does not accord with these provisions and that it would be unsympathetic to its rural context, contrary to Government guidance contained within PPS3: Housing and Policies H15 and C28 of the adopted Cherwell Local Plan.**
- 2. The proposal will result in the loss of a significant proportion of an employment site which can continue to make an important contribution to the economic development of the area. As a lack of need has not been established or no substantial and demonstrable planning benefit has been demonstrated, the proposal is contrary to Government advice contained within Policy EC12 of PPS4: Planning for Sustainable Economic Growth, Policy RE3 of the South**

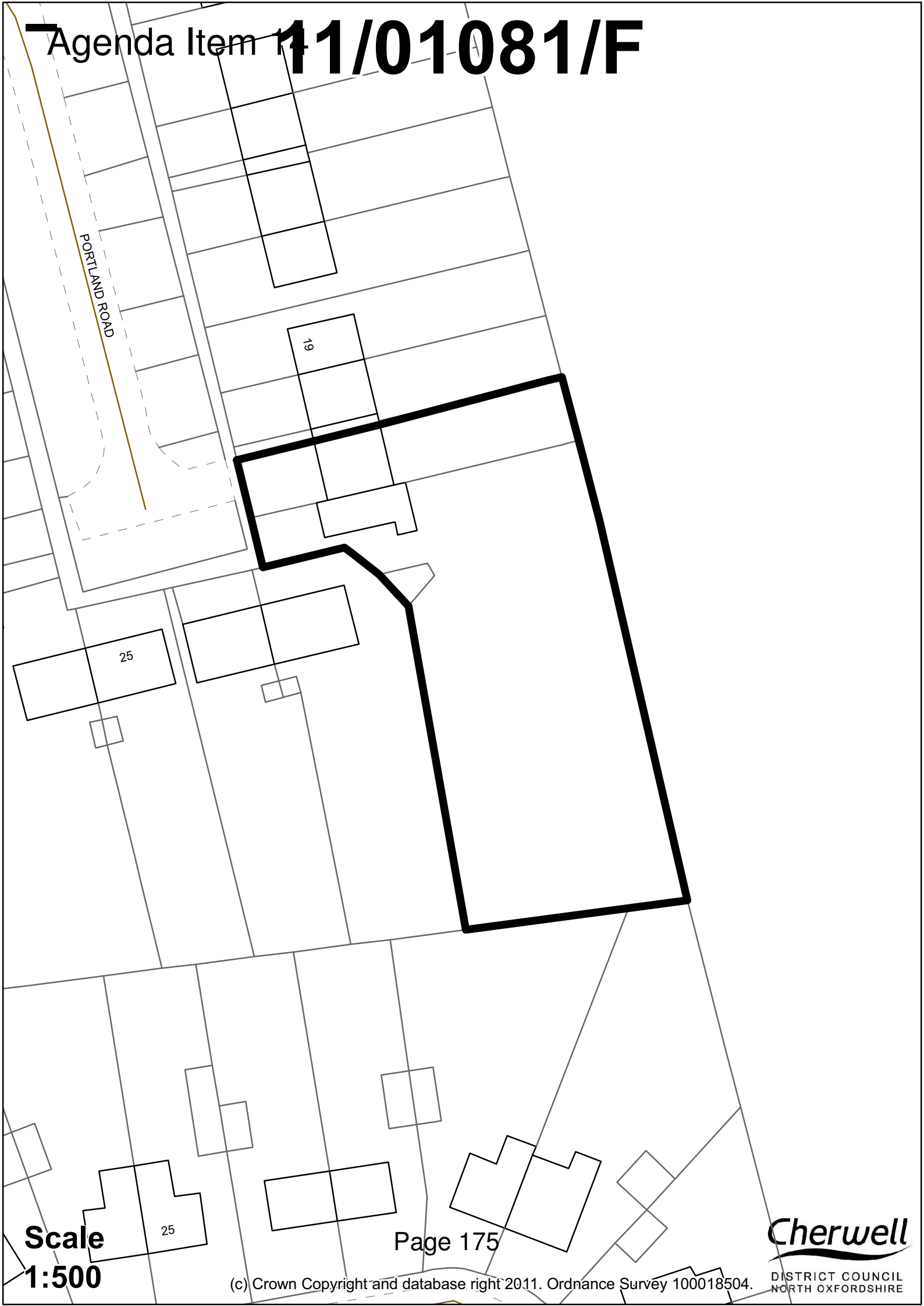
East Plan 2009 and Policy EMP5 of the Non-Statutory Cherwell Local Plan 2011.

- 3. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, other than the proposed contribution to Bletchington Parish Council, the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development, including affordable housing, open space/play space, off-site playing pitches, off-site indoor sports facilities, education facilities, library facilities and transport measures will be provided. This would be contrary to Policy CC7 of the South East Plan 2009, Policies H5 and R12 of the adopted Cherwell Local Plan and Policies OA1, H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.**

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Agenda Item 11/01081/F



PORTLAND ROAD

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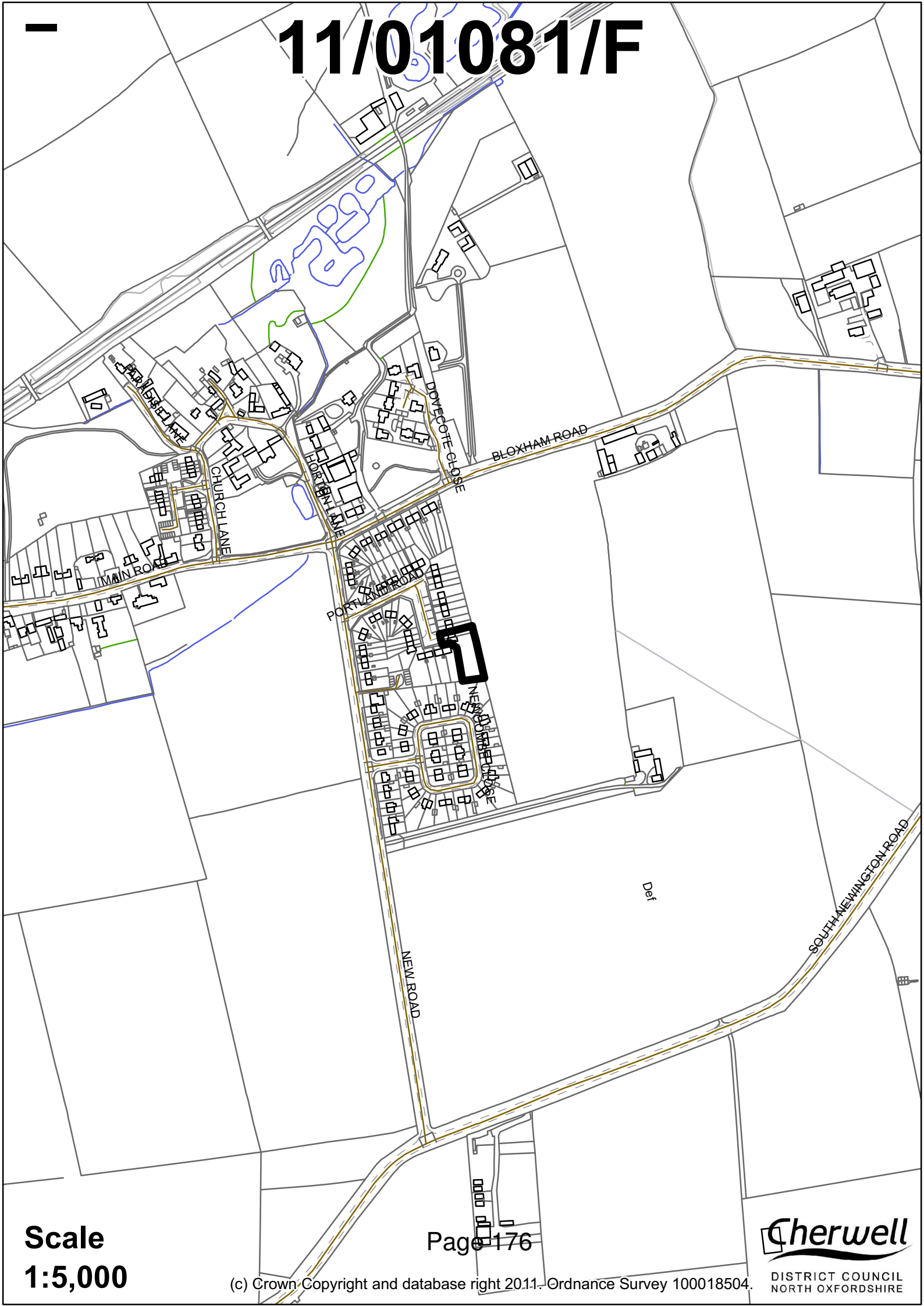
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DISTRICT COUNCIL
NORTH OXFORDSHIRE

11/01081/F



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 11/01081/F	No:	Ward: Bloxham and Bodicote	Date Valid: 11 July 2011
Applicant:	Countryside Crenns Ltd		
Site Address:	21 and 22 Portland Road, Milcombe, Banbury, Oxfordshire, OX15 4RL		

Proposal: Demolition of 2 No. dwellings and erection of 5 No. new dwellings, associated access drive and parking

1. Site Description and Proposal

- 1.1 21 and 22 Portland Road form the southern two properties of a terrace of four dwellings (numbers 19-22). The properties are in private ownership and are constructed from concrete with a tile roof and they are currently empty and in a poor state of repair due to vandalism. The site is within a residential area of the village, outside a conservation area and there are no listed buildings within proximity. The site has a large garden area to the south of number 22. The site may have some ecological potential and is on land where there is the possibility for naturally occurring arsenic, chromium and nickel.
- 1.2 This application seeks planning permission to demolish numbers 21 and 22 and to then erect five new dwellings on the site, along with an associated access drive and parking areas. The dwellings would be arranged with a pair of semi detached properties directly to the south of number 20, in a similar position to the existing two properties but set slightly further back into the site and on a staggered relationship. The other three dwellings would form a terrace and would be situated to the south of the new pair of semi detached properties on an east to west orientation. These properties are also arranged in a staggered relationship. The proposed properties would be constructed from brick, with a tile roof and UPVC windows and doors. The dwellings proposed comprise 2 no. two bedroom units and 3 no. three bedroom units.
- 1.3 Planning history
B.156/55 (Permitted) Erection of 26 dwelling houses
- 07/00603/OUT (Refused and dismissed at appeal) Outline application for demolition of existing dwellings. Erection of pair of semi detached dwellings and a terrace of 3 No. Dwellings. New vehicular and pedestrian access with associated car parking facilities
- 1.4 Whilst considering the application, the Case Officer has requested amendments to the scheme to show the ten parking spaces required and to show the footpath linking from the street to the new site access road. Furthermore, the red line is considered to be incorrect at the time of writing the report as it does not include a small area of land between the proposed dwelling and number 20 Portland Road, which is necessary to ensure that the Council can request details of how the end wall of number 20 will be made good. An update will be given at committee in relation to these matters.

- 1.5 The application is being presented to committee for determination at the request of a Local Ward Member.

2. Application Publicity

- 2.1 The application has been advertised by way of two site notices (one posted on a lamp post to the rear of the site on Newcombe Close and one posted on a telegraph pole at the front of the site on Portland Road). The final date for comment was 18 August 2011.
- 2.2 Two comments have been received raising the following points:
- Feel that the proposal would be good for the area and are in favour. Agree that five would be too many, but support the application
 - Whilst existing properties are a danger and eyesore, five houses is too many to build and 3-4 houses would be a more acceptable proposal.
 - Five houses would increase the traffic level of a quiet street and concern raised over safety of children
 - Consideration of local wildlife as the site backs onto a field and wildlife has been seen in the local area
- 2.3 The Case Officer has also spoken to a resident of one of the properties in the terrace, who raised some concern about the stability of the existing properties if numbers 21 and 22 are to be removed. Another neighbour to the south of the site has questioned what will happen to the trees to the rear of the site and questioning whether the developer could carry out some work for them.

3. Consultations

- 3.1 Milcombe Parish Council objects to the proposal.
- They comment that they desperately wish to see this untidy site cleared, however they have reservations about the application as submitted.
 - Milcombe has a proven need for low cost/ affordable housing and is concerned at the loss of two social homes (21 and 22 Portland Road). Portland Road represents the major proportion of the villages lower cost housing stock and this should be preserved
 - Considers five to be too cramped on this site and feels that four would be more acceptable on this very rural site and could be better spaced from numbers 20 and 23.
 - Concern over additional traffic into Portland Road/ traffic calming would need to be instigated. Concern about safety of the access as a number of children live nearby
 - On site parking is inadequate considering most households have more than one vehicle
 - Is the car parking area large enough for large vehicles to turn safely? Reversing out could be hazardous
 - Not all properties have a rear access
 - House number 2 has much less garden area, no parking and fronts the access. It is considered this is too close to the access road
 - Difficult to ascertain how neighbours would be affected. Close to numbers 20 and 23. Site is too overgrown to be able to inspect properly.

- Previous site layout was considered in better taste than the current application
 - Uncertain of the current planning policy for backfill. Milcombe is a category 2 village.
 - Parish Council would welcome some new build on this derelict site, preferably affordable with safe access but is unhappy with the application as submitted
- 3.2 Oxfordshire County Council (Highways) – No objection subject to conditions
- 3.3 Cherwell District Council (Ecology) – Some potential for wildlife due to the proximity of the site to the open countryside and due to the condition of the properties. Requested a protected species scoping survey.
- 3.4 Thames Water – With regard to sewerage and water infrastructure no objections are raised. Comments in relation to Surface Water Drainage have been compiled into a planning note and Thames Water have also recommended a further planning note, which has been included.
- 3.5 Oxfordshire County Council (Drainage Team) – Roof water run off from the proposed dwellings will need to go to a soakaway within the site boundary and not into the highway drainage system. New hard standings should be SUDs compliant as surface water within the site should be dealt with within the site boundary and not enter onto the highway and into the highway drainage system.
- 3.6 Cherwell District Council (Building Control) – No adverse comments to make regarding the Building Regulations

4. Relevant Planning Policies

- 4.1 PPS1: Delivering Sustainable Development
 PPS3: Housing
 PPS9: Biodiversity and Geological Conservation
 PPG13: Transport
- Draft National Planning Policy Framework – July 2011
- 4.2 The South East Plan: Policy BE1, H4, H5, H6, BE1, BE5, CC6, T4, NRM5
- 4.3 Adopted Cherwell Local Plan: Policies H14, C2, C4, C28, C30

5. Appraisal

- 5.1 The key issues for consideration are:
- History of the site
 - Principle of the development
 - Visual amenity
 - Neighbour amenity
 - Highway safety
 - Ecology
- 5.2 History of the site
 Firstly, it is important to set out the planning history of the site, due to a scheme for

the same amount of houses having been refused and dismissed at appeal in 2007. The previous scheme involved numbers 21 and 22 being demolished and replaced by a pair of semi detached properties to the south of number 20 but set further into the site than the current properties. To the south of these but much deeper into the site, a terrace of three properties were proposed. The access road extended into the site alongside the boundary with the bungalow at 23 Portland Road. This application was refused for the following reasons:

1. The proposal, by virtue of its scale, the size of the site and its backland location, would be contrary to Policy G1 of the Oxfordshire Structure Plan, Policy H14 of the adopted Cherwell Local Plan and Policy H16 of the Non-Statutory Cherwell Local Plan 2011, which restrict residential development in Milcombe, to conversions, infilling and other small-scale development that would secure significant environmental improvement within the settlement. None of these requirements are satisfied by the proposal, which would adversely affect the spacious character of this part of the settlement, which adjoins open countryside. Furthermore, the development if approved would create an undesirable precedent for further similar development in the locality which would be contrary to the Development Plan and would further erode the character of the locality.
2. The proposal, by virtue of its layout and backland location, without an adequate road frontage, would be out of character with the existing pattern of development in this part of Milcombe, producing a discordant and cramped development, which would have an adverse impact on the amenities of this part of the village, bordering open countryside, contrary to Policy G2 of the Oxfordshire Structure Plan, Policies C28 and C30 of the adopted Cherwell Local Plan and Policies D1, D3 and D6 of the Non-Statutory Cherwell Local Plan 2011.
3. The proposal, by virtue of its layout, access, parking and manoeuvring arrangements, would produce unsatisfactory relationships with existing adjoining dwellings, resulting in overlooking, loss of privacy, noise and general disturbance from vehicular activity close to neighbouring properties and their gardens, which would be contrary to Policy G2 of the Oxfordshire Structure Plan, Policy C30 of the adopted Cherwell Local Plan and Policy D6 of the Non-Statutory Cherwell Local Plan 2011.

5.3 That decision was appealed. An Inspector dismissed the appeal, a copy of the appeal decision notice is provided at appendix A. As can be seen, the Inspector had concerns over the impact the development would have on the character and appearance of the surrounding area and the impact that the driveway and the associated vehicular activity would have on the amenities of 23 Portland Road.

5.4 Principle of the development

Milcombe is categorised within the adopted Cherwell Local Plan as a category 2 settlement under policy H14 of the adopted Cherwell Local Plan. This policy restricts new residential development to conversions which accord with policy H21, infilling and other small scale development that can be shown to secure significant environmental improvement within the settlement. This scheme does not relate to a conversion and it is not strictly infill development, but the proposal is small scale development and so it must be demonstrated the proposal can secure significant

environmental improvement.

- 5.5 From a policy perspective PPS1, Delivering Sustainable Development states that “Planning Authorities should plan positively for the achievement of high quality and inclusive design for all development, including individual buildings, public and private spaces and wider area development schemes. Good design should contribute positively to making places better for people.” (paragraph 34).
- 5.6 PPS3, Housing states that good design is fundamental to the development of high quality new housing, which contributes to the creation of sustainable, mixed communities.
- 5.7 Policy BE1 of the South East Plan 2009 sets out the Plan’s approach to promoting and supporting imaginative and efficient design solutions in new development, and aims to increase public acceptance of new housing by making sure that it is of a high quality design that respects local context and confers a sense of place. The policy echoes the guidance of PPS1 and PPS3 in promoting good design.
- 5.8 Policy CC6 of the South East Plan addresses sustainable communities and character of the environment and seeks to ensure that development respects and where appropriate enhances the character and distinctiveness of settlements and landscapes throughout the region. Development should also use innovative design processes to create a high quality built environment which promotes a sense of place. This will include consideration of accessibility, social inclusion, the need for environmentally sensitive development and crime reduction.
- 5.9 This site is currently unused, with the buildings themselves having not been lived in for the last 5 years due to extensive vandalism, they are covered in graffiti and they need to be secured with metal panels over their openings to stop them being entered. The garden is very overgrown and has evidence of debris. There have been a number of police reports related to activities that have occurred and the site is a clear anti-social behaviour problem within this area.
- 5.10 Policy H16 of the non statutory Cherwell Local Plan reflects policy H14 of the adopted Cherwell Local Plan but does not specify the consideration of development that secures environmental improvement. The supporting information however states that *there may be occasions where the environment of the village might be significantly improved by small scale residential redevelopment... In considering such schemes, the Council will have regard to Policies EN4 and EN46.* Policy EN4 states that:

Within settlements, small scale re-development of sites whose existing use causes serious detriment to local amenities will be permitted providing the proposal would result in significant environmental benefit.

EN46 is not relevant in this case.

- 5.11 It is noted that under the previous application in 2007 the case officer did not consider that the development would secure significant environmental improvement especially considering the proposal involved the demolition of two houses and the construction of five on a largely undeveloped site, however the condition of the site overall appears to have worsened since 2007 and it is now considered that the re-

development of the site would secure environmental improvement and improve the overall amenities within this area, as such, the proposal would comply with policy H14 in principle.

- 5.12 Members may be aware that guidance in PPS3: Housing encourages making efficient and effective use of land and this is considered to be the case in this application. It must also be noted however that garden land has recently been removed from the definition of previously developed land, which is where development should usually be directed to. It is considered that this change to PPS3 does not necessarily mean that all development on garden land is unacceptable, but that which is inappropriate and which causes harm to the character and form of the existing area, can be more readily resisted.
- 5.13 The comments made by local residents and the Parish Council in respect to five dwellings being proposed are noted and that they consider three or four would be preferred. However, the SDPHE considers that as it has been demonstrated that five units can be accommodated on the site without compromising the form and character and amenity of the locality and amenity of neighbours, this makes more efficient use of land and one more dwelling causes no more significant harm. Furthermore, by replacing the terrace of 3 with a pair of semis this would increase their value contrary to their statement about preserving lower cost housing stock in this part of the village.
- 5.14 The layout of the site has been redesigned to take into account the opinions expressed by the Inspector. The dwellings are now proposed to be arranged closer together, rather than building upon the entire land and placing the housing to the far side of the site and thus respects the existing layout of development much more closely. The terrace of three dwellings is now positioned closer to the other properties and although they are set further back into the site than the bungalows to the west, they are not considered to constitute backland development, from the streetscene perspective; they read as a continuation of this established building line. The re-positioning of the properties also means that the access road no longer extends the length of the garden which was found to cause harm to the amenities of neighbouring properties by the introduction of vehicular activity in this otherwise quiet garden area and results in a more contained parking and turning area to the front of the site. The proposed arrangement of the dwellings ensures that the rear section of the site remains as spacious garden land and is similar to other patterns of development elsewhere in the district. The proposed development is respectful of the established, spacious character of the housing estate and therefore helps to overcome the concerns the Inspector held in terms of the character and form of this area.
- 5.15 Given this assessment, the proposed development for five houses is considered to make efficient and effective use of the land and due to the positioning of the houses is considered to sit comfortably on the site, providing acceptable standards of amenity for neighbours and future occupiers and will not cause an unacceptable impact on the character and form of the existing residential area. The proposal is therefore considered to comply with PPS3 and is considered to be acceptable in principle.

5.16 Visual amenity

As has been set out above, the proposal is considered to have an acceptable impact upon the character and form of this area in terms of its layout. The dwellings are designed to be similar to each other but would appear different to the existing dwellings, being constructed from brick rather than the concrete as others are. This area is not sensitive to change and as such, this change in the design of the dwellings is considered acceptable and will be sympathetic particularly as they will be similar to the scale and character of the existing development in this area. Conditions have been recommended to ensure that the materials to be used are appropriate and so this should ensure that the proposal sits comfortably in the street scene and causes limited harm. There is a fair amount of hard standing to the front of the site, which is unfortunate however this provides the parking areas and given the overall improvement to this area that will occur, it is considered that the proposal causes limited harm to visual amenity. As such, the proposal complies with policy C28 of the adopted Cherwell Local Plan.

5.17 Neighbour amenity

In terms of the impact of the development upon the residential amenity of nearby neighbouring properties, the proposal is considered to be acceptable. The positioning of the dwellings and the positioning of the fenestration on each dwelling (which is contained to the front and rear elevations only), means that any impact by loss of light, loss of privacy or over dominance will be limited both to the existing properties nearby and to each of the new properties and this is considered to be acceptable.

5.18 As can be seen from the appeal decision at appendix A, the Inspector was concerned about the impact to residential amenity by the long driveway alongside the boundary with number 23 Portland Road. The current arrangement means that the driveway would curve around, but would not extend any further south than the rear of number 23 (except for the parking for the dwelling on plot 3), which would not have the same impact as the previously proposed driveway. As such, it is the view of the SDPHE that the impact upon the amenity of number 23 by noise and disturbance has now been improved significantly and is now considered to be acceptable.

Given the above assessment, it is considered that the proposal offers good standards of amenity and is acceptable and complies with policy C30 of the adopted Cherwell Local Plan.

5.19 Highway safety

The Local Highway Authority raises no objections to the scheme subject to the inclusion of conditions. One of which is to secure 10 parking spaces on the site and another is to extend the footpath from the road into the site. These amendments have been requested but have not been received at the time of writing the report. As such, the suggested conditions have been imposed. The concerns of the Parish Council in terms of highway safety are noted and appreciated, however, given the comments of the Highway Authority, which would secure enough parking on the site for the development itself and the fact that the site is at the end of the road, which is where slower speeds would be used, the highway safety implications which may arise are not considered to be so significant that the proposal is unacceptable on these grounds.

5.20 Ecology

PPS9 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.”

5.21 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application, as prescribed by Regulation 3(4) of the Conservation (Natural Habitats etc) Regulations 1994 (as amended). Under art.12(1) of the EC Habitats Directive, Member States requires that a system of strict protection of animal species be established to prohibit the deterioration or destruction of their breeding sites or resting places. The result is that there is in practice two linked systems of regulation. First under reg. 39(1)(d) it is a criminal offence to damage or destroy a breeding site or resting place but under reg.44 this does not apply if a licence has been granted for such operations and Natural England being that licensing authority. Secondly where planning permission is required reg.3(4) 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 might be met.

5.22 The Council’s Ecologist was consulted on the application and commented that there is potential for bats to be using these properties which are to be demolished as they face onto open countryside and are in poor repair and have been empty for a number of years. As such, she has requested a scoping survey to determine whether any bats are present. She considers that the proposed replacement hedge and tree planting would be beneficial particularly along the Eastern boundary if native species are used. Trees and shrubs should not be removed during the bird breeding season to ensure nesting birds are not disturbed. She has also identified that there is some potential for the garden area to harbour other protected wildlife such as badgers or reptiles, which should be addressed within any ecological report and a method statement to avoid harm to reptiles in particular and other wildlife during any clearance work including removal of any debris or rubble on site should be prepared and in place before any works commence on site.

5.23 As such, in accordance with PPS9: Biodiversity and Geological Conservation, an ecological survey has been requested, which has now been received and the Council’s Ecologist consulted. The bat survey has found that the buildings and nearby trees have a negligible potential to be a bat roost and no further surveys are recommended. Enhancement measures are recommended. The badger and reptile survey found no badger evidence, however found that the land is suitable for reptile use. Although it recommends no further survey work, a reptile mitigation method statement is required and this has been submitted. The comments from the Ecologist are awaited and any mitigation measures necessary will be conditioned accordingly.

5.24 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 Policy C2 and C4 where relevant of the adopted Cherwell Local Plan.

5.25 Trees

The site is very overgrown and so some trees and vegetation will need to be removed. None of the existing trees that will have to be removed are particularly worthy of retention and the trees to the rear of the site, which have some greater value are not to be affected by the development and which are important in helping to screen and soften the development.

5.26 Other matters

No comments have been received from the Environmental Protection Officer, however given that the land may have some contamination issues due to it being on naturally occurring arsenic, chromium and nickel, a planning note has been recommended to ensure the applicant is aware of what to do should any contamination arise. The comments of the third parties are noted and have been addressed within the appraisal. The concern over the stability of the other houses in the terrace is noted; however it has not been considered necessary to request further details in relation to this as it is not a planning matter but would be controlled under the building regulations. A condition has been imposed to ensure that details of the making good of the wall of number 20 Portland Road are submitted to ensure that this wall will be made good to an acceptable standard. The other request in terms of the developer carrying out work for a nearby neighbour is not something that the Council can insist on.

5.27 The comments of Milcombe Parish Council are noted and have mainly been addressed within the report. It is noted that some of the houses in Portland Road are Charter Housing or housing association properties, however nos 21 and 22 are owned by the applicant and are not social houses and the proposed housing would also be market housing. The threshold for providing affordable housing on this site would be six properties and as such there is no requirement that any affordable housing be provided on this site (note that the application was received before the Council introduced using the new Planning Obligations SPD on the 15 August 2011). The concerns in terms of the level of parking provided have been addressed by the imposition of a condition to ensure that ten parking spaces are provided on site. Furthermore, the Local Highway Authority has assessed the proposal and has raised no objection to the scheme subject to the imposition of conditions and it is considered therefore that the highway safety implications are acceptable.

5.28 Conclusion

Clearly the site is in serious need of tidying up to prevent anti-social behaviour from continuing. Since the previous application, the site has deteriorated and the applicant has not known exactly what to do with it and through further negotiation with the Council, the proposed scheme has been formulated. Therefore it is considered that taking into account the appearance of the site and the activities that have occurred there (the current site causes a serious detriment to local amenities both visually and to the character and general amenities of this area of the village) the proposal would secure significant environmental improvement and would be an acceptable form of development in the village. The design, appearance and layout of the development would be respectful of its context without compromising residential amenities of neighbouring properties and highway safety and parking

provision is considered to be acceptable. Furthermore the proposal would result in the provision of an additional 3 no. small scale quality market houses and provision of 2 no. replacement dwellings in a village where relatively low cost market housing to rent or buy is scarce. As such, the proposal is considered to cause limited harm and will comply with the above mentioned policies.

6. Recommendation

Approval; subject to:

- The comments of the Council's Ecologist,
- The following conditions:

1. 1.4A (RC2) [Full permission: Duration limit (3 years)]
2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: application forms, design and access statement, information received with agent's email of the 17 August 2011 and drawing numbers 1167CCCD100, 1167CCCD102, 1167CCCD103, 1167CCCD201, 1167CCCD211 rev B, 167CCCD212 rev A, **1167CCAB113 rev A, 1167CCCD113 rev A1167CCCD112 rev A**

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

3. 2.0A (RC4A) [Details of materials and external finishes] insert 'dwellings' after 'finishes' insert 'including samples' at end add 'The development shall be carried out in accordance with the schedule and samples so approved.'
4. 4.0AB (RC13BB) [Access, specification, proposed (as plan)] insert 'construction' 'dwellings'
5. 4.12AA (RC14AA) [...Surface, laid out etc] insert 'access road'
6. 4.14AB (RC15AA) [Plan of car parking provision (specified number of spaces)] insert 'ten' after 'the site' insert 'including specification details'
7. That a plan demonstrating the shared pedestrian access to be extended to join to the access road to the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out in accordance with the approved details. (RC13BB)
8. 2.10A (RC7A) [Floor levels] insert 'dwellings'
9. 2.13AA (RC8A) [Demolition of buildings – before commencement of the development]
10. 3.7AA (RC12AA) [Submit boundary enclosure details (more than one dwelling)]
11. 3.0A (RC10A) [Submit landscaping scheme]
12. 3.1A (RC10A) [Carry out landscaping scheme and replacements]
13. 3.3AA (RC72A) [Scheme to be submitted to protect retained trees]
14. That the full details of the treatment of the gable of the retained dwelling at 20 Portland Road shall be submitted to and approved in writing prior to the commencement of the development. The development shall be carried out in accordance with the approved details. (RC4A)
15. **Ecology condition as required by the Council's Ecologist**
16. 6.2AA (RC32A) [Residential – No extensions]
17. 6.3A (RC33) [Residential – No new windows]

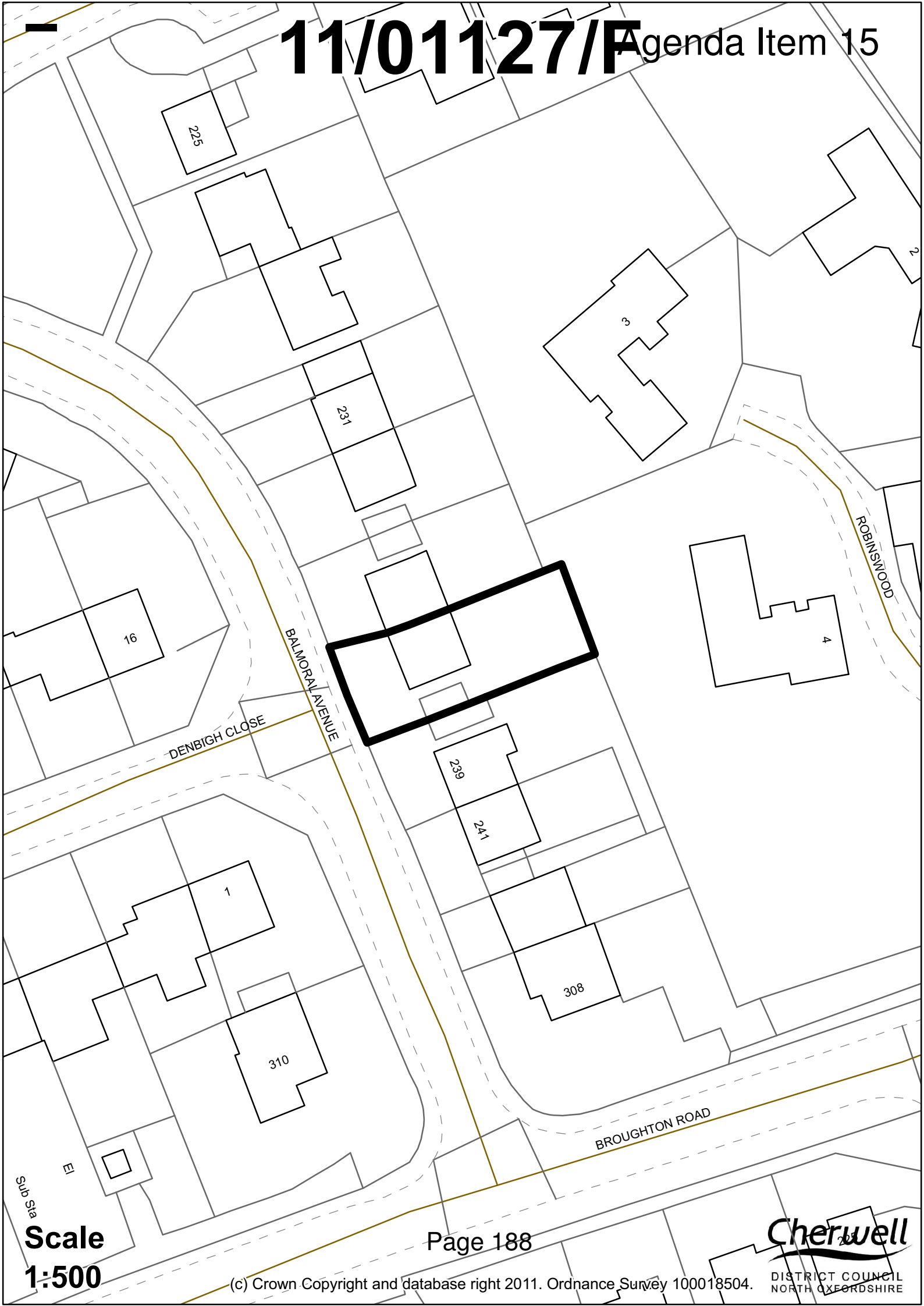
Planning notes

1. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
2. The applicant is advised that in respect of Surface Water, Thames Water have recommended that it should be ensured that storm flows are attenuated or regulated into the receiving public network through on or off site storage. Where it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of ground water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer services will be required. They can be contacted on 0845 850 2777.
3. The County Council's Drainage Team have advised that any roof water run-off from the proposed dwellings will need to go to soakaway within the site boundary and not into the highway drainage system. Furthermore, new hardstandings should be Suds compliant, ie Permeable or positively drain into a soak-away within the site boundary. Surface water from the site should be dealt with within the site boundary and not enter onto the highway and into the highway drainage system.
4. ZZ – Unsuspected contamination
5. X1 – Biodiversity/ Protected species
6. S1 – Post permission changes
7. T1 –Third party interests
8. U1 – Construction sites

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

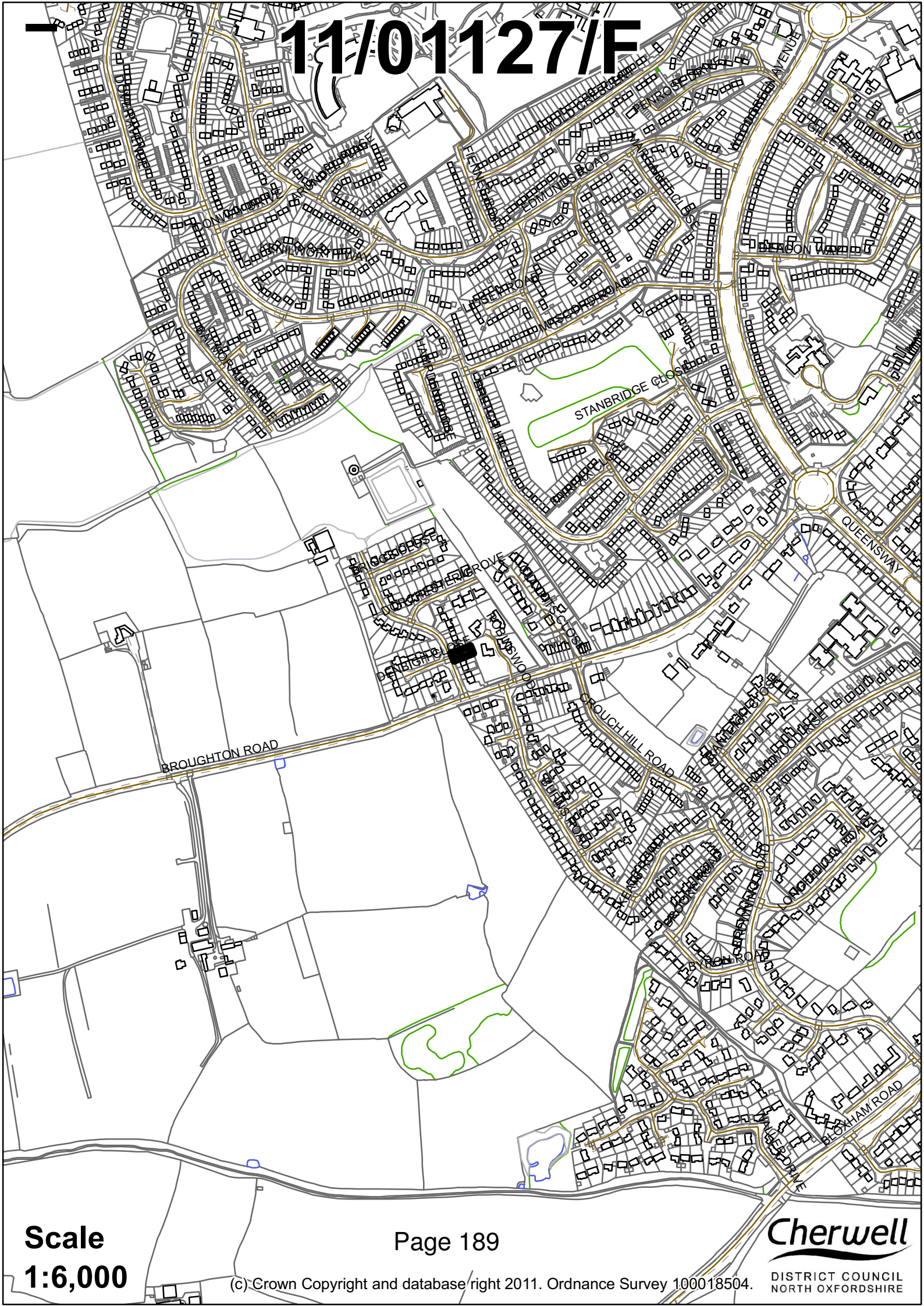
The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal is considered to be acceptable in principle and pays proper regard to the character and appearance of the site and surrounding area. The proposal also has no undue adverse impact upon the residential amenities of neighbouring properties or highway safety. Furthermore, the proposal will cause no harm to protected species. As such the proposal is in accordance with PPS1: Delivering Sustainable Development, PPS3: Housing, PPS9: Biodiversity and Geological Conservation, PPG13: Transport, Policies BE1 H4, H5, H6, BE1, BE5, CC6, T4, NRM5 of The South East Plan and Policies H14, C2, C4 C28 and C30 of the adopted Cherwell Local Plan. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted.

CONTACT OFFICER: Caroline Ford**TELEPHONE NO: 01295 221823**



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11/01127/F



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 11/01127/F	No:	Ward: Easington	Banbury	Date 19/07/2011	Valid:
Applicant:	Mr Jagtar Singh				
Site Address:	237 Balmoral Avenue, Banbury				

Proposal: Single storey front extension

1. Site Description and Proposal

- 1.1 The application site is a semi-detached, brick built property with an attached single storey garage, and a large open fronted garden. The site is within a planned, low density residential estate towards the Eastern edge of Bodicote; the estate is adjacent to, but not within the Bodicote Conservation Area.
- 1.2 The proposal is for a first floor extension over the garage, with a two storey gabled extension to the rear.
- 1.3 The application is placed before the committee for determination as the applicant is related to a member of staff.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice. The final date for comments was 25 August 2011.
- 2.2 No third party comments were received.

3. Consultations

- 3.1 Banbury Town Council - no comments received by the Committee report deadline. Any comments received will be reported at the meeting if received.

4. Relevant Planning Policies

- 4.1 National Policy Guidance:
PPS1 – Delivering Sustainable Development
- 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 In order to assess the acceptability of this proposal, there are two main issues to consider; the appropriateness of the design for the location, and in the light of the

relevant policies in the Plan; the impact of the proposal on the amenity of the neighbouring properties. Policies C28 and C30 of the adopted Cherwell Local Plan seek to ensure that residential development is sympathetic to the character of the context of the development, is compatible with the scale of the dwelling and the street-scene and provides acceptable standards of amenity and privacy.

- 5.2 The proposal is considered to accord with these policies as it represents a normal form of development in residential areas such as this, and is not an unusual or inappropriate alteration. There are other similar examples within the street-scene and a variety of altered porches; open, pitch-roofed and flat-roofed. 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.
- 5.3 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. It is therefore recommended for approval, subject to conditions.

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 108/11/01 (submitted with the application)
 - drawing 108/11/02/A (submitted with the application)
 - the details set out in the application forms

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.

Planning Notes

- 1) T1 – Third party rights
- 2) U1 – Construction sites

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 16

Planning Committee

Tree Preservation Order (no. 08/2011) Wellingtonia tree at The Vicarage, Cropredy

8 September 2011

Report of Head of Strategic Director Planning, Housing & Economy

PURPOSE OF REPORT

To seek the confirmation of an unopposed Tree Preservation Order (no.08/2011) relating to a Wellingtonia tree (copy plan attached as Appendix 1) at The Vicarage, Cropredy.

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Confirm the Order without modification

Background Information

- 2.1 The Scheme of Reference and Delegation authorises the Strategic Director Planning, Housing and Economy to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to believe that the tree in question is under imminent threat and that its retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.
- 2.2 The above mentioned Tree Preservation Order was authorised and made on 17 May 2011. The statutory objection period has now expired and no objections were received to the Order.

Key Issues for Consideration/Reasons for Decision and Options

3.1 None

Implications

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

Comments checked by Karen Muir, Corporate Systems Accountant 01295 221559

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

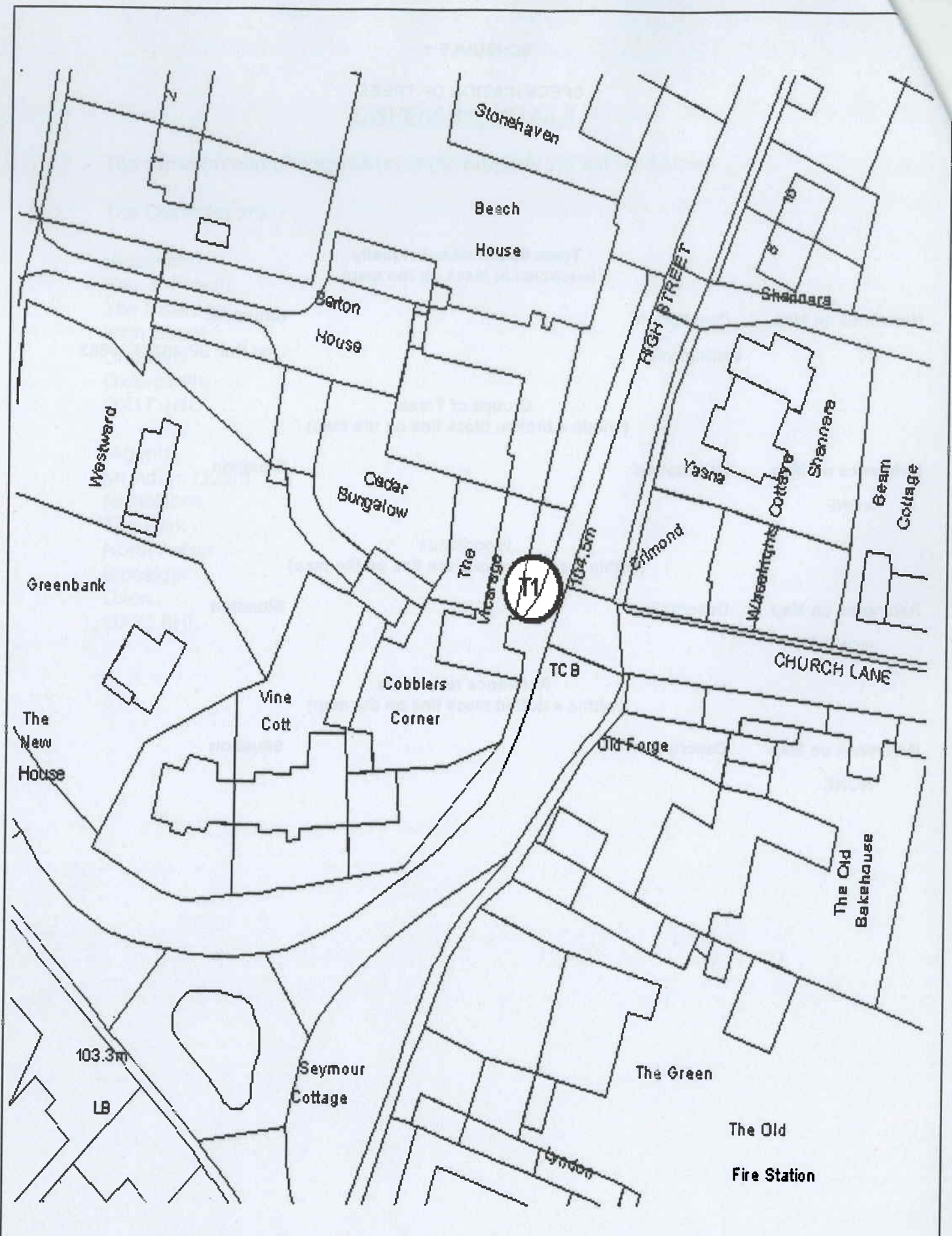
Comments checked by Claire Taylor, Corporate Strategy and Performance Manager 01295 221563

Wards Affected

Cropey

Document Information

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



Planning Committee

Tree Preservation Order (no. 09/2011) Norway Maple tree at 17 Old School Close, Caversfield

8 September 2011

Report of Head of Strategic Director Planning, Housing & Economy

PURPOSE OF REPORT

To seek the confirmation of an unopposed Tree Preservation Order (no.09/2011) relating to a Norway Maple tree (copy plan attached as Appendix 1) at 17 Old School Close, Caversfield.

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Confirm the Order without modification

Background Information

- 2.1 The Scheme of Reference and Delegation authorises the Strategic Director Planning, Housing and Economy to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to believe that the tree in question is under imminent threat and that its retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.
- 2.2 The above mentioned Tree Preservation Order was authorised and made on 6 July 2011. The statutory objection period has now expired and no objections were received to the Order.

Key Issues for Consideration/Reasons for Decision and Options

3.1 None

Implications

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

Comments checked by Karen Muir, Corporate Systems Accountant 01295 221559

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

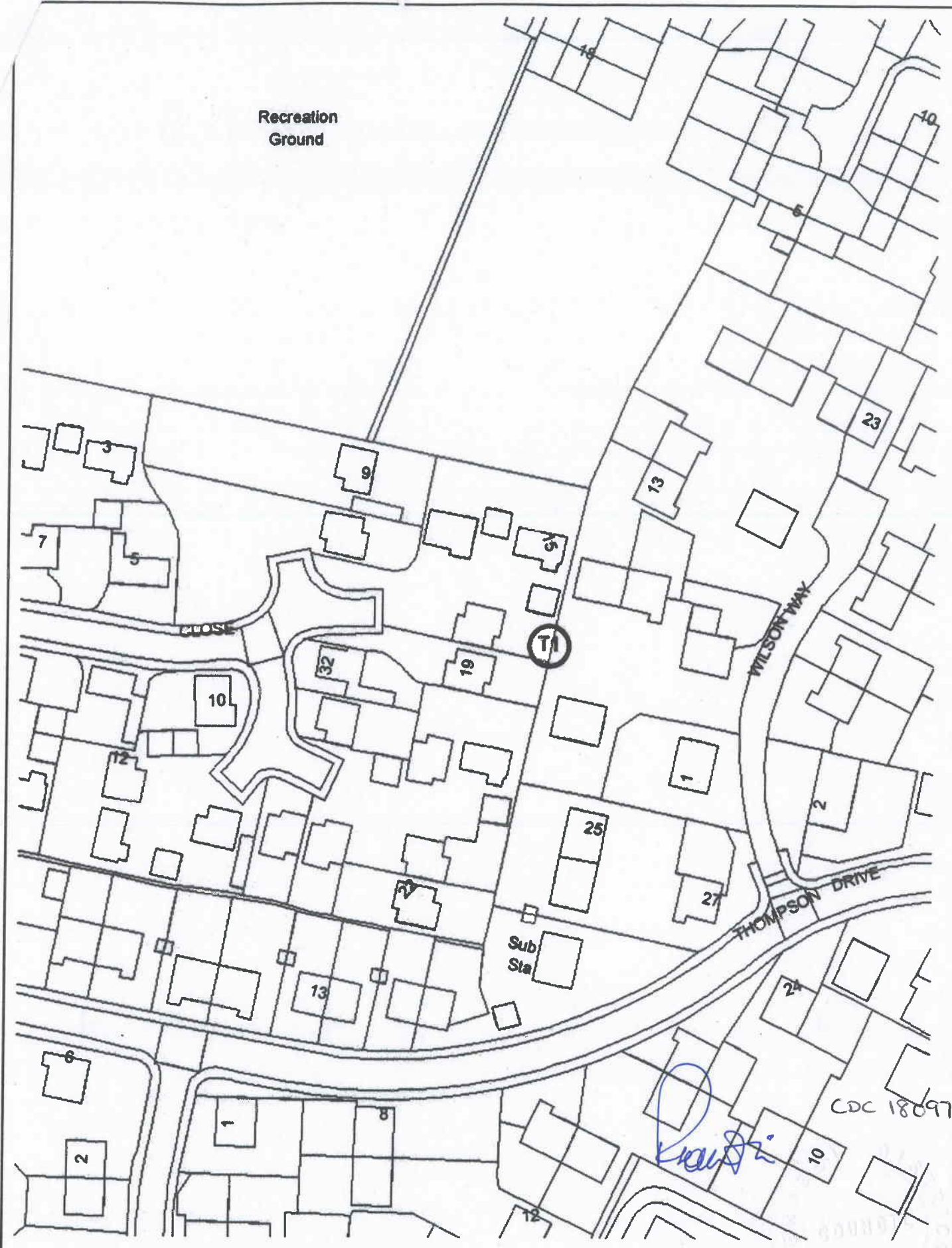
Comments checked by Claire Taylor, Corporate Strategy and Performance Manager 01295 221563

Wards Affected

Caversfield

Document Information

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



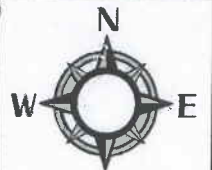
Recreation
Ground

Tree Preservation Order No 09/2011
17 Old School Close, Caversfield,
OX27 8TW

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Date 01/07/2011



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Agenda Item 18

Planning Committee

Quarterly Enforcement Report

8 September

Report of Strategic Director Planning, Housing and Economy

PURPOSE OF REPORT

To inform and update Members of the progress of outstanding formal enforcement cases.

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Accept this report.

Details

Background

- 1.1 The last quarterly report was given to this Committee on 19 May 2011, and this report continues the regular reporting on enforcement matters in this format which commenced in October 2008.

The Current Situation

- 2.1 Appendix One provides a comprehensive history of those cases which have progressed to formal action of one type or another.
- 2.2 Members should note that there has been a change in personnel dealing with enforcement matters. Bruce Acton (extension 1819) has temporarily taken over as the Senior Officer involved in enforcement matters. Following the retirement of Linda Burke the planning investigator's role is now being filled by Laura Baker (extension 1825)

Implications

Financial: It is anticipated that the cost of taking enforcement action can be met within existing budgets. The cost implications with regards to action at Heyford Park will be addressed in a future report.

Comments checked by Eric Meadows, Service Accountant 01295 221556

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

Comments checked by Nigel Bell Team Leader – Planning and Litigation 01295 221687.

Risk Management: Where it is relevant to do so the risk of taking formal enforcement action is that costs could be awarded against the Council in any appeal that precedes to an inquiry or hearing if this action is subsequently considered to have been unreasonable. The risk of not taking effective and timely action is that a complaint could be made by a complainant to the Local Enforcement Ombudsman.

Comments checked by Claire Taylor, Community and Corporate Planning Manager 01295 221563.

Wards Affected

All

Document Information

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

Enforcement and Prosecution Quarterly Report – 8 September 2011

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
PROS 27/03 4.09.03 PROS 13/06 15.06.06	Hanwell Fields Banbury	Breach of Sec 106 agreement relating to LAPS & LEAPS and laying out of informal open space	Court order 04.09.08	Various dates in 2009	95/01117/OUT	N/A	N/A	CDC actively pursuing the transfer of the remaining sports pitches and parks Legal department have sent a letter to Taylor Wimpey Meeting held with Taylor Wimpey – significant progress being made
ENF 2/06 16.02.06 09/00686/ PCN	Bodicote Post Office 43-45 Molyneux Drive Bodicote	Non-compliance with approved plans 04/01317/F Works not completed by 1 November 2009	Enforcement Notice served 24.01.07 29.11.09	07.09.07	09/00315/F			15.05.09 undertaking made to the court by Mr & Mrs Ayres who also agreed to pay £250.00 towards the Council's costs Works proceeding but unlikely to be completed by the compliance date. PCN served - extension given until 4.01.10 to respond – Application submitted 10/00267/F and approved subject to condition to comply by the end of August 2010. Some remedial works undertaken Legal advice to be sought on how to proceed to resolve this matter
ENF 14/07 Delegated	Corner Farm Oakley Road Horton-cum-Studley	Use of land as builders yard, lighting columns, building as a builders office and store	Enforcement Notice served 28.06.07	09.02.08 & 09.06.08		Dismissed 05.08.08	05.08.09 and 05.03.10	Offices still occupied, Fennels to re-locate within the site, letter expected. New breaches identified. Letter sent to the occupier of the butchers inviting a planning application. Email has been sent to OCC as they are the responsible authority regarding the deposit of waste materials on the land

Enforcement and Prosecution Quarterly Report – 8 September 2011

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
PROS 15/08 10.04.08	Wabag Aynho Road Adderbury	Failure to comply with S 106 relating to remedial works on public open space			02/02002/F			Owner of the open space to be pursued for compliance with S 106. Preparation of the land for the installation of landscaping underway. Works complete and transfer of land has taken place. This item will not appear next time
ENF LB 18/08 26.06.08	Greystones Middle Street Islip	Removal of stonesfield slates and insertion of velux window in north elevation	Listed building Enforcement Notice served 03.11.08	15.09.09	04/00035/F 04/00036/LB	Appeal dismissed 7.08.09	7 August 2012	Hearing 16.06.09. Wording of the notice varied, compliance period extended, appeals dismissed 7 August 2009 Monitoring site for compliance
ENF 19/08 Delegated	22 Milton Street Banbury	Dormer window	Enforcement Notice served 10.09.08	05.05.09	Revised application 08/01600/F refused 22.08.08. 09/00764/F refused 10.08.09	Appeal Dismissed Appeal dismissed 21.12.09	11.11.09	Successful prosecution in the Magistrates court 2 July 2010. Fined £200.00 and ordered to pay the Council's costs of £1950.00 Dormer has been removed Further planning application 10/01702/F refused. Matter to be referred back to legal for further prosecution action Monitoring site for compliance
08/00604/ BCON	Lince Lane Copse	Breach of conditions 02/02064/F						Letter sent to the occupiers requesting a timetable for compliance with conditions regarding footpath and car park-

Enforcement and Prosecution Quarterly Report – 8 September 2011

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
11/00093/ 94/95/96/97/ 98/99/100/ 101/ ECOU	Plots 1 – 16 Land NE of Fenny Compton Road Claydon	Change of use of agricultural land to amenity land	22/02/2011	28/06/2011		Appeals received 28/03/2011		Hearing 6 and 7 September 2011
10/	286-304 Broughton Road (Claypits Close) Banbury	Breach of S106 LAP	Injunction to be served		05/00173/OUT			26.08.10 Letter received from Linden Homes giving undertaking to CDC regarding the provision of LAP Agreed a timetable for landscaping scheme that will be completed by beginning of June 2011 Play area installed and complete This item will not appear next time
10/00218/ ELISTED	Sundial Cottage Shutford	UPVC windows			11/00175/LB			Instructions to legal Requisitions served. Owner has applied to English Heritage to have the property de- listed. If that is unsuccessful agent has stated that windows will be removed. English Heritage has rejected the de-listing. Application approved 28/03/11 with conditions regarding the timetable for the works to be completed by Phase 1 by 31 October 2011 Phase 2 by 30 April 2012 Phase 3 by 31 July 2012

Enforcement and Prosecution Quarterly Report – 8 September 2011

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
10/00263/ ECO	Heathfield Nursing Home Heathfield	Change of use of agricultural land	Notice Served 2/03/2011	4/07/2011	10/01590/CLUE refused 20.12.10			Notice took effect 4 April 2011. Compliance required by 4 July 2011 Complied with. This item will not appear next time
10/00264/ ELISTED	11 Daisy Hill Duns Tew	Conservatory			10/01424/LB 10/01454/F			Instructions to legal 29 July 2010 Meeting held on site Applications refused 29.12.10. Appeals in progress. ASV 26.07.2011
10/00265/ ELISTED	Child First Nursery 8 Horse Fair Banbury	Removal of cill and erection of decking			10/00775/F 10/00777/LB			Instructions to legal 28 July 2010 Requisitions served Invalid application submitted Enforcement notice to be served New application refused Voluntary compliance agreed. This item will not appear next time
10/00336/ EUNDEV	Unit 2 Wedgwood Road Bicester	Perimeter fence and gates	4/02/2011	13/09/2011	10/01513/F refused 17/12/2010	Appeal received 10/03/2011		Enforcement appeal dismissed 13 June 2011 Fence and gate removed. This item will not appear next time.
10/00414/ EUNDEV	2 Begbroke Crescent Begbroke	Outbuilding and operation of Minicab Business			11/00637/F			Instructions to legal 2/12/2010 Application refused August 2011. Notice to be served.
10/00417/ ELISTED	20 Newton Purcell Buckingham	Two storey rear extension and detached garage						Ongoing negotiations with owner. Remedial works undertaken. This item will not appear next time

Enforcement and Prosecution Quarterly Report – 8 September 2011

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
11/00042/ EUNDEV	14 Woodstock Road East Begbroke	Unauthorised building						Instructions to legal 21.02.2011 Requisitions served
11/000**/ ECO	Land at Patrick Haugh/Harris Road, Upper Arncoth	Container						Negotiations underway regarding the removal of the container
11/00138/ EUNDEV	13 Green Road Kidlington	Change of use of garage to a separate dwelling	15/07/2011	16/11/2011				Appeal received 15/08/2011
11/00144/ EUNDEV	72 Daimler Avenue Banbury	3 ornamental walls to front of property	24/06/2011	27/10/2011	10/01720/F planning appeal dismissed 13/04/2011			Enforcement appeal in progress
11/00155/ ELISTD (1) and (2)	54-56 Parsons Street Banbury	Timber enclosure and decking Awning and flood lights	29/07/2011	01/12/2011	11/00169/F 11/00170/LB refused 21.04.11			
11/00164/ ECO	Unit 3A, Bessemer Close, Bicester	Change of use from B8 to B2	22/08/2011	21/10/2011	11/00995/F refused 12/08/2011			Notices served 23.08.2011

Enforcement and Prosecution Quarterly Report – 8 September 2011

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
Heyford Park Appeals					Main Appeal - 08/00716/OUT for new settlement of 1075 dwellings, together with assoc works and facilities including employment uses, community uses, school playing fields and other physical and social infrastructure. Related CA consent appeals.			Planning Inquiry took place between 30 September and 24 October. 2008. Inspector to prepare report for the Secretary of State regarding the main appeal and related conservation area consent appeals. Inspector's report completed and is with the Secretary of State. Planning permission granted 11 January 2010 A decision now needs to be made on the process to determine the outstanding enforcement appeals at Heyford Park.
ENF 2/07 Delegated	Building 3209	Commercial storage in breach of 05/01969/F	Notice served 23.01.07	6.03.07		Appeal dismissed 1.11.07	01.11.08	Full compliance expected by mid January 2009 after which time a criminal investigation will be undertaken. Partially complied
ENF 32/07 Delegated	Southern Bomb Stores	Storage of fireworks	Notice served 14.12.07	25.01.09		Appeal received		Discussions ongoing Enforcement notice withdrawn August 2011. This item will not appear next time

Enforcement and Prosecution Quarterly Report – 8 September 2011

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 36/07 Delegated	Buildings 88 and 381	Continued use as storage and assembly of environmental control equip	Notice served 22.01.08	4.03.09		Appeal received		Application for cou for 10 years 10/01778/F, PCO 10/01118/F for cou for 10 years, PDE
ENF 37/07 Delegated	Building 442	Continued use as a training facility	Notice served 6.02.08	14.03.09		Appeal received		Application 10/01778/F for cou for 10 years, PCO
ENF 7/08 Delegated	Building 41	Change of use to temporary residential class C3 accommodation	Notice served 16.05.08	20.06.09		Appeal received		New masterplan application 10/01642/OUT –PDE. When permission is issued, appeal will no longer be necessary
ENF 16/08 Delegated	Building 293	Change of Use to light industry (screen printers)	Notice served 22.07.08	29.08.09		Appeal received		Building unoccupied, discussions ongoing. Enforcement notice may be withdrawn
ENF 21/08 17.07.08	Land and buildings	Change of Use of land and buildings by Paragon in breach of 07/01260/F	Notice served 3.09.08	6.10.09		Appeal received		Discussions with Paragon

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APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 22/08 17.07.08	Buildings	Change of use of buildings by Paragon in breach of 07/01259/F	Notice served 3.09.08	6.10.09		Appeal received		Discussions with Paragon
ENF 23/08 17.07.08	6 lamp posts	Use by Paragon in breach of 07/01262/F	Notice served 10.09.08	11.10.09		Appeal received		Discussions with Paragon
ENF 24/08 17.07.08	2 lamp posts	Use by Paragon in breach of 07/01264/F	Notice served 9.09.08	10.10.09		Appeal received		Discussions with Paragon
ENF 25/08 17.07.08	Building 2002	Change of use in breach of 07/01268/F	Notice served 2.09.08	3.10.09		Appeal received		Discussions ongoing, Enforcement notice withdrawn August 2011. This item will not appear next time
ENF 27/08 17.07.08	Trench and concrete	Change of use in breach of 07/01266/F	Notice served 2.09.08	3.10.09		Appeal received		Discussion with Paragon
ENF 28/08 17.07.08	3 Hardened aircraft shelters	Change of use in breach of 07/01267/F	Notice served 2.09.08	3.10.09		Appeal received		10/01116/F – PCO, if granted, appeal will no longer be necessary
ENF 29/08 17.07.08	Liquid petroleum gas tanks and air intake duct	Use by Paragon in breach of 07/01263/F	Notice served 8.12.08	19.01.10		Appeal received		Planning permission for works in association with Building 2002. Discussions with Paragon, Enforcement notice withdrawn August 2011. This item will not appear next time

Enforcement and Prosecution Quarterly Report – 8 September 2011

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Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 30/08 Delegated	Building 103	Use of building by Kingsground narrow boats	Notice served 14.11.08	22.12.09		Appeal received		10/01778/F for cou for 10 years, PCO. Appeal may no longer be necessary
ENF 32/08 Delegated	Building 3053	Change of use to B8 storage by NOC	9.10.08	14.11.09		Appeal received		Building let for agricultural storage. Discussions with CDC over use and withdrawal of enforcement notice

Planning Committee

Decisions Subject to Various Requirements – Progress Report

8 September 2011

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 to:

- (1) Accept the position statement.

Details

The following applications remain outstanding for the reasons stated:

Subject to Legal Agreement with Cherwell District Council

01/00662/OUT	Begbroke Business and Science Park, Sandy Lane, Yarnton
(24.3.11)	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. Decision to grant planning permission re-affirmed April 2011. New access road approved April 2011

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
10/01021/F	Otmoor Lodge, Horton-cum-Studley
	Subject to legal agreement concerning building phases and interim appearance. Draft agreement prepared
110/01302/F	Land south of Bernard Close, Yarnton
(4.11.10)	Subject to legal agreement concerning on and off site infrastructure and affordable housing
10/00642/OUT	Heyford Park, Upper Heyford
(24.3.11)	Subject to planning obligations
10/01823/OUT	Land south of Overthorpe Rd, Banbury
(24.3.11)	Subject to legal obligation re transportation contributions and departure procedures
10/01778/F	Buildings at Heyford Park, Camp Rd., Upper Heyford
(14.7.11)	Subject to completion of Unilateral undertaking and routeing agreement
10/01780/HYBRID)	Bicester Eco Town Exemplar site, Caversfield
(11.8.11)	Subject to completion of a legal agreement as set out in resolution
10/01877/F	Penrose House, 67 Hightown Rd, Banbury
(24.3.11)	Subject to legal obligation to secure financial contributions to outdoor sports facilities, education and library facilities
10/01921/F	Butchers Meadow, Balscote
(19.5.11)	Subject to obligation linking house to proposed industrial development
11/00565/CDC	Land at Whitelands Farm, Bicester
(14.7.11)	Subject to resolving the Environment Agency's objections

11/00722/F St. Georges Barracks, Arncott
 (11.8.11) Subject to submission of unilateral undertaking re monitoring fees

11/00151/F and 11/00805/F Former DLO Caversfield
 (11.8.11) Subject to legal agreement re comprehensiveness, phasing and landscape maintenance

11/01052/OUT Land SW of Bicester adjoining Oxford Rd/Middleton Stoney Rd.
 (11.8.11) Subject to legal undertaking re on-site and off-site infrastructure contributions

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 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
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Planning Committee

Appeals Progress Report

8 September 2011

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 **11/00503/F – Land at Heatherstone Lodge, Banbury Road, Finmere** – appeal by Dr R and Mrs Bonamy-Price against the refusal of planning permission for the erection of 3 no. 4 and 5 bedroom detached houses with associated garages and new access- Written Reps

- 1.2 **11/00659/F – Plumb Tree Cottage, Crumps Butts, Bicester** – appeal by Mr David Allen against the refusal of planning permission for a one bedroom two storey cottage with parking and garden. Re-submission of 11/00168/F – Written Reps

- 1.3 **11/00234/OUT – Land to rear of 17 to 23 Vicarage Road and adjacent to 26 Webbs Way Kidlington**, appeal by J A Pye (Oxford) Land Ltd against the refusal of planning permission for OUTLINE: Erection of 2 no. dwellings- Written Reps
- and
- 11/00812/OUT- Land to rear of 17 to 23 Vicarage Road and adjacent to 26 Webbs Way Kidlington** appeal by J A Pye (Oxford) Land Ltd against the refusal of planning permission for OUTLINE: Erection of 1 no. dwelling – Written Reps
- 1.4 **11/00590/F – land at 92 The Fairway, Banbury-** appeal by Mr Basharat Hussain against the refusal of planning permission for single storey and two storey extension to rear elevation and porch to front elevation – Householder Written Reps
- 1.5 **11/00138/EUNDEV – 13 Green Road Kidlington –** appeal by Mr John Shepherd against the service of an enforcement notice alleging a breach of planning control – without planning permission the material change of use of the building from a garage to a separate dwelling- Inquiry
- 1.6 **11/00144/EUNDEV – 72 Daimler Avenue Banbury -** appeal by Mr Michael Furey against the service of an enforcement notice alleging a breach of planning control – without planning permission the erection of three ornamental walls to the front of the property- Hearing

Forthcoming Public Inquiries and Hearings between 8 September 2011 and 6 October 2011

2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Mr Mark Slaymaker against the refusal of application 11/00053/F for a two storey side extension and single storey rear with a new vehicular access to the front at 59 Blenheim Drive, Bicester (Delegated) –** The Inspector was of the view that the substantial loss of the side garden would significantly harm the spacious character and appearance of the streetscene and went onto conclude that the proposed development would cause significant harm to the character and appearance of the street scene and as such it would be contrary to Policies C28 and C30 of the

Cherwell Local Plan 1996.

- 3.2 **Allowed the appeal by Mr D Cautley against the refusal of application 11/00230/F for an extension and alterations at 35 The Rydes, Bodicote, Banbury (Committee)** – In the Inspector’s view, the bulk of the proposed side extension would be compatible with the scale and layout of the host property and its plot. The spacious and verdant character of the surrounding area would not be significantly harmed. By reason of its siting, the proposed 2-storey flank wall is sufficiently distant from no. 33 to avoid the impression of the adjacent pedestrian route and access to No. 34 being physically or visually enclosed in an unacceptable way. The selective use of timber boarding would complement the external appearance of the host property and would not significantly harm the character and appearance of the surrounding area. The Inspector then went on to conclude that the proposed development would not adversely harm the living conditions of the occupiers of the neighbouring properties, in particular the occupiers of 34 The Rydes.
- 3.3 **Allowed the appeals by Leda Properties Ltd against the refusal of application 09/01592/OUT for 140 residential units with associated parking, access and public open space at land at London Road Bicester and application 10/01316/F for engineering works comprising lowering of land to allow 1 in 100 year plus climate change flooding at Langford Park Farm Bicester (Committee)** – The Inspectors conclusion based on the evidence given at the inquiry was that the supply of deliverable housing sites is likely be well below the 5.2 years advanced by the Council. The Inspector was aware that her conclusion on housing land supply did not concur with that of the Inspector who determined the Chesterton and Adderbury appeals in June 2011. The Inspector went on to comment “In the absence of a 5 year housing land supply paragraphs 71 and 69 of PPS3 are engaged. The appeal scheme is in outline form and there is no dispute that it would achieve a high quality housing development with a good mix of housing. The offer of 40% affordable housing would be a considerable benefit within a district where need for such provision is considerable”. The Inspector considered that the land to which the application relates is within the built up limits of the settlement. With regard to the site being land that is liable to flood, the Environment Agency has agreed that the harm can be mitigated by flood compensation measures proposed at Langford Park Farm on the southern side of the A41. The necessary works will be secured by the provisions contained in the Unilateral undertaking submitted to the inquiry.

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 Karen Muir, Corporate System Accountant 01295 221559

Legal:

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

Comments checked by Nigel Bell, Team Leader-Planning & Litigation 01295 221687

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 Nigel Bell, Team Leader-Planning & Litigation 01295 221687

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