

**Committee:** Planning Committee  
**Date:** Thursday 24 May 2012  
**Time:** 4.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

**Membership**

**To be confirmed at Annual Council on 16 May 2012**

**AGENDA**

**1. Apologies for Absence and Notification of Substitute Members**

**2. Declarations of Interest**

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

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

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

**4. Urgent Business**

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

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

To confirm as a correct record the Minutes of the meetings of the Committee held on 19 April 2012 and 16 May 2012 (to follow as meeting held on day of agenda dispatch).

## **Planning Applications**

6. **Land North east of Oxford Road West of oxford canal and East of Bankside, Banbury** (Pages 12 - 20) **10/00294/DISC**
7. **Godswell Park, Church Street, Bloxham, Banbury, OX15 4ES** (Pages 21 - 31) **12/00214/F**
8. **OS Parcel 0092 South of Gibbs Field House, Foxhill Lane, Souldern** (Pages 32 - 44) **12/00237/F**
9. **OS Parcel 3431 Adjoining and North East of Blackthorn Road, Launton** (Pages 45 - 57) **12/00287/F**
10. **Land Off Pingle Drive, Bicester** (Pages 58 - 68) **12/00292/F**
11. **Land adjacent the M40 and Oxford Canal, North of Wildmere Industrial Estate, Banbury, Oxfordshire** (Pages 69 - 87) **12/00302/CDC**
12. **The Mount, Green Lane, Swalcliffe** (Pages 88 - 93) **12/00345/F**
13. **Land and Building at Glebe Court, Stoke Lyne Road, Fringford** (Pages 94 - 102) **12/00382/F**

## **Review and Monitoring Reports**

14. **Update on Decisions subject to various requirements in the light of National Planning Policy Framework** (Pages 103 - 123)

Report of Head of Public Protection and Development Management

### **Summary**

This report enables Members to re-consider past resolutions to approve planning applications, subject to various requirements, following the introduction of the National Planning Policy Framework and the cancellation of most of the PPSs and PPG s which previously were considered in the application's determination.

### **Recommendations**

The Planning Committee is recommended to:

- (1) Consider the recommendations contained within this report with regards to each individual application.

15. **Appeals Progress Report** (Pages 124 - 126)

Report of Head of Public Protection and Development Management

## 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.

## Recommendations

The Planning Committee is recommended to:

- (1) Accept the position statement.

**Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.**

## Information about this Agenda

### Apologies for Absence

Apologies for absence should be notified to [democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 221589 / 01295 227956 prior to the start of the meeting.

### Declarations of Interest

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

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

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

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

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

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

## **Evacuation Procedure**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

## **Access to Meetings**

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

## **Mobile Phones**

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

## **Queries Regarding this Agenda**

Please contact Natasha Clark / Aaron Hetherington, Democratic and Elections  
natasha.clark@cherwellandsouthnorthants.gov.uk /  
aaron.hetherington@cherwellandsouthnorthants.gov.uk, 01295 221589 / 01295 227956

**Sue Smith**  
**Chief Executive**

Published on Wednesday 16 May 2012

# 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 19 April 2012 at 4.00 pm

- Present: Councillor Rose Stratford (Chairman)  
Councillor Alastair Milne Home (Vice-Chairman)
- Councillor Ken Atack  
Councillor Fred Blackwell  
Councillor Colin Clarke  
Councillor Tim Emptage  
Councillor Michael Gibbard  
Councillor Chris Heath  
Councillor David Hughes  
Councillor Mike Kerford-Byrnes  
Councillor James Macnamara  
Councillor George Parish  
Councillor D M Pickford  
Councillor Trevor Stevens  
Councillor Lawrie Stratford
- Substitute Members: Councillor Mrs Diana Edwards (In place of Councillor Russell Hurle)  
Councillor Barry Wood (In place of Councillor Mrs Catherine Fulljames)
- Apologies for absence: Councillor Mrs Catherine Fulljames  
Councillor Russell Hurle  
Councillor G A Reynolds
- Officers: Bob Duxbury, Development Control Team Leader  
Caroline Roche, Planning Officer (Major Developments)  
Rebecca Horley, Senior Planning Officer  
Rob Lowther, Anti-social Behaviour Manager  
Ross Chambers, Solicitor  
Natasha Clark, Team Leader, Democratic and Elections

#### 219 **Declarations of Interest**

Members declared interests in the following agenda items:

#### **7. 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 Rose Stratford, Personal, as a member of Bicester Town Council which had been consulted on the application.

**8. 56 - 60 Calthorpe Street 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.

Councillor George Parish, Personal, as a member of Banbury Town Council which had been consulted on the application.

**9. Bicester Village, Pingle Drive, Bicester.**

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

Councillor Rose Stratford, Personal, as a member of Bicester Town Council which had been consulted on the application.

**10. Land adjacent to 45 George Street, Bicester.**

Councillor Barry Wood, Prejudicial, as a member of the Executive and whilst Cherwell District Council was not the applicant, it owned the land.

Councillor D M Pickford, Prejudicial, as a member of the Executive and whilst Cherwell District Council was not the applicant, it owned the land.

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

Councillor James Macnamara, Prejudicial, as a member of the Executive and whilst Cherwell District Council was not the applicant, it owned the land.

Councillor Ken Atack, Prejudicial, as a member of the Executive and whilst Cherwell District Council was not the applicant, it owned the land.

Councillor Lawrie Stratford, Personal, as a Charter Housing Board Member.

Councillor Michael Gibbard, Prejudicial, as a member of the Executive and whilst Cherwell District Council was not the applicant, it owned the land.

Councillor Michael Gibbard, Personal, as a Charter Housing Board Member.

Councillor Rose Stratford, Personal, as a member of Bicester Town Council which had been consulted on the application.

**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.

221 **Urgent Business**

There was no urgent business.

222 **Minutes**

The Minutes of the meeting held on 22 March 2012 were agreed as a correct record and signed by the Chairman.

223 **Land North of Willowbank Farm, Fritwell Road, Fewcott**

The Committee considered an application which sought a variation of condition 21 of application 08/02495/F (APP/C3105/A/09/2116152) which had been granted planning permission in July 2010 by an Inspector appointed by the Secretary of State following a public inquiry. Consideration of the application had been deferred from the 22 March 2012 meeting of the Committee to allow for further consultation with local residents.

Ian Corkin, a member of Ardley with Fewcott Parish Council addressed the Committee in objection to the application.

The Committee considered the impact of the proposed condition variation on the safety of residents on the ground in the vicinity, aircraft and aviation operations.

In response to Member comments regarding the position of the Local Planning Authority in determining the application to amend conditions set by the Planning Inspector, Officers confirmed that whilst a Local Planning Authority cannot reverse the decision of the Planning Inspector, it can determine applications to vary conditions whether these were set by the Local Planning Authority or the Planning Inspector.

Councillor Macnamara proposed that the application be refused on the grounds of safety of aircraft and aviation operations and residents living in the vicinity. Councillor Kerford-Byrnes 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 11/01932/F be refused on the grounds of safety of aircraft and aviation operations and the public safety of residents living in the vicinity of the site.

224 **Unit 3A, Bessemer Close, Bicester OX26 6QE**

The Committee considered an application for retrospective planning permission for a change of use from B8 to B2. Consideration of the

application had been deferred from the 22 March 2012 meeting of the Committee to await further information from and discussion with the applicant's noise consultant with regards to experienced noise levels at the site.

The Development Control Team Leader referred to the written update and advised the Committee that since publication of the agenda further advice had been received from the Anti-Social Behaviour Manager relating to noise levels which had resulted in the officers' recommendation being changed to one of refusal. The applicant had subsequently submitted representation requesting deferral of the application. Two emails that had been received after publication of the agenda were read to the Committee.

Councillor Pickford proposed that consideration of the application be deferred to allow for a formal site visit. Councillor Lawrie Stratford seconded the proposal.

**Resolved**

That consideration of application 12/00152/F be deferred to allow for a formal site visit.

225

**56 - 60 Calthorpe Street Banbury**

The Committee considered an application which sought an extension of time limit to the previously approved application 07/02584/F - Redevelopment of site for retail use on ground floor with 14 no. residential units on three upper floors together with car and cycle parking area to rear.

The Committee was satisfied with the evidence presented.

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

**Resolved**

That application 12/00198/F be approved, subject to:

- (i) The applicant entering into a legal agreement requiring contributions towards Transport and Accessibility, Education, Libraries, Museum Resource Centre, Social and Health Care, Waste Management, Indoor Sports, Outdoor Sports, public Art and commuted sum, Local Area of Play Equivalent (off-site contributions for provision of improvements at People's Park) Refuse and Recycling and administration and monitoring fees for both Cherwell District Council and Oxfordshire County Council.
- (ii) The following conditions:
  - (1) That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

- (2) Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, and the following drawings:  
Site Location Plan – LOC1  
Existing Site Plan, Elevations – SU01  
Existing Site Plan, Elevations – SU02  
Proposed Ground Floor / Site Plan – PL01 rev D  
Proposed 1st and 2nd Floor Plans – PL02 rev C  
Proposed Elevations – PL04 rev C  
Proposed Elevations and Sections – PL05 rev C  
Proposed 3rd Floor Plans – PL06 rev C.
- (3) No development shall take place until a schedule of the materials and finishes to be used in the construction of the external surfaces of the building hereby permitted has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (4) No development shall take place until details of any external lighting have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved lighting scheme, and shall be retained as such thereafter.
- (5) No development shall take place until details of a scheme to prevent the discharge of surface water from the development onto the adjoining highway have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (6) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public and the environment when the site is developed. Development shall not begin until the measures approved in the scheme have been implemented and the developer has provided written verification to that effect.
- (7) Before the development is first occupied, car and cycle parking and manoeuvring areas shall be provided in accordance with drawing PL01 rev D and shall be constructed, laid out, surfaced, 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. These areas shall be retained unobstructed and kept available for the parking of cars and cycles and manoeuvring of vehicles at all times thereafter.
- (8) The reduction in the width of the existing access road as indicated on drawing PL01 rev D shall be undertaken in accordance with a specification of works first submitted to and approved by the local planning authority prior to the commencement of works on site. The

approved works shall be complete before the first occupation of the development hereby approved.

- (9) No goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open.

226 **Bicester Village, Pingle Drive, Bicester**

The Committee considered a report which sought approval for the variation of Condition 10 of the previously approved application 05/02131/F to allow the Class A3 use of any approved building within Bicester Village to be increased from 2,500 sqm to 2,950 sqm.

The application was being considered by the Committee following call-in by one of the local ward members who commented that variations to the conditions associated with the planning permission had been approved under delegated authority and together with this proposed variation, raised concerns about the ongoing impact on the town centre, in particular on retail establishments and food outlets.

In considering the application, Members considered the potential impact on the town centre and traffic and the role Bicester Village played in the local economy.

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

**Resolved**

That application 12/00233/F be approved, subject to:

- (1) SC1.4A Full Permission: Duration Limit (3 years) (RC2)
- (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Location/site plan submitted with the application.
- (3) That any Class A3 café/restaurant use of the buildings approved under planning permission 05/02131/F shall not at any time cause the overall gross floorspace for such uses within the existing and proposed factory outlet shopping centre as a whole to exceed the already consented maximum area for such uses of 2,950 sq metres.
- (4) That the retail units shall only be used for the purpose of providing a factory outlet shopping centre only and for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended), and for Class A3 use (as restricted by condition 3 of this decision notice).
- (5) That the development shall not be used for the retailing of food (except where allowed in condition 3 of this decision notice) and other

convenience goods including newspapers, magazines, confectionery and as a newsagents and chemists with both pharmacy and health products.

- (6) No individual retail units hereby permitted shall have a gross area in excess of 450 sq metres, except for one unit which shall not exceed 650 sq metres gross floor area, unless otherwise agreed in writing by the Local Planning Authority.
- (7) No mezzanine trading areas shall be installed in any retail unit unless otherwise first approved in writing by the Local Planning Authority.
- (8) None of the units shall be used for retailers who predominantly sell any of the following category of goods: Furniture hardware, garden products, dispensed optical goods, books, CDs, DVDs, videos, electrical goods, computers and software, mobile phones, toys, pets and pet accessories, arts and craft products.

227

### **Land adjacent to 45 George Street, Bicester**

The Committee considered an application which sought to vary Condition 2 of the previously approved application 10/00247/F.

The Committee noted that the application presented improvements to the previously granted permission and requested that the applicant be encouraged to consider installing PV panels.

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

### **Resolved**

That application 12/00327/F be approved, subject to:

- (1) SC1.4A Full Permission: Duration Limit (3 years) (RC2)
- (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:
  - 2005/1033/GA01 Rev. C
  - 2005/1033/GA02 Rev. C
  - 2005/1033/GA03 Rev. D
  - 2005/1033/EXT03 Rev. C
  - Ibstock Woodthorpe Blend brick
  - Marley Eternit Smooth Grey tile
- (3) That prior to the first occupation of the dwellings hereby approved the proposed means of access between the land and the highway shall be formed, 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.

- (4) That the parking and manoeuvring areas shall be provided in accordance with Drawing Numbers: E/3432/02 Rev. P2, E/3432/03 Rev. P3, E/3432/04 Rev. P3, E/3432/11 rev. P3, E/3432/12 Rev. P1 and E/3432/40, all received in the department on 13 April 2012 with Agents email of the same date, prior to the first occupation of the development, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.
- (5) SC 6\_2AA (Permitted development restriction – no extensions/structures in the curtilage)
- (6) SC 6\_3AA (Permitted development restriction – no new windows or openings)
- (7) SC 6\_1AA (Permitted development restriction – no fences/enclosures to front)

228 **Quarterly Enforcement Report**

The Head of Public Protection and Development Management submitted a report which informed and updated Members of the progress of outstanding formal enforcement cases.

In response to Members' questions regarding reference 12/0062/ECOU, Arncott Racetrack, Upper Arncott, officers advised the Committee that a public inquiry was scheduled to take place on 25 July 2012.

**Resolved**

- (1) That the report be accepted.

229 **Decisions Subject to Various Requirements**

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

The Development Control Team Leader advised the Committee that as a result of the publication on 27 March 2012 of the National Planning Policy Framework which cancelled most of the PSSs and PPGs, Members would need to give consideration to whether their previous decisions in each case were still appropriate given this new advice. A report covering these matters in detail would be presented to the May meeting.

**Resolved**

- (1) That the position statement be accepted.

230 **Appeals Progress Report**

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

**Resolved**

- (2) That the position statement be accepted

The meeting ended at 5.40 pm

Chairman:

Date:

### PLANNING COMMITTEE

24 May 2012

#### PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

#### **Human Rights Implications**

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

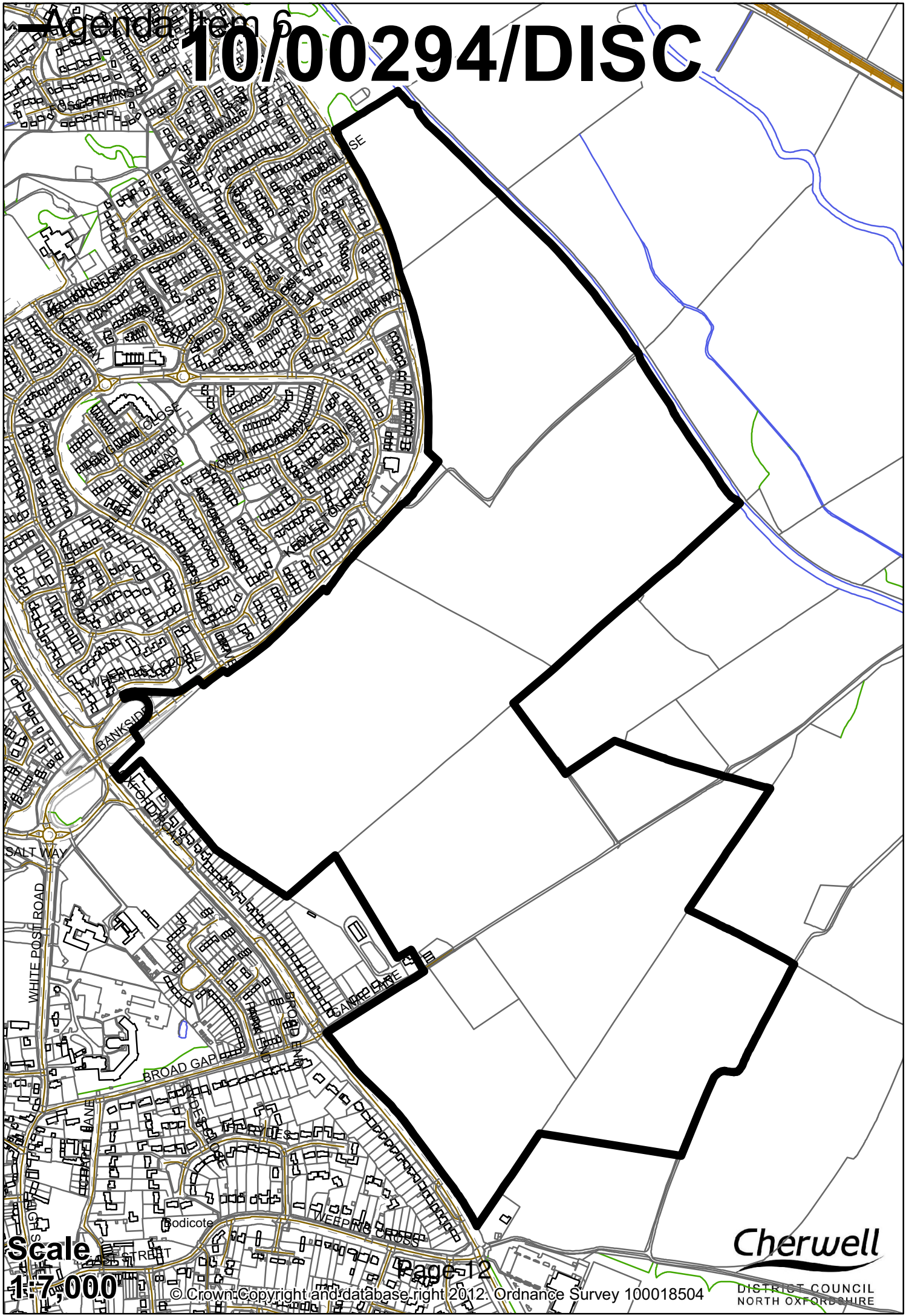
#### **Background Papers**

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

## Applications

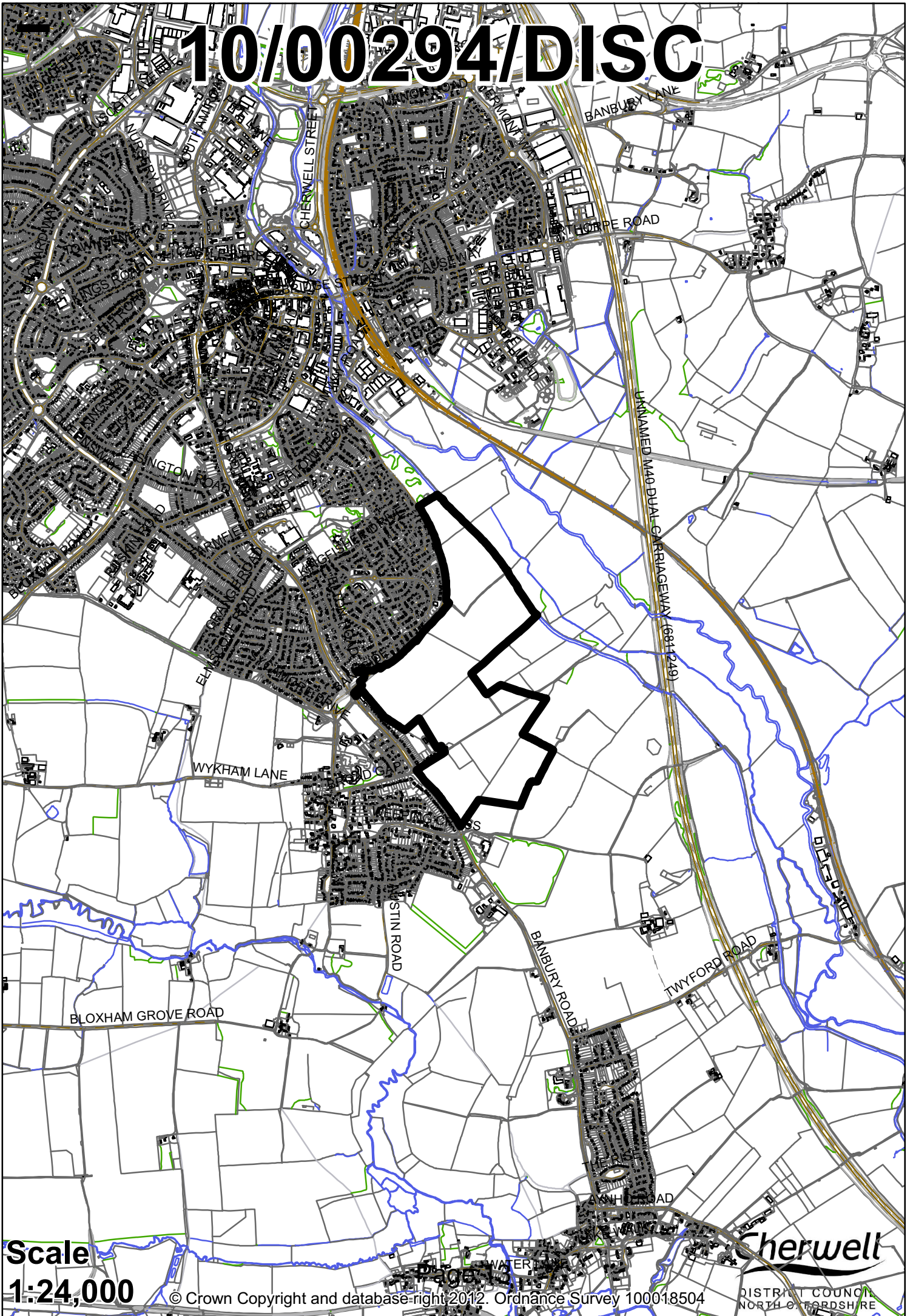
	Site	Application No.	Ward	Recommendation	Contact Officer
6	Land North east of Oxford Road West of oxford canal and East of Bankside, Banbury	10/00294/DISC	Bloxham and Bodicote	Subject to the expiry of the consultation period approve the masterplan and design code	Caroline Roche /Jenny Barker
7	Godswell Park, Church Street, Bloxham, Banbury, OX15 4ES	12/00214/F	Bloxham and Bodicote	Approval	Paul Ihringer
8	OS Parcel 0092 South of Gibbs Field House, Foxhill Lane, Souldern	12/00237/F	The Astons And Heyfords	Approval	Gemma Magnuson
9	OS Parcel 3431 Adjoining and North East of Blackthorn Road, Launton	12/00287/F	Launton	Refusal	Rebecca Horley
10	Land Off Pingle Drive, Bicester	12/00292/F	Bicester Town	Approval	Rebecca Horley
11	Land adjacent the M40 and Oxford Canal, North of Wildmere Industrial Estate, Banbury, Oxfordshire	12/00302/CDC	Banbury Grimsbury and Castle	Approval	Caroline Ford
12	The Mount, Green Lane, Swalcliffe	12/00345/F	Sibford	Approval	Simon Dean
13	Land and Building at Glebe Court, Stoke Lyne Road, Fringford	12/00382/F	Fringford	Refusal	Graham Wyatt

Agenda Item 6  
**10/00294/DISC**



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# 10/00294/DISC



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application</b> 10/00294/DISC	<b>No:</b>	<b>Ward:</b> Bloxham and Bodicote	<b>Date Valid:</b> 24/09/10
<b>Applicant:</b>	JJ Gallagher Ltd & Hallam Land Management		
<b>Site Address:</b>	Land North east of Oxford Road West of oxford canal and East of Bankside, Banbury		

**Proposal:** Discharge of conditions No. 11, No. 12, No. 13, No.14 and No. 15 of 05/01337/OUT – Provision of Master Plan and Design Code

## 1. Site Description and Proposal

1.1 The site is commonly known as the Bankside development and lies to the east of Bankside (Banbury) and the properties on Oxford Road (Bodicote), to the North of Canal Lane (Bodicote) and the west of the Oxford canal.

1.2 Outline planning permission was granted on 30 September 2009 under planning application reference no. 05/01337/OUT. The consent included 40 planning conditions and this application seeks to discharge the following conditions;

### 11. MASTER PLAN

No reserved matters applications shall be made or development commenced until a Master Plan, in compliance with the Environmental Statement Assessment 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.

### 12. The Master Plan shall include,

- a) An overall layout plan showing the distribution of all principal land uses throughout the site, including residential, employment, retail, primary school, community facilities, areas of mixed use and open space, the 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 and tree protection corridors
- d) The Parcels into which the development is to be divided (each parcel being a part which is intended to be developed as a single entity and in respect of which a Reserved Matters application is to be submitted.
- e) The principles for foul, surface and land drainage from the site and the development including surface water source control measures and balancing, sewers and connections
- f) The location of the sports pitches, two local areas of play (LEAPS) and a neighbourhood equipped area of play (NEAP) and the boundaries and principle features of the community park

### 13. DESIGN CODES

No reserved matters applications shall be made or development commenced until Design Codes for the site have been produced in accordance with condition 14 and following consultation with the local planning authority and local people, and 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.

14. The Design Codes shall include,
  - a) the character, mix of uses and density of each phase, sub-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, sub-phase or parcel
  - d) the street form and hierarchy and the features that will be used to restrict traffic speeds and create legibility and requirements for street furniture
  - e) the approach to car parking and cycle parking within the phases, sub-phases and parcels and the level of car and 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, sub-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 Canal lane as a rural footpath/bridlepath through the built development and its enhancement for walkers and equestrians
  - j) the measures to be incorporated to protect the amenities of the occupiers of existing properties adjacent to the site
  - k) measures to be incorporated into the development to ensure all properties have convenient locations for individual waste and recycling bins
15. Unless otherwise agreed in writing by the Local Planning Authority the Master Plan and Design Codes shall be submitted to the Local Planning Authority within 12 months of the date of this permission.

- 1.3 It is unusual for the discharge of conditions applications to be brought to planning committee for consideration but given the scale of the overall development it was considered appropriate to give Members an opportunity to consider what has been submitted in terms of the design code and gain an understanding of the principles that will apply to the site. Members will therefore be required to determine whether or not the submitted documents are sufficient to comply with the conditions and as such discharge them.

## **2. Application Publicity**

- 2.1 It is not a statutory requirement to consult on discharge of condition applications but given the scale of the development and the precise wording of the conditions it was considered appropriate to consult with local residents. When the application for the

discharge of conditions was first submitted in 2010 a round of consultation was carried out, with letters being sent to individual properties. Since the submission of the latest design code document a further round of consultation has been carried out with site notices being posted at various locations around the site. The consultation period will expire on 16 May 2012.

2.2 As a result of the first round of consultations the following comments were received from 5 local residents;

- The village of Bodicote as a result of the development will become part of Banbury
- No provision of additional main roads
- Adding to existing problems of congestion
- Any relief road will feed into already congested road system
- Reliance of private car to get children to secondary schools
- Inadequate parking for new residents
- New settlements should be away from existing towns and provide adequate space for residents, modeled on garden suburbs
- Density too high
- Insufficient garden space
- Scheme is precursor for social ills
- Conditions 11-16 are fundamental to proposal
- Object to development being called Longford Park and the reference to Haynesbridge
- Concern about traffic using Canal Lane – gates will prove useless – potential of using rising bollards
- How will coaches access the school
- Would prefer dwellings to back onto Canal Lane – removing temptation of parking in front of properties on Canal Lane itself
- That the hedges along Canal lane be protected both physically and in title
- School should be closer to Banbury
- Where will the school parking be provided and how will on-road parking be prevented
- Roads should be wide enough for both on-street parking and emergency vehicle access
- Some details on the plans are not clear
- Tree planting and mitigation is not clear – is sufficient being provided to protect the privacy of existing residents
- However is the character precedence of Deddington relevant to this scheme given the distance between the two locations
- Location of play areas not good for ensuring natural surveillance
- School and community centre should be better located away from Canal Lane
- Full consultation period has not been given

It is likely that further comments will be received prior to committee, these will be summarised in a written or verbal update at the committee meeting.

### 3. Consultations

3.1 Following the first consultation **Bodicote Parish Council** made comments identical

to some of those raised above.

- 3.2 **Banbury Town Council** did not raise objections to the initial submission but did raise concerns that no reference is made to Sustrans/Connect 2 scheme to link the development to the town along the canal and the lack of links between the development and the existing Bankside Road and Park. The Town Council would have also liked to have seen some reference to allotments as there is a shortage within the town. Adequate changing facilities should also be provided for the pitches.
- 3.3 The **Local Highway Authority** has made the following comments;
1. The drainage strategy should be part of the Design Code and as such OCC's Drainage Engineer should be involved
  2. The movement hierarchy looks satisfactory in principle
  3. Tree planting and the use of tree pits is acceptable in principle however the specifications of the tree pits should be agreed as part of the design code
  4. As long as road materials meet OCC specification the LHA is unlikely to have any issues in this respect – happy to leave colour and textures to CDC
  5. In relation to parking the indicative layouts seems acceptable in principle although can't see that regard has been had to location of services – materials must be impermeable where services are proposed.
  6. On street parking should comply with Manual for Streets and be unallocated
  7. The street hierarchy is acceptable in principle but the following are not agreed:
    - Tree types – requiring input from County's Tree Officer
    - Street types and materials – location of services need to be considered
    - No agreement to porous asphalt
    - Junction spacing – distorted grid proposed – will also accept cross road layout
    - Radii for side street 6m
    - Traffic calming for Primary street – suggest at intervals up to 150m
    - Traffic calming for side streets – every 60m

#### **4. Planning Policies referred to in the reasons for the conditions**

- 4.1 South East Plan  
CC6 – Sustainable communities and character of the environment  
CC7 – Infrastructure and Implementation  
H5 – Housing design and density  
H1 – Regional housing provision

- 4.2 Non-Statutory Cherwell Local Plan  
H10 – Banbury Urban Extension: Land off Bankside

##### Other relevant documents

NPPF

Preparing Design Codes (Communities and Local Government 2006)

#### **5. Appraisal**

- 5.1 The Assessment Plan which forms part of the Master Plan as required under

conditions 11 and 12 has remained almost identical in layout to the plan finally agreed as part of the Outline application but does contain additional detail. It identifies the following information;

- The extent of the site boundary
- The extent and location of the built development, including the number of units and the average density across the site
- The location of the primary school, employment uses including a public house, formal sports provision including play areas, general locations for landscaping and the canal basin
- The community park
- Existing public rights of way
- Strategic footway/cycleway link
- The location of the two Character Areas, Haynesbridge and the Plateau

The Master Plan also contains plans identifying the movement hierarchy, drainage, landscape plan, code parcel plan and incorporating each of these plans to produce an overall masterplan. It is considered that the level of information submitted in relation to the master plan is sufficient to address conditions 11 and 12 and as such it will be recommended that these conditions be discharged.

- 5.2 The Design Code element begins by setting out the areas that have the potential to influence the design and character of the development. Positive examples of design, layout and use of materials are taken from Banbury, the Oxford Road in Banbury and Bodicote, Bodicote itself and Deddington. It goes on to set out key development principles including features such as privacy distances, the use of corner buildings, maximum storey heights, the use of street trees and measures to seek to protect the amenities of the existing residents only the Oxford Road in Bodicote. It will be required that where there are new properties backing onto existing gardens the new properties will have a set back of no less than 22 metres sustaining distances in the region of 42 metres between rear facing elevations. This, as well as restricting the maximum building height, is considered acceptable in order to protect the amenities of existing residents.
- 5.3 The document is not required to detail the precise layout of the individual plots but is required to have some regard to the potential block structure, this has been done.
- 5.4 The document identifies two areas with potential for distinct neighbourhood identities. The first is the Plateau, the area of built development to be located behind the Oxford Road frontages in Bodicote and south of the Canal Lane. The Code sets out that this character area will take the form of a village with a local centre, with residential streets and a housing perimeter that will look out onto parkland.
- 5.5 The second area is located to the north of the site, adjacent to Bankside, and is to be referred to as Haynesbridge. Given the proximity of this site to the town and its relationship with the canal and wider countryside this is seen as a different development to the Plateau and as such will take it influences from a wharf and tow path environment, with strong frontages to the canal and a linear street layout.
- 5.6 In relation to the use of materials the palette will generally reflect those traditionally used in the northern part of the district with a range of red and buff bricks with

accents of engineering bricks in the Haynesbridge area. Natural stone will be used on key buildings in key locations and render will be used to break up the use of brick. Roof materials will include red to grey tiles, grey blue concrete tiles, artificial Stonesfield slate and natural slate.

5.7 The Design Code evolves through various levels of detail and sets out the parameters for each of the character areas covering in more detail where the densities for each of the parcels, the locations of key buildings and identifying key locations within each character area, referring to areas such as main streets, village centre frontages, Oxford Road frontage, hedgerow lane frontage, park fringe, Cherwell Heights frontage, canal frontage and canal basin frontage. Each of these key locations is then covered in greater detail later on in the Design Code. Additional plans set out specifically the hierarchy of streets, the locations where maximum building heights will apply, the locations of the local areas of play and the boundary treatments for key locations. Specifications for each area are set out in tables, adding some substance to the illustrations.

5.8 A further level of detail is provided where the Code sets out various types of treatment for Key Locations. Looking specifically at a few examples it is made clear that in relation to Canal Lane only the existing properties will be able to gain access along the lane, new properties and the school will be accessed from within the development with vehicular access being physically restricted through the use of gates and the layout of the roads. In relation to the Oxford Road frontage it is demonstrated that a significant set back will be required with a belt of landscaping and internal access roads. Key buildings will be located in prominent locations close to the access. The village centre will accommodate the key community buildings surrounding a shared surface area which will include parking provision, a bus stop and a recycling area. The canal frontage will have a variety of set back distances but somewhere between 20 and 30 metres and properties will front onto the canal.

The requirements of this part of the code are illustrated by way of plan drawings, cross sections and indicative pictures.

5.9 A park parameters plan sets out the community park design principles which includes the existing hedgerows and trees, the mix of species to be included in the avenues, copse woodland, wet woodland and new hedgerows, locations for close mown grass, wildflower meadow, undisturbed grass areas, formal and informal paths, boundary treatments, play areas and attenuation basins.

5.10 Sustainability principles are set out within the code and it requires that the development be implemented in accordance with the Code for Sustainable Homes which applies at the time of construction but also recognises that the development will also have to comply with the relevant building regulations.

5.11 Highway specifications are dealt with in the technical appendices and details elements such as the speed limits, surfacing, highway widths, access and parking arrangements and vision splays. Methods for dealing with cycle parking are also covered in this section.

5.12 The Code also specifies the boundary treatments for specific key locations, excluding those around individual house plots as these will be dealt with by

reserved matters applications. The boundary treatments range from post and rail fences on the more rural edges to brick pillar and railings in the village centre. It also specifies that the design of the properties should incorporate storage areas for three wheeled bins and sets out appropriate measure for achieving this.

5.13 Conclusion

The Code was first submitted to the Council in 2010 and after initial communications with the applicants there was a long period during which there was no contact from the applicants preventing the progression of the submission. However for the last few months there have been lengthy communications during which the Council has sought amendments to the scheme in order that the Code better serves its purpose and meets the requirements of the conditions. The most recent version of the document was submitted at the end of April and officers are of the view that the majority of the code now meets the requirements of the conditions. However there are various elements of detail which are considered to require further amendment and refinement.

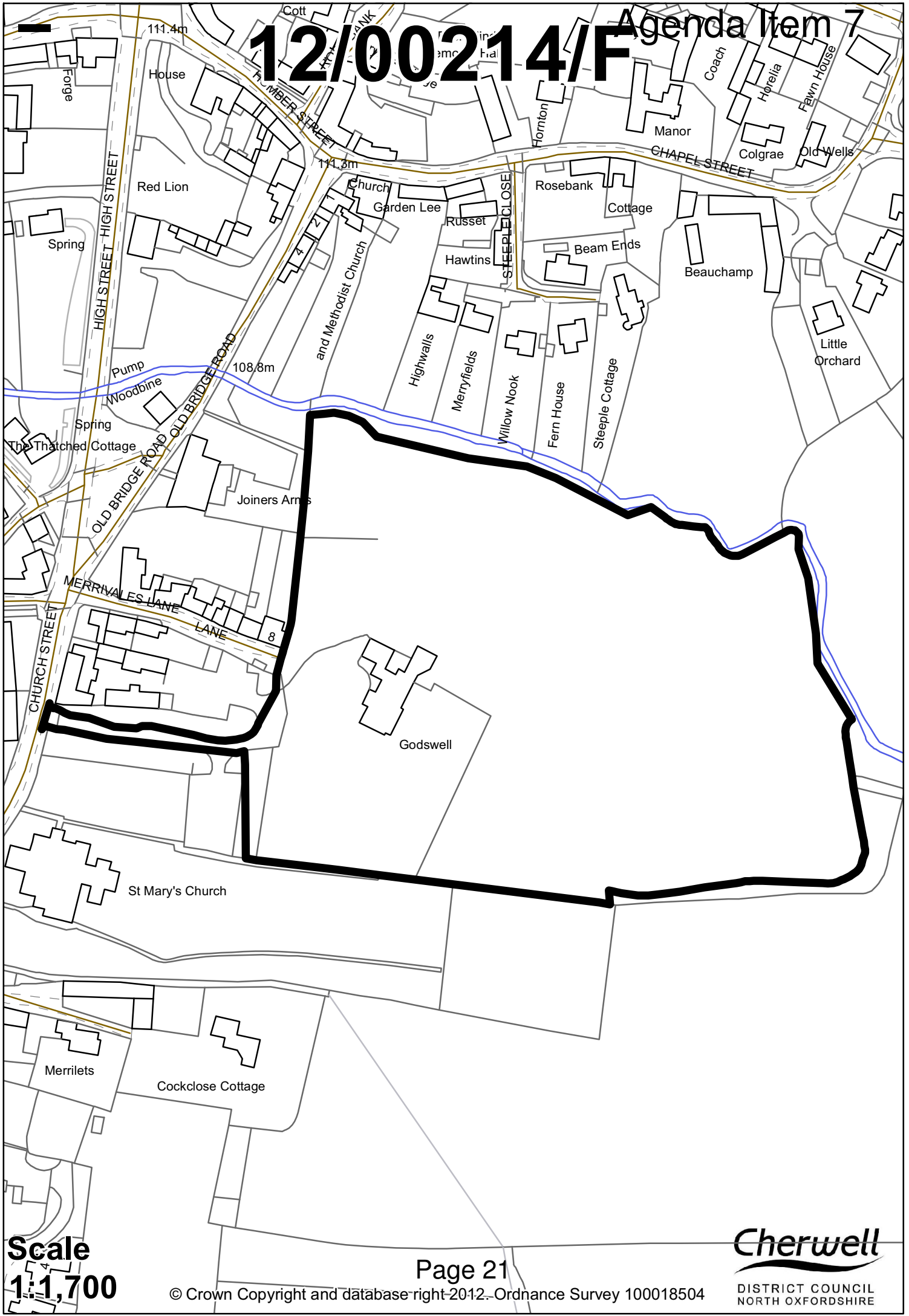
It is important that whilst the general principles of the code are satisfactory to officers that the detail is agreed as the Code will be mandatory and future developers will be required to comply with the contents of the code. The Design Code will influence the overall character, layout and appearance of the development. It does not specify particular forms of architecture or design but will secure some consistency across the site and ensure that where it is important to protect existing residents for example this will be adhered to and developers will be aware of what is required of them before they purchase a parcel of land and begin to design their own schemes.

**6. Recommendation**

**That, subject to the expiry of the consultation period members resolve to approve the masterplan and design code but delegate to officers the final discharge of conditions following the submission of a satisfactory document addressing the remaining concerns of the officers.**

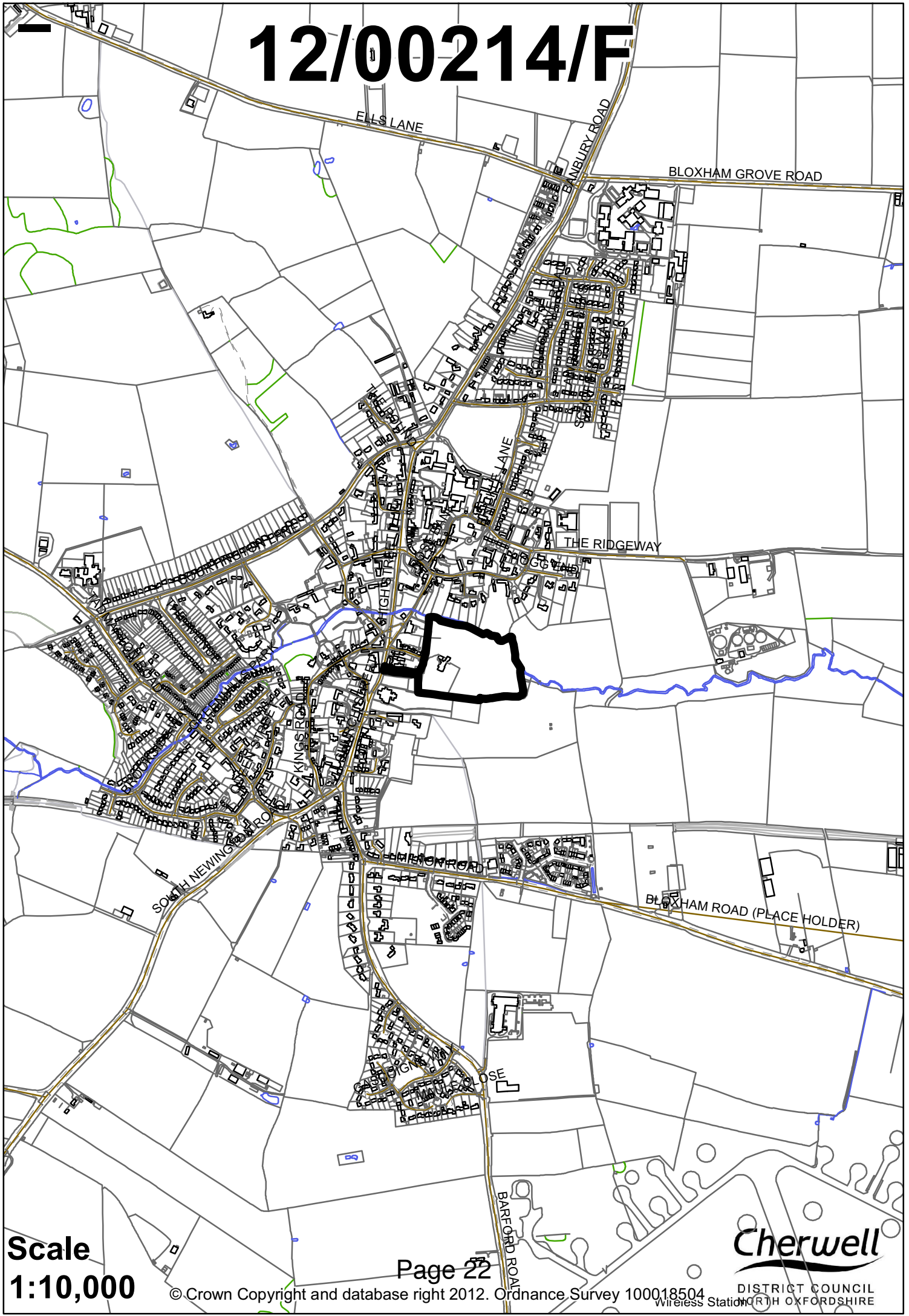
**CONTACT OFFICER: Caroline Roche/Jenny Barker TELEPHONE NO: 01295 221816**

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**Cherwell**

DISTRICT COUNCIL  
CHERWELL OXFORDSHIRE

<b>Application No:</b> 12/00214/F	<b>Ward:</b> Bloxham	<b>Date Valid:</b> 20/02/12
<b>Applicant:</b>	Godswell Park Ltd	
<b>Site Address:</b>	Godswell Park, Church Street, Bloxham, Banbury, OX15 4ES	

**Proposal:** Two storey building containing ten close care apartments

## 1. Site Description and Proposal

- 1.1 Godswell Park is a large detached ironstone building, situated in extensive grounds to the east of Church Street and Merrivales Lane and on the eastern edge of Bloxham's centrally located historic core. The site lies within the Bloxham's Conservation Area and is in an Area of High Landscape Value. It also falls within the setting of a number of listed buildings including the Grade I listed St Mary's Church.
- 1.2 The existing building, formerly used as offices, has recently been converted and extended to create a forty-five bedroom care home for the elderly (planning permission 08/02314/F refers). The applicant is now seeking permission to construct a new two storey 'L' shaped building, comprising ten close care apartments (all 2 bedrooms) between the care home and the church grave yard to the south. The materials will match those used on the existing building (Horton Stone, plain clay tiles and powder coated aluminium windows). The part of the site which would be built on is flat, with the exception of a raised section of land abutting the churchyard, and is largely devoid of any trees or shrubbery.
- 1.3 Unlike the existing care home, the new facility will be for an elderly market that, whilst needing the support offered by the care home, seeks to retain a large degree of independence. With this in mind, a parking space, in the extended car park, which is to the immediate west of the proposed new building, is proposed to be allocated to the occupants of each of the flat.

## 2. Application Publicity

- 2.1 The application has been advertised by way of site notice and press notice. The final date for comment was the 29<sup>th</sup> March 2012. No correspondence has been received as a result of this consultation process.

## 3. Consultations

- 3.1 **Bloxham Parish Council** raises no objection to the proposal but observes that "The maintenance/access regarding the wall adjoining the development and St Mary's Church needs to be clarified".
- 3.2 **Head of Strategic Planning and the Economy** (Planning Policy, Economic Development, Urban Design) comments as follows:

Planning Policy Officer: "I understand that this proposal is for close care accommodation which, although comprising self-contained units, is considered to fall within Class C2 (residential institutions) of the Uses Classes Order. I understand that in this particular case, the intrinsic relationship with the existing

care home and the type of, and approach to, providing care services, means that the proposal is not considered to comprise self-contained extra-care dwellings. I note that legal advice has been sought which confirms this. On this basis, there is not a requirement to provide affordable housing.”

Conservation Officer: “The proposed detail has been amended to be more in line with the traditional detailing within the district. The siting of the building is an improvement over previous submission - further from the churchyard boundary and therefore the building appears to be less prominent and less impact on the adjacent land. There is an 'alms house' quality to the design - although modern detail - and this is in line with the location - adjacent to the church - and function.”

**3.3 Head of Public Protection and Development Management**

Environmental Protection Officer: No objections subject to condition

**3.4 Head of Environmental Services**

Landscape Officer: No comments received at the time of writing

**3.5 Head of Regeneration and Housing**

Housing Officer: “Pre planning discussions on these confirmed that unlike Extra Care Housing these units had such a close relationship with the established nursing home that they should be classified as C2 use and therefore not liable for an affordable housing contribution. Nonetheless the Housing Services department welcomes further choice and provision for older people in the District.”

**3.6 OCC Archaeology** raises no objections subject to condition

**3.7 OCC Highways** raises no objections subject to condition

**3.8 OCC Drainage** raises no objections subject to condition

**3.9 English Heritage** "This application should be determined in accordance with national and local policy guidance, and on the basis of your expert conservation advice."

**4. Policy Considerations**

**National Planning Policy Framework**

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

- 1: Building a Strong, Competitive Economy
- 4: Promoting Sustainable Transport
- 6: Delivering a Wide Choice of High Quality Homes
- 7: Requiring Good Design
- 8: Promoting Healthy Communities
- 10: Meeting the Challenge of Climate Change, Flooding and Coastal Change
- 11: Conserving and Enhancing the Natural Environment
- 12: Conserving and Enhancing the Historic Environment

**South East Plan 2009**

**Cross Cutting – Policies**

CC1: Sustainable Development

CC4: Sustainable Design and Construction

CC5: Supporting an Ageing Population

**Housing – Policy**

H4: Type and Size of New Housing

**Transport – Policies**

T4: Parking

T5: Travel Plans and Advice

**Natural Resource Management – Policies**

NRM4: Sustainable Flood Risk Management

NRM5: Conservation and Improvement of Biodiversity

**Management of the Built Environment – Policies**

BE1: Management for an Urban Renaissance

BE6: Management of the Historic Environment

**Adopted Cherwell  
Local Plan 1996  
Saved Policies**

C13: Areas of High Landscape Value

C27: Design Considerations - Historic Settlement Pattern

C28: Design, Layout and External Finishes

C30: Design Control

C33: Important Gaps

ENV12: Contaminated Land

TR1: Transportation Funding

**Non-Statutory  
Cherwell Local Plan  
2011**

**Housing Policy H6**

**Transport and Development Policies** TR1, TR3, TR4, TR5 and TR11

**Conserving and Enhancing the Environment Policies** EN1, EN15, EN17, EN39, EN40 and EN44.

**Urban Design and The Built Environment Policies** D1, D3 and D5

**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 for public consultation. The current plan 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 in the rural areas towards larger and more sustainable villages thereby protecting open countryside areas. Policies seek to mitigate and adapt to climate change and ensure sustainable construction methods including SUDs.

NOTE

This is to be replaced by the Cherwell Local Plan 2012 at the end of May, but for the purposes of May Committee this plan is still relevant

SD1: Mitigating and Adapting to Climate Change

SD5: Sustainable Construction

SD6: Sustainable Drainage Systems

SD8: Protection and Enhancement of Biodiversity and the Natural Environment

SD11: Local Landscape Protection and Enhancement

SD13: The Built Environment  
H3: Efficient and Sustainable Use of Land  
H6: Housing Mix  
H7: Extra Care Housing

## 5. Appraisal

- 5.1 The key issues for consideration in this application are:
- Policy Context
  - Impact on the Historic Environment

### Policy Context

- 5.2 During pre-application discussions, the applicant maintained that the proposed development fell within C2 (Residential Institutions) rather than C3 (Dwelling Houses) of the Town and Country Planning (use Classes) Order 1987. Establishing the categorisation was important as if it were to be assessed as C3 development, there would be the expectation that the applicant would provide three of the new flats as affordable housing.
- 5.3 The applicant highlighted seven areas which it is argued differentiate the proposed flats from ordinary housing. These include access to an Emergency 24 Hour/365 Day Nurse Call system, regular assessment by health care professionals, daily checks on the residents and access to a number of facilities the existing care home has to offer. The applicant also made reference to a similar case in another district where an Inspector ruled that such an arrangement, appropriately conditioned, could be classified as C2 development.
- 5.4 The Policy and Housing Officers involved in the negotiations have ultimately agreed that the proposed facility does comply with the definition of C2 development. This conclusion was later endorsed by the Council's Legal Team.
- 5.5 Although there is no policy relating specifically to care homes in the adopted Cherwell Local Plan (CLP), Policy CC5 of the South East Plan (SEP), Policy H6 the Non-Statutory Cherwell Local Plan (NSCLP) and Policy H7 of the Draft Core Strategy 2010 acknowledge the importance of making provision for this growing sector of the community. The one common proviso running through these policies is that such accommodation should be located in easy reach of shops and services and also have access to good public transport links. In this respect, Godswell is ideally located in the centre of Bloxham, within relatively easy walking distance of a variety of local shops and facilities including a bus stop linking the village to Banbury.
- 5.6 The NPPF requires that local authorities *plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)* (paragraph 50 - DSD: 6 Delivering a Wide Choice of High Quality Homes).
- 5.7 The applicant submitted a Statement of Need with their application which assesses demographic and market trends. This document identifies that there is not only a shortfall in current close care accommodation provision but also cites National Office of Statistics projections which indicate that the number of people over the age

of seventy in Oxfordshire will increase significantly over the next twenty years. The report goes on to argue that there is a need for a variety of care accommodation to satisfy the needs of the independent as well as the dependent parts of the sector. It is reasonable to infer that by welcoming the extra provision in her comments, the Housing Officer, would not dispute the conclusion reached in the Statement of Need case.

- 5.8 Based on the above, it is concluded that the principle of the development is acceptable and complies with Government guidance contained within the NPPF, Policy CC5 of the South East Plan 2009, Policy H6 the Non-Statutory Local Plan and Policy H7 of the Draft Core Strategy 2010.

#### **Impact on the Historic Environment**

- 5.9 Having accepted the principle of the development, the key consideration in this case is the impact the building would have on the immediate built environment. The plans originally submitted were considered to be unacceptable as the design of the building was deemed to be overly complicated and at odds with the local vehicular. Concern was also raised about the proximity of the building (approximately 5m away) to the graveyard behind the church - Policy C33 of the CLP asserts that the setting of a listed building should not be compromised (aside from the church itself, a number of the gravestones have listed status).

- 5.10 As a result of further discussions, the applicant revised the design so that it took on the more simple appearance of an alms house. Non-traditional features such as juliet balconies and exposed chimney breasts were omitted from the scheme. In addition to the changes in design the proposed building was moved further away from the boundary with the graveyard (minimum gap now of 10m). Not only does the building now better relate to its environment but it also alleviates potential privacy issues between the future occupiers of the care facility and people visiting the graveyard.

- 5.11 Based on the above I concur with the Conservation Officer that the development complies with Government guidance contained within the NPPF (DSD12: Conserving and Enhancing the Historic Environment) and Policies C27, C28, C30 and C33 of the CLP.

#### **Other Matters**

- 5.12 The Parish Council makes reference to a brick wall running along the boundary with the churchyard. As this wall will be unaffected by the proposed development, it would be unreasonable to require that a maintenance/access agreement should form part of any approval as requested by the Parish Council.

- 5.13 The Highways Officer raised no objections to the proposed development but did seek a financial contribution. With the agreement of the Highways Officer, the figure sought was reduced and brought in line with the Council's Planning Contribution SPD. Given the nature of the development, the only other contributions required related to community facilities, refuse bins and libraries. The applicant has confirmed that they are prepared to pay the £8,625.70 sought by the Council.

#### **Conclusion**

- 5.14 The proposed development will help to meet a growing need for accommodation designed to meet the specific needs of an elderly section of the community. Well

located within the village, the proposed building would be an acceptable addition to the built environment. The care facility therefore accords with Government guidance contained within the NPPF as well as Policies T4, T5, CC5, BE1 and BE6 of the South East Plan 2009 and saved Policies C13, C27, C28, C30, C33, ENV12 and TR1 of the adopted Cherwell Local Plan.

## 6. Recommendation

**Approval**, subject to:

a) The applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraph 5.13,

b) the following conditions:

1. SC1.4A Full Permission: Duration Limit (2 years) (RC2)
2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents listed below:

Design and Access Statement dated February 2012 and approved plans: 10\_079-040 01; 10\_079-040 06; and 15663-GCE-100 C4 and approved revised plans received on the 4 May 2012: 10\_079-040 02E; 10\_079-040 03H; 10\_079-040 04G; and 10\_079-040 05G.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. SC 2.0A - Schedule of Materials- 'close care apartment building'
4. SC 2.3CC Sample Panel - 'close care apartment building'
5. SC 4.13CD Parking and Manoeuvring
6. Within 3 months of the development's first occupation a travel plan shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented and maintained.

Reason - In the interests of sustainability and to ensure a satisfactory form of development, in accordance Policy T5 of the South East Plan 2009.

7. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the

NPPF with particular reference to DSD12: Conserving and Enhancing the Historic Environment.

8. Prior to any demolition on the site and the commencement of the development and following the approval of the Written Scheme of Investigation referred to in condition 1, a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with Government guidance contained within the NPPF with particular reference to DSD12: Conserving and Enhancing the Historic Environment.

9. SC 3.0A - Landscaping Scheme

10. SC 3.1A Carry out Landscaping Scheme

11. The construction of the surface drainage system shall be carried out in accordance with details submitted to and approved in writing by the Local Planning Authority before works are commenced.

Reason - To prevent pollution of the water and to comply with Government guidance contained within the NPPF with particular reference to DSD10: Meeting the Challenge of Climate Change, Flooding and Coastal Change.

12. 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.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan.

13. If a potential risk from contamination is identified as a result of the work carried out under condition 12, 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.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan.

14. If contamination is found by undertaking the work carried out under condition 13, 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.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan.

15. If remedial works have been identified in condition 14, the remedial works shall be carried out in accordance with the scheme approved under condition 14. 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.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan.

16. The development hereby approved shall be occupied and operated with the provision of residential care, as set out in Appendix C of the Design and Access Statement, so as to ensure the units of accommodation fall within Class C2 of the Town and Country Planning (use Classes) Order 1987 or any provision equivalent to that Class in any statutory Instrument revoking and re-enacting that order with or without modification.

Reason To enable the Local Planning Authority to retain planning control over the development in order to safeguard the amenities of the occupants of the neighbouring care home in accordance with Policies C30 of the adopted Cherwell Local Plan.

**Planning Notes:**

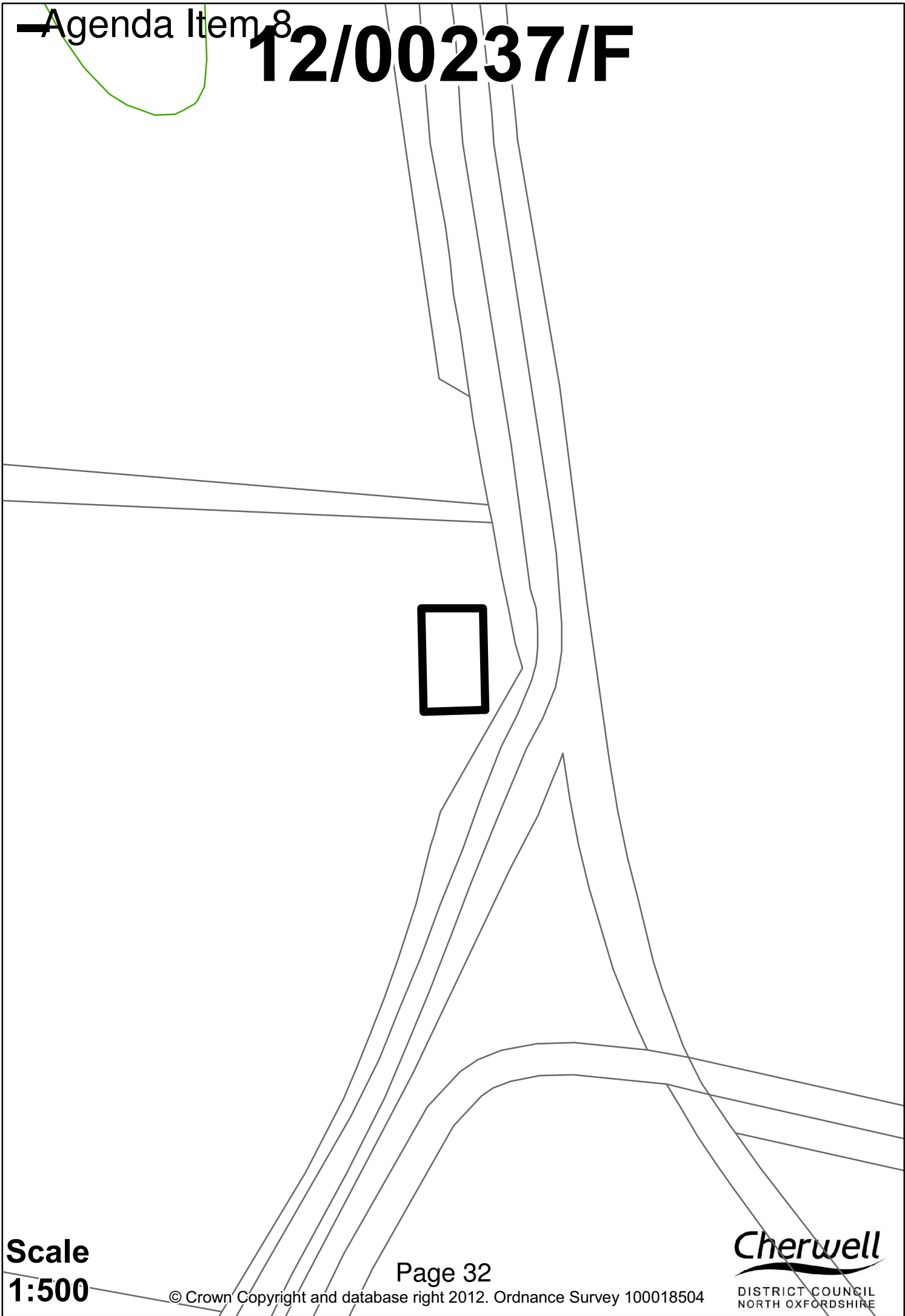
1. Attention is drawn to the legal agreement in the form of a Unilateral Undertaking which has been made pursuant to Section 106 of the Town and Country Planning Act 1990.
2. U1 - Construction

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

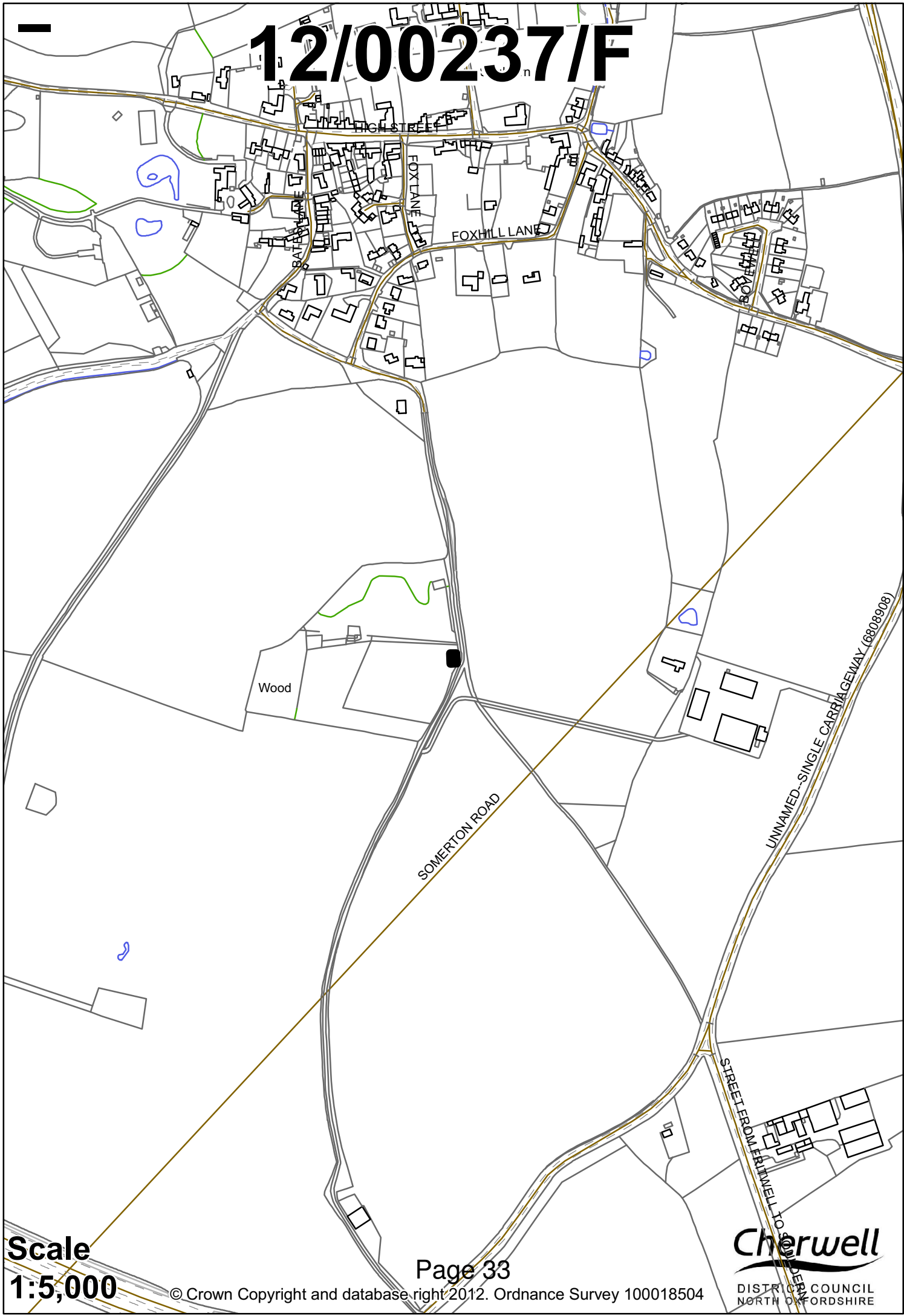
The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. Incorporating and adhering to the above conditions, the development is considered to be acceptable on its planning merits as the proposed development is acceptable in principle and of a design, size and style that is appropriate and will not unduly impact on neighbouring properties or adversely affect highway safety. The development will not harm the Area of High Landscape Value. Furthermore, the works will preserve the character and appearance of the Bloxham Conservation Area and will not affect the setting of any of the nearby listed buildings. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework: DSD1: Building a Strong, Competitive Economy; DSD4: Promoting Sustainable Transport; DSD6: Delivering a Wide Choice of High Quality Homes; DSD7: Requiring Good Design; DSD8: Promoting Healthy Communities; DSD10: Meeting the Challenge of Climate Change, Flooding and Coastal Change; DSD11: Conserving and Enhancing the Natural Environment; DSD12: Conserving and Enhancing the Historic Environment and Policies T4, T5, CC5, BE1 and BE6 of the South East Plan 2009 and saved Policies C13, C27, C28, C30, C33, ENV12 and TR1 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

**CONTACT OFFICER: Paul Ihringer**

**TELEPHONE NO: 01295 221817**



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00237/F	<b>Ward:</b> The Astons And Heyfords	<b>Date Valid:</b> 16/03/2012
<b>Applicant:</b>	Claire Minett	
<b>Site Address:</b>	OS Parcel 0092 South of Gibbs Field House, Foxhill Lane, Souldern	

**Proposal:** Erection of 3 no. stables

**Date site visited:** 28 March 2012

## 1. Site Description and Proposal

- 1.1 The application site consists of a parcel of land situated to the south of the village of Souldern. The site is accessed via a public bridleway (BR 351/13) taken from the corner of Foxhill Lane. This public bridleway continues to Nancy Bowles Wood that wraps around the site to the south and west. The site is within an Area of High Landscape Value.
- 1.2 A post and rail fence runs along each boundary of the site, with dense vegetation running alongside the northern and eastern boundaries, and the western and southern boundaries remaining more open. The access to the site is marked by a metal gate and is taken from the north-eastern corner of the field.
- 1.3 The proposed development would involve the erection of a three bay stable block for private use by the applicant. The intention of the applicant is to use two of the stables for the stabling of a pony and foal, with the third being use to store feed and bedding.
- 1.4 The stables would be constructed from timber with felt tile roof. The footprint of the stables would be just under 3.7m x 11m, and it would be 3.1 metres in height from ground level to the highest part of the pitched roof. It would be positioned in the north-eastern corner of the field, adjacent to the existing access. An area of hardstanding with dimensions the same as the footprint of the stables would also be laid for the storage of manure. The applicant has stated that the manure would be removed on a regular basis and disposed of in an appropriate manner.
- 1.5 Whilst not a planning consideration, the Official Register of Title states that the land benefits from a right of way with or without vehicles over and along Fox Lane between Souldern and Somerton Road for the purpose of access to and egress from the land. The applicant intends to exercise this right in order to access the field.
- 1.6 The application is referred to Committee at the request of Councillor Kerford-Byrnes.

## 2. Application Publicity

- 2.1 The application has been advertised by site notice positioned on the sign at the access to the bridleway on Foxhill Lane. The final date for comment was 19 April 2012.
- 2.2 Seven letters were received and one letter signed by 40 residents. Please note

that these have been summarised, full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Objection to vehicle movements likely to occur daily to service the intended use.
- Bridleway has been used for decades solely by horseriders and walkers accessing the village roads, with the exception of maintenance access for grass cutting once or twice a year.
- Bridleway is narrow, steep-sided, pot-holed, unsurfaced, it has poor drainage that makes it muddy and soft in places – totally unsuitable for regular vehicle access.
- Charming, un-spoilt example of a country bye-way and should be protected from the ravages of further vehicle use.
- Applicants do not live close to the field – they would need to access via vehicle – limited parking available on Foxhill Lane.
- Similar concerns in 2006 with the re-siting of Souldern Manor Farm to Leycroft Barn – conditions were sought to prevent this section of Foxhill Lane being used by vehicles for access.
- Nancy Bowles Wood is a village amenity and natural habitat enjoyed by many – likely to be affected by over use/activity in this field, especially if it becomes more like a commercial activity.
- Concerned that to service horses in the stables vehicle access would be required 2 or 3 times per day.
- A large number of villagers use the path regularly to visit Nancy Bowles Wood for recreation and exercise – mud path would be difficult for pedestrians or horses to use.
- Steep sides would make it dangerous for vehicles to meet approaching pedestrians or horseriders as there is little or no room to pass.
- It would deter elderly from using wood that they have created and managed for the last 26 years depriving them and their children from a village amenity.
- No main supply of water or electricity at or near the site – no application has been made for a well – this means a regular supply of fresh water will need to be carried up the bridlepath, adding to the inconvenience of pedestrians.
- Inaccurate response to questions from the Rights of Way Officer
- Nancy Bowles Wood is privately owned by Souldern Parish Council and is open to the public.
- The wood is very rarely accessed by vehicle – the former Chairman of the wood may on rare occasions use a car to carry equipment to maintain the wood.
- Former owners of the site used their right of access once a year at most for maintenance.
- The farmer does not access his fields via the bridleway, he uses his own tracks from Fritwell/Somerton road.
- Bats and birds would be disturbed by vehicles accessing land twice a day.
- Excessive vehicle usage would cause problems to the bridleway, overhead canopy, pedestrians and wildlife.
- The bridleway has been designated as “not suitable for vehicle use”.
- The stables would impact upon views from Nancy Bowles Wood.
- The land has not recently been used by animals for grazing.
- The nearest property to the site is not the applicants.
- Horses are not already kept on the land.
- Would attract unwelcome visitors to bridleway – fear of crime – against both own property and horses/tack in the stables, this might lead to further applications for security lighting, fencing etc.

- Insurance implications – health and safety of horses and riders meeting a vehicle on bridleway.
- Already had large vehicles blocking path.
- Stable will attract rats.
- Manure will need to be dealt with – more vehicle movements required.
- Increased human activity and noise will have a detrimental impact upon wildlife in the area.
- For majority of the year surface water from fields runs down the bridleway, and natural springs flow down the lane.
- Narrow roads leading to the bridleway that are well used by children and elderly people – increased traffic would result in an increased risk of an accident.

### 3. Consultations

3.1 Souldern Parish Council **object** to the application on the following grounds:

- Access to the plot via the bridleway and increase in vehicular traffic
- Change in character of the bridleway and area around Nancy Bowles Wood
- Inaccuracies in the information supplied by the applicant

(These comments have been summarised, please refer to file for full comments)

3.2 **OCC Highways** have no objection to the application subject to the stables being for private use only.

3.3 **OCC Drainage** require details of Sustainable Urban Drainage System features that are required to ensure that discharge from the site is equal to or lower than current greenfield run-off rates.

3.4 **OCC Rights of Way** submit a holding **objection** to the application. The Field Officer considers that the bridleway would need to be improved, and the objection is holding pending agreement between the applicant, the Parish Council and Countryside Service, as Highway Authority for the bridleway, as to how such work would be undertaken.

3.5 **Head of Public Protection and Development Management** (Anti-Social Behaviour) has **no objection** to the application.

3.6 **Head of Environmental Services** (Landscape) has concerns regarding the use of the bridleway by vehicles changing the character and tranquillity of the attractive country lane. Additional planting would be required to mitigate the impact of the proposal because there are presently gaps in the hedgerow and prominent views are obtainable from the information area of Nancy Bowles Wood.

3.7 **Head of Community Services** (Rights of Way) – no comments received.

### 4. Policy Considerations

#### National Planning Policy Framework

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

4: Promoting sustainable transport

- 7: Requiring good design
- 8: Promoting healthy communities
- 10: Meeting the challenge of climate change, flooding and coastal change
- 11: Conserving and enhancing the natural environment

**South East Plan 2009**

**Cross Cutting – Policies**

CC1: Sustainable Development

CC6: Sustainable Communities & Character of the Environment

**Countryside and Landscape Management – Policies**

C4: Landscape and Countryside Management

C6: Countryside Access and Rights of Way Management

**Adopted Cherwell  
Local Plan 1996  
Saved Policies**

AG5: Horse related development

C7: Landscape conservation

C8: Sporadic development in the open countryside

C9: Compatibility of development with rural location

C13: Areas of High Landscape Value

C28: Design, layout etc standards

ENV1: Pollution Control

**Non-Statutory  
Cherwell Local Plan  
2011**

**Employment** policy EMP11

**Transport & Development** policy TR36

**Recreation & Community Facilities** policy R4

**Conserving & Enhancing the Environment** policy EN1, EN3, EN30, EN31 & EN34

**Urban Design & The Built Environment** policy D1, D3, D5

**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 for public consultation. The current plan 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 in the rural areas towards larger and more sustainable villages thereby protecting open countryside areas. Policies seek to mitigate and adapt to climate change and ensure sustainable construction methods including SuDs.

SD11: Local Landscape Protection & Enhancement

SD13: The Built Environment

NOTE

THIS DOCUMENT MAY BE REPLACED WITH CHERWELL LOCAL PLAN 2012 FROM END OF MAY, BUT FOR PURPOSES OF MAY COMMITTEE THIS IS STILL RELEVANT

## 5. Appraisal

- 5.1 The key issues for consideration in this application are:
- Policy Context
  - History
  - Visual amenity and landscape character
  - Right of Way and highway safety
  - Environmental pollution and neighbour amenity
  - Drainage and impact upon flooding

### Policy Context

- 5.2 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, requiring good design, the promotion of healthy communities, meeting the challenge of flooding and the conservation and enhancement of the natural environment.
- 5.3 Para.35 of the NPPF states that developments should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians. Para. 64 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Para. 69 states that planning decisions should aim to achieve places which promote safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas. Further, at para. 75, that planning policies should protect and enhance public rights of way and access.
- 5.4 Para. 103 states that in determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere. Para. 109 states that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes and preventing new developments from contributing to unacceptable levels of soil, air, water or noise pollution or land instability.
- 5.5 The general thrust of national policy contained within the NPPF is continued in regional policy, with one of the sustainable development priorities being to ensure the physical and natural environment of the South East is conserved and enhanced. Policy CC6 requires decisions associated with the development and use of land to respect, and where appropriate enhance, the character and distinctiveness of landscapes throughout the region. Policy C4 states that outside of nationally designated landscapes, positive and high quality management of the regions open countryside will be encouraged and supported by local authorities. Policy C6 states that local authorities should encourage access to the countryside by maintaining, enhancing and promoting the Public Rights of Way system and permissive and longer distance routes, to facilitate access within, to and from the countryside for

visitors and all members of the local community.

- 5.6 The adopted Cherwell Local Plan contains Policy AG5 that relates specifically to horse development for recreational or commercial purposes. It states that horse related development will normally be permitted provided that the proposal would not have an adverse effect on the character and appearance of the countryside, the proposal would not be detrimental to the amenity of neighbouring properties and the proposal complies with the other policies in the plan.
- 5.7 Other relevant adopted Local Plan policies include Policies C7, C8 and C9 that seek to conserve the character of the landscape, resisting sporadic development in the open countryside and ensuring that development is of a type, size or scale that is compatible with a rural location. In addition, Policy C13 seeks to conserve and enhance the environment within Areas of High Landscape Value and Policy C28 exercises control over all new development to ensure that it is sympathetic to the character of the rural context of that development. Finally, Policy ENV1 seeks to resist development that would result in detrimental levels of noise, vibration, smell smoke, fumes or other type of environmental pollution.

### **History**

- 5.8 The site consists of a parcel of agricultural land that has had no previous planning history.
- 5.9 As a result of public consultation reference has been made to an Application Ref: 08/00444/F that gained planning permission for agricultural buildings at OS Parcel 4900 adjacent to Leycroft Barn, Souldern. This development involved the relocation of an existing farming enterprise. A condition was attached to this permission requiring principal means of vehicular access to be taken from Fritwell Road rather than the public bridleway. The development that was the subject of this previous application is considered to be of a much larger scale than that now proposed and likely to attract more frequent vehicle movements. This condition was also attached to prevent farm vehicles passing through the village on a regular basis causing harm to the amenity of residents.

### **Visual Amenity and Landscape Character**

- 5.10 The proposed stables would be positioned towards the north-eastern corner of the field adjacent to the existing access. Due to their size and positioning, the stables would be clearly visible when looking into the field from the access, although the vegetation alongside the eastern boundary would screen the majority of the development from other viewpoints along this section of the bridleway.
- 5.11 Clear views would be obtainable when stood adjacent to the fencing marking the southern and western boundaries of the field in Nancy Bowles Wood, however, this prominence is less so when stood on the footpath running through the wood itself due to intervening trees and information boards. The stables would be positioned in excess of 70 metres from the southern boundary of the field, and 100 metres from the western boundary.
- 5.12 The siting of the stables adjacent to the eastern boundary of the field is considered acceptable for a number of reasons; it is as far away as possible from the boundaries shared with Nancy Bowles Wood, its siting at the edge of the field would

reduce the impact upon the open character of the existing area and existing mature vegetation would serve to screen the majority of views from the east of the site.

- 5.13 The stables themselves would be constructed from timber weatherboarding with a felt tile roof. They would be of traditional stable appearance and are not considered to be excessive in size for their intended purpose. The provision of an additional stable to the number of horses would enable the internal storage of equipment and feed rather than producing outdoor clutter or requiring additional separate structures for storage. A timber built stable is not considered to be out of character with, or unsympathetic to, this rural location. Horse related development is considered generally compatible with the character of the countryside.
- 5.14 The Councils' Landscape Architect has reservations regarding the impact of the stables upon views from the Nancy Bowles Wood information area where no boundary vegetation exists. It is considered that the submission of a suitable landscaping scheme for the southern and western boundaries, inclusive of scheme for maintenance and the protection of vegetation from grazing horses would be sufficient to overcome those concerns.
- 5.15 The proposal is therefore considered to comply with Government guidance contained within the NPPF – Requiring good design and Conserving and enhancing the natural environment, Policies CC6 and C4 of the South East Plan 2009 and saved Policies C7, C8, C9, C13 and C28 of the adopted Cherwell Local Plan.

#### **Right of Way and Highway Safety**

- 5.16 The proposed stables would be accessed via the existing bridleway that runs alongside the eastern boundary of the site, commencing at the corner of Foxhill Lane in Souldern. Whilst the bridleway is marked as not being suitable for vehicles, the applicant benefits from a right of access to the land via vehicle and this is included on the Land Registry Officer Copy of Register of Title that was submitted with the application.
- 5.17 Oxfordshire County Council Highway Authority considers that, provided the stables are for private use only, significant harm would not be caused to highway safety. It should be noted that this relates to the public highway and not the bridleway itself.
- 5.18 With regard to the bridleway, the Rights of Way Field Officer from the Countryside Service at Oxfordshire County Council has submitted a holding objection to the application pending an agreement between the applicant, the Countryside Service and Parish Council for the sympathetic improvement of the existing bridleway. This would not necessarily include the complete resurfacing of the bridleway, but perhaps levelling of the lane or the installation of drainage features. The Rights of Way Officer also considers that the erection of stables would formalise the site, with it being likely to be used all year round.
- 5.19 As the proposed stables would be for private use only, it is not considered that they would attract an excessive amount of vehicular traffic, particularly over and above that which could be attracted as a result of the authorised use of the land for the grazing of animals. The provision of stables would simply provide shelter for the horses grazing in the field. At present, the field could be used all year round for the grazing of horses. The fact that horses or animals may not have been grazed on the field in recent times does not change the authorised use of the land, nor does it

prevent the future use of the land for this purpose.

- 5.20 Land ownership and rights of access are not material planning considerations and the granting or refusal of planning permission cannot impose or withdraw legal rights across land.
- 5.21 It is not considered either reasonable or feasible to require the applicant to undertake improvement works to the length of the bridleway as a condition of any subsequent planning permission for the proposed stables, particularly considering the number of land owners involved and as the use of the bridleway by vehicles is not expected to increase significantly above that which would be expected as a result of the authorised use of the land for the grazing of animals.
- 5.22 The proposal is therefore considered to comply with Government guidance contained within the NPPF – Promoting sustainable transport and Promoting healthy communities and Policy C6 of the South East Plan 2009.

### **Environmental Pollution and Neighbour Amenity**

- 5.23 The field is situated a sufficient distance from the nearest residential dwellings to avoid any significant harm in terms of odour or nuisance. The current authorised use of the field for the grazing of animals must also be borne in mind, as grazing animals in the field would be expected to produce the same amount of waste as animals that are also using the proposed stables for shelter. The applicant has advised that the manure would be regularly removed from the proposed area of hardstanding and, in light of the proximity to the bridleway and Nancy Bowles Wood, it is considered reasonable to impose a condition requiring the regular removal of manure to avoid nuisance to members of the public using these facilities.
- 5.24 The proposal is therefore considered to comply with Government guidance contained within the NPPF – Conserving and enhancing the natural environment and saved Policy ENV1 of the adopted Cherwell Local Plan.

### **Site drainage**

- 5.25 Oxfordshire County Council Drainage have advised that details of Sustainable Urban Drainage features are required for consideration in order to ensure that discharge from the site is equal to or lower than current greenfield run-off rates. The applicant has advised that rainwater from the roof of the stables would be collected for use as drinking water, the details of which can be obtained via a condition of any subsequent planning permission. No details have been supplied regarding the drainage of the proposed area of hardstanding. The Engineer has suggested that a swale or ditch could be an appropriate solution and it is considered reasonable to also require the submission of such details by way of a condition to any subsequent planning permission. It is considered that these measures would serve to avoid an increased risk of flooding as a result of the development.
- 5.26 The proposal is therefore considered to comply with Government guidance contained within the NPPF – Meeting the challenge of climate change, flooding and coastal change.

## **Other Matters**

- 5.27 As a result of public consultation concerns have been raised regarding the increased risk of crime, fear of crime and the attraction of unwelcome visitors to the area, the lack of electricity or water supply to the field, the attraction of vermin and the disturbance of wildlife within Nancy Bowles Wood and surrounding area.
- 5.28 With regard to crime, fear of crime and unwelcome visitors, it must be borne in mind that the site is adjacent to a publically accessible bridleway to which all members of the public have a right of access. It is not considered that the erection of a stables would result in a significant increase in criminal activity in the area and it would be the responsibility of the applicant to ensure that appropriate security measures are put in place to protect their property. The installation of security lighting or fencing does not form part of the current application.
- 5.29 The applicant would be responsible for the appropriate storage of feed in order to avoid attracting vermin, and would be responsible for operating the stables without an electricity or water supply. The human and animal activity generated by the development is unlikely to cause disturbance to wildlife over and above that already experienced by people using these facilities or the vehicular access that would be expected as a result of the authorised use of the land for grazing animals.

## **Conclusion**

- 5.30 To conclude, it is considered that the stable would represent a sympathetic addition to this rural location that would not result in harm to neighbouring amenity and the landscape character or Area of High Landscape Value, or result in significant additional harm to highway safety, the public bridleway or the risk of flooding. The proposal is therefore considered to comply with saved Policy AG5 of the adopted Cherwell Local Plan.

## **6. Recommendation**

**Approval**, subject to:

1. SC1.4A Full Permission: Duration Limit (3 years) (RC2)
2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents listed below:

Application Form, Design and Access Statement, block, floor and elevation plans dated 04.03.2012

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

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 the southern and western boundaries of the site which shall include:
  - (a) details of the proposed tree and shrub planting including their species, number,

sizes and positions, together will 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) a scheme for the maintenance of the landscaping,

(d) details of measures to protect the landscaping from grazing horses.

Reason – In the interests of the visual amenities of the area and to comply with Policy C4 of the South East Plan 2009 and saved Policies C7, C9, C13 and C28 of the adopted Cherwell Local Plan.

4. That all planting, seeding, turfing and methods of protection comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development, and that any trees or shrubs which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a 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 and to comply with Policy C4 of the South East Plan 2009 and saved Policies C7, C8, C9, C13 and C28 of the adopted Cherwell Local Plan.

5. SC2.8A : Colouring: external walls

Reason – In the interests of the visual amenities of the area and to comply with Policy C4 of the South East Plan 2009 and saved Policies C7, C9, C13 and C28 of the adopted Cherwell Local Plan.

6. That the stables hereby permitted shall be for private recreational use only and shall not be used for any trade, industry, business or other use whatsoever.

Reason – In order to maintain the character of the area and in the interests of highway safety and the preservation of the public right of way, in accordance with Government guidance contained within the National Planning Policy Framework sections 4 and 11, Policies CC6, C4 and C6 of the South East Plan 2009 and saved Policies C7, C9, C13 and C28 of the adopted Cherwell Local Plan.

7. SC8.7A Stabling/Manure (RC55C)

8. SC4.29AA Source Control Measures

Reason – To prevent the increased risk of flooding and to improve water quality, and in order to comply with Government guidance contained within the National Planning Policy Framework section 10.

**Planning Notes:**

1. T1 – Third Party Interests

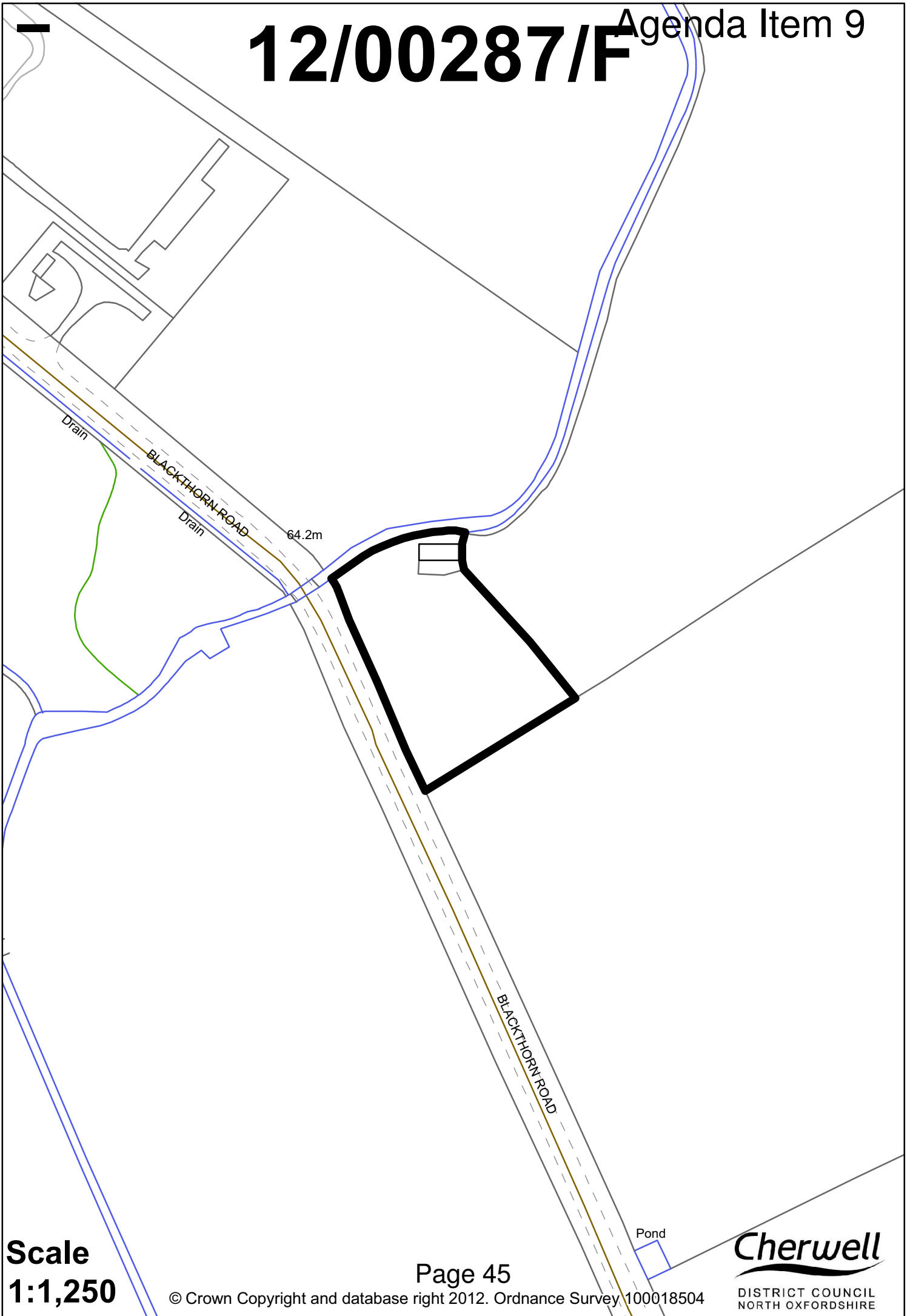
**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. Incorporating and adhering to the above conditions, the development is considered to be acceptable on its planning merits as the proposed development is of a design, size and style that is appropriate and will not unduly impact on the landscape character, Area of High Landscape Value, the visual amenities of the area, the public right of way, highway safety, neighbour amenity or increase the risk of flooding. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework – Promoting sustainable transport, Requiring good design, Promoting healthy communities, Meeting the challenge of climate change, flooding and coastal change, Conserving and enhancing the natural environment, Policies CC1, CC6, C4 and C6 of the South East Plan 2009 and saved Policies AG5, C7, C8, C9, C13, C28 and ENV1 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

<b>CONTACT OFFICER: Gemma Magnuson</b>
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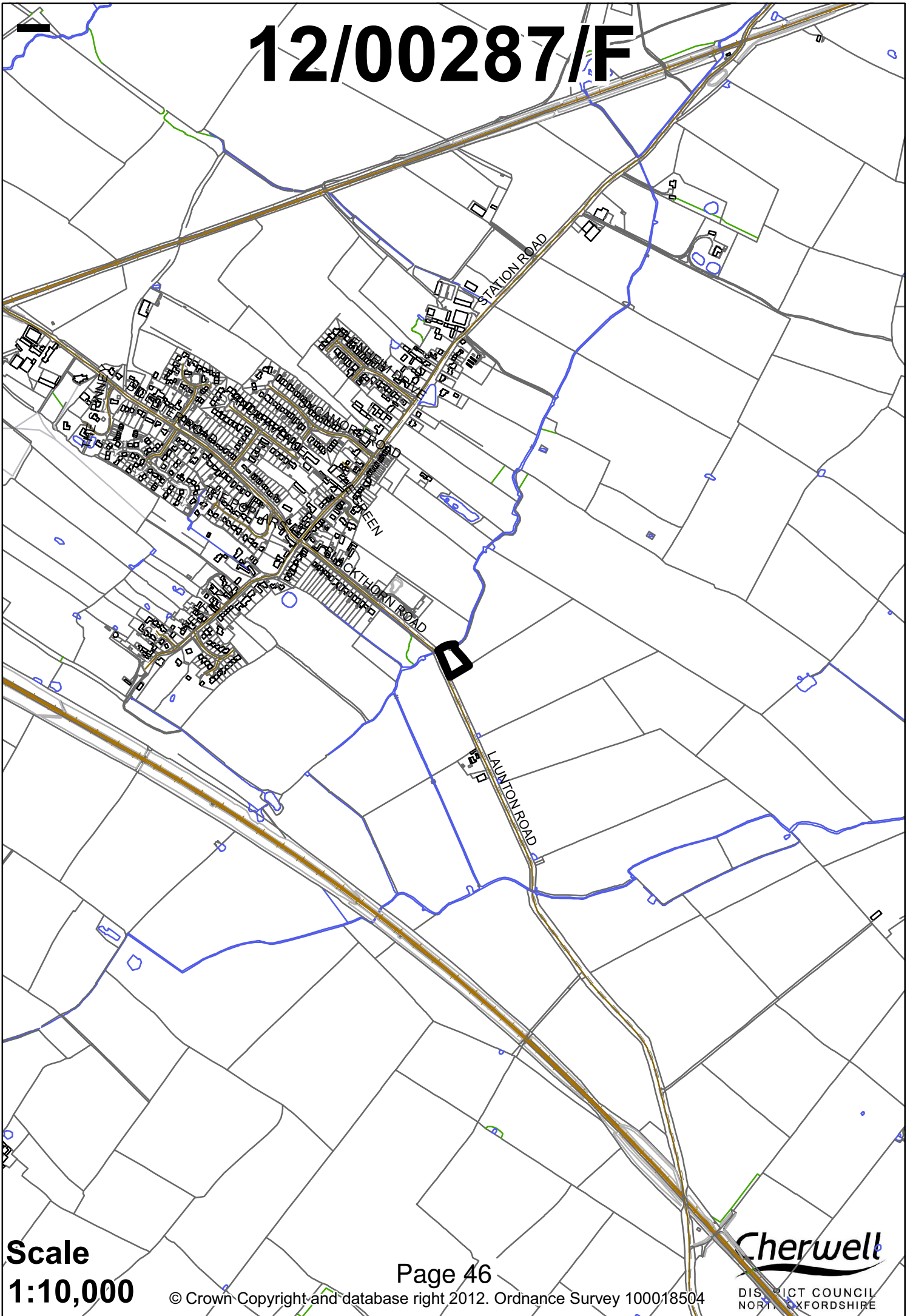
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**Scale**  
**1:10,000**

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00287/F	<b>Ward:</b> Launton	<b>Date Valid:</b> 01/03/12
<b>Applicant:</b>	Mr & Mrs Gerry & Kathleen Connors c/o agent	
<b>Site Address:</b>	OS Parcel 3431 Adjoining and North East of Blackthorn Road, Launton	

**Proposal:** Change of use of land to a private gypsy and traveller caravan site comprising 2 No. residential pitches, each pitch accommodating 1 No. mobile home, 1 No. touring caravan, 1 No. dayroom and associated hardstanding, retention of existing stable and septic tank.

**Date site visited:** 13 March & 27 March 2012

## 1. Site Description and Proposal

- 1.1 The site is located outside and to the south east of Launton village just beyond the sewage works and south of the brook on the east side of Blackthorn Road. The site has a 60 metre boundary alongside Blackthorn Road which is marked by an uncharacteristic 2m high close boarded fence situated behind the mature hedge which faces the road. There is also a wooden gated entrance on this boundary. The north and south boundaries are similarly identified but the eastern boundary is marked by just the close boarded fence with a gate which leads to open pasture land and countryside beyond. That land is identified as being under the same ownership and features a small shed situated on the east side of this fence behind the existing shed.
- 1.2 The application site extends to 0.5 hectares and is broadly rectangular and quite flat. It is part laid to tarmac but mostly scrub land featuring a centrally located burnt out building and a corrugated tin shed in the north east corner. Due to the site history, it is considered to be equestrian land and it has no notable site constraints save for its proximity to the brook and its consequential propensity to flood.
- 1.3 The application seeks full planning permission for the site to be used as a private gypsy and traveller site which would involve 2 pitches. Each pitch would accommodate 1 No. mobile home, 1 No. touring caravan and a dayroom. The dayrooms are proposed to have a 5m x 6m footprint, constructed of brick and clay tiles and stand to a height of 4m (2.35m to eaves). The submission did not include details of the mobile homes. The proposal includes associated hardstanding and a septic tank. The application seeks also to retain the existing stable/shed and the planning history for this would suggest that it has been in place for over 4 years.
- 1.4 The planning history to the site also reveals that retrospective planning permission was granted under reference 08/00039/F for the erection of a double stable (with hardstanding), new close boarded fence and gate to existing field and a change of use of the land for the keeping of horses. The equestrian use of the land would appear to have been abandoned with the new stable having been burnt down but the fence and hardstanding remain. The shed in the corner remains but is not a substantial structure being put together with corrugated sheeting. The applicant refers to this as a stable.

## 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice placed on the gate post

at the site on 13 March and then again on 27 March as the first site notice went missing. A press notice was also published on 15 March. The final date for comment on this application was, therefore, 17 April 2012.

- 2.2 30 letters/emails of representation received all of which raise objections to the scheme. Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- The application amounts to a permanent residential use
- The entrance to the field is very close to a sharp bend which is hazardous
- The proposal would lead to further development on the outskirts of the village
- The site is prone to flooding and surface water will back into the village.
- The development would be outside the village boundary
- Previous cases seeking to extend the village boundary in this direction have been consistently refused even at appeal.
- The vision splay at the access is unlikely to meet highway department regs and this would be detrimental to the safety and convenience of other highway users including horse riders along the main road.
- The road is very busy and vehicles turning into the site will not be seen. Particularly hazardous for towed caravans.
- The land should be kept for agricultural purposes.
- There is an existing site adjacent to the A41 about 5 miles away so there is no need for this development. There are also sites at Bicester, Ambrosden, Arncott, Wendlebury, Blagrove and Bloxham.
- The site is not designated for a gypsy site in the local plan
- The site has no history of travellers
- There are no pavements or street lights near the site
- There is nothing to suggest that there would be any integrated co-existence between the site and the local community
- Government guidelines state that approval for gypsy sites should be avoided where the site is inappropriate for ordinary residential dwellings except in exceptional circumstances but there are none.
- The site would not be safe for children and animals
- Because of the tight entrance, turning left into the site would require movement onto the opposite side of the road which is dangerous.
- The document by Oxfordshire Consultants for Social Inclusion 2006 shows from 2001 census that there is no caravan or other mobile or temp accommodation in the village suggesting that the village has no facilities in place for such dwelling.
- The site is ecologically sensitive with GCNs, kestrel, red kites, wild orchids and rare flowers.
- The corrugated iron shed cannot be described as a stable
- The septic tank may well be a pumped watercourse.
- The Yew Tree Farm development has already put enough pressure on the village in terms of increased households
- Loss of open countryside and green space.
- This is not a brown field site
- Refuse lorries would have to park on the main road by the entrance and this would be very unsafe by the bend

One letter of support for the application has been received from Bisham Village in Marlow, Bucks. This is a character reference for the applicants from a priest who

has known them for 15 years. He has confirmed the family's links to Oxfordshire.

### 3. Consultations

3.1 **Launton Parish Council:** Comments awaited

3.2 **Environment Agency:** Objection.

The Flood Risk Assessment (FRA) fails to use a robust approach to identify a 1 in 100 year flood level with an allowance for climate change (the design flood level).

It is accepted that the levels generated from the J flow hydraulic modelling (obtained from the EA) may be inappropriate for site specific use. However, there are concerns over the robustness of the approach employed in the FRA to obtain a design flood level, using topographic levels and the outline of the flood map.

We are particularly concerned that levels along the road in the topographic survey are consistently over 300mm higher than the design flood level of 63.85m Ordnance Datum (AOD) estimated in the FRA. This means that even where the EA flood map shows flood flows over the road, in reality flows would not over top the road until upstream levels have reached the crest height of the road (~64.2m AOD). Actual flood levels upstream of the road are therefore likely to be higher than the estimated 63.85m AOD, with a consequential impact on the flood hazard across the development site.

Additional work should be carried out to establish a more robust design flood level for the site, taking the above comments into account. As a first step, the topographic survey could be extended including additional levels to the South along Blackthorn Road. This will give typical ground levels on the edge and in the floodplain, and also define the road crest height along the southern flow route delineated in the EA flood map. If a suitable precautionary design flood level cannot be agreed using the topographic approach then a hydraulic assessment may be necessary.

If a robust, precautionary flood level is defined for the site and the standards set out in our previous response are met, we will be in a position to remove our objection to this planning application.

It is acknowledged that the applicant is prepared to accept a pre-commencement condition concerning an 8 metre buffer zone. We are therefore able to withdraw our objection with regard to the buffer zone.

3.3 **Thames Water:** With regard to waste matters, approval should be sought from TW where the erection of a building or an extension would come within 3m of a public sewer. This is usually refused for new build but may be allowed for extensions. The applicant is advised to contact TW for more information. With regard to water infrastructure, TW has no objection.

3.4 **OCC Highways:** No objection, subject to condition relating to access details for approval. Appropriate provision would be made for parking and manoeuvring within the site. With regard to transport the location is in accordance with relevant circular 01/2006. The submitted documents provide limited detail of the access and specifically the visibility available. Therefore, a detailed plan of access demonstrating appropriate visibility splays should be submitted prior to any

development.

- 3.5 **OCC Drainage:** No objection. Roof water will need to go to soakaway or other Suds feature. All surface water must be dealt with within the boundary of the site and not allowed to leave the site. The site entrance will need to have a surface water retention built in so that surface water cannot leave the site and enter the highway.
- 3.6 **OCC Traveller Site Officer:** In respect of need, there are several private sites within Cherwell at Rossiter's and at Bloxham but we do not know if there are any spaces on these sites. From the information provided in the application we are unable to state if the applicants have been on the roadside in Oxfordshire as we have no record of the name but that does not mean that they have not been on the roadside in Oxfordshire. If we were to have the family name and where they come from it may assist us in knowing if they have another location at which they could or have been living.
- 3.7 **Head of Strategic Planning and the Economy (Planning Policy):** At 2 Feb 2012 the district had a total of 51 pitches including the 8 approved on appeal near Islip (10/00839/F). A further 3 pitches were granted temporary consent for 3 years in Yarnton (11/01356/F) increasing the existing provision to 54 pitches which is 6 more than the district had in 2006. Information on existing sites is included in the 2011 Annual Monitoring Report.

The recent resolution to approve the Bloxham application (11/01863/F) increases the number of authorised pitches by 16 to 70 (20 pitches are already accounted for in the supply figures). A needs assessment is currently being undertaken to assess the needs of the district into 2031.

The policy team is not aware of any existing pitches that are likely to be available for occupation but this is considered unlikely at the current time.

- 3.8 **Head of Public Protection and Development Management (Anti Social Behaviour):** No objection. Having carried out a site inspection on 30 April 2012, looking specifically at the question as to whether this site is suitable for residential occupation bearing in mind the proximity of Thames Water installations nearby, it can be confirmed that the closest Thames installation to the site is a Storm Water Pumping Station. This is a facility whereby storm water is pumped from one location to another. Storm water has no odour and therefore the material passing through the site would have no adverse effect on the residents of the proposed caravan site. There is a second Thames Water Installation between the storm water pumping station and the village. This is a Foul Water Pumping Station. This facility receives sewage by gravity and, using pumps, moves the material through a rising main to another location for treatment. Providing the pumps and control equipment are operating correctly no odour should arise from this activity.

It should be noted that there are already existing dwellings located closer to these facilities and we have no history of complaints of odour originating from either site.

- 3.9 **Head of Safer Communities, Urban & Rural Services (Ecology):** No objection. There is no need for any ecological surveys to be carried out. Despite records of great crested newts (GCN) within 500m of the site, the habitat is not particularly suitable for them and there are no ponds nearby (they wouldn't use the stream).

Research has shown that most GCN are found within 100m of their breeding ponds. There is little potential for other protected species on the site as it consists of hardstanding and thin overgrown grassland. The wooden fencing around the site prevents any impacts on the adjacent stream resulting from the proposals.

#### 4. Policy Considerations

##### **National Planning Policy Framework (NPPF)**

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

- 4: Promoting sustainable transport
- 6: Delivering a wide choice of high quality homes
- 8: Promoting healthy communities
- 10: Meeting the challenge of climate change, flooding and coastal change
- 11: Conserving and enhancing the natural environment

##### **Planning Policy for Traveller Sites**

This document sets out the Government's planning policy specifically for traveller sites and should be read in conjunction with the NPPF.

Further guidance also continues to be provided with the document 'Designing Gypsy & Traveller Sites (Good Practice Guide)'

##### **South East Plan 2009**

###### **Cross Cutting – Policies**

- CC1: Sustainable Development
- CC4: Sustainable Design and Construction
- CC6: Sustainable Communities & Character of the Environment
- CC7: Infrastructure and Implementation

###### **Housing – Policies**

- H1: Regional Housing Provision 2006 - 2026
- H2: Managing the Delivery of the Regional Housing Provision
- H3: Affordable Housing
- H4: Type and Size of New Housing
- H5: Housing Design and Density

###### **Transport – Policies**

- T1: Manage and Invest
- T4: Parking

###### **Natural Resource Management – Policies**

- NRM1: Sustainable Water Resources & Groundwater Quality
- NRM2: Water Quality
- NRM4: Sustainable Flood Risk Management
- NRM5: Conservation and Improvement of Biodiversity
- NRM11: Development Design for Energy Efficiency and Renewable Energy

###### **Countryside and Landscape Management – Policies**

- C4: Landscape and Countryside Management
- C5: Managing the Rural-Urban Fringe

**Management of the Built Environment – Policies**

BE1: Management for an Urban Renaissance

BE4: The Role of Small Rural Towns

**Social and Community Infrastructure – Policy**

S1: Supporting Healthy Communities

**Central Oxfordshire – Policies**

CO1: Core Strategy

CO3: Scale and Distribution of Housing

**Adopted Cherwell  
Local Plan 1996  
Saved Policies**

H6: Housing needs within or adjacent to rural settlements

H13: Housing within Category I Settlements

H18: New Dwellings in the Countryside

C2: Protected Species

C7: Landscape conservation

C8: Sporadic development in the open countryside

C28: Design, layout etc standards

C30: Design control

**Non-Statutory  
Cherwell Local Plan  
2011**

**Housing** policies H1a, H4, H15, H19 and H26

**Transport & Development** policies TR1, TR5 and TR11

**Conserving & Enhancing the Environment** policies EN1, EN13, EN14, EN15, EN16, EN30 and EN34.

**Urban Design & The Built Environment** policies D1 and D6

**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 for public consultation. The current plan 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 in the rural areas towards larger and more sustainable villages thereby protecting open countryside areas. Policies seek to mitigate and adapt to climate change and ensure sustainable construction methods including SuDs.

SD1: Mitigating and Adapting to Climate Change

SD6: Sustainable Drainage Systems

SD8: Protection and Enhancement of Biodiversity & the Natural Environment

SD11: Local Landscape Protection & Enhancement

SD13: The Built Environment

H1: Housing Distribution

H2: Ensuring Sustainable Housing Delivery

H3: Efficient and Sustainable Use of Land

H4: Affordable Housing Target

H5: Affordable Housing Requirements

H8: Travelling Communities

RA1: Village Categorisation

RA2: Distribution of Housing in the Rural Areas

NOTE

THIS DOCUMENT MAY BE REPLACED WITH CHERWELL LOCAL PLAN 2012 FROM END OF MAY, BUT FOR PURPOSES OF MAY COMMITTEE THIS IS STILL RELEVANT

**The Annual Monitoring Report 2011**

Assessment needs to 2018 have been completed and the number of pitches are noted (updated by the Planning Policy comment above)

**Other relevant documentation**

Executive Committee Report, Housing Land Supply Position Statement, 06 February 2012

Human Rights Act 1998

Housing Act 2004

The Equality Act 2010

Circular 11/1995: The Use of Conditions in Planning Permission

**5. Appraisal**

5.1 The key issues for consideration in this application are:

- Policy Context
- Housing Need
- Suitability of the site
- Landscape Impact
- Access and highway safety
- Flooding

**5.2 Policy Context**

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, delivery of a wide choice of high quality homes, the promotion of healthy communities, meeting the challenge of flooding and the conservation and enhancement of the natural environment.

5.3 Paragraph 14 of the NPPF states that where the development plan is absent, silent or relevant policies are out of date, in order to reflect the thrust of the guidance for a *presumption in favour of sustainable development*, planning permission should be granted unless harm can be identified.

5.4 The provision of sites for the travelling community is very much embroiled within the housing policy context. The most recent government guidance, which was issued in March 2012, is "Planning Policy for Traveller Sites" and this document should be read in conjunction with the NPPF. The Government's overarching aim is to ensure fair and equal treatment for travellers in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled

community. The guidance aims to increase the number of traveller sites in appropriate locations to address under provision and maintain an appropriate level of supply.

- 5.5 Policy C of the Government Guidance advises that when assessing the suitability of sites in rural or semi-rural settings, local planning authorities (LPAs) should ensure that the scale of such sites does not dominate the nearest settled community.
- 5.6 Policy H of the same guidance states that LPAs should consider the following matters:
- a) the existing level of local provision and need for sites;
  - b) the availability (or lack) of alternative accommodation for the applicants;
  - c) other personal circumstances of the applicant;
  - d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
  - e) that they should determine applications for sites from any travellers and not just those with local connections.
- 5.7 Policy H goes on to advise that LPAs should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. When considering applications LPAs should attach weight to the following matters:
- a) effective use of previously developed (brownfield), untidy or derelict land;
  - b) sites being well planned or soft landscaped in such a way as to positively enhance the environment and increase its openness;
  - c) promoting opportunities for health lifestyles, such as ensuring adequate landscaping and play areas for children;
  - d) not enclosing a sites with so much hard landscaping, high walls or fences that the impression may be given that the site and its occupants are deliberately isolated from the rest of the community.
- 5.8 At a more local level of policy guidance, policy H8 of the draft core strategy, indicates that locations outside of the Green Belt will be considered in identifying suitable sites by applying a sequential approach. The sites should be within 3km road distance of the built up limits of ...a Type A village (Launton). Various assessment criteria are also laid out including access to health services, schools, highway network. Other criteria relate to the general suitability of the site in terms of flooding, potential for nuisance or harm to historic or natural environment, general living environment, whether the site is an efficient and effective use of the land and its deliverability in terms of utilities.
- 5.9 **Housing Need**  
A District-wide needs assessment is currently being undertaken for the Council to assess the needs of the district for gypsy and traveller sites into 2031. In the meantime, based on the latest information obtained by previous similar and recent cases (10/00839/F in Hampton Gay & Poyle, 11/01863/F in Bloxham and 11/01356/F in Yarnton) it is only possible to reveal that the District has increased the provision available to 70 (3 of those are temporary). This does not necessarily mean that the needs are met or that they will be met in the future. Nor does it clarify whether or not any of the pitches are available now or in the future.
- 5.10 Other data can be obtained from the Gypsy and Traveller Accommodation Needs

Assessment (GTAA) by consultants for all authorities in the Thames Valley area but this was produced in 2006 and only calculated need to 2011. The Council's position to date is, therefore, that we have no reliable needs based information. The applicant's agent is justifying the level of need based on the Hampton Gay & Poyle case which pre-dates our current position. The Council's data includes this figure and has made further provision since.

- 5.11 So, whilst the level of need that may be identified by the new Needs Survey cannot be predicted, it is likely that household growth and 'concealed need' (for example, overcrowding) will create a requirement for new pitches. Further, the advice at national level is that LPAs should be increasing the number of traveller sites in appropriate locations with planning permission to address under provision and maintain an appropriate level of supply. Further, the policy team is not aware of any existing pitches that are likely to be available for occupation.
- 5.12 Under the current guidance, as the Council cannot demonstrate an up-to-date five year supply of deliverable sites; if the site is otherwise acceptable, consideration should be given to a temporary planning permission. (paras 25 and 28 of Planning Policy for Traveller Sites). Policy on the use of temporary permissions is set out in Circular 11/1995: *The Use of Conditions in Planning Permission* which states that there is no presumption that a temporary planning permission should become permanent.
- 5.13 **Suitability of the site**  
The site is outside the built up area of the village and raises a number of issues largely defined by the requirements of Policy H8 of the Draft Core Strategy and Policy H of the Government's guidance on planning policy for traveller sites.
- 5.14 The need for the site and how it came to be identified as a potential gypsy and traveller site may be driven by the personal circumstances of the applicant. In seeking to obtain further information the applicant's agent has advised the Council that this would only be a relevant consideration where there is a breach of development plan policy and other material considerations come into play. As the development plan is silent or absent with out of date policies then government guidance would indicate that the application should be looked on positively. We are further advised that the applicants do have local connections and that they are homeless without access to a lawful, suitable, affordable or available pitch on which to reside.
- 5.15 Considering first the site's location, it is very close to this Category 1 village and well within the advised 3km distance from the built-up limits. It therefore has good access to the amenities offered by the village including health services, a primary school, bus services and a shop. There is also scope to provide essential services like mains water, electricity and sanitation (septic tank). The distance from the village is considered to be close enough to allow social inclusion and at the same time respect for privacy thereby promoting the governments desire to see an integrated co-existence between the site and the local community. The proximity to the pumping station does not represent a nuisance for new residents and the site is otherwise suitable for living accommodation. Other site constraints regarding flooding and impact on the natural environment are addressed under separate headings.
- 5.16 The site has a useable area for 2 pitches despite the requirement to retain an 8m

buffer from the brook to avoid flooding. At the present time only one of the touring caravan spaces is affected by this and there is sufficient space for it to be relocated. The layout would otherwise comply with the Good Practice Guide relating to the design of gypsy and traveller sites. Being just 2 pitches, this application can be one which represents a very small scale site which are known to work well for single extended families. It is considered that at this scale, the development will not dominate the nearest settled community and will avoid placing undue pressure on the local infrastructure.

**5.17 Landscape Impact**

With the site being outside the built up limits of the village it is, by definition, within the countryside but its particular characteristics would suggest that it is of not of high quality either in terms of its use for agricultural purposes or as an area of notable attractive features. It is already part laid to tarmac and with sporadic areas of scrub and thin overgrown grassland. The existing fencing also prevents views into the wider landscape from the public domain of the roadside.

5.18 Whilst unremarkable countryside, existing policy would suggest that open countryside areas ought to be protected for their own sake and this is why development outside of villages is restricted to special cases such as agricultural or housing need. However, the NPPF in paragraph 109, advises that the planning system should be protecting and enhancing *valued* landscapes. In some ways the site could be described as having been previously developed and so the effective use of such land should be encouraged because the site is not of high environmental value.

5.19 With some hardstanding already in place and a fence for security the established characteristics of the site are unlikely to have to be changed to any significant degree. The retention of the timber post gate which allows views across the site and beyond should be retained to ensure that the impression is not given that the site and its occupants are deliberately isolated from the rest of the community.

**5.20 Flooding**

Whilst not noted on our records as being within a flood zone, the site is noted as being adjacent to flood zones 2 and 3 and close to an unnamed stream. Often anomalies in flood zoning data appear and the mapping does not always correctly reflect the risk. The applicants Flood Risk Assessment (FRA) acknowledges that the site is surrounded by flood risk and has addressed the issues according. However, the Environment Agency (EA) has drawn the conclusion that it is not acceptable and the application should be refused because it fails to use a robust approach to identify a 1 in 100 year flood level within an allowance for climate change (the design flood level).

5.21 The EA's position is that because of the particular characteristics of the site and it being surrounded by potential flood risk, they are not confident that the site is not actually within a flood zone 3. The FRA provided confirms their fears and the risk amounts to a potential for about half a metre deep of flooding across the site. Caravans, mobile homes and park homes intended for permanent residential use are identified as 'Highly Vulnerable' uses. These factors have lead to the EA stating that the risk of flooding is too great to recommend approval. Further enquiries have confirmed also that the recommendation remains the same even for a temporary period to allow further study on the issue to be undertaken.

**5.22 Access and highway safety**

There is one established access point to the site from Blackthorn Road. This entrance is close to a bend in the road and there are no speed limitations at this point. In consultation with the County, as highway authority, there is no objection to the proposal subject to a condition relating to access details for approval. Appropriate provision would be made for parking and manoeuvring within the site. With regard to transport the location is in accordance with relevant circular 01/2006. The submitted documents provide limited detail of the access and specifically the visibility available. Therefore, a detailed plan of access demonstrating appropriate visibility splays should be submitted prior to any development.

**5.23 Conclusion**

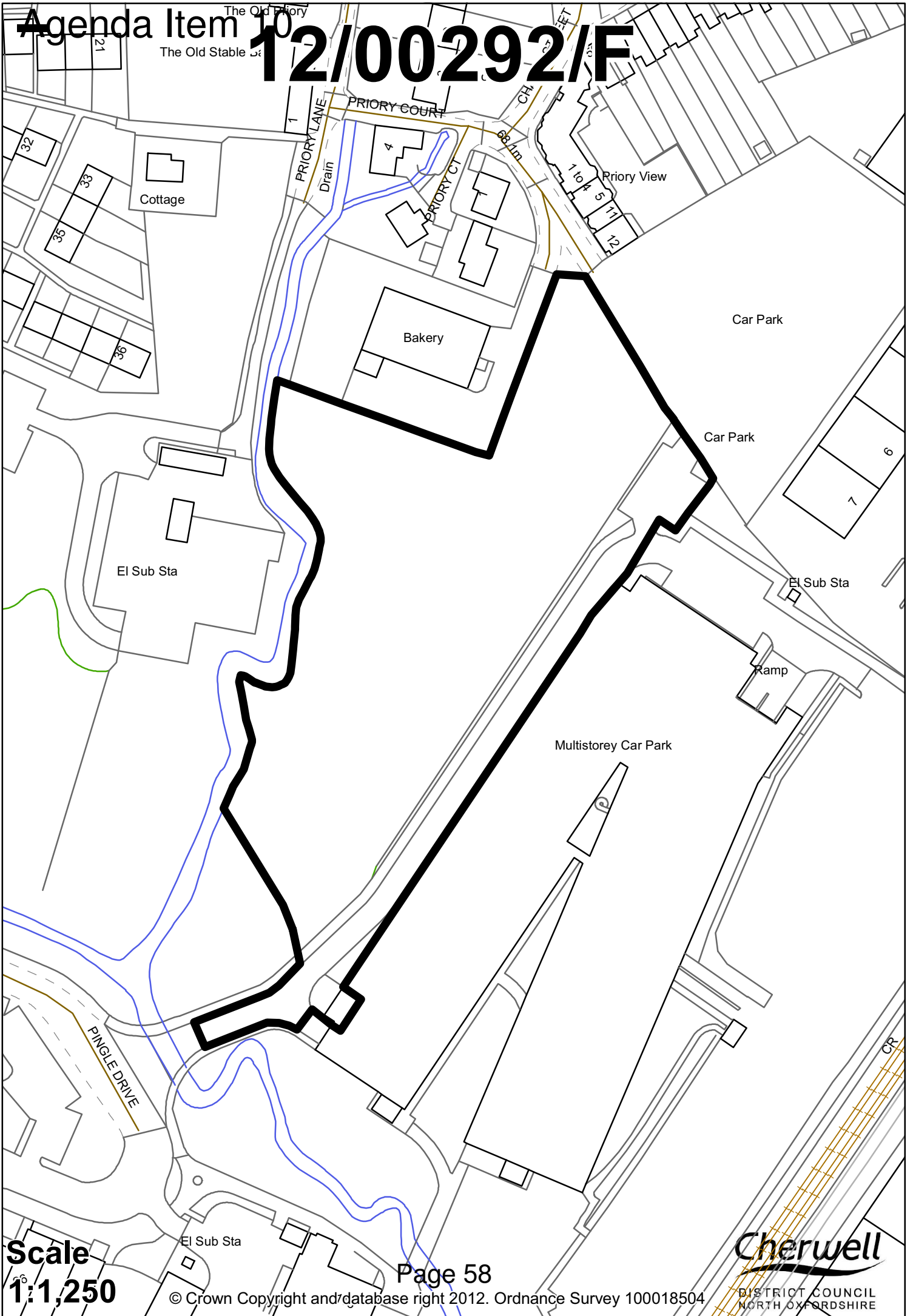
A need for more gypsy sites cannot be confirmed at this time and with the absence of this information and given that we have no adopted policy addressing the issue (only guidance at local and central level) the application ought to be considered favourably and subject to interests of acknowledged importance, which in this case amount to the general suitability of the site, flooding, highway safety and landscape impact. Having considered the issues arising, it is apparent that the flooding issue remains outstanding and the EA are recommending refusal, even for a temporary period, to allow for further study. At present the EA is not confident that the site is not a Zone 3 and together with the uses being defined as 'highly vulnerable' the risk is great.

**6. Recommendation**

**Refusal**, on the following grounds:

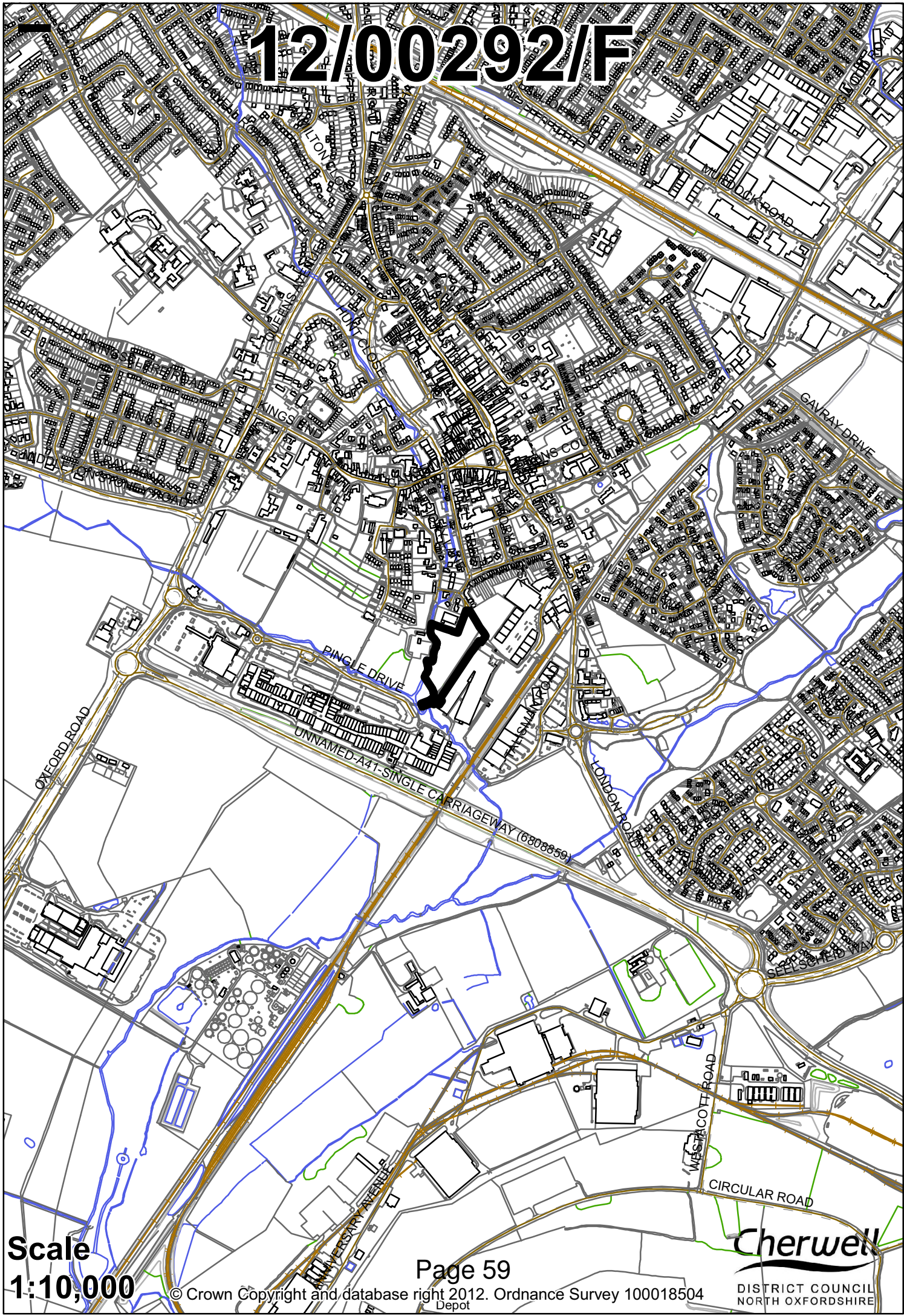
The site is at risk of flooding, potentially in Zone 3, representing the greatest risk. Insufficient information has been provided within the Flood Risk Assessment to give confidence that the proposed use, which is highly vulnerable, would be safe and not be at risk of flooding, even in the short term. The application is, therefore, contrary to Government guidance contained within the National Planning Policy Framework Section 10: Meeting the challenge of climate change, flooding and coastal change (paragraphs 99-104) and Policy NRM4 of the South East Plan 2009.

<b>CONTACT OFFICER:</b> Rebecca Horley	<b>TELEPHONE NO:</b> Ext 1837
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Scale  
1:1,250

# 12/00292/F



Scale  
1:10,000

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Depot

**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00292/F	<b>Ward:</b> Bicester Town	<b>Date Valid:</b> 02/03/12
<b>Applicant:</b>	Bicester Nominees Ltd & Bicester Nominees II Ltd, c/o Agent	
<b>Site Address:</b>	Land Off Pingle Drive, Bicester	

**Proposal:** Change of use Application – Alterations to the internal road layout, use of land for coach and car-parking, and extension of single storey storage/staff building to be used for coach drivers.

**Date site visited:** 13 March 2012

### 1. Site Description and Proposal

- 1.1 The site is located at the far end of the Bicester Village complex adjacent to the existing overflow decked parking area which is to the east of the site. The land to the west is the Pingle recreation ground. There is a bakery to the north and the closest residential properties are at Priory Court just to its rear (north).
- 1.2 Bicester Village is noted as being a well established shopping location situated south of Bicester town centre just off the A41. It has developed over a number of phases, the final phase (3) being that which was approved under 05/02131/F for retail development, decked car parking and associated works. That consent has been fully implemented.
- 1.3 The site area subject of this application extends beyond 1 hectare (and hence a major application needing Committee consideration) and is currently used as parking for Bicester Village having been granted retrospective planning permission for a temporary 3 year period (11/00986/F refers). That consent will expire on 19 August 2014. This application seeks to make a permanent change to the use of the land and is for a slightly larger site area, for use as car and coach parking for Bicester Village. It will provide a further 200 car parking spaces with an extra 20 spaces for the coach parking. The application also seeks permission for a relatively modest extension to the existing storage/staff building which is located on the ground floor of the decked parking area to the far south of the red line site area. The proposed floor area is proposed to increase from 23 to 63 sq m.
- 1.4 The site is an area of archaeological value and within a zone 3 area flood plain. The site does not abut the Conservation Area, the boundary for which is some 40m away at it nearest point to the north. It is considered, therefore, that the site is not constrained by its proximity to the Conservation Area.

### 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice placed on a lamppost by the staff building on 13 March. The final date for comment on this application was 5 April 2012.
- 2.2 No correspondence has been received from any third party interests.

### 3. Consultations

- 3.1 **Bicester Town Council:** No objection

- 3.2 **Environment Agency:** No objection following the submission of additional drawings, subject to conditions which will ensure that the mitigation measures are put in place to prevent flooding elsewhere by ensuring that there is no loss of flood water storage.
- 3.3 **Highways Agency:** No objection
- 3.4 **Thames Water:** No objection regarding sewerage or water infrastructure. It is recommended that petrol/oil interceptors be fitted in all car parking facilities. Failure to enforce the effective use of these interceptors could result in oil polluted discharges entering local watercourses.
- 3.5 **OCC Highways:** No objection subject to conditions relating to standards for the parking and manoeuvring areas and to ensure that they are in accordance with SUDs. They comment that:-

Bicester Village continues to generate and attract a high number of visitor traffic movements throughout the year (especially over holiday periods). With the ever increasing demand of visitors arriving by coach to Bicester Village and the expected increase of visitors this year with the Olympics taking place, the proposed changes to one of the existing car parks to accommodate a new coach parking area (20 spaces) is considered appropriate for this site.

It is understood that the coach parking currently available at Bicester Village is limited to 10 spaces (as shown in Appendix A of the Transport Statement). The location of the 10 spaces is known to cause internal disruptions to traffic entering the main car park. At peak trading periods for Bicester Village the demand for coach parking is higher than the parking spaces available, which causes coaches to park within car parking areas reducing Bicester Village's car parking levels – which can have an impact on the public highway at peak times.

The proposal to increase the coach parking area by 50% will help to alleviate the existing coach parking problems and also aid Bicester Village in promoting coach journeys rather than visitors travelling individually by the private car. It is noted that the existing coach parking area will be converted to a passenger drop off/collection point as part of a future planning application submission.

The coach parking area will be located on an area which is currently used as car parking (200 spaces). The proposed layout shows that 20 coach parking spaces can be provided and the existing 200 car parking spaces remain (with a different layout). Keeping the same level of car parking is seen as a benefit, as the car parking demand for Bicester Village continues to remain high during peak trading times.

- 3.6 **OCC Drainage:** No comment received.
- 3.7 **OCC Archaeology:** No objection subject to conditions to ensure the implementation of a stage programme of archaeological investigation be maintained during the construction period.
- 3.8 **Head of Public Protection and Development Management (Anti Social Behaviour):** No objection subject to a condition to require the submission of a design

that accords with lighting guidance and to performance suitable for Environmental Zone E3. Having visited the site during the hours of darkness, the majority of the proposed light fittings will not have a direct detrimental affect on nearby dwellings e.g. the properties in Priory Court, the exception being the pair of lamps located on the right hand boundary of the proposed car park extension. The aim of the right hand lamp is such that it points in the direction of Priory Court and this coupled with the relatively low mounting height of the lamp and its aiming angle would make this arrangement unacceptable.

- 3.9 **Head of Safer Communities, Urban & Rural Services (Landscape):** No objection. The proposal does not interfere with any wider landscaping scheme on Pingle Drive that is proposed or agreed. The group of trees to the north-west boundary will serve no long-term benefits and should be relocated to a more suitable area within the boundary of the site.

#### 4. Policy Considerations

##### **National Planning Policy Framework (NPPF)**

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

- 1: Building a strong, competitive economy
- 4: Promoting sustainable transport
- 7: Requiring good design
- 8: Promoting healthy communities
- 10: Meeting the challenge of climate change, flooding and coastal change
- 12: Conserving and enhancing the historic environment

##### **South East Plan 2009**

###### **Cross Cutting – Policies**

- EMP1: Employment
- CC1: Sustainable Development
- CC4: Sustainable Design and Construction
- CC6: Sustainable Communities & Character of the Environment
- CC7: Infrastructure and Implementation

###### **Transport – Policies**

- T1: Manage and Invest
- T4: Parking

###### **Natural Resource Management – Policies**

- NRM1: Sustainable Water Resources & Groundwater Quality
- NRM2: Water Quality
- NRM4: Sustainable Flood Risk Management

###### **Countryside and Landscape Management – Policies**

- C4: Landscape and Countryside Management
- C5: Managing the Rural-Urban Fringe

###### **Management of the Built Environment – Policies**

- BE1: Management for an Urban Renaissance
- BE6: Management of the Historic Environment

###### **Central Oxfordshire – Policies**

	CO1: Core Strategy CO5: Transport
<b>Adopted Cherwell Local Plan 1996 Saved Policies</b>	TR1: Transportation Funding C28: Design, layout etc standards ENV1: Pollution Control
<b>Non-Statutory Cherwell Local Plan 2011</b>	<b>Housing</b> policies H1b and H13 (referenced from the proposals map)  <b>Town Centres, Urban Renewal and Local Shopping</b> policy S17  <b>Transport &amp; Development</b> policies TR1, TR5, TR11 and TR13  <b>Recreation and Community Facilities</b> policies R1 and R3  <b>Conserving &amp; Enhancing the Environment</b> policies EN1, EN3, EN6, EN13, EN14, EN15, EN34, EN36 and EN47.  <b>Urban Design &amp; The Built Environment</b> policies D1 and D5
<b>Cherwell Local Development Framework (LDF) Draft Core Strategy 2010</b>	The draft document went through the first round of public consultation in the Spring of 2010. The second draft is due out for public consultation. The current plan 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 in the rural areas towards larger and more sustainable villages thereby protecting open countryside areas. Policies seek to mitigate and adapt to climate change and ensure sustainable construction methods including SuDs.  SD1: Mitigating and Adapting to Climate Change SD6: Sustainable Drainage Systems SD11: Local Landscape Protection & Enhancement SD13: The Built Environment  <u>NOTE</u> THIS DOCUMENT MAY BE REPLACED WITH CHERWELL LOCAL PLAN 2012 FROM END OF MAY, BUT FOR PURPOSES OF MAY COMMITTEE THIS IS STILL RELEVANT

## 5. Appraisal

- 5.1 The key issues for consideration in this application are:
- Policy Context
  - Suitability of the site
  - Access and highway safety
  - Appearance and landscape impact
  - Neighbour impact
  - Flooding
  - Effect on the heritage assets (area of archaeological value)

5.2 **Policy Context**

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include building a strong and competitive community, promoting sustainable transport, requiring good design, the promotion of healthy communities, meeting the challenge of flooding and the conservation and enhancement of the historic environment.

5.3 Paragraph 14 of the NPPF states that where the development plan is absent, silent or relevant policies are out of date, in order to reflect the thrust of the guidance for a *presumption in favour of sustainable development*, planning permission should be granted unless harm can be identified.

5.4 The adopted Cherwell Local Plan proposals map shows the site as being suitable for employment generating development but much of this land allocation has already been given over to the decked parking area, the remainder being this temporary car park. Reference is made in the allocation to policies EMP1 and EMP2 but the latter policy has not been saved and EMP1 does not prevent other uses. The Non-statutory Cherwell Local Plan 2011, suggests mixed uses and recreational use but again much of the land has already been given over to the decked parking leaving only a small section undeveloped.

5.5 Given the lack of up to date policy guidance the assessment should be made as to whether or not the development could be considered sustainable in terms of the economic, social and environmental issues that it raises.

5.6 **Suitability of the site**

The site is flat and already being used as a car park for customers of Bicester Village and all access points are already in place. The coach parking area will be located on an area which is currently used as car parking (200 spaces). The proposed layout shows that 20 coach parking spaces can be provided and the existing 200 car parking spaces remain (with a different layout). The site lies adjacent to an existing car park and this would appear to be a logical extension to it. The west boundary of the site is identified by the brook and therefore confined. Similarly to the north, the boundary to the site is well defined by its shared boundary with the commercial uses. The proposed use would seem to be compatible with its surroundings.

5.7 Turning to the extension to the staff building, the proposed area is currently unused so there will be no loss of parking spaces and the building remains confined to within the decked parking area.

5.8 **Access and Highway Safety**

This issue is a key aspect in this case to determining whether or not the proposal can be regarded as *sustainable*. The application has been submitted with a Transport Statement and non-private car visits to Bicester Village are promoted alongside increasing the provision for coaches. The current application is seeking to address the congestion at the existing coach parking area and disruption to traffic flows within the car park which sometimes cause problems on the highway.

- 5.9 In addition to the further increases in coach trips which are anticipated, the Bicester Village website provides public transport information for rail and bus travel. With the Bicester town railway station being adjacent to Bicester Village it is an acceptable walking distance. Every incoming train from London and Birmingham is met at Bicester North railway station by the shuttle bus service provided by Value Retail to transfer visitors to and from the Village. It can, therefore, be reasonably concluded that the applicant is not seeking to simply provide for the private car users but also is actively involved in ensuring that Bicester Village is accessible by other means too.
- 5.10 Oxfordshire County Council, as Highway Authority accept that the proposal to increase the coach parking area by 50% will help to alleviate the existing coach parking problems and also aid Bicester Village in promoting coach journeys rather than visitors travelling individually by the private car. It is noted that the existing coach parking area will be converted to a passenger drop off/collection point as part of a future planning application submission. Keeping the same level of car parking is seen as a benefit, as the car parking demand for Bicester Village continues to remain high during peak trading times.
- 5.11 **Appearance and landscape impact**  
The existing temporary surface will be replaced by tarmac, for both the coach and car parks. Due to the tree and shrub planting along the course of the Town Brook, the presence of intervening structures (the electricity sub-station) and the buffer area, the site is not generally visible from the public domain of Pingle Recreation Ground. Other vantage points are principally from private land of a commercial nature and the proposal is not visually intrusive. The Conservation Area is at a sufficient distance away and with intervening land uses so it is considered that there will be no harm caused to its character or appearance. Planting is proposed on the east boundary and post and rail fencing on the remainder.
- 5.12 In terms of the loss of the site from its proposed use for recreational purposes in the non-statutory Cherwell Local Plan, despite the lack of weight that can be afforded to this policy, Head of Safer Communities, Urban & Rural Services (Landscape) has confirmed that the proposal would not interfere with any wider landscaping scheme on Pingle Drive that is proposed or agreed.
- 5.13 The existing staff area building extension being a single storey structure and within the decked parking area will be externally finished in timber cladding and stone facing to match the existing so will not impact on the visual amenities of the area.
- 5.14 **Neighbour impact**  
Whilst it is considered that there would be no direct harm caused to neighbour amenity, there remains the issue of lighting of the car park particularly with regard to residential neighbours. The Head of Public Protection and Development Management (Anti Social Behaviour) has investigated the matter and considers that the issue can be adequately be dealt with as a condition to ensure that there would be no direct detrimental affect on nearby dwellings e.g. the properties in Priory Court as a result of poor angling or heights of the lamps or inappropriate levels of luminance.
- 5.15 **Flooding**  
The site is liable to flood and is noted as being in a Flood Zone 3. During the

course of the application, it has been confirmed from the Environment Agency that outstanding matters have been overcome and an acceptable scheme is now being proposed. The application is considered acceptable in this regard.

**5.16 Effect on the heritage assets (area of archaeological value)**

The site is within an area of archaeological interest and it has already been subject of an archaeological evaluation carried out ahead of an earlier planning application for the site. This evaluation recorded two medieval ditches and a number of Saxon features towards the north of the site. Oxfordshire County Council has recommended that the matter be dealt with by condition which is acceptable.

**5.17 Conclusion**

There are no adopted development plan policies in place to address this proposal at this site. Considered under Government guidance it is concluded that the application represents a sustainable development as it seeks to improve the capacity of the highway network by reducing on site congestion and it forms part of a wider package of alternative means of accessing Bicester Village. It will not cause harm to the acknowledged interests of access and highway safety, visual amenity of the area, neighbouring amenity, flooding or matters of archaeology.

**6. Recommendation**

**Approval**, subject to the following conditions:

1. SC1.4A Full Permission: Duration Limit (3 years) (RC2)
2. Except where otherwise stipulated by conditions attached to this permission the development shall be carried out strictly in accordance with the following plans and documents: Planning application form; Lyons Sleeman & Hoare Planning, Design & Access Statement dated February 2012 and drawing nos. 08047/P-201, P203, P-204, P-205 and P-206; Transport Statement by Royal Haskoning dated 29 February 2012; Flood Management Plan dated 22 February 2012 and Flood Risk Assessment dated February 2012.

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) by Clarkebond ref: WB01189/BCP/FRA dated February 2012, drawings WB01189 C 305 to 311, and the following mitigation measures detailed within the FRA:

1. Finished topographic levels shall be no higher than those shown in drawings WB01189 C 309 to 311.
2. The proposed fence will be constructed such that a 500mm clear opening is provided between ground level and the lowest rail, and the only element of the fence within the flood flow path is the fence posts, as detailed in Section 4.3.1 of the FRA.

The mitigation measures shall be fully implemented prior to occupation and subsequently 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.

Reason – To protect the development and areas elsewhere from the risk of flooding and

to ensure that there is no loss of flood water storage and in order to comply with Government guidance contained within Section 10 of the National Planning Policy Framework and Policy NRM4 of the South East Plan 2009.

4. The parking and manoeuvring areas shall be provided in accordance with the plan (08047/P-203) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking of vehicles at all times.

Reason – In the interests of highway safety and flood prevention in accordance with Government Guidance contained within sections 4 and 10 the National Planning Policy Framework.

5. The proposed parking area is to be in accordance with SUDS. A SUDS scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development hereby approved.

Reason – In the interests of highway safety and flood prevention in accordance with Government Guidance contained within sections 4 and 10 the National Planning Policy Framework.

6. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government Guidance contained within section 12 of the National Planning Policy Framework.

7. Prior to any demolition on the site and the commencement of the development and following the approval of the Written Scheme of Investigation referred to in condition 5, a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with Government Guidance contained within section 12 of the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved and notwithstanding the lighting details shown in the submission, revised details of the lighting installation/s (including height or lamps, position of posts, angle of lamps, levels of luminance) shall be submitted to and approved in writing by the Local Planning Authority. The lighting installation/s shall thereafter be implemented in accordance with the approved details.

Reason – To safeguard the amenities of neighbouring properties, to minimise the risk of nuisance arising from light pollution and in the interests of the visual amenities of the area in accordance with Policies ENV1 and C28 of the adopted Cherwell Local Plan.

Planning Note:

1. Thames Water has been consulted in respect of the application and a copy of their letter of reply is enclosed for your information.

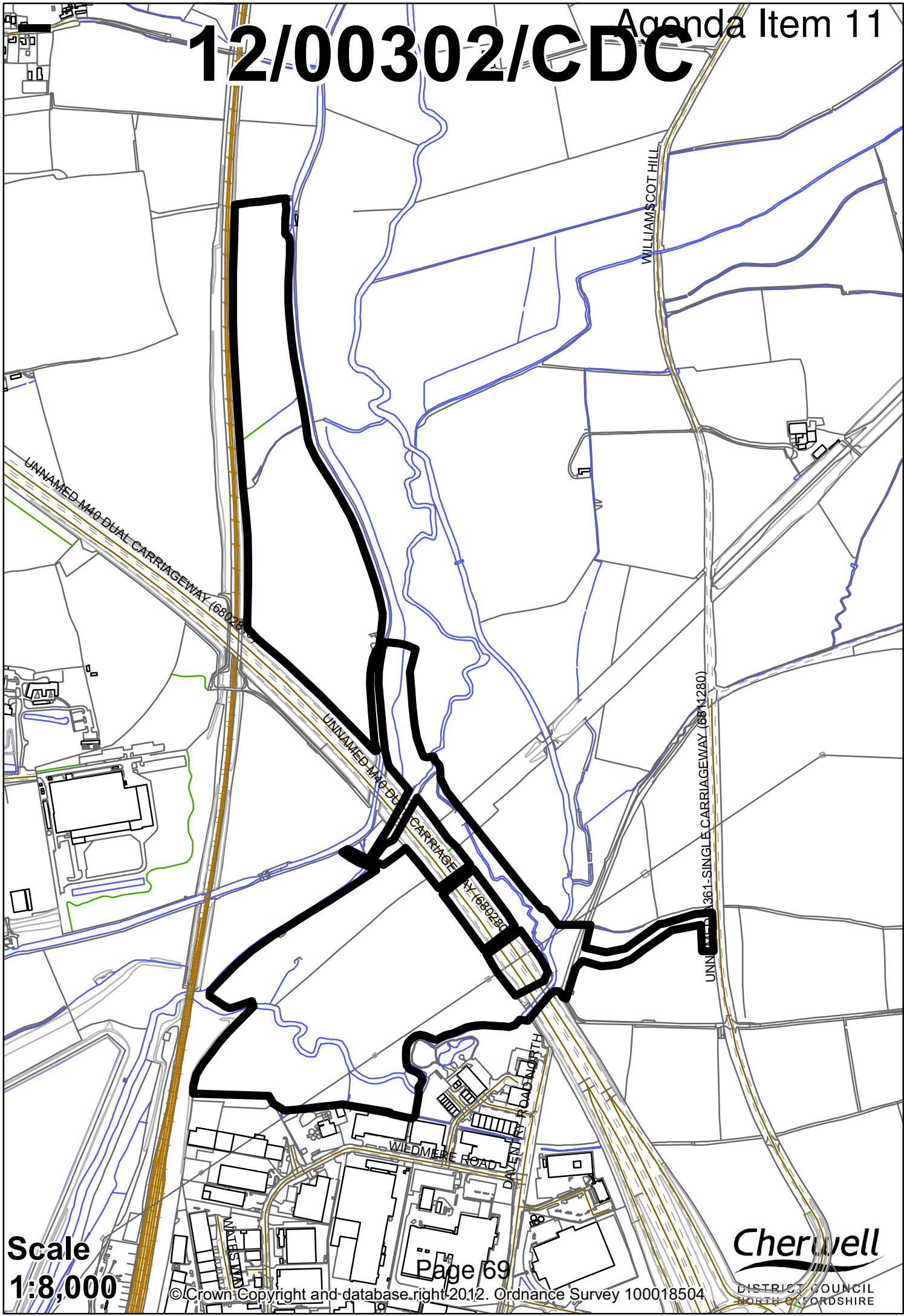
**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. The development is considered to be acceptable on its planning merits as the site is in a sustainable location and of a design, size and style that is appropriate that will not unduly impact on neighbouring properties or the wider landscape generally, cause harm to highway safety, give rise to increased flood risk or harm matters of archaeological interest. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework 1: Building a strong, competitive economy, 4: Promoting sustainable transport, 7: Requiring good design, 8: Promoting healthy communities, 10: Meeting the challenge of climate change, flooding and coastal change, 12: Conserving and enhancing the historic environment and Policies NRM4, C4 and BE1 of the South East Plan 2009 and saved Policies C28 and ENV1 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

<b>CONTACT OFFICER:</b> Rebecca Horley
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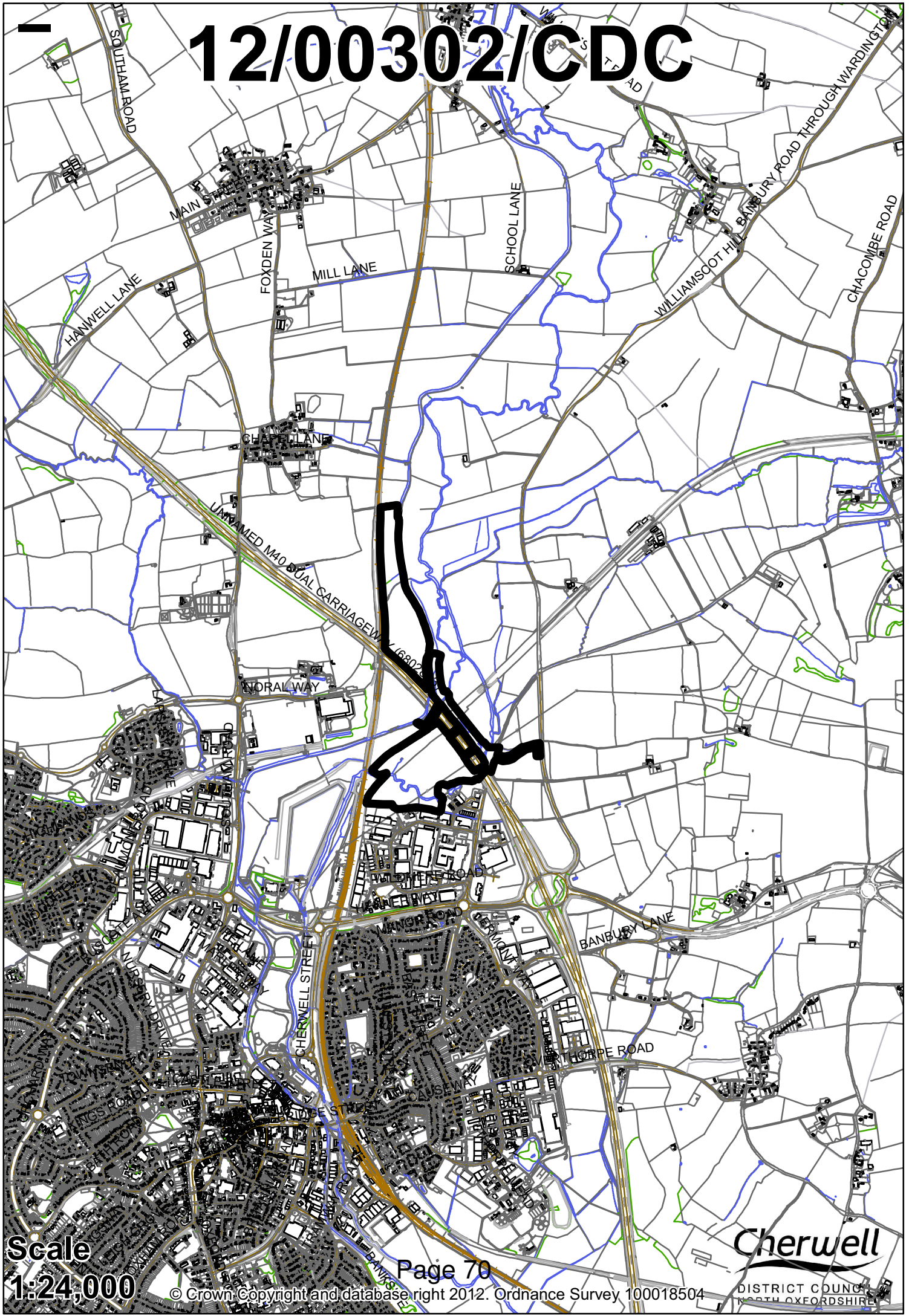
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# 12/00302/CDC



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# 12/00302/CDC



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application</b> 12/00302/CDC	<b>No:</b>	<b>Ward:</b> Banbury Grimsbury and Castle	<b>Date Valid:</b> 07/03/12
<b>Applicant:</b>	Cherwell District Council		
<b>Site Address:</b>	Land adjacent the M40 and Oxford Canal, North of Wildmere Industrial Estate, Banbury, Oxfordshire		

**Proposal:** Change of use from agricultural land to country park and creation of car park

**Date site visited:** 27 January 2012

### 1. Site Description and Proposal

- 1.1 The site is situated to the north of Banbury and is formed of two sites to the east and west of the M40 motorway, with access through to each other. The site to the east of the M40 would take access from the A361 and the site then follows the edge of the motorway north west before following the line of the railway line in a northerly direction. To the south of the motorway, the site forms an area of land to the north of the Wildmere Industrial Estate and which contains Wildmere Wood. The total area of land covered is 26.86ha. The land is currently open agricultural land; however it has recently been the subject of the Banbury Flood Alleviation Scheme (FAS) and so contains the embankments and control structures associated within this. Part of the land that extends in a northern direction from the motorway and adjacent to the railway was excavated in order to build the earth embankments that form part of the FAS, but the land has been re-graded to acceptable gradients so that it is more appropriate for public access.
- 1.2 The site is within an area of High Landscape Value, public rights of way run through the site, the site has ecological interest, has archaeological interest, is potentially contaminated and is within a flood plain and within 20m of a Main River and therefore there are several site constraints that need to be taken into consideration.
- 1.3 The application seeks full planning permission for the change of use from agricultural land to a Country Park and the creation of a car park. The plans show a number of engineering works, including seasonal ponds, pedestrian access points and paths, wildlife observation areas and seating and a bridge. The proposal also involves woodland planting and habitat creation such as wetland scrapes, grassland and meadows. The car park would be accessed from the A361 and access would then lead into the Country Park utilising the Flood Alleviation Scheme Embankment permissive footpath. Cherwell District Council and the Environment Agency are working in partnership to design and implement the Country Park for the benefit of present and future generations of people who live, work and visit Banbury.
- 1.4 The Country Park will be made up of a number of character areas, namely around the existing FAS embankment, Wildmere Wood (with an access provided into this area), a Woodland extension, Roman Meadow and The Dell and Arboretum Field.
- 1.5 The design and access statement suggests that much of the Country Park will be new woodland and it has been an aspiration for the Council to establish new community woodland in Banbury and its urban fringe. In order to increase biodiversity, improve public health and well being and mitigate climate change, it is

important to plant more community woodland throughout the District. This application provides a way to achieve this aim on land recently acquired by the Council.

- 1.6 The planning history relates only to the flood alleviation works that were permitted under both applications 04/00923/F and 09/00570/F.
- 1.7 A small part of the site falls within South Northamptonshire District Council area and so a planning application has been made for the change of use of the land that falls within that District.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of three site notices placed at the entrance to Grimsbury Reservoir, at the north of the Prodrive site close to a pedestrian route and on the A361. A press notice was also published on 22 March 2012. The final date for comment on this application was, therefore, 12 April 2012.
- 2.2 2 letters of representation from the RSPB and Banbury Ornithological Society have been received, which support the proposal; however raise comments in relation to the detail of the scheme. Full details are available electronically via the Council's website.

The comments raised in terms of the detail of the scheme include:

### Banbury Ornithological Society

- Believe there is great scope to improve the delivery of wildlife habitat and the creation of better opportunities for local people to enjoy this natural area
- BOS have sought to engage constructively with the Environment Agency and CDC during the development of the restoration scheme for the flood alleviation area and have written to the EA with firm proposals for part of the area labelled Roman Meadow on the Preliminary Masterplan. Proposed this area could be established as a wildlife refuge for wetland birds with viewpoints enabling people to watch birds without disturbing them
- Disappointed to see from Masterplan that the Roman Meadow Area is proposed for a meadow restoration with trails through the whole field with further trails and an arboretum proposed for the thin strip of land to the north. If it is feasible to create a wetland area here, it is proposed that an alternative scheme is developed for this area with involvement of expertise from BOS, RSPB and BBOWT to create a nature reserve section of the Country Park. BOS would be pleased to commit time and some resource to help plan this restoration and potentially help to manage this area
- Access is along the canal towpath beyond Grimsbury Reservoir. Would seem to make sense to focus co-ordinated effort to improve access from the Reservoir area and the Country park extension. BOS would be happy to work with parties to develop the existing access route through the woodland to ensure people are encouraged to continue through the woodland and up the canal tow path to the extension area.
- Support the establishment of new woodlands in the Banbury area, but care should be taken in planning the additional woodland. From a visitor point of view, people are wary of entering woodland areas on their own unless it is clear plenty of people are around. From an ecological point of view, creating wetland areas with scattered scrub and trees might well be a better option.

Consideration should be given to the ecological implications of any planting.

- Believe this initiative offers a great opportunity to harness local knowledge and expertise to create a valuable area for people and wildlife.

#### RSPB

- Understand detail of the scheme is still to be finalised however raise a few points regarding the current design. Would be interested to support CDC through advice on design to maximise the biodiversity gains which can be achieved. Records of birds in the area and CDC should benefit these and other species.
- The RSPB support the proposals of the BOS and agree there is potential for creating a wetland which would enhance the area for wildlife.
- Scrapes proposed within the current design are suitable to help benefit breeding waders. RSPB happy to advise on the design of these to ensure they benefit wading birds and would recommend some further wet areas and islands in addition to those already proposed. Creation of wet grassland would contribute to the Oxfordshire Biodiversity Action Plan (BAP) targets for this habitat.
- Currently the benefit of the scrapes is negated by other features of the design. Access to the whole site will limit the success of the area for biodiversity. RSPB recommend that the amount of access is limited in certain areas of the site, particularly the area north of the motorway and that facilities such as viewing platforms and information boards are used.
- The proposed Country Park is far enough from Banbury to allow a limitation on disturbance levels but near enough to offer the opportunity for the local community to experience wildlife. The experiences gained by individuals would make this area an asset to the local community.
- RSPB recommend the woodland structure is diversified by including some areas of scrub which will benefit nesting birds
- Tree planting in wetland areas should be considered carefully to ensure they are complementary.
- RSPB question the intention to plant non native trees in the Arboretum Field. Suggest this area could be turned into a wetland area.
- NPPF identifies that the planning system should work to enhance biodiversity, providing net gains where possible.

### **3. Consultations**

- 3.1 **Banbury Town Council:** No Objections, a welcome facility for residents and visitors
- 3.2 **Wardington Parish Council:** No Objections
- 3.3 **Bourton Parish Council:** No comments received
- 3.4 **Chacombe Parish Council:** No comments received
- 3.5 **South Northamptonshire District Council:** No comments received to date
- 3.6 **Environment Agency:** The Flood Risk Assessment sets out good principles to ensure that the proposed development does not increase flood risk and therefore no objections are raised. The proposed development will only meet the requirements of the NPPF if measures detailed in the FRA are implemented and secured by way of a condition on any permission. A condition is also recommended to agree the detailed design of the drainage system.

- 3.7 **Highways Agency:** No Objections
- 3.8 **BBOWT:** No comments received.
- 3.9 **OCC Highways:** No objection. Access will be taken via the existing maintenance access off the A361. Such an arrangement has been agreed in principle with Local Highway Officers due to the expected low vehicle movements associated with a country park in this location. The maintenance vehicle access will need to be upgraded/ improved to meet the Local Highway Authority Construction standards, which will require a S278 agreement. The detail of the required access works are shown in indicative form and the setback distance of the timber gate as shown on the submitted drawing is acceptable. Proposed visitor car park will provide 28 parking spaces, which appears to be reasonable for a country park in this location.
- 3.10 **OCC Rights of way comments:** This proposal will increase access into the Countryside. The proposal utilises the existing public right of way and the permissive route along the flood alleviation embankment as well as providing further access opportunities within the site. People will be able to gain access into the park from a number of directions along public rights of way and the routes will be accessible for disabled people and disabled parking spaces will be provided. If this goes ahead, the country park will be an asset and therefore no further comments or suggestions where public rights of way are concerned. Conditions are recommended.
- 3.11 **OCC Archaeology:** No comments received.
- 3.12 **Head of Safer Communities, Urban & Rural Services (Arboricultural):** No Objections on Arboricultural grounds.
- 3.13 **Head of Safer Communities, Urban & Rural Services (Ecology):** No objection, if properly planned and implemented the proposal has the potential to greatly enhance biodiversity within the site. There are no ecologically valuable habitats that would be lost. A condition should be attached to any permission requiring that details pertaining to the planting scheme and layout are approved before any works start on site.
- 3.14 **Head of Safer Communities, Urban & Rural Services (Rights of Way):** No comments received.
- 3.15 **Head of Public Protection and Development Management (Environmental Protection Officer):** No comments received.

#### 4. Policy Considerations

##### **National Planning Policy Framework (NPPF)**

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

- 3: Supporting a prosperous rural economy
- 4: Promoting sustainable transport
- 8: Promoting healthy communities
- 10: Meeting the challenge of climate change, flooding and coastal change

11: Conserving and enhancing the natural environment

**South East Plan  
2009**

**Cross Cutting – Policies**

CC1: Sustainable Development  
CC6: Sustainable Communities & Character of the Environment  
CC7: Infrastructure and Implementation  
CC8: Green Infrastructure

**Transport – Policies**

T4: Parking

**Natural Resource Management – Policies**

NRM4: Sustainable Flood Risk Management  
NRM5: Conservation and Improvement of Biodiversity  
NRM7: Woodlands

**Countryside and Landscape Management – Policies**

C4: Landscape and Countryside Management  
C5: Managing the Rural-Urban Fringe  
C6: Countryside access and rights of way management

**Management of the Built Environment – Policies**

BE1: Management for an Urban Renaissance  
BE4: The Role of Small Rural Towns

**Tourism and Related Sports Recreation – Policies**

TSR2: Rural Tourism  
TSR4: Tourism attractions

**Social and Community Infrastructure – Policy**

S1: Supporting Healthy Communities  
S5: Cultural and sporting activity

**Central Oxfordshire – Policies**

CO1: Core Strategy

**Adopted Cherwell  
Local Plan 1996  
Saved Policies**

R7: Oxford Canal and River Cherwell  
C2: Protected Species  
C4: Promotion of new habitats  
C7: Landscape conservation  
C13: Areas of High Landscape Value  
C14: Trees and Landscaping  
C17: Enhancement of the urban fringe  
C28: Design, layout etc standards  
C30: Design control  
C32: Disabled access

**Non-Statutory  
Cherwell Local Plan  
2011**

**Transport & Development** policies TR1, TR5 and TR11

**Recreation and Community Facilities** policies R4, R6, R14

**Tourism** policy T1

**Conserving & Enhancing the Environment** policies EN1, EN13, EN14, EN22, EN23, EN24, EN25, EN27, EN28, EN34, EN35, EN36, EN37

**Urban Design & The Built Environment** policy D6

**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 for public consultation. The current plan 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 in the rural areas towards larger and more sustainable villages thereby protecting open countryside areas. Policies seek to mitigate and adapt to climate change and ensure sustainable construction methods including SuDs.

SD1: Mitigating and Adapting to Climate Change  
SD8: Protection and Enhancement of Biodiversity & the Natural Environment  
SD11: Local Landscape Protection & Enhancement  
I3: Open Space, Sport and Recreation Provision

NOTE

THIS DOCUMENT MAY BE REPLACED WITH CHERWELL LOCAL PLAN 2012 FROM END OF MAY, BUT FOR PURPOSES OF MAY COMMITTEE THIS IS STILL RELEVANT

**Other relevant  
documentation**

Cherwell Biodiversity Action Plan: 2005-2010  
Corporate Biodiversity Action Plan 2011-2012  
Natural Environment and Rural Communities (NERC) Act 2006  
Cherwell District Council Countryside Design Summary  
Supplementary Planning Guidance  
Oxfordshire Wildlife and Landscape Study (OWLS)  
Article 10 of the Habitats Directive

**5. Appraisal**

5.1 The key issues for consideration in this application are:

- Principle of the development
- Visual impact
- Access and highway safety
- Ecology
- Flooding

5.2 **Principle of the development**

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development. Relevant to this case, the NPPF seeks to promote sustainable transport, supporting a prosperous rural economy, promoting healthy communities, meeting the challenge of climate change and flooding and conserving and enhancing the natural environment.

- 5.3 The land the subject of this application forms part of the land that has currently been subject to the construction of a flood alleviation scheme, land adjacent to the flood alleviation scheme works and some existing unused pasture. The creation of a country park involves a change of use of the land and therefore the principle of this change of use must be considered.
- 5.4 The NPPF suggests that planning should support economic growth in rural areas and states that support should be given to sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors and which respect the character of the countryside. The NPPF also reinforces the need to promote healthy communities and that there should be the delivery of social, recreational and cultural facilities and services the community needs. Paragraphs 73 and 74 of the NPPF are particularly relevant and which state that access to high quality open spaces and opportunities for sport and recreation can make a positive contribution to the health and well being of communities.
- 5.5 The South East Plan also is clear that the rural urban fringe must be managed under policy C5. This policy includes detail within the supporting literature that research has found that the urban rural fringe serves an important role both functionally and structurally in the South East and that this area provides 10 key functions which include being a bridge to the country, a gateway to the town, a 'health centre', a 'classroom' and a nature reserve amongst others.
- 5.6 In the View of your officers, the principle of the creation of a Country Park will accord with the general thrust of the above planning policies to provide a new recreational facility for Banbury and its residents, visitors and those who work in the town. It is considered that the Park would be an asset to the town and would form a new and unique facility within the Cherwell District. The provision of the Park will help to make a positive contribution to the health and well being of communities and will help to promote the rural edge of the town. The proposal will also ensure the management of the rural fringe around Banbury and will ensure that the function of this area is enhanced.
- 5.7 The application provides some details of engineering operations and supporting work that are proposed. Officers are aware that it is likely that some of these proposals may change as the scheme development unfolds, and so a condition is recommended to ensure that details are submitted of the final scheme and approved prior to the commencement of the development. These works involve the provision of scrapes and seasonal ponds, pedestrian access points, wildlife observation and seating areas, bridges and boardwalks within woodland areas. The proposals also involve woodland planting and other landscaping. The physical extent of the works are fairly minimal and are generally natural in character, which will not detract from the rural nature of the area and your officer's are satisfied that this assessment is likely to still apply, should the details of the scheme subsequently change from those shown on the submitted plans. The proposals will increase biodiversity of this area, which will increase the experience for visitors to the Country Park and will also contribute to improving the health and well being of communities. The proposal also assists in protecting and enhancing the diversity and local distinctiveness of the region's landscape.
- 5.8 The car park is proposed to be to the east of the M40 and the Country Park and is to be accessed by car via the A361. The car park is proposed on the site of the

contractor's base for the FAS works and will be a hard surfaced, laid out car park forming space for 28 vehicles. The principle of a car park is considered to be acceptable as it will increase accessibility for the Country Park. The visual impact of this feature will be considered below.

- 5.9 The siting of the Country Park is considered to be acceptable in that it is located on the edge of Banbury and will be an accessible facility for the town including visitors and residents. From a site visit carried out by officers, it was apparent that with the prevailing wind the eastern side of the motorway does suffer from noise pollution from this major road, which is considered to be a disadvantage to the position of the Country Park, however the land on the western side of the motorway is noticeably quieter and more tranquil and it is considered that the overall benefits of the scheme and its contribution that it will make to the town overall mean that the proposal is acceptable. There are other examples of recreational features close to major roads, for example Avon Dassett Hills, which are well used and which do not suffer by their position close to the motorway.
- 5.10 In terms of pedestrian access within the site, footpaths are provided throughout the park and linkages are provided through underneath the motorway to gain access to each side of the Country Park. Bridges are also used to allow access over waterways, again, allowing full accessibility through the site and around the Country Park. It is envisaged that the Country Park will link up with existing Green Infrastructure, which includes Grimsbury Reservoir, Grimsbury Nature Reserve and Spiceball Park improving the rural urban fringe. Wildmere Wood is currently inaccessible to pedestrians; however a bridge is to be provided to access this woodland. The most southern link underneath the motorway exists currently providing pedestrian access and is along the route of the old A361. The bridge under the motorway is currently relatively oppressive, being unlit and having an unwelcoming atmosphere. It must also be noted that the recently considered retail park on the Prodrive site, (which has a resolution to grant planning permission) will involve a large retail building being built in fairly close proximity to this walkway, which may increase the oppressiveness of this approach and so it is recommended that details of any lighting and measures to increase the security of these areas are submitted. Comments are awaited from the Thames Valley Police Architectural Liaison Officer who may offer advice in terms of this matter as well as to any potential security issues for the car park given its relatively isolated position.
- 5.11 Pedestrian safety features are also proposed, to ensure that the permissive pathways are safe and that people cannot fall into areas near for example the two control features for the FAS. Gates and other security features will be used to block pedestrian access to certain areas and the Environment Agency will be able to access these for maintenance purposes only.
- 5.12 **Visual impact**  
The land is within an area defined as the Northamptonshire Uplands in the Oxfordshire Wildlife and Landscape Study (OWLS). As has been described, the physical works that are shown on the currently submitted plans are relatively minor works, that are usual countryside features and which will not detract from the rural character of the area. The works will increase and support the biodiversity of the area and will create a pleasant environment for visitors to the Country Park. Other than the creation of the minimal engineering works and minor features for visitors (e.g. benches, board walks etc) the land will otherwise remain open with landscaping and tree and woodland planting and which will have a very limited

impact upon the visual amenity of the area or the existing identified landscape character of the area. The proposal will therefore provide an attractive gateway to the town and improve connectivity between the town and the Countryside.

- 5.13 The land is within an area designated as an area of high landscape value and given the proposed work and the assessment above, your officers do not consider that the proposal will cause harm to the character or visual appearance of the area of high landscape value.
- 5.14 The car park will form a new physical feature in the countryside, which will to some degree detract from the open rural character of the area. However, a car park is required to provide access for car users to the Country Park and it is officer's view that the best location for this has been chosen, being tucked into the edge of the site, against an existing hedgerow and that the car park is a reasonable size not being overly large. The impact of the car park can also be mitigated by some degree by the introduction of additional landscaping in this area to help to screen the car park and it is therefore considered that the proposed car park will not cause serious harm to the visual amenity of the area.
- 5.15 **Landscaping**  
Woodland planting is proposed throughout the Country Park as well as other landscaping and this is supported given the rural location of the site. Native planting is generally proposed, however the applicant has stated that with climatic change, plant species should also be planted that can cope with higher temperatures and drought. Full details of landscaping and planting schemes can be requested via condition. Wet woodland/ river corridor planting is proposed in the Woodland Extension to again contribute to the landscaping of the site. The new planting will support existing sites at for example Wildmere Wood and Grimsbury Nature Reserve. The planting of woodland will also help to achieve the aims of the Corporate Biodiversity Action Plan 2011-2012. No tree planting will be carried out on the embankment to ensure that the flood worthiness is not compromised by tree roots. Landscape maintenance will be ongoing once any landscaping is planted.
- 5.16 **Access and Highway Safety**  
The Highway Authority has raised no objections to the proposal. They consider that the level of car parking provided is acceptable (28 spaces) and that the proposed access has been agreed in principle due to an expected low level of vehicle movements. The Highway Authority have advised that a new S278 Agreement may be required or at the very least an amendment to the existing S278 Agreement to allow the highway works and a planning note has been recommended in relation to this matter. The Highway Authority has recommended conditions to ensure that the access and vision splays are provided and retained and to request details of the specification for the hard surfacing for the car park.
- 5.17 Public rights of way run through the site, and will not be affected in terms of their useability. The Highway Authority have raised no objection in relation to the public rights of way and note that the proposal will increase access into the countryside while utilising the existing public rights of way and the permissive route along the flood alleviation embankment.
- 5.18 In terms of pedestrian access to the site from the town itself, the linkages are relatively difficult, given that the access points are from within the Wildmere Industrial Estate, from a number of positions along the canal towpath, but which are

a fair distance from the town and Grimsbury Reservoir and from the proposed new car park. As such, it is recommended that details of any signage that will be installed to direct people to the Country Park is submitted and approved. This will help to ensure that the Country Park is as accessible as possible to visitors.

- 5.19 The NPPF requires sustainable transport to be promoted and in this case, the site will be accessible for pedestrians as well as for road users. The NPPF also requires a safe and suitable access to the site for all people to be achieved and the Highway Authority response is considered to demonstrate that this will be the case. The proposal is therefore considered to be acceptable.
- 5.20 The Country Park will be built to Disabled Access requirements for pedestrians including the use of ramps and rest platforms. Pavements will be constructed from a black macadam surface and DDA compliant galvanised steel handrails will be installed along the edge of the path. The safety features, as described above, will meet best practice for warning people with visual impairments through the use of contrasting colours on fencing, bollards and tactile paving.
- 5.21 **Ecology**  
NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)
- 5.22 Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall 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. 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. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.
- 5.23 Paragraph 18 states that “When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”
- 5.24 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 on to 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.”

- 5.25 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;
- 5.26 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”.
- 5.27 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.
- 5.28 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?
- 5.29 Therefore where planning permission is required and protected species are likely to be found to be present at the site or surrounding area, Regulation 53 of the Conservation of Habitats and Species Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local planning authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council’s Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.
- 5.30 In respect of planning applications and the Council discharging of its legal duties, case law has shown that:

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

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

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

- 5.31 In this case, a phase 1 habitat survey was carried out in October 2011, which identified three UK Biodiversity Action Plan (BAP) Priority Habitats (hedgerow, river and reedbed), other habitats and animal species with some evidence of badger activity, potential for bat roosts, a number of bird species and barn owls, otters and potential reptile and amphibian habitat. The habitat is also favourable for water vole. The woodland extension will improve the wildlife potential of Grimsbury Nature Reserve and given the level of woodland planting and the introduction of wetland scrapes, grassland, meadows and ponds, there is an aim to achieve a net gain in biodiversity. The Council's Ecologist has commented that she raises no ecological concerns regarding the conversion of this land into a Country Park and that if properly planned and implemented it has the potential to greatly enhance biodiversity within the site. There are no ecologically valuable habitats that would be lost as a result of this proposal. Her suggested condition has been recommended.
- 5.32 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, be safeguarded and may be enhanced notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework – Conserving and enhancing the natural environment and Policy C2 and C4 of the adopted Cherwell Local Plan.
- 5.33 The comments of the Banbury Ornithological Society and the RSPB are noted and it is understood that work is intending to be continued in relation to the detail of the Country Park, taking into account the views of these parties to come up with a scheme that will benefit and enhance biodiversity whilst still representing an accessible community facility. It is officer's view however that although the enhancement of biodiversity and the natural environment is an important factor to be considered for this proposal, it must be borne in mind that the proposal is for a Country Park and not a nature reserve and so the level of exclusion of the public from certain areas will need to be carefully considered.

#### 5.34 **Flooding**

The site is within proximity to the Oxford Canal and the River Cherwell and therefore there is a risk of flooding in this area and a Flood Risk Assessment has been submitted to support the application. This FRA demonstrates that part of the site lies within Flood Zone 3 and has a high probability of flooding. Other parts of the site are within Flood Zone 2 and will be defended from flooding by the Flood Alleviation embankment. There will be no raising of land levels within this area and the FRA also details that there will be no significant increase in run off. The Environment Agency has raised no objection to the scheme subject to the imposition of conditions, which have been recommended. On completion of the scheme, there will be a joint flood risk monitoring responsibility between Cherwell District Council and the Environment Agency.

#### 5.35 **Other matters**

It is considered that the proposal is unlikely to have an impact upon archaeology or the fact that the land may be potentially contaminated given the extent of the works. Should any consultation responses be received in relation to these matters, then an update will be given at committee.

#### 5.36 **Conclusion**

Given the above assessment, the proposal is considered to be acceptable in principle, is unlikely to have any serious impact to the character of the countryside in this area or on the constraints that the site has. The proposal is also likely to result in a net gain for Biodiversity and will help to achieve the aims of the Council's Biodiversity Action Plan. The proposed Country Park will form a new recreational facility for the benefit of Banbury and the wider District and will be an asset to the area. The consultation responses demonstrate the support for the scheme and it is therefore recommended that the proposal be approved subject to the imposition of conditions as set out below.

### **6. Recommendation**

**Approval**, subject to:

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

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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: application forms, design and access statement, flood risk assessment, Banbury Flood Alleviation Scheme File Note: Phase 1 Habitat Survey carried out by Black and Veatch dated 25/10/2011, Landscape specification for implementation and maintenance document, drawing number 11-091 CP-Masterplan 1 Rev C with red line amended to reflect the County boundary, Phase 1 Habitat Survey plan for Proposed Country Park, Habitat Creation Zones – proposed flood storage reservoir maintenance and management plan – rev A dated May 2011, 07012-FSR-SK001 Rev A, 07012-FSR-SK002 Rev C, 07012-FSR-SK005 Rev A, 07\_012\_507 Rev P00, 07012-CS-530 Rev B

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 The National Planning Policy Framework.

3. Notwithstanding the approved plans, any changes to any of the physical development or engineering operations, 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.

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 The National Planning Policy Framework.

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

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

(b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,

(c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

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

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

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

6. That the existing hedgerow to the east of the proposed car park shall be reinforced by additional planting in accordance with a detailed scheme to be first submitted to and approved in writing by the Local Planning Authority and carried out within the first available planting season following the occupation of the building or on the completion of the development whichever is the sooner. Any plant/tree within the hedgerow which may die within five years from completion of the development shall

be replaced and thereafter by properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

7. That full design details of any signage that will be installed to guide individuals to the Country Park 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 ensure that future users of the Country Park are guided to the Park, in order to comply with Policy C28 of the adopted Cherwell Local Plan.

8. That full design details of any lighting that may be required on the site including for bridges and underpasses for example 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 - In order to safeguard the amenities of the area and to comply with Policy C4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

9. That prior to the opening of the visitor car park the existing means of access between the land and the highway (A361) 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 advice contained in The National Planning Policy Framework.

10. That the proposed vision splays shall be formed, laid out and constructed in accordance with drawing 07012-FSR-Sk002-C prior to the opening of the visitor car park and shall not be obstructed by any object, structure, planting or other material.

Reason - In the interests of highway safety and to comply with Government advice contained in The National Planning Policy Framework.

11. That prior to the opening of the visitor car park the parking and manoeuvring areas shall be provided in accordance with the plan hereby approved (07012-FSR-SK005-A) and shall be constructed, laid out, surfaced, 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, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Government advice contained in The National Planning Policy Framework.

12. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following

mitigation measures detailed within the FRA:

1. There shall be no raising of ground levels in Flood Zones 2 or 3, as set out in Sections 1b and 7a of the FRA.
2. Rates and volumes of surface water discharge shall not be increased during storm events up to and including the 1 in 100 year storm event with an allowance for climate change (the design storm event), as set out in Section 3d of the FRA.
3. The drainage system shall be designed to not flood during storm events including the design storm event or any surface water flooding beyond the 1 in 30 year storm event, up to and including the design storm event shall be safely contained on site, as set out in Section 3d of the FRA.

Reason – To prevent flooding elsewhere by ensuring there is no loss of flood storage, to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site in accordance with the National Planning Policy Framework.

13. No development 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 drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 years plus climate change critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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 in accordance with the National Planning Policy Framework.

14. No development shall take place until a landscape management plan, including long- term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

- detail extent and type of new planting (NB planting to be of native species) (List of species required)
- details of maintenance regimes
- details of any new habitat created on site
- details of treatment of site boundaries and/or buffers around water bodies

Reason – To ensure that the natural and local environment is conserved and enhanced and to minimise impact on biodiversity whilst achieving a net gain in biodiversity where possible in accordance with the National Planning Policy Framework.

**Any additional conditions required by consultee responses received by committee.**

#### **Planning notes**

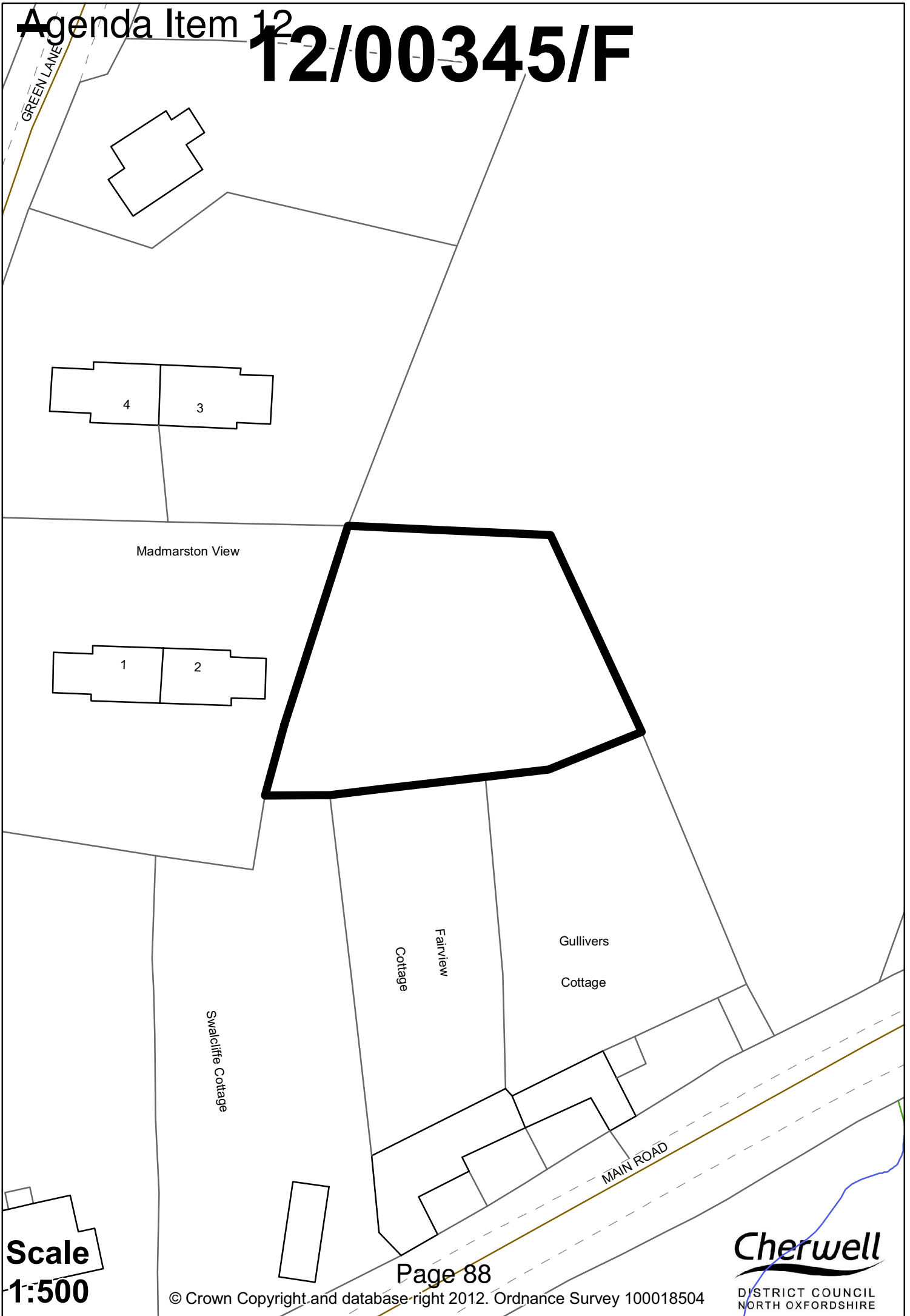
1. All works will be carried out via an Agreement with Oxfordshire County Council under Section 278 of the Highways Act 1980. No works should be carried out until the

- applicant has submitted a detailed design of the scheme and the scheme approved in writing by the Highway Authority.
2. 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 any main river.
  3. The applicant is advised that all works to which this permission relates must be carried out strictly in accordance with the plans, drawings and other relevant supporting material submitted as part of this application and hereby approved. The Planning Department must be immediately advised of any proposed variation from the approved documents and the prior approval of this Council obtained before any works are carried out on the site. This may required the submission of a further application. Failure to comply with this advice may render those responsible liable to enforcement proceedings which may involve alterations and/or demolition of any unauthorised building or structures and may also subsequently lead to prosecution.
  4. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.

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

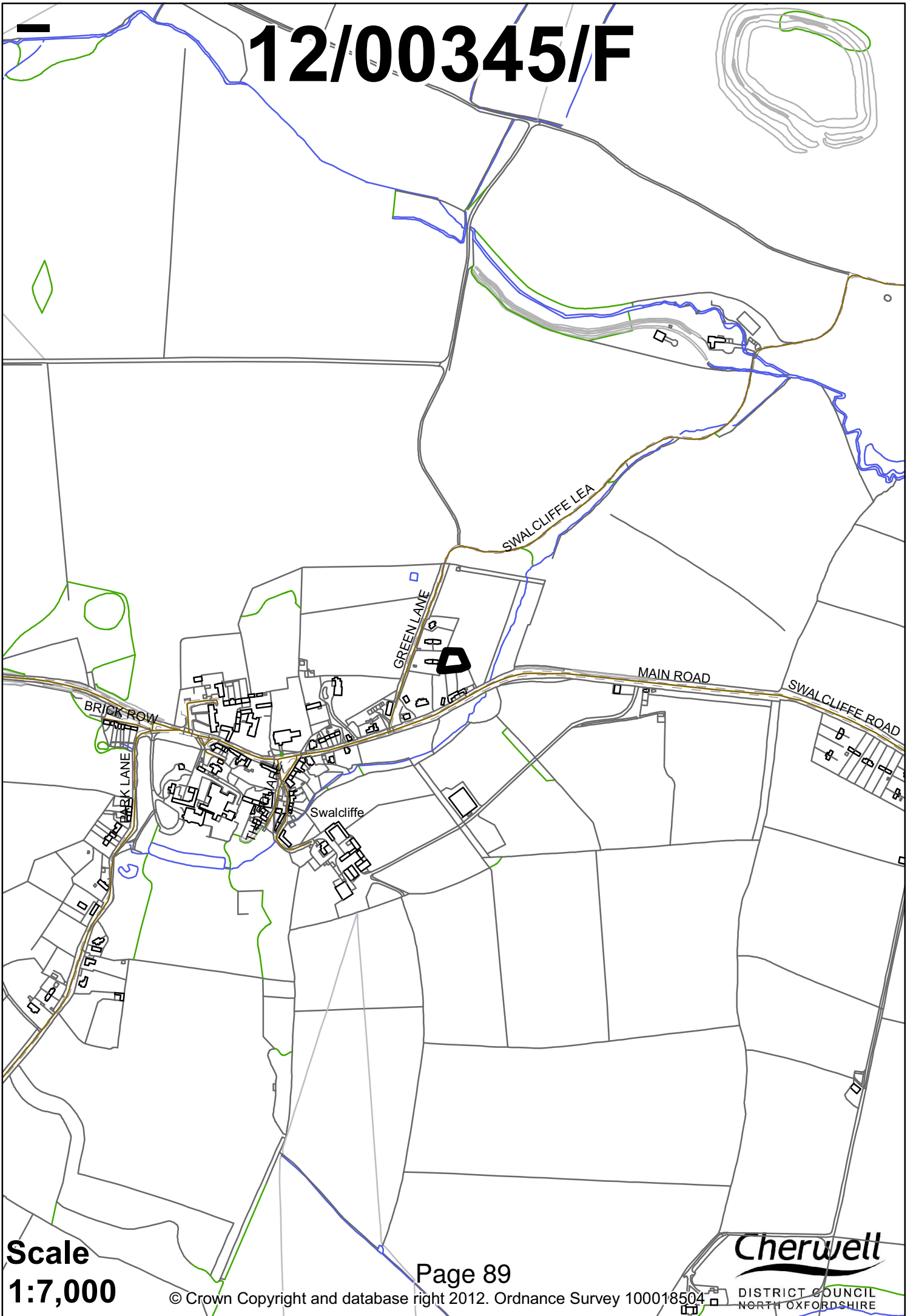
The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal constitutes an acceptable form of development in the Countryside, which will not harm the rural character of the area or the wider landscape. The proposal for a Country Park will provide a new recreational facility for Banbury and the wider Cherwell District, which will be an asset to the town and which will enhance the rural urban fringe of Banbury. The proposal will result in a net gain in Biodiversity and will not cause harm to any existing protected species or habitats and will not compromise the Banbury Flood Alleviation Scheme in any way. The proposal also raises no highway safety implications. As such the proposal is in accordance with The National Planning Policy Framework – March 2012, Policies CC1, CC6, CC7, CC8, T4, NRM4, NRM5, NRM7, C4, C5, C6, BE1, BE4, TSR2, TSR4, S1, S5 and CO1 of The South East Plan and Policies R7, C2, C4, C7, C13, C14, C17, C28, C30 and C32 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.

<b>CONTACT OFFICER:</b> Caroline Ford	<b>TELEPHONE NO:</b> Ext 1823
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# 12/00345/F



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**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00345/F	<b>Ward:</b> Sibford	<b>Date Valid:</b> 27.03.2012
<b>Applicant:</b>	Mr & Mrs Bradshaw	
<b>Site Address:</b>	The Mount, Green Lane, Swalcliffe	

**Proposal:** Removal of condition 10 of permission 09/00341/F

**Site visited:** 12 April 2012

## 1. Site Description and Proposal

- 1.1 The application relates to a parcel of land on the Eastern edge of Swalcliffe, accessible from Green Lane and Main Road (the B4035).
- 1.2 The site has previously been the subject of an application for stables, approved by the Planning Committee in May 2009 (application 09/00341/F refers).
- 1.3 That approval for stables was subject to a number of conditions, including Condition 10, which reads;
- “That the means of access to and from the site shall be taken only from Green Lane and as such shall be formed, laid out, constructed and drained and with such vision splays as shall first 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 and to comply with government advice contained in PPG13: Transport.”*
- 1.4 This application seeks to remove that condition, to allow the stables to be accessed from the existing field gate onto the B4035 as originally intended, rather than via Green Lane as required by the condition. The applicant has stated in their application that the weight limit of Green Lane occasionally precludes them from using that access, and that the gate onto the B4035 has been set back to allow vehicles to stop clear of the highway (to close the gate) before pulling out onto the road.

## 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice and press notice. The final date for comments on the scheme was 03 May 2012.
- 2.2 3 letters/emails of representation received all of which raise objections to the scheme. Full details are available electronically via the Council’s website.

The material planning considerations raised as objections are as follows:

- The use of the access onto the B4035 is unsafe given the traffic speed and visibility
- Green Lane is safer, as there is a lower volume of traffic
- The use of the access onto the B4035 causes harm to the amenities of the occupiers of the ancillary accommodation at Gullivers Cottage.

### 3. Consultations

- 3.1 **Swalcliffe Parish Council:** No objections to the removal of condition 10, they do however observe that there may be a safety issue regarding the use of the gated access onto the B4035.
- 3.4 **Oxfordshire County Council (Highways):** No objection to the removal of the condition, but considers that conditions should be imposed which seek to improve the access onto the B4035 (setting back the gates, highway-specified surfacing).

The Highways Liaison Officer has noted that the condition to which the application relates was imposed at the Committee meeting when the application was considered and was not requested by the County Council. When the application was considered in 2009, the County Council did register concern at the potential of increased use of the Green Lane and B4035 junction (owing to the visibility at that point).

The County Council response to this application is therefore consistent with their original response.

### 4. Policy Considerations

<b>National Planning Policy Framework (NPPF)</b>	Core planning principles and the delivery of sustainable development with particular regard to the following sections:  4: Promoting sustainable transport 11: Conserving and enhancing the natural environment
<b>Adopted Cherwell Local Plan 1996 Saved Policies</b>	C7: Landscape conservation C13: Areas of High Landscape Value C28: Design, layout etc standards

### 5. Appraisal

- 5.1 The key issues for consideration in this application are:
- Access and highway safety
  - Amenity
  - Landscape Impact
- 5.2 In considering each of the key issues in the application it may be necessary to reconsider the weight of the relevant saved adopted Local Plan Policy in the light of paragraphs 214 and 215 of the National Planning Policy Framework, which for this situation indicates that only policies which are consistent with the NPPF should be given due weight.
- 5.3 **Access and highway safety**  
As the application is for the removal of a condition attached to an extant and implemented planning permission, the first aspect to consider is the degree to which the proposal would accord with the reason for originally imposing the condition.
- 5.4 As set out in paragraph 1.3 above, the condition in this case was originally imposed in the interests of highway safety. However, as can be seen in the response from

the County Council, the accessing of the stables from the B4035 is considered acceptable in terms of highway safety, subject to conditions regarding the geometry, fencing and surfacing of the access.

5.5 If it is accepted that highway safety and convenience is no longer at issue in the consideration of this application, the scheme falls instead to be considered against other normal planning matters.

5.6 **Amenity**

Given the proximity of the access (referring to the gate and the track from the access to the stables) to the ancillary accommodation at Gullivers Cottage, and the comment of the contributors to the application, it is important to consider the impact of the proposed removal of the condition on amenity.

5.7 Whilst comments have been received which suggest that the use of this access is harmful to amenity, given the scale and nature of the use it is not considered that the occasional passing of a horse box/trailer is any more harmful than the traffic on the B4035. In addition, any disturbance arising from accessing a private (as controlled by condition) stable should be balanced against the potential for disturbance from an agricultural use.

5.8 Considered in that light, whilst the comments of the contributors to the application are noted, it is not considered that the accessing of the stable from the gate on the B4035 would cause harm to the amenities of the neighbouring properties sufficient to warrant or sustain refusal on such grounds.

5.9 **Landscape Impact**

As the site lies within a locally designated Area of High Landscape Value and on the edge of a village in the open countryside, the impact of the proposal on the landscape should also be considered.

5.10 As the proposal relates to the use of an access, it is not considered that the proposed removal of condition will have any appreciable or harmful landscape impact. The replacement of access gates and means of enclosure is a normal occurrence in a rural context and the access is located next to the built edge of the village.

5.11 **Conclusion**

Taking all of the above factors into consideration, as well as the technical response of the County Council on the issues of highway safety, it is not considered that the proposal would cause harm to highway safety or convenience, and that the scheme is acceptable in terms of landscape impact and impact on the amenity of neighbouring properties.

5.12 The proposal is therefore recommended for approval, subject to conditions.

## 6. Recommendation

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

1. Three year time limit for implementation.

2. SC 4\_0BC “geometry as existing plus gates set back as shown on plan... prior to removal of condition”
3. SC 4\_13AB
4. Use as specified; personal and private

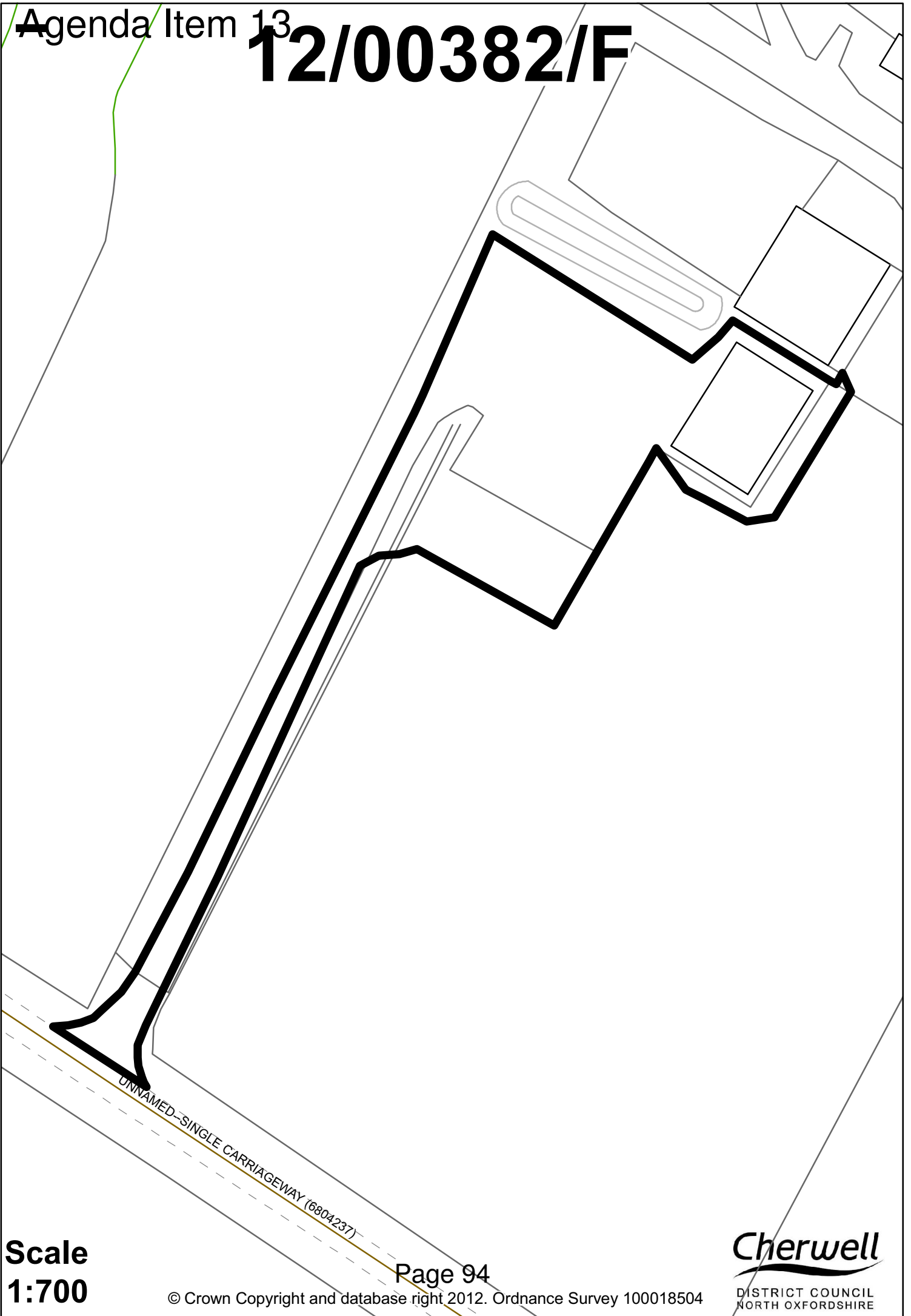
**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. The development is considered to be acceptable on its planning merits as the proposal is acceptable in highway safety and convenience terms, does not harm amenity and is acceptable in terms of its impact on the character of the countryside. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework – 4: Promoting sustainable transport and 11: Conserving and enhancing the natural environment; saved Policies C7, C13 and C28 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

<b>CONTACT OFFICER:</b> Simon Dean
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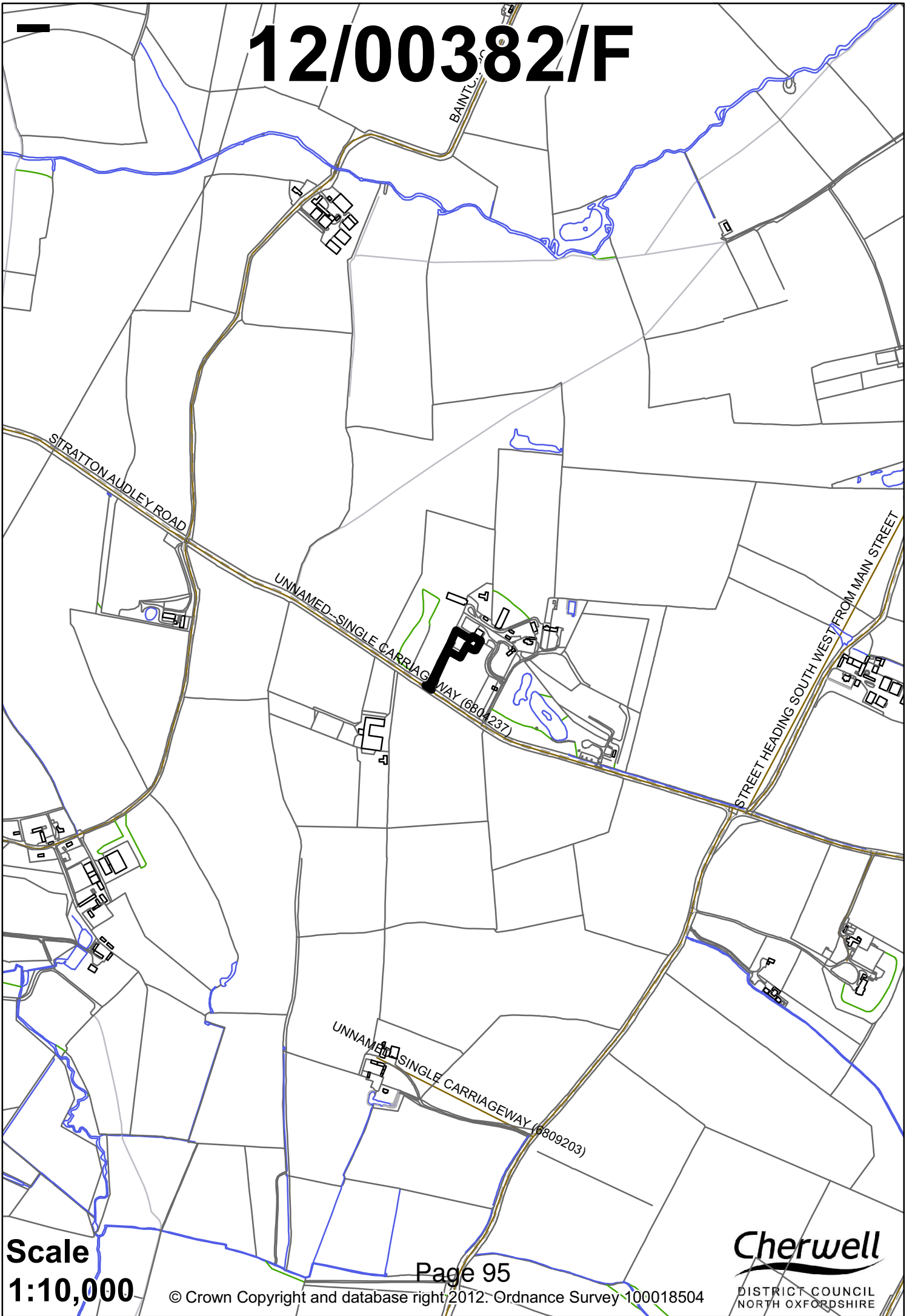
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# 12/00382/F



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# 12/00382/F



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00382/F	<b>Ward:</b> Fringford	<b>Date Valid:</b> 21/03/2012
<b>Applicant:</b>	Bicester Sweepers Ltd.	
<b>Site Address:</b>	Land and Building at Glebe Court, Stoke Lyne Road, Fringford	

**Proposal:** Change of use of land from agricultural to the parking of commercial and agricultural vehicles, change of use of an agricultural building to mixed commercial and agricultural use, installation of a temporary storage and dewatering facility for wet street sweepings and a commercial vehicle washing facility

**Date site visited:** 03/04/2012

### 1. Site Description and Proposal

- 1.1 The site forms an agricultural unit on the outskirts of Fringford. The site contains a barn, hardstanding and a bund to the south of the barn. The site is accessed off Stoke Lyne Road via a metalled road to the east of the site although an access to the west of the site is also available. To the rear of the site is another barn that is currently in commercial use and owned by the applicant. To the south of the site are two residential properties (1 & 2 Glebe Farm Cottages) and to the east are further residential properties, one of which is occupied by the applicant.
- 1.2 The proposal seeks to change the use of the land and barn from agriculture to a mixed use for agriculture and commercial uses associated with Bicester Sweepers Ltd. In addition to this, the applicant seeks permission to install a temporary dewatering facility for wet sweepings. A commercial vehicle washing area is also proposed.
- 1.3 The site lies within a rural location and is within an Area of High Landscape Value.

### 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice erected at the entrance to the site. The final date for comment was 26<sup>th</sup> April 2012
- 2.2 4 letters of representation received. Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Noise and disturbance as a result of the commercial activities;
- Barn was required for agricultural purposes;
- Bunds and hard surface are retrospective;
- Use of eastern access causes noise and disturbance to residential properties;
- Increase in vehicle movements; and
- Impact on the character and appearance of the area.

### 3. Consultations

- 3.1 **Fringford Parish Council** wishes to object to the proposal for the following

reasons: Enlargement of commercial use. 102 commercial vehicle movements (at least) entering and leaving site. This will disrupt local homes and adjacent leisure area which should be assumed a quiet environment. In agreement with previous refusal (08/02142/F).

- 3.2 **Environment Agency** comment as follows: No objections to the proposed development provided that all vehicle washing and waste storage is situated on an impermeable surface with a sealed drainage system.
- 3.5 **OCC Highways** comments yet to be received. Will be reported at Committee
- 3.9 **Head of Public Protection and Development Management** (Anti Social Behaviour): Further to your consultation of 29/03/12 I can confirm that the Anti Social Behaviour Team has received information alleging breaches of the current hours restrictions imposed by planning condition on use of parts of the site. These reports relate to operations carried out before and after the permitted hours and on days when activity is not permitted. The same reports also refer to the pressure washing of vehicles.
- 3.10 The contents of these reports have been reviewed and the incidents referred to have been considered in terms of whether individually or collectively they are sufficient to suggest that a Statutory Nuisance from noise is occurring. Having concluded that, due to the frequency of occurrence, time of occurrence and duration of individual noise events, a Statutory Nuisance from noise was not indicated details were passed to the Planning Enforcement Team. What these reports do call in to question is the applicant's ability to comply with the hours of operation condition suggested in the supporting documents submitted with this application.
- 3.11 The proposal to provide an impervious area with a sealed drainage system where the pressure cleaning of vehicles can be carried out will clearly address the concern over this activity.
- 3.12 It is also worthy of note that the Anti Social Behaviour Team has, historically received noise complaints relating to the operation of compressed air equipment located to the rear of the building described in the application submission as 'Lawful workshop'. Although this building does not form part of the detail of this application I would anticipate that as the level of activity on the site is likely to increase and this would be a good opportunity to relocate this item of equipment so that it is acoustically enclosed within the workshop building.
- 3.13 In conclusion I am of the opinion that the site can operate without causing nuisance to the occupants of neighbouring properties provided that the proposed hours of operation condition is strictly observed.

#### **4. Policy Considerations**

##### **National Planning Policy Framework**

Core planning principles and the delivery of sustainable development with particular regard to the following sections:

- 3: Supporting a prosperous rural economy
- 4: Promoting sustainable transport

8: Promoting healthy communities  
11: Conserving and enhancing the natural environment

**South East Plan 2009** CC6: Sustainable Communities & Character of the Environment  
NRM10: Noise

**Adopted Cherwell  
Local Plan 1996  
Saved Policies** EMP4: Employment in rural areas  
C7: Landscape conservation  
C8: Sporadic development within the countryside  
C13: Areas of High Landscape Value  
ENV1: Pollution Control  
TR10: Heavy goods vehicles

## 5. Appraisal

5.2 The key issues for consideration in this application are:

- Policy Context
- History
- Noise and disturbance
- Impact on the character and appearance of the area
- Supporting a prosperous rural economy and sustainability

### 5.3 Policy Context

The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, the promotion of healthy communities and the conservation and enhancement of the natural environment.

5.4 Policy EMP4 of the Adopted Cherwell Local Plan 1996 states that proposals for new employment generating development of the following types will normally be permitted:

- (A) Within an existing acceptable employment site, including redevelopment;
- (B) Conversion of an existing building or group of buildings;
- (C) Within, or adjoining settlements, for a minor extension to an existing acceptable employment site.

Provided that,

The proposal and any associated employment activities can be carried on without undue detriment to the appearance and character of rural landscape and without harming the amenities of settlements or the special character and interest of a building or architectural or historic significance;

The NPPF also recognises the importance of a prosperous rural economy and states at paragraph 28 that planning policies should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings.

## 5.5 History

The site and surrounding land within the ownership of the applicant have been the subject of a number of planning applications and enforcement action. Specifically, the barn that is the subject of this application was granted permission under application 05/02247/AGN for a 'general purpose agricultural building'. The building was approved in 2006 using an agricultural notification, rather than a planning application, as the building was considered reasonably necessary for the purposes of agriculture.

- 5.6 Following the approval of the notification it came to the attention of the Local Planning Authority that the building was being used for commercial purposes instead of the agricultural use approved. As a result, an enforcement notice was served on the site in March 2008. The notice was issued as it was considered that the change of use caused harm to residential amenity. The matter which constituted a breach of planning control was 'the change of use of the land and the barn from agriculture to the use for the parking, repairing and servicing of commercial vehicles'. No appeal against the notice was made so the notice came into effect on the 16<sup>th</sup> April 2008 and remains on the land and is effective.
- 5.7 The applicant sought to regularise some of the matters in 2008 with the submission of application 08/02142/F which sought permission for the construction of a vehicle and plant washing area including hardstanding for parking of plant and equipment, interceptor and associated drainage. This application was refused permission on 25<sup>th</sup> March 2009 for three reasons relating to impact on residential amenity, unsustainable location and impact on the character and appearance of the area. No appeal against this decision was made.
- 5.8 The applicant owns a further barn to the north (rear) of the application building. This building was granted a certificate of lawfulness for the repair and servicing of commercial vehicles under application 10/00460/CLUE. The certificate however restricts the operation of the building to 0700 – 1800 Monday to Friday, 0700 – 1300 Saturday and no working Sunday or bank holidays. The current lawful commercial activities at the site are therefore relatively low key as the certificate also restricts the repair/maintenance of plant/road sweepers to no more than 8 vehicles per fortnight. The applicant also owns and operates Glebe Farm camping and leisure to the east of the site.
- 5.9 The applicant states that the purpose of the application is 'an extension to an existing, lawful use rather than a new, isolated commercial use in the countryside.' and continues by stating that the 'development proposal is therefore to be considered as an expansion of vehicle maintenance and repair facilities, the use of adjacent land for a commercial vehicle washing area and temporary storage of street sweepings, and an adjacent area of hardstanding for parking associated with commercial vehicle maintenance, washdown and the unloading of street sweepings'. Therefore, the proposal is essentially for the creation of a depot whereby vehicles used for Bicester Sweepers Ltd. are repaired, maintained, washed down, emptied and parked overnight.
- 5.10 Pre-application advice was provided for the proposal whereby the applicant was advised that it would be for the applicant to demonstrate that the proposed use would not have a detrimental impact on the character and appearance of the area or the amenities of adjoining residential occupiers, as was detailed within the enforcement notice. Provided that this was the case, it was expected that the local

planning authority would support an application for a change of use.

**5.11 Access and highway safety**

OCC Highways have yet to comment.

**5.12 Impact on residential amenity**

The Anti-Social Behaviour Manager has commented that the site has been the subject of investigations which has revealed noise nuisance from the site. Although the noise from the site does not amount to a statutory nuisance it is clear that the existing commercial uses cause harm to the amenities of neighbouring properties through noise and disturbance caused by vehicles and their repair/maintenance.

- 5.13 Policy ENV1 of the Adopted Cherwell Local Plan 1996 states that developments which is likely to cause materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution will not be accepted.

The NPPF supports this stance and advises that one of its core principles is to ensure that a good standard of amenity for all existing and future occupants of land and buildings is provided. Moreover, it also states that planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. Therefore, policy ENV1 of the Adopted Cherwell Local Plan 1996 is entirely consistent with the advice within the NPPF.

- 5.14 The applicant acknowledges that the lawful commercial site generates eight vehicle movements per week and provides details that the proposed development would generate some 102 movements per week. It is intended to utilise the barn for the repair and maintenance of non-agricultural vehicles along with the storage of limited agricultural machinery and equipment used at the leisure site.

- 5.15 The applicant states that 18 vehicles will visit the site each week for repairs and servicing. A further 18 vehicles will visit the site to use the proposed vehicle wash area and the dewatering facility. Two tar tankers will visit the site and a further HGV vehicle. Other commercial vehicles are also referred to. All figures provided are indicative and there are no assurances that these figures will not rise.

- 5.16 The use of the lawful building to the rear has been the subject of investigations by the Anti Social Behaviour Manager, although he confirms that the noise witnessed does not amount to a statutory nuisance. Concerns are also raised over the applicant's failure to comply with time restrictions at the site (see paragraph 5.8 above). The Planning Enforcement Team have also investigated the site for failing to comply with the terms of the enforcement notice, the hours of restriction and vehicle numbers allowed under the certificate.

- 5.17 However, the increase in vehicle numbers and commercial activities would generate further noise and disturbance that would be harmful to the amenities of other occupiers close to the site. Moreover, once a permission is granted there would be little control over the amount of vehicles that could visit the site for repairs, cleaning, maintenance or to drop sweepings. A condition restricting the number of vehicles being maintained at the site could be considered. However, this would not address the matter of noise and disturbance from the number of vehicles currently proposed and the noise from the additional commercial activities.

- 5.18 Whilst no information on the likely levels of noise potentially generated by the development have been provided, it is considered that the use of the site for the proposed commercial purposes would be likely to have a detrimental impact on the amenities of adjoining occupiers a Glebe Farm Cottages. It is accepted that the lawful agricultural use of the site could give rise to noise. However, these are accepted forms of disturbance one would expect living in the countryside. The potential, increased use of the access by commercial vehicles and the noise from the washer, repairs and maintenance of vehicles and general commercial activities at the scale proposed are not conducive to a rural location are not considered to be an acceptable intrusion. Moreover, commercial uses are normally located away from existing residential areas for the reason they can be very intrusive.
- 5.19 **Impact on the character and appearance of the area.**  
It is considered that a commercial use of the site would have a detrimental impact on the character and appearance of the area. Saved policy C7 of the Adopted Cherwell Local Plan 1996 states that, 'development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.' The NPPF reaffirms the need to protect the countryside by stating at paragraph 109 that, 'The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes...' such as the Area of High Value Landscape the site is set within.
- 5.10 The impact of the development on the rural character of the area needs to be taken into consideration. The existing site formed an open parcel of land with agricultural barns located within it. The bund, hardstanding and current parking of commercial vehicles are unauthorised. The bunding and vehicles are clearly visible from the main road and represent a discordant feature in the landscape. The creation of a depot at the site for the repair, maintenance, wash down, emptying and parking overnight of commercial vehicles will dramatically alter the character of the area to the detriment of the visual amenities.
- 5.6 **Supporting a prosperous rural economy and sustainability**  
The NPPF states that planning policies should support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings and promote the development and diversification of agricultural and other land-based rural businesses.
- 5.05 Policy EMP4 of the Adopted Cherwell Local Plan 1996 also recognises the importance of a prosperous rural economy but also recognises the impact rural based enterprises can have on residential amenity (see paragraph 5.4 above).
- 5.15 With this in mind, it is necessary to balance the support given to rural based enterprises and the potential impact it would have on the amenities of adjoining occupiers. In this case, it is clear that the expansion of the commercial enterprise into the site and barn would have an unacceptable impact on neighbour amenity through noise and disturbance for the reasons rehearsed above.
- 5.7 **Conclusion**  
The site has a complex planning history which has spanned several years. The applicant has secured the lawful use of a building for limited commercial uses and it is clear that this use already impacts on the amenities of adjoining occupiers.

The proposal to extend the commercial activities and increase vehicle numbers would increase the harm on living conditions for neighbouring properties and would have an unacceptable impact on the amenities currently afforded through increased noise and disturbance.

It is accepted that the NPPF and local plan policies are generally supportive of rural based enterprises where it would support the rural economy. However, this has to be balanced and assessed against the impact the enterprise would have on the amenities of adjoining occupiers. In this particular case, the creation of a vehicle maintenance depot would harm the amenities of adjoining occupiers and should be resisted.

## **6. Recommendation**

**Refusal**, for the following reason

1. The proposed use would have a detrimental impact on the amenities of adjoining residential occupiers through unacceptable levels of noise and disturbance contrary to the advice within the National Planning Policy Framework March 2012, policy ENV1 and TR10 of the Adopted Cherwell Local Plan 1996 and policy NRM10 of the South East Plan 2009.
2. The proposal will result in a substantial change in the character and appearance of the open countryside which contributes to the rural setting of Fringford and will lead to an unacceptable erosion of the rural character of this part of the countryside contrary to the advice within the National Planning Policy Framework March 2012, saved policy C7, C8 and C13 of the adopted Cherwell Local Plan and policy CC6 of the South East Plan 2009.

<b>CONTACT OFFICER: Graham Wyatt</b>
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<b>TELEPHONE NO: 01295 221811</b>
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## Planning Committee

### Update on Decisions subject to various requirements in the light of National Planning Policy Framework

24 May 2012

### Report of the Head of Public Protection And Development Management

#### PURPOSE OF REPORT

This report enables Members to re-consider past resolutions to approve planning applications, subject to various requirements, following the introduction of the National Planning Policy Framework and the cancellation of most of the PPSs and PPG s which previously were considered in the application's determination.

This report is public

#### Recommendations

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The Planning Committee is recommended to:

- (1) Consider the recommendations contained within this report with regards to each individual application.

#### Details

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#### Background

On 27 March 2012 the Government published the National Planning Policy Framework (NPPF), a 47 page document which replaces most of the previous Planning Policy Guidance and Planning Policy Statements (PPGs and PPSs) which previously supplied much of the central government guidance on planning matters and which were material considerations in the determination of planning applications. The NPPF is now a material consideration ( see para 196 of the NPPF)

The NPPF largely carries forward existing planning policies and protections in a significantly more streamlined and accessible form. It introduces the presumption in favour of sustainable development and makes adjustments to some specific policies. I attach as Annex 1 a list of the principal changes

(extracted from a document supplied by The Planning Inspectorate to their inspectors)

Members should each have received their own copy of the NPPF and they have all been invited to attend a training session on the document on 21<sup>st</sup> May 2012.

In considering planning applications, the local planning authority is obliged to have regard to the development plan and to any other material considerations. This duty continues until the decision notice is issued. As such, Members need to have regard to the NPPF and whether it affects earlier decisions where the decision notice has not yet been issued.

### **The Applications**

The report below is structured to deal with each application in turn. In each case there is a summary of the previous consideration and PPGs/PPSs considered and then a brief review of the new NPPF considerations where these are different. In some cases the opportunity is also taken to update Members on other matters.

#### **01/00662/OUT Proposed new research buildings (long term phase of site development) Begbroke Business and Science Park Sandy Lane Yarnton Kidlington**

In February 2002 The Council's South Area Planning Committee resolved to grant planning permission subject to departure procedures (completed) and a legal agreement. This then got tied up in the difficulty of providing a new road access to the site. As Members will know the new roadway to the A44 has now been opened

This Committee last reconsidered its position with regards to this development at the meeting held on 14 April 2011, when the willingness to grant a consent was re-affirmed.

The site lies within the designated Green Belt and therefore the principal consideration had been an assessment against PPG2. PPS4 was also particularly relevant for the re-development of this existing commercial site. Both of these documents have been replaced by the NPPF, but the thrust of these policy directions remains intact insofar as there remains a strong presumption against inappropriate development in the Green Belt and the sustainable location of major employment uses remains a fundamental concern. In your officers opinion the balancing exercise that previously resulted in the decision to approve remains the same and need not be unduly influenced by the new policy context. It is therefore **recommended** that the Committee re-affirm its decision to approve the proposal, as previously and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's.

**10/00640/F Permanent change of use of 253 existing military dwellings for residential class C3- Application No: 10/00640/F**

**Former USAF Housing South Of Camp Road Upper Heyford**

The application sought to retain dwellings, mainly bungalows, previously envisaged to be demolished under the permission for a new settlement at Heyford granted at appeal in 2010 (ref 08/00716/F). On 4th November 2010 the Committee resolved that application 10/00640/F be approved subject to: (i) conditions and (ii) the applicant entering into a section 106 agreement with the District and County Council as outlined in the officer's report and written update.

However. It was overtaken by a subsequent application (ref 10/01642/OUT) that revised the approved masterplan for the settlement, still retaining the bungalows, that was approved in principle by Committee in March 2011, again subject to an s106 agreement. This was sealed and the permission issued in December 2011. Officers have subsequently requested the withdrawal of 10/00640/F but it remains for now in abeyance.

The main issues in determining the application were: The Principle of Development and Compliance with the Development Plan, Impact on the Conservation Area, Access and Highways, Affordable Housing and Section 106 Agreement.

In terms of policy, the greatest weight was given to Oxfordshire Structure Plan 2016 (OCS) and Saved Policy H2-Upper Heyford and this still remains the case. There were a number of relevant local policies, the Revised Comprehensive Development Brief for the site, and the Conservation Area Appraisal also considered. In terms of National Planning Guidance reference was made to: PPS1-Delivering Sustainable Development, PPS3-Housing, PPS5-Planning for the Historic Environment and PPS7-Sustainable Development in Rural Areas. The NPPF has also replaced a number of other documents including Government Circular 05/2005-Planning Obligations.

As noted in the introductory paragraphs the NPPF makes a substantial change to the form of national planning policy, it largely "carries forward existing policies and protections in a significantly more streamlined and accessible form". It also introduces "the presumption in favour of sustainable development". This is an interesting concept for Heyford which is recognised as an unsustainable location in the OCS but where a new settlement was seen as an opportunity to achieve an appropriate balance between environmental improvements to a rural part of Oxfordshire, conservation of the heritage interest from the Cold War, and reuse of some existing buildings and previously developed land. Sustainable development requires economic, social and environmental gains to be made jointly and simultaneously which is clearly the case at Heyford.

The NPPF still requires applications to be determined in accord with the development plan and approved where the plan is absent, silent or not up to date unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole or specific policies in the NPPF indicate development should be restricted.. In this case the proposal accorded with policy H2 of the OCS. It also involves the significant re-use of previously developed land

It also accords with the NPPF in the following policy areas:

- Housing: it provides choice in housing; creates an inclusive and mixed community; re-uses existing stock; is supported by the community; provides for affordable housing.
- Healthy Communities: it is part of a shared vision for Heyford; strengthens the existing community; builds on existing assets; retains local green space
- Historic Environment: it sustains and enhances heritage assets and puts them to a viable use in proportion to the importance of the assets; it does not cause harm or loss of heritage assets; policy departure is permitted where enabling development secures the conservation of heritage assets (although in this case there is not considered to be a conflict with the main policy)
- Decision Making-Obligations should be used where conditions cannot; they and conditions should only be used where necessary, relevant, precise and reasonable. It is still appropriate to seek a Section 106 agreement to secure the affordable housing and other contributions previously agreed. It was negotiations on this that delayed the issue of the planning permission and which have been overcome on the new masterplan permission.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

**10/01021/F Variation of condition 7 of 07/02478/F. To permit the project to be constructed in two phases.  
The Othmoor Lodge Horton Hill Horton Cum Studley**

In October 2010 the Committee resolved to approve this variation of a condition relating to the construction of 4 houses, allowing them to be built in two phases and relating to the necessary construction of the adjacent public house/hotel extensions which they were to enable, subject to the applicants entering into a legal agreement to control this phasing and the interim appearance of the hotel development.

Whilst this application itself was not influenced by national planning guidance the 07 permission for 4 houses and the 2006 outline planning permission for the hotel extension and the houses ( 06/01927/OUT) had taken into account

the advice contained in PPG2 relating to Green Belts. The advice now contained in Section 9 of the NPPF follows the same general presumption against inappropriate development, and that such development should only be approved when very special circumstances have been demonstrated that outweigh that normal presumption of refusal. In your officers opinion this balancing exercise is unaltered by this change in policy context and therefore it is **recommended** that the Committee re-affirm its decision to approve the proposal, as previously and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's.

**10/01780/Hybrid 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.**

In August 2011 the Committee resolved to approve this application subject to the completion of legal agreements. In March 2012 an update on progress on the application was reported to the Committee.

Since March the NPPF has been published, and although most PPS's and PPG's were withdrawn the Eco Town supplement to PPS 1 remains. This PPS identifies NW Bicester as the location for new development and sets the high standards such developments should achieve. These considerations have not changed. The impact of the withdrawal of other planning statements is considered further below.

An addendum to the comments of the Head of Strategic Planning and the Economy has also been received and can be viewed on line with other representations.

Other policy documents were considered in the report including PPS1 Sustainable Development, PPS3 Housing, PPS25 Flood Risk and PPG 13 Transport.

The NPPF now includes a presumption in favour of sustainable development, and seeks high quality design, matters previously covered by PPS1. The NPPF now also includes the requirement to provide for a five year plus 5 or 20%, housing land supply which was previously covered by PPS3. Requirements re minimum densities also in the PPS are not carried over to the NPPF, although it requires efficient use of land. The NPPF requires

housing needs to be met. Since the report in August the Council's AMR has been updated and shows that the Council no longer has a five year housing land supply. In such circumstances the NPPF gives additional weight to the presumption in favour of sustainable development. Advice on flood risk is also included in the NPPF and the advice note accompanying the PPS remains. The NPPF covers the promotion of sustainable transport and identifies the need for the transport system to be balanced in favour of sustainable development. This is consistent with the approach of the Eco Town PPS and the planning application.

Reference was made to other PPS's within the original committee report in the context of the Eco Town PPS standards but as the Eco Town's PPS remains there is no need to further consider these in this report.

The development at NW Bicester exceeds the sustainability standards generally provided in new developments. The Eco Town PPS remains a relevant consideration and the NPPF replaces guidance in the PPS that have been withdrawn, adding weight to the requirements for sustainable development.

It is therefore **recommended** that the Committee re-affirm its decision to approve the proposal, as previously, and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's.

#### **11/00524/F – Cherwell Valley Services, wind turbine**

At the meeting of this Committee held on 6 October 2011 it was resolved to approve this application subject to the resolution of issues concerning radar and aviation safety

- Application originally considered against the following PPSs and PPG;
  - PPS1, Delivering Sustainable Development
  - Planning and Climate Change – Supplement to PPS1
  - PPS7, Sustainable Development in Rural Areas
  - PPS9, Biodiversity and Geological Conservation
  - PPS5, Planning and the Historic Environment
  - PPS22, Renewable Energy and its companion guide
  - PPS23, Planning and Pollution Control
  - PPG24, Planning and Noise
  - PPS25, Development and Flood Risk
- With the exception of the Companion Guide to PPS22 all of these documents have been replaced by the National Planning Policy Framework (NPPF). Set out below are the key elements of the NPPF that are relevant to the consideration of this application proposal.
  - At the heart of the NPPF is the presumption in favour of sustainable development and this should be reflected in decision-taking, thus reflecting the principles of PPS1.

- Chapter 10, paragraphs 97 and 98 deal specifically with renewable energy with a general principle of encouraging renewable energy generation. When determining applications, LPAs should not require applicants to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions and approve the application if its impacts are (or can be made) acceptable.
- Paragraph 75 seeks the protection and enhancement of public rights of way and access; it is not considered that the development conflicts with this.
- The site lies within flood zone 3 and Paragraph 100 seeks to avoid inappropriate development within areas at risk of flooding but allows for development where it can be made safe without increasing the risk of flooding elsewhere. The application was assessed in relation to flood risk and compensation measures are proposed. As such the development complies with the NPPF in this respect.
- The NPPF states that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and AONBs which have the highest status of protection in relation to landscape and scenic beauty. It says very little in relation to the protection of unprotected landscapes simply recognising the intrinsic character and beauty of the countryside and the planning system needing to contribute to and enhance the natural and local environment. Given the lack of national designations at this site there is considered to be insufficient justification in this regard to reach a different conclusion in relation to the proposals impact on the landscape and countryside character to that already reached in the original assessment of the proposal.
- The NPPF sets out that LPAs should aim to conserve and enhance biodiversity and should refuse planning permission where significant harm resulting from the development cannot be avoided. The application has been assessed for its impact on protected species and it was not considered that significant effects would occur that could not be mitigated against.
- Paragraph 123 states that decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development. The application has previously been considered in relation to noise and it was not considered that significant noise effects would occur.
- Paragraph 125 deals with light pollution and it is considered that conditions can be used to ensure light pollution does not occur and that residential amenities are protected in this regard.
- Chapter 12 of the NPPF deals with the protection and enhancement of heritage assets and their setting. It is not considered that the guidance in relation to heritage protection differs sufficiently from the replaced PPS5 so as to warrant a re-examination of the impacts of the proposal on heritage

assets.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

**11/01369/F Construction of a three storey building, single storey building, link to existing building, demolition of existing bungalow and alterations to car park and landscape works**

**Oxford and Cherwell Valley College (south site), Broughton Road, Banbury**

Members of the Planning Committee resolved to approve the above application on 5 January 2012 subject to: (i) a legal agreement and (ii) appropriate conditions.

The key issues in determining the application were: principle, design/appearance/scale, visual impact/setting of conservation area, transport impact/highway safety, drainage, residential amenity, ecology, trees and landscaping.

Together with the South East Plan and the adopted Cherwell local Plan which remain in place, the application was considered against Planning Policy Statements 1: Delivering Sustainable Development, 5: Planning for the Historic Environment, 9: Biodiversity and Geological Conservation and Planning Policy Guidance Note 13: Transport which have been replaced by the National Planning Policy Framework (NPPF).

The application was recommended for approval and the officer recommendation is not affected by the NPPF for the reasons set out below:

- Principle: the application seeks to improve an existing educational facility within a sustainable location just beyond the town centre, which accords with the presumption in favour of sustainable development set out within the NPPF, together with advice on encouraging the effective reuse of land within the NPPF's core principles.
- Design/Appearance/Scale: The design of the college buildings is innovative and will help to raise the standard of design in the area and takes opportunities available for improving quality and character in accordance with advice on requiring good design within the NPPF.
- Setting of Conservation Area: the proposed development would not cause harm to the setting of the Banbury Conservation Area and as such would sustain this heritage asset in accordance with guidance on conserving and enhancing the historic environment contained within the NPPF.
- Transport Impact/Highway Safety: in accordance with the core

principles of the NPPF, the development is within a sustainable location, thus promoting, walking, cycling and public transport. Furthermore safe and suitable access to the site can be achieved for all in accordance with guidance on promoting sustainable transport within the NPPF.

- Flood Risk/Drainage: The development would avoid increased vulnerability to flooding and would not result in increasing flood risk elsewhere in accordance with guidance on meeting the challenge of climate change and flooding contained within the NPPF.
- Residential Amenity: In accordance with the core principles within the NPPF, the proposed development would achieve good standards of amenity for all existing neighbouring occupants.
- Natural Environment: The proposal would not cause significant harm to the existing trees on the site or biodiversity and includes measures to protect and enhance habitats important to nature conservation in accordance with guidance on conserving and enhancing the natural environment contained within the NPPF.

Planning Condition and Obligations: It is still appropriate to impose conditions in relation to the application, and to seek a Section 106 Agreement securing public art. In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

### **11/01484/F Construction of 3 storey office block and associated car park and vehicular access**

#### **Phase 3, Oxford Spires Business Park, Kidlington**

On 5 January 2012 the Committee resolved to approve this proposal subject to Environment Agency comments and the receipt of a Unilateral Undertaking. This application was considered under the following Government guidance: PPS1; PPS4; PPS9; PPG13; PPS23; and PPS25. The principle of the development, which is in a very sustainable location on the edge of Kidlington, is not compromised by the NPPF which supersedes all of the documents listed above. Paragraph 19 of the NPPF reads as follows:

“The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

The other key issues in this case related to design, highway safety issues, potential flooding and the impact on a number of TPO'd trees. There is nothing in the new guidance which would lead the HPP&DM to arrive at a

different conclusion to that reached previously in recommending this application for approval. Of the two outstanding issues: the Environment Agency was satisfied with the findings of the applicant's flood risk assessment; and the S106 agreement is close to being finalised.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

**11/01732/F Three storey structure containing a service area, workshop and car parking area**

**Oxford Office Village, Langford Lane, Kidlington**

This application was considered under the following Government guidance: PPS1; PPS4; PPS9; PPG13; and PPS23. The principle of the development, which is in a very sustainable location on the edge of Kidlington, is not compromised by the NPPF, which supersedes all of the documents listed above. Paragraph 19 of the NPPF reads as follows:

“The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.”

The other key issues in this case related to design and highway safety issues. There is nothing in the new guidance which would lead the HPP&DM to arrive at a different conclusion to that reached previously in recommending this application for approval. The only outstanding issue related to the signing of a unilateral undertaking, this situation has yet to be resolved.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

**11/01870/F Demolition of existing units. Construction of new retail units (use class A1), restaurants and cafes (use class A3), associated access, servicing and landscape works.**

**Banbury Gateway, Acorn Way, Banbury**

Members of the Planning Committee resolved to approve the above application on 22 March 2012 subject to: (i) a legal agreement, (ii)

appropriate conditions and (iii) departure procedures. Delegated authority was given to the Head of Public Protection and Development Management, in consultation with the Chairman, to negotiate the legal agreement and conditions.

The key issues in determining the application were: The principle of the development, which was assessed against loss of employment land and the change of use of the land to retail, sequential assessment and retail impact, transport impact, landscape impact/design/layout, public footpath impact, sustainability, public safety, flood risk/drainage, contaminated land, air quality, noise, biodiversity/ecology, trees and archaeology.

Together with the South East Plan and the adopted Cherwell local Plan which remain in place, the application was considered against Planning Policy Statements 1: Delivering Sustainable Development, 4: Planning for Sustainable Economic Growth, 9: Biodiversity and Geological Conservation, 23: Planning and Pollution Control and 25: Development and Flood Risk and Planning Policy Guidance Notes 13: Transport and 24: Planning and Noise which have been replaced by the National Planning Policy Framework (NPPF).

Reflecting on the key issues previously assessed, Members are advised that the NPPF does not significantly affect their resolution to approve the application for the following reasons:

Members considered that the development represents sustainable development and that it would not result in an unacceptable loss of existing employment land which accords with the key presumption throughout the NPPF and guidance within it on building a strong, competitive economy.

Members accepted the retail sequential and impact tests that were carried out in association with the development and did not consider that it would have an impact upon existing and planned town centre investment and would encourage linked trips to the centre via the propped shuttle bus. Members therefore concluded that the development would not have an impact upon the vitality and viability of Banbury Town Centre which accords with guidance on ensuring the vitality of town centres contained within the NPPF.

Members concluded that the design and layout of the development is acceptable and that it would not have a significant landscape impact and as such would achieve high quality and inclusive design for all; which complies with guidance on requiring good design contained within the NPPF.

In relation to all other matters Members concluded that the application was acceptable as set out below:

- Transport Impact and Highway Safety: the application was supported by a Transport Assessment which covered opportunities for sustainable transport modes, demonstrated that safe and suitable access to the site can be achieved for all people and set out that

improvements could be undertaken within the highway network to limit the impacts of the development which is in accordance with guidance on promoting sustainable transport contained within the NPPF.

- Public Footpath: The development would achieve safe and accessible environments and would protect and enhance the existing public right of way. Whilst the existing right of way would be diverted, it would not impact upon public rights and furthermore a second permissive footpath is being offered in addition which accords with guidance on promoting healthy communities contained within the NPPF.
- Sustainable Construction: The development would secure reductions in greenhouse gas emissions and supports delivery of renewable and low carbon energy in accordance with guidance on meeting the challenge of climate change contained within the NPPF.
- Flood Risk/Drainage: The development would avoid increased vulnerability to flooding and would not result in increasing flood risk elsewhere in compliance with guidance on meeting the challenge of climate change and flooding within the NPPF.
- Land Contamination, Noise and Air Quality: The development site is suitable for the new use taking account of ground conditions given the mitigation and remediation proposed. Furthermore it would not give rise to unacceptable levels of noise and would mitigate against any increased impact upon air quality in accordance with guidance on conserving and enhancing the natural environment contained within the NPPF.
- Trees and Biodiversity: The development would not cause significant harm to the trees on the site or biodiversity and includes measures to protect and enhance habitats important to nature conservation in accordance with guidance on conserving and enhancing the natural environment contained within the NPPF.
- Archaeology: The development involves a watching brief and where necessary any recording required to ensure no harm or loss of any such heritage assets in accordance with guidance on conserving and enhancing the historic environment contained within the NPPF.

Planning Condition and Obligations: It is still appropriate to impose conditions in relation to the application, delegated authority for which has been given to HPPDM and it is still appropriate to seek a Section 106 Agreement to which the developer and both Cherwell District and Oxfordshire County Councils would be party.

Due to the fact that the proposed land use is contrary to allocations within the development plan and the development is for retail use in an out of town centre location, the application must be referred to the National Planning Casework Unit (NPCU) under the 2009 Consultation Direction (departure procedures). This has not been done to date as negotiations are ongoing in relation to the wording of the conditions and the detail of the Section 106 Agreement. Once assessed by the NPCU, the application will either be called-in or the decision will be left to Cherwell District Council.

In conclusion, it is considered that the NPPF does not have a significant

bearing on the decision made previously by the Committee and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

**11/01907/F   Erection of 40 residential dwellings etc  
Yew Tree Farm, Station Rd, Launton**

At the Committee meeting held on 23 March 2012 Members resolved to approve this application subject to a legal agreement concerning affordable housing and on-site/off-site infrastructure.

This application was considered under government guidance from a number of PPSs including 1, 3, 5, 7, 9, 23 and 25, and PPG13. It was accepted that as the site is outside the built up limits of the village, it would be contrary to policy in any event, though other relevant factors needed to be given some weight, not least the requirement for a five year housing land supply required by PPS3. This is still a feature of the NPPF where it is stated under para 47 that “local planning authorities should....identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5%...”. Para. 49 is of particular relevance in the Launton context as this is a category 1 more sustainable village. It states that “Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

Para. 7 reveals that there is a presumption in favour of sustainable development; economic, social and environmental. Economically this site is acceptable because it is the right type of development, in the right place, at the right time and includes infrastructure. Socially, it provides the supply of housing required to meet the needs of present and future generations which is high quality and accessible. Environmentally the development of this site will protect and enhance the natural, built and historic environment and improve biodiversity.

The NPPF continues to seek to conserve and enhance the natural environment under section 11. The site does not benefit from the highest status of protection given to designated areas such as National Parks, AONBs and the Green Belt highlighted by the NPPF so it is appropriate to continue to assess the sites loss to development in the same way as outlined in the previous committee report e.g. whether or not the site intrudes into the countryside or harmful to its rural setting. The NPPF also continues to seek to conserve and enhance the natural environment in terms of biodiversity seeking to minimise impact, provide net gain where possible and seek to halt its overall decline (para. 109). Protected species continue to be a material consideration and other domestic and European legislation remains

unaffected. It is noteworthy that para. 119. states that “the presumption in favour of sustainable development (para. 14) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined.”

With regard to the issues raised relating to the heritage assets of the setting of Yew Tree Farm and archaeological matters, para 128 of the NPPF requires appropriate levels of detail to make a proper assessment and this was delivered with the application submission in accordance with these requirements. It is noted from para. 131. the desirability of sustaining and enhancing heritage assets and putting them to viable uses and this has been achieved with the non-designated heritage assets of the barn conversions in the setting of New Tree Farm in recognition of their positive contribution.

Highway safety matters are largely addressed under section 4 which relates to promoting sustainable transport. Para 32. states that all developments that generate significant amounts of movement should be supported by a Transport Statement or Assessment (which this application was) to reduce the need for major transport infrastructure, ensure safe and suitable accesses to the site and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”

With regard to matters of layout, scale and design, the NPPF has a section on requiring good design (section 7). “Good design is.....indivisible from good planning”. The proposal will function well and add to the overall quality of the area, establish a strong sense of place, be properly accommodated within the site supporting local facilities and transport networks, reflect the identity of local surroundings and materials, be safe and accessible and visually attractive with good architecture and appropriate landscaping in accordance with para. 58.

Finally, it is appropriate to continue to seek a Section 106 agreement on this application to secure the affordable housing and other heads of terms previously agreed. The NPPF continues to support planning obligations where they meet all the tests of being necessary in planning terms, directly related to the development and fairly and reasonably related to its scale (para 203 onwards). This continues to be the case here.

In conclusion, it is considered that the proposal accords with the provisions of the NPPF and it is **recommended** that the Committee reaffirms its earlier decision and delegate to the Head of Development Management and Public Protection the final approval of conditions and reasons which need to be amended to address the withdrawal of PPS's..

## Implications

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**Financial:** There are no additional financial implications arising from this report

Comments checked by Karen Muir, Corporate System Accountant 01295 221559

**Legal:** The determination of applications has to include all material matters at the point of determination, which is adjudged to be at the date of issuing the consent. It is important that the Council considers such a fundamental change in policy context as the publishing of the NPPF and the cancellation of previous guidance

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

**Risk Management:** Failure to consider this changed policy context could leave the Council liable to judicial review of these decisions

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

## Wards Affected

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All

## Document Information

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Appendix No	Title
Appendix 1	Significant changes to NPPF
<b>Background Papers</b>	
All papers attached to the planning applications listed	
<b>Report Author</b>	Bob Duxbury – Development Control Team Leader
<b>Contact Information</b>	01295 221821 bob.duxbury@Cherwell-dc.gov.uk



## Advice produced by The Planning Inspectorate for use by Inspectors:

27 March 2012

# National Planning Policy Framework

## Background

1. DCLG has today published the [National Planning Policy Framework](#) ('the Framework') (27 March 2012). This supersedes the consultation draft National Planning Policy Framework published on 25 July 2011.
2. The policy documents listed at Annex 3 of the Framework (including many existing Planning Policy Guidance notes (PPGs) and Planning Policy Statements (PPSs)) are cancelled.
3. The Framework largely carries forward existing planning policies and protections in a significantly more streamlined and accessible form. It also introduces the presumption in favour of sustainable development, and makes adjustments to some specific policies.
4. Annex 1 of the Framework sets out the implementation arrangements. The policies in the Framework apply from the day of publication, with appropriate arrangements to support local planning authorities if they need to update their plans. Annex 1 makes clear that plan policies should not be considered out-of-date simply because they were adopted prior to publication of the Framework. It also sets out how decision-takers should proceed taking account of the date of adoption of the relevant policy and the consistency of the policy with the Framework.

## Action

5. The policies in the Framework need to be applied from the day of publication, while ensuring that progress is maintained in the decision-making process without allowing any significant delay.
6. Inspectors must read and apply the Framework to all decisions which have not been issued at the point of publication of the Framework. In applying the Framework we will seek to maintain our normal standards of appeals service timeliness in so far as this is compatible with fairness to all parties.
7. The Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions.
8. The Government has set out arrangements for implementation of the Framework. For 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies in development plan documents adopted in accordance with the Planning and Compulsory Purchase Act 2004 (or published in the London Plan) since 2004, even if there is a limited degree of conflict with the Framework (see Annex A paragraph 4 for further advice). In other cases and following this 12-month period, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
9. In future, appeal representations will be made taking into account the Framework. However, some appeals and Local Plan examinations will be live when the Framework is published. Advice on the handling of such appeals and call-ins casework on publication of the Framework is at [Annex A](#) of this Note and on Local Plans at [Annex B](#). For any casework

where exceptionally pre-issue reading is requested, subject to the approval of Inspector Managers, [Annex C](#) provides advice on the procedure to follow. Any advice to be issued on the interpretation of Framework policy is a matter for the Department for Communities and Local Government.

10. [Annex D](#) of this Note will provides links to Ministerial Statements, Parliamentary Answers, press releases and Communities and Local Government Chief Planner communications connected to the publication of the Framework and a list of changes to topic specific policy as highlighted by the DCLG Framework Impact Assessment.

## APPEALS, CALL-INS<sup>1</sup>

1. In the future, where appeals refer to national planning policy this is most likely to concern the National Planning Policy Framework ('the Framework') and other parties will respond accordingly. Clearly some appeals will be live when the Framework is published, but for many the implications of the publication of the Framework will be capable of being dealt with during the normal passage of the appeal. However, it is recognised that in some cases, mainly as a result of the stage that the appeal has reached, arrangements may be required to ensure that parties have the opportunity to make representations on the impact, if any, of the publication of the Framework. Inspectors need to deal with these cases expeditiously and the Inspectorate will set clear timetables for any responses.

2. Paragraph 13 of the Framework sets out the presumption in favour of sustainable development. Paragraph 196 of the Framework confirms the tests in s38(6) of the Planning and Compulsory Purchase Act 2004 and s70 of the Town and Country Planning Act 1990 and that the Framework is a material consideration in planning decisions. Paragraph 197 states that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

3. It is necessary for Inspectors to have addressed their minds to the application of the presumption in favour of sustainable development in appeals and call-ins, to consider whether any topic specific policies relied on have been altered by the Framework and to consider what action to take in the interests of fairness to the parties.

4. The Framework indicates that for 12 months from the day of publication of the Framework, decision-takers may continue to give full weight to relevant policies even if there is a limited degree of conflict with the Framework. This means that Inspectors should, having identified the relevant development plan policies, consider for each of them:

- (1) whether the relevant development plan policy is one adopted in accordance with the Planning and Compulsory Purchase Act 2004 (or published in the London Plan);
- (2) decide whether it has no, or only a limited, degree of conflict with the Framework, and
- (3) if so, the policy should be given full weight in the decision; and
- (4) assess the development proposal against the policy.

5. In the small number of cases affected, for a short period case officers will alert the main parties<sup>2</sup> of the need to consider whether they wish to include reference to the Framework in their representations on already submitted appeals and request those are provided within 10 working days in normal circumstances. This will be initiated at appropriate points from receipt of the case up to the point it reaches an Inspector. However, appeal parties will rapidly assimilate the Framework's contents and this will be a short term measure. Where a site visit, Hearing or Inquiry is yet to be held or is sitting this should be possible as part of submissions at the event or as written representations.

6. With regard to cases currently before the Inspector, the following approach has been developed to assist in determining which cases can proceed and should not need any

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<sup>1</sup> This guidance applies to all appeal case types.

<sup>2</sup> This in all such circumstances should cover the main parties (LPA, Appellant's side, and Rule 6 Parties), with others included at the Inspector's discretion.

additional action, and which due to their current stage in the process may merit reopening or may be dealt with by a reference back to the parties for comment:

(a) in cases where:

- parties have already made submissions that they are relying on recently adopted development plan policies and in light of the evidence the Inspector judges reasonably that the development plan policies are not out of date;
- the parties' submissions have not been contradicted by other parties; and
- there is no reference either to cancelled national policy or to local policies reflecting it, then no further action is required. The Inspector may wish to consider whether an explanatory line as in paragraph 7 below is appropriate;

(b) where the parties' cases rely primarily on existing local development plan policies and the parties have not stated whether such policies are out of date in the light of the Framework, or they rely on cancelled national policy, Circulars etc., then the parties should be asked if they wish to submit representations in the light of the publication of the Framework. This applies regardless of whether or not the Inspector considers that his or her decision will turn on the relevant development plan policies or cancelled national policy;

(c) if the inquiry or hearing has closed, the Inspector can seek written representations on the implications of the publication of the Framework or, if in specific circumstances it is considered necessary to result in fairness for the parties, may consider reopening the inquiry or hearing (if a transferred appeal - Chart should then be advised). Before deciding to re-open an event Inspectors should discuss such cases with their manager. In bespoke cases the target may need to be adjusted.; and

(d) although ordinarily for SoS casework we would not seek views once an event has closed, The Planning Inspectorate may where appropriate refer back to the parties on Framework issues, and as above may in certain circumstances consider the need to re-open events.

7. In the event that a decision has been sent for despatch prior to the publication of the Framework, but has not yet been despatched at the point of Framework's publication, then the relevant team will return the decision (and the file where this has been received in the office) to the Inspector. The Inspector will have to decide whether the case merits re-consulting with the parties or whether suitable explanatory text (for example, 'policies in the Framework have been considered but in light of the facts in this case the National Planning Policy Framework does not alter my conclusions') can be inserted. The judgement made by the Inspector must be a reasonable one, taking account of the need to avoid delaying decisions wherever possible. The decision should then be sent to despatch as usual and a note included confirming that the Framework has been considered.

## **Annex B**

### **Local Plans**

1. Inspectors should seek to minimise delays, while giving parties an opportunity to make representations in the interests of fairness. The first guiding principle in development plan work is where possible to ensure that sessions where representations may currently rely on previous national policy are re-programmed, and substituted with sessions not so affected, or that space is provided for relevant issues to be revisited before the examination is closed.

2. **Preparation before the pre-hearing meeting (PHM)** – At the PHM, make it clear that sessions where representations may currently rely on national or local policy as stated in or reflecting previously existing national policy will be scheduled so as to give all parties the

opportunity to take into account in their representations the potential effect of the Framework.

**3. Preparation after the pre-hearing meeting (PHM) and relevant sessions scheduled** – Defer discussion of policy topics where representations potentially reflect previously existing national policy until the parties have been given an opportunity to consider the potential effect of the Framework as in step 2. Substitute with sessions not so affected.

**4. Examination hearings in progress** – Programme discussion of policy topics where representations potentially reflect previously existing national policy to allow an opportunity to consider the potential effect of the Framework as in step 3 (if not possible go to step 5).

**5. Examination hearings in progress where previously existing national policy related issues are the current topic** - Continue on the basis of revised national policy (the National Planning Policy Framework), but where necessary, after canvassing the views of the parties, allow a suitable adjournment as in step 4.

**6. Examination hearings in progress but previously existing national policy-driven issues are already dealt with** – Inform examination parties that it will be necessary to re-open the issue to allow an opportunity as in step 5.

**7. Report is being prepared** - Seek the views of the parties on the implications of the Framework. Be prepared to re-open the examination to allow an opportunity as in step 6.

**8. Report completed but not yet sent for fact check** – On the basis that one of steps 1 to 7 has already been implemented, proceed to send it. If none of the steps before 8 have been completed, return to step 7.

## Annex C

### Pre-issue Reading

1. In most cases, Inspectors should be able to deal satisfactorily with the introduction of the Framework, subject to the processes outlined above.

2. In exceptional cases, and subject to prior discussion with Inspectors managers who then agree that reading is necessary, pre-issue reading of any casework involving the development of land affected by the Framework covered by this Note will be made available where Inspectors wish to have a case read.

3. Decisions on any such casework should be sent electronically to the office. Once the reading process has been concluded you will be asked to forward the decision on for despatch.

[Ministers statement](#) by The Rt Hon Greg Clark MP (oral)

[Letter to Chief Planning Officer: National Planning Policy Framework](#)

[Technical Guidance to the National Planning Policy Framework](#)

### **Changes listed in National Planning Policy Framework Impact assessment**

- Introduction of presumption in favour of sustainable development.
- Removal of small scale rural office development from 'town centre first' policy.
- For major town centre schemes where full impact will not be realised within 5 years, impacts should also be assessed for a period of up to 10 years.
- Removal of the maximum non-residential car parking standards for major developments
- Removal of national brownfield target for housing development.
- Require local planning authorities to allocate and update annually a 5 year supply of housing sites with at least 5% buffer (moved forward from later in plan period) and 20% buffer (moved forward from later in plan period) where a record of persistent under delivery.
- Removal of national minimum site size threshold for requiring affordable housing to be delivered.
- Increased flexibility for delivery of rural housing to reflect local needs.
- Increased protection for community facilities.
- Minor technical changes to the detail of Green Belt policy.
- Provide more flexibility regarding manner in which local planning authorities meet local requirements for decentralised energy supply.
- Encouragement for local planning authorities to map areas for commercial scale renewable and low carbon energy development opportunity, and then to apply these criteria to other applications.
- Requirement on local planning authorities to take strategic approach in Local Plans to creation, protection, enhancement and management of networks of biodiversity and green infrastructure.
- Recognition of designation within Local Plans of locally designated sites of importance for wildlife, geodiversity or landscape character.
- Clarification of which wildlife sites should have same protection as European sites.
- Removal of requirement to set criteria and select sites for peat extraction.

# Agenda Item 15

## Planning Committee

### Appeals Progress Report

24 May 2012

### Report of Head of Public Protection and Development Management

#### 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

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The Planning Committee is recommended:

- (1) To accept the position statement.

#### Details

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##### New Appeals

- 1.1 **12/00083/F – 27 Corncrake Way, Bicester** – appeal by Mr & Mrs C Hayes against the refusal of planning permission for a Two storey side extension – Householder Written Reps

##### **Forthcoming Public Inquiries and Hearings between 24 May 2012 and 21 June 2012**

- 2.1 None

##### Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Mr Peter Hawes against the refusal of planning application 11/00808/F for the erection of a detached house at land adjacent Dormer House, Ardley Road, Somerton (Delegated)**- The Inspector commented “ the heavily engineered drive would require the removal of virtually the whole length of frontage stone wall and the corresponding group of tress above it. While the trees may be of limited arboricultural value, together the wall and trees provide an important element of enclosure, with the wall of the barn opposite, at the centre of the village. This is a key feature of the conservation area. I consider that the loss of this feature and its replacement by a wide gap and an open, engineered driveway would damage the setting of the listed farm and would destroy a vital characteristic of the conservation area, so undermining their significance as heritage assets.”
- 3.2 **Dismissed the appeal by Mr Stewart Robinson against the refusal of planning application 11/01841/F to raise the front of the house up by one level removing dormer window and replacing with a hip front door, blending into existing roof at 162 Barry Avenue, Bicester (Delegated)** – The Inspector considered that the outlook from a bedroom window at 160 Barry Avenue would be significantly altered, and would be towards a solid brick wall. This would be very oppressive and overbearing for residents at no.160 and harm their outlook from that room. This would detract from the living conditions of the adjoining neighbours with particular regard to loss of outlook and over-dominance
- 3.3 **Dismissed the appeal by Mr Eddy Davis against the refusal of planning application 11/01565/F for a two storey side extension at 60 Queensway, Banbury (Delegated)** - In the Inspector’s view, the proportions of the proposed extension, particularly in terms of roof height and design would be an over dominant feature and out of proportion with the scale of the main dwelling. The proposed two storey extension would also bring built development much closer to the boundary along Mewburn Road. The combination of these two elements would result in the extended dwelling being far more intrusive in the street scene.

## **Implications**

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**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 and 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 and Litigation 01295 221687

**Wards Affected**

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All

**Document Information**

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<b>Appendix No</b>	<b>Title</b>
-	None
<b>Background Papers</b>	
All papers attached to the planning applications files referred to in this report	
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