

Committee: Planning Committee
Date: Thursday 21 June 2012
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

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

Substitutes

Councillor Maurice Billington	Councillor Surinder Dhesi
Councillor Mrs Diana Edwards	Councillor Andrew Fulljames
Councillor Melanie Magee	Councillor Kieron Mallon
Councillor Jon O'Neill	Councillor P A O'Sullivan
Councillor Lynn Pratt	Councillor Nigel Randall
Councillor Douglas Williamson	Councillor Barry Wood

AGENDA

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

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

3. Petitions and Requests to Address the Meeting

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

4. Urgent Business

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

5. Minutes (Pages 1 - 14)

To confirm as a correct record the Minutes of the meeting of the Committee held on 24 May 2012.

Planning Applications

6. **Land North of The Bourne and Adjoining Bourne Lane, Hook Norton**
(Pages 17 - 35) **11/01755/OUT**
7. **Land South of Overthorpe Road and Adjacent the M40, Banbury, Oxfordshire**
(Pages 36 - 65) **11/01878/OUT**
8. **OS Parcel 0092 South of Gibbs Field House, Foxhill Lane, Souldern**
(Pages 66 - 78) **12/00237/F**
9. **4 The Rookery, Kidlington** (Pages 79 - 96) **12/00460/OUT**
10. **Land between Bishops Itchington, Gaydon and Knightcote, South East of the B4451** (Pages 97 - 101) **12/00601/ADJ**

Review and Monitoring Reports

11. Decisions Subject to Various Requirements (Pages 102 - 104)

Report of Head of Public Protection and Development Management

Summary

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

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

Recommendations

The Planning Committee is recommended to:

- (1) Accept the position statement.

12. **Appeals Progress Report** (Pages 105 - 108)

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 or 01295 221589 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item. The definition of personal and prejudicial interests is set out in 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, Democratic and Elections
natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

Sue Smith
Chief Executive

Published on Wednesday 13 June 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 24 May 2012 at 4.00 pm

Present: Councillor Rose Stratford (Chairman)

Councillor Ken Atack
Councillor Fred Blackwell
Councillor Colin Clarke
Councillor Tim Emptage
Councillor Chris Heath
Councillor David Hughes
Councillor Mike Kerford-Byrnes
Councillor James Macnamara
Councillor George Parish
Councillor G A Reynolds
Councillor Trevor Stevens
Councillor Lawrie Stratford
Councillor Leslie F Sibley

Substitute Members: Councillor Barry Wood (In place of Councillor Michael Gibbard)
Councillor Nigel Randall (In place of Councillor D M Pickford)

Apologies for absence: Councillor Alastair Milne Home
Councillor Michael Gibbard
Councillor Russell Hurle
Councillor D M Pickford

Officers: Jenny Barker, Major Developments Team Leader
Rebecca Horley, Senior Planning Officer
Ross Chambers, Solicitor
Natasha Clark, Team Leader, Democratic and Elections
Aaron Hetherington, Democratic and Elections Officer

3 **Declarations of Interest**

Members declared the following interests:

6. Land North east of Oxford Road West of oxford canal and East of Bankside, Banbury.

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.

8. OS Parcel 0092 South of Gibbs Field House, Foxhill Lane, Souldern.

Councillor Mike Kerford-Byrnes, Prejudicial, as Ward Member who had expressed a view on the application.

9. OS Parcel 3431 Adjoining and North East of Blackthorn Road, Launton.

Councillor Mike Kerford-Byrnes, Prejudicial, as the applicant was known to him.

11. Land adjacent the M40 and Oxford Canal, North of Wildmere Industrial Estate, Banbury, Oxfordshire.

Councillor Barry Wood, Prejudicial, as a member of Executive and as Cherwell District Council was the applicant.

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

Councillor G A Reynolds, Prejudicial, as a member of Executive and as Cherwell District Council was the applicant.

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

Councillor Ken Atack, Prejudicial, as a member of Executive and as Cherwell District Council was the applicant.

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

Councillor Barry Wood, Prejudicial, with regard to application 11/01870/F as a member of the Executive and application 10/01780/Hybrid as a member of Executive, a member of the Eco Bicester Strategic Delivery Board and as persons known to him have an interest in land in the area of but outside the Eco Zone.

Councillor G A Reynolds, Personal, with regard to applications 10/01780/Hybrid and 11/01870/F only, as a member of the Executive.

Councillor Ken Atack, Prejudicial, with regard to applications 10/01780/Hybrid and 11/01870/F only, as a member of the Executive.

4 **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.

5 **Urgent Business**

There was no urgent business.

6 **Minutes**

The Minutes of the meetings held on 19 April 2012 and 16 May 2012 were agreed as a correct record and signed by the Chairman.

7 **Land North east of Oxford Road West of oxford canal and East of Bankside, Banbury**

The Committee considered an application to seek 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.

In introducing the report, the Major Developments Team Leader advised the Committee that 1 further representation had been received since publication of the written update. That was from British Waterways in relation to drainage who advised that further detail would be needed in due course if the application were approved.

In considering the application, the committee commented on parking and density and the lessons that could be learnt from existing developments.

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

Resolved

- (1) That, subject to the expiry of the consultation period, the masterplan and design code be approved and authority delegated to officers the final of conditions following the submission of a satisfactory document addressing the remaining concerns of the officers

8 **Godswell Park, Church Street, Bloxham, Banbury, OX15 4ES**

The Committee considered an application for a two storey building containing ten close care apartments.

Members commended the application and commented that it would be an asset to Bloxham.

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

Resolved

That application 12/00214/F be approved 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:
 - (3) 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.
 - (4) SC 2.0A - Schedule of Materials- 'close care apartment building'
 - (5) SC 2.3CC Sample Panel - 'close care apartment building'
 - (6) SC 4.13CD Parking and Manoeuvring
 - (7) 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.
 - (8) 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.
 - (9) 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.
 - (10) SC 3.0A - Landscaping Scheme
 - (11) SC 3.1A Carry out Landscaping Scheme
 - (12) 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.
 - (13) Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried

out by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

- (14) If a potential risk from contamination is identified as a result of the work carried out under condition 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.
- (15) 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.
- (16) 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.
- (17) 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.

Councillor Macnamara proposed that consideration of the application be deferred to allow a formal site visit. Councillor Clarke seconded the proposal.

Resolved

That consideration of application 12/00237/F be deferred to allow a formal site visit.

10 **OS Parcel 3431 Adjoining and North East of Blackthorn Road, Launton**

The Committee considered an application to 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.

The Committee raised concerns about the highway risks involved and the potential loss of natural habitat.

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

Resolved

- (1) That application 12/00287/F be refused on the grounds that 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.

11 **Land Off Pingle Drive, Bicester**

The Committee considered an application to 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.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 12/00292/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: 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.
- (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.

- (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.
- (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.
- (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.
- (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.

- (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.
- (9) That the area shown as coach parking on dwg number P-206 received on 25.04.12 shall be used only for the purpose of coach parking and for no other purpose whatsoever.

12 **Land adjacent the M40 and Oxford Canal, North of Wildmere Industrial Estate, Banbury, Oxfordshire**

The Committee considered an application for the change of use from agricultural land to Country Park and creation of car park.

Mike Pollard, a representative of the Banbury Ornithological Society addressed the Committee in support of the application.

The committee commented on the opportunity that the application would bring for Banbury and noted that there was further potential for the site, including tourism.

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

Resolved

That application 12/00302/CDC be approved subject to:

- (i) Receipt of comments from The Thames Valley Police Architectural Liaison Officer and no objection being received from British Waterways and the inclusion of any required conditions as necessary delegated to the Head of Public Protection and Development Management.
- (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 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

- (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.
- (4) That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
 - (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.
- (5) That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.
- (6) 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 be properly maintained in accordance with this condition.

- (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.
- (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.
- (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.
- (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.
- (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.
- (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.
- (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.

- (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

13 **The Mount, Green Lane, Swalcliffe**

The Committee considered an application for the removal of condition 10 of permission 09/00341/F.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 12/00345/F be approved subject to:

- (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

14 **Land and Building at Glebe Court, Stoke Lyne Road, Fringford**

The Committee considered an application to 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.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 12/00382/F be refused, for the following reasons:

- (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, TR10 and EMP4 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, C13 and EMP4 of the adopted Cherwell Local Plan and policy CC6 of the South East Plan 2009.
- (3) The proposed commercial use is in an isolated countryside location, divorced from established centres of population and reliant on the private vehicle for access. Focussing commercial development in this location would not contribute towards sustainable objectives and is, therefore, contrary to core planning principles and Sections 3 & 4 of Government guidance contained in the National Planning Policy Framework.

15

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

The Committee considered a report which enabled Members to re-consider past resolutions to approve planning applications, subject to various requirements, following the introduction of the National Planning Policy Framework (NPPF) and the cancellation of most of the PPSs and PPGs which previously were considered in the application's determination.

The Major Developments Team Leader gave an overview on the NPPF and a summary of the previous consideration given to each application and the PPGs/PPs considered and then a brief review of the new NPPF considerations where these were different.

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

Resolved

- (1) That the previous decision of the Committee to approve application 01/00662/OUT be re-affirmed as previously and to delegate authority 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.
- (2) That the previous decision of the Committee to approve application 10/00640/F be re-affirmed as previously and to delegate authority 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.
- (3) That the previous decision of the Committee to approve application 10/01021/F be re-affirmed as previously and to delegate authority 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.
- (4) That the previous decision of the Committee to approve application 10/01780/HYBRID be re-affirmed as previously and to delegate authority 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.
- (5) That the previous decision of the Committee to approve application 11/00524/F be re-affirmed as previously and to delegate authority 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.
- (6) That the previous decision of the Committee to approve application 11/01369/F be re-affirmed as previously and to delegate authority 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.
- (7) That the previous decision of the Committee to approve application 11/01484/F be re-affirmed as previously and to delegate authority 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.
- (8) That the previous decision of the Committee to approve application 11/01732/F be re-affirmed as previously and to delegate authority 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.
- (9) That the previous decision of the Committee to approve application 11/01870/F be re-affirmed as previously and to delegate authority 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) That the previous decision of the Committee to approve application 11/01907/F be re-affirmed as previously and to delegate authority 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.

Councillor Reynolds requested that his abstention on resolution 4 be recorded and his vote against resolution 5 be recorded.

Councillor Hughes requested that his vote against resolution 10 be recorded.

16 **Appeals Progress Report**

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

Resolved

- (1) That the position statement be accepted

The meeting ended at 5.30 pm

Chairman:

Date:

PLANNING COMMITTEE

21 June 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.

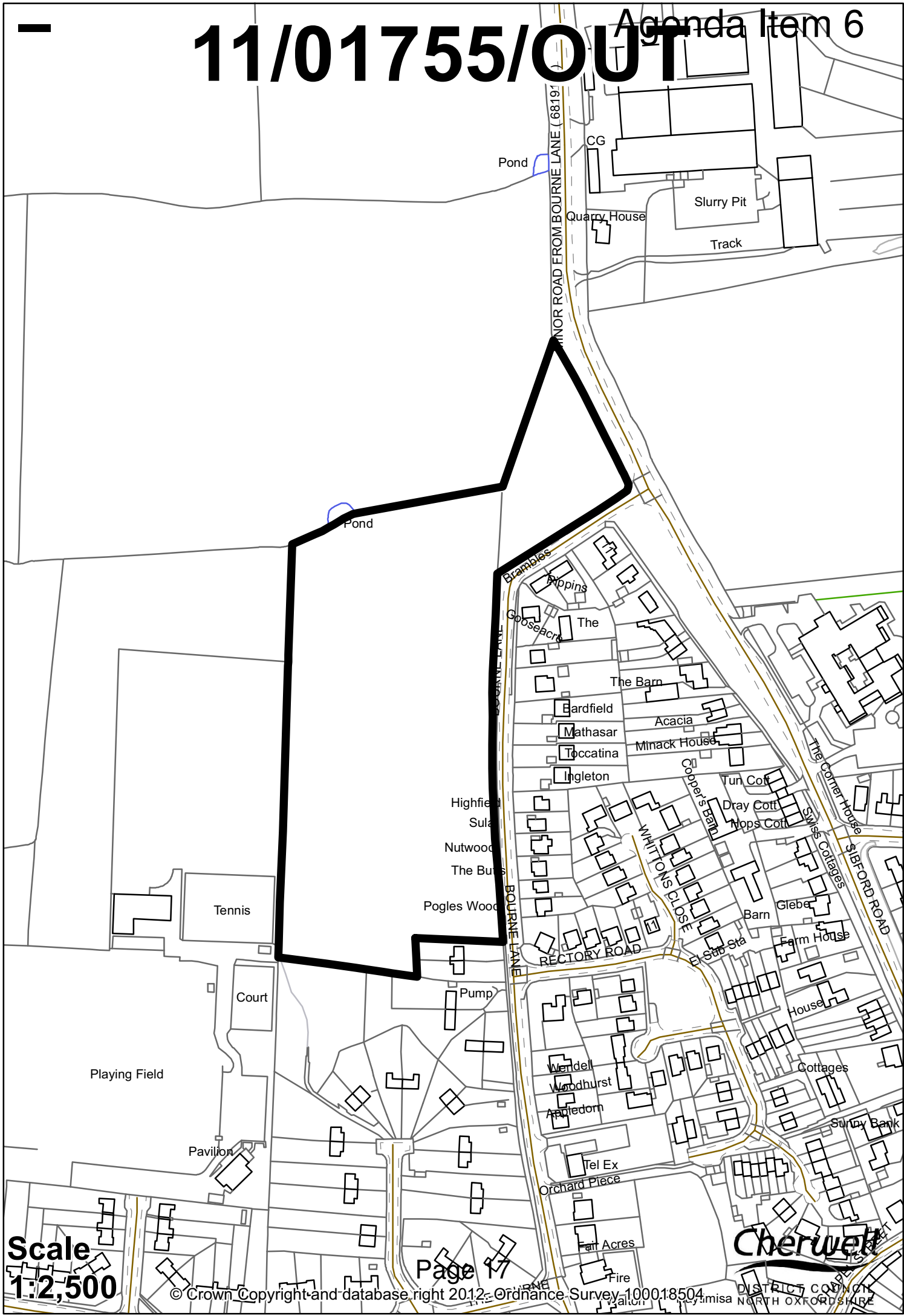
Background Papers

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 of The Bourne and Adjoining Bourne Lane, Hook Norton	11/01755/OUT	Hook Norton	Approval	Simon Dean
7	Land South of Overthorpe Road and Adjacent the M40, Banbury, Oxfordshire	11/01878/OUT	Banbury Grimsbury and Castle	Approval	Jane Dunkin
8	OS Parcel 0092 South of Gibbs Field House, Foxhill Lane, Souldern	12/00237/F	The Astons & Heyfords	Approval	Gemma Magnuson
9	4 The Rookery, Kidlington	12/00460/OUT	Kidlington South	Refusal	Tracey Morrissey
10	Land between Bishops Itchington, Gaydon and Knightcote, South East of the B4451	12/00601/ADJ	Outside of Cherwell area	Advise Stratford District Council that Cherwell District Council raises no objections	Simon Dean

11/01755/OUT

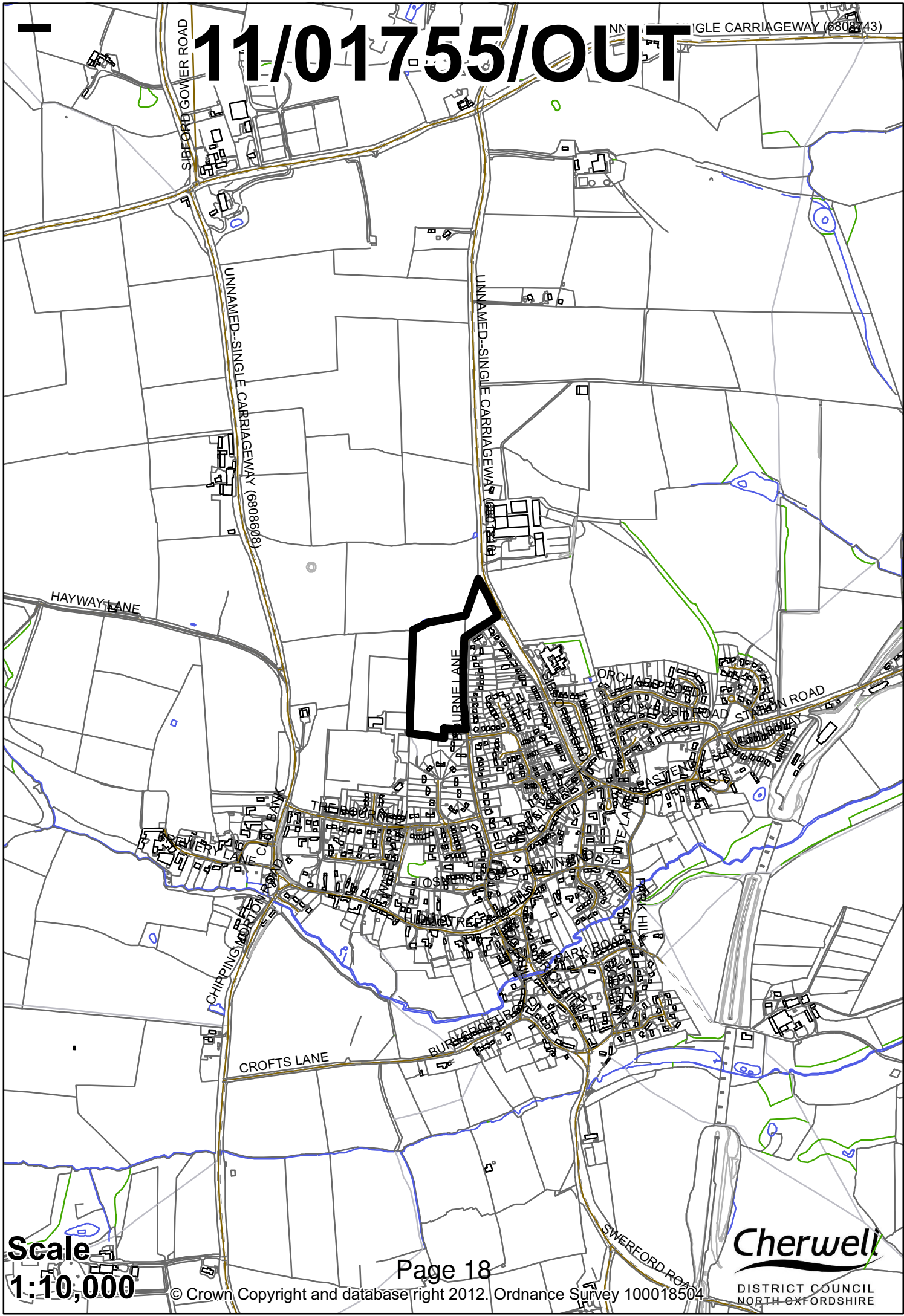


Scale
1:2,500



DISTRICT COUNCIL
NORTH OXFORDSHIRE

11/01755/OUT



Scale
1:10,000

Application 11/01755/OUT	No:	Ward: Hook Norton	Date Valid: 23.11.2011
Applicant:	Taylor Wimpey UK Ltd		
Site Address:	Land North of The Bourne and Adjoining Bourne Lane, Hook Norton		

Proposal: Outline planning permission with all matters reserved for the erection of up to 70 dwellings (Class C3), public open space including a play area/amenity space and a balancing pond, associated earthworks to facilitate surface water drainage, landscaping, car parking, a pumping station and other ancillary works

Date site visited: 08 December 2011 (first visit)

1. Site Description and Proposal

- 1.1 This is an outline application for a single development comprising of up to 70 dwellings with associated public open space, earthworks required for drainage, landscaping, parking areas and other ancillary works.
- 1.2 The site is a 3.28 hectare field on the north of the village on the western side of Bourne Lane and to the north of the housing and sports club accessed from The Bourne. It is largely open with hedgerow boundaries and a number of small trees. The Northern tip of the site is crossed by public footpaths.
- 1.3 The site is within the locally designated Area of High Landscape Value, which washes over the whole of Hook Norton and much of this area of the District. The site is not within a designated Conservation Area and does not contain or abut any Listed Buildings.
- 1.4 The application seeks permission for up to 70 units, of which 30% are to be affordable housing. If the site were developed to the maximum of 70 dwellings, this would provide 21 affordable houses.
- 1.5 The application is in outline only and all matters are reserved to be considered in a Reserved Matters application in the event of the proposal be approved. Although the application is in outline an indicative site plan has been submitted along with a Planning Statement (including a Statement of Community Involvement Programme), a Design & Access Statement, Transport Statement, Flood Risk Assessment and Drainage Report, Phase 1 Ecological Appraisal, Archaeological Desktop Survey, Tree Survey/Arboricultural Report, Landscape and Visual Appraisal and a Land Contamination Report.

2. Application Publicity

- 2.1 The application has been advertised by way of site notices and press notice. The final date for comment based on the 21 day period was 29 December 2011.
- 2.2 To date 341 comments have been submitted in relation to the application. Of these 316 objects to the scheme, 16 offered only comments (with no particular for or against slant) and 7 were in support of the scheme.

- 2.3 Material planning considerations include
- Highway safety/convenience impact
 - Impact of the development on the school
 - Infrastructure (water, electricity, sewage, broadband, village facilities (inc. doctors))
 - Harm to the character of the village/turning the village into a town
 - Harm to the Cotswold character of the village
 - Harm to the landscape
 - Concerns over the scale of the development relative to the village
 - Ecology impacts
 - Flooding/drainage matters
 - Impact on trees
 - Prematurity and lack of need
 - Not in line with the Localism Act
 - Contrary to planning policies
 - Impact on the built Conservation of the village
 - Un-sustainability
 - Lack of employment in the village
 - Impact on the public rights of way
 - Outside built up limits of village on green field site
 - Loss of prime agricultural land

2.4 The impact of the proposal on highways, the school and infrastructure was raised by in excess of 70% of the objectors. The location, scale, impact on character, loss of Greenfield and extension to the village were also significant issues.

Non-Planning issues

- 2.5
- The 'Stanton' site is a better alternative
 - The developers have failed to engage with the community prior to making the application
 - The development is motivated only by profit

3. Consultations

- 3.1 **Hook Norton Parish Council:** objected to the proposal on the following grounds:
- Expansion of the village on the scale proposed would have an adverse impact on the village because of the impact on the school, infrastructure, flooding, transport and wildlife impacts
 - No attempt been made to enter discussions with the Parish Council; only a public exhibition after the application was submitted
 - The Council (Cherwell) does not have a housing land shortfall as set out in the application
 - Development in Hook Norton adds the greatest load to the transport infrastructure
 - The application is contrary to national and local policy
 - The site has been repeatedly rejected for development previously
 - The application site is outside the village envelope
 - There are other, more appropriate sites in the village
- 3.2 **Environment Agency:** raises no objections to the proposal subject to conditions being imposed in the event of the application being approved. They have noted that

a Waste Management Plan is required and that the local sewage treatment plant is nearing its design capacity, but that this is an issue for the sewage undertaker to address.

- 3.3 **Thames Water:** has identified an inability of the existing waste- and drinking- water infrastructure to accommodate the needs of the proposal. However in the event of an approval conditions could be imposed to overcome this concern.
- 3.4 **Oxfordshire County Council (Highways):** No objection on highway safety grounds, but raises concerns over the sustainability of the proposal in transport terms and the reliance on the private car.
- 3.5 **Oxfordshire County Council (Education):** If the development were to proceed then it is likely that additional primary school accommodation would be required; either through an extension to the school or by transporting pupils to alternative local schools. The cost of either of these solutions would need to be met with contributions from the developer. There is no requirement for increased secondary school capacity in the area. The County Council no longer objects to this scheme on the basis of upsetting the balance of schooling in Hook Norton.
- 3.6 **Oxfordshire County Council (Developer Funding Officer):** There is a shortfall in off-site off-street service infrastructure which needs to be addressed before any proposal is approved and the primary school is currently over capacity. Developer contributions would be required for school infrastructure, library infrastructure and stock, day care, waste recycling, adult learning, museum resources and school transport.
- 3.7 **Oxfordshire County Council (Archaeologist):** The site is an area of archaeological interest and there are some records nearby. As the site is largely undisturbed any remains would have the potential to be well preserved. Requests pre-commencement negative conditions.
- 3.8 **Oxfordshire County Council (Countryside Services):** The scheme will not have a direct impact on public rights of way; offers comments on the required rights of way infrastructure.
- 3.9 **Oxfordshire County Council (Drainage):** No objections, notes that any final design should be SUDS compliant.
- 3.10 **Thames Valley Police:** No objections; would encourage the use of 'Secured by Design' principles if approved. Concerned about the potential lack of natural surveillance of public open space and would like to see active windows from routinely occupied rooms overlooking that area to reduce the opportunity for crime and disorder.
- 3.11 **Head of Strategic Planning and the Economy (Planning Policy):** Notes that the current housing land-supply position is approximately 3.1 years, but that this position is based on evidence presented at a recent Appeal Inquiry and does not represent a formal reported position. The Officer also notes that whilst the site is not allocated, in light of the current policy position in the District, it is necessary to consider the current housing supply situation when considering the application.

In light of the tests in the National Planning Policy Framework, the current policy

position, the modest level of new housing developed in the village in recent years, the relationship of the application site to the village, the Planning Policy Officer does not wish to raise a policy objection subject to all detailed matters being satisfactory.

- 3.12 **Head of Public Protection and Development Management** (Anti Social Behaviour Officer): Notes that the impacts from the floodlighting and use of the Sports & Social Club have not been addressed in the application.
- 3.13 **Head of Safer Communities, Urban and Rural Services** (Landscape): No objections to the scheme in terms of landscape and visual impact, and considers the site to be well screened by the topography and existing boundary screening.
- 3.14 **Head of Safer Communities, Urban and Rural Services** (Ecology): No objection; the site is of very low ecological value, and that the layout is likely to be sympathetic to the current intention of the planning system to provide for a 'net-gain' in biodiversity terms.
- 3.15 **Head of Regeneration and Housing** (Housing): Notes that there is a need in Hook Norton for affordable housing, with a local connection. Without prejudice to this application, they also note that development of this site may allow access to an area of Council owned land to the South.
- 3.16 **Hook Norton Low Carbon**: Object on the grounds of the impact of the development on the school, highways and infrastructure. Also claim that the housing mix, site and scale are inappropriate.
- 3.17 **Campaign for the Protection of Rural England**: Objects to the scheme; notes the similarities between this site and that at Milton Road, Adderbury. Considers that the scheme causes harm to the character and appearance of the countryside and that there is likely to be a highways safety impact.

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
South East Plan 2009	CC1: Sustainable Development CC4: Sustainable Design and Construction CC6: Sustainable Communities & Character of the Environment CC7: Infrastructure and Implementation 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

T1: Manage and Invest
T4: Parking

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

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

BE1: Management for an Urban Renaissance

S1: Supporting Healthy Communities

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
C7: Landscape conservation
C8: Sporadic development in the open countryside
C13: Areas of High Landscape Value
C28: Design, layout etc standards
C30: Design control

**Cherwell Local Plan
– Proposed
submission draft
May 2012**

BSC2: The Effective and Efficient Use of Land
BSC3: Affordable Housing
BSC4: Housing Mix
BSC7: Meeting Educational Needs
BSC10: Open Space, Outdoor Sport and Recreation Provision
BSC11: Local Standards of Provision – Outdoor Recreation

ESD6: Sustainable Flood Risk Management
ESD7: Sustainable Drainage Systems
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
ESD16: The Character of the Built Environment

Policy for Villages 1: Village Categorisation
Policy for Villages 2: Distributing Growth Across Rural Areas

5. Appraisal

5.1 The key issues for consideration in this application are:

- Policy Context
- Housing Need
- Ecology and biodiversity
- Suitability of the site

- Landscape impact
- Impact of the proposal on the character and heritage of the village
- Flooding
- Access and highway safety
- Education

5.2 Policy Context

- 5.3 This application must be determined in line with the development plan unless material considerations indicate otherwise. This position is entrenched in the Planning Act as well as the Planning and Compulsory Purchase Act, and this starting point for the determination of planning applications is not affected by the publication of the National Planning Policy Framework.
- 5.4 The policy context to this proposal is therefore made up of the documents comprising the development plan, as well as several other policy documents which are material to the determination of the proposal.
- 5.5 Turning first to the development plan, the South East Plan 2009 is the regional spatial strategy for the South East region. Despite the commitment of the government to abolish this tier of planning policy, it remains a part of the development plan. Whilst this plan clearly contains no site-specific policies, it does set out the regional spatial planning framework for the region with policies for the scale and distribution of new housing, priorities for new infrastructure and economic development, a strategy for protecting countryside, biodiversity and the built and historic environment and for tackling climate change.
- 5.6 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as countryside (i.e. previously undeveloped land) where there is a presumption against general residential development on unallocated sites without any special justification.
- 5.7 Policy H12 of the adopted Local Plan states that new housing in the rural areas of the district will be permitted within existing settlements in accordance with policies H13, H14 and H15 and schemes that meet a specific and identified local housing need will be permitted in accordance with policies H5 and H6.
- 5.8 Policy H13 of the adopted Local Plan states that new residential development within Category 1 settlements, such as Hook Norton, is restricted to infilling, minor development within the built up area of the settlement and the conversion of existing buildings; subject to other policies in the Local Plan.
- 5.9 Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings.
- 5.10 The site lies beyond the existing built limits of Hook Norton in an area of currently undeveloped agricultural land. The built up limits of the village in this case are likely to be defined as the frontage of the dwellings along Bourne Lane, and the rear of the development along The Bourne and the Sports and Social Club.
- 5.11 The proposal is not infilling, nor within the built up area of the settlement and not required for agricultural purposes, the development is therefore contrary to Policies H12, H13 and H18 of the adopted Cherwell Local Plan.

- 5.12 The adopted Local Plan also includes policies for landscape conservation (Policies C7 and C13), which state that development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape; and which seek to conserve the character of the locally designated Area of High Landscape Value.
- 5.13 In May 2012, the Council published for consultation the proposed submission draft of the Cherwell Local Plan. This document replaces the earlier Draft Core Strategy and the non-statutory Cherwell Local Plan and represents the likely 'direction of travel' for planning policy in the district up to 2031. The Plan sets out the long term spatial vision for Cherwell and contains policies to help deliver that vision. The Plan is built around three main themes; securing economic development, building communities and ensuring that development is sustainable.
- 5.14 With regard to housing supply and delivery, the plan sets out the need to control and manage housing growth, directing supply to the urban areas (Banbury and Bicester) whilst also recognising the need for housing in the larger and more sustainable villages. To this end, the Plan categorises villages according to their size and appropriateness for new housing development. This village categorisation approach is consistent with the current adopted Local Plan and the previous non-statutory Local Plan and draft Core Strategy.
- 5.15 Whilst this Plan is of very limited weight (as it has yet to be consulted upon or examined), it does indicate the 'direction of travel' for planning policy, and specifically housing and growth policies for the district.
- 5.16 With specific regard to Hook Norton, the draft Local Plan identifies Hook Norton as a Category A village. In accordance with the approach adopted in previous policy documents, villages have been categorised based on criteria including population size, the number and range of services and facilities in the village, any known issues in a village, accessibility in terms of public/private transport and local employment opportunities.
- 5.17 The draft Local Plan also identifies Hook Norton as part of the group of villages which will (in accordance with a Supplementary Planning Document to be published in the future) provide up to 189 homes over the plan period.
- 5.18 Whilst leaving specific site allocations to future DPD's the draft Local Plan also includes policies relating to density and affordable housing provision required of new housing development (minimum of 30 dwellings per hectare and 30% respectively). The proposal accords with these requirements.
- 5.19 On 6 December 2011, the 2011 Annual Monitoring Report (AMR) was approved by the Council's Executive. The AMR included a comprehensive review of housing land supply which concluded that the district has a 2.9 year supply for the period 2012-2017. This equates to significant shortfalls of 1560 dwellings. The AMR concluded that supply in the Banbury and North Cherwell area (Cherwell's part of the 'Rest of Oxfordshire') was 1.7 years for both 2011-16 and 2012-17. However, it should be noted that supply in the Banbury and North Cherwell area is on track (1749 completions at 31/3/11 compared to a South East Plan requirement of 1750). In evidence to the recent Adderbury appeal Inquiry the land supply position was reported as having increased to 3.1 years. Whilst this is not a formal statement of

position an increase in supply is likely.

- 5.20 Questions have been raised during the consultation period over the appropriateness of the calculations in the AMR. It has been suggested by many contributors to the application, and indeed the local Member of Parliament that consented schemes should be included in the housing land supply figures, and that there should be no element of assessment of deliverability, as contributors considered it unfair to penalise residents and Councils for the failure of the house building industry to deliver consented schemes.
- 5.21 Whilst criticism of the method of housing land supply calculation has found expression in the National Planning Policy Framework (footnote 11 in reference to paragraph 47), this Council considers that its position remains the same as set out in the Annual Monitoring Report, although in light of recent approvals, an increase in supply is considered likely. A new housing trajectory is included in the proposed submission draft of the Cherwell Local Plan and a review of housing supply will be presented to the Council's Executive shortly.
- 5.22 The National Planning Policy Framework, published in March 2012 is the much-publicised replacement for the suite of government guidance expressed through the PPG and PPS documents. Broadly speaking, the National Planning Policy Framework sets out the government's planning policies for England and how these are expected to be applied; it provides a framework within which councils can produce their own distinctive local and neighbourhood plans.
- 5.23 The National Planning Policy Framework does not replace the development plan, but is a material consideration in decision making.
- 5.24 The National Planning Policy Framework has at its heart a presumption in favour of sustainable development which is intended as a "*golden thread*" running through the decision taking process. The Framework expressly notes that for decision taking, this presumption means that where the development plan is absent, silent or out-of-date, permission should be granted unless "*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*".
- 5.25 Whilst PPS3 was replaced by the National Planning Policy Framework, the requirement to demonstrate a five-year housing land supply was restated, with an additional 20% buffer required in cases where there is a record of persistent under-delivery of housing, or a 5% buffer in all other cases.
- 5.26 Crucially for this case the National Planning Policy Framework 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*" (paragraph 49).
- 5.27 The National Planning Policy Framework is clearly established as a material consideration, and it explicitly sets out that Policy H13 of the adopted Cherwell Local Plan is out of date. As set out above, where this is the case, the proposal must be approved unless any impacts would outweigh the benefits.
- 5.28 **Housing Need**

- 5.29 Hook Norton has been identified as one of the District's more sustainable villages capable of accommodating some limited further housing development. It continues to be identified as one of the more sustainable villages in the draft Local Plan. However development of a site such as this, in the open countryside, would usually only be permitted if it were allocated as part of an adopted district plan and if it did not give rise to harm. The extant Local Plan and the draft Local Plan recognises that the District's strategy of extending the existing urban areas, as the most sustainable locations for more development, is the most sustainable approach, but both acknowledge the need for limited development in rural areas, and as set out above, the draft Local Plan (and previously, the non-statutory Local Plan and the draft Core Strategy) identifies Hook Norton as a location for further rural housing growth.
- 5.30 The Head of Regeneration and Housing has noted that there is a need for affordable housing in Hook Norton, identified through the Housing Register. The Housing Team, in association with the Oxfordshire Rural Community Council has also carried out a Housing Needs Survey for the village, which identifies a clear need for affordable housing within the village, as well as support for a development which would enable such provision.
- 5.31 **Ecology and biodiversity**
- 5.32 Section 11 of the 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)
- 5.33 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.
- 5.34 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.*”
- 5.35 Paragraph 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning

permission” and paragraph 99 goes onto advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”

- 5.36 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; “*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”.*
- 5.37 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.
- 5.38 The applicants have carried out Phase 1 ecological survey which concludes that the site is not within or adjacent to any wildlife site and that significant impacts to such sites are not anticipated. The report also notes that the site is primarily improved grassland which is not of significant ecological value.
- 5.39 The Council’s Ecologist has confirmed, following her own site visit, that the site is of no particular ecological value and that the current indicative layout is sympathetic to the biodiversity gain required by the National Planning Policy Framework.
- 5.40 **Suitability of the site**
- 5.41 As set out above, the site is considered to be outside of the current built up limits of the village. However, as the current policy position lessens the weight of this as a consideration, it is important to objectively assess the site.
- 5.42 As set out in the application documents, the site is not within or adjacent to any designated wildlife sites, does not contain any recorded protected species and is not in a flood zone. Furthermore, the site is not within the designated Conservation Area, nor does it contain, or is it adjacent to any Listed Buildings. The site lies opposite and to the rear of existing, relatively recent residential development. Although the site is within a locally designated landscape (the Area of High Landscape Value), it is not within a nationally designated landscape.
- 5.43 The site is contained within established hedging to the boundaries and as such, views into and across it are limited. Notwithstanding that, there are of course views into the site from the public right of way to the North-East. These views are not considered likely to be harmful.
- 5.44 With regard to the neighbouring properties and the adjacent Sports and Social club, it is considered that the site is suitably distant from, and appropriately screened from the surrounding residential properties and adjacent Sports and Social club so as not to cause any unacceptable harm to the amenity of surrounding or future

residents by way of loss of light, loss of privacy, overshadowing or excessive noise/light disturbance. The concerns of the Anti-Social Behaviour Officer with regard to the Sports and Social Club are noted, but the applicant considers that the location of the drainage attenuation pond in the area of the site closest to the Club, and the boundary screening proposed, coupled with the intervening distance will mitigate any harmful impact.

5.45 The site has been variously promoted as a site for inclusion in the development plan process, most recently it was promoted by the developer in the 2006 *Issues and Options* paper pursuant to the now defunct Local Development Framework process.

5.46 **Landscape Impact**

5.47 As the site is on the edge of the village within the locally designated Area of High Landscape Value, and, as accepted above, proposes development beyond the existing built-up limits of the village, the landscape impact of the proposal is of critical importance in considering the scheme.

5.48 In assessing the landscape impact, it is important to note the response from the Landscape Officer who considers that the site is well screened by the existing topography, landscape features and boundary treatments (notably the hedging). She suggests reinforcing the hedging along the Northern boundary, but otherwise raises no objections on landscape or visual impact grounds. Any views of the site that are possible from more distant points than the immediate surrounding of the site would be against the backdrop of the existing built form of the village.

5.49 In relation to the landscape impact of the scheme, it is important to note that whilst the site does lie within the locally designated Area of High Landscape Value and the policy which designates the area as such is currently a part of the development plan, the weight of such designations has been weakened by the National Planning Policy Framework.

5.50 Notwithstanding that, it is considered that development of the site would not cause any unacceptable harm to the character, appearance or quality of the landscape beyond the site boundary owing to the discrete and well-contained nature of the site.

5.51 **Impact of the proposal on the character and heritage of the village**

5.52 Many contributors to the application have commented on the impact of the proposal on the historic interest of the village and made reference to the Conservation Area and other heritage assets. Whilst these are important material considerations, it is important to note the location of the site relative to the Conservation Area and any listed buildings. The site is a minimum of 220m away from the Conservation Area boundary, and separated by intervening residential properties. The site has a similar relationship to the nearest listed building.

5.53 As a result, it is not considered that the site has any impact on the setting or significance of any of the heritage assets in the village.

5.54 Turning to the broader character of the village, many contributors have commented that a development of this type and nature will harm the fundamental 'Cotswold' character of the village. As the application is in Outline with all matters reserved at this stage, the final design and appearance is not yet known. However, the overall layout, scale, density and nature of the development is not so different from other

residential developments in the village to render it harmful or unacceptably incongruous. Clearly the indicative site layout is not representative of the traditional, historic street pattern of the centre of the village (the area covered by the Conservation Area), but it must be borne in mind that the site is separated from that area by linear development along Bourne Lane and the formulaic development along The Bourne.

5.55 **Flooding**

5.56 The site itself does not lie within the flood plain and the site is not considered to be at risk from flooding. As with all new development, there is potential for flood risk arising from the development itself, but it is proposed to attenuate additional surface water run off through the use of sustainable drainage systems (SUDS) and a storage pond within the site, with a controlled discharge ensuring that the peak flow of surface water leaving the site is no greater than that before the development.

5.57 Both the Environment Agency and Thames Water have noted that the sewage and water infrastructure to the site are nearing their design capacity and that this issue will have to be addressed by the developer were the application to be approved. This is also an issue that has been raised by many contributors to the application. Whilst there is an identified need to improve and upgrade the water and sewerage infrastructure, neither the Environment Agency nor Thames Water considers this to be an insurmountable issue and have requested conditions to deal with this matter.

5.58 **Access and highway safety**

5.59 The County Council as Highway Authority have considered the proposal, and accepting that the proposal is in Outline with all matters reserved, offer no objections on highways safety grounds. They have previously raised concerns over the suitability of the site in terms of transport sustainability, and the likely difficulties in reducing the number of journeys by private car from such a site.

5.60 However, the judgement as to the sustainability of the site ultimately rests with the District Council. Whilst the location of the village and its relationship to the wider highway network and larger towns is appreciated and understood, the village is still identified as one of the most sustainable in the District owing to the facilities and services in the village (shop, post office, school, doctors surgery, public houses) which go some way to reducing the need to travel.

5.61 **Education**

5.62 Throughout the consideration of this application, the impact of the proposal on the education provision, both in the village and in the County more widely has been an important issue. The impact of the proposal on the quality and capacity of the school has been a key issue raised by contributors. Similarly, the County Council expressed initial concerns over the ability of the school to accommodate the expected extra pupils as well as the impact and costs of having to transport pupils to alternative schools in the County.

5.63 Following further work at the County Council with regards to feasibility and costings of transport and school expansion, the County Council are now satisfied that the extra pupils likely to arise from the proposal can be satisfactorily accommodated and the impacts of the development satisfactorily mitigated through either an extension to the school or pupil transport, funded by the developer.

5.64 **Public comments**

5.65 Through the consultation on the application, the level of pre-application engagement between the developer and the community has been strongly criticised by contributors. The applicant did approach the Parish Council to discuss the proposals prior to submission (in July 2011, as noted by the Parish Council in their minutes in August 2011). Furthermore, the applicant arranged a public meeting in the village in December 2011 following which a 'Statement of Community Engagement' was published in February 2012. This Statement set out the response of the applicant to the comments received and how the applicants intend to address these comments in any future Reserved Matters application.

5.66 Comments were also raised as to the timing of the application; suggesting both that it was timed to avoid any ramifications from the Localism Act and that the housing has been proposed in advance of any allocation or assessment of need.

5.67 Whilst it is true that the site is not allocated for housing, there is an established need for housing within the District, and as set out above, the lack of a deliverable five-year supply of housing alters the way in which the Council can consider development proposals such as this. Similarly, the Localism Act does not preclude development such as this.

5.68 **Planning Obligations**

5.69 The proposed development would generate a need for infrastructure and other contribution to be secured through a planning obligation, to enable the development to proceed. At the time of writing this report negotiations are ongoing with the applicants and the County Council to secure the necessary contributions to meet the needs arising from this development.

5.70 Having regard to the above, it is likely that the Heads of Terms relating to the obligation will include the following;

5.71 District Council requirements

- affordable housing at 30%, the type, tenure and mix of which is to be fixed in line with the requirements of Policy BSC4 of the proposed submission draft of the Cherwell Local Plan
- open space, sport and recreation facilities, including LAP provision
- refuse bins and recycling
- community facilities

5.72 County Council requirements

- general transport and access impacts, including rights of way if necessary
- education
- school and library infrastructure
- day care and adult learning
- museum resourcing
- strategic waste management
- policing

5.73 **Conclusion**

5.74 As set out above, the acceptability or otherwise of this proposal now falls to the interpretation and application of the tests set out in the National Planning Policy Framework balanced against the requirements of the primary legislation.

- 5.75 In essence therefore, the proposal must be considered against the requirements of Sections 70(2) of the principal Act and 38(6) of the Planning and Compulsory Purchase Act 2004 which state that proposals must be considered against the development plan unless material considerations indicate otherwise.
- 5.76 As set out above, the development plan is made up of the saved policies in the Cherwell Local Plan 1996 and the policies in the South East Plan 2009. The policies in the May 2012 proposed submission draft Cherwell Local Plan are material in terms of indicating a 'direction of travel' for planning policy, as is the Annual Monitoring Report and the National Planning Policy Framework.
- 5.77 It is important to note that the National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making.
- 5.78 Taking the position set out in the Annual Monitoring Report that the Council does not currently have a five-year supply of deliverable housing land the National Planning Policy Framework makes it clear that policies for the supply of housing cannot be considered up to date. As such, the National Planning Policy Framework sets out that proposals for new housing development should instead be considered against the test in para 14 of the Framework which states that (where the development plan is out of date) development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The line of argument made in the Adderbury case, and in the now-defunct Housing Land Supply Position Statement, that approval may lead to an unmanaged rush of rural housing site releases which would in turn cause harm is not considered to outweigh the benefits.
- 5.79 Whilst the level of objection to the scheme is clearly substantial, it is considered that the scheme does, on balance, pass the test set out in paragraph 14 of the National Planning Policy Framework. The consultation pursuant to the application demonstrates that no adverse impacts would arise from approving the development which would outweigh the benefits of doing so. Fundamentally, the landscape, highway, infrastructure and education impacts of the proposal do not outweigh the benefits arising from the provision of housing (both market and affordable) for which there is a demonstrable need and demonstrable shortfall and as such, the proposal passes the test. This reasoning (that the tests in the National Planning Policy Framework supersede the tests in the development plan) is consistent with the approach taken in the recent Adderbury appeal inquiry, and is consistent with the response from the Planning Policy Officer.
- 5.80 In light of the assessment set out in the paragraphs above, Officers consider that the material considerations pursuant to the proposal outweigh the restrictions arising from the relevant policy in the development plan (principally Policy H13 of the adopted Cherwell Local Plan 1996). The suitability of the site, its discrete nature giving rise to very limited landscape and visual harm, the provision of affordable and market housing for which there is a demonstrable need, coupled with the requirements of the National Planning Policy Framework, the South East Plan and the direction of travel set out in the May 2012 proposed submission draft of the Cherwell Local Plan demonstrate that there are material considerations which outweigh the development plan, in accordance with Section 70(2) of the principle Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004.

6. Recommendation

Approval, subject to:

a) the applicants entering into a legal agreement to the satisfaction of the District Council in respect of the likely heads of terms set out in paragraphs 5.68 - 5.72 above;

b) the following conditions (subject to amendment under delegated authority);

1) Approval of reserved matter details

2) Time limit for the submission of reserved matters (one year)

3) Time limit for commencement (one year)

4) That no more than 70 dwellings shall be accommodated on the site. Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policies H5 and BE1 of the South East Plan 2009 and Policies C28 and C30 of the adopted Cherwell Local Plan.

5) No works of site clearance or development shall take place until an updated Great crested newt survey has been submitted to and approved in writing by the local planning authority. This survey shall include details of any mitigation measures required should they be found on site.

6) No removal of mature trees shall take place until such time as they have been checked for bats immediately prior to removal. Should bats be found to be present in a tree due for removal, a bat mitigation scheme must be submitted to and approved in writing by the local planning authority prior to the removal of the trees concerned.

7) No works of site clearance or development to take place until an ecological enhancement scheme has been submitted to and approved in writing by the local planning authority. This is to include details of how the lighting scheme will be designed to reduce impacts on wildlife.

8) Scheme of tree and hedgerow protection to be submitted to and approved in writing

9) Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

10) No development approved by this planning permission shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details. Reason - To prevent the increased risk of flooding, to improve and protect water quality, improve habitat

and amenity, and ensure future maintenance of the drainage system. To prevent the potential pollution of the underlying aquifer from the use of soak-aways in contaminated land.

11) Prior to any demolition on the site and the commencement of the development a professional archaeological organisation acceptable to the local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application 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 in Section 12 of the National Planning Policy Framework.

12) Prior to any demolition on the site and the commencement of the development and following the approval of the first stage Written Scheme of Investigation referred to in condition 9, a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation. Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

13) Prior to any demolition on the site and the commencement of the development and following the completion of the archaeological evaluation, investigation and recording referred to in condition 10, a report of the archaeological evidence found on the application site and full details of a second stage Written Scheme of Investigation based on the findings, including a programme of methodology, site investigation and recording, shall be submitted to and agreed 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 in Section 12 of the National Planning Policy Framework.

14) Prior to the commencement of the development and prior to any demolition (other than in accordance with the second stage Written Scheme of Investigation), the further programme of archaeological investigation shall be carried out and fully completed in accordance with the second stage Written Scheme of Investigation approved under condition 12. Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

15) Following the completion of the fieldwork all post excavation work including all processing, research and analysis necessary to produce an accessible and useable archive and its deposition, and a full report for publication, shall be submitted to the Local Planning Authority in accordance with the revised Written Scheme of Investigation approved under condition 13. 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 in Section 12 of the National Planning Policy Framework.

16) Means of access to be in accordance with OCC specification

17) Vision splays to be retained unobstructed

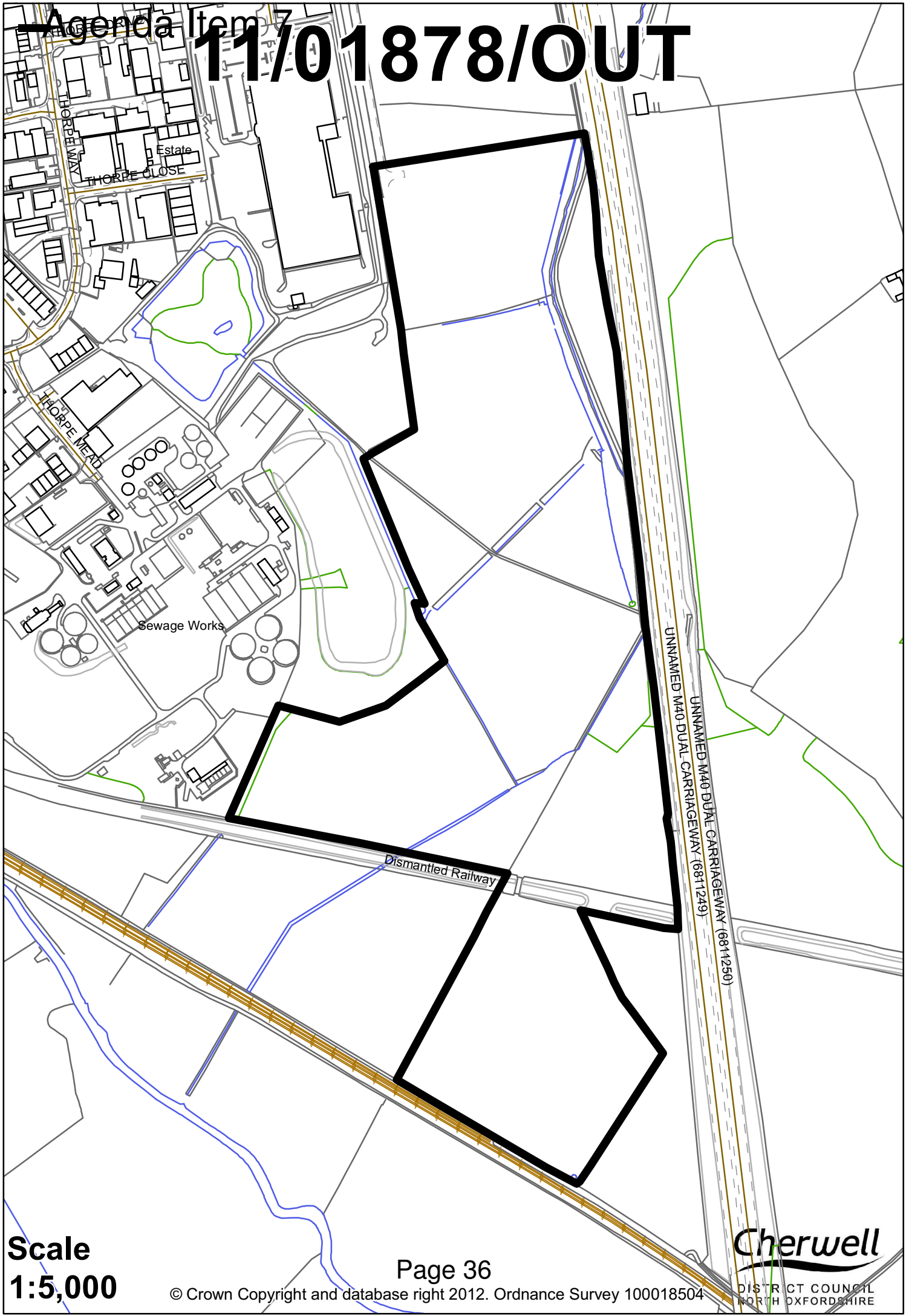
- 18) Estate roads and footpaths to OCC specification
- 19) Accesses, driveways and turning areas to specification to be submitted
- 20) Car parking in accordance with standards (layout, drainage, specification) – to be submitted
- 21) Control of construction traffic access
- 22) No conversion of garages/car ports
- 23) Fire hydrants
- 24) A Local Area of Play (LAP) shall be provided in accordance with the Council's adopted policy. Details of the siting and design of the LAP shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and thereafter it shall be provided in accordance with the approved details prior to the occupation of any dwelling within 30m of the LAP or prior to the occupation of the first 10 dwellings which ever is sooner. Reason - To ensure the provision of appropriate play facilities to serve the development and comply with Policy CC7 of the South East Plan 2009 and Policy R12 of the adopted Cherwell Local Plan.

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

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits being of a layout, scale and design appropriate in its context and will not have a detrimental effect on the neighbouring residential amenities. It will not cause harm to the visual amenities of the wider rural landscape, acknowledged archaeological interests, highway safety, ecology or flooding. Moreover, the proposal will assist the district in the delivery of affordable and market housing, and will contribute towards returning the district to having a five year housing land supply. The proposal, therefore, complies with government guidance contained in, Policies CC1, CC4, CC6, CC7, T1, T4, C4, C5, BE1, NRM1, NRM2, NRM4, NRM5 and NRM11 of the South East Plan 2009; Policies C7, C8, C13, C28 and C30 of the adopted Cherwell Local Plan and Policies BSC2, BSC3, BSC4, BSC7, BSC10, BSC11, ESD6, ESD7, ESD10, ESD16, Policy for Villages 1 and Policy for Villages 2 of the May 2012 proposed submission draft of the Cherwell Local Plan. Whilst the proposal is contrary to the provisions of Policies H12, H13 and H18 of the adopted Cherwell Local Plan 1996, this is outweighed by the direction of the National Planning Policy Framework and the need for the district to return to a five-year housing land supply. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

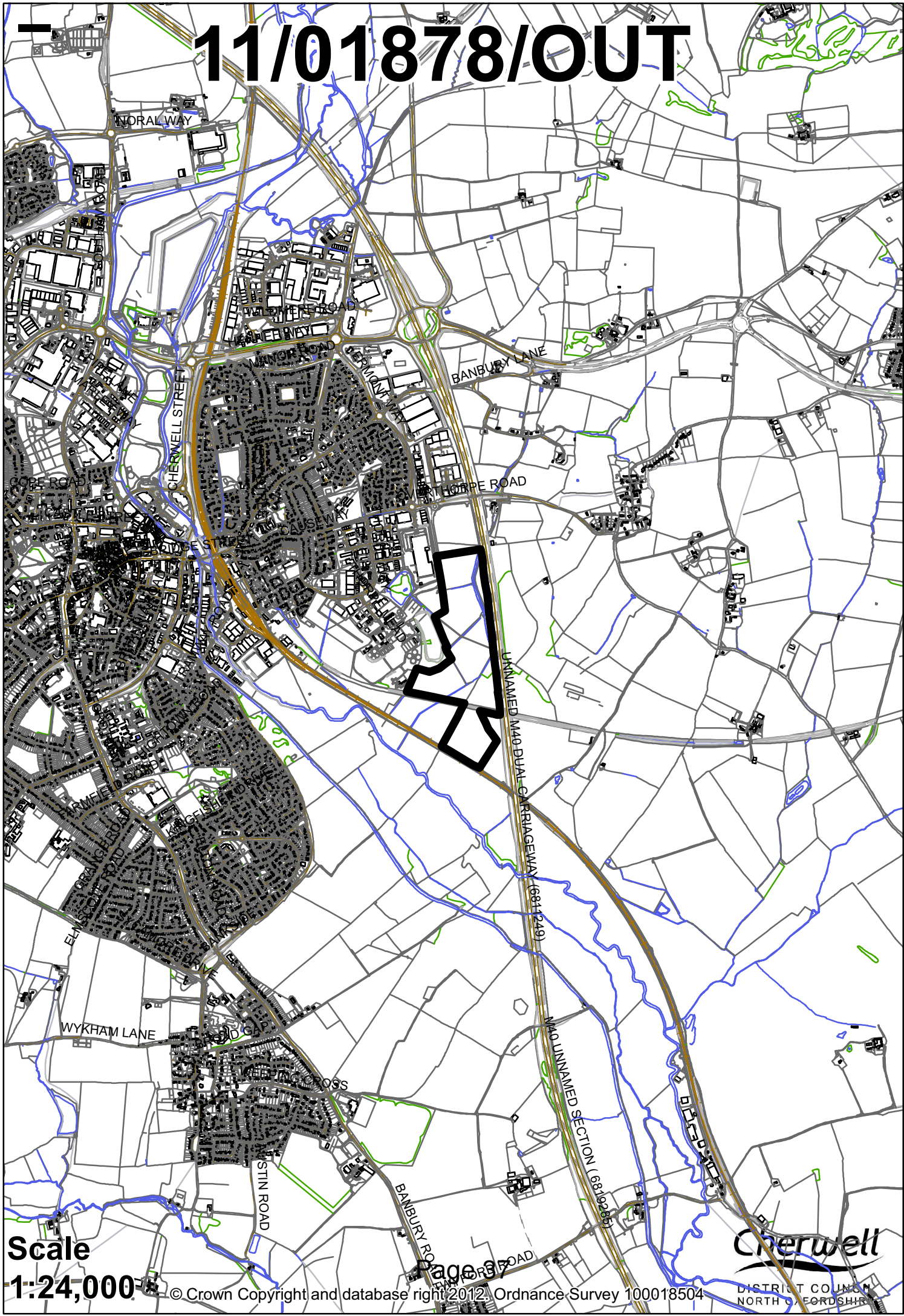
CONTACT OFFICER: Simon Dean	TELEPHONE NO: 01295 221814
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

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Application No: 11/01878/OUT	Ward: Banbury Grimsbury and Castle	Date Valid: 20.12.2012
Applicant:	Barwood Developments Ltd and Kennet Properties	
Site Address:	Land South of Overthorpe Road and Adjacent the M40, Banbury, Oxfordshire	

Proposal: Erection of up to 115,197sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (OUTLINE)

1. Site Description and Proposal

- 1.1 Located on the eastern edge of Banbury, this 28.47ha site, is bounded on its eastern edge by the M40 motorway and to the west by existing warehouse development and the Thames Water sewage works. To the north lie existing and recently constructed B2/B8 units and to the south the site to be developed is bounded by the former railway line, however a balancing pond is proposed for the agricultural field to the south of this physical boundary. Access to the site is via the existing roundabout on the Overthorpe Road and along Chalker Way. At a lower level than the surface of the M40, the site is relatively flat and mainly characterised by scrub type vegetation of no significant maturity together with trees of varying maturity and value mainly along the field boundaries. Public footpaths run adjacent to part of the western boundary of the site before crossing the site diagonally towards the motorway and then turning north along the eastern edge of the site adjacent to the motorway. A ditch runs along most of the western boundary of the site and a surface water culvert runs across the southern section of the site.
- 1.2 The application proposes to develop the site for a mix of B2 and B8 uses with ancillary B1 floorspace. The indicative plans show three different master plan options for six very large buildings arranged on the site, accessed by an extension to Chalker Way, with servicing, lorry parking and a landscaping buffer around the edge of the site. Balancing ponds are proposed to the south of the dismantled railway. The application proposes to divert the footpaths so that the route runs along the spine road and around the southern edge of the proposed buildings before rejoining the existing footpath to the east of the site and continuing in a straight line north rather than following the District boundary as it does presently. A planted landscape bund is proposed on the eastern side of the site adjacent to the public footpath. The application is submitted in outline with all matters reserved other than access.
- 1.3 The site lies largely within this Council's administrative area, however there are parts that lie within South Northamptonshire's administrative area. The parts of the site beyond this District's boundary include a small lozenge shaped area on the eastern side of the site and a larger triangular shaped area in the south eastern most corner of the site together with the area proposed for the balancing ponds. Around 9000sqm of built footprint would be situated on this land. An application for the proposed development has been submitted to South Northamptonshire

Council. Members of its committee resolved to approve the application subject to a number of conditions and a Legal Agreement on 15 March 2012, however subsequent events during the processing of the application has resulted in the requirement for the application to be reheard by South Northamptonshire Council's committee Members on 14 June 2012.

- 1.4 Members will recall giving consideration to this application at the Committee meeting on 22 March 2012 at which time they resolved to defer the application to allow officers time to provide further information on traffic management issues, the potential for a relief road and archaeological matters.

2. Application Publicity

- 2.1 The application has been advertised as a major development, a departure from the development plan and as affecting a public right of way. Site notices were posted around the site adjacent to the Overthorpe Road/Chalker Way roundabout and at various points along the public footpath which runs around and through the site. An advertisement was published in the local press on 19 January 2012. The final date for comment was 09 February 2012.

- 2.2 Ten letters of objection have been received from third parties raising objections on the following summarised grounds (see Public Access for full content):

- Substantial increase in HGV and car movements on Ermont Way and surrounding roads
- Will result in major hold ups and road safety issues
- Will damage current businesses
- Discourage customers
- Roads already at capacity at peak times
- Congestion leads to gridlock
- No changes/improvements to roads planned
- Businesses will have to relocate
- Grossly inadequate infrastructure for current volumes of traffic
- Thorpe Way Industrial Estate already used as a lorry park – this will be exacerbated
- Roads in need of repair go unaddressed
- Warehousing is a second option to manufacturing
- Heavily populated residential area (noise and disturbance/road safety)
- Acceptable alternative routes to the area are required
- Minor roads towards Overthorpe and King Sutton already used by HGVs as a rat run
- Not aware of any reasonable consultation process
- Major changes required to supporting infrastructure
- Welcome additional employment opportunities
- Dedicated slip road required

A further letter of representation has been received from Councillor Ann Bonner (ward member) who objects to the proposals on the following summarised grounds:

- Number of additional vehicular movements
- Original designation of land (not B8)
- No opportunity for relief road

- Vastness of proposals
- Loss of valuable industrial land to warehouses
- Town requires more diverse mix of industries and companies with more technical/scientific base
- Smaller units required
- Non-aspirational jobs for school leavers
- Few jobs in warehouses
- No lorry park – environmental health problems in laybys
- Area doesn't have infrastructure for HGVs
- Improvements on Middleton Road will be undone = traffic congestions
- Environmental effect – higher levels of pollution.

3. Consultations

- 3.1 **Banbury Town Council** objects to the application for the following reasons:
- Site has potential to deliver SE relief road (priority of the town council and supported by OCC)
 - Access strip needs to be fully protected and road needs to be built to standard of Ermont Way without junctions
 - Increased B8 = fewer employees and not very skilled (detriment to Banbury's manufacturing heritage)
 - Town needs more diverse mix of jobs
 - Banbury doesn't have infrastructure to cope with number of HGVs associated with the development
 - HGV parking concerns
 - Air quality concern/pollution levels exacerbated.
 - Overnight parking outside of the site leads to obstruction, litter, environmental health issues. TVP are concerned
- 3.2 **Bodicote Parish Council (CDC)** comments that the area is susceptible to flooding. As the site is next to the motorway HGVs wont need to go through Banbury town centre.
- 3.3 **Warkworth Parish Council (SNC)** raises concerns about traffic generation, traffic routes from the site, some of which are unsuitable for HGVs (weight and height restrictions). They make suggestions for carriageway improvement and traffic lights ensuring easy passage to M40. They state that a relief road would be the best solution and the route should be preserved for the future.
- 3.4 **Overthorpe Parish Council (SNC)** raises the following concerns:
- Increase in traffic using Overthorpe Road particularly at peak times
 - Current road infrastructure insufficient to accommodate
 - Vehicle speeds already excessive
 - Little/no protection for cyclists/pedestrians
 - Development increase likelihood of accidents
 - Premature degradation of new road surface
 - 'Access Only' often abused: this will compound problem.
 - Lack of clear signage. No access to M40 through Overthorpe should be properly addressed.
 - Increase in parking of HGVs on road overnight.
- 3.5 **Chacombe Parish Council (SNC)** no comments to date

- 3.6 **Middleton Cheney Parish Council (SNC)** no comments to date
- 3.7 **Head of Strategic Planning and the Economy (Planning Policy Officer CDC)** states that the application largely accords with Policies SP3 and RE3 of the South East Plan and PPS1 and PPS4 however this is subject to matters of flood risk, justification for extending the site beyond allocated land and the nature of the employment (original preference B1/B2). Following the publication of the NPPF, HSPE considers that the weight to be given to development that creates economic growth is increased by the NPPF. However the NPPF refers to the promotion of specific sectors and therefore the concern expressed in the original response with regards to the balance of employment uses are still relevant.
- 3.8 **Head of Strategic Planning and the Economy (Planning Policy Officer SNC)** No policy objection. Proposal would not undermine important open gap providing development does not breach M40.
- 3.9 **Head of Strategic Planning and the Economy (Design and Conservation Team Leader CDC)** considers the application to be contrary to planning policy for the following reasons:
- Very prominent site
 - Important that it presents an attractive and welcoming image to help promote the town
 - 'Appropriate transition between town and country' (Design and Access Statement) not achieved
 - High density (leaving little space for landscaping and amenity)
 - SPD guidance re height and density not followed
 - Inward looking with little attempt to address M40
 - Entire frontage to M40 marked by service yards with little room for screening
 - Not convinced that disused railway will effectively screen
 - Dev not designed around retention of historic right of way
 - Layout should build on landscape features not obliterate them
 - 10m buffer insufficient to mitigate. Minimum of 20m required adjacent M40 (C8 aCLP)
 - Option for relief road should not be precluded by development
 - Proposals constitute over development
- 3.10 **Head of Public Protection and Development Management (Environmental Protection Officer CDC)** raises no objections subject to conditions which cover further investigative works that are required in relation to developing the site.
- 3.11 **Head of Public Protection and Development Management (Environmental Protection Officer SNC)** Not likely to cause any significant pollution impacts in South Northamptonshire District if reasonable precautions taken.
- 3.12 **Head of Public Protection and Development Management (Anti Social Behaviour Manager CDC)** Appropriate noise levels and lighting design to be achieved at the detailed planning stage.
- 3.13 **Head of Public Protection and Development Management (Health Protection Officer SNC)** Scheme should be designed to meet standards of Health and Safety Executive guidance document HSG136 'Workplace Transport Safety'.

- 3.14 **Head of Strategic Planning and the Economy (Economic Development Officer CDC)** states that the principle of employment generation is established through the non-statutory Cherwell Local Plan. However makes the following remarks:
- Cherwell Economic Development Strategy looks for number of jobs and variety.
 - Should support needs/demands of local businesses. Canalside business will be looking to relocate locally had hoped this proposal could meet their needs.
 - Design should be of higher quality to inspire pride, visitors and future investors
 - Travel Plan doesn't make allowances for 1000 commuters
 - Relief Road should not be overlooked
 - Reserved Matters should address all concerns raised.
- 3.15 **Head of Strategic Planning and the Economy (Economic Development Officer SNC)** is supportive of scheme which would generate a significant number of jobs and the uses are appropriate for this strategic location. Query over number of jobs created and suggested s106 requirements re local workforce and training initiatives
- 3.16 **Head of Environmental Services (Tree Officer CDC)** objects on following grounds:
- Every significant oak tree within the footprint of the proposed buildings has been removed including those identified as being worthy of retention
 - Emergency TPO placed on the rest of the trees
 - Insufficient detail – no method statement and no protective fencing.
- Landscape proposals are not enough to mitigate against loss or provide green buffer to M40.
- 3.17 **Head of Environmental Services (Landscape Officer CDC)** states that:
- No consideration has been given to the impact on the Oxford Canal and railway corridor
 - Detailed landscaping proposals required
 - Further landscape mitigation is required
 - Gently undulating bund visually better than a uniform bund
 - Ecological enhancements supported
 - One years maintenance required together with management plan
- 3.18 **Head of Community Services (Nature Conservation CDC)** states that an incomplete summary of wildlife value is available. The work did not cover all of the site and was carried out at sub-optimal times. No European Protected Species were noted however reptiles are likely to present. Relatively small amount of ecological enhancement proposed given the scale of the scheme. Green roofs are suggested. Conditions relating to biodiversity enhancement and reptile mitigation are recommended.
- 3.19 **Head of Community Services (Rights of Way Officer CDC)**
- Footpath diversion required to enable development.
 - No Public Rights of Way Statement submitted
 - PPO could be justifiable given nature of development however insufficient information to assess suitability.
 - Detailed proposals for footpath diversion required if approved.
 - Complicated by fact that diversion would cross border into South Northamptonshire's district

- 3.20 **Head of Recreation and Health (Arts and Tourism Manager CDC)** requires an element of public art linked to the development
- 3.21 **Oxfordshire County Council** recommends to Cherwell District Council that, given that the need for economic development is so important at the current time, it does not object to the development proposed provided that:
- a) permission is subject to a legal agreement to secure contributions to improvements to infrastructure and transport measures to mitigate the impact of the development; and
 - b) permission takes into account recommendations from the County Council as Highway Authority on an appropriate split of employment use classes for the gross floor area of the proposed development site.

It is also recommended that the County Council informs Cherwell District Council that, whilst the need for economic development is supported, there are wider considerations. The County Council shares the concerns raised by local Councillors and, hence, would ask Cherwell District Council to take these into account when setting any planning conditions.

- 3.22 **Local Member View** summary of to Member's comments:
- a. could lead to an imbalance of unskilled warehouse/distribution (class B8) employment for Banbury, contrary to the objectives of Brighter Futures in Banbury Programme;
 - b. could give over too much valuable industrial land to warehousing, inhibiting relocation of businesses currently occupying sites within the Canalside regeneration area;
 - c. could generate large numbers of HGV trips on the local road network with consequent air quality and lorry parking problems affecting local residents; and
 - d. would include visually intrusive, large scale buildings

3.23 **OCC Transport**

Transport Assessment

- There are traffic restrictions on surrounding roads
- No alternative routes for definitive footpaths shown
- Construction management travel plan required
 - Wheel washing
 - Routeing
 - Delivery times

Traffic Generation, Distribution and Modelling

- 50:50 B2/B8 split required
- S106 contributions required towards sustainable highway infrastructure

Public Transport

- Nearest bus service beyond recommended walking distances
- Travel plan must take robust approach

Parking

- Parking levels to be conditioned

Layout

- Road = acceptable width
- Footway to be same as existing
- Tactile paving and crossing points required
- Loading/unloading/manoeuvring/waiting layout to be conditions
- Private Road agreement required

Relief Road

- Long term aspiration for OCC for town's future growth (LTP3)
- Previous application did not prejudice relief road
- As proposed application will terminate future delivery
- Relief road not considered necessary to serve the development as there is exiting capacity within the network

Routeing Agreement

- Already restrictions over HGVs through residential areas and site provides own parking facilities for HGVs
- Routeing agreement not necessary

Travel Plan

- Shower facilities essential to encourage walking and cycling
- Travel Plan coordinator to be identified and funded
- 1 x Travel Plan required per unit
- Signed, safe and convenient walking and cycle routes required to site.

Conclusion

- Not sustainable to recommend refusal

3.24 **OCC Archaeology** states that the site has been the subject to an archaeological evaluation which did not record any archaeological features. Therefore no further work is required.

3.25 **OCC Footpaths** Proposed diversions are reasonable. £50,000 is required for the diversions and to formalise access to former railway line

3.26 **OCC Drainage** Roof water and hard standing run off to go to soak away or SUDs and not to highway drainage. Full drainage plan /calculations required

3.27 **Northamptonshire County Council** comments as follows:

- No measures re impact on Northamptonshire or enhancing sustainability of site
- Poor location in terms of encouraging non-car modes
- Existing footways limited
- Limited safe crossing points
- Limited public transport service
- Majority of site located in excess of reasonable walking distance from bus services
- Travel Plan should indicate 20% shift away from single car occupancy trips but only shows 10% (should be amended accordingly)
- Indicative layout prevents buses entering and turning
- Basic level of sustainability to be achieved by
 - Bus infrastructure
 - 2 x bus stops
 - Pedestrian cross facilities and footway connections

- Financial contribution of £75,000 towards bus service
- Walking/cycling audit to improve measures
- Revised travel plan
- Signage strategy required
- £30,000 toward traffic calming in Overthorpe should rat running become a problem
- Junctions indicated at over capacity in 2016 yet no mitigation proposed.
- 2021 as future year should be assessed (not 2016)

Conclusion

No objections in principle subject to agreement of the above, S106 and conditions.

- 3.28 **NCC Archaeology** Part of site used for munitions manufacturing during first world war. Recording of remains required. Proposals will have a detrimental impact upon any archaeological deposits on the site. Therefore detailed investigation and recording required.
- 3.29 **OCC Developer Funding Team** No objections or requirements
- 3.30 **NCC External Funding Partnership** considers that a contribution towards Fire and Rescue would be necessary.
- 3.31 **Highways Agency** states that the application should be refused or granted subject to the following condition: Not more than 5% B1 and not more than 50% B2.
- 3.32 **Police Architectural Liaison Officer** states that an addendum to the Design and Access Statement is required in terms of creating safe/sustainable places/environments. Units would be exposed on all sides and therefore would be vulnerable to crime. Security provisions are vital in terms of reducing opportunities for crime.
- 3.33 **Environment Agency** raises no objections as the submitted flood risk assessment is sufficient. It demonstrates that the development will not increase flood risk. Some concerns raised about the proposed pumped system. Conditions recommended relating to development being carried out in accordance with FRA, detailed design, surface water drainage scheme, management of flows in western ditch and fluvial flood storage.
- 3.34 **Thames Water** advises in relation to ground water, surface water drainage, waste water infrastructure and water pressure.
- 3.35 **BBOWT** does not object in principle, appropriate location for development of some form. Some concern about the impact upon biodiversity, however this has already been highlighted by the Council's ecologist. No reference is made to biological records which should be an elementary first stage in any ecological impact assessment. The potential wildlife site on the SNC part of the site has not been fully considered, therefore a thorough botanical survey should be carried out.
 Reptiles - Limitations of reptile survey
 Great Crested Newts - Limitations of GNC survey (evidence is effectively worthless), but site is unlikely to support GNC
 Bats - Felling of trees does not represent good practice. Conclusions about reduced bat activity are spurious

Conditions should include:
Botanical survey
Reptile survey
Ecological management plan
Biodiversity enhancement plan

3.36 **Banbury Civic Society** objects on the following grounds:
Banbury Civic Society

Objects on the following grounds

- Contrary to the Development Plan
 - not allocated for development in any adopted plan.
- Scale and Visual Impact
 - giant warehouses for B8 use
 - Service yards facing motorway and completely inadequate screening
 - Visual impact of existing sheds is already a matter of grave concern and regret
 - Difficult to reconcile the prospect of a series of new additions
- Transport
 - Proposal does not leave adequate space for the future widening of the proposed service road for a south to east link road
- Sustainability
 - No proven need for commercial development at this scale
 - Contrary to 'brown field first' (Sapa site) and would prejudice regeneration of Sapa site
 - B8 is unsustainable
 - Loss of substantial Oak tree that was worthy of retention and had potential for bat roost.
 - Landscape proposals do not go far enough to mitigate against loss

Would strongly support B2 subject to design and environmental mitigation

3.37 **Ramblers Association/Oxford Fieldpaths Association/Open Spaces Society**
no comments to date

4. Policy Considerations

National Planning Policy Framework

Achieving sustainable development
Building a strong competitive economy
Requiring good design
Promoting health communities
Conserving and enhancing the historic environment
Conserving and enhancing the natural environment
Promoting sustainable transport
Meeting the challenge of climate change, flooding and coastal management

South East Plan 2009

Policy SP3 Urban Focus and Urban Renaissance
Policy CC1 Sustainable Development
Policy CC2 Climate Change

Policy CC7 Infrastructure and Implementation
 Policy RE1 Contributing to the UK's Long Term Competitiveness
 Policy RE3 Employment and Land Provision
 Policy T1 Manage and Invest (Transport)
 Policy T4 Parking
 Policy NRM1 Sustainable Water Resources and Groundwater Quality
 Policy NRM4 Sustainable Flood Risk Management
 Policy NRM5 Conservation and Improvement of Biodiversity
 Policy NRM9 Air Quality
 Policy NRM10 Noise
 Policy C4 Landscape and Countryside Management
 Policy C5 Managing the Rural-Urban Fringe
 Policy BE1 Management for and Urban Renaissance

Adopted Cherwell Local Plan 1996 Saved Policies

Policy S10 Development in Banbury commercial areas
 Policy TR1 Transportation funding
 Policy C1 Protection of sites of nature conservation value
 Policy C2 Protected species
 Policy C4 Creation of new habitats
 Policy C7 Landscape conservation
 Policy C8 Sporadic development in the open countryside
 Policy C9 Scale of development compatible with a rural location
 Policy C17 Enhancement of the urban fringe through tree and woodland planting
 Policy C25 Scheduled ancient monuments and archaeological sites
 Policy C28 Standards of layout, design and external appearance
 Policy ENV1 Development likely to cause detrimental levels of pollution
 Policy ENV7 Development affecting water quality
 Policy ENV12 Development on contaminated land

Non-Statutory Cherwell Local Plan 2011

The non-statutory Cherwell Local Plan is not part of the statutory development plan but it has been approved as interim planning policy for development control purposes and remains to be a material consideration even though there is now a draft Cherwell Local Plan.

Draft Cherwell Local Plan (dCLP) 2012

The draft Cherwell Local Plan 2012 was approved by Members of the Executive for public consultation on 28 May 2012. As this decision is very recent, and no further action has yet been taken, the Plan carries very little weight. Of note within the Plan however is Policy Banbury 6: Employment Land West of M40, which seeks to allocate the land to which the site relates for employment generating development. Policies within the draft Plan are also referred to in relation to matters where the adopted Plan is silent.

5. Appraisal

5.1 PLANNING HISTORY

5.1.1 In relation to the northern quarter of the site and within Cherwell District Council's administrative area only, Members resolved to approve planning application 10/01823/OUT for 19,000sqm of B2/B8 development subject to a legal agreement to secure transport infrastructure contributions. The legal agreement was not finalised and the application has recently been withdrawn. There is no other planning history relating to the site.

5.1.2 Planning permission has recently been granted for B2 and B8 uses on the site to the north which are being occupied by Firstline and Goodrich (applications 10/01868/HYBRID and 11/00867/REM refer).

5.2 KEY ISSUES

5.2.1 The application stands to be assessed against the following key issues:

- Principle
- Transport Impact
- Landscape Impact and Design
- Trees
- Rights of Way
- Flood Risk and Drainage
- Land Contamination
- Air Quality
- Noise
- Archaeology
- Ecology
- Crime Prevention
- Public Art
- Planning Obligation

5.3 PRINCIPLE

5.3.1 Since Members gave consideration to the application on 22 March, the National Planning Policy Framework (NPPF) has been published and is now a material consideration. The main theme of the NPPF is a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission 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 where specific policies in the NPPF indicated development should be restricted.

5.3.2 Based on advice within the NPPF, the Council's adopted Cherwell Local Plan 1996 is considered to be out of date (as it was adopted pre-2004) however it advises that due weight should be given to relevant policies in existing plans (regardless of their age) according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given).

With regard to the draft Cherwell Local Plan 2012, the NPPF states that decision takers may give weight to relevant policies according to the stage of preparation (the more advanced the greater the weight that may be given). The draft Cherwell Local Plan is in its very early stages and as such the Officer view is that it should be given very little weight.

- 5.3.3 The land in question is not allocated for development in the adopted Cherwell Local Plan 1996, however approximately one half of the site is allocated for employment use (B1/B2) in the non-statutory Cherwell Local Plan (adopted as non-statutory policy in 2004). Although this Plan did not proceed to adoption, the principle of employment use on this site had been identified as being appropriate through the evidence base supporting the non-statutory Cherwell Local Plan, which subsequently led to its draft allocation for employment use. In addition to this, the draft Cherwell Local Plan 2012 identifies the site under Policy Banbury 6 (Employment Land West of M40) which seeks to deliver this land for economic development in the interest of delivering jobs and investment in a highly sustainable location. The expected land uses include B1, B2 and B8. As referred to above, this plan can be given very little weight, however it does demonstrate the Council's intentions for the land which reflects the evidence base which has informed the content of the Plan.
- 5.3.4 With regard to the acceptability of the proposal in principle, the NPPF states that the government is committed to securing economic growth in order to create jobs and prosperity and to ensuring that the planning system does everything that it can to support sustainable economic growth. It continues by stating that Local Planning Authorities should plan proactively and investment in business should not be overburdened by the combined requirements of planning policy expectations, and that potential barriers to investment should be addressed.
- 5.3.5 HSPE's original advice was that from a planning policy perspective, the proposal accords largely with Policies SP3 and RE3 of the South East Plan and the National Planning Policy context. However consideration needs to be given to flood risk, the justification for (and adverse impacts of) developing land beyond the allocation and the nature of the employment use proposed given earlier indicated preferences for B1 and B2. HSPE considers that the weight to be given to development that creates economic growth is increased by the NPPF. However the NPPF refers to the promotion of specific sectors and therefore the concern expressed in the original response with regards to the balance of employment uses are still relevant.
- 5.3.6 Flood risk is addressed below at para 5.8, where it is stated that the proposal does not pose a risk.
- 5.3.7 The justification for developing this land is employment generation and it is not considered that there would be any adverse impacts of developing the land beyond the non-statutory Cherwell Local Plan allocations despite it not being allocated in the development plan and that it would encroach into open countryside. The land in question is no longer farmed, as access to it is restricted and the development would be situated between the M40 and existing industrial and sewage works land, which already have an urbanising affect on the site's context. The southern extent of the site would be bounded by the former railway line, which is considered to be a defensible boundary. Other matters of detail are addressed below, however strategically and as a matter of principle, it is not

considered that the development of the land would cause material harm.

- 5.3.8 Turning to the nature of the employment use proposed, the Employment Land Review (2012), undertaken to inform new planning policies in the Cherwell Local Plan Local Development Framework (LDF), highlights the strong market demand in Banbury for B8 units, and reports on future projected growth in the warehousing sector in the district. Importantly it also highlights the increase in employment densities (jobs per square metre of floorspace) for B8 use. Whilst HSPE welcomes some element of B8 in the proposal, local [draft] planning policy continues to promote a mix of employment uses on the site (including B2 use), as part of delivering a diverse and resilient economy (as envisaged in the Council's Economic Development Strategy).
- 5.3.9 Consultee's and Members' concerns are noted about extensive B8 floorspace and the subsequent job numbers and job type created. However the application states that around 1000 new jobs would be generated by the development, and the applicant's agent has provided supporting information which sets out that whilst logistics and distribution fall into the B8 use class, the sector has become a vital part of the UK economy employing 8% of the UK's workforce which is equal to the construction sector and higher than the Financial Services Sector (estimated at 4% of the UK's workforce).
- 5.3.10 This information supports a shift in the characteristics of B8 which have become more sophisticated (more skilled jobs) and requiring a greater number of employees. For this reason and in light of the current economic downturn together with the content of the NPPF, the Employment Land Review and the draft Cherwell Local Plan 2012 policy which all recognise the importance of creating jobs and achieving sustainable economic growth, officers consider that, in spite of the direction in the draft Cherwell Local Plan 2012 towards mixed development, the creation of jobs and the subsequent strengthening of the employment sector is the key issue and must be supported even if this is as a result of a greater amount of B8 use across the site. For this reason, it is considered that the benefits of securing sustainable economic development and significant job creation in accordance with the NPPF outweighs a requirement to specifically secure B1/B2 and mixed use development as set out respectively in the non-statutory Cherwell Local Plan and the draft Cherwell Local Plan. As such it is considered to be unreasonable to restrict the extent to which the floorspace of the proposed development is utilised for B8 uses by a planning condition.
- 5.3.11 For the reasons stated, officers consider that the proposal is acceptable in principle as it complies with Government guidance on building a strong competitive economy contained within the NPPF, Policies CC1 and RE3 of the South East Plan 2009, Policies EMP1 and EMP2 of the non-statutory Cherwell Local Plan and Policy Banbury 6 of the draft Cherwell Local Plan 2012. The finer detail of the application is discussed below.
- 5.3.12 Due to the fact that the land is not allocated for development in the adopted Cherwell Local Plan 1996, if Members resolve to approve the application, this would be a departure from the Development Plan and as such departure procedures must be followed.

5.4 TRANSPORT IMPACT

- 5.4.1 The site would be accessed by the existing roundabout junction on the Overthorpe Road, which was constructed as part of the previously approved planning application. This roundabout has been adopted by the Local Highway Authority and also provides access to the industrial units located off Lombard Way. The roundabout leads to Chalker Way, the existing spine road into the site which remains unadopted. The two highway routes that can be taken from the site include travelling east along the Overthorpe Road towards the villages of Overthorpe, Warkworth and Kings Sutton, or west and then to the north along Ermont Way leading to either the M40 or Banbury.
- 5.4.2 With regard to the impact of the development upon the existing network, given the characteristics of the proposed uses, B2 use would typically generate a greater number of vehicular movements and as such would have a greater impact upon the transport network. The Transport Assessment submitted with the application gives consideration to the likely traffic generation arising from the site. It does not model or assess a scenario where the whole of the floor space is utilised for B2 uses, instead two different use scenarios are modelled. The use scenario modelled with the greatest likely impact on the highway network was a scenario where no more than 50% of the floorspace of the buildings would be used for B2 use. Both the Highways Agency and the County Council have therefore assessed the application with this in mind and the rest of the site being used for B8. Based on this scenario, the County Council accepts that the proposal will take up a significant amount of the existing local highway network capacity, but not enough in their opinion to justify a refusal on highway grounds or seeking capacity infrastructure improvements from this application. It is concluded therefore that the proposal would not cause significant harm to the capacity of the existing network however this is subject to a financial contribution to be paid by the developers towards sustainable highway infrastructure. The Highways Agency recommends that the application should only be permitted if the development is subject to a condition restricting the B2 use to a maximum of 50% which is required to limit the impacts on the highway network to the predictions in the Transport Assessment. The Local Highway Authority agrees with this recommendation stating that any increase in favour of a B2 use will mean that a review of the impact upon the highway network would be required.
- 5.4.3 Referring to the specifics of the scheme, the Local Highway Authority advises that given the floor space proposed, there would be adequate parking and manoeuvring space for both cars and heavy goods vehicles within the site and that furthermore there would be adequate space for overnight parking and waiting for all heavy goods vehicles associated with the site. The current concerns about the local highway network being used as a lorry parking area would not therefore be compounded by this development. Full details of the layout of loading, unloading, waiting and manoeuvring space to be assessed at the reserved matters stage.
- 5.4.4 With regard to the sustainability of the site, whilst the site's location means that it is beyond what is considered to be reasonable walking distance of the nearest bus stop, the nearest bus stop is within 1km of the site and is accessible via Ermont Way. Furthermore, the site is within walking distance of local residential areas, and within approximately 1.5km's walk from the train station and town centre (along Causeway in Grimsbury and onto Overthorpe Road). To support

and enhance the existing travel choices to the site, the Local Highway Authority states that a detailed and robust Travel Plan will be required at the time of any reserved matters application which would set out measures to encourage walking and cycling to the site, which would be coordinated by the developer and the Plan would be monitored by the County Council. With these measures in place, it is considered that the development site, although not wholly sustainably located in terms of transport choices alternative to the private vehicle, there is the potential to encourage and build upon the choices available which will be secured via condition through the travel plan, which balanced against the benefits of the employment generation on the site is considered to be acceptable.

- 5.4.5 Consideration has been given to securing a routeing agreement to and from the site for HGVs, however the Local Highway Authority believes that there are sufficient restrictions in place in the form of weight and height limits along the Overthorpe Road and an access only restriction into Overthorpe itself. Overthorpe is perhaps the most vulnerable to increased traffic movements as the village provides alternative access to the M40 rather than using Ermont Way in times of heavy traffic. For this reason and in spite of the access only restriction, NCC considers it necessary to secure £30,000 from the developer to fund traffic calming in the village in the event that traffic increases as a direct result of the development. NCC also considers it necessary to require £75,000 towards a bus service and to secure a signage scheme clearly directing traffic along Ermont Way from the site. Negotiations are ongoing with the developer in relation to these matters.
- 5.4.6 A routeing agreement for construction traffic is required by Oxfordshire County Council which the developer is in agreement with and this would be secured by condition.
- 5.4.7 Reference is made by a number of consultees that land must be reserved to form part of a south eastern relief road from the new roundabout on Overthorpe Road, running adjacent to the application site and then around the southern side of Banbury. This is based on significant concern about congestion within the town centre and inner relief roads. The adopted Oxfordshire Local Transport Plan (LTP) 2011-2030 sets out strategic targets for Banbury which include making the best use of existing road space, making improvements to junctions and roads within the town and working in partnership with the Highways Agency and Cherwell District Council as required. The Plan states that when resources and opportunities allow, the targets will be achieved by a number of objectives which include continuing to promote the long-term aspiration of Banbury relief roads (although these are major infrastructure projects likely to require Central Government funding that will not be available within the period of this Plan).
- 5.4.8 Notwithstanding the relatively vague wording of the LTP, Members made it clear at the previous meeting that they held serious concerns over the fact that the realisation of a relief road could be permanently lost if the site were developed as indicatively indicated on the submitted drawings and this concern formed part of the reason for deferring the application at the last meeting.
- 5.4.9 Since the last meeting, Cherwell District Council has commissioned work towards developing a Master Plan for Banbury which has included up to date transport studies and modelling to identify the transport infrastructure that is required to facilitate sustainable development in the District up to and beyond 2031. Policy

SLE4 of the draft Cherwell Local Plan states that the Council will support key transport links as identified in the Local Transport Plan to deliver key connections, to support modal shift and to support more sustainable locations for employment and housing growth. It also states that following consideration of the results of “areas of search” key transport proposals will be supported including the Banbury inner relief road.

- 5.4.10 The future of the Banbury relief road therefore lies with the work currently being carried out to inform the Banbury Master Plan. Should there be clear and robust evidence that a relief road would be required within the plan period, Policy SLE4 (dCLP) remains relevant to this application, supported by Policy Banbury 6 (dCLP) which relates to the site in question and recognises the need to secure development that reserves the potential for a future highway connection to bypass the town centre. Members must be aware however that if this evidence is not forthcoming as a result of the Master Plan work, the Council would not be in a strong policy position to secure the safeguarding of the road at the present time due to the very little weight that the draft Cherwell Local Plan carries and given the wording of the LTP, which clearly states ‘when resources or opportunities allow’ and the direct reference to the requirement for Central Government funding which will not be available within the plan period.
- 5.4.11 Nevertheless, given the Members’ reasoning for deferring the application at the March meeting, the applicant has agreed to amend the indicative layout for the site in order to allow for a route for a future road to be safeguarded for the length of the Plan period (2030) plus five years.
- 5.4.12 The Local Highway Authority welcomes the safeguarding of the route at this stage whilst the Master Plan work is being carried out, and if it is proven that the relief road is required, the safeguarding of the route would outweigh the original requirement for a monetary contribution towards sustainable transport infrastructure. However if the Master Plan work proves that a relief road is not required, as an alternative, they will require an appropriate contribution towards transport infrastructure, to make the development acceptable in planning terms, the amount for which would need to be negotiated.
- 5.4.13 Following the advice of the Local Highway Authority that the existing highway network is suitable and has capacity for the proposed development subject to the imposition of a condition restricting the use of the site to no more than 50% B2 of the total floorspace as required by both the Highways Agency and Oxfordshire County Council as Highway Authority. With the safeguarding of a route for an inner relief road for the duration of the current plan period, or where that is not required as a result of the Master plan work, securing a contribution towards highway infrastructure, officers are satisfied that the proposed development would not have a detrimental transport impact. Access to the site (which is a matter of detail being considered at this stage) is considered to be acceptable. Therefore, and subject to all other necessary conditions and the developer entering into an agreement setting out the obligations set out above, Officers consider that the application complies with Government guidance on promoting sustainable transport contained within the NPPF, Policies T1 and T4 of the South East Plan and Policy TR1 of the adopted Cherwell Local Plan.

5.5 LANDSCAPE IMPACT/SCALE, LAYOUT AND DESIGN

- 5.5.1 This undeveloped site is visible from many vantage points, including from the adjacent countryside and rights of way immediately adjacent, and from the Oxford Canal. Some of the key vantage points due to being on higher ground are from Bankside (within the Cherwell District), from the A422 and from the Overthorpe Road on approach to Banbury (both within South Northamptonshire). Clear views of the site are also gained from the motorway given its direct relationship with the site.
- 5.5.2 In terms of landscape impact, policies in the adopted Cherwell Local Plan seek to protect the topography and character of the landscape and limit sporadic development beyond the built up limits of settlements, including adjacent to the motorway. They also seek to resist developments that are incompatible with the a rural location by reason of their type, size or scale and aim to conserve and enhance the environment within locally designated areas of High Landscape Value (the Cherwell Valley in this case) and by seeking opportunities to secure the enhancement of the urban fringe in connection with new development.
- 5.5.3 Whilst the site is situated beyond the built up limits of Banbury and is therefore situated within the open countryside, the site is quite clearly contained between industrial development to the north and the west and the urbanising effect of the M40 to the east. The wider open countryside extends to the south, however even in this direction, the site is contained by the former tree lined railway embankment. Given the containment of the site on three sides and its proximity to the existing urban edge, it could not be concluded that the proposal represents sporadic development into the open countryside thus complying with Policy C8 of the adopted Cherwell Local Plan. Furthermore, although the land beyond the site to the south is quite obviously rural in nature, the site lies within the visual context of the backdrop of Banbury, particularly its industrial areas, which include large industrial buildings, and as such although visible from the rural area, the commercial development proposed would, subject to scale and design (which is discussed below) be compatible with its immediate surroundings and would not therefore harm the immediate environment which lies within an Area of High Landscape Value in compliance with Policies C9 and C13 of the adopted Cherwell Local Plan. The former railway embankment represents a defensible boundary which includes some existing screening. A comprehensive landscaping scheme is currently being discussed and would be secured via condition with a long term management plan which would assist with enhancing the urban fringe and integrating the development with its rural surroundings to the south in accordance with Policies C14 and C17 of the adopted Cherwell Local Plan.
- 5.5.4 Turning to scale, the buildings immediately to the north are those for which planning permission has recently been granted (for Firstline and Goodrich) are both in the region of 12,000sqm and 12.5m in height. To the west of these new buildings is the 3663 building which is approximately 16,000sqm and between 12 and 14m in height.
- 5.5.5 The concept of large industrial units in this location is therefore established and for this reason, together with the Council's objective for employment generating development on the site, such an approach is considered to be appropriate in principle. However the buildings as shown indicatively are particularly large; some of them shown as far greater in footprint than the existing buildings and they are

indicated as being up to 19m in height, which would dominate the scale of the surrounding buildings and views of the site.

- 5.5.6 The footprint and height of the buildings has generated much concern amongst consultees and third parties. The Council's Design and Conservation Team Leader in particular has reservations about the scheme, raising concerns about the indicative density, scale and layout of the buildings given the prominence of the site, together with limited opportunities for comprehensive landscaping and failing to achieve a successful transition between town and country. She refers to the Council's adopted SPD 'Design and Layout of Employment Sites' which gives guidance in relation to the height of buildings (16m as an absolute maximum) and their distance from the boundary (a ratio of 1:2 - height: distance to boundary). She also made reference to the fact that the proposal originally indicated that the entire frontage to the M40 would accommodate service yards with little room for screening.
- 5.5.7 It is recognised that the site is not particularly sensitive due to its location adjacent to existing industrial development and the M40 and therefore the extent of building coverage across the site is considered to be appropriate, however officers consider that it would be necessary to restrict the height of the buildings at the outline stage to no more than 16m in height. This would allow the developer some flexibility when marketing the site to potential occupiers; however the overall height limitation would better respect the scale of the surrounding development.
- 5.5.8 With regard to layout, in particular the positioning of the service yards, the developer has recognised Officers' design concerns and has provided some alternative layouts which indicate the services yards to the frontage of the buildings, which would improved the appearance of the site when viewed from the motorway. Further discussions have taken place in relation to the design and width of the landscape buffer in attempt to address concerns that were raised by Members of the SNC committee meeting.
- 5.5.9 With regard to the appearance of the buildings it would be critical to ensure that they are designed and finished (materials and colouring) to reduce the overall visual impact of the proposal (details to be secured at the reserved matters stage) and a comprehensive and well designed landscaping scheme would be paramount to ensuring that the buildings are integrated into their surroundings.
- 5.5.10 Previous comments received from the Council's Landscape Officer stated that further consideration needs to be given to the impact of the proposal upon the Oxford Canal and the railway corridor and that further landscape mitigation is required. A gently undulating bund rather than a uniform bund would be more visually appropriate. If the application is approved, landscaping would be dealt with at the reserved matters stage and an exceptional landscaping scheme would be expected together with a comprehensive management plan. These matters have been discussed further with the developer and are currently being addressed.
- 5.5.11 Officers consider that an appropriate scheme can be achieved in scale and design terms and that subject to the detail of each building, particularly, scale, design and finishing (including colour finish) together with a comprehensive landscaping scheme the application complies with Government guidance on requiring good design and conserving and enhancing the natural environment contained within

the NPPF, Policies CC6 and BE1 of the South East Plan and Policies C7, C8, C9, C13, C14 and C17 of the adopted Cherwell Local Plan.

5.6. TREES

5.6.1 Whilst most of the site is made up of open areas of unmanaged scrub land a number of trees are present on the site and adjacent to the site boundary and therefore there is potential for them to be affected by the development. The existing trees are located along the district boundary, along the western edge of the site, along the dismantled railway line and arranged in small clusters on the former filling factory site and in a woodland adjacent to the dismantled railway and the South Northamptonshire boundary.

5.6.2 The species most widely represented on the site include oak, hawthorn, crack willow and ash, together with a number of other typical species in keeping with the former agricultural use of the land. The arboricultural report submitted with the application does not identify any of the trees as being of high quality or value. 20% are considered to be of moderate value, 67% are of low quality and value and the remainder are identified as being suitable for removal for sound arboricultural management.

5.6.3 Officers' visits to the site revealed that every mature oak tree within the footprint of the proposed buildings had been recently felled, which as advised by the Council's arboricultural officer, appeared to be around three months before the application was submitted.

5.6.4 The loss of these trees is clearly extremely regrettable and not an approach that is supported by officers in the interest of conserving and enhancing the natural environment, however it must be recognised that none of the trees were protected trees and the arboricultural report did not identify any of the trees on the site as being of high quality or value. As such it could not be concluded that the loss of these trees represents significant harm and therefore it is likely that Officers would have accepted the removal of the trees in any event. The NPPF seeks compensation for the loss of biodiversity and as such it is recommended that an appropriate number of semi-mature oak trees are secured via condition as part of the landscaping scheme. The Council's arboriculturalist has placed an emergency TPO on the rest of the trees on the CDC section of the site so that the Council is in a position to have control over the further felling of trees.

5.6.5 Noting that the trees were not protected and could have been felled at any point in time and with the mitigation measures in place, Officers consider that the proposed development conserves and enhances the natural environment in accordance with government guidance contained within the NPPF and Policies C4 of the South East Plan 2009 and Policies C1 and C7 of the adopted Cherwell Local Plan 1996.

5.7 RIGHTS OF WAY

5.7.1 The proposals involve diverting the existing public footpaths on the site as referred to previously. Rather than taking a diagonal route across the existing field, the path would be diverted along the new road into the site and then around the end (southern most) unit before returning north immediately adjacent to the motorway.

- 5.7.2 The amenity of the western parts of the footpath would change quite significantly from the existing field to a formal, urbanised layout amongst the proposed buildings and adjacent to the vehicular access into the site which is somewhat unfortunate. The amenity of the western parts of the footpath is already affected by noise emanating from the motorway. On this side, the proposed landscaping scheme could assist with improving the visual amenities of the footpath.
- 5.7.3 The District Council's Countryside and Communities Manager believes that the diversion could be justified given the nature of the development and to avoid conflict between pedestrians and HGVs however there is insufficient detail to assess the suitability of the proposals at this stage. The diversion is complicated by the fact that it would cross the border into South Northamptonshire's District however this is resolvable.
- 5.7.4 The County Council's Rights of Way Officer states that the proposal should mitigate against any impact of the proposal upon the current footpath and supports measures to provide links with the open countryside. For this reason, whilst it is considered that the proposals for the footpath diversion are reasonable (the cost of providing which would be covered by the developer), the Rights of Way Officer considers that an additional £50,000 is required to formalise a link from the south east corner of the site onto the former railway line which would provide a publicly accessible route for workers and residents in the area.
- 5.7.5 In exploring this request further with Oxfordshire County Council, it would seem that the £50,000 has been requested to fund the adoption of a potential new right of way along the former railway embankment linking the site to parts of Grimsbury. However, officers consider that such a project could not be considered to be directly related to the development or necessary to make the development acceptable in planning terms (as required by the NPPF) particularly as, at this stage, the route only appears to be an aspiration and would not significantly reduce the existing walking distances to the site from the town centre. As such Officers could not reasonably insist that this money is secured by agreement. The developer has agreed to safeguard a link from the site to the former railway line should a new public footpath be adopted in the future, which Officers believe to be a more reasonable approach which is directly related to the development and fairly and reasonable related in scale and kind to the development (In accordance with the NPPF).
- 5.7.6 Given the above assessment Officers consider that safeguarding a link to the former railway line would assist with providing future opportunities for improving the public right of way network and therefore compensating for any loss of amenity to the existing footpath. As such the proposal would not cause overall harm to the amenity of the public footpaths which is in accordance with Government guidance on promoting healthy communities contained within the NPPF and Policy ESD18 of the Draft Cherwell Local Plan.
- 5.7.8 It should be noted that if the application is approved, the affected public rights of way would need to be diverted, the process for which could lead to an inquiry if an objection to the diversion is received. If the new route is not approved, this would mean that the developer would need to give consideration to an alternative layout to that indicatively shown.

5.8 FLOOD RISK AND DRAINAGE

- 5.8.1 Parts of the site lie within Flood Zones 2 and 3 and a Flood Risk Assessment has been submitted with the application. The Environment Agency raises no objections to the application stating that, as proposed, the development will not increase flood risk. This view is subject to a number of conditions relating to carrying out the development in accordance with the FRA, surface water drainage design, fluvial flood storage design and the management of flow in the western ditch.
- 5.8.2 Oxfordshire County Council as Drainage Authority raises no objections subject to conditions relating to SUDS, and full drainage details.
- 5.8.3 Subject to the recommended conditions, Officers are satisfied that the proposal accords with Government advice on meeting the challenge of flooding contained in the NPPF, Policy NRM4 of the South East Plan and Policies ESD6 and ESD7 of the Draft Cherwell Local Plan 2012.

5.9 LAND CONTAMINATION

- 5.9.1 Ground condition reports have been submitted with the application. The Council's Environmental Protection Officer has assessed these and raises no objections to the application however further investigative work is required prior to the commencement of the development relating to gas monitoring and risk assessment, risk from land contamination and the remedial measures required in relation to any findings. Prior to the occupation of the development all remediation is to be carried out in accordance with that identified as required.
- 5.9.2 Subject to the recommended contaminated land conditions, Officers are satisfied that the proposal accords with Government advice on conserving and enhancing the natural environment contained within the NPPF and Policy ENV12 of the adopted Cherwell Local Plan 1996.

5.10 AIR QUALITY

- 5.10.1 Policy NRM9 of the South East Plan states that proposals should contribute to sustaining the current downward trend in air pollution in the region. The Council's Environmental Protection Officer believes that the proposal has the potential to affect the Air Quality Management Area (AQMA) on Hennef Way which was designated in this first quarter of 2011 and the significance of the expected impact requires assessment.
- 5.10.2 An Air Quality Assessment was submitted with the application which concluded that there would be a slight increase in the levels of nitrogen dioxide as a result of the proposed development, and that no new exceedences of the air quality objectives would result from this development outside of the AQMA. As the pollutants of concern within the AQMA are transport related, the objectives within the travel plan aimed at sustainable travel and reduced dependency on car use are likely to also mitigate the impacts on air quality.
- 5.10.3 For these reasons, Officers are satisfied that the proposed development is unlikely to cause significant harm to air quality or be unacceptably detrimental to the identified AQMA on Hennef Way in accordance with Government advice on

conserving and enhancing the natural environment contained within the NPPF and Policy NRM9 of the South East Plan.

5.11 NOISE

- 5.11.1 The Council's Anti-Social Behaviour Manager has been in discussions with the developer about the likely noise levels emanating from the site. As the nature and mix of the proposed B2 and B8 uses is not known at this time it has been agreed that the extent of the noise specialists report would be to bench mark the existing noise climate at the closest noise sensitive locations and to use these bench marked background sound pressure levels to condition the application such that noise complaints were unlikely from residents in these locations. The appropriate noise levels are to be achieved by design at the detailed planning stage. A suitable condition is recommended below and subject to this wording, the application is acceptable to officers in terms of noise generation in accordance with Government advice on conserving and enhancing the natural environment contained within the NPPF, Policy NRM8 of the South East Plan and Policy ENV1 of the adopted Cherwell Local Plan 1996.

5.12 ARCHAEOLOGY

- 5.12.1 An archaeological field evaluation was carried out in relation to the site in October 2008 which revealed no deposits of archaeological significance and as such it was concluded that the CDC part of the site has no archaeological potential. The County Archaeologist is satisfied with these conclusions and makes no further recommendations other than making the developer aware of their responsibility should further finds be discovered during the implementation of the development.
- 5.12.2 There is however significant archaeological interest in the South Northamptonshire section of the site. The two parts of the site within SNC to the north of the dismantled railway include remains and earthworks from part of a former national filling factory from World War 1. The majority of the remains of this site are located on the eastern side of the M40, however when the motorway was constructed it segregated the site leaving the western parts separated. Advice from English Heritage states that the remains at Banbury represent the last surviving Great War Lyddite filling factory in England.
- 5.12.3 In accordance with the NPPF, the remains should be considered as a non-designated heritage asset, guidance in relation to which states that:
- 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset' and 'Non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets'.
- 5.12.4 The applicant has submitted a heritage statement which concludes that the smaller part of the site on the west of the M40 (which it is claimed was an extension to the original site) has relatively low heritage value when compared with the remains on the eastern and larger part of the site. Furthermore the

earthworks relate to an era that is best preserved by the remains of the original filling factory on the eastern site where a more coherent factory layout is evident.

- 5.12.5 The report considers that the removal of the elements on the western site would not cause significant harm to the historic environment and will provide an opportunity to record the remains to gain a better understanding of the eastern and historically more significant part of the site.
- 5.12.6 Officers have been advised that an application has been made by a third party to English Heritage to protect all of the remains of the filling factory on both sides of the motorway as a scheduled ancient monument. This application is currently being considered although it is not yet known when a decision will be made. However this gives no increased weight to the significance or the protection of the remains and there is no stipulation that would require South Northamptonshire Council to wait for a decision to be made by English Heritage in relation to this matter prior to a decision being made.
- 5.12.7 In response to a consultation request from English Heritage, South Northamptonshire Council's Head of Strategic Policy and the Economy regards the site as significant and due to its nature states that it holds national significance as it 'contributes to the understanding of the munitions production in the Great War'.
- 5.12.8 He continues by stating however that the M40 has bisected the site resulting in the loss of part of the site; the remains on the east side of the M40 appear to be more intact than those to the west and this Council supports the proposed scheduling of those remains. Given the disturbed nature of the site by the M40 and its construction and the fact the site to the west is now detached from the main site this Council does not support the inclusion of this part of the site for proposed scheduling.
- 5.12.9 Cherwell District Council's duty in relation to the remains, given their location beyond the CDC boundary and their current status (non-designated) lies with reaching a balanced judgement over the effect of the application on the setting of the asset only.
- 5.12.10 Cherwell District Council's Head of Strategic Planning and the Economy considers that the remains have been compromised by the construction of the M40, effectively cutting off the connectivity and interpretation of the western site from the remainder of the former factory. The eastern site has a better connection between Units 1 and 2 (north and south of the site), and retains better surviving earthworks, particularly in the northern area. Recent ground clearance has also further eroded the importance of the western site by removing the few remaining above ground structures. For these reasons, it is considered that the area to the western side of the motorway is not of sufficient national importance to warrant scheduling.
- 5.12.11 Given this conclusion, it is Officer's opinion that the remains to the west of the M40 are of limited significance and as such the protection of their setting balanced against the benefits of the proposal would be difficult to justify.
- 5.12.12 Interestingly, the Ancient Monument and Archaeological Areas Act 1979 does not make any reference to the protection of the setting of a Scheduled Ancient

Monument. Therefore if English Heritage did decide to schedule the whole of the remains, Cherwell District Council would not have a duty, under the Act, to protect the setting of the remains.

- 5.12.13 Due to the location of the district boundary, the decision relating to the treatment of the archaeological remains, prior to any decision made by English Heritage, lies solely with South Northamptonshire Council. If it were considered by them that the remains should not be disturbed by the development this would have an impact upon the developer's intentions for the layout of the development as a whole. Equally if English Heritage decided to schedule all of the remains, this would have an impact upon the layout of the site. Depending upon these decisions and their timing, the application may need to be reheard by Members of the committee for their further consideration.
- 5.12.14 Advice to this Council's Members however is that the direct protection of the non-designated heritage asset is not the duty of Cherwell District Council as it is not situated within this district. Furthermore, and at this stage, it would not be reasonable to recommend refusal for the application based on the impact of the proposals upon the setting of remains that are a) segregated from the majority of the historical site as a whole, b) are non-designated and, c) based on specialist advice, are not considered to be of national importance.
- 5.12.15 In relation to Cherwell District Council's administrative area only, and given the fact that no deposits of archaeological significance were recorded on the CDC part of the site, Officers are content that there are no heritage assets present which should be conserved or enhanced or that would be unacceptably affected by the proposed development. The appropriate investigative work has been carried out in accordance with government guidance on conserving and enhancing the historic environment contained within the NPPF.
- 5.13 BIODIVERSITY/ECOLOGICAL
- 5.13.1 With regard to biodiversity, the NPPF states that 'LPAs should aim to conserve and enhance biodiversity' it also states that 'if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort compensated for, then planning permission should be refused'.
- 5.13.2 The Council's Ecologist remarks that the ecological assessment does not cover the whole site and was carried out at a suboptimal time. It is also noted that three key trees on the site that had potential for bat habitat have now been removed. However they were recently surveyed as not supporting habitats or resting places for bats. As such it is concluded that the proposed development is unlikely to have an impact upon European Protected Species and for this reason, developing the site would not result in committing an offence under Regulation 41 of the Conservation Regulations 2010 and as such a licence from Natural England would not be required.
- 5.13.3 There is potential for reptiles on the site. Reptiles are not a European Protected Species and as such a licence from Natural England would not be required if they were found and the development affected them. However the developer must mitigate against any impact which is required via planning condition as set out by the Council's Ecologist. Further survey work is to be secured via planning condition to establish their presence or otherwise, and should significant harm be

considered likely as a result of the development, the Council's Ecologist advises that any impact could be mitigated and if necessary enhancements secured.

- 5.13.4 With regard to reptiles, in terms of the loss of the mature trees, it could be argued that their loss represents significant harm (although it must be recognised that they were not protected), and although this could have been avoided, this action can normally be mitigated by a comprehensive landscaping scheme and the planting of a number of mature oak trees across the site, both to be secured via condition and which would accord with the advice contained within the NPPF.
- 5.13.5 Officers do not support whatsoever the approach taken by the developer in relation to the trees and the subsequent opportunities for bat roosts and resting places. However it must be recognised that their actions are not unlawful in planning terms. Appropriate mitigation, enhancement and where necessary compensation can be secured and as such the application cannot be refused on the grounds of significant harm to biodiversity. For these reasons, the application complies with Government guidance on conserving and enhancing the natural environment contained within the NPPF, Policy NRM5 of the South East Plan 2009 and Policies C1, C2 and C4 of the adopted Cherwell Local Plan 1996

5.14 CRIME PREVENTION

- 5.14.1 Thames Valley Police raises concerns about the fact that the site would be exposed on all sides due to the location of the diverted public footpath and for this reason, opportunities for crime would be created. A comprehensive scheme for securing the site is required which can be dealt with at the reserved matters stage.

5.15 PUBLIC ART

- 5.15.1 The Council's Arts and Tourism Manager requires the developer to create a locally relevant piece of artwork on or near the site which is directly related to the development and which is based on the Public Art Policy and the Council's Draft Planning Obligations SPD. The requirement for public art is applied to any development exceeding 100sqm and is normally secured via s106 Agreement.
- 5.15.2 The developer has agreed to provide the art work on site and involve local artists in the design of each element. They are currently in discussions with the Council's Arts and Tourism Manager in order to establish the amount and type of artwork required in connection with the development. Initial ideas include enhancing the south facing elevation of the southern most building with a reference to Banbury and providing locally designed seating for amenity areas.
- 5.15.3 Subject to agreement with the Council's Arts and Tourism Manager, this approach accords with the Public Art Policy and Government advice on requiring good design contained within the NPPF, Policies CC6 and BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan 1996.

5.16 PLANNING OBLIGATION(S)

- 5.16.1 Based on the consultation responses to the proposed development and the above assessment, it is considered that any planning permission relating to the site must be the subject of agreements acceptable to both Cherwell District Council and

Oxfordshire County Council to secure on site public art, the safeguarding of the route for a future relief road across the site, or where this is not required as a result of the Banbury Master Plan work, a contribution towards sustainable transport infrastructure (amount to be negotiated under delegated authority), the safeguarding of a link between the site and the former railway line to enhance its future adoption as a public right of way and the monitoring of the Travel Plan.

- 5.16.2 A separate agreement is also required between the developer and Northamptonshire County Council, the content of which is still under negotiation, but is expected to relate to the provision/enhancement of a bus service, traffic calming in Overthorpe, the provision of a footpath link on Overthorpe Road and to secure appropriate highway signage and the monitoring of a Travel Plan.

5.17 CONCLUSION

- 5.17.1 Referring back to the content of the NPPF, whilst the proposal does not accord with the development plan (adopted Cherwell Local Plan 1996), the advice is that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The key material planning considerations are summarised below:
- 5.17.2 The proposed development for B2 and/or B8 uses is considered to be acceptable in principle when considered against planning policy and guidance as although a large extent of B8 would not normally be acceptable, there is evidence through the Employment Land Review that there is a demand for B8 uses and that the employment density achieved by B8 uses is higher than it has historically been. Furthermore, the proposal would secure a considerable number of jobs for Banbury which would assist with complementing the current employment sector which is considered to be particularly important in the current economic climate.
- 5.17.3 With regard to transport impact the Highways Agency and Oxfordshire County Council as Local Highway Authority is satisfied that the proposal would not give rise to unacceptable transport impacts subject to a condition which restricts the B2 use of the site to no more than 50% and either the safe guarding of a route for a relief road where this is required or securing a financial contribution to sustainable highway infrastructure. Officers agree with this approach.
- 5.17.4 The proposal raises significant concerns about scale and design which are reserved matters in this instance, however the Design and Access Statement documents the likely scale and appearance in detail. As layout and appearance are reserved matters, and given the fact that the development of the land for employment generating development is, as referred to above, considered to be acceptable, officers are satisfied at this stage that the proposal is acceptable subject to the specific detailing of the buildings and a condition restricting their height to 16m.
- 5.17.5 Given the preceding assessment of the proposal, officers are satisfied that the proposed development represents sustainable development and would not give rise to adverse impacts (relating to transport/the highway network, the landscape (subject to detailing), flood risk, land contamination, biodiversity/ecology or archaeology) that would significantly and demonstrably outweigh the benefits of the proposal which are identified as significant sustainable economic development.

- 5.17.6 For the above reasons, the application accords with the principles set out in National Planning Policy Framework 2012, and relevant policies within the South East Plan 2009 and the adopted Cherwell Local Plan 1996.
- 5.17.7 The wording of the recommended conditions is subject to discussions between CDC and SNC officers and the applicant, as such officers seek delegated authority to finalise the wording of the conditions after the committee meeting.
- 5.17.8 Due to the fact that the site is not allocated in the adopted Cherwell Local Plan however, the proposal must follow departure procedures.

6. Recommendation

Approval, subject to:

- (i) Applicant entering into an Agreement acceptable to Cherwell District Council, and Oxfordshire County Council to secure public art, the safeguarding of a route for a relief road across the site, or where this is not required as a result of the Banbury Master Plan work, a contribution towards sustainable transport infrastructure (amount to be negotiated under delegated authority), the safeguarding of a link from the site to the former railway line and a contribution towards the monitoring of the travel plan.
- (ii) South Northamptonshire District's further resolution in relation to the same application (to be presented to Committee Members at SNC on 14 June 2012).
- (iii) Departure procedures;
- (iv) Conditions which cover the following matters (full list to be provided prior to the meeting)
 1. Submission of reserved matters
 2. Expiry of submission of reserved matters
 3. Expiry of reserved matters
 4. Protection of existing public footpaths during construction
 5. Tree protection
 6. Land contamination investigation
 7. Provision of access road to each building
 8. Archaeological investigation
 9. Landscape master plan
 10. SUDS
 11. Landscape management
 12. Further ecological survey work and biodiversity enhancement where necessary
 13. Construction traffic management
 14. Provision of diverted footpath
 15. Replacement trees
 16. Plans condition
 17. BREEAM 'Very Good'
 18. Lighting Strategy
 19. NO more than 50% B2 use
 20. COU does not relate to land to the south of the former railway line
 21. Building Height no more than 16m

Planning Notes:

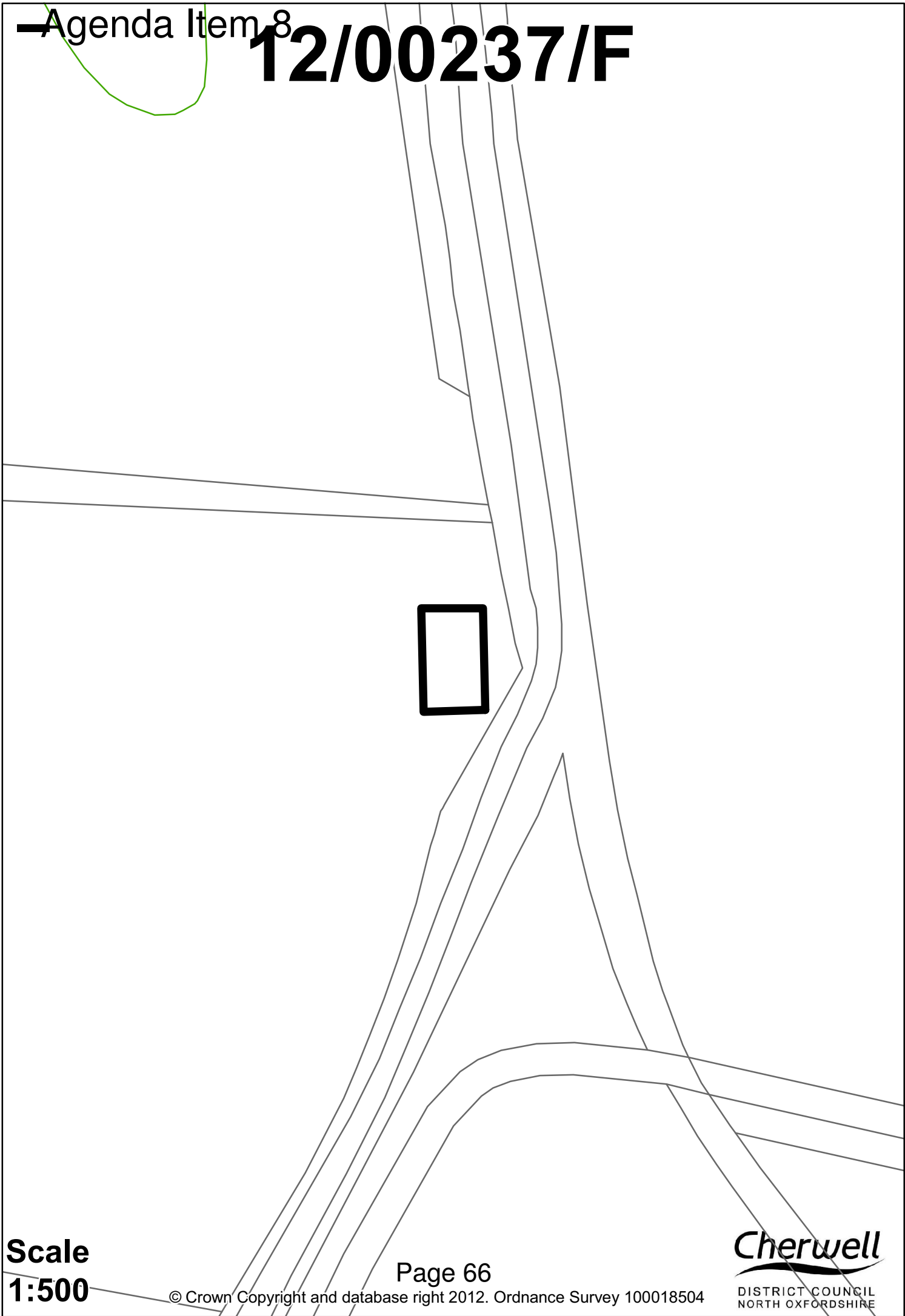
Thames Water letter (via public access)
Secure by Design

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

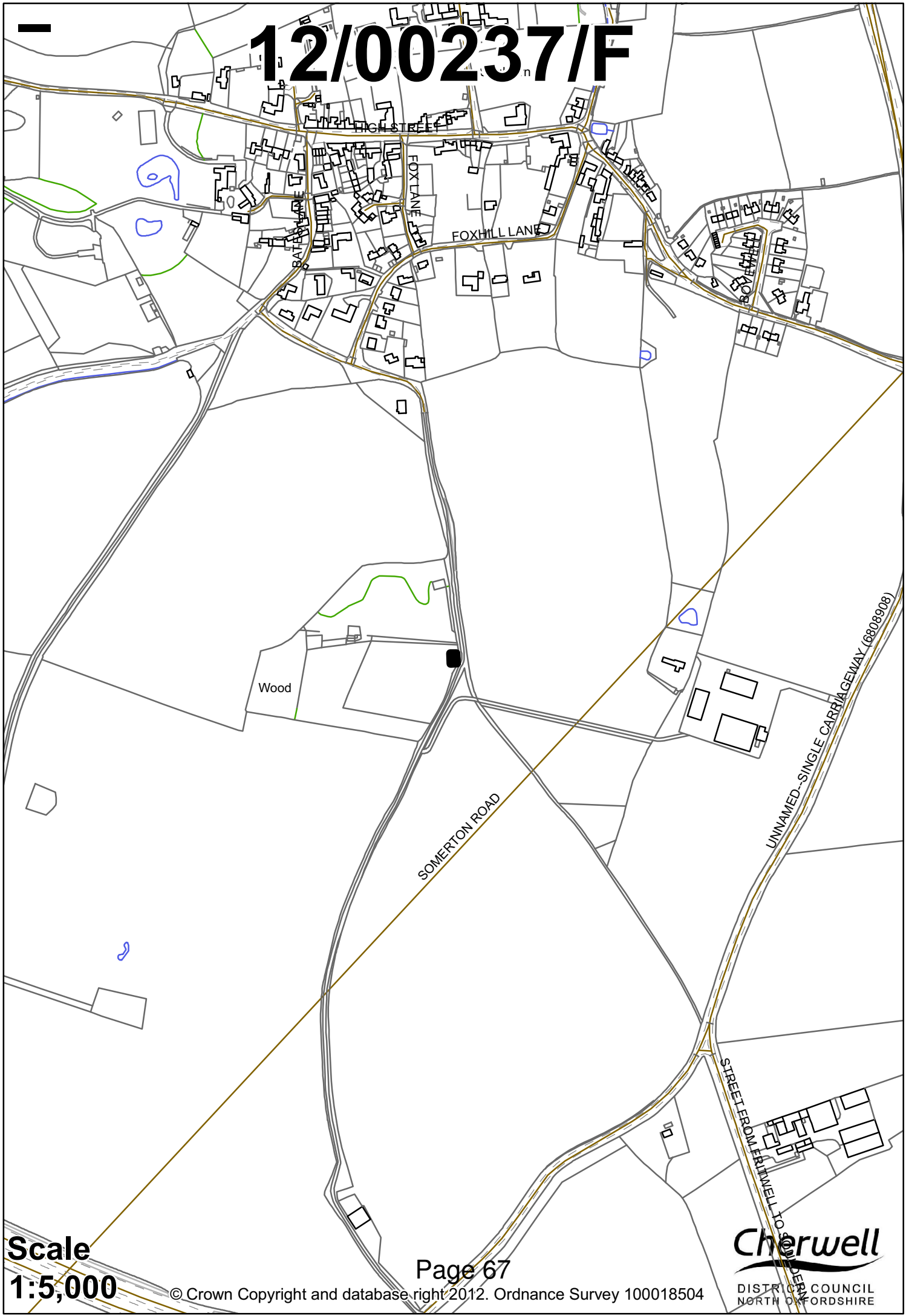
The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. Although a departure from the development plan, the application is considered to be acceptable on its planning merits as the proposal represents sustainable development and would introduce increased employment opportunities in an accessible location without giving rise to any unacceptable transport or landscape impact. Furthermore the proposal is considered to be acceptable in terms of flood risk, land contamination, biodiversity, archaeology and the affected Public Right of Way. As such, the proposal is in accordance with government advice on achieving sustainable development, building a strong competitive economy, requiring good design, promoting health communities, conserving and enhancing the natural and historic environments, promoting sustainable transport and meeting the challenge of climate change and flooding contained within the National Planning Policy Framework 2012, Policies SP3, CC1, CC6, RE3, T1, T4, BE1, BE6, NRM4, NRM5 and NRM9 of the South East Plan 2009, Policies TR1, C1, C2, C4, C7, C8, C13, C17, C28, ENV1 and ENV12 of the adopted Cherwell Local Plan 1996 and Policy Banbury 6 of the draft Cherwell Local Plan 2012. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above, and a legal agreement to secure the essential infrastructure requirements.

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12/00237/F



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 12/00237/F	Ward: The Astons And Heyfords	Date Valid: 16/03/2012
Applicant:	Claire Minett	
Site Address:	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. The application was deferred at the May meeting for a formal site visit prior to the meeting today.

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.
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2.2	<p>Eight letters were received and one letter signed by 33 residents. Please note that these have been summarised, full details are available electronically via the Council's website.</p> <p>The material planning considerations raised as objections are as follows:</p> <ul style="list-style-type: none"> - 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.
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	<ul style="list-style-type: none"> - 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	<p>Souldern Parish Council object to the application on the following grounds:</p> <ul style="list-style-type: none"> - 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 <p>(These comments have been summarised, please refer to file for full comments)</p>
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	<p>Core planning principles and the delivery of sustainable development with particular regard to the following sections:</p> <p>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</p>
South East Plan 2009	<p>Cross Cutting – Policies CC1: Sustainable Development CC6: Sustainable Communities & Character of the Environment</p> <p>Countryside and Landscape Management – Policies C4: Landscape and Countryside Management C6: Countryside Access and Rights of Way Management</p>
Adopted Cherwell Local Plan 1996 Saved Policies	<p>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</p>
Non-Statutory Cherwell Local Plan 2011	<p>Employment policy EMP11</p> <p>Transport & Development policy TR36</p> <p>Recreation & Community Facilities policy R4</p> <p>Conserving & Enhancing the Environment policy EN1, EN3, EN30, EN31 & EN34</p> <p>Urban Design & The Built Environment policy D1, D3, D5</p>
Draft Cherwell Local Plan 2012	<p>SO 11. Ensuring Sustainable Development ESD7: Sustainable Drainage systems (SuDs) ESD 13: Local Landscape Protection and Enhancement ESD 16: The Character of the Built Environment</p>
5. Appraisal	
5.1	<p>The key issues for consideration in this application are:</p> <ul style="list-style-type: none"> • Policy Context • History • Visual amenity and landscape character • Right of Way and highway safety

	<ul style="list-style-type: none"> • Environmental pollution and neighbour amenity • Drainage and impact upon flooding
5.2	<p>Policy Context</p> <p>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.</p>
5.3	<p>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.</p>
5.4	<p>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.</p>
5.5	<p>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.</p>
5.6	<p>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</p>

	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.
5.30	<p>Conclusion</p> <p>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.</p>

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, and for the protection of the hedgerow on the eastern boundary of 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) 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

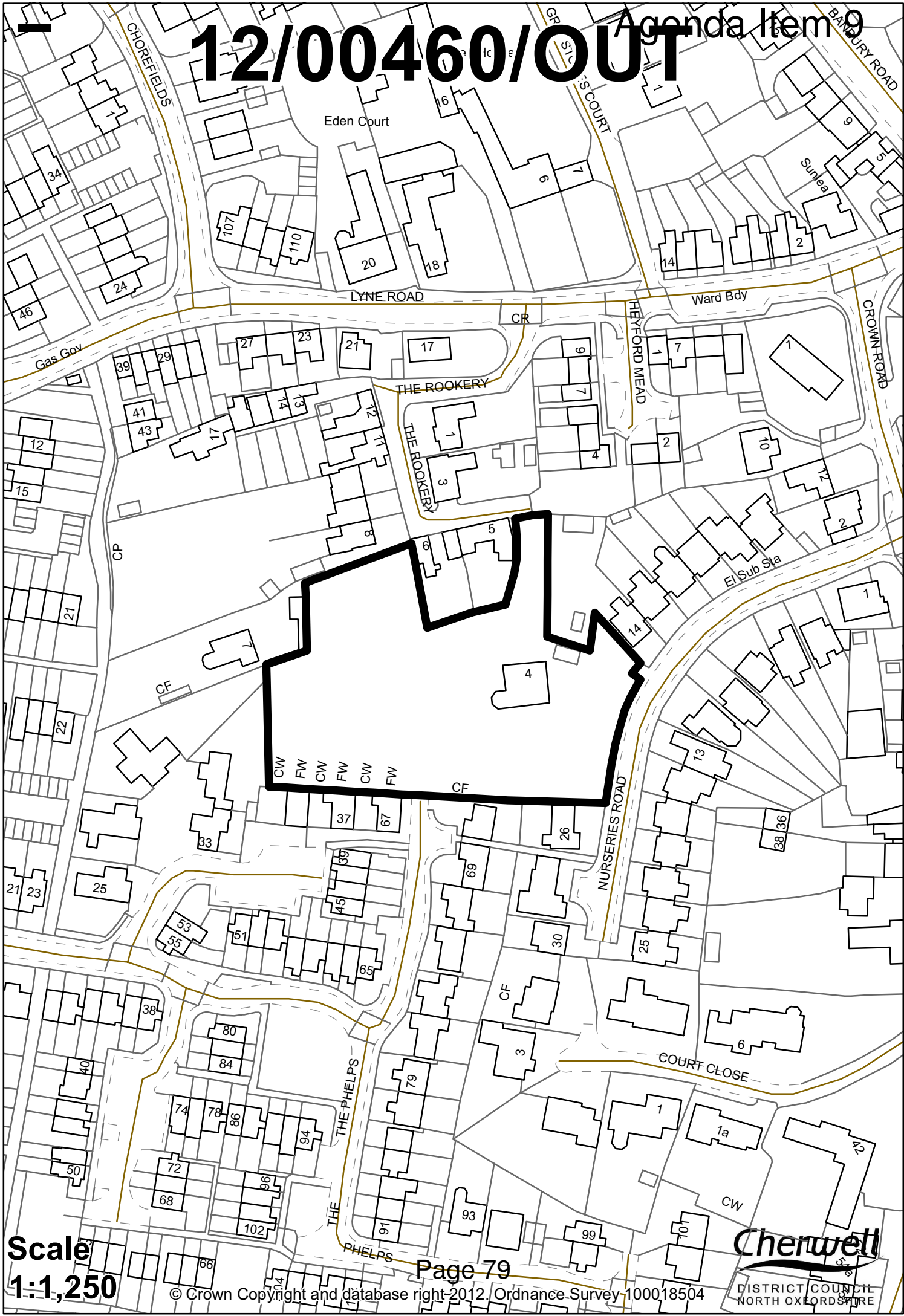
The Council, as the local planning authority, has determined this application in accordance

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.

CONTACT OFFICER: Gemma Magnuson
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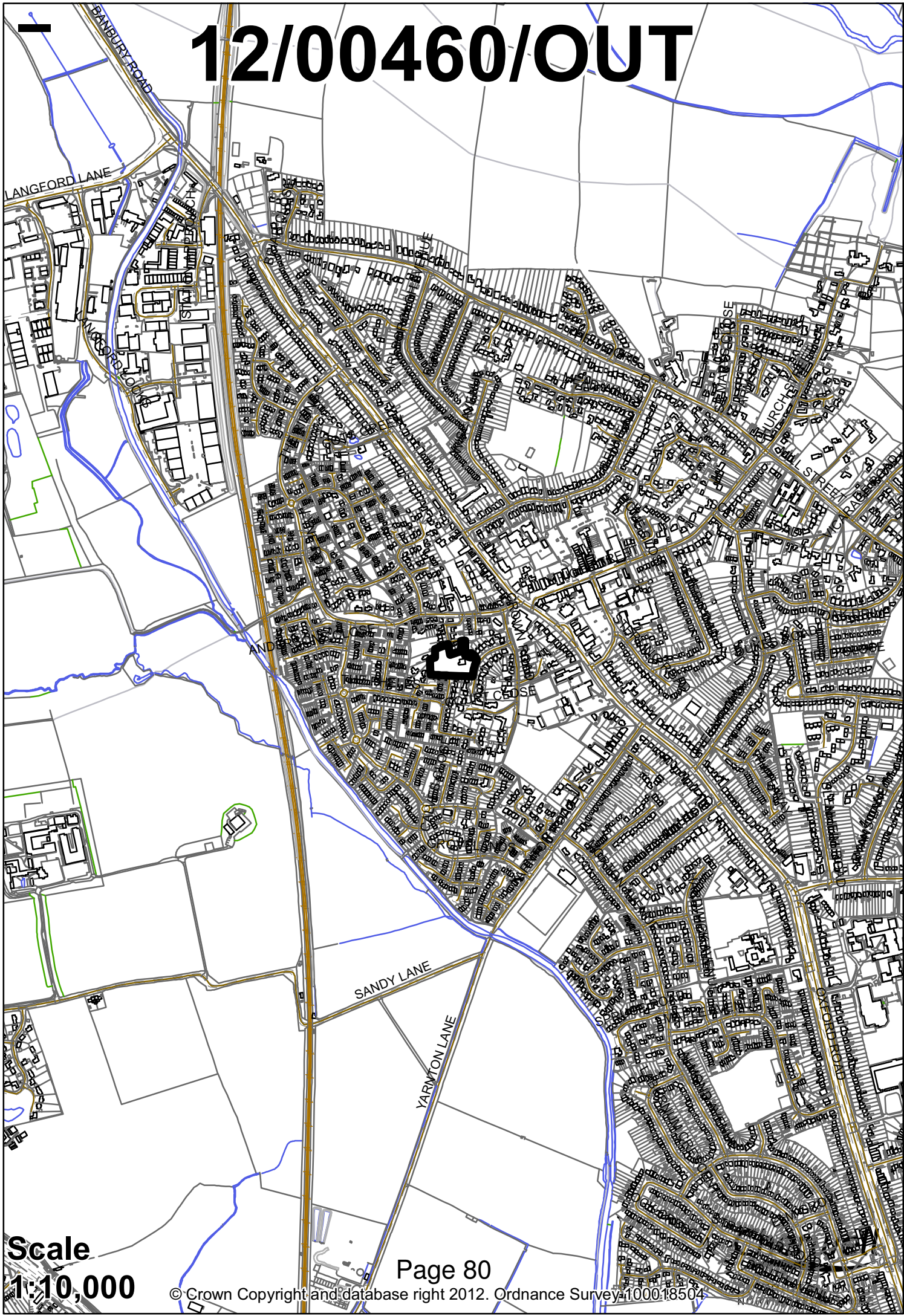
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Application No: 12/00460/OUT	Ward: Kidlington South	Date Valid: 11.04.2012
Applicant:	Thinking Buildings	
Site Address:	4 The Rookery, Kidlington	

Proposal: Outline – 14 no. residential dwellings with associated road infrastructure, parking and garaging

Date site visited: 25/11/2011 and 27/04/2012

1. Site Description and Proposal

- 1.1 This application relates to a site occupied by a 1960's single storey dwelling with rooms in the roof, set within an extensive woodland garden of 0.5ha. The site is surrounded by a mixture of residential properties; to the east, late 1960's 2 storey development known as Nurseries Road; to the south and west 1970's 2 storey and single storey development of The Phelps and Grovelands. To the north are older 19th century, traditional, limestone properties, designated as The Rookery Conservation Area, because of their historic significance. There are however no listed buildings in close proximity and the site itself, is not within the Conservation Area. Access is via the tight winding roadway of The Rookery
- 1.2 Despite the site having significant tree coverage, there are no TPO's. The majority of the southern, western and eastern boundaries comprise large mature Leylandii Cypress trees, which dominate The Phelps and Nurseries Road streetscene. A 1.8m high close boarded fence also runs along the eastern boundary of Nurseries Road.
- 1.3 Outline consent is sought for the redevelopment of this site that includes the demolition of the existing dwelling and construction 14 dwellings, comprising 3 no. 2 bedroom units, 7 no. 3 bedroom units, 3 no. 4 bedroom units and 1 no. 4/5 bedroom unit. The means of access and site layout are submitted for determination at this stage with appearance, landscaping and scale reserved for the later stage. Indicative scales of proposed dwellings include 7.8m heights and floor areas ranging from 75m² (2 bed), 90-100m² (3 bed) to 135-165m² (4/5 bed).
- 1.4 The site is within 2km of Rushey Meadows SSSI and a site of Archaeological interest. It is not within a designated area of flood risk and therefore no FRA is required.
- 1.5 The application has been submitted with Topographical, Arboricultural and Phase 1 Habitat survey reports and a Transport Statement.

2. Application Publicity

- 2.1 The application has been advertised by way of 4 no. site notices placed on a street lights/lamp posts at the entrance to The Rookery, opposite no. 11 Nurseries Road, adjacent to no. 67, 49 and entrance to The Phelps. The final date for comment on this application was 24th May 2012.

- 2.2 4 individual letters/emails of support have been received commenting that the scheme is well planned, not too dense, will improve area as the site has become an impenetrable wilderness with a monstrous hedge.
- 2.3 43 individual letters/emails of objection have been received as well as a petition signed by 15 residents of Nurseries Road and objections raised by another 2 residents. Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Loss of many lovely trees and green area
- Loss of wildlife
- The Phelps is a cul-de-sac, a quiet and safe location, used by many pedestrians from the Grovelands estate who will be put at increased risk with much more traffic
- 67 The Phelps is a single storey 2 bedroom property with a direct frontage access to the road, there is no footway separating the front wall of the house and the road (2m distance).
- No. 67 has no off street parking, which would cause inconvenience to occupier and hazardous to road users trying to enter and exist the site as parking usually occurs outside the front door – possibly lead to a TRO being place in turning head
- The internal layout shows a footpath to the west side terminating at the ownership of no. 67, this will lead to possible pedestrian movements on private land or closer to the house and looking into bedroom windows.
- Loss of privacy, quality of life and amenity from overlooking
- The Phelps cul-de-sac end is narrow, it was never designed to allow more traffic and has only a pavement on one side.
- Whilst the majority of The Phelps road is 5.5m wide as it approaches the turning head at the point of access into the site, the carriageway reduces to 4.3m wide. Large refuse or delivery vehicles have to reverse down the road
- Access should go only through The Rookery or Nurseries Road
- Increase in surface flooding
- 14 units is too many with not enough parking - suggests 8 as a compromise
- Kerbside parking will impact on surrounding roads, increasing the already chaotic parking issues along the narrow roads of The Phelps and Nurseries Road and will result in hazardous safety problems for pedestrians and other road users. Disputes already exist – this will make it worse
- Construction vehicles would add to congestion of Crown Road which is already often blocked by cars, vans and HGVs/car transporters behind Audi garage – they should not use this route
- Is there capacity for services?
- No. 67 blocks sight lines of cycle / footpath connection onto The Phelps, no issue at present, but with approx 55 vehicles trips per day from the new development this will increase risk to cyclists and pedestrians
- The new access would require improvements to the pedestrian / cycle pathway and would be difficult to engineer given the proximity of neighbouring properties nos. 67 and 69 The Phelps, and is only 4.3m wide not 4.5m mentioned in the report.
- NPPF is not designed for a free for all development charter – need to consider the character of the area and loss of amenity to neighbouring residents and highway safety issues, which are all material considerations.

- Development is contrary to Paragraph 53 of the NPPF and there is no evidence of binding decisions that supports the application.
- Housing land deficiency is not a viable case
- Contrary to Oxford Local Transport Plan 2011-2030 to reduce traffic, congestion, casualties and dangers and reduce carbon emissions.
- Impact on Human Rights – Protocol 1 Article 1 Protection of property; persons right to the peaceful enjoyment of their property

Non-material comments include:

- Noise during construction
- Ironical that the northern end of The Phelps was not developed by 2 storey houses because owners of No. 4 The Rookery objected at being overlooked!
- Poorly advertised, not enough site notices and confusing with The Rookery address as development impacts The Phelps
- Extensive site clearance and major disruptions
- Loss of property value
- No works at all should take place, including removal of trees until a decision is made

3. Consultations

- 3.1 **Kidlington Parish Council:** Objects on the grounds that:
- There has been no public consultation and that the proposal does not contribute to the local community
 - No provision of affordable housing given the size of the site that could have included 15 no. units to allow for affordable housing
 - No provision for a contribution towards local sport and play facilities
- 3.2 **Natural England:** The proposal does not affect Statutory Protected sites or landscapes or have a significant impact on the conservation of soils not is the proposal EIA development. Refer to Standing Advice in respect to protected species and species protected by domestic legislation. The scheme provides an opportunity to provide enhancement measures.
- 3.3 **OCC Highways:** Raises no objection in principle to the proposal subject to conditions. The following comments are also made:

Access

The existing vehicular access from The Rookery will continue to be used for a single dwelling, and represents no increased residential vehicular traffic along The Rookery compared with the existing situation. Please note that the driveway to this dwelling must be a minimum of 3.0 metres in width.

Three new driveway accesses are proposed onto Nurseries Road, for single access to three new dwellings. Please note that new dropped kerb accesses should not exceed a width of 8.0 metres in accordance with OCC standards, and the proposed accesses for Plots 3 and 4 will likely need to be separated by full-standing kerbs. Pedestrian and vehicle visibility splays have been demonstrated on plans for each access, however visibility splays from each access towards the north need to be shown to the nearside kerb from a distance of 2.4m back from the edge of the carriageway and above a height of 0.9 metre. (Revised visibility splays required)

Access to the remaining 10 proposed dwellings will be taken from The Phelps, via continuation of the existing 4.5m wide carriageway and footway from the end of the cul-de-sac into the site.

All new vehicular accesses must be constructed to OCC specification (condition). A separate application is required to OCC as Local Highway Authority for any new highway access – contact OCC Licensing & Streetworks Team on 0845 310 1111 (informative).

Parking

A total of 34 parking spaces (including three visitor parking spaces for plots 5 to 15) are proposed for the residential development, which is deemed acceptable. The Transport Statement proposes that all single garages will meet minimum dimensions of 3 metres x 6 metres, double garages of 6 metres x 6 metres, and driveway parking space dimensions of 2.5 metres x 5 metres, in accordance with parking standards. (parking condition)

Two cycle parking spaces are proposed per dwelling within the private curtilages.

Drainage

Surface water is proposed to discharge to SUDS, soakaway and main sewer. Full details of the proposed sustainable drainage strategy will be required for consideration and approval. (condition)

Contributions

Contributions will be sought towards OCC services and infrastructure to mitigate the impacts of the proposed development. A transport developer funding contribution of £13,342 is requested in line with Cherwell District Council Planning Obligations SPD (accounting for the existing unit onsite). (Planning obligation)

Servicing and tracking

The new vehicular access from The Phelps leads to a turning head within the site, to be constructed to adoptable standard. Swept paths plans have been submitted of refuse vehicle manoeuvres within the site, to demonstrate possible egress in forward gear. It is noted that the swept path overruns the footways and grass verge within the site. A revised plan of the turning head is requested. (Condition)

Transport Statement

A Transport Statement has been submitted in support of the application. I note that a copy of Appendix B of the TRICS output data has not been included for consideration. The proposal is likely to generate an additional 69 vehicular trips per day. In the peak hour, the proposed development will increase two-way vehicular trips by no more than ten trips, dispersed across Nurseries Road and The Phelps. Accessibility of the site has been considered. The site is within walking distance of Kidlington's facilities, close to national cycle networks 5 and 51, and is within 400 metres of the nearest bus stops, which are frequented by a range of services (Nos. 2A/B/C, 700 and S4). The site can be considered relatively sustainable in terms of transport choices and proximity to local services and facilities.

Construction

The impact of construction vehicles will need to be considered, to ensure no adverse impact on highway infrastructure, highway users and neighbour's amenity. A Construction Traffic Management Plan must be submitted for consideration and approval, to include time of deliveries, parking of contractors' vehicles etc. (condition)

- 3.4 **OCC Drainage:** It is acknowledged that the application is for outline planning only, however surface water and roof water run-off will need to go to soak-away or other Suds feature for each property created., ie all surface water created as a result of each property will need to be dealt with within the each property boundary. Where shared Suds features are proposed, these features could be adopted by the Lead flood Authority which at the present time is Oxfordshire County Council. Should a full planning application be submitted, full details of the proposed drainage strategy will be required.
- 3.5 **OCC Archaeology:** The proposal does not appear directly to affect any presently known archaeological sites. However, our records do indicate the presence of known archaeological finds nearby, and this should be borne in mind by the applicant. If archaeological finds do occur during development the applicant is asked to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary.
- 3.6 **OCC Developer Funding:** Oxfordshire County Council wishes to secure a legal agreement for appropriate financial contributions to mitigate the impact this development will cause if implemented in line with your Draft Supplementary Planning Obligations Document (July 2011).

Indicative plans support section 17 of the application; 3 two bedroom, 7 three bedroom and 4 four bedroom homes are proposed to replace 1 three bedroom dwelling presently on site.

Therefore net impact amounts to 3 two bedroom, 6 three bedroom & 4 four bedroom extra homes. We accordingly expect the population to increase by 39 people including 3 pensioners if these homes are built and occupied. We further anticipate at least 8 pupils will attend mainstream schools, in addition to any attending private education or separate schools for those with special educational needs.

There is sufficient capacity in catchment schools and therefore no contributions are necessary in respect to education. There will however be a requirement to contribute £6564.00 towards Libraries, Museum, Adult education, Day resources care centre for elderly, Strategic household waste management.

The contributions identified are necessary to protect the existing levels of infrastructure for local residents.

They are relevant to planning the incorporation of this development within the local community, if it is implemented.

They are directly related to this proposed development and to the scale and kind of the proposal.

They are reasonable and that they should ensure that this proposal is not subsidised by the community, except where sufficient capacity in infrastructure already exists which can absorb the expected impact of this proposed development.

3.7 Head of Safer Communities, Urban & Rural Services (Ecology): Raises no objection and makes the following comments:

- The Phase 1 ecological survey found no evidence of protected species using the site, although it is likely to be a haven locally for nesting birds, foraging bats and hedgehogs (which are now a UK BAP priority species). Other than this, the site has relatively low ecological value. No further surveys are required.
- The report made a number of recommendations with regards to biodiversity protection measures (eg careful treatment & retention of brash/wood piles and minimal external lighting) and enhancement features (such as bat tubes/boxes and bird boxes). Given the value of the site to some species locally, the provision within the NERC Act 2006 for LPA's to take or promote steps to further the conservation of BAP species and Cherwell Policy on enhancing biodiversity, I think a biodiversity enhancement scheme should be submitted for approval at a later stage. This would detail the following:
 - the measures to be taken to ensure the development proceeds in a sensitive manner with regards to bats, birds and hedgehogs (as stated in the Phase 1 Habitat Survey report).
 - the biodiversity enhancement features to be incorporated within the new dwellings and/or around the site (eg bat boxes/tubes, bird boxes). The scheme is to specify the number proposed, type and exact locations.
 - the existing areas of trees and planting to be retained and how these will be protected during the construction phase.
 - the proposed planting scheme for public and private areas (recommendations as to suitable species are made in the Phase 1 report).
- As the Phase 1 report is fairly specific, parts of this could be used to provide some of the detail for such a scheme.

3.8 Head of Safer Communities, Urban & Rural Services (Arboricultural): Objects to the application and raises the following issues:

- The individual trees of any significant value have been identified and retained within the proposed development although the beech tree (T11) would cast excessive shade upon the proposed dwelling plot 1 and, more significantly across the main garden and lawn area placing increasing pressure for the removal of the tree from any potential occupiers. This tree is most definitely worthy of retention and therefore greater consideration must be given towards the provision of a more light orientated garden area and the impact and mitigation of shading upon the design and location of the dwelling.
- Although a significant proportion of trees inspected upon the site have been

graded as category 'C' trees whose presence, individually, should not be considered a constraint, cumulatively certain groups of grade 'C' trees provide not only a valued screen for the development but also provide a value with regard to wildlife habitat. The benefits of screening are none more so evident than the group of trees along the south-east boundary separating the existing dwellings in The Phelps from the proposed plots 4 & 5. Although the cypress hedge may be removed to facilitate development the individual trees, including T15 - 25, although asymmetrical due to growth competition should be retained where possible in order to maintain a screen and to provide habitat. Their retention however will provide excessive shading upon the proposed plots 4 & 5 and therefore it would be advisable to either remove these plots or relocate them further north outside of the potential 'shadow' of these trees.

- The south-west boundary adjacent to plot 7 currently contains little vegetation of any significance however the location and positioning of the plot restricts the provision of landscaping required to provide the necessary screening from the adjacent existing dwellings in The Phelps. Again, removal or relocation of this plot would be recommended in order to provide sufficient space for tree planting and more importantly, adequate room for development of trees without the increasing nuisance issues of reduced light levels/excessive shading.
- The individual plots 8, 9 and 10 appear to be of a sufficient distance from the proposed retained category 'B' trees to the west boundary. Three of these trees are sycamore with the potential to increase in size. Consideration should be given by the architect towards the impact and mitigation of afternoon shading upon the design and aspect of the dwellings.
- The Blue Atlas Cedar (T57) is identified for retention adjacent to the proposed plot 14, due to the prominent location this will eventually form a good visual feature upon entering the site however the location of plot 14 may increase the risk of future conflict between tree and dwelling and more space should be allocated around the tree to allow for replacement planting and continuous tree coverage appropriate in such a central location within the site.
- Overall, I would have no objections to a proposal to develop this area of land but the design appears crowded with too many plots with far too little space allocated for suitable tree planting and landscaping which will and must be required in order to a) mitigate the loss of wildlife habitat b) to provide appropriate screening particularly towards the southern boundary and c) to provide a formal open space area within the centre of the site which may provide for a visual feature as well as allocated area for replanting.

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
- 7: Requiring good design
- 8: Promoting healthy communities

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
CC6: Sustainable Communities & Character of the Environment
CC7: Infrastructure and Implementation

Housing - Policies

H1: Regional Housing Provision 2006-2026
H2: Managing the delivery of Regional Housing Provision
H4: Type and size of new housing
H5: Housing design and density

Countryside and Landscape Management - Policies

C4: Countryside and Landscape Management

Transport – Policies

T1: Manage and Invest
T4: Parking

Natural Resource Management – Policies

NRM5: Conservation and Improvement of Biodiversity

Management of the Built Environment – Policies

BE1: Management for an Urban Renaissance
BE5: Village management
BE6: Management of the Historic Environment

Social and Community Infrastructure – Policies

S6: Community infrastructure

Central Oxfordshire – Policies

CO1: Core Strategy
CO5: Transport

**Adopted Cherwell
Local Plan 1996
Saved Policies**

C2: Protected Species
C4: Creation of new habitats
C23: Retention of buildings, walls, trees
C28: Design, layout etc standards
C30: Design control
C33: Retention of undeveloped gap
TR1: Transportation Funding

**Non-Statutory
Cherwell Local Plan
2011**

Housing policies H1a, H3, H4, H15, D1, D2, D3, D6,

Transport & Development policies TR1, TR4, TR5 and TR11

Recreation and Community Facilities policies R8, R9 and R10a

Conserving & Enhancing the Environment policies EN23,
EN24, EN25, EN35, EN37, EN40 and EN47.

The Cherwell Local Plan – Proposed Submission Draft May 2012

Urban Design & The Built Environment policies D1,D2, D3 & D6
The Proposed Submission draft of the Cherwell Local Plan was considered at the CDC Executive on 28th May 2012, with public consultation due at the end of June. This document is a material consideration.

The plan places its focus on economic growth and the sorts of communities we build in the most sustainable locations. It also has a strong emphasis on the importance of design quality and respect for our heritage, landscape and environment. These priorities are reflected in the draft.

5. Appraisal

5.1 The key issues for consideration in this application are:

- Policy Context
- Access and highway safety
- Neighbour impact
- Trees
- Ecology
- Planning Obligations/infrastructure contributions

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. There is no specific policy in the adopted Cherwell Local Plan that relates to housing development within the built up limits of Kidlington, and generally, providing that all other material considerations are taken into account and no relative harm exists, the principle of development is generally considered to be acceptable. It is considered that other harms do exist and this will be reasoned out later in the relevant sections of the report.

5.4 Paragraph 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. This aspect will be further expanded later on in the report.

5.5 Paragraph 49 of the NPPF addresses the issue of local authorities five year housing supply and that housing applications should be considered in the context of the presumption in favour of sustainable development.

- 5.6 Paragraph 50 of 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).*
- 5.7 Further Paragraph 53 advises that where harm is caused to the local area, the inappropriate development of residential gardens should be resisted.
- 5.8 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 of the South East Plan 2009 requires decisions associated with the development and use of land to respect, and where appropriate enhance, the character and distinctiveness of settlements throughout the region.
- 5.9 Policy BE1 of the South East Plan 2009 sets out the Plan's approach to promoting and supporting imaginative and efficient design solutions in new development, and aims to increase public acceptance of new housing by making sure that its is of a high quality design that respects local context and confers a sense of place
- 5.10 Policies C28 and C30 of the adopted Cherwell Local Plan relate to all new development and seeks to ensure that it is sympathetic to its context, and the nature, size and prominence of the development proposed, and are compatible with the appearance, character, layout and scale of existing dwellings in the locality and street scene in general.
- 5.11 Policy D1 of the Non-Statutory Cherwell Local Plan 2011 sets out the Council's urban design objectives which seek to ensure that development is compatible with the site's context in terms of its scale, density, massing, height and layout. Whilst Policy D3 seeks to ensure that development reflects or interprets the local distinctive character of the site and its context, by respecting traditional patterns of arrangement, plots and their buildings and spaces and retention and enhancement of existing open spaces and undeveloped gaps of local importance that contribute positively in visual terms to the public realm. The scale, proportion, massing and height of proposed development should be considered in relations to that of adjoining buildings.
- 5.12 Furthermore Policy D6 refers to the consideration of development in design terms which should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and also that it provides standards of amenity and privacy acceptable to the Council.
- 5.13 It is considered that the site is capable of redevelopment, however taking into account the above policies and the key issues detailed, the scheme proposed is unacceptable and runs contrary to the policy provisions for the reasons given.
- 5.14 **Access and highway safety**
The means of access into the site has been submitted for determination at this outline stage. The proposal involves the use of 3 no. vehicular access points; the existing access off The Rookery is to be retained and used for Plot 1; the second access will be via The Phelps and will serve 10 no. dwellings and finally 3 no.

dwellings will be served by individual driveways off Nurseries Road. Each dwelling will have at least 2 parking spaces, with a total of 34 no. Parking spaces provided for the whole development (31 no. Allocated and 3 no. Unallocated).

- 5.15 Concern has been raised by local residents in respect to the use The Phelps as an access point to serve 10 no. Dwellings, on the basis that it is narrow, actually measuring 4.3m, instead of the 4.5m stated in the applicant's supporting statement. In response to the concerns raised by residents, the applicant's agents have come back and advised that The Phelps can be classified as a major access road and currently serves 138 houses, whilst narrow at the point of access into the site, it could serve up to 25 dwellings. This section of The Phelps, being a cul-de-sac serves 8 no. houses and taking the proposed development into account, it will only give access to a further 10 units. Also in respect to pedestrian/cyclist safety, essentially vehicle speeds will be very low and the road will be treated similar to a shared surface, reducing conflict with users.
- 5.16 Oxfordshire County Council, as Local Highway Authority has accepted that the proposal in respect to access, parking and highway safety is acceptable in principle, subject to conditions; requiring further details of visibility splays from the proposed dwellings off Nurseries Road and refuse vehicle swept path analysis. On that basis, and despite the level of objection, it is considered that that the proposed means of access off The Phelps to serve 10 no. units, The Rookery to serve 1 dwelling and Nurseries Road to serve 3 no. units, is acceptable in highway safety terms. It is further considered that a reason to refuse the application on highway grounds could not reasonably be sustained at appeal without the support of the Local Highway Authority.
- 5.17 **Neighbour impact**
The application has been submitted in outline form, with the layout submitted for determination at this stage, and whilst indicative details of scale have been provided to enable the contextualisation of the development, it is the layout which is of concern. During the pre-application discussions, officers raised some concerns about the proximity of the proposed dwellings to boundaries and that to enable some form of meaningful landscaping to be planted along the southern and south-western boundaries, to provide some screening for privacy, some plots would need to be relocated or removed from the scheme. At that time, the applicant's agent advised that the layout was shown for indicative purposes only, however, whilst some changes have been made, those previously identified plots are now shown in the layout for determination at this outline stage and they are still very close to the said boundaries.
- 5.18 Whilst it is accepted that the rear gardens of properties range between 10 and 20m deep, essentially, it is the close proximity of plots 4, 5 and 7 to the southern boundary which raises concerns. At most there is only a 2 - 3m gap separating the proposed plots and the neighbours along The Phelps, which is very narrow to enable a good boundary hedge to be planted to help mitigate the gables of the proposed dwellings.
- 5.19 It is the impact on these neighbouring properties which is of most concern, and whilst the scale of plots 4, 5 and 7 could be negotiated further to reduce their height with possibly a 1½ storey restriction, in order to provide the requisite landscaping/hedging, there really ought to be more space to the side and also to avoid the overbearing impact that results from this close proximity. Furthermore, in

respect to trees (which will be discussed later in more detail), there are a number of good specimen trees to be retained, which again are close to boundaries, but because they dominate the garden, they may be removed by future occupiers, and with the result of proposed dwellings to potentially overlook other neighbours and consequential loss of privacy.

5.20 Of additional specific concern is the impact the proposal will have on the neighbour at no. 67 The Phelps from a traffic disturbance perspective. The front wall of this neighbour is only 2m from the road, having no footpath on this particular aspect of The Phelps. The bedrooms of this property are on the front and it is considered that as a result of the level of vehicular activity into and out of the site using the Phelps access (potentially 50+ trips per day), the proposal is likely to have a seriously detrimental effect on the amenities currently enjoyed by the occupier of this adjacent property. The proposal is therefore contrary the National Planning Policy Framework requiring good design and delivering a wide choice of high quality homes and Policies CC6, H5, BE1 and BE5 of the South East Plan 2009 and Policies C28 and C30 of the adopted Cherwell Local Plan.

5.21 **Trees**

Whilst the site is totally enclosed by mature conifers/trees, there are a number of individual trees of significant value and have been identified for retention within the proposed development, specifically the Blue Atlas Cedar which would be a prominent, focal feature upon entering the site. The loss of large, mature conifers will however, be an enhancement and will also remove the 'nuisance' affect they have created for some years to the neighbours. As stated previously, the proximity of the plots in relation to the trees was raised as an issue at the pre-application stage, however, now that the layout has been submitted for determination, the previous concerns of the Arboricultural Officer still remain valid.

5.22 It is likely that the close proximity of the proposed houses to the trees, will give rise to issues in the future for the occupiers, as most of the garden will be shaded and will result in leaf drop, furthermore there is the issue of growth potential of the trees and the closeness of the house. The proposed layout therefore is unacceptable and should be amended accordingly with the possible reduction of units, as essentially the loss of the most significant trees on the site would be harmful to the character of the area and a loss of amenity to the surrounding neighbouring properties. The retention of trees on the site will significantly enhance the area, especially the feature Cedar tree and with the correct layout would create a pleasant residential development that would provide space around the trees and the necessary wildlife mitigation and enhancement measures required to comply with the relevant development plan policies.

5.23 Therefore it is considered that by virtue of the amount of development and its layout, the proposal represents a crowded, overdevelopment of the site, conflicting with the general character of the surrounding area which would threaten the long term future of the retained trees, which may be lopped or felled by future occupants, because of the level of shading and leaf drop that would affect the dwellings and private gardens. The proposal would therefore be contrary to the provisions of the National Planning Policy Framework requiring good design, delivering a wide choice of high quality homes and conserving and enhancing the natural environment and to Policies NRM5, H5, CC6 and C4 of the South East Plan 2009 and Policies C28 and C33 of the adopted Cherwell Local Plan.

5.24 **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)

5.25 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.

5.26 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”

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

5.28 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;

5.29 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”.

- 5.30 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.
- 5.31 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.
- 5.32 In respect to the application site, a Phase 1 Habitat Survey Report was undertaken by Windrush Ecology.com dated 7th March 2012 and the report submitted with the application, which found that there were no bats roosting in the dwelling to be demolished and no roosting opportunities in the trees within the garden. A number of bird species were seen and the trees and shrubs were considered suitable nesting site. There were no other notable protected species found within the site. No further surveys were considered necessary. Mitigation and compensation measures were however recommended in the report, which the Council's Ecologist has considered and would be recommended should the development be accepted.
- 5.33 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework -Conserving and enhancing the natural environment and Policy C2 and C4 of the adopted Cherwell Local Plan.
- 5.34 **Infrastructure contributions**
The draft Supplementary Planning Document (SPD) relating to the requirement for financial contributions towards infrastructure or service requirements was considered by the Council's Executive Committee on 23 May 2011 and was approved as interim guidance for development control purposes. Consultation is taking place in June 2012 along with the Proposed Submission Draft of the Cherwell Local Plan.
- 5.35 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are the mechanism used to secure these measures.
- 5.36 The applicant has questioned the validity of the Council's SPD and whilst is willing to enter into an appropriate planning obligation, required further justification. This justification has been provided. There is an error in the SPD in respect to LAP provision and as there is a recreation ground close by the applicant is willing to make an offsite contribution instead.
- 5.37 It is considered that the proposed development will give rise to infrastructure or service requirements and therefore is liable for planning obligations.

In this case there is a net gain of 13 no. dwellings comprising: 3 no. x 2 bedroom units, 7 no x 3 bedroom units and 3 no. x 4 bedroom units.

Refuse bins and recycling banks - **£877.50**

General Transport and Access impacts - **£13,342.00**

Libraries - **£769.00**

Day care for the elderly - **£2,763.00**

Adult learning - **£408.00**

Museum resource centre - **£191.00**

Strategic Waste Management - **£2,433.00**

Outdoor Sports - **£28,412.93**

Indoor Sports - **£8,035.56**

Off-site contribution to local LAP/Recreation facilities – TBA

The total contribution sought from the proposal is **£57,231.99** which does not include the last off-site LAP contribution

Justification for the contributions was requested and has been provided. To date no draft legal agreement has been submitted for consideration.

5.38 Effect on the heritage assets (area of archaeological value)

Whilst the site is within an area of archaeological interest, Oxfordshire County Council's Archaeologist has recommended the applicant be informed by a planning note about the potential of Archaeological finds during construction.

5.39 Whilst not in the Conservation Area, development of the site has the potential to affect its setting, however, it is considered that addressed correctly in terms of materials and scale, there will be no harm to the significance of this heritage asset.

5.39 Conclusion

In conclusion therefore taking into account the above appraisal it is considered that the application is unacceptable for the following reasons and conflicts with the Government guidance contained in the NPPF and the other relevant development plan policies listed above and below.

6. Recommendation

REFUSAL for the following reasons:

1. The proposal by virtue of the amount of development and its layout represents a crowded, overdevelopment of the site, conflicting with the general character of the surrounding area which would threaten the long term future of the retained trees, which may be lopped or felled by future occupants, because of the level of shading and leaf drop that would affect the dwellings and private gardens. Furthermore, the crowded layout leaves too little space allocated for suitable replacement tree planting and landscaping which would be required in order to a) mitigate the loss of wildlife habitat b) to provide appropriate screening particularly towards the southern boundary and c) to provide a formal open space area within the centre of the site which will provide for a visual feature as well as an allocated area for replanting. The proposal would therefore

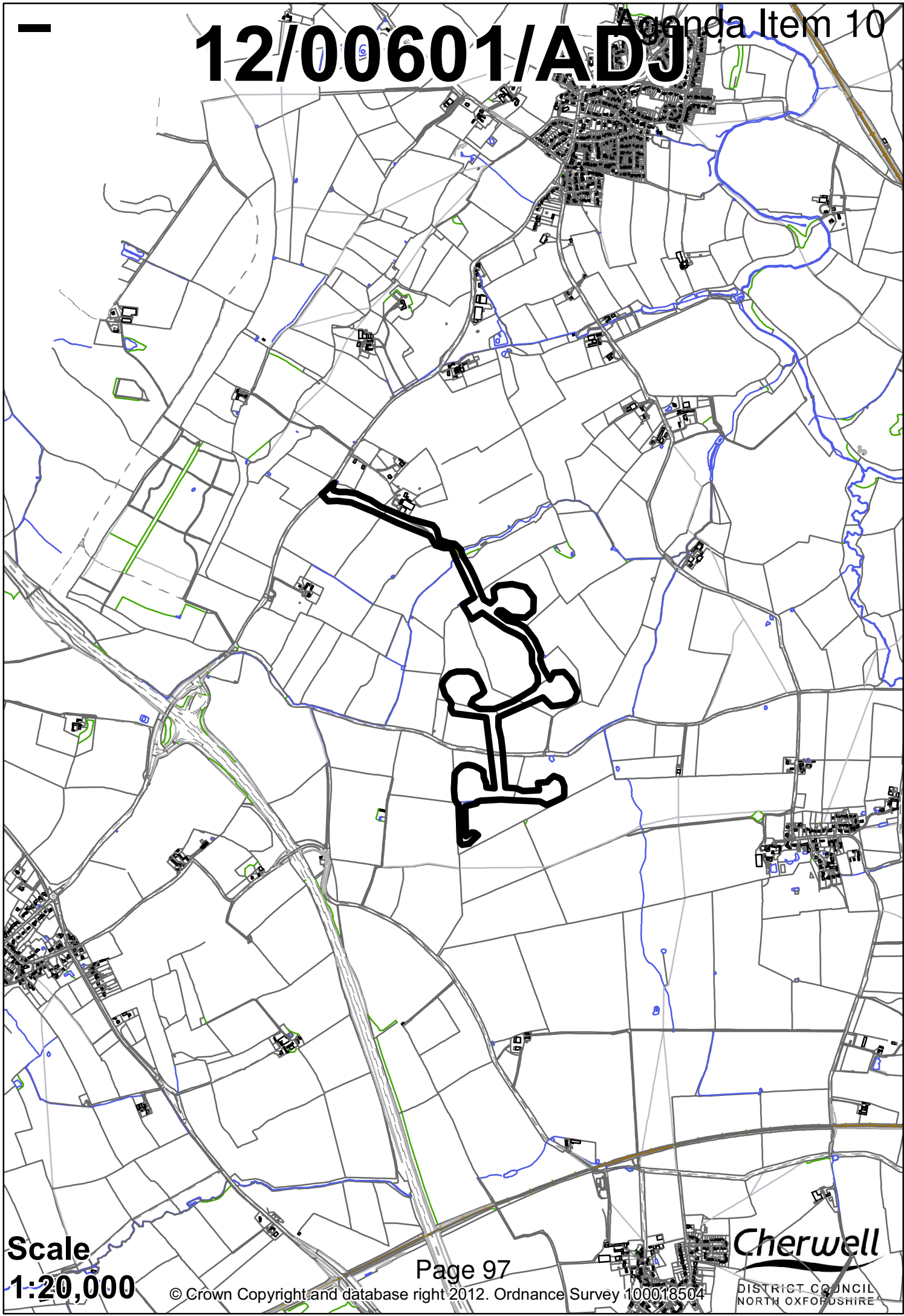
be contrary to the provisions of the National Planning Policy Framework requiring good design, delivering a wide choice of high quality homes and conserving and enhancing the natural environment and to Policies NRM5, H5, CC6 and C4 of the South East Plan 2009 and Policies C28 and C33 of the adopted Cherwell Local Plan

2. The proposal by virtue of the amount of development and its layout would be likely to have a seriously detrimental effect on the amenities of the occupiers of the adjacent properties as a result of the level of vehicular activity into the site from The Phelps and also the overdomination and likelihood of overlooking to surrounding properties with a consequential loss of privacy. The proposal is therefore contrary the National Planning Policy Framework requiring good design and delivering a wide choice of high quality homes and Policies CC6, H5, BE1 and BE5 of the South East Plan 2009 and Policies C28 and C30 of the adopted Cherwell Local Plan
3. In the absence of a satisfactory legal agreement, the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development, including Adult learning facilities, elderly day care resources, community, library and museum facilities, strategic waste, health services and transport measures will be provided. This would be contrary to the National Planning Policy Framework, Policy CC7 of the South East Plan 2009, Policy R12 of the adopted Cherwell Local Plan and Policies OA1, TR4, R8 and R10A of the Non-Statutory Cherwell Local Plan 2011.

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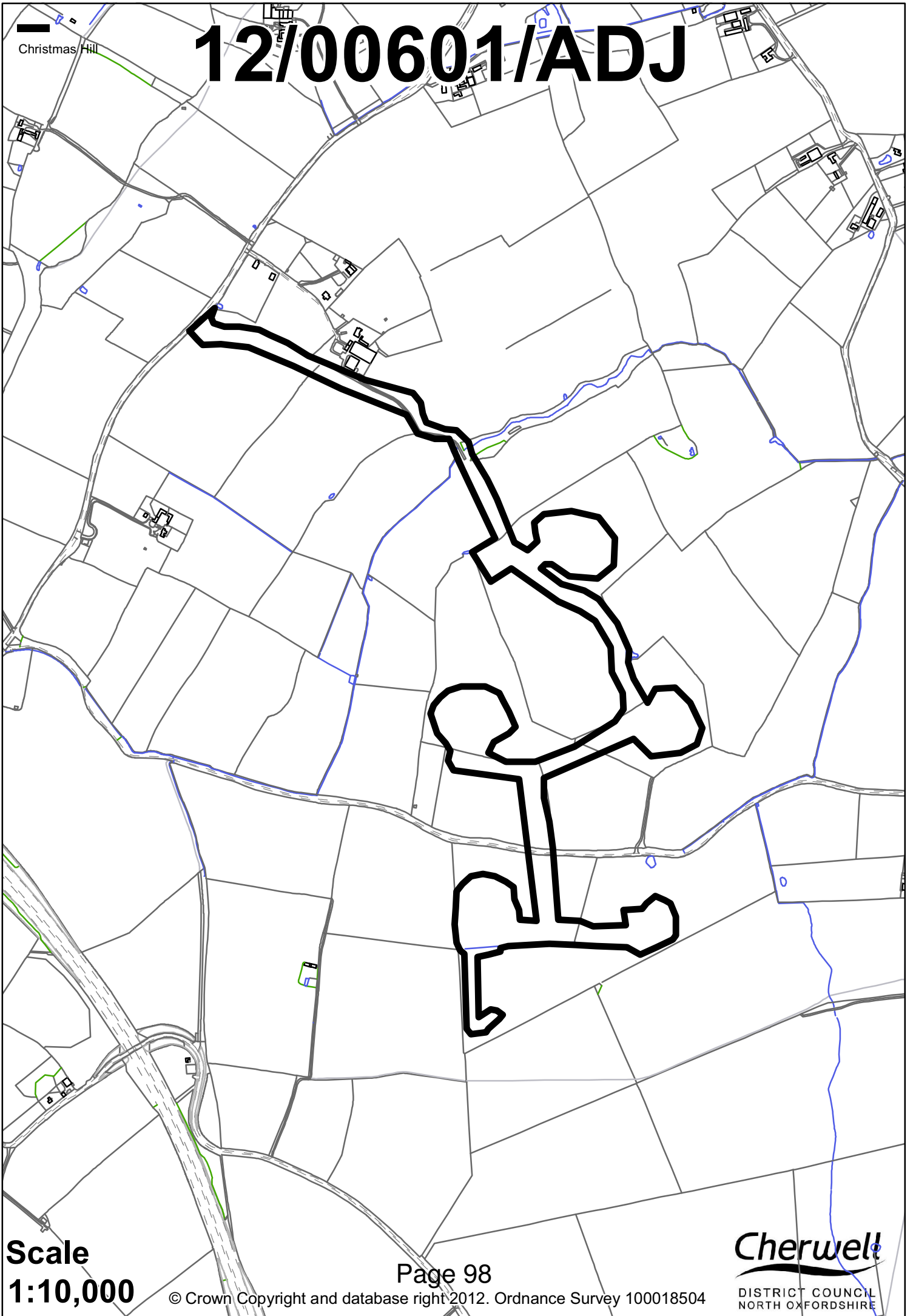
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Christmas Hill

12/00601/ADJ



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application 12/00601/ADJ	No:	Ward: Outside Cherwell Area	Date Valid: 21.05.2012
Applicant:	Broadview Energy Ltd		
Site Address:	Land between Bishops Itchington, Gaydon and Knightcote, South East of the B4451		

Proposal: Proposed erection of 5 wind turbines, up to a maximum tip height of 125 metres high, and other ancillary development including a new vehicular access off the Gaydon Road (B4451), access tracks, vehicular accesses, crane hard standing areas, a control building, underground cabling, construction compound and meteorological mast (Stratford DC ref. 12/00330/FUL)

1. Site Description and Proposal

- 1.1 The application relates to a site within the adjacent Local Authority area of Stratford on Avon District Council. The site is to the north-west of Knightcote and to the east of the M40 motorway. The site is approximately 7km from the boundary with Cherwell District Council.
- 1.2 The proposal is for a five-turbine wind farm as shown on the drawings accompanying the application.

2. Application Publicity

- 2.1 As an adjacent authority application, no publicity has been carried out.

3. Consultations

- 3.1 As an adjacent authority application, no consultations have been carried out.

4. Policy Considerations

National Planning Policy Framework (NPPF)	Core Planning Principles and the delivery of sustainable development with particular regard to the following sections: 10: Meeting the challenge of climate change, flooding and coastal change 11: Conserving and enhancing the natural environment
Adopted Cherwell Local Plan 1996 Saved Policies	C7: Landscape conservation C8: Sporadic Development in the Open Countryside C10: Development affecting Historic Landscapes C13: Areas of High Landscape Value C28: Design, layout etc standards
South East Plan	CC2 Climate Change NRM11 Renewable Energy
Other	PPS22 – Companion Guide Draft Planning Guidance of the Residential Amenity Impacts of

5. Appraisal

- 5.1 The application should be considered in relation to the following issues;
- visual impact on the Cherwell district
 - impact on areas and buildings of historic significance with the Cherwell district
 - impact on residential amenities within the Cherwell district
- 5.2 **Visual impact on the Cherwell district**
The submission by Broadview is accompanied by an Environmental Statement which includes two maps showing the 'Zone of Theoretical Visibility' (ZTV) of the proposal.
- 5.3 From these maps, it appears that the turbines may potentially be visible from certain isolated area and various receptors including residential properties, users of highways and users of other public rights of way. However, the potential ability to view the turbines from the highlighted locations does not take into account local conditions and intervening screening, such as buildings, vegetation or other landscape features.
- 5.4 The visual impact of the turbines is not therefore considered to be significant and it is not considered that they will give rise to harm, owing to the intervening distances.
- 5.5 **Impact on areas and buildings of historic significance within the Cherwell district**
Wardington, Upper Wardington, Cropredy and Mollington are the closest settlements within the Cherwell district which have Conservation Areas and listed buildings, however the ZTV indicates that views will only be possible from Wardington and Upper Wardington (owing to the landscape form in this area). However, in reality, the ability to see the turbines from locations of historic interest will be limited by buildings, vegetation and other landscape features, and it is unlikely that the heritage assets would be in the same view as the turbines, further limiting the impact. Again, the separation distance limits any impact of the proposal.
- 5.6 **Impact on residential amenities within the Cherwell district**
The turbines will in theory be visible from residential properties within the district, but the separation distance mentioned elsewhere means that the impact on residential amenities is not considered to be significant; at the distances proposed, the height is not considered overbearing, nor are the effects of shadow flicker or noise considered unacceptable.
- 5.7 In relation to domestic properties within the Cherwell district, the turbines achieve the separation distances required by the draft Planning Guidance of the Residential Amenity Impacts of Wind Turbine Developments (November 2010).
- 5.8 **Conclusion**
Whilst the turbines may be visible from selected areas of the district, that visibility is not considered to be unacceptable given the separation distances from likely receptors. As a result, it is unlikely that the proposal will cause harm to the heritage assets, landscape character and quality or residential amenity of the district.

- 5.9 The development plan, expressed through the adopted Cherwell Local Plan 1996 relates only to the Cherwell District Council area, and the Stratford on Avon District Council area falls outside the area of the South East Plan 2009. As such, it is considered that the proposal accords with the relevant provisions of the development plan.
- 5.10 Within the South East Plan and the National Planning Policy Framework there is a presumption in favour of sustainable development and renewable forms of energy generation. It is for Stratford on Avon District Council to assess the impact of the proposal on the landscape, residents and heritage assets within its administrative area.

6. Recommendation

That Stratford District Council be advised Cherwell District Council raises no objections to the proposed development. Stratford District Council is requested to inform Cherwell District Council of the outcome of the application.

CONTACT OFFICER: Simon Dean

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Agenda Item 11

Planning Committee

Decisions Subject to Various Requirements – Progress Report

21 June 2012

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

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

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

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

Details

The following applications remain outstanding for the reasons stated:

Subject to Legal Agreement with Cherwell District Council

01/00662/OUT	Begbroke Business and Science Park, Sandy Lane, Yarnton
(24.3.11 and 24.5.12))	Subject to legal agreement re: off-site highway works, green travel plan, and control over occupancy now under discussion. Revised access arrangements refused October 2008. Appeal dismissed. Decision to grant planning permission re-affirmed April 2011. New access road approved April 2011

	and now complete and open for use.
	HPPDM to check legal agreement applicability and then to issue
10/00640/F (re-affirmed 24.5.12)	Former USAF housing South of Camp Rd, Upper Heyford Subject to legal agreement concerning on and off site infrastructure and affordable housing. May be withdrawn following completion of negotiations on 10/01642/OUT
10/01021/F (re-affirmed 24.5.12)	Otmoor Lodge, Horton-cum-Studley Subject to legal agreement concerning building phases and interim appearance. Draft agreement prepared. Alternative applications refused Jan 2012. Further discussions held with applicant, and alternative proposals expected to be submitted. This application may be returned to Committee for refusal if no longer justified
10/01780/HYBRID (11.8.11, 22.3.12 and 24.5.12)	Bicester Eco Town Exemplar site, Caversfield Subject to completion of a legal agreement as set out in resolution. Legal agreement circulating for signature. It is anticipated that this permission will be issued by the end of the month
11/00524/F (6.10.11 and 24.5.12)	Cherwell Valley MSA, Ardley Awaiting confirmation of appropriateness of the intended condition concerning radar interference. Separate update to be given
11/01369/F (5.1.12 and 24.5.12)	OCVC (south site), Broughton Rd. Banbury Subject to legal agreement re public art and comments of local drainage authority
11.01484/F (5.1.12 and 24.5.12)	Phase 3, Oxford Spires Business Park, Langford Lane, Kidlington Subject to Env.Agency comments and receipt of Unilateral Undertaking
11/01732/F (26.1.12 and 24.5.12)	Oxford Office Village, Langford Lane, Kidlington Subject to Unilateral Undertaking and comments of Oxford Airport
11/01870/F	Banbury Gateway, Acorn Way, Banbury

(22.3.12 and 24.5.12)	Subject to reference of the application to Secretary of State, confirmation of conditions to be attached and completion of legal agreement concerning on-site and off-site infrastructure
11/01907/F	Yew Tree Farm, Station Rd, Launton
(23.3.12 and 24.5.12)	Subject to legal agreement concerning affordable housing, and on-site and off-site infrastructure contributions
12/00198/F	56-60 Calthorpe St. Banbury
(19.4.12)	Subject to legal agreement concerning off-site infrastructure contributions

Implications

Financial:	There are no additional financial implications arising for the Council from this report. Comments checked by Karen Muir, Corporate System Accountant 01295 221559
Legal:	There are no additional legal implications arising for the Council from accepting this 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 accept the recommendation. Comments checked by Nigel Bell, Team Leader Planning and Litigation 01295 221687

Wards Affected

All

Document Information

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

Planning Committee

Appeals Progress Report

21 June 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

The Planning Committee is recommended:

- (1) To accept the position statement.

Details

New Appeals

- 1.1 **11/01754/OUT- Land adjacent 9 Town Close and 1 White House, Green Lane, Finmere-** appeal by Mr M Lepper against the refusal of outline planning permission for a pair of semi-detached houses-
Written Reps
- 1.2 **12/00310/F – Malvern Twyford Avenue Twyford-** appeal by Mr & Mrs M Smith against the refuse of planning permission for (Retrospective) Replacement of Cuppressus hedge with close boarded fence with trellis above – Householder Written Reps
- 1.3 **11/01932/F- Land at Willow Bank Farm Fritwell Road Fewcott-** appeal by **Bolstertone Innovative Energy (Ardley) Ltd** against the refusal of planning permission for the variation of condition 21 of APP/C3105/A/09/2116152 (08/02495) requiring -

No development shall take place until written confirmation has been provided to the Local Planning Authority that a Safety Report has been submitted to and approved in writing by the operators of London Oxford Airport in consultation with the Civil Aviation Authority in relation to the safe operation of London Oxford Airport with the proposed wind farm in place. The turbines shall only be operated in accordance with the terms of the Safety Report.- Written Reps

- 1.4 **12/00050/EUNDEV- Bishops End, Burdrop, Banbury** - appeal by Mrs Jackie Noquet against the service of an enforcement notice alleging a breach of planning control – without planning permission, the change of use of the land to use for the storage of a shipping container- Written Reps
- 1.5 **12/00182/F- 8 Maple Road Bicester** – appeal by Mr Paul Juggins against the refusal of planning permission for the demolition of rear porch and construction of a two storey rear extension – Householder Written Reps
- 1.6 **12/00299/F- Hempton Lodge, Hempton, Banbury** – appeal by Mr & Mrs J Clitherow against the refusal of planning permission for a detached dwelling with garage – Written Reps

Forthcoming Public Inquiries and Hearings between 21 June 2012 and 19 July 2012

- 2.1 **Hearing commencing at 10.00am on Tuesday 26 June 2012 in the Sor Meeting Room, Bodicote House, Bodicote, Banbury** to consider the appeals by Mr Gordon Jones against the refusal of planning permission of application 11/01682/F for the use of the land for the temporary stationing of a mobile home for an essential worker, associated decking and ancillary outbuilding (part retrospective) and the service of an enforcement notice 12/00013/EUNDEV alleging a breach of planning control – without planning permission, the change of use of the land to a mixed use of agriculture and residential use by the siting and residential occupation of a mobile home and erection of associated decking at Field Farm, Bainton Crossroads, Stoke Lyne

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Shanly Homes Ltd against the refusal of planning application 11/01286/OUT for means of access and layout of 2 detached houses at land off Stuchfield Close, Church Lane, Wendlebury (Delegated)** – The Inspector concluded that the harm to the character and appearance of the local rural area that would arise from the construction of two houses within the countryside beyond the settlement boundary would conflict with adopted development plan policies

- 3.2 **Dismissed the appeal by Mr Colin Begeman against the refusal of planning application 11/00892/F for 3 No. 2- bedroom houses and 3 No. 3 bedroom houses for local needs specific affordable housing, including associated access, hard and soft landscaping and 3m wide buffer zone at land north of DeeJay Farm, Chestnut Road, Mollington (Committee)** – The Inspector set out the circumstances in which planning permission may be granted under Cherwell Local Plan Policy H6 – On the first requirement there was no demonstration from the appellants that the proposed development was economically viable in terms of its ability to meet the need identified. The second requirement is that there should be secure arrangements to restrict the occupancy of the development to ensure it meets local needs in the long term- the appellants did not provide the necessary undertaking and thirdly policy H6 requires the proposals to be compatible with the other policies in the Cherwell Local Plan. As a projection from the built up village into the countryside, the appeal proposal would harm the countryside to a degree which also weighed against the proposal. The Inspector concluded that the appeal proposal was inconsistent with Cherwell Local Plan policy H6

Implications

- Financial:** The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.
Comments checked by Karen Muir, Corporate System Accountant 01295 221559
- Legal:** There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.
Comments checked by Nigel Bell, Team Leader- Planning 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

All

Document Information

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