

**Committee:** Planning Committee  
**Date:** Thursday 19 July 2012  
**Time:** 4.00 pm  
**Venue:** Bodicote House, Bodicote, Banbury, OX15 4AA

### **Membership**

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

### **Substitutes**

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

## **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 - 11)**

To confirm as a correct record the Minutes of the meeting of the Committee held on 21 June 2012

## **Planning Applications**

6. **33 Oxford Road and land to the rear of Nos. 35-59, Oxford Road, Bodicote, Banbury (Pages 14 - 32)** **12/00290/F**
7. **Land to the West and South of Numbers 7 to 26 The Green, Chesterton (Pages 33 - 47)** **12/00305/OUT**
8. **Calthorpe House, 60 Calthorpe Street, Banbury OX16 5RE (Pages 48 - 58)** **12/00555/OUT**
9. **Bishops End, Burdrop, Banbury, Oxfordshire, OX15 5RQ (Pages 59 - 74)** **12/00678/F**
10. **20 Lapsley Drive, Banbury, Oxfordshire, OX16 1EJ (Pages 75 - 79)** **12/00807/F**

## **Enforcement Action**

### **11. Quarterly Enforcement Report (Pages 80 - 92)**

Report of Head of Public Protection and Development Management

#### **Summary**

To inform and update Members of the progress of outstanding formal enforcement cases and to inform Members of the overall level of activity in the Development Management service

#### **Recommendations**

The Planning Committee is recommended:

- (1) To accept this report.

## **Tree Preservation Orders**

12. **Tree Preservation Order (No. 22/2011) 2 No ash trees, Penn House, 9 Walford Road, Sibford Ferris, Banbury** (Pages 93 - 97)

Report of Head of Public Protection and Development Management

### **Summary**

To seek the confirmation of an opposed Tree Preservation Order (No 22/2011) relating to 2 No ash trees (copy plan attached as Appendix 1) at Penn House, 9 Walford Road, Sibford Ferris, Banbury.

### **Recommendations**

The Planning Committee is recommended to:

- (1) Confirm the Order without modification

## **Review and Monitoring Reports**

13. **Decisions Subject to Various Requirements** (Pages 98 - 101)

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.

14. **Appeals Progress Report** (Pages 102 - 106)

Report of Head of Public Protection and Development Management

### **Summary**

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

## **Recommendations**

The Planning Committee is recommended to:

- (1) Accept the position statement.

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

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to

[democracy@cherwellandsouthnorthants.gov.uk](mailto:democracy@cherwellandsouthnorthants.gov.uk) or 01295 221589 / 01295 227956 prior to the start of the meeting.

### **Declarations of Interest**

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

### **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, Law and Governance  
[natasha.clark@cherwellandsouthnorthants.gov.uk](mailto:natasha.clark@cherwellandsouthnorthants.gov.uk), 01295 221589, or Aaron Hetherington,  
Law and Governance [aaron.hetherington@cherwellandsouthnorthants.gov.uk](mailto:aaron.hetherington@cherwellandsouthnorthants.gov.uk), 01295  
227956

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

Published on Wednesday 11 July 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 21 June 2012 at 4.00 pm

Present: Councillor Rose Stratford (Chairman)  
Councillor Alastair Milne Home (Vice-Chairman)

Councillor Ken Atack  
Councillor Fred Blackwell  
Councillor Colin Clarke  
Councillor Tim Emptage  
Councillor Michael Gibbard  
Councillor Chris Heath  
Councillor David Hughes  
Councillor Russell Hurle  
Councillor Mike Kerford-Byrnes  
Councillor D M Pickford  
Councillor G A Reynolds  
Councillor Leslie F Sibley  
Councillor Trevor Stevens  
Councillor Lawrie Stratford

Substitute Members: Councillor Barry Wood (In place of Councillor James Macnamara)

Apologies for absence: Councillor James Macnamara  
Councillor George Parish

Officers: Bob Duxbury, Development Control Team Leader  
Jenny Barker, Major Developments Team Leader  
Jane Dunkin, Senior Planning Officer  
Simon Dean, Planning Case Officer  
Nigel Bell, Team Leader - Planning and Litigation /Deputy Monitoring Officer  
Natasha Clark, Team Leader, Democratic and Elections

#### 17 **Declarations of Interest**

Members declared interests in the following agenda items:

#### **7. Land South of Overthorpe Road and Adjacent the M40, Banbury, Oxfordshire.**

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

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

**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. 4 The Rookery, Kidlington.**

Councillor Tim Emptage, Personal, as a member of Kidlington Parish Council, which had been consulted on the application.

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

There were no petitions or requests to address the Committee. / The Chairman advised that petitions and requests to address the meeting would be dealt with at each item.

19 **Urgent Business**

There was no urgent business.

20 **Minutes**

The Minutes of the meeting held on 24 May 2012 were agreed as a correct record and signed by the Chairman.

21 **Land North of The Bourne and Adjoining Bourne Lane, Hook Norton**

The Committee considered application 11/01755/OUT for 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.

In introducing the report, the Major Developments Team Leader referred Members to the written update and revised officer recommendation for deferral of consideration of the application to allow further consideration of the current position on five year housing land supply and consideration of the implications for development proposals in villages of the Adderbury appeal decision, received this week.

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

**Resolved**

That application 11/01755/OUT be deferred on the following grounds:

- (1) To allow further consideration of the current position on five year housing supply.

- (2) To allow consideration of the implications for development proposals in villages of the Adderbury appeal decision, received this week.

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**Land South of Overthorpe Road and Adjacent the M40, Banbury, Oxfordshire**

The Committee considered outline application 11/01878/OUT for the 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.

The Committee had given consideration to the Members will recall giving consideration to the application at its 22 March 2012 meeting at which time it was 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.

In introducing the report, the Senior Planning Officer circulated a list of recommended draft conditions and provided a further verbal update advising Members of the heritage asset conclusions of English Heritage. English Heritage has scheduled the east side of the motorway as a scheduled ancient monument. The west side of the motorway has not been scheduled. The Committee was advised that should Members be minded to approve the application, in addition to the conditions set out in the report, approval should be subject to the receipt of the comments of English Heritage. The Senior Planning Officer confirmed that, depending on the comments, the application may be brought back to the Committee.

In considering the application some Members raised concerns about the movement of Heavy Goods Vehicles in the vicinity and stressed the importance of the inclusion of the relief road on the site and noted the obligation within the proposed s106 agreement relating to the safeguarding of a route for the road.

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

**Resolved**

That application 11/01878/OUT be approved, subject to:

- (i) Receipt of comments from English Heritage.
- (ii) 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 whether or not this is required as a result of the Banbury Master Plan work, the safeguarding of a link from the site to the former railway line and a contribution towards the monitoring of the travel plan.



- (iii) Delegated authority to the Head of Public Protection and Major Developments to finalise the wording of the conditions in liaison with South Northamptonshire Council.
- (iv) Departure procedures;
- (v) The following conditions:
  - (3) Phasing plan: Prior to the commencement of the development, a phasing plan to cover the entire site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter each reserved matters application shall refer to a phase, phases, or part thereof identified in the phasing plan.
  - (4) Landscape bund: Prior to the commencement of the construction of the first building on the site, the landscaping bund shall be constructed in its entirety (along with the whole of the western boundary of the site) in accordance with details to be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the bund shall be planted in the first planting season following the completion of the bund in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
  - (5) Drainage Principles: Prior to the commencement of the development, a strategy setting out the drainage principles for the entire site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the specific drainage details as required by condition 3 shall be in accordance with the approved drainage strategy.
  - (6) Protection of Public Footpath: Prior to the commencement of any part of the development within 10m of the existing public footpath(s), the affected footpath(s) shall be protected and fenced to accommodate a width of a minimum of 5m in accordance with details to be firstly submitted to and approved in writing by the Local Planning Authority. The footpath(s) shall remain fenced and available for use until a time that the diverted footpath(s) is/are available for use by the public in accordance with condition 4 unless provision has been made for temporary closure under the Highways Act 1980.
  - (7) Replacement Trees: Prior to the construction of the first building, six semi-mature oak trees to be dispersed across the site, shall be individually planted and protected on the site in accordance with details which shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, the trees shall be maintained and managed in accordance with the landscape management plan approved under condition 5.
  - (8) Submission of Reserved Matters: No development on any phase, identified on the approved phasing plan, shall be commenced until full details of the layout, scale, appearance and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority. Thereafter, each phase of

the development shall be carried out in accordance with the approved reserved application relating to it.

- (9) Tree Protection: Prior to the commencement of any phase of development, identified on the approved phasing plan, the existing trees on the site shall be protected in accordance with the measures set out in the submitted arboricultural statement prepared by Corbin Ltd (Ref.: 11234-AIA). Thereafter, the tree protection measures shall remain in place on the site until the completion of the development hereby approved.
- (10) Land Contamination (investigation): Each reserved matters application submitted shall be accompanied by a land contamination report which appropriately addresses the further characterisation of the risk from land contamination for that phase of the development, unless such a land contamination report, in relation to the entire site, has been previously submitted to and approved in writing by the Local Planning Authority.
- (11) Archaeology (preparation of WSI): Each reserved matters application submitted shall be accompanied by an archaeological Written Scheme of Investigation, relating to that phase of the development, unless an archaeological Written Scheme of Investigation, in relation to the entire site, has previously been submitted to and approved in writing by the Local Planning Authority.
- (12) Landscaping: Each reserved matters application submitted shall be accompanied by a scheme for landscaping for that phase of the development which shall be in general accordance with drawing numbered xxx.
- (13) Landscape Management: Each reserved matters application submitted shall be accompanied by a management plan for the landscaping scheme for that phase of the development including one years maintenance and 15 years management.
- (14) SUDS: Each reserved matters application submitted shall be accompanied by a surface water and foul drainage scheme for that phase of the development, based on the approved drainage strategy for the whole site, sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.
- (15) Further Survey Work: Each reserved matters application submitted shall be accompanied by a full, up to date (no more than one year old), ecology survey relating to that phase. Each survey shall include details of protection, mitigation, translocation and enhancement where required.
- (16) Construction Traffic Management: Each reserved matters application submitted shall be accompanied by a Construction Traffic Management Plan for that phase of the development.

- (17) Provision of Road: Prior to the first occupation of any building or land, the proposed means of access between that building or land and the public highway shall be formed, laid out and constructed to adoptable standards.
- (18) BREEAM: The development hereby approved shall be constructed to at least a BREEAM 'Very Good' standard under the appropriate BREEAM scheme as registered by the developer with the BRE. No building shall be occupied until such a time that a certificate confirming that the construction of that building achieves the appropriate standard has been submitted to and approved in writing by the Local Planning Authority.
- (19) Provision of Permanent Footpaths: Prior to the first use of any new public footpath, details of how it is to be formed, constructed, surfaced, laid and marked out, drained and completed in accordance with specification details shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the new public footpath(s) shall be provided on site in accordance with the approved details.
- (20) Expiry of Submission of Reserved Matters: That in the case of the first reserved matters applications, application for approval shall be made not later than the expiration of three years beginning with the date of this permission. All other reserved matters applications shall be submitted before the expiration of six years beginning with the date of this permission.
- (21) Expiry of Reserved Matters: The development to which this permission relates shall be begun not later than the expiration of the two years from the final approval of the last reserved matters application.
- (22) Plans Condition: Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: application forms, design and access statement and drawings numbered xxx.
- (23) Biodiversity Enhancement: The design of the balancing ponds and surrounding area to the south of the dismantled railway shall include details of biodiversity enhancement which shall be submitted with the reserved matters application relating to this part of the site.
- (24) Lighting: All external lighting shall be designed in such a manner that it achieves all criteria specified for a location defined as being with Environmental Zone E2 as defined by the Institute of Lighting Engineers document Guidance on the prevention of obtrusive light.
- (25) No COU: That the development hereby approved shall be used only for purposes falling within Class B2 and B8 together with ancillary B1 use as specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever.

- (26) % of B2: That no more than 50% of the floorspace of the buildings hereby approved shall be utilised for purposes falling within use class B2 specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005.
- (27) COU does not relate to area beyond dismantled railway line: No buildings or hardstanding for storage or car parking shall be constructed on the land to the south of the dismantled railway line indicated on the approved plans for flood plain, floodplain compensation, balancing ponds and bunds and this area shall be used only for the purposes identified and not for any uses associated with B2 and B8 uses, specified in the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, hereby approved.
- (28) Building Height: No building shall exceed a height of 16m measured externally from the existing land levels.

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

The Committee considered application 12/00237/F for Erection of 3 no. stables. Consideration of the application had been deferred from the May meeting of the Committee to allow for a formal site visit.

Councillor Mike Kerford-Byrnes addressed the Committee as Ward Member. Following his address, he left the meeting for the debate and vote on the application.

Alan Martin, Chairman of Souldern Parish Council, addressed the Committee in opposition to the applicant.

Claire Minnett, the applicant, addressed the Committee in support of the application.

Members considered the impact of the proposal on the lane leading to the site and increased need for vehicle movement if the application were not approved.

In reaching their decision the Committee considered the officers' report, presentation and the presentations of the Ward Member and public speakers.

**Resolved**

That application 12/00237/F be approved, subject to the following conditions:

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

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

- (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.
- (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.
- (5) SC2.8A : Colouring: external walls
- (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.
- (7) SC8.7A Stabling/Manure (RC55C)
- (8) SC4.29AA Source Control Measures

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#### **4 The Rookery, Kidlington**

The Committee considered outline application 12/00460/OUT for Outline – 14 no. residential dwellings with associated road infrastructure, parking and garaging.

Derek Smith, a local resident, addressed the Committee in opposition to the applicant.

David Coates, on behalf of the applicant, and Graham Ayris, a local resident, addressed the Committee in support of the application.

In considering the application, Members commented that the layout and design of the site represented overdevelopment and would have a detrimental impact on adjacent properties.

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

### **Resolved**

That application 12/00460/OUT be refused 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.

25 **Land between Bishops Itchington, Gaydon and Knightcote, South East of the B4451**

The Committee considered application 12/00601/ADJ for the 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). Cherwell District Council was a consultee on this application. Stratford District Council would be determining the application.

Members commented that it was disappointing that parishes in Cherwell District Council affected by the application had not been consulted and requested that officers ensure affected villages in the north of the district are consulted as appropriate.

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

**Resolved**

- (1) That Stratford District Council be advised the Cherwell District Council has no comments on the proposal and officers be requested to ensure affected villages in the north of the district are consulted as appropriate.

26 **Decisions Subject to Various Requirements**

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

**Resolved**

- (1) That the position statement be accepted.

27 **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.

Planning Committee - 21 June 2012  
The meeting ended at 6.25 pm

Chairman:

Date:



### PLANNING COMMITTEE

19 July 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**

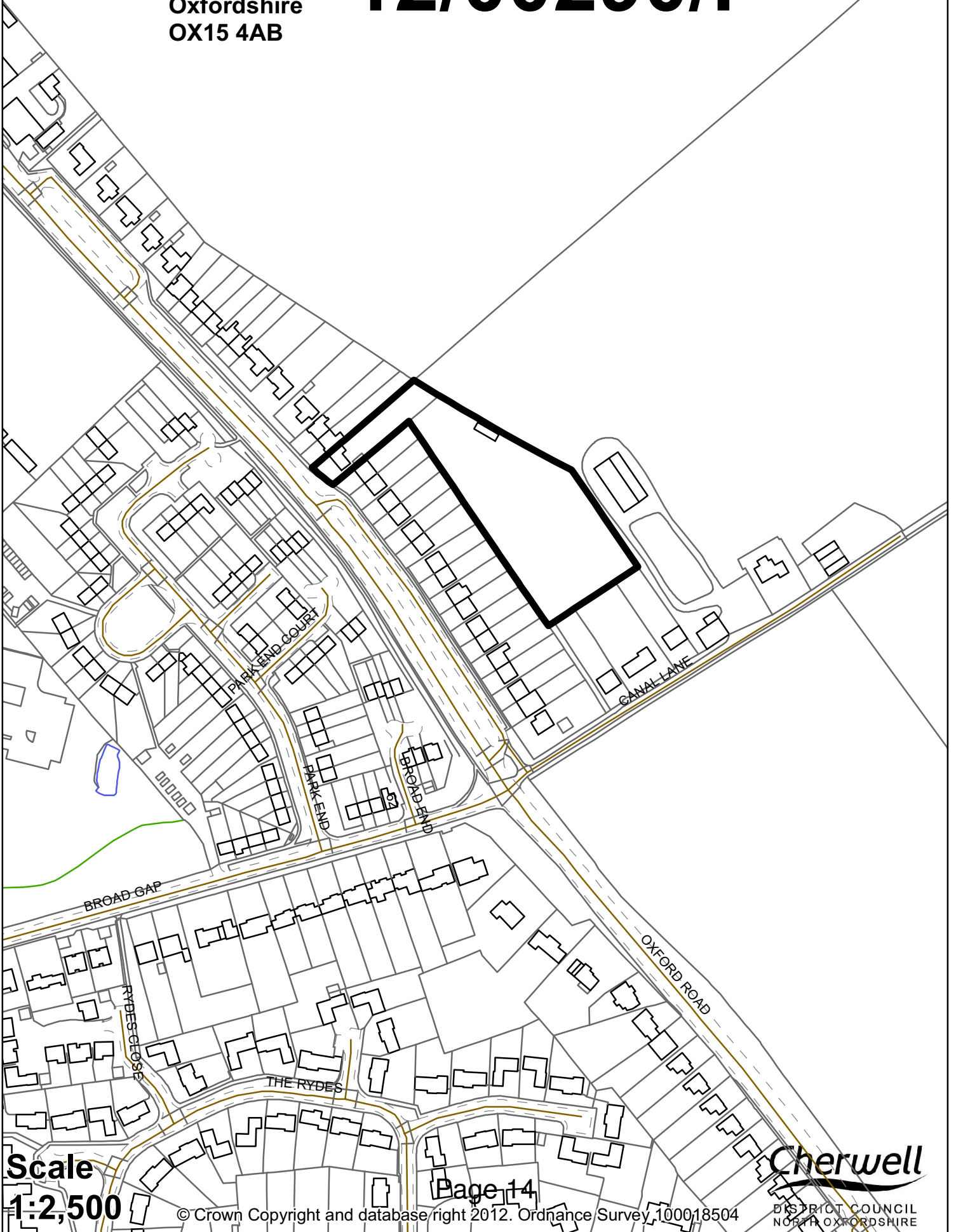
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

## Applications

	<b>Site</b>	<b>Application No.</b>	<b>Ward</b>	<b>Recommendation</b>	<b>Contact Officer</b>
6	33 Oxford Road and land to the rear of Nos. 35-59, Oxford Road, Bodicote, Banbury	12/00290/F	Bloxham and Bodicote	Approval	Caroline Roche
7	Land to the West and South of Numbers 7 to 26 The Green, Chesterton	12/00305/OUT	Chesterton	Refusal	Caroline Roche
8	Calthorpe House, 60 Calthorpe Street, Banbury OX16 5RE	12/00555/OUT	Banbury Grimsbury and Castle	Approval	Graham Wyatt
9	Bishops End, Burdrop, Banbury, Oxfordshire, OX15 5RQ	12/00678/F	Sibford	Refusal	Rebekah Morgan
10	20 Lapsley Drive, Banbury, Oxfordshire, OX16 1EJ	12/00807/F	Banbury Hardwick	Approval	Rebekah Morgan

33 Oxford Road And Land To The Rear Of Nos. 35 - 39  
Oxford Road  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AB

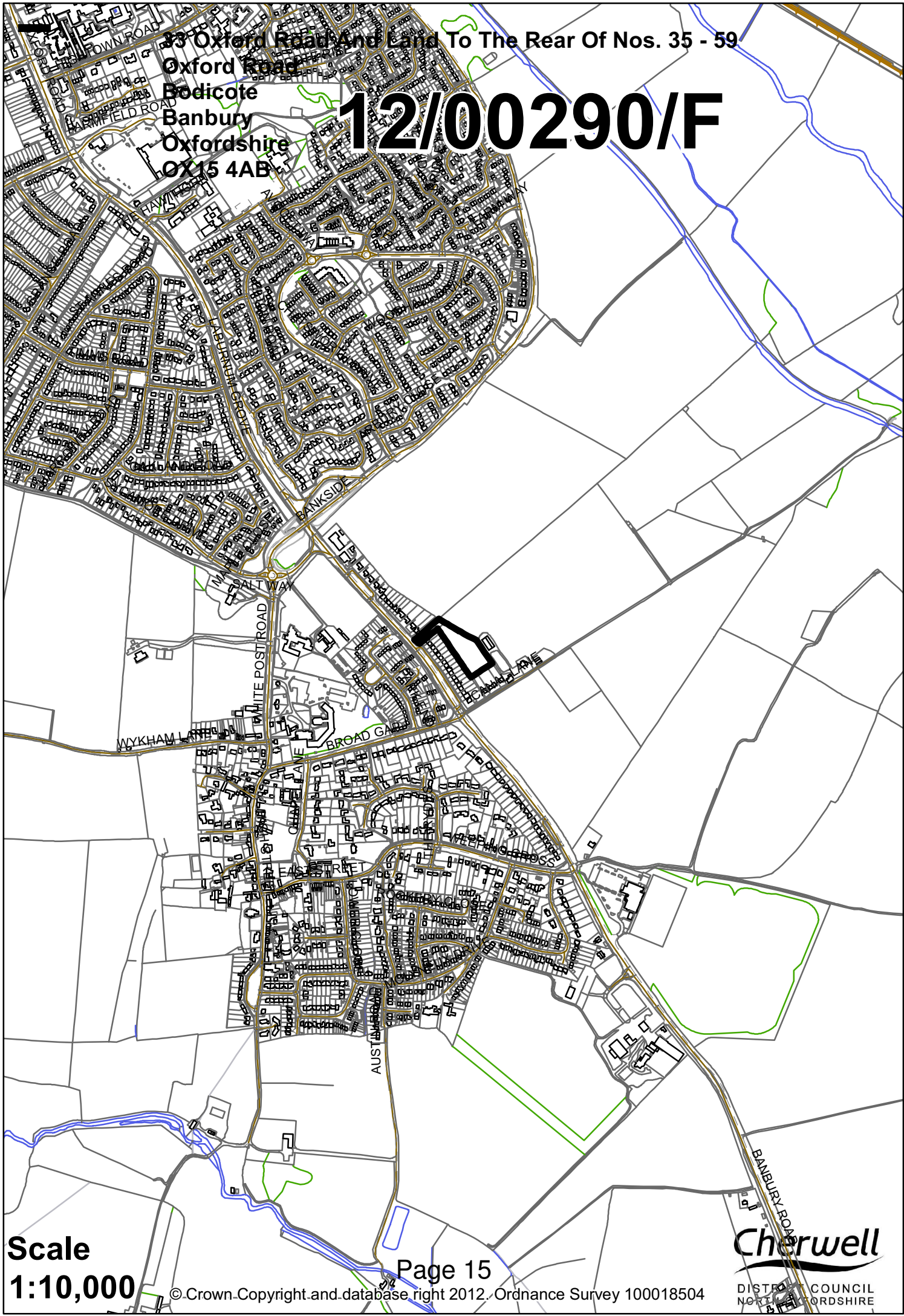
# 12/00290/F



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33 Oxford Road And Land To The Rear Of Nos. 35 - 59  
Oxford Road  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AB

# 12/00290/F



Scale  
1:10,000

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00290/F	<b>Ward:</b> Bloxham and Bodicote	<b>Date Valid:</b> 18/04/2012
<b>Applicant:</b>	Spitfire Property Group	
<b>Site Address:</b>	33 Oxford Road and land to the rear of Nos. 35-59, Oxford Road, Bodicote, Banbury	

**Proposal:** Demolition of 33 Oxford Road and erection of 21 dwellings and new access road – amendment to planning permission 09/00939/F

**Date site visited:** 23/04/12

## 1. Site Description and Proposal

- 1.1 This application site lies to the north east of Oxford Road behind the existing houses that front on to the Oxford Road. The site area is approximately 0.7ha and currently accommodates a single residential property with garage fronting on to Oxford Road and a paddock with a couple of outbuildings to the rear. The paddock extends along the rear garden boundaries of property numbers 33-59 Oxford Road.
- 1.2 The site does not appear to currently be in use and the house has recently been vacated. The site is enclosed by various forms of boundary including hedgerows, fencing, walls, post and wire fence plus there is currently a gated access onto Canal Lane which has been removed from the red line area of the application. With the exception of a few fruit trees in the garden of 33 Oxford Road there are no trees within the site although there are a number either on or adjacent to the boundary. The site is generally flat.
- 1.3 The application site has been the subject of several applications in the past which are covered in more detail in the 'History' section below. This application (i) seeks to reduce the number of proposed dwellings from 23 to 21, (ii) seeks slight amendments to the layout and design of the scheme, (iii) would result in an extension to the time limit given that the consented scheme is due to expire in October of this year and (iv) the applicants ask that in the event of an approval the restriction which links implementation to the implementation of the Bankside development be not included as a condition.
- 1.4 The application is submitted with detailed proposed plans some of which have been amended, a design and access statement, a planning statement for which an addendum has been submitted, a traffic noise report, an updated ecological report and a transport statement. The site is not in an area known to flood and is under the threshold for requiring a full flood risk assessment. The development has also been assessed in relation to the Environmental Impact Assessment Regulations and it is concluded that the proposal does not constitute EIA development and as such it was not necessary for the applicants to submit and Environmental Statement.

## 2. Application Publicity

- 2.1 The application has been advertised by way of three site notices and an advert in the local press. The site notices were located close to no. 33 and no. 51 Oxford Road and at the access to Canal Lane. The final date for comment was 31 May

2012. However comments received up until the date of committee will be considered.

- 2.2 2 letters/emails of objection have been received. Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- There are conditions restricting development taking place until Bodicote/Bankside commences.
- Environmental Impact Assessment should be provided for any medium sized development

### 3. Consultations

- 3.1 **Bodicote Parish Council** objects strongly to the application for the following reasons;

- Objects to removing condition 20 as it was put in place to ensure adequate infrastructure and facilities were provided to serve the residents
- Site is not within current local plan or Non-Statutory Local Plan
- When Bodicote-Bankside is built this site will be classed as infill
- Do not accept that there is a shortfall in housing land supply – letter from Sir Tony Baldry M.P. confirms this
- This site is only infill and sustainable if Bodicote-Bankside is built
- No one bedroom affordable units proposed

- 3.2 **Environment Agency** considers the site and the development to be of low environmental risk and as such did not make full comments on the proposal.

- 3.3 **OCC Highways** comment as follows:

- Proposed access has previously been approved
- More parking required for affordable units and visitor parking
- Garages must meet certain dimensions to be contribute to parking provision
- Transport contribution required
- Construction Traffic Management Plan required in order to protect amenity of neighbouring residents during construction

- 3.4 **OCC Drainage**

Surface water drainage should be considered at the planning stage in order to be able to assess the likely impact on the local area.

- 3.5 **OCC as Mineral Planning Authority** does not object to the application.

- 3.6 **OCC Developer Funding** has requested some standard contributions stating that they are justified on the basis that they will protect the existing levels of infrastructure for local residents and will enable the incorporation of the development into the local community without the community subsidising the development.

- 3.7 **Head of Strategic Planning and the Economy** (Planning Policy, Economic Development, Urban Design)

- In relation to Planning Policy the site lies mostly within the area of land

allocated for the Bankside development in the Non-Statutory Cherwell Local Plan 2011.

- No objection in principle to the development of this site as part of the Bankside urban extension
- Its included in district's overall housing land supply and its early delivery would be helpful in meeting housing need and to the district's overall housing delivery position
- Important to ensure that sufficient infrastructure will be available to serve the development
- Review of links with Bankside development will be needed in terms of the delivery of required infrastructure and the timing of the construction/occupation of the Oxford Road development
- If there is concern that timing of proposed development and the delivery of the Bankside development would not be compatible, it may be necessary to attach a linking condition as was required for the permitted scheme (09/00939/F)
- If development is considered separately from the Bankside development, relevant countryside and village policies would need to be considered, having regard to fact that planning permission has recently been allowed on appeal for 82 homes at Cotefield Farm, Bodicote.

**3.8 Head of Environmental Services (Arboriculture, Landscape Services)**

In terms of visual impact the site is well screened from public vantage points but development will be noticeable from private properties but existing vegetation will provide some screening. Trees and hedgerows are integral to the site so should be protected. The layout could be amended to provide more opportunity for screening between new dwellings and the boundary. The LAP is not centrally located and does not provide sufficient space for a buffer. Public and private open space and should be clearly defined. Detailed landscaping plans are required and the necessary financial contributions are sought.

**3.9 Head of Community Services (Safer Communities, Nature Conservation, ROW)**

In relation to ecology the 2009 and 2012 ecological surveys found no evidence of protected species using the site. The 2009 emergence survey found no bats to be roosting in the buildings proposed for demolition and the condition of the brick outbuilding has deteriorated further making it less attractive to bats. The brick building and hedgerows do have potential to support nesting birds which are protected. Conditions are proposed.

In relation to Rights of Way there are no objections but clarification sought regarding the track leading to Canal Lane.

**3.10 Thames Valley Crime Prevention Design Advisor:**

- Link to Canal Lane may make plot 8 vulnerable to casual intrusion
- Hedgerows do not provide secure boundary to residential gardens
- Some areas of car parking not overlooked
- Access path to rear of plots 19-21 and 17 and 18 not secure

**4. Policy Considerations**

**National Planning Policy Framework**

Core planning principles and the delivery of sustainable development and a presumption that where plans are absent,

silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, 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
- 10: Meeting the challenge of climate change, flooding and coastal change
- 11: Conserving and enhancing the natural environment

## **South East Plan 2009**

### **Spatial Strategy**

SP3: Focus for development on urban areas

### **Cross Cutting – Policies**

CC1: Sustainable Development

CC2: Climate Change

CC4: Sustainable Design and Construction

CC6: Sustainable Communities & Character of the Environment

CC7: Infrastructure and Implementation

### **Housing – Policies**

H1: Regional Housing Provision 2006 - 2026

H2: Managing the Delivery of the Regional Housing Provision

H3: Affordable Housing

H4: Type and Size of New Housing

H5: Housing Design and Density

### **Transport – Policies**

T1: Manage and Invest

T4: Parking

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

NRM1: Sustainable Water Resources & Groundwater Quality

NRM2: Water Quality

NRM4: Sustainable Flood Risk Management

NRM5: Conservation and Improvement of Biodiversity

NRM11: Development Design for Energy Efficiency and Renewable Energy

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

C4: Landscape and Countryside Management

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

BE1: Management for an Urban Renaissance Scotland2012

### **Social and Community Infrastructure – Policy**

S1: Supporting Healthy Communities

S3: Education and skills

### **Central Oxfordshire – Policies**



	CO1: Core Strategy CO3: Scale and Distribution of Housing
<b>Adopted Cherwell Local Plan 1996 Saved Policies</b>	H5: Affordable housing H12: Housing in rural areas H13: Housing in Category I Settlements H18: New dwellings in the countryside TR1: Transportation Funding R12: Public Open Space provision within new housing developments C2: Protected Species C7: Landscape conservation C8: Sporadic development in open countryside C9: Compatibility of development with rural location C13: Areas of High Landscape Value C28: Design, layout etc standards C30: Design control
<b>Non-Statutory Cherwell Local Plan 2011</b>	<b>Housing</b> policies H1a, H1b, H3, H4, H7, H10, H15, H19 <b>Transport &amp; Development</b> policies TR1, TR3, TR4, TR5, TR8 & TR11  <b>Recreation &amp; Community Facilities</b> policies R8, R9, R10A  <b>Conserving &amp; Enhancing the Environment</b> policies EN1, EN15, EN17, EN24, EN25, EN30, EN34.  <b>Urban Design &amp; The Built Environment</b> policies D1, D3, D5 & D6 and D9
<b>The Cherwell Local Plan Proposed Submission Draft May 2012</b>	<b>Sustainable communities</b> BSC1: District wide housing distribution BSC2: Effective and efficient use of land BSC3: Affordable housing BSC4: Housing mix BSC10: Open space, sport and recreation provision BSC11: Local standards of provision – outdoor recreation BSC12: Indoor sport, recreation and community facilities <b>Sustainable development</b> ESD1: Mitigating and adapting to climate change ESD6: Sustainable flood risk management ESD7: Sustainable drainage systems ESD8: Water resources ESD10: Biodiversity and the natural environment ESD13: Local landscape protection and enhancement ESD15: Green boundaries to growth ESD16: Character of the built environment  Policy for villages 1 – Village categorisation Policy for villages 2 – Distributing growth across the rural areas

## 5. Appraisal

5.2 The key issues for consideration in this application are:

- History
- Policy Context
- Housing land supply
- Infrastructure Provision and S106
- Character and appearance
- Neighbouring amenities
- Access and highway safety
- Other issues

### 5.3 History

This site has been the subject of several previous planning applications.

**CHN.90/00173** – Demolition of house to give access for residential development – Refused. Appeal dismissed

**05/02300/OUT** – Demolition of 33 Oxford Road and erection of 23 dwellings - withdrawn

**06/00432/OUT** Planning permission refused for the demolition of 33 Oxford Road and the erection of 23 dwellings by the Council for reasons relating to the proposed access and highway safety concerns. On appeal however an Inspector found that there would be no adverse impacts on highway safety but instead that there was a lack of community benefits arising from the scheme given that there was no signed obligation presented at the time. He also concluded that the appeal site constitutes a green field site lying in open countryside outside the built-up limits of any defined settlement and that the proposal was in conflict with the provision of the adopted Local Plan

**06/02293/OUT** Planning permission granted for the same development as above subject to several conditions, one of which was a restriction on the development taking place until the lawful implementation of any development permitted pursuant to the planning application reference 05/01337/OUT (Bodicote/Bankside). The reason for this was to ensure that adequate infrastructure and facilities are provided to serve the residents of the proposed development.

**09/00939/F** Planning permission was granted once again for the same development but in the form of a full application. Consent was granted for another three year period but with a similar condition (Condition 20) restricting the development from taking place until the lawful implementation of 05/01337/OUT.

**10/00635/F** Planning permission refused to remove condition 20 from the previous consent in order that the development could come forward before the implementation of the Bodicote/Bankside development. The application was refused for the following reasons;

*The proposed removal of condition 20 would allow the development of 23 houses to the rear of 33-59 Oxford Road prior to the commencement of the Bankside application scheme under permission 05/01337/OUT. Development of the site prior to the commencement of 05/01337/OUT would not meet the requirements of Policy H10 of the Non-Statutory Cherwell Local Plan in seeking a comprehensive scheme for the site and furthermore as a small independent development its*

*development at the current time would be considered contrary to Local Plan Policy H13 falling outside the built up limits of Bodicote. In addition, the proposed 23 houses would place additional pressure on existing community facilities secured under the outline planning permission for the Bankside application and therefore additional houses on the site to the rear of 33-59 Oxford Road would increase pressure on existing facilities and there would be little control to ensure new facilities are provided for further housing development.*

#### **5.4 Policy Context**

5.4.1 The adopted Local Plan under policy H13 identifies Bodicote as suitable for infilling, minor development and conversions. The area of land the subject of this application falls outside of the built up limits of Bodicote. The site also falls within the allocation relating to Policy H10 of the Non-Statutory Local Plan which seeks a comprehensive scheme for the development of the allocation for up to 950 houses. Outline planning permission has been granted on part of the H10 allocation, known as Bankside (05/01337/OUT).

5.4.2 Development of the application site prior to the commencement of 05/01337/OUT would not meet the requirements of policy H10 of the NSCLP in seeking a comprehensive scheme for the site and furthermore as a small independent development would be considered contrary to Local Plan Policy H13 falling outside the built up limits of Bodicote. Once development under 05/01377/OUT comes forward the development of the site would no longer be considered to fall outside the built up area of Bodicote and would be considered to meet the requirements of the allocation under policy H10 of the NSCLP.

5.4.3 Whilst the Proposed Submission Draft Cherwell Local Plan carries limited weight it is a material consideration. There are no specific policies in it which relate to this site. Bodicote does however remain as a Category A village where development is expected to be restricted to minor development, infilling and conversions. However it is 1 of 6 villages that may be expected to accommodate in the region of 500 new homes between them. If divided broadly equally this could equate to approximately 83 dwellings each and it may be relevant to note however the decision to allow development at Cotefield Farm which allowed for 82 dwellings.

5.4.4 At the heart of the NPPF is a presumption in favour of sustainable development. Other elements of the NPPF and its implications in relation to this development are discussed below.

#### **5.5 Housing Land Supply**

5.5.1 The NPPF requires that in order to significantly boost the supply of houses local authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing. It is clear from the response of Bodicote Parish Council that they object to this application coming forward, one of the reasons for their objection is the belief that the Council does have a five year supply of housing land. The Parish Council consider that all sites with planning permission should be considered deliverable and as such should be included in the 5 year supply calculation. However the Council has received legal clarification on this point following the deferral of the application at Bourne Lane in Hook Norton. The conclusion to this was that footnote 11 is clear in stating that sites with planning permission should be considered deliverable until permission expires,

unless there is clear evidence that schemes will not be implemented within five years. This does not therefore alter the way in which this Council has previously calculated the housing land supply figures and as such the Council remains in a position where it can only demonstrate it has a 3.1 year supply of housing land. In addition to this the appeal decision for Adderbury does not dispute that the Council only has 3.1 years.

5.5.2 It is important to remember that the principle of development of this site has already been established and that the number of dwellings has already been included in the AMR as coming forward within the next 5 years. However if this application is refused the existing consent is likely to expire and the housing land supply figure would reduce slightly. By allowing the development to go forward without relying on the implementation of Bankside could result in these houses being built in the next 12 months, as suggested by the applicants, and giving more certainty to and maintaining the housing land supply position. This is a small contribution but it would seem reasonable to bring forward developments that have already been established in principle potentially reducing the pressure to approve other schemes that may result in more harm.

5.5.3 When the application to remove condition 20 was considered in 2010 the Council had an identified shortage in housing land supply but the figure was 4.6 years. This was not considered to be a significant shortfall so there was less of a justification to bring this development forward than exists now

5.5.4 The benefit of bringing this development forward in relation to the housing land supply position has significant weight in the consideration of this application, however it has to be balanced against the impact the development will have on the local infrastructure.

## 5.6 **Infrastructure Provision and S106**

5.6.1 Notwithstanding the fact that the development of this site, separate from Bankside would be contrary to Policy H10 of the NSCLP which required a comprehensive scheme and village policies restricting development outside the built up limits of villages the other major concern is whether or not there is sufficient infrastructure to support the development. It has been agreed previously that the residents of the new development would benefit from the new facilities to be provided by the Bankside development for which contributions would also be sought from this development, hence the linking condition on previous consents. This is certainly expected to be the case in the long term when sufficient phases of development have occurred triggering the requirement to provide certain facilities, but facilities such as the community park and the community building may not be completed and available for use until 450 dwellings are occupied on the Bankside development site. Other thresholds apply to the school and healthcare provision. This means that even with a condition in place restricting development coming forward until the implementation of Bankside there would be a period of time when the residents of this development would utilise existing facilities in Bodicote and Banbury. Allowing the development before the implementation of Bankside may mean that the pressure on existing facilities is slightly greater for a slightly longer period of time. However, the signed S106 agreement relating to the consented scheme, which is expected to be amended in relation to this scheme, did not specify that the secured funds would necessarily be spent on facilities at Bankside. Therefore there is the opportunity to use some of the contributions to secure

infrastructure improvements in the short term where it is considered necessary and appropriate.

- 5.6.2 For example in relation to education, Oxfordshire County Council as education authority considered that whilst the two developments may proceed independently of one another funding for service infrastructure to support either will follow rather than precede the need. Children resident in the houses proposed as part of this scheme will attend the Bankside school when it is built, however before it is built it is likely that they would attend Harrier's Grounds School which has plans for expansion to accommodate children from other developments in Banbury. Dependant on timing the education contribution could be used for either school. Given this summary it would seem that whilst it would be preferable for children on this development site to attend the Bankside School there would be alternatives available and as such in relation to education this development does not solely rely on Bankside being implemented.
- 5.6.3 The issue is therefore largely one of timing. It is fully expected that the Bankside development will begin to come forward in the near future as there are additional signs of progress being made with the discharge of conditions and an expectation that a reserved matters application will be submitted in the near future. The previous restrictive condition only required that the development did not commence until the lawful implementation of the Bankside scheme. That implementation could be as little as laying the access roads or starting on foundations for one parcel of development. This form of implementation would therefore not automatically lead to the provision of facilities as discussed above.
- 5.6.4 The applicants are willing to enter into a S106 agreement that secures contributions towards community infrastructure. However they are seeking to bring the development forward sooner than the implementation of the Bankside development. Previously the development has been tied to the implementation of the Bankside development as the larger scheme would have delivered the required facilities for the urban extension such as a primary school, sports pitches, mixed use area, community park, highway improvements and public transport. However as discussed above this needs to be weighed against the need to assist with the Council's housing land supply position and the NPPF's emphasis on bringing development forward unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
- 5.6.5 There are now more encouraging signs than previously that Bankside will come forward. It is therefore expected that eventually all the facilities will be provided to serve this application site. There was always going to be an interim period when properties could be occupied on the application site before the facilities were provided on the Bankside development, this interim period may however be longer if a restrictive condition is not imposed. Given that there are likely to be infrastructure contributions secured to mitigate any impact it is not considered that any significant harm will arise from this scenario, especially given the sites proximity to Banbury. In this instance, in the interest of contributing to the housing land supply it is considered that the development should be allowed to come forward earlier than the implementation of the Bankside scheme.

## **5.7 Character and Appearance**

- 5.7.1 The layout of the site is similar in many respects to the layout approved in 2009.

An access road enters the site where 33 Oxford Road is to be demolished and there are dwellings located either side of and at the end of the access road. The original scheme did include a few affordable flats but these have been replaced with terraced properties (also affordable) as there is currently no demand for small affordable flats in the immediate area. The scheme includes a range of terraced, semi-detached and detached dwellings of various sizes. There are no prominent accessible public views of the site therefore its impact on the visual amenity of the area will be limited. The design of the properties is fairly simple and traditional and in keeping with the scale of properties in the vicinity. It is not considered that the development will cause harm in respect of its impact on the character and appearance of the area and as such complies with the relevant policies listed above.

## **5.8 Neighbouring Amenity**

- 5.8.1 Similar distances are maintained between the new properties and the existing properties on Oxford Road as were approved in the earlier application. This means that there is a back to back distance of approximately 35 metres in most instances. This meets the Council's informal space standards for seeking to protect private amenity and limit overlooking. In order to provide additional parking spaces there are some instances where garages are closer to existing properties than the actual houses. The garages have a height of 5 metres, with roofs pitched away from the neighbouring garden and will be screened by existing boundary treatments. Furthermore the properties and their garages will be to the north of the existing gardens therefore will not cause any adverse overshadowing.
- 5.8.2 The proposed access road is to run between 31 and 35 Oxford Road and as such may have resulted in harm to the amenities of the residents. However this was assessed as part of previous applications and appeals and was considered not to be sufficient to warrant refusal providing a 2 metre high close boarded fence was provided along the boundaries with these properties. Whilst there may have been some preference for a wall this was not considered necessary to mitigate the impact and furthermore it is likely that it would cause harm to trees along the shared boundary.
- 5.8.3 It is not considered that this development will result in any demonstrable harm to the amenities of neighbouring residents.

## **5.9 Access and Highway Safety**

- 5.9.1 The Council has previously objected to this application on the grounds that a suitable access could not be achieved without causing harm to highway safety. However this was not supported by an appeal inspector and subsequent applications have been approved with the same access arrangements. The Local Highway Authority (LHA) has not objected to the scheme but did request that certain amendments be made to the detail of the layout. Changes have been made and a further round of consultation is taking place with the LHA.

## **5.10 Other Matters**

- 5.10.1 The proposal is not likely to result in flooding but the applicants were asked to give further consideration to the surface water drainage strategy. In response they have said;

*Following discussions with Oxfordshire County Council they have initially confirmed that surface water from the proposed development could be connected into the existing highway drain in Oxford Road. Flows from the site would be required to be restricted to existing greenfield run-off of circa. 5l/s. In order to achieve a suitable rate of discharge on-site would be required. A large volume of this storage could be accommodated within the sub base area of a porous road/parking areas in conjunction with other SUDS technologies to deal with surface water run-off from the roofs of the proposed dwellings.*

5.10.2 This is sufficient to satisfy the Council that an appropriate strategy could be put in place and a suitable condition will be imposed to require details to be submitted.

5.10.3 In relation to ecology there was no evidence on site that there were protected species. However various parts of the site and existing buildings may be suitable to support bats and nesting birds. Therefore it is necessary to impose appropriate conditions relating to ecology to ensure that when works takes place there are no protected species that will be harmed as a result of the development.

5.10.4 In relation to the impact on trees there are no trees worthy of protection within the actual development site. However appropriate measures will need to be taken to protect the trees that are located along the development boundary.

5.10.5 The scheme provides 30% affordable housing which meets the current policy requirement and as such weighs in favour of approving the scheme.

## 5.11 **Conclusion**

5.11.1 Development of this site in isolation is contrary to local plan policies. However it has been established through previous consents and draft allocations that this site is suitable for development. There is a need to bring forward developments in order to improve the Council's housing land supply position. Bringing this development forward prior to Bankside may have implications on infrastructure demand and provision but a full package of s106 contributions will be required. Given the pro-development emphasis of the NPPF it is considered that there are no factors that would significantly or demonstrably outweigh the benefits of bringing this development forward and not linking it to the implementation of the Bankside development. It is therefore recommended that on this occasion the application be approved subject to the criteria and conditions below.

5.11.2 Notwithstanding the recommendation, if Members remained concerned about the implementation of this development prior to the implementation of the Bankside development it is recommended that the scheme still be approved and a condition be imposed linking this development to the implementation of Bankside, as has occurred on previous consents. If the application were to be refused in its entirety the existing consent would lapse and the housing land supply would reduce as a result.

## 6. **Recommendation**

**Approval** subject to:

a) The applicant/s entering into an appropriate legal agreement to the satisfaction of

the District Council to secure financial contributions,

b) the expiry of the re-consultation period

c) the following conditions:

- 1 SC1.4A Full Permission: Duration Limit (3 years) (RC2)
- 2 Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents listed below:  
  
Planning Support Statement by Stansgate Planning dated March 2012 and its Addendum dated June 2012, Design and Access Statement by Malcolm Payne Group dated February 2012, Update Phase 1 and Protected Species Survey Assessment by Worcestershire Wildlife Consultancy dated April 2012, Transport Statement by Banners Gate dated March 2012, Traffic Noise impact report by Hoare Lea and dwg nos. (to be completed) received with the application.  
Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.
- 3 SC2.0 Details of materials and external finishes (RC4A)
- 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.
  - (d) details to also include planting of small trees along the southern edge of the development.
  - (e) details also to include planting of an avenue of trees through the entrance road to the site, through to the point of exit of the proposed pathway link to Bankside.Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.
- 5 SC3.1A Carry out Landscaping Scheme and Replacements (RC10A)
- 6 That except to allow for the means of access and vision splays the existing hedgerow/trees along the north east boundary of the site shall be retained and properly maintained at a height of not less than 2 metres, and that any hedgerow/tree which may die within five years from the completion of the development shall be replaced and thereafter be properly maintained in accordance with this condition.  
Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C4 of the South



East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

- 7 Prior to the commencement of the development hereby permitted details of the provision, landscaping and treatment of open space/play space within the site shall be submitted to and approved in writing by the Local Planning Authority. The open space/play space, once approved shall be landscaped, laid out and completed in accordance with the details approved and within a time period to be first approved in writing by the Local Planning Authority and thereafter retained as open space/play space.  
Reason - In the interests of amenity, to ensure the creation of a pleasant environment for the development with appropriate open space/play space and to comply with Policy BE1 of the South East Plan 2009 and Policy R12 of the adopted Cherwell Local Plan.
- 8 The applicant shall give written notice to the Local Planning Authority of 7 working days prior to carrying out the approved tree works and any operations that present a particular risk to trees (e.g. demolition within or close to a Root Protection Area (RPA), excavations within or close to a RPA, piling, etc).  
Reason - To ensure that no proposed operations impair the health of any retained trees in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan
- 9 That full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure, in respect of those dwellings which it is intended shall be screened, shall be erected prior to the first occupation of those dwellings.  
Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan.
- 10 That prior to the construction of the dwellings, the proposed means of access between the land and the highway shall be formed, laid out and constructed strictly in accordance with Oxfordshire County Council's specification, and that all ancillary works therein specified shall be undertaken in accordance with the said specification.  
Reason - In the interests of highway safety and to comply with Government advice contained in the NPPF.
- 11 That the vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding 0.6 metres as measured from the carriageway level.  
Reason - In the interests of highway safety and to comply with Government advice contained in the NPPF.
- 12 That, before any of the dwellings are first occupied, the whole of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained to the Oxfordshire County Council's "Conditions and Specifications for the Construction of Roads."  
Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in the NPPF.

- 13 That, before any of the dwellings are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.  
Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government advice in the NPPF.
- 14 That before the development is first occupied, the parking and manoeuvring areas shall be provided in accordance with the plan hereby approved and shall be constructed, laid out, surfaced, drained and completed in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.  
Reason - In the interests of highway safety and to comply with Government advice contained in the NPPF.
- 15 Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.  
Reason - In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Policy T5 of the South East Plan 2009.
- 16 SC 4.14DD Green Travel Plan (RC66A)
- 17 Prior to the commencement of development a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority.  
Reason: In the interests of highway safety and to protect the amenities of neighbouring residents during the construction phase.
- 18 Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".  
Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Government advice in the NPPF, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.
- 19 That, notwithstanding the provisions of Classes A to E (inc.) of Part 1, of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the approved dwelling(s) shall not be extended (nor shall any structures be erected within the curtilage of the

said dwelling(s) without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan.

- 20 That, notwithstanding the provisions of Classes A, B and C of Part 1, of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, no new window(s) or other openings, other than those shown on the approved plans, shall be inserted in the walls or roof of the building without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development in order to safeguard the amenities of the occupants of the adjoining dwellings and prevent overlooking in accordance with Policy C30 of the adopted Cherwell Local Plan.

- 21 That, notwithstanding the provisions of Class A of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the garage(s) shown on the approved plans shall not be converted to provide additional living accommodation without the prior express planning consent of the Local Planning Authority.

Reason - To ensure that satisfactory provision is made for the parking of vehicles on site and clear of the highway in accordance with Policy T4 of the South East Plan 2009.

- 22 Prior to the commencement of the development hereby permitted, a comprehensive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

- 23 If contamination is found by undertaking the work carried out under condition 22, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason - To ensure that risks from land contamination to the future users of the

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

- 24 If remedial works have been identified in condition 22, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 23. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.  
Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan.
- 25 No development shall commence until a S278 Agreement has been entered with the County Council for the access works necessary within the public highway.  
Reason - Works are required within the public highway to accommodate a satisfactory access into the site and to comply with South East Plan Policy T1 and Cherwell Local Plan Policy TR2.
- 26 No development shall be commenced until details and plans of the screening fence/Wall to be provided alongside Nos 31 and 35 Oxford Road have been submitted to and approved in writing by the Local Planning Authority. The approved fencing/walling shall be installed prior to the commencement of the works on site and thereafter be maintained at all times.  
Reason - To alleviate noise levels for nos.31 and 35 Oxford Road and comply with Cherwell Local Plan policy ENV1.
- 27 Provision shall be made within the layout to accommodate a footpath/cyclepath link between the site and land to the East and the footpath/cyclepath shall be provided up to the boundary of the site in the position approved to an adoptable standard.  
Reason - To ensure that the opportunity is provided to create footpath/cyclepath links to local facilities to encourage travel by means other than the private car in accordance with South East Plan T1.
- 28 That no means of access whatsoever shall be formed or used between the land identified in this application and Canal Lane.  
Reason - In the interests of highway safety and to comply with government advice contained in the NPPF and South East Plan Policy T1.
- 29 No external lighting whatsoever shall be placed on the rear walls or roof of the buildings or sited in the rear gardens of plots 7-15 inclusive without the prior express planning consent of the Local Planning Authority.  
  
Reason - To enable the Local Planning Authority to retain planning control over the development in order to safeguard the amenities of the occupants of the adjoining dwellings in accordance with Policy C30 of the adopted Cherwell Local Plan
- 30 That the approved Bat mitigation detailed in the Ecological Survey commissioned in June 2009 by Jonathan Flint and the updated Phase 1 and protected Species survey assessment dated April 2012 shall be implemented in full as part of the

development and all bat boxes installed as part of the approved mitigation scheme shall not be removed or destroyed and if they become damaged shall be repaired or replaced and thereafter properly maintained.

Reason - To ensure the protection of Bats and the environment in accordance with the Cherwell Local Plan policy C1

No removal of trees or hedgerows is to take place between the months of March and August inclusive unless supervised by a suitably qualified ecologist checking for the presence of nesting birds. If active nests are found to be present than clearance works in that area will need to be delayed until the chicks have fledged. (RC86A)

- 31 No works of site clearance, demolition or development are to take place until a biodiversity enhancement strategy has been submitted to CDC for approval. This is to detail the number, type and location of bird nesting and bat roosting boxes/tubes to be provided. Swift and/or sparrow as well as general bird nest boxes would be suitable for this location. All works are to proceed in accordance with the approved document.

Reason: To encourage biodiversity enhancement within the area.

**Planning Notes:**

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

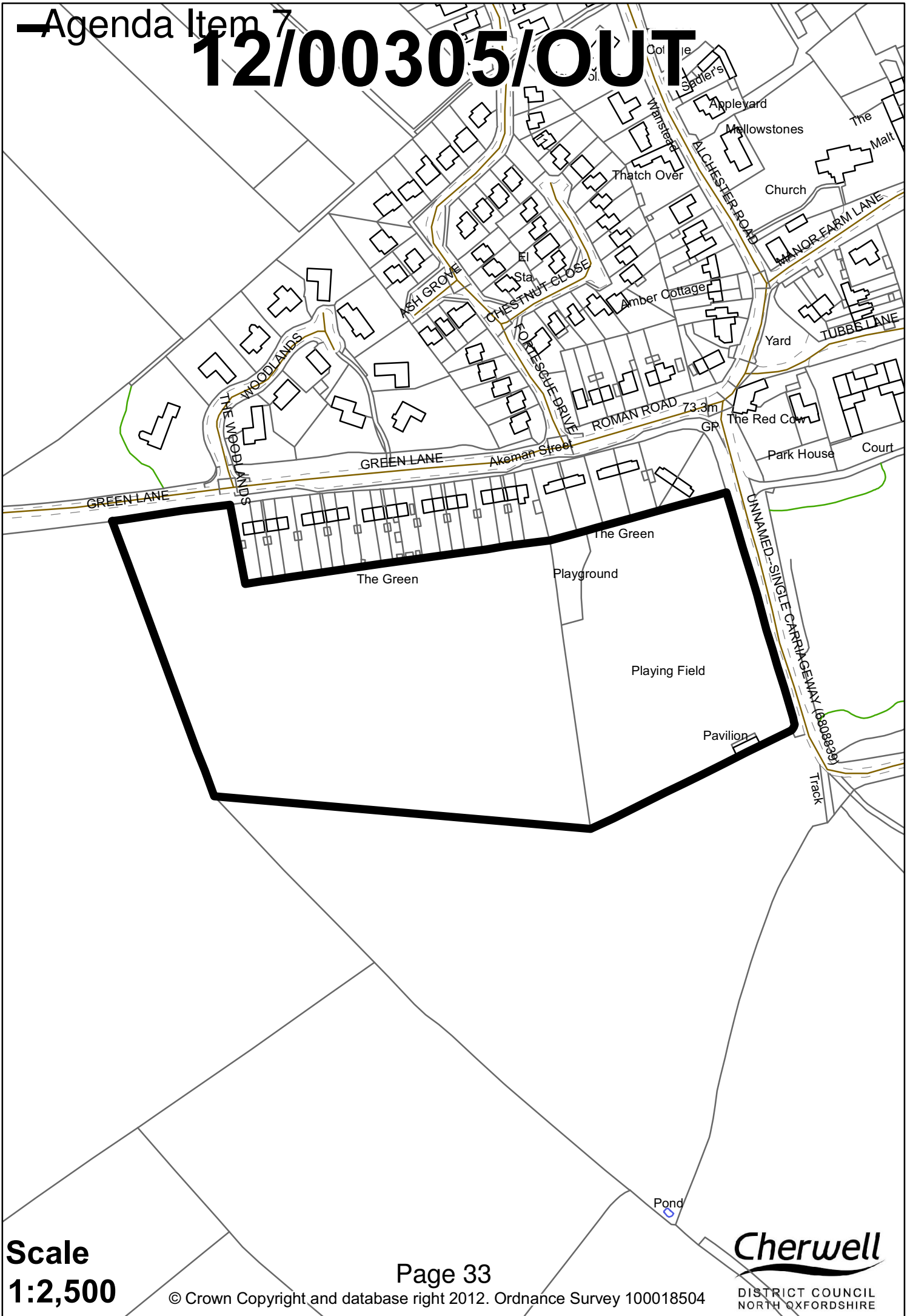
**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

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 acceptable on its planning merits as the proposal is not considered to be detrimental to the residential amenities of the neighbouring properties and is not considered to impact on ecology or highway safety. The site is identified within the Bankside allocation, Policy H10 of the Non-Statutory Cherwell Local Plan (2011). The proposal is also in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan and Policies CC1, CC6, CC7 of the South East Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved subject to appropriate conditions, as set out above.

<b>CONTACT OFFICER:</b> Caroline Roche
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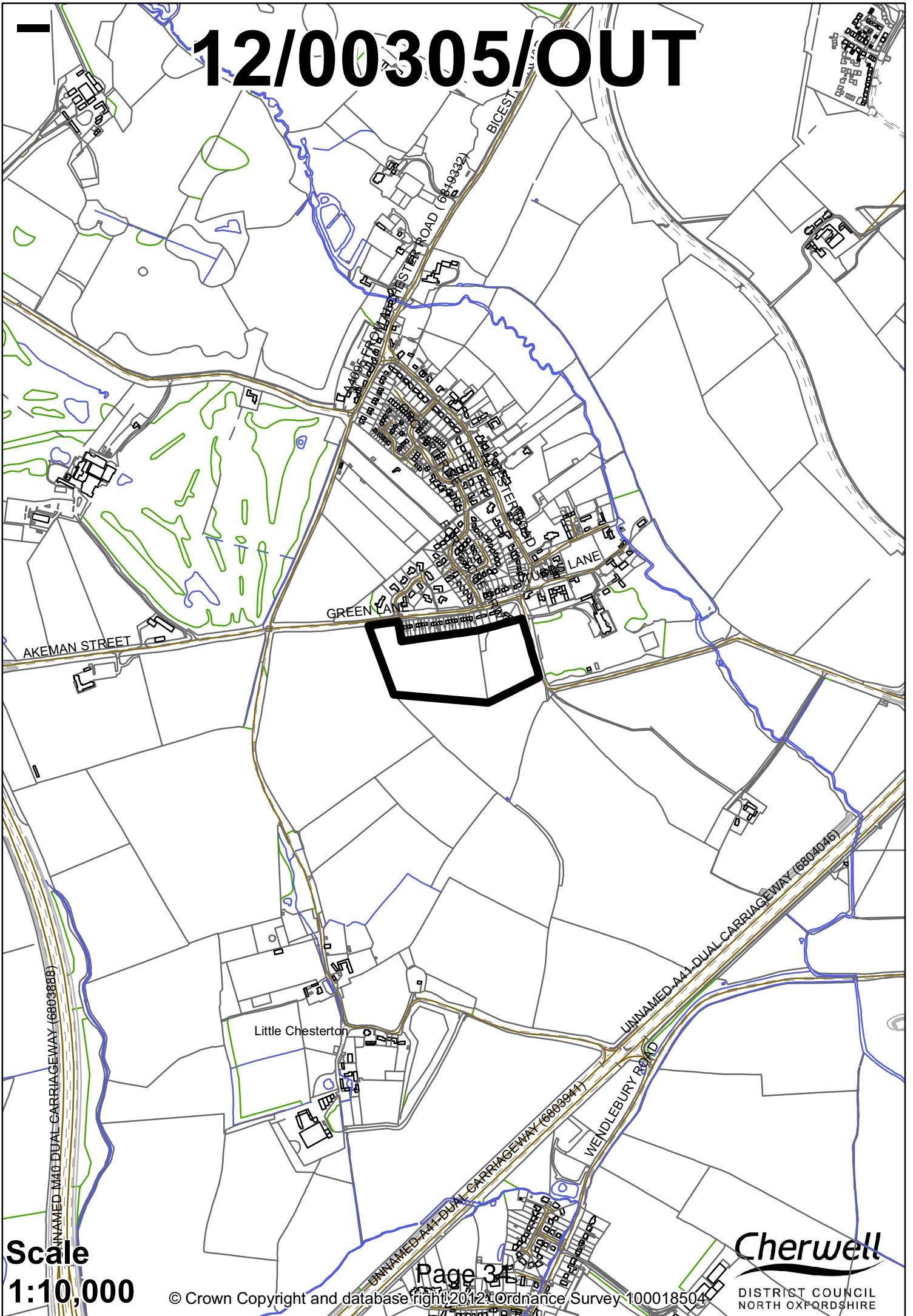
<b>TELEPHONE NO:</b> 01295 221816
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# 12/00305/OUT



Scale  
1:2,500

# 12/00305/OUT



Scale  
1:10,000

<b>Application</b> 12/00305/OUT	<b>No:</b>	<b>Ward:</b> Chesterton	<b>Date Valid:</b> 20/03/2012
<b>Applicant:</b>	Hill Residential		
<b>Site Address:</b>	Land to the West and South of Numbers 7 to 26 The Green, Chesterton		

**Proposal:** OUTLINE – Erection of 44 dwellings, village hall/sports pavilion and associated car parking, enlarged playing pitches, new children’s play area, access and landscaping

**Date site visited:** 05/04/2012

### 1. Site Description and Proposal

- 1.1 This application is for outline planning permission for 44 dwellings and associated development as set out in the proposal above. The dwellings are proposed to be located to the western section of the site whilst the sports pitches, village hall/sports pavilion and majority of the play space is proposed to the eastern section of the site. The south western corner of the site is proposed to be maintained as informal open space. The site for housing is currently agricultural land whilst the area proposed for recreational use is currently used as such. 35% of the dwellings are proposed to be affordable units.
- 1.2 The northern boundary of the site is bounded by the rear enclosures of residential properties, the eastern boundary runs parallel with the road to Wendlebury whilst the other boundaries are defined by hedgerows beyond which is further open agricultural land. The site is relatively flat in its topography.
- 1.3 With the exception of the access and layout all other matters are reserved for consideration through the submission of reserved matters applications in the future.
- 1.4 A layout plan is submitted for consideration. Also submitted for consideration is a Design and Access Statement, Supporting Statement, Transport Statement, Flood Risk Assessment, Archaeological Evaluation, Extended Phase 1 Habitat survey and a Code for Sustainable Homes Ecological Assessment.

### 2. Application Publicity

- 2.1 The application has been advertised by way of three site notices and an advert in the local press. The site notices were located close to no. 8 and no. 26 The Green and at the access to the sports pitch. The final date for comment was 26<sup>th</sup> April 2012. However comments received up until the date of committee will be considered.
- 2.2 16 letters/emails of objection have been received. Full details are available electronically via the Council’s website.

The material planning considerations raised as objections are as follows:

- Lack of need for additional houses
- Loss of green fields/outside built up limits
- Won’t integrate into rest of village



- Sufficient houses being provided in Kingsmere and elsewhere in Bicester – which will also provide affordable
- Nothing has changed since the previous refusal by the Inspectorate
- Approval would set a precedent
- Poor public transport links
- Is there a genuine need for village shop
- Play area already updated and hardly used, waste of village money to demolish and rebuild
- Current village hall is sufficient for village needs, school hall already used as alternative
- Proposed hall not central to village
- Added pressure on highway infrastructure
- Cricket green should be kept independent from the pitches
- Pitches already adequate – changes should be in the best interest of village not just the football club
- Insufficient parking provided for pitches
- 44 dwellings still too many
- Village already has new sports pavilion
- Adverse neighbour impact – view, privacy, light
- Not the level of support as portrayed by the Parish Council
- Contrary to policies
- No proper consultation with the village residents
- Other sites more appropriate for development
- Village not sustainable
- Impact on rural character
- Access to the pitches should be from Alchester Road and not through the development
- School not at risk as it has a wider catchment than just the village
- Should not even entertain such an application
- Further traffic calming should be required
- The Parish Council's suggestion about the access from Alchester Road would not work.

12 letters/emails of support have been received. Matters raised in support are as follows:

- In best long term and medium term interests of the village
- Help protect village school
- New village hall/pavilion will replace outdated small village hall
- Village in need of affordable housing, new hall and sports/play facilities
- Will remove dangerous parking from the road
- Future schemes for housing are unlikely to offer the same benefits
- Need for affordable housing
- Kingsmere will not bring any benefits to Chesterton

1 letter neither supporting or objecting to the application but balancing the pros and cons of the development set out in the comments above.

### 3. Consultations

- 3.1 **Chesterton Parish Council** does not object to the application but make the following comments;

- Concerns over parking facilities for visitors to the playing field
- Currently proposed access to pitches may cause nuisance to new residents
- Insufficient parking spaces provided for weekend use of the pitches
- Provision for parking should be provided behind the new community centre with access coming off Alchester Road

3.2 **Environment Agency** comment as follows:  
No objections subject to conditions.

3.3 **OCC Highways** comment as follows:

- Acceptable access arrangements, including emergency access
- Transport Statement shows there is unlikely to be an impact on the local highway network as a result of the development
- Previous accidents of Green Lane appear to have been driver error rather than a result of the characteristics of Green Lane
- Some design elements will need further consideration
- Off site works required to extend 30mph zone, relocate gateway feature and increase traffic calming measures
- Refusal on highway grounds would not be sustainable at appeal

3.4 **Head of Strategic Planning and the Economy**, Planning Policy, has made very detailed comments, which are incorporated into the main report below however the conclusions are set out here;  
From a Planning Policy perspective consideration has been given to the NPPF, the South East Plan, the two existing local plans and the Proposed Submission Local Plan. Conscious of the need to balance the requirement for growth with protecting the character of the countryside, the merits of Chesterton as a location for a small amount of new development relative to other villages, the modest level of the new housing that has been developed at the village in recent years, and the relationship of the application site to the village. On balance, in this particular case, I would not wish to raise a policy objection subject to all detailed matters being satisfactory, including the visual impact of the development on the countryside, whether efficient use of land would be made, deliverability, and policies on housing, design and construction included in the Proposed Submission Local Plan.

3.5 **Head of Environmental Services** (Arboriculture, Landscape Services)  
In relation to landscape and visual impact the site is not visually prominent in the wider landscape. Intervening hedgerows mitigate the impact. Glimpses of the new buildings would be visible from some public viewpoints but from other points the visual impact would be greater and the development more prominent for example from Alchester Road, the south west, the road from Little Chesterton and the western boundary. The development will have some landscape and visual impact and extend development into the countryside. The landscape officer also had comments on the layout of the scheme with some criticism of the location of the open space, the location of the play area in relation to some of the dwellings, and the future maintenance of hedgerows within private gardens.

In relation to arboricultural issues no objections are raised as there are very few trees on site and these do not have any significant value. Conditions are proposed to seek a landscaping plan which enhances the tree cover on the site.

3.6 **Head of Community Services** (Safer Communities, Nature Conservation, ROW)  
In relation to ecology it is considered that the site has little potential for protected species, but parts of the hedgerow are species-rich therefore if any is proposed for removal it should be assessed under the hedgerow regulations. A biodiversity enhancement scheme should be submitted at reserved matters stage.

3.7 **Thames Valley Crime Prevention Design Advisor:**

- No reference to how development takes account of the 7 attributes of creating safer places
- Community building and parking, driveways do not benefit from natural surveillance – redesign or maximise opportunities for surveillance by adding ground floor bay and gable windows
- Hedges not sufficient to secure back gardens
- Conditions and informatives proposed
- Increased population will lead to better support of existing community facilities

#### 4. Policy Considerations

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

Core planning principles and the delivery of sustainable development and a presumption that where plans are absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, 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

10: Meeting the challenge of climate change, flooding and coastal change

11: Conserving and enhancing the natural environment

12: Conserving and enhancing the historic environment

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

##### **Spatial Strategy - Policies**

SP3: Focus for development on urban areas

##### **Cross Cutting – Policies**

CC1: Sustainable Development

CC2: Climate Change

CC4: Sustainable Design and Construction

CC6: Sustainable Communities & Character of the Environment

CC7: Infrastructure and Implementation

##### **Housing – Policies**

H1: Regional Housing Provision 2006 - 2026

H2: Managing the Delivery of the Regional Housing Provision

H3: Affordable Housing

H4: Type and Size of New Housing

H5: Housing Design and Density

**Transport – Policies**

T1: Manage and Invest

T4: Parking

**Natural Resource Management – Policies**

NRM1: Sustainable Water Resources & Groundwater Quality

NRM2: Water Quality

NRM4: Sustainable Flood Risk Management

NRM5: Conservation and Improvement of Biodiversity

**Countryside and Landscape Management – Policies**

C4: Landscape and Countryside Management

**Management of the Built Environment – Policies**

BE1: Management for an Urban Renaissance

BE5: Meeting the defined local need

BE6: Management of the historic environment

**Social and Community Infrastructure – Policy**

S1: Supporting Healthy Communities

S3: Education and skills

**Central Oxfordshire – Policies**

CO1: Core Strategy

CO3: Scale and Distribution of Housing

**Adopted Cherwell  
Local Plan 1996  
Saved Policies**

H5: Affordable housing

H12: Housing in rural areas

H13: Housing in Category I Settlements

H18: New dwellings in the countryside

TR1: Transportation Funding

R12: Public Open Space provision within new housing developments

C2: Protected Species

C7: Landscape conservation

C8: Sporadic development in open countryside

C9: Compatibility of development with rural location

C27: Design Considerations - Historic Settlement Pattern

C28: Design, layout etc standards

C30: Design control

**Non-Statutory  
Cherwell Local Plan  
2011**

**Housing** policies H1a, H3, H4, H7, H16, H19

**Transport & Development** policies TR1, TR4, TR5, TR9, TR11

**Recreation & Community Facilities** policies R8, R9, R10A

**Conserving & Enhancing the Environment** policies EN1, EN15, EN16, EN24, EN25, EN27, EN30, EN34 & EN44.

**Urban Design & The Built Environment** policies D1, D3, D5 & D6 and D9

**General Policy OA1**

**The Cherwell Local  
Plan Proposed  
Submission Draft May  
2012**

**Sustainable communities**

BSC1: District wide housing distribution  
BSC2: Effective and efficient use of land  
BSC3: Affordable housing  
BSC4: Housing mix  
BSC10: Open space, sport and recreation provision  
BSC11: Local standards of provision – outdoor recreation  
BSC12: Indoor sport, recreation and community facilities

**Sustainable development**

ESD1: Mitigating and adapting to climate change  
ESD6: Sustainable flood risk management  
ESD7: Sustainable drainage systems  
ESD8: Water resources  
ESD10: Biodiversity and the natural environment  
ESD13: Local landscape protection and enhancement  
ESD15: Green boundaries to growth  
ESD16: Character of the built environment

Policy for villages 1 – Village categorisation

Policy for villages 2 – Distributing growth across the rural areas

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- History
- Policy Context
- Housing land supply
- Sustainability of the location
- Character and appearance
- Neighbouring amenities
- Access and highway safety
- S106
- Other matters

### **5.2 History**

5.2.1 This application follows previous planning applications for development of up to 63 dwellings. The most recent of which (10/00547/OUT) was refused by this Council for the following reason;

5.2.2 *The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the countryside. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by PPS 3 Housing, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone. A*

*development of this scale is inappropriate given the size of village and existing level of provision of village facilities. As such the proposed development is contrary to the saved policies H13, H18 and C7 of the adopted Cherwell Local Plan and Planning Policy Statement 3 Housing.*

- 5.2.3 The application was determined by the Council at a time when the Council could not demonstrate that it had a five year housing land supply. By the time the subsequent appeal was considered by the Inspectorate (June 2011) the Council was able to demonstrate that it did have a five year housing land supply and successfully defended the appeal with the Inspector concluding;
- 5.2.4 *The potential benefits of the scheme proposed, including the contribution towards meeting affordable housing need, the provision of a replacement village hall and enhanced sporting facilities are recognised. I am also mindful that the scheme has the support of the Parish Council and that the land is immediately available for development, with no significant physical constraints that might impede delivery. However, those considerations, even when taken together, do not justify the harm that would be caused by allowing residential development in the open countryside, with the associated adverse visual impact that I have identified, without sufficient justification. In this respect, I have found that, in all likelihood, the Council is able to demonstrate a rolling five year supply of deliverable housing sites for the District. In these circumstances, there is no suggestion in PPS3 that applications for housing should be considered favourably. I conclude on balance therefore, that the appeal should not succeed.*
- 5.2.5 In the assessment of this current proposal it is relevant to consider whether or not any changes in circumstances are sufficient to reach a different conclusion to that reached by the Inspector back in June 2011. There are a number of changes in circumstances for the current application: a change in the district's housing land supply position; the approval on 28 May 2012 (subject to minor changes) of the Council's Proposed Submission Local Plan (for consultation); and the publication of the NPPF on 27 March 2012.

### 5.3 **Policy Context**

- 5.3.1 The village of Chesterton is identified as a Category 1 Settlement in the 1996 adopted Cherwell Local Plan but in the Non-Statutory Cherwell Local Plan adopted for development control purposes it was identified as a Category 2 village. The draft Core Strategy identified Chesterton as a Category B village and this is carried through to the more recent proposed submission draft Local Plan. Furthermore the proposed submission draft puts Chesterton in Group 3 along with 11 other villages in respect of the potential distribution of housing in the rural areas. Between them this group of villages are currently expected to provide 259 dwellings ( see para 5.5.4 below).
- 5.3.2 The proposed development is located within the open countryside and as such is contrary to the development plan.
- 5.3.3 The South East Plan has an urban focus but states that LPAs should plan positively to meet defined rural needs and define the approach to villages based on their functions, accessibility, the need to protect or extend key local services and the capacity of the built form and landscape setting.

5.3.4 Paragraphs 49 and 14 of the NPPF are engaged for the purposes of this application. Para. 49 states that *'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.'* Para. 14, with regard to decision taking, states that *'where the development plan is absent, silent or relevant policies are out-of-date, local planning authorities should grant planning permission unless:- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted.'*

5.3.5 Paragraph 7 of the NPPF states that one of the general principles of planning that should underpin plan-making and decision-taking is that it should be a genuinely plan-led. This development is contrary to the adopted Local Plan and proposed submission draft Local Plan contains no allocations for rural areas and no Local Neighbourhoods Development Plan Documents have been produced setting out preferred locations for new development therefore it would be fair to say that the proposal does not comply with a plan led approach.

#### 5.4 **Housing Land Supply**

5.4.1 It is understood from reading the submitted Supporting Statement that the application has been submitted on the basis of the applicants belief that the Council now does not have a five year housing land supply and that this should weigh heavily in the consideration of the application. It is the case that the Council's housing land supply position has changed since the appeal was considered. The Council considers that the housing land supply is currently standing at 3.1 years. The NPPF still requires that Council's should be able to identify a supply of specific deliverable sites sufficient to provide five years worth of housing and that where this cannot be demonstrated relevant policies for the supply of housing land should not be considered up-to-date. The NPPF also states that housing applications should be considered in the context of the presumption in favour of sustainable development.

5.4.2 The NPPF also states that local planning authorities may make allowances for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local areas and will continue to provide a reliable source of supply. Although an allowance has not yet been formally incorporated for small sites of less than 10 dwellings, the housing trajectory in the Proposed Submission Local Plan (28 May) identifies a supply of 70 homes per year from sites of less than 10. An estimate of some 129 homes per year was included in the (now superseded) Housing Land Supply Position Statement approved by the Executive of 6 February 2012. In either case, this would not be sufficient to return the district to a 5 year supply (3.6 years in the case of the former and 4.0 years in the case of the latter).

5.4.3 This application would contribute to the housing land supply shortage and does need to weigh heavily in the balance. However it needs to be considered whether or not there are any adverse impacts that would significantly and demonstrably outweigh this benefit as required through paragraph 14 of the NPPF.

## 5.5 Sustainability of the Location

- 5.5.1 Chesterton is considered to be a sustainable village, although it is not one of the most sustainable villages, hence it being identified as a category B village in the more recent draft policy documents.
- 5.5.2 With specific reference to public transport it is recognised that despite the bus service only operating a two hourly service with no service on Sundays the village is in close proximity to Bicester which together with contributions which can be secured by a planning obligation the proposal does offer some opportunity to use more sustainable modes of transport than the private car. However Policy H13 of the adopted Cherwell Local Plan, in its explanatory text, requires that most housing development should take place in settlements with a reasonable range of services and community facilities. In the previous reason for refusal the Council made reference to the scale of the development being inappropriate given the size of the village and the lack of village facilities. The Inspector shared these concerns stating that in the absence of a shop and post office... "the level of village facilities is unlikely to be able to support a development of the scale proposed". In relation to the sustainability of the location the Inspector concluded that the appeal site would not provide a sustainable location for the development proposed, with future residents being, in all likelihood, largely dependent on services and facilities elsewhere to meet a significant range of everyday needs.
- 5.5.3 It would appear that the applicant's solution to this concern is to reduce the number of dwellings; hence the application is now for 44 dwellings compared to the 63 applied for in the previous application. Whilst the reduction in the number of dwellings reduces potential demand for village facilities it is difficult to see how this improves the sustainability of the locality. The proposal still includes a range of improvements to sporting facilities and a new pavilion building and whilst letters and emails from members of the public refer to the potential for a shop to establish itself in the old village hall, this is not proposed to be secured as part of the proposal and as such it is considered that the development site still does not represent a sustainable location for significant new housing development as it fails to provide for the everyday needs of the community.
- 5.5.4 Paragraph 7 of the NPPF states that there are three dimensions to sustainable development and that the planning system is to perform certain roles, one of which is a social role. The social role can be achieved by supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being. There are several aspects of this development that can be assessed against this paragraph. Firstly there is some question about the level of housing required to meet the needs of present and future generations. The current proposed submission draft Local Plan which is intended to cover a period up to 2031 sets out that between 13 villages, of which Chesterton is one, they are to accommodate 259 dwellings. The plan states that the precise number of homes to be allocated to an individual village, and that the allocation of sites, will be set out in the Local Neighbourhoods Development Plan Document which will take account of levels of house building that have already taken place in each village to avoid overdevelopment. However if distributed broadly equally between the villages as stated in supporting text any one of the



villages could be expected to accommodate in the region of 19 or 20 dwellings. It is clear that this application is for more than double that number, further supporting the previous Inspectors conclusions that the level of village facilities available in Chesterton is unlikely to be able to support a development of this scale. Whilst this document carries only little weight it provides the basis for a direction of travel in relation to meeting strategic targets in rural areas and as such is a material consideration. In relation to accessibility of local services Paragraph 7 of the NPPF is not complied with.

## 5.6 Character and Appearance

5.6.1 The site has consistently been recognised as encroaching into the open countryside although it has previously been reported that the proposal would be unlikely to result in significant visual harm, although some visual impact would occur. The Council in determining the previous application took the view that the development would harm the character and appearance of the countryside. The Inspector agreed with this view and in her decision letter made the following observations and conclusions;

5.6.2 *Notwithstanding the more manicured appearance of the sports ground, I saw that the rural character of the countryside, particularly the arable fields, contrasts markedly with the slightly suburban housing on Green Lane. Although the site is enclosed by hedgerows in part, the development would be visible from the wider area as a consequence of its flat topography and the proposal would, as a matter of fact, extend built development into the countryside. Even with the framework landscaping and planting proposed, there would be some visual impact, particularly in views from Alchester Road to the east, and from the lane to the south-west. The impact would have a fundamental effect on the not unattractive rural landscape that abuts this part of the village, with an adverse impact on the character and appearance of the area.*

5.6.3 The Inspector refers to the development being visible from the wider area which may appear to contradict previous opinions that the development would not affect the wider landscape. There may however be a simple lack of clarity in the use of such phrases. Therefore in the interests of clarity the proposal has been considered once again by the Council's Landscape Officer who believes that the 'wider' views actually only extend to a distance of about 400m, for instance where views are obtained from the south west along the road to Little Chesterton. This ties in with the conclusions of the Inspector who considered there would be views of the site from the lane to the south west. In another instance it is clear that there will be views of the development from Alchester Road to the east which lies approximately 140 metres from the residential element of the scheme. Therefore it is considered that it remains true to say that the proposal would not have significant impacts on the landscape but there would be visual harm caused to the character and appearance of the area. In previous reports this impact was not considered of sufficient weight to justify a recommendation of refusal when taking all other matters into consideration at the time but Members took a different view which was supported by the Inspectorate. Therefore this should be given considerable weight in the assessment of the current proposal and it should be considered whether or not the revised layout does anything to overcome the harm identified in relation to the previous application.

5.6.4 The most apparent amendment to the scheme is the removal of dwellings on the

south western and western section of the access road and their replacement with additional open space and tree planting. Whilst these amendments will help to reduce the impact of views from the south west, especially in the summer months, the properties are still likely to be exposed during winter months. Very little has changed in relation to the impact the development will have on views to the east of the site from Alchester Road. No degree of landscaping can overcome the principle concern of encroachment into the open countryside and the resultant change in character and appearance to the area.

- 5.6.5 In addition to the above points the NPPF at Paragraph 58 requires that development optimise the potential of the site to accommodate development and Policy BSC2 of the proposed submission draft Local Plan requires the effective and efficient use of land. By removing housing in an attempt to reduce the visual impact of the development raises new questions about whether the development makes the most effective and efficient use of the land. In this instance it could be argued that the land wasn't being used effectively and efficiently.

## 5.7 Neighbouring Amenity

- 5.7.1 Impact on the residential amenities of existing residents was considered in relation to the previous application. The Council has not previously raised concerns about such an impact and this has not formed part of a refusal reason in the past. Whilst there have been changes to the proposed layout which is to be considered as part of the outline application there are no changes that have an adverse affect on the amenities of existing residents. Whilst a couple of the distances between rear facing elevations has been reduced slightly there still remains a separation distance of 40metres, almost double the informal standard used by the Council to limit effects on privacy.

- 5.7.2 Existing residents will experience a change in outlook as the current views across open countryside will be lost, however the planning system cannot be used to protect private views.

- 5.7.3 It is considered that the layout provides a satisfactory layout in relation to the impact on residential amenities and as such this is a factor is unlikely to be defensible at appeal if it formed part of a refusal reason.

## 5.8 Access and Highway Safety

- 5.8.1 The Local Highway Authority has consistently stated that the highway network has sufficient capacity to cope with development on this site, that the access is acceptable and appropriate measures can be secured for alterations to the speed limit and traffic calming measures. The Inspector did not disagree with these conclusions. Given that the number of houses has been reduced from the earlier scheme it is considered that the proposal will not cause harm to highway safety.

## 5.9 S106

- 5.9.1 By the time the appeal was determined for the previous scheme the applicants had submitted a signed S106 agreement that was drawn up in conjunction with the Council and as such the Council was satisfied that if the development had been permitted the scheme would have secured the appropriate contributions to local infrastructure. It is expected that the applicants would be willing to either sign a

linking agreement or an amending agreement, taking into account the reduction in the number of proposed dwellings. However until this is done the lack of a signed agreement relating specifically to this application should form a reason for refusal. However in the event of a resolution to approve the scheme it should be subject to the completion of an agreement satisfactory to the Local Planning Authority.

## 5.10 **Other Matters**

5.10.1 The NPPF requires consideration to be had for community needs and developments that support health, social and cultural well-being. It could be argued that this development does this by providing a community pavilion, improved sports pitches and play areas and off road parking for the pitches. The development has received support from the Parish Council and some local residents and it is acknowledged that a smaller scheme of say 19 or 20 dwellings is unlikely to be viable with the provision of such facilities and improvements. To the contrary however some residents believe that the alleged benefits will not truly serve the needs of the whole community and that the Parish Council's view is not representative of the whole village. A balance therefore needs to be made between the scale of the development and its acknowledged harm and unsustainable nature versus the community benefits that will come with it, and the mixed local opinion as to whether or not the development is a good idea. Whilst the NPPF promotes the empowerment of local people in shaping their surroundings and it is very positive that the Parish Council supports this scheme the guidance in the NPPF is very much focussed on the production of local and neighbourhood plans in order to set out the visions for the future.

5.10.2 The submission has changed since the earlier applications in that the applicants now propose to provide 35% affordable housing. This has to be considered as a benefit and weighs in favour of the scheme. In a development of 44 dwellings 35% equates to 15 units. The previous scheme secured 30% affordable housing but given the overall number of houses proposed was greater 30% provision would have resulted in 19 units.

5.10.3 There have been no previous significant concerns relating to any of the above considerations that would justify recommending refusal on these grounds. However in the event of an approval conditions would need to be imposed to ensure appropriate measures are taken to mitigate against any adverse impacts.

## 5.11 **Conclusion**

There is a need to improve the Council's land supply position and this application would contribute towards such a need. This factor is significant in the consideration as well as the fact that the development will provide, in addition to the usual S106 requirements, improved sporting facilities, a community building and 35% affordable housing. Another significant factor is that the Parish Council and a number of local residents are in support of the proposal. However the Council and an appeal Inspector previously considered that the village did not have sufficient facilities to support a development of 63 dwellings resulting in unsustainable development and that the development would result in harm to the character and appearance of the area. Whilst it is acknowledged that the scheme has been amended to reduce the number of dwellings on the site it is not considered that this is sufficient to overcome the two principle concerns and that on balance and despite the need to improve the Council's housing land supply the application should be refused.

## 6. Recommendation

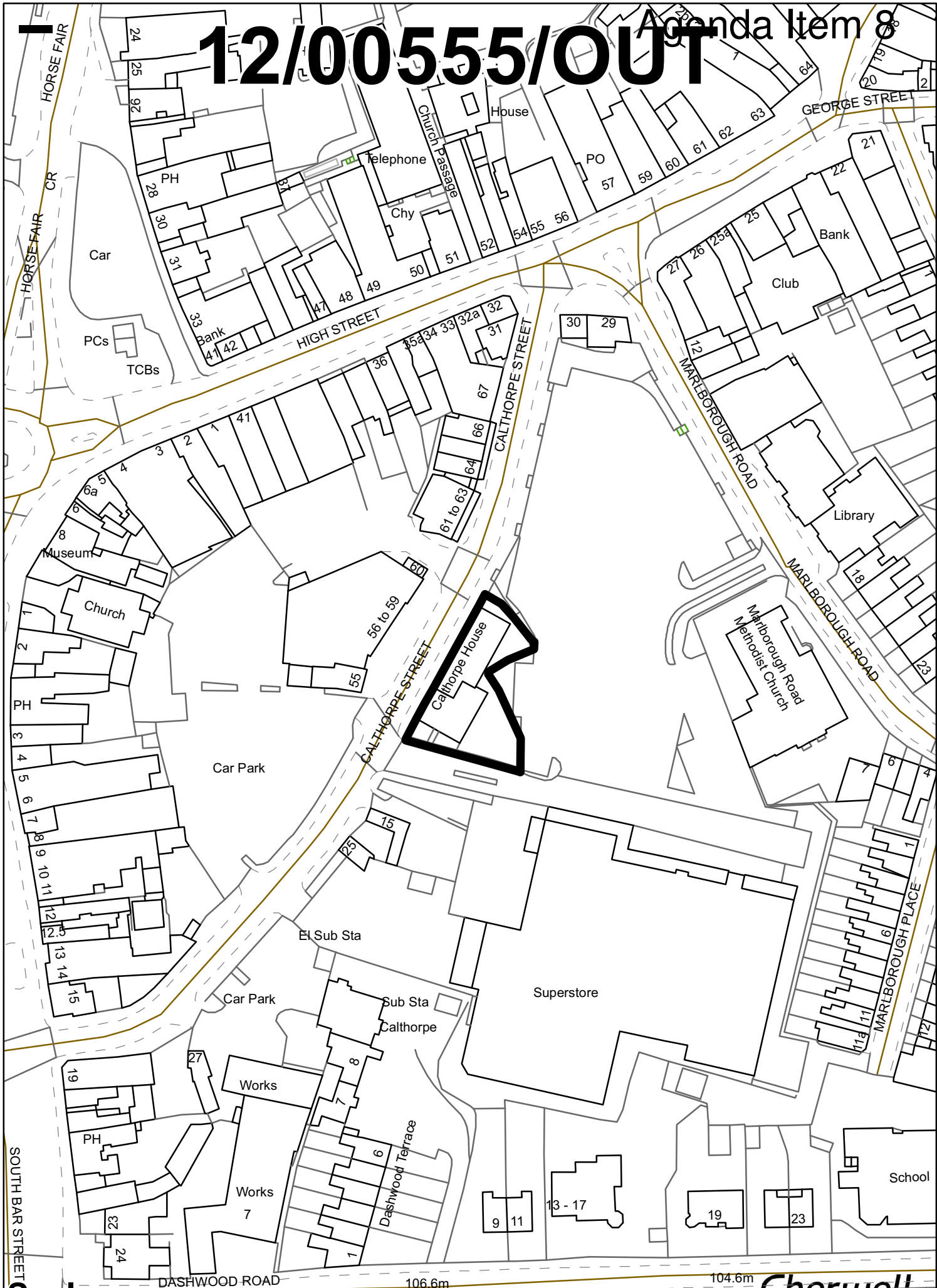
**Refusal**, for the following reasons:

*The proposal represents development beyond the built up limits of the settlement and will cause harm to the character and appearance of the surrounding area. Notwithstanding the Council's short term inability to demonstrate that it has the 5 year supply of housing land required by Paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of a temporary land supply deficiency alone. Notwithstanding the amendments made since the previous application (10/00547/OUT) a development of this scale is remains inappropriate given the size of village and existing level of provision of village facilities. As such the proposed development is contrary to the saved policies H13, H18 and C7 of the adopted Cherwell Local Plan, policies H16, H19 and EN34 of the Non-Statutory Cherwell Local Plan and the core planning principle of delivering sustainable development and Paragraph 17 of the National Planning Policy Framework.*

<b>CONTACT OFFICER: Caroline Roche</b>
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<b>TELEPHONE NO: 01295 221816</b>
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# 12/00555/OUT

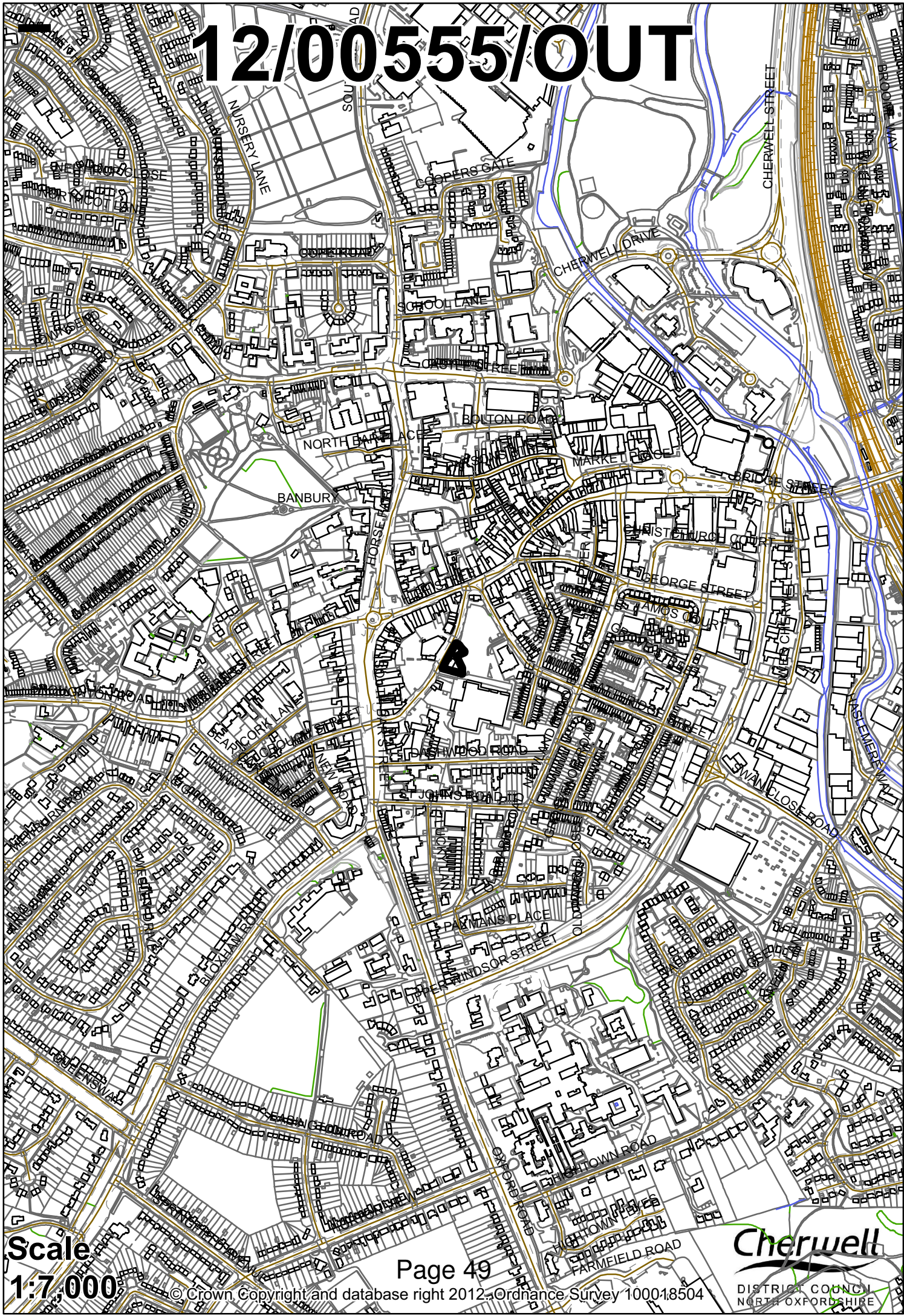


Scale

1:1,250

DASHWOOD ROAD 106.6m 104.6m

# 12/00555/OUT



Scale  
1:7,000

<b>Application</b> 12/00555/OUT	<b>No:</b>	<b>Ward:</b> Banbury Grimsbury and Castle	<b>Date Valid:</b> 25/04/2012
<b>Applicant:</b>	Oxfordshire County Council, Property Services		
<b>Site Address:</b>	Calthorpe House, 60 Calthorpe Street, Banbury OX16 5RE		

**Proposal:** Redevelopment of site to demolish existing building and provide 13 apartments, two retail units, parking/servicing, hard and soft landscaping, boundary treatment and alterations to existing access.

**Date site visited:** 18/05/2012

### 1. Site Description and Proposal

- 1.1 The site forms an existing 3 storey detached building on Calthorpe Street. The building is currently owned by Oxfordshire County Council. The building is a 1970's development and constructed of reconstituted stone. The design of the existing building is utilitarian and largely uninspiring. Parking areas are provided to the side (south) with access through an archway under the first floor of the building.
- 1.2 The site lies close to the town centre with an NCP car park adjacent to the site. Further north (61-66 Calthorpe Street) is the recently erected apartment building with retail units under. The site is not within the Banbury Conservation Area.
- 1.3 The application is in outline form with only access and layout for consideration. Indicative layouts were provided for information only. These indicate a 4 storey building of a modern appearance with the fourth floor set back on the roof. Two retail units are also proposed at ground floor. Parking is provided to the side and rear of the site and accessed through a similar arrangement as the existing building, although this is an indicative arrangement
- 1.4 The development proposes two retail units and 13 flats comprising 5 x 2 bed and 8 x 1 bed units. As the development is over 10 units, financial contributions to off-set the impact of the development on amenities and infrastructure would be required.
- 1.5 This proposal is for the same development as previously approved under application 09/00038/OUT dated 22<sup>nd</sup> July 2009.

### 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice placed on a lamppost directly outside the site. The final date for comment was 24<sup>th</sup> May 2012.
- 2.2 No letters of representation have been received.

### 3. Consultations

- 3.1 **Banbury Town Council** – No objections and makes the following observations - No objections to the proposed use of the site as it would replace an inferior building but the proposed four storey building isn't in keeping with the streetscene (Policy C28 & C30 of the Adopted Cherwell Local Plan 1996)
- 3.2 **Environments Agency** comment as follows: We have assessed this application as having a low environmental risk and we have no objection to the above proposal.
- 3.3 **Design & Conservation** comment as follows: The form, massing, height and footprint of the proposed building is very similar to that approved previously. Recommend approval with conditions as specified previously Conditions to include sample materials and colour palette details
- 3.4 **OCC Highways** comment as follows: Please repeat previous highway conditions, including a requirement for details of the proposed SUDS drainage scheme to be submitted for consideration and approval prior to commencement of development. A revised Section 106 Agreement will be required for requested contributions
- 3.5 **OCC Drainage** comments as follows: 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 features where conditions allow., i.e. surface water run-off created as result of the development will need to be dealt with within the 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. Where outfalling into the public surface water sewer is proposed due to ground conditions, Thames Water will need to be informed of this intention and limits will be set by them for the rate of discharge allowed from the development into the surface water sewer. Should a full planning application be submitted, full details of the proposed drainage strategy will be required.
- 3.6 **OCC Archaeology** comments as follows: The building concerned lies within an area of some archaeological interest in the historic core of the town. The archaeological potential of the site has been identified in a desk based assessment accompanying the application which highlights that the site is located in the area of one of the possible sites of the Saxon settlement although no archaeological evidence for this has been recorded. Medieval has been recorded 80m north of the site and 210m to the north east. Although the modern building on the site may have truncated some of the site it is thought possible that remains associated with the medieval and post medieval development of the site as well as a possibility of Saxon remains could be encountered during this development.

We would therefore recommend that, should planning permission be granted, the applicant should be responsible for ensuring that the implementation of an archaeological monitoring and recording action (watching brief) to be maintained during the period of construction. This can be ensured through the attachment of a suitable negative condition.

### 4. Policy Considerations

**National Planning Policy Framework** Core planning principles and the delivery of sustainable development with particular regard to the following sections:



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

**South East Plan 2009**

**Cross Cutting – Policies**

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

**Housing – Policies**

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

**Transport – Policies**

- T1: Manage and Invest
- T4: Parking

**Natural Resource Management – Policies**

- NRM1: Sustainable Water Resources & Groundwater Quality
- NRM4: Sustainable Flood Risk Management
- NRM11: Development Design for Energy Efficiency and Renewable Energy

**Management of the Built Environment – Policies**

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

**Social and Community Infrastructure – Policy**

- S1: Supporting Healthy Communities

**Central Oxfordshire – Policies**

- CO1: Core Strategy
- CO3: Scale and Distribution of Housing

**Adopted Cherwell  
Local Plan 1996  
Saved Policies**

- TR1: Transportation Funding
- R12: Public Open Space provision within new housing developments
- C28: Design, layout etc standards
- C30: Design control
- ENV1: Pollution control
- ENV12: Contaminated land

**5. Appraisal**

- 5.1 The key issues for consideration in this application are:
- Policy Context
  - History
  - Assessment of Proposal
- 5.2 **Policy Context**  
The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include promoting sustainable transport, delivery of a wide choice of high quality homes, the promotion of healthy communities and the conservation and enhancement of the natural and historic environment.
- 5.3 **History**  
The site was the subject of a previous application for the same development. Application 09/00038/OUT was approved on 22<sup>nd</sup> July 2009.
- 5.4 In addition, for background information regarding other developments in Calthorpe Street, an appeal (17<sup>th</sup> March 2009) allowed a four storey development at 56-60 Calthorpe Street, at Iceland opposite the site. In considering the development, the Inspector commented that the main issues for determination was the impact of the development on the street scene, the impact of the development on the Banbury Conservation Area and the impact of the development on adjoining listed buildings. For clarification, the appeal site and the site the subject of this application are not within, but adjacent to, the Banbury Conservation Area and neither does the application site lie adjacent to a listed building.
- 5.5 The Inspector at the Iceland appeal specifically commented on the character and appearance of the area and concluded that the introduction of a 4 storey building at Calthorpe Street would not have a detrimental impact on the area as a whole. Moreover, it was concluded that the proposed building would improve the appearance of the site.
- 5.6 **Assessment of Proposal**  
The site is previously-developed, being occupied by a 3-storey building. It is situated in a sustainable location in the town centre close to its shops and other facilities and numerous bus routes. It is also within a kilometre of both the bus and railway stations. Therefore, the principle of retail and residential development at the site is acceptable.
- 5.7 Whilst the application is in outline form, indicative elevations have been provide to gauge the design and scale of the proposed building. However, this matter is clearly not for determination. With this in mind, the proposed building is likely to be a four storey development of a distinctly modern appearance. The elevations would have a strong horizontal emphasis with large amounts of glazing to break the scale of building. Materials are indicated as brick and render with a mixture of glazing and stainless steel balconies. The fourth floor would be recessed and it is indicated that this would be constructed of green copper cladding.
- 5.8 The character of the area has largely been dictated by the recent development at

61-66 Calthorpe Street (The Counting House) and the recent approval at appeal opposite at 56-60 Calthorpe Street (Iceland). These buildings are both 4 storey developments of a modern design and construction. Therefore, the introduction of further modern building is appropriate in this context, providing the scale, bulk and design of the building are acceptable. Again, in this instance, these matters are reserved for future consideration. The Conservation Officer does not raise any objection to the proposal.

- 5.9 The development indicates a layout with the principal elevation facing Calthorpe Street. The building would be set back at the existing access. Parking is provided to the side of the site (south) at the access point and a small private garden for occupiers. It is intended, although indicative, to provide a focal feature at the point where the building is set back. This would take the form of a canopy (design to be confirmed) directing occupiers and visitors to the entrance. A condition requiring art to be incorporated into the building will also be placed on any permission granted.
- 5.10 Calthorpe Street runs in a rising curve. To take account of this rise, a ramped access off the pavement runs the entire length of the proposed retail units. This area would also provide areas for additional landscaping to the front. However, landscaping is a reserved matter for future consideration.
- 5.11 The Highway Engineer has considered the proposal and is satisfied that the development is acceptable, subject to conditions. The applicant is required provide financial contributions towards the following:
- £2,500 (index-linked) towards the costs of promoting amendments to the appropriate traffic regulation order(s) so as to prohibit loading and unloading in Calthorpe Street and where such amendments are made the costs of lining works and the costs of administering and enforcing the amended order(s).
  - £6,000 (index-linked) towards the cost of procurement and installation of Real Time Information display at the nearby bus stop on Calthorpe Street to improve the existing bus provision and encourage future residents to use the bus, in line with Oxfordshire's Local Transport Plan.
- 5.12 The applicant has indicated a willingness to enter into an agreement with Cherwell District Council to provide required contributions to offset the impact of the development on amenities and infrastructure. However, this has yet to be completed. The requested contributions (in addition to highways) are as follows:
- Primary Schools - £9,445
  - Special Education Needs - £400
  - Adult Learning - £280
  - Library and Stock - £1,600
  - Day Resource Centre – £2,159
  - Household Waste Recycling - £1,233
  - Museum Resource - £93
  - Public Open Space - £2,271
  
  - Total - £17,481

Therefore, it is recommended that the application be approved, subject to the agreement being secured and completed.

5.13 **Other Matters:** As the site comprises previously developed land, pollution of the ground must also be taken into account. Therefore, a condition requiring a risk assessment to be undertaken before development commences to be submitted to Officers for consideration. Details of drainage and surface water run-off are also required before development commences. An archaeological watching brief is also required as part of the development as the site lies within an area of some archaeological interest in the historic core of the town.

5.14 **Conclusion**

Overall, the layout and access for the site are considered acceptable and the indicative design for the site is considered to enhance the area. The proposal would see the replacement of a building of little architectural merit with a building of modern appearance, more suited to its urban location. The site lies within a sustainable location and will make efficient use of the land. Therefore, the application is recommended for approval.

**6. Recommendation**

Approval, subject to:

(i) The completion of a legal agreement with Oxfordshire County Council to provide financial contributions to offset the impact of the development on local facilities, infrastructure and amenities.

(ii) The following conditions:

1. That no development shall be commenced until full details of the scale, appearance and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason – This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995 (as amended).

2. That in the case of the reserved matters, application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason – This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995. (As amended).

3. That the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

Reason – This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by

Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 3(1) of the Town and Country Planning (General Development Procedure) Order 1995 (as amended).

4. That prior to the first occupation of the development the existing means of access onto Calthorpe Street shall be altered and laid out to the approval of the Local Planning Authority and constructed strictly in accordance with the specification of the means of access attached hereto, and that all ancillary works therein specified shall be undertaken in accordance with the said specification.

Reason - In the interests of highway safety and to comply with Government advice contained in The National Planning Policy Framework March 2012 and Policy T4 of the South East Plan

5. That the vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding 0.6 metres as measured from the carriageway level.

Reason - In the interests of highway safety and to comply with Government advice contained in The National Planning Policy Framework March 2012 and Policy T4 of the South East Plan

6. That before the development is first occupied the parking and manoeuvring areas shall be constructed in accordance with plan 11.10 Rev A dated 02.09.08 hereby approved and shall be constructed, laid out and surfaced, drained and completed and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times.

Reason - In the interests of highway safety and to comply with Government advice contained in The National Planning Policy Framework March 2012 and Policy T4 of the South East Plan

7. That before the development is first occupied the cycle parking areas shall be provided in accordance with plan 11.10 Rev A dated 02.09.08 hereby approved and shall be permanently retained for the parking of cycles thereafter.

Reason - In the interests of highway safety and to comply with Government advice contained in The National Planning Policy Framework March 2012 and Policy T4 of the South East Plan

8. Prior to the commencement of the development hereby permitted a phased risk assessment shall be carried out by a competent person in accordance with current Government and Environment Agency Guidance and Approved Codes of Practice, such as CLR11, BS10175, BS5930 and CIRIA 665. Each phase shall be submitted to and approved in writing by the Local Planning Authority;

Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken.

Phase 2 shall include 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. If contamination is found by undertaking the Phase 2 investigation then Phase 3 shall be undertaken.

Phase 3 requires that a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use to be submitted to and approved in writing by the Local Planning Authority (LPA). The remediation shall be carried out in accordance with the approved scheme and the applicant shall provide written verification to that effect.

The development shall not be occupied until any approved remedial works, have been carried out and a full validation report has been submitted to and approved in writing by the Local Planning Authority. In the event that gas protection is required, all such measures shall be implemented in full and confirmation of satisfactory installation obtained in writing from a Building Control Regulator.

Reason - It is suspected that this site and/or nearby land and water may be contaminated as a result of former industrial use(s) or otherwise. To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Policy ENV12 of the adopted Cherwell Local Plan.

9. The development hereby permitted shall be carried out in strict accordance with the following list of approved plans: Proposed Site Location Plan 10.11 Rev A dated 12.08.08 and Proposed Ground Floor Plan 11.10 A dated 02.09.08

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government Policy contained within the National Planning Policy Framework March 2012.

10. No development shall take place on the site until the applicant(s), or their agents or successors in title, has arranged an archaeological watching brief to be maintained during the course of building operations or construction works on the site. The watching brief shall be carried out in accordance with a written specification and by a professional archaeological organisation acceptable to the Local Planning Authority.

Reason - To safeguard the inspection and recording of matters of archaeological and historic importance on the site, to comply with Government advice in the National Planning Policy Framework March 2012 and Policy BE6 of the South East Plan 2009.

11. A scheme setting out how artistic elements will be incorporated into the fabric of the building shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of construction.

Reason: To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Government advice in the National Planning Policy Framework March 2012 and Policy C28 of the adopted Cherwell Local Plan.

12. Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Government advice in the National Planning Policy Framework March 2012, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

## **PLANNING NOTES**

Waste soils removed from site need to be tested according to Waste Acceptance Criteria (WAC) before disposal.

Vehicle loading or Unloading bays and storage areas involving chemical, refuse or other polluting matter should not discharge to the surface water system.

All waste tipping, handling, sorting and composting shall be carried out upon an impervious concrete base surrounded by a suitable liquid tight bund to prevent drainage from these areas discharging into groundwater or the surface water system. Surface water drainage from these areas shall be stored in a suitable liquid tight container or discharged to the foul sewer subject to the approval of Thames Water Utilities or its sewerage agent. Due to clay conditions at the site soakaways may not be viable. Percolation tests should be carried to confirm infiltration rates.

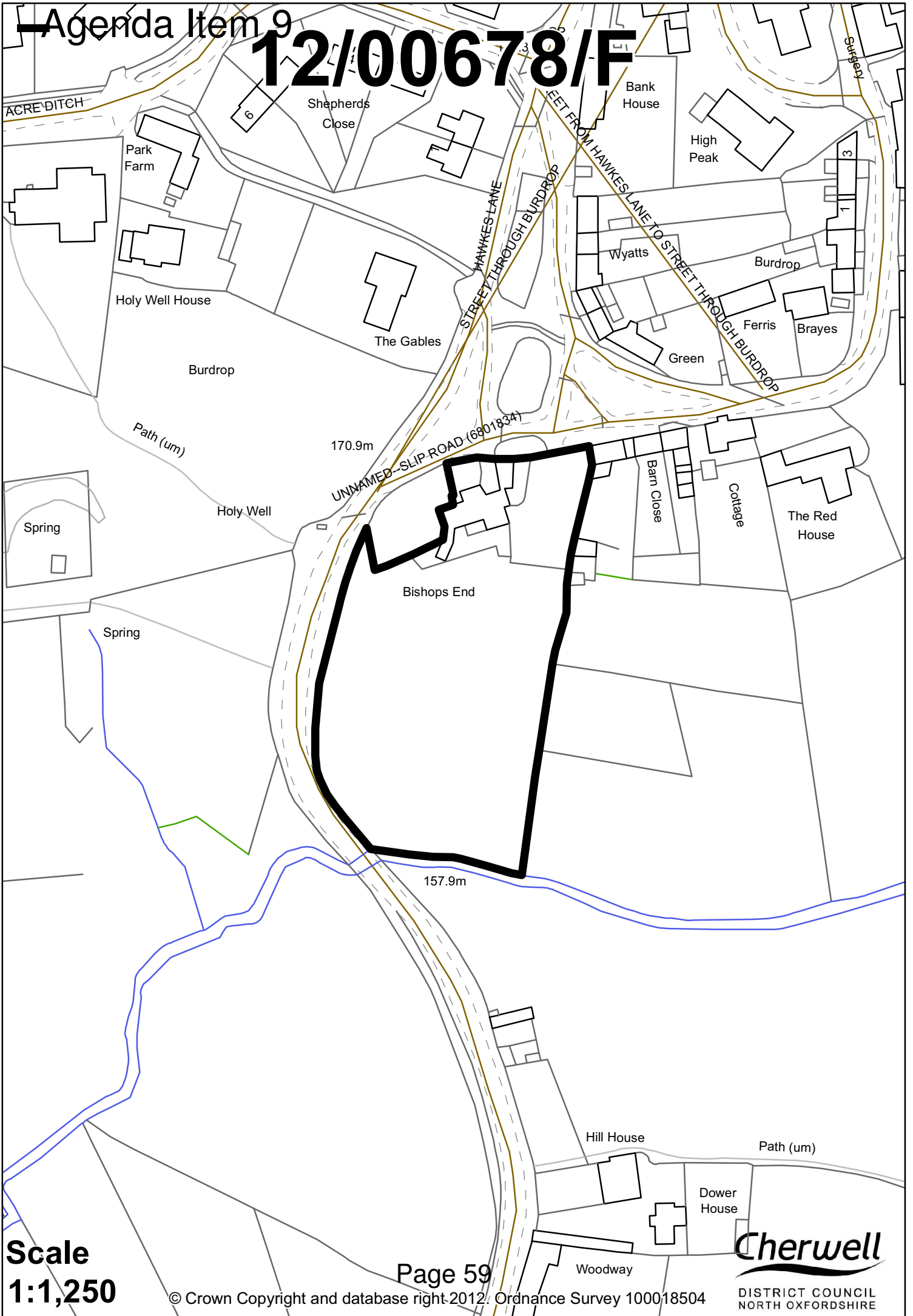
It is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm water flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of ground water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water would be required. They can be contacted on 0845 850 2777.

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

The Council, as local planning authority, has determined this application in accordance with the development plan, unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposed development is of a design, size and style that is appropriate in its context and would not have a detrimental impact on the character and appearance of the area, the Conservation Area, the amenities of adjoining occupiers or highway safety. As such the proposal is in accordance with Government guidance on delivering a wide choice of high quality homes, requiring good design, promoting sustainable transport, preserving or enhancing the historic environment and conserving and enhancing the natural environment contained within Sections 4, 6, 8, 7, 11 and 12 of the National Planning Policy Framework March 2012, saved policy ENV.12, C28 and C30 of the Adopted Cherwell Local Plan 1996 and policy BE1, BE6 and T4 of the South East Plan 2009. For the reasons given above and having regard to all other matters raised including third party representations the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

<b>CONTACT OFFICER:</b> Graham Wyatt	<b>TELEPHONE NO:</b> 01295 221811
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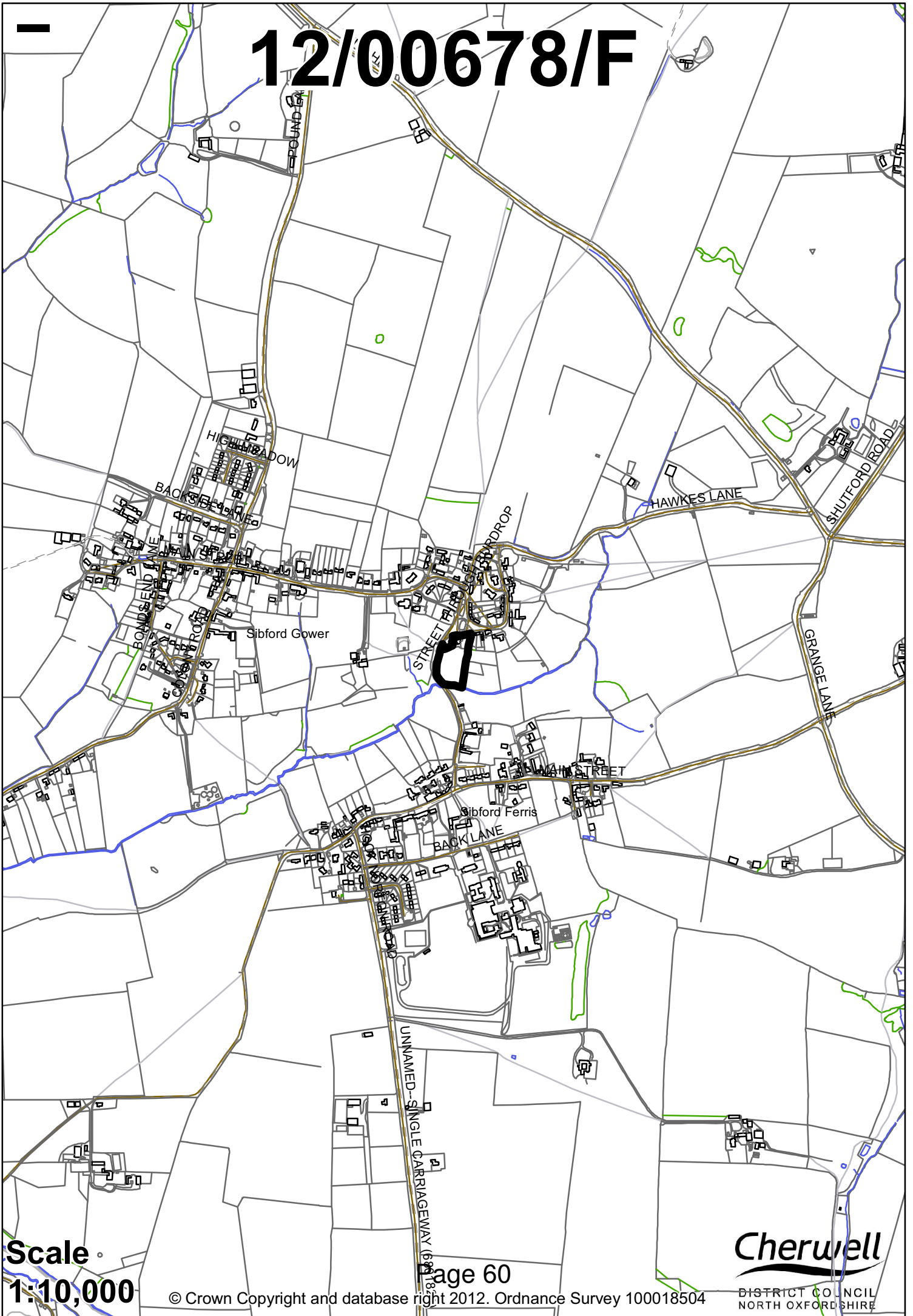
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# 12/00678/F



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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00678/F	<b>Ward:</b> Sibford	<b>Date Valid:</b> 10/05/12
<b>Applicant:</b>	Mr and Mrs Noquet	
<b>Site Address:</b>	Bishops End, Burdrop, Banbury, Oxfordshire, OX15 5RQ	

**Proposal:** Change of use of a vacant public house to C3 residential

**Date site visited:** 01/06/2012

## 1. Site Description and Proposal

- 1.1 The application relates to a substantial stone built property under a slate roof, on the edge of Burdrop, overlooking the 'Sib-valley' which separates Sibford Gower and Burdrop from Sibford Ferris. Whilst there are three settlements, they are functionally and socially linked, with each of the settlements providing services and custom for the other.
- 1.2 The site is within the Sibford Gower and Burdrop Conservation Area; first designated in January 1988. That Conservation Area, as well as the contiguous Sibford Ferris Conservation Area was subject to a review and appraisal in April 2012.
- 1.3 The site lies within the locally designated Area of High Landscape Value and there are several Grade II listed buildings opposite and adjacent to this site. The building is not listed.
- 1.4 The application seeks consent to change the use of the site from a public house to a single dwelling.
- 1.5 The existing public house has an ancillary three bedroom flat on the first floor.
- 1.6 The redline area for the application includes the main building, barn, bottle store, car park and a substantial area of land to the south of the main building.

## 2. Application Publicity

- 2.1 The application has been advertised by way of a site notice. It was attached to the gates of the property. The final date for comment was 21<sup>st</sup> June 2012.
- 2.2 40 letters of representation received (this represents the number of individual contributors and not the total number of letters). Full details are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- Loss of community facility
- Deliberately ran down trade
- Planning history shows previous refusals
- No material change since last application
- Identified in the Conservation Area appraisal as a positive feature
- Not marketed at a reasonable price
- Does not contribute to housing need (due to existing ancillary

accommodation)

- Wykham Arms is aimed at a different type of customer
- Serves a network of villages
- Pub was viable under previous owners
- Attracts visitors to the village
- Pub looked better before more recent alterations
- Very well located with large garden and stunning views
- New owners were unwelcoming and unfriendly
- Previous offers included one that would have produced a profit
- Failed to supply selling agents with up to date accounts
- Flood damage was claimed on insurance, therefore pub should have been restored
- Local policies aim to retain village facilities
- If open it would provide local employment
- Could set an undesirable precedent
- First year accounts appear to include one off costs as they differ greatly from previous owners
- All other pubs are a car journey away

Non material planning comments: (if any)

- Owners have flouted planning law
- Property is not vacant
- Other work carried out without consent
- Deliberate dumping of waste on site
- Concerned it will lead to further development on the site
- Brought the pub with the intention of closing it
- Difficult to keep track of all the applications and appeals
- Decision should be deferred until after the enforcement appeal inquiry

### 3. Consultations

3.1 **Sibford Gower Parish Council** raises objections on the following grounds:

- Appear to have deliberately run down the pub to make it appear unviable
- Offered it for sale at an inflated price, without providing the selling agents with up to date trading accounts
- They have received a number of reasonable offers
- Parish Council remains convinced that the pub is a viable option
- Conservation Area appraisal states: (9.12.3) 'Loss of facilities such as the village pub and village hall, which help reinforce Burdrop's identity as a separate hamlet, not just a residential suburb of Sibford Gower'
- Previous owners accounts show it was a viable pub

3.2 **Local Highways Authority:** raises no objection subject to conditions relating to the provision of a turning area and parking spaces

3.3 **OCC Drainage:** No comments received

3.4 **Head of Strategic Planning and the Economy (Conservation)**

The following points were made in relation to Conservation:

- The building has a high visual impact on the setting of both Burdrop and Sibford Gower's Conservation Areas and looking from Sibford Ferris

Conservation Area it is clearly seen across the valley

- The buildings themselves are of local importance as they highlight a vernacular style and more importantly the changes and development of pubs. This set of buildings is an exemplar version of this development
- The entrance of the pub has been 'lost' and it is no longer clear where the public entrance was and this has temporarily lost significance to the building
- The building works to the bottle store has changed the roof line and therefore has changed the relation this building has with the main building
- A minor note, regarding the change to the name of the pub. The previous name is really important to the Sibfords as it is named after the Saint of Sheep

3.5 **Housing** The size of the unit would not generate any concerns as a single dwelling in relation to housing standards

3.6 **Severn Trent Water** raises no objection subject to a planning note

3.7 **Campaign to Protect Rural England (CPRE)** raises the following points:

- We would consider Policy S29 of the adopted Cherwell Local Plan to be relevant to this application
- The existing residential use is ancillary and therefore of a subservient nature. Not to take the place of its primary function
- The function is still protected under Policy S29 , a policy which we support as it resists the potential loss of village amenities
- In this context, we are aware of two other similar applications (99/00587/F and 00/00953/F) for the change of use of pubs. These applications were refused and the pubs are still trading
- In our view, this demonstrates the robustness of Policy S29 and its relevance

3.8 **Campaign for Real Ale (CAMRA)** raises an objection on the following grounds:

- Would result in the total irreversible loss of a community facility
- Public houses are explicitly classified as community facilities in the NPPF
- Comments make reference to para 28 and para 70 of the NPPF
- Argues that Policy S29 of the adopted Cherwell Local Plan is not out of date
- Nothing in the application demonstrates any effort to seek employment re-use
- Provides detailed comments on the applicants design and access statement

#### 4. Policy Considerations

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

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

3: Supporting a prosperous rural economy

8: Promoting healthy communities

12: Conserving and enhancing the historic environment

Annex 1: Implementation

<b>South East Plan 2009</b>	<b>Cross Cutting – Policies</b> CC6: Sustainable Communities & Character of the Environment
	<b>Management of the Built Environment – Policies</b> BE5: Village Management BE6: Management of the Historic Environment
<b>Adopted Cherwell Local Plan 1996 Saved Policies</b>	S29: Protection of existing village services
<b>Non-Statutory Cherwell Local Plan 2011</b>	S26: Protection of existing village services
<b>Proposed Submission Draft – Cherwell Local Plan 2012</b>	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.
<b>Other relevant documentation</b>	Conservation Area Appraisal – Sibford Ferris, Sibford Gower and Burdop (2012)

## 5. Appraisal

5.2 The key issues for consideration in this application are:

- Relevant History
- Policy Context
- Viability of the public house
- Impact on the village community
- Impact on heritage assets
- Highway Safety
- Other matters raised by the applicant
- Other matters

### 5.3 Background

The applicant purchased the premises in February 2006 and following a down turn in trade put it back on the market in May 2006 as a going concern and there was some interest from potential buyers (as shown in the applicants design and access statement). However, the pub was not sold and ceased trading on 09 March 2007. The history section below sets out a number of applications that have been made for the change of use of the pub and for lawful development certificates between 2006 and the current application.

### 5.4 Relevant History

- 82/00329/N: Change of use of the premises to a single dwelling (The application was withdrawn as a condition of the approval was that the liquor licence had to be surrendered prior to a decision being issued. The licence was not surrendered and the pub was sold as a going concern)
- 85/00698/N: Change of use to a single dwelling (resolution to approve the application but a condition of any approval was that the liquor licence had to

be surrendered prior to the decision being issued. The landlord at that time wished to keep the pub open and withdrew the application)

- 06/00248/F: Single storey bar extension to provide non-smoking restaurant facility (Application permitted)
- 06/01579/ADV: Retrospective – 3 no. free standing signs (in accordance with drawing received on 09/11/06) (Application permitted)
- 06/01697/F: Change of Use from licensed premises into dwelling house (Application refused)
- 06/01697/F: Change of Use from licensed premises into dwelling house (Application refused)
- 07/00630/F: Resubmission of 06/01697/F – Change of Use from licensed premises into dwelling house (Application refused)
- 09/01275/F: Alterations and extensions to barn to provide 4 no. en-suite letting rooms (Application withdrawn)
- 09/01557/F: Change of Use from closed public house to dwelling (Application withdrawn)
- 12/00011/CLUE: Certificate of Lawful Use Existing – Use as a single dwelling house (Application refused)
- 12/00020/ECOU: Enforcement Notice – Change of Use from public house to dwelling house (Served 09 February 2012)
- Appeals 2170904 and 2170905: Appeal against enforcement notice 12/00020/ECOU (Pending public inquiry)
- 12/00796/CLUE: Certificate of Lawful Use Existing – Use as a single dwelling house (Application pending decision)

#### 5.5.1 **Policy Context**

As all planning applications must be determined in accordance with development plans unless material considerations indicate otherwise, the logical starting point for this application is the adopted Local Plan. The importance of village services and amenities is set out in Policy S29 of the adopted Cherwell Local Plan 1996. This policy states that *“Proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted”*. The supporting text to the policy sets out that in adopting that policy the Council *“recognises the importance of village services, particularly the local shop and pub, to the local community and will seek to resist the loss of such facilities whenever possible. However, it is also recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term”*.

5.5.2 Whilst the change of use must be assessed against the particular policy and the development plan as a whole, it is important to set out in detail the interpretation

and understanding of the intention of the policy.

- 5.5.3 From the wording of the policy and the supporting text, it is clear that public houses are to be considered as “*village services*” owing largely to their role in community and social cohesion. It is of vital importance to note that the policy does not impose a simple restriction on the loss of village services, but imposes a burden of proof on those seeking approval for the loss of such services (in planning terms by change of use, not of course in economic terms). This is clearly acknowledged where the policy notes that such changes will not “*normally*” be permitted, and in the supporting text where it is set out that the Council will resist the loss of such facilities “*whenever possible*” and acknowledges the difficulty in resisting such proposals where they are “*proven*” to be no longer “*financially viable in the long term*”.
- 5.5.4 The National Planning Policy Framework, does not change the statutory status of the development plan as the basis for planning decision making, but is a material consideration in decision making.
- 5.5.5 Paragraphs 214 and 215 of the Framework set out the criteria by which extant development plan policies are accorded weight following the publication of the Framework. Paragraph 215 states that due weight should be accorded to pre-2004 policies according to their degree of consistency with the Framework.
- 5.5.6 The Framework places a strong emphasis on the social role of planning in delivering sustainable development through the provision of and (by logical extension) the protection of community facilities. This is made explicit in Section 3 (‘Supporting a prosperous rural economy’) where the Framework sets out the conformity of saved policy S29 (and therefore its continued weight), stating that “*plans should... promote the retention... of local services and community facilities in villages, such as... public houses*”. The weight of saved policy S29 is further reinforced in Section 8 (‘Promoting healthy communities’), where decision makers are encouraged to take decisions which “*plan positively for the...community facilities*” and to “*guard against the unnecessary loss of valued facilities and services*”.
- 5.5.7 This Council’s understanding of the intention of the Framework with regard to community facilities has also been recently supported by the Inspectorate in a reported case outside of the district (notably in appeal reference 2167572).
- 5.5.8 As such, the saved policy retains full weight owing to its degree of conformity with the Framework, the key issue in considering the application is the viability of the business and whether or not the viability (or lack thereof) has been properly demonstrated.
- 5.5.9 Although saved policy S29 retains full weight, the Council does acknowledge that as a policy written in 1996, its relevance to planning decision making some sixteen years later may be questioned. It is important to note therefore that whilst it never became a formal part of the development plan, the non-statutory Cherwell Local Plan, published in 2004 as a material consideration for development control purposes, effectively repeated Policy S29. The policy in that plan (S26) stated that “*Proposals that will result in the loss of an existing village service which serves the basic needs of the local community will not be permitted, unless there is conclusive evidence that the provision of the service is no longer viable and that it cannot be*

*made viable.”*

- 5.5.10 The policy does lend increased weight to the saved adopted Cherwell Local Plan Policy. The repetition of the saved policy in the now abandoned plan (which was programmed to run until 2011) clearly demonstrates that although the saved policy dates from 1996, the intention and need for the policy was still considered appropriate in 2004. Coupled with the already discussed impact of the Framework, the policy is still appropriate and relevant to the modern planning system.
- 5.5.11 The saved Policy S29, and the reliance upon it in the assessment of this application is lent further weight when looking at similar applications across the District in recent years. The most notable recent case relates to a public house in Hethe (Application reference 10/01340/F). In that case, the application was refused for the following reason: *“The proposal has failed to adequately demonstrate that the business is unviable in the longer term such that closure is inevitable. The marketing price is likely to be too high and there is insufficient evidence to show how that valuation was arrived at. On this basis, the loss of this village service which serves the basic needs of the local community cannot be justified at this time in accordance with policy S29 of the adopted Cherwell Local Plan and policy S26 of the non-statutory Cherwell Local Plan”*. That decision was unchallenged and the public house in question has since been renovated, extended and appears to be trading well. Whilst there is a clear difference in approach between urban and rural public houses, this is to be expected given the wording of the policy.

5.5.12	Policy BE5 of the South East Plan is consistent with the local plan policies that have been discussed. It places emphasis on ‘community-led local assessments of need and action planning to inform the decision making process’. Although a community-led assessment has not been undertaken as part of the application, the policy clearly highlights the need for community involvement in decision making and gives weight to the views of the local community.
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- 5.5.13 The sub-text for Policy BE5 states ‘villages form an important part of the network of settlements in the region, and are often the subject of pressures arising from their location in a highly dynamic region, but also from stagnation or exclusion, in some cases resulting from a loss of service or changing community structure’. This reference to the impact of a ‘loss of service’ supports the aim of both the local policies and the Framework to protect village services.
- 5.5.14 Policy BE6 of the South East Plan states that ‘when developing and implementing plans and strategies, local authorities and other bodies will adopt policies and support proposals which protect, conserve and, where appropriate, enhance the historic environment and the contribution it makes to the local and regional distinctiveness and sense of place’.
- 5.5.15 The reference to the impact of the proposal on ‘sense of place’ is important when considering this application. Consideration should be given to the impact of losing a community facility and not just the visual changes that may occur.

**5.6.1 Viability of the public house**

As set out in the policy context above, the issue of viability is an important element in assessing the acceptability or otherwise of an application of this type. The policies require that the application must clearly demonstrate the lack of viability of



a business such as this in order for the application to succeed. Demonstrating viability requires an assessment of the trade at present, the trade potential, competition, sales and advice.

- 5.6.2 The importance of demonstrating a lack of viability and demonstrating adequate marketing of the public house in order to establish the lack of demand is reinforced by a notable recent appeal decision in Great Rollright (PINS reference 2134643)
- 5.6.3 The applicants have submitted a supporting statement that sets out general market commentary, population information and marketing efforts.
- 5.6.4 The general market commentary discusses the general decline in public houses and the economic changes that have occurred since 2007. However, the applicant does not make it clear how this specifically relates to the Bishops End which has not been trading since March 2007.
- 5.6.5 The statement makes reference to factors that have impacted on public houses in general. There is no specific evidence of how these factors impacted on the Bishops End. It is acknowledged that with the current economic situation all businesses have been affected, but there are many rural pubs that are still clearly thriving. The Council has two examples of public houses within the district which sought a change of use to residential (Application 99/00587/F for the Horse and Groom in Milcombe and application 00/00953/F for the George and Dragon in Shutford), were subsequently refused and are still trading today. If the Council were to accept these general assumptions as evidence of non-viability, they could very easily be applied to any village pub.
- 5.6.6 The applicant's statement states that 'the problem with the Bishops Blaize is clear – there are 20 pubs within a 13 minute drive time of the application site, but with a total population of just 395 in the parish'. The applicants have failed to provide population statistics for the wider area that currently supports these 20 pubs. Officers believe that, what this shows is that there are 20 viable pubs within a 13 minute drive of the application site and no clear evidence of why the Bishops End should be different to these.
- 5.6.7 With regards to the marketing of the pub, the applicants argue that it is clear that there have been serious endeavours to sell the pub over the last five years, but to no avail.
- 5.6.8 The evidence provided shows that the property was first marketed in March 2006 for an asking price of £600,000. The letter from Fleurets (one of the applicant's selling agents at the time) (dated 16 March 2007) confirms five offers had been received. It is acknowledged that these were all below the asking price, but two offers were received for £575,000 (5% below the asking price) and the letter states that 'as you will recall, when we commenced marketing I thought the original price of £600,000 was on the high side, but agreed to test the market'. The letter also states that a lack of up-to-date trading information (which had been requested on three separate occasions over an eight month period) had restricted interest. Based on this information, it is not unreasonable to conclude that the two offers made were not unreasonable.
- 5.6.9 No further evidence has been submitted of marketing the site between that time and April 2009. A further three offers were received in September 2010 (all of the

offers were below the asking price of £450,000).

- 5.6.10 Third party representations have been received that show that the property suffered significant water damage in 2009. The applicant has not explained the extent of the damage caused or the impact that this had on the property value at the time. It is also not clear if the interior of the pub was re-instated or upgraded following the flooding. Without this information it is difficult to assess whether the pub was being marketed at a 'reasonable price' in 2010.

5.6.11	The report by GA select (one of the applicants selling agents) entitled 'Report Bishop Blaize Public House' (submitted with the application) states that the asking price of £499,000 (August 2010) was 'justified by the price paid by Mr & Mrs Noquet'. There is no evidence to show if the price reflected the potential flood damage that had occurred previously.
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- 5.6.12 There is no evidence of any marketing of the site for the last 18 months

- 5.6.13 The Council has commissioned an independent viability study as part of its case for the forthcoming appeal. The results of the study were not available at this time this report was written, but members will be provided with an update at the committee.

- 5.6.14 The fact that the public house has been closed since 2007 does not in itself satisfy the requirements of the policy. Whilst the appellant may not either wish to, or be able to re-open and operate the public house as a long term viable business, it does not necessarily hold that another operator may not be able to do so. The permanent loss of such a facility, and the permanent loss of the opportunity for another operator to try, is not therefore justified or acceptable.

- 5.6.15 In an appeal decision for a neighbouring authority (planning inspectorate reference 2134643, February 2011) the inspector commented that 'the success or otherwise of a public house can change markedly with a change of personnel or management, or type of fare or cuisine, or facilities being offered'. This approach is reflected in the Council's view that the inability of an operator to make a public house viable does not in itself mean that another operator could not do so. It also recognises that allowing a change of use without strong evidence of lack of long-term viability does not allow any other operators to have that opportunity.

**5.7.1 Impact on the village community**

The impact of the implementation of a change of use such as this on a rural community has the potential to cause harm to the character of the village and the level of community facilities provided. Despite the existence of another public house within the adjacent settlement, the loss of this public house would remove a facility which had previously served the villagers. The importance of community facilities is reflected in the content and direction of national government policy as well as in the adopted Cherwell Local Plan Policy. The importance of village facilities is further emphasised by the 'saving' of the 1996 Local Plan Policy and the degree of conformity of that policy with the Framework.

- 5.7.2 In addition to the local and national policy support for the retention, wherever possible, of essential village services, such as public houses, it is clear that there is also strong local support. This is clearly shown in the third-party representations made in respect of this application which make significant reference to the

importance of the facility to the community. Responses refer to the site as a “*central hub where young and old can meet up and be part of a village community*” are far from atypical. The concept of the public house as a meeting place is reiterated by many of the respondents; “*a vibrant meeting place for villagers and a hub of the community*”, “*focal point for local gatherings and acted as a link point for [the] community*”, “*much more valuable to the community as a public house providing...a village hub*” and “*an indispensable amenity...an integral part of village life*”.

5.7.3 The level of public objection to the proposal (and the consistency of objection seen in previous applications) also highlights the importance of the Bishops End as a social facility in the village. Although the pub has been closed since 2007, third party contributors have provided anecdotal evidence of the social activities that the pub used to support.

5.7.4 In addition to the third party comments which add to the weight of concerns over the loss of the public house as a community facility, it is important to note that the weight of representations received is considered to add weight to the possibility of the facility being viable in the long term. This approach is supported by that taken by the Inspector in a similar application in Great Rollright (PINS reference 2134643) who noted that “*the strength of local opinion which was positive about regaining a PH, adds weight to my view that the lawful use... as a PH should be retained to enable it to come back into active use*”.

5.7.5 It is clear therefore that central government policy is supportive of, and recognises the importance of the retention of community facilities. It is also clearly established that a public house is an important community facility.

**5.8.1 Impact on Heritage Assets and impact on visual amenity**

Moving away from issues directly related to saved policy S29 of the adopted Cherwell Local Plan 1996, the matters under consideration must also be considered against the tests set out in the Planning (Listed Buildings and Conservation Areas) Act. Namely, whether the proposal would preserve or enhance the character or appearance of the designated Conservation Area, and whether the proposal would harm the setting or significance of the surrounding listed buildings.

5.8.2	The Council’s Conservation Officer has highlighted the importance of the buildings stating they are ‘of local importance as they highlight the vernacular style and more importantly the changes and development of pubs (i.e. move from home brew to local breweries, from an Inn to a public house). This set of buildings is an exemplar version of this development’. This not only highlights the importance of the buildings in terms of their architectural style, but also suggests the historic importance of the use of the buildings as a public house.
5.8.3	The Conservation Area Appraisal reinforces the importance of the public house to the character of the Conservation Area. It notes the significance of the building, as a non-designated heritage asset making a positive contribution to the area, and also as a building worthy of inclusion on a ‘local-list’ of buildings of special architectural or historic significance, and notes the degree of desire locally to see the public house re-opened.

- 5.8.4 The applicant argues that there will be no external alterations to the building. However, it is noted that several changes have already occurred including the loss of the main entrance, the loss of the pub signs and alterations to the bottle store (outbuilding). Although the removal of the pub signs and loss of a clearly identifiable entrance did not require planning permission, if the pub was re-opened these are features that are likely to be re-instated to encourage trade. If a change of use to residential is granted, it is likely that these features will be permanently lost. The retention of these features adds to the sense of place and the visual character of the area surrounding the public house.
- 5.8.5 The Council's Conservation officer has raised concerns about the loss of these features and the changes to the bottle store.
- 5.8.6 It is clear that the change of use of the property has resulted in changes to its appearance and it is likely that there would be future pressure for further changes. Along with the change of use of the building is the change of use of the surrounding land which would form the domestic curtilage for the property.
- 5.8.7 The redline area submitted denotes the area of land that would be included in the domestic curtilage if a change of use were granted. The redline area includes a substantial amount of land to the south of the property stretching down to the bottom of the Sib Valley.

5.8.8	The Sib Valley is an undeveloped rural scene, little affected by modern agricultural practice. The valley separates the three settlements and the lack of development emphasises their 'separateness' and provides a clear distinction between the villages.
5.8.9	The change of use of this land would allow for the encroachment of domestic activity and associated paraphernalia into the Sib valley. Although outbuildings and fencing could be controlled by removing the permitted development rights for the property, the Council would have no control over the introduction of items such as washing lines, garden furniture, children's play equipment and ornamental/domestic planting. All of which would significantly alter the character of the landscape and its visual appearance.
5.8.10	The Sib Valley has been included within the Conservation Area boundary and the appraisal states that 'the valley is an integral part of the Conservation Area and is included within the boundary as it has a significance in its own right and not just as a setting for the settlements'. This emphasises the importance of this land as an unspoilt agricultural landscape and highlights the need to protect its character.
5.8.11	Barn Close and Carrier's Cottage to the east of the application site are both Grade II Listed Buildings. The Sib valley, and the area of agricultural land included in the application, is considered to form part of their setting and therefore the impact of the proposal on their setting is a key consideration in this application.
5.8.12	It is the Officer's opinion that the introduction of a domestic character in the Sib Valley would have a detrimental impact on the setting of the listed buildings, which are currently viewed across open countryside.

5.8.13 The curtilage area is far too large as it includes a large area of agricultural land to the south of the site. The importance of the Sib Valley has been discussed and due to its significance, a separate reason for refusal has been suggested to deal with this aspect of the proposal.

5.8.14 With regards to the Conservation Area, the relevant primary legislation requires that planning applications in such areas must preserve or enhance the character or appearance of the Conservation Area. Permanently changing the site from a public house to a private residence would change the character of the Conservation Area as it would permanently alter the appearance and use of this prominent building in the centre of the Conservation Area. Similarly the works would change the appearance of the Conservation Area as a functional public house has a very different appearance to a private residence, albeit a converted public house. It is clear therefore that the proposal cannot be considered to preserve either the character or appearance of the Conservation Area and does therefore fail the test set out in the legislation.

5.9.1	<p><b>Highway Safety</b> The application site has an existing large car park that was used for the public house. This would provide sufficient space to allow vehicles to enter and leave the site in a forward facing manner and provide a sufficient number of parking spaces for the residential property.</p>
5.9.2	<p>The Local Highway Authority raises no objections to the application. They have requested conditions relating to the provision of parking spaces and a turning area within the site.</p>

5.9.3 The site would provide sufficient standards of on site parking and therefore would not have a detrimental impact on Highway Safety. The application is considered acceptable with regards to highway safety.

**5.10.1 Other matters raised by the applicant**

The applicant has suggested that the allowing the change of use of the public house to a dwellinghouse would assist in the delivery of housing across the district. The Council does not consider that this is a valid argument as the change would only provide for a larger dwelling than already exists on the site (being the ancillary first floor accommodation) rather than additional dwellings in the district.

5.10.2 The applicant has stated that ‘the application property is in a relatively poor state due to its vacancy. It is also situated on the corner in a prominent position at the entrance to the village. If something is not done to remedy the situation, its appearance can only get worse’. The Council does not consider this to be a material planning consideration for this application.

5.10.3 The applicant’s statement makes reference to PPS3 and PPS7. These policies were superseded by the introduction of the National Planning Policy Framework in March 2012 and therefore are not considered to be relevant.

**5.11.1 Other matters**

Third party contributors have claimed that the pub is not currently vacant and therefore suggest the application should be retrospective. The claim that the pub is not vacant is also supported by the submission of a certificate of lawful

development application by the applicant (12/00796/CLUE). Although this matter has not been clearly resolved, the considerations of the application would not differ and therefore this is not considered to be a significant factor in the determination of the application.

5.11.2 Third party contributors have also claimed that the photos and floor plans submitted are out of date. Amended floor plans have been verbally requested from the agent but have not been forthcoming. For similar reason as stated above, this is not considered to have a significant bearing on the determination of the application as the redline area (denoting the site area) includes the whole of the building.

5.12.1 **Conclusions**

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

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

5.12.3 It is clear from the relevant national and local policy, coupled with the strength of local feeling, that it would be inappropriate to allow this change of use at this time, without strong and clear justification that the use of the public house is not financially viable in the long term as required by the policy.

5.12.4 In conclusion, it is considered that there is not sufficient evidence to suggest that the Bishops End cannot be made viable, and that the loss of this amenity would cause harm to the character and community of the village. The level of public objection to the application is considered to be material evidence of this.

5.12.5	The application is therefore recommended for refusal as being contrary to Policy S29 of the adopted Cherwell Local Plan, Policy S26 of the non-statutory Cherwell Local Plan, Policy BE5 of the South East Plan and government advice on supporting a prosperous rural economy and promoting healthy communities contained within the National Planning Policy Framework.
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5.12.6 With regards to the inclusion of the area of land to the south of the property, this land currently forms part of the Sib Valley which has a distinct agricultural character and provides clear separation between the villages. The encroachment of domestic activity and paraphernalia into the Valley would have a detrimental impact on the visual appearance and rural character of the land between the settlements, thus causing unacceptable harm to visual amenity, the significance of the Conservation Area and the setting of nearby listed buildings, in direct conflict with The Sibford Ferris, Sibford Gower and Burdrop Conservation Area Appraisal, Policies C27, C28 and C33 of the adopted Cherwell Local Plan, Policies BE5 and BE6 of the South East Plan and Government guidance on conserving and enhancing the natural and historic environments contained within the National Planning Policy Framework.

## **6. Recommendation**

### **Refusal,**

#### **REASON(S) FOR REFUSAL:**

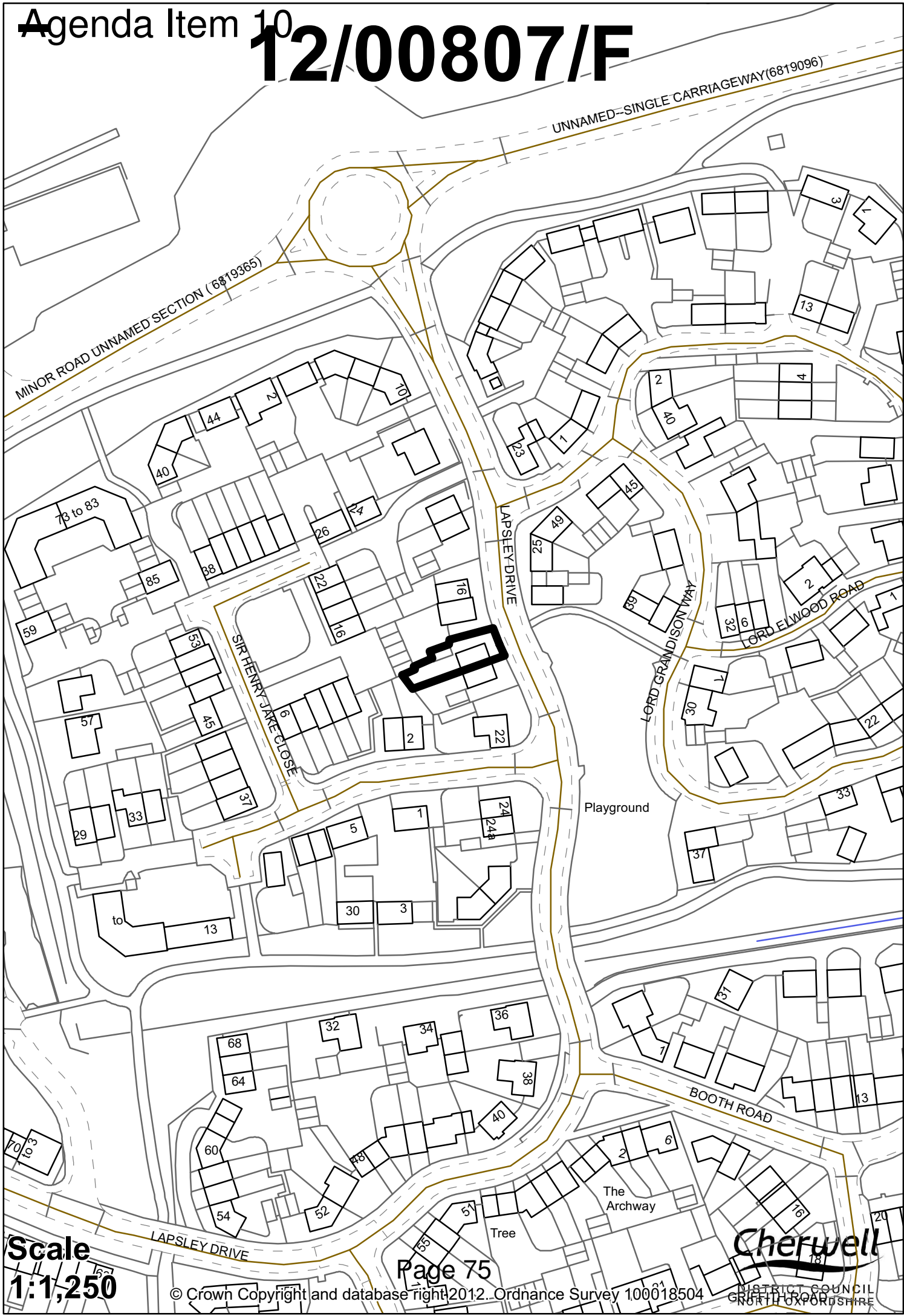
1. The proposal would result in the loss of a village service which on the basis of the application and the contributions received is not conclusively demonstrated as being no-longer viable. As such, the loss of the service would lead to an unacceptable impact on the character of the area and the local community and would therefore be contrary to Policy S29 of the adopted Cherwell Local Plan 1996, Policy S26 of the non-statutory Cherwell Local Plan 2004, Policy BE5 of the South East Plan 2009 and government advice on supporting a prosperous rural economy and promoting healthy communities contained within the National Planning Policy Framework.

2. The proposed change of use of the land, which would include a significant area of land to the south of the building, to residential would result in the encroachment of domestic activity and associated paraphernalia into the Sib Valley; a sensitive and undeveloped gap between the settlements of Burdrop and Sibford Ferris. This would cause damage to the visual appearance and rural character of the land between these settlements, thus causing unacceptable harm to visual amenity, the significance of the Conservation Area, and the setting of nearby listed buildings, in direct conflict with The Sibford Ferris, Sibford Gower and Burdrop Conservation Area Appraisal, Policies C27, C28 and C33 of the adopted Cherwell Local Plan, Policies BE5 and BE6 of the South East Plan and Government guidance on conserving and enhancing the natural and historic environments contained within the National Planning Policy Framework.

<b>CONTACT OFFICER: Rebekah Morgan</b>
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<b>TELEPHONE NO: 01295 221822</b>
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# Agenda Item 10 12/00807/F



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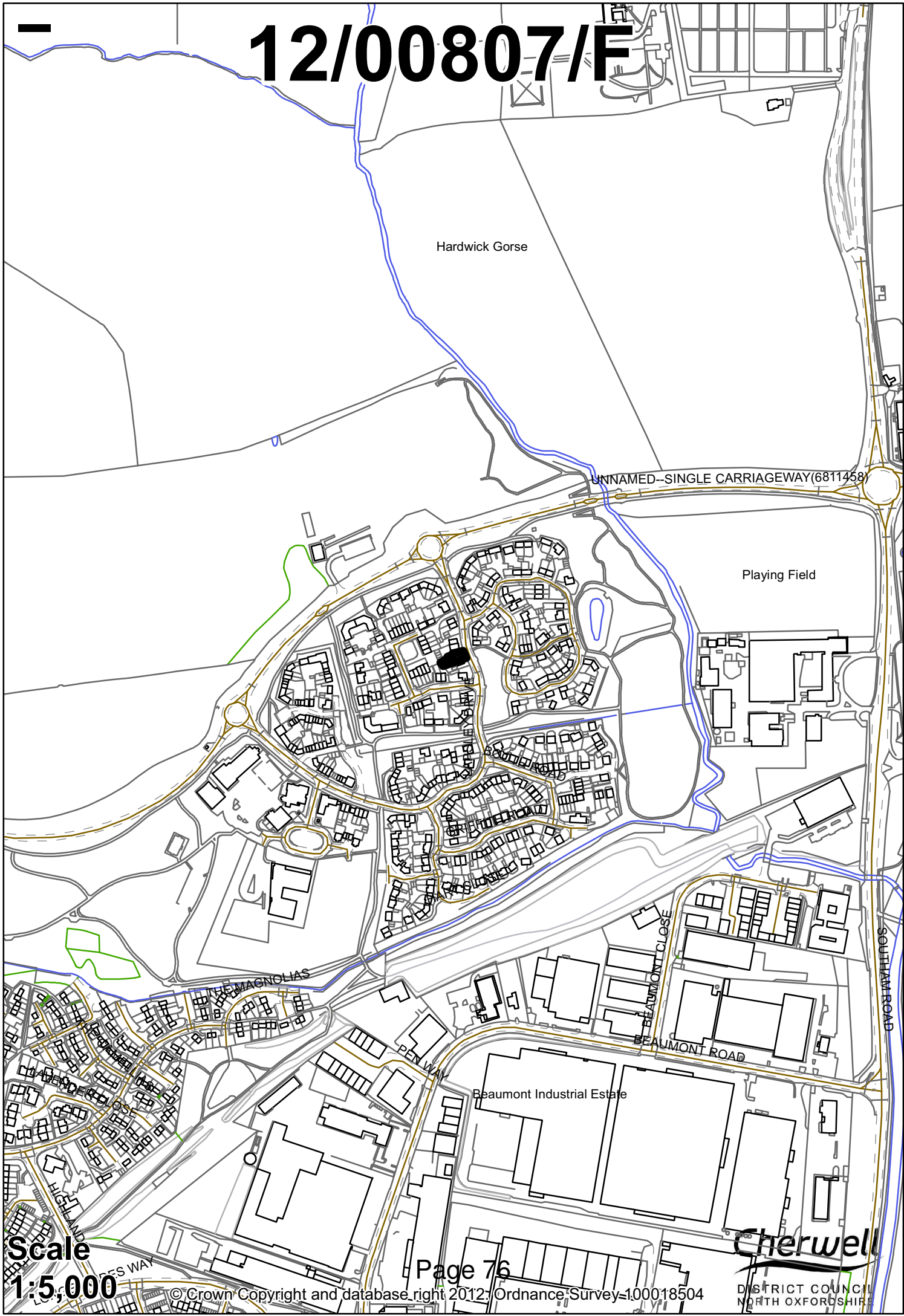


# 12/00807/F

Hardwick Gorse

UNNAMED--SINGLE CARRIAGEWAY(6811458)

Playing Field



Scale  
1:5,000

Page 76

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**Cherwell**  
DISTRICT COUNCIL  
NORTH OXFORDSHIRE

<b>Application No:</b> 12/00807/F	<b>Ward:</b> Banbury Hardwick	<b>Date Valid:</b> 18/06/12
<b>Applicant:</b>	Mrs and Mrs Ramsden	
<b>Site Address:</b>	20 Lapsley Drive, Banbury, Oxfordshire, OX16 1EJ	

**Proposal:** Rear conservatory

**Date site visited:** 28/06/2012

### 1. Site Description and Proposal

- 1.1 The application property is a semi-detached, two storey dwelling house with a dormer window on the front elevation. The property is constructed with red brick and a plain tile roof. The property has a driveway and garage to the side and a large enclosed rear garden.
- 1.2 The application seeks consent for a rear conservatory measuring 4.2m wide and projecting out by 3.9m, with an eaves height of 2.1m and a ridge height of 3.2m.
- The proposed conservatory will be constructed of brick plinth wall to a height of 600mm with white uPVC glazing above and white uPVC glazing for the roof.
- 1.3 This application is before the committee as the applicant is an employee of Cherwell District Council.

### 2. Application Publicity

- 2.1 The application has been advertised by way of a site notices placed on the rail fence between No. 18 and No. 20 Lapsley Drive. The final date for comment was 19<sup>th</sup> July 2012.
- 2.2 No letters of representation have been received as a result of the consultation.

### 3. Consultations

- 3.1 **Banbury Town Council** no comments received at the time of writing this report.

### 4. Policy Considerations

**National Planning Policy Framework** Core planning principles and the delivery of sustainable development with particular regard to the following sections:

7: Requiring good design

**South East Plan 2009** **Cross Cutting** – Policies  
CC6: Sustainable Communities & Character of the Environment

**Management of the Built Environment** – Policies  
BE1: Management for an Urban Renaissance

**Adopted Cherwell** C28: Design, layout etc standards

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Impact on neighbouring amenity
- Impact on visual amenity

### **5.2 Neighbouring Amenity**

The proposed conservatory is to be situated in the rear garden of the property which is enclosed by a 1.8m high close board fence.

The proposal will not result in any direct overlooking of the neighbouring properties; there is a 1.8m high fence along the boundary with the adjoining property and the neighbours to the rear are more than 10m away. As such the proposal will not result in any additional loss of privacy or amenity of the neighbouring residential properties.

The proposed conservatory has a glazed roof; therefore it will not appear overly dominant or overbearing when viewed from the adjoining property.

The proposal is considered acceptable in terms of its impact on neighbouring amenity and complies with the core principles set out in the National Planning Policy framework and Policy C30 of the adopted Cherwell Local Plan.

### **5.3 Visual Amenity**

The style of the proposed conservatory is in keeping with the design of the residential properties in the locality. White uPVC is a widely used material in the area and there are several examples of similar conservatories on properties in the area.

The conservatory will only be slightly visible from the public realm to the rear of the property and through the gap between the existing properties. It is the officer's view that the proposal will not have a detrimental impact on the appearance of the street scene or the character of the area. Therefore, the proposal is considered to be acceptable in terms of its impact on visual amenity and complies with government guidance on requiring good design contained within the National Planning Policy Framework, Policies BE1 and CC6 of the South East Plan and Policy C28 of the adopted Cherwell Local Plan.

## **6. Recommendation**

**Approval**, subject to 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:

Site location plan, block plan, drawing number WIN 1094-20LD-CON sheet 1 off 5 Rev. A, drawing number WIN 1094-20LD-CON sheet 2 off 5 Rev. A, drawing number WIN 1094-20LD-CON sheet 3 off 5 Rev. A, drawing number WIN 1094-20LD-CON sheet 4 off 5 Rev. A and drawing number WIN 1094-20LD-CON sheet 5 off 5 Rev. A.

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

3. The bricks to be used for the plinth wall of the conservatory hereby permitted shall match in terms of colour, type and texture those used on the existing building.

Reason – To ensure that the development is constructed and finished in materials which are in harmony with materials used on the existing building and to comply with Government guidance on requiring good design contained within the National Planning Policy Framework, Policy BE1 of the South East Plan and Policy C28 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 as the proposal pays proper regard to the character and appearance of the site and surrounding area and has no undue adverse impact upon the residential amenities of neighbouring properties. As such the proposal is in accordance with Policies BE1 and CC6 of the South East Plan 2009, Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance on requiring good design contained within the National Planning Policy Framework. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

<b>CONTACT OFFICER: Rebekah Morgan</b>
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<b>TELEPHONE NO: (01295) 221822</b>
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## Planning Committee

### Quarterly Enforcement Report

19 July 2012

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

#### PURPOSE OF REPORT

To inform and update Members of the progress of outstanding formal enforcement cases and to inform Members of the overall level of activity in the Development Management service

This report is public
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#### Recommendations

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The Planning Committee is recommended:

- (1) To accept this report.

#### Background

- 1.1 The last quarterly enforcement report was given to this Committee on 19 April 2012, and this report continues the regular reporting on enforcement matters in the format which commenced in October 2008. It will be seen that this report is the first that widens the scope of the report to give Members information about the level of activity on applications and appeals

#### The Current Situation

##### 2.1 Enforcement

Appendix One provides a comprehensive history of those cases which have progressed to formal enforcement action of one type or another.

I am pleased to be able to report that the continued effort to close down some of the older cases is being successful, albeit that some inevitably continue to appear. This is due to the complexity of the legislation and the availability of challenges/delaying tactics for the potential recipient of enforcement action.

2.2 It should be also noted that the extensive list of actions necessary at Heyford park has dwindled and that now we are reporting that all remaining cases are resolved and are indicated as not appearing on future reports.

2.3 The formal action that is listed in Appendix 1 is of course only the culmination of the enforcement activity that results in the need to take enforcement action. The enforcement staff receive a wide variety of complaints about alleged enforcement matters that require investigation. There are currently 140 live cases of which 78 have been received in the last quarter. This represents a high, and possibly unsustainable level of activity for the limited staff resource. There has been a recent change in personnel in the enforcement team, in that Bruce Acton has now left the Council. Michelle Jarvis has now taken over as the Senior Planning Officer leading that team.

2.4 **Planning applications** The following statistics seek to demonstrate the level of current activity in this area. It will be seen that the number of applications remains consistently high and that the number of major applications indicates that we continue to be currently receiving a series of complex and significant applications. The statistics do not reveal the high level of pre-application discussions that are also under way which are being prompted by the Council's land supply situation, the NPPF, and the interest caused by the Banbury and Bicester master planning exercises. As a result of this we predict that the number of major applications will rise in coming months.

2010 2157 applications of which 46 were classified as majors

2011 2272 applications of which 48 were majors

2012 (first six months) 1119 applications of which 27 were majors

In addition it should be pointed out that the current statistics given above do not include further categories of application such as clearance of conditions and non-material amendments.

2.5 **Planning appeals.** The following statistics give a picture of the level of activity occurring in the appeal area of work. We do not have a separate section dealing with appeals, but rather leave the original

case officers to handle that appeal wherever possible

2010 - 48 decisions received - 14 (29%) dismissed and 34 (71%) allowed (27 of them being Heyford Park decisions)

2011 - 52 decisions received - 36 (69%) dismissed and 16 (31%) allowed

2012 - 20 decisions received - 19 (95%) dismissed and 1 (5%) allowed.

The raw statistics of course do not reveal the difference in activity associated with different types of appeal. Preparing and conducting major inquiries such as the windfarm, incinerator or even the recent housing supply sites take many hours of officer time. We know that we have 3 up-coming inquiries.

## **Implications**

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- Financial:** It is anticipated that the cost of taking enforcement action can be met within existing budgets.  
Comments checked by Karen Muir , Corporate System Accountant 01295 221556
- Legal:** There are no additional legal implications arising for the Council from this report.  
Comments checked by Nigel Bell Team Leader- Planning and Litigation 01295 221687
- Risk Management:** Where it is relevant to do so the risk of taking formal enforcement action is that costs could be awarded against the Council in any appeal that proceeds to an inquiry or hearing if this action is subsequently considered to have been unreasonable. The risk of not taking effective and timely action is that a complaint could be made by a complainant to the Local Enforcement Ombudsman.  
Comments checked by Claire Taylor, Corporate Performance Manager 01295 221563

## **Wards Affected**

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All

## Document Information

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



**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
PROS 27/03 4.09.03  PROS 13/06 15.06.06	Hanwell Fields Banbury	Breach of Sec 106 agreement relating to LAPS & LEAPS and laying out of informal open space	Court order 04.09.08	Various dates in 2009	95/01117/OUT	N/A	N/A	CDC actively pursuing the transfer of the remaining sports pitches and parks Legal department have sent a letter to Taylor Wimpey Sports pitches have been transferred. All other matters expected to be resolved by Feb 2012 All other transfers expected to take place imminently
ENF 2/06  16.02.06  09/00686/ PCN	Bodicote Post Office 43-45 Molyneux Drive Bodicote	Non-compliance with approved plans 04/01317/F  Works not completed by 1 November 2009	Enforcement Notice served 24.01.07  29.11.09	07.09.07	09/00315/F			15.05.09 undertaking made to the court by Mr & Mrs Ayres who also agreed to pay £250.00 towards the Council's costs Works proceeding but unlikely to be completed by the compliance date. PCN served - extension given until 4.01.10 to respond – Application submitted 10/00267/F and approved subject to condition to comply by the end of August 2010. Some remedial works undertaken Legal advice to be sought on how to proceed to resolve this matter Confidential report presented to the Planning Committee 5 January 2012 Recently chased up with agent

**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF LB 18/08 26.06.08	Greystones Middle Street Islip	Removal of stonesfield slates and insertion of velux window in north elevation	Listed building Enforcement Notice served 03.11.08	15.09.09	04/00035/F 04/00036/LB	Appeal dismissed 7.08.09	7 August 2012	Hearing 16.06.09. Wording of the notice varied, compliance period extended, appeals dismissed 7 August 2009 Monitoring site for compliance Letter sent to owners to remind them of the need to comply by 7 August 2012
08/00604/ BCON	Lince Lane Copse	Breach of conditions 02/02064/F						Letter sent to the occupiers requesting a timetable for compliance with conditions regarding footpath and car park- Planning application received
11/00093/ 94/95/96/97/ 98/99/100/ 101/ ECOU	Plots 1, 2, 12, 13, 15 and 16 Land NE of Fenny Compton Road Claydon	Change of use of agricultural land to amenity land	22/02/2011	28/06/2011		Appeals received 28/03/2011		Hearing 6 and 7 September 2011 Plot Nos. 1,2,12,13,16 – requirements of notice varied on appeal, compliance period extended to 6 months – 28.03.2012 Verbal update to be given to committee  Plot No. 15 – appeal dismissed compliance required by 28.12.11  Part compliance achieved

**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
10/00218/ ELISTED	Sundial Cottage Shufford	UPVC windows			11/00175/LB			Instructions to legal Requisitions served. Owner has applied to English Heritage to have the property de-listed. If that is unsuccessful agent has stated that windows will be removed. English Heritage has rejected the de-listing. Application approved 28/03/11 with conditions regarding the timetable for the works to be completed by Phase 1 by 31 October 2011 Phase 2 by 30 April 2012 Phase 3 by 31 July 2012 Complied with Phase 1 and 2 Site visit to be carried out
10/00264/ ELISTED	11 Daisy Hill Duns Tew	Conservatory			10/01424/LB 10/01454/F			Instructions to legal 29 July 2010 Meeting held on site Applications refused 29.12.10. Appeals in progress. ASV 26.07.2011 Appeal dismissed 2/09/2011 Letter to be sent to applicant requesting removal. If not removed, instructions to be sent to legal
11/000**/ ECO	Land at Patrick Haugh/Harris Road, Upper Arcott	Container						Contacted agent and requested voluntary removal. If not removed further notice to be served Site visit to be carried out , verbal update to be given

**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
11/00138/ EUNDEV	13 Green Road Kidlington	Change of use of garage to a separate dwelling	15/07/2011	16/11/2011			26 April 2012	Appeal received 15/08/2011 Appeal withdrawn 26/10/2011 Compliance period extended to 6 months- ie by 26 April 2012 Officers denied access to property Formal action to be taken
11/00144/ EUNDEV  12/00098/ Pros	72 Daimler Avenue Banbury	3 ornamental walls to front of property	24/06/2011	27/10/2011	10/01720/F planning appeal dismissed 13/04/2011		6/03/2012	Enforcement appeal dismissed 6/12/2011. Council's costs awarded against the appellant. Council's costs paid by appellant Not complied with the enforcement notice. Instructions to be sent to legal Court case 20 July 2012
11/00155/ ELISTD (1) and (2)	A.K.A. 54-56 Parsons Street Banbury	Timber enclosure and decking Awning and flood lights	29/07/2011	01/12/2011	11/00169/F 11/00170/LB refused 21.04.11			Planning and Listed Building appeals dismissed 18 June 2012. Letter before action to be sent
11/00164/ ECOU	Unit 3A, Bessemer Close, Bicester	Change of use from B8 to B2	22/08/2011	21/10/2011	11/00995/F refused 12/08/2011		20/02/2012	Appeal Dismissed 23 Jan 2012 Planning application submitted and appears on the April planning committee agenda. Noise monitoring being carried out on a daily basis Current occupier expected to vacate by the end of July

**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
11/00197/ EUNDEV	30 Fenway Steeple Aston	Raised platform Children's playhouse in rear garden	16/01/2012	26/03/2012	11/01477/F refused 23/11/2011			Site visit to check for compliance  Verbal update to be given to committee
11/00219/ ECOU	2 Begbroke Crescent Begbroke	Change of use of the land from residential to mixed use of residential and taxi business	16/09/2011	19/01/2012				No appeal lodged Site being monitored for compliance Complied with notice This matter will not appear next time
12/00004/ EUNDEV	42 The Paddocks Yarnton	Erection of Timber fence and gates	02/02/2012	02/05/2012	11/01272/F			Planning appeal dismissed 23/03/2012  Instructions to be sent to legal
12/00020/ ECOU	Bishops End, Burdrop	Change of use of the land from a public house to residential dwelling house	12/03/2012	12/09/2012				Appeal lodged valid 03/04/2012 Public Inquiry to be held – Inquiry Date Tues 14 August 2012

**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00040/ EBCON	Corner Meadow Farnborough Road Mollington	Breach of Condition 9 of 09/00622/F Site access has not been laid out in accordance with the site layout plan	21/03/2012	21/06/2012				Site visit to be carried out
12/00041/ EBCON	Corner Meadow Farnborough Road Mollington	Breach of Condition 8 of 11/00293/F Submit details of the area of play to the LPA	21/03/2012	17/04/2012				Site visit to be carried out
12/00042/ ECOU	Corner Meadow Farnborough Road Mollington	Change of use from agriculture to use for siting of residential mobile home, residential caravans, shipping container and the laying of a hardstanding	21/03/2012	21/06/2012				Part compliance already achieved

**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00050/ EUNDEV	Bishops End, Burdrop	Change of Use to use of the land for the storage of a shipping container	02/04/2012	30/05/2012				Appeal received 2 May 2012 Written reps appeal
12/00062/ ECOU	Arncoft Racetrack Upper Arncoft	Intensification of use as a motorcross racing/ practising use	07/03/2012	02/05/2012	11/01403/ CLUE refused 12/10/2011			CLUE appeal in progress, conjoined with AVDC CLUE appeal. Public Inquiry arranged for 25 July 2012 Appeal lodged against the enforcement notice 04/04/2012 to be linked to CLUE appeals
12/00063/ EBCON	Corner Meadow Farnborough Road Mollington	Breach of condition 5(iv) of 09/00622/F- Approved landscaping works to be completed by the end of the planting season	21/03/2012	20/11/2012				Compliance date extended

**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00113/ EBCON	Jacks Field Launton	Breach of conditions 3 and 4 of 10/00021/F						Instructions to legal 23 April 2012 Further instructions sent 20 June 2012 Notice drafted
12/00163/ EUNDEV	Land south of Family Farm Oxford Road Weston on the Green	Breach of Conditions						Instructions to legal 26 June 2012
12/0000/ Elisted	Gate Lodge The Coach House Mill Street Kidlington	Removal of internal walls and removal of central lower part of roof truss			06/00675/LB			Instructions to legal
ENF 21/08 17.07.08	Heyford Park Land and buildings	Change of Use of land and buildings by Paragon in breach of 07/01260/F	Notice served 3.09.08	6.10.09		Appeal received		Notice withdrawn 24 April 2012 This item will not appear next time
ENF 22/08 17.07.08	Heyford Park Buildings	Change of use of buildings by Paragon in breach of 07/01259/F	Notice served 3.09.08	6.10.09		Appeal received		Notice withdrawn 24 April 2012 This item will not appear next time



**Enforcement and Prosecution Quarterly Report – 19 JULY 2012**

**APPENDIX 1**

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF 23/08 17.07.08	Heyford Park 6 lamp posts	Use by Paragon in breach of 07/01262/F	Notice served 10.09.08	11.10.09		Appeal received		Notice withdrawn 24 April 2012 This item will not appear next time
ENF 24/08 17.07.08	Heyford Park 2 lamp posts	Use by Paragon in breach of 07/01264/F	Notice served 9.09.08	10.10.09		Appeal received		Notice withdrawn 24 April 2012 This item will not appear next time
ENF 27/08 17.07.08	Heyford Park Trench and concrete	Change of use in breach of 07/01266/F	Notice served 2.09.08	3.10.09		Appeal received		Notice withdrawn 24 April 2012 This item will not appear next time

# Agenda Item 12

## Planning Committee

**Tree Preservation Order (No. 22/2011)  
2 No ash trees, Penn House, 9 Walford Road,  
Sibford Ferris, Banbury**

**19 July 2012**

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

#### **PURPOSE OF REPORT**

To seek the confirmation of an opposed Tree Preservation Order (No 22/2011) relating to 2 No ash trees (copy plan attached as Appendix 1) at Penn House, 9 Walford Road, Sibford Ferris, Banbury.

This report is public
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#### **Recommendations**

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The Planning Committee is recommended to:

- (1) Confirm the Order without modification

#### **Background Information**

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- 2.1 The Scheme of Reference and Delegation authorises the Strategic Director Planning, Housing and Economy to make Tree Preservation Orders under the provisions of Section 201 of the Town and Country Planning Act 1990, subject to there being reason to believe that the trees in question are under imminent threat and that their retention is expedient in the interests of amenity. The power to confirm Tree Preservation Orders remains with the Planning Committee.
- 2.2 The above mentioned Tree Preservation Order was authorised and made on 16/12/2011. The statutory objection period has now expired and 1No objection was received to the Order.
- 2.3 The objection came in the form of written correspondence submitted by the homeowner, Mrs Susan Dixon on the 14<sup>th</sup> January 2011. A copy of

the objection is attached in Appendix II.

- 2.4 In summary, Mrs Dixon is disappointed that the two trees, which reduce natural light levels across the garden, now cannot be removed due to the TPO which was raised following receipt of a section 211 'Notice of Intent' submitted by herself.
- 2.5 The objection states that it is difficult to grow other plants underneath the canopies of the two trees.
- 2.6 The objection states that Mrs Dixon has a love of trees, has indeed planted three birch trees herself nor has any desire to remove two additional beech trees also present in the same area of garden.
- 2.7 The objection requests a compromise whereby CDC allows the removal of one of the ash trees.

### **Key Issues for Consideration/Reasons for Decision and Options**

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- 3.1 Walford Road is located within the Sibford Conservation Area.
- 3.2 As part of the Planning consent for the Walford Road development, existing trees located along the northern boundary of the site were identified and agreed for retention in order to provide a level of screening of the development from the adjacent countryside, nearby access roads and the opposing village of Sibford Gower. The 2 No ash trees proposed for removal within the submitted 'Notice of Intent' were part of this line of retained trees / vegetation and are still providing the desired screening effect.
- 3.3 Both ash trees are of a young to semi-mature age classification. Both have single clear stems, defect free and compact healthy crowns.
- 3.4 Aside from the two protected young ash trees, the rear garden of the dwelling also contains 2 No young beech trees. The four trees are located in a linear fashion, east to west and located in close proximity to the northern boundary. Although both beech trees were not inspected, potential structural defects were noted from a distance. The defects noted were 'tight' union forks on the primary stems of both trees. If not managed correctly, there may be an increasing risk of partial tree failure at these unions in the future.
- 3.5 The removal of one of both of the two beech trees may be an option to improve light levels for the homeowner. Due to the defects noted, It is unlikely that either of the two beech trees would be considered suitable for a TPO.
- 3.6 Over an approximate period of 20 – 30 years, the two ash trees will develop into large specimens. Due to the expected confinement of the garden at that time there has to be an acknowledgement from CDC

that, when appropriate, one of the two trees may need to be felled or significantly pruned in order to reduce any anticipated concerns, fears or nuisance issues. Should this TPO be confirmed by Committee, then CDC will be able to enforce replacement planting should one tree (or even both) be felled. Until that time both trees can and should be allowed to continue providing the benefits for which they were originally retained for.

## Implications

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

Comments checked by Karen Muir, Corporate Systems Accountant 01295 221559

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

Comments checked by Claire Taylor, Corporate Performance Manager 01295 221563

## Wards Affected

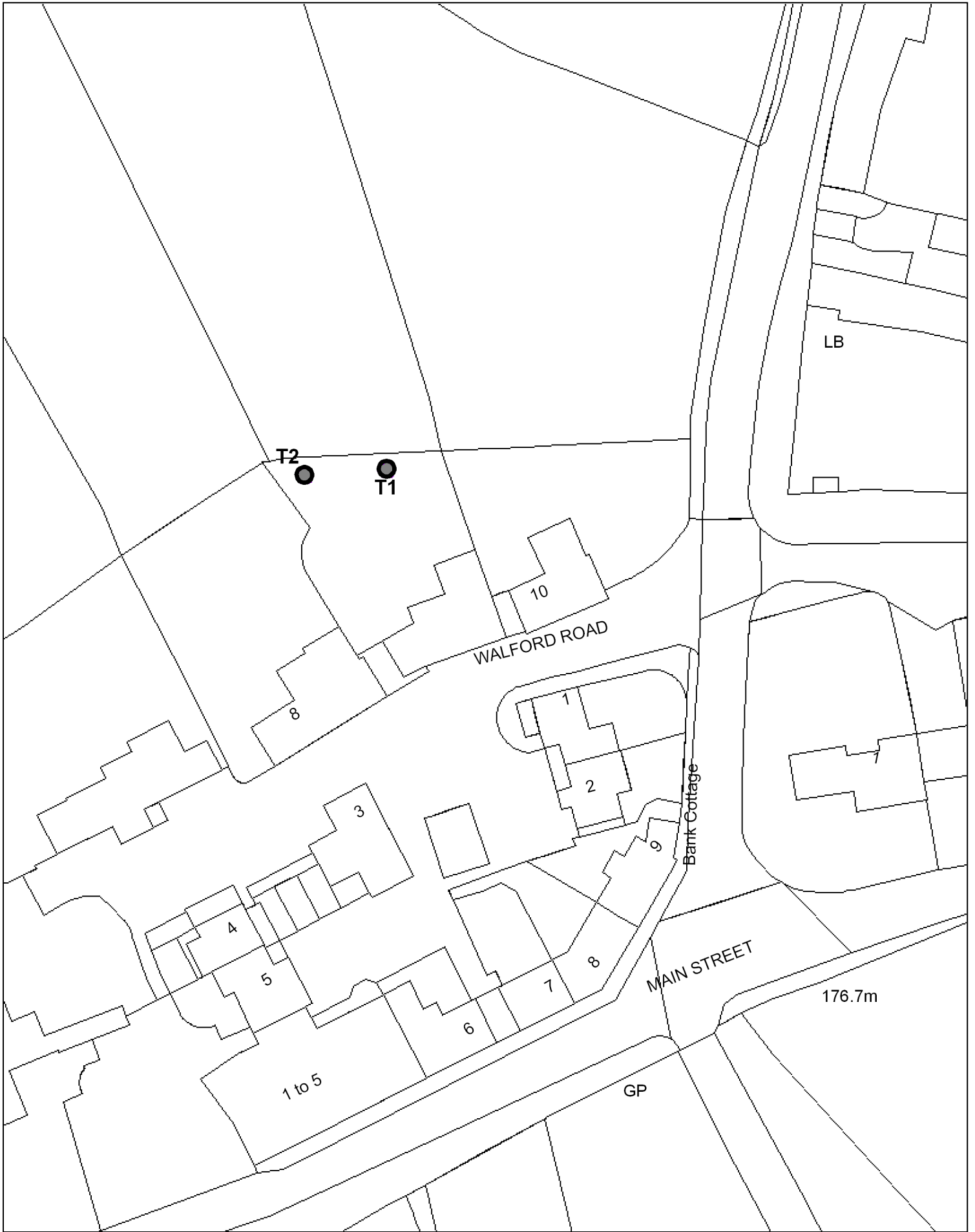
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Sibford

## Document Information

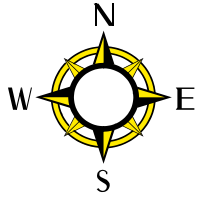
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Appendix No	Title
Appendix 1	Plan
Appendix 2	Letter of Objection from Mrs Dixon
Background Papers	
NONE	
Report Author	Jon Brewin (Arboricultural Officer – South)
Contact Information	01295 221708 Jon.brewin@cherwell-dc.gov.uk



**Penn House, 9 Walford Road, Sibford Ferris, OX15 5**

Scale	Unknown
Date	29/06/2012



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Penn House  
9 Walford Road  
Sibford Ferris  
Banbury  
Oxon OX15 5BL

Tel: 01295 788204

FAO John Brewin  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire  
OX15 4AA

Your Ref: DD/JB

14 January 2012

Dear Sirs

**Re: The Cherwell District Council Tree Preservation Order (No. 22) 2011  
Ash trees at Penn House, 9 Walford Road, Sibford Ferris, Oxfordshire, OX15 5BL**

Please regard this communication as my written objection to your refusal for the removal of two ash trees within my garden at the above address. I am sorry that you have seen fit to not allow me to commit this action – and I would hereby like to put forward my reasons for wanting the said trees to be removed.

I am an avid gardener and as a site visit would confirm the said trees when in full leaf form a curtain across the garden not only obscuring natural light but my view from my house. I feel it sad that I have followed every letter of the law in contacting you about this and I find myself as the only occupant of this development unable to improve my outlook. There are so many trees in such a small space that it is difficult for other plants to grow under their canopy. Indeed the trees are more tightly packed than you would expect in a natural environment, and growing more densely than any of my neighbours. I love trees and would not dream of touching any of the specimen beeches and indeed have planted three mature silver birches at some considerable expense to myself. I am indeed willing to compromise and would ask that you kindly consider me just removing one of the ashes which would go some way to making a positive improvement.

Yours faithfully

A handwritten signature in black ink that reads 'S.A. Dixon'. The signature is written in a cursive style and is underlined with a long, horizontal stroke.

Susan A. Dixon

## Planning Committee

### Decisions Subject to Various Requirements – Progress Report

19 July 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

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The Planning Committee is recommended:

- (1) To accept the position statement.

##### Details

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**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  Legal agreement completed and Permission issued 10.7.12
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  Permission issued 25.05.12  Public Art dealt with by condition
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 (22.3.12 and	Banbury Gateway, Acorn Way, Banbury  Subject to reference of the application to Secretary of



24.5.12)	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
12/01878/OUT	Land S of Overthorpe Rd and adj.M40, Banbury
	Subject to legal agreement with OCC/CDC concerning the safeguarding of a route for a relief road , footpath issues and monitoring of travel plan , and departure procedures

### **Implications**

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<b>Financial:</b>	There are no additional financial implications arising for the Council from this report.  Comments checked by Karen Muir, Corporate System Accountant 01295 221559
<b>Legal:</b>	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
<b>Risk Management:</b>	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**

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All

### **Document Information**

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<b>Appendix No</b>	<b>Title</b>
-	None

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

## Planning Committee

### Appeals Progress Report

19 July 2012

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

#### PURPOSE OF REPORT

This report aims to keep members informed upon applications which have been determined by the Council, where new appeals have been lodged. Public Inquiries/hearings scheduled or appeal results achieved.

This report is public

#### Recommendations

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The Planning Committee is recommended:

- (1) To accept the position statement.

#### Details

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##### New Appeals

- 1.1 **11/01906/F – Oxford Cottage, Oxford Road, Wendlebury-** appeal by Miss Sue Jacobs against the refusal of planning permission for the demolition of existing garage and construction of new dwelling and alterations to existing access and new access to existing dwelling – resubmission of 11/00925/F- Written Reps
  
- 1.2 **12/00059/F – Land adjacent and west of 17- 19 Freehold Street, Lower Heyford-** appeal by Mr P Kyte against the imposition of conditions 6 and 7 of the planning consent requiring the existing wall to be demolished by hand and the stone reused to construct a repositioned wall – Written reps

- 1.3 **12/00134/LB and 12/00133/F – Barn End, 5 Field Court, Duns Tew-** appeal by Mr John Adams against the refusal of planning permission and listed building consent for a single storey garden room extension on the front elevation – Written Reps
- 1.4 **12/00359/F – 15 Neithrop Avenue Banbury** – appeal by Mr Sital Singh Dhaliwal against the refusal of planning permission for a ground floor extension to rear of property and loft conversion with dormer window – Written Reps
- 1.5 **12/00453/F – 14 The Crescent, Twyford** – appeal by Mr & Mrs Mike Adams against the refusal of planning permission for the erection of a timber pre-fabricated granny annex – Householder written reps

**Forthcoming Public Inquiries and Hearings between 19 July 2012 and 16 August 2012**

- 2.1 **Inquiry commencing at 10.00am on Wednesday 25 July 2012 in the Council Chamber, Bodicote House, Bodicote, Banbury** to consider the appeals by Schyde Investments Ltd against
- (i) the service of enforcement notice alleging a breach of planning control :Without planning permission, the material change of use of the land in 2010 by reason of intensification from a use for motorcross racing and practising to a use comprising materially more noisy and more frequent motorcross racing and practising amounting to a definable change in the character of the use of the land and
  - (ii) the decision of the Council to refuse a certificate of lawfulness of existing use or development in respect of the use of land as a motorcross practise/race track at Arncott Racetrack, Murcott Road, Upper Arncott
- 2.2 **Inquiry commencing at 10.00am on Tuesday 14 August 2012 in the Council Chamber, Bodicote House, Bodicote, Banbury** to consider the appeal by Mr G R Noquet and Mrs J Noquet against the service of an enforcement notice alleging a breach of planning control : Without planning permission, the material change of use of the land from a public house (Use Class A4) to a residential dwelling house (Use Class C3) at Bishops End, Burdrop, Banbury

**Results**

**Inspectors appointed by the Secretary of State have:**

- 3.1 **Dismissed the appeals by Mr Marc Sylvester against the refusal of planning application 11/00169/F and listed building application 11/00170/LB for a decked area, enclosure and awning to the rear of 54-56 Parsons Street, Banbury-**  
The Inspector concluded that the structure and associated awning do not satisfy the requirements or objectives of national, regional and local policies, resulting in significant and unjustified harm to the

setting of the property, the setting of neighbouring listed buildings and the character or appearance of the Banbury Conservation Area.

- 3.2 **Dismissed the appeal by Berkeley Homes (Oxford and Chiltern) Ltd against the non-determination of application 11/01409/OUT for the erection of 65 dwellings with associated access, open space and landscaping and provision of sports pitch (football) with changing facilities and car park at OS parcel 4100 adjoining and to the south of Milton Road, Adderbury** –The Inspector found that the location of the appeal site is sustainable in terms of it being on the edge of a specified Category 1 rural settlement and in providing alternatives to the motor car as a means of access to the main urban centre of Banbury. He was not satisfied that the approach to the development of the appeal site as shown on the design and access statement and illustrative Masterplan represented the basis of good design and in the light of guidance in the NPPF was not able to conclude that the proposals overall constitute sustainable development. Adderbury Parish Council indicated a wish to produce a neighbourhood plan but accept that this will have to accord with the terms of the emerging Core Strategy. This plan led approach is strongly supported by the guidance at para .17 of the Framework which seeks to empower local people to shape their surroundings. The Inspector concluded that this is important in the context of Adderbury for two reasons. Firstly irrespective of the difficulties CDC has encountered in achieving an urban-centred supply of housing in Banbury, Adderbury has made a more than adequate contribution bearing in mind that it appears to have provided within the first 6 years of the draft Core Strategy plan period sufficient sites for the anticipated supply of housing in the village for the whole of the plan period. Secondly, it is clear from both the earlier and current expressions of interest in sites around the village that the appeal site is not the only site that needs to be considered. At this point in time it is not possible to say which site or sites should come forward and there are clear uncertainties as to the scale of development that would eventually occur in the western part of the village if planning permission were to be granted for the appeal proposal now. It would also clearly conflict with the guidance at para .17 of the Framework given that this proposal is currently not supported by the local community. The Inspector's overall conclusion in this finely balanced case was that the obvious benefits of providing an additional 65 dwellings in the short term, including affordable housing, are outweighed by the dis-benefits summarised above.
- 3.3 **Dismissed the application for a full award of costs made by Berkeley Homes (Oxford and Chiltern) Ltd against the Council** – The Inspector did not consider the Council to have been unreasonable in expressing concern as to the potential impact of this

decision and other similar decisions in rural North Cherwell, on the principle strategy of focusing most development in North Cherwell on Banbury and its immediate surrounding area. Further it was not unreasonable for the Council not to carry out its own formal landscape assessment particularly in circumstances where there had been no change in the use or character of the appeal site since the appeal decision in 2011. As a result, the Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense as described in Circular 03/2009 has not been demonstrated.

- 3.4 **Dismissed the appeal by Regeneco Ltd against the refusal of application 11/01391/F for the erection of a temporary wind monitoring mast at land at Bury Court Farm, North of Hanwell, Banbury (Committee)** – The Inspector commented “This is a scheme that would cause slight harm to the character and appearance of the area and in respect of which there is an appreciable possibility that aviation safety would be prejudiced. That harm and uncertainty is not outweighed by the possibility that the appeal proposal might support further development that would bring wider environmental benefits.”

## Implications

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<b>Financial:</b>	<p>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.</p> <p>Comments checked by Karen Muir, Corporate System Accountant 01295 221559</p>
<b>Legal:</b>	<p>There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.</p> <p>Comments checked by Nigel Bell, Team Leader-Planning and Litigation 01295 221687</p>
<b>Risk Management:</b>	<p>This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.</p> <p>Comments checked by Nigel Bell, Team Leader-Planning and Litigation 01295 221687</p>

## Wards Affected

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All

## Document Information

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-	None
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<b>Contact Information</b>	01295 221821 bob.duxbury@Cherwell-dc.gov.uk