

Committee: Planning Committee
Date: Thursday 16 August 2012
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

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

Substitutes

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

AGENDA

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

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

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

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

4. **Urgent Business**

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

5. **Minutes** (Pages 1 - 13)

To confirm as a correct record the Minutes of the meeting of the Committee held on 19 July 2012.

Planning Applications

6. **Land North of The Bourne and Adjoining Bourne Lane, Hook Norton**
(Pages 16 - 39) **11/01755/OUT**
7. **DJ Stanton (Engineering) Ltd, Station Road, Hook Norton, OX15 5LS**
(Pages 40 - 61) **12/00472/F**
8. **Former B-Line Business Centre, Station Road, Enslow** **12/00643/OUT**
(Pages 62 - 74)
9. **OS Parcel 0039, South West of Heathfield Village, Islip Road, Bletchingdon, Oxfordshire** (Pages 75 - 84) **12/00696/F**
10. **The Hermitage, High Street, Souldern** (Pages 85 - 99) **12/00779/F**

Other Reports

11. **Request for a variation of the S106 Agreement relating to the proposed development at Heyford Park - Application 10/01642/OUT** (Pages 100 - 103)

Report of Head of Development Control and Major Developments

Summary

To enable Members to consider a request to vary the S106 Agreement in relation to the development at Heyford Park and determine whether or not to accept the variation of the Agreement.

Recommendation

The Planning Committee is recommended:

- (1) To agree to vary the s106 agreement

Review and Monitoring Reports

12. Decisions Subject to Various Requirements (Pages 104 - 107)

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.

13. Appeals Progress Report (Pages 108 - 111)

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.

14. Exclusion of Public and Press

The following report contains exempt information as defined in the following paragraph of Part 1, Schedule 12A of Local Government Act 1972.

3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information).

Members are reminded that whilst the following item has been marked as exempt, it is for the meeting to decide whether or not to consider it in private or in public. In making the decision, members should balance the interests of individuals or the Council itself in having access to the information. In considering their discretion members should also be mindful of the advice of Council Officers.

Should Members decide not to make a decision in public, they are recommended to pass the following recommendation:

“That, in accordance with Section 100A (4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of that Act.”

15. OS Parcel 5700 South of Salt Way at Crouch Farm, Bloxham Road, Banbury

** Please note this report will follow, subsequent to the receipt of legal advice on the matter. **

Exempt report of Head of Public Protection and Development Management

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

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwellandsouthnorthants.gov.uk or 01295 221589 / 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 or Aaron Hetherington, Law and Governance
natasha.clark@cherwellandsouthnorthants.gov.uk,
Aaron.Hetherington@cherwellandsouthnorthants.gov.uk, 01295 221589 / 01295 227956

Sue Smith
Chief Executive

Published on Wednesday 8 August 2012

Agenda Item 5

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 19 July 2012 at 4.00 pm

Present: Councillor Rose Stratford (Chairman)

Councillor Ken Atack
Councillor Fred Blackwell
Councillor Tim Emptage
Councillor David Hughes
Councillor Russell Hurle
Councillor Mike Kerford-Byrnes
Councillor James Macnamara
Councillor D M Pickford
Councillor G A Reynolds
Councillor Leslie F Sibley
Councillor Trevor Stevens
Councillor Lawrie Stratford

Substitute Members: Councillor Nigel Randall (In place of Councillor Colin Clarke)

Apologies for absence: Councillor Alastair Milne Home
Councillor Colin Clarke
Councillor Michael Gibbard
Councillor Chris Heath
Councillor George Parish

Officers: Bob Duxbury, Development Control Team Leader
Ross Chambers, Solicitor
Rebekah Morgan, Trainee Planning Officer
Jon Brewin, Arboriculture Officer
Natasha Clark, Team Leader, Democratic and Elections
Aaron Hetherington, Democratic and Elections Officer

28 **Declarations of Interest**

Members declared the following interests:

8. Calthorpe House, 60 Calthorpe Street, Banbury OX16 5RE.

Councillor G A Reynolds, Disclosable Pecuniary Interest, as a member of Oxfordshire County Council.

Councillor Lawrie Stratford, Disclosable Pecuniary Interest, as a member of Oxfordshire County Council.

Councillor Rose Stratford, Disclosable Pecuniary Interest, as her spouse was a member of Oxfordshire County Council, the applicant.

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

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

30 **Urgent Business**

The Chairman reported that she had agreed to one item of exempt urgent business as the matter had arisen after agenda dispatch and a decision was required before the next planning committee meeting. The item would be considered following agenda item 14.

31 **Minutes**

The Minutes of the meeting held on 21 June 2012 were agreed as a correct record and signed by the Chairman.

32 **33 Oxford Road and land to the rear of Nos. 35-59, Oxford Road, Bodicote, Banbury**

The Committee considered application 12/00290/F for the demolition of 33 Oxford Road and erection of 21 dwellings and new access road – amendment to planning permission 09/00939/F.

Doug Glassford, Technical and Construction Director of the company, addressed the committee in support of the application.

Members commented on the need for housing and affordable housing in the area.

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

Resolved

That application 12/00290/F be approved, 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.

- (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.

- (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.

- (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.

- (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).
- (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.
- (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.
- (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.
- (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."
- (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.
- (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.
- (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.

- (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.
- (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".
- (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.
- (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.
- (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.
- (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.

- (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.
- (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.
- (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.
- (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.
- (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.
- (28) That no means of access whatsoever shall be formed or used between the land identified in this application and Canal Lane.
- (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.
- (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.

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.

33 **Land to the West and South of Numbers 7 to 26 The Green, Chesterton**

The Committee considered application 12/00305/OUT for the erection of 44 dwellings, village hall/sports pavilion and associated car parking, enlarged playing pitches, new children's play area, access and landscaping.

Lorna James, local resident, addressed the Committee in opposition to the application.

Mike Robinson, the applicant's agent spoke in support of the application. Philip Clarke, Chairman of Chesterton Parish Council spoke in support of the application.

In considering the application, some Members commented that it would be a good opportunity for Chesterton and would provide significant enhancements to Chesterton. Some Members made comment that new facilities would bring safer parking solutions

Some Members made comment that it was not clear that the application had full support of the community. Members also commented that Chesterton currently has approximately 25 acres of sports facilities and there was no need for further sports development in the area.

Councillor Hughes proposed that application 12/00305/OUT be approved. Councillor Randall seconded the proposal. The motion was voted on, lost and fell. It was subsequently proposed and seconded that application 12/00305/OUT be refused.

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

Resolved

That application 12/00305/OUT be refused, 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.

34 **Appointment of Chairman for the next Agenda Item**

Resolved

That Councillor Blackwell be appointed Chairman for the following Agenda Item

35 **Calthorpe House, 60 Calthorpe Street, Banbury OX16 5RE**

The Committee considered application 12/00555/OUT for 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.

The committee was satisfied with the evidence presented.

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

Resolved

That application 12/00555/OUT be approved 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.
 - (2) That in the case of the reserved matters, application for approval shall be made not later than the expiration of three years beginning with the date of this permission.
 - (3) That the development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the

reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

- (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.
- (5) That the vision splays shall not be obstructed by any object, structure, planting or other material with a height exceeding 0.6 meters as measured from the carriageway level.
- (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.
- (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.
- (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;
- (9) 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.
- (10) 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.
- (11) 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.
- (12) 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.

- (13) 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
- (14) 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.
- (15) 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.
- (16) 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".

(Councillor Hughes requested that his abstention from the vote be recorded).

(Councillors Rose Stratford, Lawrie Stratford and Reynolds left the meeting for the duration of this item. At the conclusion of this item, Councillor Rose Stratford re-took the Chair)

36

Bishops End, Burdrop, Banbury, Oxfordshire, OX15 5RQ

The Committee considered an application 12/00678/F for the change of use of a vacant public house to C3 residential.

In considering the application, Members questioned the site area. Members made comment that Public Houses could be extremely viable and the village would lose a service should the development go ahead. Members noted that the residents of the Sibford are against the application of change of use and closure of the vacant Public House.

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

Resolved

That application 12/00678/F be refused for the following reason:

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.

37 **20 Lapsley Drive, Banbury, Oxfordshire, OX16 1EJ**

The Committee considered application 12/00807/F for a Rear conservatory.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 12/00807/F be approved, 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:
- (3) 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.
- (4) 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.

38 **Quarterly Enforcement Report**

The Head of Public Protection and Development Management submitted a report that informed and updated Members of the progress of outstanding formal enforcement cases. The report also provided information about the level of activity on planning applications and appeals.

Members commended the work of the team and stressed the need for adequate resources in the enforcement team.

Resolved

- (1) That the report be accepted

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

The Committee considered a report which sought the confirmation of an opposed Tree Preservation Order (No 22/2011) relating to 2 No ash trees) at Penn House, 9 Walford Road, Sibford Ferris, Banbury.

Resolved

- (1) That Tree Preservation Order No. 22/2011 be confirmed without modification

40 **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.

41 **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.

42 **Exclusion of the Public and Press**

Resolved

That, in accordance with Section 100A(4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that it could involve the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of that Act.

43 **The Gate Lodge, Mill Street, Kidlington**

The Committee considered a report to request that Members authorise the serving of a Listed Building Enforcement Notice on The Gate Lodge, Mill Street, Kidlington.

Resolved

- (1) That authorisation be given to serve a Listed Building Enforcement Notice on The Gate Lodge, Mill Street, Kidlington to reinstate the roof truss.

The meeting ended at 6.05 pm

Chairman:

Date:

PLANNING COMMITTEE

16 August 2012

PLANNING APPLICATIONS INDEX

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

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

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

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

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

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

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

Human Rights Implications

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

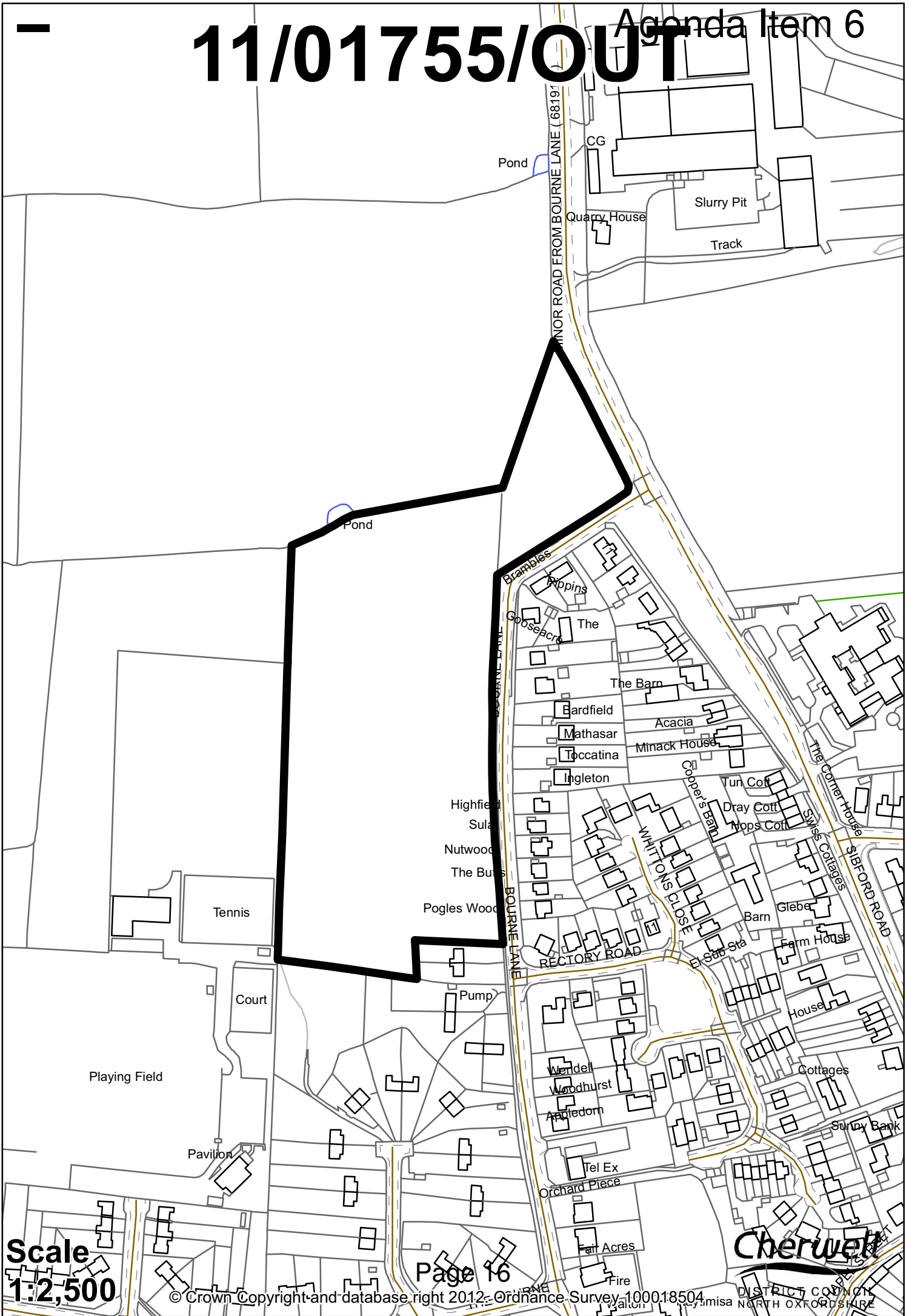
Background Papers

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

Applications

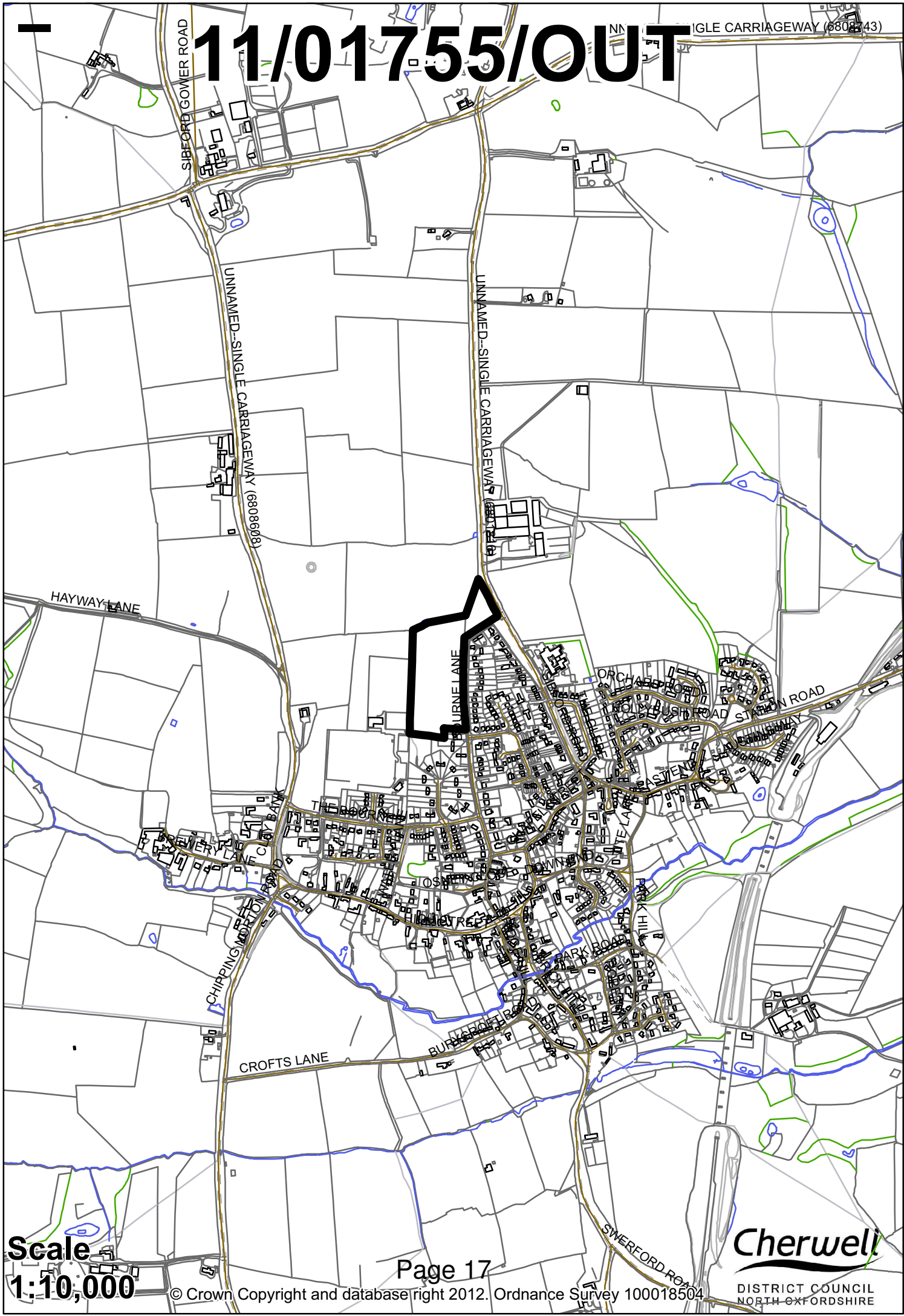
	Site	Application No.	Ward	Recommendation	Contact Officer
6	Land North of The Bourne and Adjoining Bourne Lane, Hook Norton	11-01755-OUT	Hook Norton	Approval	Simon Dean
7	DJ Stanton (Engineering) Ltd, Station Road, Hook Norton, OX15 5LS	12/00472/F	Hook Norton	Approval	Caroline Roche
8	Former B-Line Business Centre, Station Road, Enslow	12/00643/OUT	Kirtlington	Refusal	Paul Ihringer
9	OS Parcel 0039, South West of Heathfield Village, Islip Road, Bletchington, Oxfordshire	12/00696/F	Kirtlington	Approval	Graham Wyatt
10	The Hermitage, High Street, Souldern	12/00779/F	The Astons And Heyford	Refusal	Gemma Magnuson

11/01755/OUT



Scale
1:2,500

11/01755/OUT



Scale
1:10,000

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

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

1. Site Description and Proposal

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

2. Application Publicity

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

- 2.3 Material planning considerations include;
 Highway safety/convenience impact
 Impact of the development on the school
 Infrastructure (water, electricity, sewage, broadband, village facilities (inc. doctors)
 Harm to the character of the village/turning the village into a town
 Harm to the Cotswold character of the village
 Harm to the landscape
 Concerns over the scale of the development relative to the village
 Ecology impacts
 Flooding/drainage matters
 Impact on trees
 Prematurity and lack of need
 Not in line with the Localism Act
 Contrary to planning policies
 Impact on the built Conservation of the village
 Un-sustainability
 Lack of employment in the village
 Impact on the public rights of way
 Outside built up limits of village on green field site
 Loss of prime agricultural land
 The 'Stanton' site is a better alternative
 The developers have failed to engage with the community prior to making the application
- 2.4 The impact of the proposal on highways, the school and infrastructure was raised by in excess of 70% of the objectors. The location, scale, impact on character, loss of Greenfield and extension to the village were also significant issues.
- 2.5 Non-Planning issues;
 The development is motivated only by profit
- 2.6 The comments in support of the application welcomed the provision of affordable housing for the village and acknowledged the need for new development for the village to grow.

3. Consultations

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

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

- 3.3 **Thames Water:** has identified an inability of the existing waste- and drinking-water infrastructure to accommodate the needs of the proposal. However in the event of an approval conditions can be imposed to overcome this concern.
- 3.4 **Oxfordshire County Council (Highways):** No objection on highway safety grounds, but raises concerns over the sustainability of the proposal in transport terms and the reliance on the private car. Notes that trips rates quoted were unrealistically low; however, when more robust figures are considered there is negligible impact in terms of highway capacity. Considers that subject to an appropriate S106 agreement including transport and schools provision, a refusal, on transport grounds could not be sustained at appeal.
- 3.5 **Oxfordshire County Council (Education):** If the development were to proceed then it is likely that additional primary school accommodation would be required; either through an extension to the school or by transporting pupils to alternative local schools. The cost of either of these solutions would need to be met with contributions from the developer. There is no requirement for increased secondary school capacity in the area. The County Council no longer objects to this scheme on the basis of upsetting the balance of schooling in Hook Norton.
- 3.6 **Oxfordshire County Council (Developer Funding Officer):** There is a shortfall in off-site off-street service infrastructure which needs to be addressed before any proposal is approved and the primary school is currently over capacity. Developer contributions would be required for school infrastructure, library infrastructure and stock, day care, waste recycling, adult learning, museum resources and school transport.
- 3.7 **Oxfordshire County Council (Archaeologist):** The site is an area of archaeological interest and there are some records nearby. As the site is largely undisturbed any remains would have the potential to be well preserved. Requests pre-commencement negative conditions.
- 3.8 **Oxfordshire County Council (Countryside Services):** The scheme will not have a direct impact on public rights of way; offers comments on the required rights of way infrastructure.
- 3.9 **Oxfordshire County Council (Drainage):** No objections, notes that any final design should be SUDS compliant.
- 3.10 **Thames Valley Police:** No objections; would encourage the use of 'Secured by Design' principles if approved. Concerned about the potential lack of natural surveillance of public open space and would like to see active windows from routinely occupied rooms overlooking that area to reduce the opportunity for crime and disorder.
- 3.11 **Head of Strategic Planning and the Economy (Planning Policy):**

Housing Land Supply: The position reported in the 2011 Annual Monitoring Report was that the district had a supply of 2.9 years for the period 2012-2017. Evidence

presented by the Council (and agreed by the appellants) at a recent public inquiry in April 2012 was that supply had increased to 3.1 years as a result of two recent planning decisions – for Cotefield Farm, Bodicote and for Yew Tree Farm, Launton. (The Head of Strategic Planning and the Economy has since commented on other applications on this agenda and noted that an allowance for windfalls (as now allowed by the NPPF where there is compelling evidence) would not be sufficient to return the district to a 5 year supply. He has also noted that the NPPF requires an additional buffer of 5% on top of 5 year supply requirements or 20% where there has been a record of persistent under delivery).

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

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

4. Policy Considerations

National Planning Policy Framework (NPPF) Core planning principles and the delivery of sustainable development with particular regard to the following sections:
1: Delivering sustainable development
3: Supporting a prosperous rural economy
4: Promoting sustainable transport
6: Delivering a wide choice of high quality homes
7: Requiring good design
8: Promoting healthy communities

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

11: Conserving and enhancing the natural environment

12: Conserving and enhancing the historic environment

South East Plan 2009

CC1: Sustainable Development

CC4: Sustainable Design and Construction

CC6: Sustainable Communities & Character of the Environment

CC7: Infrastructure and Implementation

H1: Regional Housing Provision 2006 - 2026

H2: Managing the Delivery of the Regional Housing Provision

H3: Affordable Housing

H4: Type and Size of New Housing

H5: Housing Design and Density

T1: Manage and Invest

T4: Parking

NRM1: Sustainable Water Resources & Groundwater Quality

NRM2: Water Quality

NRM4: Sustainable Flood Risk Management

NRM5: Conservation and Improvement of Biodiversity

C4: Landscape and Countryside Management

BE1: Management for an Urban Renaissance

BE5: Village Management

BE6: Management of the Historic Environment

S1: Supporting Healthy Communities

CO1: Core Strategy

CO3: Scale and Distribution of Housing

**Adopted Cherwell
Local Plan 1996
Saved Policies**

H5: Affordable Housing

H6: Housing needs within or adjacent to rural settlements

H12: New Housing in Rural Areas

H13: Housing within Category I Settlements

H18: New Dwellings in the Countryside

C7: Landscape conservation

C8: Sporadic development in the open countryside

C13: Areas of High Landscape Value

C27: Development in villages to respect historic settlement pattern

C28: Design, layout etc standards

C30: Design control

TR1: Transportation Funding

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

BSC1: District Wide Housing Distribution

BSC2: The Effective and Efficient Use of Land

BSC3: Affordable Housing

BSC4: Housing Mix
BSC7: Meeting Educational Needs
BSC10: Open Space, Outdoor Sport and Recreation Provision
BSC11: Local Standards of Provision – Outdoor Recreation
BSC12: Indoor Sport, Recreation and Community Facilities

ESD1: Mitigating and Adapting to Climate Change
ESD6: Sustainable Flood Risk Management
ESD7: Sustainable Drainage Systems
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
ESD13: Local Landscape Protection and Enhancement
ESD16: The Character of the Built Environment

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

5. Appraisal

5.1 The key issues for consideration in this application are:

Policy Context
Housing Need
Ecology and biodiversity
Suitability of the site
Landscape impact
Impact of the proposal on the character and heritage of the village
Flooding
Access and highway safety
Education

5.2 **Policy Context**

5.2.1 This application must be determined in line with the development plan unless material considerations indicate otherwise. This position is embedded in the Planning Act as well as the Planning and Compulsory Purchase Act, and this starting point for the determination of planning applications is not affected by the publication of the National Planning Policy Framework.

5.2.2 The policy context to this proposal is therefore made up of the documents comprising the development plan. It is then necessary to consider if there are other material considerations which are material to the determination of the proposal.

5.2.3 Turning first to the development plan, the South East Plan 2009 is the regional spatial strategy for the South East region. Despite the commitment of the government to abolish this tier of planning policy, it remains a part of the development plan. Whilst this plan clearly contains no site-specific policies, it does set out the regional spatial planning framework for the region with policies for the scale and distribution of new housing, priorities for new infrastructure and economic development, a strategy for protecting countryside, biodiversity and the built and historic environment and for tackling climate change.

5.2.4 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as countryside (i.e. previously undeveloped

land) where there is a presumption against general residential development on unallocated sites without any special justification.

5.2.5

Policy H12 of the adopted Local Plan states that new housing in the rural areas of the district will be permitted within existing settlements in accordance with policies H13, H14 and H15 and schemes that meet a specific and identified local housing need will be permitted in accordance with policies H5 and H6.

5.2.6

Policy H13 of the adopted Local Plan states that new residential development within Category 1 settlements, such as Hook Norton, is restricted to infilling, minor development within the built up area of the settlement and the conversion of existing buildings; subject to other policies in the Local Plan.

5.2.7

Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings.

5.2.8

The site lies beyond the existing built limits of Hook Norton in an area of currently undeveloped agricultural land. The built up limits of the village in this case are likely to be defined as the frontage of the dwellings along Bourne Lane, and the rear of the development along The Bourne and the Sports and Social Club.

5.2.9

The proposal is not infilling, nor within the built up area of the settlement and not required for agricultural purposes, the development is therefore contrary to Policies H12, H13 and H18 of the adopted Cherwell Local Plan.

5.2.10

The adopted Local Plan also includes policies for landscape conservation (Policies C7 and C13), which state that development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape; and which seek to conserve the character of the locally designated Area of High Landscape Value.

5.2.11

Policy C27 of the adopted Local Plan states that development in villages will be expected to respect their historic development pattern.

5.2.12

In May 2012, the Council approved for consultation the proposed submission draft of the Cherwell Local Plan subject to minor changes. This document replaces the earlier Draft Core Strategy and represents the likely 'direction of travel' for planning policy in the district up to 2031. The Plan sets out the long term spatial vision for Cherwell and contains policies to help deliver that vision. The Plan is built around three main themes; securing economic development, building communities and ensuring that development is sustainable.

5.2.13

With regard to housing supply and delivery, the plan sets out the need to control and manage housing growth, directing supply to the urban areas (Banbury and Bicester) whilst also recognising the need for housing in the larger and more sustainable villages. To this end, the Plan categorises villages according to their size and appropriateness for new housing development. This village categorisation approach is consistent with the current adopted Local Plan and the previous non-statutory Local Plan and draft Core Strategy.

5.2.14

Whilst this Plan is of limited weight (as it has yet to be consulted upon or examined), it does indicate the 'direction of travel' for planning policy, and

specifically housing and growth policies for the district. It is important to stress that this plan does not carry the weight of the adopted Local Plan.

- 5.2.15 With specific regard to Hook Norton, the Proposed Submission Local Plan identifies Hook Norton as a Category A village. In accordance with the approach adopted in previous policy documents, villages have been categorised based on criteria including population size, the number and range of services and facilities in the village, any known issues in a village, accessibility in terms of public/private transport and local employment opportunities.
- 5.2.16 The Proposed Submission Plan also identifies Hook Norton as part of the group of villages which will provide up to 189 homes over the plan period from 2011 to 2031. This equates to an average of about 38 homes per village (taking the Sibfords together). The Plan states that the precise number of homes to be allocated to an individual village, and the allocation of sites, will be set out in a Local Neighbourhoods Development Plan Document which will take account of levels of house building that have already taken place in each village to avoid over development. However, ahead of this further consideration, the Plan anticipates that within each group of villages the total number of homes will be divided broadly equally. (The number of homes proposed in this application exceeds that which may be envisaged by dividing the requirement equally between villages. Hook Norton Parish had 37 recorded housing completions from 2001-2011).
- 5.2.17 Whilst leaving specific site allocations to a future a Local Neighbourhood Development Plan Document the Proposed Submission Local Plan also includes policies relating to density and affordable housing provision required of new housing development (minimum of 30 dwellings per hectare and 35% respectively). Although the proposal accords with the density requirements of this policy, it does not meet the newly proposed 35% affordable housing target. However, it should be borne in mind that the Proposed Submission Plan is of limited weight, and the 30% level of affordable housing does accord with the currently adopted standards. It is not therefore considered that refusal on these grounds would currently be sustainable.
- 5.2.18 On 6 December 2011, the 2011 Annual Monitoring Report (AMR) was approved by the Council's Executive. The AMR included a comprehensive review of housing land supply which concluded that the district had a 2.9 year supply for the period 2012-2017. This equates to significant shortfalls of 1560 dwellings. The AMR concluded that supply in the Banbury and North Cherwell area (Cherwell's part of the 'Rest of Oxfordshire') was 1.7 years for both 2011-16 and 2012-17. However, it should be noted that supply in the Banbury and North Cherwell area is on track (1749 completions at 31/3/11 compared to a South East Plan requirement of 1750). In evidence to the recent Adderbury appeal Inquiry the land supply position was reported as having increased to 3.1 years. As advised, by the Head of Strategic Planning and the Economy, a windfall allowance would not be sufficient to return the district to a five year supply, leaving aside the NPPF's additional 5 or 20% requirements.
- 5.2.19 Questions have been raised during the consultation period over the appropriateness of the Councils' land supply calculations. It has been suggested by many contributors to the application, and indeed the local Member of Parliament that consented schemes should be included in the housing land supply figures, and that there should be no element of assessment of deliverability, as

contributors considered it unfair to penalise residents and Councils for the failure of the house building industry to deliver consented schemes. Criticism of the method of housing land supply calculation has found expression in the National Planning Policy Framework (footnote 11 in reference to paragraph 47),

- 5.2.20 Members of the public have also queried the relationship between ‘in-year’ approvals and consents on the five-year supply figures, citing recent news articles about the RAF Upper Heyford redevelopment and the recent masterplan approval for the Bankside site in Bodicote/Banbury. Due to the significant level of work and complexity of updating the housing land supply, and the ever-changing political and economic context to housing delivery, the deliverability of large sites is instead thoroughly reassessed on a consistent basis at one fixed point in the year.
- 5.2.21 The application was deferred from the June Committee meeting in part to take legal advice on this issue. The advice received supports the Council’s approach of assessing the deliverability of individual sites to determine the number of dwellings that can reasonably be expected to be built within the next five years.
- 5.2.22 This Council considers that the district’s housing land supply position remains the same as set out in the Annual Monitoring Report and updated at the Adderbury inquiry in April. A new housing trajectory is included in the proposed submission draft of the Cherwell Local Plan and a review of housing supply will be presented to the Council’s Executive in due course as new sites become deliverable.
- 5.2.23 The National Planning Policy Framework, published in March 2012 is the much-publicised replacement for the suite of government guidance expressed through the PPG and PPS documents. Broadly speaking, the National Planning Policy Framework sets out the government’s planning policies for England and how these are expected to be applied; it provides a framework within which councils can produce their own distinctive local and neighbourhood plans.
- 5.2.24 The National Planning Policy Framework does not replace the development plan, but is a material consideration in decision making.
- 5.2.25 The National Planning Policy Framework has at its heart a presumption in favour of sustainable development which is intended as a “*golden thread*” running through the decision taking process. The Framework expressly notes that for decision taking, this presumption means that where the development plan is absent, silent or out-of-date, permission should be granted unless “*any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*”.
- 5.2.26 Whilst PPS3 was replaced by the National Planning Policy Framework, the requirement to demonstrate a five-year housing land supply was restated, with an additional 5% buffer or 20% where there is a record of persistent under-delivery.
- 5.2.27 Crucially for this case the National Planning Policy Framework states that “*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*” (paragraph 49).
- 5.2.28 The National Planning Policy Framework is clearly established as a material

consideration, and it explicitly sets out that Policy H13 of the adopted Cherwell Local Plan is out of date. As set out above, where this is the case, the proposal must be approved unless any impacts would outweigh the benefits.

5.2.29 Following the deferral of this application from the meeting in June, Officers have sought the advice of Counsel on the implications of footnote 11 to paragraph 47 of the National Planning Policy Framework. The key issue was whether or not this footnote (which reads “To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. 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, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans”) would allow a local planning authority to take into account all dwellings on sites with planning permission when calculating their five-year land-supply, rather than just those dwellings likely to be delivered within the next five years. Were this to be the case, then the land-supply position in the District is likely to be significantly different to the current 3.1 years.

5.2.30 However, the legal advice received suggests that the approach taken in the AMR, in the evidence given to the Adderbury inquiry, and in the response to this application is the correct one. Assessments must be undertaken to determine whether a site is deliverable and to determine the number of homes that can reasonably be expected to be provided within the 5 year period. A site cannot be included in the housing land-supply figures solely on the basis of permission being granted; there must be a reasonable expectation of delivery within the plan period, and the viability and deliverability of the scheme must therefore be taken into account.

5.2.31 As a result, the housing land-supply position of the district remains less than five years.

5.3 **Housing Need**

5.3.1 Hook Norton has been identified as one of the District’s more sustainable villages capable of accommodating some limited further housing development. It continues to be identified as one of the more sustainable villages in the Proposed Submission Local Plan. However development of a site such as this, in the open countryside, would usually only be permitted if it were allocated as part of an adopted district plan and if it did not give rise to harm. The extant Local Plan and the Proposed Submission Plan recognises that the District’s strategy of extending the existing urban areas, as the most sustainable locations for more development, is the most sustainable approach, but both acknowledge the need for limited development in rural areas, and as set out above, the PSLP (and previously, the non-statutory Local Plan and the draft Core Strategy) identifies Hook Norton as a location for further rural housing growth.

5.3.2 The Head of Regeneration and Housing has noted that there is a need for affordable housing in Hook Norton, identified through the Housing Register. The Housing Team, in association with the Oxfordshire Rural Community Council has also carried out a Housing Needs Survey for the village, which identifies a clear need for affordable housing within the village, as well as support for a development which would enable such provision.

5.3.3 Policy BSC4 of the 2012 Proposed Submission Local Plan proposes a housing mix weighted as follows; 2 bed – 19%, 3 bed – 64%, 4-bed 15%, 5-bed 2%. This proposal includes an indicative housing mix in the Design & Access Statement which has a more even weighting (2-bed 23%, 3-bed 33%, 4/5-bed 44%). The proposed housing mix has been arrived at through an estimate for demand in the village and research carried out by the applicant. The mix proposed is however indicative, and the applicant has suggested they may be willing to review the mix in order to better match the draft policy. They do however consider that the proposed mix in BSC4 is unduly weighted towards 3 bed houses and that this is likely to be in dispute in any forthcoming Local Plan examination.

5.4 **Ecology and biodiversity**

5.4.1 Section 11 of the NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)

5.4.2 Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.

5.4.3 Paragraph 18 states that “*When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.*”

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

- 5.4.5 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and; “Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 5.4.6 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.4.7 The applicants have carried out Phase 1 ecological survey which concludes that the site is not within or adjacent to any wildlife site and that significant impacts to such sites are not anticipated. The report also notes that the site is primarily improved grassland which is not of significant ecological value.
- 5.4.8 The Council’s Ecologist has confirmed, following her own site visit, that the site is of no particular ecological value and that the current indicative layout is sympathetic to the biodiversity gain required by the National Planning Policy Framework.
- 5.5 **Suitability of the site**
- 5.5.1 As set out above, the site is considered to be outside of the current built up limits of the village. However, as the current policy position lessens the weight of this as a consideration, it is important to objectively assess the site.
- 5.5.2 As set out in the application documents, the site is not within or adjacent to any designated wildlife sites, does not contain any recorded protected species and is not in a flood zone. Furthermore, the site is not within the designated Conservation Area, nor does it contain, or is it adjacent to any Listed Buildings. The site lies opposite and to the rear of existing, relatively recent residential development. Although the site is within a locally designated landscape (the Area of High Landscape Value), it is not within a nationally designated landscape.
- 5.5.3 The site is contained within established hedging to the boundaries and as such, views into and across it are limited. Notwithstanding that, there are of course views into the site from the public right of way to the North-East. These views are not considered likely to be harmful.
- 5.5.4 With regard to the neighbouring properties and the adjacent Sports and Social club, it is considered that the site is suitably distant from, and appropriately screened from the surrounding residential properties and adjacent Sports and Social club so as not to cause any unacceptable harm to the amenity of surrounding or future residents by way of loss of light, loss of privacy, overshadowing or excessive noise/light disturbance. The concerns of the Anti-Social Behaviour Officer with regard to the Sports and Social Club are noted, but the applicant considers that the location of the drainage attenuation pond in the

area of the site closest to the Club, and the boundary screening proposed, coupled with the intervening distance will mitigate any harmful impact.

5.5.5 The site has been variously promoted as a site for inclusion in the development plan process, most recently it was promoted by the developer in the 2006 *Issues and Options* paper pursuant to the Local Development Framework process. Hook Norton has been identified as a location for housing growth in the draft plan making process. The Proposed Submission Local Plan provides for 189 dwellings in the plan period across a group of dwellings including Hook Norton (as well as Cropredy, the Sibfords, Fritwell and Steeple Aston). The identification of Hook Norton as a location for future growth must of course be balanced against the results of the 2009 CRAITLUS (Cherwell Rural Areas Integrated Land Use Study) research, which was commissioned to consider the transport impact of future development proposals. This report concluded that although Hook Norton was identified as a location for growth generally, it was the exception to the rule that the most sustainable villages in terms of housing growth (i.e. those with facilities) are the best in terms of highway network impact. Importantly though, the CRAITLUS report did acknowledge the prevalence of facilities (shop, post office, doctor, school) in Hook Norton which would serve to reduce the need to otherwise travel to access such services. The report also notes that villages such as Hook Norton should not be discounted for development solely as a result of their transport limitation and highway network impacts. Other villages in the same 'housing group' as Hook Norton in the Proposed Submission Local Plan also do not perform markedly better than Hook Norton.

5.5.6 This view is consistent with that taken in the allocation of Hook Norton as a location for growth in the Proposed Submission Local Plan, which acknowledges the ability of the village to take development owing to the facilities in the village.

5.6 **Landscape Impact**

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

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

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

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

5.7 Impact of the proposal on the character and heritage of the village

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

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

5.7.3 Turning to the broader character of the village, many contributors have commented that a development of this type and nature will harm the fundamental 'Cotswold' character of the village. As the application is in Outline with all matters reserved at this stage, the final design and appearance is not yet known. However, the overall layout, scale, density and nature of the development is not so different from other residential developments in the village to render it harmful or unacceptably incongruous. Clearly the indicative site layout is not representative of the traditional, historic street pattern of the centre of the village (the area covered by the Conservation Area), but it must be borne in mind that the site is separated from that area by linear development along Bourne Lane and the formulaic development along The Bourne. Similarly, it is clear that the immediate built-environment context of the site means that the proposal does reflect the settlement pattern of the village; with a historic core surrounded by incremental development very much of its time. Indeed, it is arguable that the immediate context of the application site does not in fact reflect the traditional character of the village or local vernacular.

5.8 Flooding

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

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

5.9 Access and highway safety

5.9.1 The County Council as Highway Authority have considered the proposal, and accepting that the proposal is in Outline with all matters reserved, offer no objections on highways safety grounds. They have previously raised concerns over the suitability of the site in terms of transport sustainability, and the likely

difficulties in reducing the number of journeys by private car from such a site.

5.9.2 The County Council have provided clarification of their comments. They have noted that whilst the level of trip generation in the transport statement in the application was low, considering more robust figures still means that the impact on highway capacity is negligible. The County have also noted that whilst an extension to the school would add to 'school-run' pressures, given the spatial relationship of the site to the school, then this would not represent grounds for refusal. The County Officer concludes that *'subject to an appropriate S106 agreement, including both transport and schools provision, a refusal, on transport grounds, could not be sustained at appeal'*.

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

5.10 **Education**

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

5.10.2 Following further work at the County Council with regards to feasibility for an extension to the school and on the cost of transport, the County Council believe that a solution can be found for education impacts. This solution would take the form of either the extra pupils being transported to other local schools (which would be funded by the developer) or the school being expanded to increase the capacity of the school (again, with funding from the developer towards that expansion). Negotiations between the County Council and the developer are ongoing in this respect, but it is anticipated that a solution can be found.

5.11 **Public comments**

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

5.11.2 Comments were also raised as to the timing of the application; suggesting both that it was timed to avoid any ramifications from the Localism Act and that the housing has been proposed in advance of any allocation or assessment of need. It is clear therefore that there is a strong level of objection within the village to the proposal. This level of objection is material to the consideration of the scheme, but

has to be weighed against the NPPF's presumption in favour of sustainable development and the lack of other harm that has been identified arising from the proposal.

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

5.12 **Planning Obligations**

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

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

5.12.3 District Council requirements
affordable housing at 30%, the type, tenure and mix of which is to be fixed in line with local needs
open space, sport and recreation facilities, including LAP provision
refuse bins and recycling
community facilities

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

5.13 **Conclusion**

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

5.13.2 In essence therefore, the proposal must be considered against the requirements of Sections 70(2) of the principal Act and 38(6) of the Planning and Compulsory Purchase Act 2004 which state that proposals must be considered against the development plan unless material considerations indicate otherwise.

5.13.3 As set out above, the development plan is made up of the saved policies in the Cherwell Local Plan 1996 and the policies in the South East Plan 2009. The policies in the May 2012 proposed submission draft Cherwell Local Plan are material in terms of indicating a 'direction of travel' for planning policy, as is the Annual Monitoring Report and the National Planning Policy Framework.

- 5.13.4 It is important to note that the National Planning Policy Framework does not change the statutory status of the development plan as the starting point for decision making.
- 5.13.5 The district does not presently have a five-year supply of deliverable housing land and the National Planning Policy Framework makes it clear that in such circumstances policies for the supply of housing cannot be considered up to date. As such, the National Planning Policy Framework sets out that proposals for new housing development should instead be considered against the test in para 14 of the Framework which states that (where the development plan is out of date) development should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The line of argument made in the Adderbury case, and in the now-superseded Housing Land Supply Position Statement, that approval may lead to an unmanaged rush of rural housing site releases which would in turn cause harm is not considered to outweigh the benefits.
- 5.13.6 Whilst the level of objection to the scheme is clearly substantial, it is considered that the scheme does, on balance, pass the test set out in paragraph 14 of the National Planning Policy Framework. The consultation pursuant to the application demonstrates that no adverse impacts would arise from approving the development which would outweigh the benefits of doing so. Fundamentally, the landscape, highway, infrastructure and education impacts of the proposal do not outweigh the benefits arising from the provision of housing (both market and affordable) for which there is a demonstrable need and demonstrable shortfall and as such, the proposal passes the test. This reasoning (that the tests in the National Planning Policy Framework supersede the tests in the development plan) is consistent with the approach taken in the recent Adderbury appeal inquiry, the reasoning applied in the recent Adderbury appeal decision, and is consistent with the response from the Planning Policy Officer. Furthermore, the method of calculating the housing land supply has been ratified by the legal advice taken since the deferral of the scheme from the June Committee meeting. The Framework still requires planning authorities to have regard to the viability and deliverability of housing schemes when calculating land-supply. As such, the revised figure of 3.1 years remains valid.
- 5.13.7 Following the dismissal of the appeal against the refusal of planning permission for a development south of Milton Road, Adderbury (11/01409/OUT refers), questions have been raised as to whether that appeal decision would affect the determination of this application (and this was the second reason for the deferral of this application from the previous meeting). Having examined the decision letter for that application, it is not considered that the dismissal of that appeal does materially affect the consideration of this scheme. That decision confirmed the housing land-supply position approach, but then went on to dismiss that appeal for site-specific reasons which are not considered to apply to this site.
- 5.13.8 Similarly, questions have been raised as to why Officers recommended refusal of an application at Chesterton for 44 dwellings on the edge of the village (12/00305/OUT refers). Again, comparisons between that site and this application make the difference clear; Chesterton is not identified as one of the more sustainable villages and the site at Chesterton is a more open and less discrete site and does not relate to the existing built area of the village in the same way as the application under consideration here.

- 5.13.9 The consideration of this proposal and the weighing of the harm and benefits needs to be carefully considered. The level of public objection, and issues surrounding education provision must be balanced against the benefits of contributing to the wider district in terms of returning the district to a five-year housing land-supply. This must also include of course consideration of the overall sustainability of the scheme. Notwithstanding the level of public objection, the relatively low score for Hook Norton in the CRAITLUS study and the general policy approach to development of this sort, it is considered that the benefits to the proposal do outweigh these factors.
- 5.13.10 The scheme is considered to be deliverable; the site is not previously developed land, is of a scale and type to be deliverable in the current economic climate. In addition, the developer has indicated that they would be able to comply with the shortened time periods for submission of Reserved Matters applications and implementation.
- 5.13.11 In light of the assessment set out in the paragraphs above, Officers consider that the material considerations pursuant to the proposal outweigh the restrictions arising from the relevant policy in the development plan (principally Policy H13 of the adopted Cherwell Local Plan 1996). The suitability of the site, its discrete nature giving rise to very limited landscape and visual harm, the provision of affordable and market housing for which there is a demonstrable need, coupled with the requirements of the National Planning Policy Framework, the South East Plan and the direction of travel set out in the May 2012 proposed submission draft of the Cherwell Local Plan demonstrate that there are material considerations which outweigh the development plan, in accordance with Section 70(2) of the principle Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004.
- 5.13.12 Although a balanced assessment, it is on balance concluded that permission should be granted.

6. Recommendation

Approval, subject to:

a) the applicants entering into a legal agreement to the satisfaction of the District Council in respect of the likely heads of terms set out in paragraph 5.12 above;

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

1) Approval of reserved matter details

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

3) Time limit for commencement (one year)

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

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

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

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

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

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

10) Development should not be commenced until: Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.

11) No development approved by this planning permission shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details. Reason - To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the drainage system. To prevent the potential pollution of the underlying aquifer from the use of soak-aways in contaminated land.

12) Prior to any demolition on the site and the commencement of the development a professional archaeological organisation acceptable to the local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority. Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

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

14) Prior to any demolition on the site and the commencement of the development and following the completion of the archaeological evaluation, investigation and recording referred to in condition 13, a report of the archaeological evidence found on the application site and full details of a second stage Written Scheme of Investigation based on the findings, including a programme of methodology, site investigation and recording, shall be submitted to and agreed in writing by the Local Planning Authority. Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with government guidance in Section 12 of the National Planning Policy Framework.

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

16) Following the completion of the fieldwork all post excavation work including all processing, research and analysis necessary to produce an accessible and useable archive and its deposition, and a full report for publication, shall be submitted to the Local Planning Authority in accordance with the revised Written Scheme of Investigation approved under condition 15. Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance

with government guidance in Section 12 of the National Planning Policy Framework.

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

18) Vision splays to be retained unobstructed

19) Estate roads and footpaths to OCC specification

20) Accesses, driveways and turning areas to specification to be submitted

21) Car parking in accordance with standards (layout, drainage, specification) – to be submitted

22) Control of construction traffic access

23) No conversion of garages/car ports

24) Fire hydrants

25) A Local Area of Play (LAP) shall be provided in accordance with the Council's adopted policy. Details of the siting and design of the LAP shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development and thereafter it shall be provided in accordance with the approved details prior to the occupation of any dwelling within 30m of the LAP or prior to the occupation of the first 10 dwellings which ever is sooner. Reason - To ensure the provision of appropriate play facilities to serve the development and comply with Policy CC7 of the South East Plan 2009 and Policy R12 of the adopted Cherwell Local Plan.

26) That the site layout in any Reserved Matters application must accord substantially with the indicative layout submitted on this application (keeping the North-Eastern 'ear' of the site undeveloped as open space). In addition the layout shall provide for access to the land controlled by the Council to the South of the site.

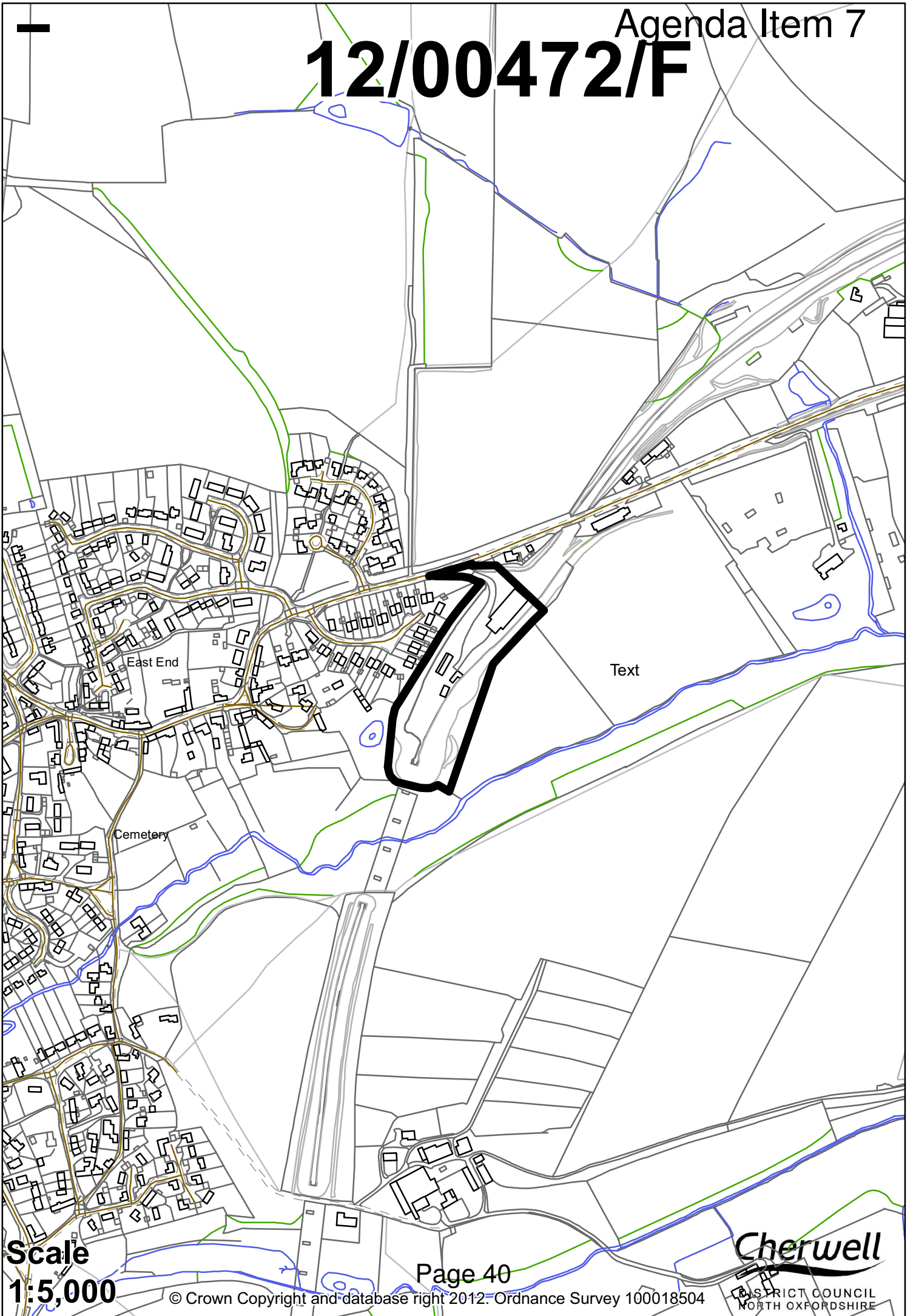
SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits being of a layout, scale and design appropriate in its context and will not have a detrimental effect on the neighbouring residential amenities. It will not cause harm to the visual amenities of the wider rural landscape, acknowledged archaeological interests, highway safety, ecology or flooding. Moreover, the proposal will assist the district in the delivery of affordable and market housing, and will contribute towards returning the district to having a five year housing land supply. The proposal, therefore, complies with government guidance contained in, Policies CC1, CC4, CC6, CC7, T1, T4, C4, C5, BE1, NRM1, NRM2, NRM4, NRM5 and NRM11 of the South East Plan 2009; Policies C7, C8, C13, C28 and C30 of the adopted Cherwell Local Plan and Policies BSC1, BSC2, BSC3, BSC4, BSC7, BSC10, BSC11, BSC12, ESD1, ESD6, ESD7, ESD10, ESD13, ESD16, Policy for Villages 1, Policy for Villages 2 of the May 2012 proposed submission draft of the Cherwell Local Plan. Whilst the proposal is contrary to the provisions of Policies H12, H13 and H18 of the adopted

Cherwell Local Plan 1996, this is outweighed by the content of the National Planning Policy Framework and the need for the district to return to a five-year housing land supply. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and outline planning permission granted subject to appropriate conditions, as set out above.

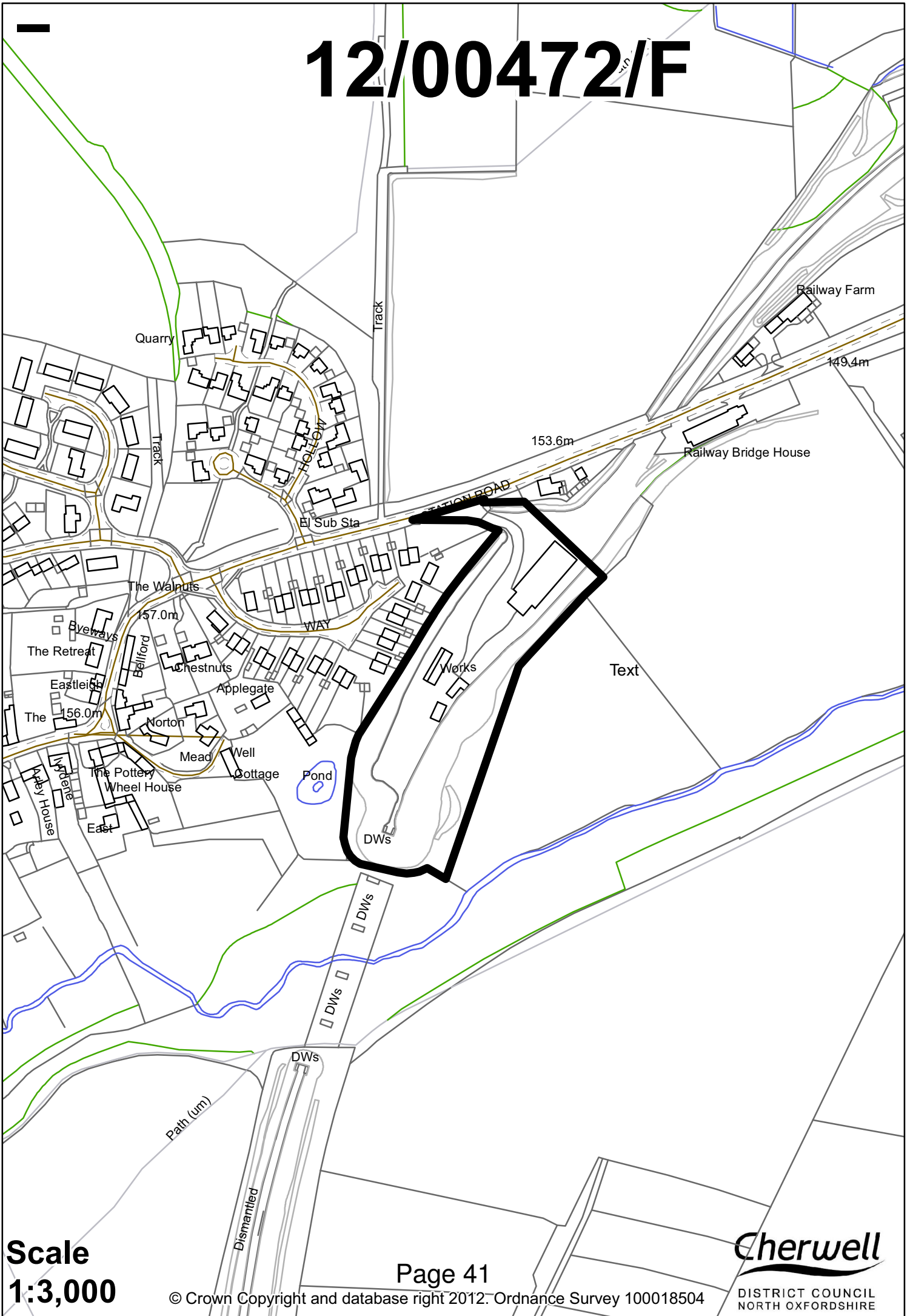
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Application No: 12/00472/F	Ward: Hook Norton	Date Valid: 17/04/2012
Applicant:	A C Lloyd (Homes) Ltd	
Site Address:	DJ Stanton (Engineering) Ltd, Station Road, Hook Norton, OX15 5LS	

Proposal: Demolition of existing industrial buildings and erection of 28 houses together with associated access, car-parking, open space and landscaping

Date site visited: 23/05/2012

1. Site Description and Proposal

- 1.1 The application site lies on the eastern edge of Hook Norton, to the south of the road from Milcombe. The site is on a former railway embankment and rail line. The site contains a small group of industrial buildings consisting of one large modern unit with some smaller sheds, known as Stanton Engineering. The site is bounded almost entirely by steep slopes with a large number of mature trees and scrub type vegetation. To the west of the site at a much lower land level is Austin's Way, a cul-de-sac of bungalows and to the south west is the curtilage of Crooked Cottage, a listed building. To the east of the site, beyond the belt of trees is agricultural land.
- 1.2 The application as originally submitted was for the demolition of the industrial buildings and the erection of 31 dwellings. However the scheme has been amended and now proposes 28 units. The proposal includes a variety of house types, including 30% affordable housing, the retention of the embankments and many of the existing trees, elements of open space and mainly on-plot parking. The access to the development is to be taken via the existing access into Stanton Engineering.
- 1.3 The application was accompanied by a Planning Statement, Design and Access Statement, Visual Analysis and Landscaping Assessment, Transport Statement and Travel Plan, Desktop Ground Investigation, Flood Risk Assessment, Phase 1 Ecological Survey, Pre-development Tree Survey, Topographical Survey and proposed plans.

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 at the site access, Austin's Way and opposite the junction at East End. The final date for comment was 24 May 2012. However comments received up until the date of committee will be considered. Following the receipt of amended plans the Parish Council was re-consulted along with those residents who had commented on the original scheme. The final date for comment on the amended plans is 13 August 2012.
- 2.2 9 letters/emails of representation were received, 6 objecting to the proposal and 3 supporting the proposal. Full details of the comments are available electronically via the Council's website.

The material planning considerations raised as objections are as follows:

- New houses will create scar on landscape and dominate the embankment
- Destroy area of high landscape value
- Adverse impact on woodland and wildlife
- Out of proportion to site by nature and density
- Overdevelopment on small and constrained site
- 24 hour noise from residents and cars
- Light pollution
- Insufficient capacity at primary and secondary schools – OCCs calculations are inaccurate
- Increased pressure of utilities
- Dependence on cars, increase in traffic, highway safety at access
- Insufficient space for meaningful play area
- Development should be concentrated on urban areas, protecting rural villages
- Un-neighbourly form of development
- Proximity and affect on setting of listed buildings due to elevated site, two storey dwelling and proximity to boundary
- Overlooking and overbearing – loss of privacy
- Impact on character of Conservation Area
- Object to felling of some of the trees
- Consultation meetings not properly advertised or attended
- More houses not needed
- Character of village already suffered from previous development
- Layout poorly planned
- Abuse of the planning process seeking incremental consents
- Lack of jobs

The material planning considerations raised in support are as follows:

- Brown field site within village boundary
- Welcome the removal of tall and potentially dangerous trees
- Increased light
- Enhancement to rundown area
- Reasonable housing mix
- Developer has carried out reasonable consultation and made concessions
- Domestic development preferable to industrial
- This site preferable to development at Bourne Lane
- Proposals meets CDC's aspirations as set out in Draft Local Plan

The applicants have submitted the results from their own consultation process. Out of 14 respondents 9 were in support of the scheme, 3 were not wholly in support as they had some concerns about the number of houses being proposed and 2 were against the proposal.

3. Consultations

- 3.1 In relation to the original scheme **Hook Norton Parish Council** raised objections on the following grounds:
- Feel that if development was smaller and made better provision for amenity space for children then most of the villagers and the PC would be able to support redevelopment of this brownfield site
 - Primary school is fully subscribed and concern that the development will

- produce more school aged children than predicted.
- The secondary school is only accessible by subsidised school bus, private car and is fully subscribed
- Village has no gas supply therefore only option is oil which has volatile pricing and a high carbon footprint
- Electricity supply is marginal in the village with frequent outages
- Roads and surrounding networks are not designed for current level of traffic let alone the increase that will occur from the development
- Development contrary to core strategy objectives – SO12 (Transport), SD1 (Climate Change).
- Regard should be had to Localism Act and the views of the local people and the PC
- Following should be considered in event of approval, not further extensions in height to bungalow on plot 5, Plot 31 reduced to bungalow or removed.

After a further consultation process following the receipt of amended plans the Parish Council withdrew objections and made the following comments;

- Note removal of plots most objected to
- Still believe Hook Norton is an unsustainable location
- Concern that anything other than minor development will adversely affect infrastructure
- Recognise that Hook Norton is expected to take a share of development in the next 25 years – approx 38 houses in Draft Local Plan
- Believe that this brown field site is the only suitable site for development of this size and taking amended plans into account the PC wishes to withdraw its objections
- Commend AC Lloyd re the community engagement
- If proposal is to be approved expect that CDC acknowledges that Hook Norton has met its obligation towards housing numbers by virtue of both this development and the infill which will undoubtedly take place in the next 25 years and as such proposals to develop other green field sites should be rejected.

3.2 **Environments Agency** comment as follows: No objections subject to a number of conditions.

3.3 **OCC Highways** comments are summarised as follows:

- Poor accessibility with limited shops and services locally
- Walking and cycling unlikely to be used other than locally
- Bus service available but poor frequency with limited destinations
- Employment opportunities locally are few
- School has limited if any capacity
- Reliance on private car
- CRAITLUS study noted that Hook Norton amongst the most remote villages in terms of access to larger towns
- Matter for District to consider but in light of NPPF may be difficult to prove detrimental impact
- Relevant to consider fact that employment site already attracts vehicular movements
- Contributions required towards transport infrastructure improvements
- Consider that traffic movements will be higher than estimated in Transport

Assessment.

- Unlikely to be any significant impact on the capacity of local highway network and the convenience of other highway users
- Construction phase traffic management plan required
- Access is appropriate but improvements to footway and a uncontrolled crossing will be required
- Layout accords to Manual for Streets and Council's Residential Road Design Guide
- Parking levels are appropriate
- Garages should not be converted and should be a minimum size of 3x6m (internal)
- Appropriate provision made for waste collection
- Conditions are proposed

3.4 **OCC Drainage** comment as follows: The use of basin storage is acceptable, and interceptor will be required for drainage from highway and other hard surface areas where contaminants are a risk, i.e. private driveways etc. Whilst conditions can be imposed the developer should be sure that the drainage strategy will be feasible.

3.5 **Strategic Housing**

Oxfordshire Rural Community Council Housing Needs Survey (April 2012) identified that there is some interest in self build schemes from respondents who are also on the housing register.

There are 19 people on the register who currently live in Hook Norton and others who may still qualify for housing in this area.

Another application in Hook Norton is being assessed which if approved would help meet some of the need, however there would still be some outstanding need that could be met through this site.

If this application is to be approved the mix should be slightly revised and if the other site is approved the potential for self build should be explored.

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

In relation to Planning Policy the following comments were made;

- Previous appeal identified that former railway embankment could be used as definable limit to this part of settlement – does not necessarily mean that site lies within built-up limits of the village
- Site consists of previously developed land
- Local Plans – urban focus for development
- Should plan positively to meet defined rural needs
- If site considered to be within village, village categorisation policies will apply.
- Policy EMP5 of the Non-Statutory seeks to retain employment sites and should be considered
- Proposed Submission Local Plan carries limited weight but includes a policy which allows for a distribution of houses between villages – but the precise numbers have not yet been set out
- Hook Norton Parish had recorded 37 housing completions from 2001 to 2011
- District does not currently have a five year supply of housing land – supply is 3.1 years

- NPPF allows for windfalls to be considered if there is evidence that such site have come forward consistently – even taking account of windfalls the Council still does not have a 5 year housing land supply
- NPPF presumption in favour of sustainable development and where plans are absent, silent or relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly or demonstrably outweigh the benefits – this assessment needs to be made in light of fact that Council does not have five year housing land supply
- 12 core planning principles in the NPPF

In relation to Economic Development the Council's officer has reiterated comments made back in 2010. There does not appear to be sufficient justification for the removal of business land – especially as this is probably the most appropriate land for business in the village. Housing on the site will act against maintaining a balance between employment opportunities and resident population. Desire to see the retention of the employment land and the marketing of the site at a realistically low price. This is supported by the existing Economic Development Strategy 2007-11.

In relation to conservation it is considered that the site is well contained from the Conservation Area by virtue of the existing trees. Widespread removal of the trees will impact negatively on the setting of the conservation area and listed building. The original plans made little reference to the local building tradition and specific comments were made with regard to the design features of the proposed dwellings. The plans have been amended since these comments were made.

3.7 Head of Public Protection and Development Management (Anti Social Behaviour, Building Control, Environmental Protection)

In relation to impacts on occupants of Austin's Way and The Station House there is the potential for lights of vehicles traversing the plateau to cause annoyance to the occupants of the properties below. Applicants indicate that in addition to reinforcing the planting of the embankment between the development site and Austin's Way fencing will be introduced at the top of the embankment. Providing this fencing is of sufficient height to take account of any subtle changes in gradient across the site this should offer adequate protection to the properties below. Close board fencing would have the added benefit of noise attenuation. Adverse effects on The Station House are not anticipated.

In relation to Building Control matters the submitted Ground Investigation report recommended the need for further slope stability analysis to establish the stability of the site. The submission also lacks sufficient structural information relating to appropriate designs which might be suitable to address issues posed by the site.

3.8 Head of Environmental Services (Arboriculture, Landscape Services)

Original comments from the Council's Arboriculturalist acknowledge the importance of the existing trees for their significance as a wildlife habitat and recognises that the removal of the trees will open up the site to wider views. Many of the trees will result in shading of the proposed development potentially leading to future pressure to remove trees. The original layout also posed potential problems with development being within the root protection areas of retained trees or close to crowns. Whilst the trees have been categorised individually for their value their group value is much higher. The removal of many of the trees

originally appeared to be based on facilitating the development and to the benefit of the residents of Austin's Way rather than for arboricultural reasons.

In relation to landscape impact it is acknowledged that the proposal is unlikely to have any adverse impact on the wider landscape due to intervening screening between the development sites and public viewpoints. However in relation to the original plans there were concerns that as a result of the removal of a significant number of trees there would be adverse visual impact from Station Road and Austin's Way.

In response to the receipt of amended plans the landscape and arboricultural officers made the following comments;

- Applicants have moved a long way towards meeting desire to retain as much of the best of the screen planting on the bank as possible.
- Scheme should now retain a sufficient amount of tree cover in the short term with potential to retain and manage tree cover in the long term – ensuring that the screen remains and visual impact of the development is minimised
- Would like to see more trees planted and some minor changes to species but in principle the revised proposal is acceptable.

- 3.9 **Head of Community Services** (Safer Communities, Nature Conservation, ROW)
In relation to ecology the survey found that the site contains common plant species, little habitat for roosting bats but high potential for attracting foraging bats, high potential for reptiles, good nesting habitat for birds and a single outlier badger sett and evidence that the site is used by foraging badgers. The badger sett is not affected by the development and should be protected during construction. A reptile survey will be required before work commences and a further bat activity survey will be required to ascertain whether any of the trees to be removed contain bat roosts. Several conditions are proposed.

- 3.10 **Thames Valley Crime Prevention Design Advisor:**
No formal objections but request conditions relating to Secured By Design accreditation. Footpath and public amenity space not naturally surveyed, if this can't be redesigned measures to reduce the risk of anti-social behaviour should be explored. Plots 5 and 6 could include active ground floor windows to increase natural surveillance.

- 3.11 **Thames Water:** In relation to waste water comments, the applicants are advised that if the building work falls within 3 metres of pipes that connect to public sewers they should make contact with Thames Water to discuss the need for further approval from Thames Water. Public sewers close to the site may be affected by the development therefore further advise should be sought in order to establish if Thames Water will give their consent for such development. The developer should make proper provision for surface water drainage to ground, water courses or suitable sewer which should be regulated through on or off site storage. Conditions and informatives are proposed.

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:

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

South East Plan 2009

Cross Cutting – Policies

- CC1: Sustainable Development
- 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: Village Management
- BE6: Management of the Historic Environment

Social and Community Infrastructure

- S1 – Supporting healthy communities

Central Oxfordshire – Policies

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

**Adopted Cherwell
Local Plan 1996
Saved Policies**

- H5: Affordable Housing
- H12: New Housing in Rural Areas
- H13: Housing in Category I Settlements
- H18: New dwellings in the Countryside
- TR1: Transportation Funding

C2: Protected Species
 C7: Landscape conservation
 C13: Areas of High Landscape Value
 C27: Design Considerations - Historic Settlement Pattern
 C28: Design, layout etc standards
 C30: Design control
 ENV12: Contaminated Land

**Non-Statutory
 Cherwell Local Plan
 2011**

The Rural Areas
 EMP5 – Protection of Existing Sites

**Proposed Submission
 Draft Cherwell Local
 Plan**

BSC1: District Wide Housing Distribution
BSC2: The Effective and Efficient Use of Land – Brownfield land and Housing Density
BSC3: Affordable Housing (35% in rural areas)
BSC4: Housing mix
BSC7: Meeting Education needs
BSC10: Open Space, Outdoor Sport and Recreation Provision
BSC11: Local Standards of Provision-Outdoor Recreation
BSC12: Indoor Sport, Recreation and Community Facilities
ESD1: Mitigating and Adapting to Climate Change
ESD6: Sustainable Flood Risk management
ESD7: Sustainable Drainage Systems
ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
ESD13: Local Landscape Protection and Enhancement
ESD16: The Character of the Built Environment
Policy for Villages 1 – Village Categorisation
Policy for Villages 2 – Distributing Growth across Rural Areas

5. Appraisal

5.1 The key issues for consideration in this application are:

- History
- Policy Context
- Housing Land Supply
- Landscape and Visual Impact, including impact on trees
- Neighbour Impact
- Access and highway safety
- Other issues

5.2 History

The site has a long planning history of applications for both business and residential proposals.

CHN.49/00034 – Building for storing Agricultural Foodstuffs – Approved subject to conditions

CHN.62/00304 – Use two existing buildings for light engineering work – Approved subject to conditions.

CHN.73/00383 – Erection of new factory building with office and toilets – Approved subject to conditions.

95/01951/F – Erection of new workshop/store with office and toilets – Approved subject to conditions.

03/00127/OUT – Erection of 26 No. houses and associated garaging and erection of 2 No. B1 (Business) employment units with associated landscaping and other ancillary works – refused for the following reasons, appeal withdrawn;
Although previously developed land should be utilised wherever possible the sequential site search advocated by PPG3 (Housing) focuses upon the reuse of previously developed land in urban areas in order to promote more sustainable development patterns and to reduce the amount of Greenfield development. Previously developed land in rural areas can contribute to this approach however it should not be assumed that all such land has development potential. The application site is situated at the edge of the village and in an elevated position. The construction of two storey houses, even on the proposed lowered ground level, and at the density and numbers proposed, would create a hard and prominent urban edge to the village detrimentally affecting views of the settlement and dominating the dwellings sitting at a much lower level in Austin's Way. Furthermore by developing in depth along the line of the former railway the built-form would appear alien and out of character with the predominant settlement pattern of the village which would be exacerbated by the elevated nature of the site. As such the proposal is therefore considered to be contrary to Policy G2(a) of the Oxfordshire Structure Plan 2011 and Policies H13, C7, C27 and C30(i) of the adopted Cherwell Local plan.

03/01334/OUT – Erection of market and non-market affordable houses and associate garaging and B1 employment uses with associated landscaping and other ancillary works – refused for the following reasons, appeal withdrawn;
Although previously developed land should be utilised wherever possible the sequential site search advocated by PPG3 (Housing) focuses upon the reuse of previously developed land in urban areas in order to promote more sustainable development patterns and to reduce the amount of Greenfield development. Previously developed land in rural areas can contribute to this approach however it should not be assumed that all such land has development potential. The application site is situated on the edge of the village in an elevated position. The construction of houses on this site would create a hard and prominent urban edge to the village detrimentally affecting views of the settlement and dominating the dwellings sitting at a much lower level in Austin's Way. Furthermore with any development in depth along the line of the former railway the built form would appear alien and out of character with the predominant settlement pattern of the village which would be exacerbated by the elevated nature of the site. As such the proposal is considered to be contrary to Policy G2 of the Oxfordshire Structure Plan 2011 and Policies H13, C7, C27 and C30(i) of the adopted Cherwell Local Plan.

05/01919/F – Relaxation of condition on 95/01951/F to enable the retention of the pre-fabricated garage

09/01450/F - Change of use of land, previously used as railway land, for the erection of five residential properties – Allowed at appeal (appeal decision referred to later in the report)

11/00585/F – Erection of 4 no. residential dwellings – Approved subject to conditions

5.3 Policy Context

- 5.3.1 The adopted Cherwell Local Plan, 1996, does not contain any policies specifically relevant to this site in relation to allocations for housing development. The Council has consistently maintained that the majority of the site is beyond the built up limits of the village and officers continue to support this view. Based on this consideration the proposal cannot comply with Policy H13 which supports residential development within Category 1 settlements providing it constitutes infilling, minor development and conversions. Given the site is an existing employment site on the edge of the village it cannot easily be defined as open countryside. Therefore it is difficult to relate the proposal directly to Policy H18 of the adopted Cherwell Local Plan which restricts the development of new dwellings in the open countryside unless it is essential for agricultural or forestry purposes. However it is clear that the proposed dwellings are not required for agricultural or forestry purposes. Therefore the proposal is contrary to Policy H18. The proposal relates to an existing employment site and if the development is approved this use would be lost. There are no policies in the adopted Local Plan which seek to resist the loss of employment sites. The adopted Local Plan does contain other policies of relevance that will be discussed later in the report. These relate to matters such as infrastructure, ecology, landscape and visual impact.
- 5.3.2 The non-statutory Cherwell Local Plan was adopted for development control purposes. It does not allocate the application site for development but does contain similar policies relating to development as referred to above. The proposal is contrary to non-statutory policies restricting development in the open countryside. The non-statutory plan does contain a policy (EMP5) which seeks to prevent the change of use or redevelopment of an existing employment site within or adjoining a village to a non-employment use unless there would be substantial and demonstrable planning benefit or that the applicant demonstrates that every reasonable attempt has been made to secure suitable employment reuse.
- 5.3.3 The South East Plan contains many policies that are relevant to the consideration of this proposal. One South East Plan policy that deals with the principle of development is SP3. Policy SP3 sets out that the key focus for development should be within or adjacent to urban areas. This element of the policy is not directly complied with as the development is on the edge of a rural settlement and not one of the district's largest urban areas. However the policy also seeks to achieve 60% of development on previously developed land, ensure that developments are well designed and consistent with principles of urban renaissance and sustainable development. Given that the site was originally associated with the railway and is in employment use it is considered to be previously developed and as such this element of the policy is complied with. Policy SP3 of the South East Plan is reflected in the NPPF at paragraph 111 where the reuse of brown field land is encouraged. The sustainability of the site and the design of the development will be discussed later in the report.
- 5.3.4 The National Planning Policy Framework (NPPF) introduces a presumption in favour of sustainable development and states that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted 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" (para' 14). As far as the adopted Cherwell Local

Plan is concerned it is considered to be out of date as far as it no longer provides sufficient policies to plan for future housing growth. But it is still relevant in relation to its countryside protection policies and discouraging inappropriate development in the open countryside, which are in line with the thrust of the NPPF. This was supported in the recent appeal decision for residential development at Adderbury. One of the key considerations to take from paragraph 14 of the NPPF, in relation to this application, is whether or not there are any adverse impacts that would significantly and demonstrably outweigh the benefits of granting consent.

- 5.3.5 Paragraph 17 of the NPPF sets out twelve core planning principles which include: plan-led development, proactively driving and supporting sustainable economic development and the delivery of homes and thriving local places; taking account of the different roles and character of different areas, promoting the vitality of our main urban areas and recognising the intrinsic character and beauty of the countryside; encouraging the re-use of previously developed land; conserving heritage assets in a manner appropriate to their significance; and actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focusing significant development in locations which are or can be made sustainable.
- 5.3.6 The NPPF also states (para' 150) that Local Plans are the key to delivering sustainable development that reflects the vision and aspirations of local communities, that they must be prepared with the objective of contributing to the achievement of sustainable development and should be consistent with the principles and policies set out in the NPPF. The Council is currently in the process of preparing the draft Local Plan for consultation and future examination in public. This plan aims to address the points raised above from the NPPF.
- 5.3.7 The Proposed Submission Draft Local Plan supersedes the Council's Housing Land Supply Position Statement. Although at this stage it carries limited weight, it has been prepared in line with the NPPF and the general thrust of the South East Plan. The draft Local Plan contains two relevant policies relating to villages. Policy for Villages 1 deals with village categorisation and based on a number of factors, such as population size, number and range of services and facilities within the village, accessibility to urban areas etc, places Hook Norton in Category A, the most sustainable villages. Policy for Villages 2 sets out an approach for distributing growth across the district's rural areas. It puts Hook Norton in Group 2 along with four other villages, which are expected to take approximately 189 dwellings between them over the plan period. Assuming each village is expected to take a broadly equal share it would equate to approximately 37 or 38 dwellings per village. This application proposes the construction of 28 dwellings and a further 9 houses have already been approved to the north of the site. A site for 70 dwellings also appears elsewhere on the agenda. However it is not certain that an equal distribution of housing will be possible between the five villages identified in the emerging Local Plan policy and therefore at this stage each site put forward must be considered in the light of the development plan, NPPF and other material considerations. This application does not accord with a plan-led approach as a range of sites has not yet been considered through the Development Plan Document process.
- 5.3.8 Whilst the proposal is broadly in line with the approach set out in the Draft Local Plan, the site is not allocated for development. The proposal does have the support of the Parish Council, but the Parish seeks reassurances that if this site

gains planning consent the village would not be expected to accommodate further substantial residential development. This assurance can not be given. The Parish is concerned that whilst Hook Norton is one of the more sustainable villages it is not sufficiently sustainable to accommodate more than a moderate amount of growth. This is a matter that could only be fully assessed or resolved through Local Plan process.

- 5.3.9 A 2009 appeal decision for residential development on the most northern section of the site is relevant to the consideration of this application. The appeal was allowed and granted consent for five properties. The Inspector made several relevant comments. It was agreed that the site was previously developed land. The Inspector commented that the railway embankment was a strong physical boundary which could be used as a definable limit to this part of the settlement. The appeal site also benefited from its containment by the vegetation which would help screen the development.

5.4 **Housing Land Supply**

- 5.4.1 Policy H1 of the South East Plan sets out the quantity of housing that each region should be providing up until 2026. Policy H2 of the same plan goes on to set out how local planning authorities should manage and deliver the regional housing provision. Whilst the proposal is not necessarily contrary to Policy H2 it is not in the spirit of the policy which encourages the appropriate allocation of housing land and as discussed previously this site is not allocated for development in any plan. Policy CO3 of the South East Plan sets out the amount of additional housing various districts should be accommodating.
- 5.4.2 The district does not presently have a five year supply. The position reported in the 2011 Annual Monitoring Report (December 2011) was that the district had a supply of 2.9 years for the period 2012-2017. This position was updated at a public inquiry in April 2012 to take into account two recent planning decisions: 1) Cotefield Farm, Bodicote – 82 homes; and 2) Yew Tree Farm, Launton – 40 homes. The conclusion was that supply had increased to 3.1 years.
- 5.4.3 Para' 49 of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development and that 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. In this respect the Council's adopted Local Plan is not up to date.
- 5.4.4 The NPPF states that local planning authorities may make an allowance for windfall sites in the five-year supply if they have compelling evidence that such sites have consistently become available in the local area 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 some 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 on 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 to 4.0 years in the case of the latter). The NPPF requires an additional buffer of 5% on top of 5 year supply requirements or 20% where there has been a record of persistent under delivery.

5.4.5 In relation to other housing land supply applications it transpired that there was some belief amongst third parties that the Council did have a five year housing land supply when taking into account all sites with planning permission. However the Council has sought legal advice that reinforces the approach that the Council has been taking, that only those applications that are considered to be deliverable within the five years can be included in the housing land supply calculations. Therefore on this basis the Council considers that it can only demonstrate a 3.1 year supply of housing land.

5.4.6 The fact that the district has not yet returned to a five-year land supply is a consideration which should carry significant weight. However a detailed assessment needs to be made as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of the proposal, namely the provision of new homes to meet the requirement of paragraph 49 of the NPPF and the provision of affordable housing (30%).

5.5 **Landscape and Visual Impact, including impact on trees**

5.5.1 The application site is quite unique in its characteristics. It is on the eastern edge of the village and as a result of its previous use as a railway line, with some evidence nearby of a station platform, it is set on a higher land level than the surrounding sites. The site consists of a railway embankment which sits behind and above the ridge heights of the properties in Austin's Way. The site currently accommodates a number of industrial buildings and sheds which serve Stanton Engineering. Due to the very dense and high vegetation along the north western embankment the existing buildings on the site are difficult to see from Austin's Way and Station Road. The site is also difficult to identify from public footpaths to the east due to intervening land and trees belts outside of the applicants control.

5.5.2 The adopted Cherwell Local Plan contains policies which seek to protect the visual amenities and character of rural settlements and the surrounding countryside and achieve development that respects the historic development pattern of villages.

5.5.3 Given the characteristics of the site and its relationship with the wider open countryside it has been concluded that development of the site is unlikely to adversely affect the wider landscape and character of the countryside. Long distance views from the south and south east will be restricted due to intervening belts of trees outside of the application boundary, screening the site. An early version of the submission proposed a development of 31 houses with ridge heights of up to 9 metres and the removal of a large proportion of the existing vegetation along the western boundary. This raised significant concerns with officers as the removal of the trees would result in clear views into the site revealing a residential development sitting at a much higher land level than those properties in Austin's Way, appearing to sit on the ridge line of the bungalows. This would have been a prominent and incongruous form of development out of character with both the historic and more modern development patterns of the settlement. The applicant's argument for the removal of the trees was twofold, firstly and seemingly carrying the most weight in the applicant's submission, to accommodate the wishes of residents in Austin's Way who are feeling the overbearing impacts of the trees and secondly the belief that some of the trees were not of high quality and had a limited life span. It was considered that the removal of the trees and the resulting adverse visual impact would have rendered the scheme unacceptable.

- 5.5.4 In response to officers concerns and following a thorough site visit with both the Council's and applicant's tree officers and the Council's landscape officer the applicant has submitted a revised scheme which retains a larger proportion of trees, reduces the density of development and amends the layout and design of the dwellings.
- 5.5.5 A combination of the submitted amendments helps to limit the adverse visual impact. The trees that are suitable for retention are being retained as a screen to the development. However, in order to reassure the residents of properties in Austin's Way works to improve the condition of the trees will be carried out, both in terms of their safety and overbearing impact. A scheme will be required for replacement trees and a long term management programme will be required, both to fill the gaps and in order to secure the long term retention of the screening belt as the more mature trees begin to reach the end of their natural lives (in 10 to 15 years time).
- 5.5.6 The amendments to the design and scale of the properties also helps to reduce the visual impact, especially during winter months when the tree cover may be less effective as a screen. Most of the units have been reduced by between half a metre or a metre in height. Where there may be glimpses of the new properties through gaps in the trees and above the height of the trees the reduction in height will make the new dwellings less dominant than originally proposed.
- 5.5.7 Whilst the development of this site has been historically resisted with one of the reasons being the visual impact of the scheme it is likely that the screening of the site has improved over time and providing this is retained it makes it difficult to recommend refusing the application on these grounds alone.
- 5.5.8 The layout of the proposed development does little to reflect or respect the historic layout of the settlement. This concern is something that the Council tried to defend in relation to a proposal for five dwellings on land to the north of the site. However the Inspector concluded that it would be difficult to achieve an alternative layout given the linear form of the site or without compromising some of the peripheral tree cover. The same could be said for this larger site. Furthermore the retention of the trees will make it difficult to see the development in the context of the rest of the village.
- 5.5.9 In terms of design and appearance the proposal will consist of a variety of terraced, semi-detached and detached dwellings ranging from 2 bed up to 4 bed properties. The design of the properties, in most instances, is fairly traditional. However to reduce the visual impact of the scheme the eaves and ridge heights have been reduced, as a result there are large number of dormer windows across the scheme. Where the design of the properties does not closely reflect traditional styles it is considered that there will not be harm caused to the visual amenities of the locality as the site is isolated from other developments and public views due to the screening and layout of the development. The proposed materials are set out by the applicants as being a combination of stone and brick and slate and tile. Providing the right specifications of these materials are used they will be in keeping with the local palette of materials. The precise nature of the materials can be conditioned to ensure they are in keeping with the locality.
- 5.5.10 The Hook Norton Conservation Area abuts the southern boundary of the site and

extends north to the west of the properties on Austin's Way. At the same point where the Conservation Area bounds the site the curtilage of a listed property (Crooked Cottage) also shares a boundary. The listed property itself sits some 70 metres from the boundary of the site with the curtilage listed outbuildings being approximately 25 metres from the boundary. The site sits at a much higher land level than the listed property and its curtilage and the developable part of the site is screened from view by the substantial tree belt that exists. The retention of the trees helps to ensure that the curtilage of the listed property, the property itself and the conservation area are not adversely affected by the proposal.

- 5.5.11 Given the above assessment it is considered that it would be difficult to defend a reason for refusal based on landscape and visual impact and impact on the character and appearance of the Conservation Area and listed buildings. It is therefore considered that the proposal complies with policies C7, C13, C28 and C30 of the adopted Cherwell Local Plan. It is also considered to comply with the NPPF as it does not adversely affect the natural and historic environment.

5.6 Neighbour Impact

- 5.6.1 Given the elevated nature of the site there is the potential for development on the site to result in a feeling of overbearing and the also overlooking for the properties in Austin's Way, especially given the fact that some of the gardens in Austin's Way backing onto the development site are as short as 6 metres. However the combination of the layout of the proposed development and the amendments to retain many of the trees helps to reduce the impact on the residential amenities of existing properties. The minimum distance between an existing property and proposed property is 30 metres and this only occurs in one instance. On a flat site this distance would be considered more than adequate to protect privacy and limit overbearing. However in relation to this site the height difference, the set back of the proposed houses from the site boundary and the retention of the trees will make it difficult to see the new dwellings from the rear of the properties in Austin's Way which share a boundary with the development site, therefore preserving the residential amenities. There will be some views of the houses from elsewhere in Austin's Way but these properties are unlikely to experience any measurably adverse impact on their residential amenities.

- 5.6.2 The proposal has been assessed for the impact that may arise from vehicular movements on the site, both by way of noise and the effect of headlights. The Council's environmental health officer considers that providing there is an adequate boundary between the access roads and the boundary of the site neither issue should have a significant impact. Furthermore the properties in Austin's Way are bungalows and as such their windows are all below the height of the highest part of the site, meaning lights from cars will largely be above the height of windows.

- 5.6.3 Having considered the impact of the development on the residents of Austin's Way the only other residential property which shares a boundary with the application site is Crooked Cottage to the south west. There is 70m separation distance between the site boundary and Crooked Cottage and a further 25 metres between the nearest proposed property (plot 28). Given these distances and the fact that the majority of the trees on this part of the site are being retained it is not considered that there will be any demonstrably adverse impacts on the living amenities of the residents of Crooked Cottage.

5.7 Access, highway safety and sustainability of the location

- 5.7.1 The site already benefits from a vehicular access and consent has already been given for improvements to the access in order to accommodate 9 residential houses along with the existing business use. The same improvements will be required for this proposal. There are no objections from the Local Highway Authority with regard to the use of the access for residential purposes for the scale of development proposed. By replacing the business use with further residential development the potential for conflict between different types of vehicles will be reduced.
- 5.7.2 The Local Highway Authority is generally satisfied with the layout of the development and the provision for parking spaces subject to conditions being imposed relating to the size and retention of parking spaces and garages.
- 5.7.3 Notwithstanding the fact that the Local Highway Authority raises no objections to the layout of the development and the access arrangements it does raise comments about the sustainability of the site. The site and village as a whole is one of the district's most remote settlements in terms of access to the larger towns and the bus links are limited with the potential to use alternative modes of transport likely to be restricted to within the village. However the village itself is considered to be one of the district's more sustainable villages as it benefits from a range of facilities. If the application were to be approved the applicants will be asked to make a contribution to public transport infrastructure improvements. Sustainability is a factor influencing the assessment of the application and it is considered that the concerns raised in relation to the villages remoteness would not be strong enough to resist further development given the facilities that it contains.

5.8 Other Matters

5.8.1 Affordable Housing

The proposal includes the provision of 30% affordable houses. This complies with the adopted policy position but falls short of the 35% provision encouraged in the draft Local Plan and that which has been achieved or proposed recently on other rural housing sites. The applicant has been asked to consider providing an additional 5% (2 units) of affordable housing but has explained that the provision of 35% affordable housing would begin to affect the viability of the scheme given the additional costs associated with redeveloping a previously developed site. . Whilst it would be desirable to achieve 35% affordable housing the proposal does comply with current requirements. Overall the provision of 30% affordable housing is a benefit and as such should be seen positively in the assessment of the application. Refusal of planning permission on the grounds of not providing 35% affordable housing is unlikely to be sustainable at appeal given the early stage that the emerging local plan is at .

5.8.2 Loss of employment land

The proposal, if approved will result in the loss of an existing employment site. The sustainability of the village will have been assessed taking into account facilities within and nearby the village as well as employment opportunities. The presence of this site is likely to have added to the sustainability of the village. However, the existing use only employs four people, none of whom live in the village. The current occupants of the site, Stanton Engineering, have stated that much of the land around the buildings is surplus to their needs, rendering the site too large, but

equally the further expansion of the business is constrained by restrictions on hours of operation and noise levels. Whilst the site may no longer be suitable for Stanton Engineering there is no evidence to demonstrate that the site has been marketed for alternative employment uses and as such there is no firm evidence that the site is no longer suitable for employment uses. However the applicant has sought the opinion of a firm of Chartered Surveyors regarding the marketability of the site. This suggests that the site is poorly located and remote in relation to access to Banbury. It also identifies the low eaves height of the existing building and the lack of permanent office space. The opinion of the Surveyor identifies the proximity of residential properties and the associated restrictions as factors limiting the sites appeal to other commercial and employment businesses. There is also evidence that a commercial property within half a mile of the site took nine to twelve months to find occupiers, even with lower, more attractive rental prices.

5.8.3 Having considered the above it is regrettable that the proposal will result in the loss of an employment site that adds to the sustainability of the village. However this Council does not currently have any adopted or emerging planning policies that restrict the loss of employment land. The non-statutory Cherwell Local Plan does contain a policy that seeks to restrict the loss of rural employment sites but the document carries only limited weight and the specific policy has not been carried through to the emerging policy document. It is also worth remembering that there is an emphasis on directing development to previously developed sites where possible. The NPPF also states at Paragraph 51 that local planning authorities should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate. Given this guidance and the lack of local policy it is considered that it would be difficult to defend a reason for refusal based on the loss of employment land.

5.8.4 **Flooding/Drainage**

In relation to the risk of flooding the site itself is within flood zone 1 but abuts flood zones 2 and 3. The site also falls outside the flood zone relating to a 1 in 100 chance of flooding. Furthermore the height of the site in relation to its surroundings means that it is highly unlikely to be at risk of flooding. Given the characteristics of the site it is also highly unlikely that the site is at risk from surface water flooding. The application also needs to be assessed in terms of the potential to increase flood risk for surrounding properties. It is considered that suitable Sustainable Urban Drainage systems can be established to deal with surface water disposal. However given the nature of the site, consisting of made up ground the use of soakaways is unlikely to be appropriate. A storage basin is likely to be the best approach to dealing with surface water disposal in order to not increase the risk of flooding off site. Full details of this can be required by condition. The Environment Agency has raised no objections to the principle of development on this site.

5.8.5 **Stability of Land**

The site, as a result of its historic use, is largely man made. Whilst there are existing buildings of the site and its historic use will have required a stable site the question of land stability is an issue to consider when proposing a scheme for residential properties. Whilst this is not a common planning matter it is relevant when considering if the principle of development is acceptable. The applicant has appointed a Geotechnical and Environmental Consultant to assess the site. A

Preliminary Site Investigation report confirms that there is no evidence of significant slope instability at the site which could significantly constrain the proposed development. The report recommended that no structures be located closer than 5 metres from the crest of the slope and that no excessive removal of slope vegetation be undertaken. It is understood that if necessary allowance has been made to pile any of the units in close proximity to the slope crest. Given the fact that soak-aways are not proposed water ingress is unlikely to be an issue resulting in slope instability. Given this assessment it is considered that the site is sufficiently stable to support the proposed development but there are contingencies available should further stabilising be required following further survey work. Overall it is considered that the stability of the land is not a factor likely to render the site undevelopable.

5.8.6 Ecology

The site contains common plant species, little habitat for roosting bats, a high potential for foraging bats, a high potential for reptiles, good nesting habitats for birds and single badger outlier sett. The Council's Ecologist has assessed the proposal and considers that with appropriate conditions to include the requirement for further pre-commencement surveys and appropriate mitigation strategies there is little risk to ecology on the site including protected species. Therefore the application is considered to comply with local plan policies which seek to protect features of ecological value and the NPPF which seeks to minimise impacts on biodiversity.

5.8.7 Deliverability

One of the principle arguments for allowing this development is likely to be its ability to contribute to the housing land supply, helping to increase the figure closer to the required 5 years. However in order to do this it needs to be demonstrated that the proposal is deliverable within the next five years. The applicant's agent has provided an estimated time table from a Council resolution through to development which concludes that the development could potentially be commenced within 18 months (1st quarter of 2014) and completed within 3 years. The applicants already have an option on the site and the existing landowner would be party to the legal agreement. It would therefore seem that the site could be delivered within the 5 year period. In order to help secure its early delivery it is suggested that a condition be included on a consent reducing the implementation period to two years. This has been accepted on other sites that have come forward as a result of the housing land supply shortage.

5.8.8 Legal obligation

The development will result in extra demand being placed on local infrastructure including public transport, schools, indoor and outdoor sports etc. These contributions need to be secured through a legal agreement. Although the agreement has not yet been drafted the applicant has indicated a willingness to enter into such an agreement.

5.8.9 In most instances the extra pressure on infrastructure can be mitigated against/accommodated through simple improvements to existing services and facilities funded by monetary contributions. However in respect of the lack of capacity at the primary school it is not yet clear what the preferred solution is. A couple of options are available to Oxfordshire County Council but the final decision as to what the preferred option would be is to an extent dependant on the outcome of the two planning applications for housing development in Hook Norton, currently

being considered. There is potential to expand the school but this would require more funding than would be available through the development of 28 houses. In the event of the school not having sufficient funding for expansion the County Council have requested that funding be made available for the transportation of children to alternative primary schools outside of the village.

5.8.10 It is intended that the legal agreement, amongst other things, will secure the long term maintenance of the landscaping and trees, both existing and proposed either by way of private management company or transfer to the Council with an appropriate commuted sum.

5.8.11 It is considered that the application should not be approved until a S106 agreement, satisfactory to this authority, is agreed and signed.

5.9 **Conclusion**

The proposal is not considered to be in compliance with adopted Local Plan Policies relating to residential developments in the rural areas. However at this time when there is a need for the district to improve its housing land supply the development of a previously developed site within a defined boundary on the edge of one of the districts more sustainable villages should be considered more favourably than the development of a green field site. The NPPF requires that planning permission be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. It is considered that the characteristics of the site are such that its development without the retention of the trees would cause demonstrable harm to the character and appearance of the immediate area. However it has been demonstrated that a suitable scheme can be achieved whilst retaining much of the existing screening, reducing the potential for adverse visual impacts to arise. It is considered that there are no other adverse impacts that would justify a recommendation of refusal given the clear guidance set out in the NPPF. It is therefore recommended that this application be approved subject to the criteria set out below.

6. **Recommendation**

Approval subject to:

- a) The expiry of the consultation period (13 August 2012)
- b) The applicant entering into an appropriate legal agreement to the satisfaction of the District Council to secure financial contributions to infrastructure improvements, including but subject to final agreement 30% affordable housing, indoor and outdoor off site sports provision, community hall improvements, open space provision and maintenance (or management company agreement), highway and transportation contributions, public art, education contributions, library stock, day centres and healthcare contributions;
- c) Conditions (subject to amendment under delegated authority);

- 1. Full Permission: Duration Limit (2 years) (RC2)
- 2. Plan numbers
- 3. Sample materials
- 4. Details of vehicular access, parking provision and turning areas
- 5. S278 works – dropped kerb and uncontrolled pedestrian crossing
- 6. Construction traffic management plan

7. No conversion of garage
8. Surface water drainage details and implementation
9. Submit hard and soft landscaping scheme
10. Carry out Landscaping Scheme and Replacements
11. Tree protection during construction
12. Landscape maintenance scheme
13. Boundary enclosure details
14. No works of demolition or works to trees or vegetation shall take place until protected species survey (reptile, bat, bird and badger) has taken place
15. Investigation for nature and extent of contamination and remediation strategy
16. Ground levels, internal floor levels
17. Petrol/oil interceptors
18. Fire hydrants

Planning Notes:

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

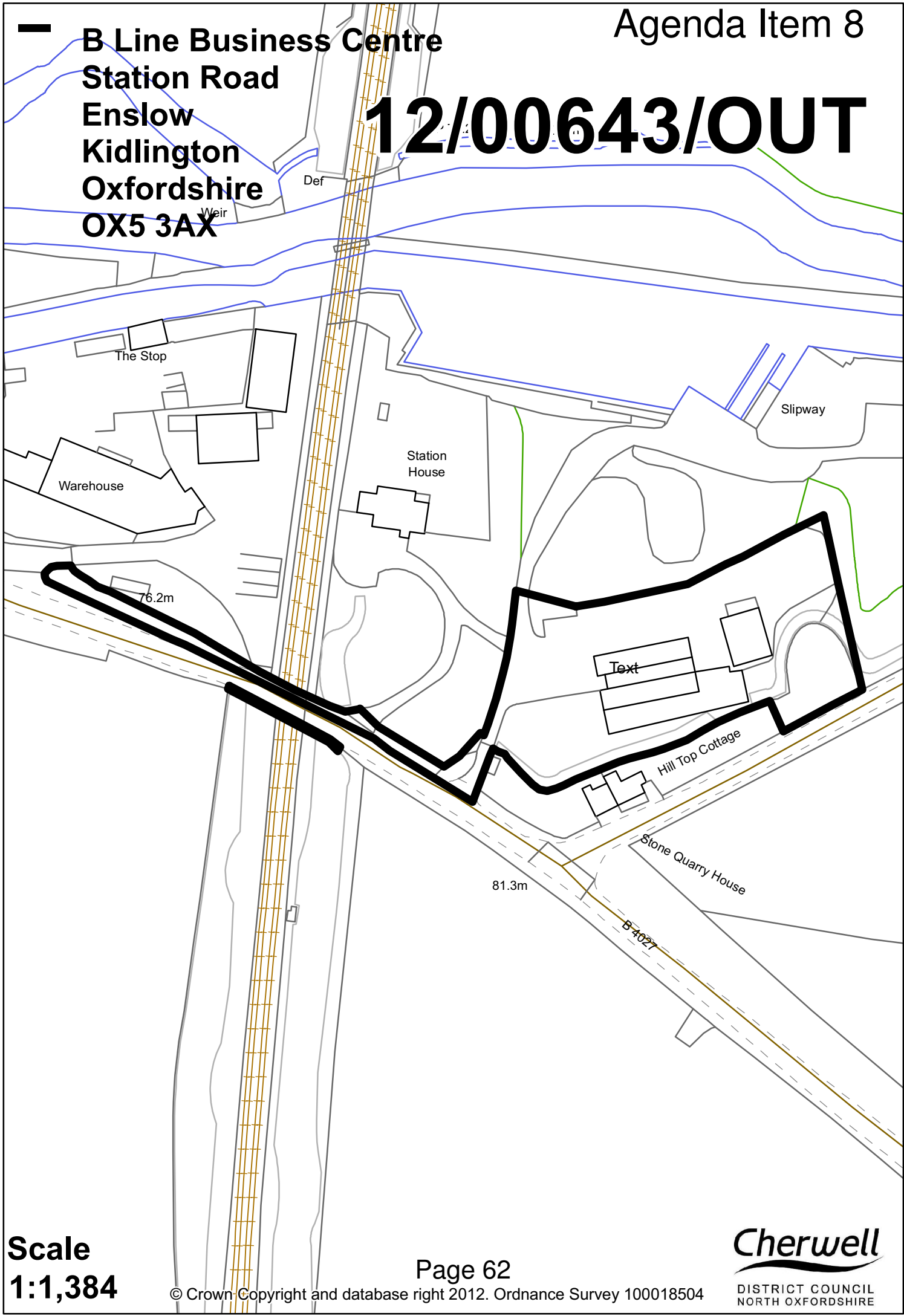
SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as Local Planning Authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits being of a layout, scale and design appropriate in its context and will not have a detrimental effect on the neighbouring residential amenities. It will not cause harm to the visual amenities of the wider rural landscape, highway safety, ecology or flooding. Moreover, the proposal will assist the district in the delivery of affordable and market housing, and will contribute towards returning the district to having a five year housing land supply. The proposal, therefore, complies with government guidance contained in, Policies CC1, CC6, CC7, H3, H4, H5, T1, T4, C4, BE1, BE5, NRM1, NRM2, NRM4 and NRM5 of the South East Plan 2009; Policies H5, TR1, C2, C7, C13, C28 and C30 of the adopted Cherwell Local Plan and Policies BSC2, BSC4, BSC7, BSC10, BSC11, BSC12, ESD6, ESD7, ESD10, ESD13, ESD16 and Policy for Villages 2 of the May 2012 proposed submission draft of the Cherwell Local Plan. Whilst the proposal is contrary to the provisions of Policies H12, H13 and H18 of the adopted Cherwell Local Plan 1996, this is outweighed by the direction of the National Planning Policy Framework and the need for the district to return to a five-year housing land supply. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

CONTACT OFFICER: Caroline Roche	TELEPHONE NO: 01295 221816
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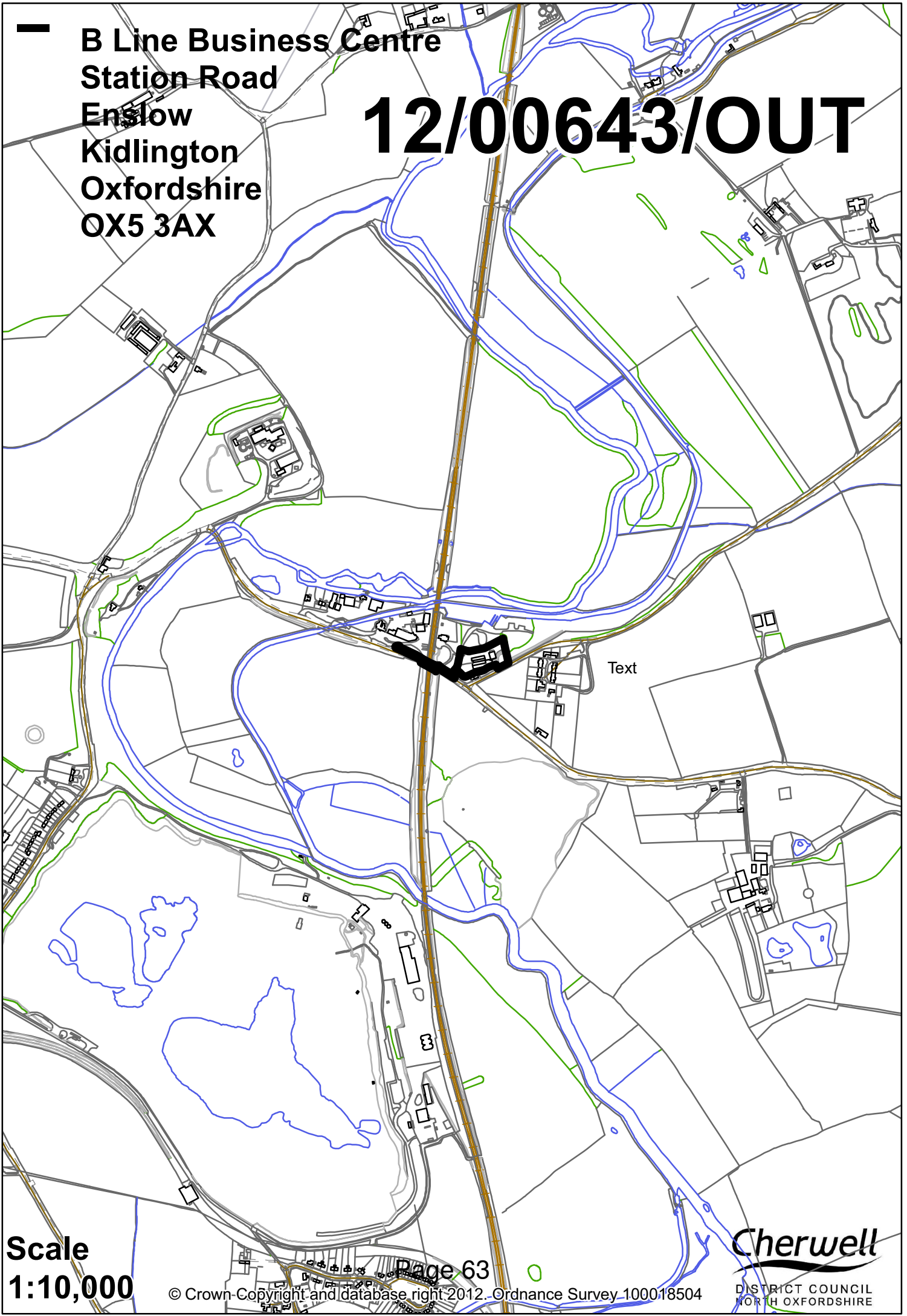
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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Former B-Line Business Centre, Station Road, Enslow

12/00643/OUT

Ward: Kirtlington

District Councillor: Cllr Holland

Case Officer: Paul Ihringer

Recommendation: Refusal

Applicant: Minns Estates

Application Description: Erection of B1 office development and 10 dwellings and associated access

Committee Referral: Major/Departure from Policy

1. Site Description and Proposed Development

- 1.1 The application site, often still referred to as the B-Line Business Centre (a former occupier), is located in close proximity to the junction of Lince Lane (A4095) and Station Road (B4027). The access to the site is taken from Station Road and is shared with Station House and a marina development situated alongside the Oxford Canal on the valley floor. Roughly rectangular in shape and cut into a hillside, the site currently contains a mixture of portable buildings and former agricultural buildings that have been converted for business use. Aside from Station House which is to the west, the only other residential properties in close proximity are Hill Top Cottage and Stone Quarry House which are to the south and overlook the business units.
- 1.2 The site is located just outside the Oxford Green Belt - the B4027 forms the northern boundary of the Green Belt in this part of the district. Although the Environment Agency had previously contended that B-Line was in flood zone 2 - given its elevated position in respect of the canal, however, they have now amended their records. Whether the land lies within the small loose knit hamlet of Enslow is debatable. Enslow only has a handful of residential properties, the majority of the built-form being made up of industrial/business units located in close proximity to the canal.
- 1.3 The proposal seeks to demolish the existing buildings, which are in a poor state of repair, and replace them with an office building near the entrance to the site, and 10 new dwellings overlooking the valley floor. Three of the houses would be affordable units. The application is in outline form, and all matters other than access have been reserved for future consideration. The indicative plan shows an office building which would provide 170 square metres of floor space and has been allocated six demarcated parking spaces. The applicant is proposing to improve the access on to the main road and provide a new footpath linking the site to the rest of the hamlet.
- 1.4 Members may recall that there is extant outline planning permission on this site (09/00647/OUT) for replacement B1 office/industrial units. The two buildings approved have a combined footprint of 1,620 square metres. This permission will expire on the 14th August 2012.

- 1.5 An application submitted two years ago for 11 new dwellings and a B1 building (10/00187/OUT) was withdrawn prior to being heard at Committee. It was recommended for refusal on five grounds: the principle; an absence of a satisfactory legal undertaking; loss of an employment site; an inadequate design and access statement; and the omission of an ecology survey from the application documents. Last year an application for five dwellings (11/00367/OUT) was refused under delegated powers for two reasons: the principle; and the loss of an employment site. The most recent application on this site, 11/01071/OUT, for an office building and seven dwellings was refused on the same grounds as the earlier 2011 application and also for the reason that the proposal was not supported by an appropriate unilateral undertaking.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice and press notice. The final date for comment was the 15th June 2012. No correspondence has been received as a result of this consultation process.

3. Consultations

- 3.1 **Bletchington Parish Council:** No objections

Cherwell District Council Consultees

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

"The site has been the subject of a number of planning applications in recent years. Most recently, on 9 September 2011, planning permission was refused for an application (11/01071/OUT) for the demolition of employment buildings and the erection of 1,700 sq.ft (158 sq.m) of Class B1 development, 7 dwellings and associated access.

"The reasons for refusal included: Enslow's status as a Category 3 settlement where development is restricted to the conversion of non-residential buildings or where an essential need for agriculture, or other existing undertaking, can be established; that the proposal would have been unsympathetic to its rural context; that the proposal would have resulted in the loss of a significant proportion of an employment site; and, that it had not been demonstrated that there was a lack of need for the employment site nor that there would be substantial and demonstrable planning benefit arising from the proposal.

"In terms of planning policy, the main changes in circumstances for the current application are the publication of the NPPF, the approval of the Proposed Submission Local Plan by the Executive on 28 May 2012 (subject to minor changes), the increase in the number of dwellings proposed to 10, the addition of slightly more B1 office floorspace, and the marketing of the site with the benefit of an extant planning permission for use of the site for some 1,620 sq. of

B1 employment use. The district's housing land supply position is also now material.

"In the context of the NPPF, the district has not yet returned to a five-year land supply position and a detailed assessment will need to be made as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. The loss of most of the site for non-employment uses should be considered a significant adverse impact and an assessment should be made as to whether the marketing of the site constitutes every reasonable attempt to secure suitable employment re-use (policy EMP5 of the Non-Statutory Local Plan) and whether there are valid reasons why the use of the site for employment use is not economically viable (policy SLE1 of the Proposed Submission Local Plan as approved).

"Notwithstanding this, the suitability of the site for residential development needs to be considered. Enslow is a category 3 hamlet in both the adopted (saved) Local Plan and the Non-Statutory Local Plan where new development within built-up limits is limited to conversions under village categorisation policies. It remains in a similar 'C' category in the Proposed Submission Local Plan. The proposal is not compatible with village categorisation policies and there are no housing allocations or proposed housing allocations for Enslow. The hamlet has a small population, a lack of services and facilities and is in a generally remote location.

"The grant of permission for a 'live-work' scheme nearby does not in my view make this a sustainable location in which to respond to the district's current 5 year land supply situation. The potential availability and suitability of sites in more sustainable locations as evidenced by site allocation issues and options papers reinforces this view.

"There is therefore a policy objection to this application."

3.3 **Strategic Housing Officer:** "Whilst there is high need for affordable housing in the parish of Bletchingdon we do not think this site is in a suitable location for the provision of affordable housing. We would therefore be seeking an off site contribution by way of a commuted sum equal to the onsite provision of 3 and half units (consisting of 2 and 3 bed houses). We would seek as far as possible to provide the housing that this could deliver within the immediate locality."

3.4 **Environmental Protection Officer:** No objections subject to condition

3.5 **Landscape Officer:** No comments received at the time of writing

3.6 **Arboricultural Officer:** No objections subject to condition

3.7 **Ecology Officer:** No objections subject to condition

Oxfordshire County Council Consultees

3.8 **Highways Liaison Officer:** No comments received at the time of writing

3.9 **Drainage Officer:** No objections subject to condition

Other Consultees

3.10 **London Oxford Airport:** No objections subject to condition

3.11 **Environment Agency:** No objections subject to condition

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (CLP) - Saved Policies

H5: Affordable housing

H15: Residential development in category 3 settlements

C2: Development affecting protected species

C13: Area of High Landscape Value

C27: Development in villages to respect historic settlement pattern

C28: Layout, design and external appearance of new development

C30: Design of new residential development

C33: Protection of important gaps of undeveloped land

ENV12: Contaminated land

TR1: Transportation funding

South East Plan 2009 (SEP)

CC1: Sustainable development

CC4: Sustainable design and construction

H4: Type and size of new housing

T4: Parking

RE3: Employment and land provision

NRM4: Sustainable flood risk management

NRM5: Conservation and improvement of biodiversity

BE1: Management for an urban renaissance

BE5: Village management

4.2 Other Material Policy and Guidance

National Planning Policy Framework (NPPF)

Non-Statutory Cherwell Local Plan 2011 (NSCLP)

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

EMP5: The change of use or redevelopment of an existing employment site within or adjoining a village to a non-employment use

5. Appraisal

5.1 The key issues for consideration in this application are:

- Principle of the development
- Loss of an employment generating site
- Design and layout
- Highway safety and parking
- Ecology

The principle of the development

5.2 Enslow, a sparsely populated settlement with limited facilities, is identified as a category 3 settlement (Policy H15 of the CLP) which groups together the smallest villages and hamlets in the District. Policy H15 of the CLP limits increases to the housing stock in such settlements to conversions and agricultural worker dwellings. This status is confirmed in both the Non-Statutory Cherwell Local Plan 2011 (NSCLP) and the emerging Local Plan. Both the Strategic Housing Officer and the Planning Policy Officer emphasise the unsuitability of this location for housing, arguing that new residential development should be focused in larger more sustainable locations.

5.3 In support of the application, reference is made to the potential precedent set by the Ingelby Farm development (05/00535/OUT) which is on the opposite side of Lince Lane. In that case, Members gave approval for the replacement of a kennelling facility with seven live-work units. Since approving this scheme control over the 'work' element has been relaxed by planning permissions 07/01242/F and 08/01239/F (granted on appeal). Although in theory there are sustainability related benefits to be derived from the live-work concept, in reality ensuring that residents/developers share and adhere to this vision has proven to be very difficult.

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

5.5 Based on the assessment above, the proposed development is therefore not considered to accord with Policy H15 of the CLP.

Loss of an employment generating site

5.6 In the absence of a saved policy in the adopted CLP, the Council's position, as regards the protection of existing rural employment sites, is best articulated in Policy EMP5 of the NSCLP. This policy states that the loss of employment land in or adjacent to villages will only be countenanced if there is a substantial and demonstrable planning benefit or the applicant has made *every reasonable attempt* to find an alternative employment re-use.

- 5.7 Taking the later of these two criteria first, the applicant argues that they have established that there is no demand for the existing or indeed the replacement units approved under as 09/00647/OUT. Whether just putting them on the market constitutes *every reasonable attempt* is however questionable. When inspecting the site, there was no evidence of any remedial repairs having been made to the buildings, indeed the weeds growing up beside the buildings have been left unchecked. Potential occupiers would undoubtedly be put off by the lack of care shown, particularly if their business required business clients to visit the site.
- 5.8 As for the extant permission (which lapses on the 14 August 2012), how many potential occupiers are going to commit to renting or buying a site where not only have the units not been built, but the reserved matters have yet to be resolved? Further, in the absence of any data, officers cannot be sure how competitively priced the existing and the proposed business units have been. Officers are therefore unconvinced that *every reasonable attempt* has been made to find an alternative employment use.
- 5.9 Turning to the *substantial and demonstrable planning benefit*, it the applicant's contention that they are so significant that they would not only justify the loss of the employment site, but would also out weight the policy objection relating to new housing.
- 5.10 The first point made is that the new housing would meet a local housing need and provide an element of affordable housing. Whilst the Council does have a shortfall in its 5 years housing land supply it does not follow that every application for new housing should be considered favourably. Indeed Paragraph 55 of the NPPF begins "*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.*" As already stated Enslow is not considered to be a sustainable location given its limited size and lack of facilities. Furthermore the affordable housing element is a requirement for development of this type and should not be considered to constitute a planning benefit.
- 5.11 The applicant is also running a sustainability argument, contending that the proposed development, when compared with the extant 2009 permission, will reduce the number of traffic movements to and from site by 61%. Whilst not disputing these findings, it is worth noting that all the figures are hypothetical and that no assessment is made of the current potential. However, even taken at face value, this argument is fundamentally flawed as by accepting reduction in traffic movements, in isolation, a precedent would be set whereby a large proportion of rural employment sites within the District could be legitimately identified for a similar change of use. It should be restated that Enslow has a disproportionate number of businesses given its size.
- 5.12 This traffic argument has only been successfully employed previously where there has been an obvious benefit to a neighbouring community. An example of which would be taking heavy goods traffic away from narrow village roads - paragraph 4.81 of the NSCLP refers. Business activity from this site has/would have a limited impact on a small proportion of the local population.
- 5.13 It should also be noted that the sustainability argument is further weakened if, as the applicant argues, there is no market for the units anyway. If were to be

accepted that there is no market for business units on the site, the proposed development will have adverse sustainability credentials.

- 5.14 Another benefit of residential over commercial development identified by the applicant is the New Homes Bonus. However as with the sustainability argument if you afford such a consideration much weight, you would jeopardise other business sites in the District.
- 5.15 The next point made by the applicant is that the proposed scheme will provide an employment-generating development which will be superior to the existing units. Whilst this is undeniable, the extant outline permission will provide for even more (almost ten times as much) good quality B1/B2 space.
- 5.16 Much store is set in the applicant's planning statement of a proposed contribution, by way of a S106 agreement, to help subsidise a new school in Bletchingdon. The same proposed financial commitment was made in respect of 11/01071/OUT. Although Members were not swayed by the offer and refused this earlier application, the Committee did express some sympathy. As a result, officers were asked to examine ways in which the Council could help to bridge the funding gap which prevented the school project moving forward.
- 5.17 Although the applicant was involved in the initial discussions, representatives of the Council, school and Parish Council resolved to approach the Duchy of Cornwall who own the land (northern edge of Bletchingdon) on which it is proposed to build the school. The Duchy was invited to help in devising a scheme incorporating the school, a new village hall, affordable housing and if an interested party could be found, a shop. An agreed number of market houses, based on a viability study, will help fund the building of the school and allow the Duchy to make a reasonable return on their investment.
- 5.18 The idea was warmly received by the Duchy and a working group referred to as the *Bletchingdon Project* was formed. Aside from the aforementioned stakeholders, officers from the Education Department at the County Council and a local housing association have been involved in on-going negotiations. There is an expectation that an outline application could be submitted in the early autumn following positive discussions, and a favourable response from the local community to the principle of the scheme.
- 5.19 It would be unwise to prejudge the likely reaction of the Planning Committee because, as with the application currently under consideration, the *Bletchingdon Project* would represent a departure from policy. However, if either of the schemes is to be supported there are clear advantages with the *Bletchingdon Project*, in terms of community involvement, sustainability, and greater financial probity. It should also be pointed out that the school would not have additional resources if both schemes were approved as the *Bletchingdon Project* would have to be scaled back to reflect the additional revenue stream. In all probability, therefore, the school project would not benefit financially from the approval of this application.
- 5.20 Another consequence of accepting the contribution is that it would set a precedent whereby other landowners in the area make a similar offers which may, in all equity, be more difficult to resist. For example, the agent representing the owners of a nearby cattery stated that her clients would have

been willing to make a similar contribution if it meant that a previously refused scheme for five houses (11/01146/OUT) would be treated more favourably, if resubmitted.

- 5.21 Notwithstanding the above, late on in the application process the applicant agreed to make a financial contribution based on the SPD and containing no reference to the school. Although a figure has yet to be finalised it is likely to be in the order of just over £178,000. Such a concession, whilst negating one of their identified planning benefits, does however mean that one of the previous reasons for refusal has, in principle, been successfully addressed.
- 5.22 One final planning benefit attributed to the scheme is a proposed footpath running alongside the B4027 linking the site to the rest of the hamlet. Whilst this would indeed represent an improvement to highway safety, a similar footpath was incorporated in to a scheme to redevelop the nearby marina (planning permission 02/02064/F refers). Notwithstanding the date of this approval, the owners of the marina recently submitted a discharge of condition application (12/00098/DISC) to allow them to construct the footpath in the near future.
- 5.23 Based on the above, it is concluded that not only has the applicant not presented a compelling case which would outweigh the strong policy objection based on non-compliance with Policy H15 of the CLP, but officers have also concluded that the applicant has not successfully overcome either of the requirements contained within Policy EMP5 of the NSCLP.

Design and layout

- 5.24 The Council's former Urban Design Officer, who has been working for the Council on a freelance basis until her replacement has taken up the position, provided informal comments. She noted that many of the criticisms of earlier schemes had been taken on board; but as all matters other than the access and reserved, ultimate judgement of the design should be saved for a reserved matters application.

Highway safety and parking

- 5.25 Although the local Highways Officer had not sent any observations at the time of writing, it is reasonable to conclude, given their previous comments, that it is unlikely that an objection to the scheme will be raised. The development is therefore considered to comply with Government guidance contained within the NPPF.

Ecology

- 5.26 *Conserving and enhancing the natural environment* a sub-section of the NPPF requires that "the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures" (para 109).
- 5.27 Paragraphs 192 and 193 further add that "The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which

should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question". One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.

5.28 Paragraph 18 states that "When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:

- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused"

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

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

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

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

5.33 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53

of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

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

5.34 Therefore where planning permission is required and protected species are likely to be found to be present at the site or surrounding area, Regulation 53 of the Conservation of Habitats and Species Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local planning authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council's Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.

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

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

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

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

5.36 In respect to the application site, an initial bat survey was undertaken by James Johnson Ecology in September 2010 and the report submitted with the application, which found that there was no evidence of bats roosting in the buildings although there were droppings found on the site. Notwithstanding the fact that the bat survey is out-of-date, the Council's Ecologist is satisfied that there is little prospect that bats would have inhabited the buildings in the

interim. She is therefore only recommending a condition regarding the timing of the removal of trees and scrub.

- 5.37 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework and Policies C2 and C4 of the adopted Cherwell Local Plan.

Conclusion

- 5.38 This proposal is not considered to be acceptable in principle, for the reasons set out above, officers concludes that this proposal is contrary to Policy RE3 of the South East Plan 2009, Policy H15, of the adopted Cherwell Local Plan and Policy EMP5 of the Non-Statutory Cherwell Local Plan 2011 and Government Guidance contained within the National Planning Policy Framework.

6. Recommendation

Refusal:

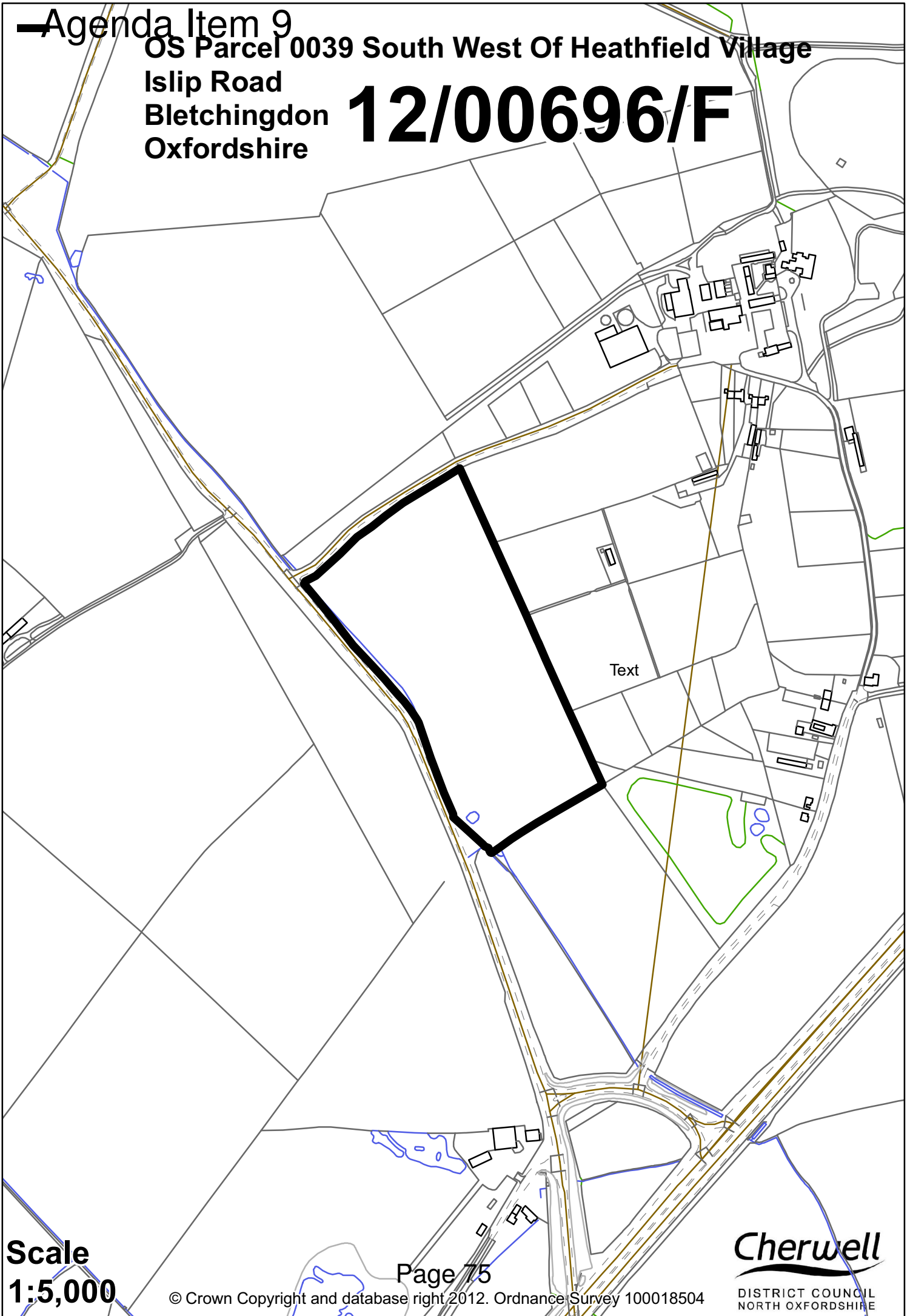
1. Enslow is a Category 3 settlement as defined in the adopted Cherwell Local Plan. Policy H15 of the adopted Cherwell Local Plan states that within such settlements new residential development will be restricted to the conversion of non-residential buildings or where an essential need for agriculture, or other existing undertaking, can be established. It is the opinion of the Local Planning Authority that the proposal does not accord with these provisions and that it would be unsympathetic to its rural context, contrary to Policy H15 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
2. The proposal will result in the loss of a significant proportion of an employment site which can continue to make an important contribution to the economic development of the area. As a lack of need has not been clearly established or no substantial and demonstrable planning benefit has been established, the proposal is contrary to Policy RE3 of the South East Plan 2009, Policy EMP5 of the Non-Statutory Cherwell Local Plan 2011 and Government guidance contained within the National Planning Policy Framework.

Agenda Item 9

OS Parcel 0039 South West Of Heathfield Village

Islip Road
Bletchington
Oxfordshire

12/00696/F



Text

Scale
1:5,000

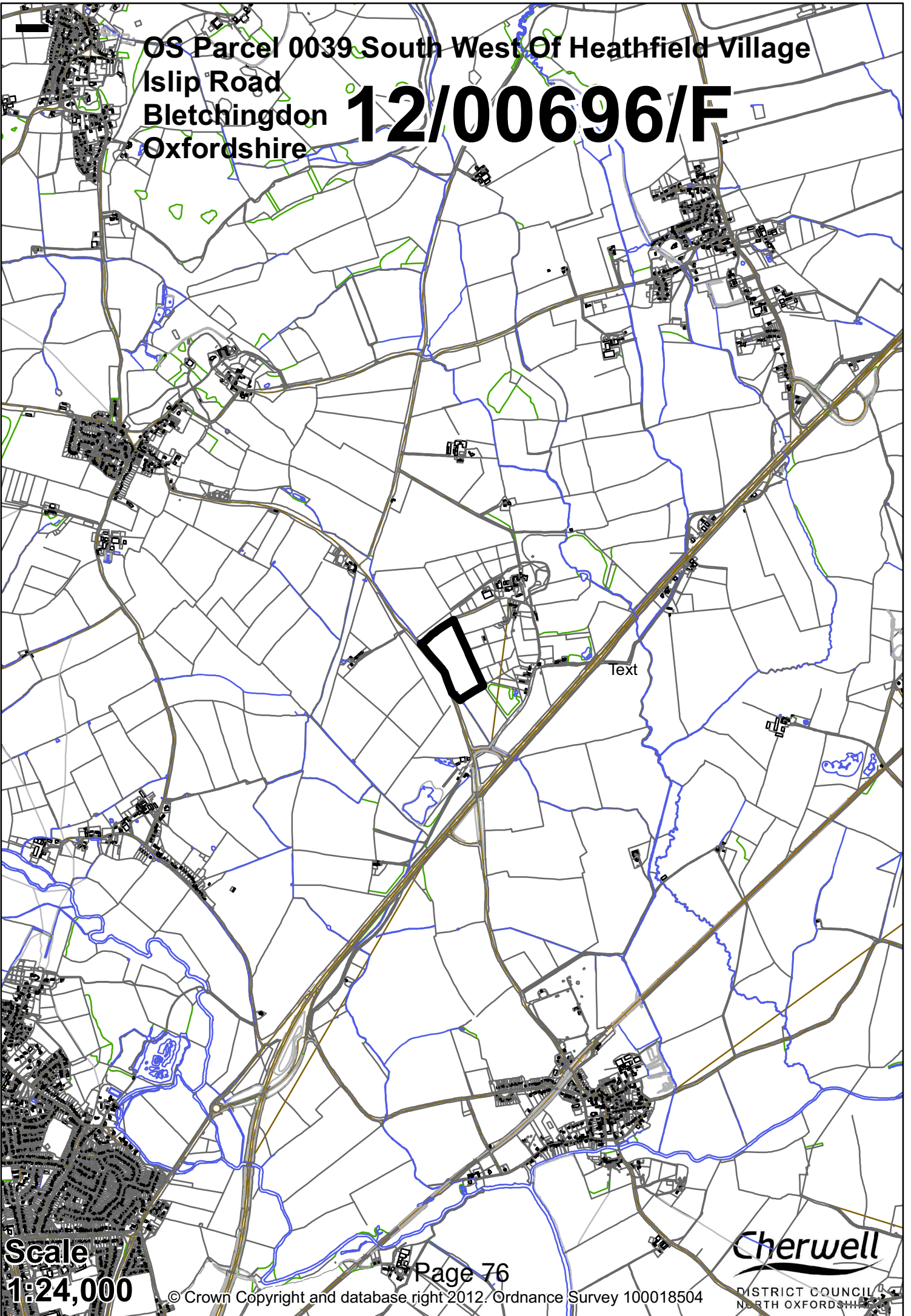
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

OS Parcel 0039 South West Of Heathfield Village
Islip Road
Bletchington
Oxfordshire

12/00696/F



Text

Scale
1:24,000

OS Parcel 0039
South West of Heathfield Village
Islip Road, Bletchington
Oxfordshire

12/00696/F

Ward: Kirtlington

District Councillor: Simon Holland

Case Officer: Graham Wyatt

Recommendation: Approval

Applicant: Mr Geoff Robbins & Ms Jo Holmes

Application Description: Proposed driving range, pro-shop, refreshment area and ancillary environmental works.

Committee Referral: Major

1. Site Description and Proposed Development

- 1.1 The site forms an open parcel of land at the B4027 entrance to Heathfield village. The land is currently laid to grass with mature hedging forming the boundary for the site. The site lies within the Green Belt. Public footpath FP134/13 runs north of the site.
- 1.2 The proposal seeks permission to change the use of the land from agricultural land to a golf driving range. As part of the development, a single building comprising 19 golf driving bays, a reception and refreshment area, retail element, staff room and maintenance store are proposed. The development originally proposed a mobile home as part of the scheme. This element has since been removed from the proposal and is not for consideration.
- 1.3 The applicant proposes to increase landscaping at the site and to provide floodlighting for evening and winter use of the site. A parking area and access road will also be provided.

2. Application Publicity

2.1 The application has been advertised by way of site notice erected at the entrance to the site. The final date for comment was the 24th June 2012. One letter of correspondence from the Mr. Scargill of the Oxford Green Belt Network has been received commenting on the following material planning considerations:

- We believe that what the present application proposes goes well beyond what is acceptable in terms of preserving openness and that it must therefore be regarded as inappropriate development which is harmful to the Green Belt.
- The site in question is some distance from the nucleus of Heathfield village and would thus extend development into open countryside.
- This is an ongoing commercial expansion which is gradually eroding the Green Belt in the vicinity of Heathfield.

3. Consultations

- 3.1 **Bletchington Parish Council** – The parish council were re-consulted as a result of the applicant removing the mobile home from the scheme. The Parish responded to the initial consultation as follows: ‘The Parish Council is extremely concerned about traffic movements on and off the B4027. Permission was recently granted for a 150 mobile homes to enter Heathfield via the ‘road’ from the B4027, with no thought regarding the danger of traffic coming from the A34 and turning in at this point. The driving range shows parking for 30 vehicles which will exacerbate the traffic movements.
- 3.2 The driving range is a distraction so close to the B4027. Councillors feel that if the range is open during dark evenings the floodlights could dazzle drivers. They also seek reassurance that something would be installed to prevent golf balls coming through the hedge alongside the B4207.
- 3.3 There is no need for accommodation at the site.

Cherwell District Council Consultees

- 3.4 **Ecologist:** “The field proposed for conversion into a golf driving range does not contain any rare habitats or protected species. There is a badger record for the site, but no evidence of a badger sett was found. The landscaping plan shows that the following enhancement measures will be incorporated into the scheme:
- additional tree planting
 - two new 'conservation' ponds
 - small areas of meadow grassland
- 3.5 Whilst all these features will help enhance the site for biodiversity I don't see any further detail as to the design of the ponds and the species of tree, aquatic plants or meadow grasses to be planted. More detailed information on this, as well as the future management of the trees, hedgerows, grassland and ponds would be useful, to ensure that only native species are used and that the management will be appropriate to ensure these features benefit biodiversity in the long-term. This could be done by condition, through the production of a management plan with detailed planting scheme.”
- 3.6 **Landscape Officer** – No response received.
- 3.7 **Rights of Way Officer** – No response received.

Oxfordshire County Council Consultees

- 3.8 **Highways Liaison Officer:** The rural location of the site places high dependency on private car to access the site. However, given the recreational use and associated accommodation, I do not consider location, in terms of sustainability, to be grounds for refusal.
- 3.9 Roads immediately adjacent the site are not public highway, the B4027 being the highway boundary both where it forms the slip to the A34 and at the access

road close to Frogsnest Farm. The access nearest to Frogsnest Farm would provide the most logical route for visitors from beyond the village and I consider this access would provide appropriately for the expected increase in traffic associated to the proposed development.

- 3.10 The adjacent highway is unlit and any floodlighting must not have any adverse effect upon the highway; light sources must not be visible directly from the highway and light spill to the highway must be no more than 1 LUX.
- 3.11 Adequate provision is made for parking and turning away from the public highway. SUDS must be incorporated where appropriate.

Other Consultees

- 3.10 **Thames Valley Police** – Historically this area is described as a low crime area. I have the following comments to make; Unfortunately golf courses and driving ranges are often in isolated locations and are easy targets for offenders to commit crimes such as burglary and theft from pro shops, theft of money from vending machines and ball dispensing machines and theft from motor vehicles. There are a number of mitigating measures that can be incorporated within the design that may reduce opportunity for crime to happen at this venue. A condition requiring CCTV is suggested.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- GB1: Development within the Green Belt
- GB2: Change of use within the Green Belt
- C2: Protected species
- C7: Landscape conservation
- C8: Sporadic development within the countryside
- C28: Layout, design and external appearance of new development

South East Plan 2009

- CC1: Sustainable development
- CC4: Sustainable design and construction
- CO4: Green Belt
- T4: Parking
- NRM5: Conservation and improvement of biodiversity
- BE1: Management for an urban renaissance

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5 Appraisal

- 5.1 The key issues for consideration in this application are:
- Impact on the Green Belt;
 - Impact on road safety and parking;

Impact on the Green Belt

- 5.2 The site lies within the Oxfordshire Green Belt. The National Planning Policy Framework March 2012 (NPPF) attaches great importance to Green Belts and states that it is its fundamental aim to prevent urban sprawl by keeping land permanently open. The essential characteristic of Green Belt land is its openness and their permanence.
- 5.3 The NPPF states at paragraph 87 that, 'As with previous Green Belt policy [PPG2], inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.' It continues at paragraph 89 by stating that, 'A local planning authority should regard the construction of new buildings as inappropriate development in Green Belt. Exceptions are, among other things, the provision for appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.'
- 5.4 This guidance is echoed in Policy GB1 of the Adopted Cherwell Local Plan 1996 which states that, 'Inside the green belt, approval will not be given, except in very special circumstances, for development other than for agriculture, forestry, recreation, cemeteries, or for other uses of land which preserve the openness of the green belt and do not conflict with the purposes of including land in it...Care will be taken to ensure that the visual amenities of the green belt 'are not injured by development within, or conspicuous from, the green belt which, although not prejudicial to its main purpose, might be inappropriate by reason of siting, materials or design.'
- 5.5 Policy GB2 of the adopted Cherwell Local Plan 1996 states that,

The change of use of land within the green belt for outdoor recreation purposes will normally be permitted provided:

- (i) there is no overriding agricultural objection;
- (ii) the visual impact on the rural landscape is not unduly harmful;
- (iii) there is no conflict with other policies in this plan.

Planning permission for new buildings related to such uses will only be granted if they are small in scale and it can be demonstrated that they are essential and ancillary to the use of the land and can be located unobtrusively.

- 5.6 Therefore, the provision of appropriate facilities for outdoor sport and recreation facilities is not considered inappropriate development within the Green Belt, providing its use and any buildings preserves its openness.
- 5.7 The proposed development seeks to change the use of the land from agricultural to a golf driving range. In order for the driving range to operate, a building is proposed that provides three elements; driving bays where

customers practice golf, a reception with ancillary sales area, a refreshment area including customer toilets, changing room and staff rest room. A maintenance store (which will include equipment to maintain the range, mower, ball collector etc.). The building provides the following floorspace for each element:

Reception and sales area (including staff rest area) = c.57 sq. m
Refreshment and training area (including changing room) = c.57 sq. m
Maintenance store = c.16 sq. m
Driving range bays = c.270 sq. m

- 5.8 The building would have a mono-pitch roof with a height of 3m rising to 3.8m over the driving bays. The building would be constructed of green oak under a roof that will be covered in grass. Extensive landscaping is also proposed which includes reed beds, meadows, ponds and bunds to both enhance biodiversity at the site and to allow the built development sit comfortably within the site.
- 5.9 Access to the site will be via the existing road off the B4027. A new access serving the driving range will be created some 220m off the main road (north east) and double back on itself to a parking area for 25 vehicles and the driving range itself.
- 5.10 Both the NPPF and local plan policies support the provision of outdoor sports within the Green Belt providing the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The Oxford Green Belt Network have objected to the proposal stating that the development is, 'well beyond what is acceptable in terms of preserving openness and that it must therefore be regarded as inappropriate development which is harmful to the Green Belt.'
- 5.11 However, the proposal is for outdoor sport which is clearly not an inappropriate use within the Green Belt. It is whether the facilities proposed would impact on the openness of the Green Belt that is for consideration and therefore inappropriate development within the Green Belt.
- 5.12 The facilities proposed are not considered significant. The bays are appropriate and required for the driving range. A reception area to greet customers along with a small amount of retail (a room approximately 7 x 8m) and a further room for refreshment (no alcohol is to be served) and training room (approximately 7 x 8m) and a maintenance store are, in my opinion appropriate facilities required for the outdoor sport that would be provided. Moreover, the actual built environment would be contained to the north-west of the site with the remainder remaining largely unaltered save for landscaping and biodiversity enhancements proposed.
- 5.13 It is not considered that the building represents inappropriate development in the Green Belt that would fail to preserve its openness. The building and use is considered an acceptable form of development that would provide an opportunity for outdoor sport in the Green Belt. Moreover, the building has been appropriately and sensitively designed and would preserve the openness of the Green Belt in this area.

Other Matters

- 5.14 The applicant has stated that to allow the driving range to be used during the winter, floodlighting is proposed. The hours of operation would be from 0800hrs to 2100hrs. The details of proposed lighting has not been provided. The Highway Engineer has expressed a concern that lighting may affect drivers using the B4027 and details must be provided to ensure that light does not spill onto the road, affecting road safety. As a result, a condition requiring details of proposed lighting will be placed upon any permission granted.
- 5.15 Continuing with road safety, the Parish Council have raised a concern that the access may not be safe as the Council recently approved an application for a caravan park (not mobile homes as suggested) that would use the same access. However, the Highway Engineer has assessed the proposal and is satisfied that the development will not impact on road safety.
- 5.16 The Ecologist also welcomes the opportunity to enhance biodiversity in the area. However, landscaping details submitted are limited and the applicant states they aware that additional details need to be submitted to satisfy a condition regarding landscaping.
- 5.17 The proposal does not seek to alter or divert the existing right of way that runs along the existing access road that serves Heathfield Village and the site. A new access will be taken off the access road and a planning note will advise the applicant that planning permission does not convey a right to block or divert the right of way.
- 5.17 Thames Valley Police have suggested that the applicant contact the Crime Prevention Design Officer to discuss ways of deterring crime at the site. A planning note provides contact details.

Conclusion

- 5.18 The proposed development is not considered inappropriate development within the Green Belt and will provide an outdoor sporting facility in line with the advice within the National Planning Policy Framework March 2012 and local plan policies. The proposal is therefore considered acceptable and is recommended for approval.

5. Recommendation

Approval, subject to the following conditions:

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

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

- 2 Except where otherwise stipulated by conditions attached to this

permission, the development shall be carried out strictly in accordance with the following plans and documents: Design and Access Statement Reference 12013 dated 18.04.2012, drawing 12013:03 A, 12013:04 A, 12013:05 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 That the external walls and roof(s) of the development shall be constructed in accordance with a schedule of materials and finishes which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the works hereby approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

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

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

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

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

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

Cherwell Local Plan.

6. That a scheme of floodlighting for the driving range, which shall include location of lighting columns, make and type of lighting unit, light source type, hours of operation and iso-lux diagram shall be submitted to and approved by the Local Planning Authority prior to their installation. No lighting other than approved scheme shall be implemented.

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 National Planning Policy Framework March 2012

Planning Notes

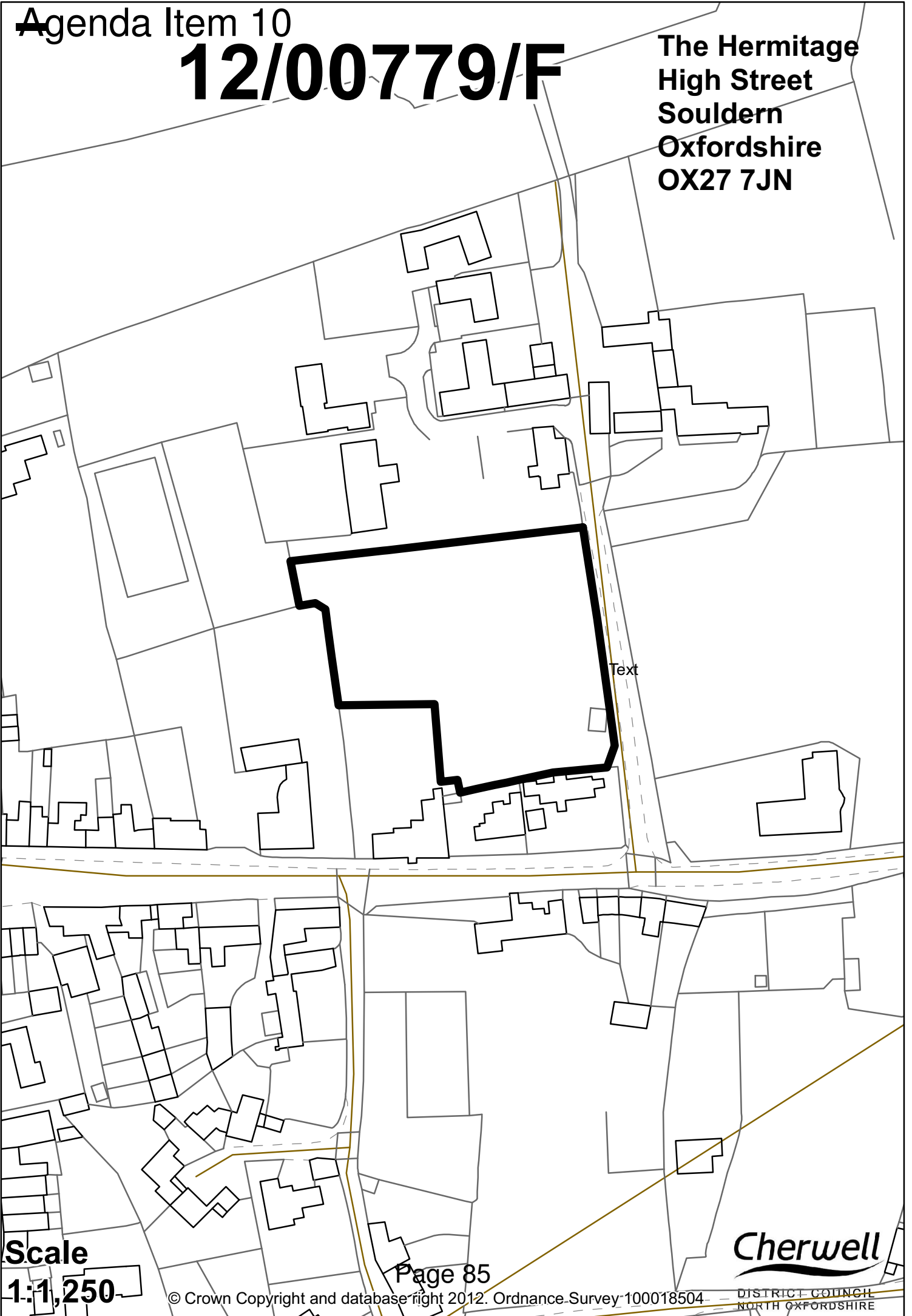
1. No development shall take place across any public footpath/right of way unless and until it has been legally stopped up or diverted.
2. The applicant should consult with the local Crime Prevention Design Advisor and incorporate recommended target hardening measures to reduce opportunity for crime to include measures such as appropriate doors, windows, lighting, alarms, CCTV, emergency 'help' call for the on site manager and good money management of coin operated machines on site. Telephone 01844 264938 for further information

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

The Council, as local planning authority, has determined this application in accordance with the development plan, unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposed development is 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 Green Belt, traffic safety or the amenities of adjoining occupiers. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework March 2012, saved policy GB1, GB2, C2, C7, C8 and C30 of the Adopted Cherwell Local Plan 1996 and policy BE1, CC1, CC4, CO4, T4, and NRM5 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.

12/00779/F

The Hermitage
High Street
Souldern
Oxfordshire
OX27 7JN

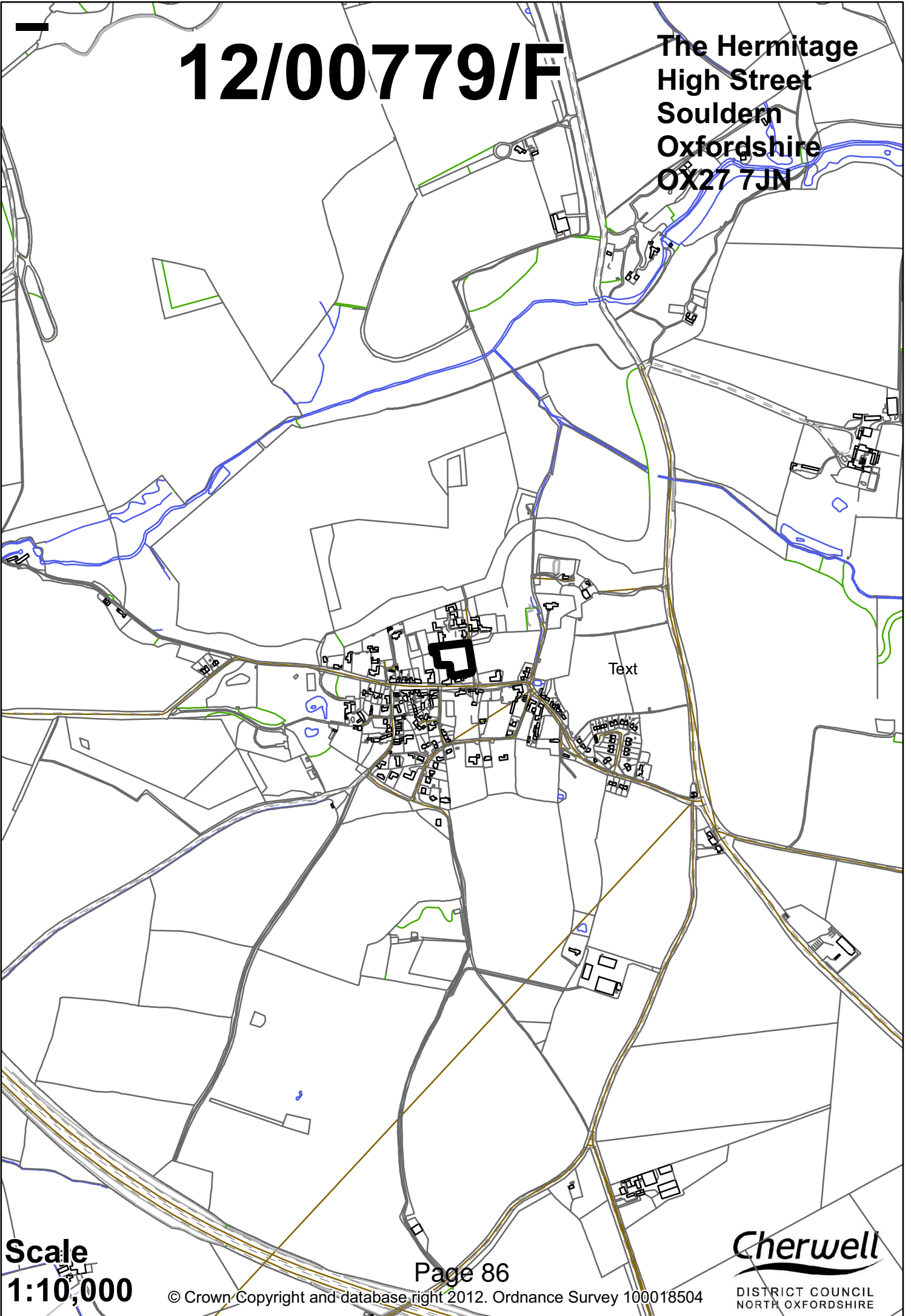


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The Hermitage
High Street
Souldern
Oxfordshire
OX27 7JN



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

The Hermitage, High Street, Souldern 12/00779/F

Ward: The Astons And Heyford

District Councillor: Cllr Macnamara & Cllr Kerford-Byrnes

Case Officer: Gemma Magnuson

Recommendation: Refusal

Applicant: Mr & Mrs Peter Griffiths

Application Description: Proposed detached dwelling

Committee Referral: Member Request

1. Site Description and Proposed Development

- 1.1 The Hermitage is a detached dwelling situated central to the village of Souldern upon High Street. The frontage of the dwelling faces onto High Street, with a spacious curtilage beyond to the north and north-east. The Hermitage is a Grade II listed building. Grade II listed Barn House is situated to the west of the site and Grade II* listed Manor Barn is situated to the north. The site is in the Souldern Conservation Area. A number of trees upon the site are protected by a Tree Preservation Order (TPO 3/91) or by virtue of their inclusion within the Conservation Area.
- 1.2 The site is considered to be a high/medium Site of Archaeological Interest as part of the historic core of Souldern. There are no other relevant site constraints.
- 1.3 The proposed development would involve the erection of a five bedroom detached dwelling towards the north-east of the site, within the curtilage of The Hermitage. The Hermitage would be separated from the curtilage of the proposed dwelling by a new stone wall.
- 1.4 The proposed dwelling would be two storey in height, with a third storey being provided below ground level as a basement. The dwelling would be constructed using natural stone rubble walls, a natural blue slate roof and natural untreated oak window and door openings. A flat roof porch would also be constructed with a lead flat roof with painted timber parapet, and an area of natural larch cladding would be applied to the southern facing elevation.
- 1.5 Vehicular access to the site would be taken via the existing access serving The Hermitage off the lane which accesses Manor Farm, with new gravel driveways and parking areas being installed to serve both properties. The red line area on the site location plan submitted with the application will be amended to include the access to the public highway, taken across a private driveway (submission of amended plan awaited at the time of writing this report). As such, 21 days notice was served on 02 August 2012 to the owner of the private driveway that is due to expire on 23 August 2012. Consequently, any decision made prior to this date would be subject to the expiry of this notice period.

- 1.6 The Agent confirmed in their email dated 02 August 2012 that three trees would be removed as part of the development (T34 - Maidenhair, T35 – Beech, & T37 - Sycamore) all protected by the TPO. An existing Yew hedge would also be removed.
- 1.7 The application has been called in to be considered by Planning Committee by Councillor Macnamara.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice and press notice. The final date for comment was 12 July 2012. One letter was received, the following issues were raised:

Material planning comments:

- Development would not constitute infilling and is therefore contrary to saved Policy H14 of the Cherwell Local Plan and continued Policy in Non-Statutory Cherwell Local Plan 2011. The site is behind properties fronting High Street and has no street frontage of its own.

- Long term health and stability of mature trees of significant amenity value would be compromised. Of particular concern are the mature sycamores and copper beech forming northern boundary with Manor Farm.

- Proposed dwelling would be in close proximity to Grade II* listed Manor Farm, negatively impacting upon its setting. Existing tree belt would provide some screening although it will be minimal during winter when they are bare.

- If trees are compromised there could be only the existing stone wall as a barrier between Manor Farm and the proposed dwelling.

- Design of the dwelling in terms of size, scale, materials and detailing fails to reflect local vernacular architecture, appearing incongruous in this setting, close to two listed buildings and in Conservation Area, causing substantial harm to the heritage assets contrary to national and local planning policies.

Please note that these comments were based upon the original plans prior to the submission of amendments on 30 July 2012, and that they have been summarised. The full version can be viewed on the electronic file.

3. Consultations

- 3.1 **Souldern Parish Council:** no objections.

Cherwell District Council Consultees

- 3.2 **Conservation Officer:** objects to the application on the following grounds:

The proposal is for a modern estate-style family dwelling set in the garden of The Hermitage which is to be annex to form the grounds of the new house. There are

three considerations here; policy, design and impact on adjacent listed buildings and conservation area.

Policy – the Manor Farm complex lies beyond the built up limits of the village. Originally Souldern village was located adjacent to the church but historically moved to its current location to avoid flooding. Manor Farm which is anchored by its association with the location of the original village, is therefore as an adjunct to the ‘new’ Souldern village which all intents and purposes is located on the High Street with ancillary lanes to the south. In the context of The Hermitage therefore, the frontage is the High Street. The land through which the access track to Manor Farm travels is therefore an important gap; woodland/grounds to The Hermitage to the west and farmland to the east. The grounds of The Hermitage form a very significance and important gap emphasising the historic isolation and containment of Manor Farm as a historically significant part of both ‘old’ and ‘new’ Souldern; keeping this an undeveloped gap gives understanding to the ‘ribbon development’ form of the ‘new’ Souldern along the High Street.

Design – there is nothing outstanding about the design of the proposed building. There is no reference to the local distinctiveness of Souldern. Of particular concern is the slackness in the angle of the roof, the lack of an expressed gable on the west elevation, the massing, the over-fenestration, the lack of a significant frontage (all elevations appear equal). The design is reminiscent of many estate houses found ubiquitously across the country, all-in-all the design of the building is mundane.

Impact – the construction of the proposed building will undoubtedly impact on the settings of both The Hermitage and the Grade II barn of Manor Farm. In the case of The Hermitage this impact will be both visual and amenity. In the case of the barn due to the 2m difference in land levels the impact will be visual with possible overlooking issues in the winter when the trees are without leaves. Whilst the impact on the setting of adjacent listed buildings should be borne in mind by far the greatest impact will be on the settlement pattern of the village and the filling in of a significant gap. The loss of this gap would fundamentally affect what is a unique settlement pattern – one that has arisen as a result of the historic relocation of the dwelling houses away from the church – and therefore destroy what is distinctive and unique to Souldern.*

Please note that these comments were based upon the original plans prior to the submission of amendments on 30 July 2012. Further comments on the amended plans are awaited at the time of writing the report.

3.3 Housing Officer: raises no concerns regarding housing standards.

3.4 Environmental Protection Officer: No comments received at the time of writing the report.

3.5 Arboricultural Officer: objects to the application and comments as follows:

10 July 2012 - The proposal appears to be logistically possible by adhering to an agreed AMS however my main concerns revolve around the long-term pressures placed upon the retained, protected trees due to their influences over the dwelling and occupiers. There is a significant risk of nuisance issues regarding excessive shading, reduced light levels, excessive fruit and leaf fall (with associated

maintenance implications) as well as increasing concerns and perceived fears regarding the structural condition of the trees including their oppressive nature due to close proximities.

As the trees are subject to a Tree Preservation Order as well as Conservation Area legislation it would be difficult to manage the trees or approve applications for works without compromising either the value of the trees or the ability of the occupiers to enjoy their garden or garden space.

02 August 2012 – *A review of the tree survey indicates that three trees, T34, T35 & T37 are recommended for removal to facilitate the development. Additionally, the yew hedge is also recommended for removal for this purpose.*

All three trees and the hedgerow have not been identified as having any significant defect that would warrant their removal in any other circumstance.

Please refer to file for full comments.

Oxfordshire County Council Consultees

3.6 **Highways Liaison Officer:** no objection to the application subject to a condition regarding the parking and manoeuvring area.

3.7 **Archaeology Officer:** no comments received at the time of writing the report.

Other Consultees

3.8 **English Heritage:** no comments received at the time of writing the report.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H14: Category 2 Settlements

C13: Area of High Landscape Value

C23: Retention of positive features in a Conservation Area

C27: Development in villages to respect historic settlement pattern

C28: Layout, design and external appearance of new development

C30: Design of new residential development

C33: Protection of important gaps of undeveloped land

South East Plan 2009

CC6: Sustainable communities and character of the environment

H5: Housing design and density

T4: Parking

NRM5: Conservation and improvement of biodiversity

BE1: Management for an urban renaissance

BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission Draft (May 2012)

The draft Local Plan is due out for public consultation in the near future. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

Policy ESD13: Local landscape protection and enhancement

Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case.

H16: Category 2 Villages

TR11: Parking

EN1: Enhancement of the environment

EN34: Landscape character

EN35: Retention of features important to character of local landscape (woodlands, trees, hedges etc.)

EN39: Protection of historic buildings and areas

EN40: Conservation Area

EN44: Setting of listed buildings

D1: Urban design objectives

D3: Local distinctiveness

D6: Design control

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of the development
- Conservation Area and historic settlement pattern
- Listed buildings
- Visual amenity including the Area of High Landscape Value
- Trees
- Highway safety

Relevant Planning History

- 5.2 On 06 February 1991 outline planning permission for the erection of two detached houses with integral garages upon land to the rear of The Old School, The Hermitage, High Street, Souldern was refused on the following grounds:
1. The proposal does not constitute infilling, i.e. a small gap in an otherwise continuous built-up frontage and therefore is contrary to Policy H6 of the Rural Areas Local Plan and would result in an unacceptable and inappropriate extension to the built-up limits of the village.
 2. The proposed dwellings would adversely affect the character of the Souldern Conservation Area and the setting of the adjoining listed buildings due to the loss of an important gap and open aspect between properties in High Street and Manor Farm, the loss of trees on the site and could result in a loss of privacy for the adjoining properties.
 3. The proposal would create an undesirable precedent for further development that the Local Planning Authority would then find difficult to resist.
 4. The proposed access has substandard visibility and the proposal would result in increased traffic to the detriment of highway safety.
- 5.3 This previous application sought only outline consent with all matters reserved. The proposed site area was smaller in size to that now proposed, consisting of the strip of land adjacent to the eastern most boundary of the site currently being considered.
- 5.4 An Appeal against the refusal of planning permission was submitted and subsequently dismissed on 07 November 1991. The Inspector concluded that the site did not constitute an otherwise continuous built-up frontage, explaining that the site appears to be no frontage at all since the Old School clearly has a frontage to High Street and Manor Farm is a complex of buildings at the end of a drive access. The Inspector did not consider that the Manor Farm complex formed part of the built-up area of the village.
- 5.5 With regard to the Conservation Area, the Inspector describes the character as diverse with some parts fairly compact with buildings but other areas containing undeveloped land in various forms. Specific mention is made of the numerous trees within the site that represent a significant feature in the village character, forming a back cloth to the open paddock between the drive to Manor Farm and the drive to the church. Whilst no specific details regarding the removal of trees were included with the application, the Inspector considered that some would need to be removed in order to facilitate the development, thereby reducing the tree cover along the drive. The substitution of the wooded area for a site with 2 houses, drives and parking areas would not preserve the visual character of the Conservation Area.
- 5.6 The Inspector did not, however, consider that the proposal would result in significant harm to the setting of the nearby listed buildings. The barn at Manor

Farm was the only building considered as having the potential to be affected by the proposal, although the Inspector concluded that the barn was not the sort of building that requires a spacious setting as they are frequently part of a complex of other buildings. The listed building aspects were therefore not considered to be of significance.

- 5.7 Due to the presence of similar undeveloped spaces within the village, the Inspector considered that there could be other sites where development may be proposed and where permission on this site might be used as support for the other development, thereby concluding that a precedent being set could be a material matter.
- 5.8 The Inspector did not consider that the application could be refused on highway safety grounds alone.
- 5.9 The conclusions drawn by the Inspector in this previous Appeal decision are material to the consideration of the current application.

Principle

- 5.10 In establishing the acceptability of the principle of the erection of a dwelling in this location regard should be paid to Government guidance contained within the NPPF – Delivering a wide choice of high quality homes, Policy H5 of the South East Plan 2009 and saved Policy H14 of the adopted Cherwell Local Plan.
- 5.11 Government guidance requires housing applications to be considered in the context of sustainable development. Sustainable development has three dimensions: economic, social and environmental. Development should contribute to building a strong responsive and competitive economy, support strong, vibrant and healthy communities through the creation of a high quality built environment and contribute to protecting and enhancing the natural, built and historic environment.
- 5.12 Policy H5 of the South East Plan 2009 seeks to raise the quality of new housing and reduce its environmental impact.
- 5.13 Saved Policy H14 of the adopted Cherwell Local Plan concerns residential development within Category 2 Settlements such as Souldern. In Category 2 settlements residential development will be restricted to conversions, infilling or other small scale development that can be shown to secure significant environmental improvement within the settlement.
- 5.14 Category 2 settlements are generally the smaller villages with a lesser range of services available, although some potential still exists within them for limited residential growth. Infilling is defined as a small gap in an otherwise continuous built up frontage that is suitable for one or two dwellings. Saved Policy H14 will therefore permit the construction of houses in small gaps in a village street where environmentally acceptable. However, the intention behind saved Policy H14 is not to permit the erosion of all gaps within a settlement as many spaces in village streets are important to their character and cannot be filled without detriment to their environmental quality. This is particularly the case in a loose-knit settlement pattern where spaces can be as important as the buildings.

- 5.15 As previously explained, during 1991 outline planning permission for two dwellings in this location was refused on four grounds, one of which being that the development would not constitute infilling, contrary to Policy H6 of the Rural Areas Local Plan. The Inspector considering the subsequent Appeal concurred with this reason for refusal. The restriction of residential development in the village of Souldern to infilling, with the definition of infilling remaining as found in the adopted Cherwell Local Plan 1996, has not altered since 1991. Further, the physical arrangement of buildings has not significantly altered since the consideration of this previous application. It is acknowledged that the Manor Farm complex is now in residential use, although the farmstead remains beyond the built-up limits of the settlement with no interlinking structures.
- 5.16 It is therefore still considered that the proposed development would not constitute infilling. The existing site is not considered to detract from the environment within the settlement and it is therefore not considered that the erection of a dwelling in this location would secure significant environmental improvements. The principle of the erection of a dwelling in this location is not considered to accord with the requirements of saved Policy H14 of the adopted Cherwell Local Plan.

Conservation Area and Historic Settlement Pattern

- 5.17 Souldern Conservation Area was designated during March 1988 and includes numerous open spaces both within and beyond the built-up limits of the settlement. The open spaces contribute to the loose-knit settlement pattern throughout the village, which in turn forms the character and appearance of the designated Conservation Area. Historically, the village of Souldern was located adjacent to the church although was moved towards the west in order to avoid flooding. The site is one area of open space that contributes to the separation between the church and the 'new' village of Souldern, and the Manor Farm complex that has remained isolated from both the 'new' and 'old' villages throughout.
- 5.18 Government guidance contained within the NPPF – Conserving and enhancing the historic environment states that in determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness. Policies BE1 and BE6 of the South East Plan 2009 seek development that is relevant to context which build upon local character and distinctiveness and sense of place, and support proposals which protect, conserve and where appropriate, enhance the historic environment and the contribution it makes to local and regional distinctiveness and sense of place. Saved Policies C27 and C33 of the adopted Cherwell Local Plan expect development in villages to respect their historic settlement pattern and seek to retain any undeveloped gap of land which is important in preserving the character of a loose-knit settlement structure, maintaining the proper setting for a listed building or protecting a view or feature of recognised amenity or historical value.
- 5.19 Saved Policy C23 of the adopted Cherwell Local Plan states that there will be a presumption in favour of retaining buildings, walls, trees or other features which make a positive contribution to the character or appearance of a Conservation Area.

- 5.20 The site is currently occupied by dense tree cover that is protected by a group Tree Preservation Order (TPO 3/91) as a feature of recognised amenity value that makes a positive contribution to the character and appearance of the Conservation Area. When approaching the Manor Farm complex from High Street the trees appear as a small area of woodland separating the farmstead from the village. The Inspector concluded as part of the Appeal decision during 1991 that the trees formed a back cloth to the paddock to the east when viewed from the direction of the church, that the trees represent a significant feature in the village character and that any reduction in the tree cover would neither preserve nor enhance the character of the Conservation Area.
- 5.21 The specific impact of the proposed development upon the trees is discussed in more detail later in the report, although it is considered that the proposed removal of trees and potential for further removal of trees or their excessive management following completion of the development would cause significant harm to the character and appearance of the Conservation Area. Further, the development of the site would fail to respect the historic settlement pattern of the village by connecting the Manor Farm complex to the High Street, contrary to the objectives of Government guidance contained within the NPPF- Conserving and enhancing the historic environment, Policies BE1 and BE6 of the South East Plan 2009 and saved Policies C23, C27 and C33 of the adopted Cherwell Local Plan.

Listed Buildings

- 5.22 The proposed dwelling would be situated in close proximity to three listed buildings; Grade II listed The Hermitage to the south, Grade II listed Barn House to the south-west and Grade II* Manor Barn to the north. Government guidance relating to the preservation of listed buildings and their settings is found within the NPPF – Conserving and enhancing the historic environment that affords great weight to the conservation of the significance of designated heritage assets and their setting.
- 5.23 With regard to Barn House to the south-west, it is considered that the separating distance between the site and the curtilage of this listed building is sufficient to avoid harm to its setting.
- 5.24 The existing spacious curtilage of The Hermitage, currently consisting of an area of maintained garden, detached outbuilding and area of woodland, would be divided as part of the proposed development. A stone wall would form the division and would serve to substantially reduce the size of the curtilage associated with the listed building. The woodland character area of the curtilage would be lost, replaced with a dwelling and inevitably a maintained area of garden beneath the tree canopy consisting of domestic paraphernalia that is beyond the control of the local planning authority. An additional driveway and parking area would also be installed, further destroying the woodland character.
- 5.25 With regard to Manor Barn to the north of the site, it is noted that the Inspector considering the Appeal during 1991 did not consider the proximity of this listed building to the dwellings as a significant issue as such barns are frequently part of a complex of other buildings. However, the dwelling now proposed would be

situated in closer proximity to the barn and, due to the difference in land levels is likely to appear elevated above the barn particularly during winter months when the trees are not in full leaf. This elevated appearance is likely to draw undue attention to the dwelling when viewed in context with Manor Barn. Further, the development of the area of space separating the barn from the village of Souldern (see Paras. 5.17 – 5.21) is likely to cause substantial harm to the existing isolated character of the existing farmstead within which the barn is situated.

- 5.26 The Conservation Officer considered the initial design of the proposed dwelling to be reminiscent of many modern estate houses found ubiquitously across the country, lacking local distinctiveness and appearing mundane. Amended plans were submitted on 30 July 2012 to include a revised design, and further comments from the Conservation Officer are awaited at the time of writing this report. It is considered that the revised design of the proposed dwelling is more appropriate to this historically sensitive location through the use of more simplified fenestration, an increased roof pitch and traditional style chimneys. Consequently, it is considered that the design of the dwelling itself would not result in substantial harm to the setting of the listed buildings and that such a reason for refusal could not be sustained at Appeal.
- 5.27 However, it is considered that the development of the land for residential purposes, the creation of private garden space through the physical separation of the existing curtilage associated with The Hermitage, the introduction of an enlarged driveway and parking area and the introduction of domestic paraphernalia, and the close proximity of this elevated site to Manor Barn to the north, would all serve to cause substantial harm to the significance of the settings of these listed buildings.

Visual Amenity and Area of High Landscape Value (AHLV)

- 5.28 The proposed dwelling would be situated within a dense area of tree cover that currently screens the majority of the site from view of the public domain on High Street. The access to the east of the site is privately owned, over which the public do not have a right of access, and so in the short-term views of the proposed development are likely to be limited.
- 5.29 There are concerns regarding the long-term impact of a dwelling in this location upon the trees (discussed later in the report) and any loss of trees that may be suffered is likely to have a negative impact upon the visual amenity of the wider area, particularly when viewing from the church and High Street.
- 5.30 Saved Policies C28 and C30 of the adopted Cherwell Local Plan seek development that is sympathetic to its context and in sensitive areas such as Conservation Areas and Areas of High Landscape Value development is required to be of a high standard, normally requiring the use of traditional local building materials. New housing development should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 5.31 The proposed dwelling would be constructed using traditional building materials that would in-keeping with those found in the locality. Elements of the local vernacular have also been included within the design. The dwelling would be

positioned within a spacious curtilage and occupy a footprint that is not dissimilar to existing dwellings in the vicinity of the site. However, these points are not considered to overcome the concerns of the wider impacts of the proposal upon the visual amenities of the area, with particular regard to the protected trees.

- 5.32 Due to its proximity to existing built up areas, it is not considered that the development would result in significant harm to the wider environment within this Area of High Landscape Value in accordance with saved Policy C13 of the adopted Cherwell Local Plan that seeks its conservation and enhancement.

Trees

- 5.33 The proposed dwelling would be situated in close proximity to a number of trees protected either by the group TPO or by virtue of their siting with the designated Conservation Area. The Agent confirmed in their email dated 02 August 2012 that three trees are proposed for removal as part of the development, a Maidenhair, Beech and Sycamore tree, along with an existing Yew hedge. The Tree Survey submitted with the application confirms that these would be removed only to facilitate the development and not as part of their proper management.
- 5.34 The Arboricultural Officer objects to the felling of the protected trees as they have no significant defects that would warrant their removal in any other circumstance. With regard to the remaining trees, the Arboricultural Officer is of the opinion that the proposed dwelling could be erected without causing direct harm, however, there is concern regarding the long-term impact of the development and its future occupants upon the health and longevity of the trees by virtue of their density and proximity to the dwelling and garden.
- 5.35 If the dwelling were erected, it is anticipated that the area of land beneath the canopies of the trees would be managed by future occupants rather than retaining the current woodland appearance. This management is likely to include the clearance of lower level vegetation to tidy the area, perhaps also the introduction of a mown lawn, decorative planting and garden ornaments. All of which would destroy the woodland appearance that the site adopts at present.
- 5.36 In addition, it is also considered that the trees themselves may cause significant shading, reduced light levels, fruit and leaf drop affecting both the dwelling and garden. These implications, combined with the perceived threat that the trees present to the safety of the dwelling, the garden and the occupants themselves, despite the best intentions of future occupants upon moving into the dwelling, are likely to lead to pressure upon the Council to permit works to the trees that would affect their health and longevity.
- 5.37 The Council successfully defended an appeal at Land Adjacent 56b Oxford Road, Banbury (ref: 09/01143/F) that concerned the erection of a dwelling adjacent to a group TPO. The issues were similar to those now being considered, where leaf drop, honeydew and shading from the trees were considered likely to result in pressure for future works to be undertaken to the trees from future occupants of the dwelling. The erection of the dwelling itself was not considered to have a direct impact upon the trees, although it was considered that it would result in indirect harm. As part of this Appeal, the

Council submitted evidence of numerous cases where dwellings had been permitted in close proximity to protected trees only for a string of requests for works to the trees to be submitted at a later date that are difficult to resist.

- 5.38 It is for this same reason that the proposed development is considered to present a significant indirect threat to the health and longevity of the trees, causing irreversible harm to these recognised features of amenity value, the historic character and appearance of the Conservation Area and the visual amenity of the wider locality, contrary to Government guidance contained within the NPPF, Policies BE1 and BE6 of the South East Plan 2009 and saved Policies C23, C28 and C33 of the adopted Cherwell Local Plan.

Neighbours

- 5.39 The proposed dwelling would be positioned a sufficient distance from all neighbouring properties in order to avoid causing any harm to any neighbour in terms of amenity or privacy. The proposal is therefore considered to accord with Government guidance contained within the NPPF and saved Policy C30 of the adopted Cherwell Local Plan in terms of neighbour impact.

Highway Safety

- 5.40 The Highway Engineer has raised no objection to the application on the grounds of highway safety. It is considered that there is no reason to disagree with this assessment. The proposal accords with Government guidance contained within the NPPF and Policy T4 of the South East Plan 2009.

Conclusion

- 5.41 Whilst the proposed development is not considered to present harm in terms of neighbour amenity or highway safety, this does not outweigh the harm that would be caused to the historic settlement pattern of the village of Souldern, the character and appearance of the designated Conservation Area and nearby listed buildings or the visual amenity of the wider locality. Further, the proposed dwelling would not constitute infilling as defined by saved Policy H14 of the adopted Cherwell Local Plan thereby rendering the principle of the erection of a dwelling in this location as contrary to Policy. It is for these reasons that the application is recommended for refusal.

6. Recommendation

Subject to the expiry of the 21 day period of notice served on the owner of the private drive leading to the Manor Farm complex on 23 August 2012;

Refusal,

Reason for Refusal

Souldern is a Category 2 village as defined in the adopted Cherwell Local Plan. Within such villages new residential development is restricted to conversions, infilling and small-scale development which can be shown to secure significant

environmental improvements. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions. Furthermore, the proposed dwelling, by virtue of its siting would connect Manor Farm with High Street and unacceptably threaten the long term future of trees in a Conservation Area and trees protected by a Tree Preservation Order as the level of shading, leaf drop and fruit fall affecting the dwelling and private garden, and the proximity of trees to the dwelling and private garden, would be likely to lead to pressure from the future occupants of the dwelling to undertake works to the trees that would cause detriment to their appearance, health and long-term survival, consequentially causing substantial harm to the character and appearance of the designated Conservation Area and the visual amenity of the locality, whilst failing to respect the historic settlement pattern of Souldern. In addition, by virtue of its elevated positioning and proximity to Grade II* listed building Manor Barn the proposed dwelling would detract from the setting of this designated heritage asset, causing substantial harm to its significance. The proposal is therefore contrary to Government guidance contained within the National Planning Policy Framework – Delivering a wide choice of high quality homes, Requiring good design and Conserving and enhancing the historic environment, Policies H5, BE1, BE6 and CC6 of the South East Plan 2009 and saved Policies H14, C23, C27, C28, C30 and C33 of the adopted Cherwell Local Plan 1996.

Planning Committee

Request for a variation of the S106 Agreement relating to the proposed development at Heyford Park – Application 10/01642/OUT

16 August 2012

Report of Head of Development Control and Major Developments

PURPOSE OF REPORT

To enable Members to consider a request to vary the S106 Agreement in relation to the development at Heyford Park and determine whether or not to accept the variation of the Agreement.

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To agree to vary the s106 agreement

Appraisal

1. At its meeting on 24 March 2011 Planning Committee considered an outline application (ref 10/010642/OUT) for a new settlement for 1075 dwellings, together with associated works and facilities, including employment uses, a school, playing fields and other physical and social infrastructure at the former RAF/USAF Upper Heyford base. This application was similar to the scheme for the settlement area approved at appeal (ref 08/00716/OUT) in January 2010 but does not include the flying field where the appeal decision has been implemented. The major difference was the retention of the majority of the existing dwellings, a slight expansion of the red line development area to the west, with a remodelling of the master plan resulting in a revamped central commercial area with the centre of the settlement based around a new “village green”.
2. Committee resolved to grant planning permission subject to conditions and to the applicant entering into a legal agreement with the District and County Councils.
3. The Agreement was entered into by the site owners, the District Council and the County Council and provided for the provision of infrastructure and facilities necessary to serve the development proposed. The Heads of Terms were set

out in the report and included, inter alia, 30% of the units to be affordable; substantial financial contributions towards transport and education; provision of a Heritage Centre; and highway improvements. The agreement was secured and the planning permission issued on 22 December 2011.

4. Subsequently a request was made in January 2012 to vary the agreement not in terms of the provisions (the requirements for infrastructure and contributions remain as set out in the principal agreement) but with regard to which part of the development funds the contributions towards new infrastructure. This has arisen because of the difficulty found by the developer in securing funding for the scheme and problems pertaining to the site being a complex mix of proposed and retained uses. It was requested that the financial liability of parts of the site (the retained existing housing and the commercial change of use land) be capped, with responsibility for the remainder of the payments falling on the new build elements.
5. Whilst it is regrettable to have to consider the amendment of a recently completed agreement the housing market has been hit hard by the recent recession. The developer's position is that it has struggled to get funding under the existing agreement and funding can only be obtained by splitting the site into its different elements. Despite the current economic climate there remains a need for housing to be delivered and the development at Heyford Park could make a valuable contribution to this
6. The County Council (to whom the bulk of the contributions in question are payable) has been consulted on the revised supplemental agreement and has agreed to cap the liability of the retained existing housing and commercial change of use land at £2,650,000. This reflects the figures negotiated in connection with a parallel planning application for retention of the existing housing. It has additionally been agreed that the bond already required from the developer to secure County education contributions will also cover the balance of contributions over and above the capped sum, thus providing additional security to make up for the fact that the balance of the contributions is secured on a smaller part of the site.
7. S106A of the Town & Country Planning Act 1990 (as amended) allows for S106 Agreements to be modified by agreement between the authority by whom they are enforceable and the persons against whom the obligation is enforceable. S106B allows for applications to be made for modification and allows for a right of appeal but such requests can not be made within 5 years of a S106 agreement being entered into. The modification of the current agreement can therefore only be done by agreement between the parties at the present time.
8. If the Council do not agree to the variation there is some doubt as to whether the development will go ahead in its approved form or possibly at all. This could result in delays to the refurbishment of the bungalows and other dwellings on site, and to the provision of affordable housing and delays in construction of new housing and the new commercial centre.
9. In terms of housing delivery, this site is planned to provide 43 units per annum commencing in 2013. The Annual Monitoring Report has highlighted the potential difficulties that the district is facing with regard to housing delivery and if there is a delay in strategic sites coming forward such as Heyford then it may be necessary to release other sites to maintain housing supply and the provision of social housing.

Conclusion

The proposed changes to the S106 agreement do not affect the level of affordable housing, contributions and facilities previously agreed. While they cap the liability of parts of the site, this cap reflects the infrastructure requirements of those parts; and additional security is provided by the extension of the County bond to cover additional contributions. On balance it is therefore considered that the proposal to vary the S106 agreement is acceptable and is therefore recommended for approval as outlined above

The following options have been identified. The approach in the recommendations (Option Two) is considered to be the best way forward

- | | |
|---------------------|--|
| Option One | Refuse the modification of the S106 which is likely to delay the start of development and could lead to a further application being submitted to enable an appeal with regard to planning obligation requirements. |
| Option Two | Approve the modification of the S106 Agreement to enable work to commence of the development. |
| Option Three | Seek to negotiate different modifications to the S106 Agreement to enable development to commence. |

Implications

- | | |
|-------------------------|--|
| Financial: | <p>There will be no reduction in contributions secured towards mitigating the impact of the development though the burden of financing the greater part of the contributions will now fall on the new build residential elements of the scheme only. Provided there is no additional delay in providing the new build development this is not considered to have a significant impact on the delivery of infrastructure or facilities or on the Councils' security</p> <p>Comments checked by Karen Muir Technical & Project Accountant 01295 221559</p> |
| Legal: | <p>Formal modification of the S106 Agreement will be necessary to give effect to the variations proposed. The legal costs of the modification will be met by the developer.</p> |
| Risk Management: | <p>While the changes proposed in this report cap the liability of parts of the site and thus potentially reduce the Councils' security, the cap agreed reflects the infrastructure requirements of those parts; and additional security is provided by the extension of the County bond to cover additional contributions.</p> <p>Comments checked by Ross Chambers Principal Solicitor 01295 221690</p> |

Wards Affected

The Astons and Heyfords

Document Information

Background Papers	
Planning Application 10/01642//OUT	
Planning Obligation dated 19 December 2012	
Report Author	Andrew Lewis, Senior Planner, Development Control & Major Developments
Contact Information	01295 221813 andrew.lewis@cherwell-dc.gov.uk

Planning Committee

Decisions Subject to Various Requirements – Progress Report

16 August 2012

Report of Development Control Team Leader

PURPOSE OF REPORT

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

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

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

Details

The following applications remain outstanding for the reasons stated:

Subject to Legal Agreement with Cherwell District Council

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

	and now complete and open for use.
	HPPDM to check legal agreement applicability and then to issue
10/00640/F (re-affirmed 24.5.12)	Former USAF housing South of Camp Rd, Upper Heyford Subject to legal agreement concerning on and off site infrastructure and affordable housing. May be withdrawn following completion of negotiations on 10/01642/OUT
10/01780/HYBRID (11.8.11, 22.3.12 and 24.5.12)	Bicester Eco Town Exemplar site, Caversfield Subject to completion of a legal agreement as set out in resolution. Legal agreement circulating for signature. It is anticipated that this permission will be issued by the end of the month
11/00524/F (6.10.11 and 24.5.12)	Cherwell Valley MSA, Ardley Awaiting confirmation of appropriateness of the intended condition concerning radar interference.
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 24.5.12)	Banbury Gateway, Acorn Way, Banbury Subject to reference of the application to Secretary of State, confirmation of conditions to be attached and completion of legal agreement concerning on-site and off-site infrastructure
11/01907/F (23.3.12 and 24.5.12)	Yew Tree Farm, Station Rd, Launton Subject to legal agreement concerning affordable housing, and on-site and off-site infrastructure contributions
12/00198/F	56-60 Calthorpe St. Banbury Subject to legal agreement concerning off-site

(19.4.12)	infrastructure contributions
11/01878/OUT	Land S Overthorpe Rd. and adj.M40
(21.6.12)	Subject to legal agreement with OCC/CDC concerning the route of a relief road, footpath issues and monitoring of travel plan.
12/00290/F	33 Oxford Rd. and land rear of 35-59 Oxford Rd, Bodicote
(19.7.12)	Subject to legal agreement to secure off-site infrastructure
12/00555/OUT	Calthorpe House, Calthorpe St. Banbury
(19.7.12)	Subject to legal agreement to secure off-site infrastructure

Implications

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

Wards Affected

All

Document Information

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

Report Author	Bob Duxbury, Development Control Team Leader
Contact Information	01295 221821 bob.duxbury@Cherwell-dc.gov.uk

Planning Committee

Appeals Progress Report

16 August 2012

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

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

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Accept the position statement.

Details

New Appeals

- 1.1 **08/02495/F – Land at Willow Bank Farm, Fritwell Road, Fewcott**
– appeal by Bolsterstone Innovative Energy (Ardley) Ltd against the refusal to discharge conditions 21 and 22 of the appeal decision APP/C3105/A/09/2116152- Written Reps

- 1.2 **12/00080/OUT- OS parcel 5700, south of Salt Way at Crouch Farm, Bloxham Road, Banbury** - appeal by Mr M Horgan and Barwood Strategic Land II LLP against the non-determination of the planning application within the prescribed period of 13 weeks for OUTLINE: Residential development of up to 145 dwellings with associated access- Inquiry

- 1.3 **12/00160/F – 14 The Crescent, Twyford** – appeal by Mr & Mrs S Adams against the refusal of planning permission for the erection of a two storey extension to rear – Householder written reps

Forthcoming Public Inquiries and Hearings between 16 August 2012 and 13 September 2012

- 2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Allowed the application by Mr R Treadwell for a full award of costs against the Council related to the refusal of application 11/01614 for the proposed change of use from former church to domestic dwelling with internal fit out and minor external alterations at the Congregational Chapel, New Street, Deddington-** The application was refused due to the absence of a satisfactory legal agreement in respect of infrastructure. On 26 January 2012, after the appeal had been made, the Council explained to the appellant that they no longer required financial contributions for infrastructure and advised the appellant to submit a further planning application. The Council's change in stance and withdrawal of the sole reason for refusal rendered the expense incurred by the appellant in submitting the appeal wasted. The Secretary of State concluded that the Council acted unreasonably by delaying development that should clearly have been permitted, which caused the appellant to incur wasted expense in submitting an unnecessary appeal.
- 3.2 **Allowed the appeal by Mr C Hayes against the refusal of application 12/00083/F for a two storey side extension at 27 Corncrake Way Bicester (Delegated)** – The Inspector did not agree with the Council that the extension would have any effect on the long term health of the adjoining planting belt within the public open space at Bicester fields and was satisfied that access to the planted area for maintenance or any other purpose would remain as it is now.
- 3.3 **Allowed the appeal by Mr V Jones against the refusal of application 11/01306/F for a new 3- bedroom detached house at Peckers Corner, North Lane, Weston on the Green (Delegated)** – The Inspector was satisfied that the new dwelling would cause no material harm to the rural character of the area, while preserving the character and appearance of the Conservation Area and the setting of the listed Williams Cottage. To prevent overlooking of the adjacent Pear Tree Cottage, the Inspector imposed a condition requiring the first floor landing window of the new house to be obscure glazed.

- 3.4 **Allowed the appeal by Mr M & Mrs M Smith against the refusal of application 12/00310/F for the replacement of a Cupressus hedge with close boarded fence with trellis above at Malvern, Twyford Avenue, Twyford (Delegated)** – The Inspector concluded that the proposed development would not cause material harm to the character and appearance of the surrounding area, in particular the streetscene, and, as such, it would not conflict with local Plan policy C28 and the NPPF.
- 3.5 **Dismissed the appeal by Mr Paul Juggins against the refusal of application 12/00181/F for the demolition of single storey rear porch and construction of two storey rear extension to form improved accommodation at 8 Maple Road, Bicester (Delegated)** – The Inspector was of the view that because of its height, massing and proximity to the boundary, the appeal scheme would cause unacceptable harm to the occupiers of No 7 Maple Road.
- 3.6 **Dismissed the application by Mr Paul Juggins for a full award of costs against the Council relating to the refusal of application 12/00181/F-** The Inspector found that unreasonable behaviour resulting in unnecessary or wasted expense as described in Circular 03/2009 had not been demonstrated and that an award of costs was not justified.

Implications

- Financial:** The cost of defending appeals can normally be met from within existing budgets. Where this is not possible a separate report is made to the Executive to consider the need for a supplementary estimate.
Comments checked by Karen Muir, Corporate System Accountant 01295 221559
- Legal:** There are no additional legal implications arising for the Council from accepting this recommendation as this is a monitoring report.
Comments checked by Nigel Bell, Team Leader-Planning and Litigation 01295 221687
- Risk Management:** This is a monitoring report where no additional action is proposed. As such there are no risks arising from accepting the recommendation.
Comments checked by Nigel Bell, Team Leader-Planning and Litigation 01295 221687

Wards Affected

All

Document Information

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