

Committee: Planning Committee
Date: Thursday 11 October 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 Atack	Councillor Fred Blackwell
Councillor Colin Clarke	Councillor Tim Emptage
Councillor Michael Gibbard	Councillor Chris Heath
Councillor David Hughes	Councillor Russell Hurle
Councillor Mike Kerford-Byrnes	Councillor James Macnamara
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. **Requests to Address the Meeting**

The Chairman to report on any requests 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 - 17)

To confirm as a correct record the Minutes of the meeting of the Committee held on 13 September 2012.

Planning Applications

6. **Mallards, New Street, Deddington, Banbury, Oxfordshire, OX15 0SR**
(Pages 20 - 30) **12/00711/LB**
7. **Mallards, New Street, Deddington, Banbury, Oxfordshire, OX15 0SR**
(Pages 31 - 42) **12/00732/F**
8. **Islip Fuel Depot, Bletchington Road, Islip** (Pages 43 - 51) **12/00776/F**
9. **Otmoor Lodge, Horton Hill, Horton cum Studley** (Pages 52 - 74) **12/01000/F**
10. **First & Second Floors, 10 - 11 Horse Fair, Banbury** (Pages 75 - 85) **12/01020/F**
11. **Ardley Waste Management Facility, Ardley Fields Farm, Ardley**
(Pages 86 - 91) **12/01215/CM**

Other Reports

12. **Request for variation of the Section 106 legal agreement to the proposed development at Land South West of Orchard Close and adjoining Murcott Road, Upper Arncott - Application 10/00807/OUT** (Pages 92 - 94)

Report of Head of Public Protection and Development

Summary

To enable Members to consider a request to vary the Section 106 Agreement in relation to the housing development at Land south west of Orchard Close and adjoining Murcott Road, Upper Arncott and determine whether or not to accept the variation of the Agreement.

Recommendations

The Planning Committee is recommended:

- (1) To agree to vary the section 106 agreement in accordance with Option 2 set out towards the end of the report.

13. **Request for a variation of the S106 Agreement relating to the proposed development at Bankside, Banbury - Application 05/01337/OUT** (Pages 95 - 100)

Report of Head of Public Protection and Development

Summary

To enable Members to consider a request to vary the S106 Agreement in relation to the development at Longford Park (Bankside), Banbury and determine whether or not to accept the variation of the Agreement. Members will recall that this item was deferred at the last meeting to allow answers to be provided to questions concerning the mix of housing.

Recommendations

The Planning Committee is recommended:

- (1) To agree to vary the S106 Agreement to enable further progress towards the commencement of the development and delegate to officer the final approval of the precise wording of the amendments.

14. **Request for a variation of the S106 Agreement relating to the proposed development at Oak Farm, Milcombe - 1000967OUT** (Pages 101 - 104)

Report of Head of Public Protection and Development

Summary

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

Recommendations

The Planning Committee is recommended:

- (1) To agree to vary the S106 agreement in accordance with the detail set out below.

Review and Monitoring Reports

15. **Decisions Subject to Various Requirements** (Pages 105 - 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.

16. 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.

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.

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Mobile Phones

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

Queries Regarding this Agenda

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

Sue Smith
Chief Executive

Published on Wednesday 3 October 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 13 September 2012 at 4.00 pm

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

Councillor Ken Atack
Councillor Fred Blackwell
Councillor Colin Clarke
Councillor Tim Emptage
Councillor Michael Gibbard
Councillor Chris Heath
Councillor David Hughes
Councillor Russell Hurle
Councillor James Macnamara
Councillor G A Reynolds
Councillor Leslie F Sibley
Councillor Trevor Stevens

Substitute Members: Councillor Lynn Pratt (In place of Councillor D M Pickford)
Councillor Nigel Randall (In place of Councillor Rose Stratford)
Councillor Barry Wood (In place of Councillor Mike Kerford-Byrnes)

Apologies for absence: Councillor Rose Stratford
Councillor Mike Kerford-Byrnes
Councillor George Parish
Councillor D M Pickford
Councillor Lawrie Stratford

Officers: Bob Duxbury, Development Control Team Leader
Nigel Bell, Team Leader - Planning and Litigation /Deputy Monitoring Officer
Natasha Clark, Team Leader, Democratic and Elections
Aaron Hetherington, Democratic and Elections Officer

58 **Declarations of Interest**

Whilst the following Members did not have a Disclosable Pecuniary Interest in agenda item 10, they wished the following conflict of interest to be known.

9. Bicester Community Hospital, Kings End, Bicester.

Councillor David Hughes, as a member of the Bicester Community Hospital Project Group.

Councillor Leslie F Sibley, as he had strongly objected to the scheme during the consultation process.

Councillors Hughes and Sibley left the meeting for the duration of the item.

59 **Requests to Address the Meeting**

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

60 **Urgent Business**

There was no urgent business.

61 **Minutes**

The Minutes of the meeting held on 16 August 2012 were agreed as a correct record and signed by the Chairman.

62 **Banbury School, Ruskin Road Banbury**

The Chairman advised Members that the application had been withdrawn by the applicant.

63 **Mallards, New Street, Deddington, Banbury, Oxfordshire, OX15 0SR**

The Committee considered application 12/00711/LB for the demolition of rear porch and derelict garden outbuildings; construction of two storey rear extension; improved access to existing parking area including covered area; fitting of satellite dish; internal alterations; replacement windows to dwelling and new roof light.

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

Resolved

That consideration of application 12/00711/LB be deferred to allow for a formal site visit.

64 **Mallards, New Street, Deddington, Banbury, Oxfordshire, OX15 0SR**

The Committee considered application 12/00732/F for the demolition of rear porch and derelict garden outbuildings; construction of two storey rear extension; improved access to existing parking area including covered area; fitting of satellite dish and new shed.

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

Resolved

That consideration of application 12/00732/F be deferred to allow for a formal site visit.

65 **Land adjacent Langford Locks, Kidlington**

The Committee considered application 12/00780/F for the erection of a warehouse and associated site works.

The Committee was satisfied with the evidence presented.

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

Resolved

That application 12/00780/F be approved, subject to:

- a) The applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraph(s) 5.34 and 5.35
- b) the following conditions:
 - (1) Time
 - (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the documents submitted with the application and the following drawings: M901P1 and amended drawing nos. D001P5, D002P4, D202P6, D201P7, D203P1 received 17/08/12.
 - (3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained thereafter unless agreed in writing with the local planning authority.
 - (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 and landscape management of the site which shall include:-
 - tree and hedgerow protection measures

- details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - details of the hard surface areas, walls, trellis screens, pavements, pedestrian areas, crossing points and steps.
- (5) That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.
- (6) The protection of any existing tree to be retained in accordance with the approved plans and particulars shall be achieved as follows:
- no equipment, machinery or material shall be brought onto the site for the purposes of the development until fencing has been erected in accordance with plans and particulars which shall have been previously approved under condition no. 3 by the Local Planning Authority in writing;
 - if that fencing is broken or removed during the course of carrying out the development, it shall be promptly repaired or replaced in accordance with the approved plans and particulars;
 - the fencing shall be maintained in position during the course of construction and until all equipment, machinery and surplus material has been moved from the site;
 - within any area fenced in accordance with this condition, nothing shall be stored, placed or disposed of on above or below the ground, the ground level shall not be altered, no excavation shall be made, nor shall any fires be lit, without the prior written consent of the Local Planning Authority; and
 - no tree to be retained in accordance with the approved plans and particulars shall be cut-down, up-rooted, topped, lopped or destroyed, nor any hedge within the site cut down or grubbed out without the prior approval in writing by the Local Planning Authority.
- (7) Prior to the commencement of any works on the site, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.
- (8) Before the development is first occupied the access road, parking and manoeuvring areas shall be provided in accordance with the plan

(D001-P5) hereby approved and shall be constructed, laid out, surfaced (bound material), drained (in accordance with SUDS) in accordance with full details which shall be submitted for approval in writing by the Local Planning Authority and shall be completed and retained unobstructed except for the access, parking and manoeuvring of vehicles at all times.

- (9) That prior to the first occupation of the development hereby approved full details shall be submitted for the prior approval in writing of the Local Planning Authority of the cycle parking facilities and refuse facilities and thereafter these facilities shall be fully implemented as approved. These facilities shall be constructed and made available for use prior to the occupation of the development and retained unobstructed thereafter.
- (10) Prior to the commencement of the development hereby permitted, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority, the drainage scheme shall incorporate oil interceptors in conjunction with permeable paving in the car parking areas. The approved surface water and foul sewage drainage schemes shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".
- (11) Prior to the commencement of the development and notwithstanding condition no. 17, a further survey shall be carried out to investigate the presence or otherwise of water voles, the survey and results shall then be submitted to the Local Planning Authority and if water voles are found to be present alongside the site, appropriate mitigation measures shall be agreed and implemented prior to the commencement of development to ensure they are not disturbed during the course of the development works.
- (12) Prior to the commencement of the development and notwithstanding condition no. 17, no works of site clearance or development are to commence until a precautionary bat method statement has been submitted to the Local Planning Authority for approval. This is to detail how the three oak trees will be checked for bats prior to removal and provisions for them should they be found to be present. All works are to proceed in accordance with the approved document.
- (13) No removal or trees or hedgerows to take place between the months of March and August inclusive, unless checked for the presence of nesting birds immediately beforehand by a suitably qualified ecologist. Should nesting birds be present, they are to be left undisturbed until the chicks have left the nest.
- (14) That full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such

means of enclosure shall be erected prior to the first occupation of the development.

- (15) That prior to the commencement of the development, full design details of the proposed lighting to be fixed to the buildings or within the site shall be submitted to and approved in writing by the Local Planning Authority.
- (16) That no goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open without the prior express planning consent of the Local Planning Authority.
- (17) The development hereby permitted shall be carried out in accordance with the recommendations set out in the Phase 1 Habitat Scoping Survey and Protected Species Assessment by CP Ecology dated June 2011 and Reptile Survey Report by CP Ecology dated July 2011 unless otherwise agreed in writing by the Local Planning Authority.
- (18) That all the means of access between the land and the highway shall be formed, laid out, constructed and drained in such position(s) and with such vision splays as shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- (19) That the existing dropped kerbs along the boundary of the site onto Langford Locks (3 in total) must be reinstated to full-standing kerbs, details of which shall be submitted to and approved in writing the Local Planning Authority prior to the commencement of the development.
- (20) That a Travel Plan Statement shall be submitted to and approved in writing by the Local Planning Authority prior to the first use or occupation of the development hereby permitted. The approved Travel Plan Statement shall thereafter be implemented and operated in accordance with the approved details.
- (21) A Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The CEMP shall include details of the measures to be taken to ensure construction works do not adversely affect the local road network around the site. Construction work shall thereafter be carried out in accordance with the approved CEMP.
- (22) That prior to the commencement of the above ground works, full details of the eastern boundary gates (public art scheme) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.
- (23) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local

planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

- (24) Prior to the commencement of the development, further details and or investigations shall be carried out to establish the potential source of ground gas risk from the underlying allumium, which shall be submitted to and approved in writing by the Local Planning Authority. Where unacceptable levels of gaseous contamination are identified, a proposal for remediation/mitigation shall be submitted to and approved by the Local Planning Authority and implemented in accordance with the approved details.
- (25) Prior to the commencement of development, a working method statement covering the diversion of the Thrupp Ditch culvert, in accordance with drawing no. D001 Revision P5, shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.
- (26) That the premises shall be used only for purposes falling within Class B8; specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever, and shall not be subdivided into separate units to be sold, leased or used by individual businesses.

66

Bicester Community Hospital, Kings End, Bicester

The Committee considered application 12/00809/F for the demolition of an existing community hospital and redevelopment of the site to provide a new community hospital and 14 residential units.

Richard Coe, the applicant, spoke in support of the application.

Councillor Hughes addressed the Committee having declared a conflict of interest in the application. Following his address, he left the meeting for the debate and vote on the application.

In considering the application, Members commented that the proposal was fit for purpose and represented the best opportunity for Bicester to replace the existing building. Members further commented that the proposal fitted in with the Masterplan for Bicester and also provided the opportunity for future expansion.

Councillor Pratt proposed that the application be approved. Councillor Randall seconded the proposal.

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

Resolved

That application 12/00809/F be approved, subject to:

- (1) SC1.0
- (2) That except where stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and document AR-XX-WS-PL-100-001; AR-WS-XX-PL-100-002 Ref B; AR-WS-XX-PL-100-006; AR-WSXX-PL-100-007; AR-XX-WS-PL-100-023 Ref B; AR-XX-WS-PL-100-025 Rev C; AR-XXWS-PL-100-024 Ref B; AR-XX-WS-PL-100-026 Ref C; AR-XX-WS-PL-100-027; AR-WSXX-PL-100-028; AR-WS-XX-SE-100-001 Rev B; AR-WS-XX-SE-100-002; AR-XX-00-PL-200-001; AR-XX-00-PL-200-005; AR-XX-01-PL-200-001; AR-XX-01-PL-200-005 Ref A; AR-XX-RF-PL-240-001; AR-XX-XX-EL-251-001 Rev 003; AR-XX-RF-PL-240-001 Ref A; AR-XX-XX-EL-251-002; AR-XX-XX-EL-251-003 Rev A; AR-XX-XX-EL-251-004; AR-XXXX-EL-251-005; AR-XX-XX-EL-251-009; AR-XX-XX-EL-251-017; AR-XX-XX-SE-251-001; AR-XX-XX-SE-251-002; 0409-D-101 Rev B; 409-ATR-05 Rev D; 409-ATR-07 Rev C; 409-ATR-16 Rev B; 409-ATR-04 Rev F; AL-WS-XX-PL-701 Rev C; AL-WS-XX-PL-700 Rev N; AL-WS-XX-DT-711-18 Rev A; Hard-landscape Materials Rev D; AL-WS-XX-PL-100 Rev B; AL-WS-XX-DT-711-04 Ref C; AL-WS-XX-DT-711-17 Rev B; AL-WS-XX-SK-739 shade-costing appraisal; AL-WS-XX-PL-739 Rev C; (Tree Protection Plan) AL-WS-XX-PL-739; (Landscape Maintenance Plan) 2518 200 Rev K; 2518 206 Rev F; 2518 207 Rev F; 2518 209 Rev E; 2518 210 Rev A; 2518 211 Rev C; 2518 224; 2518 225; 409-ATR 03G, 06C, 08C, 09C, 10C, and 11C, Lighting Report, Transport Assessment, Design and Access, Statements and Tree Survey.
- (3) The applicants, or their agents or successors in title, shall be responsible for organising and implementing an archaeological watching brief, to be maintained during the period of construction/during any ground works taking place on the site. The watching brief shall be carried out by a professional archaeological organisation in accordance with a Written Scheme of Investigation that has first been approved in writing by the Local Planning Authority.
- (4) Following the approval of the Written Scheme of Investigation referred to in Condition 3 above, no development shall commence on site without the appointed archaeologist being present. Once the watching brief has been completed, its findings shall be reported to the Local Planning Authority, as agreed in the written scheme of investigation, including all processing, research and analysis necessary to produce an accessible and usable archive and a full report for publication.
- (5) That prior to the first occupation of the residential development, the existing means of access onto Kings End shall be improved, and land out to the approval of the Local Planning Authority and constructed strictly in accordance with the highway authority's specifications and that all ancillary works specified shall be undertaken.

- (6) That prior to the first occupation of the residential development, the existing 'keep clear' marking at the existing entrance onto Kings End shall be repainted to the satisfaction of the Local Planning Authority and thereafter retained and maintained in perpetuity.
- (7) That, before any of the dwellings are first occupied, the proposed private access road, vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained (SUDS) in accordance with the specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
- (8) Prior to the first occupation of the new hospital building, the new footway from Kings End serving the new hospital (except for the final surfacing of) shall be laid out, constructed, lit and drained (SUDS) to Oxfordshire County Council's specification.
- (9) That prior to the first occupation of the residential development, the parking facilities shall be laid out, surfaced, drained (SUDS) and completed in accordance with the plans hereby approved. The parking spaces shall be retained for the parking of vehicles at all times.
- (10) That prior to the first occupation of the proposed new hospital, the proposed means of access onto Piggy Lane is to be formed, and laid out to the approval of the Local Planning Authority and that all ancillary works specified shall be undertaken.
- (11) That before the new hospital is first occupied, the parking and manoeuvring areas shall be provided in accordance with the plan (ref: 2518 200) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall remain unobstructed except for the parking of vehicles at all times.
- (12) Prior to the first occupation of the development, covered cycle parking facilities shall be provided on 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.
- (13) No development shall commence on site until a Construction Traffic Management Plan providing full details of the phasing of the development has been submitted to and approved in writing by the Local Planning Authority, prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction and delivery traffic during construction and a route to the development site. The approved plan shall be implemented in full during the entire construction phase and shall reflect the measures included in the Construction Method Statement received.
- (14) Prior to commencement of any development or work on the site, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority.

- (15) No building demolition shall commence until a check for the presence of bats has been carried out by a suitably qualified consultant. Should bats be found to be present, no works shall commence until a mitigation strategy has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with this strategy.
- (16) No demolition works to the main hospital building shall take place between the months of March to August inclusive, unless checked beforehand for the presence of nesting birds by a suitably qualified ecologist. If nesting birds are found to be present, no works are to take place until the chicks have fledged and left the nest.
- (17) That prior to the commencement of any development on the site, notwithstanding the details submitted, an Arboricultural Method Statement (AMS), undertaken in accordance with BS5837, shall be submitted to and approved in writing by the Local Planning Authority. All works shall then be undertaken in accordance with the agreed document.
- (18) SC3.14 – Arboricultural Site Supervision
- (19) SC3.5A – Notice of Tree Works and Major Operation
- (20) SC3.0 – Submit Landscaping Scheme
- (21) SC3.1 – Carry out Landscaping Scheme
- (22) That the existing hospital building and its associated structures shall not be demolished until a contract has been secured and a timetable for the redevelopment of the site as approved for residential purposes has been agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the timetable agreed.
- (23) That prior to the commencement of any development on the site, sample panels of natural stone (minimum 1m² in size) shall be constructed on site to be inspected and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the sample hereby approved. (RC5B)
- (24) SC2.8A – ‘render to the hospital buildings’
- (25) That prior to the commencement of any development on the site, samples of the zinc roof materials for the hospital building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the material hereby approved. (RC5B)
- (26) That prior to the commencement of the residential development, samples of the bricks to be used in the construction of the wall of the dwellings and any boundary or screen walls, shall be submitted to and

approved in writing by the Local Planning authority. The development shall be carried out in accordance with the samples approved. (RC5B)

- (27) That the roofs of the dwellings shall be covered in natural slate, samples of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the samples agreed. (RC5B)
- (28) SC9.6A – Fire Hydrants
- (29) SC6.1AA – Residential Open Fronts
- (30) SC5.5AB – ‘windows and doors in respect of the residential development to a scale of 1:20’
- (31) That no works of demolition in respect of the locally listed hospital building until the applicants, or their agents, or successors in title have arranged a recording brief in respect of the historic fabric and importance of this building to Bicester. The Recording Brief shall include photographs and detailed documentation in respect of the building, both internally and externally. This brief shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any development in respect of the residential scheme or the provision of the new footpath link to Kings End.
- (32) SC5.5AB – ‘lighting’ scale 1:20
- (33) That prior to the commencement of any development in respect of the footpath to Kings End, full construction details in respect of the new footpath, including its gradient, method of construction and details of the retaining walls shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- (34) That the MRI Scanner shall only be delivered and collected from the hospital site in accordance with the method statement submitted as part of the application.
- (35) That prior to the first occupation of the hospital hereby approved, a Waste Management Agreement in respect of the collection of waste and refuse shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreement in perpetuity.
- (36) That notwithstanding the details submitted, prior to the commencement of development in respect of the hospital proposal, full details of all means of enclosures and boundary enclosure details shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

- (37) That a Public Path Order under Section 257 of the Town and Country Planning Act 1990 be made to divert Bicester Footpath No.11 as shown in the applicants proposal.
- (38) That Public Path Order be confirmed as an unopposed Order, subject to their being no objections received or received and subsequently withdrawn.
- (39) That authority be delegated to the Head of Public Protection and Development Management to amend/add to the conditions to take into account the late representations and detailed comments received from the applicants agent.

(Councillors Hughes and Sibley left the meeting for the duration of the item.)

67 **Land to the rear of 68 - 76 East Street and to the side of 167 Middleton Road, Banbury**

The Committee considered application 12/00865/F for a Variation of condition 2 of 11/01032/F.

Councillor Andrew Beere, addressed the committee as Ward Member.

In considering the application, Members questioned the ownership of the footpath and sought confirmation of alternative pathways that could be used. The Committee was advised that the path was currently closed off and that the status of the path had been an issue since the first application on the site in 2012. Members noted that whilst use of the path had been on an informal basis, it had been used for so long it had become a public facility and loss of the path would represent a loss of amenity for local residents.

Councillor Clarke proposed that the application be refused. Councillor Blackwell seconded the proposal.

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

Resolved

That application 12/00865/F be refused, for the following reasons:

The proposed development, by virtue of the loss of the former publically accessible route through the site from East Street and East Close to Middleton Road, would cause a loss of permeability and convenience for residents of the local area, the presence of which has been a key characteristic of the area. The amended proposal is therefore contrary to the requirements of saved adopted Policies C28 and C30 of the Cherwell Local Plan 1996 and government guidance in the National Planning Policy Framework.

68

52 Grange Road, Banbury

The Committee considered application 12/01029/F for the demolition of an existing single storey garage and erection of two storey extension.

The committee was satisfied with the evidence presented.

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

Resolved

That application 12/01029/F be approved, subject to the following conditions:

- (1) S.C 1.4A (RC2) – [Time]
- (2) Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application forms and the following plans and documents: Drawing number 001, drawing number 002A, drawing number 003A, drawing number 004A and drawing number 005A received 20 July 2012.
- (3) That prior to the first use of the extension, the means of access between the land and the highway shall be improved, laid out and constructed strictly in accordance with the specification of the means of access attached hereto, and that all ancillary works therein specified shall be undertaken in accordance with the said specification.
- (4) 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.

69

Dominos, 132 Buckingham Crescent, Bicester

The Committee considered application 12/01059/F for a variation of Condition 4 of 02/00154/F – extension of trading hours.

The committee was satisfied with the evidence presented.

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

Resolved

That application 12/01059/F be refused, for the following reasons:

- (1) The proposal is considered to be harmful to the residential amenity of the area and would therefore be contrary to the original intention of the condition. The proposal is demonstrably not compatible with the residential character of the area and would cause an unacceptable level of nuisance. It is therefore contrary to the provisions of Policy C31 of the adopted Cherwell Local Plan 1996, as amplified by Policy D7 of the non-statutory Cherwell Local Plan 2011, and government advice in the National Planning Policy Framework.

70 **Request for a variation of the S106 Agreement relating to the proposed development at Bankside, Banbury - Application 05/01337/OUT**

The Committee considered a report of the Head of Public Protection and Development Management which sought consideration of a request for a variation of the S106 Agreement relating to the proposed development at Bankside, Banbury – application 05/01337/OUT.

In considering the report, Members queried how the proposed variation related to the Council's Housing Strategy and the housing requirements identified in the draft Allocations Policy. The Development Control Team Leader assured the Committee that the Strategic Housing Team was confident that the proposal met the housing need in Banbury.

Councillor Randall proposed that consideration of the report be deferred to allow for further information on the proposed housing mix to be submitted to the Committee for consideration. Councillor Emptage seconded the proposal.

Resolved

That consideration of the request for the variation of the S106 agreement relating to the proposed development at Bankside, Banbury – application 05/01337/OUT be deferred to allow for further information on the proposed housing mix to be submitted to the Committee for consideration.

71 **The Granary, Manor Farm, Upper Heyford**

The Committee considered a report of the Head of Public Protection and Development Management which updated on the urgent works carried out at the Granary.

Resolved

- (1) That the report be noted.
- (2) That the Secretary of State's decision on the costs of the urgent works be accepted.
- (3) That officers be requested to write to the Secretary of State for Culture, Media and Sport expressing the Council's displeasure at the outcome of the decision and the length of time taken to receive the decision from the Department for Culture, Media and Sport.

72 **Tree Preservation Order (No. 09/2012) - One tree located between numbers 29 and 31 Morris**

The Committee considered a report which sought confirmation of Tree Preservation Order no 09/2012 relating to one tree located between numbers 29 and 31 Morris Drive. No objections to the Tree Preservation Order had been received.

Resolved

- (1) That Tree Preservation Order 09/2012 at the site of Morris Drive, Banbury be confirmed without modification in the interest of public amenity.

73 **Decisions Subject to Various Requirements**

The Committee considered a report which updated Members on decisions which were Decisions Subject to Various Requirements

Resolved

- (1) That the position statement be accepted.
- (2) That it be agreed that the report for application 12/00080/OUT be made public so that those involved in the appeal are aware of the Council's consideration of the proposal in preparation of the evidence.

74 **Appeals Progress Report**

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

Resolved

- (1) That the position statement be accepted.

75 **Exclusion of 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.

76 **Little Bourton Service Station, Southam Road, Little Bourton, OX17 1RH**

The Committee considered an exempt report of the Head of Public Protection and Development Management as set out in the exempt minute.

Resolved

- (1) As set out in the exempt minute.
- (2) As set out in the exempt minute.

The meeting ended at 6.00 pm

Chairman:

Date:

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

PLANNING COMMITTEE

11 October 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

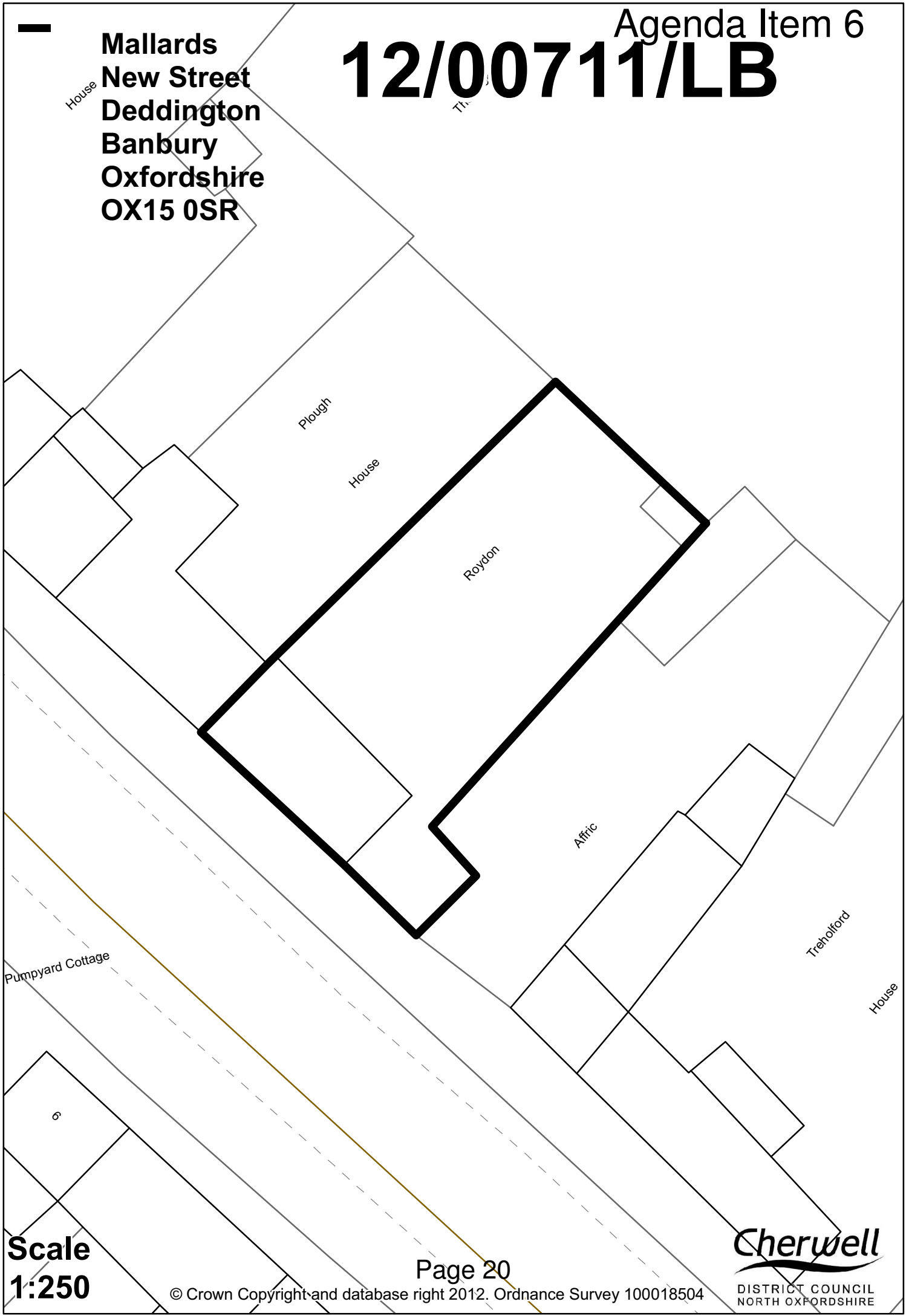
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

Applications

	Site	Application No.	Ward	Recommendation	Contact Officer
6	Mallards, New Street, Deddington, Banbury, Oxfordshire, OX15 0SR	12/00711/LB	Deddington	Approval	Caroline Ford
7	Mallards, New Street, Deddington, Banbury, Oxfordshire, OX15 0SR	12/00732/F	Deddington	Approval	Caroline Ford
8	Islip Fuel Depot, Bletchingdon Road, Islip	12/00776/F	Islip	Refusal	Paul Ihringer
9	Otmoor Lodge, Horton Hill, Horton cum Studley	12/01000/F	Otmoor	Refusal	Tracey Morrissey
10	First & Second Floors, 10 - 11 Horse Fair, Banbury	12/01020/F	Banbury Easington	Approval	Shona King
11	Ardley Waste Management Facility, Ardley Fields Farm, Ardley	12/01215/CM	Caversfield	Advise Oxfordshire County Council that Cherwell District Council raises no objection	Gemma Magnuson

12/00711/LB

**Mallards
New Street
Deddington
Banbury
Oxfordshire
OX15 0SR**



**Scale
1:250**

Mallards, New Street, Deddington, Banbury, Oxfordshire, OX15 0SR

12/00711/LB

Ward: Deddington

District Councillor: Councillor O'Sullivan

Case Officer: Caroline Ford

Recommendation: Approval

Applicant: Mr A Morris

Application Description: Demolition of rear porch and derelict garden outbuildings; construction of two storey rear extension; improved access to existing parking area including covered area; fitting of satellite dish; internal alterations; replacement windows to dwelling and new roof light

Committee Referral: Member Request

1. Site Description and Proposed Development

- 1.1 Mallards is an end of terrace, grade II listed stone built property with a tile roof. The property is situated on the main street through Deddington and is within the conservation area and amongst other listed buildings including the grade II* listed Plough House next door. The site may have some archaeological potential and is also potentially contaminated; however there are no other site constraints.
- 1.2 The application seeks listed building consent for the demolition of a rear porch and derelict outbuildings and it is proposed to construct a two storey rear extension, improve the access to the parking area and to cover this to create a car port, the fitting of a satellite dish, internal alterations, the insertion of a roof light and the change of all existing windows.
- 1.3 Amended plans have been received through the processing of the application to re-position the extension slightly (by 1m) further towards the centre rear of the property and the width of the extension has also been reduced by 0.55m. The window arrangement has also been re-considered. The amended plans therefore show the two storey rear extension would project 5.2m from the rear of the existing dwelling and would be 5.1m in width. The extension would be set down from the ridge of the main dwelling and so appear subservient. The work to the parking area would involve the raising of the existing stone wall forming the front boundary, the removal of part of a stone wall to the side and again raise the section of wall that would remain and to insert an oak frame to cover the parking area forming a car port type structure. The satellite dish would be installed to the side of the existing dwelling. The proposal also includes replacing the existing windows to timber casements, the insertion of a roof light and internal alterations, which include removing a 1970's fireplace, exposing original ceiling beams in the lounge, replacing internal doors, replacing the balustrades and removing some plaster to expose original features.
- 1.4 A full planning application accompanies this listed building consent application (12/00732/F refers).

- 1.5 There is no planning history associated with this property.
- 1.6 This application is reported back to committee following its deferral at the last meeting for a formal site visit.

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 23rd August 2012 (the application has been advertised twice, in relation to the original and then the amended plans).

3 letters were received to the original plans. The following Issues were raised:

Material planning comments:

Unacceptable adverse impact on the character of a listed building, on the Deddington Conservation area and on amenities of neighbouring properties

Reference made to the Conservation area appraisal

Consider proposal will not be sympathetic to the existing building as it is not in scale

Consider design and access statement is flawed – proposal will be larger and taller than extensions attached to neighbouring properties.

Extension will impinge on Plough House

Proposal would alter the pattern and erode the intrinsic character of the settlement and do nothing to protect the view.

Concern about removal of exterior sheds. Nearby sheds should not be harmed by the demolition of the corrugated shed.

Other building forms an outside toilet and its removal goes against conservation area appraisal

Affric House faces towards Mallards. Design guide suggests a distance of 14m between a habitable room window and a blank elevation and the proposal is 11-12m. All habitable room windows other than 4 window/ door openings face in this direction.

These doors and windows are main source of natural light (albeit light from the north). Light will be severely reduced by the proposal. Roof ridge will be 2m higher than Affric House (Mallards garden is 1m above Affric House)

Removal of wall to front seems to serve no purpose other than changing the street scene. Loss of this wall would go against the Conservation area appraisal to retain traditional boundary walls

Plans state that the application will provide improved disabled access. There are existing steps throughout and the plans show there will be steps within the new building. If ground floor accommodation is needed, why is an en-suite bedroom provided at first floor? New rear doorway is positioned in such a way that it is unlikely to be easier for a disabled person

Extension does not appear to be minor or sympathetic to the dwelling
Proposal will block sunlight and daylight currently enjoyed by Affric House and be overbearing and out of character

If approved, planners will have gone against policy and guidance.
Proposal represents overdevelopment of what is a small house and
loss of a large part of a small garden
Height of extension would affect the amount of light available to the
rear part of the garden of Plough House

Non material comments:

View from Affric House will be lost
Owners of Mallards have a right of access over the bottom of the
driveway of Affric House to the former barn that currently forms a
parking space

4 letters have been received to the amended plans. Additional points over those
outlined above are:

Intrusive in conservation area
An extension of this scale would impact by its sheer height
Immensely detrimental impact to the two neighbours either side
The matter of the boundary between Mallards and Affric House is
currently under dispute. Could this decision be deferred until this issue
is resolved?
Use of this parking area for two cars may involve driving close to the
wall of Affric House by windows to enter this area. If car parked
outwards then windows would shine into habitable room windows.
Parking area roof appears to be inappropriate and there is no other
feature similar to this.
No reason to demolish outside privy. That in the rear of Plough House
and The Steps are still in place. These are an important part of
maintaining the history of the cottages.
Accuracy of the plan for the shed questioned as this seems to suggest
access will be from garden of Affric House
Extension may have been reduced but is still no sympathetic to the
existing building. It is still 40% the size of the original house and far
bigger than those attached to the neighbouring Plough House
Reinforce that proposal will be 13m from all habitable room windows
in Affric House
Extension will be visible to owners of Quinique House to the north of
the Steps
Completely out of scale for this historic parcel of land so close to listed
buildings
Threatens light to a part of the neighbours small garden
Affric House will be seriously and adversely affected by this oversized
and unsympathetic extension
Travesty if the wishes of the new owners are permitted completely to
ignore the needs of long standing residents who have lived in friendly
harmony along the street for so many years
Loss of light to garden of Plough House

3. Consultations

- 3.1 **Deddington Parish Council:** To the original plans, the Parish Council objected on the grounds that Affric, the neighbouring property directly faces the side and rear of Mallards with all windows facing the proposed extension. The Parish Council considers that the new two storey extension with its high roof line would cause an overbearing impact on Affric restricting light to a large proportion of the property. Part of the application is to create better access to a parking area. The Parish Council considers that the demolition of parts of the existing walls and the proposal to put a timber structure on this area would not be in keeping with the properties Grade II listed status and would be detrimental to the look of the conservation area.

To the amended plans, the Parish Council continue to object on the same grounds as set out above.

Cherwell District Council Consultees

- 3.2 **Conservation Officer:** Concerns raised to the original scheme. No objection subject to conditions to the amended scheme

Oxfordshire County Council Consultees

- 3.3 **Highways Liaison Officer:** No objection subject to a condition
- 3.4 **Archaeologist:** Unlikely to be any impact, planning note could be used

Other Consultees

- 3.5 **English Heritage:** The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)
C18: Development proposals affecting a listed building

South East Plan 2009
BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5. Appraisal

5.1 The key issues for consideration in this application are:

- Character and significance of the listed building

Character and significance of the listed building

- 5.2 The NPPF requires an assessment of the impact of a development on the character and significance of a designated heritage asset. Policy C18 of the adopted Cherwell Local Plan relates to applications for listed building consent and states that the Council will normally only approve external alterations or extensions to a listed building which are minor and sympathetic to the architectural and historic character of the building.
- 5.3 The proposed extension is a relatively large extension to the listed building. A comparison of the additional accommodation reveals the percentage increase is approximately 37% and therefore given the property has not been extended before, it is considered that this could represent a minor addition to the listed building. The extension in its amended design is in a traditional form, with a rear projecting gable and which is slimmer in width than originally proposed and is considered to be an acceptable design for the dwelling and its grade II listed status. The fenestration pattern is also more traditional and other detailing has been included such as stone corbels which enhances the appearance of the extension and its suitability to be attached to a listed building. The materials to be used would match those used on the main dwelling and conditions can be recommended to ensure that the work is finished to an acceptable standard. It is considered that the proposed extension forms a minor and sympathetic addition to the listed building which will not harm the significance of the building or detract from its overall importance.
- 5.4 The work to the boundary wall and the covered parking area is considered to be acceptable. The original intention was to remove some of the boundary wall; however this was considered to be unsympathetic and so would have affected the significance of the building. The amended plans therefore include this wall retained in its current form to the front elevation and increased in height. The side wall will result in some loss of fabric, but this is a limited extent and will not harm the overall significance of the building. Further, the addition of the covered parking area should not harm the character of the building and details of this have been requested via condition.
- 5.5 The satellite dish is to be positioned in an unobtrusive location to the rear of the building and given that this is a removal feature, it will not cause serious harm to the character or historic fabric of the listed building.
- 5.6 The internal alterations relate mainly to works that appear to have been carried out in the 1970s and as such, these alterations are unlikely to result in the loss of any historic fabric and so are unlikely to harm the character of historic significance of the listed building.
- 5.7 The change of windows is considered acceptable as the existing windows are in some cases uPVC. The proposal was originally to use uPVC casements throughout, which the applicant was advised was not acceptable and as such

timber casements are now proposed, which constitute an acceptable window material for a listed building and the detail of these can be requested via condition. This alteration will enhance the character and significance of the listed building.

- 5.8 The insertion of the roof light to the rear elevation is considered to be acceptable and is placed in an unobtrusive location that will not harm the significance of the building.
- 5.9 The loss of the existing outbuildings, particularly the privy to the rear of the property is a regrettable loss and the Conservation Officer advises that these features, whilst not of any particular architectural merit, is part of the history of the building and says much about the life style of previous residents. It is also noted that neighbouring properties retain these features. Whilst the loss of this feature and the historic fabric is unfortunate, it is not considered that this outbuilding contributes greatly to the significance of the listed building overall and the Conservation Officer has not objected to the loss and so it is not considered that the loss could be resisted. As such, whilst this alteration is unfortunate, it does not harm the building so significantly that it detracts from its overall importance.
- 5.10 The comments of the third parties are noted and have been addressed within this appraisal or within the accompanying appraisal for full planning permission.
- 5.11 Conditions have been recommended to ensure the development is carried out to an acceptable standard.

Conclusion

- 5.12 As has been demonstrated within this appraisal, the proposal is considered to be an acceptable form of development that will not cause serious harm to the character or historic significance of the listed building. As such, the proposal complies with the above mentioned policies and is recommended for approval as set out below.

6. Recommendation

Approval, subject to the following conditions:

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

Reason – To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: application forms, design and access statement, schedule of works, photographs and amended drawing numbers 32.11 B 'Existing and proposed elevations, floor plans, section and site plans', 32.11B 'Proposed timber outhouse' and 32.11A 'Improved

access to parking area and removal of outhouse' all received in the department on the 16 July 2012 with agent's letter of the same date.

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

3. That the external walls of the extension and the raised boundary walls to the side of the dwelling surrounding the covered parking area shall be constructed in natural ironstone which shall be laid, dressed, coursed and pointed in accordance with a sample panel (minimum 1m² in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority prior to the construction of the development hereby permitted.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Government advice in The National Planning Policy Framework, Policy BE6 of the South East Plan 2009 and Policy C18 of the adopted Cherwell Local Plan.

4. That samples of the tiles to be used in the covering of the roof of the extension shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Government advice in The National Planning Policy Framework, Policy BE6 of the South East Plan 2009 and Policy C18 of the adopted Cherwell Local Plan.

5. That full design details of the windows, doors (which shall be timber) and roof lights (the roof lights shall be conservation grade), including details of the elevations, glazing and a cross section at a scale of 1:20 and an indication of the colour/ finish shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Government advice in The National Planning Policy Framework, Policy BE6 of the South East Plan 2009 and Policy C18 of the adopted Cherwell Local Plan.

6. That full design details of the roof to the covered parking area shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Government advice in The National Planning Policy Framework, Policy BE6 of the South East Plan 2009 and Policy C18 of the adopted Cherwell Local Plan.

7. That lime mortar shall be used in the construction and/or repointing of the extension and boundary wall.

Reason - To ensure appropriate materials are used which preserve the listed building and to comply Policy BE6 of the South East Plan 2009 and Policy C18 of the adopted Cherwell Local Plan.

8. Any making good to the internal walls shall be made good using lime plaster and permanently so retained thereafter.

Reason - To ensure appropriate materials are used which preserve the listed building and to comply Policy BE6 of the South East Plan 2009 and Policy C18 of the adopted Cherwell Local Plan.

9. All new works and works of making good shall be carried out in materials and detailed to match the adjoining original fabric except where shown otherwise on the approved drawings.

Reason - To ensure that the completed development is in keeping with and conserves the special character of the existing historic building and to comply with Government advice in The National Planning Policy Framework, Policy BE6 of the South East Plan 2009 and Policy C18 of the adopted Cherwell Local Plan.

Planning notes

1. The applicant is reminded that this building is included in the Statutory List of Buildings of Architectural or Historic Interest, and no works to the exterior or interior of the building, which materially affect the character may be carried out without the prior express consent of the Local Planning Authority (given through the submission of an application for, and subsequent grant of Listed Building Consent). This consent gives approval only to those works shown on the plans and details submitted to and approved in this application.
2. The applicant is further reminded that the carrying out of unauthorised work to a listed building is an offence, punishable by a fine, imprisonment or both, as detailed in Section 9 of the Planning (Listed Buildings & Conservation Areas) Act 1990.

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

The Council, as local planning authority, has determined this application in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, Government advice contained within the National Planning Policy Framework (March 2012) and the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its merits as the

proposal is considered to be sympathetic to the architectural and historic character and significance of the historic asset. As such the proposal is in accordance with the National Planning Policy Framework, Policy BE6 of The South East Plan and Policy C18 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and listed building consent granted subject to appropriate conditions, as set out above.

Agenda Item 7

Mallards

House

New Street

Deddington

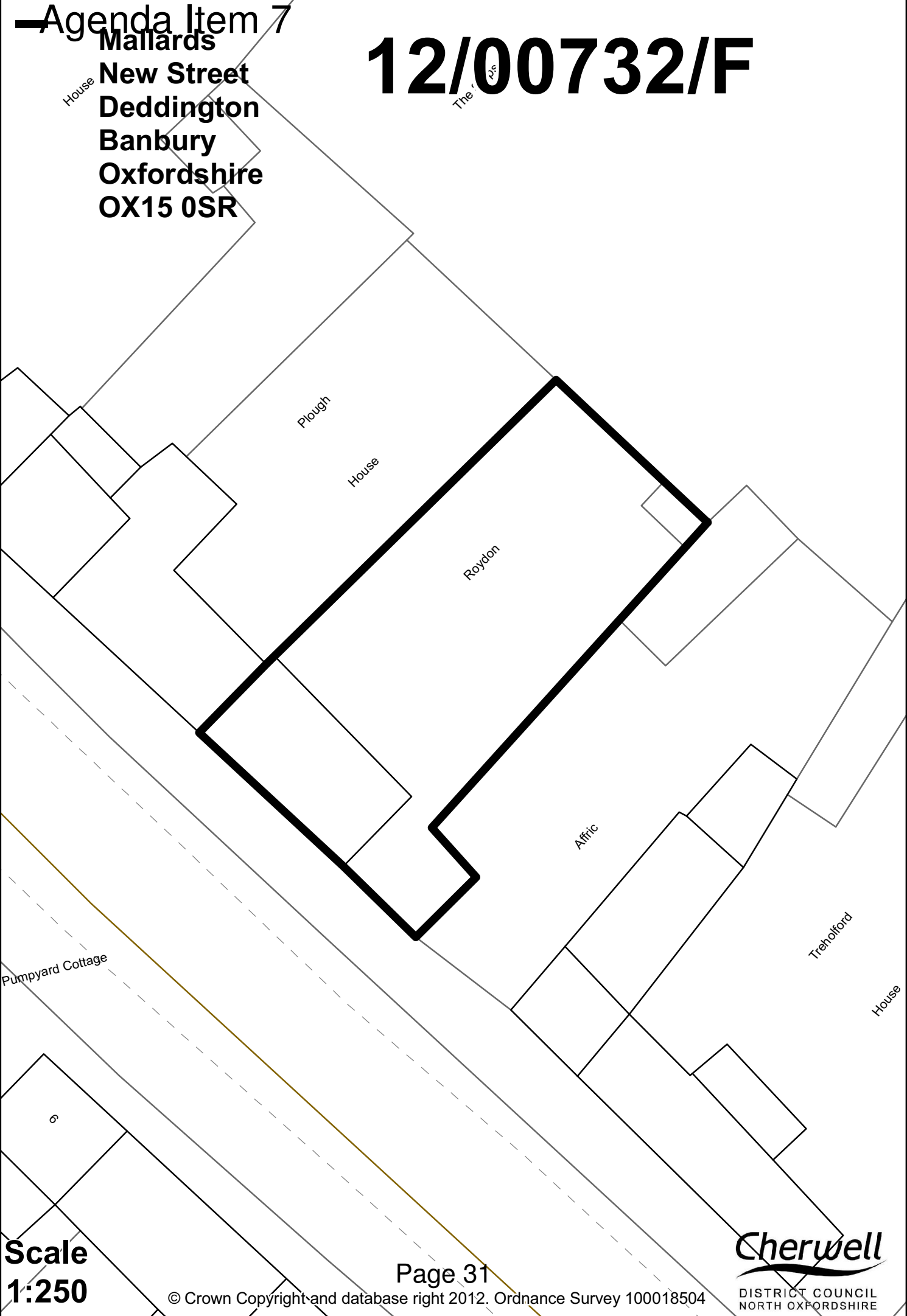
Banbury

Oxfordshire

OX15 0SR

12/00732/F

The



Scale
1:250

12/00732/F

Mallards

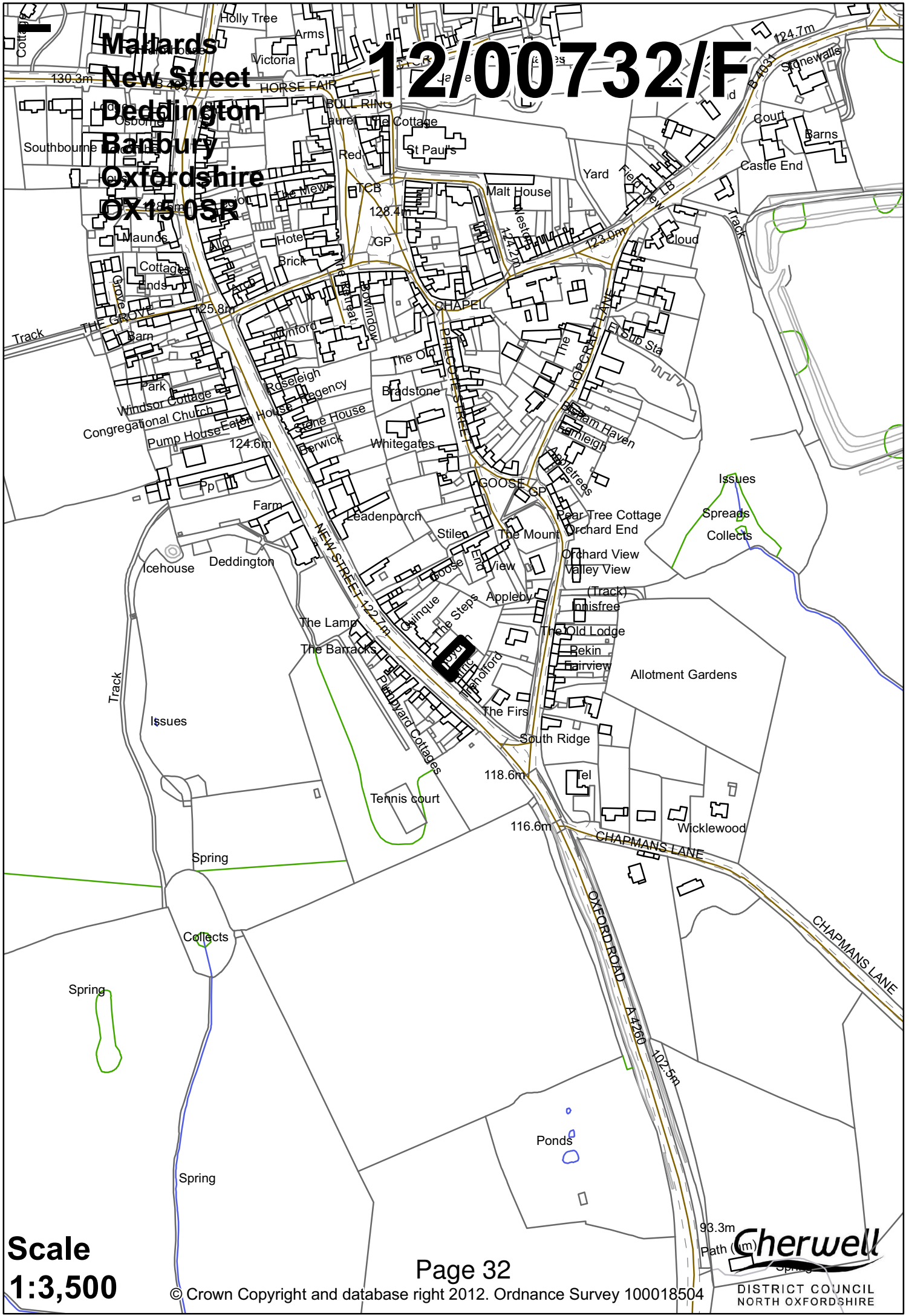
New Street

Deddington

Banbury

Oxfordshire

OX15 0SR



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**Mallards, New Street, Deddington,
Banbury, Oxfordshire, OX15 0SR**

12/00732/F

Ward: Deddington

District Councillor: Councillor O'Sullivan

Case Officer: Caroline Ford

Recommendation: Approval

Applicant: Mr A Morris

Application Description: Demolition of rear porch and derelict garden outbuildings; construction of two storey rear extension; improved access to existing parking area including covered area; fitting of satellite dish and new shed

Committee Referral: Member Request

1. Site Description and Proposed Development

- 1.1 Mallards is an end of terrace, grade II listed stone built property with a tile roof. The property is situated on the main street through Deddington and is within the conservation area and amongst other listed buildings including the grade II* listed Plough House next door. The site may have some archaeological potential and is also potentially contaminated; however there are no other site constraints.
- 1.2 The application seeks planning permission for the demolition of a rear porch and derelict outbuildings and it is proposed to construct a two storey rear extension, improve the access to the parking area and to cover this to create a car port, the fitting of a satellite dish and a new shed.
- 1.3 Amended plans have been received through the processing of the application to re-position the extension slightly (by 1m) further towards the centre rear of the property and the width of the extension has also been reduced by 0.55m. The window arrangement has also been re-considered. The amended plans therefore show the two storey rear extension would project 5.2m from the rear of the existing dwelling and would be 5.1m in width. The extension would be set down from the ridge of the main dwelling and so appear subservient. The work to the parking area would involve the raising of the existing stone wall forming the front boundary, the removal of part of a stone wall to the side and again raise the section of wall that would remain and to insert an oak frame to cover the parking area forming a car port type structure. To the rear garden a timber shed is proposed. The satellite dish would be installed to the side of the existing dwelling.
- 1.4 A listed building consent application accompanies this full application (12/00717/LB refers). This includes additional work in the form of internal alterations, a new roof light and the replacement of all windows to the property.
- 1.5 There is no planning history associated with this property.
- 1.6 This application is reported back to committee following its deferral at the last meeting for a formal site visit.

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 23rd August 2012 (the application has been advertised twice, in relation to the original and then the amended plans).

3 letters were received to the original plans. The following Issues were raised:

Material planning comments:

Unacceptable adverse impact on the character of a listed building, on the Deddington Conservation area and on amenities of neighbouring properties

Reference made to the Conservation area appraisal

Consider proposal will not be sympathetic to the existing building as it is not in scale

Consider design and access statement is flawed – proposal will be larger and taller than extensions attached to neighbouring properties.

Extension will impinge on Plough House

Proposal would alter the pattern and erode the intrinsic character of the settlement and do nothing to protect the view.

Concern about removal of exterior sheds. Nearby sheds should not be harmed by the demolition of the corrugated shed.

Other building forms an outside toilet and its removal goes against conservation area appraisal

Affric House faces towards Mallards. Design guide suggests a distance of 14m between a habitable room window and a blank elevation and the proposal is 11-12m. All habitable room windows other than 4 window/ door openings face in this direction.

These doors and windows are main source of natural light (albeit light from the north). Light will be severely reduced by the proposal. Roof ridge will be 2m higher than Affric House (Mallards garden is 1m above Affric House)

Removal of wall to front seems to serve no purpose other than changing the street scene. Loss of this wall would go against the Conservation area appraisal to retain traditional boundary walls

Plans state that the application will provide improved disabled access.

There are existing steps throughout and the plans show there will be steps within the new building. If ground floor accommodation is needed, why is an en-suite bedroom provided at first floor? New rear doorway is positioned in such a way that it is unlikely to be easier for a disabled person

Extension does not appear to be minor or sympathetic to the dwelling
Proposal will block sunlight and daylight currently enjoyed by Affric House and be overbearing and out of character

If approved, planners will have gone against policy and guidance.

Proposal represents overdevelopment of what is a small house and loss of a large part of a small garden

Height of extension would affect the amount of light available to the rear part of the garden of Plough House

Non material comments:

View from Affric House will be lost

Owners of Mallards have a right of access over the bottom of the driveway of Affric House to the former barn that currently forms a parking space

4 letters have been received to the amended plans. Additional points over those outlined above are:

Intrusive in conservation area

An extension of this scale would impact by its sheer height

Immensely detrimental impact to the two neighbours either side

The matter of the boundary between Mallards and Affric House is currently under dispute. Could this decision be deferred until this issue is resolved?

Use of this parking area for two cars may involve driving close to the wall of Affric House by windows to enter this area. If car parked outwards then windows would shine into habitable room windows. Parking area roof appears to be inappropriate and there is no other feature similar to this.

No reason to demolish outside privy. That in the rear of Plough House and The Steps are still in place. These are an important part of maintaining the history of the cottages.

Accuracy of the plan for the shed questioned as this seems to suggest access will be from garden of Affric House

Extension may have been reduced but is still no sympathetic to the existing building. It is still 40% the size of the original house and far bigger than those attached to the neighbouring Plough House

Reinforce that proposal will be 13m from all habitable room windows in Affric House

Extension will be visible to owners of Quinque House to the north of the Steps

Completely out of scale for this historic parcel of land so close to listed buildings

Threatens light to a part of the neighbours small garden

Affric House will be seriously and adversely affected by this oversized and unsympathetic extension

Travesty if the wishes of the new owners are permitted completely to ignore the needs of long standing residents who have lived in friendly harmony along the street for so many years

Loss of light to garden of Plough House

3. Consultations

- 3.1 **Deddington Parish Council:** To the original plans, the Parish Council objected on the grounds that Affric, the neighbouring property directly faces the side and rear of Mallards with all windows facing the proposed extension. The Parish Council considers that the new two storey extension with its high roof line would cause an overbearing impact on Affric restricting light to a large proportion of the property. Part of the application is to create better access to a parking area. The Parish Council considers that the demolition of parts of the existing walls and the proposal to put a timber structure on this area would not be in keeping with the properties Grade II listed status and would be detrimental to the look of the conservation area.

To the amended plans, the Parish Council continue to object on the same grounds as set out above.

Cherwell District Council Consultees

- 3.2 **Conservation Officer:** Concerns raised to the original scheme. No objection subject to conditions to the amended scheme

Oxfordshire County Council Consultees

- 3.3 **Highways Liaison Officer:** No objection subject to a condition
- 3.4 **Archaeologist:** Unlikely to be any impact, planning note could be used

Other Consultees

- 3.5 **English Heritage:** The application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development

South East Plan 2009

- CC6: Sustainable communities and character of the environment
- BE1: Management for an urban renaissance
- BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5. Appraisal

- 5.1 The key issues for consideration in this application are:

- Visual amenity
- Character and significance of the conservation area
- Setting of the listed building
- Residential amenity of neighbouring properties
- Highway safety

Visual amenity

- 5.2 The proposed extension is contained to the rear of the dwelling; however views would be gained from New Street when approaching from the south. The view gained would be that of the side elevation of the extension, which would appear as a traditionally designed extension and which would be constructed from natural materials including stone with a plain tile roof to match the existing. As such, it is Officer's view that limited harm to the visual amenity of the area or the character of the street scene would result by the proposed extension.

- 5.3 The design of the extension as amended is in a traditional form, with a rear projecting gable and which is slimmer in width than originally proposed and is considered to be an acceptable design for the dwelling and its grade II listed status. Where views are gained of the rear elevation, it is considered that limited harm would be caused.
- 5.4 The proposal to raise the front boundary wall is considered to be acceptable providing the stone work is laid to match the existing and this should cause limited visual harm. The car port feature would be tucked below the boundary walls; however views would be gained again from the south. This feature is considered to be an unobtrusive addition that will cause limited harm to visual amenity.
- 5.5 The satellite dish would be tucked to the rear of the dwelling and so limited views would be gained. The garden shed is proposed to be located in the corner of the garden. This building would be a standard design shed, however few views of it would be gained, it is practical for its purpose and it is not unusual to see garden sheds within residential gardens.
- 5.6 As such, the proposal is considered to cause limited harm to the existing street scene or the amenity of the wider area and is acceptable within its context. As such, the proposal is considered to comply with policy C28 of the adopted Cherwell Local Plan

Character and significance of the Conservation Area

- 5.7 The NPPF requires that an assessment of the impact of a development upon the character and significance of a designated heritage asset must be made. The property is within the Deddington Conservation area, which is a designated heritage asset.
- 5.8 The assessment outlined above in terms of the impact of the proposal on the visual amenity of the area is relevant here and as the proposal is considered to cause limited harm to visual amenity; it is also considered limited impact would be caused to the character of the conservation area. Policy C28 of the adopted Cherwell Local Plan requires that within a sensitive area, development will be required to be of a high standard and the use of traditional local building materials will normally be required. The NPPF advises that when determining planning applications, Local Planning Authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.9 In this case, the proposed extension is traditionally designed, that is acceptable within its context in a sensitive area and will respect the existing local character and distinctiveness. The materials to be used are traditional and similar to those used on the main dwelling and in Officer's view will result in a high standard of development that will make a positive contribution to the area.
- 5.10 The proposed garden shed and satellite dish similarly are not considered to cause serious harm to the significance of the conservation area. In terms of the increased height of the wall and the covered parking area, this feature would be a relatively unobtrusive addition that would not harm the significance of the conservation area.

- 5.11 Whilst this conclusion is reached, it is noted that third parties do not share this view. Where harm is identified, which is less than substantial harm, the NPPF advises that this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. The extension to the property does not secure its optimum viable use (as it could continue to function as a dwelling without this), however the applicant's family have personal circumstances to seek to provide additional accommodation that would work for an individual with a disability (albeit this reason is given limited weight as the personal circumstances of the current owner must be weighed against the impact of a development on the building itself) and it is Officer's view that the proposal seeks this in a sympathetic way that would cause limited harm to the conservation area as a designated heritage asset.

Setting of listed buildings

- 5.12 The NPPF also requires that an assessment is made as to the impact of a development within the setting of heritage assets and should look for opportunities for new development to enhance or better reveal their significance. In this case, an assessment as to the impact upon the character and significance of the listed building itself will be made under the accompanying listed building consent application, however the impact upon its setting as well as the setting of other nearby listed buildings, including the neighbouring grade II* listed Plough House should be made.
- 5.13 As has been described, the design of the extension is considered to be a sympathetic addition to the dwelling itself. The extension does represent a relatively large addition, however the Conservation Officer raises no objection to the scheme in its amended form (concerns were raised to the original proposal) and as such, it is considered that the proposed extension represents an acceptable form of development to be attached to the rear of the listed building that would cause limited harm to the setting of the building and would not detract from the overall significance of the building. This conclusion is also reached in terms of the satellite dish, the garden shed and the works to the boundary wall and the covered parking area.
- 5.14 In terms of other listed buildings nearby and the grade II* listed building immediately adjacent, given the extension is contained to the rear of the application property and it is considered to be an appropriate addition to that listed building, it is considered that overall limited harm would be caused to the significance of any of these nearby listed buildings. Similarly limited harm would be caused by the satellite dish, the garden shed, or the work to the boundary wall and parking area. It is considered that the proposal would not detract from the overall importance of any of these nearby listed properties as designated heritage assets. Whilst the proposal may not necessarily enhance or better reveal the significance of any listed building, it is concluded that it does not detract from or harm these buildings and so does not represent unacceptable development.

Residential amenity of neighbouring properties

- 5.15 The proposal does have the potential to impact upon the residential amenities currently enjoyed by the two neighbouring properties, Affric House and Plough House. Policy C30 of the adopted Cherwell Local states that design control will be exercised to ensure... (iii) that new housing development or any proposal for the extension or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority.

- 5.16 In the case of Affric House, this house is orientated with its principle elevation facing north towards Mallards and its garden. As such, all windows (other than one living room window and one bedroom window, which front onto New Street and roof lights) face towards the application site. In cases where habitable room windows would face towards a blank elevation of a neighbouring property, the Council's House Extensions and Alterations Design Guide seeks a distance of 14m to prevent overshadowing. The current proposal, in its amended form, provides a distance of 13m from the side of Affric House to the side of the proposed extension. This distance clearly is 1m short of the distance the Council normally seeks to achieve, however the requirement for 14m is for guidance purposes only and therefore a balance as to whether this shorter distance can be accepted should be made.
- 5.17 The orientation of the properties is also necessary to be considered. The proposed extension would be positioned north west to Affric House and so the potential for loss of sunlight is considered to be limited. As such, the impact by over dominance and loss of daylight is the main concern. Officers recognise that the proposal would impact upon the amenity of Affric House by its proximity and scale and that this has the potential to be over bearing and to result in the loss of daylight. However, given the distances involved, which almost meet with the Council's guidance and the orientation of the properties as well as the projection of the extension of 5.2m meaning that not all windows to Affric House will be affected, it is considered on balance that the harm caused, in this case, is not so serious that a recommendation of refusal could be made and defended at appeal. The Case Officer has visited Affric House, stood in the windows of concern and is content that this conclusion is reached. This neighbour should also experience limited loss of privacy by way of the proposed extension given no windows are proposed to the side (and this can be secured by condition). The raising of the garden walls and the car port, will stand closer to this neighbour, however given they would be directly in front of the existing gable end of the property, it is considered that the impact caused by this would be not significantly worse than the existing situation. The satellite dish and new garden shed should not impact upon the amenity of this neighbour.
- 5.18 In terms of Plough House, this neighbour stands to the north of Mallards meaning the extension would be to the south east. This neighbour has windows at first floor which are understood to not serve habitable rooms and in any event, due to the distance of the extension away from the shared boundary with this neighbour (4m) and taking a 45° line, to which the extension is unlikely to encroach into, it is considered that the proposal is unlikely to cause such serious harm to the residential amenity of this neighbour by way of loss of light or loss of privacy that a recommendation of refusal could be made. No windows are proposed at the side facing towards this neighbour (again, which can be secured by condition) and as such the proposal is unlikely to cause a serious loss of privacy to this neighbour. This neighbour is also unlikely to experience any undue harm by way of any other elements of the proposal.
- 5.19 Given the above assessment, it is considered that the proposal results in a level of amenity and privacy that is acceptable to the Local Planning Authority and as such the proposal complies with policy C30 of the adopted Cherwell Local Plan.

Highway safety

- 5.20 The proposal adds an additional bedroom, however the changes to the parking area means that off road parking is provided and as such the proposal is

considered acceptable in highway safety terms. The Highway Authority raises no objections subject to a condition which has been recommended.

Other matters

- 5.21 The land is within an area of potential archaeological interest and the County Archaeologist has commented that the proposals do not appear to affect any presently known archaeological sites, however known archaeological finds have been recorded nearby and so the potential should be borne in mind by the applicant. A planning note has been recommended in relation to this matter. The land has the potential to be contaminated, however given the limited extent of the work proposed, it is considered the impact is likely to be limited and a planning note has been recommended in relation to this matter.

- 5.22 The comments of the third parties and the Parish Council are noted and have largely been addressed within this appraisal or the accompanying listed building application. The proposal is for an extension to an existing residential dwelling and given other extensions are attached to neighbouring properties (albeit of different scales), it is not considered that the proposal will affect the settlement pattern. The comments in terms of the works to the wall are noted and the amended plans address these concerns and those of the Conservation Officer. It is not considered that the proposal represents an over development of the plot given the dwelling will still benefit from a reasonably sized rear garden. The comments in terms of the ownership of the land and the boundaries between Mallards and Affric House are not material to the consideration of the planning application and the decision cannot be delayed as the grant of planning permission does not override any other civil rights either party may benefit from. The use of the parking area does not change from the current use that could occur (and there is the possibility of just one further car using this area) and so it is not considered that this will cause demonstrably greater harm than existing. The plan of the shed does appear to be incorrect and so an amended plan to correct this can be requested. Whilst the comments in terms of disability access are noted, this is not the reason the application is considered acceptable as the Council must give consideration to the future of the building rather than the personal circumstances of the current owner.

Conclusion

- 5.23 As has been demonstrated within this appraisal, the proposal is considered to be an acceptable form of development that will cause limited harm to visual amenity, the character and significance of the conservation area and the setting of the listed buildings and highway safety. The proposal is recognised to impact upon the residential amenity of the neighbouring properties, however the assessment has demonstrated that this level of impact is to an acceptable level that is not so serious that the proposal could be recommended for refusal and this decision defended at appeal. As such, the proposal complies with the above mentioned policies and is recommended for approval as set out below.

6. 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: application forms, design and access statement, schedule of works, photographs and amended drawing numbers 32.11 B 'Existing and proposed elevations, floor plans, section and site plans', 32.11B 'Proposed timber outhouse' and 32.11A 'Improved access to parking area and removal of outhouse' all received in the department on the 16 July 2012 with agent's letter of the same date.

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

3. That the external walls of the extension and the raised boundary walls to the side of the dwelling surrounding the covered parking area shall be constructed in natural ironstone which shall be laid, dressed, coursed and pointed in accordance with a sample panel (minimum 1m² in size) which shall be constructed on site to be inspected and approved in writing by the Local Planning Authority prior to the construction of the development hereby permitted.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and/or on the adjoining building and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

4. That samples of the tiles to be used in the covering of the roof of the extension shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the samples so 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.

5. That full design details of the windows, doors (which shall be timber) and roof lights (the roof lights shall be conservation grade), including details of the elevations, glazing and a cross section at a scale of 1:20 and an indication of the colour/ finish shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.

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

6. That full design details of the roof to the covered parking area shall be

submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the approved details.

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

7. That the revised parking area shall be kept free of obstructions at all times and used only for the specified purpose.

Reason - In the interests of highway safety, to ensure a proper standard of development and to comply with Government advice in The National Planning Policy Framework.

8. 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 side (north west and south east) elevations of the extension without the prior express planning consent of the Local Planning Authority.

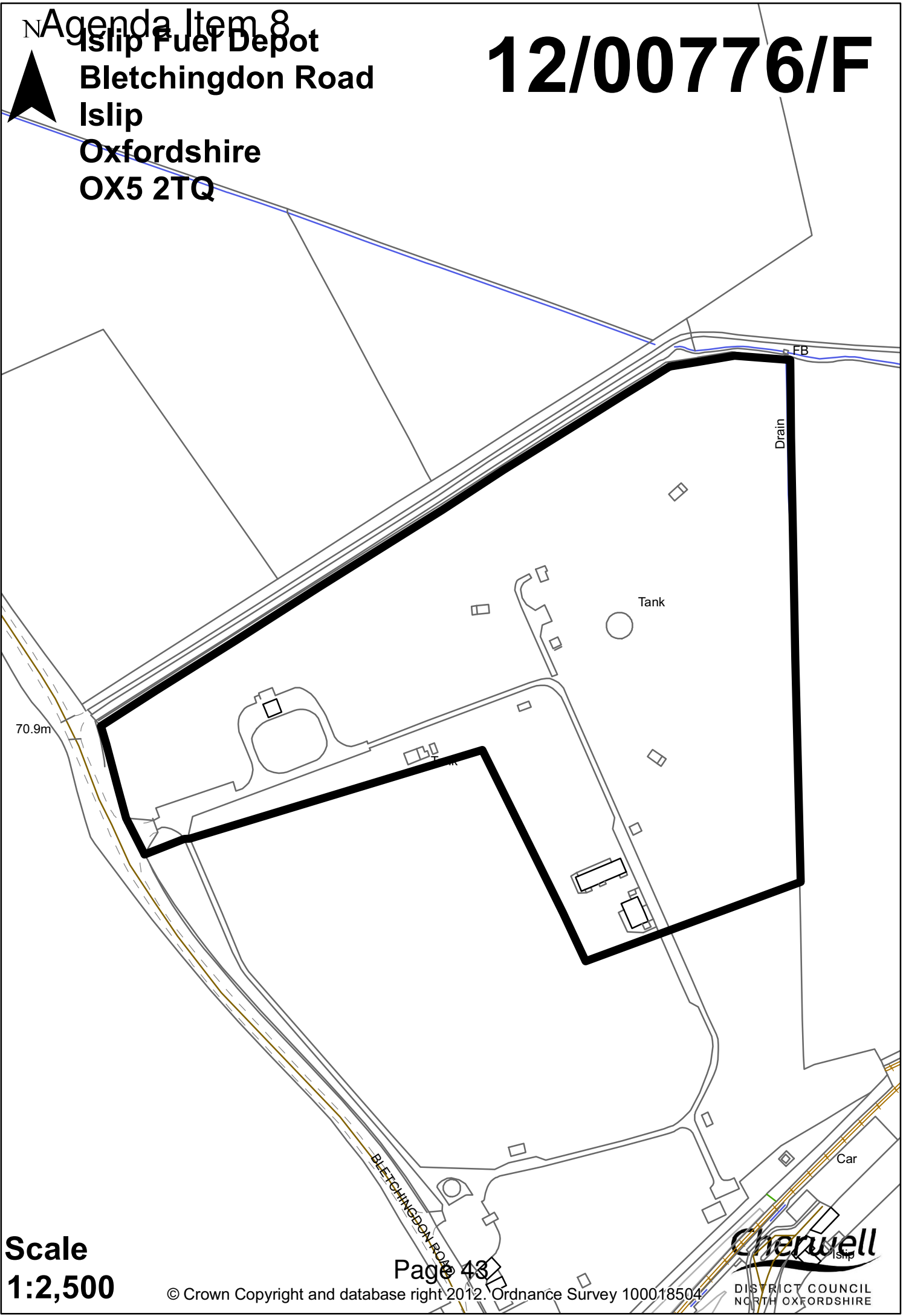
Reason - To enable the Local Planning Authority to retain planning control over the development in order to safeguard the amenities of the occupants of the adjoining dwellings and prevent overlooking in accordance with Policy C30 of the adopted Cherwell Local Plan.

Planning Notes

1. O1 – Archaeology
2. ZZ – Contaminated Land
3. S1 – Post permission changes
4. T1 – Third party interests

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

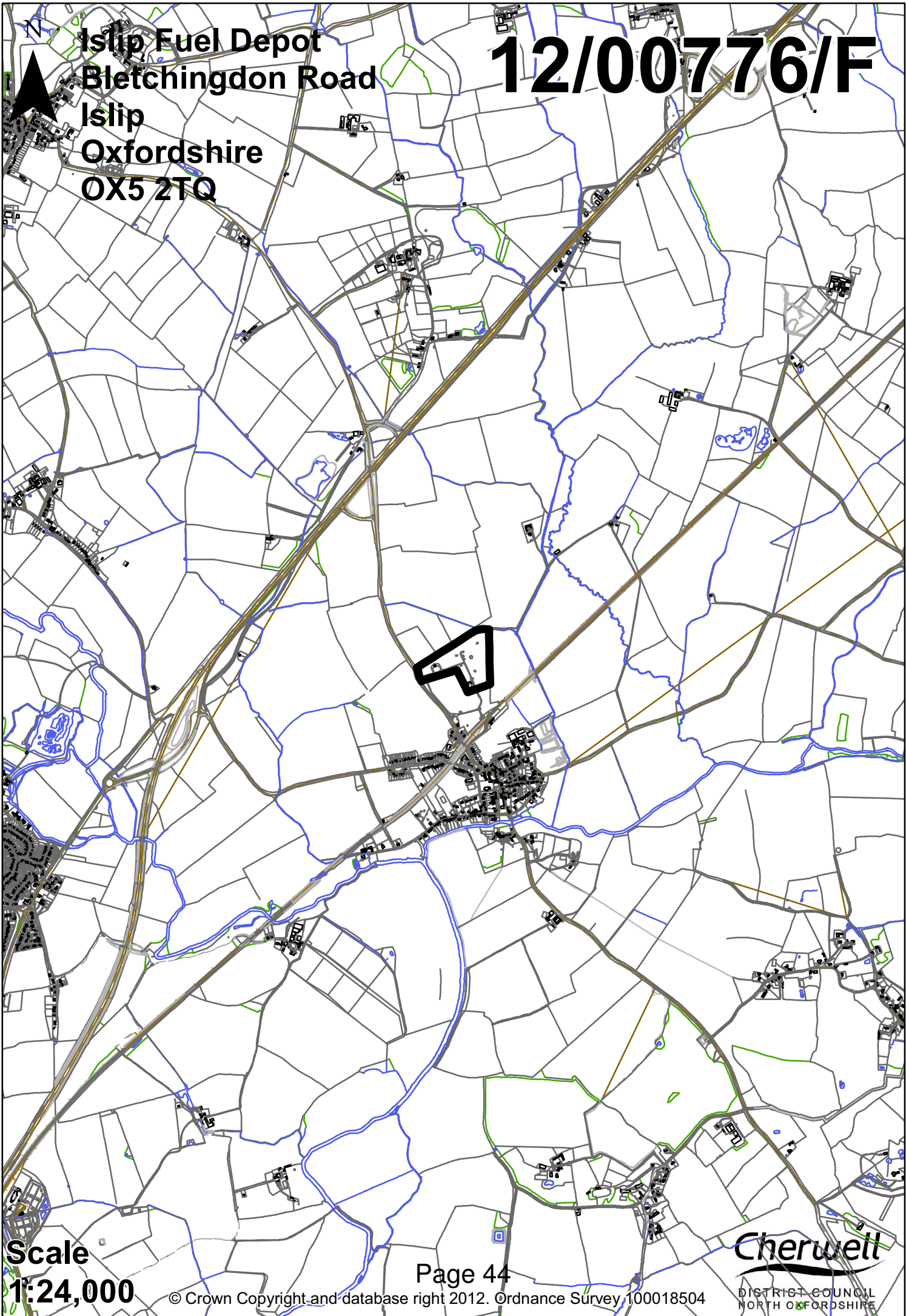
The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of the site and surrounding area and preserves the significance of the conservation area heritage asset and the setting of nearby listed buildings. Additionally the impact upon the residential amenity of neighbouring properties is considered to be to an acceptable level. The proposal also raises no highway safety implications. As such the proposal is in accordance with The National Planning Policy Framework – March 2012, Policies CC6, BE1 and BE6 of The South East Plan and Policies C28 and C30 of the adopted Cherwell Local Plan. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.



Scale
1:2,500

Islip Fuel Depot
Bletchington Road
Islip
Oxfordshire
OX5 2TQ

12/00776/F



Scale
1:24,000

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Islip Fuel Depot, Bletchingdon Road, 12/00776/F Islip

Ward: Otmoor

District Councillor: Cllr Hallchurch MBE

Case Officer: Paul Ihringer

Recommendation: Refusal

Applicant: Oxford & District Building Services

Application Description: Change of use of former oil storage depot to groundwork contractors yard

Committee Referral: Major

1. Site Description and Proposed Development

- 1.1 The Islip Fuel Depot is a 13.6 hectare site, which slopes gently from west to east, located just beyond Islip's northern limits. The depot was first used in the late 1930s by the RAF as a reserve fuel depot. After the Second World War, control transferred to ESSO who occupied the site until 1969. More recently, the MoD supplied jet fuel by pipeline to RAF Upper Heyford. The site ceased to be used as a fuel depot when the Upper Heyford base closed in 1994 and has been largely redundant in the intervening period.
- 1.2 The depot, which has two points of access on to the Bletchingdon Road, consists of a number of small dilapidated buildings, lighting towers and other structures dotted throughout the site with most being linked by a circular tarmac track. The exposed sections of the large fuel storage tanks are made less conspicuous by a covering of grass. Indeed, most of the site is grassed and until very recently a farmer has been allowed to graze sheep on the majority of the land.
- 1.3 Planning permission is being sought for a change of use so that the northern part of the depot (7 hectares) can become a ground contractor's yard. Irrespective of whether the site is considered to be abandoned (assessed below) permission will be required for the proposed development which falls within the B8 use class. A fuel depot is classified as being *sui generis* i.e. a unique land use which does not fall into any standard categorisation.
- 1.4 The applicant has earmarked part of the site on the eastern boundary, almost a hectare in size, to be used for the storage of approximately twenty items of plant/machinery (diggers/rollers/ dumpers etc). There would obviously be potential to store significantly more pieces of equipment than currently proposed. A hardstanding would be laid in order to accommodate this equipment. It is not made clear how the site will be secured. An existing building just to the west of the proposed hardstanding has been identified as a future office and canteen. It is worth noting that the proposed storage area includes part of one of the raised fuel storage tanks - despite making the applicant aware of this error a revised plan has not been submitted.

- 1.5 In addition to the above, an area of hardstanding near the northernmost access will be used for the overnight parking of HGV vehicles. The applicant also intends to use other unspecified parts of the red line area for the storage of site huts and containers. The depot would operate weekdays between 7.30am and 5pm and Saturday morning on an occasional basis.
- 1.6 As a way of mitigating the harm the development will cause to the Green Belt, the applicant is willing to remove the existing buildings and structures from the site with the exception of the building to be retained as an office and the storage tanks.

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 20th July 2012.

1 letter has been received. The following issue was raised

Non material comments:

If permission were granted it would be good to have a photographic record of the site, given the site's links to RAF Upper Heyford.

3. Consultations

- 3.1 **Islip Parish Council:** "The Parish Council wishes to object to the application because the site is within the Green Belt. Although the site is "brownfield," it is nevertheless predominantly green, apart from one or two low-profile buildings. The main use of the site in recent years has been sheep grazing.

"The Parish Council notes that only 20% of the area marked in red is proposed as hard standing. The Council is keen to learn what use might be made of the residual 80% of the site, and hopes that CDC will discover this.

"It is appreciated that if the new use of part of the site is approved, then any application for further development will be judged on its own merits, influenced by what is already there. Therefore the Council is keen that any primary development is not antagonistic to the principles of the Green Belt as regards openness, etc, so that any secondary application can also be constrained by the principles of the Green Belt.

"Finally, the Parish Council asks that in the event of approval, traffic will be restricted to a right turn on exiting the site, where the major roads the A34 and the M40 can cope with the HGVs, etc, whereas the B4027 cannot - what with its huge traffic volumes, weight restrictions (e.g. Islip Bridge), and pinchpoints within the village."

Cherwell District Council Consultees

- 3.2 **Environmental Protection Officer:** No objections subject to condition

Oxfordshire County Council Consultees

3.3 **Highways Liaison Officer:** “We require a Transport Statement to be submitted for the following uses/ thresholds:

- B2 General industrial: 2500 - 4000 m² GFA
- B8 Storage or distribution: 3000 - 5000 m² GFA

“As the site is large (6.8ha) and its former use is considered void, the application for a contractors yard for the storage of plant, machinery, equipment and materials and overnight parking of vehicles, if granted consent, could well generate a high number of vehicular movements in the future, which may impact the local highway network, in particular Islip.

“In addition to a Transport Statement, the following information has not been provided: 1) access visibility splays, 2) car parking plan and 3) surface water drainage scheme, 4) details of pedestrian accessibility improvements. In the absence of this required information, the Local Highway Authority recommends that the application should be refused on highway safety grounds.”

3.4 **Drainage Officer:** “It is anticipated that a large area of the site could well become an impermeable surface due to the operation being proposed. Therefore the developer should be made aware of the requirements of the Flood and Water Management Act 2010. Surface water from the development needs to be dealt with within the boundary of the development. Surface water from any impermeable hardened surfaces will need to be directed into a positive drainage system which in turn goes to soakaway or other Suds feature. There could be an opportunity for rain water harvesting for a vehicle washdown facility.”

Other Consultees

3.5 **Environment Agency:** “In the absence of a flood risk assessment (FRA), we object to this application and recommend refusal of planning permission until a satisfactory FRA has been submitted.”

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

GB1: Development in the Green Belt

C7: Landscape conservation

C28: Layout, design and external appearance of new development

EMP4: Employment generating development in the rural areas

ENV12: Contaminated land

South East Plan 2009
CO4: Green Belt
SP5: Green Belts
C4: Landscape and countryside management
T4: Parking
NRM4: Sustainable flood risk management
RE3: Employment and land provision

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission (August 2012)

The Local Plan (August 2012) is currently out for public consultation. 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:

SLE 1: Employment development
ESD 14: Oxford Green Belt

5. Appraisal

5.1 The key issues for consideration in this application are:

- Status of the land
- Impact on the Green Belt
- Highways Safety
- Flooding

Status of the land

5.2 The first thing that needs to be established is the status of the site given that it has been redundant for almost 20 years. For the purposes of planning, has the land been abandoned?

5.3 Where an operation has been granted planning permission, it cannot be held that the use has been abandoned except in very special circumstances. The concept of abandonment is therefore only normally applied to development which pre-dates 1948, as is true in this case.

5.4 As regards the legal interpretation of abandonment, Lord Denning, in a case heard in the late 1960s, proffered the following:

"I think that when a man ceases to use a site for a particular purpose and lets it remain unused for a considerable time, then the proper inference may be that he has abandoned the former use. Once abandoned, he cannot start to use the site again, unless he gets planning permission: and this is so even though the new use is the same as the previous one."

5.5 More recently, it is generally accepted that there are four factors that need to be taken into consideration when assessing cases relating to possible abandonment. These are as follows:

- 1) the physical condition of the building;
- 2) the length of time for which the building had not been used;
- 3) whether it had been used for any other purposes; and
- 4) the owner's intentions

5.6 The buildings which have been largely unused for the last eighteen years are in a poor state of repair and most could not be made functional without significant remedial repairs. As it is surplus to MoD requirements and no private contractor has evidently come forward, it is improbable that there will be future interest in using the site for fuel storage purposes.

5.7 On the basis of the above, it is concluded that the use of the site has been abandoned.

Impact on the Green Belt

5.8 Development in the Green Belt, outside the limitations imposed on the construction of new buildings, is restricted to the following activities set out in Paragraph 90 of the National Planning Policy Framework (NPPF):

- *mineral extraction;*
- *engineering operations;*
- *local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- *the re-use of buildings provided that the buildings are of permanent and substantial construction; and*
- *development brought forward under a Community Right to Build Order.*

5.9 Even where a development is considered to comply with one of these operations, permission can still be resisted if they fail to *preserve the openness of the Green Belt*. The proposed development, other than the re-use of one of the buildings, does not comply with any of the above activities and is therefore considered to be contrary to Green Belt policy. Furthermore, the storage of plant and equipment across the site would cause, in the opinion of your officers, significant harm to the openness of the Green Belt and the appearance of the surrounding countryside.

5.10 As with previous Government guidance there is a provision in the NPPF (Paragraphs 87 and 88) to take into consideration *very special circumstances* (VSC), whereby the policy objection can be overcome if the applicant can demonstrate significant material considerations which *clearly* outweigh the harm caused to the Green Belt.

5.11 The applicant has not acknowledged that the development would be contrary to Green Belt policy and has not therefore presented a formal VSC case. They do however make a couple of points which would perhaps constitute the basis of such an argument:

- The fuel depot could re-open without the need for planning permission and would have more of an impact on the Green Belt than the proposed operation.
- Although new buildings are normally considered to be inappropriate development, Paragraph 89 of the NPPF identifies a number of exceptions, one of which reads as follows:

limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

The applicant argues that the proposed development complies with this exception and the development is therefore appropriate in principle. In order to meet the requirement relating to maintaining the openness of the Green Belt, the applicant is willing to remove all the buildings and structures (with the exception of the storage tanks and the proposed office) as a way of ensuring that any harm the new development causes to the Green Belt is appropriately mitigated against.

- 5.12 In respect of the first of these points, it has been established that planning permission would be required for the site to re-open as a fuel depot. Following its abandonment the site is deemed to have a *nil use* with all existing planning rights lost. Even if it had been possible to re-open the fuel depot, as already stated there has evidently been no interest in using the site for this purpose in the last 18 years and it is improbable that a business would come forward to try and re-establish the use in the future.
- 5.13 Turning to the second point, Paragraph 89 refers specifically to new buildings, and therefore should not be applied to this case. Furthermore, although the removal of the existing buildings would constitute an improvement to the Green Belt, it would not offset the greater harm which would result from the proposed new development.
- 5.14 Whilst local policy (EMP4 of the adopted Cherwell Local Plan and SLE1 of the emerging Local Plan) and national guidance (NPPF - *DSD1 Building a strong competitive economy and DSD3 Supporting a prosperous rural economy*) promotes economic development, it would not constitute a VSC as there will be other sites outside the Green Belt which could accommodate the applicant's business.
- 5.15 Based on the assessment above, it is concluded that the development constitutes inappropriate development in the Green Belt and would cause significant harm to the surrounding countryside. It therefore runs contrary to Policies CO4, SP5 and C4 of the South East Plan 2009 and saved Policies GB1 and C7 of the adopted Cherwell Local Plan.

Highway Safety

- 5.16 Islip Parish Council are unsurprisingly concerned that any heavy goods traffic associated with the development should not pass through the village given the

narrowness of the through road and the weight restrictions in force on Islip Bridge.

- 5.17 In order to assess the impact a proposal of this size would have on the local highway network and to address the reservations expressed by the parish council, the applicant is required to submit a transport statement. Despite making the applicant aware of this shortcoming and allowing them the time to commission a statement, they ultimately indicated their unwillingness to provide one. As a result, the development should, in the opinion of the Highways Officer, be resisted on highway safety grounds as it runs contrary to Government guidance contained within the NPPF.

Flood Risk

- 5.18 The Environment Agency flagged the need for a flood risk assessment early in the process. As with the transport statement, the applicant chose not to cede to a request to provide an assessment. In its absence, the Environment Agency is recommending that the application be refused on the grounds that it does not comply with Government guidance contained within the NPPF (Footnote 20 of Paragraph 103).

Conclusion

- 5.19 Officers have concluded that the proposed development represents inappropriate development in the Green Belt that would cause harm to the surrounding countryside. The applicant has also failed to provide an FRA or a Transport Statement. The proposal therefore runs contrary to Policies CO4, SP5 and C4 of the SEP and saved Policies GB1 and C7 of the CLP and Government guidance contained in the NPPF. Members are therefore recommended to refuse the application on these grounds.

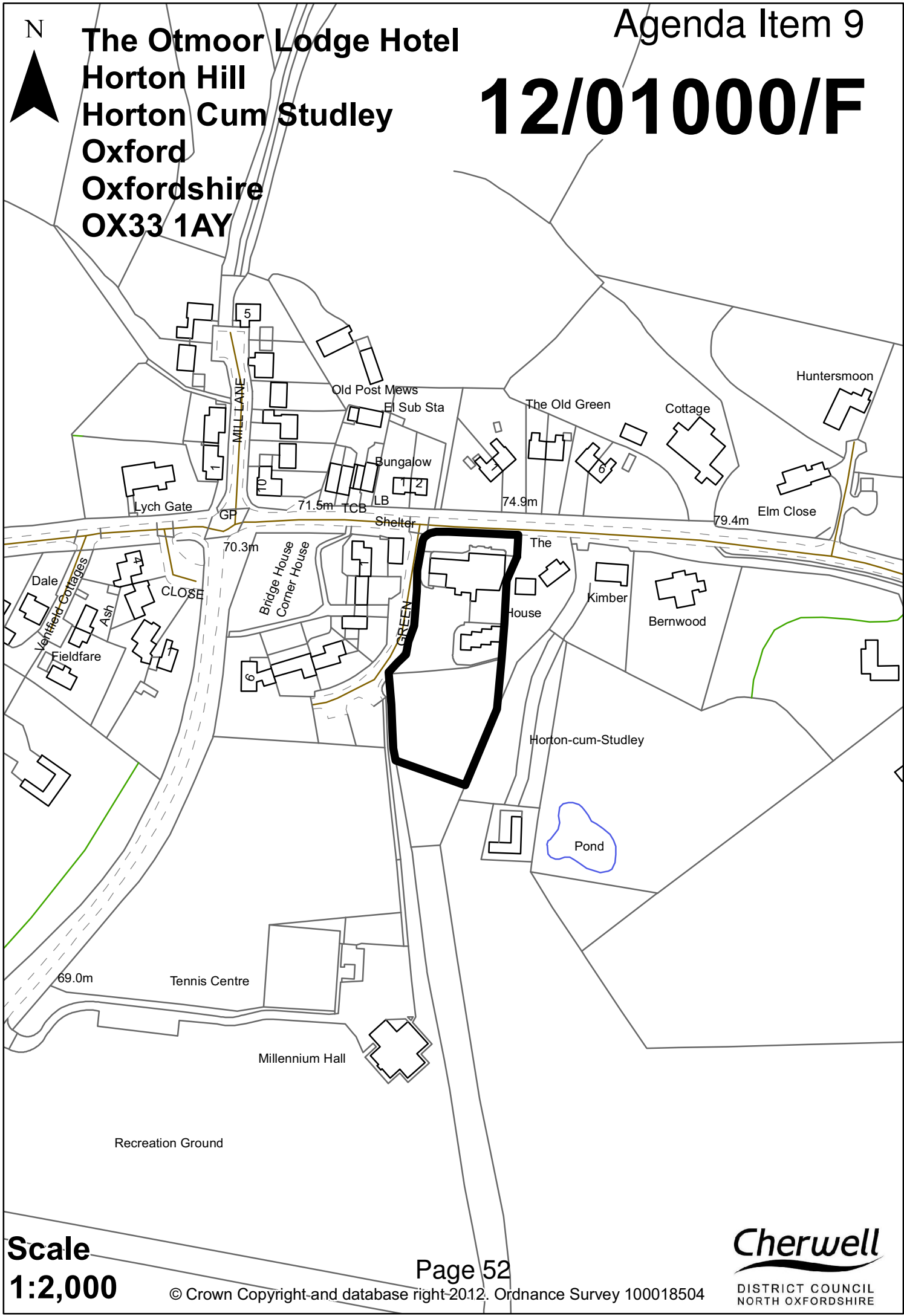
6. Recommendation

Refusal on the following grounds:

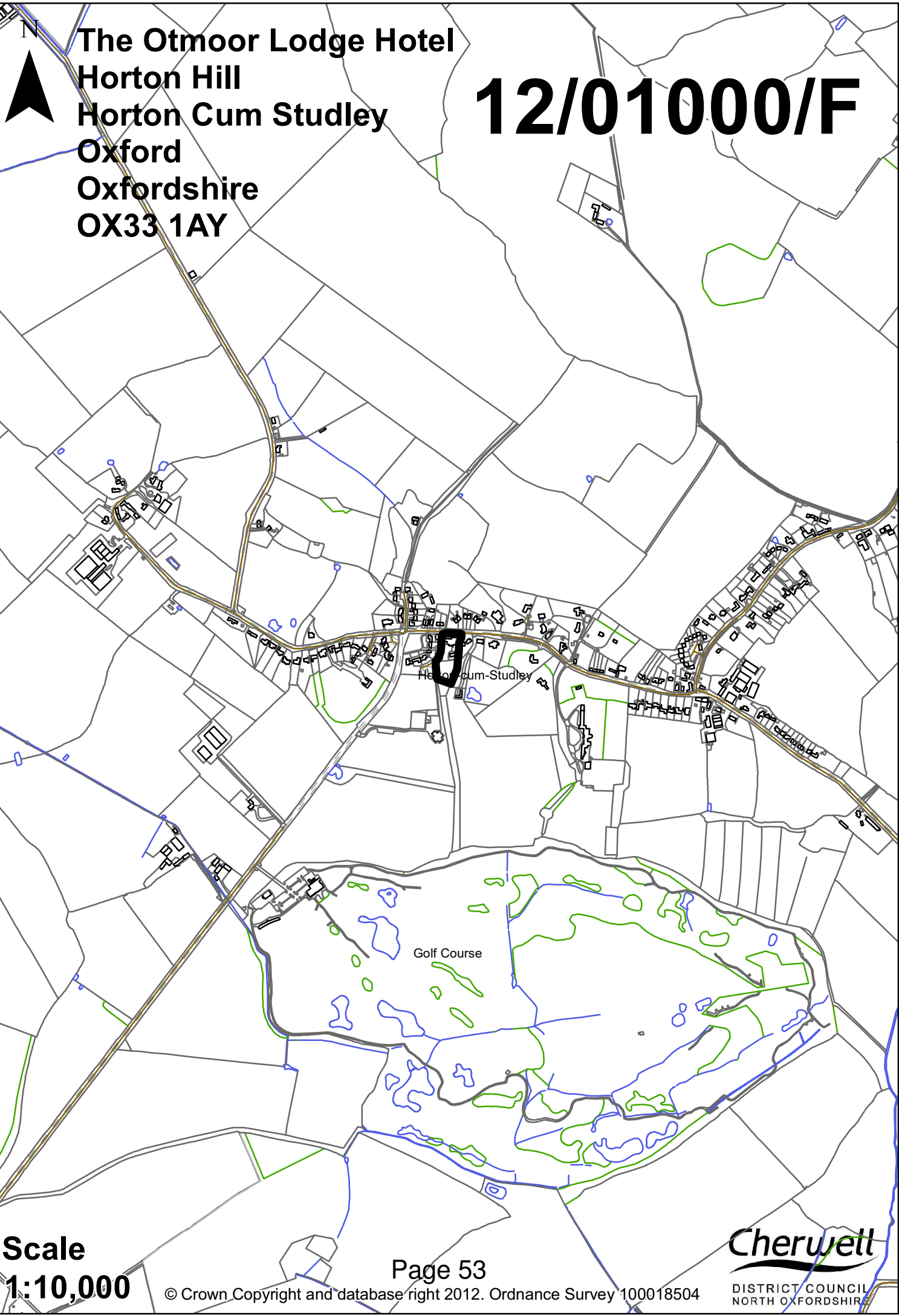
- 1 The principle of the proposed development does not comply with Green Belt policy and guidance. In the absence of a persuasive very special circumstances case, the development is considered to be inappropriate development in the Green Belt which will adversely affect its openness. Furthermore the development would cause significant harm to the surrounding countryside. The proposal is therefore contrary to Policies CO4, SP5 and C4 of the South East Plan 2009, saved Policies GB1 and C7 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
- 2 In the absence of a transport statement, a statutory requirement for a development of this size, the development is likely to constitute a potential highway safety risk and therefore does not accord with Government guidance contained within the National Planning Policy Framework.
- 3 In the absence of a flood risk assessment, a statutory requirement for a development of this size, the development is likely to constitute a potential flood risk and therefore does not accord with Government guidance contained within the National Planning Policy Framework.

12/01000/F

**The Otmoor Lodge Hotel
Horton Hill
Horton Cum Studley
Oxford
Oxfordshire
OX33 1AY**



**Scale
1:2,000**



The Otmoor Lodge Hotel
Horton Hill
Horton Cum Studley
Oxford
Oxfordshire
OX33 1AY

12/01000/F

Scale
1:10,000

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Site Address: Otmoor Lodge, Horton Hill, Horton cum Studley

12/01000/F

Ward: Otmoor

District Councillor(s): Cllr Hallchurch

Case Officer: Tracey Morrissey

Recommendation: Refusal

Applicant: B A Property Management Ltd

Application Description: Refurbishment and alteration to hotel bar and restaurant to form public house, with shop and change of use of existing hotel facilities to form 5 no. dwellings and construction of 4 detached dwellings, garages and access

Committee Referral: Previous schemes on this site determined by Committee

1. Site Description and Proposed Development

- 1.1 This existing hotel site lies within the Oxford Green Belt and has considerable history as detailed later, which essentially granted outline consent in 2006 for a 20 bed hotel extension, the provision of a shop/Post Office and 4 dwellings.
- 1.2 Subsequent applications followed this consent, however the permission lapsed on 22nd December 2009 as not all follow-on Reserved Matters were submitted in time and also the applicant failed to complete a Legal Agreement that sought to ensure the provision of a shop within the hotel building. Furthermore there has been no lawful commencement of development on site. Consequently apart from this current application and 11/01720/F (see para 5.2 below), (which are undetermined), there is no valid planning consent relating to the site.
- 1.3 This current application which relates to a lawful hotel use, seeks consent to now to use part of the hotel building as a pub with a small shop, the change of use of another part of the hotel to form 3 no. dwellings comprising 1 no. x 2 bed, 1 no. x 3 bed and 1 no. x 4 bed and also the use of 4 no. 'Lodge Cottages' at the rear of the site to form 2 no. x 3 bed dwellings. The application also seeks consent for the construction of 4 no. detached dwellings comprising 3 no. x 5 bedroom dwellings and 1 no. x 4 bedroom dwelling with garages. All the residential units will have garden areas.

2. Application Publicity

- 2.1 The application has been advertised by way of site notices. The final date for comment was 30th August 2012.

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

The material planning considerations raised as objections are as follows:

16 Letters of Objection have been received. The following points have been made:

- The developers have not explored every option with the local community that seeks to keep the lodge as a village amenity. There is considerable interest in developing a community scheme for this property. This will not be possible if proposal in its current form is approved.
- Interest from villagers in approaching the owner to purchase the pub, but this will be impossible if value is based on a residential building development. The

- site should be valued as a pub/ restaurant business.
- Previous approval should not mean the whole of the land is 'previously developed'. As the additional bedroom accommodation to the dwelling has not been built (and there is no intention to build this) and this was the 'enabling development' for four dwellings, it seems incongruous that they should be a justification for a largely altered development.
 - Large scale proposal – 9 dwellings
 - High density development and over development
 - Out of character with the surrounding area
 - Owner has purely commercial ambitions. Questions raised as to the financial side of the proposals
 - Proposed plans do not represent a benefit to the local community and as such the proposal is not a genuine case for enabling development.
 - Proposal does not qualify as enabling development because the pub is not inherently unviable, the application will not secure the long term future of the pub, there has not been a proper assessment of the minimum enabling development required to achieve the stated intentions, there has been a lack of public consultation, and there is no evidence of support from the community, alternative options for ensuring viability have not been properly considered and there isn't adequate provision for a shop.
 - Pub and hotel are currently shut. Applicant has stated he has no intention of reopening the hotel and would not therefore require the additional rooms previously approved.
 - The case for enabling development has been lost as the applicant does not intend to build the hotel extension
 - Applicant seeks to recover lost funds, but this is not the intention of enabling development.
 - Loss of village services/ amenity to residential. Proposal to run a pub/ restaurant/ shop is time bound. Seems that this is an attempt to make the larger residential development acceptable to the community.
 - No social housing proposed
 - Additional parking required from 9 residential units, where there will be no where to park, in a busy part of the village and close to a bus stop. Danger to those waiting in the shelter.
 - The Green roadway is small and unsuitable to serve the development, and will cause a hazard to children playing
 - Will increase parking problems
 - Definition of proposal as brownfield development is disingenuous. Green Belt development proposal and should be judged as such.
 - Proposal will severely reduce the openness of the Green Belt.
 - The proposed location for the dwelling has not been built on previously and so is not previously developed land.
 - Construction of the 4 dwellings is inappropriate development. The construction of these would not constitute infilling. Approval would set a precedent for further development behind the existing housing frontage.
 - The increase in openness argument is based on a comparison with the previous approval (but these have never been constructed), this is not considered logical
 - Location of shop to the rear of the bar/ restaurant is impractical as it is unlikely elderly residents would walk through these areas to do their shopping.
 - Location of small parking area for the bar/ shop/ restaurant is close to the corner of the road, which is of concern due to the speed of traffic descending Horton Hill. Potential impact to pedestrians
 - Proposed dwellings are larger than previously proposed
 - Sale of any of the house plots (if approved) should be linked to show how the funds would be re-invested.
 - If any proposed houses are sold before any work occurs to the hotel, then there could be a delay between the work being carried out to the pub/ shop,

despite any S106 agreement.

- Applicant has only taken the minimum step of establishing some limited groundwork on site in order to keep the permission live.
- The shop is not a significant part of the proposal.
- The fact the pub and hotel have been closed indicates they were not making a profit. The smaller sized pub and no hotel will be offered to a tenant to build a thriving business. At the end of the short tenancy (5 years suggested), if a loss is still being experienced a further use may be sought – possible further residential? It is considered that this may be the case as the proposal does not demonstrate enthusiasm to make the pub a successful business.
- The manner in which the latest application has been structured could be interpreted as a plan to ensure that the shop/ pub fails as a prelude to converting the remaining part of the establishment to residential use.
- Success of enterprise questioned – parking at the front will be reduced and that provided to the rear of the proposed dwellings is not convenient and it is unrealistic to consider that this will be regularly used. Parking is more likely to occur in the spaces or on the roads around the site. Low level parking for pub suggests lack of enthusiasm by applicant.
- A public house will need more customers than just villagers to be successful. Lack of parking makes this difficult
- Planning statement makes little reference to the public house, but rather to the dwellings and their benefit to the village community. It is maintained that traffic movements would be lower and that this indicates the proposal represents sustainable development.
- Permitting the change of use of the main building to five residential buildings would reduce the options for future business operators to ensure the pub becomes viable. Any change of use should be considered in line with a scheme that assures the long term viability of a pub/ restaurant business.
- Overnight stay units are already being used for residential purposes contrary to planning conditions.
- Very small area shown to be left for the pub/ shop – would question how either business could be viable.
- Road forms pedestrian access to the play area. Additional traffic would be a danger
- Impact on the residential amenities of the dwellings on The Green by way of overshadowing, overbearing and loss of privacy
- Noise issues to existing neighbours.
- Proximity of the existing trees to the proposed dwellings may result in future pressure for their removal.
- Proposal is not sustainable development

Oxford Green Belt network make the following points:

- Present application offers little except residential development with a gesture in the way of a small pub facility.
- CDC considered previously that the benefit of the hotel; post office and shop to the village were 'exceptional circumstances' that outweighed the presumption against inappropriate development in the Green Belt. These exceptional circumstances cannot be said to apply in connection with the present application since the service component is so small and residual.
- Since house building is proposed on land that is currently undeveloped, the impact on the openness of the Green Belt will unquestionably be greater than it presently is.
- It is disingenuous to argue that the development would not increase the size of the built envelope since the argument is based on an extension to the hotel, which, though permitted, was never built and has not lapsed.

- Support arguments made in terms of the impact on neighbouring properties, the appearance of this part of the village and the Green.
- Application should be refused as inappropriate development and be harmful to the openness, appearance and amenities of the Green Belt.

3. Consultations

3.1 Horton cum Studley Parish Council objects to the proposal and have appointed a Planning Consultancy to object on their behalf, the following points are made:

- It is considered that permission for an alternative development does not remain extant. The 2010 application (10/01021/F) which has a resolution to grant permission cannot be determined, firstly because it seeks consent to vary a condition on a permission which has expired (07/02478/F) and secondly, the effect of the grant would be to extend the time for commencement of a development which is expressly forbidden by S.73 of the 1990 Town and Country Planning Act. View is that there is no extant permission for development at the site. Arguments relating to the improvement of the proposal compared to the extant permission cannot hold weight as there is no extant permission.
- Not all of the site can be classified as previously developed land in accordance with the definition provided at annex 2 of the NPPF.
- The partial or complete re-development of previously developed sites in the Green Belt is one of the permissible exceptions to inappropriate development in the Green Belt offered by the NPPF, however it is only excluded from the definition of inappropriate development where what is proposed would have no greater impact upon the openness of the Green Belt and the purpose of including land within it than the existing development.
- The application argues that the proposal will improve the openness of the Green Belt principally by reference to an expired planning permission. This is not the case as the proposal would significantly increase the footprint of development including extending development into open land with no building development and as a result reduce openness.
- Parish Council wishes to see the continuation of a local public house and shop, it is concerned that this will not be achieved by the phasing suggested in the D&A statement, that too much new development is proposed, that this is not justified as the minimum necessary and that overall there would be significant harm.
- Whilst in the past Officer's have considered that the benefits of providing the shop/ post office outweighed the normal presumption against Green Belt development, the public benefit arising from the current application is less tangible. Hotel bed spaces would be lost (contrary to the adopted Local Plan, which seeks to improve the provision of tourist accommodation in the District) and no evidence has been provided to indicate this is the minimum required to ensure the survival of a public house in the village. Unclear how the proposal ensures the continued viability of the public house or that the continued survival of a public house in the village could not be secured by the conversion of existing buildings alone. No analysis of how such a small floor space would be able to sustain a pub and shop. Appears that the applicant seeks to 'recover some of the significant losses' incurred, which cannot be a

- proper feature of enabling development and cannot justify the harm, by reason of inappropriateness in the Green Belt or other harm.
- The proposal does not constitute infilling.
 - Development proposes the erection of new houses on land currently devoid of built development, which is open and where part has a natural appearance. Land could not be defined as previously developed.
 - Proposal would have an adverse impact upon the openness of the Green Belt and it would detract from the setting and appearance of the village and the award winning development at The Green.
 - Dense form of development would result.
 - Proposal would have an adverse impact upon the landscape character of the settlement.
 - The proposal does not accord with the Council's SPG (Countryside Design Summary) which seeks that new development should emphasise the existing street form by limiting back land development whilst maintaining open land which is identified as being intrinsic to the village's character. The proposed dwellings would have ridges which are not surmounted by chimney stacks and are not aligned with The Green and would stand out as incongruous modern additions to the settlements built form.
 - Due to the land levels and the height of the buildings together with the proximity of the units to the road, it is considered that the development would adversely affect the amenities of the houses on the western side of The Green resulting in an overbearing and dominant form of development. Close proximity of the dwellings to existing would also have an impact. As what is proposed is not considered to be enabling development, it should be considered under the policies of the adopted Local Plan and the proposal is considered to be contrary to policy.
 - Concern also raised over the layout of the development which has resulted in a cramped development with poor standards of amenity likely to be enjoyed by occupiers of the houses due to inadequate gardens and access.
 - No mention of need for affordable housing in line with the Council's requirements.
 - Proposed development is poorly planned and laid out. Includes an access road of suburban character to serve 22 parking spaces and appears designed to serve further development.
 - Rear area would be environmentally poor and unattractive, could result in disturbance to the occupiers of the dwellings and it is unrealistic to expect that visitors to the public house will use the proposed spaces at the rear of the site.
 - Comments made in relation to the specific provision and location made for certain dwellings compared to that required by the Councils policies.
 - Necessary to weigh the harm to openness and any other harm with any very special circumstances given. These appear to be to keep open and operate a pub (and possibly a shop) for a limited period whilst recovering losses made by the applicant and achieving sufficient funds to refurbish the pub. To do so, the applicant claims that 4 new detached houses open land and 5 other units

created out of the hotel accommodation is required. The financial information has not been seen, but this appears excessive and not justified by what appears to be offered as public benefits and not the minimum sufficient to achieve any such benefit.

Cherwell District Council consultees

- 3.2 Planning Policy: Although this application comprises of proposals of previously approved schemes for the site, it is questioned whether 'exceptional circumstances' still exist for this application, given the reduced nature of the village/local facility element. Careful consideration will need to be given to whether the benefits outweigh inappropriate development within the green belt.
- 3.3 Arboricultural Officer: generally no arboricultural objections but would like to see House No 1 relocated further away from existing trees located outside of the site boundary.

Oxfordshire County Council consultees

- 3.3 Highways raises the following concerns and requires further details:

- It is essential that the applicant confirm with OCC Land & Highway Records Team the extent of the highway maintainable at public expense along the front (north) of the site, to ensure that this proposal (including the proposed front gardens and parking areas) will not encroach upon highway land.
- Houses 7, 8 and 9 will have separate individual accesses to and parking from the main road. Front garden walls will be no higher than 600mm to ensure visibility splays can be achieved. For the avoidance of doubt, details of the proposed visibility splays onto the main road, and for the junction of The Green with the main road, must be submitted
- Access arrangements for proposed houses 1 and 2 are not clearly marked on plans, however vehicular access is likely to be a shared access from The Green.
- Parking
House 1 – garage appears impractical to manoeuvre cars into and out of. This cannot be counted as a parking space. Two spaces are available on the driveway, which is acceptable.

House 4 – garage does not meet minimum internal dimensions of 3m x 6m for a single parking space (6m² for a double garage). Furthermore, the garage is located close to the junction of the rear access road and The Green, and the garage structure will likely obstruct internal visibility splays along the access road. Please revise.

All hard-standing parking spaces must be a minimum of 2.5m x 5m, and additional width/length is required where parking spaces abut boundary fences/ walls etc. All parking spaces shown on plans appear to be below standard minimum dimensions and must be revised.

Visitor parking is indicated on plans, however is perhaps unlikely to be used by short-stay visitors to houses as it will be more convenient for visitors to park on The Green or closer to the houses.

14 parking spaces will be available for pub users, including one disabled

space. It may be difficult in practice to separate pub/ visitor/ resident parking spaces. At busy times, the site may see higher levels of parking along the shared access road and The Green.

- Details required of proposed servicing/ delivery arrangements for the proposed public house.

3.4 Archaeologist advises that there are no Archaeological constraints relating to this development.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

GB1:	Green Belts
H21:	Conversion of buildings within settlements
C7:	Landscape Conservation
C8:	Sporadic development in open countryside
C13:	Areas of high Landscape Value
C14:	Trees and landscaping
C28:	Layout, design and external appearance of new development
C30:	Design control and context compatibility
S28:	Small shops serving local need

South East Plan 2009

H4:	Type and size of new housing
H5:	Housing design and density
CC6:	Sustainable character
C4:	Landscape and countryside management
BE1:	Management for an urban renaissance
BE5:	Village Management
NRM5:	Conservation and environment biodiversity
T4:	Parking
CO2:	Economy
CO4:	Green Belts
SP5:	Green Belts

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Draft (May 2012)

The draft Local Plan is out for public consultation and 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:

BSC2: The effective and efficient use of land

ESD1: Mitigating and adapting to climate change
ESD10: Protection and enhancement of biodiversity and the natural environment
ESD13: Local landscape protection and enhancement
ESD14: Oxford Green Belt
ESD16: Character of the Built Environment

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 and are not replicated by saved Development Plan policy:

GB1: Development in the Green Belt
GB1a: Residential development in the Green Belt
GB4: Reuse of buildings in the Green Belt
S25: Small shops to serve local need
S26: Loss of existing village service
TR5: Road Safety
TR11: Parking
TR9: Cycle Parking
D1: Urban design objectives
D3: Local distinctiveness
D5: Design of the public realm

5. Appraisal

5.1 The key issues for consideration in this application are:

- history
- policy context and principle of development
- design
- access arrangements and highway safety
- ecology

History

5.2 The substantial site history is detailed in Annex 1 attached, which essentially finds that there is no extant permission on this site, as not all reserved matters were submitted in time (December 2009) and that crucially the necessary legal agreement was never completed and therefore the 06/01927/OUT consent expired and all subsequent applications, which were pursuant to or linked in some way to it, should not have been accepted by this authority. 07/02478/F gave consent for a stand-alone 4 houses scheme not secured by a Legal Agreement, but referred to the 06/01927/OUT in condition no. 7, but as that consent expired in December 2009, the 07/02478/F consent was worthless as of December 2009. The only outstanding applications are this current application and 11/01720/F for the COU of the bar/restaurant to form shop (which is to be determined under delegated power and recommended for approval).

Policy context and principle of development

5.3 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of

sustainable development and in the context of this application would include building a strong and competitive community, requiring good design, delivering a wide choice of high quality homes, protecting Green Belt land and conserving and enhancing the natural environment.

- 5.4 The Oxford Green Belt washes over the village, as does the Area of High Landscape Value. The application site comprises the existing hotel buildings and part of the hotel car park and an adjoining field. Existing local plan policies GB1 (Adopted Cherwell Local Plan) and GB1 & GB1a (Non-Stat Cherwell Local Plan) aim to protect the open character of greenbelts; GB1a restricts residential development within them to either conversions or infilling within the built up limits; otherwise permission will only be permitted in very exceptional circumstances.
- 5.5 The proposal comprises a conversion element and new build element. The conversion part includes the reduction of local facility floorspace to create residential development. Policy S29 (Adopted Cherwell Local Plan) and S26 (Non-Stat Cherwell Local Plan) do not normally permit proposals that would result in the loss of a village service/facility, however it is recognised that it may not always be possible to resist a loss if services are proven to be no longer financially viable. Whilst the hotel (accommodation element) is not necessarily an essential village facility, the licenced bar element could be, and since it's closure 2 years ago the village has been without a licenced bar/pub facility and together with the loss of the village shop, the village has been without both essential facilities. The proposed use of part of the hotel as a pub/restaurant and shop, will therefore provide the village with these essential facilities once again.
- 5.6 As well as the conversion, the proposal is also for the construction of four houses, a form of development that represents inappropriate development in the Green Belt, the principle of which is considered to be contrary to Adopted Green Belt policy GB1, as it is restricted to infill development defined as the development of a small gap in an otherwise built-up frontage suitable for the erection of one or two dwellings. Whilst in 2006 the Council concluded that the proposal for a hotel extension and enabling dwellings outweighed Green Belt policy, it is now necessary to re-assess the situation in this light of the changed proposal.
- 5.7 According to the NPPF at Paragraph 87, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. NPPF Paragraph 88 states that in considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt and 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. A case for which has been forwarded by the applicant and will be discussed further, later in this report.
- 5.8 Paragraph 80 identifies that the Green Belt serves five purposes, the third purpose of including land in the Green Belt is to assist in the safeguarding of the countryside from encroachment.
- 5.9 NPPF paragraph 89 also considers the construction of new buildings as inappropriate in the Green Belt, but then sets out the exceptions. Therefore in order to consider this application further having regard to the NPPF, the main policy issues are:
- the effect of the proposed development on the Green Belt and the purposes of including land within it;
 - the effect of the development on the character and appearance of the area;
 - the presumption in favour of sustainable development contained in the

NPPF;

- whether the case for partial or complete redevelopment of a previously developed site in the Green Belt is accepted;
- whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

- 5.10 Paragraph 79 of the NPPF sets out the Government's approach to Green Belts and their importance and aim to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts being their openness and their permanence.
- 5.11 The area of land on which the 4 no. dwellings are to be sited, forms part of the hotel car park and overgrown field, the two sections are separated by a 1.8m high fence and the field appears to have been unmaintained for number of years, upon which is sited a large (unauthorised) container unit. Essentially apart from the unauthorised building and fence, the land is open but surrounded by mature trees along the east, west and southern boundaries. The Green residential development is to the west of the site.
- 5.12 Apart from the tarmac car park, the site where the 4 no. dwellings are to be constructed and the majority of the associated carparking area for the houses and pub/shop is to be located, is an undeveloped field, these elements of the proposal would undoubtedly cause significant harm to the openness of the Green Belt. The proposed dwellings, garages, gardens and fencing and general domestic paraphernalia, along with car parking for 22 vehicles with associated road, would introduce urban features onto a currently open site and due to the extent of those features would cause a degree of encroachment into the countryside, which would conflict with the purposes of the Green Belt designation. The significant harm to the openness of the Green Belt and the harm caused by the conflict with one of the purposes of including land in the Green Belt add to the substantial harm by reason of inappropriateness. The proposal therefore is contrary to South East Plan Policies SP5 and CO4 and Adopted Cherwell Local Plan Policy GB1 and guidance contained within the NPPF.
- 5.13 In respect to the character and appearance, whilst on the edge of the village, with The Green residential development to the west, the field element of the site is considered to be within the open countryside. The construction of housing, car parking and access road would introduce a suburban appearance which would be out of character with its countryside location and Area of High Landscape Value. Whilst there are substantial mature trees surrounding parts of the site, essentially the site would still be visible from part of the westerly boundary, and therefore the development would harm the character and appearance of the surrounding area and would conflict with Policy C4 of the South East Plan and Adopted Cherwell Local Plan Policies C7 and C8 which seeks to protect the character of the countryside and prevent sporadic development.
- 5.14 With respects to 'presumption in favour of sustainable development', the Council does not identify Horton Cum Studley as one of the more sustainable villages in the district. Paragraph 14 in the NPPF states that permission shouldn't be granted if specific policies indicate development should be restricted (footnote 9 lists examples of where development may be restricted, including within the Green Belt).
- 5.15 The applicant has put a case forward for the redevelopment of previously developed land; Annex 2 of the NPPF provides the definition as follows:

“Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time”.

- 5.16 The partial, or complete, redevelopment of previously developed site in the Green Belt is one of the exceptions to inappropriate development in the Green Belt provided for by the NPPF, however it is only excluded from the definition of inappropriate development where what is proposed would have no greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. The applicant’s case alleges that the previously developed status of the site is endorsed by the extant permission (06/01927/OUT). However as seen in the detailed history of the site, there is no extant permission on this site that includes residential development. The Council is aware that foundations have been laid for one of the residential units, however given that there was no permission to implement, the works undertaken in the field are indeed unauthorised. It is considered the previously developed status of the site is disputed and that the proposed development upon this site including extending development into open land would cause significant harm to the openness of the Green Belt, as housing is significantly different to a car park and field.

Other considerations

- 5.17 Taking into account the long and complex history, permission was granted previously for the extension of the hotel, with post office, shop and the construction of 4 houses. At the time, the application was considered favourably as enabling development, as the construction of the 4 houses would facilitate the extension of the hotel and promote the viability of the village facility. Therefore the scheme was approved under ‘exceptional circumstances’ whereby the benefits outweighed the presumption against inappropriate development within the Green Belt.
- 5.18 On the face of it the layout does not appear very dissimilar to the ones previously approved - however the proposed uses have changed i.e. the retention and extension of the hotel use is no longer being pursued here. The applicant states that the new dwellings are the same as the ones previously approved and the proposed conversions will be within the existing building envelope; and as such the impact will not change to what is already permitted and in fact will be less because the extension of the hotel is no longer part of the proposals.
- 5.19 Although the application shares similar elements to previous permitted schemes, there are significant changes to the proposed uses and therefore it raises the question whether it still demonstrates an ‘exceptional circumstance’. It is considered that the ‘enabling’ case previously put forward by the applicant has been significantly diminished and that the construction of 4 no. new houses on this latest scheme goes beyond the rationale previously accepted by Planning Committee. Essentially, the applicant could sell off the hotel conversion into 3 separate elements without the need to construct the 4 no. houses to enable the much smaller pub/shop element to be provided. For example, the ‘cottages’ could be converted as either 2 no. units or 4 no. 1 bedroom units, (which they are currently being used as); the 3 no. units within the hotel buildings also converted and then finally the pub/shop element with flat over. These 3 separate elements would comply with Green Belt policy as the buildings are already there and would not need to be modified to an unacceptable extent.

- 5.20 The applicant has also provided financial information relating to the hotel business and given the economic down turn and current market claims, states that there is no viable case for a hotel in this location on the scale previously approved. Furthermore he states that to ensure the retention of a village pub and shop and for it to be attractive to future tenants, it would be necessary to raise the finance to ensure its continued viability, which is where the 4 no. houses come into the equation. However, the financial information provided does not provide sufficient evidence to demonstrate why 4 no. houses are necessary to fund this element of the scheme, which in essence could actually be funded by the residential conversion of the hotel buildings.
- 5.21 Therefore it is concluded that there is no compelling case for enabling development on this site any longer, and seen as a whole it is considered that the totality of the harm to the Green Belt is not clearly outweighed by other considerations. Consequently the very special circumstances necessary to justify the development do not exist and the proposed development would be contrary to adopted Cherwell Local Plan policy GB1, South East Plan policies CO4 and SP5 and the NPPF.

Design

- 5.22 The general thrust of national policy contained within the NPPF, seeks to secure *inter alia* high quality design and good standards of amenity for all existing and future occupiers of land and buildings. This is continued in regional policy, with one of the sustainable development priorities being to ensure the physical and natural environment of the South East is conserved and enhanced. Policy CC6 of the South East Plan 2009 requires decisions associated with the development and use of land to respect, and where appropriate enhance, the character and distinctiveness of settlements throughout the region.
- 5.23 Policy BE1 of the South East Plan 2009 sets out the Plan's approach to promoting and supporting imaginative and efficient design solutions in new development, and aims to increase public acceptance of new housing by making sure that it is of a high quality design that respects local context and confers a sense of place.
- 5.24 Policies C28 and C30 of the adopted Cherwell Local Plan relate to all new development and seeks to ensure that it is sympathetic to its context, and the nature, size and prominence of the development proposed, and are compatible with the appearance, character, layout and scale of existing dwellings in the locality and street scene in general.
- 5.25 Policy D1 of the Non-Statutory Cherwell Local Plan 2011 sets out the Council's urban design objectives which seek to ensure that development is compatible with the site's context in terms of its scale, density, massing, height and layout. Whilst Policy D3 seeks to ensure that development reflects or interprets the local distinctive character of the site and its context, by respecting traditional patterns of arrangement, plots and their buildings and spaces and retention and enhancement of existing open spaces and undeveloped gaps of local importance that contribute positively in visual terms to the public realm. The scale, proportion, massing and height of proposed development should be considered in relations to that of adjoining buildings.
- 5.26 In respect to the 3 no. dwelling conversion element of the scheme, only fenestration details are changing to the external appearance of the existing hotel building, internal arrangements to provide living accommodation generally accord with the space standards set out in the Councils Planning and Design Guidance on Sub Division of Buildings for Residential Use (Feb 2011). However, their garden spaces are very small (especially unit no. 8), which will never be quiet amenity space given the access road proximity. It is unclear how the existing arrangement of the 4 no. cottages at the

rear of the site is to be altered as this information was not provided but has been requested. These 4 no. cottages are currently 4 no. x 1 bedroom units, which are being occupied not in compliance with previous consent and restricting conditions. A separate enforcement case is being pursued for this unauthorised use.

- 5.27 Turning to the 4 no. detached houses, they comprise 3 no. x 5 bedroom units and 1 no. x 4 bedroom unit to be constructed from artificial stone walls with face brick quoins under a tiled roof. The heights of the dwellings are 9m (unit 4) and 10m (units 1, 2 and 3) and the accommodation is laid out over 3 floors, this is very tall when compared with the 4 no. cottages at 7m and the existing hotel building at 8.4m. Whilst the internal space standards meet the Council's guidance, it is considered that they are very top heavy with hardly any ground floor accommodation for a dwelling of this size for example there is only one reception room and a small study area and kitchen.
- 5.28 Notwithstanding the deficiency of the internal living space of the proposed houses, it is considered that the layout of the housing on the site, which is actually in open land, is also lacking in terms of amenity standards. Firstly they are arranged in such a way that provides very small gardens commensurate with the size of the family homes being created and they are also very close together with unit no. 4 having ground and first floor windows directly overlooking unit no. 3. Furthermore, with the access road running through the site close to the garden areas, this will never be quiet garden space and therefore standards of amenity provided are very poor.
- 5.29 One additional point which has been picked up by the Council's Arboricultural Officer relates to the proximity of the dwellings, specifically unit no. 1, with the trees on the outside boundary. This property would be better sited further away from the closest tree to ensure that some existing trees are maintained. However the tree is not worthy of protection and therefore whilst regrettable, it is considered that the development could not be reasonably refused on the impact on trees.
- 5.30 In conclusion, it is considered that the proposal in terms of design and standards of amenity runs contrary to and does not comply with the relevant development plan policies and NPPF.

Access arrangements and highway safety

- 5.31 Oxfordshire County Council as local highway authority raises a number of issues in respect to the proposed layout and use of the land. Whilst it is probable that some of the matters can be addressed, essentially there is concern that there is just too much development on site that either needs access to or parking and manoeuvring for and therefore possibly requires some redesigning which may have a further impact on other matters.
- 5.32 In respect to the pub and visitor carparking in the rear field area and notwithstanding the fact that it is considered inappropriate development in the Green Belt, essentially its location is divorced from the development it is to serve and to get to it via a long access road through the proposed development site, actually affects standards of amenity for the future occupiers of the site.
- 5.33 It is therefore considered that the access arrangement, parking provision and general layout of the site together with unknown key elements of the scheme such as the authorised use of the front of the site for parking/garden and how the pub/shop will actually be serviced, should all car parking spaces be full at times of deliveries etc, make this site unworkable as a residential scheme in the form proposed. The proposal therefore runs contrary to the NPPF and relevant development plan policies.

Ecology

- 5.34 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)
- 5.35 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.
- 5.36 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”.
- 5.37 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;
- 5.38 Local planning authorities must also have regard 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”.
- 5.39 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.
- 5.40 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met.
- 5.41 In respect to the application site, no Ecology survey has been undertaken to establish whether or not protected species will be affected by the proposed development of the site. Unfortunately the need for a survey was not picked up at validation stage as no

site constraints were identified, however upon inspection of the previous applications, it was found that in 2009 under 09/00937/OUT a protect species survey was requested but never submitted. The Ecologist at that time found that the presence or otherwise of Great Crested Newts and other reptiles should be established prior to the determination of the application. As no survey was submitted the application was also refused on the grounds that no protected species survey was submitted. It is considered that the issue has still not been properly addressed as part of this current application, and whilst only picked up late in the application process, it should not be ignored as the presence of protected species may require mitigation measures which could not be dealt with after determination.

- 5.42 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly taken into account and that prior to the granting of any consent on this site it should be established whether or not there are protected species on the site and that necessary mitigation measures have been factored into the proposed scheme. Without this information the proposal runs contrary to the NPPF and relevant development plan policies.

Other matters

- 5.43 It is acknowledged that the Parish Council and some local residents maintain that the proposed development will cause unacceptable loss of amenity to those neighbours facing onto part of the site that proposes the 4 no. houses, however given the presence of neighbours landscaping and the distance between these properties and those proposed would comply with the Council's informal guidance on separation distances and therefore, whilst their comments are noted in respect to overbearing etc, it is considered that this reasoning could not be sustained.

Conclusion

- 5.44 Taking the history of the site into account and the above assessment, it is considered that there are a number of factors which render this proposal unacceptable. Firstly in respect to the Green Belt issue, it is acknowledged that previous applications were considered acceptable in this location as enabling development, but as these were never implemented and could not be implementable because a legal agreement was never completed in time. The enabling case now put forward for a much smaller pub/shop facility and residential development comprising 9 no. dwellings, is not considered to be sufficiently compelling to set aside Green Belt Policy. Therefore the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.
- 5.45 In respect to other matters such as design, highway and ecology, it is considered that the overall design and layout of the site is unacceptable as it provides poor design that is not respectful of its context and the layout constitutes over-development of the site resulting in insufficient rear private garden space commensurate with dwellings of the size proposed and parking and access issues which potentially conflict with the day to day use of the site as a whole. The ecology matter could be overcome but without the submission of a survey it cannot be established whether the proposed development will have an impact on protected species or not.

6. Recommendation

Refuse for the reason(s) set out below:

1. The proposal constitutes inappropriate development within the Green Belt in that the use of the land for residential purposes with associated access road and car parking for residential and public house use, will not maintain the open and rural character of the Green Belt and will conflict with the purposes of including land within it. The very special circumstances advanced do not outweigh the harm caused to the Green Belt and the proposals are therefore contrary to the National Planning Policy Framework, Policy GB1 of the adopted Cherwell Local Plan and Policies GB1 and GB1a of the Non-Statutory Cherwell Local Plan 2011 and Policies CO4 and SP5 of the South East Plan 2009.
2. The proposed new build element of the development by virtue of its siting, design, layout, building height and scales are considered to be out of keeping with the local vernacular and would form a conspicuous and incongruous form of development to the detriment of the character and appearance of the locality and furthermore the development as a whole, fails to demonstrate an acceptable layout that provides sufficient amenity and parking space and delivery arrangements. Also in the absence of detailed floor plans for the 2 no. cottage development to the rear of the site, the Council is not able to assess the acceptability of this element to ensure standards of accommodation that will not compromise the health and well-being of future occupiers. The development is therefore contrary to the National Planning Policy Framework and Policies C4, CC6, H4, H5, T4 and BE5 of the South East Plan 2009 and Policies C7, C8, C28 and C30 of the adopted Cherwell Local Plan and Policies D1, D3 and D5 of the Non-Statutory Cherwell Local Plan 2011.
3. In the absence of an ecological survey, it has not been demonstrated that the proposed development would not cause potentially irreversible and significant harm and disturbance to vulnerable and sensitive flora (including trees) and fauna including protected species. The development is therefore considered contrary to the provisions of policies C2 of adopted Cherwell Local Plan, NRM5 of the South East Plan 2009 and the National Planning Policy Framework.

Otmoor Lodge, Horton cum Studley history and status

ANNEX 1

Application number	Date valid	Description	Red line position	Status	comments
04/02395/OUT	03.11.04	Extension to hotel to form 19 bedrooms and construction of four town houses with associated parking	Red line around dev site for houses and hotel extension but not part of hotel to front – other land outlined in blue	WITHDRAWN 17.11.06	Resolution to approve in May 2005 for (contrary to recommendation) subject to departure procedures and the applicants entering into a legal agreement to ensure the provision of the intended shop. The Secretary of State did not call in application. Legal agreement drafted but not completed (overtaken by next application).
06/00537/F	17.03.06	Extension to form 23 bedrooms with 4 detached houses/garages	Red line around dev site for houses and hotel extension but not part of hotel to front – other land outlined in blue	APPROVED 30.06.06 (Committee) Permission expired on 22.12.09	Subject to S106 Legal Agreement re provision of shop was completed. No conditions discharged
06/01927/OUT	27.09.06	Outline for 20 bedroom extension to hotel, shop/PO and 4 dwellings.	Red line around dev site for houses and hotel extension but not part of hotel to front – other land outlined in blue	APPROVED 22.12.06 (Committee) Permission expired on 22.12.09	This revised scheme had the extension and houses in a much tighter grouping near the rear of the existing hotel. Siting and means of access applied for under outline but access included in REM condition. Subject to conditions: 1.REM to be submitted – Scale, Appearance, Access and Landscaping 2.REM application submitted not later than 3 yrs (22.12.09) 3.Dev begun not later than 2 yrs of REM approval (22.12.11) 6. Completion of Legal Agreement Legal Agreement never completed. REM relating to scale, appearance and layout of hotel only No REM for landscaping or access rec'd or REM for 4 houses. 25.01.12 Email from Bob Duxbury confirming start on site was incorrect as the above had not been compiled with and there was no valid permission to enable start.

Application number	Date valid	Description	Red line position	Status	comments
07/02478/F	21.11.07	4 detached houses	Red line around houses only. Other land in blue line	APPROVED 20.05.08 (Delegated) Permission expired on 20.05.11	Originally submitted as REM to 06/01927/OUT but as siting was included in O/L the repositioned houses, as proposed could not be a Reserved Matter. The Application was therefore treated as a FULL. Conditioned: 3 yrs start; materials, landscaping and fence; 11/00111/DISC approved clearing conditions 2, 3 and 4 Condition 7 – hotel ext 06/01927/OUT to be built concurrently and houses not occupied until hotel ext complete and ready for use. The 06/01927/OUT legal agreement (if it had been signed) should have been varied upon issuing the Decision Notice, but never was and no mention on the Decision Notice about completion of that legal agreement being necessary to implement this 07/02478/F consent.
09/00549/F	23.04.09	Proposal for 5 dwellings	Redline around houses and front	WITHDRAWN 12.06.09	
09/00936/F	13.07.09	Single storey shop extension to front of existing building.	Red line around front of site only. Other land in blue line	APPROVED 23.10.09 (Committee) (expires 23.10.12)	3 yrs start (expires 23.10.12)
09/00937/OUT	13.07.09	Extension to form 23 bedrooms	Red line around hotel and car parking area only. Other land in blue line	REFUSED 23.10.09 (Committee) No Appeal lodged	Amended design of hotel extension 3 extra rooms
09/01178/F	27.08.09	Variation of condition 7 of 07/02478/F re phasing of construction of shop, hotel facilities and housing.	Red line around houses only. Other land in blue line	REFUSED 23.10.09 (Committee) No Appeal lodged	"The amended phasing of the provision of the hotel accommodation introduces uncertainty into the construction of the majority of the proposed hotel extension undermining the reasons for the original grant of planning permission for the houses (contrary to normal Green belt policy), which decision was taken to ensure the future long-term viability of the hotel/pub/restaurant business. The houses would therefore represent inappropriate development that is contrary to Policy CO4 of the South East Plan and Policy GB1 of the adopted Cherwell Local Plan; the previously expressed very special circumstances are diminished to the extent that they are considered to no longer outweigh the normal strong presumption against such inappropriate development".

Application number	Date valid	Description	Red line position	Status	comments
09/01697/REM	24.11.09	Reserved matters approval given to design of extension to form 20 bedrooms and ancillary facilities, shop and post office and 4 dwellings.	Red line around hotel extension only. Other land in blue	APPROVED 15.02.10 EXPIRED	REM submitted for appearance, layout and scale approved for hotel extension only . Conditioned: 1. materials for hotel extension. 2. levels for hotel extension THESE CONDITIONS WERE NEVER DISCHARGED No further REM for houses including, scale, appearance, access and landscaping was submitted, even though it is on the Decision Notice Description. <i>Planning note included reminder of landscape and legal agreement to be submitted.</i> As outline was never fully complied with (ie legal agreement not completed and REM matters not submitted in time) the consent lapsed on 22nd December 2009)
10/01021/F	05.07.10	Variation of condition 7 of 07/02478/F to permit project to be completed in two phases	Red line only around 4 houses site, other land in blue	APPROVED (Committee) Not valid and no longer Proceeded with. Application returned 26.10.12 Fee to be returned	subject to S106 Members at the 07.10.10 cttee resolved to approve subject to the completion of a S106 Red line does not correspond with O/L application redline – would only have granted consent for 4 houses. The application related to the 06/01927/OUT that lapsed on 22nd December 2009 and therefore should not have been accepted
10/01318/F	26.08.10	3 detached houses and garages	Red line only around 4 houses site, other land in blue	Not valid and no longer Proceeded with. Application returned 26.10.12 Fee to be returned	Revised design and siting including garages DN not issued, no legal agreement completed The application related to the 06/01927/OUT that lapsed on 22nd December 2009 and therefore should not have been accepted

Application number	Date valid	Description	Red line position	Status	comments
11/00111/DISC	26.04.11	Conditions 2, 3 and 4 of 07/02478/F		APPROVED 04.08.11 Fee to be returned	<i>The application related to the 06/01927/OUT that lapsed on 22nd December 2009 and therefore should not have been accepted</i>
11/00402/F	10.03.11	Variation of condition 1 of 07/02478/F to bring time limit in line with 10/01318/F	Red line only around much smaller part of site, other land in blue. (question redline?)	Not valid and no longer proceeded with. Application returned 26.10.12 Fee to be returned	DN not issued, no legal agreement completed <i>The application related to the 06/01927/OUT that lapsed on 22nd December 2009 and therefore should not have been accepted</i>
11/01663/OUT	01.11.11	Extension of time limit of 06/01927/OUT	Red line same as 06/01927/OUT	Not valid and no longer proceeded with. Application returned 26.10.12 Fee to be returned	<i>The application related to the 06/01927/OUT that lapsed on 22nd December 2009 and therefore should not have been accepted</i> <i>An extension of time limit application should have been made before 22.12.09 to keep this permission live</i>
11/01664/F	02.11.11	Remove condition 5 of 06/01927/OUT	Redline around whole site	REFUSED (Committee) 27.01.12 No Appeal lodged	<i>The application related to the 06/01927/OUT that lapsed on 22nd December 2009 and therefore should not have been accepted</i>
11/01720/F	14.11.11	COU bar/restaurant to form shop	Around hotel section only	Undetermined (Delegated matter) To be Determined with recom of Approval.	

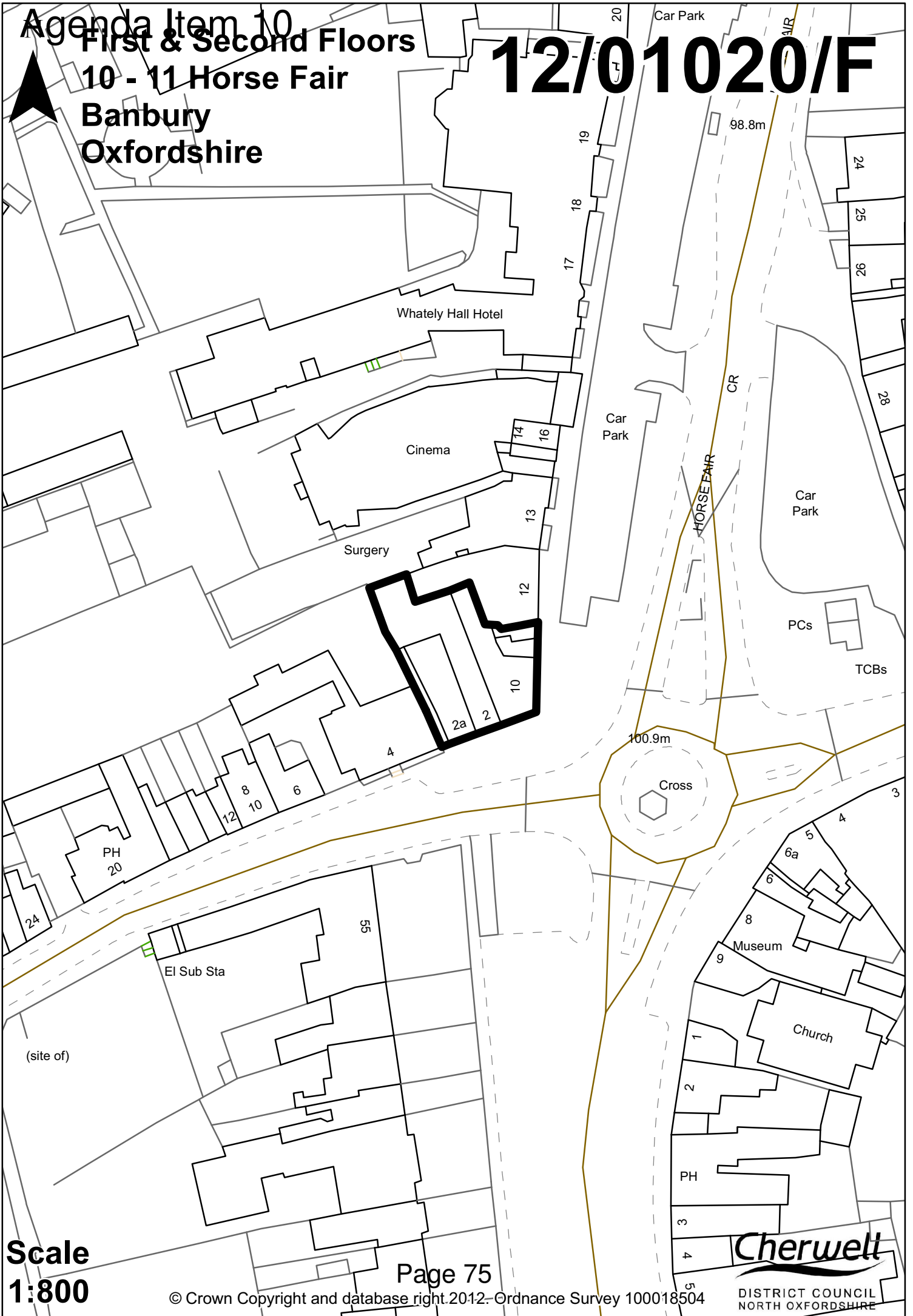
Application number	Date valid	Description	Red line position	Status	comments
12/01000/F	12.07.12	Refurb hotel bar and restaurant to form public house, with shop and form 5 no. dwellings and construction of 4 detached dwellings, garages and access	Redline around whole site	Undetermined (Committee matter) To be reported to 11 th October 2012 Committee with a recom of refusal unless withdrawn	

Conclusion: On the basis that, not all reserved matters were submitted in time (December 2009) the 06/01927/OUT consent expired and all subsequent applications made should not have been accepted. The 07/02478/F gave consent for a stand alone 4 houses scheme not secured by a Legal Agreement, but referred to the 06/01927/OUT in condition no. 7, but as that consent expired in December 2009, the 07/02478/F consent was worthless as of December 2009.

All applications received after 22nd December 2009 were invalid and should not have been accepted by this Authority

Agenda Item 10
First & Second Floors
10 - 11 Horse Fair
Banbury
Oxfordshire

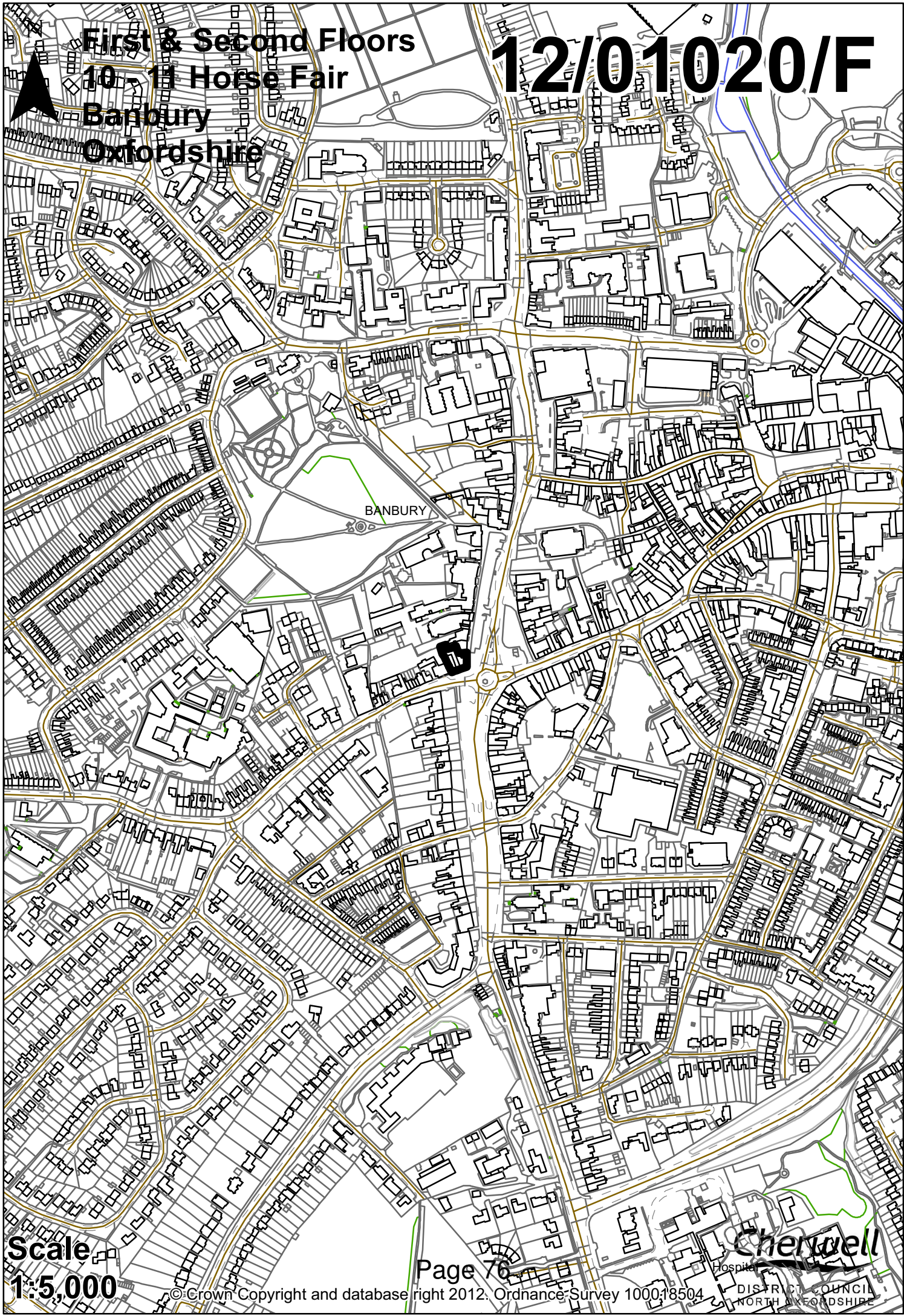
12/01020/F



Scale
1:800

First & Second Floors
10 - 11 Horse Fair
Banbury
Oxfordshire

12/01020/F



Scale
1:5,000

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Cherwell
Hospital
DISTRICT COUNCIL
NORTH OXFORDSHIRE

First & Second Floors,10 - 11 Horse 12/01020/F Fair,Banbury

Ward: Banbury Easington **District Councillors:** Cllrs Blackwell, Mallon and Morris

Case Officer: Shona King **Recommendation:** Approval subject to finalising the heads of terms and level of contributions of an appropriate legal agreement.

Applicant: Longmill Realty Ltd

Application Description: Conversion of existing offices into house of multiple occupation

Committee Referral: Major

1. Site Description and Proposed Development

- 1.1 The application site comprises the first and second floors of 10 -11 Horse Fair Banbury above two retail units and a pharmacy.
- 1.2 The proposal is to convert existing offices into 19 bedsits with communal kitchen facilities.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notice and press notice. The final date for comment is the 4th October 2012. No correspondence has been received as a result of this consultation process.

3. Consultations

- 3.1 **Banbury Town Council:** No objections providing sufficient provisions are made for bins storage

Cherwell District Council Consultees

- 3.2 **Head of Strategic Planning and the Economy (Planning Policy):** No comment to date
- 3.3 **Housing Officer:** The property would be a licensed House in Multiple Occupation (HMO) under Part II of the Housing Act 2004 and as such the council's HMO Standards would need to be met.

Prior to the property being licensable, and therefore able to be used as accommodation, the following issues will need to be resolved:

- En-suites - For a room to be considered adequate for 2 persons (a double bedsit) the en-suite will need to have adequate activity space 1m² within the en-suite itself. Currently the only shower rooms that accommodate this are First Floor room 8 and the second floor rooms 3 & 8, meaning that each other bedsit could only be licensed for a single person. (En-suite bedsits do not need to have an additional sink unit in the room).

- Bedsit size – Only useable space will be counted when measuring the size of each unit, entrance corridors where the space cannot be used may not be included. The minimum size for a two person unit without integral cooking facilities is 13m² (excluding en-suite).
- Kitchens – Each full set of cooking facilities is adequate for up to 5 people. This includes; a cooker containing oven and 4 ring hob, a sink with drainer and adequate work surface.
- Storage – Each unit of accommodation must be provided with the following, which may be provided in a shared kitchen or in the household's letting room:
 - A food storage cupboard in the form of either a 500mm wide fixed base cupboard or a 1000mm wide wall cupboard.
 - A refrigerator containing a freezer compartment. In addition to the above there should be adequate storage facilities within each bedsit for the storage of personal items.
- Fire safety provision - The property will need to have adequate fire safety provision installed; currently the plans are missing a staircase between the first and second floor, however these issues will be resolved by building control.
- Management - An HMO of this size is likely to require a large degree of management as larger HMOs with communal areas can easily become areas associated with noise nuisance and anti-social behaviour, so these issues will need to be controlled. The Management of Houses in Multiple Occupation (England) Regulations 2006 will apply, these state that the manager is responsible for ensuring that the communal areas are kept in a clean condition which in large property such as this may require a designated cleaner to be employed on a daily basis. To reduce the management burden you may want to consider creating 4 smaller 'flats in multiple occupation' where each flat has five bedsits and shares a communal kitchen

3.4 **Building Control Manager:** 1) Automatic openable vents should be provided at the head of the stairs;
 2) The entrance doors to each bed-sit should be self-closing fire doors;
 3) The existing floors may need to be upgraded to give 60 mins fire resistance; 4) the existing floors and new separating walls between each of the bed-sits will need to meet sound insulation requirements. Because the application is for a HIMO, you will also need to consult with Private Sector Housing as their fire safety requirements may be more stringent than those of Building Control.

3.5 **Head of Public Protection and Development Management (Anti-social Behaviour):** No objections

3.6 **Head of Environmental Services (Landscape Services, Arboriculture):** Banbury Town Council is seeking an off-site contribution of £24,963.27, our current off-site figure, plus 10% management contribution. This money will go towards improving the skate park facility at Spiceball Park, Banbury.

- 3.7 **Head of Recreation and Health (Recreation and Health Improvement Manager):** The indoor sports contribution is towards the cost of modernizing and increasing capacity at Spiceball Sports Centre. The improvements take account of the expected increase in population in Banbury up until 2016. The element of works that is to be funded from developers' contributions was paid up front by CDC and therefore contributions coming in up until 2016 will be to repay that amount.

We are unable to justify a contribution for the Community Halls contribution and therefore will not request this.

There is a shortage of sports pitches in Banbury, particularly junior football pitches, and we will require a contribution towards the cost of addressing this. Contribution is £2,185.61 per dwelling x 19 = £41,526.59.

Oxfordshire County Council Consultees

- 3.8 **OCC Highways:** The application proposes no change to access and parking. The proposal will convert the existing first and second floor of the building from offices to residential (19 bedsits). The site is centrally located with a good range of services and facilities in the vicinity.

The application is unlikely to have a significant highway impact.

- 3.9 **OCC Developer Funding Team:** Oxfordshire County Council wishes to secure a legal agreement for appropriate financial contributions to mitigate the impact this development will cause if implemented in line with your Draft Supplementary Planning Obligations Document (July 2011).

This will aim to overcome what would otherwise be a potential reason to refuse this application and is in line with policy H5 of your adopted local plan (1996), OA1 of your Non Statutory Local Plan (Dec 2004) and CC7, S3, S5 and S6 of the South East Plan.

19 individual units are proposed to be built providing accommodation for up to 36 persons. We expect this development if implemented will increase the population by 19 persons including up to 3 pensioners.

I have considered the following service areas for Banbury and for Oxfordshire:-

Education

We do not expect children of school age to be resident here and so will not seek sums to extend that infrastructure.

Adult Learning Centre Infrastructure

Banbury adult learning centre on the other hand needs to relocate and a brand new facility is sought. A 151 square metre 2 classroom facility is expected to cost £420,000@3Q09 + land. A facility of this type will expect to provide 13,500 learning sessions per annum. At least 5% of the adult population are likely to take up adult learning and would normally attend at least 10 sessions each. A sum of £16 per extra person is so compiled

This development will accordingly need to make a contribution of £304 index linked to Pubsec 3Q09 towards adult learning centre infrastructure serving this accommodation

Library Infrastructure

Oxfordshire County Council has an adopted standard for public library floor space of 23m² per 1,000 head of population. Backroom space [19.6% of public area] needs to support this public space.

Banbury library is significantly under-size in relation to its catchment population and a new, larger library is planned as part of a new Cultural Quarter in the Town Centre. This is expected to cost £2,264 per m² @3Q09 for fit out from shell.

The proposed development would generate the need to provide 0.54 square metres of infrastructure and to increase the core book stock held by the library by 2 volumes per additional resident at a current average cost of £10 per volume. A sum of £82 per extra person is so compiled.

This development will accordingly need to make a contribution of £1,558 index linked to Pubsec 3Q09 towards library infrastructure and stock serving this accommodation.

Day Resource Care Centre for the Elderly

Social & Community Services are looking to extend Day Care provision in Banbury because of extra demand on its infrastructure, including that caused by new development.

A new Day Resource Care centre offering 40 places per day (optimum) was estimated to £1,050,000 including assisted transport as support. Based on trip generation, this works out at £10,500 per place @3Q09. Pensioners needing Day Care facilities equate to some 10% of this population aged 65+. A sum of £1,050 per extra pensioner is so compiled.

This development will accordingly need to make a contribution of £2,992 index linked to Pubsec 3Q09 to resource centre infrastructure serving this accommodation

Strategic Household Waste Management Recycling Centre

The Council has statutory recycling and composting targets to meet, as well as targets to reduce the amount of waste going to landfill. New development must help rather than hinder the achievement of these targets. All developers/landowners are therefore expected to provide infrastructure and funding towards the reduction, re-use and recycling of wastes. The Waste Management Recycling Centre at Alkerton effectively needs replacement at an estimated £3m cost and will then aim to serve 20,000 dwellings. Contributions of £63 per additional resident are so needed.

This development will accordingly need to make a contribution of £1,197 index linked to Pubsec 3Q09 for strategic waste management infrastructure serving this accommodation.

County Museum Resource Centre Infrastructure

The Museum Resource Centre [MRC] at Standlake provides essential support for the County's Museum Service, holding exhibits in safe and controlled conditions. This enables varied exhibitions to be organised meeting the demands of the public. The MRC also offers IT access to various educational establishments.

The MRC is at capacity and needs to be extended to meet the educational, research and leisure demands arising from increased development in Oxfordshire. An extension has been costed to mitigate the impact of new development to 2026. £85,000 has been secured leaving £380,000 to be secured from 35,000 new homes. This is the equivalent of a contribution of £5 per extra person.

This development will accordingly need to make a contribution of £95 index linked to Pubsec 3Q09 towards museum resource infrastructure serving this accommodation.

- 3.10 **Archaeologist:** The building concerned lies within an area of some archaeological interest. However from the details supplied it would seem unlikely that the small-scale nature of the proposal would justify an archaeological response. However the possibility of finds occurring during the course of construction should be borne in mind, in which case the applicant is asked to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C28: Layout, design and external appearance of new development
C30: Design of new residential development

South East Plan 2009

CC1: Sustainable development
CC6: Sustainable Communities & Character of the Environment
BE1: Management for an urban renaissance
BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

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

- 4: Promoting sustainable transport
- 6: Delivering a wide choice of high quality homes
- 7: Requiring good design

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.

5. Appraisal

5.1 The key issues for consideration in this application are:

- Policy context
- Impact on the visual amenities of the area, character and appearance of the Conservation Area and setting of adjacent listed buildings
- Design, layout and amenity

Policy context

- 5.2 The main theme at the heart of the NPPF 2012 is a presumption in favour of sustainable development, approving development proposals which accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or where specific policies in the NPPF indicate development be restricted.
- 5.3 The NPPF indicates that the Adopted Cherwell Local Plan 1996 is considered to be out of date as it was adopted prior to 2004, however it also advises that due weight should also be given to relevant policies within existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The Adopted Cherwell Local Plan does not contain any specific policies relating to the redevelopment of this site but contains a number of saved policies which are relevant to the consideration of this proposal.
- 5.4 The South East Plan 2009 is the regional spatial strategy for the South East Region and remains part of the Development Plan. Whilst this plan does not contain site specific policies, it sets out the policy framework for the region identifying the scale and distribution of new housing, priorities for new infrastructure and economic development, ensuring all new development is sustainable, promoting sustainable health services, and strategies for the protection of biodiversity and the built and historic environment and for tackling climate change.
- 5.5 In May 2012 the Executive, approved with some amendments, the proposed submission draft of the Cherwell Local Plan. This document replaces the earlier Draft Core Strategy and the non-statutory Cherwell Local Plan and when adopted will set out broadly how the District will grow and change in the period up to 2031, setting out the spatial vision for the District and 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. The Plan went out to public consultation on 28 August 2012.

- 5.6 Whilst this Plan is of very limited weight, it does seek to indicate how the District is likely to develop and grow.

Impact on the visual amenities of the area, character and appearance of the Conservation Area and setting of adjacent listed buildings.

- 5.7 There are no proposed changes to the external appearance of the building. As such the impact on the visual amenities of the area will be minimal. The development is considered to preserve the character and appearance of the Conservation Area and will not adversely affect the setting of the adjacent listed buildings.

Design, layout and amenity

- 5.8 The design and layout of the bedsits has been informed by the scale of accommodation to be provided, the existing window openings and the space standards required by the applicant.
- 5.9 The layout of the flats has been considered by the Council's Private Sector Housing Officer and they consider that the scheme is satisfactory overall.
- 5.10 When considering the amenity of the occupiers of this building, regard must be paid to the compatibility of the proposed residential use with the surrounding uses. The adjacent buildings are currently in commercial use however a planning application is being considered to convert the first and second floors of Nos 12-13 Horse Fair into flats (12/01080/F refers). The uses are considered to be compatible and the relationship acceptable; the commercial uses are not considered likely to cause an unacceptable impact on the amenity of the occupiers of this site.
- 5.11 As a result, it is considered that the proposal provides for above average standards of amenity for accommodation such as this which is welcomed by this Council.

Planning Contribution

- 5.12 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.
- 5.13 At the time of writing this report negotiations are ongoing with the applicants to secure the necessary contributions to meet the needs arising from this development. The applicant's agent has stated that whilst the applicant accepts that the development will generate a need for additional infrastructure and services the development is unviable if contributions of the level sought are required. They consider that by not developing the bedsit scheme the District would lose a valuable and desperately needed addition to the affordable housing stock and would lose financial income through the contributions that could be put to further improve existing council amenities and services.
- 5.14 The viability of the scheme is currently being assessed and Members will be updated on this matter at the meeting.

5.15 To clarify, the units proposed are not affordable homes (social rented, affordable rented and intermediate housing) but they are low cost homes or accommodation at the lower end of the rental market.

5.16 Also the contributions towards infrastructure and services are only required because of the impact that the development will have on existing infrastructure and services. By refusing the application, or seeking contributions that make the scheme unviable so that the developers withdraw the application, will not mean that the District Council loses additional financial income.

5.17 Although the agreement has not yet been drafted the applicant has been advised of the following Heads of Terms relating to the obligation:

District Council requirements

- Open space/play space and outdoor sports facilities
- Indoor sports facilities
- refuse bins and recycling

County Council requirements

- adult learning centre infrastructure
- library
- Day resource centre for the elderly
- Strategic household waste management recycling centre
- Museum resource centre

Other requirements

- Health

Conclusion

5.18 Overall, the proposed development is considered acceptable. The site is within a sustainable location lying within the town centre and the accommodation proposed is considered to provide a higher than average level of amenity for the new occupants.

5.19 Therefore, the application is recommended for approval subject to the applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure the financial contributions outline above.

6. Recommendation

Approval, subject to:

a) The applicants entering into an appropriate legal agreement to the satisfaction of the District Council to secure financial contributions as outlined in paragraphs 5.12 – 5.17 above,

b) 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: application forms, site location plan and drawing Nos. 07-07-685/PL-101, 102, 103, 104, 105.

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

3. That full details of refuse bin storage for the units shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, thereafter the refuse bins shall be stored at all times in accordance with the approved details other than on the day of refuse collection.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan, Policy C28 of the adopted Cherwell Local Plan and Government Guidance on requiring good design contained within the National Planning Policy Framework.

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 and has no undue adverse impact upon the setting of the adjacent listed buildings nor upon the character and appearance of the Conservation Area. As such the proposal is in accordance with Policies CC1, CC6, BE1 and BE6 of the South East Plan 2009 and Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. 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.

Ardley Waste Management Facility

Ardley Fields Farm

Middleton Stoney Road

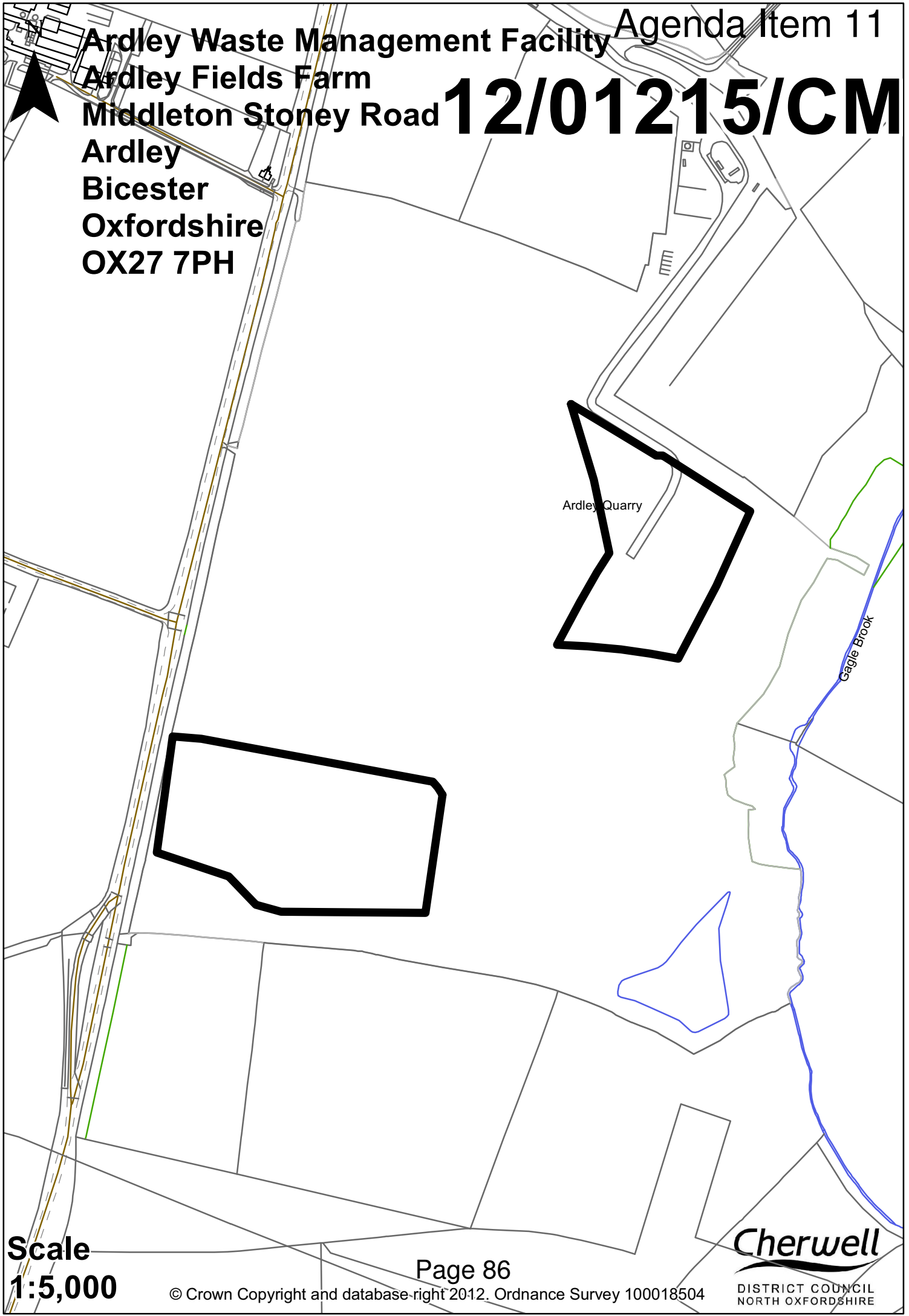
Ardley

Bicester

Oxfordshire

OX27 7PH

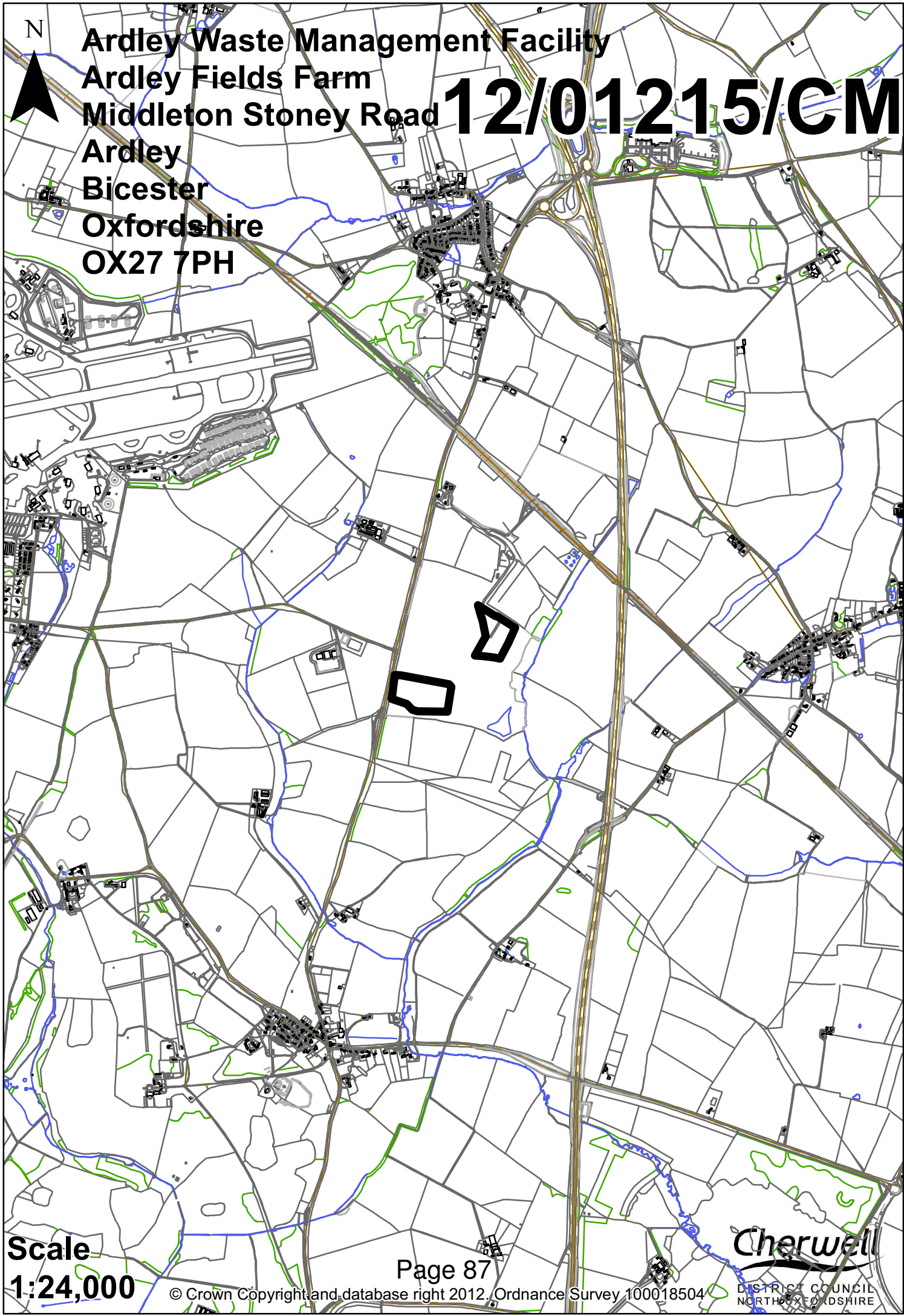
12/01215/CM



Ardley Quarry

Cagle Brook

Scale
1:5,000



Ardley Waste Management Facility
Ardley Fields Farm
Middleton Stoney Road
Ardley
Bicester
Oxfordshire
OX27 7PH

12/01215/CM

Scale
1:24,000

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Ardley Waste Management Facility, 12/01215/CM Ardley Fields Farm, Ardley

Ward: Caversfield

District Councillor: Cllr Jon O'Neill

Case Officer: Gemma Magnuson

Recommendation: No objection

Applicant: Viridor C/O SLR Consulting – Mr C Herbert

Application Description: Continuation of asbestos land-filling

Committee Referral: County Matter – waste development

1. Site Description and Proposed Development

- 1.1 The application seeks consent to continue the disposal of waste asbestos by landfilling at Ardley Waste Management Facility, Ardley Fields Farm, Ardley. This existing facility is situated south of the village of Ardley and is permitted by Environmental Permit to receive up to 10,000 tonnes of asbestos and asbestos containing waste per year. The application will be determined by the County Council as Waste Planning Authority. This Council is a consultee.
- 1.2 Planning permission for landfilling at the site was issued during 1996 (Ref: 95/00814/CM), this being revised during 1997 (97/00814/CM) and again during 2003 (03/00844/CM). The landfilling of asbestos at Ardley Landfill was permitted from the outset.
- 1.3 During 2008 planning permission was granted at Appeal for the following development: *Construction of an Energy from Waste (EFW) facility with associated offices, visitor centre, bottom ash recycling facilities, new road and weighbridge facilities; the continuation of non-hazardous landfill operations and landfill gas utilisation with consequent amendments to the phasing and final restoration landform of the landfill; surface water attenuation features and improvements to the existing household waste recycling facility.* (Ref:08/02472/CM). The 2008 permission in part effectively revised the previous 2003 permission for landfilling, in addition to the Energy from Waste Facility.
- 1.4 The 2008 permission does not however specifically cover the continuation of asbestos waste landfilling. Consequently, when the 2008 application is implemented the landfilling of asbestos at Ardley Landfill would no longer be authorised.
- 1.5 The current application seeks planning permission for the continuation of asbestos landfilling at Ardley in order to overcome the omission from the 2008 application.

2. Application Publicity

- 2.1 Cherwell District Council is a consultee only and the application has not been advertised.

3. Consultations

Cherwell District Council Consultees

3.1 **Anti-Social Behaviour Manager:** no objections or observations.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)
None relevant.

South East Plan 2009

W3: Regional self-sufficiency

W4: Sub-regional self-sufficiency

W5: Targets for diversion from landfill

W15: Hazardous and other specialist waste facilities

4.2 Other Material Policy and Guidance

Planning Policy Statement 10 – Planning for Sustainable Waste Management
(this was not replaced by the National Planning Policy Framework)

Oxfordshire Minerals and Waste Core Strategy – Proposed Submission
Document (May 2012)

5. Appraisal

The key issues for consideration in this application are:

- Principle of the development
- Amenity

Principle

- 5.1 Government guidance relating to waste disposal is contained within PPS 10: Planning for Sustainable Waste Management. With regard to the determination of planning applications the following advice is given;
- 5.2 *The planning system controls the development and use of land in the public interest and should focus on whether development is an acceptable use of the land, and the impacts of those uses on the development and use of land. Waste planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced.*
- 5.3 Waste Planning Authorities should consider the impact upon the local environment and amenity.
- 5.4 Policies W3 and W4 of the South East Plan 2009 requires waste planning authorities to be self-sufficient, providing management capacity equivalent to the amount of waste arising and requiring management within their boundaries.

Policy W5 requires waste planning authorities to continue to provide sufficient landfill capacity to process residues and waste that cannot practicably be recovered.

- 5.5 The Oxfordshire County Council Minerals and Waste Core Strategy – Proposed Submission Document (May 2012) estimates that less than 30% of hazardous waste produced in Oxfordshire is currently managed within the County. The document goes on to identify Ardley as having an asbestos disposal facility that currently provides for Oxfordshire, although capacity for an additional 50,000 tonnes of hazardous waste per annum could be required in order for Oxfordshire to become self-sufficient in accordance with Regional policies set out in the South East Plan 2009.
- 5.6 As the asbestos landfilling facility currently exists and is recognised by Oxfordshire County Council as an asbestos disposal facility serving Oxfordshire, and as capacity for the disposal of hazardous waste within Oxfordshire must increase rather than decrease in order for the county to become self sufficient, it is considered that the principle of the continuation of asbestos landfilling at Ardley is acceptable.

Amenity

- 5.7 The asbestos landfilling would continue as it does at present, being subject to a number of requirements in order to prevent harm to the wider environment (e.g. no mixing with other wastes, packaged appropriately, covered with the required depth of inert material and no drilling of holes). The landfill restoration contours and scheme are expected to remain as approved under Ref: 08/02472/CM. The landfill phasing, timescales, inputs (including traffic levels), hours of operation and employment are also expected to remain as approved under Ref: 08/02472/CM.
- 5.8 With specific regard to traffic levels and input, the movements and tonnage were included as part of the industrial and commercial waste to be received at Ardley that was assessed as part of the 2008 application. It is for this reason that they are not expected to increase.
- 5.9 It is assumed that an appropriate pollution control regime would be applied and enforced in line with Government guidance contained within PPS 10. The Anti-Social Behaviour Manager has raised no objection to the application and has made no observations. The proposal is therefore not considered to present significant risk to the amenity of the locality.

Conclusion

- 5.10 The principle of the continuation of landfilling of asbestos at Ardley is considered acceptable and the works are not expected to present harm to the amenities of the area. It is therefore recommended that no objection to the application be raised, subject to there being no alteration to the phasing, restoration, timescales, inputs (including traffic levels), hours of operation and employment details approved as part of 08/02472/CM.

6. Recommendation

That Cherwell District Council raise no objection to the application subject to there being no alteration to the phasing, restoration, timescales, inputs (including traffic levels), hours of operation and employment details approved as part of 08/02472/CM as a result of the continuation of asbestos landfilling.

Planning Committee

Request for variation of the Section 106 legal agreement to the proposed development at Land South West of Orchard Close and adjoining Murcott Road, Upper Arccott – Application 10/00807/OUT

11 October 2012

Report of Head of Public Protection & Development Management

PURPOSE OF REPORT

To enable Members to consider a request to vary the Section 106 Agreement in relation to the housing development at Land south west of Orchard Close and adjoining Murcott Road, Upper Arccott and determine whether or not to accept the variation of the Agreement.

This report is public

Recommendations

The meeting is recommended:

- (1) To agree to vary the section 106 agreement in accordance with Option 2 set out towards the end of the report.

Appraisal

1. On 13 July 2011 outline planning approval was granted for residential development for up to 50 dwelling houses with associated open space and vehicular access subject to a number of conditions and a Section 106 legal agreement between the applicants (and other related parties) and the District and County Councils.
2. The legal agreement provides for the provision of infrastructure and facilities necessary to serve the development proposed. The Heads of Terms include, inter alia, 40% of the units to be affordable, contributions towards transport, education, libraries, museum resources, public art, on site and off site play facilities and refuse bins. The agreement was secured and dated the same date as the application decision notice.

3. A request has been made by the new applicants (Bloor Homes Ltd) 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 the definitions relating to the requirement for a LEAP and affordable housing and tenure mix. These matters would not affect the County interest and principally relate to the definition of the LEAP and changes to the affordable rent produce and requirements thereof.
4. The LEAP is to be redefined as a play area with a reduced commuted sum from £79,108 to £71,197 to reflect the reduced scale. The proposed reserve matters application currently under consideration (12/00799/REM refers) is for 48 housing units as opposed to the 50 allowed in the outline consent. A LEAP is, therefore, no longer a requirement. The proposed play area is considered acceptable in its form being sited adjacent to an existing LAP on the Orchard Close scheme and near opposite another at the corner with Buchanon Road. A slightly different approach is required here to produce a more bespoke end product that reflects the needs of this part of the village.
5. As regards to the changes to the affordable housing definitions and proposed mixes, the variation to the agreement proposed centres on the affordable rent product which has been introduced as part of a wider reform programme intended to provide flexibility and enable our Registered Providers (RPs) to deliver the affordable homes. The Homes and Communities Agency (HCA) seek to make better use of existing stock properties and to better target those in greatest need. It is argued that social rent is not always the most appropriate solution for tenants, landlords or taxpayers.
6. The change proposes that the affordable rented homes will be made available to tenants at up to a maximum of 80% of market rent and allocated in the same way as social housing is at present. RPs will be under the same statutory and regulatory obligations when allocating affordable rent homes as they are when allocating properties for social rent.
7. Affordable rent will form the principal element of the new supply offer within the HCA's Affordable Homes Programme framework and this is needed to enable the RPs to fund the affordable homes requirement.
8. The NPPF includes Affordable Rent within the definitions of Affordable Housing for planning purposes: "Affordable housing: Social rented, affordable rented and intermediate housing, provided to eligible households whose needs are not met by the market." NPPF further defines Affordable rented housing; "is let by local authorities or private registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is subject to rent controls that require a rent of no more than 80% of the local market rent (including service charges, where applicable)."
9. It should further be noted that the proposed variations to the Section 106 are in line with CDC's tenancy strategy to accept affordable rent on new developments.
10. The following options have been identified. The approach in the recommendation above is believed to be the best way forward to ensure no further delay.

- | | |
|-------------------|---|
| Option One | To not accept modifications to the Section 106 |
| Option Two | Approve the requested variations to the agreement as laid |

out and to delegate to officers the final approval of the precise working of the amendments should this be necessary.

Consultations

Fiona Brown
Strategic Housing Officer The amendments and variations to the agreement are acceptable.

Paul Almond
Street Scene & Landscape Services Manager No comment received

Implications

Financial: There will be no reduction in contributions secured towards mitigating the impact of the development
Comments checked by Karen Muir, Service Accountant, 01295 221559.

Legal: Formal modification of the Section 106 Agreement will be necessary to give effect to the variations proposed, the legal costs of which will be met by the developer.
Comments checked by Nigel Bell, Planning & Litigation Team Leader 01295 221687

Risk Management: There are no likely risks arising from this modification
Comments checked by Nigel Bell, Planning & Litigation Team Leader 01295 221687

Wards Affected

Launton

Document Information

Background Papers	
Planning Application 10/00807/OUT	
Report Author	Rebecca Horley, Senior Planning Officer, Public Protection & Development Management
Contact Information	01295 221837 rebecca.horley@cherwell-dc.gov.uk

Agenda Item 13

Planning Committee

Request for a variation of the S106 Agreement relating to the proposed development at Bankside, Banbury – Application 05/01337/OUT

11 October 2012

Report of Head of Public Protection and Major Developments

PURPOSE OF REPORT

To enable Members to consider a request to vary the S106 Agreement in relation to the development at Longford Park (Bankside), Banbury and determine whether or not to accept the variation of the Agreement. Members will recall that this item was deferred at the last meeting to allow answers to be provided to questions concerning the mix of housing.

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To agree to vary the s106 agreement to enable further progress towards the commencement of the development and delegate to officer the final approval of the precise wording of the amendments (option 2).

Appraisal

1. On 30 September 2009 outline planning approval was granted for residential development with associated facilities including primary school, playing fields, local shops and community facilities and 2200sq metres of employment provision (Use class B1 Business). Approval was granted subject to a number of conditions and a legal agreement between the applicants (and other related parties) and the District and County Councils.
2. The Agreement provides for the provision of infrastructure and facilities necessary to serve the development proposed. The Heads of Terms include (amongst other things), 30% of the units to be affordable; substantial financial contributions towards transport, education, libraries, museum resources; public art, the provision of a community building; a community park, a site for an Ecumenical place of worship, a healthcare site, and highway improvements. The agreement was secured and dated the same date as the application decision notice.

3. A request has been made by the applicants 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 the affordable housing mix (Schedule 2) and associated clauses. This has arisen because of the potential difficulty in securing funding for the affordable elements of the scheme and changes to the preferred mixes likely to be required by Registered Providers (previously Registered Social Landlords (RSLs)).
4. The signed legal agreement sets out the following proportions of affordable units in relation to their sizes;
 - 15% of the affordable housing is to be one bedroom flats
 - 20% of the affordable housing is to be two bedroom flats
 - 35% of the affordable housing is to be two bedroom houses
 - 20% of the affordable housing is to be three bedroom houses
 - 5% of the affordable housing is to be four bedroom houses
 - 5% of the affordable housing is to be two bedroom bungalows
5. The mix of sizes/houses relative to tenure is currently set out as follows;

Type	Social Rent	Int. Rent	Shared Ownership
1 bed flat	88%	-	12%
2 bed flat	50%	9%	41%
2 bed house	66%	12%	22%
3 bed house	69%	9%	22%
4 bed house	100%		
2 bed bungalow	100%		

6. The following amendments are proposed;
 - 9% of the affordable housing is to be one bedroom flats
 - 13% of the affordable housing is to be two bedroom flats
 - 38% of the affordable housing is to be two bedroom houses
 - 28% of the affordable housing is to be three bedroom houses
 - 8% of the affordable housing is to be four bedroom houses
 - 2% of the affordable housing is to be two bedroom bungalows
 - 1% of the affordable housing is to be three bedroom bungalows

Type	Affordable Rent	Shared Ownership
1 bed flat	100%	
2 bed flat	59%	41%
2 bed house	63%	37%
3 bed house	65%	35%
4 bed house	100%	
2 bed bungalow	85%	15%
3 bed bungalow	66%	34%

7. The Council's Housing Department have been involved in the negotiations relating to the amended mix and are satisfied that the amendments are appropriate. At the last meeting questions were asked concerning the appropriateness of this given the Council's Housing Strategy.
8. In order to help clarify matters it is worth pointing out that the matter of principle significance which was not made explicit in the previous report is the change in tenure. The Council has now adopted the Tenancy Strategy which makes clear that we will accept Affordable Rent as opposed to Social

Target rents on new development sites to ensure these can be delivered as quickly as possible. This is being driven by the changes to HCA grant levels and the need for Registered Providers to fulfil their obligations under the Affordable Homes Programme. Because Affordable Rent and Intermediate Rent are set at the same level we have moved the Intermediate rents to Shared Ownership to keep our usual policy of 70% rent and 30% Shared Ownership. The Affordable Housing Officer has provided the following further explanation;

The affordable housing mix for the Bankside site was negotiated in January 2012 and was set to respond to meeting future housing needs in the Cherwell district. The evidence base for this mix included:

- *The housing mix within the draft Core Strategy*
- *Cherwell Housing Needs estimate report (2009)*
- *Evidence from the Housing Register*

Officers supported the principle of fewer units of flats being delivered on the site compared to other recent approvals – this support was based on the following:

- *Greater confidence in other strategic sites and opportunities coming forward in Banbury*
- *Knowledge that other sites – such as Canalside – are likely to bring forward a higher number of flats*

Agreement of the affordable housing mix was also set in the context of:

- *The (then) forthcoming Cherwell Housing Strategy 2012-17*
- *The (then) forthcoming Cherwell Tenancy Strategy 2012-15*

This context led to agreement of the affordable rent product as part of the District's Investment Ready approach. The negotiated approach met the department's requirements at the time. However the matter of preferred mixes is an issue that regularly evolves due to changing circumstances.

The current mix remains valid in the context of the above. Whilst the Tenancy Strategy highlights some of the issues around four-bed units being set at affordable rents, these issues relate mainly to the south of the District where market rents are higher than Banbury.

If the situation were being addressed from starting point today, this would probably result in a slightly different mix based on the increasing awareness of the impact of Welfare Reform and the new Allocations Scheme. The potential effects of any changes are shown in the table below, and include estimated numbers (in brackets) based on delivery of 322 affordable units. In more recent negotiations we have started to ask for larger 3 beds units in lieu of the 4 beds.

Size and Type of Unit	Current Agreed Position	Position if we were negotiating now
<i>1 bed (2 person) flats</i>	<i>9% (29)</i>	<i>12% (39)</i>
<i>2 bed (3 person) flats</i>	<i>13% (42)</i>	<i>10% (32)</i>
<i>2 bed (4 person) houses</i>	<i>39% (125)</i>	<i>39% (125)</i>

<i>3 bed (5 person) houses</i>	<i>28% (91)</i>	<i>28% (91)</i>
<i>3 bed (6 person) houses</i>	<i>0%</i>	<i>4% (13)</i>
<i>4 bed (7 person) houses</i>	<i>8% (26)</i>	<i>4% (13)</i>
<i>2 bed (3 person) bungalows</i>	<i>2% (6)</i>	<i>2% (6)</i>
<i>3 bed (4 person) bungalows</i>	<i>1% (3)</i>	<i>1% (3)</i>

9. Amending the housing mix as set out in paragraph 6 above results in a greater number of larger houses, giving rise to a greater impact on services and in particular the primary school. The County Council have therefore been party to the proposed amendments and it seems that there is now an agreement between the principle parties that the proposed amendments result in the need for an increased payment to the County Council.
10. The County Council require an additional contribution of £367,539. This is to be divided as follows;
- a) £301,355 for primary education
 - b) £42,651 for secondary education and special education needs
 - c) £18,225 for libraries, museum and waste management
 - d) £5,308 for elderly day care
- These figures have been written into the draft amendment.
11. 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.
12. If the Council do not agree to the variation it could result in delays to the implementation of the development, and to the provision of affordable housing and other development secured by the approval. Further delays in the commencement of development could potentially affect the housing land supply position, leaving the Council in a weaker position.
13. It has taken several months to reach the current position where the applicants and officers of the District and County Councils are in agreement, an agreement reached at a moment in time relating to a matter which is regularly evolving. Whilst the mix of affordable housing may be different to the proposed mix set out at paragraph 6 if the new Housing Strategy was imposed, it is not recommended that Members require such compliance with the Strategy in relation to this particular matter given the potential for further delays arising from renegotiation. The current agreement could not be implemented due to the requirement for Social and Intermediate Rent. The proposed amendments make the scheme deliverable by only making reference to Affordable Rent and Shared Ownership.

Conclusion

The proposed changes to the S106 agreement do not affect the overall level of affordable housing, and in fact result in an increase in County Council contributions. It is considered that the proposal to vary the S106 agreement is acceptable and is therefore recommended for approval for the reasons discussed 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 retaining the existing housing tenure and mix may dissuade some house builders from developing the site.
- Option Two** Approve the modification of the S106 Agreement to enable further progress towards the commencement of the development and delegate to officer the final approval of the precise wording of the amendments.
- Option Three** Seek to negotiate different modifications to the S106 Agreement as set out in paragraph 8 to enable development to commence but this is likely to result in further delays to the implementation of the scheme.

Implications

- Financial:** There will be no reduction in contributions secured towards mitigating the impact of the development.
Comments checked by Karen Muir Service Accountant 01295 221559
- Legal:** 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.
- Risk Management:** There are no likely risks arising from this modification.
Comments checked by Nigel Bell Planning and Litigation Team Leader 01295 221687

Wards Affected

Banbury Calthorpe and Bodicote

Document Information

Background Papers
Planning Application 05/01337/OUT
Planning Obligation dated 30 September 2009

Report Author	Caroline Roche, Senior Planning Officer, Development Control & Major Developments
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Agenda Item 14

Planning Committee

Request for a variation of the S106 Agreement relating to the proposed development at Oak Farm, Milcombe - 1000967OUT

11 October 2012

Report of Head of Public Protection and Major Development

PURPOSE OF REPORT

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

This report is public

Recommendations

The Planning Committee is recommended:

(1) To approve the requested variations to the agreement as laid out and to delegate to officers the final approval of the precise working of the amendments should this be necessary.

Appraisal

1. On 5th April 2011 outline planning approval was granted for the residential development comprising 29 no. dwellings with private gardens and car parking. Approval was granted subject to a number of conditions and a legal agreement between the applicants and the District and County Councils.
2. The Agreement provides for the provision of the infrastructure necessary to serve the development proposed. The Heads of Terms include (amongst other things) 30% affordable housing; financial contributions towards education, libraries, museum resources, public art, sports, open space and play area. The Agreement was secured and dated the same date as the application decision notice.
3. A request has been made by the applicants 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 regards to the affordable housing mix (Third Schedule Part 2), the provision of the LAP and open space (Third Schedule Part 1) and

associated clauses.

Affordable Housing

4. This has arisen because of the potential difficulty in securing funding for the affordable element of the scheme and changes to the preferred mixes likely to be required by Registered Providers (previously Registered Social Landlords (RSL's)).
5. The signed S106 sets out the prescribed mix of the 9 no. affordable units as follows:

Shared Ownership Housing

- 2 no. x 2 bedroom houses
- 1 no. x 3 bedroom house

Social Rented Housing

- 4 no. x 2 bedroom houses
- 2 no. x 3 bedroom houses

6. An amendment is proposed to the Social Rented Housing element only, in that it is to be delivered as Affordable Rented Housing instead. There is no change to the mix and allocations are the same as for Social Rented Housing.
7. The Council's Housing Department have been involved in the negotiations relating to this proposed amendment and are satisfied that it is appropriate and that it is in line with the Cherwell Tenancy Strategy 2012 – 2015.

LAP and Informal Open Space

8. The amendment is also sought in respect to the provision and transfer of the LAP and Open Space to be thereafter maintained by the Council. Essentially given the fairly small scheme size and construction constraints the applicant anticipates both the LAP and IOS will not be practically complete until the last dwelling is completed. The S106 Agreement puts significant constraints on the occupancy of Dwellings until 12 months after the LAP and IOS are practically complete, which the applicant considers to be unworkable.
9. The existing Agreement states under the Transfer of the Lap clause:
 2. The owners will not cause or permit to be occupied more than 50% of the sum of all the dwellings to be constructed on site until:
 - 2.1 the District Council has issued the Final Completion Certificate in relation to the LAP
10. The amendment to the Agreement is to change the percentage from 50% to 75% and that instead of Final Completion Certificate, the wording Practical Completion Certificate be used. This will mean that the 23rd unit cannot be occupied until the LAP is transferred.
11. This is a similar case with the provision of the Informal Open Space, the

wording of the clause is as follows:

7.14 Will not cause or permit to be occupied more than 75% of the sum of all the dwellings until:-

7.14.1 The informal Open Space Maintenance period in respect to each Area of Informal Open Space has expired and the District Council has issued an Informal Open Space Final Completion Certificate in respect to each Area of Informal Open Space comprising the whole of the Informal Open Space:

12. The amendment to the Agreement is to change the percentage from 75% to 85% and that instead of Final Completion Certificate, the wording Practical Completion Certificate be used.
13. This amendment has been agreed with the Landscape Services Department, who consider it appropriate and that the LAP and Public Open Space will still be reasonably delivered before the development is completed. It just allows the applicant more flexibility and as this small scale development is delivering affordable housing and is to be built out at the same time, the amendment is considered to be acceptable.
14. 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.
15. If the Council do not agree to the variation it could result in delays to the implementation of the development, and to the provision of affordable housing and other development secured by the approval.

Conclusion

16. The proposed changes to the S106 agreement do not affect the overall level of affordable housing and Members are recommended to agree to the proposal.

Implications

Financial:	There will be no reduction in contributions secured towards mitigating the impact of the development. Comments checked by Kate Drinkwater, Service Accountant 01295 221559
Legal:	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

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

Risk Management:

There are no likely risks arising from this modification.

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

Wards Affected

Bloxham and Bodicote

Document Information

Background Papers	
Planning application 10/00967/OUT	
Panning Obligation dated 5 th April 2011	
Report Author	Tracey Morrissey, Senior Planning Officer, Development Control and Major Developments
Contact Information	01295 221812 Tracey.morrissey@cherwell-dc.gov.uk

Agenda Item 15

Planning Committee

Decisions Subject to Various Requirements – Progress Report

11 October 2012

Report of Head of Development Control & Major Developments

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
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, and completion of legal agreement concerning on-site and off-site infrastructure
11/01878/OUT (21.6.12)	Land S Overthorpe Rd. and adj.M40 Subject to legal agreement with OCC/CDC/SNC and NCC concerning the route of a relief road, footpath issues and monitoring of travel plan etc..
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 (19.4.12)	56-60 Calthorpe St. Banbury Subject to legal agreement concerning off-site infrastructure contributions
12/00290/F (19.7.12)	33 Oxford Rd. and land rear of 35-59 Oxford Rd, Bodicote Subject to legal agreement to secure off-site infrastructure

12/00472/F (16.8.12)	DJ Stanton (Eng) Ltd site, Station Rd. Hook Norton Subject to legal agreement concerning affordable housing, open space and infrastructure contributions
12/00555/OUT (19.7.12)	Calthorpe House, Calthorpe St. Banbury Subject to legal agreement to secure off-site infrastructure
12/00780/F (13.9.12)	Land adj Langford Locks, Kidlington Subject to legal agreement re transport and towpath infrastructure contributions

Implications

Financial:	There are no additional financial implications arising for the Council from this report. Comments checked by Kate Drinkwater, Service 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

11 October 2012

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

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

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

Details

New Appeals

- 1.1 **11/01755/OUT – Land North of Bourne Lane and adjoining Bourne Lane, Hook Norton** – appeal by Taylor Wimpey UK Ltd against the refusal of planning permission for Outline planning permission with all matters reserved for the erection of up to 70 dwellings (Class C3), public open space including a play area/ amenity space and a balancing pond, associated earthworks to facilitate surface water drainage, landscaping, car parking, a pumping station and ancillary other works.- Inquiry
- 1.2 **12/00305/OUT – Land to the West and South of nos 7 to 26 The Green, Chesterton**- appeal by Hill Residential against the refusal of planning permission for the erection of 44 dwellings, village hall/sports pavilion and assoc car parking, enlarged playing pitches, new children's play area, access and landscaping - Hearing

Forthcoming Public Inquiries and Hearings between 11 October 2012 and 8 November 2012

2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Mr & Mrs Adams against the refusal of application 12/00160/F for a two storey extension to rear of property forming extended kitchen at ground floor, master bedroom and en-suite over at first floor level at 14 The Crescent Twyford Banbury (Delegated)**- The Inspector concluded that the choice of render for the end and rear elevations of the proposed extension is contrary to saved Adopted Cherwell Local Plan policy C28 in that it would neither complement the appearance of the existing house and its contribution to the street scene nor would it be compatible with the general character of the area determined by the predominant use of red brick.
- 3.2 **Allowed the appeal subject to conditions by Mrs Adams against the refusal of application 12/00453/F for the erection of a timber pre-fabricated granny annexe at 14 The Crescent Twyford Banbury(Delegated) –** In the Inspector's view, the proposed building would be of a very modest size and single storey in height. It would not be a prominent feature when seen from the road. Although the building would be sited only 1m from the site boundaries to No.1 and from the garden to the north, the low profile would ensure that the building would not appear 'cramped' as a result of the relative proximity to No 1.
- 3.3 **Part dismissed the appeal in so far as it relates to the loft conversion with dormer window and allowed the appeal in so far as it relates to the ground floor extension at the rear of 15 Neithrop Avenue Banbury related to the refusal of application 12/00359/F -** The Inspector found that the dormer window, owing to its elongated appearance, would appear too bulky and would jar with the proportions of the host dwelling and tend to dominate it. The ground floor extension would not result in any undue loss of outlook, light or privacy for the occupants of No.13 and would not harm the character or appearance of the area.
- 3.4 **Allowed the appeal by Mr R Hoddinott against the refusal of application 11/01549/F for change of use of the land to caravan storage at The Old Forge, Wroxton Lane, Horley, Banbury (Delegated) –** The Inspector commented" subject to the imposition and enforcement of appropriate conditions, I am satisfied that the proposal would not conflict with key planning objectives of the local Plan policies C7 and C13. Accordingly, it is my conclusion that the storage of up to 20 caravans in the location proposed would cause

no material harm to the character of the countryside or the Area of High Landscape Value, and would preserve the setting of the Conservation Area.”

- 3.5 **Allowed the appeal by Ms A Rosemary May against the refusal of application 11/01749/F for a loft conversion to a 1 bed unit without complying with condition no. 2 of 09/01833/F at The Flat, West View Farm, Merton Road, Ambrosden (Delegated) –** Condition No 2 states:“That the extension hereby permitted shall be used solely as ancillary accommodation to the existing dwellinghouse and as such shall not be sold, leased or used as an independent dwelling unit but shall upon the cessation of its use become an integral part of the existing dwelling. “

The main issue in the appeal is whether the loft conversion provides a sufficiently high standard of residential accommodation for it to be suitable for occupation as a separate dwelling, taking into account its size, internal layout and design and the availability of outdoor amenity space. Part of the reason for the imposition of condition 2 was that a separate dwelling would harm the amenities of the occupants of adjoining dwellings and reference is made to SE Plan policy BE1 and Cherwell Local Plan policy C28. However, the Council have not sought to argue in this appeal that there would be any effect on neighbouring properties or any effect on the character of the area. Consequently, these policies have little bearing on the main issue in this appeal.

In the Inspector’s view, the space available and the layout and design of the flat is such as to provide all of the necessary amenities for normal living, although the limited size makes it most suitable for a single person. In the absence of a dedicated outdoor amenity area the Inspector considered that the proposal fails to satisfy the requirements of local plan policy C30 and therefore despite the conclusion on the internal arrangements, the flat is not suitable for occupation as a separate dwelling.

The Inspector went onto the state that the original condition No 2 fails to comply with the guidance in Circular 11/95 and therefore the appeal was allowed subject to a new condition which states-

“The 1 bed unit hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as West View Farm”

- 3.6 **Allowed the appeal by Miss S Jacobs against the refusal of application 11/01906/F for the demolition of existing double garage and construction of new dwelling and alterations to existing access and new access to existing dwelling- resubmission of 11/00925/F at Oxford Cottage, Oxford Road, Wendlebury-** In the Inspector’s view, visibility does not necessarily correspond to harm. The informal layout of the group of buildings

near the appeal site is such that the siting of the proposed building, and its relationship to its site boundaries can be satisfactorily accommodated. The Inspector went onto conclude that the appeal proposal would have an acceptable effect on the street scene.

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 Kate Drinkwater, Service Accountant, 01327 322188
- 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	
Report Author	Bob Duxbury, Development Control Team Leader
Contact Information	01295 221821 bob.duxbury@Cherwell-dc.gov.uk