

Committee: Planning Committee
Date: Thursday 31 January 2013
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 Gordon Ross	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 3 January 2013.

Planning Applications

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|-----|--|---------------------|
| 6. | Whitelands Farm, Chesterton, Bicester (Pages 20 - 44) | 11/01840/F |
| 7. | Bridge Lake Farm, Chacombe Road, Wardington (Pages 45 - 50) | 12/01154/F |
| 8. | Stable Block Corner, Farnborough Road, Mollington, Banbury
(Pages 51 - 67) | 12/01368/F |
| 9. | Home Farm, Merton (Pages 68 - 86) | 12/01414/F |
| 10. | Former Winners Bargain Centres, Victoria Road, Bicester
(Pages 87 - 108) | 12/01465/F |
| 11. | Little Stoney & The Cottage, Paradise Lane, Milcombe
(Pages 109 - 138) | 12/01580/F |
| 12. | 1 Bear Garden Road, Banbury (Pages 139 - 146) | 12/01606/F |
| 13. | 1 Bear Garden Road, Banbury (Pages 147 - 153) | 12/01607/CAC |
| 14. | Land adjoining Fenway and West of Shepherd's Hill, Fenway, Steeple Aston
(Pages 154 - 175) | 12/01611/F |
| 15. | Heyford Manor, 18 Church Lane, Lower Heyford (Pages 176 - 185) | 12/01627/F |
| 16. | Heyford Manor, 18 Church Lane, Lower Heyford
(Pages 186 - 196) | 12/01628/LB |
| 17. | E P Barrus Ltd, Granville Way, Bicester (Pages 197 - 206) | 12/01650/F |
| 18. | 32 The Fairway, Banbury (Pages 207 - 216) | 12/01706/F |
| 19. | The Hub, Twyford Mill, Oxford Road, Adderbury (Pages 217 - 226) | 12/01744/F |
| 20. | Land at the Garth, Launton Road, Bicester, Oxfordshire, OX26 6PS
(Pages 227 - 232) | 12/01783/CDC |

Other Reports

21. Rosemary Development - Fringford (Pages 233 - 244)

Report of Head of Public Protection and Development Management

Summary

To bring to the attention of the Committee a planning enforcement case that is currently being investigated and to advise Members of the action to be undertaken by officers.

Recommendations

The Planning Committee is recommended to:

- (1) Note the contents of the report and the Head of Public Protection and Development Management's intention to serve an Enforcement Notice requiring the demolition of the dwellings.

22. Quarterly Report (Pages 245 - 257)

Report of Head of Public Protection And Development Management

Summary

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

Recommendations

The Planning Committee is recommended:

- (1) To accept this report.

Review and Monitoring Reports

23. Decisions Subject to Various Requirements (Pages 258 - 260)

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.

24. Appeals Progress Report (Pages 261 - 263)

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.

Evacuation Procedure

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

Access to Meetings

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

Mobile Phones

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

Queries Regarding this Agenda

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

Sue Smith
Chief Executive

Published on Wednesday 23 January 2013

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 3 January 2013 at 4.00 pm

Present: Councillor Rose Stratford (Chairman)

Councillor Ken Atack
Councillor Colin Clarke
Councillor Michael Gibbard
Councillor Chris Heath
Councillor David Hughes
Councillor Russell Hurle
Councillor James Macnamara
Councillor G A Reynolds
Councillor Gordon Ross
Councillor Leslie F Sibley
Councillor Trevor Stevens
Councillor Lawrie Stratford

Substitute Members: Councillor Jon O'Neill (In place of Councillor Alastair Milne Home)
Councillor P A O'Sullivan (In place of Councillor Fred Blackwell)
Councillor Barry Wood (In place of Councillor Mike Kerford-Byrnes)

Apologies for absence: Councillor Alastair Milne Home
Councillor Fred Blackwell
Councillor Tim Emptage
Councillor Mike Kerford-Byrnes
Councillor D M Pickford

Officers: Bob Duxbury, Development Control Team Leader
Rebecca Horley, Senior Planning Officer
Rebekah Morgan, Assistant Planning Officer
Ross Chambers, Solicitor
Natasha Clark, Team Leader, Democratic and Elections
Aaron Hetherington, Democratic and Elections Officer

129 **Declarations of Interest**

Members declared the following interests:

6. Land SW of Bicester Village adjoining A41, Oxford Road, Bicester.
Councillor Barry Wood, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

Councillor G A Reynolds, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

Councillor Ken Atack, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

Councillor Leslie F Sibley, Non Statutory Interest, as a member of Bicester Town Council which had been consulted on the application.

Councillor Michael Gibbard, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

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

7. Tesco, Pingle Drive, Bicester.

Councillor Barry Wood, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

Councillor G A Reynolds, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

Councillor Ken Atack, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

Councillor Leslie F Sibley, Non Statutory Interest, as a member of Bicester Town Council which has been consulted on the application.

Councillor Michael Gibbard, Conflict of Interest, as a member of Executive and left the room for the duration of the item.

Councillor Rose Stratford, Non Statutory Interest, as a member of Bicester Town Council which has been consulted on the application.

8. Hardstanding between railway and Higham Way, adjacent Integrated Control Centre, Banbury.

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

Councillor Gordon Ross, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

9. 1 Bear Garden Road, Banbury.

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

Councillor Gordon Ross, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

10. 1 Bear Garden Road, Banbury.

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

Councillor Gordon Ross, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

130 **Requests to Address the Meeting**

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

131 **Urgent Business**

There was no urgent business.

132 **Minutes**

The Minutes of the meeting held on 6 December 2012 were agreed as a correct record and signed by the Chairman, subject to the following amendments:

Minute 108: Declarations of Interest

8. Land SW of Bicester Village adjoining A41, Oxford Road, Bicester
Councillor Reynolds, conflict of interest: amend "letter from applicant" to "letter from Objector"

Minute 120: Roselyn, School Lane, North Newington

Note Councilor Reynolds abstention from the vote.

133 **Land SW of Bicester Village adjoining A41, Oxford Road, Bicester**

The Committee considered application 12/01193/F for a proposed foodstore with associated car parking, petrol filling station with car wash/jet wash, recycling facilities, ancillary plant and equipment, landscaping, access and highway works.

John Rogers, Chief Financial Officer of Sainsbury's Supermarkets Ltd spoke in objection to the application.

Simon Petar, the applicant and Colin Burnett, the applicant's agent, spoke in support of the application.

County Councillor Charles Shouler, Chairman of the Bicester Traffic Advisory Committee, spoke in support of the application.

In reaching their decision, the committee considered the officers' report, presentation, written update, presentations of the public speakers and comments from Members.

Resolved

That application 12/01193/F be approved subject to:

- i) referral to the Secretary of State (Department for Communities and Local Government) as a departure;
- ii) completion of a satisfactory section 106 agreement relating to matters of public art and highway contributions,
- iii) the following conditions:
 - (1) SC1.4 Time (3 years)
 - (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: Environmental Statement dated 17th August 2012, Design and Access Statement (Rev D) by Inspire Design dated 19th November 2012, drawing numbers 111245 AP00B, AP01A, AP02S, AP04C, AP05A, AP09C, AP10C, AP15A, AP18B and 5042 ASP2F.
 - (3) That the external walls and roof(s) of the buildings shall be constructed in accordance with a schedule of materials and finishes, samples and details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.
 - (4) That a plan showing the details of the finished floor levels of the proposed buildings in relation to existing ground levels on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out in accordance with the approved details.
 - (5) The development hereby permitted shall be carried out strictly in accordance with the summary and conclusions drawn in Chapter 11 (Water Resources, drainage and flood risk) pages 158-159 of the Environmental Statement (Waterman Transport and Development Ltd dated August 2012 unless otherwise agreed in writing by the Local Planning Authority.
 - (6) That prior to the commencement of the development, full drainage design details shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
 - (7) The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Tesco's, Oxford Road, 120108 Rev2 unless otherwise agreed in writing by the Local Planning Authority. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
 - (8) 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.

- (9) The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water and foul has been submitted to, and approved in writing by, the local planning authority. Since run off from areas such as areas associated with vehicle washing and refuelling, lorry and car parking areas could contaminate controlled waters, full details are required of the surface water drainage arrangements, outlining how any contamination risks will be mitigated. Thereafter, the scheme shall be implemented as approved.
- (10) That prior to the first occupation of the proposed development the proposed access works between the land and the highway shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken.
- (11) That the proposed vision splays shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the proposed development and that the land and vegetation within the splays shall not be raised or allowed to grow above a maximum height of 0.6 metres above carriageway level.
- (12) That prior to the first occupation of the proposed development all the identified off-site highway and landscaping works shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken.
- (13) The parking, manoeuvring and servicing areas for the development shall be provided in accordance with the submitted plan (AP/02R) hereby approved and shall be constructed, laid out, surfaced, drained and completed, and shall be retained unobstructed except for the parking, manoeuvring and servicing of vehicles at all times.
- (14) No development shall commence on site for the development until the whole of the Sustainable Drainage Systems (SUDS) details are submitted to and approved in writing by the Local Planning Authority in consultation with Oxfordshire County Council.
- (15) Notwithstanding the drawings submitted, no development shall commence on site for the development until details (including design and siting) are submitted to and approved in writing by the Local Planning Authority in consultation with Oxfordshire County Council for a new alignment for Bicester Footpath number 6.
- (16) No development shall commence on site for the development 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 (in consultation with the Local Highway Authority) prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction & 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.

- (17) 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 (in consultation with the Local Highway 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.
- (18) Notwithstanding the details submitted within the Framework Travel Plan dated 15th August 2012, prior to the commencement of the development, an amended Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.
- (19) Notwithstanding the details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
 - a. details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - b. details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - c. details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.
- (20) 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.
- (21) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation.

Development shall be carried out in accordance with the approved schedule.

- (22) The foodstore element of the development hereby permitted shall only be used for the purposes of providing a foodstore of 8,135 sqm gross internal area (convenience sales floorspace of 3,091 sqm and comparison sales floorspace of 2,060 sqm) only as detailed in the application and for no other purpose within Class A1 of the Town and Country (Use Classes) Order 1987 (as amended).
- (23) No development shall take place on the site until the applicant(s), or their agents or successors in title, has arranged an archaeological watching brief to be maintained during the course of building operations or construction works on the site. The watching brief shall be carried out in accordance with a written specification and by a professional archaeological organisation, details of which shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
- (24) A scheme of lighting for the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The scheme shall thereafter be carried out and operated at all times in accordance with the approved details.
- (25) That prior to the commencement of the development, the provision of a suitable scheme of public art shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed prior to the occupation of the development and thereafter retained in accordance with the approved details.
- (26) The development hereby permitted shall be constructed to at least a BREEAM 'very good' standard.
- (27) That the proposed superstore hereby permitted shall not commence trading until the operations at the existing superstore at Pingle Drive (adjacent to Bicester Village) has ceased trading.

(Councillors Atack, Gibbard, Reynolds and Wood left the meeting for the duration of this item)

134

Tesco, Pingle Drive, Bicester

The Committee considered application 12/01209/F for the demolition of an existing Tesco food store, petrol filling station and part of the existing Bicester Village retail outlet centre to provide an extension to comprise 5,181sqm (gross internal area) of new Class A floorspace, 372 car parking spaces and associated landscaping and highway works.

Chris Goddard, the applicant's agent, spoke in support of the application.

In reaching their decision, the committee considered the officers' report, presentation, written update, presentation of the public speakers and comments from Members.

Resolved

That application 12/01209/F be approved subject to:

- (i) referral to the Secretary of State (Department for Communities and Local Government) as a departure;
- (ii) completion of a satisfactory section 106 agreement relating to matters set out in the officer's report under the heading 'section 106 requirements' and
- (iii) the following conditions:
 - (1) SC1.4 Time (4 years)
 - (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: the application form and submitted reports and documentation and drawing numbers 09/068/P-01B, P-02C, P-03A, P-04.1B, P-04.2A, P-04.3A, P-05A, P-06B, P-07B, P-08B, P-09A, P-10A, P-11A, P-12B, P-13A, P-14A, P-15A, P-16A, P-17A, P-18A, P-19A, HED.979.100(a), 101(B), 102(A), 103(A), 104(A), 105, 107, 601, 602, 603, 604, 3P7640/RH1, RH2, RH3, RH4, RH5, RH6, RH7, RH8, SK-26, SK-27, SK-28, SK-29 and SK30.
 - (3) That the external walls and roof(s) of the buildings shall be constructed in accordance with a schedule of materials and finishes, samples and details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.
 - (4) That a plan showing the details of the finished floor levels of the proposed buildings in relation to existing ground levels on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out in accordance with the approved details.
 - (5) That prior to the first occupation of the proposed development the proposed access works between the land and the highway shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken.
 - (6) That the proposed vision splays shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the proposed development and that the land and vegetation

within the splays shall not be raised or allowed to grow above a maximum height of 0.6 metres above carriageway level.

- (7) That prior to the first occupation of the proposed development all the identified off-site highway and landscaping works shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken.
- (8) The parking, manoeuvring and servicing areas for the development shall be provided in accordance with the submitted site layout plan (P-04) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking, manoeuvring and servicing of vehicles at all times.
- (9) No development shall commence on site for the development until the whole of the Sustainable Drainage Systems (SUDS) details are submitted to and approved in writing by the Local Planning Authority in consultation with Oxfordshire County Council.
- (10) Notwithstanding the drawings submitted, no development shall commence on site for the development until further details are submitted to and approved in writing by the Local Planning Authority in consultation with Oxfordshire County Council for a new alignment for Bicester Footpath number 6.
- (11) No development shall commence on site for the development 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 (in consultation with the Local Highway Authority) prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction & 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.
- (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 (in consultation with the Local Highway 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) Notwithstanding the details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.
- (14) 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.
- (15) No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
- (16) The development hereby permitted shall be carried out in accordance with the recommendations set out in Report No. WB02669/R2 by Clarkebond (UK) Ltd dated June 2012 unless otherwise agreed in writing by the Local Planning Authority.
- (17) If contamination is found by undertaking the work carried out under condition 16, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.
- (18) If remedial works have been identified in condition 17, the remedial works shall be carried out in accordance with the scheme approved under condition 17. the development shall not be occupied until a verification report (or validation report), that demonstrates the effectiveness of the remediation carried out, has been submitted to and approved in writing by the Local Planning Authority.
- (19) No development shall take place on the site until the applicant(s), or their agents or successors in title, has arranged an archaeological

watching brief to be maintained during the course of building operations or construction works on the site. The watching brief shall be carried out in accordance with a written specification and by a professional archaeological organisation, details of which shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

- (20) Development shall not begin until a surface water drainage scheme for the site, based on the principles included in the Flood Risk Assessment Ref WB02669 June 2012 has been submitted to and approved in writing by the local planning authority. The scheme shall include upgrading the storage pond, control structure and pipe work and there shall be no increase in discharge rates or volumes of surface water runoff. Thereafter, the scheme shall be implemented in accordance with the approved details before the development is completed.
- (21) No development shall take place until a scheme for the provision and management of an eight metre wide buffer zone alongside the Pingle Brook is submitted to and agreed in writing by the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping; and could form a vital part of green infrastructure provision. The schemes shall include: plans showing the extent and layout of the buffer zone, details of any proposed planting scheme (for example, native species) and details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan. 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.
- (22) No infiltration of surface water drainage into the ground in the area of the former petrol filling stations permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.
- (23) Except where stated in condition 26, the retailing units shall only be used for the purposes of providing a factory outlet shopping centre for high end designer fashion and homewares only and for no other purpose within Class A1 of the Town and Country (Use Classes) Order 1987 (as amended).
- (24) Except where stated in condition 26, the development shall not be used for the retailing of food or other convenience goods including newspapers, magazines, confectionary nor as a newsagents or chemists selling pharmaceuticals or health products.
- (25) The development hereby permitted shall not be occupied by retailers who predominantly sell any of the following category of goods: furniture

hardware, garden products, dispensed optical goods, books, CDs, DVDs, videos, electrical goods, computers and software, mobile phones, toys, pets and pet accessories and arts and crafts products.

- (26) Any class A3 café/restaurant use of the approved buildings shall not at any time cause the overall gross floorspace for such uses within the existing and proposed factory outlet shopping centre as a whole to exceed the maximum of 3,500 sq metres.
- (27) Except where shown on the submitted drawings, no individual retail unit shall have a gross floor area of in excess of 450 sqm.
- (28) That prior to the commencement of the development, the provision of a suitable scheme of public art shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed prior to the occupation of the development and thereafter retained in accordance with the approved details.
- (29) The development hereby permitted shall be constructed to at least a BREEAM 'very good' standard.

(Councillors Atack, Gibbard, Reynolds and Wood left the meeting for the duration of this item)

135

Hardstanding between railway and Higham Way, adjacent Integrated Control Centre, Banbury

The Committee considered application 12/00849/F for the construction of a multi-storey station car park for rail customer parking and formation of a new east-side access to Banbury station with associated pedestrian link bridge.

The Development Control Team Leader advised the Committee that the applicant had requested that consideration of the application be deferred as a meeting had been arranged between officers from Cherwell District Council and Oxfordshire County Council and the applicants and their advisers to see if the transportation reason for refusal could be overcome and to allow the applicants the opportunity to address the issue relating to the neighbouring residential properties.

Councillor Clarke proposed that consideration of the application be deferred for the reasons requested by the applicant. Councillor Lawrie Stratford seconded the proposal.

Councillor Rose Stratford proposed that a site visit be held. Councillor Lawrie Stratford seconded the proposal.

Resolved

That consideration of application 12/00849/F be deferred to allow for ongoing negotiations between the applicant and Oxfordshire County Council regarding the traffic plan and for a formal site visit

136 **1 Bear Garden Road, Banbury**

The Committee considered application 12/01606/F for the demolition of an existing commercial unit to be replaced with 3 no. 1 bed apartments – resubmission of 12/01031/F.

In considering the application, Members commented that given the poor state of the building it would be uneconomical to restore it to its original state and the proposal represented the best option for the site.

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

Resolved

That application 12/01606/F be approved subject to

- (i) no adverse comments being received as the result of the public consultation
- (ii) 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 12 November 2012.
 - (3) Prior to the commencement of the development hereby approved, samples of the brick to be used in the construction of the walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.
 - (4) Prior to the commencement of the development hereby approved, samples of the Welsh slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

137 **1 Bear Garden Road, Banbury**

The Committee considered application 12/01607/CAC for the demolition of existing commercial unit.

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

Resolved

That application 12/01607/CAC be approved subject to:

- (i) no adverse comments being received as the result of the public consultation
- (ii) 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 12 November 2012.
 - (3) S.C 5.3A (RC25A) – [Demolition and redevelopment of site]
 - (4) Prior to any demolition on the site and the commencement of the development, a professional archaeological organisation/building recorder acceptable to the Local Planning Authority shall carry out a full recording of the building concerned and submit the record to the Local Planning Authority.

138 **Tree Preservation Order (No. 10/2012 - 58c Mill Street, Kidlington)**

The Committee considered a report which sought confirmation of an unopposed Tree Preservation Order (No 10/2012) relating to 1 No walnut tree at 58c Mill Street, Kidlington.

Resolved

- (1) That Tree Preservation Order No 11/2012 be confirmed without modification in the interest of public amenity.

139 **Tree Preservation Order (No 11/2012 - relating to 3 No limes, 2 No horse chestnut, 1 No beech and 1 No yew tree at Bicester Community Hospital, Kings End, Bicester, OX26 6DU)**

The Committee considered a report which sought confirmation of unopposed Tree Preservation Order No 11/2012 - relating to 3 No limes, 2 No horse chestnut, 1 No beech and 1 No yew tree at Bicester Community Hospital, Kings End, Bicester, OX26 6DU.

Resolved

- (1) That Tree Preservation Order No 11/2012 be confirmed without modification in the interest of public amenity.

140 **Tree Preservation Order (No 12/2012 - 1 No horse chestnut and 2 No lime trees at Caesars Lodge, Kings End, Bicester, OX26 6DU)**

The Committee considered a report which sought confirmation of unopposed Tree Preservation Order (No 12/2012 - 1 No horse chestnut and 2 No lime trees at Caesars Lodge, Kings End, Bicester, OX26 6DU)

Resolved

- (1) That Tree Preservation Order No 12/2012 be confirmed without modification in the interest of public amenity.

141 **Decisions Subject to Various Requirements**

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

Resolved

- (1) That the position statement be accepted

142 **Appeals Progress Report**

The Committee considered a report which updated Members on applications which had been determined by the Council, where new appeals had been lodged, Public Inquiries/ hearings scheduled or appeal results achieved.

Resolved

- (1) That the position statement be accepted

143 **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.

144 **Land South of Milton Road, Bloxham**

The committee considered an exempt report which advised members that an appeal had been lodged against the non-determination of the planning application for land south of Milton Road in Bloxham (application no. 12/01139/OUT) and sought a resolution from members as to the putative reasons for refusal on which to defend the appeal.

Resolved

- (1) That the reasons for refusal set out below in relation to Land South of Milton Road, Bloxham (12/01139/OUT) be agreed.
 - (1) The proposal represents development beyond the built up limits of Bloxham within open countryside contrary to Policies H12, H13 and H18 of the adopted Cherwell Local Plan and Policies H15 and H19 of the Non-Statutory Cherwell Local Plan and Policy SP3 of the South East Plan. It is considered that the development of this site will cause harm to the character and appearance of the countryside on the south eastern edge of Bloxham contrary to Policy C7 of the adopted Cherwell Local Plan and Policy EN34 of the Non-Statutory Cherwell Local Plan and Policy ESD 13 of the Cherwell Local Plan Proposed Submission Draft August 2012 and Policy CC6 of the South East Plan and to the core principles of the NPPF. It is also considered that the submitted and revised indicative layout fails to demonstrate that the development of the site will result in a high quality and inclusive design contrary to Policy C28 of the adopted Cherwell Local Plan and the NPPF. Notwithstanding the Council's present inability to demonstrate that it has a five year supply of housing land required by paragraph 47 of the NPPF, the development of this site cannot be justified on the basis of the temporary land supply deficiency alone and that significant harm will result.
 - (2) Having regard to the level of new development recently accommodated in Bloxham, the fact the site is not identified for development by existing or emerging Policy, and is not supported by the local community, the proposal is considered to go beyond that which would reasonably be expected to be accommodated in the village during the proposed Cherwell Local Plan period.

In the particular context of housing delivery at Bloxham and South East Plan Policy BE5 requirements (including that local planning authorities should encourage community-led local assessments of need and action planning to inform decision making processes in rural communities), it is considered the proposed development would adversely affect further consideration of how to sustainably meet rural needs through the production of Development Plan Documents and a Neighbourhood Development Plan (especially when the local community has indicated its intention to prepare a Neighbourhood Development Plan). As such the proposed development is contrary to Policy Villages 2 of the Cherwell Local Plan Proposed Submission draft August 2012 and to the core principles of the National Planning Policy Framework set out at paragraph 17 and in particular the requirement that decisions should be genuinely plan-led; empowering local people to shape their surroundings, with succinct local and

neighbourhood plans setting out a positive vision for the future of the area.

- (3) In the absence of a satisfactory planning obligation the Local Planning Authority cannot guarantee that the infrastructure directly required to service or serve the proposed development will be provided, thus adding to the pressures on local infrastructure and services resulting in an unsustainable form of development, contrary to Policy CC7 of the South East Plan, Policies H5, TR1 and R12 of the adopted Cherwell Local Plan and Policies H7, TR4, R8, R9 and R10A of the Non-Statutory Cherwell Local Plan 2011.
- (2) That it be agreed to allow the report to be made publicly available after the Committee has considered it.

The meeting ended at 6.00 pm

Chairman:

Date:

PLANNING COMMITTEE

31 January 2013

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

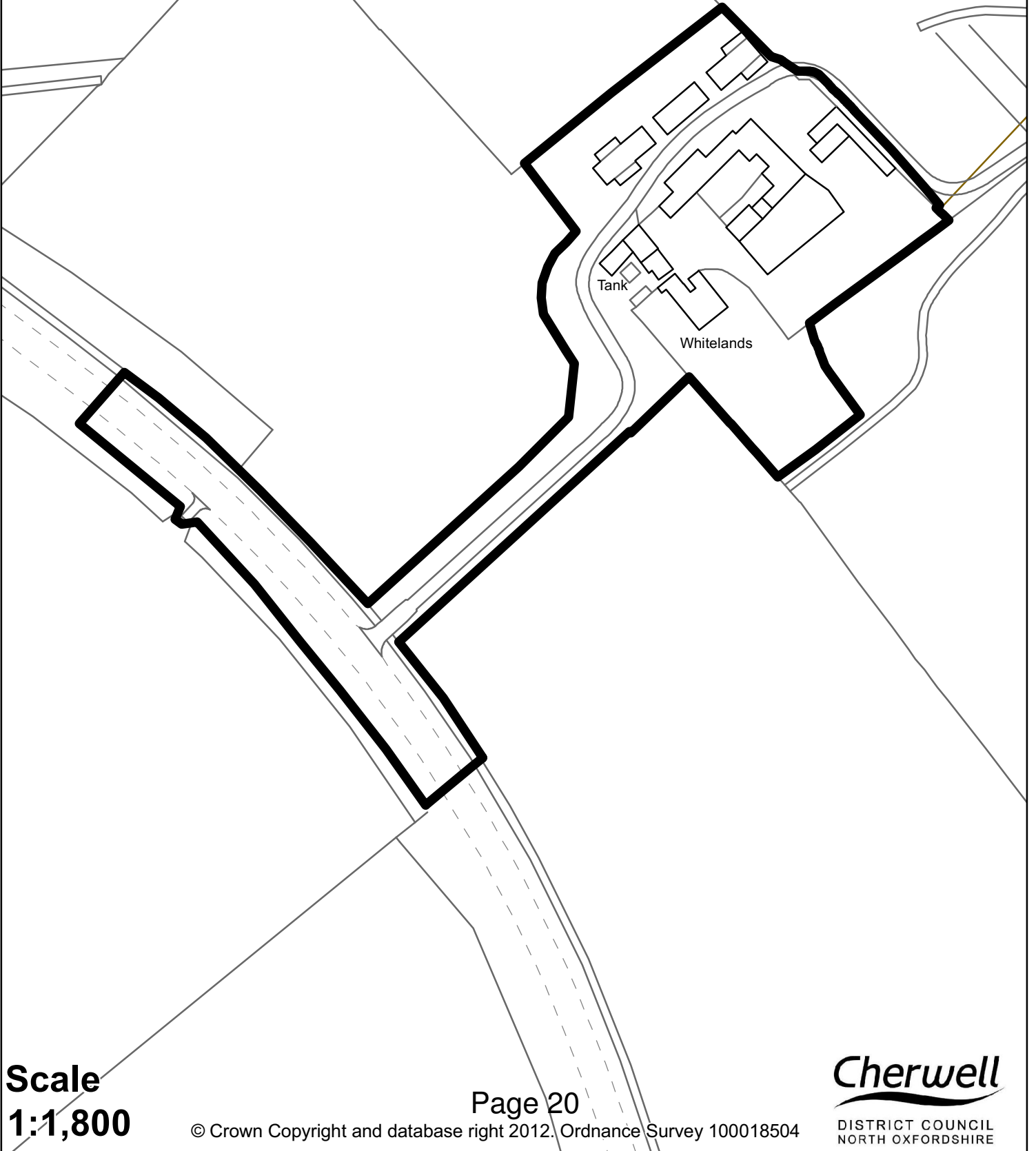
For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision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

Applications

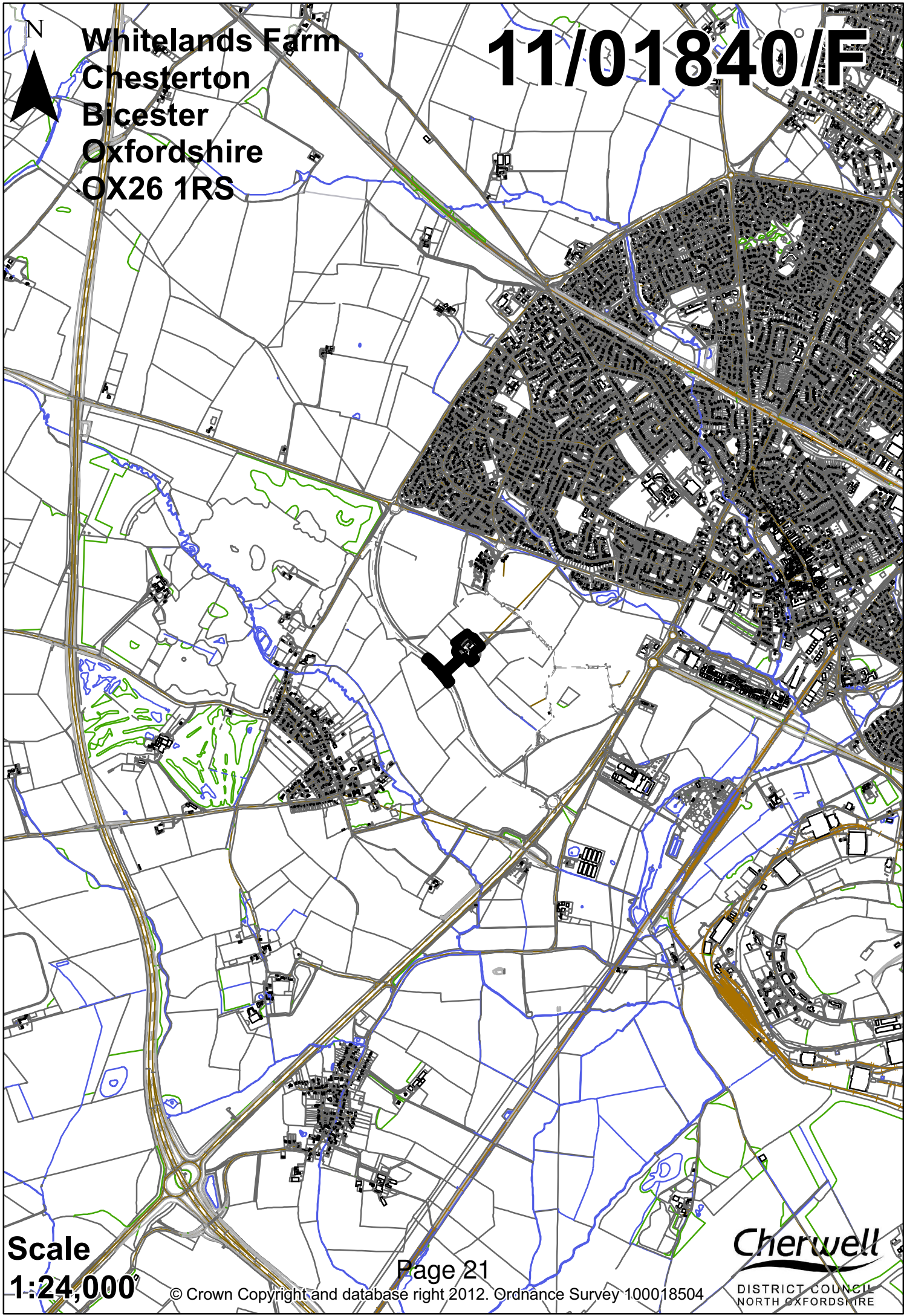
	Site	Application No.	Ward	Recommendation	Contact Officer
6	Whitelands Farm, Chesteron, Bicester	11/1840/F	Ambrosden and Chesterton	Approval	Linda Griffiths
7	Bridge Lake Farm, Chacombe Road, Wardington	12/01154/F	Cropredy	Approval	Simon Dean
8	Stable Block Corner, Farnborough Road, Mollington, Banbury	12/01368/F	Cropredy	Approval	Jane Dunkin
9	Home Farm, Merton	12/01414/F	Otmoor	Approval	Caroline Roche
10	Former Winners Bargain Centres, Victoria Road, Bicester	12/01465/F	Bicester Town	Refusal	Caroline Roche
11	Little Stoney & The Cottage, Paradise Lane, Milcombe	12/01580/F	Bloxham and Bodicote	Approval	Tracey Morrissey
12	1 Bear Garden Road, Banbury	12/01606/F	Banbury Easington	Approval	Rebekah Morgan
13	1 Bear Garden Road, Banbury	12/01607/CAC	Banbury Easington	Approval	Rebekah Morgan
14	Land adjoining Fenway and West of Shepherd's Hill, Fenway, Steeple Aston	12/01611/F	The Astons and Heyfords	Approval	Tracey Morrissey
15	Heyford Manor, 18 Church Lane, Lower Heyford	12/01627/F	The Astons and Heyfords	Approval	Paul Ihringer
16	Heyford Manor, 18 Church Lane, Lower Heyford	12/01628/LB	The Astons and Heyfords	Approval	Paul Ihringer
17	E P Barrus Ltd, Granville Way, Bicester	12/01650/F	Bicester East	Approval	Rebekah Morgan
18	32 The Fairway, Banbury	12/01706/F	Banbury Ruscote	Approval	Shona King
19	The Hub, Twyford MillOxford Road, Adderbury	12/01744/F	Adderbury	Refusal	Laura Bailey
20	Land at the Garth, Launton Road, Bicester, Oxfordshire, OX26 6PS	12/01783/CDC	Bicester Town	Approval	Graham Wyatt



**Whitelands Farm
Chesterton
Bicester
Oxfordshire
OX26 1RS**



**Scale
1:1,800**



**Whitelands Farm
Chesterton
Bicester
Oxfordshire
OX26 1RS**

11/01840/F

**Scale
1:24,000**

Page 21

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Whitelands Farm, Chesterton, Bicester 11/01840/F

Ward: Ambrosden and Chesterton **District Councillor:** Cllr A J Fulljames

Case Officer: Linda Griffiths **Recommendation:** Approve

Applicant: Countryside Properties (Bicester) Ltd

Application Description: Conversion of existing barns to form 7 No. dwellings and construction of 4 No. dwellings on the footprint of the 3 existing hay barns to be removed. Associated access, car parking, landscape and boundary treatment works and demolition of minor ancillary structures and extensions.

Committee Referral: Major

1. Site Description and Proposed Development

- 1.1 This application relates to the Whitelands Farmhouse, farmyard and farm buildings which are located to the south of the S.W. Bicester development which was granted outline consent in 2008 (06/00967/OUT) refers. Construction work in respect of the S.W. Bicester development began in June 2010. The original Whitelands Farmyard complex currently lies between the outskirts of SW Bicester and Chesterton village and within the Chesterton Parish boundary, but to the east of the new perimeter road. The proposal seeks consent for the conversion of the existing buildings to create 7 No. dwellings and the erection of 4 No. new dwellings on the site of the existing open hay barns which are to be demolished. The existing farmhouse will be refurbished. The development is wholly contained within the original farmyard. The original proposal sought the erection of 3 new dwellings on the original open hay barn site, but during negotiations this number has been increased to 4.
- 1.2 The farmyard is currently occupied by a number of buildings of varying size, age, scale and materials of construction, including the farmhouse, original single and two storey stone barns, brick barns, water tower and modern pole barns at the rear. The farm was originally accessed via a long track from the Middleton Stoney Road. However, this will form the Greenway running through the new S.W. Bicester development, so a new access, as required by the Section 106 Agreement accompanying the outline application, has been constructed from the new perimeter road. This new agricultural access will be upgraded to serve the new development proposed.
- 1.3 The proposal seeks to retain the majority of the existing historic buildings and to remove those of lesser merit, such as the water tower and Dutch barns. Four contemporary dwellings are proposed in the location of the Dutch hay barns to be demolished. The barn conversions focus around the central courtyard areas. Two existing structures to the east of the farmhouse will be rebuilt/reconstructed to provide new dwellings which seek to resemble the conversion of the original buildings.
- 1.4 The site is surrounded by agricultural land to its northern, southern and western boundaries and the new sports pitches associated with Phase 1 S.W.

Bicester to its south eastern boundary and Whitelands open space to its eastern boundary. The agricultural land is currently farmed on an agricultural tenancy, but is proposed to be developed for residential purposes as part of Phase 2 of the south west Bicester development and is currently being promoted through the proposed submission Cherwell Local Plan 2012.

- 1.5 There are a number of existing mature trees on the site, mainly located to the south and east of the existing farmhouse. A public right of way also currently clips the north western corner of the application site.

2. Application Publicity

- 2.1 The application has been advertised by way of site notices and an advert in the local press. No representations have been received as a result of the above publicity.

3. Consultations

- 3.1 **Chesterton Parish Council:** Raise no objections
- 3.2 **Bicester Town Council:** Has no objections and welcomes the preservation of the old farm buildings.
- 3.3 **The Environment Agency:** Have not commented
- 3.4 **Thames Water** Have not commented
- 3.5 **OCC Drainage:** Advise that whilst the application does not have a drainage design it does refer to a drainage strategy. A full design will be required and agreed prior to construction.
- 3.6 **OCC Highways:** Advises that the Transport Statement appears reasonable. The proposal will generate a minor increase in vehicular traffic but it is unlikely to have an adverse affect upon the operation of local junctions. The application demonstrates that refuse vehicles can enter and turn within the site and proposed parking provision is in accordance with the Design Code for the Kingsmere Development. Access from the perimeter road is by means of a priority junction with nearside passing bay which has been agreed with the Highway Authority.

In accordance with Cherwell's Planning Obligations Draft SPD contributions towards the transport strategy for Bicester are requested and secured by a legal agreement. A number of conditions are also recommended to be attached to any planning permission.

- 3.7 **OCC Developer Funding:** Wishes to secure a legal agreement for appropriate financial contributions to mitigate the effects of this development on the local infrastructure.
- 3.8 **CDC Ecology:** Advises that the buildings proposed for conversion/demolition were found to contain nesting birds and some had high to medium potential for bats, although no direct evidence of bats roosting in the buildings was found. However due to the condition of the buildings access to many of the upper levels was restricted for safety reasons. Ideally therefore further surveys should be carried out in Spring/Summer. Two conditions are recommended in

respect of protected species and nesting birds.

- 3.9 **CDC Landscape Architect:** Raises no objections in principle but advises that the existing hedgerow to the south east boundary should be retained and gapped up with appropriate native species. Planting detail should be revised to ensure the species are appropriate for the location and awkward corners are avoided. A number of conditions are recommended.
- 3.10 **CDC Arboricultural Officer:** Raises no objections in principle but requested an up to date tree survey to assess the health and condition of existing trees on the site. Existing trees make a valuable contribution and should be retained, and protected during development. Planting proposed is acceptable in principle although a number of amendments are suggested. Comments in respect of the revised scheme have been received. No objections are raised but alternative tree species are recommended where those proposed are considered too large. A number of conditions are recommended.
- 3.11 **CDC Conservation Officer:** Initially raised concerns regarding the stability of the farm buildings and the design of the conversion scheme which did not respect their traditional character and appearance and the design of the new dwellings. Comments in respect of the revised scheme are awaited

3.12 **Action taken to work with the Applicant to Achieve an Acceptable Scheme**

A number of meetings and discussions have been held in the Council offices and on site with the applicant and their agents at both pre-application submission and during the processing of the application. The application has been subsequently amended and now generally reflects those discussions.

4. Policy Considerations

4.2 **South East Plan 2009** Cross cutting policies:-

- CC1: Sustainable development
- CC4: Sustainable design and construction
- CC6: Sustainable communities and character of the environment
- CC7: Infrastructure and implementation

Housing Policies:

- H1: Regional Housing Provision 2006-2026
- H3: Affordable Housing
- H4: Type and size of new housing
- H5: Housing design and density

Transport Policies:

- T1: Manage and Invest
- T4: Parking

Management of the Built Environment Policies:-

- BE1: Management for an urban renaissance
- BE4: Management of the historic environment

4.3 Adopted Cherwell Local Plan 1996 – Saved Policies

- H5: Affordable Housing
- H18: New dwellings in the countryside
- H19: Conversion of buildings
- TR21: Transportation funding
- R12: Public open space provision
- C2: Protected species
- C28: Design and layout
- C30: Design control

National Planning Policy Framework 2012 – Core planning principles and the delivery of sustainable development with particular regard to the following sections:-

- 4: Promoting Sustainable Transport
- 6: Delivering a wide choice of high quality homes
- 7: Requiring good design
- 8: Promoting healthy communities
- 11: Conserving and enhancing the natural environment
- 12: Conserving and enhancing the historic environment

4.4 Non-Statutory Cherwell Local Plan 2011

The Non-Statutory Cherwell Local Plan is not part of the statutory development plan but has been approved as interim planning policy for development control purposes and remains to be a material consideration.

Housing Policies H1a, H4, H7, H22
Transport TR1, TR5, TR9, TR11
Recreation and Community R4, R8, R9, R10a
Conserving and Enhancing the Environment EN22, EN23, ENN24, EN25, EN27, EN45a
Urban Design and Built Environment D5, D9

4.5 Proposed Submission Draft Cherwell Local Plan 2012

This was approved by the Executive for public consultation on 28 May 2012 and went out to public consultation on 28 August 2012. At present the plan carries very little weight.

However the following policies are relevant

- ESD1 - Climate Change
- ESD3 - Sustainable Construction
- ESD7 - Sustainable Drainage.
- ESD10 - Protection of Biodiversity
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC11 - Outdoor Recreation Provision
- Bicester 3

5. Appraisal

5.1 Planning History and Background

The site relates to the new development at S.W Bicester which is situated between the Middleton Stoney and Oxford Roads, and was acquired by the applicant in conjunction with the S.W. Bicester development. The development at S.W Bicester was granted outline planning permission subject to conditions and a Section 106 Agreement in June 2008 for up to 1585 dwellings, employment, education, health village and supporting infrastructure (06/00967/OUT refers). This development was an allocation in the Non-Statutory Cherwell Local Plan under Policy H13 and the site allocated in that plan also included Whitelands Farmhouse, yard and buildings. However the submission in 2006 indicated a slightly different land area and excluded the farmhouse and farmyard.

- 5.2 The signed Section 106 Agreement accompanying the outline application permission however requires at Clause 35 that a scheme be submitted to and approved by the Local Planning Authority and thereafter carried out by the developer, relating to the restoration of Whitelands Farmhouse for residential purposes and the remaining buildings for agricultural use in conjunction with the farming of the adjacent agricultural land. A new farm access from the perimeter road was also required to be provided to serve the farm and its buildings within the Section 106 Agreement. The farmhouse was occupied at the time when the original outline consent was granted but is currently empty.
- 5.3 This application does not seek consent for the works above in connection with the Section 106 Agreement but seeks consent to convert the farm buildings to residential use, and to demolish the existing open hay barns and to erect 4 No. new dwellings in their place.
- 5.4 The adjacent farm land inside the perimeter road and essentially located to the east of Whitelands Farm has since been allocated for residential development in the proposed submission Cherwell Local Plan August 2012 under Policy Bicester 3. This allocation includes Whitelands Farmhouse, farm buildings and farmyard.

5.5 Key Issues

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

- Principle of development
- Trees
- Design
- Heritage Assets
- Ecology
- Planning Obligation and Viability
- Conclusion

5.6 Principle of Development and Policy Context

The main theme at the heart of the NPPF 2012 is a presumption in favour of sustainable development and 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 indicated development be

restricted.

- 5.7 The NPPF indicates that the Adopted Cherwell Local Plan 1996 is considered to be out of date in some respects 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 contain a number of saved policies which are relevant to the consideration of this proposal.
- 5.8 The South East Plan 2009 is the 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 communities, and strategies for the protection of biodiversity and the built and historic environment and for tackling climate change.
- 5.9 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 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 contains policies to help deliver that vision. The Plan is built around 3 main themes, securing economic development, building communities and ensuring that development is sustainable. The Plan went out to public consultation on 28 August 2012.

Whilst this plan is of very limited weight at present, it does seek to indicate how the District is likely to develop and grow, including ensuring a sustainable economy and development in Bicester to meet the needs of the town and to improve existing facilities and services within the town. The emerging plan contains relevant policies on climate change mitigation ESD1, sustainable construction ESD3, sustainable drainage ESD7, protection of biodiversity ESD10, affordable housing BSC3, housing mix BSC4, outdoor recreation provision BSC11. The Phase 2 allocation which includes the application site within it will provide additional services and facilities. Policy Bicester 3 refers to the site allocation, requiring development proposals to protect cultural heritage and archaeology, including the conversion of any important farm buildings where possible.

Whilst the proposal may be considered contrary to adopted local plan Policies H18 and H19 which seek to resist new development beyond the existing built up limits of settlements, given the sites location, proposed conversion of a number of existing buildings and allocation of this site and the adjacent land for new residential development in the emerging local plan the proposal is considered on balance acceptable and as such will therefore not prejudice the consideration of other similar proposals.

5.10 Highways and Transport Impact

The local highway network comprises the Middleton Stoney Road which runs along the northern boundary of the South West Bicester development site, and the A41 which runs along the eastern boundary. A new perimeter road which

was provided as part of the South West Bicester development runs to the south west of the site linking the A41 and Middleton Stoney Roads. Vehicular access to the new development is proposed directly from the new perimeter road and runs along the western boundary of the new sports pitches provided in conjunction with the South West Bicester development. Access across this new access road will be necessary from the existing sports pitches to the additional sports pitches which will need to be provided as part of the Phase 2 South West Bicester development. This requirement will need to be delivered through a Section 106 Agreement to ensure provision in perpetuity.

- 5.11 The Transport Statement submitted as part of the application sets out the trip generation from the proposed development and indicates that there will be a minor increase in vehicular traffic above that which would be generated by the farmhouse, associated buildings and associated agricultural land. However, such a minor increase is considered unlikely to have any adverse effect upon the operation of local junctions.
- 5.12 The existing vehicular access which has been constructed to serve the farm use will be altered and improved. This improvement is shown on drawing number 1546/SK/029/F which indicates a priority junction with a nearside passing bay, which will mean amending the recently constructed perimeter road to accommodate this.
- 5.13 The access road shown is 6m wide with 6m radii and a 2m footway linking up with the existing pedestrian/cycle links along the perimeter road. Turning areas within the development have been provided for refuse collection and emergency vehicles to enable them to enter and leave the site in a forward gear. The proposed parking levels are in accordance with the Design Code for the adjacent Kingsmere (S W Bicester) development and secure cycle parking is provided.
- 5.14 As part of this submission the applicants, Countryside, have been requested to consider the repositioning of the access road to serve this development from the position shown on the submitted plans to a new position further along the perimeter road to the northwest. This would enable the additional spots provision required in conjunction with the Phase 2 development to be provided as a cohesive block and as an extension to the existing sports pitches rather than be bisected by this access road, which would be the case if the access was not relocated. The applicants however, have declined to amend the existing proposal to accommodate this request at this point in time.
- 5.15 Whilst this is most regrettable, there is currently no application or proposal before this Council for consideration in respect of Phase 2 and it is not considered that a reason on those grounds alone is sufficient to justify refusal of this application.

5.16 Trees

The site consists of two main prominent groups of trees, one being a cohesive group of horse chestnuts to the west of the site between existing outbuildings and the site boundary and a second line of trees located parallel to the south-east boundary. Retention of these trees is preferable within the proposed scheme as they are generally of high amenity value within the street scene and from the adjacent South West Bicester development and Whitelands open space. The submitted Tree Survey Report identifies that the majority of these

trees are in reasonable condition and have further lifespans of 20 years plus, with the exception of one of the Horse Chestnuts within the group to the west of the farm buildings and 2 elm trees situated on the western boundary of the site. It is proposed to remove these trees. An arboricultural method statement will be required to ensure adequate levels of protection are given to these retained trees during construction.

- 5.17 The proposed submission has been amended to address issues raised in respect of landscaping and tree planting. The landscape proposals along the access road now includes a formal avenue of trees within a native rural hedgerow along the western boundary and a grass verge along the eastern boundary. Additional tree planting is also indicated to the northern boundary as requested by the District Council's arboriculturalist

Rights of Way

- 5.18 A registered footpath (Bicester Footpath No. FP 161/1) appears to clip the northern most corner of the existing farmyard. This issue has been raised with the applicants who believe that this right of way does not actually cross the application site. Nonetheless plans and documentation submitted with the application indicate that it does, and that the garage to unit 1 obstructs the line. If this is the case the applicants will need to seek a footpath diversion order or amend the scheme accordingly.
- 5.19 Policy R4 of the Non-Statutory Cherwell Local Plan states:

“The Council will safeguard and, where possible, enhance the existing public rights of way network. Development over public rights of way will not be permitted unless a suitable diversion can be secured which will not prejudice public rights”.

- 5.20 The applicants have indicated on drawing No. 180601/LA/POO1 rev B that pedestrians are able to use an existing gap in the stone wall, immediately to the north of the proposed garage which appears to obstruct the footpath. It is suggested that a condition be imposed which requires the existing public right of way to remain unobstructed during and after development, and that a planning note be added advising that no development shall take place across the public footpath unless it has been legally stopped up or diverted, in order to ensure that the route of this footpath is protected.

Ecology

- 5.21 Section 11 of the NPPF – Conserving and Enhancing the Natural Environment requires that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity.
- 5.22 One of the Council's requirements in respect of the consideration of applications of this nature is the submission of appropriate protected species surveys to be undertaken prior to the determination of the application. The presence of a protected species is a material consideration and 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 planning permission is granted. This is also a requirement under Policy EN23

of the Non-Statutory Cherwell Local Plan 2011. This requirement is also referred to in Circular 06/05 'Biodiversity and Geological Conservation'.

- 5.23 Section 40 of the Natural Environment and Rural Communities Act 2006 (NGRC 2006) states that:

“Every public authority must in exercising its functions must have regard to the purpose of conserving (including restoring/enhancing) biodiversity” and “Local Planning Authorities must also have regard to the requirements of the EC Habitats directive when determining a planning application where European Protected Species are affected”.

- 5.24 All bat species are legally protected under Annexe iv (a) of the EC Habitats and Species Directive which is transposed into UK Law through the Conservation of habitats and Species Regulations 2010. All species of bat are also protected under the Wildlife and Countryside Act 1981 (as amended). The Habitats Directive prohibits the deterioration or destruction of breeding sites or nesting places of these protected species throughout the Member States.

- 5.25 Ecological Phase 1 and Phase 2 bat and barn owl surveys have been conducted in respect of this submission in order to assess the potential of the buildings to provide roosting and nesting opportunities for bats and barn owls. Traditional farm buildings often provide important roosting and breeding sites for barn owls which are protected under Schedule 1 of the Wildlife and Countryside Act 191 (as amended) and Schedule 1 of the Countryside and Rights of Way Act (2000).

- 5.26 The surveys undertaken found that the buildings proposed for conversion/demolition were found to contain nesting birds and some had medium to high potential for bats, although no direct evidence of roosting bats were found. However, it is noted that due to the poor condition of many of the buildings that access to many of the upper floors was restricted. Furthermore only one evening emergence survey was carried out so evidence or existence of bats within the site may have been missed. However, given the location of the site, surrounded by arable fields, it is likely to be relatively low value for bats. It is suggested as advised that the Council's Ecologist however that conditions are imposed to ensure that further surveys are carried out between the months of May to August prior to any site clearance, demolition or any other development on the site.

- 5.27 Subject to the imposition of conditions, the Council's ecologist raises no objections to the above on ecology grounds and it is therefore considered that the proposal is in accordance with Government Guidance within the NPPF and the development plan and is therefore acceptable subject to the imposition of conditions as recommended by the Council's ecologist.

5.28 Heritage Assets

Although not statutorily listed, the existing historic farm buildings and yard are considered by the Local Planning Authority to be a heritage asset of merit and local importance to the area. The majority of the traditional buildings are constructed of stone, and centred around a central yard, which would have been essentially used for hay and grain storage although a later building was originally constructed as a stable building with hay store above. Later single

storey open buildings were erected on the periphery and a brick range erected at the rear of the farmhouse during the early 1900's.

- 5.29 Section 12 of the NPPF – conserving and enhancing the historic environment recognises that heritage assets as identified by the Local Planning Authority are an irreplaceable resource and that they should be conserved in a manner appropriate to their significance.

Paragraph 128 states that:

“In determining applications local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting”.

Paragraph 131 also states that:

“In determining planning applications, local planning authorities should take account of:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and:
- The desirability of new development making a positive contribution to local character and distinctiveness

Paragraph 135:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

- 5.30 The adopted Cherwell Local Plan does not contain any policies relating to non-designated heritage assets and is therefore considered to be out of date in this respect by the NPPF, the above mentioned advice within the NPPF therefore carries greater weight in this instance.

- 5.31 The existing farmyard and buildings are not within a conservation area, are not statutory listed buildings, nor on the Council's local list. However, the buildings in question are constructed of traditional materials and are of historic merit, this was recognised when considering the development of South West Bicester where the development sought to retain views across the adjacent open space to the farmhouse, and the Section 106 Agreement required the retention and renovation of the farm buildings for agricultural purposes, thereby recognising that the buildings are of historical importance and worthy of some protection and retention, as associated by their use historically with the running of Whitelands Farm and the surrounding land.

- 5.32 The existing farmhouse is no longer occupied in conjunction with the farming of the adjacent land and the traditional farm buildings are no longer suited to modern farming methods. The application originally submitted sought consent

for very contemporary conversions of these traditional historic buildings including a number of extensions and alterations, which were considered not to respect their historical integrity and original form in terms of materials and fenestration. The application has subsequently been amended to indicate more traditional conversions and the proposal is on balance now considered acceptable.

- 5.33 The NPPF advises that the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly non-designated heritage assets, such as these traditional farm buildings, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset.
- 5.34 Having regard to the above it is considered that the proposal which seeks to retain the traditional buildings and the form of the farmyard, is on balance acceptable and accords with the advice within the NPPF..

Visual Impact, Layout, Scale and Design

- 5.35 Section 7 of the NPPF – ‘Requiring Good Design’ attaches great importance to the design of the built up environment and advises at paragraph 56 that ‘good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people’.

Paragraph 61:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment”.

Paragraph 63:

“In determining applications, great weight should be given to outstanding or innovative designs which help mix the standard of design more generally in the area”.

Paragraph 64:

“Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions”.

Paragraph 65:

“Local Planning Authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about compatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concerns relate to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposals economic, social and environmental benefits).

- 5.36 In addition to the conversion of the existing farm buildings to create 7 new dwellings, the proposal also seeks to erect 4 new dwellings at the rear on the site of the existing more modern open hay store barns. The original application proposed 3 new dwellings in this location but the application has since been amended to provide an additional new dwelling. The design of the new dwellings is somewhat disappointing in that during negotiations in respect of the overall scheme, sketch designs were submitted which indicated that the design of the new buildings would follow the form, although not the scale of the pole barns which are considered to be iconic structures in the landscape. The applicants have since declined to follow this suggestion, stating that such designs would make the whole scheme unviable. It was with viability in mind that it was suggested that an additional new build dwelling may be acceptable to ensure that the farmyard conversions more greatly respected the historic buildings and that the new build also ensured a better relationship with those buildings in terms of their positioning, size and design.
- 5.37 The proposed scheme now seeks to accommodate a total of 12 residential dwellings (including the existing farmhouse) on the site, varying in size from 2 to 6 bedroom family homes with garaging, parking and individual garden areas. The existing farmhouse is the largest property. The proposal seeks to retain and convert the majority of the existing traditional farm buildings but to demolish those which are either structurally unstable or superfluous to the retention of the farmstead character and identity. The four new dwellings are of contemporary design. The proposed scheme ranges in height from single and two storey barn conversions to the refurbishment of the existing three storey farmhouse. Landscaping is proposed around the perimeter of the farm to form a buffer zone and define the edge of the historic farm grouping. Buildings 8 and 9 are reconstructed buildings on the footprint of the exiting farm buildings.
- 5.38 In terms of visual impact, the farmhouse and farmyard complex are visually prominent in the landscape when viewed from the Middleton Stoney Road across the existing fields, the newly constructed perimeter road and across areas of open space which are provided as part of the new development at South West Bicester. The newly formed sports pitches abut the rear garden to the farmhouse and Whitelands open space abuts the existing farmyard to the south. The farmhouse commands a strong presence in this rural setting which will be retained within the development. This farmyard and buildings however will become less visible and prominent when viewed from the north and west as the surrounding land is developed as part of Phases 1 and 2 South West Bicester. Having regard to the above, the proposal is now considered to be in accordance with the Development Plan, that is Policies C28 and C30 of the Adopted Local Plan and advice within Section 7 of the NPPF being a proposal of good design which seeks to respect the character and appearance of the original traditional buildings and the layout and form of the farmyard.

5.39 Planning Obligations and Viability

The proposed development which proposes 11 new dwellings and the refurbishment of the farmhouse and generates a need for infrastructure and other contributions to be secured through a planning obligation, to enable the development to proceed. The Heads of Terms relating to an obligation would include the following:-

District Council Requirements

- 30% affordable housing
- Open space, sport and recreation facilities
- Refuse bins and recycling
- Community facilities

County Council Requirements

- transport infrastructure improvements – BICITLUS
- education
- adult learning
- libraries
- day resource car centre for the elderly
- strategic waste management
- county museum resources

5.40 In respect of planning obligations the NPPF advises in paragraph 204 that they should only be sought where they meet all of the following tests:-

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

It also goes on to advise in paragraph 205 that local planning authorities should take account of changes in market conditions over time and, wherever appropriate, be sufficiently flexible to prevent planned development being stalled.

5.41 It is considered that in respect of this development proposed, that the requirements for contributions and infrastructure provision would accord with the above advice. Policy BSC 3 'Affordable Housing' in draft Cherwell Local Plan states that all proposed developments within Bicester that include 10 or more dwellings, will be expected to provide at least 30% of housing delivery as affordable homes on site. Whilst the site is currently within Chesterton Parish, due to its location and relationship with the existing Phase 1 development and its inclusion within the allocation in the draft submission Cherwell local Plan of the Phase 2 development, it will be seen in connection with the development of Bicester rather than Chesterton, therefore the affordable housing policy relevant to Bicester is considered relevant rather than the rural area. It does however, go on to state that should the promoters of development consider that individual proposals would be unviable with these requirements, 'open book' financial analysis of the proposed development will be expected so that an in-house economic viability assessment can be undertaken.

5.42 A viability assessment carried out by Allendadwell Construction Consultants on behalf of the applicant was submitted with this application. The findings of that report state that the scheme would not be viable if affordable housing as well as other section 106 contributions were required as part of the development, and therefore the applicants are not proposing to provide any affordable housing within the development. It was accepted that the provision of 30% affordable housing within the development itself may not be a viable option in this respect because of the nature of the development, however if affordable housing provision is not made within the site itself, it should be made via a monetary contribution to enable the District Council to make provision elsewhere. The Allendadwell report therefore seeks to demonstrate that affordable housing provision cannot be made if a fair and reasonable developer profit is to be provided as part of the development.

- 5.43 Following the receipt of the above, the District Council commissioned an independent assessment of the submitted viability report. That assessment has now been received which concludes that the scheme proposed is not sufficiently viable to be able to make a contribution towards the provision of affordable housing, but that contribution should be secured through a planning obligation relating to other infrastructure provisions as follows

District Council Requirements

- Contribution of £16,050 towards the provision of sports facilities at the adjacent sport village at South West Bicester
- Contribution of £742.50 for the provision of refuse and recycling bins.
- £1000 monitoring fee.

County Council Requirements

- | | |
|-------------------------|----------|
| ➤ Education | £206,825 |
| ➤ Transport | £10,062 |
| ➤ Libraries | £2,571 |
| ➤ Waste Management | £1,975 |
| ➤ Museum Management | £157 |
| ➤ Social and Healthcare | £1,449 |
| ➤ Adult Learning | £343 |
| ➤ Youth Facilities | £827 |
| ➤ Administration Fee | £3,750 |

These figures need to be updated to take into account the additional dwelling proposed and will be revised in the Committee Update and verbally at Committee following discussions with the applicants.

6 Recommendations

It is recommended that planning consent be granted subject to the following:-

- (i) applicant entering into a Section 106 Agreement with CDC and OCC agreeing to the contributions identified as necessary in respect of the development proposed and the provision of a right of way and access across the access road to the land beyond in perpetuity in conjunction with its use as sports pitches to be provided as part of the Phase 2 development and to be associated with the existing sports village provision.
- (ii) the following conditions:-
 - 1 The development to which this permission relates shall begin 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 the application shall be

carried out strictly in accordance with the following plans and documents:

Application Forms
Design and Access Statement
Plans and drawings accompanying the application (plan Nos. to be inserted)

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

- 3 Prior to the commencement of the development hereby approved, samples of the clay tiles and natural slates and timber boarding to be used in the construction of the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. Therefore 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 the Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

- 4 Prior to the commencement of the development hereby approved, a stone sample panel (minimum 1m² size) shall be constructed on site in natural limestone to match the stonework on the existing buildings, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

- 5 Prior to the commencement of the development hereby approved, a brick sample panel to demonstrate the brick type, colour, texture, face bond and pointing (minimum 1m² in size) shall be constructed on site, which shall be inspected and approved in writing by the Local Planning Authority. Therefore, the external walls of the development shall be constructed in strict accordance with the approved sample panel.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

- 6 That the existing natural stone and bricks on site shall not be disposed of or removed from the site, but shall be conserved and reused in the construction of the new development.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

- 7 That any remedial stonework and brickwork necessary for the repair or making good of the existing walls of the barns and outbuildings shall be carried out in natural stone and bricks of the same type, texture, colour and appearance as the stone and bricks on the existing buildings and shall be laid, dressed, coursed and pointed to match that of the existing buildings.

Reason – to ensure the development is constructed and finished in materials which are in harmony with the building materials used on the existing buildings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained in the National Planning Policy Framework.

- 8 Prior to the commencement of the development, full details of all doors and windows hereby approved, at a scale of 1:20, including cross sections, cill, lintel and recess detail and colour shall be submitted to and approved in writing by the Local Planning authority. Thereafter the doors and windows shall be installed within the building 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, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

- 9 That prior to the commencement of development colouring of the external lime render shall be in accordance with a colour scheme to be submitted to and approved in writing by the Local Planning Authority, and shall be carried out before the buildings are first occupied and the colouring thereafter maintained in accordance with the approved scheme.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

- 10 Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels in relation to the existing ground levels on the site for the proposed conversions and new dwellings shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved finished levels plan.

Reason – To ensure that the finished development does not detract from the historical integrity of the existing buildings and to ensure that the development is in scale and harmony with its neighbours and surroundings and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government

Guidance contained within the National Planning Policy Framework.

- 11 SC3.0 That no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

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

- 12 SC3.1 That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

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

- 13 That prior to the first occupation of the development hereby approved, a landscape management plan, to include the timing of the implementation of the plan, long term design objectives, management responsibilities, maintenance schedules and procedures for the replacement of failed planting for all landscape areas, other than for privately owned domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the landscape management plan shall be carried out in accordance with the approved details.

Reason – In the interests of the visual amenities of the area, and to ensure the creation of a pleasant environment for the development and to comply with policy C4 of the South East Plan, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

- 14 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 and approved in writing by the Local Planning Authority. All works shall then be undertaken in accordance with the agreed document.

Reason – To ensure that no proposed operations impair the health of any retained trees in the interests of the visual amenities of the area, and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

- 15 That prior to the commencement of any development on the site, notwithstanding the details submitted, full details, locations, specifications and construction methods for all purpose built tree pits and associated above ground features, shall be submitted to and approved in writing by the Local Planning Authority. Details must include specifications for the installation of below ground, load bearing root trenches, root barriers, irrigation systems and a stated volume of a suitable growing medium to facilitate and promote the healthy development of the proposed trees. The development shall be carried out in accordance with the details so approved.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

- 16 That prior to the commencement of any development on the site, notwithstanding the details submitted, full details, specifications and construction methods for all tree pits located within soft landscaped areas shall be submitted to and approved in writing by the Local Planning Authority. Details must also include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching. The development shall be carried out in accordance with the details so approved.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

- 17 Prior to commencement of the development hereby approved, full details of a scheme of supervision for the arboricultural protection measures, to include the requirements set out in a) to e) below, and which is appropriate for the scale and duration of the development works, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the arboricultural protection measures shall be carried out in accordance with the approved details.

- a) Written confirmation of the contact details of the project arboriculturalist employed to undertake the supervisory role of the relevant arboricultural issues.

- b) The relevant persons/contractors to be briefed by the project arboriculturalist on all on-site tree related matters.
- c) The timings and methodology of scheduled site monitoring visits to be undertaken by the project arboriculturalist.
- d) The procedures for notifying and communicating with the Local Planning Authority when dealing with unforeseen variations to the agreed tree works and arboricultural incidents.
- e) Details of appropriate supervision for the installation of load-bearing 'structural cell' planting pits and/or associated features such as irrigation systems, root barriers and surface requirements (e.g. reduced dig systems, arboresin, tree grills).

Reason – To ensure the continued health of retained trees and hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

- 18 That prior to the first occupation of the proposed development, the proposed means of access onto the perimeter road shall be informed and laid 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.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with government Guidance contained within the National Planning Policy Framework.

- 19 Before the development is first occupied the proposed vehicular access driveway turning areas and footway links to serve those dwellings shall be constructed, laid out, surfaced and drained in accordance with the specification details which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with government Guidance contained within the National Planning Policy Framework.

- 20 Before the development is first occupied the parking and manoeuvring areas shall be provided in accordance with the plan (180601Y/P002) hereby approved and shall be constructed, laid out, surfaced, drained and completed, and shall be retained unobstructed except for the parking of vehicles at all times.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply

with government Guidance contained within the National Planning Policy Framework.

- 21 That prior to the commencement of any development on the site, a Construction Travel Plan to include wheel washing facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the plan approved.

Reason – In the interests of highway safety and to comply with Government Guidance contained within the National Planning Policy Framework.

- 22 That prior to the commencement of any development on the site, full SUDS drainage details for the development shall be submitted to and approved in writing by the Local Planning authority. The development shall be carried out in accordance with the details agreed.

Reason – To ensure satisfactory drainage of the site and to comply with central Government Guidance in the NPPF.

- 23 Notwithstanding the provisions of Classes A to E (inc) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 1995 and its subsequent amendments, the approved dwellings shall not be extended, nor shall any structures be erected within the cartilage of the said dwellings, without the prior express planning consent of the Local Planning Authority.

Reason – To ensure and retain the satisfactory appearance of the development and the historical integrity of the buildings, to enable the Local Planning Authority to retain planning control over the development in accordance with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

- 24 Notwithstanding the provisions of Classes A, B and C of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 1995 and its subsequent amendments, no new windows, doors or any other openings, other than those shown on the approved plans shall be inserted in the walls or roofs of the dwellings without the prior express consent of the Local Planning Authority.

Reason – To ensure and retain the satisfactory appearance of the development and the historical integrity of the buildings, to enable the Local Planning Authority to retain planning control over the development in accordance with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and government Guidance contained within the National Planning Policy Framework.

- 25 The garages and car ports shown on the approved plans shall not be converted to provide additional living accommodation without the prior express planning consent of the Local Planning Authority.

Reason – to ensure the satisfactory provision is made for the parking of vehicles within the site and to retain the satisfactory appearance and character of this development, to comply with Policies BE1 and T4 of the South East Plan and Policy C28 of the adopted Cherwell Local Plan and Central Government Guidance contained within the National Planning Policy Framework.

26 No works of site clearance, demolition or development shall take place until a protected species mitigation and enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the following:-

- a) The findings of two further bat emergence/dawn surveys carried out between the months of May to August inclusive.
- b) A bat mitigation scheme, to be informed by the findings of the surveys and work already done.
- c) The number, type and location of replacement (if necessary) and new bat roosting features.
- d) The number, type and location of replacement bird nest boxes for little owl, swallows and any other desired species.

All works shall be carried out in accordance with the approved scheme.

Reason – to ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy NRM5 of the South East Plan 2009, Policy C2 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

27 No works of demolition, renovation or construction shall take place within any former agricultural building between the months of March to August inclusive, unless checked immediately beforehand by a suitably qualified ecologist for the presence of nesting birds. If nesting birds are found to be present, no works are to take place in that area until the birds have fledged.

Reason – to ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy NRM5 of the South East Plan 2009, Policy C2 of the adopted Cherwell Local Plan and Government Guidance contained within the National Planning Policy Framework.

Planning Notes

1. No development shall take place across any public footpath/right of way unless it has been legally stopped up or diverted.
2. Attention is drawn to the legal agreement which relates to this development which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.

3. The applicant is advised that all works to which this permission relates must be carried out strictly in accordance with the plans, drawings and other relevant supporting material submitted as part of this application and hereby approved. The Planning Department must be immediately advised of any proposed variation from the approved documents and the prior approval of this Council obtained before any works are carried out on the site. This may require the submission of a further application. Failure to comply with this advice may render those responsible liable to enforcement proceedings which may involve alterations and/or demolition of any unauthorised building or structures and may also subsequently lead to prosecution.
4. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
5. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social Behaviour Manager on 01295 221623 for further advice on this matter.
6. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

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 will not have a detrimental affect on the visual amenities of the locality and is acceptable in its form, scale and design and respects the character of the original farmyard, and will not cause harm in terms of highway safety, the wider rural landscape and ecology. As such the proposal is in accordance with Policies CC1, CC4, CC6, CC7, T1, T4 and BE1 of the South East Plan 2009 and Policies C2, C28 and C30 of the adopted Cherwell Local Plan and Government advice within the National planning

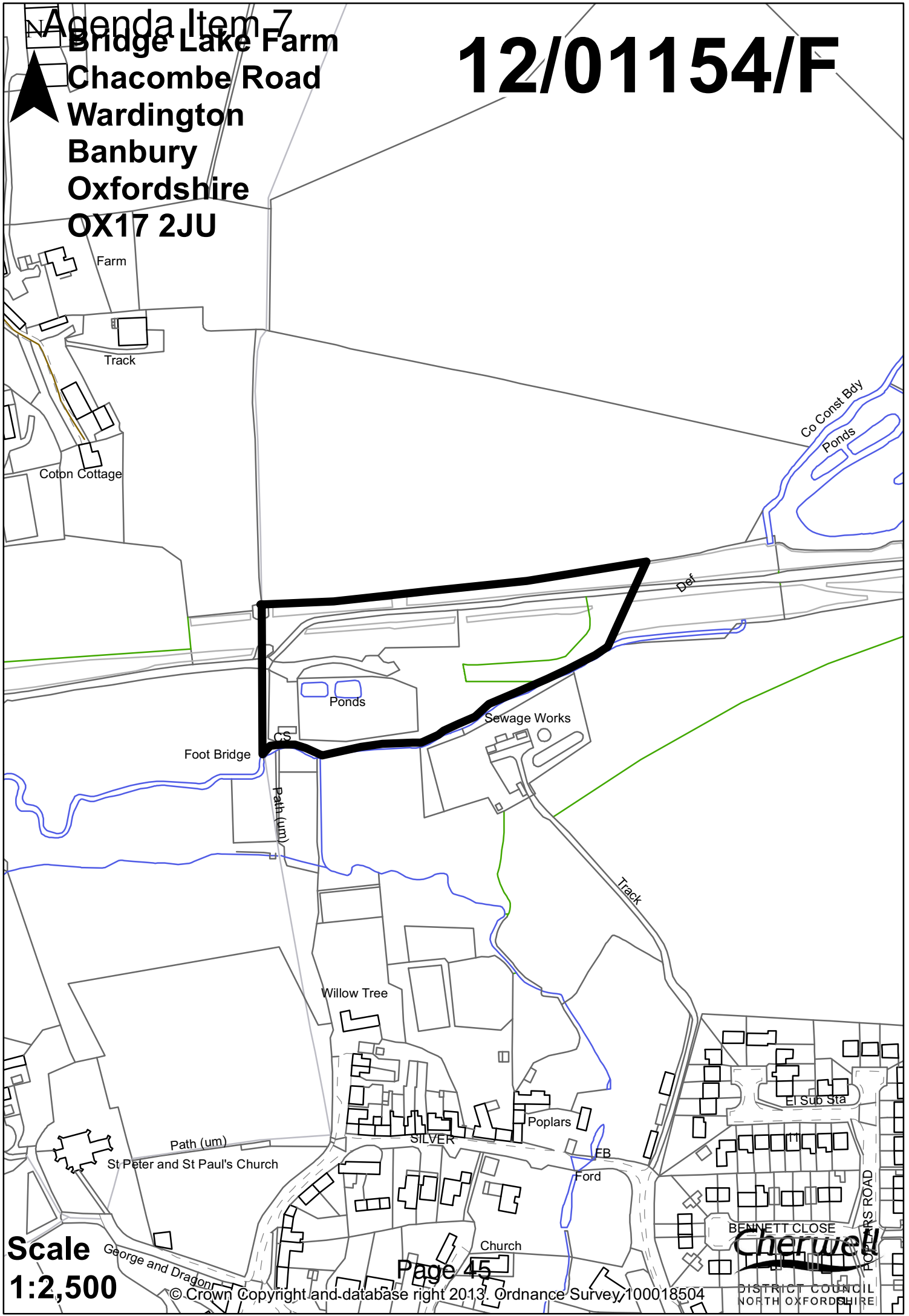
Policy Framework. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant and agent in a positive and proactive way as set out in the application report.

Agenda Item 7
Bridge Lake Farm
Chacombe Road
Wardington
Banbury
Oxfordshire
OX17 2JU

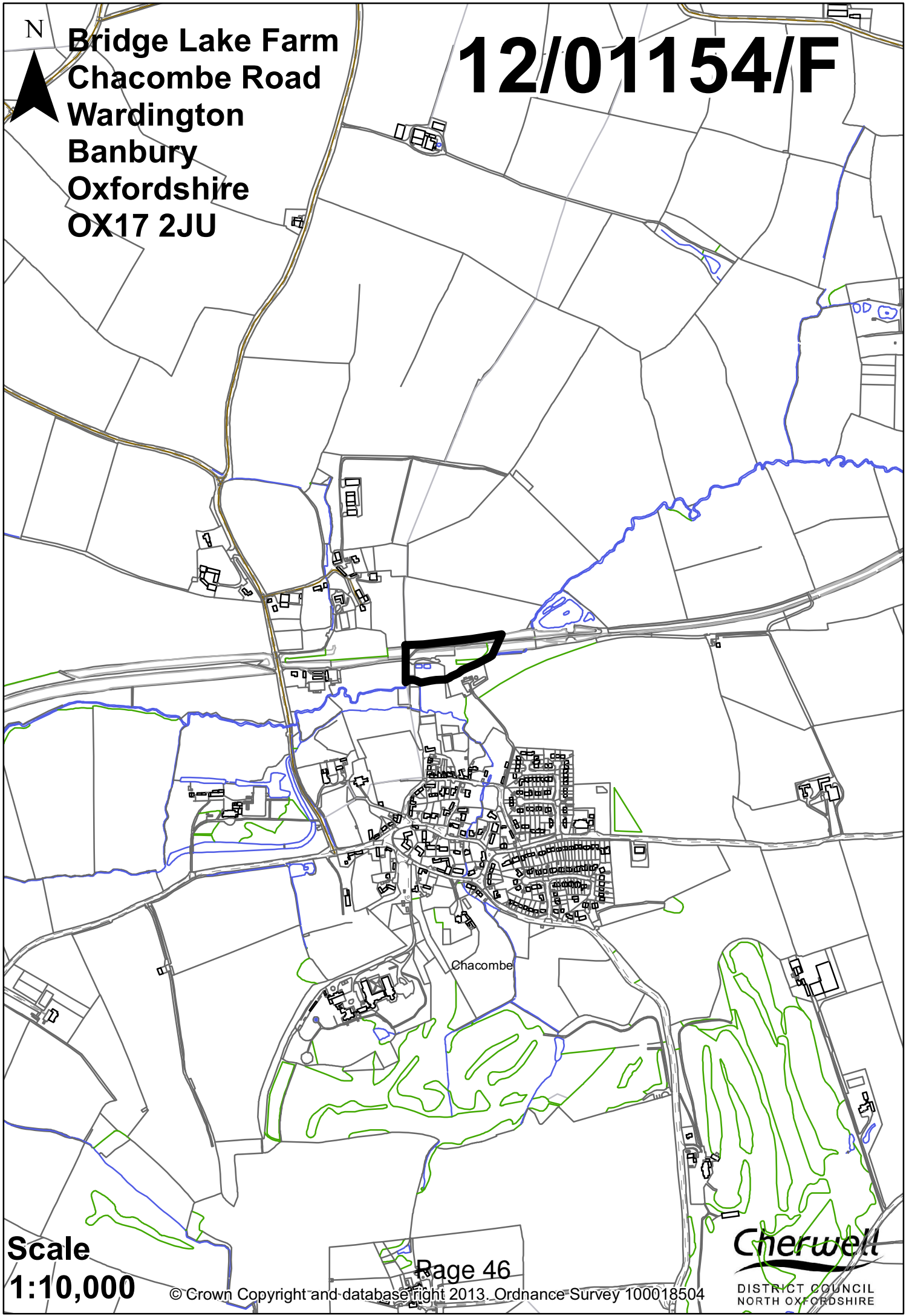
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**Bridge Lake Farm
Chacombe Road
Wardington
Banbury
Oxfordshire
OX17 2JU**



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Page 46

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Bridge Lake Farm, Chacombe Road, 12/01154/F Wardington

Ward: Cropredy **District Councillor:** Cllr Atack

Case Officer: Simon Dean **Recommendation:** Approval

Applicant: Mr Jonathan Aylmer

Application Description: Erection of vehicle shelter and log store; garage conversion

Committee Referral Reason: Site area

1. Site Description and Proposed Development

- 1.1 The application site is a detached, isolated dwelling on the edge of Chacombe. The dwelling, set into the former railway embankment was originally constructed pursuant to a consent issued in 1999 (98/01955/F refers) with an agricultural tie. Following a certificate of lawfulness application in 2011 (11/01206/CLUE refers), it was established that the dwelling was not constructed in line with the approved details of that consent, and that as a result, the conditions attached to that consent did not apply.
- 1.2 The proposal is for the erection of a timber framed and timber clad vehicle shelter and log store, with a games room on the first floor over. The scheme also includes the conversion of the original garage within the dwelling and the insertion of a number of 'sun-pipe' roof lights.
- 1.3 A public right of way runs along the boundary of the site to the West of the proposed garage location.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice and neighbour letter. The final date for comment was 10 January 2013. No public comments have been received in response to this consultation.

3. Consultations

- 3.1 **Wardington Parish Council:** no objections
- 3.2 **Contaminated Land Officer:** no objections
- 3.3 **Archaeologist:** Notes that there are no archaeological constraints to the site
- 3.4 **Environment Agency:** no objections

4. Relevant National and Local Policy and Guidance

- 4.1 **Development Plan Policy**

Adopted Cherwell Local Plan (Saved Policies)

C7: Landscape conservation

C13: Areas of High Landscape Value

C28: Layout, design and external appearance of new development

South East Plan 2009

NRM4: Sustainable flood risk management

BE1: Management for an urban renaissance

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5. Appraisal

5.1 The key issues for consideration in this application are:

- Design, appearance, scale
- Impact on amenity
- Impact on the countryside

Design, appearance and scale

5.2 The design of the proposed vehicle shelter and log store is considered to be acceptable for the location and the character of the context of the site. The use of timber framing and timber cladding is appropriate and to be expected in a location such as this.

5.3 The scale of the building, whilst undoubtedly large, is considered appropriate given the scale of the dwelling and the size and nature of the site.

Impact on amenity

5.4 As the application site is immediately adjacent to a public right of way, the impact of the proposal on users of that right of way must be considered. Given the nature of the location of the site and its relationship to the village of Chacombe, I do not consider that the proposal will harm the amenity of footpath users. The character of the site, whilst rural, is not so divorced from the settlement or from other built development (notably other farms and dwellings, the sewage works and the host dwelling) that this proposal would appear incongruous.

Impact on the countryside

5.5 For reasons set out above, I do not consider that the proposal will have a harmful impact on the landscape or openness of the countryside. From visiting the site and from examining the plans, it is clear that whilst this site is beyond the edge of the village of Chacombe, it is within an area of other, similar low density development, including farm buildings, isolated other dwellings and associated ancillary buildings.

Conclusion

5.6 The proposal is considered acceptable in terms of its impact on amenity and impact on the character of the countryside and the landscape. The location and

size of the proposal and the relationship of the site to neighbouring properties means that there will be no unacceptable impact arising from the development or other detrimental effect on amenity.

- 5.7 The proposal is therefore considered to accord with the provisions of Policies C7, C13 and C28 of the Local Plan; the proposal is sympathetic to the character of the context of the development and is compatible with the scale and character of the context of the development and causes no unacceptable landscape harm.
- 5.8 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Approval, subject to 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 following plans and documents and the materials and finishing details included therein;
 - i. drawing 2265/01 (submitted with the application)
 - ii. the details set out in the Application Forms (submitted with the application)

Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority.

- 3 No garage conversion
- 4 Private/ancillary use

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 is of a design, size and style that is appropriate and will not unduly impact on the character, appearance or openness of the countryside or give rise to other harm to amenity. As such the proposal is in accordance with Policies CC1, NRM4 and BE1 of the South East Plan 2009, Policies C7, C13 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework. For the reasons given above and having

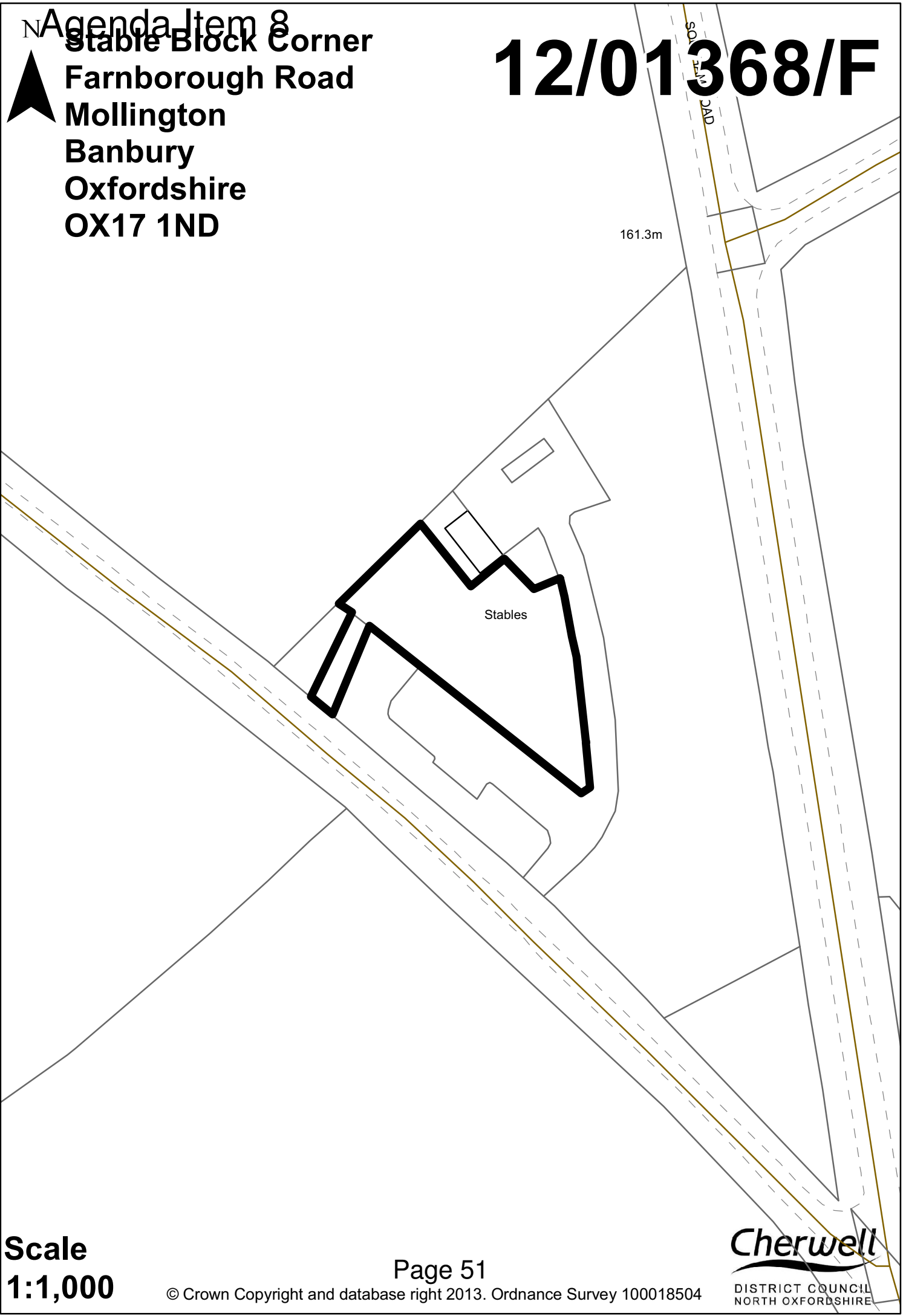
regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 8
Stable Block Corner
Farnborough Road
Mollington
Banbury
Oxfordshire
OX17 1ND

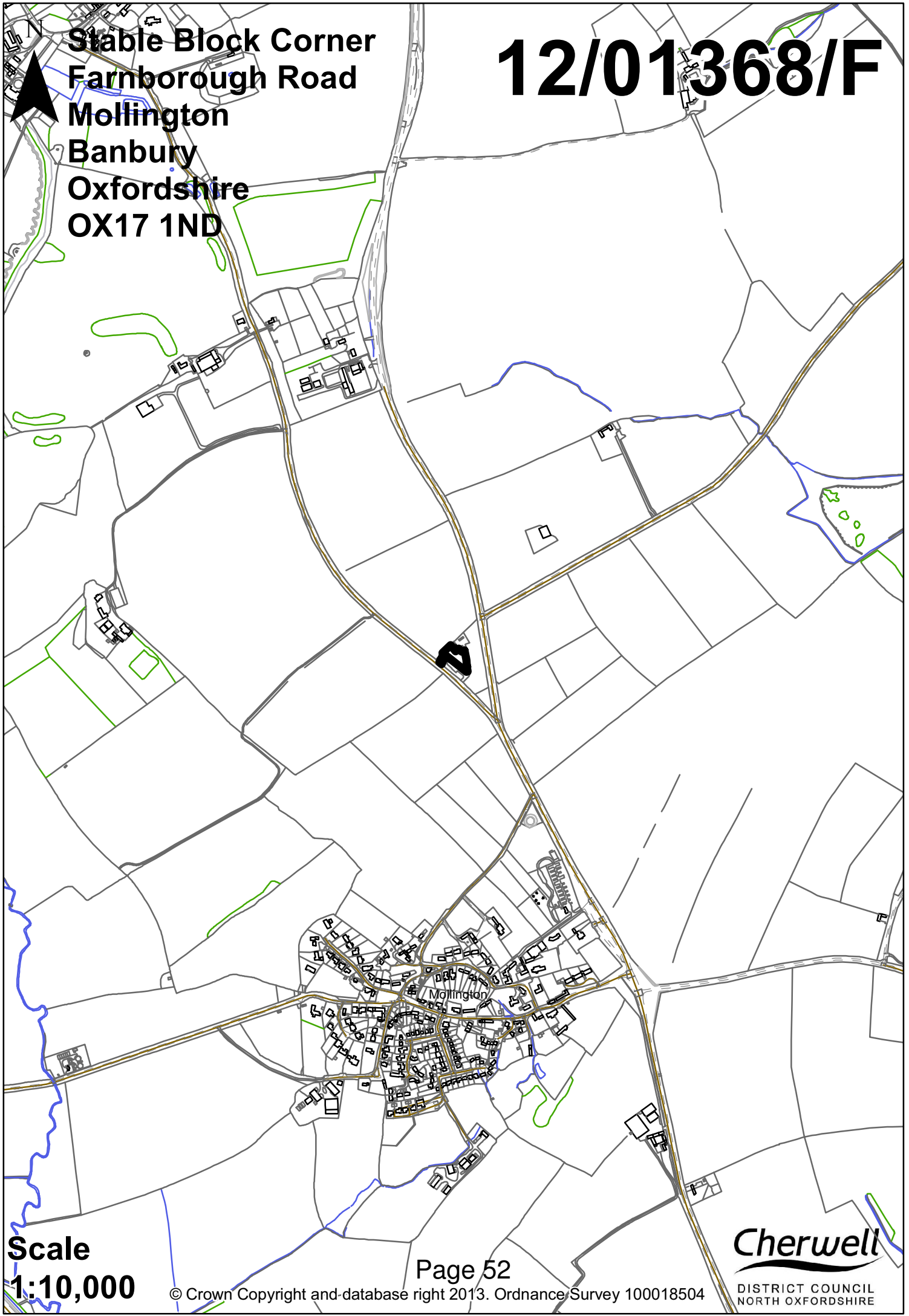
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**Stable Block Corner
Farnborough Road
Mollington
Banbury
Oxfordshire
OX17 1ND**

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Page 52

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Stable Block Corner, Farnborough Road, Mollington, Banbury

12/01368//F

Ward: Cropredy

District Councillor: Councillor Atack

Case Officer: Jane Dunkin

Recommendation: Approval

Applicant: Mr Thomas Doran

Application Description: Change of Use of part of land to provide extra space required to accommodate four household caravan pitches, one visitor pitch and retention of existing static caravan (part retrospective)

Committee Referral: Member Request

1. Site Description and Proposed Development

- 1.1 The site forms a small parcel of land (roughly 1750sqm) within the wider site known as Corner Meadow which is located immediately to the north of the junction between Farnborough Road and A423 Southam Road, approximately 600m north of the village of Mollington. Corner Meadow, together with Stable Block Corner, as a whole, forms a triangular shaped parcel of land containing a small wooded area on the southern boundary. Access to the site is via an existing gateway from Farnborough Road.
- 1.2 The application seeks consent for the siting of five caravan pitches (four household pitches and one visitor pitch) on the land within the ownership of the applicant. The visitor pitch and one of the household pitches would be positioned entirely on land previously the subject of a change of use for the siting of caravans. The remainder of the three proposed pitches would be sited partly on land previously the subject of a change of use for the siting of caravans and partly on land that is not currently authorised for the siting of caravans. A planted play area is also proposed to be situated on land that is not currently authorised for the siting of caravans. The proposal therefore involves a change of use of some of the land.
- 1.3 Planning permission is also sought retrospectively for the site of a static caravan on land to the north of the approved access to the site. This static caravan was granted planning permission under the original applications 08/00604/F and 09/00622/F, however it is not currently sited in the approved location, which is approximately 17m to the north and arranged perpendicular to the boundary hedge rather than parallel to it as it currently is.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters and a site notice. Due to the submission of amended plans which included an alteration to the description and the red line, the final date for comment was the 20th November 2012.

Four letters of representation have been received raising the following issues:

- Submitted plans are confusing
- Shows pitches covering sewage plant
- Plan doesn't show position of existing units
- Overcrowding and encroaching on land immediately bordering Farnborough Road
- Unauthorised siting of caravans and containers (not shown on plans)
- Sewerage management for up to 34 occupants?
- Family members can't be monitored
- Site often occupied by foreign workers
- Vagueness over who can occupy is worrying and cannot be used as an argument for need
- National shortage not relevant as there are 70 pitches in CDC
- Enforcement of site patchy and ineffective
- CDC should call a halt to development and reject application
- Applications are often retrospective
- Not clear if all conditions have been discharged
- Application will fundamentally change nature of land. Fast becoming municipal traveller site = step too far
- Rural location – limited services – not suited to high concentration of occupation
- It is understood that travellers from other locations occupy the site
- This and future applications should be rejected, if land is required CDC should allocate land close to an urban area closer to services.
- How has site developed gradually but has continually broken planning laws?
- Entrance and exit creates a hazard to other road users, addition of 5 residencies will create additional traffic
- Site getting larger and a number of issues remain unresolved

3. Consultations

3.1 **Mollington Parish Council:** Objects to the application on the following grounds:

1. Occupancy could amount to 34
2. Area of High Landscape Value: landscaping not completed. Increase in urbanisation of area with no services to support
3. Occupancy condition not being met
4. Amended plans confusing. Mobile home and container in unauthorised area. Also several caravans in this area. Should plans be so inaccurate?
5. Need for expansion not validated. 70 pitches available across district and no evidence of shortage
6. Members agreed on a full review of the site prior to any further expansion. Expansion has reached its limits in Mollington Parish Council's view
7. Would like to speak at Planning Committee

Cherwell District Council Consultees

3.2 **Planning Policy Officer:** Unclear how many household pitches would be provided. This will need to be clarified to gain an understanding of the total

number of authorised pitches at Corner Meadow together with total number of caravans allowed. This is important for future monitoring and planning of accommodation for Gypsies and Travellers. Regard should be had to the Government's Planning Policy for Travellers Sites and Policy BSC6 of the Proposed Submission Local Plan (Aug 2012) although the latter carries limited weight it sets out a criteria based approach for the identification of traveller sites. Consideration should also be given to the CLG Good Practice Guide on Designing Gypsy and Traveller Sites. It was acknowledged in a previous consultation for this site that there may be potential for further pitches but that there was a risk that a continuation of the incremental approach to developing the site could mean that some of the important advice contained within the guidance is overlooked (e.g. re provision of essential services, play space curtilage and distance between pitches). It is also important that effective and efficient use of land is made, particularly as it can be very difficult to identify deliverable land in suitable locations for gypsy and traveller sites.

At the present time, the district has a total of 70 authorised pitches, 22 more than the baseline of 48 recorded in 2006. The current authorised supply comprises:

- Station Caravan Park, Banbury - 10 pitches
- Smiths Caravan Park, Bloxham – 36 pitches
- Bicester Trailer Park, Chesterton – 8 pitches
- Corner meadow, Mollington – 4 pitches
- Foxfield Farm, Ardley – 1 pitch (personal permission)
- Land adjoining A34, Near Islip – 8 pitches
- Woodstock Road Yarnton – 2 pitches (temporary and personal permission)

A needs assessment is currently being undertaken by the Council to assess future needs but at the time of writing this has not been completed.

The Council does not presently have any allocated sites and is unaware whether there is likely to be any accommodation available on existing sites. It is noted that the proposal is to provide additional accommodation for members of the family of the existing residents on the site.

- 3.3 **Landscape Officer:** Visual assessment not required as site already exists, however screen planting should be shown now on a plan and not left to be dealt with as a condition.
- 3.4 **Licensing Officer:** No comments. Caravan site licence inspection will be taken in the new year as routine to ensure current site licence conditions are being maintained.
- 3.5 **Anti-social Behaviour Manager:** No observations or objections

Oxfordshire County Council Consultees

- 3.6 **Highways Liaison Officer:** Appropriate access available to the site and appropriate provision for parking and manoeuvring. Accessibility very poor but site not considered to be unsustainable (as defined by Circular 01/2006) therefore no objections.

- 3.7 **Drainage Officer:** Soakaway or SUDS drainage required (not run-off to highway). New hardstanding to be SUDS complaints. Surface water to be dealt with within the site.

Other Consultees

- 3.8 **Environment Agency:** Low environmental risk, therefore no objections
- 3.9 **Thames Water:** No objection re water infrastructure. Informative about water pressure recommended.
- 3.10 **Thames Valley Police:** On the basis of information available, the Police have no comment to make regarding this application, with regard to designing out crime for the proposed development.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- C7: Landscape Conservation
- C8: Sporadic development in the open countryside
- C9: Scale of development compatible with a rural location
- C13: Area of High Landscape Value
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development

South East Plan 2009

- CC1: Sustainable development
- T4: Parking
- H4: Type and size of new housing
- BE1: Management for an urban renaissance
- C4: Landscape and countryside management

4.2 Other Material Policy and Guidance

National Planning Policy Framework (includes Planning Policy for Traveller Sites)

Cherwell Local Plan - Proposed Submission Draft (May 2012)

The draft Local Plan is now 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:

BSC6: travelling Communities

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.

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant planning history
- Principle of development
- Access to services
- Flood risk
- Highway network
- Noise and disturbance
- Historic and natural environment
- Living environment and deliverability of utilities
- Efficient and effective use of land

Relevant Planning History

- 5.2 Planning permission was originally granted following an appeal for the change of use of the land to use as a residential caravan site for one gypsy family with a total of up to three caravans (app 08/00604/F refers), which related to a parcel of land to the north of the current site in question. In considering the proposal the Inspector concluded that:
- 5.3 'the development would not harm highway safety and that the site would be acceptable in sustainability terms. I have identified limited harm to the character and appearance of the surrounding area but consider that the impacts could be mitigated by the imposition of conditions. Notwithstanding the small element of visual harm arising from the development there are compelling factors in favour of the development arising from the need for gypsy sites in the area and the lack of available alternative sites. I also give some weight to the educational needs of the children living on the site.'
- 5.4 It was therefore identified that there was a need for additional gypsy accommodation at that time within the District that was not being provided.
- 5.5 Application 09/00622/F granted planning permission for the change of use of the same parcel of land (although slightly larger in area) to use as a residential caravan site for two gypsy families with a total of up to six caravans (two static and four touring caravans).
- 5.6 As the Inspector at the time of the preceding appeal had concluded that the development considered under 09/00622/F was not considered to be harmful and there was an existing need for gypsy sites in the district, the subsequent application was accepted.

- 5.7 Application 10/01610/F granted planning permission for a change of use of a separate parcel of land to the south of the original site relating to the preceding applications to allow the siting of one static caravan and two touring caravans in 2010 (10/01610/F refers).
- 5.8 The advice from the head of Planning Policy and Economic Development in relation to that application was that the latest advice from the Government at that time was that it will be for the Local Planning Authority to decide on the level of need for further gypsy and traveller pitches. At the time of application 10/01610/F the Head of Planning Policy and Economic Development advised that the Council did not dispute that there was a need for further pitches and based on the history of the wider site and the Inspector's decision, it was considered to be a suitable location for a further pitch.
- 5.9 Application 11/00293/F granted planning permission for an additional static caravan together with two touring caravans on the same land as application 10/01610/F (in relation to which a change of use for the siting of a mobile home has already been granted planning permission).
- 5.10 Following application 11/00293/F, the ownership of the site was divided into two and a standard height close boarded fence erected across the site along the shared boundary between the two areas of separate ownership. This resulted in the requirement for a second vehicular access to the site which was granted planning permission under application 11/00783/F.

Principle of Development

- 5.11 The Council's Planning Policy Team, advises that regard should be had to the Communities and Local Government (CLG) Planning Policy for Traveller Sites, (to be read in conjunction with the NPPF), Policy BSC6 of the draft submission of the Cherwell Local Plan and the CLG Good Practice Guide for designing Gypsy and Traveller Sites. The Policy Team had also advised that the number of household pitches proposed needed to be clarified for monitoring purposes and planning for future accommodation. The number of household pitches has been clarified as four as per the description of the application.
- 5.12 The CLG Planning Policy sets out the Government's aims in respect of traveller sites. It advises that Local Planning Authorities should make their own assessment of need through the use of fair and effective strategies to meet need and to plan for sites over a reasonable timescale. It goes on to advise how this should be achieved.
- 5.13 Policy BSC6 of the Proposed Submission draft of the Cherwell Local Plan sets out the Council's suggested policy for providing gypsy and traveller sites. At this stage the Plan carries limited weight. It is however very useful as guidance, as there is no saved policy within the aCLP which deals with gypsy sites. Policy BSC6 states that the Council will provide for additional pitches to meet need. No sites are currently allocated for gypsy and traveller sites within the District, however, in line with the advice contained within the CLG Policy referred to above, the Council, in conjunction with West Oxfordshire and South Northamptonshire Councils is in the process of finalising a Gypsy and Traveller Housing Needs Assessment to identify the needs of Gypsies and Travellers from across the three districts in order to provide a robust evidence base to inform future policies and decisions. It is possible that the study will be finalised

by the time the Planning Committee meets, and is so a verbal update of the content of the Assessment could be given at the meeting.

5.14 However, informal consultation with the Policy Team suggests that the study is likely to identify some need for additional pitches.

5.15 Policy BSC6 sets out the criteria that will be considered in assessing the suitability of the sites for gypsy and traveller use in the interests of meeting identified needs:

- Access to GP and health services
- Access to schools
- Avoiding areas of flood risk
- Access to the highway network
- The potential for noise and disturbance
- The potential for harm to the historic and natural environment
- The ability to provide a satisfactory living environment
- The need to make efficient and effective use of land
- Deliverability, including whether utilities can be provided

5.16 The proposal is considered against the above criteria below:

Access to Services and Schools

5.17 The Inspector who dealt with the original application considered that the use of part of the site for gypsy accommodation was acceptable despite its detachment from the nearest settlement. Whilst the site is detached from Mollington, it is within walking distance of the village, where there is a primary school. Cropredy also has a primary school and a doctor's surgery, which although, realistically, residents of the site would have to drive to, it is within two miles of the site. The application proposes a play area on the site for children. With these facilities and services in place, officers consider that the site is appropriately serviced without the need to travel to larger centres.

Flood Risk

5.18 The site is not located within the flood plain and as such there is no risk of flooding as a result of developing the site. Drainage conditions are recommended by the County Council to ensure that surface water is dealt with appropriately.

Access to the Highway Network

5.19 The Local Highway Authority advises that there is appropriate access available to the site together with appropriate provision for parking and manoeuvring, as such officers are satisfied that the proposal would not be a risk to highway safety or convenience.

5.20 With regard to accessibility to the site, the Local Highway Authority considers this to be very poor, however it does not consider the site to be unsustainable (as defined by Circular 01/2006) therefore no objections are raised. Access to services can be achieved as addressed above.

The Potential for Noise and Disturbance

5.21 Although within walking distance of Mollington, the site is situated in the open countryside, which is mainly in agricultural use and as such there would be little noise and disturbance emanating from neighbouring activities. The Southam

Road (which is an A road) however does run adjacent to the site to the east, from which some noise and disturbance is likely to occur. The inspector at the time of initially allowing the site to be used for the accommodation of gypsies do not however raise this as a significant issue and this proposal does not propose pitches within any closer proximity to the road than the existing pitches on the site.

- 5.22 With regard to noise and disturbance emanating from the site, the site is detached from the village and as such the site is unlikely to cause significant harm to the surrounding environment or residents. Furthermore as this is a residential site for gypsies and not a commercial site (commercial activity restricted via planning condition), noise typically emanating from the site should be associated with residential activity only.

The Potential for Harm to the Historic and Natural Environments

- 5.23 There are no heritage assets on the site or within its immediate vicinity and as such the use of the site for further gypsy pitches would not cause harm to the historic environment.
- 5.24 With regard to the natural environment, in terms of ecology, there are no recognised protected species on the site that would be harmed by the proposed development. Furthermore the proposal does not propose to fell any trees.
- 5.25 Turning to landscape impact and visual amenity, on approach to the site on the Southam Road from the south, the site is not visible due to a significant area of planting to the southern most corner of the site. Similarly views into the site from the Farnborough Road and the Southam Road on approach from the north, are limited. The main views that can be gained of the site and its content are directly from the east (Southam Road) and the west (Farnborough Road), particularly at this time of year when natural vegetation is more sparse. At present, the site has not been landscaped in full accordance with previously imposed planning conditions, however it is understood that some planting has recently taken place along the site boundary with Farnborough Road and the department's enforcement team are due to check this on site to see whether it is in accordance with the terms of the enforcement notice. The applicant has advised that he would like to wait until the outcome of this application before carrying out more planting within the site.
- 5.26 The Council's Landscape Officer has suggested that full details of a landscaping scheme to be submitted as part of the application rather than leave this to the condition stage and a scheme has been submitted during the process of the application. This indicates new planting to reinforce the boundary hedge with the Farnborough Road and the hedgeline to the north of the site. It also indicates three new areas of planting to the east, south and west of the area for the proposed new pitches. Officers consider that, providing the planting is carried out in accordance with the submitted plans and allowed to grow to an agreed height (to be secured via condition), the planting would sufficiently screen the proposed pitches to an extent that they would not cause harm to visual amenity. The exact wording of the landscaping conditions shall be presented at committee following further consultation with the Landscaping team.

5.27 Turning to the visual impact of the applicant's existing static caravan, for which retrospective consent is sought, this is currently sited adjacent to the northern hedgeline within the parcel of land closest to the Farnborough Road which does not benefit from consent for the siting of caravans and from which Members historically have stated that all unauthorised caravans and buildings should be removed. At the time of the officer's site visit in relation to this application, many of the unauthorised buildings had been removed from this area (other than the static caravan). It is officers advice to Members, that given the location of the caravan adjacent to the hedgeline which is to be reinforced, and within 7m of the approved day room, together with the rest of the planting that is proposed, the static caravan, would not cause unacceptable harm to visual amenity and therefore it is recommended that the retrospective change of use of this small area next to the Farnborough road is accepted.

5.28 Given the above assessment, officers are satisfied that the site is well contained and would not therefore have an impact upon the wider area of High Landscape Value. In addition to this, providing that the proposed landscaping scheme is implemented in accordance with the submitted details, it is considered that the visual impact of the proposed development would not be so harmful that it would amount to an overriding reason for refusal for the application.

Provision of Satisfactory Living Environment (including deliverability of utilities)

5.29 There are no existing residential properties within close proximity of the site that would be harmed by the proposed development by way of noise and disturbance or being overlooked. The assessment of residential amenity therefore lies only with the impact of the proposed caravan pitches on each other in terms of protecting privacy and amenity.

5.30 The CLG Good Practice Guide for designing Gypsy and Traveller sites advises on appropriate layout both for the site as a whole and in relation to individual pitches, in order to achieve a level of amenity and privacy appropriate for the occupiers of each pitch whilst maintaining natural surveillance across the site and any amenity or play areas. Assessing the standard of amenity for gypsy and traveller sites is no different from how it is judged for the settled community, e.g. no direct overlooking between caravans and trailers, using appropriate fencing to achieve privacy, and arranging buildings so that they do not overshadow others and are not overbearing. Whilst not strictly associated with amenity, the CLG Guide also states that every trailer, caravan or park home must be not less than 6 metres from any other trailer, caravan or park home that is occupied separately.

5.31 Further advice is provided about ensuring that occupants have appropriate access to water, electricity, gas/oil where necessary, drainage, sewerage, lighting, waste disposal and community facilities.

5.32 As proposed, the new pitches would be arranged around a central, communal area, which is supported by the CLG guidance, each achieves an appropriate standard of amenity and privacy as the static living accommodation on each would be arranged so as to not directly overlook another and fencing is proposed between each pitch. The living accommodation also complies with the 6m separation guidance. Outside space for each pitch includes a patio area

and parking area and some green space. Other communal landscaped areas are also proposed together with a play area.

5.33 With regard to access to services, the site is already served by water and electricity, and each pitch would be connected to the existing septic tank on the site. Provision is indicated on the plans for refuse bin storage and the site is already serviced by a refuse collection. The Local Drainage Authority advise that an appropriate soak away or SUDS scheme is required in relating to the new pitches and a scheme for dealing with surface water run off. Lighting is not indicated on the plans, however this is a matter that can be controlled via planning condition

5.34 With regard to the provision of communal facilities, including toilets and a kitchenette, these facilities already have planning permission in the form of a day room granted consent on the site under planning application reference 11/01808/F.

Efficient and Effective Use of Land

5.35 As part of the site has previously been granted planning permission for the accommodation of gypsies, it seems reasonable to officers that further pitches could be accommodated to ensure efficient and effective use of land, providing that they do not cause harm when considered against relevant material planning matters. The relevant matters have been addressed above and in each case it has been concluded that significant harm would not be caused.

Other Matters

5.36 The Parish Council and third party representations are noted and addressed as follows:

5.37 It is not considered that the site would be overcrowded as the proposal meet with the CLG Design Guidance for Gypsy Sites.

5.38 There are some unauthorised vans and containers on the site which the enforcement team are currently addressing.

5.39 It is not for the planning department to monitor family members, but to minor that the number of pitches on the site are in accordance with the approved details.

5.40 Any occupation of the site by anyone other than a gypsy or traveller as defined by paragraph 15 of ODPM Circular 01/2006 would be in breach of the current planning permission for the site. This makes it clear who can and cannot occupy the site.

5.41 The Housing Needs Study is likely to identify some need for additional pitches.

5.42 Enforcement officers have spent a significant amount of time recently investigating and taking action against the breaches on the site together with outstanding conditions. Some progress in relation to removing unauthorised buildings and carrying out landscaping has been made.

- 5.43 It would be unreasonable for the Council to call a halt to the development of the site, where there is a locally identified need for further pitches and there is no clear planning reason why refusal should be recommended.
- 5.44 Whilst not ideal or encouraged, retrospective applications at least mean that a development can be assessed and approved (authorised) or refused, and action can then be taken against the unauthorised matter (if necessary) irrespective of the nature of the application.
- 5.45 The application may change the nature of the site, but there is no identified reason at this stage why this would be unacceptable in planning terms.
- 5.46 Services can be introduced to the site to ensure that the appropriate level of utilities required in relation to the number of occupants is provided.
- 5.47 The Council is due to allocate sites to meet any future need following a sequential approach as set out in Policy BSC6 of the submission draft of the Local Plan. There are no allocated sites however at this stage and this application represents efficient use of land in association with an existing authorised site.
- 5.48 The site has developed gradually, nearly all as a result of approved planning applications.
- 5.49 The Local Highway Authority raises no concerns about a risk to other road users as a result of the proposed application.
- 5.50 Concerns about the submitted plans are noted, however it is considered that there is enough information to adequately assess the proposed development.

Engagement

- 5.51 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application, however it has been amended throughout the course of the application. It is considered that the duty to be positive and proactive has been discharged.

Conclusion

- 5.52 In conclusion, there is likely to be an identified need for further household pitches within the district following the completion of the Housing Needs Study and parts of the site are considered to be appropriate for gypsy residency. Having given consideration to the guidance contained within emerging policy ESD6 of the draft submission of the Cherwell Local Plan and the CLG Design Guidance, officers are satisfied that the site continues to be suitable for further gypsy pitches.
- 5.53 The proposal is therefore considered to be acceptable in principle, it would not cause harm to neighbouring or visual amenity, would be appropriate in landscape impact terms subject to further planting and would not be a risk to highway safety or convenience. As such the application complies with Policies CC1, T4, H4, C4 of the South East Plan, Policies C7, C13, C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework and the CLG Planning Policy for Gypsies and Travellers.

5.54 The proposal also complies with Policy BSC6 of the proposed submission draft of the Cherwell Local Plan, although this policy carries less weight than the adopted policies.

5.55 For these reasons, the application is recommended for approval.

6. Recommendation

Approval, subject to:

a) the following conditions:

1. 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 condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement and drawings numbered: 1073-NP-01 B, 1073-NP-02 B, 1073-NP-03 C, 1073-NP-04 B and 1073-NP-05 received 28 November 2012.

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

3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.

Reason - This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent and to comply with Government advice contained in ODPM Circular 01/2006.

4. No commercial activities shall take place on the land, including the storage of materials, and no vehicle over 3.5 tonnes shall be stationed, parked or stored on this site at any time whatsoever.

Reason - In order to safeguard the amenities and character of the area and

in the interests of highway safety and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. No more than four additional household pitches and one additional visitor pitch shall be accommodated on the site, which shall include the siting of no more than one static caravan and no more than one mobile home per pitch.

Reason - In order to safeguard the amenities and character of the area and in the interests of highway safety and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, 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. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

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

7. Prior to the commencement of the development hereby approved, full details of all external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the lighting shall be installed and retained 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, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, full details of all enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of each pitch, the means of enclosure, shall be erected and retained, in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed

development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved, full details of the means of water and electricity supplies shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the occupation of the pitches hereby approved, the water and electricity supplies shall be provided in accordance with the approved details.
10. Landscaping details (to be updated verbally)
11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, 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. Any trees, herbaceous planting 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 current/next planting season with others of similar size and species.

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

12. Notwithstanding the provisions of Class A of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 1995 and its subsequent amendments, no gate, fence, wall or other means of enclosure, other than those that have been approved as part of the application shall be erected, constructed or placed forward of the existing hedgerow of the site towards the highway without the prior express planning consent of the Local Planning Authority.

Reason – To ensure and retain the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Planning Notes

1. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
2. For the purposes of monitoring the site as a whole, approval of this application would result in eight household pitches and one visitor pitch across the two land ownerships.

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

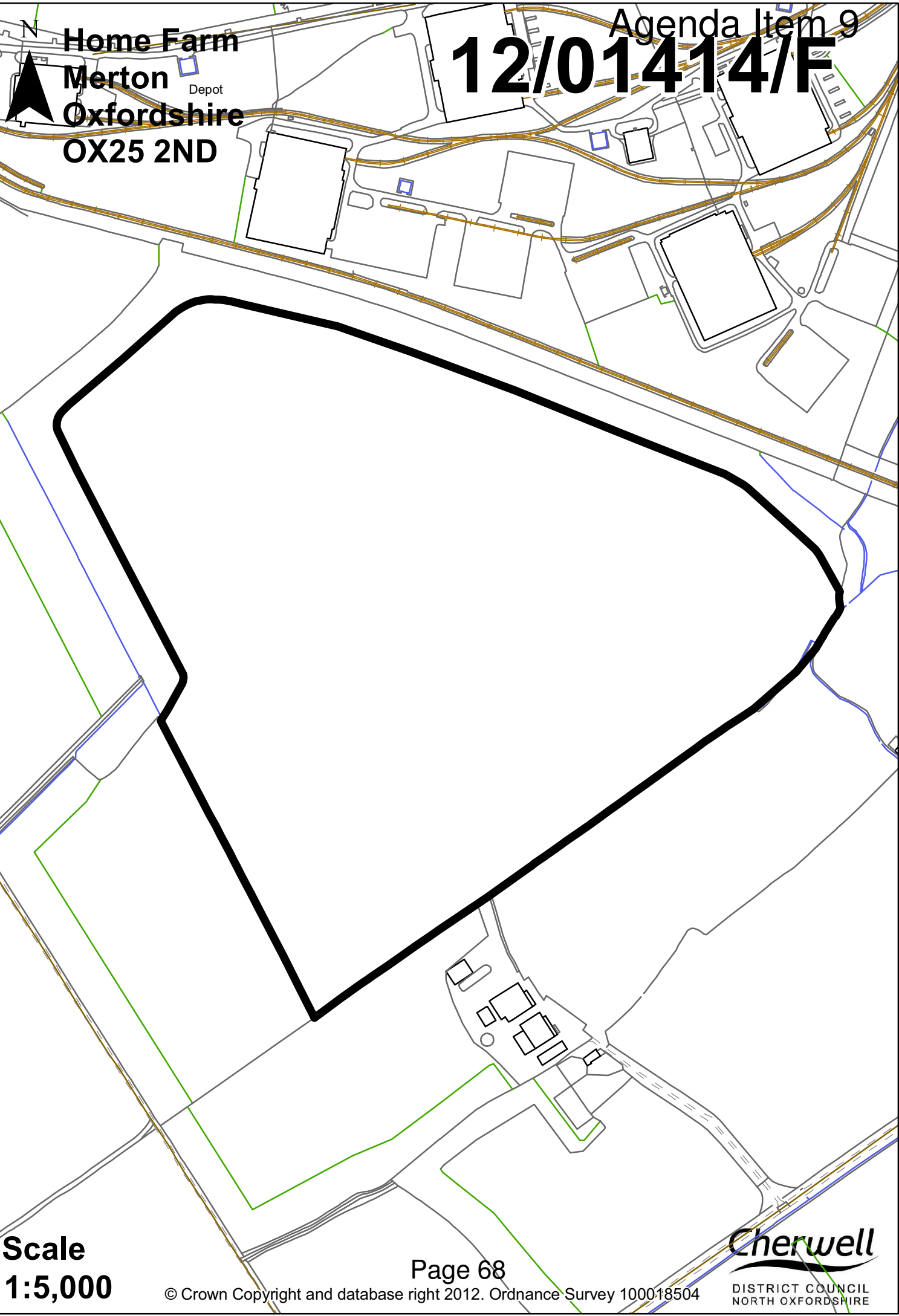
The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable in principle as there is an identified need for further household pitches across the district and this proposal represents the efficient and effective use of land in a location that has access to services. The development is also considered to be acceptable on its planning merits as the proposal would not cause harm to neighbouring or visual amenity or the wider area of High Landscape Value, and nor would it be a risk to highway safety or convenience. As such the proposal is in accordance with Policies CC1, T4, H4, C4 of the South East Plan, Policies C7, C13, C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework and the CLG Planning Policy for Gypsies and Travellers. For the reasons given above and having regard to all other matters raised, including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

12/01414/F

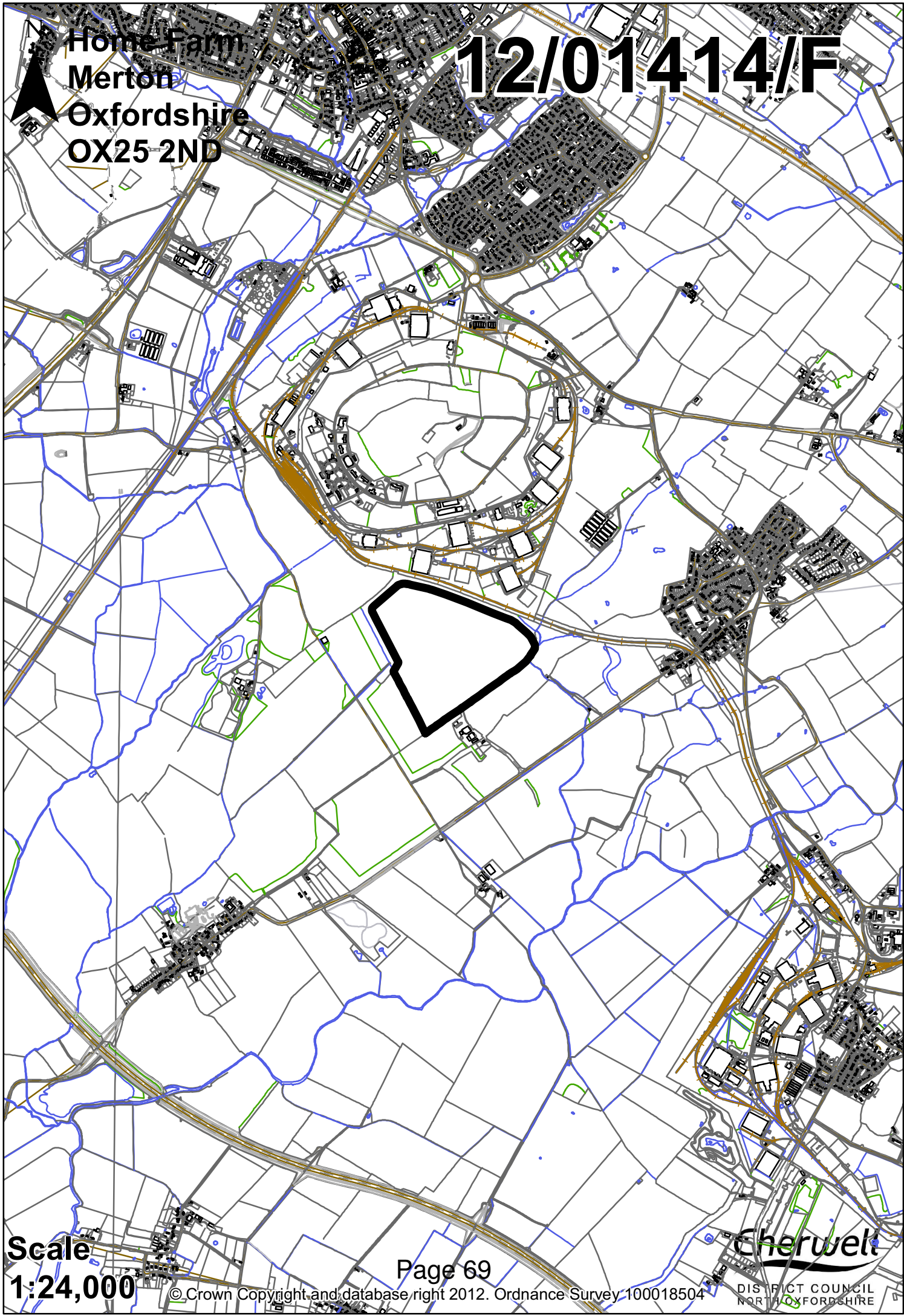
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Page 69

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Home Farm, Merton

12/01414/F

Ward: Otmoor

District Councillor: Cllr T Hallchurch

Case Officer: Caroline Roche

Recommendation: Approval

Applicant: R S Assemblies Ltd

Application Description: Installation of photovoltaic panels (circa 84,282 panels), installation of inverter and converter stations, erection of boundary fencing and CCTV cameras and connection to the existing electricity grid

Committee Referral: Major development

1. Site Description and Proposed Development

- 1.1 The application site is a 37.7 hectare site to the north of the Merton/Ambrosden road, to the west of Ambrosden and immediately south of the existing MOD depot at Graven Hill. The site is Grade 4 agricultural land currently used for grazing and cereal crops. The site is one large open field, very flat in its topography with a 3 metre high hedgerow on the southern boundary and part of the western boundary and a 40 metre deep woodland belt on all other boundaries (although outside of the red line area). The access to the site is via the existing access to Home Farm. Although in the ownership of the applicant the access was not shown within the red line of the initial submission. This has been amended and a reconsultation process is underway. The buildings associated with Home Farm lie to the south of the site. A very small proportion of the site in the most southerly corner lies within Flood Zone 2. In the vicinity of the site but not within the site boundary are a couple of public footpaths and bridleways.
- 1.2 The application seeks full planning permission for the development described above. The proposed panels would cover the extent of the existing field with a number of access tracks running between various arrays of panels. The panels themselves are mounted on metal framework which is anchored underground. Each row of panels will face in a southerly direction at an angle of 30 degrees and sufficiently separated so as to not cast a shadow on the row of panels behind. Each panel measures 0.99m wide by 1.64m high and there will be in the region of 80,282 panels. Once mounted on the framework the maximum height of the structures will be 2.3m above ground. The proposal includes 13 small buildings each measuring 2.4m by 9m with a height of 2.4m which will accommodate the inverters and transformers. There are electricity cables currently crossing the site. A direct link can be made to this connection and the proposal includes replacing the existing cables with underground connections. The proposal also includes a 2m high stock fence and security cameras placed on poles at a height of 2.5 metres at 35 metres intervals around the perimeter of the site. Whilst the site will be covered in panels it is still possible for the land to be grazed.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice and press notice. Due to reconsulation following the receipt of an amended site plan showing the access the final date for comment will be 14 February 2013.

No letters of objection have been received to date.

3. Consultations

- 3.1 **Merton Parish Council:** Has not commented on the application.
- 3.2 **Ambrosden Parish Council:** Unanimous agreement to support the principle of the application and applaud the ECO nature of the proposal, compared to the incinerators that have been approved elsewhere in the district, but make the following comments;
1. Site is positioned adjacent a number of field ditches streams and maintenance of these should be assured in the future, but no ground levelling which may affect surface water drainage should be undertaken
 2. The site is well screened, and it should be conditioned that the hedges are retained
 3. An appropriate traffic management plan should be provided during construction, and it should be noted that Ambrosden Parish Council is finalising a traffic calming scheme for Merton Road, Ambrosden, including the introduction of chicanes and road humps at the south end of Merton Road, Ambrosden
 4. The applicants should be made aware of the proposals to redevelop the MOD site to the north of the application site, and the impact construction work and debris may have on the solar panels
 5. Ambrosden Parish Council would like to be assured that no upgrades or additional power lines will be installed

Cherwell District Council Consultees

- 3.3 **Anti-Social Behaviour Manager:** No observations or objections.
- 3.4 **Landscape Officer:** This site is in a very flat low lying landscape which means that intervening hedges create a high level of screening.

I visited various viewpoints and concluded that I wouldn't be able to see the site from any of them. Graven Hill is currently MOD land and the side facing the site well wooded. The only other high point in the area is Muswell Hill at a distance. I have visited there numerous times before and can be fairly confident that only a minor long distance impact of the site will be visible. I would agree that the landscape and visual impact assessment is fair and accurate.

I am concerned about the tree belt on the SW side overshadowing the panels and therefore being cut down at some future date. I think that this should be raised as a concern.

I would assume that the security lighting would be activated by sensors? If it was on permanently it would adversely affect the night-time landscape of the area.

Apart from my queries about existing trees and lighting I don't have an objection to this proposal.

3.5 **Ecology Officer:** No specific objections on ecological grounds to the above application but wish to make the following comments:

- The design and access statement confirms that a buffer of at least 5m will be maintained around the ditch systems and hedgerows that border the field affected. This should be sufficient to retain the majority of their wildlife value. It would be more beneficial for the ditches if in some areas access by sheep was restricted along the banks so that marginal and emergent vegetation can develop along them, depending on stock levels. All hedges, trees and ditches should be protected during any construction by demarcated buffer zones in which materials should not be stored and there should be no works or transportation.
- The applicant does not specify the grass type that the cereal crop will be replaced with. There is an opportunity for further biodiversity enhancement through the use of a more species rich grass seed mix which is still suitable for grazing by sheep and the soil type. We should be seeking such biodiversity enhancements where possible under the NPPF and Cherwell policy. I can advise further on this if necessary or I suggest they refer to their ecologist.
- I did not find any mention of whether there is a need to light the area for security or works purposes. Any lighting may disturb commuting and foraging bats using the hedgerows, embankment, trees and wider site and may constitute an offence under the Habitat Regulations. A condition should be included on any permission that any lighting proposals should be submitted to us for approval pre-commencement of any works.
- A condition should be included that if work does not commence by October 2013 (a year after the previous Badger survey, see ecological report submitted) an updated badger survey should be carried out one month pre-commencement of works the results of which should be submitted to us along with any mitigation plans should they prove necessary. Best practice with regard to badgers should be observed throughout any construction (refer them to Natural England's interim guidance document 'Badgers and Development').
- Any operations which may disturb nesting birds within the trees and hedges should not be undertaken between March 1st and August 31st inclusive unless checked by an ecologist to confirm absence of nests for the avoidance of an offence under the Wild life and Countryside Act 1981.
- Photovoltaic panels can cause problems for invertebrates attracted to polarized light (particularly those laying eggs in water bodies), whilst the nearest water body is 600m away at Merton Grounds if it is possible to incorporate patterns of rough or painted glass on the panels (I'm afraid my knowledge of the panels usage is not sufficiently detailed to know if this is feasible) then this can reduce this problem and should be encouraged.

Following the submission of further information/clarification the Council's Ecologist made the following comments;

The comment regarding lighting and the attached letter does address my queries. I concur that the area is not likely to support large populations of invertebrates and I have no specific objections on those grounds - therefore I do not have any further comments to make.

- 3.6 **Tree Officer:** The Landscape Character and Visual Impact Assessment, which accompanies the application, places significant emphasis and value on the retained woodland shelter belts and the existing hedgerow trees and the benefits they provide with screening the development and reducing its impact within the landscape. Although highlighting the obvious benefit of screening, the impact assessment fails to acknowledge the potential impact of shading the trees may have upon the panels and the impact this may have upon energy efficiency as well as considering the required felling or pruning works which may be necessary to resolve the issue.

The main areas of potential shade concerns are provided by the hedgerow trees to the south-east boundary and the section of plantation along the western boundary where the risks of reduced natural light levels are likely to be present. From the information provided, it would appear that existing mature and younger developing trees may be capable of casting shade across an approximate 10% of the overall site.

The plantation trees are of a young age with the potential to significantly increase in height and density, the hedgerow trees, although of an older age are still expected to increase in dimensions. Both plantation and individual trees provide not only acknowledged amenity value in the landscape but also provide diverse and increasing wildlife habitat values which may be compromised at a later date should there be any proposals tree works necessary to improve light levels. As the boundary plantations are outside of the red-line boundary, it is unclear as to whether or not there may be issues of ownership which may create or restrict maintenance problems in the future.

With the issue of reduced light levels not being adequately considered at the design stage, I have concerns that the development will place increasing pressures upon the existing trees with proposals leading to unacceptable levels of felling or pruning which may have detrimental impacts upon either the landscape character, the structural or physiological condition of the trees themselves and any associated wildlife habitat. These potential negative impacts would appear to be in contravention of both Policy C7 of the Adopted Cherwell Local Plan 1996 and Policy EN21 of the Non-Statutory Cherwell Local Plan 2011.

It may be advisable for the applicant to undertake an assessment of shading and natural light levels and, if necessary or appropriate, increase the distances between panels and trees in the specific areas of the site most likely to be affected.

Following the submission of further information/clarification the Council's Arboriculturalist made the following comments;

Although no details have been provided regarding the particular Forestry Commission scheme, I am satisfied that the management of the identified plantation will be the subject of an approved and monitored maintenance regime which, in turn should ensure appropriate care and retention of the trees. The final comment regarding the type of PV panels and the requirement for daylight rather than direct light reduces the impact of shade upon adjacent panels. As a result, I am able to confirm that I have no further arboricultural concerns regarding this proposed project.

- 3.7 Biodiversity and Countryside Officer:** Merton Footpath 7 runs to the south and Merton Bridleway No 4 runs to the west of this application site but neither will be affected by the proposed development.

Oxfordshire County Council Consultees

- 3.8 Highways Liaison Officer:** When constructed the proposal would have a negligible traffic impact. Greater activity would be apparent through the construction phases, however, subject to adherence with the submitted construction phase traffic management plan I do not consider associated vehicles would have any significant adverse impact upon the safety or convenience of local highway users. Do not wish to object to the granting of planning permission subject to conditions being imposed.
- 3.9 County Archaeologist:** The initial response identified that the site was in proximity to known archaeologically significant sites therefore in order to comply with the NPPF it was suggested that prior to determination the applicant should implement an archaeological field evaluation and that due to the proximity of the site to Scheduled Roman Town of Alchester and its nationally important Parade Ground English Heritage should be consulted on the application. Having received the archaeological evaluation report requested further comments were made. The evaluation has identified a number of archaeological features across the site dating from the Late Iron Age or Early Roman period through to the post medieval period. A number of Roman linear features were encountered which may relate to Roman boundary ditches and drainage. In addition to these two trenches recorded Saxon features which may relate to two buildings on the site. Evidence for the Saxon period in particular is fairly rare for this area and therefore these features are particularly interesting. The evaluation has shown that a number of archaeological features will be disturbed by this development. We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be ensured through the attachment of a suitable negative condition.

Other Consultees

- 3.10 Environment Agency:** Has assessed the application as having a low environmental risk and have no objection to the proposal.
- 3.11 MOD Safeguarding Weston on the Green:** The MOD has no safeguarding objections to this proposal.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- C2: Protected species
- C7: Topography and character of the landscape
- C8: Sporadic development in the open countryside
- C9: Development compatible with rural location
- C14: Retention of trees and hedgerows
- C25: Scheduled Ancient Monuments
- C28: Layout, design and external appearance of new development
- ENV1: Detrimental levels of noise...or other types of environmental pollution

South East Plan 2009

- CC1: Sustainable development
- CC2: Climate change
- NRM4: Sustainable Flood Risk Management
- NRM5: Conservation and improvement of biodiversity
- NRM11: Development Design for Energy Efficiency and Renewable Energy
- NRM13: Regional renewable energy targets
- NRM14: Sub regional targets for land based renewable energy
- NRM15: Location of renewable energy development
- NRM16: Renewable energy development criteria
- C4: Landscape and countryside management
- BE6: Management of the Historic Environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning for Renewable Energy - Companion Guide to PPS22

Cherwell Local Plan - Proposed Submission (August 2012)

The draft Local Plan went 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:

- ESD1: Mitigating and Adapting to Climate Change
- ESD2: Energy Hierarchy
- ESD5: Renewable Energy
- ESD6: Sustainable flood risk management
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement

Non-Statutory Cherwell Local Plan 2011

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

EMP7 – Farm Diversification
TR5 – Road safety
EN16 – Development of greenfield land including the most versatile (grades 1, 2 and 3a) agricultural land
EN21 – Proposals for renewable energy schemes
EN22 – Nature Conservation
EN23 – Ecological surveys
EN24 – Protection of sites and species
EN34 – Conserve and enhance character and appearance of landscape
EN35 – Retention of woodlands, trees, hedges etc
EN36 – Enhancement of the character and appearance of the landscape
EN37 – Retention of trees and hedgerows
EN39 – Preserve setting of listed buildings and conservation areas
EN44 – Setting of listed buildings

5. Appraisal

5.1 The key issues for consideration in this application are:

- Principle of solar farms in rural locations
- Grade of Agricultural Land
- NPPF and Sustainable Development
- Proposed Submission Cherwell Local Plan
- Visual impacts on local landscapes
- Impacts on the historic environment
- Highway Safety and access
- Residential amenity
- Biodiversity, ecology and trees
- Flooding

Principle of solar farms in rural locations

5.2 Solar panels are commonly used in the UK on a small scale and predominantly on buildings or in urban areas. However, large scale solar farms are a common sight in some European countries and in the last couple of years applications for similar schemes have become more common in the UK, particularly in southern parts of England, where the resource is greater. Despite a number of applications for solar farms being approved in some parts of the UK, it is understood that there are still very few implemented schemes within the UK.

This committee granted approval for a scheme smaller than this near Newton Purcell in 2011.

- 5.3 National, regional and emerging local planning policy strongly supports and encourages the development of renewable forms of energy providing that it does not conflict with other policies. However where conflict does arise significant weight must be given to the need for renewable energy. The Companion Guide to PPS22 remains extant and deals with specific forms of renewable energy but does not refer to large scale solar farms. This is likely to be because at the time of publishing the document in 2004 solar farms had not been widely considered. Despite this lack of specific reference it is still possible to assess the proposal based on other principles and policies. It is therefore considered that the proposal should be assessed against those matters listed above in section 5.1.

Grade of Agricultural Land

- 5.4 The site consists of grade 4 agricultural land. Policy EN16 of the Non-Statutory Cherwell Local Plan resists development on the most versatile agricultural land unless there is an overriding need for the development and opportunities have been assessed to accommodate the development on previously developed sites and land within the built up limits of settlements. It goes on to state that if development needs to take place on agricultural land, then the use of the land in grades 3b, 4 and 5 should be used in preference to higher quality land except where other sustainability considerations suggest otherwise. This reflects guidance in the NPPF which states where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.
- 5.5 The proposed use of grade 4 agricultural land complies with Policy EN16 and the NPPF in that the most versatile land is not being used. However it is also worth referring to the fact that whilst the production of cereal crop will cease the land will be planted with grasses and it will remain possible for sheep to graze around and beneath the structures should the land owner wish to implement such a strategy.

NPPF and Sustainable Development

- 5.6 The NPPF places great emphasis on the presumption in favour of sustainable development. At Chapter 10 it sets out that planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development. The NPPF places a lot of emphasis on Local Planning Authorities (LPAs) developing policies around the need to encourage energy efficiency however in relation to determining planning applications the NPPF states LPAs should;
- Not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and also recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and

- Approve the application (unless material considerations indicate otherwise) if its impacts are (or can be made) acceptable.
- 5.7 The presumption therefore lies in favour of the development of the solar farm unless there are material considerations that make the development unacceptable. The rest of the report will therefore go on to consider the other material considerations, taking into account development plan policies and guidance within the NPPF.

Proposed Submission Cherwell Local Plan (August 2012)

- 5.8 This document has been published for consultation. It is therefore not an adopted document and carries limited weight however it sets out policies relevant to the Council's intended approach to strategic development and principles.
- 5.9 Policy ESD5 of the proposed submission Local Plan sets out that the Council supports renewable and low carbon energy wherever any adverse impacts can be addressed satisfactorily and states that planning applications involving renewable energy development will be assessed against the following issues;
- Impacts on landscape and biodiversity including designations, protected habitats and species, and Conservation Target Areas
 - Visual impacts on local landscapes
 - Impacts on the historic environment including designated and non designated assets
 - Impacts on the Green Belt, particularly visual impacts of openness
 - Impacts on aviation activities
 - Highways and access issues, and
 - Impacts on residential amenity
- 5.10 The list set out above is fairly comprehensive in covering the considerations material to assessing the proposal therefore each will be dealt with in the remainder of the report.

Visual impacts on local landscapes

- 5.11 The application submission is supported by a Landscape Character and Visual Impact Assessment with the key question for consideration being whether the proposed site can accommodate a solar development without adverse impacts upon the landscape character and visual amenity of its surroundings. The Assessment made the following conclusions;
- Although the site is located within flat open farmland landscape, due to the significant woodland plantations, native field hedgerows and hedgerow trees which surround the site and provide an effective screening when viewing it from local visual receptors, its suggested that the site could lend itself to the development of a proposed new solar farm with minimal landscape character and visual amenity impacts upon its surroundings.
 - Views of the proposed development from public footpaths, bridleways and roads adjacent to and surrounding the site are comprehensively screened by a combination of surrounding topography, native field hedgerows with associated hedgerow trees, woodland plantations and

tree groups which are all indicative of the landscape character of the area.

- 5.12 The scale of the proposed development is considerable with the panels covering an area just less than the total site area of 37.5 hectares. When standing in the middle of the site you get a true impression of how big the project will be and it is difficult to understand how it will not result in a significant landscape and visual impact. However the panels will not exceed 2.3 metres in height above ground level and the lowest of the surrounding hedgerows is 3m high. From the site you also appreciate how flat the landscape is with features such as Graven Hill and Muswell Hill being the only features prominent in the landscape.
- 5.13 The Council's Landscape Officer has considered the proposal and visited many of the viewpoints identified and reaches a similar conclusion to that reached in the submission, that with the exception of minor long distance views from Muswell Hill the development is unlikely to have a significant impact on the landscape and visual amenities of the area. Some close up views are likely to be achieved from Graven Hill but this is currently in Government ownership and whilst there are proposals to develop the site in the future, effectively opening it up to the public, the Masterplan indicates that the higher ground will remain wooded and as such there will be limited clear views into the site. The MOD at Graven Hill has been consulted but to date no response has been received.
- 5.14 Policy C7 of the adopted Cherwell Local Plan seeks to resist development if it would result in demonstrable harm to the topography and the character of the landscape and the explanatory text explains that tight control should be exercised over all development proposals in the countryside if the character is to be retained and enhanced. Given the conclusions reached in the submitted landscape and visual assessment and by the Council's own landscape officer it is considered that the proposal does not run contrary to this policy. The character of the site itself will change but this is unlikely to affect the wider landscape and the effects are reversible given the nature of the development.

Impacts on the historic environment

- 5.15 The site itself was not originally identified as containing any features of historic significance, for example listed buildings or archaeology, nor are there any features in the immediate vicinity.
- 5.16 The nearest listed buildings are to the south at Astley Bridge Farm and within the villages of Ambrosden and Merton. Given that all of these are some distance away from the site and on a very similar land level, they and their settings are unlikely to be affected by the proposed solar farm.
- 5.17 The Scheduled Ancient Monument of Alchester Roman Town is located some distance to the north west of the site beyond the railway line. It is unlikely that the proposal will have an adverse impact on the setting of this site but English Heritage have been consulted and to date have not responded.
- 5.18 The submitted Landscape Character and Visual Impact Assessment concluded that due to the native hedgerow with associated hedgerow trees to the south east of the site combined with the substantial 40 metre wide mixed deciduous woodland plantations which define the remaining boundaries, the site is unlikely

to impact upon the settings of Scheduled Ancient Monuments or Listed Buildings within the vicinity. This conclusion is supported by officers.

- 5.19 The proximity of the site to the scheduled ancient monument highlighted the potential for it to support archaeological features. As such the County Council's Archaeologist required that an archaeological field evaluation be carried out prior to the determination of the application. This has been done and it did identify various late Iron Age or early Roman finds. As a result the County Archaeologist has not objected to the application subject to the applicants complying with conditions which require a staged programme of investigation which is to include a detailed record of any other finds encountered during the construction process.
- 5.20 Notwithstanding the fact that English Heritage have not yet commented on the application it is considered by officers that the advice contained within the NPPF as to how the impact on heritage assets should be assessed has been complied with and that in conclusion the proposal is unlikely to result in the loss of or significant harm to any heritage assets. As such the proposal is considered to comply with the NPPF and development plan policies which seek to conserve features of historic importance.

Highway Safety and access

- 5.21 The site is proposed to be accessed via the existing access to Home Farm. The access is designed to be used by articulated lorries, as such there should be no need to alter the existing access. The access is such that there is good visibility in both directions when leaving the site.
- 5.22 The Local Highway Authority is satisfied that after construction there will be no significant increase in traffic movements as a result of the development. There is likely however to be an increase in traffic during the construction phase.
- 5.23 The application has been supported with a Construction Traffic Management Plan. This sets out that there will be three phases to development with the total period being in the region of four weeks. During phase one there may be on average five HGV deliveries per day, phase two one per day and phase three 6 HGV's a day. HGVs will come from the M40 along the A41 and through Ambrosden and are proposed to be restricted to the hours of 0930 and 1430hrs to avoid peak hour traffic.
- 5.24 The Local Highway Authority is satisfied with the submitted Construction Traffic Management Plan and as such does not consider that the proposal will cause harm to highway safety.
- 5.25 Ambrosden Parish Council has made reference to their intention to install traffic calming measures through the village at a future date. Whilst this is noted it is assumed that this will not restrict the use of the road by HGVs using the highway network for access.
- 5.26 In relation to highway safety it is considered that the proposal complies with guidance contained within the NPPF.

Residential amenity

5.27 The nearest residential property to the proposed solar farm is Home Farm itself which is within the control of the applicant. Therefore the residential amenities of the occupants is not a significant consideration as they have a personal interest in the development. The nearest residential properties are other isolated farmhouses and the properties within the villages of Ambrosden and Merton. Given the low lying nature of the development, the landscaping and the surrounding landscape it is unlikely that these properties will get any views of the development, as such it is unlikely to be detrimental in terms of being overbearing or dominant.

5.28 Solar farms do not have any moving parts as such the only potential noise creation will be from the inverter and transformer cabins. However it is understood that these make minimal noise and this is further reduced by the fact that they are contained within cabins. It is unlikely that the operational solar farm will result in any noise and disturbance to residential properties in the vicinity of the site.

Biodiversity, Ecology and Trees

5.29 The majority of the site is not identified as supporting any species or habitats of particular importance probably due to the fact that the site is an agricultural field regularly harvested and grazed. However at the boundary of the field is a combination of substantial hedgerows, woodland planting and ditches, some of which are within the red line and some which fall outside of the red line but all within the applicant's ownership. These areas are important as they do have some wildlife value.

5.30 The actual installation of the solar panels is only likely to affect the field and the proposals do not include the removal of any hedgerows. However the developers will be required to ensure the trees and hedgerows are not disturbed during the construction process.

5.31 The NPPF and local policy seeks to secure biodiversity enhancements through development proposals and in this instance this can be achieved through the appropriate selection of grass seed mix. A condition can be imposed to require the submission of further details relating to biodiversity enhancements as they currently seem to be described as improved grassland and a 5m buffer between the existing hedges and the solar arrays.

5.32 The Council's Ecologist raised a question about the impact the panels may have on invertebrates that lay eggs on water bodies and the potential for the panels to be mistaken for a large body of water due to the reflection of polarised light. The applicant's ecologist has responded to this with the following comments (in summary);

- Proposal not located close to water bodies and consequently the invertebrates most at risk are unlikely to be present on the site
- Ecologically poor habitat currently present is unlikely to support invertebrates in significant numbers
- Proposed biodiversity enhancements are likely to substantially increase invertebrate numbers which would offset any negative impact of insects mistaking the panels as water bodies
- It is not considered that any other mitigation is necessary

5.33 The Council Arboricultural and Landscape Officers have raised a concern about the impact the woodland planting may have on the efficiency of the panels and whether or not shading would lead to pressure to fell the trees, a concern due to the value of the trees as a visual feature and wildlife habitat. In response to this concern the agent has made the following response;

- The tree plantation is part of a Forestry Commission scheme, the plantation is managed woodland containing a variety of species. The management programme includes thinning and there is a continuous cycle of trees being felled when they reach a specific age. As each tree is felled a new tree is planted as part of the on-going management programme.
- With regard to the trees casting shadows this would be limited towards the end of the day when the sun is setting in the west and would only relate to the north western corner of the site and it is worth noting that the PV panels work in daylight and direct sunlight is not essential.

5.34 As the trees are managed through the Forestry Commission it would not be appropriate to condition their retention in this instance. Whilst they do afford some ecological value it would seem appropriate to assume that this will be recognised through the work that the Forestry Commission do. It would also seem that the potential for shading will not have an adverse impact on the productivity of the panels therefore there is unlikely to be pressure to fell the trees as a result of the development. The trees do provide some added screening benefits but it is considered that the site is so flat that the removal of the trees as controlled by the Forestry Commission would not result in the panels becoming visible across the wider countryside. It may however be appropriate to condition the retention of the hedgerows and require additional hedgerow planting along the boundary of the site if the removal of the trees leaves the site without a natural boundary screen.

Flooding

5.35 A small proportion of the site lies within flood zone 2 and as such is at some risk of flooding. The application has been submitted with a Flood Risk Assessment (FRA). The FRA identifies that the area of the site at risk of flooding is unlikely to flood to a depth greater than 0.15 metres. This has been considered in the layout of the proposal with no inverter or transformer cabins being located within the flood zone. Furthermore the solar panels are set 0.50 metres off the ground and are therefore unlikely to be affected by flooding.

5.36 The FRA calculates that the increase in impermeable areas as a result of the development will be 295.9 square metres, less than 0.1% of the gross site area. It also sets out the following;

- The ground surface throughout the entire site, including that underlying the frames of the panels, will be grassed following completion of the development. Rainfall will run off the photovoltaic panels and the cabins and on to the grass sward beneath. However, the incident rainfall is expected to infiltrate into the underlying soils at the same rate as that pre-development. It is considered that the increase in evaporation from rainfall on the panels will more than mitigate for the effect of the minimal increase in the impermeable surface at ground level. Consequently, the development will not increase surface water run-off from the site and

will, therefore, not increase the flood risk elsewhere due to surface water run-off.

- 5.37 The Environment Agency has assessed the proposal and has not raised any objections nor sought to impose any conditions. Therefore it is considered that the proposal complies with guidance in the NPPF relating to flooding and the relevant development plan policies.

Other issues

- 5.38 The site is not within the Green Belt therefore considerations as to the appropriateness of the development and its impact on openness are not relevant to this application.

- 5.39 Given the nature of the development, with none of the structures exceeding 2.5m in height it is unlikely that the development would have any impact on aviation safety. Policy ESD5 of the proposed submission Local Plan list aviation safety as a particular issue of interest to the LPA in relation to schemes for renewable energy. However it's likely that this would be more significant in relation to schemes for wind energy where structures are considerably taller and have moving parts.

Conclusion

- 5.40 One of the key principles of the NPPF is that planning should support the transition to a low carbon future...and encourage the use of renewable resources (for example, by the development of renewable energy). Solar Farms are not yet a common feature in the English countryside and the principle of them may appear at odds with the character of rural locations therefore probably the most relevant consideration becomes the weight of balance between landscape impact and the need for renewable energy. However the visual impact of the proposal in this location is very localised and not considered to cause demonstrable harm despite its size, neither is it considered to harm residential amenities, highway safety, ecology or historic features. It is therefore considered that the balance should fall on the provision of renewable forms of energy where there are no significant material considerations which indicate otherwise.

6. Recommendation

Approval, subject to:

- a) The expiration of the consultation period for English Heritage and MOD (Graven Hill) and the advertisement period resulting from the amended red line (showing the access) (14 February 2013).

b) the following conditions:

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

- a. Application forms
- b. Flood Risk Assessment by Chris Dartnell dated 26 September 2012
- c. Design and Access Statement by Buckle Chamberlain Partnership Ltd dated September 2012
- d. Landscape Character and Visual Impact Assessment by TDA dated September 2012
- e. Extended Phase1 Habitat Survey by Acer Ecology dated October 2012
- f. Construction Traffic Management Plan by Traffic and Transport Planning dated September 2012
- g. Site Location Plan (Amended)
- h. Drawing no. 1057/002 B Site Layout Plan July 2012
- i. Drawing no. 1057/003 C Proposed Boundary details July 2012
- j. Drawing no. 1057/004 B Ground Installation, Mounting Details Fixed Tilt System July 2012
- k. Drawing no. 1057/005 B CCTV Camera Installation July 2012
- l. Drawing no. 1057/006 Inverter station July 2012

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

3. When the solar farm ceases its operational use the panels, support structures and associated buildings and infrastructure shall be removed in their entirety and the land shall be restored to solely agricultural use. **Reason:** The nature of the development is such that once it ceases operation it will not serve its purpose of generating power thus removing the justification for its presence and in the interests of visual amenity and to comply with Policy C28 of the adopted Cherwell Local Plan.
4. That before the development hereby permitted is brought into first use, the security fencing and the exterior surfaces of the electrical inverter and transformer cabinets and switchgear and meter housing shall be permanently coloured in accordance with details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. **(RC4A)**
5. The existing hedgerow/trees along the boundary of the site shall be retained and properly maintained at a height of not less than 3 metres, and that any hedgerow/tree which may die within five years from the completion of the development shall be replaced and shall thereafter be properly maintained in accordance with this condition. **Reason:** In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
6. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS. **Reason:** To ensure the continued health of retained trees/hedges and to ensure that they are not adversely

affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing the biodiversity of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details. **Reason:** To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy NRM5 of the South East Plan 2009, Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
8. All site clearance (including vegetation removal) shall be timed so as to avoid the bird nesting/breeding season from 1st March to 31st August inclusive. **Reason:** To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy NRM5 of the South east Plan 2009, Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
9. In the case where the development hereby approved has not commenced within 1 year from the date of the approved Phase 1 Habitat Survey, prior to the commencement of the development hereby approved, a revised survey shall be undertaken to establish changes in the presence, abundance and impact on badgers. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details. **Reason:** To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy NRM5 of the South east Plan 2009, Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.
10. Prior to the commencement of the development a professional archaeological organisation acceptable to the Local planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority. **Reason:** To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with the National Planning Policy Framework.
11. Prior to the commencement of development and following the approval of the Written Scheme of Investigation referred to in condition 9, a staged

programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority. **Reason:** To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the National Planning Policy Framework.

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

The proposal accords with national guidance for the development of renewable energy. The proposal also accords with provisions of the development plan. The landscape impacts are localised in nature and this impact is not considered to be sufficient to outweigh the need for renewable energy generation, which is of regional and national importance. There are no other material considerations which justify a refusal of planning permission.

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 10 Former Winners Bargain Centres

**Victoria Road
Bicester
Oxfordshire
OX26 6QD**

12/01465/F

Bell Lodge

13
2
4 to 9

BARDWELL TERRACE

4 to 22

2

42

37

47

1

LINDEN ROAD

10

11

13

El Sub S

Hall

19

19a

Vicarage

Market Court

Backway

48

44

46

42

Terrace

7

13

Westlands

The Nook

Cherry House



White House

Waybec

**Scale
1:1,000**

Page 87

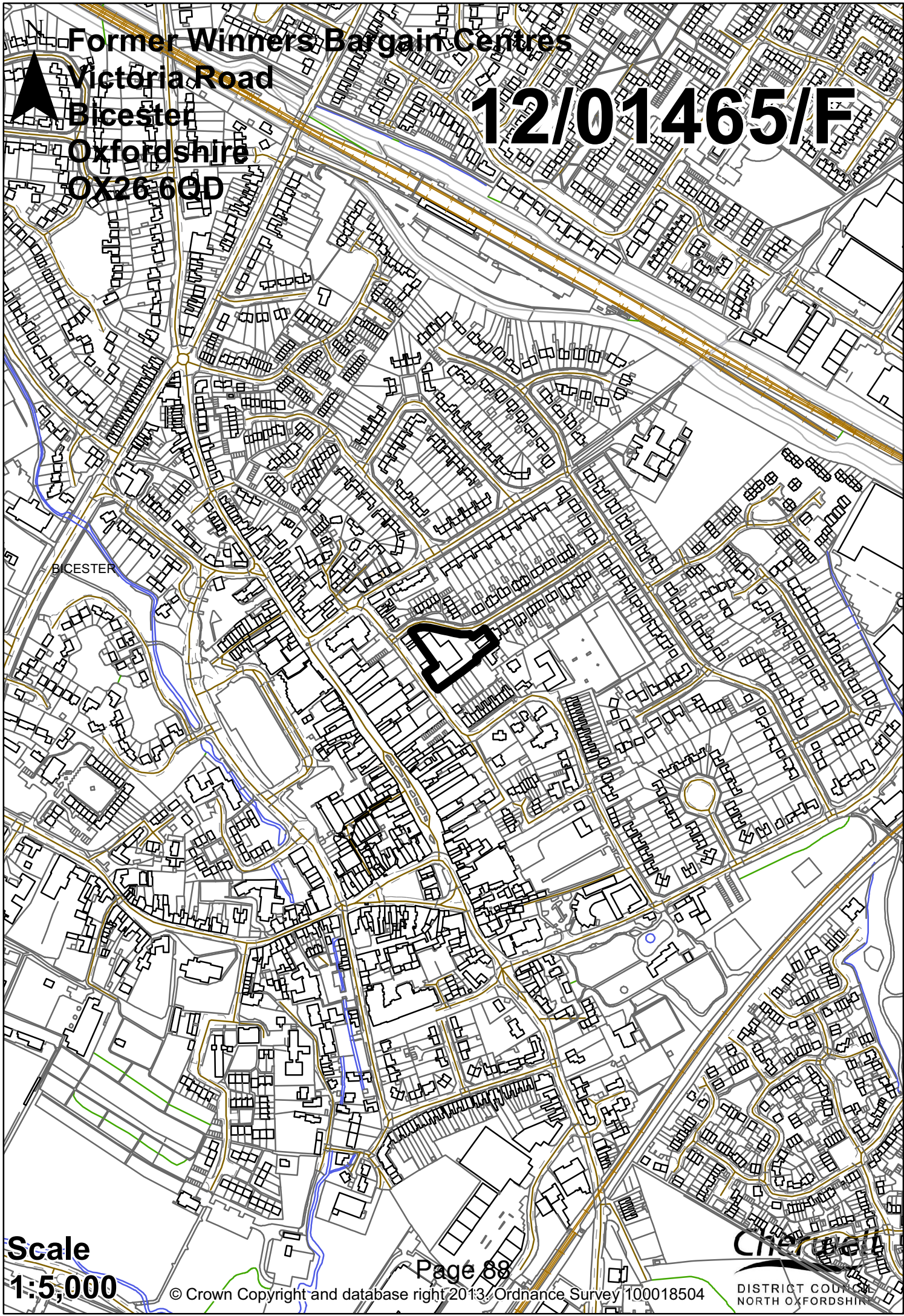
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Former Winners Bargain Centres

**Victoria Road
Bicester
Oxfordshire
OX26 6QD**

12/01465/F



**Scale
1:5,000**

Former Winners Bargain Centres, Victoria Road, Bicester

12/01465/F

Ward: Bicester Town

District Councillor: Cllr D Edwards &
Cllr D M Pickford

Case Officer: Caroline Roche

Recommendation: Refusal

Applicant: Montpelier Estates

Application Description: Demolition of existing structures and construction of 60 bed care home (Class C2) together with ancillary accommodation, car parking facilities and landscaping

Committee Referral: Major development

1. Site Description and Proposed Development

- 1.1 The application site is the former Winners bargain centre building and associated land and building which has its existing main access to Victoria Road and a shared boundary with Linden Road (and secondary currently disused access). The site area is 0.28 hectares. The existing building is set behind 11-13 Victoria Road (L Harness Funeral Directors) and the Tyre and Exhaust business. The existing main building is a warehouse type building built from red brick with a part pitched and part flat roof. At its highest point the existing main building is 6 metres to the ridge. There is another smaller building located adjacent to number 19a Linden Road which is a small hall and measures just 4.2metres in height.
- 1.2 The site is located just outside of the Bicester Town Centre as defined in the adopted Cherwell Local Plan and on the boundary with the Conservation Area. However within the Non-Statutory Cherwell Local Plan and Proposed Submission Local Plan (August 2012) it is within the town centre boundary. To the south east of the site, approximately 40m away are the rear elevations of residential properties on Bath Terrace, their gardens extend to the boundary. To the north and east of the site are the residential properties on Linden Road and to the west of the site are commercial properties and the rear elevations of the buildings which front onto Sheep Street.
- 1.3 The proposal includes the demolition of the existing buildings and the construction of a 60 bed care home. The layout plan indicates the provision of 21 parking spaces, split between two parking areas, a garden and other small areas of green/landscaped space. 2 Cycle parking spaces appear to be proposed.
- 1.4 The footprint of the building is larger than the existing buildings on the site and it is in closer proximity to some of the boundaries than the existing building. The building is a mixture of two and three storey and has a flat roof design. At its highest point, excluding the lift shaft, it measures approximately 8.6 metres. The proposed materials are a combination of brick and render. The design and layout of the proposal will be discussed in greater detail later in the report.

2. Application Publicity

- 2.1 The application has been advertised by way of site notice, press notice and neighbour notification letters.
- 2.2 5 letter/emails have been received, some state that although they don't object to the principle they have reservations. Reservations and reasons for objecting are set out as follows;
- A two storey for less people would be better
 - Parking on Linden Road always full and likely to get worse
 - 21 parking spaces not sufficient
 - Existing trees causing damage to the pavements
 - Site should be kept for retail
 - Bicester losing retail with bias towards Bicester Village and Bicester Avenue
 - Will not assist with life, vibrancy and viability of town centre
 - 3 storey building will block light from the properties in Bath Terrace
 - Overlooking to properties in Bath Terrace
 - Disturbance from noise and intrusive light from the staff entrance close to the boundary and also from deliveries
 - Inaccuracies on the plans with the labelling of existing properties
 - Many residents of Bath Terrace have built patios and decking at the end of their gardens – adversely affected by proposal
 - Impact on wildlife in the gardens
 - Building looks huge and extremely high – dwarfing the residential properties and dominating Linden Road
 - Building looks ugly in relation to Conservation Area
 - Design more suited to industrial area
 - Flat roof out of keeping with other buildings which all have pitched roof

3. Consultations

- 3.1 **Bicester Town Council:** Strongly objects for the following reasons;
- Area should be for future town centre expansion
 - Insufficient parking which will exacerbate the parking problems on Linden Road
 - Inappropriate location for care home with industrial premises adjacent
 - Entrances will cause further traffic problems on an already overloaded local road system

Cherwell District Council Consultees

3.2 **Urban Design**

Site Character and Context

- The site is located to the northeast of Bicester's Town Centre. This is an area that is mixed between low key residential development and 'back land' transition type development.

- The site is bound by Victoria Road to the southwest and Linden Road to the north.
- Linden Road is predominantly residential in character, lined with two storey mid 20th century development.
- Victoria Road by contrast contains a mix of commercial and light industrial uses, alongside mid 20th century and Victorian housing.

The Development Brief and Conceptual Approach

- The brief for the site is for a 60 bed care home and associated landscaping.
- This is a challenging brief for a 0.8 acre / 0.3 ha development site. The design approach is focused on the internal organisation of the facilities and amenities required for the brief. The design reflects an approach where the brief has been of greater consideration than the site context.
- One of the challenges of this site is providing a design and layout which does not limit the opportunities for redevelopment of number 11 – 13 Victoria Road. There is concern that if these buildings were to become redundant the size of plot and the proximity of the care home to the site boundary would limit development opportunities coming forward in the future.

Layout Plan

- The site has an irregular form which presents a number of challenges when accommodating a large care home within its bounds.
- The building neither provides positive frontage onto Linden Road and Victoria Road, nor sits back from the street in well landscaped spaces.
- The building is very tight on a number of the boundaries. While the internal layout is logical, the external envelope that this drives does not sit comfortably on the edges of the site.

Scale and Massing

- The scale of the proposed buildings does not fit well with the residential scale of the adjacent housing and the scale is greatly increased from the original retail unit.
- The building steps up from two storeys to the northwest of the site to three storeys to the northeast and centre of the site. Because the floor to ceiling heights are correctly larger than with a residential building this has led to a design which dwarfs the adjacent buildings.

Building Design

- The internal layout of the building has created some awkward areas, which do not positively contribute to the overall design when considered in three dimensions. In particular the area where the plan steps forward and back at the northwest of the plan adjacent to Linden Road is problematic.
- Balconies provide a positive feature to the day rooms.
- The northeast façade, fronting onto the car park, offers limited surveillance of this area.
- The main entrance is tucked away and is not well articulated in the building façade. Orientation to the building entrance is an important design feature which should be further considered.

Internal layout plan

- The internal layout forms a logical double banked approach to providing accommodation. One draw back of this is that it creates long corridors and therefore an institutional rather than residential feel to the building. Thought should be given as to how movement areas can be positive spaces.
- The configuration of lifts in the building leaves the northwest corner almost 50m away from the nearest lift.

Landscape and Public Realm

- There is limited information available on the landscape and public realm details. The Design and Access Statement makes reference to a 'Landscape Strategy', but this document has not been provided as part of the planning application.
- The setting of the main entrance could be improved. A slightly larger pathway could be considered. The cycle shelter will not support orientation to the entrance or a high quality public realm in this area.
- Has a tree survey been commissioned for the two mature trees located at the north east of the site? Does development reflect appropriate standoff distances to these
- How do staff / visitors parking on the Victoria Road side of the site access the building?

Sustainability

- The building is to be constructed to BREEAM very good energy efficiency standards, which is seen as a positive approach.
- The building materials have been set out on page 26 of the Design and Access Statement as concrete blocks and aggregate (recycled concrete). The building details set out on page 25 of the Design and Access Statement appears to be predominantly brick. It would be helpful if this could be clarified.
- Concrete is not a particularly sustainable material to use and while the use of recycled materials is encouraged, the specifications for recycled concrete aggregate should be checked as in my experience this material is typically used as hardcore in highways rather than architectural structures.
- Reference is made to natural ventilation of the building, but this is not supported by information in the drawings. There is not evidence of ventilation roof stacks on the roof drawing.
- The 3D illustration indicates that there is a green roof / terrace, but this is not supported in the plans.

- 3.3 **Anti-Social Behaviour Manager:** The application is accompanied by an acoustic specialists report. This report assesses the effect of the local environment on the proposed development bearing in mind that the care home use can be described as a noise sensitive use. The report concludes that the local environment would not adversely affect the proposed development.

The report does not identify noise sources from the proposed development that could adversely affect nearby residential properties. Clarification is required as to exactly what external noise sources will be present. For example there is a kitchen located on the second floor which is of a size where mechanical extract

ventilation would be anticipated yet none is shown. Other examples of potentially noisy external plant and equipment would be heating and ventilation equipment

Reference is made to the external lighting of the complex. A prior approval condition for all external lighting should apply.

Following the submission of further information the following comments were made:

The design element of the extract ventilation system can be covered by a prior approval condition along the lines of:

Prior to the commencement of development that applicant shall submit full details of the mechanical extract ventilation system serving the trade kitchen to the LPA for approval and the approved system shall be installed and be fully operational before the first use of the building. The system shall be maintained in accordance with the manufacturers specification there after.

Noise from plant and equipment can be dealt with by way of a noise target condition as follows:

The rated level of noise from mechanical plant and equipment shall not exceed background when measured in accordance with British Standard BS 4142:1997 at noise sensitive locations in the vicinity of the development.

- 3.4 **Landscape Officer:** This site looks as though it is relatively flat, with just 2 existing trees which do need retaining. Noted that this is the applicant's intention.

There are a variety of different boundaries which will need improved treatments. The current building is of no merit visually and the proposal should result in an approved appearance to the site, particularly for the residents of Linden Road. Although the building will be slightly taller than the existing semi-detached properties on Linden Road.

The Tyre fitters and funeral directors which are to remain will need to be screened from the site if a pleasant outdoor environment is to be created. At present the proposals for landscaping the site are very general and seem to constitute hedges and trees. More detail will be required.

It is noted that there are parking spaces immediately against boundaries which will make them very difficult to access and difficult for people to access cars parked against walls.

No objection in principle.

- 3.5 **Ecology Officer:** With regard to the above application from Montpelier Estates, having liaised with colleagues who confirmed they had seen the buildings to be demolished and found them unsuitable for roosting bats there are no concerns with regards to loss of biodiversity on site.

There is some potential for birds to be nesting on the buildings, the applicant should be made aware by inclusion of an informative that active nests cannot be disturbed whilst in use until all young have fledged and should any nests be found on site they should be checked prior to demolition commencing (if commencing between March - August).

A detailed landscape plan should be submitted for approval prior to any works commencing. Under the NPPF and our local plans we should be seeking

biodiversity enhancement where possible within developments. Despite its urban setting and moderate area the landscaping should include some features of nature conservation value. For example areas of wild flowers aimed at invertebrates, bird boxes on trees or buildings, shrub species which include berries for birds etc. There is also scope to include features within the buildings themselves such as swift bricks (very easily incorporated and which we are promoting as part of the Cherwell swift project) or green walls. I can advise further on this if the applicant wishes

- 3.6 **Biodiversity and Countryside Officer:** Bicester Footpath No 19 runs between Withington Road and Linden Road to the north of this planning application site but is not affected by the proposed development.
- 3.7 **Waste and Recycling Manager:** The developer should take into account the Waste and Recycling guidance which can be found on the Cherwell District Council website. Section 106 contribution of £67.50 per property will also be required.
After seeking further clarification the following comments were made;
If this is a commercial business, they will have to seek a company to undertake their waste collection. The bins are likely to be communal but this will be dedicated by the company undertaking the collection. Regarding the space required our guidance on flats can still be used.
- 3.8 **Strategic Housing Officer:** This is for a care home (C2) use which is not housing and no affordable housing contribution is required. I cannot comment on the demand for care homes but the strategic direction of both this District Council and the County Council is for the provision of extra care housing.

Oxfordshire County Council Consultees

3.9 **Highways Liaison Officer:**

Access

The application proposes no change to highway vehicular accesses, which are taken from Linden Road and Victoria Road. I note from site visit that there appear to be various historic dropped kerbs accessing the site from Linden Road, which should be reinstated to full-standing kerbs in accordance with details to be submitted for consideration and approval. **(condition)**

The existing/proposed access from Linden Road appears rarely used, and is in a poor state of construction. For the purposes of this proposal, the access will need to be resurfaced and widened slightly at the carriageway edge with proper transition kerbs installed. **(condition)**

Area Highway Steward

The following comments have been received from the Area Steward's team:

1. It should be noted that the pay & display parking area directly abutting this development on Victoria Road is highway.
2. There is no existing or proposed footway either side at this entrance. There are concerns over the type of resident and the suitability of access to the shopping facilities and visibility from the site.
3. Generally the footways that are along this road are old and narrow in places and are not in particularly good condition.

4. Parking in the area is via pay and display (off street and on street). Consideration should be given to upgrade the existing single yellow line parking restriction to double to discourage indiscriminate parking at weekends by visitors and staff. The road is narrow and is used by HGV traffic to service the shops on Sheep Street. There are parking problems in Linden Road on the north/west of this site also, therefore it would be advisable to upgrade the single yellow lines here to ensure the access to the rear isn't blocked.

In light of these comments, it is appropriate to request details of the proposed pedestrian and parking restriction improvements that will be provided to mitigate the impact of this development. **Further information required.**

Internal layout and parking

Vehicular access and hard-standing areas are proposed to comprise hard-standing and tarmac. It will be necessary to ensure that all new/replacement hard-standing areas comprise permeable surfaces, and are appropriately drained to ensure no surface water discharge to the highway and no impact on local flooding. See below drainage concerns.

It is unclear how many parking spaces exist on the site currently, however it appears to be well used for private parking although the retail site is vacant. The application proposes to provide 21 car parking spaces, including two disabled spaces. 14 staff/ visitor spaces will be accessed from Victoria Road and 7 visitor/ disabled spaces will be accessed from Linden Road. These spaces must be constructed, laid out, drained and maintained to OCC specification. (**condition**)

There appears to be no route through to the care home from the larger staff car park. Is it intended that staff will walk around the external roads (which partly lack footways) to enter the care home via Linden Road? **Further information required.**

Two cycle parking racks (Sheffield stands) are proposed for the care home in a weather-proof enclosure accessed off Linden Road. This will provide covered parking space for 4 bicycles. Given the town centre location, number of bedrooms and 55 employees, it would be appropriate to provide a higher level of cycle parking- i.e. a total of 10 spaces. These should be covered, secure and conveniently located upon arrival at the site from either Linden Road or Victoria Road. **Revised plans required.**

The Design and Access Statement refers to an ambulance/ visitor drop-off point in front of the building. Can this be clarified, as it does not appear to be shown on plans? **Further information required.**

Drainage

The application proposes to discharge surface water into the public surface water sewer. OCC's highway drainage engineer objects to this proposal. It may well be that the developer intends to attenuate the surface water and discharge it slowly into the surface water sewer, however there are no details to support this. A drainage strategy statement (and eventually a detailed drainage design) is required in order to respond fully to this application. Further information was requested and submitted including a suggested condition. In response the County Council Drainage Officer made the following response; Regarding the

Condition wording for the surface water drainage, I am happy to go with the wording as shown suggested.

Transport Statement

A Transport Statement (TS) has been submitted to support the application.

The TS has made use of the TRICS database to identify the likely trip generation from the site. The proposal will likely significantly decrease vehicular trips to/ from the site in the pm peak hour and trips on a typical weekday. HGV movements are also likely to be less, given the change of use from retail to care home. It is anticipated that 2 visitors will visit the site per day, and that the care home will generate 2 doctor visits per week.

The road collision history for the vicinity has been examined and results provided.

Figure 3 demonstrates the vehicle tracking/ swept path for a refuse vehicle entering the site, manoeuvring and egressing in forward gear onto Victoria Road. This is considered acceptable.

A review of the sustainability of the site in transport terms is included. The site is close to the Town Centre. Bus stops are located within 400m of the site and the site lies 800m from the rail station. A National Cycle Network (Route 51) runs adjacent to the site.

Travel Plans

As the development is for a 60 bed care home, a full Travel Plan is required in line with Department for Transport standard thresholds. The Design and Access Statement indicates that the applicant is willing to enter into a sustainable travel plan condition. (**condition**)

Rights of Way

This development will not directly affect any public rights of way. However, there is a public footpath that runs from Linden Road through to Bardwell Terrace / Withington Road. This footpath is a direct link from the Bardwell Terrace / Withington Road direction through to the proposed Care Home. The path would benefit from being tarmacked. As people from the Care Home and also those visiting are likely to use this path, it should be upgraded/ resurfaced in accordance with details to be submitted for consideration and approval. (**condition**)

Financial Contributions

My colleague, Ed Briscoe (Developer Funding Team), has separately advised on the scale of S106 contributions required from this development towards County infrastructure/services.

As stated above, various highway improvements are required to make this development acceptable in highways terms, and these improvements will need to be demonstrated on plans, agreed and provided via Section 278 Agreement prior to first occupation of the site. (**condition**)

Construction Impact

Given the proximity to the residential neighbourhood and town centre and on-street parking pressures, it will be important to ensure that the construction impact of the proposal is addressed via a Construction Traffic Management Plan, to be provided by planning condition. (**condition**)

Recommendation:

At this stage, further information is required for consideration and approval as outlined above.

- 3.10 **Developer Funding Officer:** Oxfordshire County Council wishes to secure a legal agreement for appropriate financial contributions to mitigate the effects of this development if implemented, before any planning permission is granted.

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

For application 12/01465/F Former Winners Bargain Centre Victoria Road Bicester OX26 6PG in order improvements can be made towards the anticipated growth in population caused by this development, it requests the Planning Authority to require the developer to make a contribution towards the following:

Library stock: A contribution of £1,200 index linked to the Retail Price Index.

We also request you impose a planning condition relating to Fire & Rescue Service requirements, as mentioned above
Oxfordshire Highways respond by separate cover their needs should be added to the above.

- 3.11 **Drainage Officer:** The objection is made at this point due to the fact that the application refers to discharging surface water into the public surface water sewer. It may well be that the developer intends to attenuate the surface water and discharge it slowly into the surface water sewer. however there are no details to support this. We will require a drainage strategy statement and an eventually drainage design in order to respond fully to this application. Further information was requested and submitted including a suggested condition. In response the County Council Drainage Officer made the following response; Regarding the Condition wording for the surface water drainage, I am happy to go with the wording as shown suggested.

Other Consultees

- 3.12 **Environment Agency:** This applications is deemed to either have a low environmental risk or relate to conditions that were not recommended by the Environment Agency. Unfortunately, due to workload prioritisation we are unable to make an individual response to this application at this time.
Please note that while we are unable to provide comments on this planning application, this letter does not indicate that permission will be given by the Environment Agency as a regulatory body. We have a regulatory role in issuing legally required consents, permits or licences for various activities.

The applicant should contact 08708 506 506 or consult our website to establish if consent will be required for the works they are proposing. Please see <http://www.environment-agency.gov.uk/business/sectors/37644.aspx>

3.13 Thames Water:

Waste Comments

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

Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at www.thameswater.co.uk

Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 8507 4890 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.

Water Comments

Thames Water recommend the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H4: Housing schemes for the elderly
C2: Protected species
C28: Layout, design and external appearance of new development
C30: standards of amenity and privacy (new housing development)
ENV1: Detrimental levels of noise...or other types of environmental pollution

South East Plan 2009

SP3: Urban focus and urban renaissance
CC4: Sustainable design and construction
NRM5: Conservation and improvement of biodiversity
NRM10: Noise
NRM11: Development design for energy efficiency and renewable energy
BE1: Management for an urban renaissance
BE4: The role of small rural towns
BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission (August 2012)

The draft Local Plan went 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:

SLE1: Employment development – change of use of employment site
SLE2: Securing Dynamic Town Centres
ESD1: Mitigating and adapting to climate change
ESD3: Sustainable construction
ESD7: Sustainable drainage systems
ESD10: Protection and enhancement of biodiversity and the natural environment
ESD16: The character of the built environment
Policy Bicester 5: Strengthening Bicester Town Centre

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 are as follows:

H6: Housing schemes for older people
S12: Development appropriate to town centre

TR5: Reduce conflict between vehicles and pedestrians
TR9: Provision of cycle parking
TR11: Vehicular and cycle parking
EN3: Pollution control
EN15: Surface water run off
EN25: Protected species
EN39: Conservation areas and listed buildings and their setting
EN40: Conservation area
D3: Development reflecting local character – scale, proportion, massing, height, streetscene
D4: Contemporary architecture

Bicester Masterplan Draft SPD

5. Appraisal

5.1 The key issues for consideration in this application are:

- Principle of a care home in this location
- Impacts on the character and appearance of the area
- Impacts on the historic environment
- Residential amenity
- Highway Safety and access
- Biodiversity, ecology and trees
- Other issues

Principle of a care home in this location

- 5.2 It is considered appropriate to refer to this site as being within the town centre of Bicester as the Non-Statutory Cherwell Local Plan and the Proposed Submission Local Plan allocates it as such. Whilst neither of these documents are formally adopted the Non-Statutory Plan is adopted for development control purposes and the Proposed Submission sets out the Council's strategic approach to future development within the district.
- 5.3 The adopted Cherwell Local Plan encourages housing schemes for the elderly within convenient reach of shops, community facilities and public transport (Policy H4). This policy however does not refer specifically to care home facilities whereas Policy H6 of the Non-Statutory Plan does distinguish between C2 residential uses which relate to care homes and nursing homes where residents are in need of constant care and C3 residential uses which include sheltered housing. However the same principle is applied in relation to the proximity to facilities.
- 5.4 Given the location of the development the relevant housing policies are complied with.
- 5.5 The site is an existing employment/retail site although it has not been open for approximately a year. The adopted Local Plan does not contain any policies which prevent or seek to resist the loss of retail/employment uses. However Policy SLE1 of the proposed submission Local Plan sets out that where an applicant wishes to change the use of an employment site proposals will be considered with regard to the following criteria;

- Whether the location and/or nature of the present employment activity has an unacceptable adverse impact upon adjacent residential uses
 - Whether the applicant can demonstrate that an employment use should not be retained
 - Whether the applicant can demonstrate that there are valid reasons why the use of a site for the existing or another employment use is not economically viable
 - Whether there are other planning objectives that would outweigh the value of retaining the site in an employment use and where the applicant can demonstrate that the proposal would not have the effect of limiting the level of provision and quality of land available for employment in accordance with policies in the Local Plan.
- 5.6 The proposed submission local plan currently carries only very limited weight therefore it would seem unreasonable to insist that the applicant has to meet each of the criteria above. However the application has been submitted with a marketing document setting out that since marketing the site for the first time in March 2011 very little interest was received from retailers and 17 serious expressions of interest were received but these were all from residential or care home developers. It could therefore be concluded that there was insufficient demand for the site with its current retail use.
- 5.7 It could also be argued that the introduction of a care home onto the site does not result in a complete loss of employment use as it is estimated that the proposed care home will employ 55 members of staff, possibly a higher number than the previous Winners premises.
- 5.8 Policy C12 of the Non-Statutory Local Plan sets out that proposals for retail, leisure, residential or other development appropriate to a town centre location will be permitted within Bicester town centre. Policy Bicester 5 of the proposed submission local plan states shopping, leisure and other town centre uses will be supported in the town centre area and that residential uses will be supported above ground floor level. This therefore establishes that a residential use is appropriate within a town centre location although the emerging plan seeks restrict residential uses at ground floor level. The NPPF at chapter 2 also refers to residential uses being an appropriate town centre use.
- 5.9 Given the above assessment and the location of the site in relation to the town's main retail streets it is considered that the principle of a residential care home within Bicester town centre between commercial properties and other residential areas is acceptable in principle. However an assessment needs to be made as to whether there are any other material considerations which may render the scheme unacceptable.
- 5.10 It is worth noting that as this scheme is for a C2 residential use with no self-contained units of accommodation, unlike a domestic dwelling or extra care accommodation, the 60 units will not contribute to the housing land supply

Impact on the character and appearance of the area

- 5.11 The comments of the Council's Design and Conservation Team Leader are set out in full above at paragraph 3.2 but the following section will highlight some of

these comments and feed into the assessment of the impact the proposed development will have on the character and appearance of the area.

- 5.12 Although there are a range of uses in the immediate area around the site the majority of the buildings are domestic in scale and despite some of the commercial buildings having large footprints the height of buildings do not tend to exceed that of domestic properties. Residential and commercial properties do not tend to exceed two storeys. The proposed building is part two storey and part three storey with a flat roof. Its maximum height (excluding the lift shaft) is 8.6 metres. This is 2.6 metres higher than the existing building. The two storey element is 5.8 metres high. The properties close by on Linden Road vary from 6.2 metres to 7.5 metres to their ridge. The difference in height between the existing properties and the proposed building and the flat roof design of the building, essentially with eaves heights of between 5.8 metres and 8.6 metres result in a building that appears much larger and out of keeping with the residential scale of its surroundings. The building is therefore likely to be dominant in the street scene.
- 5.13 It is likely that the scale and massing of the proposed building has resulted from the need to provide sufficient rooms for the proposal to be viable and the space and layout standards required when providing a facility of this nature. The difficulties of trying to accommodate a care home of this size on the site are recognised but the requirement to meet standards seems to have dictated what is proposed on this relatively constrained site, (unusual shape and relationship with neighbouring properties), rather than the building being influenced by its surroundings.
- 5.14 Whilst officers don't have a particular objection to the use of flat roof structures or elements of three storey these features should only be accepted where it does not cause harm to the character and appearance of the area.
- 5.15 There are other elements of the scheme referred to by the Design and Conservation Officer which contribute to the concerns about the overall scale and appearance of the building on this site. Such elements include;
- The lack of positive frontage
 - The building being very tight to a number of the boundaries
 - The stepped (staggered) approach to Linden Road creating awkward areas
 - Limited surveillance over the parking areas
 - Unarticulated main entrance
 - Limited information about landscape and public realm considerations
 - Location of cycle shelter
- 5.16 Where a proposed development is not considered sympathetic to the character of the area it runs contrary to Policy C28 of the adopted Cherwell Local Plan. Where development does not respect the scale, proportion, massing and height of adjoining buildings and the streetscene it is contrary to Policy D3 of the Non-Statutory Cherwell Local Plan. Policy BE1 in the South East Plan promotes development that is relevant to its context and the NPPF also emphasises that good design is a key aspect of sustainable development and stresses the importance of integrating new development into the built environment.

- 5.17 It is considered that this proposal in its current form fails to respect the scale, proportion, massing and height of its surroundings and as such does not integrate into the street scene and is out of character with the area as such it is contrary to the policies and guidance set out above. When taking all matters into consideration it will need to be determined whether this is sufficient justification to recommend the application for refusal.

Impacts on the historic environment

- 5.18 The boundary of Bicester Conservation Area runs parallel with the western boundary of the site along the eastern side of Victoria Road and extends to the east to incorporate the properties in Bath Terrace and half the length of their gardens. Given the proximity of the site to the conservation area there is the potential for the development to impact upon its setting.
- 5.19 The properties on Bath Terrace are very traditional and retain a lot of the character that is likely to have justified their inclusion within the conservation area boundary and this is despite it being the rear elevations that face the application site. However the view of the conservation area from the site to the west is very different as it is the rear elevations of the retail and commercial premises that front onto Sheep Street that are visible. With the exception of one or two frontages onto Victoria Road it is largely service areas and unsympathetic extensions that are visible. Although there are some examples along the rear of Sheep Street where backland buildings (buildings to the rear of burgage plots) and yards have been brought into productive small scale retail and service use, features which is specifically referred to in the Bicester Conservation Area appraisal.
- 5.20 Whilst the proposal is considered out of keeping with the residential scale and the character of the area it would be difficult to argue that it fails to preserve or enhance the setting of the conservation area as far as it relates to the rear of the properties on Sheep Street. However the relationship of the proposed building to the properties on Bath Terrace may be more significant. Although the existing building is not particularly sympathetic in terms of its design it is set 11 metres from the site boundary and approximately 40 metres from the boundary of the Conservation Area and has a height of 6 metres. The proposed building is only set off the boundary by approximately 1 metre bringing it to within 31 metres of the Conservation Area Boundary and at its closest point to the Conservation Area the proposal is at its highest at 8.6 metres (9.4 metres when measuring the lift shaft). It is considered that this aspect of the scheme will bring a scale of development larger than anything that exists closer to the Conservation Area where there are currently no intervening structures and this will neither preserve or enhance the setting of the Conservation Area.
- 5.21 Given the above considerations it is concluded that the proposed development will have an adverse impact on the setting of the Conservation Area, as such not preserving or enhancing the historic environment. Therefore the proposal is contrary to Policy BE6 of the South East Plan and guidance within the NPPF which recognises that the significance of a heritage asset can be harmed by development within its setting.

5.22 The NPPF requires the impact to the heritage asset to be weighed against the significance of the asset. Based on the guidance it is likely that the impact on the Conservation Area would be less than substantial. This does not render the scheme acceptable in this respect but requires that the harm should then be weighed against the public benefits of the proposal. The proposal may be of benefit to an aging population but given the concerns expressed about its scale and poor integration into the streetscene it is not considered to be of much wider public benefit. Therefore the harm to the Conservation Area should carry some weight.

Residential amenity

5.23 There are several aspects of residential amenity that need to be considered. Such issues include overlooking, overbearing, overshadowing, nuisance caused by noise or other environmental factors and other issues that may affect the living environment of residents.

5.24 Some of the residential properties on the northern side of Linden Road will be within 23 or 24 metres from the nearest element of the proposed building. This is a similar distance to what exists between the properties and the existing building. However the existing building is 6 metres in height to the ridge (only 3.5 metres to eaves) and the bulk of the building is lessened by the pitched roof and the proposed building, at its closest point is 6 metres in height but has a much larger presence as a result of the two storey, flat roof design. The building as a whole will take up a much larger proportion of the site and it extends to three storey further south into the site. This will considerably alter the outlook from these properties but given the distances between them is unlikely to result in a demonstrable level of overbearing or overshadowing. Given that the existing building has no first floor windows, had a retail warehouse use and is partially screened by a boundary fence the new building may result in the feeling of some overlooking towards the properties on the north side of Linden Road but in reality actual overlooking would not be considered a particular issue as there remains a minimum of 23 metres between the buildings and the front elevations are overlooked by the public due to their relationship with the road.

5.25 19a Linden Road is slightly smaller in height than the other properties in the vicinity. It has one first floor side facing window overlooking the site. There is a gap of 23 metres between the site elevation of 19a and the closest element of the proposed building. This is considered to be a sufficient gap in order not to result in an adverse impact on residential amenities through overbearing or overshadowing despite the proposal being three storey at this point. At a distance of 23 metres it is also considered that overlooking into the side facing window and private amenity would not be demonstrable issue. The side of the property will however be close to the access and the car park. This may result in some noise and disturbance. However it would be unreasonable to object on this basis given that an access already exists (although it appears it has not been used for some time) and a similar nuisance could result from the existing premises.

5.26 The properties on Bath Terrace are in the region of 45 metres away from the site boundary. However their gardens extend up to the boundary. The proposal indicates that a blank wall with a width of 14.5 metres and a (eaves)

height of 8.6 metres (9.4 metres with the lift shaft) will be within 1 metre of the boundary with these gardens. This is significantly larger than the blank gable of an average two storey dwelling. It is considered that such a relationship would be overbearing and detrimental to the resident's enjoyment of their private amenity space. The wall would extend 6.8 metres above an average 1.8 metre high boundary which exists in this situation. However the proposal is unlikely to result in direct overlooking due to the lack of fenestration on the closest wall and the fact that where there are windows orientated towards Bath Terrace they are set off the boundary by 11 metres.

- 5.27 Some residents have commented that the proximity of the staff entrance and service area to the shared boundary will result in noise and disturbance. However it is not considered that this would be significant enough to justify a reason for refusal given the current permitted use of the site and what could occur without the need for planning permission.
- 5.28 It is assumed there is no residential occupancy at L Hartness, the funeral directors or the exhaust and tyre garage on Victoria Road or Victoria House which is a commercial/light industrial building at the south eastern corner of the site, therefore residential amenity is not a material consideration in relation to these properties.
- 5.29 Based on the above considerations whilst some residents would not be demonstrably affected by the proposals it is considered that the impact the development will have on the residential amenities of the occupants of Bath Terrace, particularly when utilising their private amenity space is sufficiently harmful to consider the development contrary to C30 of the adopted Cherwell Local Plan and guidance in the NPPF that states that good design should contribute positively to making places better for people.

Highway Safety and access

- 5.30 The full comments from Oxfordshire County Council as Local Highway Authority are set out above. There are various elements for which further information was sought from the applicants but a complete formal response from the applicant nor any updated response from the Highway Authority has been received to date. The comments of the Local Highway Authority do not amount to an objection but in the absence of further clarification it would be reasonable to impose additional conditions in the event of the application being approved. It is worth noting however that in relation to the request to condition the reinstatement of historic dropped kerbs the agent for the proposal has responded by stating that such a condition would not be relevant to the development. Further clarification on this point has been sought from the highway authority.
- 5.31 The Local Highway Authority has not objected to the level of parking provision despite concerns expressed by some local residents and the Parish Council. It would seem unreasonable to require additional on site parking when the site is located close to a number of public car parks and within the town centre which has good public transport links.
- 5.32 Subject to the receipt of adequate additional information and or the imposition of conditions it is considered that this proposal would not cause detriment to highway safety.

Biodiversity, Ecology and Trees

- 5.33 The Council's Ecologist is satisfied that the building is unlikely to be an appropriate habitat for bats although nesting birds may utilise the building. Therefore providing the applicant is made aware of the responsibility not to disturb nesting birds there is no reason to object to the application on the grounds of harm to ecology or protected species.
- 5.34 Development proposals should however be seeking enhancements to biodiversity but this is something that can be required through a planning condition in the event of an approval.
- 5.35 There are a couple of existing trees within the site. These do contribute to the visual amenities of the area and are proposed to be retained. These would need to be protected during the construction process and if in the event that they were damaged or died they would need to be replaced by trees of a suitable species and size.

Other issues

- 5.36 The site is not within an area known to flood but the development of the site could result in variations of the amount of surface water. However the existing site is almost entirely made up of buildings and hard standing and the proposal includes areas of green space and provides the opportunity to incorporate sustainable urban drainage features. Despite the initial concerns of the County Council's Drainage Officer he is now satisfied that an appropriately worded condition can address this point without further information being submitted at this time.
- 5.37 The proposal has a somewhat unusual relationship with the funeral directors and the tyre and exhaust garage. The Town Council and Council's own design officer has raised the issue of the potential future development of the site along with the site of the Funeral Directors and the Tyre and Exhaust garage and the affect that piecemeal development may have. It is true that the proposal will make future development on the adjoining site more challenging and comprehensive development would be desirable but neither the Bicester Masterplan nor any draft policies identify the site for any specific redevelopment proposals and there is no indication that the other landowners are seeking the development of their sites at this time. It is therefore not advised that any significant weight be given to this issue as it is unlikely to be defensible at appeal.
- 5.38 The County Council's Developer Funding officer has requested a sum of money to contribute toward library stock in the locality. The justification being that the residents of the care home could potentially utilise the services provided by the County Council. A financial contribution could help mitigate the added pressure on the service. However the applicant has verbally clarified that the care home is likely to accommodate dementia and particularly infirm residents therefore highly unlikely to leave the building and utilise local facilities such as the library. The Council has in the past secured contributions for extra care and sheltered accommodation facilities but has not tended to apply this requirement to care and nursing homes.

- 5.39 There has been some question about the appropriateness of locating a nursing home adjacent to commercial/light industrial premises and the potential for noise and disturbance for the new residents of the care home. However, the potential impact is likely to be limited to usual working hours and conditions can be imposed to require appropriate sound proofing within the new building.
- 5.40 A 2012 amendment to the Town and Country Planning (Development Management Procedure) Order and the NPPF requires that LPA's demonstrate that they have worked with the applicant/agent in a positive and proactive way. This has been done through the communication of consultation responses and highlighting the issues of concern in written communications. The case officer has also met with the applicant and agent and discussed potential ways of amending the design of the scheme in light of officer's view that the principle of a nursing home in this location may be acceptable. However despite providing sufficient time to submit amended plans none have been forthcoming and the agent chose not to withdraw the application. The LPA has sought to work with the applicant and agent but there has been insufficient resolution so as to justify a recommendation of approval.

Conclusion

- 5.41 There is no 'in principle' objection to the siting of a care home use in this specific location within Bicester town centre as residential uses are considered to be acceptable town centre uses. Furthermore the site is adjacent to existing residential areas. However it is considered that the submitted scheme is unacceptable as it is not in keeping with its surroundings by virtue of its scale and its relationship with neighbouring properties and the streetscene. Furthermore it is considered that the proposal fails to preserve or enhance the setting of the Conservation area by virtue of the buildings scale and relationship with the Conservation Area. It is also considered that the scale and of the building and its relationship with the site boundaries causes some adverse impact on the residential amenities of neighbouring properties, particularly those in Bath Terrace. It is considered that the proposal does not accord with policies in the development plan as set out throughout the report and as such the presumption in favour of development as set out in the NPPF does not apply. It is therefore recommended that the application be refused for the reason set out below.

6. Recommendation

Refusal, for the following reasons:

By virtue of the scale and massing of the proposed building and its relationship with surrounding properties, the proposal has an adverse impact on the character and appearance of the area. As a result it fails to preserve or enhance the setting of the Conservation Area and fails to make a positive contribution to local character and distinctiveness. Furthermore it has a negative impact on the residential living amenities of neighbouring properties. It is the opinion of the Local Planning Authority that the proposed development does not accord with these provisions and is therefore contrary to central Government guidance contained within the National Planning Policy Framework, Policies BE1 and BE6 of the South

East Plan, Policies C28 and C30 of the adopted Cherwell Local Plan and Policies EN39, EN40 and D3 of the Non-Statutory Cherwell Local Plan 2011.

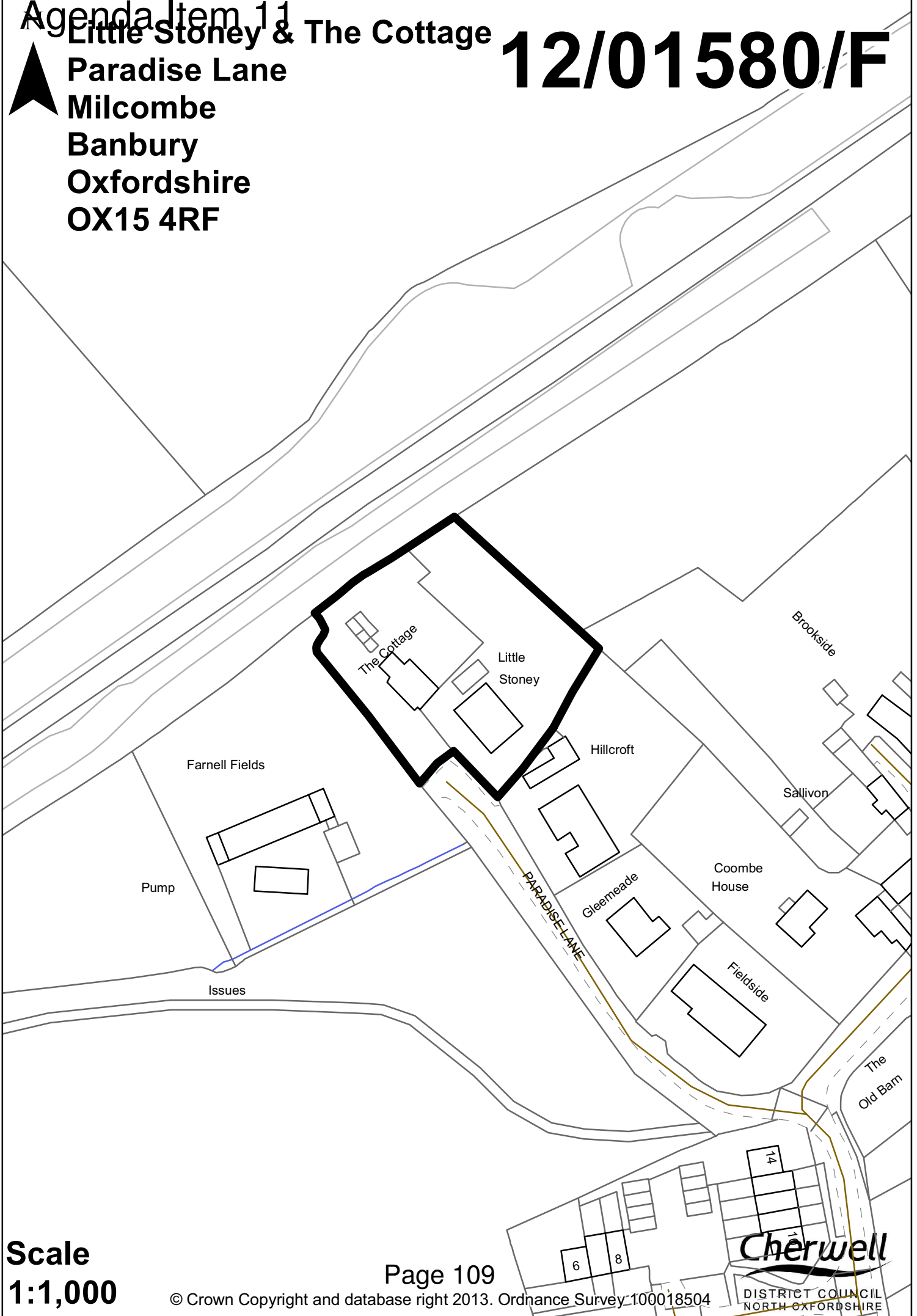
In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 11
Little Stoney & The Cottage

12/01580/F



Paradise Lane
Milcombe
Banbury
Oxfordshire
OX15 4RF

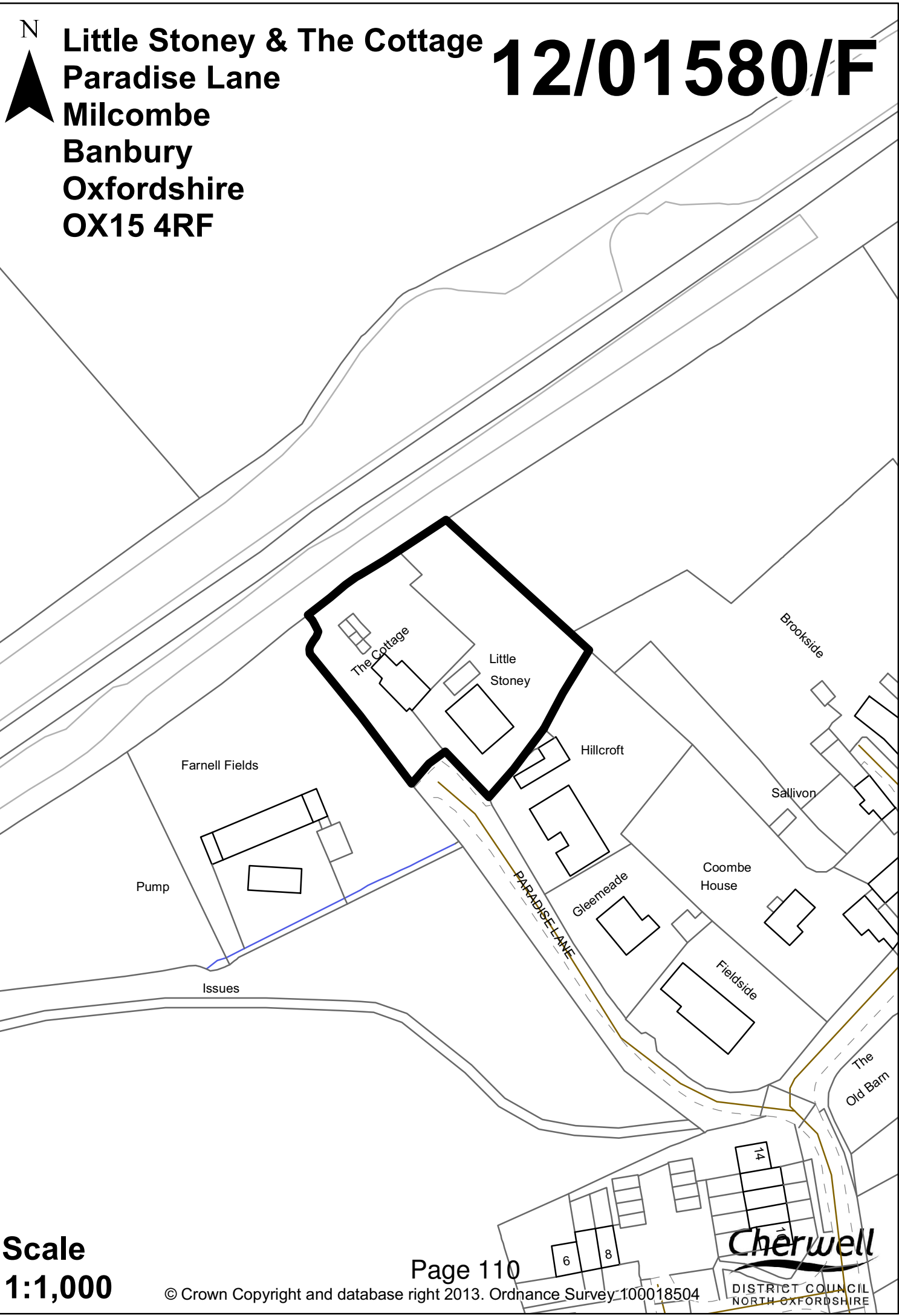


Scale
1:1,000



Little Stoney & The Cottage
Paradise Lane
Milcombe
Banbury
Oxfordshire
OX15 4RF

12/01580/F



Scale
1:1,000

**Site Address: Little Stoney & The
Cottage, Paradise Lane, Milcombe**

12/01580/F

Ward: Bloxham and Bodicote

District Councillor(s): Cllr Chris Heath and Cllr
Lynda Thirzie Smart

Case Officer: Tracey Morrissey

Recommendation: Approve

Applicant: John , Ruth and Jane Hester

Application Description: Demolition of 2 no. dwellings and construction of 4 no. dwellings with garages

Committee Referral: Controversial application that does not strictly accord with policy

1. Site Description and Proposal

- 1.1 The two properties are located at the end of a no through road on Milcombe's northern rural edge. The property to the west of the application property, Farnell Fields, is grade II listed. The application site is bounded to the north by a disused railway line. Paradise Lane is a narrow, single carriageway with no footpath, accessed off Church Lane and poor visibility for the majority of the length of the lane and its junction with Church Lane and Bloxham Road. A 1m high stone wall runs along the eastern boundary of the lane with breaks for vehicular accesses to properties.
- 1.2 Milcombe does not have a Conservation Area at present, but has been reviewed recently with a view to designation. The site is however in an Area of High Landscape Value and an area of Archaeological interest. There are legally and notable Protected Species in the vicinity with rare to Oxfordshire, Whiskered Bats being found with The Cottage itself.
- 1.3 This application follows the refusal of 12/00118/F which was for the same development now sought, but with a different design and layout. Previous to that there was a long line of permissions stretching back to the 1980s - the original application for the construction of 1 no. additional dwelling (retaining the existing 2 no. properties) being approved in 1986. It should however be noted that although originally approved in 80s, the permission lapsed before it was next approved in 1992, CHN.521/92 and had lapsed again when approved in 1996 (95/01973/OUT). The permission has been renewed (five times) following this approval, the last of which was under 10/01436/OUT.
- 1.4 Planning permission is now sought for the demolition of the existing dwellings and the construction of 4 no. detached dwellings. The Cottage is a traditional stone 18th Century cottage, which previously was thatched and comprised part of a terrace of cottages, whereas Little Stoney is a post war detached dormer, brick and tile bungalow.

1.5 The proposed dwellings comprise:

Plot 1 : link detached, 4 bedroom property, with garage to side attached to

Plot 2: link detached, 3 bedroom property, with garage to side

Plot 3: Detached 4 bedroom property, garage to side. 4th bedroom with ensuite and dressing room located on the ground floor.

Plot 4: Detached 4/5 bedroom property, with garage to side

Two of the properties are for the applicants (Jane and Ruth Hester) to live in so that one sister can care for the other with disabilities; the other two are to be sold on to finance the build for the two sisters. Gardens and parking are to be provided.

2. Application Publicity

2.1 The application has been advertised by way of a press notice, site notice and neighbour letters. The final date for comment on this application was 10th January 2013.

2.2 1 letter in support has been received.

A petition of objection signed by 88 residents has been received along with 21 separate letters of objection. Objections include:

- The revised scheme does not address the previous 6 reasons for refusal and therefore should be rejected once again.
- The revised layout of the development simply does not address the issue of over exploitation of the site by the applicants and continues to represent a conspicuous and incongruous form of development that would be to the detriment of the historic rural context. The design, massing and height of the proposed properties are totally inappropriate – ‘The Cottage’ is currently the tallest property on the eastern side of Paradise Lane and any proposed dwellings should certainly be no higher, and preferably lower, than the height of the roof apex of The Cottage.
- No heritage assessment submitted or even acknowledgement of the site being within the setting of a GII Listed Building ‘Farnell Fields’. Development runs counter to paras 128, 129 and 135 of the NPPF.
- It is noted that the LPA would have regard to the historic street or settlement pattern. Historic photographs of Paradise Lane illustrate a clear view between what is now the ‘The Cottage’ and ‘Farnell Fields’. This space or open aspect still remains and I believe it is important to protect that layout or view. This intervening area is clearly within the setting of the Listed Building and is readily visible from the public domain. In our view the LPA should look to preserve that setting /outlook which is clearly not the case with the application as is, which is highly detrimental to the setting of the heritage

assets and their integral historical relationship.

- Paradise Lane has no pathway, single track lane with views obstructed by blind bend, hazardous to pedestrians and other road users, junction with Church Lane is also bad. Intensification will be dangerous and increases probability of a serious accident. Previous incidents over the years and cause of damage to boundary walls and verges. Significant increase in traffic will cause further harms.
- It is stated that the new layout will assist vehicles turning on the development. We are unclear as to what this means. A concern has been that large vehicles, such as waste disposal, oil deliveries, building and shopping deliveries, etc, cannot presently turn at the bottom of the lane – they have to reverse in or out of the lane. The volume of such traffic will increase significantly if the proposed development goes ahead. Does the proposed layout improve or solve this hazardous situation? This is a particularly important question if we are to have vehicles parked on the verge for passing manoeuvres.
- Whilst the stripping out of the interior fabric by the owner on 11 July 2012 (when aware of the application to list the property) was a key factor in the decision by DCMS not to list The Cottage, the intrinsic group value of The Cottage and its association with Farnell Fields continues to represent a historical unity and functional relationship. This unity and the importance of the space between these two heritage assets in this historical part of Milcombe should be preserved in any development application.
- The submitted bat survey does not go far enough, for the three tests to be properly assessed, emergence surveys would need to be carried out as a minimum. This prevents the LPA from making a decision on the matter with regards to protected species. There is also potential for GCN from pond in Farnell Fields and possibly badgers, given the woodland area beyond.
- The provision of 4 no. dwellings, with a significant impact on the context in terms of height, scale and massing. Considerable footprints and plan depths, pushed to site boundaries resulting in a cramped inappropriate form and layout, more like a hard 'estate' cul-de-sac out of character with historic, rural edge of village location.
- Contrary to Policies C27 and H14 of the adopted Cherwell Local Plan. The proposal will harm the local environment, by introduction of alien housing in this historic part of the village, harming the setting of the listed building and removal of historic cottage.
- No justification to replace a piece of history with town houses which are completely out of keeping with not only this part of the village but other parts.

- Design, finish and layout are inappropriate; the aesthetic value of the area will be diminished by 4 modern large houses. Development contrary to paras. 56, 57, 60 and 64 of the NPPF as the proposal fails to respond to or reinforce local distinctiveness, is of poor overall design and harms to the established character of the locality.
- Loss of amenity to neighbours at Farnell Fields and Hillcroft, from overlooking and over domination given the siting of the development on the boundaries, contrary to Policy C30 of the adopted Cherwell Local Plan.
- Virtually no room on boundaries to cater for landscaping as the development is pushed hard to the western, southern and northern extremes of the site.
- 13 no. car parking spaces to be provided harmful to the character of the rural lane
- The “passing place” identified on the Site Plan is not flat or surfaced. It is in fact part of the grass verge which banks from road level to an approximately height of one metre against the field/verge dividing wall, and is at an angle of approximately 30 degrees. The steep bank falls away into the gateway of the field which is in frequent use for pedestrian, dog walker, and farm vehicle access. In the immediate area there is a surface drain, a manhole cover, and a tree on the verge. The surface drain is a substantial concrete structure that is situated at the margin between the verge and the road – it is approximately 25cm high. There are three more similar drains spaced at intervals in the lane. Vehicles running over these would risk serious damage to wheels and suspension units, and possibly the drain casings themselves would ultimately be smashed.
- The application proposes that the grass verge could be generally used for passing purposes on “odd occasions”. Based on the level of traffic presently using the lane, the statement makes the valid point that the increased volume of traffic would require vehicles to pass each other. However, proposing that the grass verge is used for this purpose seems totally unsuitable and dangerous, particularly for pedestrians. The insurance implications may also be a consideration in the unlikely event that this proposal was officially adopted. It is also obvious that such use would make an awful mess of the verge, particularly during winter months.
- An alternative solution offered is that “one vehicle can reverse to a wider section”. Where are these “wider sections” and what size of vehicles could pass each other?
- It is stated that Paradise Lane is wider at the start and end of the lane. I cannot really understand this comment because excluding the area where Church Lane, Horton Lane, and Paradise Lane merge, the top of the lane (just before the blind bend) is the narrowest point at just over 3 metres wide.

- Sewerage disposal issues
- Great loss to loose 18th Century historic cottage which is part of the village's heritage and character, it is very regrettable as it is one the last remaining examples of a random / rubble stone constructed houses in Milcombe in its original state. If this building is to be demolished, the stone recovered should be used in the facing walls of any new properties built on the site.
- Full details of the proposed building materials for each plot are not defined in the application but at a high level continue to include the use of inappropriate materials given the proximity to the adjacent listed property. These include, but are not limited to, the proposed use of concrete roof tiles and facing brick. In line with the condition of the outline application (10/01436/OUT), all external walls of the dwellings, garages, garden partition walls etc should be constructed solely of natural ironstone and all roofs of natural welsh slate. The inclusion of, but not limited to, features such as front door porches, facing brick garden partition walls etc are totally incompatible with the appearance, character, layout and design of rural historical dwellings in this part of the village.
- The application has no reference to the controlled routing of the stream that exists under the proposed development site and how that will be protected. This stream is one of three main watercourses that flow through the parish and it re-emerges to the eastern boundary of Brookside (Fernhill Close) to flow through to the lakes at Milcombe House. From there the stream joins the discharge from the lakes on Fernhill Farm and flows through Bloxham and eventually joins the Sor Brook to the north of Adderbury.

Non-material comments:

- If the council is minded to accept this type of development so as to attract a government Bonus, it would be a pity to think our council may be prepared to destroy our amenity in favour of this bonus scheme.
- Own property and those close by have been renovated at great cost so as to enhance the area. Packing so much in and loosing such a valuable bit of history will no doubt create a great deal of unease and promote civil unrest. I do not think the council would like to be associated with such a planning decision.

3. Consultations

3.1 **Milcombe Parish Council** – Does not object but raises the following concerns:

1. This is an over development of the site. Four properties are too many for the size of the area of land. A total of three houses on the site is a far more acceptable.

2. Prefer to see all the houses being built in hand chopped coursed stone – presume Hornton instead of the facing bricks stated on some of the properties. This would look better adjacent to the listed building than the present proposal. Also all the roofs on all the proposed properties should be in slate to better reflect a ‘barn’ style appearance.
3. Would also like the issue of height on plot 4 to be taken into consideration as it appears to be too high in relation to the other properties surrounding it.
4. Prefer to see timber windows, fascias and soffits instead of the proposed uPVC. We would also prefer that the frames are all one colour instead of the white and brown mixture stated on the Design Statement.
5. Highways concerns:
 - i) The width of the road at the entrance to Paradise Lane, does this meet minimum standards?
 - ii) The increase in traffic movement may cause further congestion in Paradise Lane, especially as it is so narrow. There is also a dangerous corner and three way traffic coming from Church Lane and Horton Lane.
 - iii) There are also safety issues for pedestrians due to the width of the road as there are no footpaths in Paradise Lane.
6. No objection to the demolition of Little Stoney as this is possibly the most unattractive property in Paradise Lane having a yellow brick exterior and an extremely large and unattractive chimneystack built of reconstituted stone at the front. The Cottage does not appear to meet English Heritage’s criteria for preservation and accord it with any sort of special status, i.e. listing. Whilst it is a 17c building it has been the subject of some modernisation over the years with a mixture of timber and plastic windows being fitted and the old thatched roof being changed to slates approximately 20 or so years ago. It does not appear to have anything by way of architectural merit [except its age] to stop it being demolished.

Cherwell DC consultees

- 3.2 **Ecologist** – The bat survey found whiskered bats to be roosting in 'The Cottage' and pipistrelle bats in 'Little Stoney'. Since the roosts would be lost if the buildings are demolished as currently intended, a Habitats Regulations licence will be required from Natural England before any demolition can start. The emergence survey reports are not acceptable as they were not undertaken in line with the Bat Survey Guidelines 2012 and therefore the mitigation measures may not be sufficient. Without further surveys being undertaken it is unclear whether Natural England will issue a licence. The removal of the internal structure of the building has improved it for bats in terms of hibernation, but has lessened the likelihood of it being used as a maternity roost (where warm temperatures are needed) due to the removal of the floor.

- 3.3 **Conservation Officer** – The proposal is to demolish 2 properties – a traditional stone cottage and a modern bungalow – and to construct 4 houses on the site. The Cottage can be seen on the 1875 OS map of Milcombe as the penultimate cottage in a row of 4 dwellings. It is representative of the humble status of dwellings that existed within Milcombe at that time, particularly in the North West corner of the settlement.

The Cottage is an example of a C18/C19 hovel common throughout villages in the C19 but now mostly replaced by modern housing. The Cottage has been unlivable in for the last 30 years (communication from applicants) and did retain many original features such as inglenook fireplace with newel post winder stair adjacent rising 2 floors to the attic; however the majority of the fabric was removed and destroyed by the applicant in the summer.

Objection is raised in respect to the design and scale of the development, however further comments are awaited on possible amended drawings in respect to design detail and scale.

- 3.4 **Environmental Protection Officer** – The database shows that the railway embankment and former farm in vicinity of this site, are potential sources of contamination that could impact on the development site. In these circumstances, this makes the site sensitive for future residents. I would therefore recommend that full contamination land conditions be imposed.

The closest potential contamination identified relates to a shallow surface water feature approximately 50 metres to the west of this development boundary which may have been unfilled. This is unlikely to affect this development.

I don't have information which indicates contamination is present on this site, but also do not have information which indicates it is not. As the proposal is residential, it's introducing people that would be vulnerable if contamination is present on the site. As such, I recommend the full contaminated land conditions are applied to assess the risk from contamination.

Oxfordshire County Council Consultees

- 3.5 **Highways** – Initially objected to the scheme as the proposal did not address the previous reason for refusal in respect to adequately detailed passing place and provision of adequate turning facility. Further details were sought and based on the revisions in respect to turning facility and passing place the Highways Authority withdraw their objection. The following comments are however made which can be addressed via condition should Members be minded to approve the application - "Whilst lacking in specific detail as regards construction, levels and drainage details the revised plans do show the provision of a local widening and improvements to the end of the lane such that a very much improved turning facility is to be provided. The turning head will be a significant improvement which is expected to accommodate the majority of vehicles accessing the lane. The passing place may need to be amended possibly by narrowing the width and/or increasing the length but only slightly just to make it appear less of a lay-by.

- 3.6 **Archaeologist** – The site is located within an area of archaeological potential

related to the early post medieval development of the settlement. The existing cottage on the site is thought to date from the C17th (PRN 27969). Another C17th house which is grade II listed is located 50m SW of the site (PRN 17564). The remains of a shrunken medieval village are located 300m to the SW (PRN 27453). The cottage itself is thought to have been built as a workers cottage for the village. The area around the cottage is likely to contain numerous rubbish pits from this period which would be disturbed during this development. We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be ensured through the attachment of a suitable negative condition.

3.7 Drainage - No drainage layout provided. More detailed drainage design required.

- Must be SUDS compliant.
- Car parking and hard standings to be constructed of a porous material.
- No surface water to enter on to the highway or into the highway drainage system.
- Undertake geotechnical survey to establish best drainage technique.

Please note that OCC drainage team recently jetted and cleaned a culvert that runs through the vicinity of the site.

Other consultees

3.8 Natural England – it is noted that works have been undertaken to The Cottage since the original inspection surveys in January 2012 which involved the removal of most of the internal structures of the building. Given that these first surveys found evidence of bat usage of the building, Natural England is concerned that these works potentially resulted in the destruction of a bat roost.

The survey information provided with the application indicates that the two buildings at the site support roosting bat species. The survey reports state that The Cottage has been found to support a small number of brown long-eared bats and a small number of whiskered bats. Little Stoney has been identified as supporting a common pipistrelle roost. Mitigation for the loss of these roosts is provided in the supplementary mitigation prescriptions report, and is based on the assumptions of low level usage by these three species. For long-eared bats, it is likely that this assumption is appropriate, given that they are a void dwelling species and therefore more visible during an inspection. Natural England is therefore satisfied with this conclusion.

However, for crevice dwelling species such as pipistrelles and whiskered bats, it is harder to be certain of a small population based on the observation of low numbers of droppings, as much evidence left by these species may not be visible. Activity surveys are therefore necessary to provide further details of the use of the buildings by bats. In this case, activity surveys were carried out late in the survey season, and there is the potential that a larger, potentially maternity roost of these species has been missed. Therefore the timing of the surveys makes it difficult to be

confident in the conclusion of a small population of common pipistrelle and whiskered bats.

In order to overcome the limitations of sub-optimal surveys, it would be necessary to adopt a 'worst case scenario' approach to the likely impacts of the development, and then to mitigate accordingly. In this case, a worst case scenario would constitute a maternity roost of common pipistrelles and whiskered bats, as neither of these can be ruled out based on the current survey results. Based on this assumption, the mitigation proposals would need to allow for replacement roosting facilities to be available for use by bats in time for the start of the summer season following demolition. If this was not possible, then temporary roosting facilities would need to be provided until the permanent roost was completed. These temporary roosts would need to be of sufficient size to accommodate the worst case scenario populations.

The important thing is that the timings are secured so that the new roost would be in place before start of the following season, by April ideally. This is so that the new roost is accessible when the bats start looking for summer/maternity roosts. It is therefore important for the mitigation proposals to outline when (ie in which month) the roost will be completed, as well as in what order.

For example, if the applicant wanted to demolish the existing buildings this year, the new roost would need to be completed before the start of the 2013 summer season, which would make the schedule quite tight. If the new roost were completed after this, then they would need to wait till the end of the season next year to demolish the two existing buildings to ensure that any bats which were roosting in the existing buildings had moved on.

The other option is that a temporary roost could be constructed to accommodate the bats between the old being demolished and the new constructed if this timetable was not possible.

Natural England therefore recommends that to avoid adverse impacts upon populations of bats using the site, the following are secured by appropriately worded conditions of any planning permission granted:

- Replacement bat roost for worst case scenario maternity population of common pipistrelle and whiskered bats, and small population of brown long-eared bats to be provided on site in advance of the start of the first summer activity season following demolition. The summer activity season is deemed to begin in April.
- Replacement roost should be of suitable size for long-eared bat species (5m x 5m x 2.8m) and also incorporate facilities for crevice dwelling species. Ideally such replacement roosting facilities should be provided at more than one location within the site.

Bats are European protected species and as such a licence is required in order to

carry out any works that involve certain activities such as capturing the animals or destroying their resting places. The later decision on a licence application is a more detailed assessment and may require additional survey information, population assessment and specific details relating to the effectiveness and workability of the mitigation proposals before works can proceed.

It should be noted that the protection afforded to species under UK and EU legislation is irrespective of the planning system and the applicant should ensure that any activity they undertake on the application site (regardless of the need for planning consent) must comply with the appropriate wildlife legislation. Failure to do so may result in fines and potentially, a custodial sentence.

3.9 **Thames Water** – raises no objection to the proposal and makes the following comments:

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

Advise that with regard to sewerage and water infrastructure there is no objection.

Recommend informative regarding water pressure

4. Relevant National and Local Policy and Guidance Policy Considerations

4.1 Adopted Cherwell Local Plan (Saved Policies) :

C2: Protected species

C4: Creation of habitats

C28: Layout, design and external appearance of new development

C30: Design of new residential development

H14: Category 2 Settlement

ENV12: Contaminated land

South East Plan 2009

CC1: Sustainable development

CC2: Climate change

CC6: Sustainable communities and character of the environment

H4: Type and size of new housing

H5: Housing design and density

T4: Parking

NRM5: Conservation and improvement of biodiversity

BE1: Management for an urban renaissance

BE6: Management of the historic environment

Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Draft (August 2012)

The draft Local Plan went 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:

BSC1: District wide housing distribution

BSC2: The effective and efficient use of land

ESD1: Mitigating and adapting to climate change

ESD3: Sustainable construction

ESD7: Sustainable Drainage Systems (SuDs)

ESD10: Protection and enhancement of biodiversity and the natural environment

ESD13: Local landscape protection and enhancement

ESD16: Character of the Built Environment

Policy Villages 2 : Distribution of growth across the rural area – Group 3

INF1: Infrastructure

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:

TR1, TR4, TR5 and TR11: Transport and development policies

H3, H4, H16, D1, D2, D3 and D6: Housing and design policies

EN23, EN24, EN25, EN27, EN39 and EN44, EN47: Conserving and enhancing the environment

5. Appraisal

5.1 The issues raised by this development are:

- History
- Principle of development
- Design
- Impact on heritage assets
- Impact on neighbours
- Ecology
- Highway safety and parking.

History

5.2 Consent for the erection of a dwelling on this site has been granted since it was first granted in 1986 under application CHN.741/86. Permission has been renewed continually since this time.

1986 – **CHN.741/86** - Erection of dwelling, garage and access

1992 – **CHN.521/92** - Erection of dwelling

1995 – **95/01973/OUT** - Erection of dwelling

1998 – **98/02021/OUT** - Erection of dwelling renewal of 95/01973/OUT

2001 – **01/02334/OUT** - Erection of dwelling, access and garaging, renewal of 98/02021/OUT

2004 – **04/02403/OUT** - Erection of dwelling, access and garaging, renewal of 01/02334/OUT

2007 – **07/01745/OUT** - Erection of dwelling, access and garaging, renewal of 04/02403/OUT

2010 – **10/01436/OUT** - Extension of time of 07/01745/OUT - Erection of dwelling, access and garaging

2012 – 12/00118/F - Demolition of 2 no. dwellings and construction of 4 no. dwellings with garages – Refused for the following reasons:

1. The information supplied, is insufficient for further consideration on the likely impact, on the European Protected Species found to be present at the site

or other protected species elsewhere on the site and therefore it has not been demonstrated that the proposed development would not cause potentially irreversible and significant harm and disturbance to vulnerable protected species. The development is therefore considered contrary to the provisions of Policy NRM5 of the South East Plan 2009, adopted Cherwell Local Plan Policy C2 and Non-Statutory Cherwell Local Plan 2011 Policies EN1, EN23, EN24 and EN25 and Government guidance contained within the National Planning Policy Framework – Conserving and enhancing the natural environment.

2. The proposed development is not 'infill' development but constitutes a cramped form of residential development conflicting with the general character of the locality. The dwellings proposed by virtue of their design, layout, height, scale and massing are out of keeping with the local traditional vernacular and would form a conspicuous and incongruous form of development to the detriment of the historic, rural context. The proposed development is therefore contrary to Policies BE1, BE5, BE6, CC1, CC6, H4, H5 of the South East Plan 2009 and Policies H14, C13, C28 and C30 of the adopted Cherwell Local Plan and Policies H16, EN39, EN44, D1, D3 and D6 of the Non-Statutory Cherwell Local Plan 2011 and contrary to Government guidance contained within the National Planning Policy Framework - Requiring good design, Delivering a wide choice of high quality homes and Conserving and enhancing the historic environment.
3. The submitted design and access statement is not adequate as it does not explain or justify the proposed site layout, or appearance of the buildings, or describe the significance of the Grade II, listed heritage asset affected, including the contribution made by its setting, sufficient to enable this Authority to make an informed decision on the matter. The development is therefore contrary to Policy C28 of the adopted Cherwell Local Plan, Policies BE1, BE5, BE6, CC1, CC6, H4 and H5 of the South East Plan 2009 and Policies D1, D2, D3 and D6 of the Non-Statutory Cherwell Local Plan 2011 and contrary to Government guidance contained within the National Planning Policy Framework - Requiring good design and Conserving and enhancing the historic environment
4. The loss of The Cottage is lamentable given its historic significance as a heritage asset and the proposed development by reason of its siting and design, adjacent to a Grade II Listed Building, would be detrimental to heritage assets' settings as it fails to preserve those elements of the settings that make a positive contribution to or better reveal the significance of the heritage asset and contrary to Policy BE6 of the South East Plan 2009 and Government guidance contained within the National Planning Policy Framework - Conserving and enhancing the historic environment.
5. Paradise Lane is narrow and of tortuous alignment with neither separate footway provision nor adequate turning facility. Movements generated as a

product of the proposed development will result in increased conflict adversely affecting both the safety and convenience of other road users to an unacceptable degree contrary to Policy TR5 of the Non-Statutory Cherwell Local Plan 2011 and Government guidance contained within the National Planning Policy Framework – Promoting sustainable transport.

6. The proposed development, by reason of its design, siting, size, massing, dominance and overbearing impact would be likely to have a seriously detrimental effect upon the amenities of the occupiers of adjacent residential properties by restricting the amount of daylight and outlook at present enjoyed by the occupiers thereof and will result in overlooking and loss of privacy. The proposal is therefore contrary to the provisions of Policies C28 and C30 of the adopted Cherwell Local Plan and Policy D6 of the Non-Statutory Cherwell Local Plan 2011.

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 requiring good design, delivering a wide choice of high quality homes, conserving and enhancing the natural environment and the conservation and enhancement of the historic environment.
- 5.4 Paragraph 35 of the NPPF states that developments should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians. This aspect will be further expanded later on in the report.
- 5.5 Paragraph 50 of the NPPF requires that local authorities plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes).
- 5.6 Further Paragraph 53 advises that where harm is caused to the local area, the inappropriate development of residential gardens should be resisted.
- 5.7 The general thrust of national policy contained within the NPPF is continued in regional policy, with one of the sustainable development priorities being to ensure the physical and natural environment of the South East is conserved and enhanced. Policy CC6 of the South East Plan 2009 requires decisions associated with the development and use of land to respect, and where appropriate enhance, the character and distinctiveness of settlements throughout the region.
- 5.8 The proposal will be considered against Policy H14 of the adopted Cherwell Local

Plan, which as a Cat 2 village allows for conversions, infilling or other small scale development that can be shown to secure significant environmental improvement within the settlement.

- 5.9 Paragraph 2.69 of the adopted Cherwell Local Plan states that “Policy H14 will permit the construction of houses in small gaps in a village street. When environmentally acceptable such gaps may be filled by the construction of a single house or by the construction of two smaller units.” Paragraph 2.70 goes on to add that “many spaces in village streets are important to their character and cannot be filled without detriment to their environmental quality. Such gaps may afford views out into the landscape or help to impart a spacious rural atmosphere to the settlement. This is particularly important in a loose-knit settlement pattern where the spaces may be as important as the buildings. The character of such settlements can be rapidly eroded by infilling”.
- 5.10 During the consideration of the original and subsequent applications for an additional house, it was noted that the case officer stated that the proposal does not strictly comply with the Housing Policies of the Cherwell Local Plan in respect to infill, however based on the fact that a single dwelling of similar scale and massing adjacent to the existing cottage was proposed there was no significant harm. The adjacent listed building, Farnell Fields was listed in 1955 and the setting of this building was taken into consideration in the determination of the original consent in terms of positioning, design and scale. With regards to the impact on the character and appearance of the area, the mature trees within the site and the impact on the wildlife in the woodland, again this would have been taken into consideration in the determination of the previous consent only three years ago. At that time the development was not considered to have adversely affected the visual amenities or nature conservation interests in the area.
- 5.11 Taking into account the extant consent and the existing two properties on the site, the development now proposed would actually involve only the creation of one additional property. However, the proposed development also involves the demolition of the existing properties. The applicant proposes to build out the development in phases due to the presence of bats in the existing properties, (this will be expanded on later in the report) but essentially the existing properties are not going to be demolished until at least plots 2 and 3 are in place to provide the necessary bat mitigation measures.
- 5.12 The previous scheme involved the immediate demolition of the existing properties and the four new houses built out thereafter. No phased development was to take place.
- 5.13 The revised layout of the scheme, involves the construction of plot 4 on a similar position to Little Stoney and plot 1 just a little further forward of the approved 3rd property subject to the extant consent. Plots 2 and 3 then create a courtyard of 4 properties resembling a traditional barn conversion form of development.
- 5.14 Whilst the previous scheme was considered to be unacceptable on a number of

issues, it failed to comply with Policy H14, because not only did it not strictly accord with infill, its whole form, layout, scale and design was considered to be an incongruous form of development, detrimental to its historic rural context.

- 5.15 The proposed scheme has been renegotiated taking into account the previous concerns and whilst not completely acceptable at the time of writing, further design details have been sought which should overcome the concerns. This relates to design and scale specifically and not the principle per se, design and scale will be discussed further later in the report. However in respect to the principle, it is considered that, like the extant consent, the revised development does not strictly accord with Policy H14, but the layout and general design in the form of a traditional barn conversion complex overcomes the previous reasons for refusal. It is further considered that a reason to refuse the application on principle grounds could not reasonably be sustained at appeal.

Design

- 5.16 Policy BE1 of the South East Plan 2009 sets out the Plan's approach to promoting and supporting imaginative and efficient design solutions in new development, and aims to increase public acceptance of new housing by making sure that its is of a high quality design that respects local context and confers a sense of place.
- 5.17 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.
- 5.18 The site is part of a larger area recognised as having High Landscape Value therefore policy C13 of the adopted Cherwell Local Plan applies. The wider area is recognised as being of particular environmental quality but the actual site has no more specific landscape designations. The policy seeks to conserve and enhance such areas and as such a high design standard will be required.
- 5.19 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.
- 5.20 Furthermore Policy D6 refers to the consideration of development in design terms which should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and also that it provides standards of

amenity and privacy acceptable to the Council.

- 5.21 The Cottage and Farnell Fields are the remaining historic buildings located at the end of Paradise Lane, the other few properties within the lane are untraditional modern bungalow. The proposal seeks to demolish the two existing dwellings and construct 4 no. dwellings in their place. The renegotiated scheme resembles a former barn conversion form of development laid out around a central courtyard, with plot 4 being the larger property. At the time writing further amendments were being worked on to reduce the scale of plot 4. The Agent has been asked to reduce the height to 8m from the 9.4m shown and the gable width to 6m.
- 5.22 Subject to acceptable amended drawings, the ridge heights of the properties are proposed to be 7.9 – 8m, gable widths 6m, each unit it to have single storey projections. Materials to be used are natural stone and facing brick, with natural slate and plain tiles, windows to be timber. The construction of plot 1 should be from the stone of The Cottage, so that the building's historic fabric is not lost forever.
- 5.23 The previously refused scheme was very suburban in design and completely out of keeping with its historic context. The whole scale, form, character and layout of the previous scheme essentially created an overdevelopment of the site with untraditional garages pushed to the front of the site and consequently unacceptable.
- 5.24 Government guidance contained in the new NPPF attaches great importance to the design of the built environment. Para 61 states "Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment." The NPPF requires good design when determining application and that poor design should be refused that fails to take the opportunity to improve the character of the area.
- 5.25 It is considered that the proposed design of dwellings is more sympathetic to its context and resembling a former traditional barn conversion type of development is more in keeping with and addresses the historic context of the site and subject to the submission of further amendments which address concerns about scale and design, the proposal is acceptable.

Impact on heritage assets

- 5.26 Whilst not designated a listed building, The Cottage clearly has some significance as it formed part of the original terrace of C18th cottages and is therefore recognised as a heritage asset, defined in the NPPF as a building identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest.

- 5.27 Adjacent to the site however is a GII listed building, Farnell Fields, and therefore the proposed development is within the setting of this heritage asset. The NPPF states that heritage assets are an irreplaceable resource, which should be preserved in a manner appropriate to their significance. It also states that the more important the asset, the greater the weight that should be given to its conservation and that any harm or loss should require clear and convincing justification. Substantial harm should be wholly exceptional and if the harm to the significance is less than substantial then that harm must be weighed against the public benefit of the proposal.
- 5.28 Policy BE6 of the SEP (although an older policy than the NPPF) largely reflects this approach and Policy EN44 of the Non-Statutory Cherwell Local Plan 2011 seeks to ensure that development which is situated within the setting of a listed building respects the architectural and historic character of the building and its setting. The Council will have regard to the desirability of preserving the setting of listed buildings and will resist development that would adversely affect it.
- 5.29 It is considered that together with the statutory GII listed 'Farnell Fields', the unlisted property to be demolished, 'The Cottage' are clearly recognised as important historic features. The Cottage therefore has a degree of significance, however it must be noted that it is not of the highest significance akin to listed buildings, scheduled monuments and world heritage sites for example.
- 5.30 NPPF – Conserving and enhancing the historic environment, para 128 states that "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary." Despite being advised, the submitted design and access statement and further justification statement does not describe the significance of the Grade II, listed heritage asset affected, including the contribution made by its setting or indeed how the loss of The Cottage can be justified given its historic significance. At the time of writing the agent is revising this document, further comments on this aspect will be provided in the Member update.
- 5.31 Whilst a revised version of this is awaited, it is considered that ultimately the Council will be unable to resist the demolition of The Cottage. Following the determination of the previous application, English Heritage were approached with a view to spot listing The Cottage, however as the majority of the historic fabric of the building was removed, English Heritage found that it did not meet the requirements for being listed. It is therefore considered that whilst the loss of The Cottage is lamentable given its historic significance as a heritage asset, reference to the loss of The Cottage in the previous reason for refusal could not reasonably be pursued further. One compensation measure is that plot 1 would be constructed using the

stone from The Cottage, thereby retaining the historic fabric on site.

- 5.32 In respect to the setting of the neighbouring listed building, the revised scheme has been designed to reflect that of a traditional converted barn housing development. When viewing the site and the wider setting of the listed building, Plot 1 is the closest property, which is in a very similar position to that previously approved under the extant consent. The revised design is considered to be acceptable in principle and consequently will not harm the significance of the setting of the heritage asset and overcomes the previous reasoning for refusal.
- 5.33 Further in respect to heritage assets, the site is within an area of archaeological interest (early post medieval) and as such comments from Oxfordshire County Council's Archaeologist has recommended at the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction.

Impact on neighbours

- 5.34 It was previously considered under 12/00118/F that by virtue of its layout and siting of the proposed properties would have an unacceptable impact on the amenities of the neighbouring properties. Notwithstanding the awaited further amendments it is considered that the revised scheme overcomes the previous concerns.
- 5.35 In respect to Plot 1, the boundary between the site and listed Farnell Fields to the west is rather 'hit and miss', but the hedge line could be reinforced as part of a robust landscaping scheme to help screen the two sites, in the interests of amenity of existing and proposed occupiers. The siting of this proposed property is in a similar position to the extant consent, and whilst that was only in outline, it is likely that the size of the property would be similar to that now proposed as Plot 1. Therefore, whilst the concerns of the neighbour are noted, it is considered that there would be no more overlooking from this development than the extant consent.
- 5.36 In respect to Plot 4, further amended details are awaited concerning the height of the property and its overall scale. Essentially, there is concern that the relationship with this plot and the other neighbour at the bungalow Hillcroft, would give rise to over domination. The Agent has been asked to reduce the height to 8m from the 9.4m shown and the gable width to 6m. This may result in the 5th bedroom in the roof being lost. With regards to overlooking, it is considered that the proposed dwelling would not give rise to any further overlooking than currently exists from the existing property Little Stoney to either neighbour.
- 5.37 The other two plots 2 and 3 will not give rise to any impact on the amenities of any neighbouring property.
- 5.38 Subject to the submission of acceptable amended drawings reducing the height and scale of Plot 4, it is considered that the proposed development overcomes the previous concerns and reasoning for refusal and provides standards of amenity that

comply with the relevant development plan policies.

Ecology

- 5.39 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)
- 5.40 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.
- 5.41 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”.
- 5.42 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes onto advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”
- 5.43 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;

- 5.44 Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 5.45 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.
- 5.46 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.
- 5.47 In respect to the application site, a Bat Survey Assessment was undertaken by Ecolocation dated 19th January 2012, which found that there was evidence of Whiskered bats in The Cottage and Pipestrelle bats in Little Stoney. Notwithstanding a further emergence survey being undertaken in September 2012 by a different company Ace Consulting, the extent of the occupation has not been fully established, although it did find the presence of another bat, the Long Eared bat. Basically, the emergence survey was undertaken at a time when Whiskered bats are likely to be already hibernating, therefore whilst the survey indicated that Pipestrelle and Long Eared bats are present at the site, the absence of Whiskered bats during September does not evidence their absence.
- 5.48 This site has been the subject of investigation by the Council’s Ecologist and Natural England, with the Police being involved in the summer, just before English Heritage’s visit, as the applicant was found to be stripping out the building and burning the material. Whilst it was alleged that the habitat was being disturbed or destroyed, no further action was deemed necessary by the Police.
- 5.49 Since then the site has been closely monitored and discussed at length by at least six Ecologists, however based on the information submitted with the current application, it was not established until very recently, whether or not the proposed mitigation and compensation measures were considered to be acceptable. A phased demolition and construction programme was necessary, and based on the following, Natural England are now content that based on a worst case scenario, the phasing and mitigation measures will be acceptable and subject to a further emergence survey in the summer a licence would be likely to be issued:
1. Build plots 2 and 3 (for the sisters) with bat habitat being created in the roof spaces and bat boxes installed in the garden

2. Demolish Little Stoney and its garage
3. Build plot 4
4. Demolish The Cottage
5. Build plot 1 and garage for plot 2
6. Install turning head
7. Complete access, parking and landscaping

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

Access and highway safety

5.51 Concern has been raised by local residents in respect to the narrowness of the road, the loss of turning facility and increase traffic in respect to highway safety. Paradise Lane is narrow and of tortuous alignment with neither separate footway provision or adequate turning facility, previously OCC as local highway authority objected to the 12/00118/F scheme and required the proposal to include a passing place further up the lane and also the provision of turning facility within the site. Such alterations would, to a degree, ameliorate the concern expressed with regard to the increased movements, having a beneficial effect for all who use the lane.

5.52 Further amendments were sought as part of the current application as the detail shown (as required above) did not actually demonstrate that the turning facility or passing place could be provided.

5.53 Oxfordshire County Council, as Local Highway Authority has now, based on the further amendment,accepted that the proposal in respect to access, parking and highway safety is acceptable in principle, subject to conditions.

5.54 It is therefore considered that the proposal is now acceptable in terms of parking and highway safety and that the previous reason for refusal could not reasonably be sustained on appeal.

Engagement

5.55 With regard to the duty set out in paragraphs 186 and 187 of the Framework, following the refusal of the previous application, further negotiation has taken place prior to the submission of this current application and during. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.56 In conclusion therefore taking into account the above appraisal it is considered that the current application that has renegotiated addresses the previous reasons for refusal and given the revised layout and design, is now acceptable and complies with the Government guidance contained in the NPPF and the other relevant development plan policies listed above.

6. Recommendation

Approval subject to:

- a) The submission of acceptable amended drawings and Design and Access Statement and Justification Statement.

- 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: TBA

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

3. Prior to the commencement of the development hereby approved, a stone sample panel (minimum 1m² in size) shall be constructed on site in natural stone which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

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 to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. That The Cottage shall be demolished by hand and the stone shall not be disposed of but shall be conserved and re-used in the construction of Plot 1 hereby approved.

Reason - To safeguard the preservation and retention of the stone of the existing historic building and to comply with Policy BE6 of the South East Plan 2009, and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, samples of the brick, tile and slate to be used in the construction of the walls and roof of the

development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

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 to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to an approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the materials used on the existing building and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Development shall not commence until a surface water and foul sewage drainage scheme and strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community in accordance with the guidance contained within the National Planning Policy Framework and Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

8. The development hereby permitted shall be carried out in accordance with the phased mitigation detailed in the Justification Statement submitted with the application unless otherwise agreed in writing by the Local Planning Authority.

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the guidance contained within the National Planning Policy Framework and Policy NRM5 of the South East Plan 2009 and Policy C2 of

the adopted Cherwell Local Plan.

9. That full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure, in respect of those dwellings which it is intended shall be screened, shall be erected prior to the first occupation of those dwellings.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan.

10. That, notwithstanding the provisions of Classes A to E (inc.) of Part 1, of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the approved Plots 1 and 4 shall not be extended without the prior express planning consent of the Local Planning Authority.

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

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

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

12. That, before any of the dwellings are first occupied, the proposed vehicular accesses, driveways and turning areas that serve those dwellings shall be constructed, laid out, surfaced and drained in accordance with specification details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with government guidance contained within the National Planning Policy Framework

13. That no surface water from the development shall be discharged onto the adjoining highway and a scheme to prevent this occurrence shall be submitted to and approved in writing by the Local Planning Authority and constructed prior to the

commencement of building operations.

Reason - In the interests of highway safety and to comply with government guidance contained within the National Planning Policy Framework

14. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

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

15. If a potential risk from contamination is identified as a result of the work carried out under condition 14, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

16. If contamination is found by undertaking the work carried out under condition 15, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'* and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

17. If remedial works have been identified in condition 16, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition y. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

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

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

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Policy BE6 of the South East Plan 2009 and Government guidance contained within the National Planning Policy Framework.

19. Prior to any demolition on the site and the commencement of the development hereby approved, and following the approval of the Written Scheme of Investigation referred to in condition [F6], a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation.

Reason - To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with Policy BE6 of the South East Plan 2009 and Government guidance contained within the National Planning Policy Framework.

And any other highway conditions

Planning Notes

1. Thames Water informatives
2. Construction sites
3. The applicant is advised that if further advice is required in relation to conditions 18 and 19, contact should be made with the County Archaeologist on 01865 328944 or by writing to Richard.Oram@oxfordshire.gov.uk or Historic and Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE, who can provide advice in terms of the procedures involved, provide a brief

upon which a costed specification can be based, and provide a list of archaeological contractors working in the area.

4. Works within the Highway

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

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. The development is considered to be acceptable on its planning merits as it would not cause serious harm to the character and appearance of the locality, significance of heritage assets, residential amenity, ecological matters or highway safety. As such, the proposal is in accordance with government advice contained in the National Planning Policy Framework, Policies CC1,CC2, CC6,H4, H5, T4, NRM5, BE1 and BE6 of the South East Plan 2009 and Policies C2, C4, C28, C30, H14 and, ENV12of 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 planning permission granted subject to appropriate conditions, as set out above.

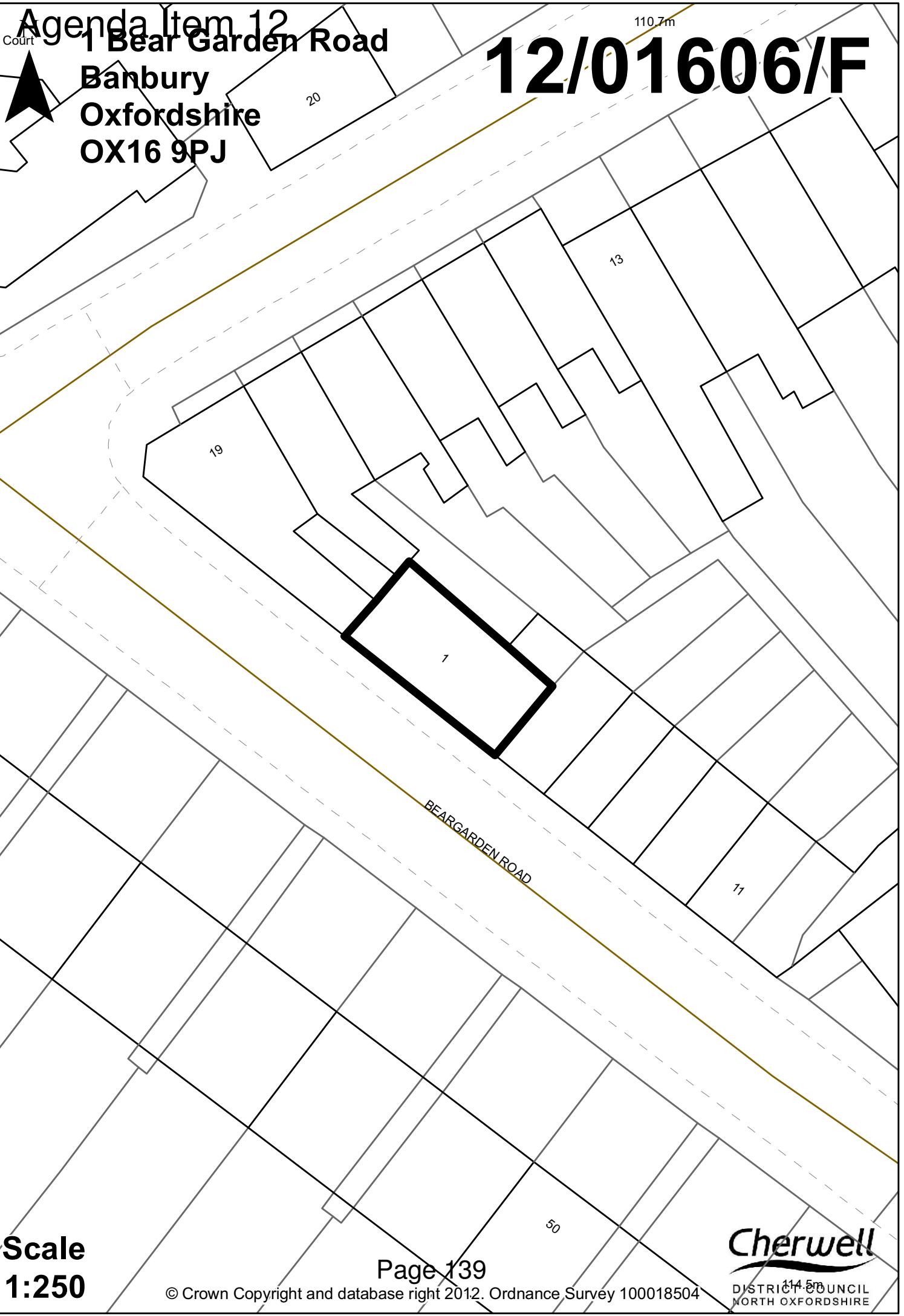
STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 12
Court
1 Bear Garden Road
Banbury
Oxfordshire
OX16 9PJ



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12/01606/F

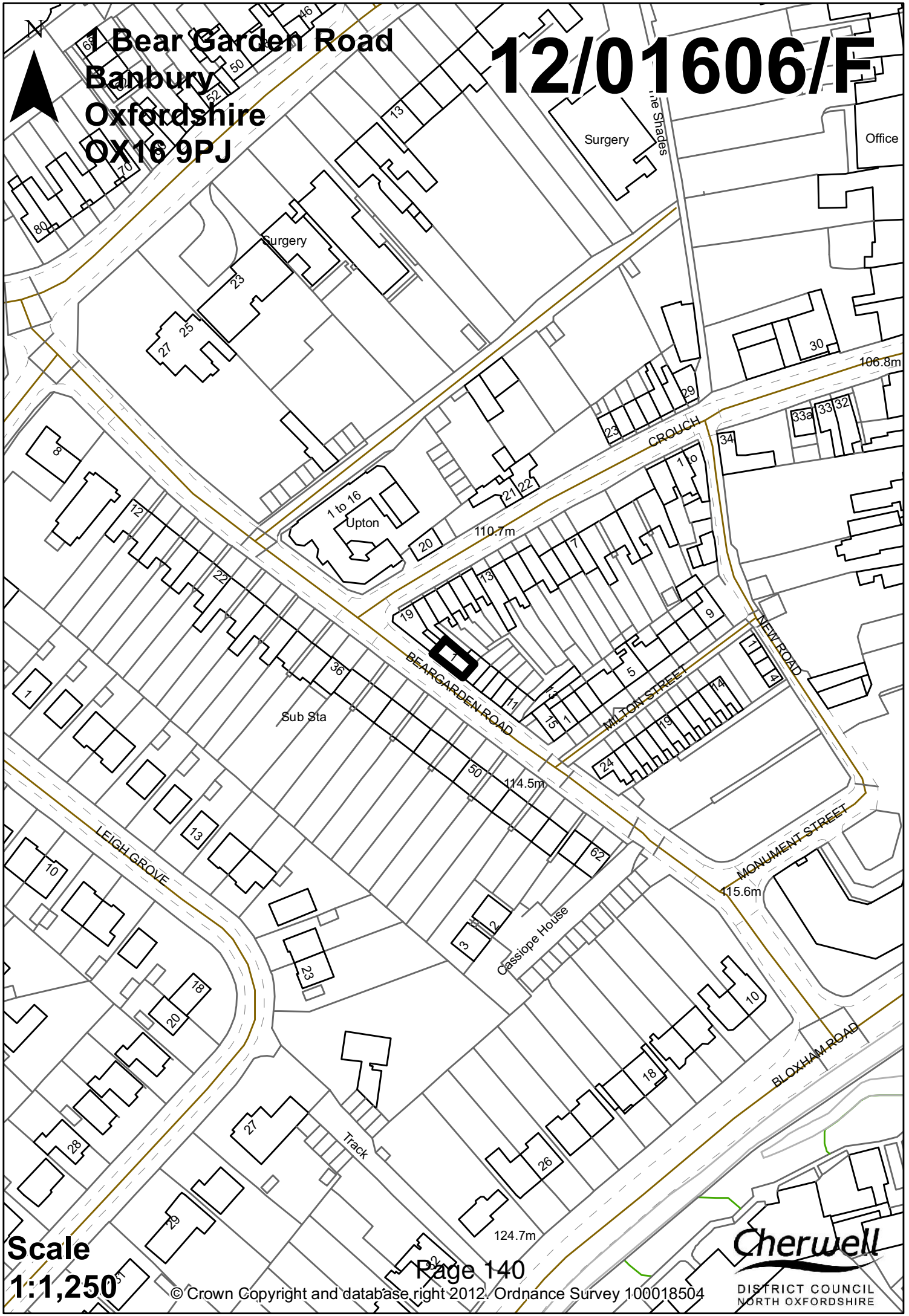


Scale
1:250



1 Bear Garden Road
Banbury
Oxfordshire
OX16 9PJ

12/01606/F



Scale
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1 Bear Garden Road, Banbury

12/01606/F

Ward: Banbury Easington

District Councillor: Fred Blackwell, Kieron Mallon and Nigel Morris

Case Officer: Rebekah Morgan

Recommendation: Approval

Applicant: Mr A Osborne

Application Description: Demolition of existing commercial unit to be replaced with 3 no. 1 bed apartments – resubmission of 12/01031/F

Committee Referral: Member Request

1. Site Description and Proposed Development

- 1.1 The existing building is a two storey, red brick property positioned on the end of a small terrace of residential properties. The application site consists of only the building, which fronts directly onto the street and has no other associated outdoor space. The building is a commercial/industrial unit and its last use was as a joinery workshop. The building is currently vacant.
- 1.2 The building is locally listed and situated within a Conservation Area.
- 1.3 The application seeks consent to demolish the existing building and replace it with 3 no. 1 bed room residential units in the form of a 2 ½ storey building. An associated application (12/01607/CAC) has been submitted which seeks Conservation Area Consent for the demolition of the existing building.
- 1.4 Members will recall that this application was approved at the last meeting subject to the receipt of any further comments from local residents before the expiry of the consultation period. Comments have been received , hence the reference back

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notice and press notice. The final date for comment is the 25th January 2013. At the time of writing the report.

3 letters have been received. The following Issues were raised

Material planning comments:

- Parking
- Busy and already congested road
- Overlooking as a result of proposal
- Impact on light to neighbouring property
- Overbearing
- Does not fit with the general street scene
- Flats do not appear to conform to current standards

Non-material comments:

- Party wall agreement will be required
- Land ownership issues / demolition of building would affect structures in the neighbours garden
- Neighbouring property would overlook a building site
- Once building is demolished it would leave neighbouring property vulnerable to vandalism and break-in's
- Insufficient space for lorries to deliver building materials

3. Consultations

3.1 **Banbury Town Council:** Objects to the loss of a locally listed building. Would prefer to see a conversion.

Cherwell District Council Consultees

3.2 **Conservation Officer:** No objections

Oxfordshire County Council Consultees

3.3 **Highways Liaison Officer:** No objections

Other Consultees

3.4 **Thames Water:** No objections

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 the 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

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.

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.

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Visual Amenity and impact on heritage assets
- Neighbouring Amenity
- Highway Safety
- Positive and proactive approach

Relevant Planning History

- 5.2 Application 95/01368/CAC – Conservation Area Consent granted for the demolition of the building in association with an application to redevelop the site. That application (95/01344/F) granted consent for a three storey (two bedroom) dwelling.
- 5.3 This application is a resubmission of application 12/01031/F. The previous application was withdrawn after concerns were raised relating to the design of the replacement building and the level of detail contained in the design and access statement.
- 5.4 Following a pre-application meeting with the case officer and the Council's conservation officer, the application has been re-submitted with an amended design and a revised design and access statement.

Visual Amenity and impact on heritage assets

- 5.5 Paragraph 135 of the National Planning Policy Framework states that *'The effect of any application on the significance of a non designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'*.
- 5.6 The demolition of the building is considered in the committee report for application 12/01607/CAC. This application will consider the impact of the proposed replacement building on visual amenity and the character and appearance on the Conservation Area.
- 5.7 The replacement building has been designed to appear as two houses, although it will actually consist of a flat on each floor. The design is reflective of the small terraces of houses which are a characteristic of the Conservation Area.

- 5.8 The building would be constructed of reclaimed brick to match the existing building and would have a slate roof. The overall height of the building has been reduced (from previous application) so that it steps down from the adjoining property. A neighbour has commented that the new building will not fit within the character of the street scene. However, careful consideration has been given to the overall street scene and in our opinion the building will be in keeping with other properties in the area. Overall, the design of the new building will sit comfortable within the context of the Conservation Area.
- 5.9 Although dormer windows are not traditional features and are not seen on the terraced houses in the area; they are considered appropriate in this case as the development is new build.
- 5.10 Conditions have been recommended to ensure the quality of the finish and the materials are appropriate for the Conservation Area.
- 5.11 The proposal is acceptable within the context of the site and will not have a detrimental impact on visual amenity or the character and appearance of the Conservation Area. The proposal complies with government guidance on conserving and enhancing the historic environment contained within the National Planning Policy Framework, Policies CC6, BE1 and BE6 of the South East Plan and Policy C28 of the adopted Cherwell Local Plan.

Neighbouring Amenity

- 5.12 When assessing the impact of the proposed development on neighbouring amenity, consideration must be given to the existing building and its current relationship with the neighbouring properties. The eaves height of the replacement building will be 400mm higher than the existing building and the ridge height will be 900mm higher than existing.
- 5.13 The gable end of the proposed building faces the rear of the properties on Crouch Street. The building is not considered to be anymore overbearing than the current situation. The relationship between the buildings on this side of Bear Garden Road is very close knit, and this will not change.
- 5.14 The proposal will bring the site back into active use and therefore overlooking is a potential concern. The proposed building only contains windows on the front elevation; therefore there will not be any overlooking of the properties on Crouch Street or the areas to the rear of the site. As the proposed properties are flats, they will not benefit from permitted development rights. Therefore, planning permission would be required for the insertion of any additional windows in the building.
- 5.15 The properties on the opposite side of Bear Garden Road are set back from the highway. There will be a distance of approximately 15m between the front elevation of the proposed building and the front of the dwellings opposite. Therefore, the proposal will not result in undue overlooking of these neighbouring properties.
- 5.16 It is considered therefore that the proposal will not have a detrimental impact on neighbouring amenity and accords with the core principles of the National Planning Policy Framework and Policy C30 of the adopted Cherwell Local Plan.

Highway Safety

- 5.17 The existing site does not have any on-site parking provision and this will not change as a result of the redevelopment of the site. The application site is within walking distance of the town centre and major public transport interchanges.
- 5.18 There is a limited amount of on street parking and neighbours have raised concerns regarding parking. The existing lawful use of the building has to be considered; the proposed flats are unlikely to generate significantly more traffic than if the building was reinstated with a commercial use.
- 5.19 Furthermore, the Local Highways Authority has raised no objections to the application. The application has submitted information in their design and access statement to support the suitability of the site as a 'car-free' development.
- 5.20 The proposal will not have a detrimental impact on highway safety and complies with government guidance on promoting sustainable transport contained within the National Planning Policy Framework.

Positive and Proactive Approach

- 5.21 The applicant and his agent entered into pre-application discussions with the case officer and the Council's conservation officer. The concerns raised in relation to the previous applications discussed prior to the resubmission of the applications.
- 5.22 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Approval, 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 12 November 2012.

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. Prior to the commencement of the development hereby approved, samples of the brick to be used in the construction of the walls of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter

the development shall be carried out in accordance with the samples so approved.

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 to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

4. Prior to the commencement of the development hereby approved, samples of the Welsh slate to be used in the construction of the roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

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 to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

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

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to its context and seeks to preserve the character and appearance of the surrounding area and has no undue adverse impact upon the residential amenities of neighbouring properties, highway safety or the significance of heritage assets. As such the proposal is in accordance with Policies BE1, BE6 and CC6 of the South East Plan, Policies C28 and C30 of the adopted Cherwell Local Plan and government guidance on conserving and enhancing the historic environment, requiring good design and promoting sustainable transport and within the core principles contained in the National Planning Policy Framework. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

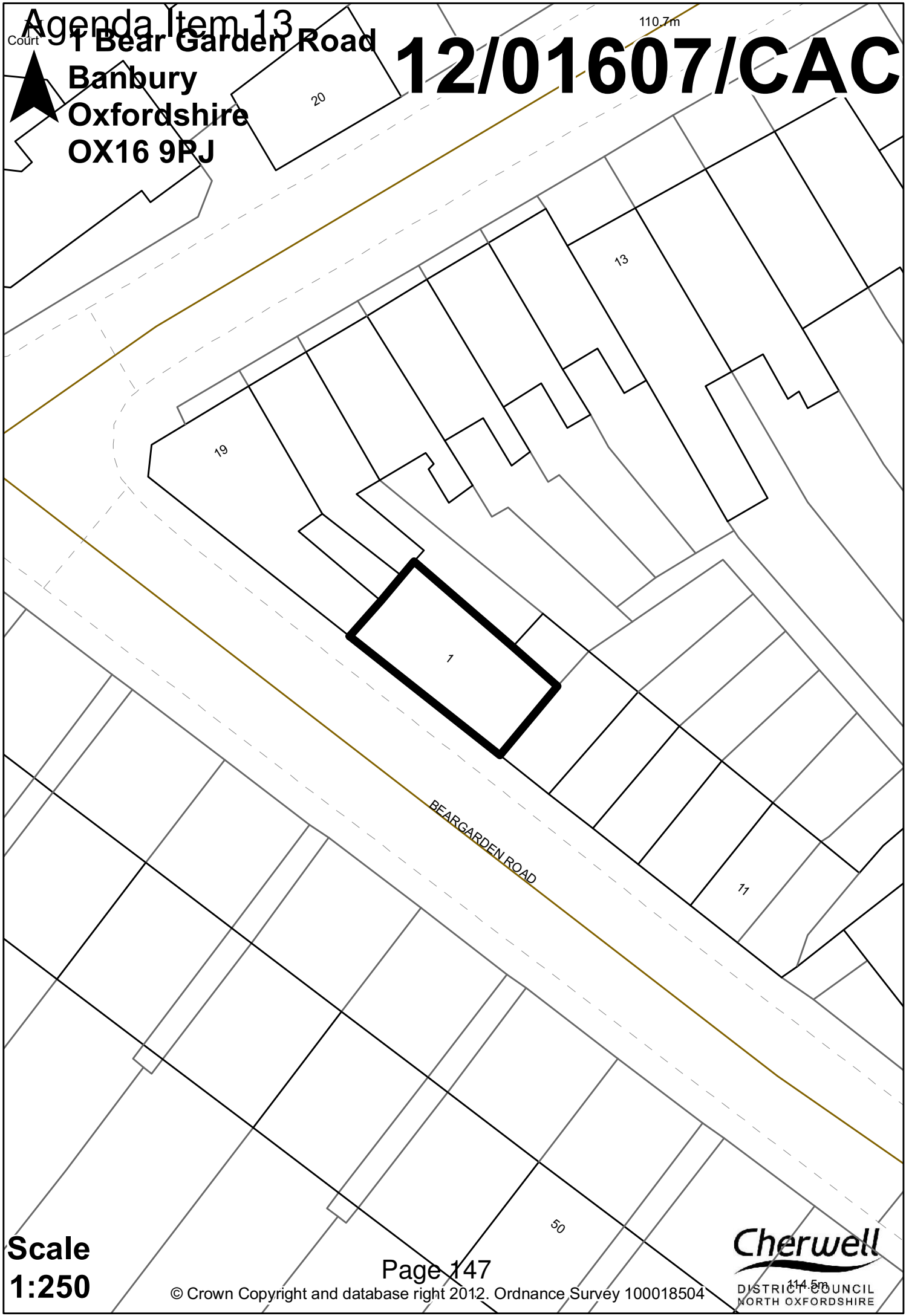
STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

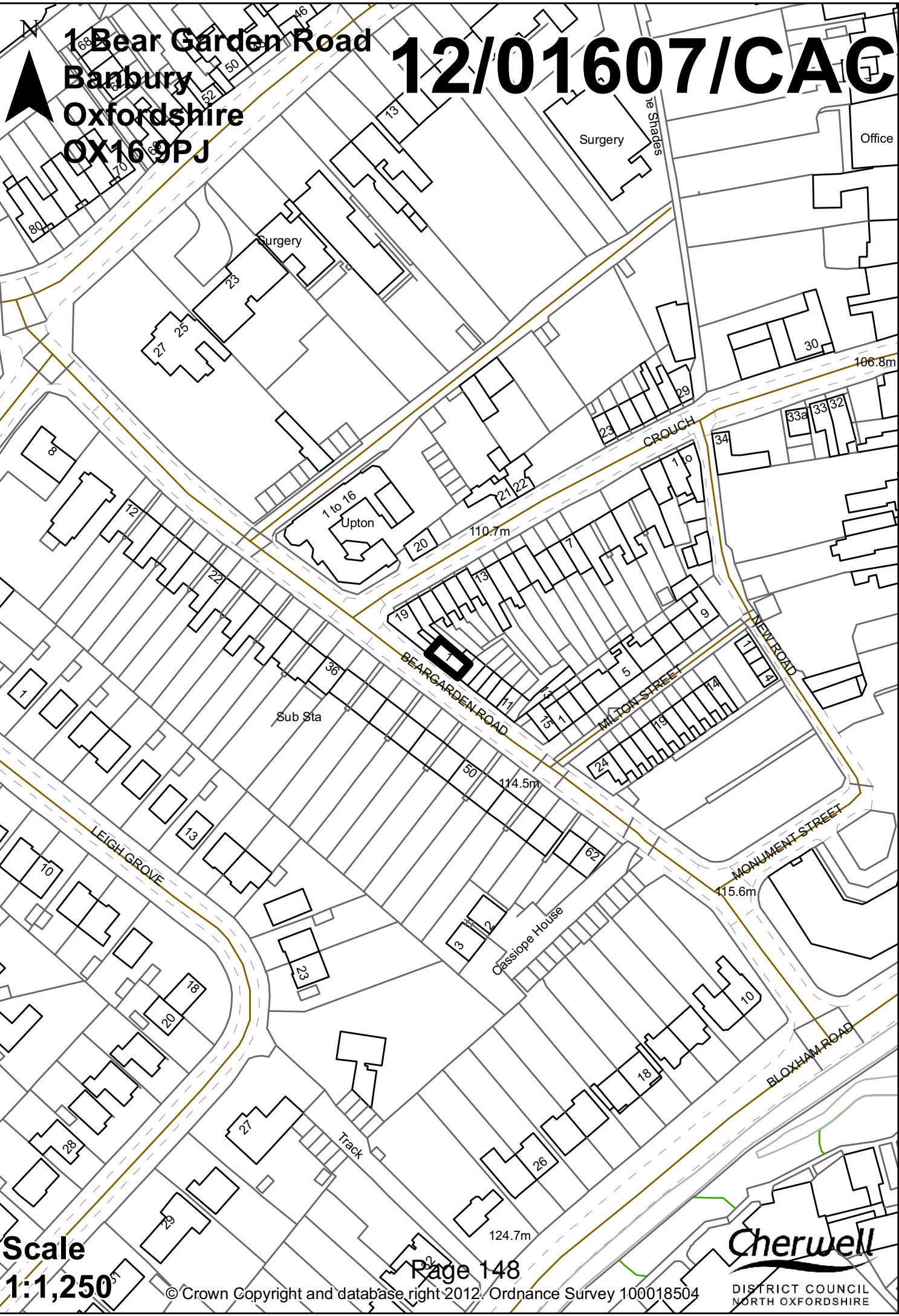
Agenda Item 13
Court 1 Bear Garden Road
Banbury
Oxfordshire
OX16 9PJ

12/01607/CAC

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Banbury
Oxfordshire
OX16 9PJ

12/01607/CAC

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1 Bear Garden Road, Banbury

12/01607/CAC

Ward: Banbury Easington

District Councillor: Fred Blackwell, Kieron Mallon and Nigel Morris

Case Officer: Rebekah Morgan

Recommendation: Approval

Applicant: Mr A Osborne

Application Description: Demolition of existing commercial unit

Committee Referral: Member Request

1. Site Description and Proposed Development

- 1.1 The existing building is a two storey, red brick property positioned on the end of a small terrace of residential properties. The application site consists of only the building which fronts directly onto the street and has no other associated outdoor space. The building is a commercial/industrial unit and its last use was as a joinery workshop. The building is currently vacant.
- 1.2 The building is locally listed and situated within a Conservation Area.
- 1.3 The application seeks consent to demolish the existing building. An associated application (12/01606/F) has been submitted for the redevelopment of the site.
- 1.4 Members will recall that this application was approved at the last meeting subject to the receipt of any further comments from local residents before the expiry of the consultation period. Comments have been received , hence the reference back

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment is the 25th January 2013.

3 letters have been received. The following Issues were raised

- Party wall agreement will be required
- Land ownership issues / demolition of building would affect structures in the neighbours garden
- Neighbouring property would overlook a building site

Only the comments relating to the demolition of the building have been set out above. The letters received have raised a number of other points regarding to the proposed redevelopment of the site. These issues are set out in the case officers report for application 12/01606/F and have been considered as part of that application.

3. Consultations

- 3.1 **Banbury Town Council:** Objects to the loss of a locally listed building. Would prefer to see a conversion.

Cherwell District Council Consultees

- 3.2 **Conservation Officer:** No objections

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C23: Retaining buildings, walls and other features in Conservation Areas

South East Plan 2009

BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission Draft (May 2012)

The draft Local Plan is due out for public consultation in the near future. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031.

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.

5. Appraisal

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

- Relevant Planning History
- Character and historic significance of the building
- Positive and proactive approach

Relevant Planning History

- 5.2 Application 95/01368/CAC – Conservation Area Consent granted for the demolition of the building in association with an application to redevelop the

site. That application (95/01344/F) granted consent for a three storey (two bedroom) dwelling.

- 5.3 The application is a resubmission of application 12/01032/CAC. The previous application was withdrawn after concerns were raised relating to the level of detail contained in the design and access statement.
- 5.4 Following a pre-application meeting with the case officer and the Council's conservation officer, the application has been re-submitted with a revised design and access statement

Character and historic significance of the building

- 5.5 Paragraph 135 of the National Planning Policy Framework states that *'The effect of any application on the significance of a non designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset'*.
- 5.6 When assessing an application for the demolition of a building, there are several points to consider; the historic significance of the building, its current state, its contribution to the Conservation Area, the alternative options for the site, and any benefits of the proposed redevelopment.
- 5.7 No. 1 Bear Garden Road is a small former commercial/industrial unit and is a locally listed building. The local listing clearly shows that the building has been identified as a building of local importance, however despite this, very little appears to be known about the building. The Council's Conservation Officer has stated that *'it's last use was as a joinery workshop, but it is clear from the large amount of alterations that have been undertaken to the front elevation that this was not its only use'*.
- 5.8 The building forms part of Banbury's industrial heritage and has some relationship with the 'workers cottages' on Milton Street. The lack of historic information relating to the building makes it difficult to assess the significance of the building and its contribution to the history and character of the Conservation Area.
- 5.9 The building is currently in a relatively poor state; previous alterations to the front elevation have not been sympathetic. The building appears to have suffered from frost damage and movement in places, and therefore would require a substantial amount of work if it were to be converted to any new use.
- 5.10 The historic significance of the building lies in its former use rather than its current appearance. It could be argued that the current appearance has a negative impact on the Conservation Area. Due to the limited information about the building, it would be difficult to re-create the front elevation which has any historic correctness as there is little to base the design on. Furthermore, the structural engineers report suggests it would be financially unviable to convert the building. If a viable use can not be found, the building is likely to decay further if it remains vacant. Therefore the officers are doubtful about a viable alternative to demolition being found.

5.11 The redevelopment of the site can be approached in a variety of ways; re-build a 'typical' Victorian workshop; use a completely modern design; or the proposal to design a building that is influenced by the architecture of the Conservation Area. The Council's Conservation Officer has considered all of these approaches (Full comments available online) and advised that the applicants approach is considered to be the most appropriate for the site.

Conclusion

5.12 The existing building is currently vacant and through its history has undergone some unsympathetic alterations. Unfortunately, due to the lack of historic information, it is difficult to argue a case for the retention of the building. Having considered all of the options, the redevelopment of the site appears to have the greatest public benefit, therefore outweighing the loss of the locally listed building.

5.13 Paragraph 136 of the National Planning Policy Framework states that '*local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred*'. Therefore, conditions have been recommended to ensure the building is not demolished without the redevelopment of the site following on.

5.14 The loss of the building and redevelopment of the site will not have a detrimental impact on the character or appearance of the Conservation Area. The proposal accords with government advice on conserving and enhancing the historic environment contained within the National Planning Policy Framework, Policy BE6 of the South East Plan and Policy C23 of the adopted Cherwell Local Plan.

Positive and Proactive Approach

5.15 The applicant and his agent entered into pre-application discussions with the case officer and the Council's conservation officer. The concerns raised in relation to the previous applications discussed prior to the resubmission of the applications.

5.16 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Approval, 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 12 November 2012.

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. S.C 5.3A (RC25A) – [Demolition and redevelopment of site]

4. Prior to any demolition on the site and the commencement of the development, a professional archaeological organisation/building recorder acceptable to the Local Planning Authority shall carry out a full recording of the building concerned and submit the record to the Local Planning Authority.

Reason - To secure the proper recording of the building which is of archaeological or historic importance, to comply with Government advice on conserving and enhancing the historic environment contained within the National Planning Policy Framework and Policy BE6 of the South East Plan 2009.

SUMMARY OF REASONS FOR THE GRANT OF CONSERVATION AREA CONSENT AND RELEVANT DEVELOPMENT PLAN POLICIES

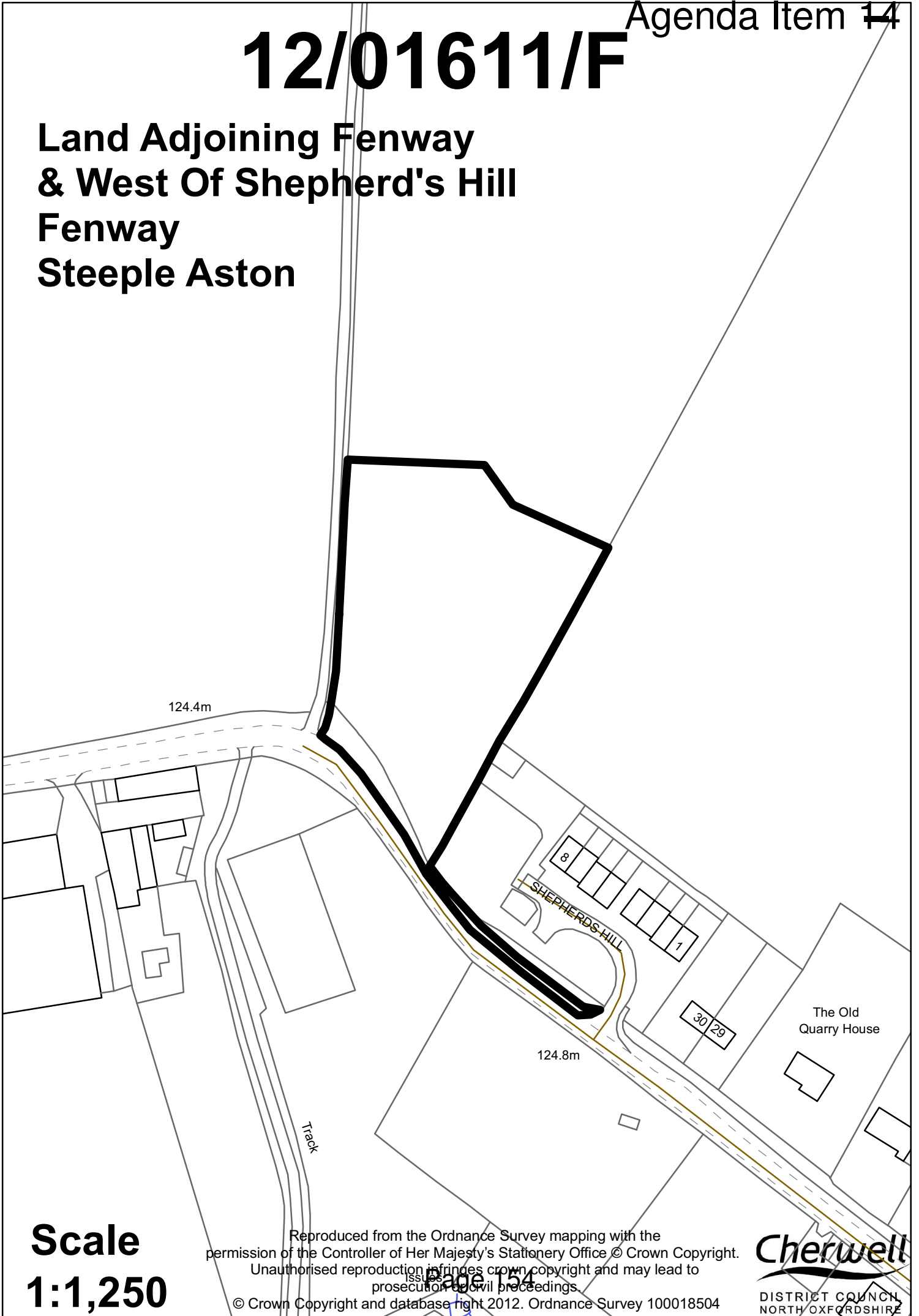
The Council, as local planning authority, has determined this application in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, Government advice contained within the NPPF and the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its merits as the proposal preserves the character and appearance of the Conservation Area. As such the proposal is in accordance with Government guidance on conserving and enhancing the historic environment contained within National Planning Policy Framework, Policy BE6 of the South East Plan 2009 and Policy C23 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 Conservation Area Consent granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

12/01611/F

Land Adjoining Fenway & West Of Shepherd's Hill Fenway Steeple Aston



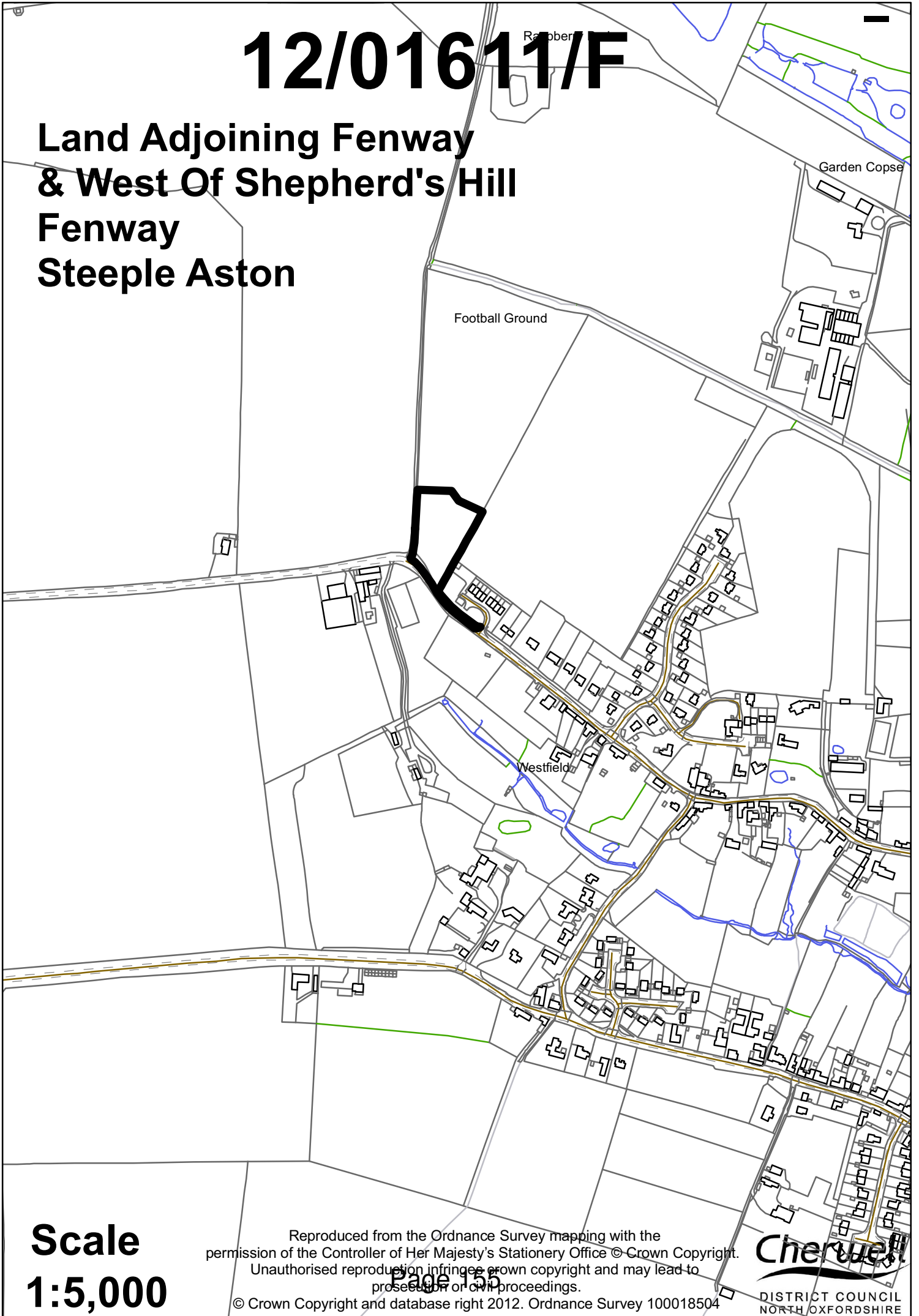
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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

12/01611/F

Land Adjoining Fenway & West Of Shepherd's Hill Fenway Steeple Aston



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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

**Site Address: Land adjoin Fenway and
West of Shepherd's Hill, Fenway, Steeple
Aston**

12/01611/F

Ward: The Astons and Heyfords

District Councillor(s): Cllr James Macnamara and
Cllr Mike Kerford-Byrnes

Case Officer: Tracey Morrissey

Recommendation: Approve

Applicant: Sovereign Housing Association Ltd

Application Description: Erection of 12 no. residential units comprising 2, 3 and 4 bed houses and 1 and 2 bed flats including new access road, ancillary drainage and garden shed/cycle storage to each unit.

Committee Referral: Major

1. Site Description and Proposal

1.1 This application relates to a site to the west of the village, comprising a 0.43h triangular section of a 3.49ha field currently used for horse grazing. The majority of the land is fairly flat but rises slightly towards the eastern boundary, however is elevated from the road. Access is currently via a metal gate is off Fenway and a public footpath runs along the western and northern boundaries. The site abuts the Steeple Aston Conservation Area and is also within an Area of High Landscape Value. There is a copse of trees to the east of the site between the site and Shepherds Hill houses.

1.2 Planning permission is sought for the construction of 12 no. affordable dwellings as a Rural Exception Housing Scheme comprising the following mix:

2 no. 1 bedroom 2 person first floor flats (units 4 and 6)

2 no. 2 bedroom 3 person ground floor flats (units 3 and 5)

2 no. 2 bedroom 4 person houses and car port (units 11 and 12)

5 no. 3 bedroom 5 person houses and car port (units 2, 7-10)

1 no. 4 bedroom 6 person house and car port (unit 1)

The 2 bed houses will be for shared ownership

All units will have their own front and rear gardens with shed, cycle and refuse storage and 2 parking spaces (including car ports), although the 1 bed flats will have 1 parking space. In addition there are 2 visitor parking spaces.

1.3 A communal garden area is proposed in the top right corner of the site acting as an area of informal open space. The access to the site will be via the existing access, with the internal road being constructed to adoptable standards and a new footpath

link provided connecting the development to Shepherds Hill. A further informal pedestrian track is proposed along the southern section of the site and adjacent to unit 1, linking it the copse west of Shepherds Hill.

2. Application Publicity

2.1 The application has been advertised by way of a press notice, site notice and neighbour letters. The final date for comment on this application was 10th January 2013.

2.2 3 letters of objection have been received, one anonymous.

Objections include:

- This planned development demonstrates a short term and ill-conceived planning strategy. Understand that there is a government initiative and pressure to provide new affordable housing, but on inspection this application does not show any potential positive aspects for useful social or local progress, quite the contrary, and with the huge developments in nearby Bicester with its far better transport connections and employment opportunities and social facilities, I would question the actual useful impact of this proposal against the potential irreversible damage to the village of Steeple Aston.
- The development is targeted towards young families and the elderly but it is at the extreme edge of the village a considerable distance from the school and village shop and is not on a bus route.
- Dangerous corner of a narrow road, prone to flooding which become worse if built on
- The site is a green field site, and believe we should we should be very careful and wary of expansion onto these areas without really looking at options and understanding what the long term implications of this may be. I am disappointed too that that the plans do not show any real depth of policy for sustainability, why are the solar panels optional, why do the plans not show rainwater recycling and other contemporary eco technologies that should make this an valuable demonstration of what is easily possible for housing in a well informed and planned housing proposal?
- Also concerned that the village schools are running at full capacity too. There is already quite a large proportion of affordable housing in the village of Steeple Aston, and developments such as this would dilute what is as such well preserved and important village type. Redevelopment of existing sites with a better thought out long term plan would surely be a more intelligent and appropriate solution.
- Not only unsightly, out-of-character and bad for the environment but appears to be based on false claims and mis-interpretation of housing need.

The Council should be promoting more imaginative and sustainable re-development of existing sites such as The Crescent which is mainly brownland.

- Existing hedges and coppice likely to be removed and paths and kerbs installed urbanising the whole area and will completely ruin the rural aspect currently enjoyed by residents.
- No referendum has taken place to see if it has community support
- Facts and figures based on out of date housing needs survey
- Urban development in the countryside where there is a lack of employment opportunities and real demand
- Disappointing design and lack of architectural merit and environmental innovation

3. Consultations

- 3.1 **Steeple Aston Parish Council** – Support this application. The Parish Council have worked with Sovereign for a considerable time in order to achieve a second site of Affordable Housing for the village. They have been consulted throughout the design process and the submitted plans have been on public view in the village recently. They are content that these plans represent the wishes of the village and will deliver an excellent development.

Cherwell DC consultees

- 3.2 **Strategic Housing Officer** - The proposal to build 12 residential units at Fenway has been developed in close consultation with Steeple Aston Parish Council and has community support. Several consultation events have been organised by Sovereign Housing Association to engage the community.

The planning proposal is based on analysis of local housing need. In May 2012, there were 26 applicants on the Housing Register with a local connection to Steeple Aston. In December 2011, a Register of Interest was carried out, with 25 respondents, 21 of whom had a local connection to Steeple Aston, needing a range of accommodation sizes.

- 3.3 **Ecologist** – Having read through the Extended Phase 1 Habitat survey report by Abricon dated 3rd December 2012 and visited the site, the survey is a fair appraisal of the site and as such I largely concur with the recommendations within section 7 which should be conditioned as part of any permission.

Given the open location of the site the hedgerows are likely to be used for commuting by foraging bats and for nesting by birds. Understand from the plans that the majority of each hedgerow is to remain therefore in addition to the recommendations within the report, would like to see a wildlife buffer of at least 3m

next to the hedgerows to retain their biodiversity value and allow for maintenance. Hedgerows are a BAP habitat and as such we should have regard to their conservation. A statement of who and how the hedgerows on site will be managed should be produced which maximises their benefits to wildlife.

The lighting for the site was not clear from the plan; however agree with the report's recommendations that the Western and Eastern hedgerows should be maintained as dark corridors. Throughout the site external lighting should be minimised and directional to avoid areas of vegetation.

As regards reptiles the recommended method statement for the avoidance of harm to reptiles in Appendix D of the report is sufficient and should be carried out prior to and during any works (including clearance works) on site. A plan of where the reptile corridor and enhancement for reptiles on site will be should be produced and approved by us prior to works commencing.

In terms of biodiversity enhancements on site which should be sought under the NPPF and would like to see at least two bat boxes included on trees on site and as well as the bird box on a tree recommended in the report a couple of provisions for birds within or on the buildings themselves such as those for house sparrows or starlings should be included. Advice on ideal locations for these can be given.

A fox foraging on site was observed at site visit and the applicant should be aware that they are protected from wilful harm under the Protection of Mammals Act 1996 therefore prior to any works commencing the applicant should ensure that no fox dens are present within the works area such that they could become trapped - please attach this as an informative only to any permission. They are not protected in any other way.

- 3.4 **Landscape Services Officer** - There is no LAP, just a small area of open space. The open space is in a corner and not overlooked. We would want to see a LAP on site. The site could be enlarged to accommodate one. A native hedgerow on the N boundary to screen the houses should be planted. The hedgerow on the SE boundary could be laid to increase its density at low level rather than cut back. Not sure if the hedge to the boundary with Fenway is new or existing, if it is existing, this could be laid to improve its structure. There is very little planting within the development, just grass verges and trees. This is disappointing. Garden sheds could be sited closer to properties and have access paths
- 3.5 **Biodiversity & Countryside Officer** – no comments in respect to the footpath
- 3.6 **Environmental Protection Officer** – comments awaited
- 3.7 **Arboricultural Officer** – No objection in principle subject to sufficient protection of TPO'd group of trees between the site and Shepherds Hill.

Oxfordshire County Council Consultees

3.8 **Highways** – No objection subject to conditions

Other consultees

3.9 **Thames Water** – raises no objection to the proposal and makes the following comments:

Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team by telephoning 020 8507 4890 or by emailing wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.

Advise that with regard to sewerage and water infrastructure there is no objection.

Recommend informative regarding water pressure

3.10 **Environment Agency** – No comments as consider this a low risk development

4. Relevant National and Local Policy and Guidance Policy Considerations

4.1 Adopted Cherwell Local Plan (Saved Policies) :

C2: Protected species

C4: Creation of habitats

C28: Layout, design and external appearance of new development

C30: Design of new residential development

H5: Affordable housing schemes

H6: Rural exception sites

H13: Category 1 Settlement

ENV12: Contaminated land

South East Plan 2009

CC1: Sustainable development

CC2: Climate change

CC6: Sustainable communities and character of the environment

H4: Type and size of new housing

H5: Housing design and density

T4: Parking

NRM5: Conservation and improvement of biodiversity

BE1: Management for an urban renaissance

BE6: Management of the historic environment

Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Draft (August 2012)

The draft Local Plan has been 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:

BSC1: District wide housing distribution

BSC2: The effective and efficient use of land

BSC3: Affordable housing

ESD1: Mitigating and adapting to climate change

ESD3: Sustainable construction

ESD7: Sustainable Drainage Systems (SuDs)

ESD10: Protection and enhancement of biodiversity and the natural environment

ESD13: Local landscape protection and enhancement

ESD16: Character of the Built Environment

Policy Villages 1 : CAT A

Policy Villages 3 : Rural Exception Sites

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:

TR1, TR4, TR5 and TR11: Transport and development policies

H3, H4, H7, H8, H15, D1, D2, D3 and D6: Housing and design policies

EN23, EN24, EN25, EN27, EN39 and EN44, EN47: Conserving and enhancing the environment

5. Appraisal

5.1 The issues raised by this development are:

- Principle of development
- Design and visual amenity
- Trees
- Impact on neighbours
- Ecology
- Highway safety and parking.
- Impact on heritage assets

Policy Context and principle of development

5.2 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include requiring good design, delivering a wide choice of high quality homes, conserving and enhancing the natural environment and the conservation and enhancement of the historic environment.

5.3 Paragraph 35 of the NPPF states that developments should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians. This aspect will be further expanded later on in the report.

5.4 Paragraph 50 of the NPPF requires that local authorities plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes). Local authorities should also identify size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and where there they have identified that affordable housing is needed, set policies for meeting this need on site.

5.5 The general thrust of national policy contained within the NPPF is continued in regional policy, with one of the sustainable development priorities being to ensure the physical and natural environment of the South East is conserved and enhanced. Policy CC6 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.

- 5.6 Steeple Aston is a category I village where settlements are generally the larger villages with a greater range of services available and are suitable for potential growth through small scale housing schemes. Ordinarily such growth would be confined to infill or minor development within the confines of the village (Adopted Cherwell Local Plan Policy H13). However exceptions can be made where there is a demonstrable lack of affordable housing to meet local needs. Affordable housing schemes may be secured, through Policy H6 of the Adopted Cherwell Local plan. This policy allows for small scale low cost housing development which is to help meet a specific and identified local housing need which cannot be satisfied elsewhere. These may be permitted in accordance with similar criteria to that specified above i.e. where it can be demonstrated that the proposed development is economically viable in terms of its ability to meet the need identified and that secure arrangements can be made to restrict the occupancy of the development to ensure that it continues to meet local needs in the long term.
- 5.7 Rural exception sites are also addressed in the Draft submission Local Plan through policies BSC3 and Policy Villages 3. The policies require that in identifying suitable sites, it will be necessary to balance the advantages of providing affordable housing with the degree of harm that would be caused, for example to the appearance of the village, the surrounding landscape or to the historic environment.
- 5.8 Also that the Council will support the identification of suitable opportunities for small scale affordable housing schemes within or immediately adjacent to villages to meet specific, identified local housing needs that cannot be met through the development of sites allocated for housing development.
- 5.9 Arrangements will be secured to restrict the occupancy of the housing to ensure that it continues to meet local needs in perpetuity.
- 5.10 In consultation with Housing Services, confirmation has been received that there is indeed an affordable housing need in Steeple Aston and this is supported by evidence (The Housing Needs Survey undertaken in 2008 and 2011 Register of Interest survey and Council's Housing Register) and in consultation with the Parish Council and local residents. It is concluded that the scheme would meet a specific and identified local need for the village so the development of this site would, in principle, be a candidate as a Rural Exceptions Site. It would be essential, however, to secure the specific policy requirements of occupancy restriction for local needs in perpetuity, by means of a legal agreement.
- 5.11 Concern has been raised by the objectors to the scheme on the grounds that this is an unsuitable site, however, following a lengthy selection process assessing the pros and cons of each site, this site on the western side of the village was considered to be the most suitable for the level of housing need identified that will have the least impact on the visual amenity of the countryside and on highway safety. Also it is closely positioned to the other rural exception site at Shepherds Hill and therefore it is considered that the principle of the development of this site

for the purposes of affordable housing is acceptable.

Design and visual amenity

- 5.12 Policy BE1 of the South East Plan 2009 sets out the Plan's approach to promoting and supporting imaginative and efficient design solutions in new development, and aims to increase public acceptance of new housing by making sure that its is of a high quality design that respects local context and confers a sense of place.
- 5.13 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.
- 5.14 The site is part of a larger area recognised as having High Landscape Value therefore policy C13 of the adopted Cherwell Local Plan applies. The wider area is recognised as being of particular environmental quality but the actual site has no more specific landscape designations. The policy seeks to conserve and enhance such areas and as such a high design standard will be required.
- 5.15 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.
- 5.16 Furthermore Policy D6 refers to the consideration of development in design terms which should be compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and also that it provides standards of amenity and privacy acceptable to the Council.
- 5.17 Government guidance contained in the new NPPF attaches great importance to the design of the built environment. Para 61 states "Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment." The NPPF requires good design when determining application and that poor design should be refused that fails to take the opportunity to improve the character of the area.
- 5.18 The site is on the edge of the village and will be prominent from the public domain

of the entrance into the village. There are also footpaths which run beyond the west and northern boundaries to the site. The site is, therefore, very visible from the public domain. However, mitigation can be achieved in a number of ways including good design and landscaping.

- 5.19 The land is relatively flat with a slight fall from north to south and east to west so the topography of the land would suggest that the development will not have undue prominence in the landscape. There is an established mature hedgerow along the western, eastern and southern boundaries which is to be retained and protected as part of a landscaping scheme so will assist in maintaining the rural character of the lane. The layout of the development is not exactly ideal but is essentially the best fit and makes the best use of the land available without compromising the character of the rural locality.
- 5.20 The proposed dwellings have been designed in the local vernacular to complement neighbouring development at Shepherds Hill and will be constructed in reconstituted stone with stone heads and cills to external openings. Roofs are proposed to be covered in a slate type of material and plain tiles. The ridge height of the buildings range from 7.5m to 8.2m, with 6.2m gable spans. Characteristic gable features and dormers are built into the design of the proposed development.
- 5.21 The rear gardens of the proposed dwellings are between 10 -12m deep and feature front gardens and parking areas are also proposed. Garden sheds for each unit provides the necessary garden storage and there is sufficient space also in the rear garden for refuse bins. Some landscaping of the site is proposed, which will be conditioned accordingly.
- 5.22 It is considered that the proposed design and layout of the development is acceptable and through further landscaping and management of the hedgerows surrounding the site the proposal will have a limited impact on the visual amenity of the locality.

Trees

- 5.23 The site is enclosed on the southern, western and eastern boundaries by mature hedgerow and trees. The copse of trees between the site and Shepherds Hill are protect by a group TPO and in addition there are several significant trees forming part of the site boundary hedge that lie to the south of the site. These provide a barrier between the two sites as well as impacting on the wider landscape.
- 5.24 The hedgerow and trees along the road frontage are currently unmanaged and contains a lot of scrub. It is proposed that this boundary is to be retained and maintained to a manageable appearance and will be subject to conditions for its retention and management, along with necessary tree protection measures.

Impact on neighbours

- 5.25 Other than the farm opposite, the nearest neighbouring properties are those at

Shepherds Hill, which is some 45m to the east of the site. Between the eastern boundary of the site and no. 8 (end terrace) Shepherds Hill is the car parking area for Shepherds Hill and a small copse of trees, which has some recreational value for the existing and proposed residential development.

- 5.26 It is considered that the proposed dwellings are appropriately sited and at a scale which would not harm the amenities currently enjoyed by the neighbours in proximity. The use of the land for housing is considered to be an entirely compatible use to the neighbouring uses (residential) and working farm.

Ecology

- 5.27 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)
- 5.28 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.
- 5.29 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”.
- 5.30 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes onto advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning

permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”

- 5.31 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;
- 5.32 Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 5.33 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.
- 5.34 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.
- 5.35 In respect to the application site, an Extended Phase 1 Habitat Survey was undertaken by Abricon dated 3rd December 2012, which found that there was potential for bats and reptiles to use the site, however with sufficient mitigation and enhancement measures the proposed development will have a probable minor short term adverse impact on the overall biodiversity levels until the landscaping becomes mature.
- 5.36 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework - Conserving and enhancing the natural environment and Policy C2 and C4 of the adopted Cherwell Local Plan.

Access and highway safety

- 5.37 Concern has been raised by local residents in respect to the narrowness of the road and the position of the proposed access off the corner of the lane. The proposed access has been subject to considerable negotiation with the local highway authority, who have considered the proposed access point to be the most safest and the provision of the footpath that links the Shepherds Hill footpath to the

site acceptable subject to conditions and maintenance of the southern hedgerow.

- 5.38 The local highway authority raised no objection to the proposal and comment as follows on the various aspects considered:

Access

The application proposes a new vehicular access onto Fenway. The proposed access lies east of an existing byway, and is not proposed to conflict with the byway or require a diversion order. Visibility splays of 2.4m x 43m in each direction comply with Manual for Streets standards. The access works must be carried out to OCC specification under a Section 278 Agreement. It is proposed that a new public road and turning head for service vehicles will be created within the site. These works must meet OCC specifications and will require a Section 38 Agreement with OCC. It is noted that the services strips on the beds adjacent to plots 2 and 11 in particular are laid to grass. It may be necessary to offer some protection in the form of a grasscrete or other hardened surface for these areas to avoid constant future maintenance as a result of over-running vehicles.

- 5.39 A new footway is proposed along Fenway between Shepherds Hill and the development. It is recommended that this footway is continued into the development site, rather than stopping so close to the site access's junction with Fenway. A revised plan is required for Section 278 Agreement.

5.40 Parking

24 parking spaces are proposed for the development. Each 2+bedroom dwelling will have 2 allocated parking spaces, and each 1-bed unit will have 1 allocated parking space. Two dedicated visitor spaces will be provided. Cycle parking will be available in garden sheds for each unit.

5.41 Drainage

The application will comprise permeable access road, courtyard and parking spaces in the interests of sustainable drainage. Surface water is proposed to discharge to SUDS and soakaway. A detailed SUDS drainage scheme will be required.

5.42 Construction Impact

There is a byway to the west of the proposed access and measures will be required during construction to ensure the free passage of users of the byway throughout the construction process. Additionally, there must be no detrimental impact to the highway or highway users as a result of the construction process.

- 5.43 In consultation with the local highway authority, the proposal satisfies current policy with regard to highway safety and parking requirements, subject to standard conditions which are recommended below.

Impact on heritage assets

- 5.44 The site abuts the Conservation Area the boundary to which runs along the southern boundary and access of the site. The characteristics of this part of the CA principally relate to the landscape. It is considered that the preservation and management of the hedgerow, being an important feature which contributes to the character and appearance of the Conservation Area, is a vital element of the proposal. The CA appraisal specifically seeks the retention of important trees and hedgerows and encourages the planting of appropriate species.
- 5.45 It is therefore considered that the proposed development satisfies the requirements of NPPF in ensuring that the heritage asset of the adjacent Conservation Area is preserved and enhanced.

Other matters

- 5.46 It is noted that OCC developer funding officer has sought financial contributions from the proposed development, however, as this is a 100% affordable housing scheme put through as a Rural Exception Site, in accordance with the Council's draft SPD Planning Obligations document July 2011, the financial contribution tariff detailed therein does not apply to such schemes, on viability grounds and therefore no contributions have been sought.
- 5.47 In respect to the lack of LAP provision, during the pre-application discussions with the Parish Council, it was raised as an issue, however the Parish considered that whilst a LAP was a desirable element, the provision of such would impact on the number of dwellings that could be accommodated on the site and therefore to ensure that 12 no. dwellings could be sited appropriately the LAP was not included. Clearly on the majority of market housing developments a LAP is sought as part and parcel of the development, but when there is an acute affordable housing shortage, it is considered that, that overrides the desirable elements of a scheme. It is possible that the communal area at the northern part of the site could cater for children's informal play, however at this stage it is indicated as communal garden area and whilst not of an ideal size, further discussions will take place to see if this is a possibility.

Engagement

- 5.47 With regard to the duty set out in paragraphs 186 and 187 of the Framework, extension pre-application involvement has resulted in the scheme that has been submitted, which essentially has been considered acceptable to the majority of the interested parties. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.48 In conclusion therefore taking into account the above appraisal the proposal is considered acceptable in terms of its design, layout, impact on amenity, character

of the countryside, heritage assets, and landscape and highway safety. With recommended mitigation and enhancement the proposal will not have an adverse impact on ecology. Furthermore the proposal provides 12 no. affordable homes in the district to meet a specific housing need and therefore and complies with the Government guidance contained in the NPPF and the other relevant development plan policies listed above.

6. Recommendation

Approval subject to:

- a) completion of a Section 106 to ensure the site is used for affordable housing only, an appropriate tenure mix and nomination rights; and
- 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 schedule of documents and drawings attached.

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

- 3. Prior to the commencement of the development hereby approved, samples of the stone, tile and slate to be used in the construction of the walls and roof of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

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 to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 4. Development shall not commence until a surface water and foul sewage drainage cheme and strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed. The approved surface water drainage scheme shall be carried out prior to commencement of any building works on the site and the approved foul sewage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall

be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community in accordance with the guidance contained within the National Planning Policy Framework and Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

5. That full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development, and such means of enclosure, in respect of those dwellings which it is intended shall be screened, shall be erected prior to the first occupation of those dwellings.

Reason - To ensure the satisfactory appearance of the completed development, to safeguard the privacy of the occupants of the existing and proposed dwellings and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan.

6. 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 a phased travel plan and details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site and shall include details of the consultation and communication to be carried out with local residents. Construction work shall thereafter be carried out in accordance with the approved CEMP.

Reason - To protect the amenities of the local residents, to avoid pollution and to ensure construction traffic does not obstruct or drag debris onto the highway in the interests of highway safety and convenience and to comply with Policy ENV1 of the adopted Cherwell Local Plan and guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of development full details of a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority and prior to first occupation of the development, the lighting scheme shall be completed in all respects in accordance with the approved details, inclusive of parking courts, and maintained in a working order thereafter.

Reason: To ensure satisfactory lighting is provided in the interests of vehicular and pedestrian safety and the amenities of the local residents and to comply with Policy ENV1 of the adopted Cherwell Local Plan and guidance contained within the National Planning Policy Framework.

8. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out,

constructed, lit and drained in accordance with Oxfordshire County Council's "Conditions and Specifications for the Construction of Roads."

Reason: To ensure an adequate access in the interests of highway safety and to comply with guidance contained within the National Planning Policy Framework.

9. Prior to the first occupation of the development hereby approved, the existing means of access between the land and the highway shall be improved in accordance with drawing no. 17:07:12 and shall be formed, laid out and constructed strictly in accordance with Oxfordshire County Council's guidance available at <http://www.oxfordshire.gov.uk/cms/content/dropped-kerbs>.

Reason: To ensure an adequate access in the interests of highway safety and to comply with guidance contained within the National Planning Policy Framework.

10. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason: To ensure adequate car parking and turning within the curtilage of the site, in the interests of highway safety and to comply with the guidance contained within the National Planning Policy Framework.

11. That no surface water from the development shall be discharged onto the adjoining highway and a scheme to prevent this occurrence shall be submitted to and approved in writing by the Local Planning Authority and constructed prior to the commencement of building operations.

Reason - In the interests of highway safety and to comply with government guidance contained within the National Planning Policy Framework

12. The development hereby permitted shall be carried out in accordance with the recommendation set out in the Abricon Extended Phase 1 Habitat Survey dated 3rd December 2012 unless otherwise agreed in writing by the Local Planning Authority or unless otherwise stipulated by conditions attached to this permission.

Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of the National Planning Policy Framework, Policy NRM5 of the South East Plan and Policy C2 of the adopted Cherwell Local Plan.

13. That there shall be no removal of trees, scrub or hedgerows between the 1st March and 31st August inclusive.

Reason - To protect habitats of importance to nature conservation from any loss or

damage in accordance with the requirements of the National Planning Policy Framework, Policy NRM5 of the South East Plan and Policy C2 of the adopted Cherwell Local Plan.

14. The carports shown on the approved plans shall not be enclosed and shall not be converted to provide additional living accommodation without the prior express planning consent of the Local Planning Authority.

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

15. That, notwithstanding the provisions of Classes A to E (inc.) of Part 1, of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the approved dwellings shall not be extended without the prior express planning consent of the Local Planning Authority.

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

16. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

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

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

17. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, 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. Any trees, herbaceous planting 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 current/next planting season with others of

similar size and species.

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

18. Prior to the commencement of the development hereby approved, full details of all service trenches, pipe runs or drains and any other excavation, earth movement or mounding required in connection with the development, including the identification and location of all existing and proposed trees, shrubs and hedgerows within influencing distance of such services, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

19. Prior to the commencement of the development hereby approved, full details of tree protection measures shall be submitted to and approved in writing by the Local Planning Authority, the details shall show the position and construction of a barrier fence preventing inadvertent damage to the rooting areas of the protected trees and those to be retained. The distances from the trees should be taken from recommendations provided in BS5837. Thereafter, the development shall be carried out in accordance with the approved details.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Environmental protection (contaminated land)

Planning Notes

1. Legal agreement
2. Thames Water informatives
3. Construction sites
4. Pursuant of condition no. 6 the CEMP is likely to require the construction of the

access prior to commencement of development. Wheel washing facilities should be provided for site vehicles.

5. The estate road shall be subject to a private road agreement or highway adoption via Section 38. Construction of the access and footpath will include works within the highway which would be subject to a Section 278 agreement.

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

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. The development is considered to be acceptable on its planning merits as it would not cause serious harm to the character and appearance of the locality, significance of heritage assets, residential amenity, ecological matters or highway safety. As such, the proposal is in accordance with government advice contained in the National Planning Policy Framework, Policies CC1,CC2, CC6,H4, H5, T4, NRM5, BE1 and BE6 of the South East Plan 2009 and Policies C2, C4, C28, C30, H5, H6, H13 and, ENV12 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 planning permission granted subject to appropriate conditions, as set out above.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

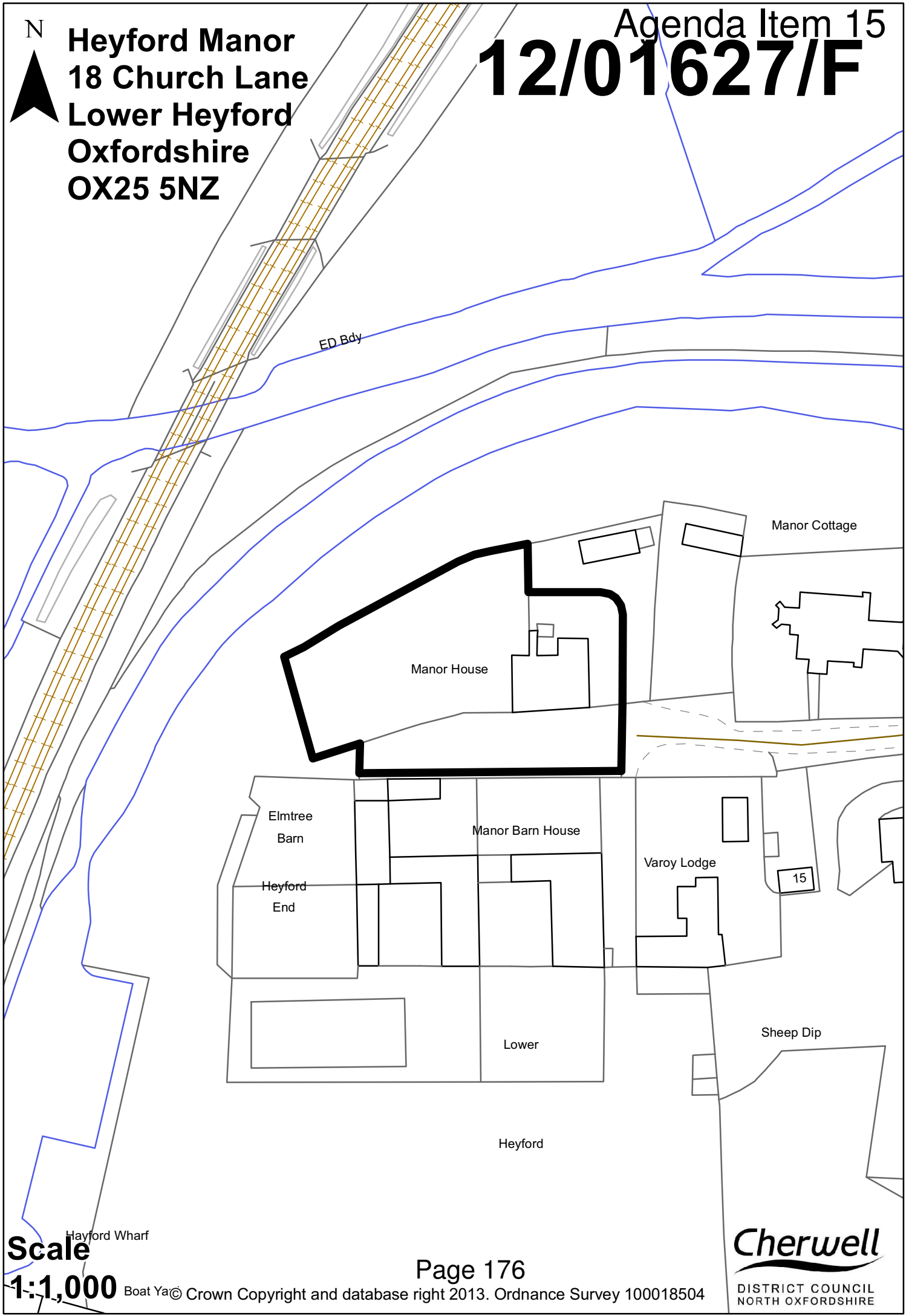
CONTACT OFFICER: Tracey Morrissey

TELEPHONE NO: Ext 1812



Heyford Manor
18 Church Lane
Lower Heyford
Oxfordshire
OX25 5NZ

Agenda Item 15
12/01627/F



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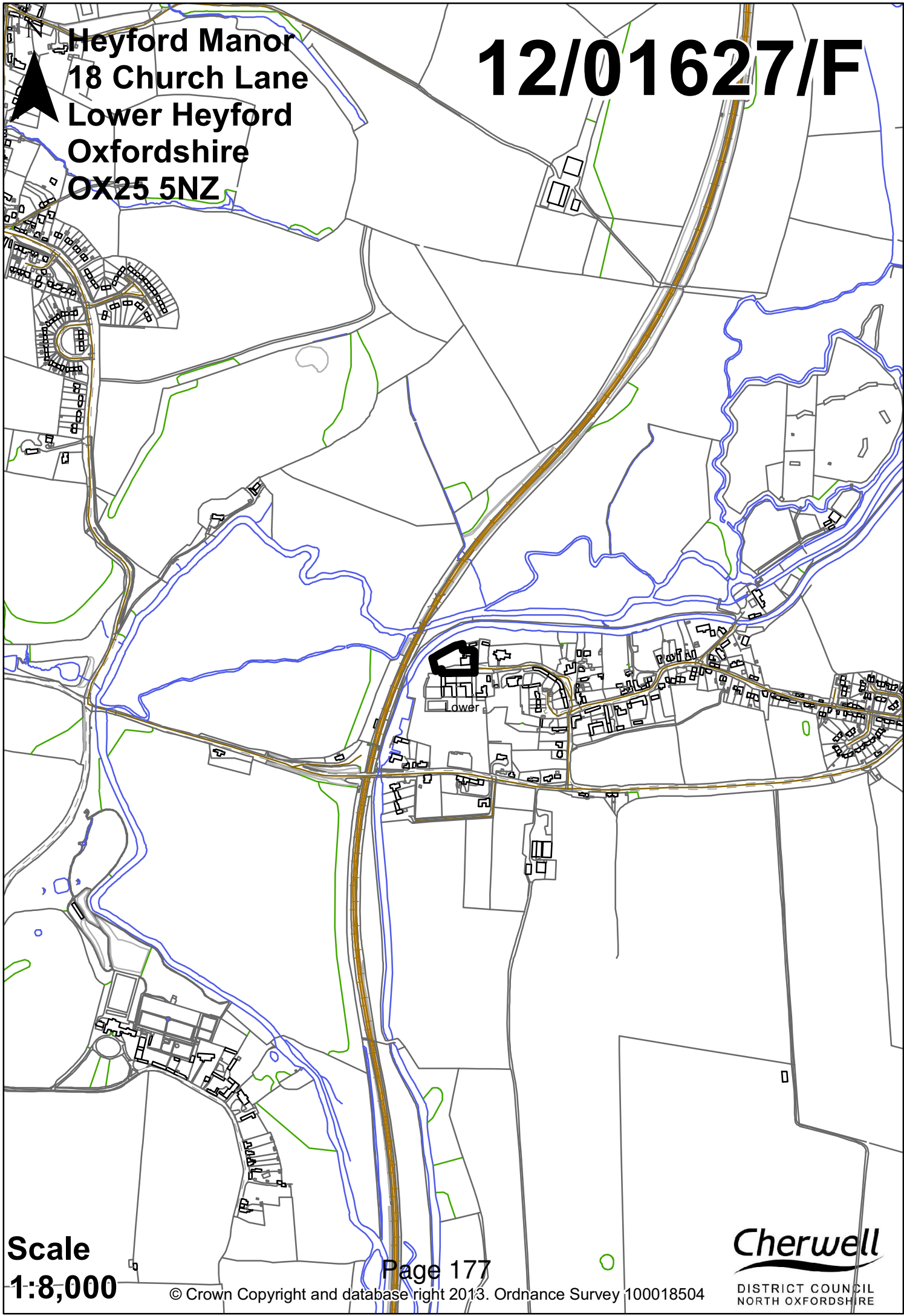
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Page 176

Cherwell
 DISTRICT COUNCIL
 NORTH OXFORDSHIRE

Heyford Manor
18 Church Lane
Lower Heyford
Oxfordshire
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Page 177

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Heyford Manor, 18 Church Lane, Lower Heyford

12/01627/F

Ward: The Astons and Heyfords

District Councillor: Cllr Kerford-Byrnes
Cllr Macnamara

Case Officer: Paul Ihringer

Recommendation: Approval

Applicant: Mr Macnamara

Application Description: two storey extension to the north wing and single storey side extension.

Committee Referral: Member Application

1. Site Description and Proposed Development

- 1.1 Heyford Manor is a grade II listed stone property, parts of which date back to the 16th Century. It is positioned at the end of Church Lane and in relatively close proximity, but not within the setting, of the grade II* listed St Mary's Church. There are a number of other listed structures and houses within the vicinity. The site lies inside the Rousham Conservation Area and abuts the Oxford Canal Conservation Area (the Canal is to the immediate north and east). Lower Heyford is found within an Area of High Landscape Value.
- 1.2 Planning permission is being sought for a single/two storey side extension. The modest two storey element is an extension to a gable ended wing protruding off the original northern elevation. Positioned between this extension and an existing single storey extension on the opposite side of the northern elevation, the applicant is proposing to erect a flat roofed extension, which will require the removal of an external staircase and an increase in the height of the aforementioned single storey wing. This proposal represents a revision to a previously approved scheme (see 08/00067/LB and 08/00068/F).
- 1.3 This application was submitted in conjunction with 12/01628/LB which, aside from the works set out above, also seeks consent for various other internal and external works.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 18th January 2012. No correspondence has been received as a result of this consultation process.

3. Consultations

- 3.1 **Lower Heyford Parish Council:** No comments received

Cherwell District Council Consultees

- 3.2 **Conservation Officer:** No objections following receipt of amended plans which resulted from discussions on site.
- 3.3 **Ecology Officer:** "I have read through the Phase 1 Bat and Nesting Bird Survey Report (Ridegeway, 7th December 2012) and concur with its findings. As no evidence of bats was found and the works proposed are such that disturbance to bats using gaps under tiles etc.. would be minimised I do not think further surveys are required for these specific proposals if a precautionary approach is followed. There are records of Swifts at this property and evidence of nesting birds within the survey therefore in order to avoid restrictions in timing of works the precautions below must be adhered to."

Oxfordshire County Council Consultees

- 3.4 **Planning Archaeologist:** "The site is located in an area of archaeological potential adjacent to the C13th Parish Church (PRN 4684) and the site of the medieval manor house (PRN 5955). The current house, a grade II listed building, was built in 1669 by William and Elizabeth Bruce and replaced an earlier Manor House on the same site (PRN 5956). This earlier house is shown on the 1606 map of Lower Heyford by Langdon. The house is shown to have three wings to the south, east and west and a larger separate house to the north. It is possible therefore that this development, although small scale, could disturb surviving aspects of the medieval manor.

"We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of an archaeological monitoring and recording action (watching brief) to be maintained during the period of construction."

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C2: Development affecting protected species

C13: Area of High Landscape Value

C28: Layout, design and external appearance of new development

C30: Design of new residential development

South East Plan 2009

NRM5: Conservation and improvement of biodiversity

BE1: Management for an urban renaissance

BE6: Management of the historic environment

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5. Appraisal

- 5.1 The proposed two storey element which shows subservience to the existing northern wing is considered to be an appropriate addition to the house. The single storey addition is more contentious as the Council's design guidance discourages flat roofed extensions. In this instance however, there is no obvious alternative solution and its impact on the wider built environment will be very limited. Furthermore, the design has been carefully thought through and the applicant is proposing to use good quality materials. Whatever the design flaws, the extension, including the works to the existing single storey extension, will improve the appearance of this side of the property as, amongst other things, it will require the removal of a rather unsympathetic external staircase. It should also be noted that the application approved in 2008 also had a flat roofed section.
- 5.2 The proposed works are therefore considered to respect the character and appearance of the Rousham Conservation Area and the setting of the Oxford Canal Conservation Area and will also not unduly harm the Area of High Landscape Value. The works will also not affect the settings of any of the nearby listed buildings. Furthermore the amenities of the neighbouring residents will not be affected by the proposed development. The development therefore accords with saved Policies C13, C28 and C30 of the adopted Cherwell Local Plan.

Ecology

- 5.3 NPPF – *Conserving and enhancing the natural environment* requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109).
- 5.4 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.

- 5.5 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”.
- 5.6 Paragraph 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes on to advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”
- 5.7 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;
- 5.8 Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 5.9 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.
- 5.10 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:
- a. Is the development needed for **public health or public safety** or **other imperative reasons of overriding public interest including those of a social or economic nature** (development).
 - b. Is there any **satisfactory alternative**?
 - c. Is there **adequate mitigation** being provided to maintain the favourable conservation status of the population of the species?

5.11 Therefore where planning permission is required and protected species are found to be present at the site or surrounding area, Regulation 9(5) of Conservation Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local planning authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council's Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.

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

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

[R (Morge) v Hampshire County Council – June 2010 Court of Appeal case]

[R (Woolley) v Cheshire East Borough Council – May 2009 High Court case]

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

5.13 In respect to the application site, a bat and nesting bird survey report was undertaken by Ridgeway Ecology (dated 7 December 2012), which found that there was no evidence of bats roosting in the house. The Council's Ecologist largely agreed with the conclusions reached in the report which recommended conditions (see conditions 6 and 7) to ensure that should bats be found they are properly protected and that any birds living in the building are not unduly affected.

5.14 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with Government guidance contained within the NPPF and Policy C2 of the adopted Cherwell Local Plan.

Consultation with applicant

- 5.15 Officers met the applicant on site to discuss the merits of the scheme. The subsequent revisions to the proposal are a reflection of these negotiations.

Conclusion

- 5.16 Based on the assessment above and subject to condition it is concluded that the development is acceptable and therefore complies with Policies BE1, BE6 and NRM5 of the South East Plan 2009 and Policies C2, C13, C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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 consent, the development shall be carried out strictly in accordance with the bat and nesting bird survey report produced by Ridgeway Ecology and dated 7 December 2012 and the following approved plans: 648 01; and 648 02 F.

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

- 3 That the external walls of the extensions shall be constructed in natural weathered limestone and marlstone which shall be laid, dressed, coursed and pointed in accordance with a sample panel (minimum 1metre square 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 the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan

- 4 That samples of the Stonefield Slate to be used in the covering of the roof of the two storey 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 The slate covering on the existing extension which will be raised in height shall be reused on the new roof unless otherwise agreed in writing by the Local Planning Authority prior to the commencement of development.

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 In order to ensure that protected species are not harmed during the construction process, the works shall be carried out in accordance with the following requirements:

- Immediately prior to work commencing, those areas of the house that will be directly affected by the proposed extension and the installation of new rooflights must be inspected by a suitably qualified ecologist to ensure that bats or nesting birds are not present, or if they are, they will not be disturbed by the proposed work.
- All destructive work must be carried out carefully with the expectation that bats may be present. All contractors on site should be briefed as to the possibility of bats and nesting birds being on site and their legal protection. Any roof tiles to be removed should be lifted by hand vertically and not slid off to avoid injury to any bats underneath. If bats or evidence of bats are found at any point, Natural England and the ecologist for this project must be contacted for advice and all work must cease immediately.
- If nesting birds are observed within the areas of the house that will be affected by the development work must immediately cease and the ecologist for the project must be contacted for advice.
- Any additional external lighting installed should be minimal, directional and responsive such that it is only on when needed.

Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

- 7 The suggested enhancements within Section 5 of the bat and nesting bird survey report produced by Ridgeway Ecology and dated 7 December 2012 (last three bullet points on page 14) shall be carried out as written.

Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

- 8 Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation,

relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

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

- 9 Following the approval of the Written Scheme of Investigation referred to in condition 8, 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 useable archive and a full report for publication.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance 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 as the proposed extension is of a design, size and style that is appropriate and will not unduly impact on the neighbouring properties. The extension is considered to be appropriate development in the Area of High Landscape Value. Furthermore the works will also preserve the character and appearance of the Rousham Conservation Area and will not affect the setting of the Oxford Canal Conservation Area or the nearby listed building. As such the proposal is in accordance with Policies BE1, BE6 and NRM5 of the South East Plan 2009 and Policies C2, C13, 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.

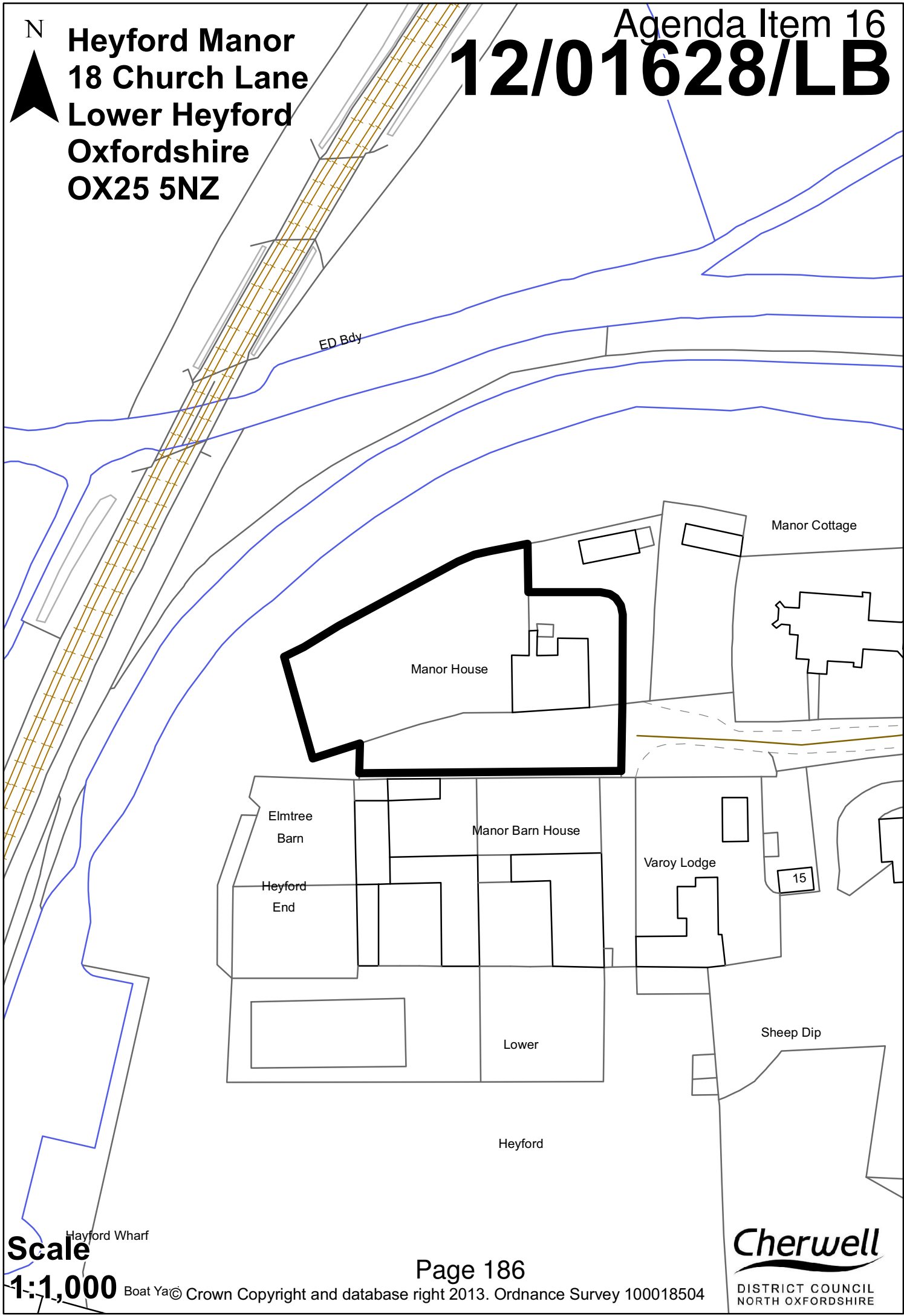
Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.



Heyford Manor
18 Church Lane
Lower Heyford
Oxfordshire
OX25 5NZ

Agenda Item 16
12/01628/LB



Scale
1:1,000

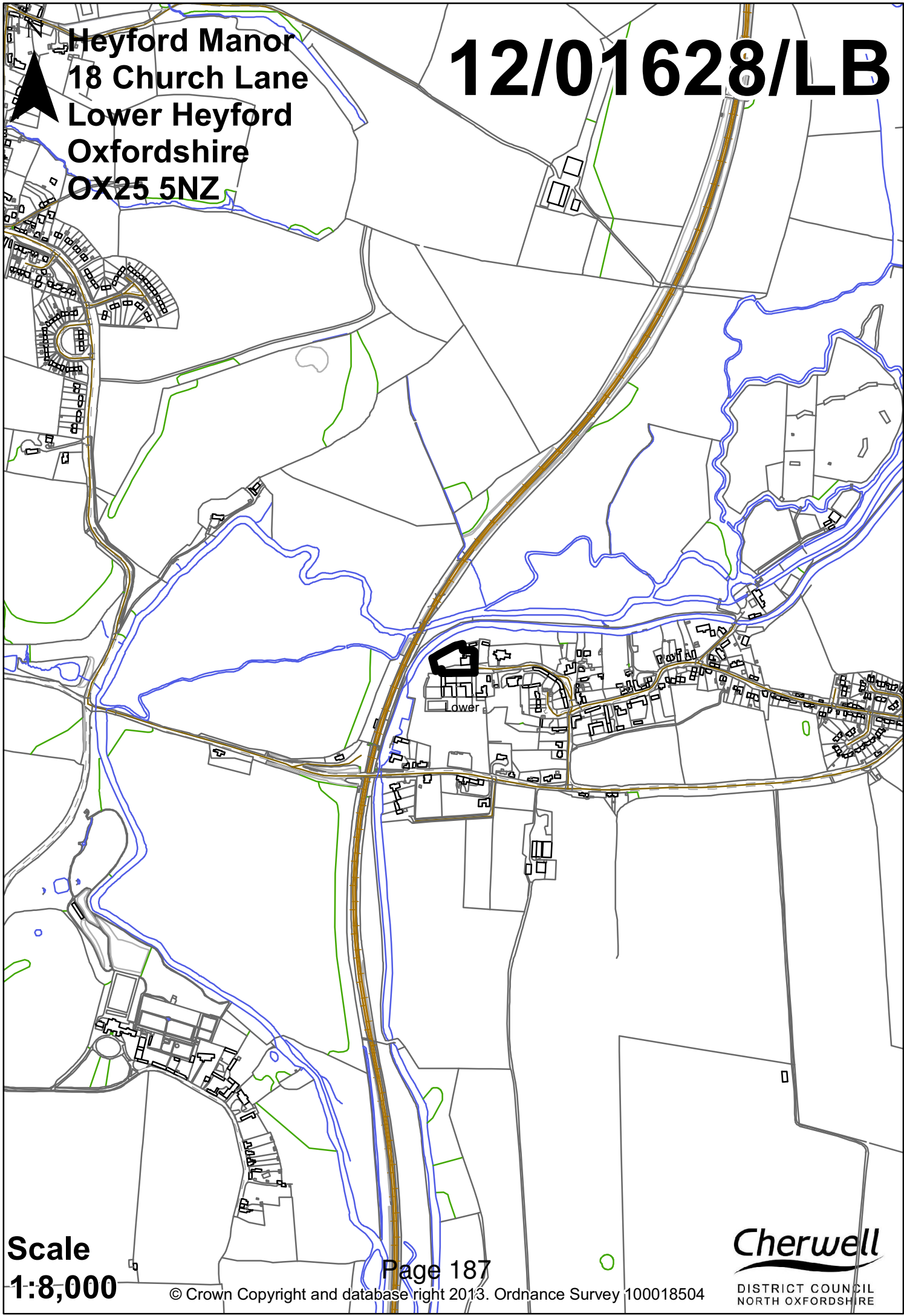
Boat Ya© Crown Copyright and database right 2013. Ordnance Survey 100018504

Page 186

Cherwell
 DISTRICT COUNCIL
 NORTH OXFORDSHIRE

Heyford Manor
18 Church Lane
Lower Heyford
Oxfordshire
OX25 5NZ

12/01628/LB



Scale
1:8,000

Page 187

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

Heyford Manor, 18 Church Lane, Lower Heyford

12/01628/LB

Ward: The Astons and Heyfords

District Councillor: Cllr Kerford-Byrnes
Cllr Macnamara

Case Officer: Paul Ihringer

Recommendation: Approval

Applicant: Mr Macnamara

Application Description: two storey extension to the north wing, single storey side extension and increase in the height of an existing single storey extension. Remove existing chimneystack, insert two rooflights, block up two entrances and replace one of them with a window. Insert replacement window in dormer on the eastern elevation. Reposition stud walling and raise section of floor at ground and first floor levels.

Committee Referral: Member Application

1. Site Description and Proposed Development

- 1.1 Heyford Manor is a grade II listed stone property, parts of which date back to the 16th Century. It is positioned at the end of Church Lane and in relatively close proximity, but not within the setting, of the grade II* listed St Mary's Church. There are a number of other listed structures and houses within the vicinity. The site lies inside the Rousham Conservation Area and abuts the Oxford Canal Conservation Area (the Canal is to the immediate north and east).
- 1.2 Listed building consent is being sought for a single/two storey side extension. The modest two storey element is an extension to a gable ended wing protruding off the original northern elevation. Positioned between this extension and an existing single storey extension on the opposite side of the northern wing the applicant is proposing to erect a flat roofed extension which will require the removal of an external staircase (first floor entrance that it serves will be blocked up) and an increase in the height of the aforementioned single storey wing.
- 1.3 Consent is also required for: replacing an existing doorway with a window; inserting two new conservation grade roof lights; removing an existing chimneystack; the reconfiguration of some of the rooms through the repositioning of stud walling; a new dormer window; the raising of part of the first floor floorboards; and insertion of a floating floor at ground floor level. This proposal represents a revision to a previously approved scheme (see 08/00067/LB and 08/00068/F).
- 1.4 This application was submitted in conjunction with 12/01627/F.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 18th January 2012. No correspondence has been received as a result of this consultation process.

3. Consultations

- 3.1 **Lower Heyford Parish Council:** No comments received

Cherwell District Council Consultees

- 3.2 **Conservation Officer:** No objections following receipt of amended plans which resulted from discussions on site.
- 3.3 **Ecology Officer:** "I have read through the Phase 1 Bat and Nesting Bird Survey Report (Ridegeway, 7th December 2012) and concur with its findings. As no evidence of bats was found and the works proposed are such that disturbance to bats using gaps under tiles etc.. would be minimised I do not think further surveys are required for these specific proposals if a precautionary approach is followed. There are records of Swifts at this property and evidence of nesting birds within the survey therefore in order to avoid restrictions in timing of works the precautions below must be adhered to."

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)
C2: Development Affecting Protected Species
C18: Development Proposals Affecting a Listed Building

South East Plan 2009
BE6: Management of the Historic Environment
NRM5: Conservation and Improvement of Biodiversity

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:

5. Appraisal

Design

- 5.1 The proposed two storey element which shows subservience to the existing northern wing is considered to be an appropriate addition to the house. The single storey addition is more contentious as the Council's design guidance discourages flat roofed extensions. In this instance however, there is no obvious alternative solution and its impact on the wider built environment will be very limited. Furthermore, the design has been carefully thought through and the applicant is proposing to use good quality materials. Whatever the design flaws, the extension, including the works to the existing single storey extension, will improve the appearance of this side of the property as, amongst other things, it will require the removal of a rather unsympathetic external staircase. It should also be noted that the application approved in 2008 also had a flat roofed section. The proposed extensions are not considered to be disproportionately large.
- 5.2 The justification for the removal of the chimneystack was accepted by the Conservation Officer (it was a late addition that served the now redundant heating system). The proposed conservation grade roof lights were also considered appropriate (there are already roof lights in the building) as is the replacement dormer window which is of better design than the existing. The blocking up of the two external entrances, which are of little significance, will not compromise the appearance of the building providing that the stone used matches the surrounding stonework.
- 5.3 The internal alterations, the majority of which relate to the repositioning of stud walls, have limited implications for the historic fabric and could be easily removed in the future, as could the works to raise the floor levels. The development is therefore considered to comply with Policy C18 of the adopted Cherwell Local Plan.

Ecology

- 5.4 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).
- 5.5 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.

- 5.6 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”.
- 5.7 Paragraph 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes onto advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”
- 5.8 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;
- 5.9 Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.
- 5.10 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.
- 5.11 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

- a. Is the development needed for **public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature** (development).
 - b. Is there any **satisfactory alternative**?
 - c. Is there **adequate mitigation** being provided to maintain the favourable conservation status of the population of the species?
- 5.12 Therefore where planning permission is required and protected species are found to be present at the site or surrounding area, Regulation 9(5) of Conservation Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local planning authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council's Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.
- 5.13 In respect of planning applications and the Council discharging of its legal duties, case law has shown that:
- 1) if it is clear/perhaps very likely that **Natural England will not grant a licence** then the Council should refuse planning permission
 - 2) if it is likely that **Natural England will grant the licence** then the Council may grant planning permission
 - 3) if it is **unclear/uncertain** whether Natural England will grant a licence then the Council must refuse planning permission (Morge has clarified Woolley)
- [R (Morge) v Hampshire County Council – June 2010 Court of Appeal case]*
[R (Woolley) v Cheshire East Borough Council – May 2009 High Court case]

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

- 5.14 In respect to the application site, a bat and nesting bird survey report was undertaken by Ridgeway Ecology (dated 7 December 2012), which found that there was no evidence of bats roosting in the house. The Council's Ecologist largely agreed with the conclusions reached in the report which recommended conditions (see conditions 12 and 13) to ensure that should bats be found they are properly protected and that any birds living in the building are not unduly affected.
- 5.15 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be

present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with Government guidance contained within the NPPF and Policy C2 of the adopted Cherwell Local Plan.

Consultation with applicant

- 5.16 Officers met the applicant on site to discuss the merits of the scheme. The subsequent revisions to the proposal are a reflection of these negotiations.

Conclusion

- 5.17 Based on the assessment above and subject to condition it is concluded that the development is acceptable and therefore complies with Policies BE6 and NRM5 of the South East Plan 2009 and Policies C2 and C18 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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 consent, the development shall be carried out strictly in accordance with the bat and nesting bird survey report produced by Ridgeway Ecology and dated 7 December 2012 and the following approved plans: 648 01; and 648 02 F.

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

- 3 That the external walls of the extensions and the openings to be fronted up shall be constructed in natural weathered limestone and marlstone which shall be laid, dressed, coursed and pointed in accordance with a sample panel (minimum 1metre square 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 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.

- 4 That samples of the Stonefield Slate to be used in the covering of the roof of the two storey 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 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.

- 5 The slate covering on the existing extension which will be raised in height shall be reused on the new roof unless otherwise agreed in writing by the Local Planning Authority prior to the commencement of development.

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.

- 6 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 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.

- 7 Design details of all new joinery proposed shall be submitted to and approved by the Local Planning Authority prior to the commencement of works (scale > 1:20). The development shall be carried out in accordance with the approved details.

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 All stonework shall be laid using lime mortar (no gauging cement).

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 and replacement rainwater goods shall be constructed in cast iron or cast aluminium.

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.

- 10 Original floorboards to be retained and repaired.

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.

- 11 New floorboards in the extension hereby approved to match the existing.

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.

- 12 In order to ensure that protected species are not harmed during the construction process, the works shall be carried out in accordance with the following requirements:

- Immediately prior to work commencing, those areas of the house that will be directly affected by the proposed extension and the installation of new rooflights must be inspected by a suitably qualified ecologist to ensure that bats or nesting birds are not present, or if they are, they will not be disturbed by the proposed work.
- All destructive work must be carried out carefully with the expectation that bats may be present. All contractors on site should be briefed as to the possibility of bats and nesting birds being on site and their legal protection. Any roof tiles to be removed should be lifted by hand vertically and not slid off to avoid injury to any bats underneath. If bats or evidence of bats are found at any point, Natural England and the ecologist for this project must be contacted for advice and all work must cease immediately.
- If nesting birds are observed within the areas of the house that will be affected by the development work must immediately cease and the ecologist for the project must be contacted for advice.
- Any additional external lighting installed should be minimal, directional and responsive such that it is only on when needed.

Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

- 13 The suggested enhancements within Section 5 of the bat and nesting bird survey report produced by Ridgeway Ecology and dated 7 December 2012 (last three bullet points on page 14) shall be carried out as written.

Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.

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

The Council, as local planning authority, has determined this application in accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, Government advice contained within the National Planning Policy Framework and

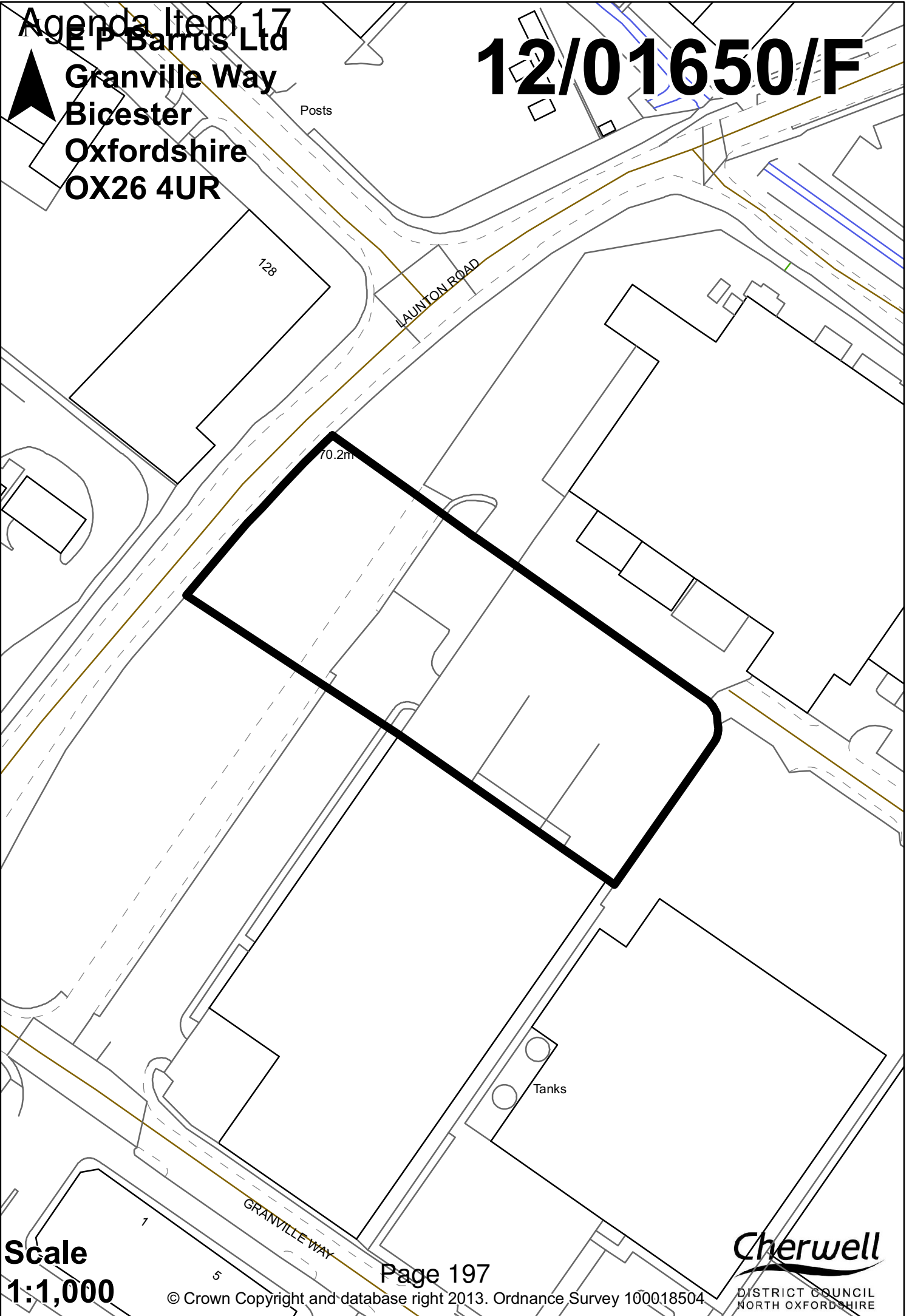
the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its merits as the proposal preserves the character and appearance of the listed building. The development will also not harm protected species. As such the proposal is in accordance with Policy NRM5 and BE6 of the South East Plan 2009 and Policies C2 and C18 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 17
E P Barrus Ltd
Granville Way
Bicester
Oxfordshire
OX26 4UR

12/01650/F



Scale
1:1,000

E P Barrus Ltd
Granville Way
Bicester
Oxfordshire
OX26 4UR

12/01650/F

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Page 198

Cherwell

E P Barrus Ltd, Granville Way, Bicester

12/01650/F

Ward: Bicester East

District Councillor: Lawrie Stratford and Rose Stratford

Case Officer: Rebekah Morgan

Recommendation: Approval

Applicant: E P Barrus Ltd

Application Description: Erection of two industrial Rubb storage buildings, alterations to service yard area and the creation of a new vehicular access off Launton Road.

Committee Referral: Major Application

1. Site Description and Proposed Development

- 1.1 The application site is situated on the corner of Granville Way and Launton Road. The existing building is a two-storey brick building with a height of approximately 8m. The building is set back within the site with car parking and landscaping to the front. The service yard is situated to the side of the building and is enclosed by a 2m high brick wall.
- 1.2 The application site is positioned at the entrance to a large industrial estate. The buildings in the surrounding area vary in style and design, both along Launton Road and through Granville Way.
- 1.3 The application seeks consent for two Rubb storage buildings to be situated within the existing service yard. A RUBB storage building is a building constructed of high strength PVC coated polyester membrane cladding that is tensioned over a structural steel frame system. The proposed building towards the rear of the site will measure 20m x 40m with a height of 9.45m. The proposed building positioned at the front of the site will measure 15m x 20m with a height of 9.45m.
- 1.4 The application includes alterations to the service yard, with access to the loading bays being maintained. The proposal is to create a new access off Launton Road to serve the Barrus site and the neighbouring site. Existing vehicular access onto Granville Way will be blocked off.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 28th December 2012. No correspondence has been received as a result of this consultation process.

3. Consultations

- 3.1 **Bicester Town Council:** No comments received.

Cherwell District Council Consultees

- 3.2 **Planning Policy Officer:** The main priority of the Local Plan is to secure the economic future of the District and this proposal will assist in meeting this aim.
- 3.3 **Urban Design Officer:** No comments received.
- 3.4 **Anti-social Behaviour Manager:** No objections.
- 3.5 **Environmental Protection Officer:** No objections.
- 3.6 **Economic Development Officer:** Supports the application. States that 'this proposal would contribute practically towards the objectives of the Cherwell Economic Development Strategy (2011-16).

Oxfordshire County Council Consultees

- 3.7 **Highways Liaison Officer:** An initial objection has been raised; 'the proposed access is less desirable than the existing access in terms of vehicle swept path, carriageway width, right turn facilities and pedestrian safety. The applicant is currently working with the Local Highways Officer to overcome the objections. A full written update will be provided to members at committee.
- 3.8 **Drainage Officer:** Any additional roof water run-off will need to go to a soak-away or other sustainable drainage system.

Other Consultees

- 3.9 **Police Architectural Liaison Officer:** No comments received.
- 3.10 **Environment Agency:** Application deemed to have low environmental risk, therefore do not wish to comment.
- 3.11 **Thames Water:** No objections.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)
ENV1: Pollution Control

South East Plan 2009
CC1: Sustainable development
RE1: Contributing to the U.K's long term competitiveness
RE3: Employment and Land Provision
CO1: Core Strategy
CO2: Economy

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission Draft (May 2012)

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

SLE1: Employment Development

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.

5. Appraisal

Background Information

- 5.1 This application is accompanied by an application to reconfigure and extend the existing car park (12/01651/F); which is being dealt with under delegated authority. The two applications are linked, so far as the highway configurations will need to work for both applications.
- 5.2 E.P. Barrus, established in 1917, moved in 1977 to the current purpose built premises in Bicester. They import and distribute tools, machinery and engines, adding value through its technical testing, product adaptation and training facilities which have expanded in recent years. Today approximately 150 staff are directly employed by the applicants.
- 5.3 The applicants have a secondary warehouse in unit C5 MoD Bicester and this is approximately 100,000 sq ft of space. MoD has given notice to them to vacate the premises by 31st December 2012.
- 5.4 The proposed development would allow a small proportion of this storage space to be relocated from the MoD site to the premises on Launton Road. It is claimed that this will improve efficiency as the goods are already dispatched from via the Launton Road site and therefore daily vehicle movements between the two sites would be reduced.
- 5.5 Barrus are currently working with the Council's Economic Development Team to find further alternatives to the MoD site.
- 5.6 The key issues for consideration in this application are:

- Principle of the Development
- Visual Amenity
- Neighbouring Amenity
- Highway Safety

Principle of the Development

- 5.7 The application site is located on an existing employment site at Granville Way, Bicester and E.P. Barrus have occupied the premises since its construction in 1977.
- 5.8 Policy RE3 of the South East Plan states that provision should be made for a range of sites and premises to meet the general needs in locations that:
- Are or will be accessible to the existing and proposed labour supply
 - Make efficient use of existing and underused sites and premises through increasing intensity of use on accessible sites
 - Focus on urban areas
 - Promote the use of public transport
- 5.9 The criteria set out in this policy relate to the identification of future sites, however, they are useful for assessing the suitability of this proposal, which meets these criteria.
- 5.10 Policies CO1 and CO2 of the South East Plan promote Bicester as an area for future economic growth. The South East Plan is therefore supportive of employment generating development within Bicester.
- 5.11 The application site is within an area shown as an existing employment area in the Proposed Submission Local Plan (2012). Policy SLE1 states that employment proposals in Banbury and Bicester on non-allocated sites will be supported if they meet the following criteria:
- Are within the built up limits of the settlement
 - Make efficient use of existing and underused sites and premises, by increasing the intensity of the use on accessible sites
 - Are, or will be, accessible to the existing and proposed labour supply
 - Have good access, or can be made to have good access by public transport
 - Are well designed
 - Do not have an adverse effect on the surrounding land uses and the historic and natural environment
- 5.12 The Council's Planning Policy Officer has advised that 'the site (which is not allocated) will importantly fulfil the first four of these criteria. The site is within the built up limits of Bicester, it will make use of existing employment land, the residents of Bicester (amongst other labour sources) will provide the labour supply and the site is on a bus route'. The two remaining criteria will be discussed later in this report.
- 5.13 The National Planning Policy Framework sets out 12 core principles that underpin both plan-making and decision-taking. The two points most relevant to this application are:

- 'proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs...'
- 'encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value'.

5.14 The proposed development is on an existing employment site, in an urban area. The business is very well established on the site and clearly needs to expand. The principle of the development is acceptable and consistent with the core principles of the National Planning Policy Framework.

Visual Amenity

5.15 A RUBB building is a storage building constructed of high strength PVC coated polyester membrane cladding that is tensioned over a structural steel frame system.

5.16 The outer membrane of the structure comes in a variety of colour options, while the roof remains white (to allow natural light penetration). The colour of the proposed buildings was discussed at the site visit and it was agreed that a dark brown colour would compliment the colour of the brickwork on the existing building and the service yard wall.

5.17 Examples of similarly designed buildings can be viewed on the adjacent site to the rear of Barrus and on another site in Granville Way.

5.18 The buildings will be visible from the public domain, however, they will not appear out of place as the styles and heights of the buildings vary in this locality. This is demonstrated in the photomontage that shows how the buildings will appear when constructed. Furthermore, the existing mature trees along the site boundary will interrupt views of the site from Launton Road.

5.19 The proposal will not have a detrimental impact on visual amenity of this commercial area and complies with government guidance on requiring good design contained within the National Planning Policy Framework.

Neighbouring Amenity

5.20 The industrial use of the site is established and the application seeks to extend the storage capacity on site to support the existing business. The surrounding area is a mixture of industrial and commercial uses; but there are no residential properties within close proximity of the site.

5.21 It is unlikely that the proposed development would generate significant amounts of noise. However, due to the surrounding uses, this would not cause particular concern. The proposal complies with Policy ENV1 of the adopted Cherwell Local Plan.

Highway Safety

5.22 The Local Highways Authority has raised an objection to the application. The following concerns were set out in their response:

- The proposed access is less desirable than the existing in terms of vehicle swept path, carriageway width, right turn facilities and pedestrian safety
- A full tracking plan is required to demonstrate large vehicles entering, manoeuvring onsite and egressing in forward gear
- It is undesirable to create additional accesses onto this busy road, in the interests of maintaining free-flow traffic
- Realistically, there will be no way to restrict any user of Granville Way Industrial Estate from using the new access if permitted.

5.23 The applicant has provided a plan showing how the access on to Granville Way will be permanently blocked off to vehicular traffic; therefore it has overcome the final concern regarding the use of the proposed new access by other users of Granville Way.

5.24 The applicant is currently in discussion with the Local Highways Authority regarding the other concerns.

5.25 The application will be considered acceptable if a satisfactory solution can be found that meets with the agreement of the Local Highways Authority.

Positive and Proactive Approach

5.26 During the course of the application a site meeting was held and additional information was requested; which has been submitted by the agent. The applicant and their agent are in discussions with the Local Highways Authority to attempt to overcome the concerns that have been raised.

5.27 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Approval, subject to:

a) The satisfactory resolution of the outstanding highway concerns

b) the following conditions:

1. 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 condition, the application shall be carried out strictly in accordance with the following plans and documents: Application forms, site location plan, block plan and drawings numbered: 20750A/1, 14140-16, 14140-12, 14140-13, Specification for Building 1 and

Specification for Building 2 received 20th November 2012.

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

3. Notwithstanding the provisions of Class A of Part 8, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995 and its subsequent amendments, the approved building shall not be extended or altered without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of the site in order to safeguard the amenities of the area in accordance with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. 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.

Reason - In order to maintain the character of the area and safeguard the amenities of the occupants of the adjoining premises in accordance with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5. The external walls of the development shall be finished in a dark brown colour in accordance with drawing number 5098 VIS1 received on 11th January 2013.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development hereby approved, full details of a scheme to prevent any surface water from the development discharging onto the adjoining highway shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage scheme shall be implemented and retained in accordance with the approved details.

Reason - In the interests of highway safety and flood prevention and to comply with Policy NRM4 of the south East Plan 2009 and Government advice 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 as the proposal is of a design, size and style that is appropriate in its context and would not cause detriment to highway safety, neighbouring properties or the visual amenity of the wider locality. As such the proposal is in accordance with Policies CC1, RE1, RE3, CO1 and CO2 of the South East Plan 2009, Policy ENV1 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, including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Banbury
Oxfordshire
OX16 0RW



FERNDALE ROAD

THE FAIRWAY

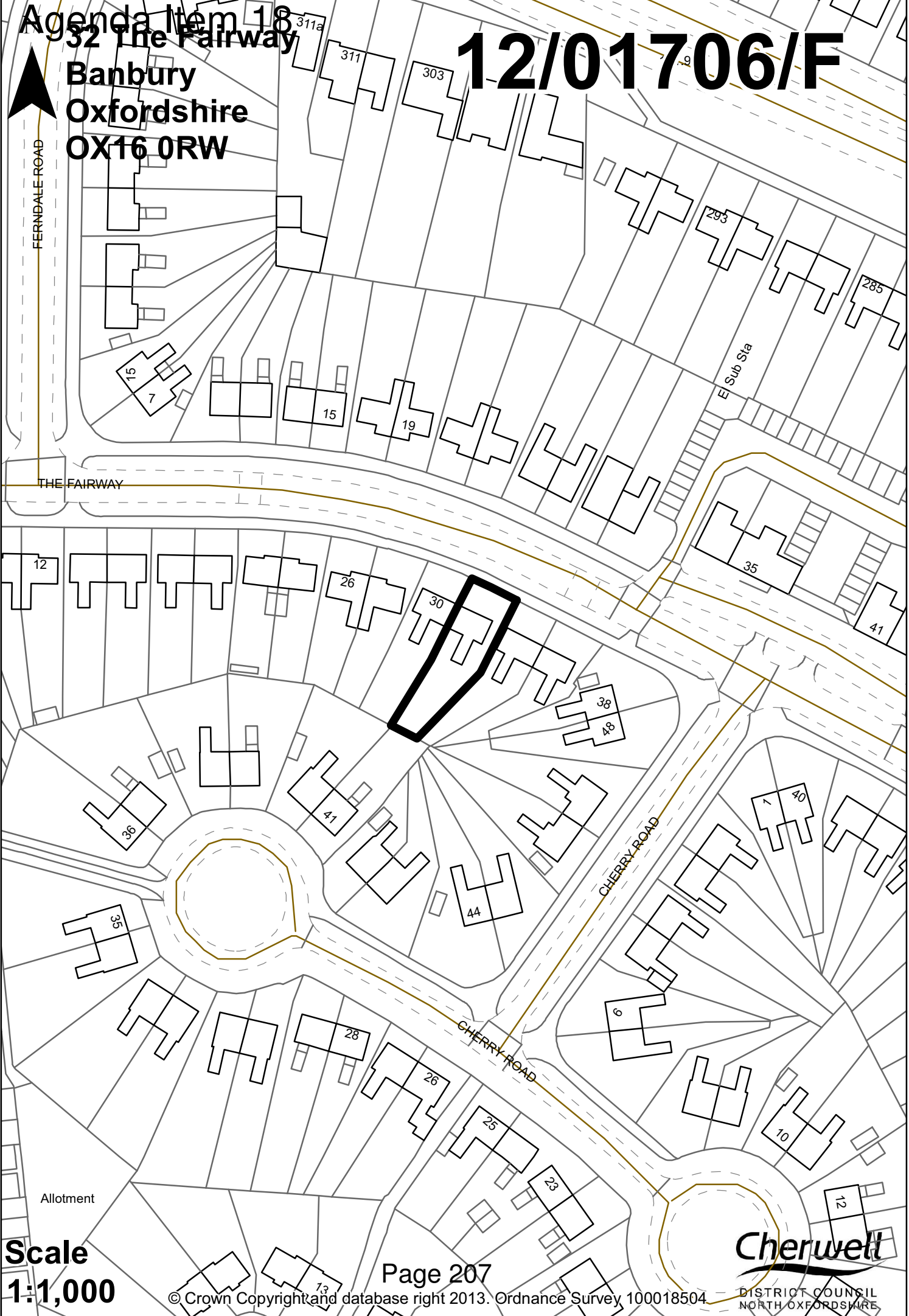
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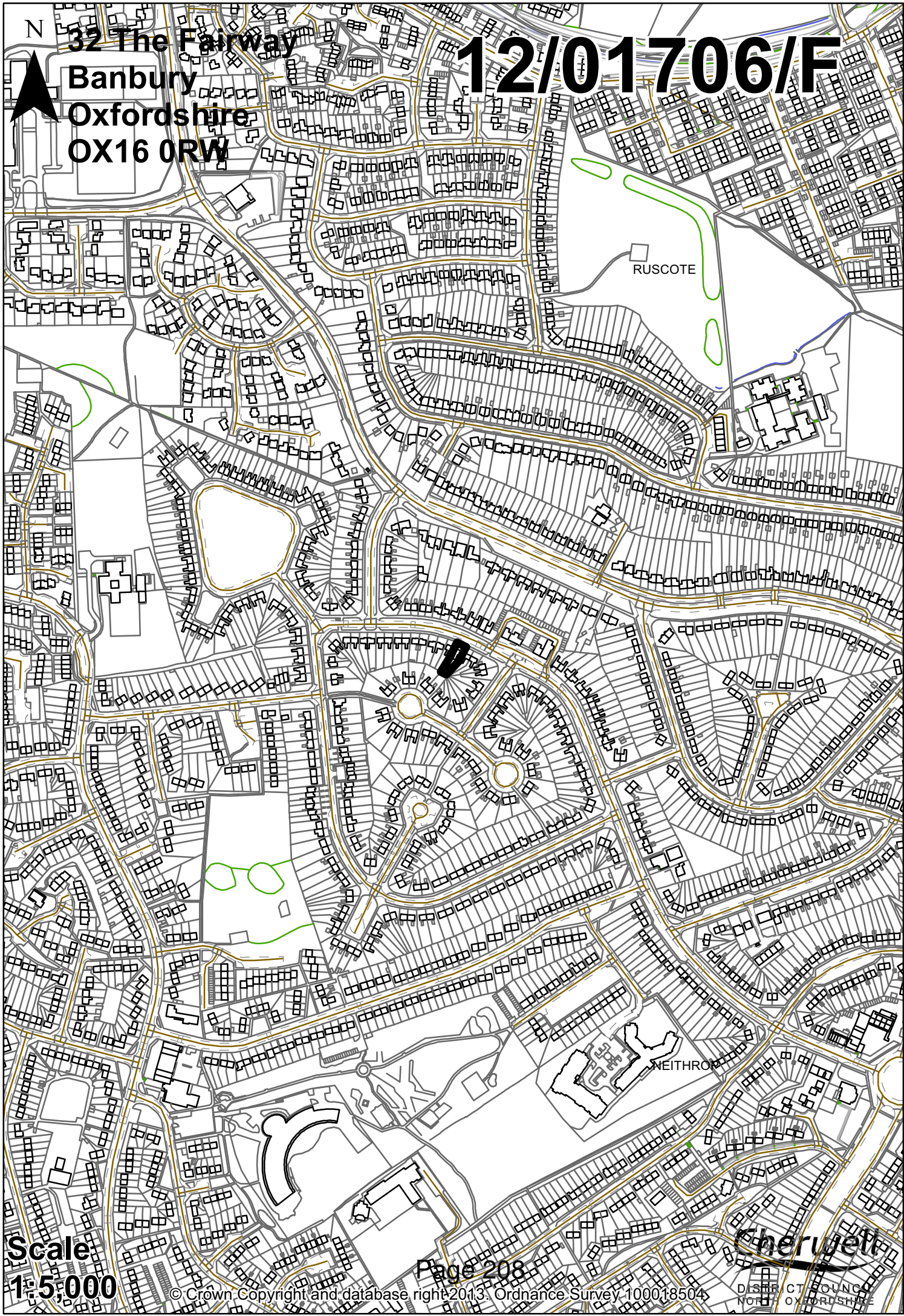
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32 The Fairway
Banbury
Oxfordshire
OX16 0RW

12/01706/F



RUSCOTE

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Page 208

Cherwell

32 The Fairway, Banbury

12/01706/F

Ward: Banbury Ruscote

District Councillor: Cllrs Cartledge, Ross and Woodcock

Case Officer: Shona King

Recommendation: Approval

Applicant: Mr T Coleman

Application Description: Rear extension and conversion to form two number 2 bedroom houses

Committee Referral: Member request

1. Site Description and Proposed Development

- 1.1 The application site is one of a pair of semis located in a residential part of Banbury. There is off-street parking located within the front garden with a dropped kerb.
- 1.2 Consent is sought to erect a two storey and single storey rear extension and to convert the resulting building into 2 x two bedroom dwellings with off-street parking. A porch canopy is also proposed in the side elevation of the building and window at first floor level in the existing east elevation of the property.
- 1.3 An amended plan has been submitted by the agent increasing the size of bedroom 2 in unit 32a.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters. The final date for comment was the 10 January 2013.

5 letters have been received. The following Issues were raised:

- Overbearing
 - Will result in overshadowing and loss of light
 - Highway safety
 - Size of units out of keeping with the area
 - Size of accommodation too small for family accommodation
 - Loss of value to property
 - Adequacy of existing shared drains
- 2.2 The Local Ward Members Cllrs Ross and Cllr Woodcock have requested that the application be referred to the Planning Committee so that it can be fully discussed. They have commented that:
 - As Town Council and District Council Ward Members they have objected to the current application and the previous application at No. 34 The Fairway, which was approved under delegated powers.

- One of the Ward Members requested that that application was referred to the Planning Committee but it wasn't. (Considered that the proposal did not raise such significant issues or levels of local objection that it was appropriate to refer the application to the Planning Committee).
- The concerns expressed were:
 - a) overdevelopment of the site,
 - b) the increased pressure on roadside parking and the damaging effect on the character of the neighbourhood
 - c) damaging precedent would be set.
- Consider that if the application is approved the scene will be set for piecemeal speculative development in this part of the ward and the residents will suffer.

3. Consultations

- 3.1 **Banbury Town Council:** The Town Council objects to the application as it is considered to be overdevelopment of the site and detrimental to the street scene contrary to Policies C28 and C30 of the adopted Cherwell Local Plan.

Cherwell District Council Consultees

- 3.2 **Housing Officer:** The proposal looks to create two 2 bedroom properties, however the second bedroom in what has been called 32a is well below the minimum size (6.5m²) that we would consider a bedroom. There will not be adequate space for the inclusion of general bedroom furniture, such as a bed, wardrobe, chest of drawers, chair and space to move between them. Both units will also have very little space for the storage of large items such as an ironing board or vacuum cleaner.

Oxfordshire County Council Consultees

- 3.3 **Highways Liaison Officer:** No objections subject to conditions relating to parking and manoeuvring and improvement of the existing access

Other Consultees

- 3.4 **Thames Water:** Waste Comments
 Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Thames Water would advise that with regard to sewerage infrastructure we would not have any objection to the above planning application.

Water Comments

On the basis of information provided, Thames Water would advise that with regard to water infrastructure we would not have any objection to the above planning application.

Thames Water recommends the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

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

T4: Parking

BE1: Management for an urban renaissance

4.2 Other Material Policy and Guidance

National Planning Policy Framework

5. Appraisal

5.1 The key issues for consideration in this application are:

- the impact on the visual amenities and character of the area
- Impact on neighbouring properties
- the impact on highway safety

Impact on the visual amenities and character of the area

5.2 Whilst the extension is proposed to have a dummy pitched roof to disguise a flat roof it is considered that it will not result in any significant detriment to the visual amenities of the area. The proposed extensions will not be readily visible in public views and only longer distance views will be gained between properties in Cherry Road.

5.3 It is considered that the conversion of the building into two dwellings will not have a significant impact on the character of the area. The front garden of the existing dwelling can be used for the parking of vehicles without requiring

planning permission and the building can be extended in a smaller form without requiring planning permission. There is outside amenity space for the dwellings and whilst the use of the building is to be intensified the same number of people could occupy the property now as when converted into two units.

- 5.4 The use of the front garden for parking vehicles will not be out of character with the surrounding area. Other properties in the immediate vicinity already have their entire front gardens hard surfaced and are used for parking.
- 5.5 The creation of two units will result in relatively small rooms as identified by the Housing Officer. However the second bedroom in unit 32a has been increased in size to the minimum standard as shown on the amended floor plan.

Impact on the neighbouring properties

- 5.6 The proposed extension will not have a detrimental impact on the living amenities of Nos. 34 and 34a due to the relationship between the properties. The extension approved under 12/01055/F has been constructed and as such the proposed extension will not give rise to any significant overlooking or overdominance on the outlook from those properties.
- 5.7 The two storey element of the extension complies with the Council's informal space standards and as such it is considered that there will not be any significant impact on the living amenities of No. 30 The Fairway.
- 5.8 The single storey element intersects with a 45 degree line taken from the centre of the nearest habitable room window at No. 30 however due to the design and height of the extension as well as the orientation of the rear of that property it is considered that the impact on the living amenities will not be so significant as to warrant refusal of the application. For information however, if the property was occupied as a single dwelling it could be extended, at single storey, by a depth of 3m without planning permission and up to 4m high. The extension proposed under this application is to be approximately 3.3m deep and 3.5m high at its highest point. It is therefore lower than the permitted development limits and only 0.3m deeper.
- 5.9 The proposed windows in the rear elevation of the property will not result in any increase in overlooking of the neighbouring properties. It is however recommended that the proposed window in the eastern elevation of the existing part of the building, to serve a bathroom, is obscurely glazed and fixed closed to ensure that the private garden areas of No. 34/34a are not overlooked. Currently there are no windows in this elevation.

Impact on highway safety

- 5.10 The Highway Authority is satisfied that the development will not result in any significant detriment to highway safety. Two off-street parking spaces are considered to be sufficient in this location.
- 5.11 Conditions are recommended requiring the improvement of the existing access and the provision and retention of the parking area.

Other Matters

- 5.12 The Local Ward Members have requested that the application is referred to the Planning Committee for determination. At the time of the request for application 12/01055/F (extension and conversion of No. 34 The Fairway into two x 2 bed dwellings) to be determined by the Planning Committee the Ward Member was advised that the Council has general planning policies with regard to design and protecting amenity (Cherwell Local Plan policy C28 & C30) but does not have a policy in existing or emerging plans that prevents the sub division of properties. In determining the application it is therefore necessary to consider whether the application proposals would be acceptable taking into account the impact on the character of the area, the amenity provided for the proposed dwellings and impact on existing and issues such as parking. In the case of 12/01055/F it was considered that the proposals did not raise such significant issues or levels of local objection that it was appropriate to bring the application to the Planning Committee. Given that this is the second application on neighbouring properties for similar proposals the Chairman of the Planning Committee agreed that the current application could be considered by the Planning Committee.

Engagement

- 5.10 With regard to the duty set out in paragraphs 186 and 187 of the Framework, the applicant's agent was advised by email that the application was to be referred to the Planning Committee for determination and that there were issues regarding the size of bedroom 2 in unit 32a. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.11 It is considered that the development will not result in any significant detriment to the visual amenities or character of the area, nor will it adversely affect the living amenities of the neighbouring properties or highway safety.

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, site plan and drawing numbers 1, 3 and 5 submitted with the application and the floor plans accompanying the agents email dated 14/01/13.

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

- 3 That the window proposed in the east elevation at first floor level shall be obscurely glazed with obscured glass that complies with British Standard Category C and fixed closed at all times.

Reason - To safeguard the privacy and amenities of the occupants of the adjoining premises, to comply Policy C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

- 4 Notwithstanding the provisions of Classes A to E (inc.) of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 1995 and its subsequent amendments, the approved dwelling(s) shall not be extended, nor shall any structures be erected within the curtilage of the said dwelling(s), without the prior express planning consent of the Local Planning Authority.

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

- 5 That notwithstanding the provisions of Classes A, B and C of Part 1 of the Town and Country Planning (General Permitted Development) (Amendment) (No2) (England) Order 2008 and its subsequent amendments, no new windows or other openings, other than those shown on the approved plans shall be inserted in the southern, eastern or western elevations of the dwellings without the prior express planning consent of the Local Planning Authority.

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

Prior to the conversion of the dwelling hereby approved, the existing means of access between the land and the highway shall be widened to 4.5m formed, laid out and constructed strictly in accordance with Oxfordshire County Council's guidance available at <http://www.oxfordshire.gov.uk/cms/content/dropped-kerbs>.

Reason - In the interests of highway safety and to comply with Government

guidance contained within the National Planning Policy Framework

- 6 Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework

Planning Notes

- 1 You are advised that Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
- 2 Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at www.thameswater.co.uk

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 its surroundings and has no undue adverse impact upon the visual amenities of the area, the living amenities of neighbouring properties nor upon highway safety. As such the proposal is in accordance with Policies CC6 and BE1 of the South East Plan 2009, 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 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

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

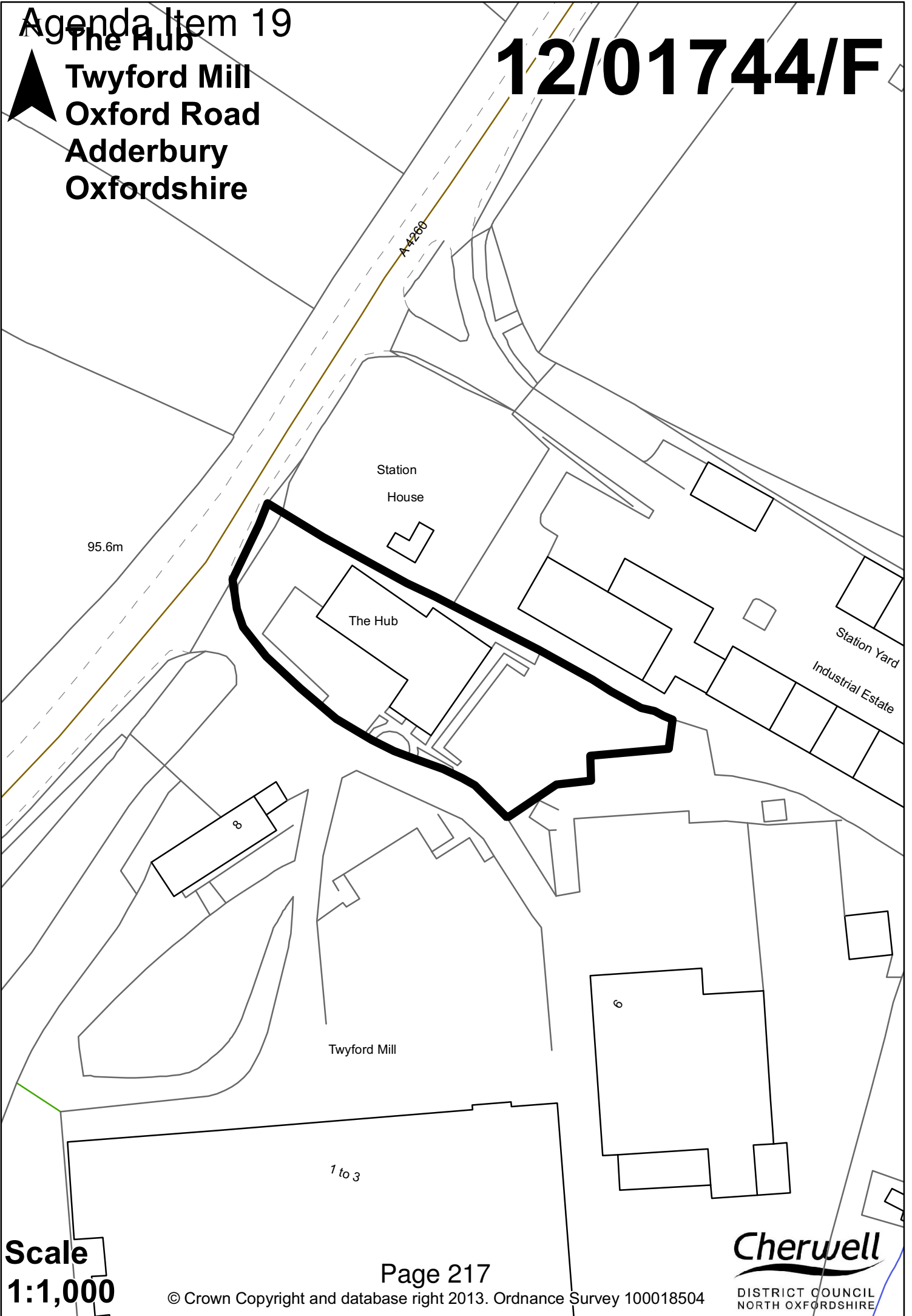
Agenda Item 19

The Hub

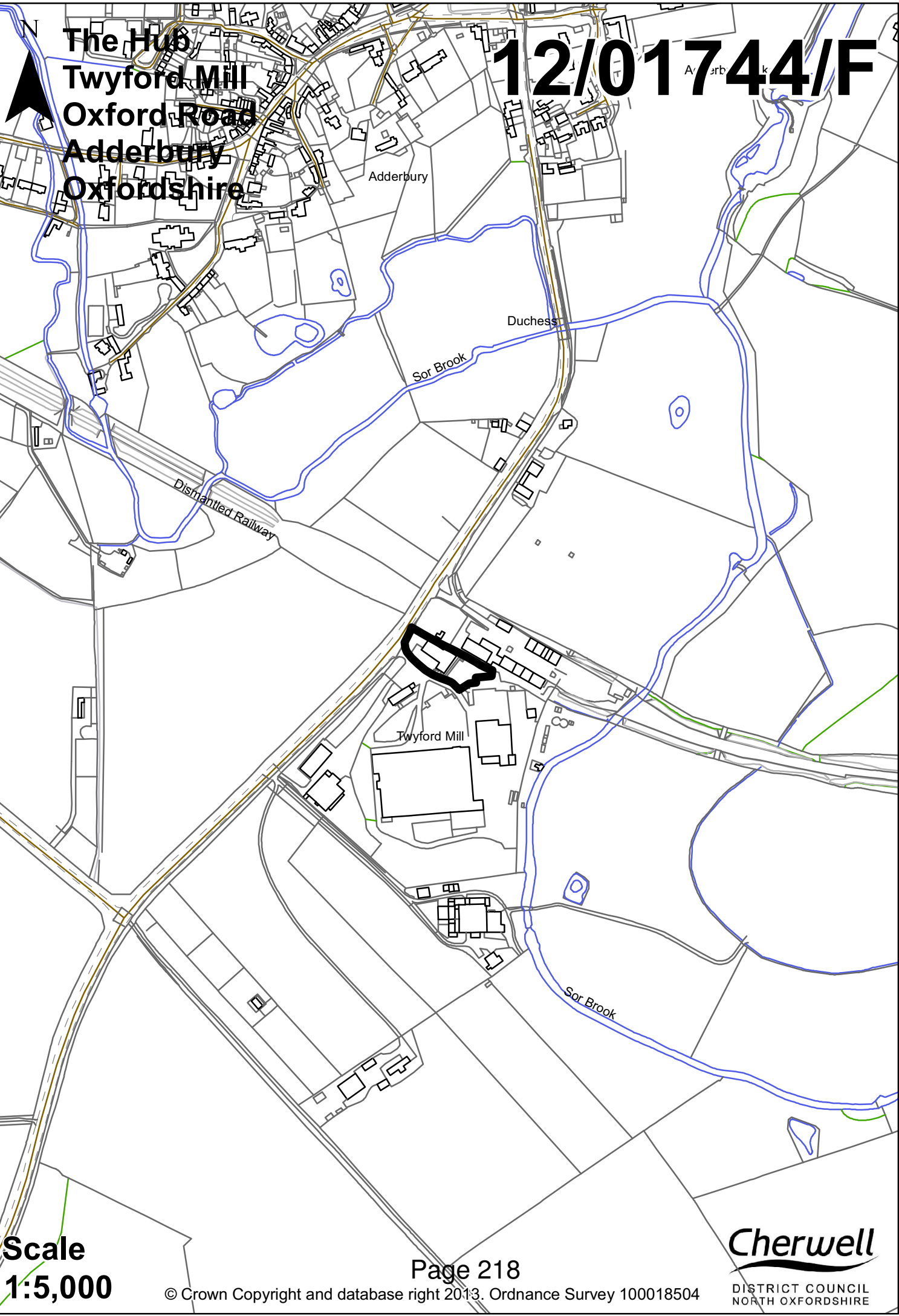


Twyford Mill
Oxford Road
Adderbury
Oxfordshire

12/01744/F



Scale
1:1,000



**The Hub
Twyford Mill
Oxford Road
Adderbury
Oxfordshire**

12/01744/F

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Page 218

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Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

The Hub, Twyford Mill Oxford Road, Adderbury

12/01744/F

Ward: Adderbury

District Councillor: Councillor Nigel Randall

Case Officer: Laura Bailey

Recommendation: Refusal

Applicant: Mrs Angela Rye

Application Description: Change of Use from office to children's day nursery (D1) - re-submission of 12/00890/F

Committee Referral: At the request of Cllr. Randall

1. Site Description & Proposal

- 1.1 The site is located beyond the edge of Adderbury, within an existing employment site which contains a mixture of B1, B2 and B8 uses including Fired Earth. The property is the first large building on the left as you enter the employment site, which contains a variety of uses, including a school photography business. Parking is provided to the front and side of the building, although the allocation of this parking is not made clear in the application. The site is surrounded by mature landscaping and is not prominent from the main Oxford Road to the north. There are no particular planning constraints relating to the site. The area is noted as being of High Landscape Value.
- 1.2 The proposal involves the change of use of part of 'The Hub' building to D1, for use as a day nursery.

2. Application Publicity & Comments

- 2.1 The application has been advertised by way of a site notice that was attached to the fence adjacent to the entrance of the site, press notice and neighbour letters. The final date for comment is 24th January 2013. At the time of writing this report, no representations have been received.

3. Consultations

- 3.1 **Adderbury Parish Council** – Supports the application.

Oxfordshire County Council Consultees

- 3.2 **OCC Highways** – Objects, on the grounds that the proposal is unsustainable as it is not accessible by means of transport other than the private car.

Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

C13: Area of High Landscape Value

C28: Layout, design and external appearance of new development

EMP4: Employment in rural areas

South East Plan 2009

CC1: Sustainable development

CC6: Sustainable communities

T1: Sustainable travel

T4: Parking

RE3: Employment and land provision

4.2 Other Material Policy and Guidance

The National Planning Policy Framework March 2012

Cherwell Local Plan – Proposed Submission (August 2012)

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:

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.

5. Appraisal

5.1 The proposal seeks planning permission for a change of use of a single storey building, known as 'The Hub' to form a day nursery. The application is accompanied by a Design and Access statement and Transport Appraisal (TA) which are available to view online.

Relevant Planning History

5.2 This application is a re-submission of a previously refused scheme (12/00890/F refers), albeit that this application is now supported by a Design and Access statement and TA that were absent from the previous application.

5.3 The previous application was refused for the following reason:

The building is in an isolated location, divorced from established centres of population, not well served by public transport and reliant on use of the private car. Use of the building as a day nursery will give rise to excessive traffic, will result in development that will not contribute

towards sustainable development objectives and will prejudice the aims of National, Regional and Local Policy, which seeks to focus development in areas that will contribute to the general aim of reducing the need to travel by private car. Furthermore, in the absence of a detailed transport assessment, travel plan and car parking layout, it is considered that the additional vehicular movements associated with the proposed development would be detrimental to the safety and convenience of users of the public highway due to the increased use of the road into the site which lacks a footway and the conflict between existing, business uses on the site. As such, the proposal is considered to be contrary to Policy EMP4 of the Adopted Cherwell Local Plan, Policy CC6 of the South East Plan and the National Planning Policy Framework (NPPF).

Policy Position

- 5.6 The site is located within an existing, acceptable employment site. Policy EM4 of the Adopted Cherwell Local Plan states that proposals for employment generating development within such sites will normally be permitted, providing the proposal and any associated activities can be carried out without undue detriment to the character and appearance of the landscape and without harming the special character or significance of a building of architectural or historic significance. The policy also states that the proposal must comply with other relevant policies in the plan.
- 5.7 Policy CC1 of the South East Plan states that the principal objective of the Plan is to achieve and maintain sustainable development in the region. Policy CC6 of the South East Plan relates to the promotion of sustainable communities, requiring LPA's to consider... 'accessibility, social inclusion [and] the need for environmentally sensitive development...'
- 5.8 One of the main objectives contained within Policy T1 of the South East Plan states that proposals should achieve a re-balancing of the transport system in favour of sustainable transport modes as a means of access to services and facilities. The supporting text of the policy states that the Regional Transport Strategy (RTS) creates an integrated approach to managing the demand for movement that capitalises on the opportunities created through the spatial strategy by seeking to adjust, over time, people's pattern of travel in a way that increases the use of sustainable modes while maintaining overall levels of access to services and facilities.
- 5.9 Whilst the proposal is broadly in accordance with the requirements of Policy EMP4, the supporting text of the policy refers to the need to consider the suitability of the local road network and the need for the development to be sustainable. In this case, the proposal is likely to attract a high level of visitors per day. The agent has confirmed that the nursery would accommodate up to 34 children, with 7 staff plus a 'kitchen helper' and the applicant acting as Principal. The nursery would operate for 50 weeks of the year, from Monday to Friday inclusive, opening 8.50am to 12 noon and from 13.00pm to 17.10pm. The nursery would therefore operate with two separate daily sessions.
- 5.10 The site is located beyond the built up limits of Adderbury, being approximately 0.4 miles from the edge of the village. Both outside and within the site there is a lack of continuous and adequate footpath and associated infrastructure such as dropped kerbs and tactile paving etc. For these reasons, the visitors to and from the site will not be encouraged to walk to the site, nor will they be able to use other methods of transport other than the private car, due to an absence of public transport connections to, or within close proximity to the site. The impact of the development on highway safety is explained in more detail from paragraph 5.17 below.
- 5.11 The NPPF advocates a presumption in favour of sustainable development. Paragraph 7 states that, 'there are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- **an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;
- **a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and
- **an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.'

5.12 The National Planning Policy Framework refers to giving people a real choice about how they travel, and the need for developments to be located and designed where practical to give priority to pedestrian and cycle movements. Specifically, developments should provide safe and suitable access to site for all people, clear and legible pedestrian routes and safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.

5.13 Whilst the proposal would make some contribution economically by re-using an empty unit for business purposes and employing a number of people, it is not located in the correct place, i.e. within a settlement with good access to alternative modes of transport other than the private car, which runs contrary to the social and environmental aspects of sustainability.

5.14 Accordingly, the principle of the proposal is not considered to comply with the requirements of the NPPF, Policies T1, CC1 and CC6 of the South East Plan or Policy EMP4 of the Adopted Cherwell Local Plan.

Impact on the Area of High Landscape Value (AHLV)

5.15 The site falls within an Area of High Landscape Value where the Council seeks to conserve and enhance the environment. The site is characterised by enclosed rough scrub land which is unkempt and overgrown.

5.16 Given the nature of the proposal, I consider that it will not intrude into the landscape setting and will not have a harmful impact on the AHLV or wider locality.

Impact on highway safety

5.17 The Local Highway Authority has objected to the proposal, stating the following:

A site visit has been carried out. The application site is located approx. 0.4 miles south of the built up edge of Adderbury, and approx. 1.3 miles from the northernmost residential part of the village. Site access is taken from the A4260, which is subject to a 40mph speed limit in the vicinity. Access to the village by non-car modes is poor and the journey involves gradients.

The application proposes a change of use of 130m² of The Hub building in Twyford Mill commercial/ industrial park from office to nursery use. A previous planning application, which was the subject of pre-application advice, was not supported by the Local Highway Authority and was subsequently refused planning consent (ref. 12/00890/F).

The proposed nursery will employ eight full-time equivalent members of staff. It will operate Monday – Friday from 0900 to 1800. 34 children from the age of six months to four years will be looked after onsite. There will be two separate daily sessions, however it is anticipated that the majority of the children (60%) will stay at the nursery all day.

The application proposes no change to access or parking. According to the application form, there are 40+ parking spaces, 2 disabled spaces and 20+ cycle parking spaces available. A detailed parking plan and information on the location/ type of cycle parking have not been submitted and are required. Please note that for a nursery it is advisable to provide wider parking bays than standard, due to a parent's need to get a young child in and out of the vehicle. It is also generally appropriate to provide some buggy storage onsite.

Planning/Design and Access Statement

According to this Statement, the existing commercial/ industrial site employs approx. 200 people, with additional/adjoining commercial development at Station Yard to the north. The Hub building has been unused for 3-4 years.

A 'drop off' parking area of 12 spaces is proposed at the front of the building. Clearly, details of marked bays and pedestrian routes will be required for consideration and approval.

A second car park area at the side of the building for >30 parking spaces is referred to, however it is unclear how spaces will be shared between the proposed nursery and the remainder/ future users of the Hub building. Details are required.

The Statement seeks to address the previous planning refusal re unsustainable location by stating that there are no existing nursery facilities in Adderbury and parents currently travel longer distances to transport their children to nurseries elsewhere. Additionally, the argument is made that employees who are already driving to work at Fired Earth onsite will likely use the nursery, hence creating no new trips on the highway network. Whilst there may be a 'linked trip' case to be made, it is also possible that for some local parents (e.g. working in Banbury) the trip to this site might actually take them out of their way. Other statements indicate that future nursery staff and customers can be encouraged to car share, and that some potential members of staff have indicated that they will cycle to work from Adderbury. Appropriate evidence should be submitted to support these views.

Adderbury is referred to as 'accessible by bicycle' and that 'parents using child bicycle carry seats could safely access the site'. It is dubious whether many parents would be happy to cycle their child along a 40mph classified road with no dedicated cycle lanes and a gradient to overcome.

It is stated that the footpath to the village is 'unsuitable and hazardous for young families to walk', however the application indicates no proposed improvements to the pedestrian route to the village (e.g. vegetation clearance, widening, dropped kerbs, crossing points, tactile paving).

Transport Appraisal

A Transport Appraisal (TA) has been submitted and considered. The TA provides information on the proposal, previous highway concerns and application refusal reason, traffic generation, access and parking provision, sustainability, road safety record and draft travel plan.

The proposal will generate 148 trips per day (assuming two staff members cycle). Any car sharing or linked trips (i.e. associated with Twyford Mill employees) might reduce this trip rate.

Section 4.03 - states that parents will be able to park onsite and escort their children to the nursery building, however as previously stated, the pedestrian infrastructure onsite is not considered to be adequate. There is no dropped kerb provision from the main car park to the pedestrian path, which is required for parents with young children/ buggies.

Section 4.04 - the limited footpath entering the site from the A4260 is of concern. This footpath should fully link into the nursery site. The applicant's statement that 'pedestrians and cyclists can walk on the carriageway' is not acceptable. The needs of pedestrians, cyclists and vulnerable road users must be considered as a top priority, above the needs of motorists. Due to the boundary vegetation, a motorist turning left into the industrial park site from the 40mph road is unlikely to have adequate forward visibility of any parents/ young children who have just stepped off the short footway onto the carriageway. The risk of pedestrian/vehicle conflict and rear shunt type collisions so close to the junction is evident.

Section 5.03 – refers to nursery age pupils being 'ill equipped to consider walking, cycling and the use of public transport'. Clearly, this is dependent on where a nursery is located. If a nursery is located within a village, there will be a higher proportion of walking/cycling trips undertaken by parents. For this proposed location, there are clear obstacles (distance, gradient, lack of appropriate infrastructure) to walking/cycling journeys, and the vast majority of parents are likely to use the private car.

Section 6.0 - the five year accident history indicates that there have been eight reportable collisions/accidents on the highway network in the vicinity of the site. Clearly this proposal will introduce more vulnerable road users (parents with young children) to the site where currently only commercial/ industrial related vehicles operate.

Section 7.0 – a draft travel plan has been provided. The nursery proposes to appoint a Travel Plan Coordinator and submit a full Travel Plan to OCC for approval in due course. I note that the draft travel plan needs more detail on the specific transport issues raised and how they will be addressed (e.g. pedestrian accessibility).

Summary and Recommendations:

*The Local Highway Authority is still concerned that the application site is not accessible by means of transport other than the private car, and is hence considered an unsustainable proposal. The site is located outside the built up area of the village and exceeds a realistic walking distance for young children, particularly given the gradients in the vicinity. Both onsite and offsite there is a lack of continuous and adequate footpaths and associated infrastructure such as dropped kerbs and tactile paving etc. There is also concern about the likely conflict between nursery and commercial journeys within the site and in proximity to the A4260. The Local Highway Authority therefore **objects** to this application.*

- 5.18 The issues in relation to highway impact can be distilled into two main points; the sustainability of the location and the appropriateness of the site to facilitate a day nursery (i.e. level of parking provision, suitability of drop off points, conflict between nursery and commercial journeys, lack of footpath etc).
- 5.19 In relation to the former point, the site is situated approximately 0.4 miles from the built up edge of Adderbury and access to the village by non-car modes is poor and the journey involves steep gradients. Having walked from the edge of Adderbury to the site, it is clear that the suitability of the existing pedestrian link is poor and would not be feasible for parents using push chairs and would clearly not be wide enough to fit a parent with toddler/child walking alongside.
- 5.20 In relation to the latter point, it is unclear from the submission how the allocation of parking between the nursery and the existing adjoining units would operate and no detail has been provided as to whether the level of parking provision that would be left over for the existing business unit is sufficient.
- 5.21 The LHA have identified concerns with regard to the conflict in uses on the site, given the inadequate onsite pedestrian infrastructure and hazards involving motorists turning left into the

site and the risk of pedestrian/vehicle conflict and rear shunt type collisions so close to the junction.

- 5.22 The applicants have acknowledged the unsuitability of the existing pedestrian network, stating that it is 'unsuitable and hazardous for young families to walk', but have not offered any improvement to it (as mentioned above).
- 5.23 Consequently, it is considered that the proposal would be detrimental to highway safety, by virtue of its unsustainable location, conflict with existing uses on the industrial site and lack of supporting information to demonstrate (inter alia) sufficient car parking and drop off points.

Other Matters

- 5.24 It should be noted that the site location plan submitted is incorrect. The red line should only be around the building for which the change of use is sought, whereas the plan submitted covers the entire building and parking area, which includes an existing business (Ward-Hendry Photography) which is not part of the application.

Engagement

- 5.25 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.26 The National Planning Policy Framework advocates a presumption in favour of sustainable development. Paragraph 7 of the NPPF sets out the three dimensions to sustainable development: economic, social and environmental.
- 5.27 In this instance, the proposal would contribute towards the economic role of sustainability, by providing jobs and to some extent, towards the social aspect by providing a service that demonstrably required in the area.
- 5.28 However, the economic role requires land to be 'of the right type in the right place'. In this case, it is clear that the site is not suitably located. The social role requires the provision of 'a high quality built environment, with accessible local services', but clearly it fails to achieve this, given the absence of suitable pedestrian infrastructure. The environmental role requires development to 'mitigate and adapt to climate change including moving to a low carbon economy'. Given that access to the site other than by means of the private car is very poor, it cannot be said to fulfil this aspect of sustainable development.
- 5.29 The proposal is considered contrary to the requirements of the NPPF, regional and local planning policy that requires development to be sustainable. The proposal also fails to demonstrate that it would not be detrimental to highway safety.

6 Recommendation

Refusal, for the reason as set out below:

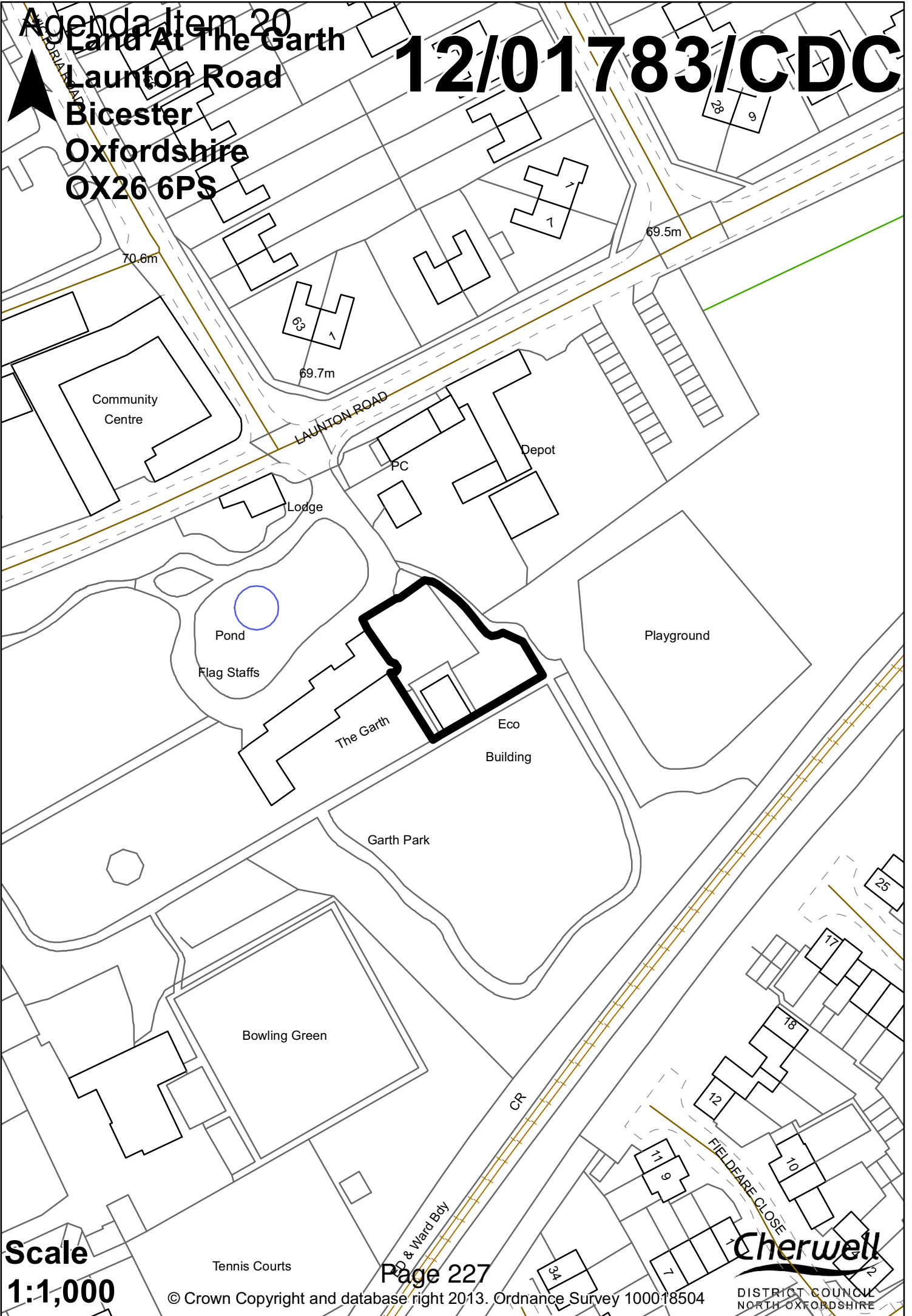
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|--|
| 1. The building is in an isolated location, divorced from established centres of population, |
|--|

not well served by public transport and reliant on use of the private car. Use of the building as a day nursery will give rise to excessive traffic, will result in development that will not contribute towards sustainable development objectives and will prejudice the aims of National, Regional and Local Policy, which seeks to focus development in areas that will contribute to the general aim of reducing the need to travel by private car. Furthermore, in the absence of a comprehensive travel plan and car parking layout, it is considered that the additional vehicular movements associated with the proposed development would be detrimental to the safety and convenience of users of the public highway due to the increased use of the road into the site which lacks a footway and the conflict between existing, business uses on the site. As such, the proposal is considered to be contrary to Policy EMP4 of the Adopted Cherwell Local Plan, Policies T1, T4, CC1 and CC6 of the South East Plan and the National Planning Policy Framework (NPPF).

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 20
Land At The Garth
Launton Road
Bicester
Oxfordshire
OX26 6PS

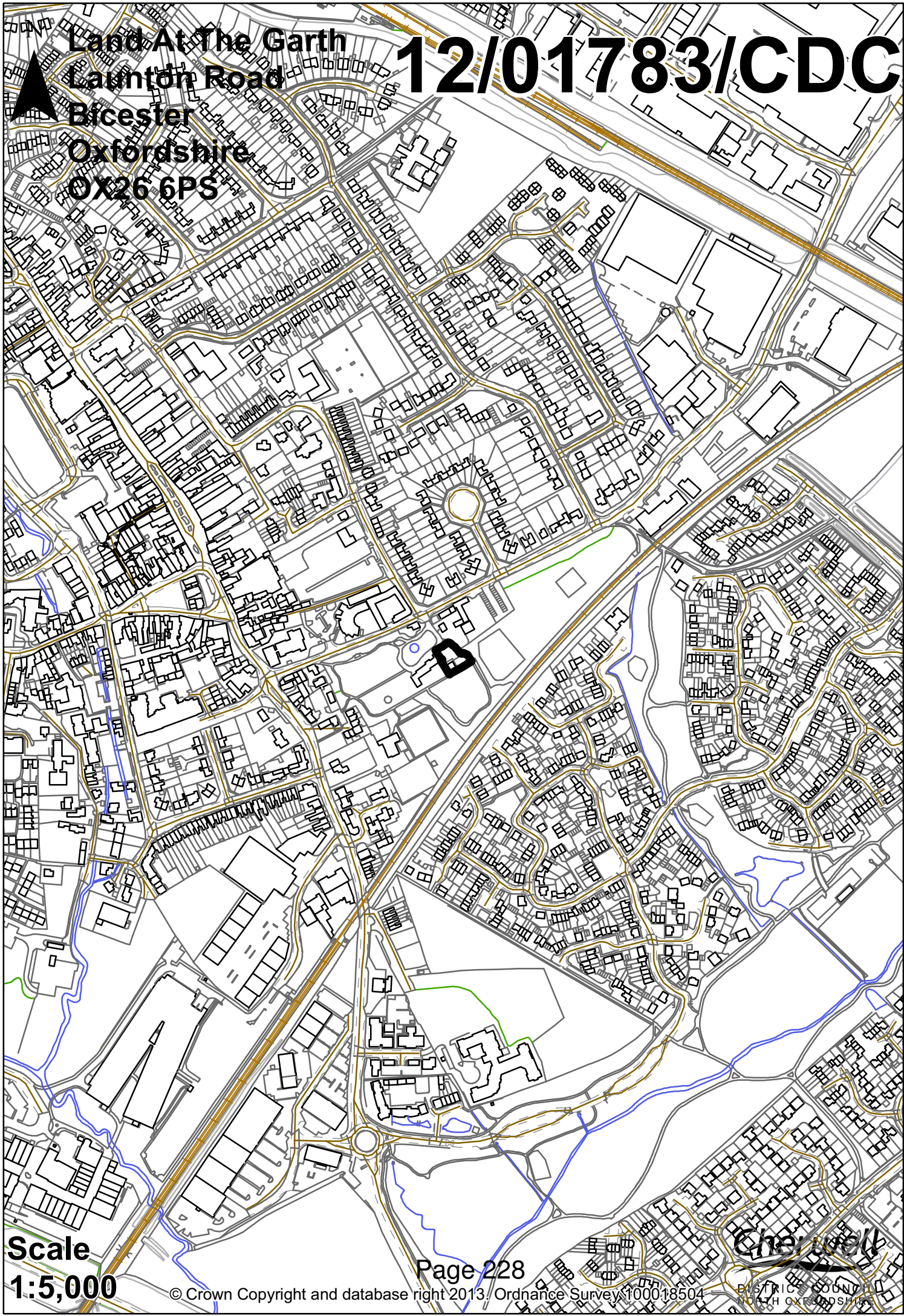
12/01783/CDC



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Land At The Garth
Lampton Road
Bicester
Oxfordshire
OX26 6PS

12/01783/CDC



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Page 228



**Land at the Garth
Launton Road
Bicester
Oxfordshire
OX26 6PS**

12/01783/CDC

Ward: Bicester Town

District Councillor(s): Cllr. Debbie Pickford &
Diana Edwards

Case Officer: Graham Wyatt

Recommendation: Approval

Applicant: Cherwell District Council

Application Description: Variation of condition 1 of 10/01681/F to allow retention of exhibition house for a further year.

Committee Referral: CDC application

1. Site Description and Proposed Development

- 1.1 The proposal seeks permission for the retention of an exhibition house that is sited within the grounds of The Garth. The house is sited on the green space to the rear (south) of the existing car park, with the gable end facing the main entrance to the site. The Garth is sited centrally within Bicester, close to the town centre, public transport links and parking, with easy public access
- 1.2 The Garth sits within the Bicester Conservation Area, and the grounds are an area of maintained public open space, with a play area as well as space for public events. The site is locked from dusk until dawn.
- 1.3 The exhibition house measure some 6.5 x 10.3m. The ground floor is an open plan area to allow the house to be used as an exhibition, display and meeting place. The first floor is divided into three rooms and two bathrooms. The roof space is not be accessible in the exhibition house, but will feature windows to demonstrate externally the possibility of using the roof space as living accommodation.
- 1.4 The exhibition house is installed on a reinforced concrete pad, with services and utilities from The Garth. The house is constructed using cedar roof shingles, cedar cladding to the first floor and flint cladding to the ground floor.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notice and press notice. The final date for comment is the 31st December 2012. At the time of writing the report, no correspondence had been received as a result of this consultation process. Any comments received will be reported to the committee.

3. Consultations

- 3.1 **Bicester Town Council:** No comments have been received from the Town Council.

Oxfordshire County Council Consultees

- 3.2 **Highways Liaison Officer:** No objections

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

CC2 – Climate change

CC3 – Resource use

CC4 – Sustainable design and construction

H5 – Housing and density

M1 – Sustainable construction

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 planning application seeks permission to allow the exhibition house to remain at the site for a further year. The exhibition house was originally granted permission in February 2010 under application 10/00109/F which approved the development subject to a condition that the building be removed within 2 years of the date of the permission.
- 5.2 A further application was approved in December 2010 (10/01681/F) that allowed a further 2 year period for the building. This permission expired on 21st December 2012. This current application seeks a further year for the building to be retained at The Garth.
- 5.3 As the site lies within the Bicester Conservation Area, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a requirement in relation to the consideration and determination of planning applications which affect conservation areas, that special attention should be paid to the desirability that the character or appearance of the conservation area should be preserved or enhanced.

- 5.4 The building has been at the site for over 2 years and forms part of the Council's demonstrator scheme for the eco-town development. The proposal has been designed to accord with the "Passivhaus" standards showcasing good levels of insulation, usage of solar energy (through passive heating and energy generation), energy efficient construction, low running costs as well as comfortable, healthy and sustainable finished developments.
- 5.4 As the site is within the Conservation Area, the impact of the proposal on the character or appearance must be considered. Whilst the proposal will appear as a new element within the grounds of The Garth and the wider Conservation Area, it is a temporary addition, constructed in naturalistic materials, which does not compete with The Garth in terms of its scale or its relationship to the wider open space and the Conservation Area as a whole. The house is visible from the Launton Road entrance to The Garth, but it is not considered that the siting or appearance of the exhibition house harms the legibility of The Garth as a lodge set in landscaped, largely open gardens and the proposal is therefore acceptable in terms of its impact on the character or appearance of the Conservation Area, especially as it is only a temporary structure.
- 5.5 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

6. Recommendation

Approval, subject to the following conditions:

1. That at the expiration of one year from the date of this permission the building shall be removed from the site and the land shall be restored to its former condition on or before that date.

Reason - The building, because of its design and siting, is not suitable for permanent retention and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

2. That, notwithstanding the provisions of Classes A to E (inc.) of Part 1, of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, the approved dwelling(s) shall not be extended (nor shall any structures be erected within the curtilage of the said dwelling(s) without the prior express planning consent of the Local Planning Authority.

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

3. That, notwithstanding the provisions of Classes A, B and C of Part 1, of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2008 and its subsequent amendments, no new window(s) or other openings, other than those shown

on the approved plans, shall be inserted in the walls or roof of the building without the prior express planning consent of the Local Planning Authority.

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

4. That, notwithstanding the provisions of Article 3, Part 1, Class H and/or Part 25 Class A or B of the Town and Country Planning (General Permitted Development) (Amendment) (No 2) (England) Order 2005 and/or 2008 and its subsequent amendments, no radio or TV aerials, satellite dishes or other antennae shall be affixed to any dwelling or erected within their curtilages without the prior express consent of the Local Planning Authority.

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.

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 is appropriate and will not unduly impact on public, private or other amenity, the character or appearance of the Conservation Area or the character of the context of the development. The proposal will allow the demonstration of sustainable methods of construction, housing delivery and other associated technologies and contribute to the effective delivery of sustainable development in the district as a whole and the delivery of the Eco-Town development in Bicester. As such the proposal is in accordance with government guidance contained within PPS 1 – Delivering Sustainable Development (and the Eco-Town and Climate Change supplements thereto), PPG 15 – Planning and the Historic Environment, Policies CC1, CC2, CC3, CC4, H5, M1 and BE1 of the South East Plan and Policies C28 and C30 of the adopted Cherwell Local Plan 1996. 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.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.

Agenda Item 21

Planning Committee

Rosemary Development - Fringford

31 January 2013

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

To bring to the attention of the Committee a planning enforcement case that is currently being investigated and to advise Members of the action to be undertaken by officers

This report is public

Recommendations

The Committee is recommended to:

- (1) Note the contents of the report and the Head of Public Protection and Development Management's intention to serve an Enforcement Notice requiring the demolition of the dwellings.

Executive Summary

Introduction

- 1.1 This case was received via the Ward Member at the end of May 2012. The complaint was that the dwellings as approved under planning application 11/01160/F had not been built to the approved plans. Specifically the concern was that the dwellings had been built further forward than shown on the approved drawings.

Planning History

- 1.2 A planning application was submitted for '*Demolition of existing dwelling and replace with 2 No. new dwellings*' on 25 July 2011 and approved on 15 September 2011 (Ref: 11/01160/F). Application to discharge conditions submitted on 1 November 2011 and approved 9 December 2011. (Ref:

11/00298/DISC)

- 1.3 The site is situated in the centre of Fringford. The previously demolished dwelling was not a listed building although a Grade II listed building, The Forge, is situated directly opposite the site to the south-east beyond a grass verge. The site is not in a Conservation Area although it is within an Area of High Landscape Value. The site is an Area of Archaeological Interest as part of the historic village core.
- 1.4 The demolished detached dwelling was set forward of its neighbours to either side. Vehicular access to the site was gained via a gated driveway, leading to a detached garage and an outbuilding stood adjacent to the south-western boundary of the curtilage. A low hedgerow marked the front boundary. A conifer hedgerow runs along the rear boundary of the curtilage, with stone built boundary walls to the side boundaries.
- 1.5 The approved development involved the complete clearance of the site and replacement with 2 no. detached three bedroom dwellings. The front elevation of each dwelling comprises two mid-eaves height dormer windows, single integral garage and entrance doorway with kitchen window. The dwellings would appear 'mirrored', both being of identical appearance. The depth of the dwellings would be formed using a gable feature upon the rear elevation, providing two-storey accommodation, with a ridge height that appears subservient to the front-most element of the dwellings. Two off-street parking spaces are provided to the front of the dwellings. The existing hedgerow at the front boundary was to be removed, with access to the dwellings centralised within the curtilage and 1 metre tall dry stone walls to be erected to either side of the access.
- 1.6 The construction materials are stone with brick detailing to match that of the neighbouring dwellings to the north-east and south-west. The roofs are tile. Windows and doors are constructed from timber.
- 1.7 The application was approved under delegated authority. It was considered that the development was acceptable on its planning merits given that the principle of the replacement dwellings was acceptable in this location and the dwellings were of a design, size and style that is appropriate in their context and would not cause detriment to the setting of the nearby listed building, highway safety, neighbouring properties or the visual amenity of the wider locality. Further, the development would preserve the character and appearance of the Area of High Landscape Value.
- 1.8 Specifically in relation to neighbouring properties, consideration was given to the impact on Kohanka within the Case Officers report.

The nearest dwelling to Kohanka to the south-west would extend beyond both the front and rear elevations of this neighbouring property. With regard to the front elevation, an integral garage is positioned closest to the site at ground floor level, with a dormer window at first floor level. The 45-degree angle has been applied to this window, as set out in the Cherwell District Council (CDC) Home Extensions and Alterations guide (2007) and the dwelling would not protrude into this line. A dormer window also exists upon the rear facing roof slope, although as the dwelling would only extend 1 metre beyond the rear elevation of this neighbours property and would not protrude into the 45-degree angle I do not consider that harm would be caused. No windows exist within the side facing elevation of this neighbouring property facing the site,

although I have recommended the attachment of a condition requiring the proposed bathroom window to be obscurely glazed due to proximity of the proposed window to this neighbouring property and the possibility of obtaining views down into the rear garden.

Enforcement History

- 2.1 A complaint was received from the Ward Member in May 2012 alleging the new dwellings may not have been built in accordance with the approved plans.
- 2.2 An initial site visit was carried out on 30 May 2012. The site compound was locked up restricting access, however on first assessment it appeared as if the dwellings had been built around 2 metres further forward than approved.
- 2.3 A meeting was arranged with the planning agent for the site (David Berlouis of Cadmonkies) on 8 June 2012. Mr Berlouis' electronic measure was used due to access restrictions on to the site. Measurements were taken from where Mr Berlouis had assumed the red line to be and found to measure accordingly with the approved plan.
- 2.4 Following the site visit the case was discussed amongst the enforcement team and it was concluded that the neighbouring properties should be measured to see how they were positioned in relation to the approved plans. This was carried out on 6 July. It was difficult to confirm from this visit where the boundaries were in relation to the plan as all boundary walls to the front of the site had been demolished with building materials and heras fencing obscuring some of the site. The visit did however confirm that the neighbouring properties were roughly in the correct location.
- 2.5 Initial advice was sought from the Legal Department on 11 July 2012. They advised that if the new builds were built in accordance with the approved plans then the authority would be unable to pursue any further action.
- 2.6 The case was discussed at during a meeting of other Senior Officers on 18 July 2012. It was agreed that a full site survey be carried out by the Enforcement Team including taking measurements of neighbouring dwellings either side. This survey was carried out on 31 July 2012.
- 2.7 A further comprehensive site survey by Officers was carried out on 7 August 2012, accompanied by the agent, owners and complainant.
- 2.8 Concern was also raised at this point by the Parish Council regarding the submission of amended plans. The original case officer provided details in the form of a synopsis dated 18 October 2012.
- 2.9 Given the complicated and unprecedented nature of this case, an independent full survey of the site was commissioned. ON Centre Surveys Ltd carried out a full survey on 28 November 2012.
- 2.10 A full report and overlay plans were received from ON Centre Surveys Ltd on 19 December 2012. Members will be supplied with a copy of the overlay plan at Committee.

- 2.11 Some concern was also raised regarding the insertion of windows at first floor levels on both side elevations overlooking both Kohanka and The Gables. These windows were not shown on the submitted plans and whilst we have been advised that the windows will serve en-suite/bathrooms, it is suggested that this matter can be encompassed in any future further action.

Consultations

Third parties with an interest in the site have been asked to provide comments.

Mr Berlouis (agent) on behalf of Mr & Mrs Ward (Applicants of the site)

Thank you for the opportunity to view and comment on the alleged breach of planning control.

The planning application site boundaries were prepared from digital information supplied by Ordnance Survey (c) Crown Copyright 2011. Under Licence number 100020449. The information was taken in good faith and several overall widths were taken on site together with depths to points which could be accessed within the constraints of the overgrown gardens and these concluded that they were correct.

We appreciate that all of the boundaries and ownership appear to be mis-aligned and we shall be contacting the owners to prepare new deeds, in line with the surveyed information.

We have prepared three separate plans using the digital plans prepared by On Centre to align established points on the West and Front boundary with Kohanka.

Plan 1 - would indicate that – on the new buildings are:
- **694.38 mm** forward of the approved position on the property on the West
- **388.66 mm** forward of the approved position on the property on the East.

Plan 2 - would indicate that – on the new buildings are:
- **138.65 mm** forward of the approved position on the property on the West
- **486.36 mm** forward of the approved position on the property on the East.

Plan 3 - would conclude that – on the new buildings are:
- Sited as per the approval plans on the property on the West
- Sited as per the approval plans on the property on the East.

The overall depth of the site from front to back on the

western boundary is **36095.18mm**

Depending on which alignment point you use building are correct or only slightly forward of the approved position. We can confirm from site measurements taken with Mrs Jarvis and Ms Baker that the dwellings themselves are smaller than those approved.

The site was very overgrown and we set out the building in good faith from the front boundary line. As the position is inconclusive we hope that no further action is required. We have however been advised that a non-material change application for the revised fenestration to the en-suite on the West and East facing elevations should be made.

**Mr Maciejewski
(Owner/Occupier of
Kohanka, Main Road,
Fringford)**

“The plans for the new development of the two new houses known as ‘Rosemary Cottages’ were submitted and passed as 2 no. three bed roomed houses. The new position as passed on block plan shows house no. 1 being .9 metres in front of the original Rosemary house.

House no. 1 has in fact been built 1.2 metres (four feet) further forward than passed on block plan, so that the new house is now 2.1 metres further forward than the original old building line.

So, when entering Main Street via the Village Green heading towards the Church you are now hit with a view of a huge gable end of stone and brick, completely altering the street view and aesthetic feel of this part of the village.

The points I would like to be raised are the following:

1) The new houses were set out on site by Cadmonkies, themselves, so why did Cadmonkies not reapply for planning when it was obvious that house no. 1 did not fit the site as on the block plan passed. A new application should have been made for a smaller house that would fit the site,.

2) The plans also showed an extra ensuite window overlooking the neighbours on either side which had not been submitted or passed by Planning.

3) We were informed by the CDC that Cadmonkies had told them that the new houses were in the correct position as passed on block plan, but that Kohanka and Gables properties were in fact further back than actually shown

on the Ordnance Survey block plan used. As proved by the Survey carried out by On Centre Surveys the Ordnance Survey block plan is correct and Kohanka and the Gables are in the right position as shown. As proven by the Survey the two new houses are 1.2 metres further forward than passed.

4) The new front boundary corner walls were requested by Mr. Hughes of the Highways Department to be built a minimum of 2.4 metres from the edge of the road. Cadmonkies written reply and block plans submitted state that the walls will be 2.6 metres from the road. This was agreed and passed at Planning.

5) I would like to point out the following:-

Condition 2 as laid down by the Delegates Report and Planning Conditions states,

“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: drawings No’s P/11/055/001 Rev:B received 01.09.11, P/11/055/003 ref: B received 31.08.11, P/11/055/004 Rev: B received 31.08.11, P/11/055/005 Rev: A received 31.08.11.”

“Reason – for the avoidance of doubt to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within PPS1.”

This Planning Condition has clearly been broken and ignored.”

Fringford Parish Council

“The Parish Council would like to make the following points with regard to the development.

The visual impact of the development in its current position is of significant detriment to the street scene of the village; particularly as it is opposite one of the village’s Grade II listed buildings - The Old Forge - which has been featured in Lark Rise to Candleford publicity and which visitors to the village admire.

There are serious concerns about the impact of future building work on the village that allowing this development to remain in its current position would have, both within the village and in the wider Cherwell District, and the Parish Council does not wish this development to set a precedent.

The Parish Council requests that now that the independent survey confirms these houses are too far forward by between 1 - 1.2 metres that the Council enforces the original set of plans and have the houses demolished and rebuilt as submitted in the original approved plans and that the Planning Officers acknowledge the precedent this development sets.

I trust that this is of help to the Planning Committee.”

**Mr Thwaites
(Owner/Occupier of
The Ganders, Main
Road, Fringford)**

- Firstly as the equipment used in the survey is accurate to +/- 3mm please explain the vagueness of the readings of 1 – 1.2 m.

- The position of the two new houses have been moved forward by a considerable distance towards the road, thus breaking the Condition 2 laid down in the Delegates Report

-I am concerned that the fact the Cadmonkies drawings do not state any key dimensions in relation to the position of these new buildings

- I am also appalled at the time delay of at least 5 months when no action was taken by the council and we have had to watch these houses continued to be built without and restraint. This has now led to the house being built and certainly one finished which is now being inhabited.

- Can you explain why only the offending party is able to represent themselves at the next meeting and no one (including a representative of the parish council) else allowed in? This seems to be “one sided” get together between the offending parties and CDC planning where no one who is directly affected or represents the village can state the overwhelming offence that the building of these new properties has caused. Where is the democracy in this planning process here?

[NB: This matter has been addressed and clarified by Officers.]

- There is also the consideration of the addition of extra windows which again went through without any consultation and directly overlook our property onto the front entrance again previously referred to: An additional window, not on the plans submitted and passed, has been added to bedroom 2 on both properties. The one now facing Ganders directly overlooks our driveway and front door so we are overlooked and lose our privacy.

- I would also point out that the two buttresses are also

built forward of the original planning line (as on drawing P/11/055/007 dated October 2011) and also confirmed by the independent survey (drawing number 21075A/2 of 29th November 2012) that these are also demolished and built as according to approved plans.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The independent survey concluded that the dwellings have been set out and built 1-1.2m further forward than as the approved plans showed. The survey indicates that this may be partially due to mapping intolerances from the ordnance survey based site plan. However, it is the independent surveyors opinion that had the original proposed site plan been based on an accurate topographical survey, prior to design, some of the problems may have been avoided, i.e. the size and shape of the site are not consistent with the Ordnance base plan.
- 3.2 Discussions with the applicants and their agent have indicated that the OS base map was not entirely accurate in the boundary details and that the OS base had to be altered to include the jut out of the wall on the South-western boundary. The overlay plans produced by On Centre Ltd, indicate that this is a key discrepancy from the actual position of the wall on site. When setting out the builds this may have been a key component of the incorrect positioning of the new dwellings.
- 3.3 One of the main concerns raised by local residents and the Parish Council is over the parking arrangements now that the properties are sited further forward into the approved parking areas for the dwellings. It is our opinion that this does not pose a significant issue as it has been demonstrated that four larger vehicles can be positioned on the driveway comfortably without encroaching on to the highway.
- 3.4 In respect of the current siting of the dwellings, whilst the approved dwellings were positioned forward of the established building line, it is considered that this is a material deviation from the approved plans. The increased projection of the dwellings by 1-1.2 meters creates an increased level of harm to the neighbouring properties, and also upon the wider locality. The approved siting of the dwellings did allow them to project by 3.5m forward of Kohanka and 3m forward of The Gables but this was considered acceptable. What has now been built significantly increases the impact of the new dwellings on both neighbouring properties and the streetscene, resulting in an unacceptable level of harm.
- 3.5 There has been some criticism over the delay in taking formal action. Clearly taking action earlier may have been premature until such time as a formal survey could establish the level at which there was an identified breach of planning control. The applicants were warned that any work carried out during the investigation would be at their own risk.

Conclusion

It has been proved that the dwellings have been sited 1-1.2m further forward than the approved plans. This results in a clear breach of condition 2 of the planning permission. Officers do not consider that the impact of the scheme in this location is acceptable due to the increased level of harm caused to neighbouring properties at Kohanka and The Gables, and the wider streetscene of Main Road, Fringford. Officers would not support a retrospective application for what has been built and therefore consider it expedient to take enforcement action. The legal department have been instructed to serve an enforcement notice.

Implications

Financial:	<p>The cost of taking enforcement action and defending any subsequent appeal can be accommodated within existing budgetary provision</p> <p>Comments checked by Kate Drinkwater, [Insert job title] 01295 22[Insert extension number]</p>
Legal:	<p>Officers have delegated authority to take enforcement action when they consider it necessary and expedient to do so.</p> <p>Comments checked by Nigel Bell, Team Leader – Planning & Litigation, 01295 221687</p>
Risk Management:	<p>Officers believe there has been a clear breach of planning control and consider it expedient to take enforcement action. Failure to do so would bring the planning regime into disrepute and may result in a complaint to the Local Government Ombudsman.</p> <p>Comments checked by Nigel Bell, Team Leader – Planning & Litigation, 01295 221687</p>

Wards Affected

Fringford

Document Information

Appendix No	Title
Appendix	ON Centre survey
Background Papers	
Planning Application Ref No. 11/01160/F	
Report Author	Michelle Jarvis, Senior Enforcement Officer
Contact Information	01295 221826 Michelle.jarvis@Cherwell-dc.gov.uk



ON CENTRE
SURVEYS

Cherwell District Council
Bodicote House
White Post Road
Bodicote
Banbury
OX15 4AA

Ref: RRJ/BC/21075A

19th December, 2012

For the Att. Michelle Jarvis

Dear Michelle

Re: "Rosemary Site", Main Street, Fringeford OX27 8DP

Following our recent visit to site I enclose our findings.

Project

Rosemary Site, Main Street, Fringeford OX27 8DP

Scope of Works

To undertake a comprehensive topographic survey to record the "as built" position of two new properties built on the site and to record the true plan position of neighbouring buildings and boundaries, inclusive of key heights.

Labour Force

The survey was carried out by competent members of our survey team under the direct supervision of Robert R. Jones (Director).

Survey Equipment

Leica GPS 500 System
Leica Total Station Accuracy + or + 3mm
Leica Disto (Laser Tape)

Cont'd ..

Re: "Rosemary Site", Main Street, Fringeford OX27 8DP

Method

We recorded approximately 200 critical co-ordinated points to physical features i.e. building corners, boundaries etc. All points were then related to a fixed control network with closure errors greater than 1/20,000. Survey drawing 21075A/1 was prepared and directly related to current Ordnance Survey digital data for the area by "best fit".

Opinion

The original planning drawing prepared for the development was created by Cadmonkies dwg. P/11/055/007, which indicates the proposed plot layout, buildings, boundaries, parking etc. Design details have been transposed onto existing Ordnance Survey digital data (prepared for a scaling accuracy of 1/1250).

When the accurate topographic survey is overlaid with the Cadmonkies plan, the anomalies in building positions and boundaries are obvious, however this is partially due to the mapping tolerances, given that errors would be evident between mapping prepared for 1/1250 and 1/50. When compared it would appear that both the new buildings sit forward of their proposed design position by 1.000 to 1.200m.

Had the planning document been based on an accurate topographical survey, prior to design, some of the problems may have been avoided, i.e. the size and shape of the site are not consistent with the Ordnance.

The Cadmonkies drawing does not state any key dimensions to position the new building.

There are no stated design ground or ridge levels, so I am unable to comment on the elevation of the new build in comparison to neighbouring buildings.

Con'td ...

Re: "Rosemary Site", Main Street, Fringeford OX27 8DP

Conclusion

The new build has been set out and constructed in front of the proposed building line.

We have adopted a process of due diligence and have acted with full integrity during the entire process.

Yours sincerely

R. R. Jones

ROBERT R. JONES
Director

Agenda Item 22

Planning Committee

Quarterly Report

31 January 2013

Report of Head of Public Protection And Development Management

PURPOSE OF REPORT

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

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept this report.

Background

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

The Current Situation

2.1 Enforcement

Appendix One provides a comprehensive history of those cases which have progressed to formal enforcement action of one type or another. I am pleased to be able to report that the continued effort to close down some of the older cases is being successful, albeit that some

inevitably continue to appear. This is due to the complexity of the legislation and the availability of challenges/delaying tactics for the potential recipient of enforcement action.

2.2 The formal action that is listed in Appendix 1 is of course only the culmination of the enforcement activity that results in the need to take formal enforcement action involving the use of notices. The enforcement staff receives a wide variety of complaints about alleged enforcement matters that require investigation. There are currently 157 live cases, which is a slight reduction since the last quarter. This still however represents a high level of activity for the limited staff resource. A recent review of the enforcement service concluded that additional staff were required and the recruitment of an additional member of staff is approaching completion.

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

2012 (first nine months) 1786 applications of which 45 were majors
2012 (Oct to Dec) 551 applications of which 21 were majors (These figures do not include DISCs, or NMAs.)

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

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

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

2012 – (to end December) 30 decisions received- 19 Dismissed (63%) and 11 allowed (37%)

Implications

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

Wards Affected

All

Document Information

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

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

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

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
ENF LB 18/08 26.06.08	Greystones Middle Street Islip	Removal of stonesfield slates and insertion of velux window in north elevation	Listed building Enforcement Notice served 03.11.08	15.09.09	04/00035/F 04/00036/LB	Appeal dismissed 7.08.09	7 August 2012	Hearing 16.06.09. Wording of the notice varied, compliance period extended, appeals dismissed 7 August 2009 Monitoring site for compliance Letter sent to owners to remind them of the need to comply by 7 August 2012. Site visit to be carried out prior to committee. Legal sent the owners a letter threatening action. Owners have stated that they will now comply. Site to be monitored for compliance
08/00604/ BCON	Lince Lane Copse	Breach of conditions 02/02064/F			12/00098/DISC			Letter sent to the occupiers requesting a timetable for compliance with conditions regarding footpath and car park- Planning application for discharge of condition 27 pending consideration Application is to be refused and referred back to enforcement for action

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
11/00093/ 94/95/96/97/ 98/99/100/ 101/ ECOU	Plots 1, 2, 12, 13,15 and 16 Land NE of Fenny Compton Road Claydon	Change of use of agricultural land to amenity land	22/02/2011	28/06/2011		Appeals received 28/03/2011		Hearing 6 and 7 September 2011 Plot Nos. 1,2,12,13,16 – requirements of notice varied on appeal, compliance period extended to 6 months – 28.03.2012 Verbal update to be given to committee Plot No. 15 – appeal dismissed compliance required by 28.12.11 Part compliance achieved on Plot 15 Plot 16 has not complied, General compliance achieved. Issues remain with Plots 2, 14 and 16. Letter sent to owners requiring compliance by 1 March 2013
10/00218/ ELISTED	Sundial Cottage Shutford	UPVC windows			11/00175/LB			Instructions to legal Requisitions served. Owner has applied to English Heritage to have the property de- listed. If that is unsuccessful agent has stated that windows will be removed. English Heritage has rejected the de-listing. Application approved 28/03/11 with conditions regarding the timetable for the works to be completed by Phase 1 by 31 October 2011 Phase 2 by 30 April 2012 Phase 3 by 31 July 2012 Complied with Phase 1 and 2 Part compliance achieved, compliance period extended SV to be carried out to check for full compliance with Phase 3

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
11/000**/ ECOUC	Land at Patrick Haugh/Harris Road, Upper Arncott	Container						Contacted agent and requested voluntary removal. If not removed further notice to be served Site visit to be carried out to check for removal of this container . Letter threatening action to be sent to owner/agent
11/00155/ ELISTD (1) and (2)	A.K.A. 54-56 Parsons Street Banbury	Timber enclosure and decking Awning and flood lights	29/07/2011	01/12/2011	11/00169/F 11/00170/LB refused 21.04.11 12/01268/F 12/01269/LB			Planning and Listed Building appeals dismissed 18 June 2012. Letter before action to be sent Planning applications for alternative scheme received and pending consideration Awning removed. Planning applications refused. Discussions taking place with owners. New applications anticipated
11/00197/ EUNDEV	30 Fenway Steeple Aston	Raised platform Children's playhouse in rear garden	16/01/2012	26/03/2012	11/01477/F refused 23/11/2011			Site visit to check for compliance Verbal update to be given Compliance achieved This item will not appear next time
12/00004/ EUNDEV	42 The Paddocks Yarnton	Erection of Timber fence and gates	02/02/2012	02/05/2012	11/01272/F			Planning appeal dismissed 23/03/2012 Part compliance achieved. Verbal update to be given

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00020/ ECOU	Bishops Blaize Burdrop	Change of use of the land from a public house to residential dwelling house	12/03/2012	12/09/2012	12/00678/F		4 April 2013	Enforcement appeal dismissed 4 Oct 2012 Planning appeal lodged 9 Jan 2013 against the refusal of 12/00678/F for change of use from PH to C3 residential
12/00040/ EBCON	Corner Meadow Farnborough Road Mollington	Breach of Condition 9 of 09/00622/F Site access has not been laid out in accordance with the site layout plan	21/03/2012	21/06/2012				Further application submitted Site visit to be carried out 25/10/12 Ownership of the site has been divided. Officers in discussions with both site owners re compliance

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00041/ EBCON	Corner Meadow Farnborough Road Mollington	Breach of Condition 8 of 11/00293/F Submit details of the area of play to the LPA	21/03/2012	17/04/2012				Further application submitted Site visit to be carried out 25/10/12 Ownership of the site has been divided. Officer in discussions with both site owners re compliance
12/00042/ ECOU	Corner Meadow Farnborough Road Mollington	Change of use from agriculture to use for siting of residential mobile home , residential caravans, shipping container and the laying of a hardstanding	21/03/2012	21/06/2012				Part compliance already achieved Further application submitted Site visit to be carried out 25/10/12 Ongoing breaches, further breaches occurring Planning application submitted that addresses some of the enforcement issues. Due to be considered at this committee meeting 31 January 2013
12/00050/ EUNDEV	Bishops Blaize Burdrop	Change of Use to use of the land for the storage of a shipping container	02/04/2012	30/05/2012			30 October 2012	Appeal received 2 May 2012 Written reps appeal Appeal dismissed 2 October 2012 Compliance achieved. This item will not appear next time

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00062/ ECOU	Arcott Racetrack Upper Arcott	Intensification of use as a motorcross racing/ practising use	07/03/2012	02/05/2012	11/01403/ CLUE refused 12/10/2011		04/08/2012	CLUE appeal in progress, conjoined with AVDC CLUE appeal. Public Inquiry arranged for 25 July 2012 Appeal lodged against the enforcement notice 04/04/2012 to be linked to CLUE appeals Appeal dismissed and enforcement notice upheld with corrections. Clue appeals withdrawn at the inquiry CDC to write to owners to remind them of the need to submit a management plan by the end of December 2012 Management plan submitted to LPA and approved Dec 2012
12/00063/ EBCON	Corner Meadow Farnborough Road Mollington	Breach of condition 5(iv) of 09/00622/F- Approved landscaping works to be completed by the end of the planting season	21/03/2012	20/11/2012				Part compliance achieved

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00113/ EBCON	Jacks Field Launton	Breach of conditions 3 and 4 of 10/00021/F			10/00021/F			Instructions to legal 23 April 2012 Further instructions sent 20 June 2012 Notice to be served PCN to be served
12/00163/ EUNDEV	Land south of Family Farm Oxford Road Weston on the Green	Breach of Conditions						Instructions to legal 26 June 2012 Consideration being given to serving a S215 notice
12/00190/ ELISTED	Gate Lodge The Coach House Mill Street Kidlington	Removal of internal walls and removal of central lower part of roof truss	20/08/2012	26/04/2013	06/00675/LB	Appeal in progress		Appeal in progress
12/00238/ EUNDEV	The Old Courthouse 42 Crown Road Kidlington	Porches on the front of units 3 and 5 not in accordance with approved plans	5/10/2012	11/01/2013	08/01039/F			Appeal lodged
12/00327/ PCN	Bishops Blaise Burdrop	Raising of the roof to the bottle store and conversion to residential us ancillary to public house						PCN served and replies received. Planning application requested by LPA

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00336 PCN	Park Farm Cottage St Giles Close Wendlebury	Alleged running of air conditioning business from garage						Instructions to legal 29 Nov 2012 PCN served
12/00352/ EBCON	Land adj to Caulcott Farms Duns Tew Road Hempton	Breach of condition 5 of 10/01879/F						Instructions to legal 10 Dec 2012 Requisitions served Agent is speaking to ASB team to work out solution
12/00360/ PCN	24 Middleton Road Banbury	Unauthorised extension and 2 studio flats on second floor						Instructions to legal 11 Dec 2012 PCN served
12/00364/ PCN	23 Nuffield Drive Banbury	Unauthorised building for the storage of materials relating to car repairs						Instructions to legal 13 Dec 2012 PCN served
12/00346/ EUNDEV	OS parcel 3873 NE of Hillside House Great Bourton to Cropredy (part 1 Lapper)	Various breaches of planning control						Instructions to legal Notice being drafted

Enforcement and Prosecution Quarterly Report – 31 January 2013

APPENDIX 1

Reference & Resolution Date	Site	Unauthorised Development	Enforcement Action	Compliance Date	Related Planning Apps & Appeals	Enforcement Appeal Status	Revised Compliance	Commentary
12/00347/ EUNDEV	OS parcel 3873 NE of Hillside House Great Bourton to Cropredy (part 2 Bolton)	Various breaches of planning control						Instructions to legal Notice being drafted
12/00306/ EPLAN	13 Farmfield Road Banbury	Not being built in accordance with approved plans						Instructions to legal 20/11/2012 Requisition served
12/00318/ ESigns	Barbers Shop 73 Sheep Street Bicester	Unauthorised Signs						Instructions to legal. Letter before action sent to owner.
12/000	Bell PH Hook Norton	Unauthorised works to a listed building						Site being monitored by enforcement team and conservation officers. Ongoing discussions with agent.

Planning Committee

Decisions Subject to Various Requirements – Progress Report

31 January 2013

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

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

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

This report is public

Recommendations

The Planning Committee is recommended:

- (1) To accept the position statement.

Details

The following applications remain outstanding for the reasons stated:

Subject to Legal Agreement with Cherwell District Council

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

	HPPDM to check legal agreement applicability and then to issue
10/00640/F (re-affirmed 24.5.12)	Former USAF housing South of Camp Rd, Upper Heyford Subject to legal agreement concerning on and off site infrastructure and affordable housing. May be withdrawn following completion of negotiations on 10/01642/OUT
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.
11/01907/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
12/00472/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
12/01020/F (11.10,12)	10-11 Horsefair, Banbury Subject to legal agreement to secure off-site infrastructure
12/01193/F (3.1.13)	Land SW Bicester Village Subject to reference to Sec Of State and legal agreement
12/01209/F (3.1.13)	Site of Tesco, Pingle Drive, Bicester Subject to reference to Sec Of State and legal agreement
12/01216/F	Land at Launton Rd, Bicester Subject to legal agreement to secure off-site

(8.11.12)	infrastructure and affordable housing
12/01321/OUT	Land at 4 The Rookery , Kidlington
(8.11.12)	Subject to legal agreement to secure off-site infrastructure
12/01475/LB	Old Bodicote House, White Post Rd. Bodicote
(6.12.12)	Referred to Secretary of State
12/01606/f and 12/01607/LB	1 Beargarden Rd, Banbury
(3.1.13)	Subject to no adverse comments before expiry of consultation period (see main agenda)

Implications

Financial:	There are no additional financial implications arising for the Council from this report. Comments checked by Kate Drinkwater, Service Accountant 01327 322188
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

Agenda Item 24

Planning Committee

Appeals Progress Report

31 January 2013

Report of Head of Public Protection and Development Management

PURPOSE OF REPORT

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

This report is public

Recommendations

The Planning Committee is recommended to:

- (1) Accept the position statement.

Details

New Appeals

- 1.1 **12/00926/OUT- Land adjoining and South of St Christophers Lodge, Barford Road, Bloxham-** appeal by Gladman Developments against the refusal of planning permission for
OUTLINE: Proposed development of up to 75 residential dwellings, landscape, open space, highway improvement and associated works- Inquiry

- 1.2 **12/00678/F – Bishops End, Burdrop, Banbury-** appeal by Mr G R Noquet against the refusal of planning permission for Change of use of a vacant public house to C3 residential (as amended by site location plan received 18/07/12)- Hearing

- 1.3 **12/01543/F- 27 Fallowfields, Bicester** – appeal by Mrs K J Brandon against the refusal of planning permission for a single storey rear extension and conversion of double garage to annex – Householder written reps
- 1.4 **12/00624/F- 25 Bridges Close, Bloxham** – appeal by Jane Abel against the imposition of conditions 1,2, 3 and 4 imposed on the grant of planning permission regarding landscaping and the removal of fencing on the western boundary – Written reps

Forthcoming Public Inquiries and Hearings between 31 January 2013 and 28 February 2013

2.1 None

Results

Inspectors appointed by the Secretary of State have:

- 3.1 **Dismissed the appeal by Mr M Lepper against the refusal of application 11/01754/OUT for a pair of semi-detached houses at 1 White Houses, Mere Road, Finmere (Delegated)** - Visibility for drivers exiting the westernmost parking space would be restricted by the nearby hedge and fence on the western boundary of the site. The available visibility would lie far below the stopping sight distance required. The Inspector concluded that the proposal would therefore have inadequate highway visibility to the west and this would have a severe adverse impact on highway safety in Mere Road.
- 3.2 **Dismissed the appeal by Mr Alun Curtis against the refusal of application 12/01274/F for a two storey side extension at 14 Merton Way, Yarnton (Delegated)** - The Inspector was of the view that the gabled roof would be a discordant feature that would appear out of keeping with the form and proportions of the existing building and with the roofscape in the locality. The two storey part of the proposed extension would appear as a disproportionate addition to the existing building. In this case such an addition would give the semi-detached pair an unbalanced appearance that would harm 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