

Site Address:
74 Heyford Park,
Camp Road,
Upper Heyford

13/00740/F

Ward: The Astons and Heyfords

District Councillors: Councillor Mike Kerford-Byrnes
Councillor James Macnamara

Case Officer: Andrew Lewis

Recommendation: Approval

Applicant: The Heyfordian School Trust

Application Description:

Change of Use of Building 74 and associated open space to Class D1 including external and internal alterations and associated infrastructure and landscaping works

Committee Referral: Major

1. Site Description and Proposed Development

1.1 The application site for this proposal is part of the former RAF/USAF Upper Heyford base. Building 74, the former Officers Mess, is identified on the appended site plan and with its curtilage measures approximately 1.5 hectares in size, the Heyford base being approximately 505 hectares in total.

1.2 In 1925 under the strategy known as the Air Defence of Great Britain, a new permanent three bomber airfield was planned for Upper Heyford. The importance of this station (it being close to both London and Oxford) was reflected in the style and size of the Officers' Mess, being on a grander scale than that built at other contemporary stations. The base was designated a conservation area in 2006, its primary architectural and social historic interest being its role during the Cold War. The nature of the site is defined by the historic landscape character of the distinct zones within the base. The designation also acknowledges the special architectural interest, and as a conservation area, the character of which it is desirable to preserve or enhance and provides the context and framework to ensure the setting and appearance of sections of the Cold War landscape are preserved. This application is within the Technical Area as defined within the Conservation appraisal.

1.3 In the appraisal, the character of the Technical Area is described as:

“... characterised by the ‘campus’ layout of deliberately sited, mix function buildings, in an open setting with organised tree planting. The variation in building type is both a function of their differing use and the fact that there has been continual construction within the site as part of the different phases of development within the airbase. The setting of the 1930s aircraft hangers in an arc on the northern edge of the site provides a visual and physical edge to the site. The access to the Technical Site is dominated by Guardroom (100) and Station Office (52). To the east of these is the impressive 1920s Officers' Mess (74) set within its own lawns. The style of these 1920s, red brick, RAF buildings is British Military.”

1.4 The Technical Site is the first area of the base accessed off Camp Road after passing through the main gate. This area is fronted on the west of the entrance, by the 1920s

Guardroom (100) and to the east Heyford House (52) (originally the Station Operations Room and Headquarters), These buildings together with Building 74, the original Officers' Mess and subject of this application, and the buildings immediately to the south on the southern side of Camp Road are part of the initial development phase of the airfield and constructed in 'British Military' style that was the dominant influence in architectural style at the time of construction. The style, in fact, is well suited to the organised 'campus' layout of the site with deliberately sited, low-density, buildings, grassland and organised tree planting. Building 74 was one of the most prestigious Officers Mess buildings in the country when constructed and together with the other buildings mentioned above form an important and coherent group of buildings at the front of the site. None are listed though all are regarded of being of importance nationally as examples of mid 1920's RAF base architecture.

- 1.5 Only two buildings in the Technical Area are statutorily protected. They are buildings 126 and 129, the Battle Commend Centre and the Hardened Telephone Exchange and both are Scheduled Ancient Monuments. Neither is directly affected by this application. Building 74 is itself considered to be of "local importance".
- 1.6 In terms of the uses on site, the military use ceased in 1994. Since 1998 the site has accommodated a number of uses in existing buildings, first under temporary planning permissions latterly under a permanent permission granted on appeal and subsequent applications. For the last three years the site has been owned by the Dorchester Group. In that period the base has accommodated approximately 1,000 jobs and homes for around 750 residents.
- 1.7 Within the technical area there are a number of established businesses undertaking a wide range of operations. The major A type aircraft hangers are used for general industry and storage, primarily for car processing, but other buildings contain more modern high tech offices with research and development. There are also a wide range of workshops in some of the smaller premises. The heart of the Technical Area is proposed for residential development under the masterplan approved for the new settlement (see planning history below).

1.8 **The Proposed Development**

The current application is one of two seeking planning permission that would create a "Free School" at Heyford Park. The other application is for change of use of the sports hall (Building 583) and part of the playing field associated with it to educational and community use which Committee resolved to approve in May and which was preceded by the outline application last year. The situation is further complicated by the start date for the new school being September 2013 for which neither building will be ready. Permission has therefore been granted to erect a temporary portable building for use as a school on land in front of Building 74 (ref 13/00736/F).

- 1.9 The application subject of this report is for the change of use of Building 74 to non residential educational use which may be considered to be the more important one as it would create the main school building. Committee have already agreed in principle to the change of use on the previous submissions in effect establishing the principle of the educational use. This application now provides details on the physical alterations to the building and other works necessary to implement the permission, if granted. It also seeks consent for a new access to Camp Road although full details do not appear to have been submitted with the application
- 1.10 The main elements of this proposal are an in/out access to the site from Camp Road with parking provided along it. The open space in front of Building 74 is divided into two areas for soft and hard play. A separate area for early years play is shown towards the rear off the main access. Parking for staff and visitors is shown, again, off the main access and also in front of Building 74. The main recreational area is

obviously at Building 583, a kilometre away

- 1.11 To remind members, the applicants have already secured consent from the Secretary of State for Education to open a new school at Heyford Park opening in September 2013. The school would be a 2 form entry, through school i.e. for children from 4 to 19, so both primary and secondary education. There would be potential for a total of 840 pupils when the school is fully open in 2019 but the opening is phased with only Reception and Year 7 opening in 2013, followed by Year 1 and Year 8 in 2014, 2 and 9 in 2015, etc until the school is fully open in 2019.

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 27th June 2013. The applicant also undertook a substantial pre-application consultation exercise in November and December 2012 with regard to the "Free School" proposal. No comments have as yet been received.

3. Consultations

- 3.1 Upper Heyford Parish Council: strongly supports this application. The provision of quality education on Heyford Park both welcome and necessary in this expanding community and surrounding villages.

Cherwell District Council Consultees

- 3.2 Lower Heyford Parish Council: No objection
- 3.3 Ardley with Fewcott Parish Council: No objection
- 3.4 Conservation and Urban Design Officer: has repeated previous concerns about lack of detail but in principle has no objection to the internal alterations and external changes.
- 3.5 Anti-Social Behaviour Manger: No comment
- 3.6 Ecology Officer: Bat survey is acceptable, they are likely to get a licence as they are keeping the majority of the roosts in situ and the proposed methodology is appropriate for avoiding disturbance. The temporary boxes should also be retained post-construction.

The proposed enhancements could be conditioned. The rest will come under licence anyway and may be subject to amendments by NE so a condition regarding the licence only should be fine.

- 3.7 Environmental Protection Officer: (Previous comments repeated)

I have looked at these details and the Site Investigation Report submitted as part of this application identifies localised contamination by a range of contaminants that have the potential to affect future occupants and controlled waters (principal aquifer) under the site. Owing to the historical and current activities on, and adjacent to the Site, there is the potential for further contamination to exist within the soils and underlying groundwater. I concur with the applicant's consultant (Waterman) that although there was an earlier site investigation (1997) it is proposed that:

1. A supplementary Ground Investigation should be undertaken at the Site, and that a Remediation Strategy developed and implemented if required; this would ensure that the Site is suitable for use and that there would be not be an unacceptable risk posed to future human receptors using the Site.

2. As part of the Ground Investigation, the ground gas regime on the Site is assessed. Gas protection measures should be implemented (if required) in accordance with guidance contained in '*Assessing Risks Posed by Hazardous Ground Gases to Buildings (revised) (C665)*' (Construction Industry Research and Information Association, 2007) and '*Guidance on Evaluation of Development Proposals on Sites where Methane and Carbon Dioxide are Present*' (National House-Building Council, 2007).

3. With regard to the protection of controlled waters, surface water drainage systems for the Site should be designed to incorporate suitable interceptors, filters and silt traps to avoid the discharge of any fuels or oils that have entered the system, into the underlying groundwaters and nearby watercourses

As the applicants have in part, met the Council's normal full contaminated land conditions, I would recommend that conditions be applied to the consent to ensure the proposals within the Waterman report are undertaken i.e. Supplementary ground investigation report, Remediation strategy with remediation plan and Validation report:

Oxfordshire County Council Consultees

3.8 The County Council have lodged an (holding) objection on what appears to be primarily highways grounds. The County's specific comments are set out below::

Transport:

- A legal agreement and conditions are required.
- New accesses are proposed but unclear if visibility from them is acceptable
- A single access would suffice rather than in/out
- There are concerns and further information is required about the proposed Stop/ Give Way point just north of the tennis courts. To what traffic approaching from the right (and to how many vehicles) will school-related traffic be giving way? Clearly this proposed arrangement raises some concerns in terms of potential conflict between circulating vehicles and pupils, particularly those using the play areas at the front of the site
- Parking spaces appear to have been reduced from 45 to 37. Why? Some of the spaces may not be usable as laid out.
- 30 cycle hoops are provided. Some sort of justification/explanation is required. They should also be relocated to a better location
- Details on drainage are required
- The Transport Assessment is still vague and replicates an earlier submission:
 - there no reference to cycling; how many school buses are proposed, and what routes/ catchments will these serve? What walking routes are available/ proposed? Where is the 'park and stride' site/s? What consideration/ provision has been given to pupils who live relatively locally but whose parents may choose to drive them to school (e.g. due to work commitments)?
- The applicant must submit plans of how students from Bicester and various settlements will be conveyed to school, so that the arrangements are no worse than if the school was in Local Authority control. Failing this, they must fund the early implementation of phase 1 of the route 25A improvement, to provide additional morning and afternoon peak journeys on Mondays to

Fridays, until such time as this service improvement is triggered from the main Heyford development.

- Details of servicing and refuse are vague. They also take place outside the site.
- Pedestrian accessibility and connectivity around the site needs to be improved. There is no obvious route for pedestrians from the school buildings to the soft play area to the south. As previously mentioned, there are concerns about potential conflict between circulating vehicles and pedestrian flows, therefore a dedicated pedestrian path is required.
- A bus drop off point is shown on plans at the front of the school but without any information on the number of buses and minibuses that will operate on a daily basis, I cannot advise whether the proposed bus parking provision will be sufficient or whether localised congestion within the site (and potentially on Camp Road) may occur. Furthermore, there is no refuge area for pupils alighting from bus/es, which is required to minimise the likelihood of potential conflict between bus passengers and other vehicles on the school access road
- Footpaths are too narrow. Details are required how pedestrians will pass through the Trident area.
- Improvements are required to off site junction improvements at Chilgrove Drive and Camp Road

Transport and Planning Strategy:

- Given its rural location, Heyford is not generally regarded as a sustainable location as it has very limited access to local services / amenities and alternatives to the private car
- The school will become a major trip generator with an impact on the area's transport system
- The developer should contribute £12,000 through a S106 Agreement to fund the provision of a pair of bus stops in the vicinity of the Free School. Improvements are required to the bus service to enable improvements to trips from the outlying catchment area
- There are a number of public rights of way routes in the vicinity of the site. The consented approval includes improvements to the linkages to these and reinstatement of historical bridleways.
- Figures from trip generation do not seem realistic, 574 are predicted from Heyford Park by 2019.
- A travel plan is required

- Education:

- The Heyford Park Free School will be an academy approved by the Secretary of State through the free school process. It will be its own admissions authority, setting its own admissions number and admissions criteria.
- In due course it is expected to largely serve the planned housing development at Upper Heyford. When this development is fully populated, it is expected to generate a school-aged population broadly equivalent to one form of entry.
- This school plans to provide two forms of entry.
- There are some children in existing local settlements without schools, who already have to travel to another town/village to attend school, who may choose to attend Heyford Park School instead – this will represent a change in travel patterns, but not necessarily an increase in distance travelled.
- The increase in school capacity is expected to be greater than the increase in local population. Until the housing development is fully populated, this discrepancy will be larger. The extent to which this is

manifested in spare places at this school, or increased pupil traffic in from other areas, will depend on patterns of parental preference which cannot at this stage be predicted.

Additional Comments:

- It has been requested that the already committed improvements to the local public rights of way, secured by previous, existing s106 agreements are bought forward.
- There appears to be no archaeological issue

Other Consultees

3.9 English Heritage: No comment

3.10 Crime and Design Prevention Officer: The only advice I can offer at this juncture is to refer the applicants to the principles and standards of the Association of Chief Police Officers (ACPO) crime prevention initiative for the built environment, Secured by Design (SBD). I urge them to incorporate said principles etc. wherever possible within the proposals, and to contact me as soon as possible so that they may be advised on how to achieve this.

3.11 Natural England: Further information required on bats. (This has now been provided and conditions are recommended by our Ecologist).

3.12 Environment Agency: No objection subject to conditions

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan 1996

The Cherwell Local Plan was adopted in November 1996. Although the plan was intended to cover the period to 2001 it remains part of the Statutory Development Plan. The Cherwell Local Plan was adopted shortly after the former airbase was declared surplus and therefore does not have any policies specifically in relation to the site. The following saved policies are however considered relevant:

C18	Historic Buildings
C10	Historic Landscape
C23:	Conservation Areas
C28	Design Considerations
TR7:	Traffic on Minor Roads
TR1:	Transportation Measures
EMP4:	Employment in Rural Areas
R12	Open Space Provision
T2:	Tourist Accommodation

South East Plan 2009 (SEP)

The Regional Strategy for the South East (Partial Revocation) Order 2013 revoked the South East Plan with effect from 25th March. "The effect of Article 3 of this Order

is to revoke all structure plan policies in the region with the ...significant... exception of ... policy H2 of the Oxfordshire Structure Plan 2016, which relates to the former air base at Upper Heyford in Oxfordshire.”

The Structure Plan (OSP) which had effectively been replaced by the SEP included, unusually for such a strategic document, a site specific policy for Upper Heyford. This policy, H2, was saved by the SEP. Although the thrust of the OSP was to direct development towards urban centres, paragraph 7.7 of the Structure Plan advises that; “Land declared surplus by the Ministry of Defence at the former airbase at Upper Heyford represents an opportunity to achieve an appropriate balance between environmental improvements to a rural part of Oxfordshire, conservation of the heritage interest from the Cold War, and reuse of some existing buildings and previously developed land located in the former technical and residential areas of the base.”

4.2 Other Material Policy and Guidance

- National Planning Policy Framework-March 2012

At the heart of the National Planning Policy Framework is a **presumption in favour of sustainable development**,

For **decision-taking** this means:

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted.

- Planning for Schools Development DCLG August 2011

- Cherwell Local Plan – Proposed Submission Draft (August 2012)

The draft Local Plan has been through 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:

- Policy Villages 5-Former RAF Upper Heyford

In addition:

- Planning Obligations Interim Planning Guidance (April 2007)
- The Revised Comprehensive Planning Brief 2007 (RCPB)

4.3 The purpose of the RCPB was to elaborate on and provide guidance supplementary to Policy H2 of OSP 2016. It was adopted as a SPD in March 2007. While it does not form part of the statutory development plan, it expanded on and supplemented OSP 2016 Policy H2. The SPD was prepared in accordance with the requirements set out in the version of PPS 12 (Creating Local Development Frameworks and the accompanying companion guide) current at the time of its development and adoption. The RCPB 2007 SPD is a significant material consideration in the processing of planning applications concerning the site at the former RAF Upper Heyford airbase.

- 4.4 The brief Specifically intends to assist in the quality delivery of:
- a settlement of about 1,000 dwellings as a means of enabling environmental improvements, conservation of the site's heritage interests while achieving a satisfactory living environment;
 - necessary supporting infrastructure for the settlement including primary school appropriate community, recreational and employment opportunities
 - conservation of heritage interest
 - environmental improvements including site wide biodiversity enhancement;
 - journeys by foot, cycle or public transport – rather than by car;
- minimisation of the development's impact of traffic on the surrounding road network

- 4.5 The RCPB sets out the vision for the site and identifies the seven elements set out below;
- i) The construction of the new settlement on the former technical core and residential areas, retaining buildings, structures, spaces and trees that contribute to the character and appearance for the site and integrating them into high quality place that creates a satisfactory living environment.
 - ii) A community that is as sustainable as possible, in the provision of community facilities and in balancing dwellings and employment opportunities, given the site's location
 - iii) The creation of a satisfactory living environment within and around the new settlement, integrating the new community in to the surrounding network of settlements by reopening historic routes and encouraging travel by means other than private car as far as possible.
 - iv) The preservation of the stark functional character and appearance of the flying field beyond the settlement area, including the retention of buildings of national interest which contribute to the area's character (with limited, fully justified exceptions) and sufficient low key re-use of these to enable appropriate management of this area.
 - v) The achievement of environmental improvement within the site and of views of it to include the removal of buildings and structures that do not make a positive contribution to the special character or which are justified on the grounds of adverse visual impact, including in proximity to the proposed settlement, together with limited appropriate landscape mitigation, enhancement of ecological interest and reopening of historic routes.
 - vi) The conservation and enhancement of the ecological interest of the flying field through appropriate management
 - vii) Visitor access, controlled where necessary, to and interpretation of the historic and ecological assets of the site

4.6 Conservation Area Appraisal

The RAF Upper Heyford Conservation Area was designated in April 2006. A Conservation Area Appraisal (CAA) was produced for the site and adopted by the Council in April 2006. The CAA includes the historic significance of the site, analyses its character and heritage assets, assess the special interest, negative factor affecting the site and summarises the issues. It describes the site as; 'The landscape setting and hardened concrete structures of the former RAF Upper Heyford have the power to communicate the atmosphere of the Cold War.'

The CAA identifies the following key areas in the summary of issues;

1. Protection of the Historic Buildings and Landscape
2. Vulnerability of the site to fragmentation
3. Reuse of the retained buildings
4. Incorporation of a new settlement

5. Appraisal

- 5.1 The former airbase was confirmed surplus to MOD requirements in September 1994 just before the current Local Plan was adopted in 1996. It does not contain any policies specifically relating to the site. A revised Structure Plan was adopted by the County Council in 1998 and included policy H2 which sought to address the future of the site. Policy H2 identified:
- the site for a development of about 1,000 dwellings and supporting infrastructure including a primary school and appropriate community, recreational and employment opportunities;
 - that the future of the site be guided by a comprehensive planning brief adopted by the Council;
 - substantial landscaping and other environmental improvements be provided; and that
 - the new settlement be designed to encourage journeys by foot, cycle or public transport rather than by car.
- 5.2 A Comprehensive Planning Brief (CPB), as required by OSP 2012 Policy H2, was adopted by CDC in 1999. The CPB sought to guide development proposals for the base and included the clearance of all structures located beyond the proposed settlement area and restoration of the land. The CPB included draft Local Plan policies which were adopted for development control purposes.
- 5.3 At present primary age children from the existing housing attend the school in Tackley. However, the proposed development would generate sufficient numbers of children to justify the provision of a school to serve the development and its provision would reduce the need to travel for education for primary age children. A new primary school has therefore been identified in the CPB as necessary to serve the settlement: "A site of 2.2 hectares, acceptable to the County Council, should be reserved for this purpose. Schools are often a focus for the community and a visible location and a design that reflects the importance of the use of the building should be provided. It should be designed to be a landmark building and make a positive contribution to the street scene and should integrate into the local centre if possible. The implications of integrating the open playing field into the street scene should be given careful consideration. The location of the primary school should also be such that there is convenient access by foot and cycle from the remainder of the settlement and consideration be given to a location with other buildings serving the community. Education beyond primary age and special educational needs are to be provided for off site. No provision within the new settlement will therefore need to be made except for convenient and accessible drop off and pick up for school transport."
- 5.4 In 2005, a revised Structure Plan 2016 was adopted. Policy H2 was retained in an amended form identifying the purpose of development on the site as enabling to deliver environmental improvements, conservation of the heritage interest across the whole site, compatible with achieving a satisfactory living environment
- 5.5 In November 2005, a Conservation Plan was produced for the flying field. The plan was jointly commissioned by CDC, EH and North Oxfordshire Consortium (NOC). The plan identified the historic importance of the site as a Cold War landscape and the importance of individual structures on the site. The plan identified greater levels of significance for the site than EH had previously identified. A further assessment of the areas excluded from the Conservation Plan was commissioned by CDC and completed in March 2006. These studies were used to inform the decision to designate the whole site as a conservation area in April 2006 and the Revised Comprehensive Planning Brief. A Revised Comprehensive Planning Brief was adopted as SPD in March 2007.

- 5.6 Over the last 10 years numerous applications have been made seeking permission to either develop the whole site or large parts of it and numerous of them have gone to appeal. The most relevant to the current application, and most recent, were firstly application ref 08/00716/OUT, an outline application that proposed: "A new settlement of 1075 dwellings, together with associated works and facilities including employment uses, community uses, school, playing fields and other physical and social infrastructure (as amended by plans and information received 26.06.08)."
- 5.7 Following a major public inquiry that commenced in September 2008 the Council finally received the appeal decision on the above proposed development in January 2010. The appeal was allowed, subject to conditions, together with 24 conservation area consents that permit demolition of buildings on the site including 244 dwellings. Due to the scale of the development proposed, the appeal was referred to the Secretary of State for Communities and Local Government for determination. The decision letter from the Secretary of State (SoS) can be read in full on the Council's web site:
<http://cherweb.cherwell-dc.gov.uk/AnitePublicDocs/05757874.pdf> .
- 5.8 Although the appeal was lodged on the grounds of non-determination the Council resolved to object to the proposal on several grounds including its failure to conform to the Planning Brief for the site, that the development was unsustainable, the type of employment was inappropriate, transport measures were inadequate to cope with the development, damage to the character and appearance of the conservation area and the information submitted was inadequate or failed to justify the proposal. The reasons for refusing the conservation area consents were either the loss of buildings that contributed positively to the conservation area, that a cleared site would detract from the conservation area and/or their demolition was premature without an approved scheme for redevelopment.
- 5.9 The SoS considered there to be three main issues: the policy context for the proposal, with particular reference to the development plan and PPG15; Design Principles and PPS1; and Housing and Sustainability of location. There was a fourth, planning conditions and obligations.
- 5.10 On policy, the SoS thought the development was in general conformity with the Oxfordshire Structure Plan policy H2 which seeks to provide a community of about 1000 dwellings with schools and employment opportunities, though not the Council's Development Brief for the site, and that it would enable environmental improvements, conserve heritage interests and provide appropriate level of employment. In terms of employment, the SoS recognised that businesses were well established and there were 500 people currently employed in car processing. Economic benefits were a "weighty material consideration" and they did not seem to outweigh the harm to the character of the conservation area. However the Inspector refers to the need to balance heritage interests against exceptional circumstances to justify overriding the presumption to preserve and enhance the conservation area. On reuse of buildings, it was considered their retention would outweigh the breach in the number of jobs limited on the site by policy H2
- 5.11 On design, the SoS seems to have accepted the development would meet the aims of PPS1 and Cherwell could draw up policies and use conditions to reflect up to date design guidance in PPS1. The provision of 1075 houses was seen to be consistent

with policy H2 and that a small settlement in this relatively isolated location justified the legacy of the airbase. Shops would provide a service to the community and the employment would stop Heyford becoming a dormitory town.

- 5.12 A considerable number of conditions were drawn up which together with legal undertakings from the applicant, mitigated the impact on heritage and provided the basis for stabling the new community the SoS considered necessary together with achieving many of the aims of policy H2. This included the provision of a primary school.
- 5.13 The SoS concluded the development would substantially accord with the development plan, meaning Structure Plan policy H2, little weight seems to have been given to the Council's development brief for the site. A sustainable and reasonable balance was secured between retaining the built and natural heritage, and providing an appropriate and proportionate level of employment in the context of the site's location and access to services. In granting the planning permission, it was therefore felt justifiable to allow the 24 conservation area consents, again subject to conditions. As part of the decision, 71 conditions were imposed on the grant of planning permission and 5 on the conservation consents. In addition to the planning conditions, the applicant is obligated to comply with covenants including requirements to provide land and funding for education, open space and community facilities, and to contribute towards improvements to public transport.
- 5.14 The grant of planning permission authorised many of the uses currently being undertaken at the site and sets out the template for future development. The approved development permitted in the settlement area at appeal was set out in Condition 5 and an annex to the Secretary of State's decision letter. It states:
"The proposed **New Settlement Area** includes the following uses and development:
...
3). Change of Use of Building 74 (4,020 sq.m) to Class C1/D1 use as a hotel / conference centre of up to 4,150 sq. metres and...

6) Provision of 1 no. Primary School on 2.2 hectares.
- 5.15 It is however a long way from the end of the story as far as its overall development is concerned. In effect the permission with regard to the flying field was implemented but a subsequent second application was submitted for the settlement area. That permission for a new settlement was granted in December 2011 (ref 10/01642/OUT). The permission was in outline so details of layout, scale, appearance, landscaping and access (the reserved matters) still have to be submitted and within a period of six years. It again permitted the use of Building 74 in commercial use, as Class C1/D1, and the Primary School was again permitted in the same location. Masterplans and parameter plans have been produced which again show the school at the heart of the settlement south of Camp Road.
- 5.16 More recently, the Developers have moved away from the masterplan proposals in relation to educational provision. As stated above, they now seek to establish a through school at Heyford Park and applications have previously been considered and approved in principle by Committee for the conversion and use of Buildings 74 and 583 for education with a further current application for a temporary school in the grounds of 74. These permissions were subject of, inter alia, legal agreements which have not been secured, as yet. The use of the former proposed primary school site also remains unresolved

- 5.17 The appeal and subsequent planning decisions have already been taken into account by the Council as part of its draft Local Plan and the development of former RAF Upper Heyford is seen as the major single location for growth in the District away from Banbury and Bicester. This seems a feasible proposition as the outline permission is now in place.

6.0 **Appraisal**

- 6.1 The latest scheme raises a number of issues but the main ones are considered to be:
- The Principle of Development and Compliance with the Development Plan and Master Plan for the Site
 - Heritage and Impact on the Conservation Area
 - Transport, Access and Highways
 - Section 106 Agreement

The Principle of Development and Compliance with the Development Plan and Master Plan for the Site

- 6.2 The Development Plan is in a state of transition and despite the revocation of the South East Plan, the old OSP policy H2 is to be retained.
- 6.3 The Structure Plan (OSP) which was replaced by the SEP included, unusually for such a strategic document, a site specific policy for Upper Heyford. This policy, H2, was saved by the SEP and remains in place despite the revocation of the regional plan following the announcement by the Communities Secretary on 14th February. Due to the significance of this policy and the development now proposed the policy is reproduced in full:

Upper Heyford

H2 a) Land at RAF Upper Heyford will provide for a new settlement of about 1000 dwellings and necessary supporting infrastructure, including a primary school and appropriate community, recreational and employment opportunities, as a means of enabling environmental improvements and the heritage interest of the site as a military base with Cold War associations to be conserved, compatible with achieving a satisfactory living environment.

b) Proposals for development must reflect a revised comprehensive planning brief adopted by the district council and demonstrate that the conservation of heritage resources, landscape, restoration, enhancement of biodiversity and other environmental improvements will be achieved across the whole of the former air base in association with the provision of the new settlement.

c) The new settlement should be designed to encourage walking, cycling and use of public transport rather than travel by private car. Improvements to bus and rail facilities and measures to minimise the impact of traffic generated by the development on the surrounding road network will be required.

- 6.4 The supporting text states (para 7.7):
- “Land declared surplus by the Ministry of Defence at the former airbase at Upper Heyford represents an opportunity to achieve an appropriate balance between environmental improvements to a rural part of Oxfordshire, conservation of the heritage interest from the Cold War, and re-use of some existing buildings and previously developed land located in the former technical and residential core area of the base. However, the scale of development must be appropriate to the location and surroundings. The County Council is opposed to the development of a large new settlement due to the site’s relatively isolated and unsustainable rural location, the threat of urbanisation in a rural area, the location of the site in relation to Bicester with which it would compete for investment in services and facilities, and conflict with the objectives of Government planning policy in PPG13 to provide accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and*

to reduce the need to travel by car.Therefore, the Plan provides for modest development of about 1,000 houses. There are about 300 existing houses on the site of which some or all could be retained or demolished, but the total limit of about 1,000 dwellings will be the determining factor. This proposal has been recognised by the First Secretary of State as ‘an exception to normal sustainability objectives as a means of facilitating the remediation of the former airbase to enable the site to present a more environmentally acceptable face than it does now.’*

6.5 Para 7.8 continues:

“Proposals for development must be in accordance with a revised comprehensive planning brief for the site adopted by Cherwell District Council. Care should be taken to ensure that the heritage interest of the site as an air base with Cold War associations, landscape restoration and biodiversity are all taken into account in deciding appropriate measures.”

6.6 The adopted Local Plan is largely silent on Heyford, the non-Statutory Cherwell Local Plan 2011 reinforced OSP H2 setting out in policies UH1-UH4 a large number of conditions requiring compliance in order to seek a comprehensive approach to its development. It set out the need for a Comprehensive Development Brief (CDB) for the site and this was produced and approved as supplementary planning guidance (in a modified form) in 2007.

6.7 The RCPB required a neighbourhood centre should be established at the heart of the settlement in a location that can also benefit from passing trade. It should comprise a primary school, community hall, place of worship and retail, public house, restaurant, social and health care and private nursery facilities. It goes on to say that public buildings should serve both as strong focal points or landmarks in the settlement and as a focus for the expression of community life and activity. Buildings such as the school, community hall and place of worship should reinforce the centre of the settlement. Public buildings should be in prominent positions within the settlement and contribute to creating a sense of place by framing views or closing a particular vista. The design of such buildings should respond positively to the layout of the proposed settlement by the incorporation of significant landmark features and/or memorable and distinctive designs.

6.8 Looking slightly further ahead, the draft Local Plan states:

“This site will provide for a settlement of approximately 760 dwellings (net) and necessary supporting infrastructure, including a primary school and appropriate community, recreational and employment opportunities, enabling environmental improvements and the heritage interest of the site as a military base with Cold War associations to be conserved”. Although of course this document is material it carries little weight as yet.

6.9 With regard to the permitted use of Building 74, planning permission exists for its conversion under the appeal to Class C1/D1 use as a hotel / conference centre of up to 4,150 sq. metres and in the revised masterplan to Class C1/C2 use (hotel/care home). This needs to be brought to member’s attention as the proposed educational use comes within Class D1 and could in theory be implemented to achieve a similar aim to the current proposal. However, the applicants have decided to submit fresh, free standing applications here and at Building 583 which would overlay the existing permissions and which could be implemented separately but the point has been made that in principle the use of Building 74 for D1 use has been accepted by this Authority. This was also the view taken earlier in the year when outline applications were submitted to the Authority. Unfortunately the s106 agreements they required have not as yet been completed hence the present detailed application.

6.10 The applicant also advises that as far as the masterplan is concerned, they consider the school use is simply swapping with another consented use. So if this permission

for Building 74 is granted, a care home will be proposed on the 2.2 hectare primary school site south of Camp Road. Officers feel this is slightly simplistic argument as the approved primary school site has been allocated now in two separate masterplans and considered at more than one public inquiry. Its approved location is fairly central to the new settlement, accessible via various routes across the settlement, close to the so called village hub, close to other community uses, all as required in the RCPB.

- 6.11 Building 74 is not in the views of your officers, or those of the Highway Authority, as accessible or as central to the new community. It will be necessary to ensure if this permission is granted, as was the case with the earlier outline application, to ensure that plans are put in place to improve its accessibility for the wider community in particular by non car modes of transport. As with most planning decisions there is a balancing act and in this case Building 74 is a significant heritage asset that requires to be brought back in to beneficial use and the option of a school here certainly seems viable on the basis of the information submitted and from discussions with the applicant. It is certainly a landmark building which lends itself to a public use.
- 6.12 In terms of educational provision at Heyford Park, both Cherwell DC and the County Council have always envisaged a primary school on the site. This has always been set out in policy documents from the Structure Plan through to the RCDP produced by Cherwell DC. The need for a primary school has been reaffirmed by the County in the consultation process. It has however challenged the need for secondary education to be provided here or even the need for two form entry for both primary and secondary schools. Furthermore, in the master planning for Heyford Park a new primary school has always been proposed at the heart of the settlement on the south side of Camp Road as part of a new village hub, and has always been shown as such on the approved masterplans for the new settlement. So what is now proposed is a deviation from the masterplan(s) but in itself is that sufficient reason to refuse planning permission?
- 6.13 The site designated for primary school use was to be subject of a further, third application in connection with the free school proposal, one that proposed its redevelopment for Class C2 use so in effect the two uses would be transferred but unfortunately that application for whatever reason has never been submitted. It is clear however that the County Council, if this current application is approved, will withdraw their requirements for the construction of that school and the majority of the contributions required by it with the exception of transport. In the short term this leaves Heyford Park with two sites for a proposed school but it is anticipated the approved one will no doubt be subject of development proposals in the near future.
- 6.14 Although transport is dealt with below, it should be made clear that the proposed school is much larger than what has been approved and its catchment area therefore greater. This school whilst providing for the needs of Heyford Park's existing and future residents has been designed to attract pupils from further afield. This has an impact on sustainability and whether resources should be focused, for example at Bicester or here. Whilst the issue of education is a county matter and less one of planning, the question of sustainability in terms particularly of transport needs to be addressed
- 6.15 Recent Government advice on education is clear. In the NPPF it states:
"The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:
- give great weight to the need to create, expand or alter schools; and
 - work with schools promoters to identify and resolve key planning issues

before applications are submitted.”

6.16 In the Policy Statement issued in August 2011 on Planning for Schools Development it states:

“It is the Government’s view that the creation and development of state-funded schools is strongly in the national interest and that planning decision-makers can and should support that objective, in a manner consistent with their statutory obligations. We expect all parties to work together proactively from an early stage to help plan for state-school development and to shape strong planning applications. This collaborative working would help to ensure that the answer to proposals for the development of state-funded schools should be, wherever possible, “yes”.” It goes on:

“The Government believes that the planning system should operate in a positive manner when dealing with proposals for the creation, expansion and alteration of state-funded schools, and that the following principles should apply with immediate effect:

- **There should be a presumption in favour of the development of state-funded schools, as expressed in the National Planning Policy Framework.**
- **Local authorities should give full and thorough consideration to the importance of enabling the development of state-funded schools in their planning decisions.** The Secretary of State will attach significant weight to the need to establish and develop state-funded schools when determining applications and appeals that come before him for decision.
- **Local authorities should make full use of their planning powers to support state-funded schools applications.** This should include engaging in pre-application discussions with promoters to foster a collaborative approach to applications and, where necessary, the use of planning obligations to help to mitigate adverse impacts and help deliver development that has a positive impact on the community.

6.17 The direction of Government policy became even clearer on 25th January 2013 with a Ministerial statement advising that new permitted development rights were to be given to convert vacant buildings to free schools. Local Authorities were to give limited assessments to such proposals focusing on noise and traffic issues. These details have now been enshrined in the recent changes to the Development Order.

6.18 It is therefore apparent that should the Council wish to object to the proposed school, bearing in mind it has previously resolved to support the broad proposal; it will need to have clear and sound reasons to do so. The County Council have commented in the recent past primarily as the education and transport authority, the latter issue is dealt with below. On education, the County’s position is difficult because further consultations are proposed later this year on secondary education in the wider Bicester area and at this stage it may seem that the Heyford proposal is premature and in conflict with the existing plans to develop secondary education there. The applicant’s believe that their proposal does not prejudice the County’s aspirations and that in any case limited weight should be given to them as a material planning consideration. It is clear however that education and planning are at the forefront of Government’s agenda and creating free schools is one of the flagship policies. Local Planning authorities have to “support that objective in a manner consistent with its statutory obligations”

6.19 **Heritage and Impact on the Conservation Area**

The Conservation Area Appraisal identifies a number of buildings that, although not offered any statutory protection, nevertheless contribute significantly to the character of the site and others, equally significant that shed light on the historic development of the site and the social context of the RAF. These buildings have some historic or

architectural significance, make a positive contribution to the character of the conservation area and have the ability to add visual interest to the new settlement. There is also the general presumption in favour of retaining buildings which make a positive contribution to the character or appearance of a conservation area as set out in the NPPF. Where these buildings are in an existing use that is compatible with the creation of a satisfactory living environment or are reasonably capable of conversion to new uses and able to be integrated into the new settlement they should be retained and converted. These include Building 74.

- 6.20 Whilst Building 74 is not listed, it is regarded as a significant heritage asset being possibly one of the most prestigious Officers' Mess built on an operational RAF station during the 1920s, it benefits from a spacious setting and mature trees which add to its imposing character. Whilst some of the rear or ancillary wings may be less efficiently converted to other uses, the main building was considered in the RCPB to have the potential to be a "prestigious head quarters building or third phase of the Innovation Centre." The advice in the NPPF is that such assets should be put to "viable use consistent with their conservation." In addition, when "determining planning applications, local planning authorities should take account of **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." Great weight should be given to their conservation.
- 6.21 Previously limited detail was provided to demonstrate how the building would be converted to the proposed school use. It now seems the changes are modest. Some of the outbuildings and extraneous extensions are removed. These are not considered to be substantial in scale. In fact buildings previously thought to be removed are now retained and reclad with an insulated rendered finish. Some new modest extensions linking the main building to its wings, small in themselves, will also be finished in render. Although the main building is red brick and the render is a contrasting material it is considered appropriate to break up the buildings mass and show new from old. Windows will be replaced but very much on a like for like basis.
- 6.22 The building's main structure appears sound; internally it has a high degree of dilapidation that needs to be arrested. It was always envisaged in the RCPB that a new school would form an opportunity for architectural expression, to generate a sense of place and to provide a strong landmark focal point. It is considered this can be achieved with the classical influenced design of Building 74 which enjoys an imposing location fronting Camp Road with the remains of the formal lawned area and mature planting contributing to the grandeur of the setting of the building. The proposed use is therefore considered in the round, to be one that could result in the sympathetic use of Building 74
- 6.23 One other element in relation to heritage and the setting of Building 74, the landscaped grounds enhance the appearance and character of the former officer's mess. Limited details are given with regard to the treatment of the open space surrounding it but in particular at the front. The only hardstanding proposed is understood to be the existing tennis courts. On that basis the openness of the site is preserved but to reinforce this a condition is recommended to restrict the permitted development of the school.
- 6.24 **Transport, Access, Parking and Highways**

OSP H2 required the new settlement to be designed to encourage walking, cycling and public transport rather than the private car. The RCDB recognised that the development conflicts with the objectives of the PPS 13-Transport (now NPPF) but that normal sustainability objectives have to be set aside as a means of facilitating the remediation of the former airbase.

This is worked up in the RCPB where three policy objectives are set out in relation to transport:

- “MEASURES TO ENCOURAGE WALKING AND CYCLING AND THE USE OF PUBLIC TRANSPORT FOR TRIPS WITHIN THE SETTLEMENT WILL BE REQUIRED
- MEASURES TO ENCOURAGE THE USE OF PUBLIC TRANSPORT FOR TRIPS TO OTHER MAJOR CENTRES WILL BE REQUIRED
- MEASURES TO MINIMISE THE IMPACT OF TRAFFIC ON THE SURROUNDING ROAD NETWORK THROUGH VILLAGES, AND TO THE WEST, WILL BE REQUIRED”

- 6.25 In general, Heyford is not considered to be a sustainable location that has easy access to services and facilities and good alternatives to travel by private car. The proposed free school may become a fairly major trip attractor not only for Heyford but also for the communities in the surrounding area. The County acknowledge that the school will bring some benefit by internalising/capturing some education trips, i.e. trips which would have otherwise continued on the external network, it is likely to attract more trips from the external area than would have otherwise been the case in the consented proposal. This seems to be contrary to the ethos of sustainable development as set out in the NPPF.
- 6.26 One other access issue of concern is that the proposed sports facilities for the free school (ref application 12/1710/F) will be located at the opposite end of the development, approx. 1000m walking distance from the school. It is stated that primary-age recreation activities will be carried out within the curtilage of Building 74, and these pupils will travel by minibus to the proposed offsite sports facilities. A need has been identified to connect the school with the offsite sports facilities via a safe pedestrian route for older/ secondary children. An indicative plan of this route has been submitted, but a detailed plan of the proposed pedestrian/cycling links to this site must be submitted for consideration and approval. The applicant feels this can be conditioned and points out in discussions on going to implement the masterplan that pedestrian and cycle links are proposed along Camp Road and through the new settlement.
- 6.27 The technical data that has been submitted in a Transport Assessment with the application has previously been challenged by the Highway Authority. Some of the main issues are:
- Traffic distribution
 - The pupils origin destination is little different from the approved masterplan
 - Pupils will not leave the site during the day
 - Junction improvements will be undertaken in accordance with the requirements of the masterplan approval. As a result they will have adequate capacity when the school is fully open
 - Traffic Generation
 - It is argued that less external children will enrol once the site is developed and as the rolling programme of opening occurs
 - The split between car and non car assessment is considered to be robust as a 50% non car usage is assumed.
 - Walking/cycle trips are considered to have a high potential and internal use of car limited. Where cars are used it is part of a joint journey that would probably already take place
 - After school club use is unlikely to generate large traffic volumes
 - The Free School is planning to adopt a policy of selection of pupils by distance and sibling criteria.
 - It is alleged the sites are swapping between the C1/C2 and D1 uses

therefore there is no difference in the way the traffic is generated between use.

- It is accepted the school is bigger and that will change the volume of traffic
- Bus stops will be considered in relation to the masterplan but the school is a key element of that.
- The applicant is happy to review the traffic safety data
- A travel plan will be provided by condition

6.28 Dealing with access to the site itself, the submitted proposal is to reopen what appear to be existing accesses for an in/out entrance. This is in line with the masterplan which proposes the route as HGV access to the flying field. Unfortunately there do not appear to be any detailed plans to show visibility splays, sight lines, etc. The existing driveway will be reused with parking adjacent Building 74 on existing hard surfaced areas.

6.29 In terms of parking, 40 spaces are shown with 3 specifically for people with disabilities. Previously 45 spaces were suggested and the reduction concerns the Highways Officer. Limited details are given on motorcycle, cycle and minibus parking spaces which are required. Furthermore, details of school coach bays and manoeuvring areas are also required by the County. The RCPB advises that parking is restricted to staff and visitor parking but no on site provision for parents' cars. Instead an adequate drop off facility is sought within the public highway or as part of shared car parking for an adjacent local centre.

6.30 **Section 106 Agreement**

The existing planning permissions have both resulted in the requirement to provide a primary school, either by substantial financial contributions being made to the County Council or for the development to construct the school in line with an agreed specification. Financial contributions were also required towards secondary education and transport including transportation of students. The application was accompanied with heads of terms that sought to release the developer from making such contributions providing the free school is provided. The s106 also required a care home/hotel to be provided so that will be deleted from the fresh agreement.

6.31 The previous permissions did not envisage the retention of Building 583 either, and the earlier s106 agreement required provision of contributions towards or provision of indoor sport, leisure and recreation facilities. It is now envisaged that a package of access to what becomes the school assets would be made available on an out of hour's basis.

6.32 Negotiations on the details of the s106 package remain to be concluded but at the time of drafting this report a compromise is envisaged that will be suitable to all parties and the details of which will be reported orally at Committee.

Other Issues

6.33 **Nursery Education**

No details have been submitted with regard to pre school provision although it is understood this will be provided in Building 583.

6.34 **Contamination**

The views of the Environmental Health Officer sum the situation up succinctly and his recommendation that the permission, if granted, is appropriately conditioned is supported.

6.35 **Impact on Residential Amenity**

The use of Building 74 will have limited effect on residential amenity. The former “officer’s housing” exists about 100 metres to the east and new housing is proposed, if the masterplan is undertaken, 50 metres to the north west but the juxtaposition between residential and the proposed school is considered to be entirely appropriate.

6.36 **Landscaping**

The application is a change of use and limited details are submitted but as the site is within a conservation area all the main trees on site enjoy protection already.

6.37 **Drainage**

The County have asked for further information on how all the car park and other hard surface will be drained. The applicant has responded that there will be a SUDs scheme and requested this be dealt with by condition.

6.38 **Ecology**

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

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.

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”

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.”

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

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

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.

Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:

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

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

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.

Habitat and bat surveys were undertaken in March of this year and have recently been reviewed. A precautionary approach has been adopted in case great crested newts, or other reptiles are found. Pigeons and maybe other birds may be nesting in the building. Work will be timed so as to minimise disturbance.

Bat roosts have been found and an EPS licence will be required to deal with them. New entrance points will be provided as well as existing ones retained. Roof work will only take place in September and October. Other measures are proposed to enhance biodiversity including flowering shrubs.

English Nature had asked for more information with regard to bats and this has just been received. The advice of the Council's ecologist is that the details are satisfactory and on the basis of the information received conditions should be imposed. It is considered that art.12(1) of the EC Habitats Directive has been duly followed and the mitigation proposed is appropriate to ensure that newts and bats are protected. It is considered that it is highly likely that Natural England will grant a licence for the work and therefore ecology is not a constraint to the development subject to the imposition of suitable conditions. The proposal therefore accords with the National Planning Policy Framework -Conserving and enhancing the natural environment and Policies C2 and C4 of the adopted Cherwell Local Plan.

6.39 **Engagement**

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.

6.40 **Ecology**

A biodiversity report has been submitted which is broadly acceptable but further information has been sought to satisfy Natural England

6.41 **Conclusion**

Under national guidance there is a clear presumption in favour on provision of state funded schools and locally education is seen within Cherwell's vision for the District as set out within the Sustainable Community Strategy as a means of tackling inequality and assisting in economic development. A school is needed to meet the requirements of the new settlement at Heyford Park, albeit the County wish its size to be limited. Bringing Building 74 into use is warmly welcomed. There are concerns however, particularly expressed informally by the County Council in terms of the potential destabilising effect from secondary education and the overall size of the school proposed here at Heyford Park, and whether it is deemed to be a form of sustainable development or not. But, on balance, there is a very strong presumption in favour of state funded education provision and notwithstanding OCC's concerns with regard to secondary education provision, significant harm arising from the proposal has not been identified and as such the application is recommended for approval.

6. Recommendation

Approval, subject to:

- i) The applicants entering into an appropriate legal agreement to the satisfaction of the District and County Council relating to matters of education, transport and joint use and
- ii) Highway Authority receiving sufficient information to enable them to remove their objection and
- iii) 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 condition, the application shall be carried out strictly in accordance with the following plans and documents:

Application forms

- o Design and access statement,
- o Ecological survey carried out by 4Acre Ecology Limited in March 2013, together with the additional bat survey dated 8th July 2013
- o Transport Statement by Peter Brett Assoc dated November 2012
- o Drawing numbers
- o HFSK9000-Landscape Plan
- o HFSK9010-Site Location Plan
- o HFSK3030-Ground Floor Plan
- o HFSK3031-First Floor Plan
- o HFSK3032-Roof Plan
- o HFSK9000-Elevations

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 schedule of materials and finishes for the external walls and roof(s) of the development including samples of each material hereby approved 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 schedule.

Reason - To ensure the satisfactory appearance of the completed development and to comply with 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, full design details of the windows and doors shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with

the approved details.

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

- 5 That, notwithstanding the provisions of Part 32, of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 and its subsequent amendments, the approved school shall not be extended nor shall any structures be erected within the curtilage of the said school or hardsurface constructed 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 and to preserve and enhance the character and appearance of the conservation area in accordance with Policies C28 and C30 of the adopted Cherwell Local Plan.

- 6 That Building 74 and its curtilage shall be used only for the purpose of non residential educational use in association with use of Building 583 and for no other purpose whatsoever, including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005. It shall not operate independently of Building 583 and the open space associated with that site unless alternative open space and recreation provision is made and agreed in writing with the Local Planning Authority

Reason - To ensure the school has an acceptable level of outdoor recreation and play space, 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 and Policies C28 and C31 of the adopted Cherwell Local Plan.

- 7 That a revised plan or details showing parking provision for vehicles to be accommodated within or adjacent the site, including minibuses, and coach, together with details of access and manoeuvring space, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development, and that such parking facilities shall be laid out, surfaced, drained and completed in accordance with the approved plan before the first occupation of the premises. The parking spaces shall be retained for the parking of vehicles at all times thereafter.

Reason - In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government guidance contained within the National Planning Policy Framework

- 8 This permission specifically excludes the location for cycle parking shown on drawing D9000 and prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework

- 9 A Green Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the planning process to secure travel plans", shall be submitted to and approved in writing by the Local Planning Authority prior to the first use or occupation of the development hereby permitted. The approved Green Travel Plan shall thereafter be implemented and operated in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework

- 10 Subsequent to the school roll reaching 120 no more than 120 additional pupils shall be permitted each year (or such other number as may be agreed in writing by the local planning authority from time to time) from 2013 to 2019. Each year the current roll shall be maintained until such time as the impact of the traffic and parking generated by the school on the local highway network has been assessed, and a review of the implementation and effect of the Travel Plan has been carried out. Additional pupils may be allowed subject to the agreement in writing by the local planning authority of any necessary resulting highway works or other mitigating actions and a programme for their implementation.

Reason: In the interests of highway safety given that the existing local highway network is of limited capacity and arrangements to minimise the impact upon it have yet to be seen, in the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework

- 11 That no development shall be commenced until full details of the safe pedestrian routes and crossings between Building's 74 and 583, together with full details of access for pedestrians and cyclists into the site from the surrounding development have been submitted to and approved in writing by the Local Planning Authority. Plans and particulars of the matters referred to above shall be carried out as approved.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework

- 12 Prior to the commencement of the development hereby approved, full details of both means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

Reason - In the interests of highway safety and to comply with Government advice contained in the National Planning Policy Framework.

- 13 The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water run-off from car parks and on-site roads has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason: This site is sited over the Great Oolite Formation (Principal Aquifer) and we need to protect this aquifer from run-off contaminated with petroleum hydrocarbons.

- 14 Details of any proposed external lighting in and adjacent to the building, car parking areas and access way shall be submitted to and approved in writing by the Local Planning Authority and no lighting shall be installed without the consent of the Authority first being obtained.

Reason: To avoid any adverse impact on residents in the vicinity of the site and to minimise the opportunity for crime and disorder, to preserve and enhance the character and appearance of the conservation area and to comply with policy ENV1 of the adopted Cherwell Local Plan.

- 15 All plant, machinery, mechanical ventilation equipment and ducting, other than that shown on the approved plans, shall be installed internally. No other plant, machinery, mechanical ventilation equipment, flues or ducting shall be placed on the outside of the building without the prior written permission of the Local Planning Authority unless otherwise agreed with the Local Planning Authority.

Reason: In the interest of visual and residential amenity and to comply with policies C31 and ENV1 of the adopted Cherwell Local Plan.

- 16 The building shall not be brought in to use until such times as a detailed scheme of fume extraction/odour mitigation measures has first been submitted to and approved in writing by the Local Planning Authority; and implemented in accordance with such approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason - In order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Policy ENV1 of the adopted Cherwell Local Plan.

- 17 Prior to the commencement of the development hereby permitted details of the provision, landscaping and treatment of open space/play space within the site shall be submitted to and approved in writing by the Local Planning Authority. The open space/play space, once approved shall be landscaped, laid out and completed in accordance with the details approved and within a time period to be first approved in writing by the Local Planning Authority and thereafter retained as open space/play space.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 and R12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 18 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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 19 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 C28 of the adopted Cherwell Local Plan.

- 20 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 occupation of the building, and such means of enclosure, shall be erected prior to the first use of the building.

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.

- 21 Full design details of the refuse/bin storage area, including materials to be used shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The approved area shall be available for use before the school is first brought into use.

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 C28 of the adopted Cherwell Local Plan.

- 22 Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on bats until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 23 The development hereby approved shall be carried out strictly in accordance with the details set out in points 7.20, 7.21 and 7.22 within the Bat Emergence Survey submitted with the application, which was prepared by 4 Acre Ecology Limited dated 8th July 2013.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 24 Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on site in line with recommendations within the submitted Ecological survey carried out by 4Acre Ecology Limited in March and to include provision for bats 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 and to enhance biodiversity further in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

- 25 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 and Government guidance contained within the National Planning Policy Framework.

- 26 If contamination is found by undertaking the work carried out under condition 25 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 and Government guidance contained within the National Planning Policy Framework.

- 27 If remedial works have been identified in condition 26, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 26. 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 and Government guidance contained within the National Planning Policy Framework.

- 28 If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

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 and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. Attention is drawn to a Legal Agreement related to this development or land 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.
2. The applicant is advised that access works would be subject to a Section 278 agreement. Areas for adoption would be subject to a Section 38 agreement. The Advance Payments Code (APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to offset the frontagers' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners.
3. The applicant is advised to contact the Thames Valley Police Crime Prevention Design Adviser with regard to gaining advice to ensure the development complies with Secured By Design Principles.
4. All sewage or trade effluent should be discharged to the foul sewer if available subject to the approval of Thames Water Utilities or its sewerage agent.

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.