

**Site Address: Land at Network Railway
Embankment between Piddington and
Blackthorn, Marsh Gibbon Road,
Piddington**

13/01805/F

Ward: Launton

District Councillor: Councillor David Hughes

Case Officer: Linda Griffiths

Recommendation: Approval

Applicant: Network Rail Infrastructure Ltd

Application Description: Railway Embankment stabilisation scheme, including earthwork, re-grading, construction of access route and ecological mitigation measures

Committee Referral: Major application with environmental impact assessment

1. Site Description and Proposed Development

- 1.1 Blackthorn embankment is located approximately 3 miles south east of Bicester, and was constructed in 1909 as part of the Great Western railway. The embankment was necessary to cross an area of low lying agricultural land in the flood plain of the River Ray. It now carries the Chiltern Line between Birmingham and London Marylebone. This is a modern, two track, high speed (100mph) passenger railway which forms a main commuter and intercity link through Oxfordshire. Piddington embankment is situated adjacent to Piddington village and approximately 1 mile south of Blackthorn embankment on the same rail infrastructure. The site comprises an approximate 3.7km length of the existing Ashendon to Aynho railway line and its immediate surroundings.
- 1.2 Constructed in the early 1900s the railway is not electrified in this location and comprises two tracks on embankment. The embankments are vegetated with rough grassland, blackthorn scrub and scattered trees including oak, hawthorn, blackthorn, sycamore and ash. The River Ray and one of its tributaries, Piddington Brook, cross beneath the railway in the northern half of the site. A further un-named watercourse/ditch passes through the embankment towards the south end of the site. The northern part of the site near Blackthorn is located within a fluvial floodplain associated with the River Ray and Piddington Brook. There are a number of flood alleviation 'through-pipes' that pass through the railway embankment within the flood plain area. In the centre of the site, a minor road linking the A41 to Piddington crosses over the railway. Three farm roads cross the railway within the scheme area. A public footpath passes under the railway embankment which runs north from the village of Blackthorn (FP 131/1). This is to be temporarily diverted during the construction works.
- 1.3 The site is located in an area of low lying agricultural land used predominantly for grazing. The villages of Blackthorn and Piddington are located to the west of the railway and a number of farms and other residential properties are situated nearby. The area is served by a number of public rights of way. There are numerous drainage ditches across the surrounding landscape and several ponds close by.
- 1.4 Earthworks re-grading is not required over the entire 3.7km length of the scheme. Sections of varying length on both the west and east side of the railway totalling approximately 2km have been identified as requiring remedial work where the worst slope stability issues have been identified. In each of these areas the existing vegetation will be removed in order to construct the scheme.

- 1.5 In order to allow future inspection and maintenance of the works it is proposed to construct a 4m wide permanent maintenance access route. The access track will cross the Piddington Brook on both sides of the railway and a small stream near the south-eastern end of the scheme. At these locations the watercourses will be culverted.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice.

2 letters have been received from the occupiers of 1 Cowleys Cottage and Lower Cowleys Farm. The following issues were raised

- Have an interest on one of the plots involved and will personally suffer injurious affect by the proposals
- Loss of security to the rear of our property
- Increased noise pollution due to removal of established trees and vegetation
- Constant disturbance during the works from noise, dirt and dust and the position of the depot adjacent to our property
- Damage to existing roads by construction traffic
- The re-ditching proposed along the River Ray will allow floodwater backwards into the village
- The proposed entrances to the depot and other places are in dangerous positions on blind corners
- Why is a permanent maintenance access track necessary, as the work is designed to last for 125 years. An agreed easement over the land should be sufficient.
- Easement for access will avoid the unnecessary loss of productive farmland at a time when pressures on land for food production are high. The recorded BMV of the loss of our agricultural land may not be of national importance but as we will lose in excess of 5% of our total acreage, this will seriously affect viability of the holding and future farming enterprise.
- The access road will blight the historic ridge and furrow and act as a barrier to wildlife using the River Ray Wildlife Corridor which has been successfully established by BBOWT, who have wildlife reserves either side of our property.
- Disagree with paragraph 4.3 of the ES. The proposed flood compensation ditch levels will be controlled by the level of water in the River Ray. If the Ray's level is high water will back up the ditch from the river first, rendering the ditch unable to contain this extra water, which will reduce the flood storage capacity of the flood plain, which could lead to increased flood risk to properties, land and the Piddington Road.
- The ES does not address the noise from construction on livestock, only the trains.
- Concerned by the proposed use of the Piddington Road at Lower End to access construction sites 2 and 3. The road is unsuitable for heavy goods vehicles and the figures from the EIA show there will be in excess of a 500% increase in HGV traffic. If sites 2 and 3 are working this could lead to 40 lorries a day travelling to and from the site in an 8 hour working day period, this would mean an HGV would use the road every 6 minutes. Surely alternative arrangements could be considered to avoid such disruption and danger to the locality.
- Other considerations are the lack of storage facilities for the vast amounts of top soil generated. The loss of two ponds from the farm relocated inside the new railway will pose a significant environmental loss to the holding and would prefer that they are re-instated on the farmland.

3. Consultations

3.1 Piddington Parish Council: raise objections regarding

1. drainage and effect on flooding
2. traffic and weight of vehicles during works
3. reinstatement of roads and bridges if damage is sustained

Blackthorn parish Council object on the following grounds

1. permanent access is not necessary, the landowner has confirmed to the Parish council the unlimited access will be granted for all works, now and in the future
2. note that other sections of the embankment in the Parish have recently been stabilized without this draconian action
3. proposed permanent access would create 'in perpetuity' an additional hazard at an existing black spot
4. CDC will need to explain to residents now and in the future why this permanent access on an already hazardous junction was granted should accidents occur in the future
5. no reason to acquire land under compulsory purchase order as access will be granted by landowners, there is no benefit to the public for the compulsory purchase order
6. the benefits of retaining the existing use of the land outweigh the benefits flowing from the scheme
7. the scheme is not viable
8. it is believed that there is potential for Network Rail to create a permanent dual lane for its own purposes adjacent to the railway which will have consequences for the villagers and travellers along the A41

Should permission be granted the following conditions should be included

- the A41 pumps should discharge into the new ditch, which must be deep enough to prevent backflow to the village
- following recent problems on the Somerset levels, the Parish would like to see Network Rail commit to a dredging programme, agreed with the Council, in perpetuity from the A41 to Islip bridge
- a full management programme funded for the lifetime of the Oak Tree beside the embankment
- new landowners would have to provide guarantees 'in perpetuity' for the good management of the total ecology of the site including the wildlife bats, newts etc

Cherwell District Council Consultees

3.2 Anti- Social Behaviour Manager: has reviewed the noise and vibration section of the ES submitted. The applicants consulted before carrying out the base line study and agreed the extent and location of noise monitoring that was carried out. The strategy agreed through this consultation has been carried out and the data collected is fit for purpose. The subsequent handling of this data has been carried out in accordance with good acoustic practice and reference has been made to the appropriate British and other relevant standards in assessing the likely effects of the noise to be generated by this engineering project.

The issue of vibration has not been explored in detail as the applicants have indicated that the project does not involve the use of equipment or techniques that involve

piling. In the unlikely event that the need did arise to include such works, they must not be carried out and a mitigation scheme designed. The assessment and mitigation scheme would need to be submitted to and approved by the LPA prior to such works being carried out.

With regard to noise it is noted that on the basis of the data provided and the noise survey undertaken there will be temporary, moderate adverse noise effects at the most sensitive receptor, Lower Cow Leys Farm. The ES goes on to indicate that these effects can be mitigated by the use of noise barriers and other techniques. If planning approval is granted a condition will be needed that requires the applicants to submit details of this mitigation for approval, with any barriers in place before the commencement of the work with these structures maintained throughout the duration of the project.

- 3.3 Biodiversity and Countryside Officer: Blackthorn Footpath No 1 runs across the site to the north of the River Ray. It is not clear from the information provided how this will be affected by the proposed development. The footpath must be shown on the relevant plans and a Public Right of Way statement is required that acknowledges that it runs through the site, describes its route through and what effect, or, not, the proposed development will have on it.

Following the above, the applicants were requested to submit a Public Right of Way statement. The detail submitted is not sufficient in respect of the construction details, but a suitably worded condition has been suggested to deal with this matter.

- 3.4 Arboricultural Officer: has yet to comment

- 3.5 Environmental Protection Officer: has no comment with regard to land contamination except for making the applicant aware that the responsibility for the safe development of the site rests with the developer.

- 3.6 Landscape Officer: advises that visual impact is of concern at two locations, these being the Public Right of Way, ref 131/1/20 where it will intersect the maintenance track south east of railway over bridge at Station Road and viewpoint PR4 at Lower End Road. Atkins must provide a revised assessment of the visual impact and mitigation measures for receptors at both these locations.

The Locations and Ecological Mitigation plans do not show the extent of existing retained structural vegetation on the berm or the embankment, nor in this particular instance the structural vegetation in respect of the construction of the maintenance access.

The landscape proposals should be improved by

- indication of planting densities to ensure adequate coverage for appropriate landscape screening/mitigation
- identifying species by Latin name
- indicating the plant sizes as supplied by the plant nursery
- an indication of the species mix and percentages or numbers of specific species used
- an improved planting specification to ensure that the appropriate industry standards are used.

It is considered that these matters can be addressed by the imposition of a suitably worded condition

- 3.7 Ecology Officer: comments as follows:-

- None of the mature trees proposed for removal were considered to have potential to support bats and no other European or UK protected species were considered likely to be affected.
- No concerns regarding the level of survey for habitats and species, but information is lacking on the mitigation and compensation, both on the ecology and the hydrological impacts on the nearby LWS. The application states that

the proposed drainage improvement works will result in a reduction of floodplain storage capacity and a lower ground water level. The impact of this on the LWS needs to be explored further.

- Habitat restoration will need to take place once the works are complete, more information is needed on the amount and locations of the blackthorn scrub, species-rich grassland, semi-mature trees and ponds to be planted/created. The restoration/compensation details submitted are not enough to ensure compliance with the 'no net loss of biodiversity' element of the NPPF. Network Rail have confirmed that some replanting of blackthorn scrub will be possible on the embankment once the works are complete, but at present it is not clear whether this will be adequate in terms of providing sufficient replacement habitat for hairstreak butterflies.
- More information is needed on the GCN mitigation strategy and methodology, but since mitigation and compensation are possible, and since all this information will have to be put into the licence application, I do not consider it necessary that a separate report on GCN mitigation is required for submission. This can be covered in the CEMP, along with reptiles.
- Ecological features bordering the access track and areas of work that are to remain, such as trees, water bodies, hedgerows and semi-improved grassland should be fenced off during the works to ensure their protection.

Given the above, a number of planning conditions are recommended.

Oxfordshire County Council Consultees

3.8 Archaeology: the site is located in an area of archaeological potential including crossing the line of a Roman Road from Alcester to Verulamium. Roman pottery has also been recovered along this line of road. Probable Bronze Age ring ditches have been recorded 1km west of the site and Iron Age and Roman pottery has also been recovered in this area. Little formal archaeological investigations have been undertaken within the site area itself and therefore there is the potential for further archaeological deposits related to those periods to be disturbed by this proposal. A condition requiring that a staged programme of archaeological investigation be undertaken ahead of the development will therefore be required.

3.9 Transport Strategy: the proposed scheme will not create any permanent or residual impact on the highway network. The undertaking of earthworks on the sections of rail embankment will generate some impact as a result of construction traffic accessing and leaving the site throughout the implementation programme, however this will only be temporary until completion of the works. This should be fully managed and mitigated, where possible, through an effective construction traffic management plan. The proposal is likely to improve the reliability, efficiency and safety of rail travel for services on the Chiltern Line by tackling the known issues on this section of line. This improvement will ultimately benefit Oxfordshire rail users and improve the attractiveness of rail travel as an alternative to the private car, all of which is in line with the county Council's Local Transport Plan policies and Government guidance in the NPPF.

Public Transport: no objection

Drainage; approval subject to condition

Minerals and Waste: no objection

Oxfordshire County Council's response has been endorsed by the Cabinet Member for the Environment

Other Consultees

3.10 Thames Water raise no objection

3.11 Environment Agency: In the absence of an acceptable Flood Risk Assessment (FRA), the EA object and recommend refusal for the following reason –

- The FRA submitted with this application does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore; provide a suitable basis for assessment to be made of the flood risks arising from the proposed development, in particular it fails to provide a robust assessment of the impact this development will have on the level of flood risk to third parties.
- The objection can be overcome by demonstrating that the development will not increase flood risk elsewhere and where possible reduces flood risk overall.
- The FRA undertaken by the applicant confirms that the preferred design solution will result in the loss of approximately 1000m³ of flood plain storage. It is normal practice that development should assess the level of flood risk associated with the location and where necessary provides mitigation measures against the impact work will have on third parties. The resultant loss of floodplain storage associated with the proposed design would, without mitigation, increase flood risk elsewhere

The EA comments can be read in full on the application documentation.

Following the above objection, Network Rail have been discussing with the EA the ways of overcoming this objection. Members will recall that this application was deferred at the meeting in March to enable these discussions to take place and the objection removed.

A further response is awaited, Members will be updated verbally at the meeting.

3.12 Natural England: comment as follows

- Statutory nature conservation sites – no objection
- Protected Species – Natural England have published Standing Advice in this respect, and this should be applied to this application as a material consideration
- If the proposal site is on or adjacent to a local site, eg Local Wildlife Site, the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site prior to determination
- Biodiversity enhancements – this application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats, or the installation of bird nest boxes. If minded to grant permission, consideration should be given to securing such measures.
- Landscape Enhancements – there may be opportunities to enhance the character and local distinctiveness of the natural and built environment; use natural resources more sustainably; and bring benefits for the local community, for example, through green space provision and access to nature.

3.13 BBOWT: objects to this application as follows:-

1. Insufficient compensation for loss of habitat – would result in a net loss to biodiversity, contrary to the NPPF. Of particular concern are the loss of blackthorn in the form of scrub habitat along the existing embankment and the loss of hedgerows and semi-improved grassland. The application site lies within a stronghold for both the Black and

Brown Hairstreak butterflies which are dependant on the presence of blackthorn.

2. Hydrological Impacts on Meadow Farm Local Wildlife Site – Meadow farm is designated as a LWS for its MG4 grassland, species rich hay meadows which is a nationally scarce habitat. Critical to maintaining the rare MG4 grassland habitat and its species assemblage is the water supply to the site from the surrounding ditch system, which ensures that the water table is maintained at the correct level during the spring and summer. Meadow Farm LWS lies only 75m from the scheme boundary and has not been assessed as part of the environmental baseline in the hydrology section of the ES and therefore the impact on this site has not been assessed. We are particularly concerned with the creation of new ditches which may impact on the ground water flow and changes to the current ditch system as this may lead to water being drawn away from the site and towards the River Ray instead, with serious implications for the conservation value of the Local Wildlife Site. Further work needs to be carried out to assess the hydrological impacts on this site.

Following subsequent correspondence with Network Rail, further comments have been received as follows:-

- From the response to our comments by Network Rail of 17th February in regards to the hydrological impact on meadow Farm we are satisfied that all of our concerns regarding hydrology have been dealt with, except for the potential for the new ditch that will run alongside the new access road to the west of the railway to be connected to the existing ditch system and may have an impact on the hydrology of the site.
- The hexagonal grid road now proposed allows a seed mix to be planted along the route of the route of the proposed access road which will compensate for the loss of grassland, however concerns still remain which will need to be resolved, including, clarification of the area of planting will cover, the frequency of use of this access road, to allow it to establish, proposed management scheme for the road once seeded and the provision of additional compensation elsewhere.
- The issue of insufficient compensation for the loss of scrub and hedgerow habitat is still outstanding.
- BBOWT approves the use of Meadow Farm Nature Reserve as a newt receptor site as part of the translocation of newts from the site.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

TR7	Development on minor roads
TR10	Heavy goods Vehicles
C1	Nature conservation
C2	Protected species
C4	Creation of new habitats
C5	Ecological protection
C7	Landscape conservation
C14	Trees and landscaping

ENV1	Pollution control
ENV7	Water quality
ENV12	Contaminated land

Non- Statutory Cherwell Local Plan 2011 was approved by the Council for development control purposes and is therefore a material consideration.

TR1	Meeting the objectives of the Local Transport Plan
TR5	Road Safety
TR10	Rail Transport
H4:	Type and size of new housing
TR16	Heavy Goods Vehicles
EN1	Conserving and enhancing the environment
EN2	Environmental replacement
EN3	Pollution Control
EN13	Development adjacent to watercourses
EN14	Flood defence
EN15	Surface water run-off and source control
EN17	Contaminated land
EN22	Biodiversity enhancement
EN23	Ecological surveys
EN24	Protection of sites and species
EN25	Protected species
EN27	Creation of new habitats
EN28	Protection and enhancement of existing ecological areas
EN35	Protection of the landscape

4.2 Other Material Policy and Guidance

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

- 1: Building a strong competitive economy
- 4: Promoting sustainable transport
- 10: Meeting the challenge of climate change and flooding
- 11: Conserving and enhancing the natural environment

Submission Cherwell Local Plan (October 2013)

The proposed Submission Local Plan was published for public consultation in August 2012. A further consultation to the proposed changes to the draft plan was undertaken from March to May 2013. On 7th October 2013, the draft Submission Plan was approved by the Council's Executive. The Plan was presented to Full Council on 21st October 2013 and Full Council endorsed it as the Submission Local Plan. It was submitted to the Secretary of State for Communities and Local Government on 31st January 2014. The Submission Plan supersedes previous stages of the Emerging Plan.

As the Plan has now been submitted, the weight which can be given to it has increased. However, it will not form part of the Statutory Development Plan until the Examination Process is complete and the Plan is formally adopted by the Council (anticipated mid 2014)

Full Council also endorsed the recommendations to:

- Note that the infrastructure tables in the draft local plan are to be replaced in due course by a full Infrastructure Delivery Plan (IDP) prior to Examination
- Delegate approval of minor text changes (including updating the thematic maps and final monitoring framework) to the Head of Strategic Planning and Economy and in consultation with the Lead Member for Planning and its

transfer in its publication format for submission

- A table of policies was made available at the Full Council meeting setting out the existing saved policies from the adopted Cherwell Local Plan 1996 that are to be replaced by the new Cherwell Local Plan on its adoption and those that are to be retained until replaced by other Development Plan Documents (such as the Development Management DPD) once they are adopted.

The Plan sets out the Council's Strategy for the District to 2031. The policies listed below are considered to be material to the consideration of this application:-

SLE 4: Improved transport and connections

ESD 1: Mitigating and adapting to climate change

ESD 10: Protection and enhancement of biodiversity and the natural environment

5. Appraisal

5.1 The key issues for consideration in this application are:

- Environmental Statement
- Planning Policy and the need for the development
- Noise and disturbance
- Flooding and Drainage
- Ecology
- Transport Impact
- Archaeology
- Landscape and visual impact

Environmental Statement

5.2 The application is accompanied by an Environmental Statement (ES). Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, where an ES has been submitted with an application, the Local Planning Authority must have regard to it when determining the application, and can only approve the application if it is satisfied that the ES provides adequate information.

5.3 Prior to the submission of the application, the applicants submitted as screening opinion in respect of the development as to whether or not it was an EIA development or not. That request identified that the application must be accompanied by an ES because of the likely significant effects on the environment because of its nature, size and location, particularly in terms of ecology and flood risk as the proposal lies within Flood Zones 2 and 3. The submitted ES can be viewed with the application documents via the council's website.

Planning Policy and the Need for the Development

5.4 The Development Plan for Cherwell District comprises the saved policies in the Adopted Cherwell Local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the Local Planning Authority shall have regard to the provisions of the development plan, so far as is material to the application, and to any material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Act, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

5.5 Policies TR7 and TR10 of the adopted Cherwell local Plan consider traffic generated by a proposed development and its impact on the local highway infrastructure. Whilst consideration of these policies are relevant, the traffic generated by the proposal in terms of construction traffic is only short term and once the embankment stabilisation

scheme has been completed, except for infrequent future maintenance, this traffic will cease.

- 5.6 The embankments on the stretch of the existing Ashendon to Aynho railway between Blackthorn and Piddington, have a history of instability problems due to their age, that have resulted in emergency repairs, speed restrictions and maintenance problems over recent years. As recently as 2007 these have led to the need for stringent speed restrictions and emergency repair work in order to manage the risk to railway safety and to ensure that passenger journeys were minimally affected.
- 5.7 Network Rail are planning to invest on this section of railway over the next 3 years to ensure that such risks to safety and performance are minimised in the foreseeable future. This is part of the planned programme of civil engineering work agreed with the Department of Transport and approved by the Office of Rail Regulation and which aims to provide a cost-effective safe and reliable railway infrastructure for the benefit of passengers.
- 5.8 At the Blackthorn section of embankment, a known problem location on the embankment has been monitored since October 2003 on both sides using devices which identify movement in the soil and ground water levels at depth. Movements in clay embankments of this kind develop slowly and 'gradual creep' movements are precursors to sudden landslip failures which occur without warning, usually over the winter when the ground is wet and water levels in the ground are high.
- 5.9 The monitoring devices within the embankment are showing substantial movements (locally up to 150mm) in a down-slope direction at a number of locations, and during the most recent monitoring visit, at one location, evidence of a significant new movement was observed close to the railway tracks themselves, suggesting that works are urgently required to stabilise the slopes.
- 5.10 The Piddington section also has a history of instability which has led to the need for speed restrictions and increased maintenance intervention.
- 5.11 The proposal also seeks to provide a 4m wide permanent access track to either side of the railway. Network Rail have stated that the access road is necessary to serve 3 purposes
- To provide access for the construction of the embankment and drainage works
 - To provide future access for inspection and maintenance of the embankment and drainage ditches
 - To avoid the need to periodically negotiate the terms of private agreements with multiple land owners to maintain operational railway infrastructure
- 5.12 Following concerns raised by BBOWT regarding this proposed new access road, Network Rail have suggested that this access road could be constructed as hexagonal blocks which can be planted with grass seed, which will provide some compensation and mitigation for the loss of other grassland habitat elsewhere as part of the proposal.
- 5.13 The NPPF 'Promoting sustainable transport' advises at paragraph 29 that 'the transport system needs to be balanced in favour of sustainable transport modes giving people a real choice about how they travel'. Paragraph 31 states 'local authorities should work with neighbouring authorities and transport providers to develop strategies for the provision of viable infrastructure necessary to support sustainable development'.

Vibration, Noise and Disturbance

- 5.14 The issue of vibration has not been explored in detail within the Environmental Statement as the applicants have indicated that the proposed works will not involve the use of equipment or techniques which involve piling or tunnelling.
- 5.15 The applicants consulted with CDC prior to carrying out the base line study and agreed the extent and location of the noise monitoring that was carried out. The positions were, Lower Cow Leys farm, Treadwell Barn, Upper Cow Leys Farm, Willow Mead, 70 Lower End Piddington and Blackstone Farm. The strategy that was agreed through this consultation was carried out and is considered acceptable by the Council. The subsequent handling of this data has been carried out and reference is made throughout the ES to the appropriate British and other relevant standards in assessing the likely affects of noise to be generated during construction.
- 5.16 With regard to noise, the ES notes that on the basis of the data provided and the noise survey undertaken there will be temporary, moderate adverse noise effects at the most sensitive receptor, Lower Cow Leys Farm. The ES states that these effects can be mitigated by the erection of temporary acoustic screens and other techniques during the construction works.

Hydrology, Hydrogeology, Flood Risk and Drainage

- 5.17 An initial Level 1 FRA was undertaken and identified that the site lies within the River Ray floodplain and also crosses the Piddington Brook. A Level 3 FRA was required to ensure that the proposed scheme does not adversely affect existing floodplain and flood conveyance routes. The Blackthorn section of the line is predominantly within the floodplain associated with the River Ray, which flows south-west through the northern part of the site and passes beneath the railway. It is classified as a 'main river' and is managed by the Environment Agency. The Piddington Brook flows northwards from Piddington and crosses beneath the railway line at Piddington Cow Leys before its confluence with the river Ray. The surrounding landscape is predominantly agricultural land, divided into fields that are drained by a network of drainage ditches which flow towards the River Ray. There are also numerous ponds, particularly within the Blackthorn section. The Piddington section of the embankment works lies within Flood Zone 1, but the Blackthorn embankment works are entirely within Flood Zone 3.
- 5.18 The modelling which has been done indicates that 1000m³ of compensatory floodplain storage is required to mitigate for the proposed works. It is proposed that this compensation is provided by constructing additional drainage ditches along the access track and associated with the new earthworks. Existing ditches will be cleared to increase available storage in them.
- 5.19 The proposed scheme could affect the local water environment, including ground water and surface water courses. Proposed works will result in changes to local water features which include the loss of a pond adjacent to Piddington brook, the diversion of a watercourse that crosses the railway track, and the reduction of flood plain volume between the most northerly extent of embankment stabilisation scheme and Upper Cow Leys Farm.
- 5.20 The NPPF states that new and existing developments should be prevented from contributing to water pollution and that developers and local authorities should seek opportunities to reduce the overall level of flood risk in the area and beyond through the layout and form of development and the appropriate application of sustainable drainage systems. It states that Local Authorities should only consider development in flood risk areas as appropriate where informed by a site specific FRA which should

identify and assess the risks of all forms of flooding to and from the development and demonstrate how flood risks will be managed so that the development remains safe throughout its lifetime taking climate change into account.

- 5.21 The proposed stabilisation scheme will reduce the flood plain storage volume in the northern section. The modelling produced to support the FRA indicates that the proposed works would lead to a general increase in flood plain levels upstream. The flood plain is of high importance as it protects a significant number of residential and commercial properties. Mitigation is therefore essential as part of this scheme, both during the construction phase and once the works are completed.
- 5.22 The revised comments from the Environment Agency are awaited at the time of writing the report but are fundamental in assessing the scheme and the accompanying Flood Risk Assessment. The final determination of this application will be dependant upon their response and the recommendation is subject to the removal of the objection from the Environment Agency.

Transport Impact

- 5.23 A Transport and Access Screening Assessment Report (July 2012) was undertaken to determine the most appropriate access routes and points to the site for construction vehicles. It is proposed that traffic will access the scheme from the A41. Four access points were assessed and it is proposed that each of these will be required to access all areas of the construction site. The proposed access points are as follows:-

- Access point 1 – from the A41 at the northern end of the construction site and along the west of the rail corridor
- Access point 2 – from the overbridge at Upper Cow Leys Farm/ Cow Leys Cottage providing access along the east side of the railway corridor
- Access point 3 – from the road overbridge at Upper Cow Leys Farm providing access along the west side of the railway corridor
- Access point 4 – off Ludgershall Road at the southern end of the construction site, providing access along the west side of the rail corridor

In the assessment of environmental effects presented in the ES, it is assumed that traffic will use these routes only. A Construction Traffic Management Plan will specify these routes.

- 5.24 The ES states that approximately forty 20 tonne rigid HGVs will access and egress the site each day, split between each of the four access points during a six month period where earth moving will take place. It is proposed that where possible, excavation arisings will be reused on site to minimise the amount of traffic movement required. It is also estimated that up to 10 light vehicles will also access the site each day, split between the two working areas that may be active at any one time. Additional temporary passing places are proposed for Lower End and Piddington Lane to allow vehicles to pass at safe and appropriate locations.
- 5.25 Residential amenity has been assessed in the ES in terms of the impact of HGVs accessing the site. In terms of Access Road 1, the access point is just off the A41 and residential impact from the use of this access point is likely to be minimal as there are no residential properties immediately adjacent. Access routes 2 and 3 pass close to a number of isolated residential properties which will be impacted by the construction traffic, but this is only for a temporary period during the course of the construction. Similarly Access Route 4 passes a number of residential properties which will be impacted by the construction traffic. However, again this will only be for a temporary period during construction. It is therefore considered that the impact on residential amenity would not be so significant for this temporary period to justify refusal of the application on these grounds in respect of a proposal which is essential to ensure the continued running of the railway network and passenger safety.

- 5.26 In terms of highway safety, the ES has identified a slight adverse effect on accidents and safety on the basis of the narrow nature of Lower End and Piddington Road and the potential conflict with HGVs. It is intended to try to minimise risk, that these routes will be kept clean of mud and debris and warning signs will be erected to alert drivers of the presence of HGVs using the route.
- 5.27 Oxfordshire County Council as Highway authority has assessed the Transport Assessment section of the ES and raises no objections to the proposal.

Archaeology

- 5.28 The cultural heritage assessment submitted as part of the ES has identified the presence of a number of listed buildings within Blackthorn Village, together with The old Farmhouse at Middle Cow Leys Farm. Listed buildings within Piddington and Ludgershall are all over 500m from the rail line. The line of the Roman Road, Akeman Street, is located at the northern end of the scheme, broadly equating with the A41. This road originally extended between the Roman settlements at Alchester to the west and Virulanium in Hertfordshire. Ridge and furrow is also evident between the site and the River Ray. The County Archaeologist advises that Roman Pottery has been recovered along the line of the Roman Road. Probable Bronze Age ring ditches have also been recorded 1km west of the site and Iron Age and Roman pottery has also been recovered in this area. Little formal archaeological investigation have been undertaken within the site area itself and therefore there is the potential for further archaeological deposits related to this period to be disturbed by this proposal.
- 5.29 Section 12 of the NPPF sets out planning guidance concerning archaeological remains and the historic environment. Paragraph 126 emphasises the need for local planning authorities to set out a clear strategy for the conservation and enjoyment of the historic environment, where heritage assets are recognised as an irreplaceable resource which would be preserved in a manner appropriate to their significance.

Paragraph 128 states that:

‘in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting’

Paragraph 129 states:

‘Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal, taking account of the available evidence and necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise the conflict between the heritage assets conservation and any aspect of the proposed’

Paragraph 132 states:

‘When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting.’

- 5.30 The NPPF at paragraphs 133 and 134 go on to say that where a development will lead to substantial harm it should be refused, or where it will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
- 5.31 The application proposal has been assessed in terms of its likely impact on the Ludgershall Conservation Area and the Listed Buildings within Blackthorn, Piddington and the surrounding area. The ES has determined that the proposed works would

have no significant impact upon the listed buildings themselves nor their setting. The nature of the scheme and its distance from areas of settlement means that it will have no temporary or permanent impact upon the setting of designated heritage assets or the Ludgershall Conservation Area.

- 5.32 To address the potential impacts on currently unidentified archaeological remains within the construction boundary a programme of archaeological works will be agreed with both Oxfordshire and Buckinghamshire County Councils. The county Archaeologist is satisfied that the development is acceptable subject to imposing conditions which requires the applicant to be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction.
- 5.33 Having regard to the above, it is considered that the development proposed is in accordance with the advice within the NPPF.

Ecology

- 5.34 The NPPF – ‘Conserving and Enhancing the Natural Environment’ requires at paragraph 109, 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 establishing coherent ecological works that are more resilient to current and future pressures’.
- 5.35 Paragraphs 192 and 193 further add that ‘the right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local Planning Authorities should only request supporting information that is relevant, necessary and material to the application in question’. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to the 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 protected species, and the extent to that they may be affected by the proposed development is established before planning permission is granted, otherwise all relevant material considerations may not have been addressed when making the decision. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.
- 5.36 Paragraph 18 states that ;when determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused
- 5.37 Paragraph 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that ‘local planning authorities should consult Natural England before granting planning permission’ and paragraph 99 goes on to advise that ‘it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before 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)

- 5.38 states that 'every public authority must in exercising its functions, must have regard..... to the purpose of conserving (including restoring/enhancing) biodiversity' and
Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that 'a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions'.
- 5.39 Articles 12 and 16 of the EC Habitats directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex Iv(a) of the Habitats Directive within the whole territory of the Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.40 Under Regulation 41 of the Conservation Regulations 2010, it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of the 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 derogation tests are met:-
1. is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature (development)
 2. is there a satisfactory alternative
 3. is there adequate mitigation being provided to maintain the favourable conservation status of the population of the species
- 5.41 Therefore where planning permission is required and protected species are likely to be found 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 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 derogation tests can be met prior to the determination of the application.
- 5.42 The ecological impact assessment submitted as part of the ES is based on ecological surveys undertaken between 2009 and 2013. This assessment includes the results of a desk study, ecological surveys including extended Phase 1 habitat survey, bat roost inspections, water vole surveys, badger surveys and otter surveys. Surveys have found that there are a number of ponds and water bodies in proximity to the application site with the potential to function as habitat to amphibians, specifically Great Crested Newts and the development proposals will also result in the loss of one pond which supports a small population of great Crested Newts. Adverse impact on the newts present in ponds and the terrestrial habitat within 500m of the application site will be dealt with by carrying out all work under a Natural England License, which will include a process of capture and exclusion from the development footprint and creation of two new ponds. One outlier badger sett within the site will also be closed prior to the commencement of development under a licence.
- 5.43 Aquatic Ecology, River Habitat Surveys and River Corridor surveys were undertaken on the River Ray and Piddington Brook and presented in the ES. The scheme is assessed to have no predicted effects upon any European protected aquatic ecology, Water Vole, Otter and White-clawed Crayfish.
- 5.44 The Council's Ecologist has assessed the ecological section of the ES and advises that the level of survey which has been undertaken for habitats and species is appropriate. However concern has been raised regarding the level of mitigation and

compensation proposed and on the possible hydrological impacts on the nearby Local Wildlife Site. The application states that the proposed drainage improvement works will result in a reduction in floodplain storage capacity and a lower ground water level. The grassland within Meadow Farm Local Wildlife site is dependant upon a certain ground water level and as such the improvements to the local drainage networks have the potential to adversely impact on this important habitat.

5.45 In terms of the habitat restoration, more information is required in respect of the amount and locations of the blackthorn scrub, species rich grassland, semi-mature trees and ponds to be created. The submission therefore does not comply with the 'no net loss of biodiversity' element of the NPPF. A number of conditions are suggested to address the above which require the submission of a Construction Environmental Management Plan, Submission and Implementation of a Habitat Restoration Scheme and the submission of a report detailing the hydrological impact on Meadow Farm and appropriate mitigation measures.

5.46 BBOWT have also raised objections to the proposal as above in respect of the insufficient compensation for habitat loss and the hydrological impacts on the Meadow Farm Local Wildlife Site.

The applicants have responded to that objection in writing, stating that:-

"The geology immediately underlying the site is weathered Oxford Clay: the permeability of this soil is expected to be virtually impermeable and any ground water flow through it is likely to be negligible. The creation of new drainage ditches (nominal depth 0.5m) is therefore unlikely to impact groundwater flow into the Local Wildlife Site"

"The topography in the locality of the scheme generally falls northwards to the valley that is River Ray. Surface water runoff from the existing railway is currently drained into ditches located at the toe of each embankment. In the locations where the embankment is being widened the existing ditch will be removed and reinstated at the toe of the new embankment (connecting back into any ditches). The construction of the improvement will introduce access tracks (for maintenance) each side of the railway; a new ditch will be provided alongside the track whose primary function will be to provide volumetric compensation for loss of floodplain as a result of the new earthworks constructed. The ditches will provide space for flood water from the river Ray and its tributaries to flow into, but are not intended to improve drainage to the surrounding area. In our opinion there is unlikely to be any impact to the LWS as a result of ditch construction and does not consider any further assessment is necessary".

5.47 BBOWT have responded further following the above, their comments are stated in the consultation section. With the exception of the compensation proposed for the loss of other habitats, which are to be conditioned, many of the concerns raised now appear to have been addressed.

5.48 Consequently it is considered that article 12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and the surrounding land will continue to be safeguarded, notwithstanding the proposed development. 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.

Landscape and Visual Impact

5.49 The main impacts of the proposed scheme will result from the construction phase, including removal of vegetation such as hedgerows, trees and scrub, construction works on the several sections of embankment and the construction of the new

access/maintenance route. The ES includes a landscape and visual impact assessment which extends to 2km either side of the rail corridor.

- 5.50 The landscape immediately around the railway is flat, becoming gently undulating towards the south leading to the prominent Muswell Hill and Arncott Hills. It is primarily of a rural character with smaller scale settlements such as Blackthorn, Piddington, Brill and Ludgershall.
- 5.51 The main hydrological elements are the River Ray which flows in a north easterly direction to the south of Blackthorn, running underneath the existing railway. Across the wider field network there are numerous drainage ditches, adding a layer of definition to the landscape structure.
- 5.52 The existing railway line also forms a strong element within the landscape as it runs on a low embankment for the majority of its length through the application site. In places the rail corridor contains limited line side vegetation, this takes the form of areas of self set and planted (particularly around bridge abutments) woody vegetation, such as oak, hawthorn, blackthorn, sycamore and ash. Where this vegetation exists it helps to screen the existing railway from many viewpoints in the surrounding area. Where there is a lack of screening, the railway running along the embankment forms a prominent feature.
- 5.53 During construction, the introduction of temporary access roads, site compounds, lighting and associated machinery will have a temporary adverse effect upon visual amenity. This will be particularly evident to adjacent and nearby residential properties. The loss of mature trees, hedgerows and line side vegetation in relation to construction of the proposed access track will result in the removal of strong visual elements within the landscape and where these are not replaced will have a permanent visual impact. Landscape mitigation measures are proposed as part of the scheme which will seek to reinstate areas of vegetation lost during the construction period. The Councils Landscape Officer has raised concerns about the detail of the proposed new planting and screening proposals, but suggests that these matters can be addressed by the imposition of suitable conditions. Accordingly it is considered that the stabilisation works proposed accord with Policy C7 of the adopted Cherwell Local Plan and will not cause demonstrable harm to the character of the landscape.

Engagement

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

Conclusion

- 5.55 The NPPF presumes in favour of sustainable development and in the context of this application, requires that development is considered favourably unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the framework as a whole. The proposed embankment stabilisation scheme is necessary to ensure that the existing embankment does not collapse, in the interests of passenger safety and the provision of sustainable public transport. Therefore, provided acceptable mitigation measures are agreed in terms of ecology, flood risk and landscaping, it is considered that the proposed embankment stabilisation works are in accordance with the above mentioned policies within the adopted Cherwell Local Plan and the submission Cherwell Local plan, and the National Planning Policy Framework and should therefore be approved.

6. Recommendation

Approval , subject to:

- a) the removal of the objection from the Environment Agency
- b) that it be resolved that in accordance with the provisions of Regulation 24 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, that this report is approved as setting out the main reasons, considerations and measures of mitigation proposed with regard to the Environmental Statement
- c) the following conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission
Reason To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents
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 within the National planning Policy Framework
3. Prior to the commencement of the development hereby approved, including any works of site clearance or vegetation removal, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - Details of the mitigation measures to be undertaken for Great Crested Newts, reptiles, badgers and nesting birds
 - Schedule of works
 - Details of any ecologically sensitive working practices
 - Protective fencing plan for retained ecological features, compliant with BS5837:2012 'trees relation to construction

Thereafter, all works are to be carried out in accordance with the approved CEMP.

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.

4. Prior to the commencement of the development hereby approved, full details of a habitat restoration and species compensation scheme shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - Compensation measures for the loss of semi-improved grassland, hedgerows, blackthorn scrub, mature trees and Great Crested Newt breeding pond
 - Plans showing locations of all habitats to be created, restored or enhanced
 - The appropriate strategies for creating/restoring these habitats, including method statement for site preparation, planting/sowing and species establishment
 - Species and seed mixes to be used
 - Aftercare and long term management objectives of these features
 - Timing of the works
 - The personnel responsible for the works
 - Monitoring and the remedial/contingency measures triggered by monitoring

Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority
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

5. Prior to the commencement of the development hereby approved, a report on the hydrological impact of the drainage works on Meadow Farm Local Wildlife Site shall be submitted to and approved in writing by the Local Planning Authority, This report shall detail appropriate mitigation measures should they be considered necessary, including any amendments to the approved scheme. Thereafter, the development shall be carried out in accordance with the approved details.

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

6. That no changes shall be made to the Public Right of Way (FP131/1) direction, width, surface, signing or structures until details of these changes have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason In the interest of highway safety and public amenity and to comply with Government guidance contained within the National Planning Policy Framework.

7. That prior to the demolition and commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority

Reason To safeguard the recording of archaeological matters within the site in accordance with Government guidance within the National Planning Policy Framework

8. Following the approval of the Written Scheme of Investigation referred to in condition 6, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Scheme of Written Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the Written Scheme of Investigation. The programme of work shall include processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local planning Authority.

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

9. Prior to the commencement of the development, full details of the proposed acoustic barriers, including their position and materials of construction, required as part of the noise mitigation identified within the ES shall be submitted to and approved in writing by the Local Planning Authority. The acoustic barriers shall be installed as approved prior to the works commencing and retained in situ until construction works are complete. Upon completion of the works hereby approved the fencing barrier shall be removed.

Reason To safeguard the residential amenities of adjacent residential properties from intrusive levels of noise and to comply with Government advice within the National Planning Policy Framework

10. Prior to the commencement of development a construction Management plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved plan.
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 within the national Planning policy Framework.
11. That prior to the commencement of the development, notwithstanding the details submitted, full construction details of the proposed permanent maintenance track, including its seeding and future maintenance and management, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the scheme so approved and managed in perpetuity in accordance with the approved management plan unless otherwise agreed in writing by the local Planning Authority.
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.
12. Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-
- Details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass/turfed areas
 - Details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation
 - The details of hard surface areas, reduced dig areas, crossing points etc
- 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 within the National Planning Policy Framework.
13. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the line being first brought back into use, or completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs, which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.
Reason In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance within the national Planning Policy Framework.

Planning Notes

1. The District Council, as local planning authority, in deciding to approve this proposal has taken into account the Environmental Statement submitted with the application and any relevant representations made about the likely environmental effects by the public or consultees.

2. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social Behaviour Manager on 01295 221623 for further advice on this matter.
3. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. Further information or to obtain approval contact Natural England on 01635 268881.
4. Birds and their nests are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally take, damage or destroy the eggs, young or nest of a bird whilst it is being built or in use. Disturbance to nesting birds can be avoided by carrying out vegetation removal or building work outside the breeding season, which is March to August inclusive.

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.