

Application No: 09/00939/F	Ward: Bloxham and Bodicote	Date Valid: 21/07/09
Applicant:	L G Properties Viola Ltd	
Site Address:	33 Oxford Road and Land to the rear of nos.35-59 Oxford Road Bodicote	

Proposal: Demolition of 33 Oxford Road and erection of 23 no. dwellings

1. Site Description and Proposal

1.1 The application site is to the North East of Oxford Road Bodicote behind the existing houses that front on to the Oxford Road. The site area is approximately 0.7ha and currently accommodates a single residential property with garage, fronting on to Oxford Road, and a paddock with a couple of outbuildings. The paddock extends along the rear garden boundaries of property numbers 33-59 Oxford Road.

1.2 The majority of the site is currently used for grazing sheep and is enclosed by various methods including hedgerows, fencing, walls, post and wire etc, plus there is currently a gated access onto Canal Lane. There are a couple of outbuildings located on the North East boundary of the site. The trees are either on the boundary to the site or just over the boundary apart from 9 fruit trees located on the South East side of the site near the boundary line. The area is generally flat with limited access via Canal Lane. The North and North East boundaries back onto a field containing a large barn.

1.3 The proposal is for the demolition of 33 Oxford Road to provide an access road to the site behind which will contain 23 no. dwellings. They will consist of 4 no. detached dwellings, 6 no. flats in a single block, 6 no. semi-detached and 4 no. end terraced and 3 no. terraced dwellings. Existing properties on Canal Lane and Oxford Road have rear elevations towards the site. These properties have long rear gardens of between 25 and 35 metres in length. Never the less the layout has sought to keep new properties and in particular flats away from these boundaries and address concerns raised at the outline stage whilst also providing a suitable location for a Local Area of Play.

1.4 History

07/02389/REM reserve matters ref: 06/02293/OUT – demolition of no.33 Oxford Road and erection of 23 no. dwellings – Approved

06/02293/OUT – demolition of 33 Oxford Road & erection of 23 no. dwellings – approved

06/00432/OUT – demolition of 33 Oxford Road & erection of 23 no dwellings – refused

Appeal Dismissed on 06/12/06

The Inspector stated the following within his statement:

1. My conclusion on this issue is that the proposed development would not have a significant adverse effect on the free and safe flow of traffic on Oxford Road in accord with relevant development plan policy.
2. Although reference is made by both of the main parties to the need for a planning obligation under S106 of the Act and a draft of such an obligation has been included with the Council's statement, no executed agreement has been put before me. I cannot require the submission of an agreement by condition.
3. I have found that the proposed development would have no significant adverse affect on the free and safe flow of traffic on Oxford Road but this does not outweigh the harm I have identified in relation to the lack of community benefits. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

05/02300/OUT – demolition of 33 Oxford Road & erection of 23 no dwellings - Withdrawn

14/94 – single garage to double garage - approved.

383/93 – single garage to double garage with carport - approved.

173/90 – Demolish house to give access for residential development – refused.

Appeal dismissed on 31/10/90

645/72 – Conversion of existing building into a bungalow with extensions and alterations – refused

439/72 – Erection of two detached dwellings - refused

878/64 – House with garage access – permitted with conditions of not using any other access which may be formed to and from the site.

681/63 – Road and sewer access to serve 12 plots – refused

173/49 – layout of Bodicote estate – permitted

2. Application Publicity

- 2.1 The application has been advertised by way of two site notices located along the Oxford Road and neighbour letters. The final dated for comment was 20/08/2009.

3. Consultations

- 3.1 7 letters have been received in response to the application and made the following comments.

- 3.2
1. The design of the dwellings are completely out of character and not in keeping with the pre-war properties that surround the development.
 2. The layout of the dwellings are entirely different to the original drawings that were passed by CDC in 2006.
 3. The highest density of building is situated at the southern end of this site. 9 units in the narrowest strip of land of the whole development. The original drawing shows 4 properties at this point. We strongly object to these new plans as our property will be overlooked not by 1 dwelling as per the original drawing, but by 4 smaller units. The density at this point is far too much. Plots 7 to 15 show 17 upper windows overlooking the three properties in Canal Lane, we , in Crossways, will have 6 alone. The overbearing premises will dominate the skyline the whole width of all three premises. From these proposed dwellings we have (a) a loss of privacy (b) less light in our gardens (c) we will suffer light pollution from the properties (d) the noise generated from 9 properties will be unbearable and most important (e) the security of the existing premises will be seriously put at risk. As an example I would like to point out that the proposed premises in question have shared access to the rear of the properties which is adjacent to our boundary fence making our properties vulnerable to attack.
 4. One further concern refers to the strip of land that is not within the plan. At present there is access to the site from Canal Lane that runs adjacent to our property. As stated this land is not being used in the development. What are the developers planning to do with it? I can find no mention of it in the application. If left, who will be responsible for its maintenance? Because if left to overgrow we will suffer from the spread of weeds into our garden. I would like to be assured that this strip of land is completely closed off with no access from the new development or from Canal Lane.
 5. One further point I would like to emphasize is the conditions laid down in connection with this application I am concerned that they are all retained. Especially the conditions that no development takes place on this land until Bodicote/Bankside has commenced and that no access be gained whatsoever from Canal Lane.
 6. Finally I would ask that CDC seriously consider the matters mentioned, the new layout, as it is, will be an infringement into our Human Rights to live in peace and will reduce our quality of life.
 7. I objected to the original application and my objections still remain the same.
 8. The plans are set out differently to the original and would certainly reduce our quality of life with the density of proposed properties.
 9. One of the conditions was this could not be actioned until Bankside/Bodicote development is started and would appeal that this condition will continue.
 10. Having looked at the latest plan we notice that the highest number of dwellings is at the South Eastern end of the site with windows overlooking the Canal Lane houses and ourselves as the gardens for plots 7-15 are small there will also be light pollution. Also, we note that there is shared access to the rear of these plots giving some security problems to existing properties.
 11. There is no mention in the plan about the strip of land at the back of houses 59-67 from Canal Lane to the site. We should like this closed off and not used for access.
 12. Finally, we hope that the conditions for planning consent still say that this development should not start until the Bodicote/Bankside building commences.
 13. Finally, we hope tat the conditions for planning consent still say that this development should not start until the Bodicote/Bankside building commences.
 14. We object due to the relationship between local, regional and national planning

policies.

15. The land in question is not marked for development in the Banbury and North Cherwell Site Allocations Development Plan Document (DPD). Adequate provision of new build housing is made in the DPD with the associated amenities needed.
16. This development is lacking amenities and will provide an additional un-resourced load on the already stretch facilities in Bodicote.
17. This land is Greenfield and other Brownfield sites should be given priority.
18. Traffic impact and highway safety. The Oxford Road 40mph zone has a significant traffic load and the site access arrangements make an addition to this.
19. The use of the Oxford Road as a main route to the local hospital means a larger than usual proportion of the traffic is high speed emergency traffic. Turning right from the service road is already an exercise in patience. With the additional of traffic from this development the safety of this junction will be degraded further.
20. There is no indication if pedestrians will have priority across this new access.
21. The transport statement is out of date, last reviewed 24th Feb 2006, and takes no account of the future access requirements of the Bankside development.
22. Privacy, visual impact, overshadowing and overlooking. With this infill development the privacy of our property will be significantly reduced. Our private garden will be overlooked by the second floor bedrooms of the plots and 4. The distance I estimate from the proposed windows to our property to be less than 35m and only 11m to our boundary.
23. Noise and disturbance. The addition of 23 dwellings will increase the noise level in the neighbourhood of our home. Only 30 car parking places are provided for and indicated on the plan.
24. The noise and dust and fumes from these comings, goings and associated refuse collections and visitors, would be detrimental to the enjoyment and amenity of our home.
25. The proposed connection to the existing drainage and main sewer has not been approved by the local water authority.
26. The application significantly changes the Bodicote ribbon development along the Oxford Road and changes the character of this part of Bodicote.
27. The architectural style of these properties is defiantly neither Bodicote nor rural North Oxfordshire. The visual impact of these designs is negative to the village.
28. The land provides a rich and diverse wildlife habitat and type of which is being lost in the UK and Oxfordshire. Bats are believed to roost in the area and the list of wildlife observed includes Foxes, Stoat, Field Mice, Rabbit, songbirds, Sparrowhawk, Green and Great Spotted Woodpecker.
29. No tree report was required by the Planning Officer. The Hedges and trees bounding this land form an important resource and this development would significantly harm the natural environment.
30. We live next door to the proposed property so having a road alongside an already busy major road would only add to the traffic congestion that currently exists. It would also completely change the feel of our property and make us particularly vulnerable as we would be exposed along the side of the new road. I would ask that when a traffic survey is carried out it is done at 8.30am and 5-7pm as the traffic is horrendous at these times. From the figures given last time it did not appear to have been done at peak times.
31. Numerous children live on the road and it would mean yet another possibility of a road traffic accident occurring as they would have to cross the new road to reach each other.

32. I am concerned about facilities / sewerage etc for the proposed dwellings. The local Primary School is already oversubscribed and there would no doubt be children to accomodate.
33. In the past when this application has gone in you have done a bat survey. Could I please suggest that next time the person resonsible sits in our back garden as they sat on the path on the Oxford Road last time and concluded that there were no bats. There are indeed numerous bats which I have on film.
34. Once again I urge you to carefully consider the implications to the residents of the Oxford Road with reference to this development especially during the current climate where new builds are at a standstill and may not be occupied for some time.
35. The proposed plans are not in keeping with the feeling of village life and I strongly feel that this is yet another nail in the coffin for Bodicote village.
36. The plans as shown will mean that the privacy of all the residences adjoining the proposed site, will be severely compromised due to the new buildings overlooking the existing properties. It will have an overbearing and intrusive effect upon all residents and their daily lives.
37. The site proposed is a haven for wildlife which will be decimated by these dwellings. I would like to draw the councils attention to the fact that there are numerous bats within the site area and I strongly suspect that there is a bat roost located within this area. I feel that your bat survey was woefully inadequate and a further investigation should take place.
38. All species of British bat and their roosts are protected under British law by the Wildlife and Countryside Act 1981 (as amended), which is extended by the Countryside and Rights of Way Act 2000. Bats are classified as European Protected Species under the Conservation (Natural Habitats, etc.) Regulations 1994. Together, the legislation make it illegal to: intentionally or deliberately kill, injure or capture (or take) bats; deliberately disturb bats (whether in a roost or not); recklessly disturb roosting bats or obstruct access to their roosts; damage or destroy bat roosts; possess or transport a bat or any part of a bat, unless acquired legally; sell, barter or exchange bats (dead or alive) or parts of bats.
39. A bat roost is interpreted as "any structure or place which any wild bat...uses for shelter or protection". As bats tend to re-use the same roosts, moving around seasonally, a roost is legally protected whether or not bats are present at the time.
40. The traffic situation along the Oxford Rd is also an extreme cause for concern and the building of more properties will only add to an already precarious situation. It will only be a matter of time before accidents occur due to the traffic increase turning in and out of the service road.

3.3 The **Local Highway Authority** stated that the access arrangements for this site and the proposed layout have already been approved as part of the existing planning approvals; therefore any objection in terms of highway safety would not be appropriate or sustainable at appeal. The transport contribution requirement remains the same as the previous applications and the planning conditions previously imposed should be carried over. It is also recommended that an additional condition is imposed to prevent any garage/car port conversions in the future to maintain the parking levels for the site.

3.4 **Councillor Miss Lynda Thirzie Smart** wrote requesting the application is determined by elected members and not under delegated powers because there is

strong local opposition to this application from residents close to the proposed site. They are already extremely vexed at the prospect of almost 1,000 houses to be built in Bodicote behind the Oxford Road and had always understood there was to be a corridor separating the houses on the east side of the Oxford Road and up Canal Lane from the new development. In any case, Cherwell's Local Plans had long included a policy of avoiding coalescence of villages with urban neighbours. The 1,000 houses for which planning permission has been given drives a coach and horses through this non-coalescence policy and this application simply exacerbates the problem. It is also difficult to see a case for housing need in this location when Bodicote has been allocated almost 1,000 homes in the Abandoned ("non-statutory") Local Plan. Local residents will want the opportunity to see this application debated publicly by elected members and to hear the Council's response to the allegation that this will complete the coalescence of Bodicote Parish with Banbury Town by filling in a small area of space between the Oxford Road and the development of nearly 1,000 houses for which permission has been given.

3.5 **Bodicote Parish Council** have strong objections on the following grounds:-

1. We previously objected on the grounds of road safety and do so again. There are currently 6 turnings off the Oxford Road between the Kings Sutton turning and the Banbury Boundary, just past the flyover – 6 junctions with a major road in a space of less than one mile. In addition, there are 3 sets of traffic lights proposed along this stretch of road in connection with the proposed Bodicote –Bankside housing development. Since the previous application, more properties have been built to the south (e.g. Adderbury), bringing more traffic onto this road. Yet more junctions and cars attempting to access the Oxford Road will result in traffic chaos, with definite road safety implications.
2. The 9 units at the southern end of the development now have rear pedestrian access backing onto the gardens of the properties in Canal Lane. We are greatly concerned at this, which would make the Canal Lane properties vulnerable to vandalism or worse.
3. These units would have an impact on the amenities of the properties on Canal Lane. In addition to noise nuisance, 17 windows from these units would overlook the properties in Canal Lane, leading to loss of privacy. No external lighting whatsoever should be permitted on the rear walls of these units.
4. There is also insufficient provision for car parking eg one bedroom unit has 1 space, although a couple with a car each may well live there. Where will people park if there are not enough spaces?
5. This application does not conform to policies H13, H18 or H6 of the non – statutory Local Plan. If the District Council does decide again to grant planning permission to this application, would you please ensure that this is again linked to the Bodicote-Bankside housing development and that no work is permitted to go ahead until work on the larger site commences (in keeping with policy H10).
6. In this regard, we have a suggestion: Is it necessary for no.33 Oxford Road to be demolished to gain access to the site? Access could be linked into the new road system for the Bodicote-Bankside site.

3.6 The **Ecology Officer** stated after receipt of the more recent ecological survey that she concurred with the recommendations (Section 4) in the ecological report and

was satisfied that it has addressed all the likely ecological issues.

- 3.7 The **Environmental Protection Officer** stated that as this is a sensitive development, please apply the following full contaminated land condition: 'Prior to the commencement of the development hereby permitted a phased risk assessment shall be carried out by a competent person in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*. Each phase shall be submitted to and approved in writing by the Local Planning Authority'
- 3.8 The **Strategic Housing Officer** requested 30% affordable housing with a Tenure mix of 70% social rent (5) and 30% intermediate (2) with a preferred mix of no.1 two bed houses, no.2 three bed houses and no.2 four bed houses
- 3.9 The **Head of Building Control and Engineering Services** had no further comments to make compared to all previous applications.

4. Relevant Planning Policies

4.1 **Adopted Cherwell Local Plan (CLP)**

The plan includes policies relating to development within the villages within the district. Bodicote is identified in Policy H13 as suitable for infilling, minor development and conversions. Policy H5 are also relevant as they seek the provision of Affordable Housing.

- 4.2 Policy C2 states that development which would adversely affect any species protected by schedule 1.5 and 8 of the 1981 wildlife and countryside act will not normally be permitted and Policy C14 seeks the retention of trees and hedgerows.

4.3 **The South East Plan 2009 (SEP)**

The South East plan is the Regional Spatial Strategy (RSS) for the South East of England and also incorporates the Regional Transport Strategy (RTS). Since its publication the saved policies within the Oxfordshire Structure Plan have been replaced by policies within this South East Plan.

- 4.4 The SEP policies SP2 and SP3 set out the general strategy for the region. This includes identifying the need to locate development in areas where a reasonable range of services and community facilities exist or can be provided.

- 4.5 Policies H3 and H5 are also relevant and state the need for affordable housing to be 'substantially increased' within the region. H3 states that the overall regional target should be 25% of all new housing being Social Rented and 10% intermediate affordable housing. Although the setting of affordable housing targets should be supported by evidence of financial viability. H5 states that higher housing densities will be encouraged, with an overall regional target of 40 dwellings per hectare.

4.6 **Non-Statutory Cherwell Local Plan**

The Non Statutory Cherwell Local Plan was originally produced as a replacement for the adopted local plan. The plan was subject to first and second draft deposit stages and pre inquiry changes were incorporated. However the decision was taken by the Council to discontinue work on the plan on the 13 December 2004 and withdraw it from the statutory local plan process as there was no realistic prospect

of it being adopted prior to Government changes to the planning system coming into force that could prevent its subsequent adoption. The Council is now working on the preparation of a Local Development Framework (LDF). However to avoid a policy void the Non Statutory Cherwell Local Plan 2011 (NSCLP) was approved by the Council on the 13 December 2004 as interim planning policy for development control purposes. Whilst not carrying the weight of an adopted statutory local plan, it had progressed through much of the local plan process (not including a local plan inquiry) and is a material consideration in considering the current application.

4.7 Of particular relevance to the current proposal is Policy H10 which identifies the land for a sustainable urban extension. The policy is set out below;

H10 proposals for an urban extension on the land allocated on the proposals map for that purpose south of Bankside will be permitted provided that they:

- (i) Provide a comprehensive scheme for the whole site, comprising the range of land uses referred to in this policy and the general distribution of development shown on the proposals map
- (ii) Provide for an average net residential density within the range specified by policy h3, to achieve no more than 950 residential units within the plan period.
- (iii) Provide affordable housing and appropriate special needs housing in accordance with policies h5 and h7.
- (iv) Provide for education and library facilities commensurate with the need arising from the development.
- (v) Provide appropriate social and recreation facilities for community use including a community centre, a place of worship, sports pitches and play areas.
- (vi) Provide the opportunity for appropriate medical facilities to be provided in accordance with nhs requirements.
- (vii) Provide the opportunity for an appropriate range of local shopping facilities, including a public house to be provided on a commercial basis.
- (viii) Incorporate measures to encourage walking, cycling and public transport as the preferred modes of transport rather than the private car.
- (ix) Provide a transport interchange facility adjacent to oxford road in accordance with policy tr24.
- (x) Incorporate proposals to mitigate the impact of traffic associated with the development in accordance with policy tr3.
- (xi) Incorporate proposals for safe vehicular access between the site and

the adjacent public roads.

- (xii) Incorporate structural planting and landscape proposals to mitigate the visual impact of the development.
- (xiii) Incorporate canal-side facilities to safeguard and enhance the amenities of the canal as a major recreation corridor.
- (xiv) Provide high quality imaginative development that is locally distinctive in its form, materials and architecture.
- (xv) Incorporate energy efficient designs and technology throughout the development.
- (xvi) Incorporate a public park on the valley slope in the location indicated on the proposals map.
- (xvii) Ensure the protection of the amenity, ecology and water resources of the Cherwell valley.

There are other policies that are relevant in the NSCLP including the following:

- 4.8 EN23: before determining an application for development which may affect a known or potential site of nature conservation value, applicants will be required to submit an ecological survey to establish the likely impact on the nature conservation resource.
- 4.9 EN25: development which would adversely affect any species protected by schedule 1, schedule 5 and schedule 8 of the 1981 wildlife and countryside act, and by the e.c. habitats directive 1992, or its habitat will not be permitted.
- 4.10 EN7 development sensitive to noise generated by road traffic will be:
 - (i) refused where external noise levels exceed laeq. 16hr = 72db and laeq 8hr = 66db between 07:00-23:00 hrs and 23:00-7:00 hrs respectively.
 - (ii) generally resisted where external noise levels between 07:00-23:00 hrs and 23:00-07:00 hrs fall into the ranges laeq 16hr = 63 to 72db and laeq 8 hr = 57 to 66db respectively.
 - (iii) expected to achieve a specified internal acoustic environment when the external noise levels between 07:00-23:00 hrs and 23:00-07:00 hrs fall into the ranges laeq 16 hr = 55 to 63db and laeq 8 hr = 45 to 57db respectively.
- 4.11 **National Planning Policy**
PPS3 and PPS 9 are particularly relevant to the consideration of this application
- 4.12 **PPS3 – Housing**
This PPS sets out the government's commitment to improving the affordability and supply of housing in all communities, including rural areas. The PPS sets out requirements for a five year housing land supply of available and deliverable sites.

The PPS is a material consideration in the determination of the application.

4.13 **PPS9-Biodiversity and Geological Conservation**

states development proposals provide many opportunities for building –in beneficial biodiversity or geological features as part of good design and that Local Planning Authorities should maximize such opportunities

5. Appraisal

5.1 This application has been submitted as a Full application however the details are exactly the same as the previous Reserved matters and outline application that have been approved except for an updated Ecological Report which was submitted shortly after the application was registered.

5.2 **Planning Policy**

Policy H13 within the adopted Cherwell Local Plan identifies Bodicote as suitable for infilling, minor development and conversions. This proposal does not comply with these policies. In the appeal in 1990 the inspector identified the impact on the countryside as a significant issue and that development of the site would be an extension into the open countryside. The comments from the appeal in 2006 confirmed that the majority of the site constitutes a green field site lying in open countryside outside the built up limits of any defined settlement.

5.3 The non Statutory Cherwell Local Plan is a material consideration (as discussed above) and must also be considered. Policy H10 identifies the site for a sustainable urban extension and the allocation includes the application site and a small parcel of land to the east. Both these parcels of land were outside the application site of the proposal for development at Bankside ref 05/01337/OUT, which the Council has resolved to approve subject to the completion of legal agreements. The Bankside application is to provide a new primary school, local shops, employment opportunities, community hall, play and sport provision, enhanced public transport, highway improvements as well as a new community park. If the proposed Bankside development were to go ahead the application site would no longer extend into the countryside but, together with the small parcel of land immediately to the east, would be surrounded by built development. The refusal of the application on the grounds that the site extended into open countryside as occurred in 1990 would not therefore be tenable if the Bankside development were to go ahead.

5.4 Policy H10 of the non statutory Cherwell Local Plan seeks a comprehensive scheme for the land allocated. Although not part of the Bankside scheme, which provides for development across the majority of the allocated site, the current application proposal is only acceptable if the Bankside proposal is approved and implemented as the larger scheme would deliver the required facilities for the urban extension such as the primary school, sports pitches, mixed use area, community park, highway improvements and public transport. This infrastructure and facilities are necessary to serve the proposed development. It is therefore recommended that if this application is approved that a condition is imposed that would prevent the implementation of the permission in advance of the Bankside scheme. Furthermore, a S106 agreement is required to ensure that the proposed development makes an appropriate contribution to the facilities provided as part of the comprehensive scheme. This was re-confirmed by the comments made by the inspector at the recent appeal, who confirmed that the proposed development would

place a strain on existing community resources and that appropriate contribution to local infrastructure should be made through a S106, because the financial contributions required cannot be positively required by condition. Although the scheme is currently separated from the larger development by a small intervening parcel of land it is reasonable to assume that this land will come forward for development in the future as the land is also allocated for development as part of Policy H10 of the Non Statutory Cherwell Local Plan. A condition is also recommended to require provision for future footpath/cycle path links to be provided to enable connections to be made.

5.5 **Housing Need**

The Strategic Housing Market Assessment (December 2007) confirms the need to provide new housing. Planning Policy Statement 3 (PPS3) requires a flexible supply of land for housing by, amongst other things, maintaining a five-year rolling supply of deliverable (available, suitable and achievable) housing land. LPAs are required to monitor the supply of deliverable sites on an annual basis, linked to the Annual Monitoring Report review process.

PPS 3 requires scenario and contingency planning to identify different delivery options, in the event that actual housing delivery does not occur at the rate expected. Policies and proposed management actions are expected to reflect the degree to which actual performance varies from expected performance, as indicated in housing and previously developed land trajectories. Where actual performance, compared with the trajectories, is within the acceptable ranges (for example within 10-20 per cent), and future performance is still expected to achieve the rates set out in the trajectories, PPS3 states that there may be no need for specific management actions at that time and that LPAs will wish to continue to monitor and review performance closely and consider the need to update the five year supply, of deliverable sites where appropriate.

Where LPAs cannot demonstrate an up-to-date five-year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 including the following considerations:

- achieving high quality housing;
- ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people;
- the suitability of a site for housing, including its environmental sustainability;
- using land effectively and efficiently;
- ensuring the proposed development is in line with planning for housing objectives;
- reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives e.g. addressing housing market renewal issues.

The Council's 2008 Annual Monitoring Report (AMR) noted that under the then emerging South East Plan requirements (13,400 as today), the district had a 5.3 year rolling supply for the period 2009-2014. The figures for the 2009 AMR have

just been reviewed (Sept' 09). They show that for the same period the district has a 4.0 year supply rising to 4.5 years for 2010-2015 and 5.1 for 2011-2016. A four year supply represents a deviation of 20% from 5 years; a 4.5 year supply a deviation of 10%.

There therefore remains a need to deliver housing to provide a five year housing land supply deliverable sites within the District.

Allocations in the adopted local plan have now been built and it was the need to deliver more housing that led to the Executive Decision in 2005 to bring forward sites identified in the Non Statutory Local Plan. This need remains based on the current housing projections.

5.6 **Ecology**

Ecological issues include protected species as identified in the non Statutory Cherwell Local Plan policy EN25 which recommends that developments that would adversely affect protected species will not be permitted. An ecological survey has been carried out following concerns raised re badger and bat activity on the site. No evidence of badger activity was found in the ecological survey. Also no evidence of Bats was found in the roof of the main property and the outbuildings have ' a low potential to be used by bats, due to either their construction or state of repair plus no evidence was found to indicate that they have been used by bats as roosting sites. Bat activity surveys were carried out and no emergences occurred with very little bat activity across the site as a whole.

5.7 Although the report identified no other protected species (apart from possible nesting birds which is covered by the Wildlife and Countryside Act 1981), it was recommended that existing trees are retained and with regard to the new Planning Policy Statement (PPS9) that opportunities are taken to enhance bio diversity on the site through the development. Especially as the site provides ample foraging and commuting opportunities for bats.

5.8 **Access**

The proposed access to the site and the Traffic Statement accompanying the application are acceptable to the Local Highway Authority. The removal of the dwelling at 33 Oxford Road to allow for access will provide a break in the otherwise continuous built frontage to Oxford Road. To the south of number 33 pairs of semi detached properties front the service road but to the north there is greater variation in the buildings and building line and therefore the removal of number 33 is not considered detrimental to the street scene. The amendment to the entrance to the service road will move it to the north but it will not have any greater visual impact than the existing arrangement. In the 2006 appeal the Inspector who visited the site on 18th October 2006 at 12:45pm also confirmed that '*the proposed development would not have a significant adverse effect on the free and safe flow of traffic on the Oxford Road in accord with the relevant development plan policy*'.

5.9 **Noise**

The issue of noise pollution which has been raised by a number of local residents and was considered by the Inspector as a reason for refusal in dismissing the appeal in 1990. The current application is accompanied by a noise report. The report produced recommends the garden boundaries between nos. 31 and 35 Oxford Road and the site access road be provided with a barrier fence of minimum

height 2m to protect the amenities of the properties. The report concludes that the predicted noise levels will be similar to those which already occur at the rear gardens. Gardens will however benefit from the screening effect of the proposed fencing. The Head of Environmental Services on previous applications supported this approach and states: *“firstly it will provide additional sound attenuation reducing the noise levels to a value below that which existed prior to the proposed development. It will also provide a screen which may alleviate some of the subjective concerns relating to traffic noise.”* The inspector from the 2006 appeal commented that, *‘that there is a fairly high ambient level of noise generated by traffic on the Oxford Road, is supported by the evidence of the appellants acoustic engineer. I accept that after allowing for distance and the screening effect of the existing houses, the predicted noise levels adjoining the proposed access road would be similar to the existing noise levels in the rear gardens of 31 and 35 Oxford Road. I consider that subject to a condition requiring the screening of the boundaries between the proposed access and the adjoining gardens on each side, the proposal would not have significant adverse effect on local amenity as a result of the noise.’*

5.10 **Design**

Although the Design Statement contains limited information it clearly shows the developer’s intentions with regards to the design and where they have taken their influences from. Although there is no specific mention within the document of the scale of the buildings in relation to each other this information is satisfactorily contained in the plot elevations plans submitted with the application. In addition the landscape plan although not in its final stage shows their intentions with regards to the general appearance of the site. Therefore the information contained in the Design Statement is sufficient when combined with the information submitted with the application and is considered suitable for this site.

5.11 H5 states that higher housing densities will be encouraged, with an overall regional target of 40 dwellings per hectare. This site with the 23 houses has the equivalent of 30.4 dwellings per hectare and although short of the regional target because of the access to the site more dwellings on this particular site would be difficult to achieve.

5.12 One of the key considerations was the location of the Flats within this development, particularly given concerns raised at outline stage. The Block of 6 flats is located so it does not overlook existing gardens. The block has therefore been moved to the North East boundary and used to overlook the Local Area of Play which requires an element of natural surveillance. The Block is also well within the maximum height specified for the Bankside allocation, and is the same height as 4 of the other two storey properties on the site. Also there is a maximum difference of 1.5m between it and the smallest two storey dwellings on the site so therefore it will not over dominate the overall development. The design of the external appearance of the building is similar to a large detached house. Access was required to the rear of all the properties for bin storage and a bin storage unit for the use of the flats is proposed. The lengths of the gardens are of an appropriate length, being a minimum of 11m and longer than this minimum figure on the plots adjacent to the existing dwellings. This is longer than often found on modern developments and has been proposed to protect the amenity of the neighbouring residents, however in

doing this it does not allow for much variation in the building line.

- 5.13 The houses themselves comprise of a mixture of type and the first one seen as you enter the site is plot 1 which had the driveway amended to conform to Highway Authority requirements for visibility on exiting the driveway. This also avoids the first view of the development being cars and a garage, making the eye turn the corner on approach to this site and giving a pleasant feature on the first view of this development.
- 5.14 Plots 2-6 then face the flats and plots 16 and 17 which were designed to discourage parking in the front to keep the street view clear and unobstructed. Finally there are three blocks of housing located at the end of the access road with plots 11 and 12 providing the focal point at the end. These have been amended so that the integral garages are not located next to each other and therefore giving a more pleasant appearance.
- 5.15 The Layout of the proposal includes many of the factors which ensure streets are good quality places including encouraging more people on the streets to improve personal security and allowing for people meeting on a casual basis by providing public open space and frontages that are directly accessible on foot and are overlooked from the street as recommended in the 'Manual for Streets' document issued by the Department of Transport.
- 5.16 Consequently the dwellings are of appropriate design and appearance, therefore the proposal is in accordance with Policy BE1 and BE2 set out in the South East Plan and the Cherwell Local Plan 1996 Policies C28 and C30 which seek to ensure that new housing developments are compatible with appearance, character, layout and scale with the existing dwellings in the vicinity.
- 5.17 Where frontages over look each other they are 13m apart and within the 12-18m recommended by Manual for Streets. The frontage of the Public open space and the dwellings are directly onto the street and generate a positive relationship between the street and its surroundings.
- 5.18 By providing the footpath and cycle path link this will encourage access by walking and cycling and helps the connectivity of the site. Natural surveillance is also used throughout the design including over the Public Open Space to the north of the site and parking area to the south of the site.
- 5.19 The road widths on this development are above the 3.7m width recommended for fire safety issues and measuring between 5-6m the road width is appropriate for the layout. The turning area proposed has been approved by the Highway Authority within the outline planning permission.
- 5.20 The previous applications for this site contains a condition which requires a footpath/cycle path link between this site and the land to the east which it is envisaged will eventually connect to the Bankside site and therefore all the facilities funded by this urban extension. The exact position and design has yet to be agreed

and a condition is proposed that ensures this is agreed prior to starting the development. It will also be required that the Bankside development will have commenced construction before this site is implemented.

- 5.21 The South East Plan Policy SP2 identifies the need to concentrate development in regional hubs and with the future link to the Bankside development this site will benefit from being within easy walking distance of the facilities which are to be provided.
- 5.22 Although the detailed landscaping is required by condition there are a number of amendments to the landscaping illustrated on the layout which still require to be taken on board. These include:
- Providing an avenue of trees – on the entrance through to the Bankside footpath link.
 - Small trees to be located in the rear gardens of the dwellings located on the southern edge of the site to minimise effects upon the existing properties on Canal Lane
 - Maintaining the existing hedgerow on the North East side of the site and enhancing it where possible.
 -
- 5.23 The Bat Mitigation suggestions made by the Ecological Survey have been approved by the Ecological Officer and include the following requirements:
1. Retention of all the trees and hedges on site including the Fruit trees
 2. All works to the property should be undertaken early August to March
 3. The Main property must be demolished using a soft demolition protocol
 4. At the end of the night all strong lighting must be turned off
 5. Incorporate roosting enhancing features into the design
 6. Retention of mitigation features in perpetuities
- 5.24 A condition has therefore been applied ensuring that approval of an appropriate brick wall along the boundary of existing properties and access into the site and is sought prior to commencement of the development. The wall has been recommended by the Urban Design team to ensure the look of the approach is attractive because in such a prominent location fronting the public domain we would not normally accept fencing. The wall will also reduce noise levels in the rear gardens of the properties. This has been confirmed by the Environmental Services team as an acceptable alternative to fencing with regards to noise reduction.
- 5.25 Concerns were raised regarding the light pollution which would be experienced at the rear of the neighbouring properties. Consequently a condition has been proposed to control the addition of lighting onto the walls, roofs and gardens of the dwellings, to minimise experience of light pollution. This was also recommended by the ecological report which states that strong lights can discourage bats from their foraging activities.
- 5.26 The Inspector also makes it very clear in his statement from the 2006 appeal that *'in the absence of an executed agreement there would be no means by which the*

council could substantially enforce the requirements of NSLP Policy H10 after the grant of Planning Permission.’ It was also stated that the inspector ‘cannot require the submission of an agreement by condition’. It is therefore recommended that this planning permission should be granted subject to a completed S106 agreement.

6 Conclusion

- 6.1 The proposal meets the requirements of national policy . The properties are of appropriate design and appearance and those backing onto the existing properties have good size gardens to minimise disturbance as far as possible and the design has maintained the location of the flats away from these boundaries. The proposal is considered to be an acceptable solution for a restrictive site, providing appropriate open space for its size and a potential future footpath/cycle path link to the proposed Bankside development. A mitigation scheme has also been approved for dealing with the potential issue of bats and the scheme is also providing a variety of affordable housing to this area.

7. Recommendation

Approve

Subject to the completion of a S106 Agreement covering, Affordable Housing, Childrens Play Space and financial contributions

And the following conditions;

- 1. SC1.4A**
- 2. SC2.0**
- 3. SC3.0 – (d) details to also include planting of small trees along the Southern edge of the development. (e) Details also to include planting of an avenue of trees through the entrance road to the site, through to the point of exit of the proposed pathway link to Bankside.**
- 4. SC3.4A – North East, 2metres**
- 5. SC3.10 – Reason as stated**
- 6. SC3.5 – trees, tree, tree**
- 7. SC3.7A**
- 8. SC4.0A Prior to the construction of the dwellings**
- 9. SC4.6 – 0.6m**
- 10. SC4.9A**
- 11. SC4.10A**
- 12. SC4.13CC**

13. SC4.14C

14. SC4.21A

15. SC6.2

16. SC6.3

17. SC6.6A

18. Prior to the commencement of the development hereby permitted a phased risk assessment shall be carried out by a competent person in accordance with current Government and Environment Agency Guidance and Approved Codes of Practice, such as CLR11, BS10175, BS5930 and CIRIA 665. Each phase shall be submitted to and approved in writing by the Local Planning Authority:

Phase 1 shall incorporate a desk study and site walk over to identify all historic and current potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken.

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, make an assessment of the risks, including those off site, to receptors and to inform the remediation strategy proposals. If contamination is found by undertaking the Phase 2 investigation then Phase 3 shall be undertaken.

Phase 3 requires that a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use be submitted to and approved in writing by the Local Planning Authority (LPA). The remediation shall be carried out in accordance with the approved scheme and the applicant shall provide written verification to that effect. The development shall not be occupied until any approved remedial works, have been carried out and a full validation report has been submitted to and approved in writing by the Local Planning Authority. In the event that gas protection is required, all such measures shall be implemented in full and confirmation of satisfactory installation obtained in writing from a Building Control Regulator. Reason- It is suspected that this site and/or nearby land and water may be contaminated as a result of former industrial use(s) or otherwise. To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Policy ENV12 of the adopted Cherwell Local Plan.

19. The permission hereby granted shall not be implemented prior to the lawful implementation of any development permitted pursuant to the planning application reference 05/01337/OUT for residential development and associated facilities of land to the east and including the provision of a primary school, Community Park and other local facilities.

Reason: In order to comply with Structure Plan policy G3 and Non Statutory Cherwell Local Plan policy H10 and ensure that adequate infrastructure and

facilities are provided to serve the residents of the proposed development.

- 20. No development shall commence until a S278 Agreement has been entered with the County Council for the access works necessary within the public highway.**

Reason – Works are required within the public highway to accommodate a satisfactory access into the site and to comply with Structure Plan policy T8 and Cherwell Local Plan policy TR2.

- 21. No development shall be commenced until details and plans of the screening fence/Wall to be provided alongside Nos 31 and 35 Oxford Road have been submitted to and approved in writing by the Local Planning Authority. The approved fencing/walling shall be installed prior to the commencement of the works on site and thereafter be maintained at all times.**

Reason – to alleviate noise levels for nos.31 and 35 Oxford Road and comply with Cherwell Local Plan policy ENV1.

- 22. Provision shall be made within the layout to accommodate a footpath/cyclepath link between the site and land to the East and the footpath/cyclepath shall be provided up to the boundary of the site in the position approved to an adoptable standard.**

Reason To ensure that the opportunity is provided to create footpath/ cyclepath links to local facilities to encourage travel by means other than the private car in accordance with Cherwell Local Plan policy TR2

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

Reason – In the interests of highway safety and to comply with government advice contained in PPG13: Transport and Policy T8 of the Oxfordshire Structure Plan 2016.

- 24. No external lighting whatsoever shall be placed on the rear walls or roof of the buildings or sited in the rear gardens of plots 7-15 inclusive without the prior express planning consent of the Local Planning Authority.**

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

- 25. That the approved Bat mitigation detailed in the Ecological Survey commissioned in June 2009 by Jonathan Flint shall be implemented in full as part of the development and all bat boxes installed as part of the approved mitigation scheme shall not be removed or destroyed and if they become**

damaged shall be repaired or replaced and thereafter properly maintained.

Reason – to ensure the protection of Bats and the environment in accordance with the Cherwell Local Plan policy C1

CONTACT OFFICER: Bev Dancer

TELEPHONE NO: 01295 227971