

Application No: 10/01316/F	Ward: Ambrosden and Chesterton	Date Valid: 26/08/10
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Applicant:	Leda Properties Ltd
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Site Address:	Langford Park Farm, London Road, Bicester
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Proposal: Engineering Works comprising Lowering of Land to allow 1:100 Year Plus Climate Change Flooding

1. Site Description and Proposal

- 1.1 The application site comprises approximately 2 hectares of agricultural land associated with Langford Park Farm and located to the south of Bicester. The site is bounded to the north by the Langford Brook flowing between the A41(T) and the Bicester to Oxford Railway line, and to the east, south and west by Ministry of Defence land farming part of the Bicester Garrison. There are no buildings on the site itself although Langford Park Farm, a Grade II Listed Building and its associated farm buildings are located immediately to the south east of the application area.
- 1.2 The agricultural land includes part of a field under permanent grassland, and an area of rank grassland lying between the access road to Langford Park Farm and the Langford Brook. An existing hedgerow also runs along the boundary of the access road and the adjacent field and will be removed as part of the proposal.
- 1.3 The application has been submitted in conjunction with the application for residential development on land to the south of Talisman Road (09/01592/OUT refers). This application is intended to provide the compensatory flood storage from the site referred to above. The flood compensation is to be provided by excavating and re-profiling the site to store the floodwater during the 1 in 100 year plus climate change event. The proposal will also affect the access track which serves Langford Park Farm and crosses the compensation area.

Once the works have been completed it is intended to return the land to agricultural use.

2. Application Publicity

- 2.1 The application was advertised by way of site notices, a notice in the local press and neighbour notification letters. No representations have been received as a result of the above.

3. Consultations

- 3.1 Ambrosden Parish Council raise no objections

- 3.2 Bicester Town Council raise no objections
- 3.3 Oxfordshire County Council's advises that the site lies within an area of some archaeological interest being located north east of the Roman town of Alchester, and Roman settlement evidence was recorded 200m north east and north west. Due to these previous finds within the vicinity of the site it was considered that the proposal had the potential to impact on further Roman remains associated with the settlement sites to the north east and north west or to the Roman town and further Mesolithic deposits and material. It was therefore recommended that prior to the determination of the application that an archaeological field evaluation be carried out.
- 3.4 Following an archaeological field evaluation, this did record a number of archaeological features which have been provisionally dated to the Roman period based on pottery finds from features. However it did not record any archaeological deposits which would require preservation in situ, but the features recorded will be destroyed by the development and therefore will require excavation in order to preserve them through record. A number of conditions are therefore recommended to be included within any planning permission.
- 3.5 Environment Agency originally objected to the application in the absence of a Flood Risk Assessment. Following a Flood Risk Assessment for this proposal and the adjacent Talisman Road site (09/01592/OUT refers) the objection has now been removed and a number of conditions are recommended should planning permission be granted.
- 3.6 Cherwell District Council's Ecology Officer – the extended Phase 1 habitat survey report as submitted is detailed and comprehensive and therefore she concurs with the recommendations outline. However, additional information was reported in respect of mitigation measures and proposals during the works and afterwards in respect of reptiles. In line with PPS9 habitat enhancements are also recommended.
- Following the submission of more information and the mitigation plan as requested, the Ecology Officer has advised that all the ecological issues have now been adequately addressed.
- 3.7 Cherwell District Council – Engineering Services comments that the Environment Agency have agreed the detail of providing compensation in the way proposed for the adjacent residential development. However, whereas the occupiers of Langford Park Farm currently have both pedestrian and vehicular access during times of flood, the proposed scheme will deny them vehicular access at times. Although the EA have some misgivings about this, I am on balance satisfied that the provisions of PPS25 in this regard are still met. The compensation scheme will be substantial in the context of the local landscape and involve significant earth moving.
- 3.8 Cherwell District Council – Landscape Services advise the site is well concealed and will not be viewed from the A41 and there are no adjacent footpaths so visual impact is not an issue. The depression should be located as far from the listed Farmhouse as possible and care should be taken to ensure that the trees in front of the farmhouse are retained. It would be preferable to retain the hedgerow adjacent to the track. It is questioned where will the excavated earth be taken?

3.9 Cherwell District Council – Design and Conservation raises no objections.

4. Relevant Planning Policies

South East Plan 2009 -	Policies	Policy CC2 deals with mitigating effects of climate change. Policy NRM4 refer to sustainable flood risk management. NRM5 – Conservation and improvement of biodiversity
Adopted Cherwell Local Plan 1996	Policies	Policies C2 and C4 seek to protect protected species and their habitats
Non-Statutory Cherwell Local Plan 2011	Policies	Policy EN22 seeks to ensure nature conservation value of a site is not lost through development. Policy EN23 requires ecological surveys to be undertaken. Policy EN24 seeks protection of sites and species. Policy EN25 states that development which adversely affects protected species should not be allowed. Policy EN27 seeks to encourage the provision of new habitats in development proposals. Policy EN37 seeks the retention of existing trees, hedges etc and the enhancement of the ecological value of a site. Policy EN39 seeks to preserve the setting of listed buildings.

PPS5 'Planning for the Historic Environment'

PPS9 'Biodiversity' sets out the Governments objectives for conserving and enhancing biological diversity in England to ensure that planning permissions not only avoid mitigation or compensate for harm but always seek ways to enhance and restore biodiversity.

PPS25 'Flood Risk' provides advice on assessing flood risk in connection with development and requires the provision of Flood risk Assessments and Sequential Tests where development occurs in Flood Zone 3.

5. Appraisal

5.1 The main issues for consideration include the principle of the development, flood risk, ecology, landscape impact, trees and hedges, archaeology and impact on the listed farmhouse.

5.2 Principle of Development

This application has been submitted in association with the proposed development of the adjacent site for residential purposes (09/01592/OUT refers). The revised Flood Zones for the development of that site indicate that whilst much of the site is within Flood Zone 1, part of the site is within Flood Zone 3. As development is intended across the whole of that site, flood compensation for the lost flood plain during the climate change enhanced 1 in 100 year event must be provided in accordance with PPS25. The application site is outside the flood plain and has been identified as a suitable location for flood compensation, and is also in the ownership of the applicant for the residential proposal.

5.3 Flood Risk

During the flood event on the adjacent residential site, the floodwater is expected to spill over the bank and across the flood compensation area, to a maximum depth of between 100mm and 320mm. The area is to be graded so that floodwater will return to the channel. To ensure that the development site does not adversely impact on flood levels both up and downstream, and to demonstrate that the proposed compensation scheme could accommodate the displaced volume of floodwater, the proposed scheme was also included in the hydraulic model. The results in the flood compensation report confirms that there is no adverse impact on flood levels, and that the re-profiled compensation area is able to accommodate the flood water effectively without disrupting the flood flow regime.

Langford Park Farm is served by an access track which will need to be lowered to enable the floodwater to enter the flood compensation area. The RRA does not consider that the depth of floodwater over the track will result in an unacceptable hazard to the occupiers of Langford Park Farm, and will not result in the farmhouse being flooded itself. Access for emergency vehicles should be available at all times. The occupants will also be provided with an alternative route for evacuation by foot should the need arise.

5.4 Landscape Impact

The application site is well concealed and cannot be viewed from the A41, and there are no public footpaths within the vicinity of the site whilst the adjacent A41 is elevated above the site it is well screened by existing tree planting.

The proposal therefore which is essentially a large depression in the ground will have no landscape impact and once it has been reseeded will not stand out unduly from the surrounding agricultural land.

It is proposed that the top and sub soils removed in association with these works will be used on the London Road site as part of the land raising required there. A condition is also recommended which seeks details regarding the removal of the soil etc.

5.5 Trees and Hedges

The initial proposal sought the removal of an existing hedgerow alongside the access track to Langford Park and a number of trees in front of the existing farmhouse. Revised plans have since been submitted however, repositioning the compensation area slightly to avoid the area at the front of the farmhouse thereby enabling the trees to be retained. The hedgerow adjacent to the track will be removed, to allow the compensation area to be constructed. However, this hedgerow is not considered significant and its removal is therefore on balance acceptable.

5.6 Impact on the Listed Farmhouse

Langford Park Farm is a Grade II listed building with a number of curtilage listed buildings. The proposal to lower the ground level over an area adjacent to the listed farmhouse will have an impact upon its setting. PPS5 'Planning for the Historic Environment' seeks to ensure that the historic environment and its heritage assets are conserved, and that its setting is a material consideration in determining an application. It is considered that the creation of the hollow, which will be reseeded so that it blends back in with the surrounding agricultural land will not impinge on the setting of the listed building and those within its curtilage to any great extent such that it would be harmful. The proposal is therefore considered to comply with PPS5 and its Policy HE10 in this respect.

5.7 Archaeology

The application site lies within an area of some archaeological interest being located to the north east of the Roman small town of Alchester. As a result a number of finds have occurred during development and excavations within the vicinity of the site and it was therefore considered that the proposal had the potential to impact on further Roman remains associated with the settlement sites to the north east and north west or to the Roman Town and further Mesolithic deposits and materials. In accordance with PPS5 therefore the applicants were requested to carry out an archaeological field evaluation.

The archaeological find evaluation has now been completed which did reveal a number of archaeological features which have been provisionally dated to the Roman period based on pottery finds from the features. The evaluation has not recorded any archaeological deposits which would require preservation in sites but the features recorded will be destroyed by the proposal and will require excavation in order to preserve them through record.

Having regard to the above it is considered that the proposal is acceptable and will not significantly harm any archaeological features on the site but that the applicant should be responsible for ensuring the implementation of an archaeological

monitoring and recording action (watching brief) to be maintained during the period of construction. This can be done by the use of a condition.

5.8 Ecology

A desk top study and extended Phase 1 Habitat Survey conducted in 2010 accompanied the application ecological report, in order to assess the ecological value of the site and to identify any possible constraints to the development proposed.

PPS9 'Biodiversity and Geological Conservation' places a duty upon local planning authorities to ensure that a protected species survey be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. PPS9 states that:

"It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision".

Section 40 of the Natural Environment and rural Communities Act 2006 (NERC) states that:

"Every public authority must in exercising its functions have regard to the purpose of conserving (including restoring/enhancing) biodiversity, and that due regard must also be given to the requirements of the EC Habitat Directive when determining an application where European Protected Species are affected".

The study area in relation to the application included all the land within the application site boundary of the proposed flood compensation area as well as important ecological sensitive receptors within the zone of influence of the site with the potential to be directly and indirectly affected by the proposed development. The report as submitted is detailed and comprehensive, and has been further supported by a further report outlining mitigation measures and details to ensure that no protected species are injured or killed during the development and that the habitat is then restored on completion.

The Council's Ecologist raises no objections to the scheme and is satisfied with the mitigation plan submitted. It is therefore considered that Article 12 (i) of the EC Habitat Directive has been duly considered in that the welfare of any protected species found to be present will be safeguarded and their habitat protected. The proposal therefore accords with PPS9 and Policies C2 and C4 of the adopted Cherwell Local Plan.

5.9 Conclusion

Having regard to the above assessment it is considered that the proposed compensation flood water storage area on this site required in connection with the development of the adjacent site for up to 140 dwellings is acceptable. It will not cause significant harm to the visual amenities of the locality, the setting of the listed building, Langford Park Farm and the ecological value of the site.

The application is therefore recommended for approval subject to the applicant entering into a Section 106 Agreement relating to the long-term provision and maintenance of this compensation area in conjunction with the development of the adjacent residential site and a number of conditions.

6. Recommendation		
Approval subject to:		
<p>i) The applicants entering into a Section 106 Agreement relating to the long-term provision and maintenance of the compensation area in conjunction with the development of the adjacent land (09/01592/OUT refers).</p> <p>ii) The following conditions and planning notes</p>		
1.	SC1.4A	<p>That the development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.</p> <p>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.</p>
2.		<p>The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Evans Rivers and Coastal Ltd, dated November 2010, ref: 1018/RE/09-10/02 Rev A, and the following mitigation measures detailed within the FRA:</p> <ol style="list-style-type: none"> 1. A 30m length of the Langford Park Farm access track shall be lowered to 65.36m AOD, in accordance with Section 6.1, Section 6.2 and Appendix B of the FRA. 2. An alternative pedestrian route of access and egress will be provided above the 1 in 100 year flood level, with an allowance for climate change, in accordance with Section 6.8 and Figure 2 of the FRA. <p>Reason – To ensure that water can flow unimpeded into the compensation area during a flood event and to ensure that residents of Langford Park Farm are not cut off from the wider community during a flood event.</p>

3.		<p>No development approved by this planning permission shall take place until a plan is produced for the protection and mitigation of damage to populations of water voles and otters, protected species under the Wildlife and Countryside Act 1981 as amended, and their associated habitat during construction works and once the development is complete. Any change to operational, including management, responsibilities shall be submitted to and approved in writing by the local planning authority. The protection plan shall be carried out in accordance with a timetable for implantation as approved.</p> <p>Reason – This condition is necessary to protect the water voles and otters and their habitat adjacent to the development site. Without it, avoidable damage could be caused to the nature conservation value of the site contrary to national planning policy as set out in Planning Policy Statement 9 and Planning Policy Statement 1. The applicant could also be liable to criminal prosecution under the Wildlife and Countryside Act 1981 as amended.</p>
4.		<p>Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the approved plans drawing No. 23961/001/003 and supporting documents submitted with the application.</p> <p>Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Government Guidance contained within PPS1 ‘Delivering Sustainable Development’ and Policy BE1 of the South East Plan 2009.</p>
5.	SC3.3AA	<p>No works or development shall take place until a scheme for the protection of the retained trees (section 7, BS59837, the Tree Protection Plan) has been agreed in writing with the Local Planning Authority. This scheme shall include:</p> <ul style="list-style-type: none"> a) a plan that shows the position, crown spread and Root Protection Area (paragraph 5.2.2 of BS5837) of every retained tree on site and on neighbouring or nearby ground to the site in relation to the approved plans and particulars. The positions of all trees to be removed shall be indicated on this plan. b) the details of each retained tree as required at paragraph 4.2.6 of BS5837 in a separate schedule. c) a schedule of tree works for all the retained trees in paragraphs (a) and (b) above, specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS3998, 1989, Recommendations for tree work.

		<p>d) written proof of the credentials of the arboricultural contractor authorised to carry out the scheduled tree works.</p> <p>e) the details and positions (shown on the plan at paragraph (a) above) of the Ground Protection Zones (section 9.3 of BS5837).</p> <p>f) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers (section 9.2 of BS5837), identified separately where required for different phases of construction work (e.g. demolition, construction, hard landscaping). The Tree Protection Barriers must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase.</p> <p>g) the details and positions (shown on the plan at paragraph (a) above) of the Construction Exclusion Zones (section 9 of BS5837).</p> <p>h) the details and positions (shown on the plan at paragraph (a) above) of the underground service runs (section 11.7 of BS5837).</p> <p>i) the details of any changes in levels or the position of any proposed excavations within 5 metres of the Root Protection Area (para. 5.2.2 of BS5837) of any retained tree, including those on neighbouring or nearby ground.</p> <p>j) the details of any special engineering required to accommodate the protection of retained trees (section 10 of BS5837), (e.g. in connection with foundations, bridging, water features, surfacing)</p> <p>k) the details of the working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the Root Protection Areas of retained trees.</p> <p>l) the details of the working methods to be employed for the installation of drives and paths within the Root Protection Areas of retained trees in accordance with the principles of "No-Dig" construction.</p> <p>m) the details of the working methods to be employed with regard to the access for and use of heavy, large, difficult to manoeuvre plant (including cranes and their loads, dredging machinery, concrete pumps, piling rigs, etc) on site.</p> <p>n) the details of the working methods to be employed with regard to site logistics and storage, including an allowance for slopes, water courses and enclosures, with particular regard to ground compaction and phytotoxicity.</p>
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		<p>o) the details of the method to be employed for the stationing, use and removal of site cabins within any Root Protection Areas (para. 9.2.3 of BS5837).</p> <p>p) the details of tree protection measures for the hard landscaping phase (sections 13 and 14 of BS5837).</p> <p>q) the timing of the various phases of the works or development in the context of the tree protection measures.</p> <p>Reason - To ensure the continued health of retained trees and in the interests of the visual amenity of the area, to ensure the integration of the development in to the existing landscape and to comply with Policy C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.</p>
6.		<p>That the compensation flood storage area shall be constructed in accordance with full details to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development and such works shall be completed and be fully operational prior to the commencement of the development approved under application 09/01592/OUT or any subsequent planning permissions as agreed by the Local Planning Authority.</p> <p>Reason - To ensure that the development/site is served by proper arrangements for the disposal of surface water/foul sewage, to comply with Government advice in PPS25: Development and Flood Risk, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.</p>
7.	SC4.26AA	<p>That there shall be no built development or raising of existing ground levels within the area of land liable to flood.</p> <p>Reason - To prevent the increased risk of flooding due to impedance of flood flows and reduction of flood storage capacity, and in order to comply with Government advice in PPS25: Development and Flood Risk and Policy NRM4 of the South East Plan 2009.</p>
8.	SC4.27AA	<p>That no spoil or materials shall be deposited or stored on that part of the site lying within the area of land liable to flood.</p> <p>Reason - To prevent the increased risk of flooding due to impedance of flood flows and reduction of flood storage capacity, and in order to comply with Government advice in PPS25: Development and Flood Risk and Policy NRM4 of the South East Plan 2009.</p>
9.	SC4.28AA	<p>That any walls or fencing constructed within or around the site shall be designed to be permeable to flood water.</p>

		<p>Reason - To prevent obstruction to the flow of flood water, with a consequent increased risk of flooding, and in order to comply with Government advice in PPS25: Development and Flood Risk and Policy NRM4 of the South East Plan 2009.</p>
10.		<p>That prior to the commencement of any development on the site, full details of the removal of the soil, spoil and materials from the development shall be submitted to and agreed in writing by the Local Planning Authority. The removal shall be carried out in accordance with that scheme.</p> <p>Reason - To prevent the increased risk of flooding due to impedance of flood flows and reduction of flood storage capacity, and in order to comply with Government advice in PPS25: Development and Flood Risk and Policy NRM4 of the South East Plan 2009.</p>
11.		<p>The applicant, or their agents or successors in title, shall be responsible for organising and implementing an archaeological watching brief, to be maintained during the period of construction/during any ground works taking place on the site. The watching brief shall be carried out by a professional archaeological organisation in accordance with a Written Scheme of Investigation that has first been approved in writing by the Local Planning Authority.</p> <p>Reason – To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with PPS5: Planning for the Historic Environment.</p>
12.		<p>Following the approval of the Written Scheme of Investigation referred to in Condition 11, no development shall commence on site without the appointed archaeologist being present. Once the watching brief has been completed its findings shall be reported to the Local Planning Authority, as agreed in the Written Scheme of Investigation, including all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication.</p> <p>Reason – To safeguard the recording and inspection of matters of archaeological important on the site in accordance with PPS5: Planning for the Historic Environment.</p>
13.	SC9.4A	<p>The development hereby permitted shall be carried out in accordance with the recommendations set out in the ecological appraisal and mitigation measures produced by SLR Consulting Ltd dated August 2010 and 8 November 2010 unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason - To protect habitats of importance to nature conservation from any loss or damage in accordance with the requirements of PPS 9: Planning and Biodiversity, Policy NRM5 of the South East</p>

		Plan 2009 and Policy C2 of the adopted Cherwell Local Plan.
14.	SC9.5A	<p>All site clearance (including vegetation removal) should be timed so as to avoid the bird nesting/breeding season from March to August.</p> <p>Reason - To ensure that the development will not cause harm to any protected species or its habitat in accordance with Policy NRM5 of the South East Plan 2009 and Policy C2 of the adopted Cherwell Local Plan).</p>
15.	SC9.7A	<p>The development shall proceed in accordance with the Flood Risk Assessment prepared by Evans Rivers and Coastal received September 2010 accompanying the application unless otherwise previously approved in writing by the Local Planning Authority.</p> <p>Reason - To protect the development and its occupants from the increased risk of flooding and in order to comply with PPS 25: Planning and Flood Risk and Policy NRM4 of the South East Plan 2009.</p>
<u>Planning Notes</u>		
1.		Under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws 1981, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the Langford Brook, designated a 'main river'.
2.		Under the terms of the Land Drainage Byelaws 1981, the prior written consent of the Environment Agency is required for any proposed works within the Byelaw floodplain which does not require planning permission.
3.		<p>Advice to Applicant and LPA for Condition 3</p> <p>Although no recent signs of otters or water vole were found, we have recent records which contradict these findings. Otters are transient species. Therefore we would expect all measure to be taken to avoid disturbing them or their habitat during the construction phase. A walk over survey will be required prior to works commencing.</p>
4.		<p>Applicant Information – Survey Licence Requirements</p> <p>Note that a licence will be required from Natural England to survey for, and where any proposals are made as a last resort, to relocate legally protected species.</p>
5.		Advice to Applicant – FRA for the Talisman Road Site (1018/RE/08-10/01 REV A)

		Our comments do not change from those under WA/107919-3 except we would like to clarify that the lowered section of the track should be maintained at 55.36 mAOD (to allow water to flow into the compensation area), not 55.40 mAOD as previously stated.
6.	Q1	Attention is drawn to a Legal Agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.
7.	S1	The applicant is advised that all works to which this permission relates must be carried out strictly in accordance with the plans, drawings and other relevant supporting material submitted as part of this application and hereby approved. The Planning Department must be immediately advised of any proposed variation from the approved documents and the prior approval of this Council obtained before any works are carried out on the site. This may required the submission of a further application. Failure to comply with this advice may render those responsible liable to enforcement proceedings which may involve alterations and/or demolition of any unauthorised building or structures and may also subsequently lead to prosecution.
8.	X1	Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.
<p>SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES</p> <p>The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal will have no adverse visual flood risk or ecological impact. As such the proposal is in accordance with Government advice in PPS1, PPS5, PPS9 and PPS25, Policies CC2, NRM4 and NRM5 of the South East Plan 2009 and Policies C28, C2 and C4 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above.</p>		

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