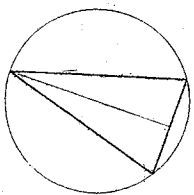
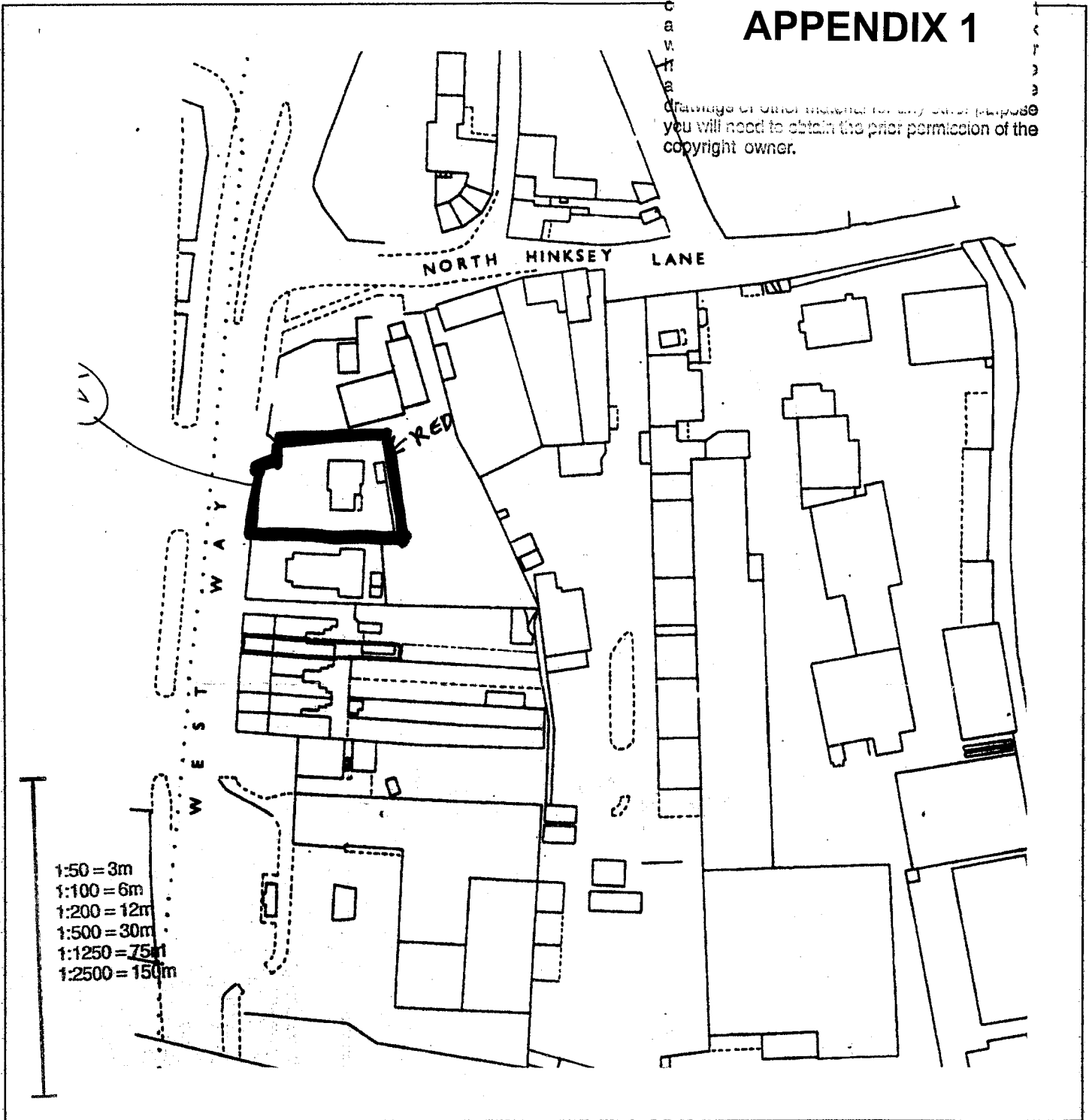


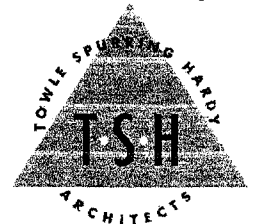
APPENDIX 1

Drawings or other material for any other purpose you will need to obtain the prior permission of the copyright owner.



29 West Way, Botley
 240157/P04
 1:1250 Site Location Plan

VALE OF WHITE HORSE
 DISTRICT COUNCIL
 REC'D 07 MAR 2007
 CORPORATE POSTAL
 SERVICES - 6



Woodside, Hinksey Hill,
 Oxford OX1 5BE
 Telephone: 01865 326636
 Fax: 01865 326609

07/00358/FUL

NH1/19742/1

APPENDIX 1

WEST WAY

existing vehicular access closed
footpath made good

new pedestrian access 2m wide with gate

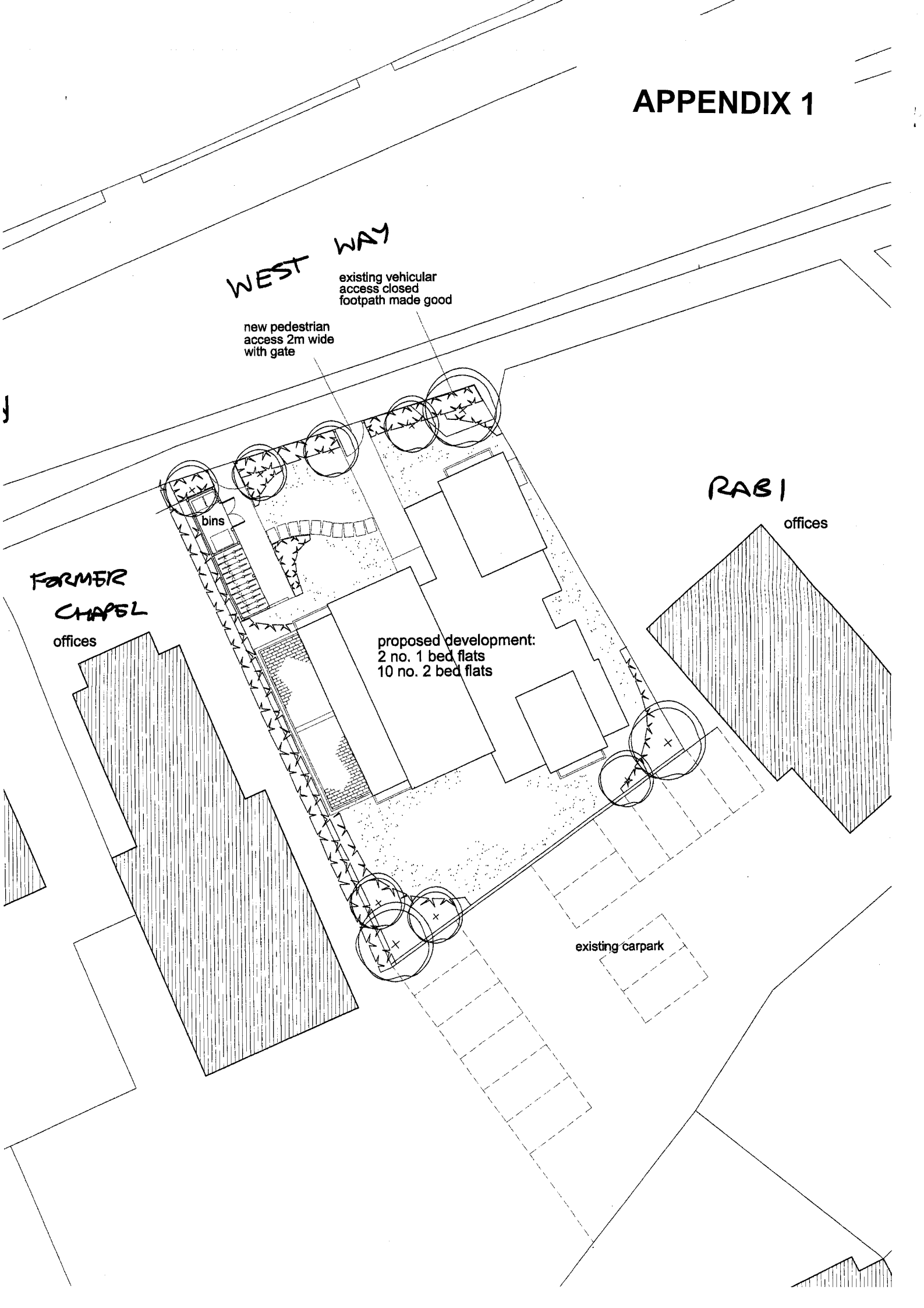
bins

FORMER CHAPEL
offices

proposed development:
2 no. 1 bed flats
10 no. 2 bed flats

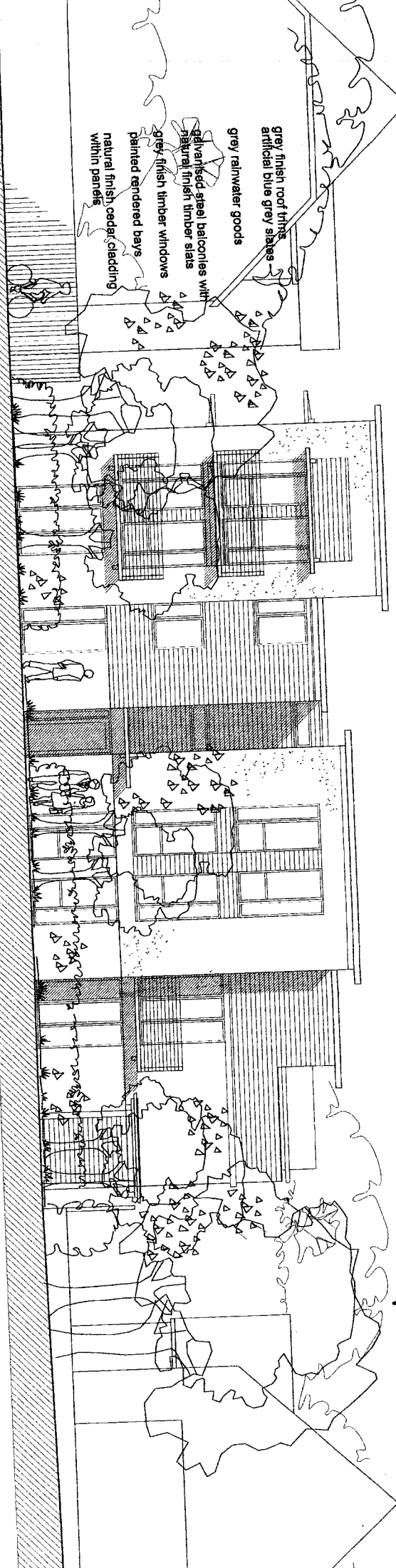
RAB1
offices

existing carpark



APPENDIX 1

RAE OFFICES

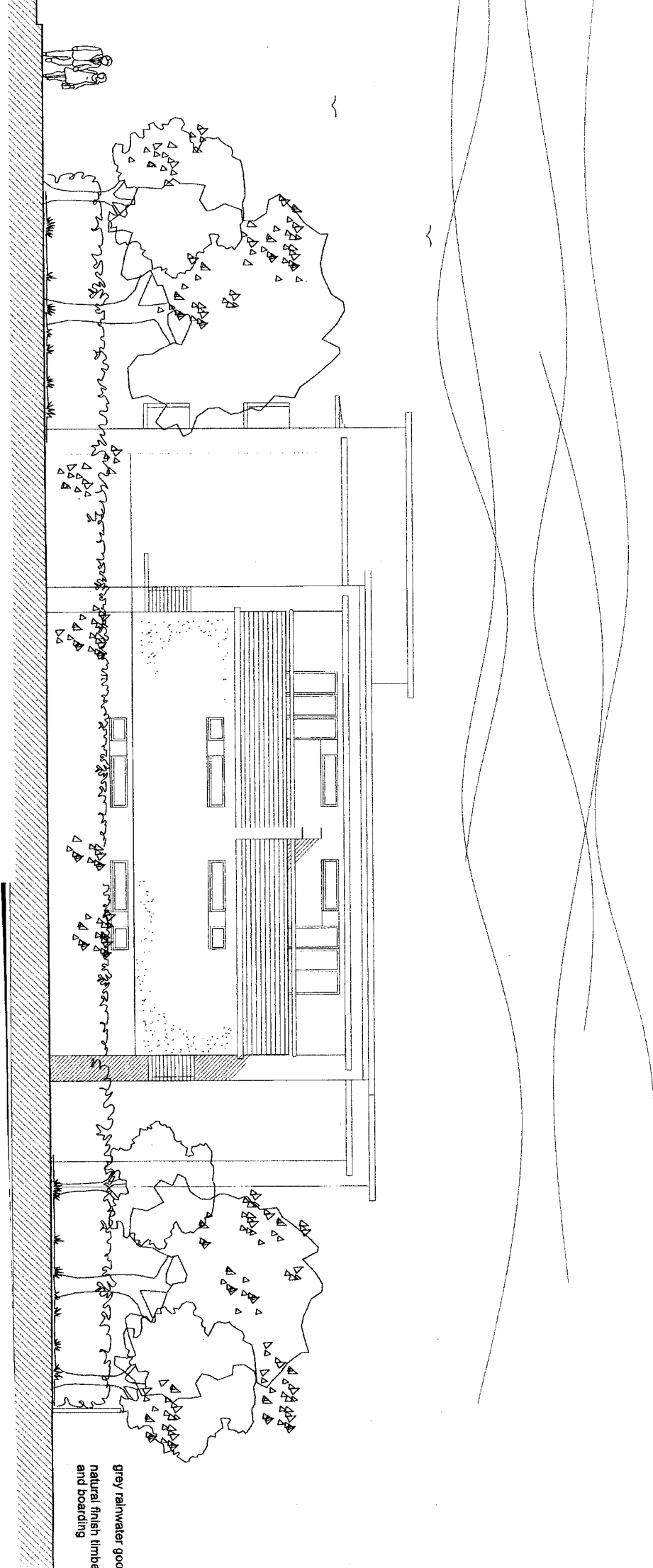


STREET ELEVATION

FORMER CHAPEL

APPENDIX 1

WEST ELEVATION



grey rainwater goo
natural finish timbe
and boarding

NORTH HINKSEY PARISH COUNCIL

NHI/19742/1

Demolition of existing dwelling. Erection of a three storey building comprising of 10 x 2 bed flats and 2 x 1 bed flats: 29 West Way, Botley.

Councillors gave very careful consideration to the previous proposal for 9 x 2-bedroom flats on this site, including standing outside the site observing the traffic flows. The Planning Committee voted unanimously to object to the proposal.

Following many concerns raised about the current application **Councillors UNANIMOUSLY AGREED to OPPOSE the application and urged the Vale of White Horse Development Control Committee to REFUSE the proposal for the following reasons: -**

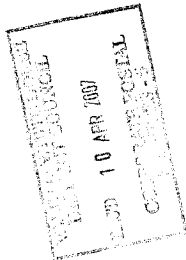
- a). *The present proposal is for one-third more flats and all our previous objections are multiplied.*
- b). *The Parking Standards set out in the Vale of White Horse Local Plan 2011 Supplementary Planning Guidance shows 2 parking spaces for a 2-bedroom flat and 1 space for a 1-bedroom. Thus for 10 2-bedroom flats and 2 1-bedroom flats this would mean that 22 parking spaces would be required. Whilst this is stated as maximum levels, it is inconceivable that the Vale's own policies can be completely set aside in such a dangerous highway area.*

The Access and Design Statement states that the site is "close to a main road intersection" It then states "It is therefore appropriate to adopt a contemporary approach to the design." This does not follow; it is precisely because that it is "close to a main road intersection" that we are so worried by this proposal.

- c). *There is no adequate provision for deliveries as the development lies off an urban clear way Any driver arriving at the site, whether delivery, collection or visitor will be breaking the law if they stop on the designated clearway during peak hours.*
- d). *There are hardly any parking spaces on the roads around the site; mostly there are double yellow lines. The only spaces whether for owners of the flats or for visitors are five in North Hinksey Lane, which are generally taken by other users.*
- This proposal does not show one single space near the north-west corner of the site for an emergency vehicle, which was in the previous proposal. This is considered a very serious omission.*
- e). *The proposed building is considered to be an over-development of the site, going close to each side boundary and containing very little amenity space; no separate areas are shown for each of the 12 flats.*



INVESTOR IN PEOPLE



**OXFORDSHIRE
COUNTY COUNCIL**
ENVIRONMENT & ECONOMY
www.oxfordshire.gov.uk

Speedwell House
Speedwell Street
Oxford
OX1 1NE

Tel: 01865 815700
Fax: 01865 815085

3rd April 2007

Your ref: 07/00358/FUL **Direct line: 01865 815729**

tim.foxall@oxfordshire.gov.uk

Please ask for: Tim Foxall

Dear Martin

Proposal: Demolition of existing dwelling. Erection of a three storey building comprising of 10 x 2 bed flats and 2 x 1 bed flats.

Location: 29 West Way, Botley

Application No.: 07/00358/FUL

Thank you for your consultation on the above planning application which in brief proposes the erection of a three storey building comprising of 10 x 2 bed flats and 2 x 1 bed flats. The development is proposed to be car free.

The Highway Authority understands that this application builds upon a similar but smaller development on the same site which has now obtained planning permission. This smaller application also proposed to be car free.

The Highway Authority did not object to the previous application on the grounds that the site is favourably located in terms of accessibility to shops and services, alternatives to the car (frequent bus service to the centre of Oxford and the railway station) as well as there being extensive on street parking controls in the vicinity of the site.

Given the above, there is no reason for the Highway Authority to change its stance as a result of the increase in unit numbers and therefore the Highway Authority does not wish to offer an objection to this application subject to the same conditions requested previously being attached to the application.

Considering the increase in bus patronage and cycling and walking trips as a result of car free development such as this, the Highway Authority request a contribution from this development of £10000 (index linked) towards the Oxford Transport Strategy.

Richard Dudding
Director for Environment & Economy

Steve Howell
Head of Transport

I trust you are able to take the above comments into consideration and should you wish to discuss the application in further detail, please do not hesitate to contact me.

Yours Sincerely,

Tim Foxall
Principal Transport Planner

The whole point of s.198(6)(b) is that, where there is actionable nuisance, the TPO will not apply to whatever cutting down, uprooting, topping or lopping of the tree is necessary to abate or prevent that nuisance. One of the difficulties for the first defendant in the present case is that it was the inevitable consequence of their construction of s.198(6)(b) that, despite the existence of actionable nuisance, the claimants here would have had to pay for the costs of underpinning the foundations of their house. This was, on the first defendant's case, the direct result of the TPO and the certificate. That seemed to me not only unfair but, much more importantly, unsupported by any provision of the 1990 Act, and for the reasons which I have given, contrary to s.198(6)(b).

P288.16 Misconstruction of national policy guidelines—decision quashed

R. (on the application of Lovelock) v First Secretary of State and Surrey Heath DC [2006] EWHC 2423 (Admin) (HHJ Andrew Gilbart Q.C.)

The appellant had wished to subdivide an existing dwelling into two self-contained dwellings. He appealed in the absence of a determination of his application and the planning authority resolved that, had it determined it, it would have refused permission on one ground only, namely that the new unit had no parking space and that this was contrary to a policy (M7) in the Local Plan adopted in 2000. The appellant contended on appeal that this traditional approach to parking provision had become outdated in the light of PPG 13, the revision to PPG3 and the revised parking standards emanating from the County Council together with a new Structure Plan of 2004. The Inspector dismissed the appeal and the appellant appealed to the Court under s.288.

HHJ Gilbart said:

10. The inspector, by a decision letter which is short but is not to be criticised for that, dealt with the appeal. She identified the main issue as the question of M7. She referred in paragraph 3 of her decision letter to the contentions of local residents that unallocated spaces were often insufficient for the number of vehicles to be provided. She concluded that there was significant pressure on parking in the residential area in which the appeal property is located. She concluded that it may be acceptable for a car to be parked outside the adjoining garage, but not if two separate households were concerned. She said this at the end of paragraph 4:

“4. I have not been provided with any evidence that a guaranteed, designated parking space would be available in one of the common car parks for the proposed new dwelling. I am not persuaded that a possible parking space in an unallocated car park would be proper provision as required by policy M7 of the local plan.

5. It may well be that the overall parking provided in the residential area equates to 1.5 spaces per dwelling. However, from what I saw on my visit and from the evidence provided by the parties, it appears that each dwelling has an allocated parking space, either in a garage or an open car park. The proposed dwelling

would not have an allocated space and the occupiers would have to rely on the possibility of a space being available which, given the pressure on parking for both residents and their visitors, may not always be available. In my view, this would be detrimental to the occupiers of the proposed dwelling” [I interpose to note that she is concerned with the question of the amenities of the proposed occupiers].

‘Both local plan policy and national guidance, including Planning Policy Guidance Note 3 ... and Planning Policy Guidance Note 13 ... seek to reduce dependence on the private motor car and so parking requirements should be reduced in certain circumstances, for example, the provision of satisfactory alternative public transport. The area is served by a bus service during the day but I note from the timetable that the service in the evenings and on Sundays is very limited. I accept that the occupier of a one bedroom house may not own a car and that PPG 13 advises that a developer should not be required to provide more spaces than they themselves wish. But given the suburban nature of the area and its distance from local centres, I consider that it would be more than likely that the occupiers of the two proposed houses would have cars. It would not be possible in this case to impose a planning condition that the proposal would be a car-free development which would be, in my opinion, the only way to discourage the use of the private car in the circumstances of this appeal. I believe that the provision of an additional space for the new dwelling would therefore be essential in terms of local plan policy M7.’ ”

11. In paragraph 7, she concluded that other matters raised did not outweigh
12. The duty of the inspector was, first of all, to determine the application for permission, having regard to the development plan and all material considerations (section 70(1) of the Town and Country Planning Act 1990). Secondly, pursuant to section 38 of the Planning and Compulsory Purchase Act 2004, by sub-section (6) she had to act as follows:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

It is a matter of trite law, to be found in, for example, the well-known case of *Gransden v Secretary of State* [1985] 54 P&CR 86 per Woolf J (as he then was), and in *South Buckinghamshire District Council v Porter (No 2)* [2004] 1 WLR 1953; [2004] UKHL 33, that firstly, so far as national policy was concerned, she was bound to interpret it properly, apply it, or if not applying it, give reasons for not doing so. Secondly, she had to give adequate and intelligible reasons for her decision which dealt with the principal issues.

13. In my judgment, the terms of PPG 13 and PPG 3 are intended to use the absence of parking provision as a way of driving down demand for travel by car: see paragraph 49 of PPG 13. Thus it is that the policy does not expect minimum standards, but does seek maximum standards (see paragraph 52 for example). Given that the mechanism adopted is to make travel by car less attractive, it follows that, absent a wish by the developers to provide any parking, the PPG is seeking to discourage provision unless the circumstances are exceptional, and paragraph 51 indicates the type of case that must exist for an exception to be made. If in fact the grant of permission for a development required that parking spaces (or in this case a space) were or was made available on a site or on the highway, the purpose of the policy would not be achieved.

14. Now, it may be that in some cases the detrimental effect of the lack of provision would outweigh the policy objectives. If, for example, the evidence were that failure to make provision could lead to on-street parking which would affect the appearance of a conservation area, or if there were evidence that it could lead to parking in a location which would cause harm to amenity to others, that *might* be the type of case where the effects could outweigh them. But, absent the highway safety issue (such as arguments that congestion might occur to an unacceptable degree), it is hard to see how a decision that the occupier of the new dwelling would be so disadvantaged by not having a car parking space that permission for a dwelling should be refused could be consistent with the thrust of PPG 13 and PPG 3. Indeed, the provision of a space to meet the potential desire of a future occupier would be impossible to reconcile with those policy statements.

15. I should add for completeness that, absent a highway objection, the case for refusal on parking grounds when the issue concerns *one space* must be difficult to bring within any reasonable interpretation of PPG 3 and PPG 13.

16. I also consider that the inspector has made a serious error in her summary of the effect of the policy in PPG 13 and PPG 3. It will be recalled from what I have set out above that she stated that those policy guidance notes seek reduction -

“... in certain circumstances, for example, the provision of satisfactory alternative public transport.”

She has treated that as defining the circumstances in which reduction should occur. That is itself a misinterpretation of PPG 13 and PPG 3. No such test appears in either document. Indeed, in PPG 3, while reductions are *encouraged in particular circumstances, they include:*

“involving the conversion of housing or non-residential buildings where off-street parking is less likely to be successfully designed into the scheme.”

That is precisely apt to this proposal and she makes no reference to it in her decision letter.

17. Perhaps the most telling sign that she has misunderstood and misapplied PPG 13 and PPG 3 is her conclusion in the first sentence of paragraph 6 that local plan policy and PPG 3 and PPG 13 were to similar effect.

18. I therefore regard her interpretation of the two planning policy guidance notes to be inadequate and incorrect, and they fall outside the range of reasonable interpretations.

19. Under section 38(6), she was required to ask herself if material considerations indicated that the decision should not be made in accordance with M7. To answer that question, it was incumbent upon her to interpret PPG 3 and PPG 13 properly, and then ask whether the exceptional circumstances existed here to insist on minimum standards. If she chose not to follow PPG 3 and PPG 13, she then had to give reasons for her departure from the policy.

20. Mr Bourne has urged on me that, although he accepts that paragraph 6 is poorly drafted, its meaning is clear that the inspector has had regard to PPG 13 and PPG 3, and has found that there was an exceptional case. I am unable to accept that. The starting point for considering an exception — either within the policy, or as an exception to the policy — is that one interprets the policy properly. I am satisfied that she did not do so.

There will be judgment for the claimant and the decision will be quashed.

P288.16 The Seddon Principles—Principle 6—a s.288 appeal is not an opportunity to review the planning merits—bias any such allegation must be fully particularised *Sager House (Chelsea) Ltd v First Secretary of State* [2006] EWHC 1251, Admin (Sir Michael Harrison)

This case arose out of an application for a development of 61 dwellings on the site of a redundant electricity transformer station in the conservation area in which was the Royal Hospital, Chelsea. The judgment runs to 123 paragraphs but is reported here on only two issues. The first relates to re-arguing the planning merits in a s.288 appeal.

Sir Michael Harrison said:

4. The Inspector dismissed the claimant's appeal on the grounds that it would cause significant harm, firstly to the views from and the setting of the Royal Hospital Conservation area and, secondly, to the privacy and sense of enclosure of neighbouring residential properties. The Inspector's reasons for those conclusions are contained in a 12-page decision letter.

5. The grounds of the claimant's section 288 application run to some 33 pages containing 7 grounds, but with almost 100 different sub-grounds, several of which overlap. The claimant's skeleton argument runs to over 50 pages together with a 29 page



Appeal Decision

Hearing held on 8 November 2006

Site visit made on 8 November 2006

by Elaine Benson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State for
Communities and Local Government

The Planning Inspectorate
411 Eagle Way
Ferntree Gully House
2 The Square
Temple Quay
Bristol BS1 6PN
Tel 0117 972 6272
e-mail enquiries@planning-inspectorate.gov.uk
Date: 3 March 2007

Appeal Ref: APP/V3120/A/06/2019922

Land adjacent Ock Mill, Marcham Road, Abingdon, Oxon, OX14 1AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Ledron Developments Limited against the decision of Vale of White Horse District Council.
- The application Ref 06/00343/FUL, dated 30 March 2006, was refused by notice dated 8 June 2006.
- The development proposed is Erection of 14 No. dwellings on four floors with 12 car parking spaces, Provision for 14 bicycle stores and refuse areas.

Summary of Decision: The appeal is allowed, and planning permission granted subject to conditions set out below in the Formal Decision.

Procedural Matters

1. At the Hearing an application for costs was made by Ledron Developments Limited against Vale of White Horse District Council. This application is the subject of a separate Decision.
2. At the Hearing, the Council confirmed that the Vale of White Horse Local Plan 2011 (LP) was adopted on 14 July 2006, superseding the Local Plan against which the application was assessed. Accordingly I have determined this appeal against the adopted LP.
3. During the Hearing, the Environment Agency (EA) confirmed that by letter dated 6 November 2006 it had withdrawn its objection to the proposed development in respect of the loss of access to the river for maintenance purposes. The EA also confirmed that its objection in respect of flood defence had been withdrawn. Both issues had formed part of refusal reason 2.
4. Prior to the Hearing the Council had confirmed to the appellant that refusal reason 4, in respect of the site access, had been withdrawn following the approval of an acceptable vehicle access design pursuant to a previous planning permission. It was also confirmed that refusal reason 5 in respect of the loss of an allocated employment site had been withdrawn following the recent adoption of the new LP. I have therefore determined this appeal on the basis of the remaining reasons for refusal, numbered 1, 2 (in part), 3 and 6.
5. During the course of the Hearing, 2 separate Unilateral Undertakings were submitted by the appellant. They are addressed below.
6. A revised drawing ref 4185/P/103.A was included with the appeal documents indicating a parking space for a person with disabilities. No objections were raised to this substitution and I have considered the appeal on the basis of this amendment.

Appeal Decision APP/V3120/A/06/2019922

Main Issues

7. The main issues are the effect of the development on:
 - the living conditions of future occupiers
 - the wildlife habitat and ecology of the adjacent river bank
 - the availability of car parking in the vicinity
 - the character and appearance of the surrounding area

Planning Policy

8. The development plan for the area includes the Oxfordshire Structure Plan 2016 (2005) (SP) and the Vale of White Horse Local Plan 2011 (2006) (LP). SP policy G1 sets out the strategy for providing a sustainable county framework for development, with particular regard to protecting the environment, character and natural resources. It indicates inter alia that development should be concentrated in locations where a reasonable range of services and community facilities exist or can be provided and the need to travel by car can be reduced. It also sets out the requirement that the best use of previously developed land is made. SP policy G55 similarly requires new development to make the best use of land without the loss of local facilities or harming the site or its surroundings. This theme is continued in LP policy DC1 which includes the requirements for new development to be of high design quality, having regard to local distinctiveness.
9. SP policy T2 sets out the county's strategic approach for the provision and management of car parking space with the aim of promoting sustainable travel choices, and among other things indicates that maximum standards for car parking will be applied. SP policy T8 and LP policy DC3 seek among other things to ensure that safe and convenient access is provided and adequate car parking provision is made. LP policy NE4 states that new development likely to harm sites of nature conservation importance will only be allowed where the reason for the development clearly outweighs the need to safeguard its nature conservation value and adequate compensatory habitats will be provided.
10. The preamble of LP policy DC10 seeks to ensure that future residents are not harmed by the effects of existing neighbouring uses and the policy sets out a number of potential adverse effects.
11. SP policy G3 sets out the Council's overall approach to the provision of infrastructure.

Reasons

12. The appeal site is vacant land fronting onto Marcham Road with the river Ock flowing to its rear. To the west is the car park serving a motorcycle showroom and to the east, a recently constructed care home which shares the site access. The surrounding area is mixed and includes a hospital directly opposite, retail, residential, food and leisure and commercial uses. A number of the buildings fronting onto Marcham Road appear to be recent developments.
13. Following a series of applications which included the appeal site as part of a larger site incorporating land to the east, planning permission was granted in August 2004 for the

erection of a 60 bed care home and 3 storey office building. The care home is now occupied. The appeal application proposes the substitution of a residential building for the office element of the approved development.

Living conditions

14. Marcham Road is a principal road leading to the town centre and as such carries a large volume of traffic. LP policy DC10 states among other things that developments will not be allowed where future occupiers are likely to be adversely affected by noise. A noise assessment was submitted and both parties agree that the noise level generated by passing traffic falls under Category C of Annex 1 of Planning Policy Guidance 24 *Planning and Noise* (PPG24). The guidance states that noise sensitive development, such as residential use, which would be subject to noise exposure category (NEC) C levels should not normally be allowed. It continues that where it is considered that permission should be given, for example where there are no alternative quieter sites available, conditions should be imposed to ensure a commensurate level of protection against noise.

15. The Council maintains that there are alternative, quieter sites available for housing development and that several allocated sites were identified in the District for the period up to 2016, though these sites were not identified at the Hearing. The Council considers that there is no overriding need for this site to be developed to meet its housing requirements. However, matters relating to the management of housing supply were not the subject of the Council's reason for refusal and there is limited information on this matter before me. Against this background I do not consider that the release of a relatively small site for 14 dwellings in a sustainable location and on which the principle of development in some form has been established would undermine any strategic objective for the location and delivery of housing in the District, notwithstanding the identified excess of supply over requirement to which the Council referred at the Hearing. Having regard to the advice in Planning Policy Statement 3 *Housing* (PPS3) that local authorities should consider whether sites which are currently allocated for industrial or commercial use could more appropriately be allocated for housing development, I place little weight on the argument that housing land supply figures support the dismissal of this appeal.

16. I also noted that little evidence was submitted with the appeal indicating that alternative sites had been considered or identified during consideration of the care home application. I was informed that the adjacent care home scheme provides residential accommodation and the bedrooms are likely to be occupied on a 24 hour basis, exceeding the daily period of occupation of most general housing. It was confirmed that this development also falls under NEC C. PPG24 states that where it is proposed to grant permission for noise-sensitive development in areas of ambient noise, planning conditions should be imposed to ensure that the effects of noise are mitigated as far as possible. It continues that in some cases insulation measures may be appropriate and will mainly apply to windows.

17. The Council has recently accepted noise sensitive residential accommodation in this location subject to safeguarding conditions and I have not been advised of any material change in planning policy or circumstances that would prevent me from reaching the same conclusion in respect of the appeal site. Although I note that planning permission for the care home development was granted contrary to the advice of its officers, it was the decision of the Council and I consider these factors to be material to this appeal. Both

noise witnesses confirmed that a satisfactory living environment could be achieved through the use of appropriate planning conditions. Accordingly, subject to the attachment of an appropriate condition requiring the submission of a scheme of acoustic glazing, I conclude that the proposal would not conflict with LP policy DC10 or the guidance within PPG24.

Wildlife Habitat

18. I have had regard to the concerns of the EA that the proposed parking areas would be located at the top of the riverbank and harm its value as a corridor where wildlife could migrate up and downstream. A buffer zone of 8 m is required although it was confirmed that the quality of the area is important rather than its size. At the site visit I saw that there are mounds of earth and spoil close to the riverbank, presumably resulting from the construction of the care home. As a result of this, it is my opinion that any ecological value of this part of the site would have been lost. This area would have formed part of the car park for the offices approved previously, a similar situation to the appeal proposal.

19. I have also noted that the previous planning permission for the site included an office development set at a similar distance from the river as the appeal proposal, with parking provision. A scheme of mitigation was considered acceptable by the Council for the office and care home development and works to implement a management scheme have commenced. This scheme includes the site area of the appeal development. Although the EA stated that they were not entirely happy with the all elements of the implemented scheme, this matter is not before me.

20. I have noted that the EA had consistently objected to development at the site, although it had been overruled by the planning authority. However, the fact that it had previously permitted a reduction in the 8m buffer zone is relevant to this appeal as it appears to have contributed to the decision of the Council to grant planning permission for the office and care home scheme. I have had regard to the EA's comments that its agreement to a reduced buffer zone depth had resulted from a misunderstanding about where the actual buffer zone should be measured from. Although the EA maintain that because this mistake had been pointed out to the appellant, they should have had regard to the required extent of the buffer zone in designing the scheme, I have sympathy with the appellant who relied upon previous advice and more importantly, a previous planning permission.

21. I have had regard to national policy and acknowledge the importance of biodiversity matters highlighted by the adoption of Planning Policy Statement 9 *Biodiversity and Geological Conservation* (PPS9) and in particular, note that it gives weight to the protection of biodiversity by sustaining, and where possible improving, the quality and extent of natural habitat. It states that where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot be reasonably located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where significant harm cannot be prevented, adequately mitigated against or compensated for, that planning permission should be refused. I have also had regard to the Oxfordshire Biodiversity Action Plan which has similar objectives.

22. Whilst I understand that the remit of the EA is to achieve the optimum result from each planning application, I consider that the circumstances surrounding the previous consent for the care home and office scheme are a compelling reason for allowing this appeal which is for a development of a similar form and is one which could still be implemented. Based on the evidence presented, I do not consider that granting planning permission would result in significant harm to biodiversity interests that could not be adequately mitigated. I conclude that a maintenance scheme for the whole site would achieve the EA's objectives, and could be secured by the condition to be re-imposed from the previous planning permission, rather than imposing the new condition suggested by the EA. To protect the river environment I have imposed conditions preventing the storage of spoil or materials close to the river, with the exception of works to provide the parking areas, and requiring details of surface water drainage. The condition suggested by the EA requiring details of the buffer zone is not necessary as the measures would be included in the management plan condition. I therefore conclude that the appeal proposal complies with SP policy EN2 and LP policy NE4.

Parking

23. Marcham Road is the principal east-west link from Abingdon town centre to the A34 trunk road. Although parking is not restricted on the road, traffic is fast moving and on street parking would interrupt traffic flows. Although I saw large car parks in the area, they appeared to relate to commercial or medical uses and I saw little available public car parking in the vicinity.

24. The appeal site is located on bus routes that lead to Abingdon Town Centre and surrounding towns and business parks. There are a number of local facilities, including a large supermarket, close to the site. I consider the site to be in a sustainable location, close to a number of employment sites, where there are realistic opportunities for travel by bus, cycling and walking. I have also considered the ratio of car parking to residents with that that might arise from the approved office use of the site. In both cases the parking provision would be below 100% and I do not consider that the shortfall in parking provision would be materially different in each case.

25. The level of parking proposed would be below the Council's maximum standards and complies with national guidance set out in Planning Policy Guidance Note 13: *Transport* which states that that local authorities should not require developers to provide more parking spaces than they themselves wish other than in exceptional circumstances, such as highway safety considerations. I have seen little evidence of such concerns and I am not convinced that there are any such exceptional circumstances in this case and conclude that the proposed level of parking complies with LP policy DC5.

Character and appearance

26. A number of the larger blocks in the area are set back within their sites and have space around them. However I do not agree with the Council that the retention of a green space to the front of the appeal site is fundamental to the character of this part of Abingdon. In my view, although the preservation of the open character of the area around the nearby roundabout is important, this spaciousness is not so crucial at the appeal site where it is not typical of its immediate surroundings. In particular, the expanse of open parking at the adjacent motorcycle showroom makes little contribution to the quality of the surrounding

area and the new building would to some extent screen this area, when approaching from the roundabout.

27. I do not consider that the differences between the previously approved office building and the proposed apartments would be so great in themselves as to warrant refusal of the current proposal. Although the facade would be long, the lift enclosure, upper level recesses and changes in materials across the elevation would in my view diminish its impact. The adjacent care home has a domestic scale which would be repeated on the residential block as the storey heights would be similar. A three storey office development would have a similar height to four residential storeys. In my view, the scale and massing of the office building would have been as apparent as the appeal proposal, regardless of its setback from the road. I conclude that the proposal would not result in a visually over-dominant building, but one that would happily assimilate with the street scene, adding visual interest.

28. The residential block would occupy a similar footprint to the previously approved office building. Although it would project closer to the road it would not be so dissimilar in terms of bulk, height and external appearance from the approved office development and would be visually acceptable adjacent to the care home. In reaching my decision I have also had regard to the fact that the Council's Architects Advisory Panel had recommended approval of the scheme application. I conclude that the development would be of high quality, appropriate to its context and therefore complies with SP policies G1 and G55 and LP policy DC1.

Infrastructure

29. The appellants agree that it would be appropriate to make the relevant contributions required by the development plan towards infrastructure provision and have produced 2 Unilateral Undertakings under Section 106 of the Town and Country Planning Act to secure these, which I have labelled A and B.

30. The Council requested contributions for local education infrastructure in respect of secondary school educational places; library provision; waste management; museum store; day care places and an adapted and equipped minibus. Unilateral Undertaking A makes provision for all of these contributions, whereas Unilateral Undertaking B specifies contributions only towards library provision; waste management and museum store.

31. The appellants consider that the request for the education contribution does not meet the tests of Circular 05/2005. The appellant sought justification from Oxfordshire County Council Education Department of how the contribution figure was reached. No response was forthcoming despite a request under the Freedom of Information Act.

32. In respect of the required contribution towards day centre provision, the appellant considers this to be unnecessary as there is a care home adjacent to the site. Additionally, the appellant does not consider that a contribution towards the provision of a minibus is fairly and reasonably related to the development.

33. I consider that undertaking A complies with the aims of the County Council to mitigate the effects of the development on County services and infrastructure. I have carefully considered the appellant's comments in respect of the requested education contribution. Whilst no details are provided about the basis on which the calculation of the

number of residents was calculated, I do not consider it unreasonable to assume that the dwellings could accommodate family units with at least one secondary school age pupil and conclude that appropriate provision should therefore be made. Turning to the issue of day care places and minibus provision, whilst I am aware that there is a care home adjacent to the appeal site, there is also potential for a future occupier of the apartment scheme to require the Council's services. There appears to be no direct functional link between the care home and the apartment scheme, and I do not consider that there is any justification on this basis for not making the contribution towards infrastructure. I therefore conclude that the Unilateral Undertaking A is necessary to mitigate the effects of the development, and undertaking B would fail to do this.

Other Matters

34. I have considered the appeal decision at St Agnes Gate, Wendover. I have limited information on this case, but find that the circumstances of this appeal are materially different from the appeal proposal, and as each case fall to be determined on its own merits I attach little weight to the Wendover decision.

Conditions

35. Conditions requiring details of materials and fenestration, landscaping and boundary treatments are required to protect the visual amenities of the area. I have required details of the car parking and circulation areas in the interest of highway safety and visual appearance. Details of the external lighting of the buildings and car park are required to prevent light nuisance and in the interest of highway safety. A condition is required to protect the future occupiers from traffic noise. I have also attached a condition requiring details of the use of contractor's vehicles to be controlled in the interest of highway safety.

Conclusions

36. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should succeed.

Formal Decision

37. I allow the appeal, and grant planning permission for erection of 14 No. dwellings on four floors with 12 car parking spaces. Provision for 14 bicycle stores and refuse areas at L and adjacent Oak Mill, Marcham Road, Abingdon, Oxon, OX14 1AD in accordance with the terms of the application, Ref 06/00343/FUL, dated 30 March 2006, and the plans submitted with it, but modified in respect of the car parking layout by the amended drawing Ref 4185/P/103.A subject to the following conditions:

- 1) The development hereby permitted shall begin before the expiration of three years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted and details of fenestration have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment

shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details.

- 4) The building shall not be occupied until the area shown as parking and turning areas on drawing number 4815/P/103.A has been drained and surfaced, laid and marked out in accordance with details hereby approved and that area shall not thereafter be used for any purpose other than the parking of vehicles.
- 5) Prior to the commencement of the development, a scheme for the external lighting of the buildings and car park shall be submitted to and approved in writing by the local planning authority. The building and car park shall be lit only in accordance with the approved scheme, and no additional lighting shall be installed, unless otherwise agreed with the district planning authority.
- 6) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours, means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).
- 7) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 9) No development shall take place until details of earthworks have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform. Development shall be carried out in accordance with the approved details.
- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 11) Construction work shall not begin until a scheme for protecting the residences hereby approved from noise from Marcham Road has been submitted to and approved by the local planning authority; all works which form part of the scheme shall be completed before any part of the development is occupied.