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<b>APPLICATION NO.</b>	<a href="#">P11/W1410</a>
<b>APPLICATION TYPE</b>	FULL
<b>REGISTERED</b>	15.09.2011
<b>PARISH</b>	GREAT HASELEY
<b>WARD MEMBER(S)</b>	Mr Stephen Harrod
<b>APPLICANT</b>	Mr Albert Nixey
<b>SITE</b>	Lobb Farm Tetsworth
<b>PROPOSAL</b>	Erection of 1.2 metres post and rail fencing and change of public highway to private access road.
<b>AMENDMENTS</b>	Additional information
<b>GRID REFERENCE</b>	466649/202786
<b>OFFICER</b>	Mrs S Crawford

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1.0 **INTRODUCTION**

- 1.1 The application has been referred to the Committee because the recommendation conflicts with the views of the Parish Council.
- 1.2 Lobb Farm lies in an isolated rural location accessed off the A40 between Milton Common and Tetsworth. Lobb Farm is served by a 470m length of adopted road that serves the farm complex only, the access road passes beneath the M40 motorway. The site has no special designation.
- 1.3 The site is identified on the Ordnance Survey Extracts **attached** at Appendix 1.

2.0 **PROPOSAL**

- 2.1 The application seeks full planning permission for a short section of post and rail fencing in the existing grass verge, running parallel to the A40; the post and rail fence would be 1.2 metres in height. The applicant's description includes reference to a change from public highway to private access road but this element of the scheme does not require planning permission because no change of use is involved. Reduced copies of the plans accompanying the application are **attached** at Appendix 2. Full copies of the plans and consultation responses are available for inspection on the Council's website at [www.southoxon.gov.uk](http://www.southoxon.gov.uk).

3.0 **CONSULTATIONS & REPRESENTATIONS**

- 3.1 Parish Council Refuse. The Parish Council does not understand why the development outlined in this application requires planning permission as the proposed fence is neither associated with a listed building nor in a conservation area. We are however opposed to the change of use from public highway to private access road as we feel the need for this change has not been adequately demonstrated by the applicant. There are also some issues with other rights of way in the vicinity of Lobb Farm House and questions over the rights of adjoining landowners to access this section of highway that we believe remain unresolved.  
We therefore object to this application and request that it is refused.
- OCC (Highways) No objections in highways terms subject to a condition to maintain the right of way.

CPRE (Rights of Way) This application appears to affect Lobb Farm Road & Great Haseley FP1 and we wish to object to this for the following reasons:-

a) In the 1970s Great Haseley FP1 was obstructed at Lobb Farm by the construction of a new barn. Following complaints to your Council an alternative route was agreed with the landowners passing north of Lobb Farm and crossing Lobb Farm Road. Unfortunately this route was never formalised by the making of a diversion order. As this is the route which is still in use today, we are concerned that any associated fencing should not obstruct it.

b) In consequence of the de facto routing of FP1, walkers have also been able for the last 30 years or so to link from FP1 via Lobb Farm Road to the A40 and Great Haseley BR16 on its north side and thereby make circular walks from Tetsworth via Great Haseley FP1 to Lobb Farm and back via the network of public rights of way north of the A40 or vice versa. While we would have no objection to vehicular rights being extinguished, we therefore wish to seek the retention of public footpath rights over Lobb Farm Road.

We therefore consider that any extinguishment of public vehicular rights over Lobb Farm Road should be accompanied by its retention as a public footpath and the diversion of FP1 onto its de facto line which we consider to be already a public footpath in its own right by virtue of long use.

OCC Land and Highway Records From our highway records, we note that the highway lane leading to Lobb Farm does not actually meet FP1 - the footpath crosses through the farmyard and can be seen clearly at Oxfordshire County Council Definitive Maps online (60SE). The highway record plan shows the extent of the highways maintainable at the public expense, which stops at the boundary of Lobb Farm itself. According to the records, Lobb Farm Lane does not have any other Rights of Way over it & the short link to FP1 is not shown as a public right. There is no information pertaining to a footpath diversion order or whether a footpath creation order could be utilised to achieve the retention of footpath rights over the length of Lobb Farm Lane, and is a matter for Rights of Way to advise upon.

OCC (Footpaths) Support Highway officer comments and the addition of the suggested condition that at least Public Footpath rights should remain. This could be added as part of the stopping up order process.

#### 4.0 **RELEVANT PLANNING HISTORY**

4.1 [P79/N0090](#) - Erection of agricultural building. Approved

[P78/N0176](#) - Erection of agricultural building. Approved

#### 5.0 **POLICY & GUIDANCE**

5.1 South Oxfordshire Local Plan 2011 policies;

C1 - Development would have adverse impact on landscape character

G1 - Restraint of development

G2 - Protect district from adverse development

G4 - Protection of Countryside

R8 - Protection of existing public right of way

South Oxfordshire Design Guide 2008

6.0 **PLANNING CONSIDERATIONS**

6.1 The main issues to consider in this case are:

- To explain the background of the case
- To consider the merits of the application
- To consider footpath issues.

6.2 **Background.** The application has been submitted to secure a solution to a problem over ongoing maintenance issues associated with the access track; which is a public highway maintained at the public expense. The ultimate aim is to remove the public highway classification of the access track so that the responsibility for maintaining and repairing the track will fall to the applicant. Due to financial constraints and the need to prioritise repairs to roads in regular use the County Council can not maintain the current public road to the standards required by the applicant because it is not used by much traffic. As such the road has deteriorated to a state that causes damage to vehicles that use the access. The applicant intends like to make an application for a “stopping up order” which is the terminology used when a road passes from being a public to a private road. The applicant wants the ability to maintain the track to his own standards and needs but can not do so until the “stopping up order” has been approved. The fence is the trigger for the planning application as the change of use of the access from a public road to a private access does not require planning permission. Without the planning permission from the District Council the applicant can not make an application to the County Council for the stopping up order.

6.3 **Application details.** The application seeks planning permission for the erection of a short section of post and rail fence in the grass verge running parallel to the A40. The fence would be constructed in timber to a height of 1.2 metres. It would be located to the east of the existing road access to Lobb Farm. A post and rail fence, constructed in timber is an appropriate form of boundary treatment in this rural location and is acceptable in your officer’s opinion.

6.4 **Footpath issues.** The Parish Council and the CPRE have objected to the application because there is an unresolved issue in relation to Great Haseley footpath no 1 (FP1) which was blocked by the erection of a barn in the 1970’s. At the time an alternative route was agreed that allowed walkers to gain access to the publicly adopted highway (the track) and then onto the A40. The line of FP1 and its relationship with the public highway is shown on the **attached** Appendix 1a. Whilst the concerns of the parish council are noted issues in relation to alleged footpath diversions are dealt with under different legislation. It is not the intention of the applicant to block the track or any right of way; the fence is sited within a grass verge and will allow passage around its short length by vehicles and pedestrians. The purpose of the fence is not to block the access itself as this would prevent any use of the track; the applicant will continue to use the access in connection with the farming activities and access to the farmhouse. In your officer’s opinion it is not possible to refuse this application for reasons in relation to the permissive path because the application is for the fence and any refusal reason would have to relate to the fence.

7.0 **CONCLUSION**

7.1 In the opinion of your officers, the timber post and rail fence is an appropriate form of boundary treatment in this rural location that will not detract from the character of the area or impede traffic or pedestrian flow. As such the development accords with the relevant Development Plan Policies.

8.0 **RECOMMENDATION**

8.1 **That Planning Permission be granted subject to the following conditions;**

1. **Commencement 3 yrs - Full Planning Permission**
2. **Planning condition listing the approved drawings**

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