Bicester Asylum Accommodation Centre, Judicial Review,
Cherwell District Council, 7 February 2003

Background

1.1 On 18 December 2002 I received a Supplemental Opinion from a team of lawyers whom I had instructed at One Essex Court, Temple Inns of Court, on the status of the Independent Monitor as outlined within the Immigration, Nationality and Asylum Act 2002.

1.2 This Supplemental Opinion was formed on the basis of the Act as it stands on the Statute Book, as it was outlined in the proceedings of the Bill, and from subsequent Ministerial correspondence and parliamentary questions. It is, in other words, as informed a Supplemental Opinion as is possible to obtain on the status of the Independent Monitor.

1.3 The Supplemental Opinion states clearly in Paragraph 7 that, "we think that it is arguable that it would be irrational to proceed with steps towards the establishment of an accommodation centre at Arncott (or indeed anywhere else) before the appointment of and the consultation with the Monitor under section 34(iv) of the 2002 Act and that it is therefore more than arguable that the court should grant, in judicial review proceedings, a declaration to that effect". That is an unequivocal endorsement that proceedings towards a Judicial Review would be successful. What then would be the benefit of Cherwell District Council

endorsing a Judicial Review as outlined in the Supplemental Opinion? There is both a moral case and a practical case.

"Moral" Case

2.1 The moral case has been outlined by Cherwell District Council itself. Lawyers, on behalf of Cherwell District Council, stated at the Planning Enquiry on 10 December 2002 that "the Council does not challenge the need to deal with those claiming asylum nor the humanitarian and other concerns which inevitably arise. However, this inquiry is concerned with the question as to whether Bicester properly represents a site which meets the legitimate requirements of asylum policy and planning policy. It is the Council's case that it does not." (paragraph 3). I would suggest, therefore, that Judicial Review is the next logical step towards Cherwell District Council outlining this argument.

2.2 Cherwell District Council would not be isolated if it were to proceed with a Judicial Review to reinforce the objections which it has already raised publicly. It is worth noting that on 3 May 2002, a number of well-respected organisations, including the Immigration Advisory Service, Amnesty International, the Immigrations Law Practitioners Association, the National Association of Citizens Advice Bureaux, the Law Society, the Commission for Racial Equality, Shelter, and the Joint Council for the Welfare of Immigrants, wrote to the Home Secretary in opposition to the government's proposals for asylum accommodation centres and indicating that if the government wished to establish accommodation centres then they should be sited in urban areas. The Refugee Council has also made it clear that they believe 750 bed spaces is far too large a number and that if the Home Office is determined to move forward with accommodation centres that they should be at very most no larger than 150 bed spaces and sited in urban areas, near to community support groups and other essential services, such as legal advice. There is not a single organisation which is involved on a day by day basis on policy matters relating to asylum seekers that have not publicly made it clear that they are opposed to the government's proposals. It is conceivable, therefore, that Cherwell District Council could

realistically expect at sizable support if it were to take the lead on Judicial Review proceedings.

"Practical" Case

3.1 There is perhaps a stronger case for Cherwell District Council seeking a Judicial Review on practical terms. It is more than arguable that investing in such a Judicial Review would be cost effective in the long-term for Cherwell District Council. I would suggest two variables are considered if any person were to conduct such a cost-benefit analysis.

3.2 Any Judicial Review would be cost effective in terms of the conceivable burden the proposed Asylum Accommodation Centre would place on local public services. The Home Secretary and the Immigration Minister made clear in evidence to the Select Committee on Home Affairs that site selection had been made on the basis that locations had to be able to withstand the "additional pressure" of such accommodation on its public services (see paragraph 47, minutes of evidence, 21 October 2002). Cherwell's public services cannot withstand such additional pressure. So, for example, at the time the site was selected the Department of Health itself had awarded Oxford Radcliffe hospitals the lowest performance rating in the UK. Cherwell District Council itself noted that, notwithstanding the supposedly self-contained nature of Asylum Accommodation Centres, "… the duties of local authorities under the Children Act 1989, the Mental Health Act 1983, the Chronically Sick and Disabled Persons Act 1970, and the National Health and Community Care Act 1990, are not displaced by the Nationality, Immigration and Asylum Act 2002" (see op cit, paragraph 58). I would suggest that when Cherwell District Council is having to raise Council Tax by 13.6 per cent to simply cover existing service provisions, the "additional pressure" of a 750 place Asylum Accommodation Centre will be considerable. Under these circumstances a Judicial Review would be cost effective.

4.1 Any Judicial Review would also be cost effective in terms of the additional burden the proposed Asylum Accommodation Centre would present to local

authority accommodation. Once again the Home Secretary and the Immigration Minister made clear that sites were selection because local authorities would inevitably be required to support an "additional pressure" on its accommodation from asylum seekers granted leave to remain. As the Immigration Minister made clear "… it is in those places where those people are granted refugee states tend to settle as well" (see op cit, paragraph 48). It is worth noting that Cherwell District Council, which is already operating under considerable pressure in terms of housing provision, is likely to lose a further £2.5 million by 2006/07 subsidies to its Housing Revenue Account. An Asylum Accommodation Centre would be operational at this point. It is also worth Cherwell District Council further considering that under the recent House of Lords judgement in the case of Westminster City Council v. NASS (18 October 2002) a local authority is obliged to provide accommodation for a asylum seeker who is in need of care as well as destitute. This will place a further "additional pressure" on Cherwell District Council's budget which would make a Judicial Review cost effective.

Conclusion

5.1 It is possible to estimate the cost of a Judicial Review, but it is not possible to estimate the cost of an Asylum Accommodation Centre to Cherwell District Council's budget if the Home Office's acknowledged "experiment" were to fail. It is certain that Cherwell District Council would be culpable for these costs. It is also clear that, according to Home Office during the first part of the Planning Enquiry, "Bicester will remain to have a trail accommodation centre even if the trail does not work". Supporting a Judicial Review that is "more than arguable" would in the short term is the best way to ensure that Cherwell District Council does not experience severe budgetary pressure in the long-term. Judicial Review, in short, is cost effective.

Tony Baldry MP