

**Phase 3 OS Parcel 5863 Adjacent Briar Close And
East Of Warwick Road Banbury**

19/02126/F

Case Officer: Nathanael Stock

Applicant: Persimmon Homes Ltd

Proposal: Erection of 36 dwellings with associated infrastructure and public open space

Ward: Banbury Hardwick

Councillors: Councillor Bignell, Councillor Donaldson and Councillor Ilott

Reason for Referral: Major development

Expiry Date: 22 January 2020

Committee Date: 11 March 2021

1. APPLICATION SITE AND LOCALITY

- 1.1 The application relates to a site now allocated for development within Banbury 5, to which Policy Banbury 5 of the Cherwell Local Plan 2011-2031 applies. The site as a whole (including the land within the blue line on the submitted application) covers an area of some 20.2ha and forms the greater part of the approx. 26ha allocated site to the north of Dukes Meadow Drive and to the east of Warwick Road.
- 1.2 The larger site gently undulates across the two agricultural fields from the Warwick Road to lower points in the south west and north east corners and to higher points to the north between the two fields and to the south east.
- 1.3 The current proposal relates to one part of the allocated site, specifically between Broken Furrow to the north (which has planning permission ref. 18/01206/F) and the Davidsons development to the site (refs. 14/00066/OUT and 15/01115/REM). To the east / north-east of the site is Phase 2 of the Persimmon development (15/01589/REM), from which access to this site would be taken.
- 1.4 The site, which is relatively level, is currently occupied by a detached dwelling in mature gardens and a field to the east of this. The site contains multiple mature trees which are predominantly located on the boundaries of the site and on the boundary between the existing dwelling and the field to the north east.
- 1.5 The site's surroundings consist of the Hanwell Fields development to the south, amenity space, which is not public, to the east (and which falls within the site allocation), agricultural fields to the north which separate the site from Hanwell and agricultural fields to the west, west of Warwick Road.

2. CONSTRAINTS

- 2.1. There are two public footpaths that run across the site, one across the western side of the western field from the Warwick Road towards Hanwell and one which runs along the northern boundary of the eastern field for a short distance before turning towards Hanwell. There are records of bats and badgers on the site and there are also notable habitats including lowland mixed deciduous woodland and a

broadleaved woodland plantation. Other site constraints include naturally occurring contaminants, a minor aquifer and known records of minerals.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks approval for a development of 36 dwellings on a site measuring 1.3 ha which forms part of the 26 hectare strategic housing allocation known as 'Banbury 5: North of Hanwell Fields' to the north west of Banbury. The site also forms part of a site that had outline permission for 350 dwellings (ref. 12/01789/OUT), though that permission has since expired.
- 3.2. During the course of the application the layout has been amended to increase the number of dwellings proposed from 34 to 36 dwellings, and to show improved linkages to surrounding land, to improve amenity relationships with neighbouring development and between dwellings proposed, and to address the proposals' impacts on TPO protected trees to the boundaries of the site.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal:

12/01789/OUT Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space

14/00341/DISC Clearance of condition 5 of 12/01789/OUT

15/00065/DISC Discharge of Condition 7 (energy strategy) of 12/01789/OUT

15/00097/DISC Clearance of condition 35 of 12/01789/OUT - access construction

15/00462/REM Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)

15/00024/SO SCREENING OPINION - Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1)

15/00187/DISC Discharge of Conditions 6 (phasing plan), 9 - 13 (land contamination), 14 (landscaping), 16 (scheme for the protection of retained trees), 20 (levels, boundary treatments and means of enclosure), 21 (earthworks), 22 (tree pits), 23 (LAPs/LEAPs), 24 (archaeology), 26 (update to badger mitigation strategy), 27 (bat mitigation works), 28 (Landscape and Ecology Management Plan (LEMP)), 29 (mitigation for other protected species), 31 (recent ecology survey), 32 (drainage strategy), 33 (water supply infrastructure impact studies), 34 (foul drainage), 38 (Travel Plan), 42 (Construction Environment Management Plan), 44 (car park to public open space area), 45 (full design details of LAPs and LEAPs) and 46 (footpath design details) of 12/01789/OUT

15/00257/DISC Discharge of Conditions 17 (method of supervision and programme of works for the landscaping), 37 (Construction Management Travel Plan) and 43 (Construction Environment Management Plan (CEMP)) of 12/01789/OUT

15/01298/F Variation of Condition 2 of 12/01789/OUT - extension of time of six months

15/00336/DISC Discharge of Condition 39 (lighting) of 12/01789/OUT

15/01589/REM Reserved Matters application for 210 dwellings dealing with appearance, landscaping, layout and scale (this development forming the 2nd phase of development which received Outline permission under 12/01789/OUT)

15/00082/SO Screening Opinion to - Reserved matters application for 232 dwelling dealing with appearance, landscaping, layout and scale. This application will form the 2nd phase of our proposals for the site pursuant to outline approval 12/01789/OUT.

15/00495/DISC Discharge of Conditions 2 (stone sample panel), 4 (slate sample), 10 (landscaping), 12 (LAPs/LEAPs) and 13 (levels) - Application 15/00462/REM

16/00371/REM Reserved Matter to 12/01789/OUT - Demolition of the Bat House located within Briars Close and erection of replacement Bat House

16/00504/CDC Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total)

16/00515/CDC Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total)

16/00017/NMA Handing of Plots 67 and 68, and handing of Plots 72 and 73 (proposed non-material amendments to application 15/00462/REM)

16/00029/NMA Erection of a semi-submerged gas governor (proposed non-material amendment to 15/00462REM)

16/01095/OUT Variation of Condition 2 of 12/01789/OUT

16/00046/SO Variation of Condition 2 of 12/01789/OUT

16/01210/F Erection of 20 No. dwellings, associated highways access and parking

16/00050/SO Reserved matters for erection of 21 no. houses, associated highways access and parking.

16/01484/CDC Erection of single storey building to provide 5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total) (revised scheme of 16/00515/CDC)

16/01485/CDC Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total) (revised scheme of 16/00504/CDC)

16/01722/M106 Modification of Section 106 - Application 12/01789/OUT

16/00498/DISC Discharge of Condition 3 (energy strategy), 4 (brick sample) and 5 (roof tile sample) of 16/01485/CDC

16/00499/DISC Discharge of Conditions 3 (energy strategy), 4 (brick sample) and 5 (roof tile) of 16/01484/CDC

16/00511/DISC Discharge of Conditions 8 (specification of parking and manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle store /parking facilities) and Partial Discharge of Condition 9 (landscaping scheme) of 16/01484/CDC

16/00512/DISC Discharge of Conditions 8 (specification of parking and manoeuvring), 12 (details of ground and finished floor levels) and 18 (cycle facilities) and partial discharge of Condition 9 (landscaping scheme) of 16/01485/CDC

17/00300/M106 Modification of Section 106 - Application 12/01789/OUT

17/00071/DISC Discharge of condition 6 (Amended elevation design details) of 16/01484/CDC

17/00076/DISC Discharge of Condition 6 (Amended Elevation Design Details) of 16/01485/CDC

17/00708/F Erection of 20 No. dwellings, associated highways access and parking set in the wider context of 12/01789/OUT and 15/00462/REM

17/00284/DISC Discharge of Conditions 13 (mitigation badger protection strategy), 15 (Biodiversity enhancements) and 16 (External light scheme) of 16/01485/CDC

17/00286/DISC Discharge of Conditions 13 (update to the mitigation strategy for badgers), 15 (biodiversity enhancements) and 16 (external light scheme) of 16/01484/CDC

17/01879/CDC Variation of Condition 2 (list of approved plans) of 16/01484/CDC to include additional land build up and tree planting, and an additional condition to prohibit access to the area of the site beyond (west and south of) the 1.8m high fence indicated by a solid brown line on drawing "LS-09 F" by anyone other than from time to time for grounds maintenance purposes in accordance with a management agreement or plan

17/00558/DISC Partial Discharge of Condition 9 (landscaping scheme) of 16/01484/CDC

17/00559/DISC Partial Discharge of Condition 9 (landscaping scheme) of 16/01485/CDC

18/01304/M106 Modification of Section 106 - Application 12/01789/OUT

18/00492/DISC Discharge of conditions 7 (Energy Statement), 16 (Tree Protection), 21 (Services), 23 (Play Area Design), 30 (Biodiversity Enhancements, 37 (Construction Management Travel Plan), 39 (Street Lighting) and 43 (CEMP) of 12/01789/OUT

18/00497/DISC Discharge of Conditions 3 (architectural details), 5 (landscaping scheme), 6 (connectivity), 8 (bin collection points) and 15 (vehicle tracking) of 15/01589/REM

19/00030/DISC Discharge of Condition 18 (Cycle Parking) of 17/00708/F

19/00058/DISC Discharge of Conditions 17 (programme of works for landscape) and 26 (ecology and biodiversity) of 12/01789/OUT

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:
- 5.2. 19/00051/PREAPP – Erection of 35 dwellings

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **4 February 2021**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Comments raised by seven households; the comments raised by third parties are summarised as follows:
- 6.3. Objections to the footpath proposed to connect the proposed development to the Davidsons development to the south – several respondents comment that this is a private access way owned by the residents of the current development ('Bannister Drive') (albeit allowing access to the occupiers of The Nutshell at the eastern end of the road); impact of the footpath on hedgerows, foliage and animals; it is unlit, with no footpaths and so there are safety concerns for pedestrians and cyclists; impact on privacy of occupiers on Bannister Drive
- 6.4. Objections to the proposed cyclepath that crosses onto the Davidsons development close to the Warwick Road; onto privately land; the path is unlit and concealed giving a potential accident risk; no mention in residents' deeds re proposed cycleway, that only access for other Bannister Drive homes is permitted
- 6.5. Trees – Concerns regarding the loss of mature trees along the southern boundary; requests for planting screening trees, e.g. holmoak or similar evergreen, fast growing. Some comments that houses on Bannister Drive adjacent to the site were sold to the homeowners by Davidsons on the understanding that the tree line and hedgerow on the site's southern boundary would be maintained; this tree / hedgerow line provides natural screening as well as a haven for wildlife; objections to the proposal to replace it with fencing
- 6.6. Impact on ecology – Two young deer spotted running down Bannister Drive; impact on birds in particular swifts; supports the recommendation of the Council's ecologist that provision for birds should be incorporated within the structure of the buildings; bird boxes should be installed in groups of 2, 3 or 4 rather than single boxes on different buildings; swift bricks should be incorporated into the structure of buildings – would also be used by House Sparrows (Red-listed) and several other hole-nesting birds – and are more aesthetically pleasing than nest boxes
- 6.7. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **No objections** but seeks (i) Clarity on the arrangements for the maintenance of the areas of open space (ii) Confirmation of the Section 106 heads of terms and comment that (iii) Concur with the strategic housing officer that the affordable housing should be less clustered (iv) Concerned about the adequacy of emergency access and turning facilities for the waste freighter.

OTHER CONSULTEES

- 7.3. OCC HIGHWAYS:

(Feb 2020) Objection for the following reasons: Insufficient visitor parking provision, and lack of cycle storage provision

If permission is granted than a Section 106 agreement is required, including an obligation to enter into a S278 agreement to mitigate the impact of the development, and planning conditions relating to car parking provision and cycle parking provision

Legal agreement required to secure those obligations secured under 12/01789/OUT, and a supplementary agreement (applied pro rata) towards public transport requiring a further contribution of £1,429 per dwelling.

(Feb 2021) No objection: "I have reviewed the revised drawing (P-3-02 Rev G Scheme Proposal) which now shows inclusion of four additional visitor parking spaces in layby's along the estate drive. The revision duly addresses the LHA's objection [in this regard].

"...while I cannot find any issues worthy of objecting to, the outstanding issue remains with regard to cycle parking detail. This has not been addressed. In the event that permission is given, could you kindly impose a cycle parking detail condition."

- 7.4. OCC DRAINAGE:

(Feb 2020) Objection: (1) Insufficient information provided to enable full technical assessment of the drainage proposals, flood risk and SuDS usage on site. (2) Site area as indicated in FRA is not reflected in returned pro-forma calculations. This needs to be verified and validated.

- 7.5. OCC EDUCATION: **No objection** subject to S106 Contributions for nursery, primary and secondary education provision.

- 7.6. OCC ARCHAEOLOGY: **No objection** – The site is located in an area of archaeological interest and has been subject to an archaeological geophysical survey, trenched evaluation and a programme of archaeological mitigation as part of the archaeological mitigation for a larger site. All the archaeological works have been completed and reported and no further investigations will be required. There are therefore no archaeological constraints to this scheme.

- 7.7. CDC ECOLOGY: **No objection** subject to S106 contributions to provide a 10% net gain for biodiversity. **Comments** that the submitted ecological appraisal report makes good recommendations for avoidance of harm (method statements) which should be required by condition, along with a pre-commencement CEMP for biodiversity. The recommendations for enhancements on site are fair, including bat/bird provision integrated into each new dwelling. Further measures would be

needed such as hedgehog highways between fenced/walled properties to ensure permeability; plus sparrow terraces, swift bricks, etc.

- 7.8. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to conditions for (1) the recommendations of the noise impact report to be followed; (2) contaminated land investigation; (3) a Construction Environment Management Plan (CEMP), to include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents; (4) provision of footpaths and cycle paths to encourage active travel; (5) provision of Electric Vehicle (EV) charging infrastructure.
- 7.9. CDC STRATEGIC HOUSING: **No objections subject to the provision of 30% affordable housing.** Provides an indicative mix and recommended standards.
- 7.10. CDC RECREATION AND LEISURE: **No objection** subject to financial contributions to offsite outdoor sports facilities (new/extended clubhouse at North Oxfordshire academy), off-site indoor sports facilities (floodlighting of tennis courts) and community halls (towards the improvement/enhancements of Hanwell Fields Community Centre.
- 7.11. CDC BUILDING CONTROL: Development would require a building regulations application.
- 7.12. HIGHWAYS ENGLAND: **No objection**
- 7.13. THAMES WATER: **No objection**

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 ('CLP 2015')

- PSD1: Presumption in Favour of Sustainable Development
- SLE 4: Improved transport connections
- BSC 1: District Wide Housing Distribution
- BSC 2: Effective and efficient use of land
- BSC 3: Affordable Housing
- BSC 4: Housing Mix
- BSC 7: Meeting education needs
- BSC 10: Open Space, Outdoor Sport and Recreation Provision
- BSC 11: Local Standards of Provision – Outdoor Recreation
- BSC12: Indoor Sport, Recreation and Community Facilities
- ESD 1: Mitigating and Adapting to Climate Change
- ESD 2: Energy hierarchy
- ESD 3: Sustainable Construction

- ESD 6: Sustainable Flood Risk Management
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 13: Local Landscape Protection and Enhancement
- ESD 15: The Character of the built and historic environment
- ESD 17: Green Infrastructure
- BAN 5: Land North of Hanwell Fields
- INF 1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES ('CLP 1996')

- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Development on contaminated land
- TR1: Transportation funding

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")
- Cherwell Design Guide Supplementary Planning Document (SPD) – 2018
- Cherwell Developer Contributions SPD 2018
- Cherwell District Council: Home Extensions and Alterations Design Guide (2007)
- Local Transport Plan 4
- Infrastructure Delivery Plan (IDP) Update December 2017

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Design, and impact on the character of the area
- Flood risk and drainage
- Residential amenity
- Ecology
- Archaeology
- Highway safety
- Infrastructure including Affordable Housing
- Other matters

Principle of Development

Policy Context

- 9.1. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that it does not

change the statutory status of the development plan as the starting point for decision making. However, the NPPF is a significant material consideration.

- 9.2. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up to date development plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date; granting permission unless the NPPF policies provide a clear reason for refusal or any adverse impacts significantly and demonstrably outweigh the benefits.
- 9.3. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan and the 2015 adopted Cherwell Local Plan (2011-2031) Part 1 ("CLP 2015"). The policies important for determining this application are referenced above in Section 8.
- 9.4. The CLP 2015 seeks to guide new housing development in the district in the most sustainable manner through Policies ESD1 and BSC1. The site is located within 'Policy Banbury 5: North of Hanwell Fields', which is a strategic residential allocation situated to the northern edge of Banbury allowing for approximately 544 dwellings with associated facilities and infrastructure.

Assessment

- 9.5. The site forms part of a larger site that has previously been subject of outline planning permission, but that permission has now lapsed. Nevertheless, given the proposed development lies within the housing allocation identified by Policy Banbury 5, the principle of developing the site for residential purposes accords with the Development Plan.
- 9.6. Planning permission has already been granted on the surrounding land for residential development with the majority of the land also now benefiting from reserved matters approval. To date, detailed planning consent has been granted for a total of 515 dwellings (344 for Persimmon, 160 for Davidsons and 11 for Build!), and outline planning permission for up to 46 dwellings on Broken Furrow, the land to the north of the site. For reasons set out in the officer's report to Committee for that application, it would seem unlikely that 46 dwellings could in practice be delivered on that site, unless the development includes a different housing mix to that shown on the indicative layout which accompanied the application. Indeed, a Reserved Matters application has recently been submitted for 40 dwellings on that site.
- 9.7. The current proposal is for 36 dwellings and this would mean that a total of 597 dwellings would have planning consent on the site (albeit the new Reserved Matters application for Broken Furrow, if approved, would bring the figure down to 591). The proposal would therefore exceed the approximate number of dwellings referenced in the Local Plan allocation Banbury 5 (544 dwellings). However, it is noted that approximately 20 dwellings on the Davidsons site are not situated within the allocation site (as shown on the Local Plan Proposals map) and therefore it could be argued these should be excluded from the calculation. Furthermore, the Council would consider "approximately" in Policy Banbury 5 to allow for a 5% exceedance (i.e. a total of c. 570 dwellings).
- 9.8. It is therefore considered that the proposal would not lead to a material increase in housing numbers on the site above the policy to warrant the proposal representing a departure from the Development Plan.

- 9.9. Whilst it is clear that the allocated site is likely to deliver in excess of the number of dwellings in the allocation, one also bears in mind that all development approved and proposed falls within the boundary of the site allocation and that the existing development within the wider Banbury 5 site can be said to have made an efficient use of land. Overall, therefore, the quantum of development on the site is considered acceptable subject to it complying with the other policies in the development plan and other material considerations, discussed below.

Conclusion

- 9.10. The proposed development is part of an allocated local plan site where the principle of residential development is acceptable. Whilst it is highly likely that the approximate housing number in the Local Plan allocation is likely to be exceeded it is not considered that the current proposal would result in a material increase above this. Subject to other material considerations the quantum of development is considered to be acceptable.

Design, layout, density and impact on the character of the area

Policy Context

- 9.11. Policy ESD15 of the CLP 2015 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.
- 9.12. Policy BSC2 states that housing development should be efficient use of land and should be provided on net developable areas at a density of at least 30 dwelling per hectare unless there are justifiable planning reasons for lower density development.
- 9.13. Policies BSC10 and BSC11 of the CLP 2015 requires the provision of open space and recreation provision commensurate with the need generated by the proposals.
- 9.14. Policy Banbury 5 of the CLP 2015 sets out some key site specific plan shaping principles in relation to the matters of landscape and visual impact, as well as the impact upon the character of the area. This includes retaining and enhancing landscape features such as trees and hedgerows.
- 9.15. Saved Policy C28 of the CLP 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context as well as compatible with existing buildings.
- 9.16. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 9.17. Paragraph 127 of the NPPF states that planning decisions should ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and

create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Paragraph 130 of the NPPF states that: *“Permission should be refused for development that fails to take the opportunities available for improving the character and appearance of an area and the way it functions.”*

Assessment

- 9.18. The landscape and visual impacts of the development would be relatively localised given that the site is surrounded by the wide housing allocation. Therefore, the impact on the broad landscape is not considered to be significant and the main issues to consider are the site specific matters.
- 9.19. The submitted layout plan shows the vehicular access to the site taken from Phase 2 of the Persimmon development to the east of the site. To the southern side of the road would be a 3 metre cycleway (in accord with the agreed Design Code for the development) which would connect through to Warwick Road to the west. There would be 2 metre footpath to the other side of the road, and a footpath connection to the Davidsons development to the south.
- 9.20. Officers note the concerns of the residents of this development relating to this proposed footpath connection. However, it is shown in the masterplan / Design Code for the site approved under 12/01789/OUT (its non-provision would conflict with the objectives for the development) and is also shown on the plans approved for the Davidsons development ref. 14/00066/OUT, and it would be to the great benefit of the connectivity and permeability of the development, enabling residents of the proposed development and other developments to the north to get to the Hanwell Fields estate to the south, including its local centre, more readily.
- 9.21. Objections were also received to the originally proposed route of the cycleway, connecting to the Davidsons development close to the western edge of the site. Although this is where / how the existing dwelling on the site accesses Warwick Road and would therefore have been acceptable, the applicant has sought to address this concern by amending the route of the cycleway to connect directly up to Warwick Road. In principle this is acceptable, provided that trees to the Warwick Road frontage are not harmed and subject to full details to ensure connectivity to / alignment with the footpath on Warwick Road.
- 9.22. Comments are also made by third parties in relation to the trees and hedgerow on the southern boundary of the site. It would be important for this green infrastructure to be retained in any permission given, not least to provide screening to neighbours (see below), but also for the benefit of ecology and biodiversity and because it is a requirement of Policy Banbury 5, the policy which permits the principle of development on the site.
- 9.23. Finally, officers would wish to clarify that access to Bannister Drive is not proposed from the roundabout to the east. There have been some reports from residents of reckless driving over the verge / landscaped area from roundabout to lane but such link is not proposed.
- 9.24. The proposal for 36 dwellings on a site of 1.3ha results in a density of c. 27 dwellings per hectare, which is slightly below the 30 dph expected by Policy BSC2. However, given the site's relatively awkward shape, the constraints presented by trees, and the need to provide for acceptable plot to plot relationships as well as an acceptable quantum of public open space and land for biodiversity gain, it would be difficult to accommodate more than 36 dwellings on the site. In addition, the Design Code for the development expects a density of under 30 dph for the site (whereas a higher density was expected for much of the rest of the Persimmon development).

In coming to this conclusion it is also borne in mind that a good range of dwelling sizes is proposed, i.e. 4no 1 beds, 17no 2 beds, 8no 3 beds and 7no 4 beds.

- 9.25. In the approved Design Code the site is described as CA3 – The Triangle ‘character area’, i.e. one homogenous area and no variety in density or character. Particular design requirements for the site are the use of black stained timber cladding to the first floor of every fifth dwelling across the development, and approx. every third garage to be wrapped in black stained timber cladding; large, casement windows, to be larger and more linear than the areas of the development; no headers; tiled sills; vertical panelled entranced doors; lean to canopies on brackets; black painted barge boards where used; a strong landscaped feel to link in with the surrounding mature vegetation of the site; primarily semi-detached and detached units (although terraced units are also mentioned so are presumed to be permissible); and dwellings designed to ensure no blank walls fronting onto the public realm.
- 9.26. Many of these details can be secured by conditions of any permission given. The semi-detached dwellings in the scheme are not wide-fronted, but in other respects the proposals accord with what is required by the Design Code. In terms of facing materials the Design Code does not require the use of natural stone (walls) or slate (roofs) for this site though their use for the western most dwelling (fronting Warwick Road) would be of great benefit to the development. The Design Code does expect 50% of the dwellings to be rendered. It is notable that render and black stained timber both appear to be missing from the application submission, but these materials can be secured by condition.
- 9.27. The submitted layout includes shows the provision of public open space including semi-natural green space in accordance with BSC11 of the CLP 2015. This scale of development necessitates the provision of a Local Area of Play (LAP) – normally this would be provided on site but it may be preferred here for an off-site financial contribution to be made i.e. to improve existing LAPs in the vicinity of the site and the provision of general green space. Comments have not been received at this time from the Council’s landscape officer.
- 9.28. The proposed housetypes (7no Elmbridge, 6no Leicester, 6no Hanbury, 9no Alnwick, plus HQI types 50, 73 and 83) have all been approved for use in the earlier phases of the Persimmon development to the north and north-east of the site and are all considered acceptable.
- 9.29. Earlier in 2021, i.e. since the submission of the application, several trees on the boundaries of the site and those of the adjacent site to the north have been given a Tree Preservation Order. The proposals have been amended during the course of the application to better respect these trees, in particular a Sycamore tree on the site’s northern boundary. Another TPO-protected tree, a Pine, is considered not to be in good health or to have long term potential and so is considered acceptable for removal.
- 9.30. There were some minor discrepancies in the original submission between the submitted tree survey and site layout plan, i.e. trees from the former which are not in the same position in the latter plan, and these have now been corrected. There are also discrepancies apparent between those plans are the equivalent information submitted for a current Reserved Matters application for development of the site called Broken Furrow (‘BF’), immediately to the north of the site. Specifically, there are some trees shown on the latter which are not shown in the BF plans. The applicant confirms these trees remain in situ.

Conclusion

- 9.31. The proposed development is considered acceptable with regard to its design and its landscape and visual impacts, and to accord with Policies ESD13, ESD15 and BAN5 in this regard, as well as Government guidance within the NPPF.

Flooding Risk and Drainage

Policy Context

- 9.32. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.33. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

- 9.34. The application is accompanied by a Flood Risk Assessment (Waterman, September 2019) which includes a drainage assessment.
- 9.35. The site is in Flood Zone 1 and there is minimal flood risk posed by surface water flooding at the site.
- 9.36. In terms of drainage, there are no watercourses or ditches present immediately adjacent to the site, and the nearest watercourse is a tributary to the Sor Brook, rising from the lake at Drayton Lodge before flowing (via a secondary lake) into the Sor Brook. The FRA states that,
- “further infiltration testing is required as Thames Water are unlikely to agree to a connection without the potential for infiltration testing being further explored, nonetheless based on previous testing infiltration would appear to offer a discharge solution”* and that, *“should infiltration testing at the Site display positive results, an ‘infiltration based’ SuDS strategy is proposed comprising an infiltration device in open space to the west for highway runoff and individual soakaways for private dwellings”*.
- 9.37. The report concludes that discharge solutions are available for both foul and surface water drainage. Further reports have been submitted in relation to infiltration testing which show that, unlike elsewhere on the BAN5 parcel, infiltration does not work.
- 9.38. The submitted drainage strategy involves a large attenuation tank under several TPO trees near to the site’s Warwick Road frontage, which is not acceptable. Officers are not yet content that the matter can be addressed through condition, although we are conscious that the site is allocated for development, and for a similar number to that currently proposed.
- 9.39. The County Council as Lead Local Flood Authority has objected on this basis and the applicant is seeking to address that objection.
- 9.40. Discussion with the LLFA indicates that, in line with other developments on BAN5 including Broken Furrow immediately to the north, the drainage strategy for the site would likely need to include a connection to public drains, the use of permeable paving and soakaway tanks to manage surface water from the development.

- 9.41. Thames Water states that the foul water sewage network and surface water network have capacity to accommodate the proposed development. Following initial investigations, Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of this development and recommends a condition is imposed on any permission given to prevent occupation of any dwelling on the site until appropriate mitigation is in place.

Impact on Residential Amenity

Policy Context

- 9.42. Policy ESD15 of the CLP 2015 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Saved Policy C30 of the CLP 1996 states that design control will be exercised so that new housing development provides standards of amenity and privacy acceptable to the Local Planning Authority.

Assessment

- 9.43. The proposals have been amended during the course of the application to seek to resolve issues officers had with the original submission in this regard.
- 9.44. There remain some concerns, e.g. the separation distance between Plot 2 and Davidsons dwellings to the east of the site is 20 metres (where the Council's supplementary planning guidance seeks 22m) and the distance between Plots 11/12 and the neighbouring Davidsons dwelling to the south is 21 metres. In both cases there is an intervening field boundary with either existing tree screening or where tree screening may reasonably be required to mitigate the impact through overlooking.
- 9.45. In addition, Plots 32-35 are within 22 metres of Davidsons dwellings to the south but here the relationship is between two front elevations and over highway, again with an intervening field boundary comprising tree or hedgerow.
- 9.46. Lastly, there would be some impacts through overlooking between plots within the development, but these have largely been addressed through changes secured during the application to the proposed house types and any remaining issues can be satisfactorily resolved through conditions attached to any permission given.

Conclusion

- 9.47. Subject to conditions for landscaping and obscure glazing of certain windows, the proposals are considered to safeguard the living conditions of existing and future residential occupiers and to accord with Policy ESD15 of the CLP 2015, saved Policy C28 of the CLP 1996 and Government guidance in the NPPF in this regard.

Ecology Impact

Legislative context

- 9.48. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and

protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.49. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.50. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.51. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.52. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.53. Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.54. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and

around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.55. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.56. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.57. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.58. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.59. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.60. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the LPA should then consider whether Natural England (NE) would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.61. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that NE will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether NE will grant the licence then the Council may grant planning permission.
- 9.62. The site is not subject to any statutory or non-statutory ecological designation. The application is supported by a detailed ecological report which the Council's Ecologist (CE) has reviewed. The CE advises that the said report makes good recommendations for avoidance of harm which would need to be required by condition, including integrated bat/bird provision, along with a pre-commencement condition requiring a Construction Environment Management Plan, plus hedgehog

highways and sparrow terraces. It is also considered that a lighting strategy would be needed which is sympathetic to the use of the boundary vegetation by nocturnal wildlife.

- 9.63. The CE advised, however, that a biodiversity net gain metric had not been submitted, nor had the Autumn 2019 reptile survey been submitted with the application. The applicant has since submitted these. The biodiversity net gain metric showed a net loss on site and a requirement for biodiversity offsetting, i.e. contribution to ecological provision off-site, in the vicinity. Officers have agreed that the biodiversity offsetting compensation will be put towards the Banbury Country Park. Three habitat units will be delivered in order to achieve 10% biodiversity net gain.
- 9.64. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions and planning obligations, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Archaeology

Policy Context

- 9.65. Policy ESD15 of the CLP 2015 states that new development proposals should: *"Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."*
- 9.66. Paragraph 189 of the NPPF states that: *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."*
- 9.67. Paragraph 193 of the NPPF states that: *"When considering the impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance."* Paragraph 194 of the NPPF goes on to state that: *"Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification."*
- 9.68. Paragraph 196 of the NPPF states that: *"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use."*

Assessment

- 9.69. The application site is not within a designated conservation area or within the setting of any listed buildings within the immediate vicinity of the site. However, the site is within an area of archaeological interest.

- 9.70. The County Council's Archaeologist advises that the proposals are acceptable in this regard, presenting no further archaeological constraint, and officers agree with this assessment.

Impact on highway safety

Policy Context

- 9.71. Policy Banbury 5 states that that access to the wider site should be taken off the existing roundabout and Warwick Road. It goes on to state that the layout should allow a high degree of integration and connectivity to new and existing communities including footpaths and cycle links and create walkable neighbourhoods. Policy SLE4 of the Cherwell Local Plan Part 1 requires that new development provides financial and/or in-kind contributions to mitigate the transport impacts of development. It also states that development which is not suitable for the roads that serve the development and which would have a severe traffic impact will not be supported and that new development should facilitate the use of sustainable modes of transport such as public transport, walking and cycling.
- 9.72. The NPPF has similar themes requiring opportunities to promote walking, cycling and public transport to be identified and pursued, and ensuring that patterns of movement are integral to the design of schemes. It also requires that safe and suitable access to the site can be achieved for all users and that development would only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Assessment

- 9.73. The proposed development would, along with the Broken Furrow development immediately to the north, complete the wider development of Hanwell Chase, under planning ref 12/01789/OUT. Vehicular access to this parcel of development would be taken from the Hanwell Chase development spine road via a priority-controlled junction. The spine road has been constructed running between Warwick Road and Dukes Meadow Drive.
- 9.74. Access to Phase 3 runs from east to west and has been designed as a 5.5m wide carriageway extension from the spine road, with 3m and 2m wide footways on the south and northern sides of the carriageway respectively. The carriageway terminates as a private drive serving about 5 properties. A 3m wide pedestrian provision continues westwards to link the development to Warwick Road.
- 9.75. At the time of the local highway authority's consultation response, no tracking had been provided, particularly for refuse vehicles, but the LHA advises it is "confident that owing to the simple layout presented by the development, such vehicles would not struggle in manoeuvring around the development".
- 9.76. The proposals show an acceptable level of parking provision for proposed dwellings but there were a lack of visitor parking across the development under the plans submitted with the application. Amended plans have been received which add 4no additional visitor spaces along the spine road through the development and the LHA is now content with the level of visitor parking provision.
- 9.77. In addition, in light of the LHA's advice, any permission given would need to be subject of a condition requiring additional cycle parking provision across the development.

- 9.78. In relation to the wider transport infrastructure, the LHA has requested contributions to accommodate the increased demand on highway infrastructure arising from proposed development. Without this, the severe congestion impacts of cumulative development would not be appropriately mitigated. The proposed development would contribute directly to the congestion impact on Warwick Road and therefore a financial contribution is sought to east-west strategic movement improvements on the Warwick Road corridor (covering the roundabout junctions with Ruscote Avenue and Orchard Way) in accordance with the Local Transport Plan. This contribution is based on the strategic transport contribution formula outlined in the Cherwell Developer Contributions SPD (2018).
- 9.79. A financial contribution is also sought to sustain and improve the local bus service which offers connectivity with Banbury Town Centre. A contribution of £1,429 per dwelling is required which is the same amount per dwelling as has been secured on the wider site. This is considered to be required in accordance with the Local Plan policy and Government guidance in the NPPF.

Conclusion

- 9.80. Overall, subject to conditions and legal agreement, the highway impacts of the development are considered acceptable and comply with the relevant local and national planning policy.

Affordable Housing and Housing Mix

Policy context

- 9.81. Policy BSC3 of the CLP 2015 states that all proposals that include 11 or more dwellings in Banbury will be expected to provide at least 30% of new housing as affordable. It goes on to state that this should be a mix of affordable rent (70%) and intermediate tenure (30%).
- 9.82. Policy BSC4 requires that new development provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive community.

Assessment

- 9.83. The proposal incorporates a mix of 1, 2, 3 and 4 bedroom properties in accordance with Policy BSC4 of the Cherwell Local Plan. The development necessitates the provision of 11no Affordable Houses and these are included in the proposals, in accordance with Policy BSC3, and the Council's housing officers are content with the proposals in this regard. This would need to be secured through a legal agreement.

Impact on Local Infrastructure

Policy Context

- 9.84. Policy INF1 of the CLP 2015 states that: "*Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*" Policy Banbury 5 also requires contributions towards additional school places, extension and improvement of bus service and community facilities.
- 9.85. Policy BSC11 of the CLP 2015 states that: "*Development proposals will be required to contribute to the provision of open space, sport and recreation, together with*

secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement." Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.

- 9.86. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and on site contributions from new development towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.87. Where on and off site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- a) Necessary to make the development acceptable in planning terms;
- b) Directly related to the development;
- c) Fairly and reasonably related in scale and kind to the development.

- 9.88. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

- 9.89. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- Provision of and commuted sum for maintenance of open space including open space, hedgerows, trees and attenuation features
- Provision of and commuted sum for maintenance of equipped Local Area of Play (100sqm activity zone – 400sqm including buffer) or off-site contribution towards the improvement of a LAP in the vicinity of the site;
- Off-site outdoor sports facilities provision – financial contribution towards the extension/new clubhouse at North Oxfordshire Academy.
- Off-site indoor sports facilities – financial contribution towards improvements and enhancements to Banbury West End Tennis Club or similar local facility
- Community hall facilities – financial contribution towards the improvement/enhancement of Hanwell Fields Community Hall or similar local facility
- £106 per dwelling for bins

- Provision of at least 30% affordable housing (70% affordable/social rent and 30% as other intermediate affordable)
- Provision of 2 new pedestrian accesses up to the boundary of the site and allow public access through these points

Oxfordshire County Council

- £1,428.57 per dwelling to sustain and enhance the local bus service
- £1,869 per dwelling towards 'east west strategic movements – Warwick Road corridor'
- Obligation to enter into a S278 agreement to secure the new access and improvements.
- £44,932 contribution (indexed, and based on 34 dwellings) towards nursery provision for expansion of provision at Harriers Banbury Academy
- £276,831 contribution (based on 34 dwellings) towards the primary school at Southam Road
- £176,492 contribution (based on 34 dwellings) towards secondary (incl. sixth form) provision in the local area

9.90. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, they have not provided further information to understand where any contribution would be spent. Thus, officers do not consider that they can request contributions towards health care infrastructure.

Conclusion

9.91. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts and local infrastructure.

Other matters

9.92. Saved Policy ENV12 of the CLP 1996 sets out that development on land which is known or suspect to be contaminated will only be permitted if

- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- (ii) The development is not likely to result in contamination of surface or underground water resources
- (iii) The proposed use does not conflict with other policies in the plan.

9.93. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer (EPO) therefore recommends that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.

9.94. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery

Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given.

- 9.95. Policy ESD1 of the CLP 2015 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2015 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2015 encourages sustainable construction methods. The reference to allowable solution in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These could be controlled through a condition.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal is located on a strategic housing allocation where the principle of new residential development is considered acceptable. Whilst the proposal would lead to the number of dwellings in the policy being exceeded, this is not considered to be a material increase and the policy allows for some flexibility. On balance, and taking into account the density of the scheme and its compliance with the Design Code for the site, and the need to preserve most of the key natural features of the site and contribute to diversity, it is considered that the proposal for 36 dwellings is acceptable. Subject to the concerns of the drainage engineer being addressed and the applicant demonstrating that a satisfactory drainage strategy can be delivered for the site, the proposal is considered to be acceptable.
- 10.2. The scheme would provide the social and economic benefits associated with the provision of new housing and would also provide additional affordable housing in the district.
- 10.3. Overall, subject to conditions and a legal agreement and resolution of drainage matters, the development is considered to comply with the Development Plan when read as a whole and it is recommended that planning permission be granted.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION SUBJECT TO RECEIPT OF SATISFACTORY AMENDED PLANS / INFORMATION AND NO OBJECTIONS TO THAT ADDITIONAL INFORMATION FROM THE LEAD LOCAL FLOOD AUTHORITY AND SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of at least 30% affordable housing on site
- b) Provision of and commuted sum for maintenance of open space including open space, hedgerows, trees and attenuation features
- c) Provision of and commuted sum for maintenance of equipped Local Area of Play, or off-site contribution towards the improvement of a LAP in the vicinity of the site;
- d) contribution towards Off-site outdoor sports facilities provision
- e) contribution towards Off-site indoor sports facilities
- f) contribution towards Community hall facilities
- g) £106 per dwelling for bins

- h) Provision of 2 new pedestrian accesses up to the boundary of the site and allow public access through these points
- i) £1,428.57 per dwelling to sustain and enhance the local bus service
- j) £1,869 per dwelling towards 'east west strategic movements – Warwick Road corridor'
- k) Obligation to enter into a S278 agreement to secure the new access and improvements.
- l) contribution towards nursery provision
- m) contribution towards the primary school provision
- n) contribution towards secondary (incl. sixth form) provision
- o) contribution towards provision of biodiversity habitats at Banbury Country Park

FURTHER RECOMMENDATION: IF THE SECTION 106 AGREEMENT / UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED WITHIN SIX MONTHS OF THIS PLANNING COMMITTEE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. The applicant has failed to demonstrate an appropriate drainage strategy for the site that would avoid harm to trees subject of a Tree Preservation Order and/or to the local area or existing or future occupiers through increased flood risk. The proposed development would be contrary to Policies ESD6, ESD7 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.
2. In the absence of the completion of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of: safeguarding public infrastructure, education provision, community facilities and indoor and outdoor sports/recreation facilities; mitigating highway safety concerns; encouraging use of sustainable modes of transportation; delivering mixed and balanced communities by the provision of affordable housing; and securing on site future maintenance arrangements will be provided. This would be contrary to Policy INF1, PSD1, SLE4, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, Banbury 5, ESD1 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CONDITIONS

Time Limit

1. 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.

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.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: [to be completed]

Reason – For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

3. No development shall commence unless and until a plan showing car parking provision for unallocated provision to be accommodated within the site, has been submitted to and approved in writing by the Local Planning Authority. The approved parking spaces shall be laid out, surfaced, drained and completed in accordance with the approved details prior to the first occupation of the development and shall be retained for the parking of vehicles at all times thereafter.
4. No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

5. Prior to the commencement of the development hereby approved, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

6. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

7. Notwithstanding the plans hereby approved, and prior to any construction of the dwelling above slab level, a revised schedule of externally facing materials for the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such thereafter.

Reason - To ensure the satisfactory appearance of the completed development

and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Notwithstanding the plans hereby approved, no development shall proceed above slab level on any dwelling until a stone sample panel (minimum 1 sq m in size) has been constructed on site and inspected and approved in writing by the Local Planning Authority. Thereafter, all of the external walls of those dwellings approved to be in stone pursuant to the requirements of Condition 4 of this permission, and the means of enclosure to those dwellings approved to be in stone pursuant to the requirements of Condition x of this permission, shall be laid, dressed, coursed and pointed in strict accordance with the approved stone sample panel.

Reason - To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. Notwithstanding the details submitted, and prior to the construction of any dwelling above slab level, full details of the architectural details of the dwelling(s), including windows, doors, heads, cills, lintels, eaves and verges (at a scale of 1:10), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented fully in accordance with the approved details and shall be retained as such thereafter.

Reason - To ensure and retain the satisfactory appearance of the completed development and in the interests of the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to any landscaping of the site and prior to the first occupation of the development hereby approved, and notwithstanding the submitted details, a revised and fully detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps,
- (d) means of enclosure and boundary treatments.

The hard landscape elements shall be implemented prior to the first use or occupation of the parts of the development they are intended to serve and shall be retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the

Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

13. Prior to the first occupation of the development, a refuse collection strategy shall be submitted for approval of the Local Planning Authority. The refuse collection strategy shall identify the location and dimensions of bin collection points which shall not be located so as not to cause obstruction.

Reason: in the interest of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

14. Before each respective dwelling is first occupied all first floor openings identified on the plans listed in Condition 1 of this permission to be obscurely glazed, that is all bathrooms and en suite bathrooms, shall be glazed with obscure glass (at least Level 3) only and, unless fixed shut, fixed with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C30 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. Before each respective dwelling is first occupied the south east facing first floor openings and south west facing first floor window in the rear gable projection serving Plot 1, the side facing first floor openings to Plot 10, the south facing first floor window to Plot 13, the west (rear) facing first floor windows to Plot 14, the west facing first floor openings to Plot 32 and the side facing first floor openings to Plot 33 shall be glazed with obscure glass (at least Level 3) only and fixed

with a ventilation stay restricting the opening of the window to no more than 30 degrees from the elevation in question, and must be permanently maintained as such at all times thereafter.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), and with the exception of the rear elevations to Plots 15-19, and 24-35 inclusive, no additional windows, doors or any other openings shall be inserted at first floor level or above in the development hereby permitted, or, in the case of the west elevations of Plot 15 and 20, at ground floor level, without the grant of further specific planning permission from the Local Planning Authority.

Reason - To safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), and with the exception of Plots 10, 30, 31, 32, 33, 34, 35 and 36 in respect of Class A development, no development within Schedule 2, Part 1, Classes A - E (inclusive) shall take place on the dwellinghouses hereby permitted or within their curtilage without the grant of further specific planning permission from the Local Planning Authority.

Reason - To ensure and retain the satisfactory appearance of the completed development and to safeguard the character and appearance of the area and to ensure a satisfactory living environment for future occupiers, to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

18. In the case of those plots to be externally faced in brick as amended by the conditions of this permission, the brick headers to those plots shall be constructed only using the same brick as the main walls to that respective plot.

Reason - To ensure and retain the satisfactory appearance of the completed development and to safeguard the living conditions of neighbouring residents and future occupiers of the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

19. Notwithstanding the provisions of Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending those Orders with or without modification), no walls, gates, fences or planting shall be erected or allowed to grow on or adjacent to the highway boundary exceeding 0.9 metres in height above the

level of the adjacent carriageway.

Reason: To afford adequate visibility at the access/junction and to cater for the expected volume of traffic joining the existing highway network and in the interests of highway safety, and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

20. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- SUDS (Permeable Paving, Soakaway Tanks)
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- Network drainage calculations
- Phasing
- Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and maintained thereafter and to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

21. The parking provision shown on the plans hereby approved shall be constructed and made available for use before the development is brought into use and other than in the case of garages shall be retained and maintained for the purposes of car parking at all times.

Reason: To safeguard the character and appearance of the area and the amenities of occupiers of the development and in the interests of highway safety and to accord with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

22. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all purpose built tree pits and associated above ground features, to include specifications for the installation of below ground, load-bearing 'cell structured' root trenches, root barriers, irrigation systems and a

stated volume of a suitable growing medium to facilitate and promote the healthy development of the proposed trees, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and specifications.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

23. Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all tree pits located within soft landscaped areas, to include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details and specifications. Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

24. Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing built environment and to comply with Policy ESD15 of the Cherwell Local Plan Part 1 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996, Policy PD5 of the Mid-Cherwell Neighbourhood Plan (2017-2031) and Government guidance contained within the National Planning Policy Framework.

25. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998:Recommendations for Tree Works.
b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of this reserved matters permission.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of

the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

26. If any retained tree is identified as being or having the potential to be a 'veteran tree' [as defined in BS:3998 section 3 - 'Terms & Definitions'], it shall be the subject of a specific management plan devised by a qualified and competent arboriculturalist. No work to the veteran tree, or within its vicinity, which might compromise the environs of the tree shall be carried out without the written approval of the Local Planning Authority.

Reason - To ensure the retention and protection of veteran trees which are important ecological habitats for a wide range of wildlife including Red Data Book species as identified in the UK Biodiversity Action Plan (BAP) and are of significant cultural value and to comply with the adopted Cherwell BAP and Government guidance contained within the National Planning Policy Framework.

27. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained with the National Planning Policy Framework.

NOTE TO APPLICANT/DEVELOPER: It is advised that this condition include a Biodiversity Impact Assessment metric to show how a clear net gain for biodiversity will be achieved.

28. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

29. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

30. No properties shall be occupied until approval has been given in writing by the Local Planning Authority that either:
- Evidence to demonstrate that all water network upgrades required to accommodate the additional flows/demand from the development have been completed; or
 - a housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development

31. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

32. If a potential risk from contamination is identified as a result of the work carried out under condition 31, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

33. If contamination is found by undertaking the work carried out under condition 32, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

34. If remedial works have been identified in condition 33, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 33. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

35. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

36. Each dwelling shall be provided with ducting to allow for the future installation of electrical vehicle charging infrastructure to serve that dwelling prior to its first occupation.

Reason - To maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

37. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE

OFFICER:

Nathanael

Stock