

**SUPPLEMENTARY INFORMATION**

**Planning Committee**

**13 June 2013**

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*If you need any further information about the meeting please contact Natasha Clark / Aaron Hetherington, Democratic and Elections [natasha.clark@cherwellandsouthnorthants.gov.uk](mailto:natasha.clark@cherwellandsouthnorthants.gov.uk), 01295 221589 / [aaron.hetherington@cherwellandsouthnorthants.gov.uk](mailto:aaron.hetherington@cherwellandsouthnorthants.gov.uk), 01295 227956*

# Agenda Item 23

## CHERWELL DISTRICT COUNCIL PLANNING COMMITTEE

13 June 2013

### WRITTEN UPDATES

#### **Agenda Item 5 Minutes of the Previous Meeting**

Page 8 Application 13/00186/F

Condition 1 should refer to 1 year

#### **Agenda Item 6 Update Briefing on Five Year Land Supply**

1. The National Planning Policy Framework (NPPF) requires (para' 47) Local Planning Authorities (LPAs) to "*...identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land*".
2. In 2011, prior to publication of the NPPF, the Council received an appeal decision (Talisman Road, Bicester) which concluded that district had less than a 5 year land supply.
3. The Inspector's conclusions were reflected upon in producing the 2011 Annual Monitoring Report which stated that district supply was 2.9 years for the period 2012-17. The AMR preceded the publication of the NPPF and therefore did not include the new requirement for a 'buffer' of 5 or 20%.
4. Since that time applications and appeals have been determined which have resulted in a gradual increase in the five year supply position.
5. The supply position (and therefore the level of shortfall) entails assessments and checks of the deliverability of sites within the year 5 year period.
6. Supply assumptions are tested by developers in making applications and at planning appeals. A number of appeal decisions are awaited. These are for proposed residential developments at Hook Norton (70 homes, decision expected in July), at Salt Way at Banbury (145 homes, decision expected in September) and at Bloxham (85 & 75 homes, decisions expected in September).
7. Land supply was comprehensively reviewed in the delayed 2012 AMR which was published in April 2013. It showed that supply had risen to 4.3 years for the period 2013-18, including an additional 5% requirement, and to 3.8 years with an additional 20% requirement.

8. Additional sites have since been resolved to be approved and are considered to be deliverable (90 homes at Ambrosden and 11 homes at Launton). This has had the effect of increasing the land supply position for 2013-18 to 4.4 years with an additional 5% requirement and to 3.9 years with an additional 20% requirement. This equates to shortfalls of 438 and 1001 homes respectively. The update to the housing land supply position was published on the Council's website in May.
9. It is clear that there is there is presently an under-supply of deliverable housing sites for the period 2013-18.
10. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the legally adopted Development Plan unless material considerations indicate otherwise.
11. The need to maintain a five year land supply is required by the NPPF and can be a material consideration in the determination of applications.
12. The NPPF (para' 49) states "*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites*".
13. The NPPF advises (para '14) that development proposals that accord with the Development Plan should be approved without delay. It also advises that where the Development Plan is "*absent, silent or relevant policies are out-of-date*", planning permission should be granted unless:
  - "- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
  - specific policies in [the] Framework indicate development should be restricted"*.
14. A number of applications for planning permission are on the agenda today that have the potential to increase housing land supply and possibly take the district to a position of five years plus 5% and above (i.e. in cases where housing is considered to be deliverable within the next five years).
15. However, the Council has not formally resolved whether the district should return to a position of five years plus an additional 5% requirement (i.e. making-up a shortfall of some 438 dwellings) or should continue to a position of at least five years plus an additional 20% (i.e. making-up a shortfall of some 1001 dwellings). This is a matter that has been debated at recent public inquiries and decisions (as referred to above) are still awaited.
16. It is the view of officers that whether the district is a 5 or 20% authority was not, at the time, a pivotal issue at these inquiries because in each case the number of homes proposed (70, 145, 85 and 75 – a total of 375 homes) would not have been sufficient to return the district to a position of five years plus

5%. However, at the meeting today there is the potential to increase supply beyond 5%.

17. Each appeal has been recovered by the Secretary of State for determination and it remains to be seen whether he will determine whether the district is a 5% authority, or has in his view 'persistently' under-delivered and is therefore a 20% authority.
18. However, it is clear that there been under-delivery of housing in recent years. The 2012 AMR demonstrates that between 2006 and 2012 there were 2898 housing completions (an average of 483 per annum) compared to a requirement of 4020 (670 per annum), a result in large part to national housebuilding conditions.
19. Furthermore, the deliverability of sites can change over time resulting in fluctuations in the five year land supply. The AMR seeks to review this on an annual basis.
20. In view of this and the need to return to a defensible five year land supply position, the advice of planning policy officers is that the Council should seek to return to a position of five years plus an additional 20% requirement in the interests of meeting housing need, sustaining a five year land supply, and placing the Council in a stronger position to ensure that housing is delivered in accordance with its existing and emerging planning policies. Returning to a five year plus 20% position does not of course remove the need to consider all future residential applications in the context of the Development Plan and all other material considerations.

## **Agenda Item 7**

### **Planning Application 11/01494/OUT Site C Ploughley Road Upper Arcott & site D & E Ambrosden Road MOD Bicester**

Representation from the applicant's have been received with regard to the detailed wording to conditions as set out below;

The following corrections/amendments to the conditions should be noted (changes are underlined, deletions are crossed through):

1. No development shall commence on any part of the site until full details of the [internal access roads, layout, scale, appearance and landscaping] for that part of the site (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.
2. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Environmental Statement and drawings numbered...

Condition 7 currently reads as follows:

The building hereby permitted on C site shall be constructed to DREEAM very good standard. Written confirmation, from a suitably qualified person, that the building has been constructed to DREEAM very good shall be provided to the local planning authority prior to the first occupation of the building.

DIO have requested the following wording:

The building hereby permitted on C site shall be constructed to an appropriate DREAM standard. Written confirmation, from a suitably qualified person, of the DREAM standard achieved shall be provided to the local planning authority prior to the first occupation of the building.

DIO have stated that they cannot accept the condition as originally worded. They also state that DREAM building standards are a Government policy regarding refurbishment or construction of defence buildings and as part of the procurement process, a DREAM assessment shall be carried out and an appropriate level shall be determined. This is not precise as to the standard of the buildings construction. Further information has therefore been sought from the Applicant's

Similarly, they have requested an amendment to the wording of condition 8, which currently reads as follows:

The permission for the building hereby granted for C site shall only be occupied by the Ministry of Defence for purposes associated with national defence.

DIO propose the following wording:

The permission for the building hereby granted for C site shall only be occupied in support of the interests of Her Majesty's Government

Further advice is being sought from the Council's solicitor as to whether the proposed wording adequately ties the application to the application submitted and impacts assessed and meets the tests of circular 11/97.

In relation to paragraph 5.8 of the Officer's report, DIO have requested that condition 24 be removed completely, as they believe tree protection is adequately addressed by condition 4 (c). However, the latter condition only relates to the protection of NEW planting, and does not address the protection of trees that are to be retained on the site. It is therefore recommended that the condition remains.

DIO have also stated that they will not accept a condition requiring development to meet Code level 5. This is covered in the update report.

Officer's also recommend amendments to the following conditions:

38. All non residential buildings hereby approved on Graven Hill shall be constructed to at least a BREEAM 'Excellent' standard.

40. Prior to commencement of development a housing plan shall be submitted to and approved in writing by the Local Planning Authority identifying how the dwellings identified in condition 39 shall be distributed through the phases of the development. The development shall thereafter be carried out in accordance with the approved housing plan.

66. No development shall take place on Graven Hill until the applicant, or their agents or successors in title, has secured the implementation of a programme of recording in accordance with a written scheme which has been submitted to and approved by the Local Planning Authority.

67. No development shall be occupied on Graven Hill until the programme of recording as set out in condition 66 has been completed and the provision made for publication and dissemination of the results and archive deposition has been secured.

NB: The archaeological requirements set out in conditions 66 and 67 are not required for C site, as buildings C30 and C31 (of historic interest) are to remain in situ.

Original condition 73 spilt, as the sites will be developed at different times.

73. Prior to work commencing on Graven Hill, a habitat creation plan, identifying how existing bio diversity on the site will be maintained and a net bio diversity gain will be delivered, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall thereafter be implemented in accordance with the phasing set out in the plan.

74. Prior to work commencing on C site, a habitat creation plan, identifying how existing bio diversity on the site will be maintained and a net bio diversity gain will be delivered, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall thereafter be implemented in accordance with the phasing set out in the plan.

The contamination conditions will be re-numbered accordingly, to account for additional habitat creation condition for C site.

Late representations

Thames Valley Police

Members should be in receipt of an email from Simon Dackombe, of TVP (sent to all Members of the Committee on 11/6/13). The points raised in this correspondence have already been dealt with in paragraphs 5.3, 5.4 and 5.5 of the Officer report.

#### **Amended Recommendation**

delete recommendation 2

#### **Agenda Item 8 Planning Application 12/01453/F**

The application has been WITHDRAWN

#### **Agenda Item 9 Planning Application 12/01789/OUT : Land off Warwick Road and North of Hanwell Fields, Banbury**

One further letter has been received from Hanwell Parish Council, the Chairman of which requests that the Planning Committee Members be told of the contents as follows:

“As Chairman of Hanwell Parish Council, I am once again writing on the morning of the Planning Committee to complain that this application is being put before to the Committee on 13<sup>th</sup> June. I only found out by chance at 9 pm last night as after the deferral in May it had never occurred to anyone on the Parish Council that CDC would bring this back to the next meeting. To say that the Parish is astounded is an understatement.

You will be aware that Hanwell Parish Council submitted a letter objecting to the Council bringing this application to the Committee on 16<sup>th</sup> May while the planning authority is still consulting on the controversial issue of housing allocations for Banbury.

Again ideally I would have wished to speak at the Committee on this important issue but the short notice and work priorities prevent me from doing this. I should be very grateful if you could report this short statement to the Committee in lieu of a request to speak: Please bear in mind I have had very little time to digest the Committee report:

**I would like to make five key points similar to the ones I made in my letter of 15 May.**

**Point 1.** On behalf of Hanwell Parish Council and the local community, I wish to object again to the decision to bring this major application to the Planning Committee on 12<sup>th</sup> June when there is a Local Plan Public Reconsultation going on, which includes this site as a proposal and has yet to be considered by Councillors. The minute from the deferral on 16<sup>th</sup> May states: *“That application 12/01789/OUT be deferred to allow the current focussed consultation exercise to be completed in the light of the changed policy that is proposed for this site in that consultation.”* The key word is *“completed”* and this is unambiguous - it must mean reading and analysing the representations and Councillors reaching decisions on them. That is what consultation entails. I am certain Councillors including our Ward councillor, Cllr Webb, did not mean after the day responses were due – when people’s views on the Reconsultation have not even been heard. I have to say this makes the consultation look like a complete sham.

**Point 2.** We assumed CDC would not now determine any of the current housing applications before the issues had been examined at the Local Plan EIP later this year. We have consistently argued that Strategic housing sites for Banbury such as the Persimmon site should only be approved after a proper, informed and democratic assessment through the Local Plan process. Considering the application now flies in the face of common sense and natural justice. Are applications to be processed on a first come, first served basis?

**Point 3.** The Committee report accepts there are sound reasons to support the Council deferring on “prematurity” grounds, but on balance they are outweighed by the other two policy issues ie the 5 year housing land supply and the NPPF. In our letter of 10<sup>th</sup> June we set out eight valid grounds why the Committee should come to a different view – that basically the “prematurity” arguments are not outweighed by the other matters and therefore the Council should not be considering the application until the Local Plan process is complete. I also note the Committee report indicates that the 5 year housing land supply position is fluid and actually improving, and therefore this is not a clear-cut factor.

**Point 4.** In terms of actually delivering this site, the report accepts : *“There are some issues of concern and the development proposals do not currently meet all of the requirements of Policy Banbury 5. Most of these are issues that can be resolved at the detailed planning stage. The main issue at this stage is that the application only comprises part of the site allocation, which is not ideal and as a result there are issues in terms of connectivity with the existing Hanwell Fields development.”* I would describe this as unacceptable – rather than *“not ideal”*. I also read that there is no agreement yet on a master planned approach to the two ownerships. If the Council

thinks this application merits being brought forward, it must surely be capable of *immediate* delivery, not at some indefinite date when the developers of the other part of the site – who hold the key to the access - have sorted out their scheme. It sounds like a messy situation and the Persimmon site could easily be landbanked while the legal issues are thrashed out (like Bankside?). This is surely a strong argument for the planning authority deferring the application until these crucial issues have been properly resolved.

**Point 5.** In conclusion, we trust that the Members of the Planning Committee will therefore use their judgment to decide that this application should not be approved in advance of completion of the Local Plan and in advance of the independent Examination of the Plan”

### **Hanwell Fields Development Action Group**

Dear Councillors

We urge you to defer this planning application on the grounds of it being a premature application whilst the Local Plan is still being considered. We would welcome the opportunity for the planning inspector to make a proper and informed decision on the sustainability of this site and its application. Furthermore this council should reject any applications until proof of demand can be ascertained by the development of Bankside and Canalside.

We would also argue that this application is beyond the boundary of Banbury and by your own claims would breach current planning policy. Again this development should be rejected until such policy is amended and formalised.

Sue Smith has confirmed in writing that Cherwell Council are sticking to the previous housing numbers as per the South East Plan. This plan has been revoked. We would like to see this council re-evaluate the current proposed numbers and base housing supply on factual evidence, rather than old, out-dated, old government projections.

Other councils are complying with this new method and we are unable to understand why Cherwell Council is refusing to adopt a balanced approach which would provide a five year supply of land whilst at the same time preserving the character of Banbury and the stunning countryside around the town which could be managed by adopting the NPPF.

This application goes against democracy, it goes against common sense, it goes against the wishes of local residents.

**A further letter has also been received from a local resident as set out below;**

I am writing to object strongly to the Council bringing this application back to the Planning Committee on 13<sup>th</sup> June while the planning authority is still consulting on the controversial issue of Local Plan housing allocations for Banbury and following the recent resolution to defer the application.

I only discovered by accident yesterday evening that this application had been put on the agenda for 13<sup>th</sup> June and have had very little time to digest the committee report. I have to say that I am astonished that the Council has seen fit to bring this major housing application back to the Committee while the Local Plan Reconsultation is still in progress.



I would ask the Committee to consider five key points:

1. I wish to object again to the decision to bring this major application back to the Planning Committee on 13<sup>th</sup> June when the Local Plan Reconsultation process is not complete and has yet to be considered by Councillors. The minute from the deferral on 16<sup>th</sup> May states: *“That application 12/01789/OUT be deferred to allow the current focussed consultation exercise to be completed in the light of the changed policy that is proposed for this site in that consultation.”* The key word is “completed” and this is unambiguous - it must mean reading and analysing the representations and Councillors reaching decisions on them. I am certain Councillors including our Ward councillor, Cllr Webb, who pressed for the deferral, were clear that this meant after the entire consultation process was completed. If this was never intended (or based on inadequate legal advice), then a lot of people will feel they have been completely misled. It also makes the consultation seem rather pointless.

2. Following the deferral, it was assumed CDC would not now determine any of the current housing applications before the issues had been examined at the Local Plan EIP later this year – or at least until the Submission Local Plan had been approved by CDC. I, and many others, have consistently argued that the right way to determine strategic housing sites for Banbury (such as the Persimmon site) is a proper, informed and democratic assessment through the Local Plan process.

3. The Committee report accepts there are sound reasons to support the Council deferring on “prematurity” grounds, but on balance they are outweighed by the other two policy issues ie the 5 year housing land supply and the NPPF. In my previous letter of 14<sup>th</sup> May I set out eight valid grounds (based on the Government guidance to LPAs) why the Committee should come to a different view – that basically the “prematurity” arguments are not outweighed by the other matters and therefore the Council should not be considering the application until the Local Plan process is complete. I note the current Committee report indicates that Cherwell’s 5 year housing land supply position is very fluid and actually improving.

4. In terms of actually delivering this site, the report accepts : *“There are some issues of concern and the development proposals do not currently meet all of the requirements of Policy Banbury 5. Most of these are issues that can be resolved at the detailed planning stage. The main issue at this stage is that the application only comprises part of the site allocation, which is not ideal and as a result there are issues in terms of connectivity with the existing Hanwell Fields development.”* I would describe something this fundamental as unacceptable – rather than “not ideal”. Setting aside the wider issues, at the very least the application should comply with all the Council’s requirements under Policy BAN 5. I also read that there is no agreement yet on a masterplanned approach to the two ownerships. If the Council thinks this application should be brought forward, it must surely be capable of *immediate* delivery, not at some indefinite future date when the developers of the other part of the site – who hold the key to the access - have sorted out their scheme. This is a strong argument for deferring the application until these crucial issues have been properly resolved.

**Point 5.** In conclusion, we trust that the Members of the Planning Committee will therefore use their judgment to decide that this application should not be approved in advance of completion of the Local Plan and in advance of the independent Examination of the Plan. If the Committee were to go ahead and approve the Persimmon application on 16<sup>th</sup> May, I believe the Council and the Cherwell Local Plan process would lose all credibility with the local communities such as Hanwell. And many will ask, what was the point of taking the trouble to respond to the latest Local

## Plan Reconsultation?

I trust that the Committee will take account of these comments and that they will be reported to the Committee in full.

### **Updated recommendation** : Approve subject to:

- a) The delegation of the completion of the S106 negotiations as detailed in paragraphs 5.165 – 5.167 to Officers in consultation with the Chairman
  - b) The completion of the S106 legal agreement
  - c) That it is resolved that in accordance with the provisions of Regulation 24 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 that this report is approved as setting out the main reasons, considerations and measures of mitigation proposed with regard to the ES.
  - d) The conditions detailed in paragraph 6 with the exception of 4, 5, 8, 20, 28, 29, 31/27 conditions which have been amended/reworded/deleted and three new conditions as follows:
    4. Except where otherwise stipulated by conditions attached to this permission and unless otherwise agreed with the Local Planning Authority, the development shall be carried out strictly in accordance with the following documents and drawings **(as previously detailed in the report)**
    5. That the site shall be developed with a mix of housing types/sizes to meet the local housing needs in accordance with the requirements of Policy BSC4 of the Proposed Submission Local Plan, details of the mix shall be submitted to and approved in writing to the local planning authority, prior to the commencement of the development.
    8. Prior to the first occupation of any dwellings on the site, a final Code Certificate, certifying that the dwellings in question achieves Level 4 of the Code for Sustainable Homes shall be issued, proof of which shall be submitted to and approved in writing by the Local Planning Authority.
    20. Prior to the commencement of the development hereby approved, full details of a method of supervision and programme of works for the landscaping [including POS and play areas], which is appropriate to the scale and duration of the development works (to include the information set out below at (a) to (d) below), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the method of supervision and programme of works shall be carried out in accordance with the approved details. **(a – d as previously detailed in the report)**
- From condition no. 20 all conditions should be renumbered to run consecutively.
28. 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, an appropriate method of mulching 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.

29. Deleted

31 new 28 Prior to any demolition on the site and the commencement of the development hereby approved, and following the approval of the Written Scheme of Investigation referred to in condition 27, a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation.

NEW

49. That details (including the siting) of the public art scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The development shall be carried out in accordance with the details so approved.

50. That prior to the commencement of the development hereby approved, full design details of the equipment and layout of the Local Areas of Play (LAPs) and the Local Equipped Area of Plan (LEAP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the LAPs and LEAP shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

51. Prior to the commencement of the development full design details of the proposed interconnecting footpath shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the footpath(s) shall be constructed prior to the construction of any dwelling in the eastern section of the site and shall be constructed to adoptable standards unless otherwise agreed in writing by the Local Planning Authority.

Revised

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMSSION AND DEVELOPMENT PLAN POLICIES**

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. Although a departure from the adopted development plan, it is considered to be acceptable on its planning merits as the proposal is consistent with the National Planning Policy Framework, forms part of an allocated site within the emerging development plan and would not cause serious harm to the character or appearance of the countryside area, residential amenity, ecology matters, flood risk or highway safety and adequate provision is made for open space, play areas, affordable housing and other essential local infrastructure. Further, the need for the site to be developed to accord with the Council's strategy for meeting housing delivery requirements, development that results in high quality housing and minimises and mitigates landscape and other impacts has led the Council to consider the proposal acceptable. As such, the proposal is in accordance with government guidance contained in the National Planning Policy Framework and Policies H5, R12, C1, C2, C4, C7, C13, C14, C17, C28, C30, C31, ENV1, ENV12, TR1 of the adopted Cherwell Local Plan, BSC1, BSC2, BSC3, BSC4,, BSC7, BSC8, BSC9, BSC10, BSC11, BSC12, ESD1, ESD2, ESD3, ESD4, ESD5, ESD6, ESD7, ESD8, ESD10, ESD13, ESD16, ESD17, ESD18, INF1 and Banbury5 of the Proposed Submission Local Plan. For the reasons given

above and having regard to all other matters raised, the Council considers that the outline application should be approved and planning permission granted subject to appropriate conditions, as set out above, and a legal agreement to secure the essential infrastructure requirements.

#### Paragraph 5.166 Financial Contributions

Additional item to be added to the list covered by General County Council contributions **£70,000 (agreed)**:

- Education Special Needs

Primary Education - **£1,430,486.00 (agreed)** (phasing offered – 10% 50<sup>th</sup>, 40% 150<sup>th</sup>, 10% 200<sup>th</sup>, 40% 300<sup>th</sup> - phasing of Section 106 payments will be subject to direct discussions between the County and Developers and nothing has been agreed to date in terms of phasing of payments)

Offsite indoor sports - **£143,644.00 (unresolved)**:

- confirmation received from the Council's Recreation and Health Improvements Manager that the amount sought would be used towards Woodgreen Leisure centre identified for improvements under Policy Banbury10 – Bretch Hill Regeneration Area. Exact programme of improvements is not currently available but work is progressing towards this.

Offsite Community Facilities toward Rotary Way Community Hall - **£85,584.00 (unresolved)**

- confirmation received from the Council's Recreation and Health Improvements Manager that the amount sought would be used towards the installation of additional capacity to accommodate the proposed development

### **Agenda Item 10 Planning Application 13/00036/OUT: Easington Sports & Social Club**

Recommended for REFUSAL

### **Agenda Item 11 Planning Application 13/00158/OUT: Land adjoining Foxhill and West of Southam Road, Banbury**

**Approval**, subject to:

- a) The delegation of the completion of the S106 negotiations as detailed in paragraph 5.130 – 5.131 to Officers in consultation with the Chairman
- b) The completion of the S106 legal agreement
- c) That it is resolved that in accordance with the provisions of Regulation 24 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 that this report is approved as setting out the main reasons, considerations and measures of mitigation proposed with regard to the ES.
- d) Conditions (sent separately) with some amendments as follows:

4. Except where otherwise stipulated by conditions attached to this permission and unless otherwise agreed with the Local Planning Authority, the development shall be carried out strictly in accordance with the following documents and drawings:

Environmental Impact Assessment covering Socio-Economics, Ecology and Nature Conservation, Landscape and Visual, Air Quality, Hydrology, Flood Risk and Drainage, Ground Conditions, Cultural Heritage and Archaeology and Agricultural Circumstances, a Transport Statement, a Design and Access Statement, a Planning Statement and a Statement of Community Consultation. Amended/alternative scheme and additional information to the ES received 05/04/13.

Red line Site Location Plan (original) PO-001A

Site Access Dukes Meadow Drive 13167-48-1

Site Access Southam Road 13167-48-2

Southam Road Junction (with pedestrian crossing) 13167-48-6

Southam Road Layby (with pedestrian crossing) 13167-48-7

#### **Archaeology**

25. Prior to any demolition on the site and the commencement of the development hereby approved, and following the approval of the Written Scheme of Investigation referred to in condition 24, a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation.

#### **Ecology/Biodiversity**

30. Delete

#### **Informatives**

3. Pursuant of condition no. 31 this is to protect otters should they be in the vicinity of the immediate vicinity

### **13/00158/OUT and 13/00159/OUT East and West of Southam Road, Banbury**

#### **Draft Heads of Terms and financial contributions towards infrastructure/services**

#### **Oxfordshire County Council**

#### **Public Transport – Agreed in principle but phasing still unresolved**

- Developer to procure the bus service serving the Southam Road sites from the first occupation until two years after the final completion.

Provision of a Bus Service

Bus Service spec

Phase - 1 to 150 dwellings - Two buses per hour Mon to Sat between 07.00 – 19.00, Using small bus (16 seater).

Phase 2 - 151 to 400 dwellings - Two buses per hour Mon to Sat between 07.00 – 19.00, Using standard bus (28 seater).

Phase 3 - 401 dwellings onwards - Two buses per hour Mon to Sat between 07.00– 19.00. One bus per hour Mon to Sat between 0600-0700 and 1900-2400. One bus per hour Sundays and Bank Holidays from 0800 to 1800  
Using standard bus (minimum 28 seats)

Schemes in the Cherwell Infrastructure Delivery (IDP) – financial contribution of **£469,692.00 (agreed)** – Index Baxter April 2013

Offsite highway improvements to be secured via S278 agreement (**agreed**) - Index Baxter April 2013

- Hennef Way/Southam Road/ Ruscote Av Junctions – financial contribution of **£95,000.00** Index 3rdQ12 Pubsec
- Potential Upgrade to 3<sup>rd</sup> Toucan Crossing (from uncontrolled crossing) - financial contribution of **£80,000.00 (agreed if necessary)** and detailed within the Section 278 & Section 106) Index 3rdQ12 Pubsec
  
- Toucan Crossing on Dukes Meadow Drive
- Toucan Crossing on Southam Road
- Uncontrolled Crossing facility on Southam Road
- Cycle and pedestrian way on Dukes Meadow Drive and Southam Road
- Access works

Upgrade of Public Rights of Way payable to OCC - financial contribution of **£10,000.00 (agreed)** – Index Baxter April 2013

Travel Plan Monitor - financial contribution of **£960.00 (agreed)**

Drainage – SUDS provision will need to be provided and maintained as part of a detailed strategy. Applicant/s will need to provide an indicative SUDS plan and indicative costing for purposes of the Section 106.

Primary Education - financial contribution of **£5,501,000.00** – Index 3rdQ12 Pubsec  
**(Provision of a school is agreed in principle but OCC is undertaking its own review of the costs, and until this is complete the exact amount is not agreed and is still subject to further negotiation)**

- Primary school build costs for a Zero Carbon 1FE Primary school (excl abnormal costs). The developer to reserve 1.81ha of land for a composite site of a 1.5FE that will allow for a future proof primary school. The 1.81ha site will include playing field(s) for the school. A further 0.39 ha of land adjacent will be used for the construction of a MUGA (70m x 50m) to be a shared community/sports provision use and for agreed/ dual use by the Primary School.

Temporary primary school accommodation at existing primary school(s) - financial contribution of **£346,000.00 (agreed if necessary)** Index 3rdQ12 Pubsec

- Potential Provision for temporary school accommodation to be located at an existing primary school/s if located more than 2 miles from the walking routes

of the development if needed prior to the building and opening of the proposed 1FE Primary School that is to be built within the development site if required for school children generated from the residential development.

Travel to temporary primary school accommodation at existing primary school(s) - financial contribution of **£38,000.00 (agreed if necessary)** Index 3rdQ12 Pubsec

- Potential Provision for travel to temporary school accommodation to be located at an existing primary school/s if needed prior to the building and opening of the proposed 1FE Primary School that is to be built within the residential development site to serve the school children generated from the development

SEN Special Needs Provision - financial contribution of **£90,933.00 (agreed)** Index 3rdQ12 Pubsec

General County Council financial contributions (**agreed**) Index 3rdQ12 Pubsec

- Libraries - **£122,892.00**
- Adult Learning - **£19,855.00**
- Youth – Early Intervention - **£20,685.00**
- Museum Resource Centre - **£7,315.00**
- Strategic Waste Management - **£96,558.00**
  
- Adult Day Care for the elderly to be provided as part of the over 55 housing provision within the sites unless otherwise agreed, caveat if this provision is not provided by the applicant/ developer a contribution of **£150,420** (Index 3rdQ12 Pubsec) for Adult Day Care will be required to be provided to the County Council.

OCC Admin and Monitoring fee - **£12,169.00 (agreed)**

### **Phasing of Payments to be agreed with Oxfordshire County Council**

#### CHERWELL DISTRICT COUNCIL

Public Art - **£90,000.00 (agreed)**

Refuse bins and recycling banks - **£41,400.00 (agreed)**

Open space, and play areas – Indicative provision requiring a financial contribution of approx **£2,382,400.00 (Whilst the exact amount is unresolved the applicant is willing to make the necessary contribution in principle)**

- 3 x LEAP
- public open space
- maintenance of above and hedgerows, woodland, ditch/watercourse and balancing pond

Offsite Indoor Sports - **TBC (unresolved)**

- would be used towards Woodgreen Leisure centre identified for improvements under Policy Banbury10 – Bretch Hill Regeneration Area. Exact programme of improvements is not currently available but work is progressing towards this. Indoor sports facilities in Banbury are currently operating at capacity at peak times and therefore by increasing capacity at Woodgreen it will mitigate the impact of further demand from the new developments to the north and

north west of Banbury.

**On/offsite Outdoor Sports/recreation (Agreed)**

- Transfer of 0.39 ha of land adjacent to school to be used for a MUGA (70m x 50m) which is to be a shared school/ community/sports provision dual use and financial contribution of **£250,000.00** toward its construction and maintenance
- Transfer of land beyond the application site into the ownership of CDC for recreational use. The provision of this land will add to informal recreation provision and could be linked in the future to the existing County Park. It is considered that this different contribution to that which would normally be sought in respect to offsite sports/recreation is appropriate given the circumstances of the site and its location.

Onsite Community Facility - financial contribution towards 15 year maintenance **£107,624.00 (Agreed)**

Community Development contribution (Events & Projects and officer 15hrs p/w) - **£45,250.00 (unresolved)**

**30% affordable housing**

- 134 no. units will be rented accommodation
- 46 no. units will be shared ownership
- 50% lifetime homes (east)
- Phased delivery throughout the two sites in clusters of no more that 15 units unless otherwise agreed

CDC Admin and Monitoring fee – **Still to be advised and confirmed but agreed in principle.**

**Thames Valley Police - £44,750.00 (unresolved)**

- Automatic Number Plate Recognition (ANPR) cameras x 2 £22,000.00
- Patrol car £21,150.00
- Bicycles x 2 (inc necessary kit) £1,600.00

**Agenda Item 12 Planning Application 13/00159/OUT:  
Hardwick Farm, East of Southam Road, Banbury**

**Recommendation**

**Approval**, subject to:

- a) The delegation of the completion of the S106 negotiations as stated in paragraphs 5.132 – 5.133 and as detailed in the attached Financial Contribution list, to Officers in consultation with the Chairman
- b) The completion of the S106 legal agreement
- c) That it is resolved that in accordance with the provisions of Regulation 24 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2011 that this report is approved as setting out the main reasons, considerations and measures of mitigation proposed with regard to the ES.



d) Conditions (sent separately) with some amendments as follows:

4. Except where otherwise stipulated by conditions attached to this permission and unless otherwise agreed with the Local Planning Authority, the development shall be carried out strictly in accordance with the following documents and drawings:

Environmental Impact Assessment covering Socio-Economics, Ecology and Nature Conservation, Landscape and Visual, Air Quality, Noise and Vibration, Hydrology, Flood Risk and Drainage, Ground Conditions, Cultural Heritage and Archaeology and Agricultural Circumstances, a Transport Statement, a Design and Access Statement, a Planning Statement and a Statement of Community Consultation.

Red line Site Location Plan PO-010B

Southam Road Junctions 13167-48-3

Southam Road North Junction 13167-48-4

Southam Road Layby 13167-48-5

Southam Road Junction (with pedestrian crossing) 13167-48-6

Southam Road Layby (with pedestrian crossing) 13167-48-7

#### **Ecology/Biodiversity**

31. Delete
32. Delete

#### **Other**

45. Prior to the commencement of the development full design details of a proposed strategic footpath and its route shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the footpath(s) shall be constructed to adoptable standards unless otherwise agreed in writing by the Local Planning Authority.

Reason – In the interests of highway safety and public amenity and to comply with Government guidance contained within the National Planning Policy Framework.

## **Agenda Item 13 Planning Application 13/00265/F - Banbury AAT Academy (formerly Banbury School) Ruskin Road Banbury**

### **Representations**

14 letters or emails of objection have been received to the application from neighbouring properties. The issues raised are as follows:

- Legitimacy of petitions already submitted
- Premature application and housing land supply
- Honesty about the location of the ATP
- Publicity of application
- Noise and disturbance to residents of Stanbridge House

- Highway and pedestrian safety and congestion
- Lack of parking
- Adequacy of the traffic survey – decision should be postponed until accurate and more up to date traffic survey completed
- Need for further sports facilities
- School land should be to expand the school or given back to the Council for public use
- Pupils from the school are opposed to the development
- Conflict of interest by Officers by meeting with the agent
- Pollution
- Living amenities of residents of Stanbridge House
- Loss of view of playing field
- Objection to the petition submitted by the agent signed by pupils at the school and concerns that they have been coerced into signing.
- Availability of documents on the website
- Loss of playing field
- The application should be deferred again to allow the objectors to re-collect signatures for a petition against the development prepared for the 2012 application.

A petition of 53 signatures has been submitted against the change of use of the 'emergency fire exit' into a dual road or the construction of a possible acoustic sound barrier fence along the boundary with Stanbridge House.

#### **Additional comments following 16/05/13 Planning Committee**

At the site visit prior to the Committee on 16 May comments were made regarding the possible use of an acoustic barrier along the access road adjacent to Stanbridge House and a quiet road surface. A petition has been received from some residents of Stanbridge House against the use of a barrier such as this as the residents are concerned about the loss of sunshine/light and view out of the communal garden and the increase in noise that this type of fencing may cause.

A quiet road surface along the length of the access road to the proposed residential development could be conditioned if it is considered to be necessary to enable Members to approve the application. This however would only reduce the noise level of tyres on the road surface and not the engine noise etc of vehicles.

#### **Additional consultee comments**

- 1) Highway Authority has commented in response to the concerns expressed by the objectors about the accuracy of the transport survey submitted with the application.

"I am unable to concur with Mr Walton's (objector) findings re traffic surveys. Miss Williams's (objector) count for the am peak shows 370 trips including bicycles and scooters over a 65 minute period equating to 341 trips per hour. At table 2.1 of the submitted transport statement 323 trips are identified turning to or from Ruskin Road during the peak hour; a difference of approximately 5%.

The pm peak considered by Miss Williams's traffic count is based around the 'school run' which would not coincide with peak traffic generation of a

residential site and I do not anticipate the development of the site would have any perceivable impact.”

- 2) An email to an objector from the Highway Authority has been copied to the Case Officer. The email is summarised as follows:
- The role of the Local Highway Authority is to provide a recommendation to the Planning Authority with regard to the impact, of a proposed development, upon highway safety, capacity and accessibility in the context of national and local planning policies and relevant guidance.
  - Do not agree with the objector’s comments regarding the submitted surveys being flawed. At table 2.1 of the submitted transport statement, 323 trips are identified turning to or from Ruskin Road during the peak hour. The survey carried out by the objector when converted to an hourly rate shows 341 trips a difference of approximately 5%.
  - The pm peak considered by the objector’s traffic count is based around the ‘school run’ which would not coincide with peak traffic generation of a residential site. During the ‘school run’ the Highway Authority does not anticipate that the traffic generation of the proposed development would have any perceivable impact.
  - The table and values used for modelling purposes are derived from surveys undertaken in March 2010 and not as the objector stated June/July. The June/July surveys were undertaken to ascertain the speed of vehicles along Ruskin Road and demonstrate average speeds below 20mph with 85%ile wet weather speeds (an ‘industry’ benchmark) of 23.5mph.

## **Agenda Item 16 Planning Application 13/00395/F Thornbury House, Kidlington**

Advice has been received from the Council's Arts and Visitor Services Manager advising that a condition can be used to secure public art in order to ensure that a suitable public art scheme be developed for the site and provided to benefit residents as well as the general public.

As such, the recommendation is also subject to the following condition and note:

31. The Extra Care building hereby approved shall not be occupied until details have been submitted to and agreed in writing for a work of public art to be placed on site. The details shall including the size, design and siting of the work of art and the design process for it. The development shall be undertaken in accordance with the details so approved and provided on site prior to the first occupation of the building.

Reason: To comply with the Council's policy on the provision of public art and to enhance the setting and environment of the Proposed Extra Care Home in accordance with policy C28 of the adopted Cherwell Local Plan.

Planning note:

11. Pursuant to condition 31, in line with the Council's policy and the SPD on Planning Obligations, the Council requires a work of art to be commissioned the value

for which should be 1% of the total development cost and the provision of which should be secured in consultation with the Council's Arts and Planning Officers.

Furthermore, upon review of the submitted plans and information, it is recommended that condition 22 is amended to:

22. Prior to the commencement of the development hereby approved and notwithstanding the details contained within the design and access statement, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the approved means of enclosure, in respect of those dwellings which they are intended to screen shall be erected, in accordance with the approved details, prior to the occupation of those dwellings.

Reason: As drafted in the report

It is recommended that the reason for condition 21 is amended to: To secure the provision of essential community infrastructure on site in accordance with the National Planning Policy Framework.

### **Legal agreement**

With regard to the legal agreement, the applicant has agreed the figures requested, therefore the legal agreement will secure:

Affordable Housing (to secure 100%)

Transport (£15,000)

Libraries and Stock (£1,300)

Waste Collection Service - it has been confirmed that the Council's service will be used, but the Case Officer is still awaiting confirmation as to the contribution that would be required because communal bins would be required (rather than the 3 bins per unit).

With regard to the amended plans:

**Kidlington Parish Council** have commented that they welcome the changes to the east and south eastern elevations and is pleased that that the developer has made these concessions. They retain their objections with regard to parking provision and site access which are the same as the objections previously made relating to these matters within the report.

8 further letters of objection have been received raising the following additional points, other points are the same as those contained within the report:

- Nothing substantive has changed
- A footpath is to be constructed on the driveway giving access to the rear, which will be on the left hand side of the drive, running along the wall adjacent to Homewell House situated against the access to the occupiers of 32 The Moors. This would mean crossing the roadway upon entering or leaving 32 The Moors which is considered to be unacceptable. The path should be on the other side.
- Experienced problems with trees on the site not being maintained, intruding on surrounding properties and the root systems causing damage. If development goes ahead, then properties affected by the development should be surveyed and any measures corrected as well as appropriate measures to ensure that no further planting will be intrusive.

- Current land level is higher on the site than the surrounding properties
- Highway safety and parking issues continue to be of concern
- There should be a reduction in height across the entire development would ensure it remained in keeping with the surrounding community and temper the potential of the site being over developed.
- All other concerns remain and should be still considered.
- Proper consultation on the amended application has not been conducted.
- The site notice states, that in the opinion of the Council, the application would affect the setting of a listed building and the character of appearance of a conservation area
- It is still a three storey building overshadowing neighbouring properties in Lambs Close
- This high-density development would be detrimental to the heritage assets' setting as it fails to preserve those elements of the setting that make a positive contribution to or sustains and enhances the significance of the heritage asset.

A letter has been received from Ashley Bowes Associates Solicitors on behalf of a local resident. They consider that the Council will act unlawfully in determining this application in consequence of two matters:

1. A failure to adopt a lawful screening opinion
2. A flawed approach to amendments and consultation

They advise that the Council has adopted a screening opinion, which concludes that EIA is not required. By Regulation 4(6) of the 2011 Regulations the Council is obliged to conduct its screening opinion by reference to the criteria in Schedule 3 to the Regulations. Further by Regulation 4(4) of the 2011 Regulations the Council was obliged to spell out clearly and precisely the full reasons for its conclusion that an EIA was not required. Case Law has shown that, on the back of a screening opinion which merely stated that a scheme would not have significant environmental effects without explaining why this decision had been reached, planning permission can be quashed.

It is considered that the screening opinion of the Council has erred in law by failing to adopt a screening opinion which considered all the criteria at Schedule 3 to the 2011 Regulations. In particular it failed to consider the characteristics of the development or spell out the environmental impacts, merely stated that it would not amount to a significant impact and that in any event it failed to adequately explain its conclusions contrary to Regulation 4(4) of the 2011 Regulations.

With regard to amendments and consultation, the Council accepted a material amendment to the application in May 2013. The Council resolved not to re-advertise the application and not re-consult all those who have made representations. The Council has acted unlawfully because the amendment has taken the scheme some way from the originally validated and advertised application and so the Council should not have accepted the amendments without re-advertising the application. Secondly, in any event, the Council erred in not having consulted all those who raised an objection to the proposal to the amendments. The Council has failed to consistently display the amended plans on its online planning register for public inspection, vitiating such consultation as it did conduct.

Should the Council not postpone determination of the planning application, adopt a lawful screening opinion and re-consult upon that matter and the recent amendment,

the Solicitor practice anticipate receiving their client's instructions to apply for a judicial review of the Council's decision.

Officer response to this letter is as follows:

The Council's screening opinion complies with regulation 4 (7) (a) in that it shows that the criteria in schedule 3 have been considered and identifies why the Council considers that the development did not require an environmental impact assessment to be carried out. The regulations do not require a lengthy report to be prepared but rather that the decision 'clearly' and 'precisely' sets out the full reasons. This is what the Council has done in reaching a screening opinion at Thornbury House.

With regard to the changes to the application these alter the design of the building but do not amount to a substantially different scheme to that described in the application. Furthermore they reduce the scale of the proposals rather than increase them reducing the impact on neighbouring properties to address concerns raised. The regulations do not prevent such amendments to applications and they are common practice. Indeed the Local Authority is now required in making decisions to identify how it has worked proactively with applicants in determining applications in accordance with the advice in para 187 of the NPPF.

Although there is no requirements in the Planning Acts to carry out reconsultation on amendments to planning applications, all the properties adjacent to the Thornbury House site were notified by letter of the changes to the plans and given a further 21 days to comment. The plans are fully accessible on the Council's web site and the amended plans are present and can be viewed. The Council has therefore gone to significant lengths to enable local people to make representations and officers have carefully considered those received.

As such, Officers do not consider that it is necessary for the Council to delay the determination of the application.

## **Agenda Item 18 Planning Application 13/00456/OUT: Land adjoining Milton Road South Adderbury.**

6 more letters received from local residents raising no new issues to those already reported.

The following additional information has been received with regard to the progress of the neighbourhood plan;

*After more than a year into the process of developing the Adderbury Neighbourhood Plan, I can report that:*

- 1. The Adderbury Plan (TAP) village group are in the final stages of collecting and processing data from Adderbury Residents' Questionnaire, done both online and offline, and that analysis of this data will commence imminently;*
- 2. The Adderbury Parish Council (APC), with support from villagers, are continuing with the sustainability appraisal process;*
- 3. APC, with support from villagers, are on course to deliver a draft copy of the Adderbury Neighbourhood Plan during August.*

*It is our intention to submit the Adderbury Neighbourhood Plan to Cherwell District Council during September/October for legal compliance checks and Independent Examination and we hope that the Referendum will take place during November/December.*

*The TAP group, led by Nick Fennell, was established by the Adderbury Parish Council (APC) to ensure that the Adderbury Neighbourhood Plan reflected the views of the majority of the residents and businesses of Adderbury. The Questionnaire responses and analysis are used to inform the Neighbourhood Plan. Although the Sustainability Appraisal team and the team writing the Neighbourhood Plan are led by Parish Councillors, we are including villagers to assist in these key areas to ensure there is no APC bias and to tap into the considerable skill-sets that we have in the village.*

The Applicant's Agent has submitted the following comment and provided a Counsel's opinion as set out below;

*Berkeley has taken advice from Mr Sasha White QC whose view is that the approach that the Council is intending to take at Thursday's Planning Committee "does not comply with the law" and that "the recommendation of officers if followed by members would be unlawful and subject to challenge by way of judicial review by the High Court."*

*Berkeley's view is that it is wholly wrong to propose two alternative recommendations in respect of the Milton Road, Adderbury site: the 5-year land supply position will be the same at the beginning of the meeting as it is at the end – the Council does not and will not have a 5-year supply even if it resolves to approve all the 'major applications under consideration. The Milton Road, Adderbury site is sustainable and should be subject to a single recommendation of approval.*

*Mr White has advised Berkeley to show his written Advice to the Council (a copy is attached) and has advised that "as a matter of urgency" the Council should take its own legal advice "to guide [it] on the proper and lawful consideration" of the various housing applications that are due to be considered.*

## **Item 19 Planning Application 13/00496/OUT. Land to the Rear and North of 29 to 33 Quarry Close, Bloxham**

The comments of the Landscape Officer summarised as follows;

The national, countywide and district landscape character assessments put forward are acceptable but with some additional observations topographical information with cross-sections or spot heights need to be considered in view of concerns about the suitability of gradients in public open space with landscape maintenance implications

The site at present is obscured from localised views with effects on receptors minimised. The receptors being mainly road traffic users of Tadmarton Road. The most important receptors the residents of Quarry Close whose views of the at two properties are assumed to be quite prominent. Views from Bungalow deemed to be only medium in the LVIA should be in fact high for resident receptors. The magnitude of change is going to be high due to what I consider to be significant irreversible physical change if this development is allowed. This in my view results in a greater

visual significance at years 1 and 15 than indicated: year 1 is Substantial Adverse and year 15 is Moderate Adverse, with the mitigation of the maturing landscape. At the time of writing I am uncertain as to the proposed height of the rooflines above ground level and the resultant impacts and effects on receptors on Tadmarton Road. Furthermore an even greater impact and effect generated by the new road access off Tadmarton Road , with a rather wider vis-splay than proposed , resulting in a more exposure of the built development that cannot effectively mitigated by landscaping. My assessment of the effects on road users would indicate a medium adverse weighting for year's 1 and 15. The elm hedgerow will eventually die because of Dutch elm disease and so will be removed which exposes the development to Tadmarton road users and resulting in further erosion of this rural roadside corridor to urban edge expansion, resulting in increased vehicle use adjacent to a busy school and farm highway accesses. Successful landscape mitigation to this boundary will not be achieved within a 15 year timeframe.

I tend to agree with the weighting given to Magnitude of change, Receptor sensitivity, Significance of impact at year's 1 and 15 from the following viewpoints, distant and localised: 1, 2, 3, 4, 5, and 7,8,9, 10, 17 and 18. However Viewpoint 6 presents a greater visual impact and effects than indicated in the LVIA.

Viewpoint 6 does not convey the impact and effects of the proposed development on the character of the landscape. The wide angle distortion of the view appears to have minimised the impacts and effects of the proposals. My photograph shows the site's to be more prominent in the view, and the site's capacity to accept change is low. The report ascertains that the development's impacts and effects will be reduce because the "site is slightly sunken within a former quarry site and will not be visually prominent within views" I dispute this position when the site is clearly seen from this vantage point which will be even more discernable when leaves have fallen from the trees on school land in front of the site. The receptor sensitivity is still going to be high, However the m o g will be Medium rather than negligible. because there will be major changes over a significant portion of the view. The significance at year 1 and year 15 will be Moderate Adverse in both cases. the proposals will cause a degree of damage to this view in respect of the walker receptor and the landscaping proposed will not provide sufficient density to screen the built development from the elevated viewpoint 6 on Hobb Hill.

Conclusion: The potential landscape benefits of a country park in the southern area of the application site do not mitigate or make acceptable the housing element of this application. At this time I am not able to support this application due the detrimental landscape impacts and effects discussed above.

Additional information provided by the applicant in response to seeing the Committee Report (in summary):

- Council is only able to demonstrate a 4.4 year supply of deliverable housing land with a 5% buffer (3.9 year supply with a 20% buffer) - Council's policies for housing are out of date.

The NPPF

- Paragraph 14 of the NPPF states that where relevant polices are out of date, planning permission should be granted unless any adverse effects would significantly and

demonstrably outweigh the benefits.

- Para 5.53 of the officer's report states "The consultation responses and the officers own assessment have not identified significant effects beyond potential landscape impacts."



- Test to be applied is whether any adverse effects of granting planning permission would significantly and demonstrably outweigh the benefits. We are of the view that they do not.

The stated adverse impacts ((i) loss of countryside (necessary in order to meet continued housing need); (ii) potential landscape impact (this can be mitigated through structural planting); (iii) Bloxham's status in the emerging draft Local Plan (little if any weight to be applied at this early stage in the plan making process); and (iv) past

permissions (necessary to help meet and identified housing need) do not significantly and demonstrably outweigh the many benefits, which include:

- Provision of housing (including affordable) helping to meet the shortfall;
- Development in a sustainable location;
- Enhances environment, including for flora and fauna;

Creation of a substantial area of public open space, and Provision of an overflow car park for Bloxham Primary School to alleviate parking pressures on Tadmarton Road;

- Potential to provide for improvements to the local road network and bus services;
- and

- Opportunity to address recent flooding issues on Tadmarton Road.

- the presumption in favour of sustainable development should be applied and planning permission granted.

- NPPF includes the requirement at paragraph 187 for LPAs to look for solutions rather than problems, and that decision-takers at every level should seek to approve applications

- for sustainable development where possible.

- The application site is accessible to local services by means other than the private car, including walk, cycle and bus. The merits of the application should be assessed in this context.

Planning System: General Principles (2005)

- Paragraphs 17 to 19 of The Planning System: General Principles (2005) set out the approach to "prematurity".

- Paragraph 17 adds that in some cases it may be justifiable to refuse planning permission on the grounds of prematurity where a DPD is being prepared or under review, but it has not yet been adopted. It is added that this may be appropriate where a proposed development is so substantial or where the cumulative effect would be so significant that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of development which are being addressed in the policy in the DPD. However, it is clearly stated that a "proposal for development which has an impact only on a small area would rarely come into this category." This is the case with the application site.

- The emerging Local Plan Cherwell is yet to be submitted for examination and thus carries limited, if any weight.

- In conclusion, and having regard to the overall planning balance, there is, on one side (the emerging Local Plan), untested and flawed policy restricting development in the villages plus levels of growth in Bloxham, whilst on the other there is a shortfall in the supply of housing and an identified affordable housing need, which matters are addressed with the application, whilst the scheme also provides for the amelioration of parking problems at Bloxham school and offers the potential to mitigate pre-existing flooding along Tadmarton Road.

- the adverse impacts of granting planning permission (loss of countryside) do not significantly and demonstrably outweigh the many benefits (see above), such that planning permission should be granted.

## **Agenda Item 20 Application 13/00506/CDC**

Add the following additional condition:

That prior to the commencement of development, full design details of bike store/communal garden shed 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.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

## **Agenda Item 21 13/00424/F Change of use of building 3135 for storage purposes (B8 use)-Heyford Park**

At its meeting on 16th May 2013, Committee resolved to approve the above application subject to conditions and to the applicant entering into a legal relating to the variation of the existing legal agreement requiring the provision of a Cold War Park but amending its boundary.

Following discussions between solicitors acting for the applicant and the Council they consider matters can be progressed without the need for a formal deed of variation as the 2009 Agreement allows variation of the Management Plan for the Flying Field, which includes the Cold War Park, subject to the Council's written consent. It is therefore proposed to agree in writing to a variation in which building 3135 will be retained, not demolished, and that the Cold War park will exclude the relevant area (Building 3135 and its environs) and include the compensatory area.

On that basis Committee are recommended to authorise the issue of the Notice of Planning Permission.