

## **Site Address: Land adjoining Foxhill and 12/00158/OUT West of Southam Road, Banbury**

**Ward:** Banbury Grimsbury and **District Councillor:** Councillor Beere, Councillor Castle  
Bonner, Councillor Cullip

**Case Officer:** Tracey Morrissey **Recommendation:** Approval

**Applicant:** Pandora Ltd

**Application Description:** OUTLINE - Development of up to 90 residential (Use Class C3/extra care housing), Class A uses, Class D1 use with associated access, landscaping/open space, parking and related works

**Committee Referral:** Major application (exceeds 10 dwellings and 1ha) and Departure from policy

### **1. Site Description and Proposed Development**

- 1.1 The application relates to the west part of a site that has been identified for residential development in the Proposed Submission Local Plan Incorporating Proposed Changes (March 2013) (PSLIPC). Land to the east of the site (on the opposite side of Southam Road) forms the subject of the separate application for residential development and associated infrastructure (13/00159/OUT). Both sites (West and East of Southam Road) form the allocated BAN2 site.
- 1.2 This application site covers an area of some 17ha to the north of Dukes Meadow Drive and to the west of Southam Road (A423). The land to the north-east and west of the site (save for the nearby cemetery) are largely characterised by open fields, beyond which lies the village of Little Bourton. The site is located in proximity to a mix of existing and consented uses. Notably, these include Hanwell Fields residential neighbourhood to the south-west, Banbury Office Village, Hardwick House and Hardwick Business Park to the east, and Ocean House and the Banbury Cross development (the latter has permission to deliver 600,000sqft of employment uses), to the south-east/south of Noral Way.
- 1.3 The site includes a group of oak trees in the south-western corner and a number of mature willows adjacent to the Hanwell Brook along the western boundary. A small group of trees exist toward the centre of the site.
- 1.4 The site's boundaries are formed - in the main (save for the southern portion) - by mature hedgerows, most notably to the east where the land is effectively screened from Southam Road. The Hanwell Brook runs along the site's south western/western boundary. A cemetery and crematorium are situated to the immediate north of the site, beyond which lie open fields and the small village of Hanwell to the north west. To the west there are open fields and an existing sports ground.
- 1.5 The topography of the area rises to the north and is a prominent location at the fringe of the settlement edge. Forming part of the Hanwell Brook valley landscape feature, in the setting of the north of Banbury, the site is visually sensitive and contains the remnant historic land uses of Hardwick Copse and Gorse adjacent to the Brook.
- 1.6 The application was originally submitted in outline for the construction of up to 370 dwellings, together with two new accesses from Southam Road and Dukes Meadow Drive, associated play/open space, retail and community facilities. All matters other than access are reserved. An amended scheme was submitted on 5th April 2013 comprising 90 residential units following further evidence on landscape sensitivity undertaken as part the evidence base for the local plan. The submission includes indicative layouts and design principles for the proposed development. For the

purposes of consideration of this application the site is considered to have the capacity of accommodating upto 90 dwellings, a number significantly less than the 370 initially proposed, without compromising the visually sensitive landscape.

- 1.7 The application is supported by an 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. A further addendum to the ES was submitted on the 5<sup>th</sup> April 2013.
- 1.8 Of note for the consideration of this application is the local plan position, which will be discussed further in the report. The focussed consultation period closed on 23<sup>rd</sup> May 2013 and the representations that have been received will be reported to the Executive in due course. Although these comments are presently unresolved, for the purposes of considering this current application, the Council has a continuing obligation to determine planning applications as and when submitted, on the basis of existing policy and other material considerations. Therefore it cannot, in effect, create a hiatus in determining planning applications pending the examination of its emerging local plan.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 2<sup>nd</sup> May 2013.

63 separate letters have been received from 55 individuals. 51 of these were in a standard form raising the same points. The following issues were raised

- Proposals breach the Council's original agreement for Hanwell Fields
- The original design brief describes the site as being on the northern extremity of Banbury and will form the new urban edge to this side of town... the topography of the site allows extensive views generally northerly over the area of High Landscape Value.
- Home was purchased on the understanding that the northern boundary of Dukes Meadow drive would not be built upon. Countryside is enjoyed and enticed people to the area originally.
- Existing Hanwell Fields development will no longer be edge of town.
- Individuals have a right to open space. This development infringes that right.
- CDC should be supporting the principle of the northern boundary as they are with the developments to the south at Saltway. If this is given the red light then so should the developments to the south.
- The site is within an area of high landscape value.
- The impact of such prominent housing would be a negative effect on house prices and saleability in an already declining market.
- Demand for housing in Cherwell is being grossly over judged by CDC.
- If there was such a demand why is there so many houses for sale in and around the town.
- Other site such as Bankside and Canalside have planning permission but no work commenced.
- Object to the spoiling of a good environmental landscape to be replaced by urban sprawl.
- Site is unsustainable as it is too far from many aspects of Banbury.
- Encourages car use on a very over congested route.
- Lack of infrastructure to support such a number of houses.

- Manner in which site was chosen was not sustainable. Far better sites that have been removed from the local plan such as to the West of Warwick Road and Saltway.
- The traffic assessment is out of date and unrealistic.
- Employment listed is Prodrive, which employs specialist staff. The TA suggests that new home owners will also happen to have the specialist skills required to obtain employment at Prodrive. If they don't then car use is essential.
- Saltway has the largest employment catchment with both the first (Horton Hospital) and third (CDC) largest employers within Banbury within metres of the site yet it is ignored and not listed in the Local Plan.
- School pupils will not walk from the site to the Academy site on the Warwick Road as it is too far.
- Whilst increasing exercise might be the ideal, in reality, the traffic at Hanwell Fields school shows high congestion.
- Primary school location encourages parents to drive when bringing children from off the site. Many parents drop children off on their way to work.
- If children are dropped off in the lay by opposite, they will have to cross a very busy main road. Any accidents will be the responsibility of the developers and the Council.
- Hanwell Fields is still unadopted and so residents have not received their full range of services. CDC have had 10 years to sort out this site.
- Cars treat Dukes Meadow drive as a rally track.
- No confidence in the Council being able to effectively manage or deliver housing and services any better than the appalling treatment received now.
- Would like to discuss these plans with a Planning Inspector or at least some sort of representation.
- Have a right to be supported by the Council as they should have residents concerns in mind and represent them rather than the developers.
- Appears the Council have collaborated with the developers to try and get this plan pushed through no matter what the implications or the thoughts of those most affected.
- Wildlife enjoys the open space; nightly have bats, foxes, rabbits and other species in their garden. This application would be threatening to their numbers.
- The hospital is already under pressure and facing cuts with patients being asked to travel to Oxford. This will put greater strain on the resource.
- Written to the Council re. litter and roads and still awaiting a response.
- If the Council can't provide a clean and sustainable environment with the houses already in place, then how will more resolve this?
- If this development goes ahead then the Council will be encouraging people to leave due to inconsideration for the concerns raised.
- Southam Road was originally never an option for development. Why has it now appeared when other more sustainable sites have been ignored.
- The access from Dukes Meadow Drive onto the development site is a potentially dangerous accident spot. The road is narrow and in proximity to a bridge and pedestrian crossing. Large LGV lorries use the road which may increase when new businesses in Noral Way open – road is not up to increase in weight and traffic. The road should be restricted for large vehicles.
- Increase in traffic will cause congestion on the Southam Road as

parents take their children to work and increase in individuals travelling to work.

- When the M40 is blocked traffic is diverted through Banbury and the experiences then will be more regular because of the increased traffic numbers.
- Where will the run off from these sites end up? Where will sewerage go?
- This area flood already. What will happen when new houses, roads and concrete go particularly as the site is sloped?
- Existing water pressure problems when the Mains water pump fractures/ leaks and so how can more homes be added?
- Lack of doctors surgery, dentists, church or place of worship, how about facilities for young people out of town?
- Other sites are located more centrally near to services etc.
- Why put old peoples homes near a busy motorway? They are entitled to peace and quiet like anyone else.
- Who will buy these homes given the financial situation?
- Only beneficiaries will be the developers and builders and Banbury will be a poorer place.
- The loss of green field sites will drastically alter the towns unique character as a north Oxfordshire town and its history.
- Unfortunate that Cherwell are in a position where these sites need to be considered whilst finalising the Local Plan. Realise the Council can't simply reject the applications as being premature but it is hoped that common sense would allow the Council to carry out a proper informed and democratic assessment of potential strategic sites through the Local Plan process.
- Pressures on the housing supply and the extension of the Local Plan to 2031 need to be balanced against basic planning principles and on the evidence so far presented the draft Local Plan has not justified the strategic housing sites to the north of Banbury. Allocating the site constitutes a shift from the draft local core strategy (2010) and contradicts the Council's previous conclusions with regard to sustainability.
- No satisfactory explanation as to why the land south of Banbury is not included as a strategic site. The 1,000 home application south of Banbury appears to offer many advantages compared to the piecemeal and constrained sites north of Banbury. These issues need to be considered through the Local Plan process and not just through ad hoc planning applications.
- Strategic housing sites should be approved only after a proper, informed democratic assessment through the Local Plan process. The site should be considered premature while the submission Local Plan is finalised.
- The site is unacceptable and unsustainable on a number of planning grounds.
- Development of the site would breach the clear defensible urban edge to the north of Banbury
- The site to the west of Southam Road is poorly related to the existing town and Hanwell Fields and difficult to integrate into the urban form. The draft plan accepts this prominent site will have 'detrimental visual impacts'
- Development would have a harmful, urbanising impact upon the overall character and quality of the attractive landscape north of Banbury. It has not been explained how a green buffers policy might be effective in mitigating such impacts.
- Development would cause the loss of the best farm land.
- Site is physically divorced from Hanwell Fields and too remote from

key community facilities in the local centre

- Potentially hazardous and poor planning to allow a multiplicity of new accesses on this stretch of fast busy road.
- Unclear how much the East and West sites are seen as a package and interdependent in terms of viability and deliverability. Both sites have major constraints. The East would create a poor living environment, close to the M40 and industry and divorced from all other residential areas. Housing capacity on the west may be affected by landscape and other constraints. There must be a question over the ability of the two sites to create a decent and sustainable living environment and deliver the housing numbers.
- It has not been proved that this site is more sustainable than others around Banbury with developer interest and this should be completed before permitting any major new sites.
- No faith in the Council's commitment to quality developments since there have been failures to preserve the quality of the existing development at Hanwell Fields, allowing all sorts of 'extensions'.
- Reference made to the summary of reasons for the grant of permission for Hanwell Fields. How can the Council consider BAN2 and BAN5 in this context.
- What is the proposal for the undeveloped land within the red line? Will the green buffer policy cover the area retained as open land?
- The Council's intentions with regard to the Green Buffers should be clarified as it appears that there is some conflict between documents within the re-consultation of the draft Local Plan.
- The proposed development will have a detrimental impact on the landscape. Putting dwellings on the slope would be a blight on the landscape.
- Reduction in numbers is still unsustainable.
- The green buffer should provide further protection for at least the life of the plan to stop misunderstanding in the future and any bad feeling.
- Standard Life Investments have an interest in the land relating to the employment land to the south of Hardwick Farm estate located to the east of Southam Road and known as the former SAPA Profiles UK site.
- Revised scheme raises similar concerns as set out above.
- Understand that the undeveloped part of this site would remain in agricultural use in the short term but will not become part of the proposed green buffer. There is every possibility that it may be built on in the future, once the precedent has been set for building north of Dukes Meadow Drive.
- It does not make planning sense to breach the existing firm urban boundary for the sake of a rather small piecemeal development that could be accommodated elsewhere.
- View that the Drayton/ Warwick Road site would fit more easily into the urban form appears to be shared by consultants LDA in their analysis and suggested Drayton Green Buffer which omits the Drayton/ Warwick Road site.
- LDAs advice confirms the harmful impact to the landscape.
- Seems to be no provision in the revised proposals for wider landscape protection or mitigation.
- The reduced scheme for 90 houses is now so small and lacking in infrastructure (with token retail and community use) that it is arguably even less sustainable than the original.
- Surprised the Highway Authority are so relaxed about adding T junctions and more turning traffic on to the A423.
- Cherwell should be prioritising the redevelopment of "brownfield sites" and then identifying mixed use, sustainable urban extensions to

Banbury, with adequate infrastructure – not unsustainable extensions to existing developments.

- The town is at risk of urban sprawl ruining its Historic Market town reputation.

### 3. Consultations

- 3.1 **Banbury Town Council:** Wishes to raise no objections but comments that it is felt traffic calming measures are needed for Southam Road and reiterate that 'hope value' being created by this application is adversely affecting potential purchase for land for Hardwick Hill Cemetery extension.

To the amended plans, further comment has been received. Traffic calming measures are felt necessary on Southam Road and reiterate that 'hope value' being created by this application is adversely affecting potential purchase for land for Hardwick Hill Cemetery extension.

- 3.2 **Hanwell Parish Council:** Object to this application on the following grounds:

- Note the development of this site is based on development proposals under policy Banbury2 of the draft Local Plan to which the PC have consistently objected to the principle of the development of this site.
- Allocating this site constitutes a major shift from the Council's 2010 draft Core Strategy and contradicts the Council's previous conclusions on sustainability.
- The pressure to bring forward housing land needs to be weighed against basic planning principles and on the evidence so far presented the PC are not persuaded that the strategic housing allocations north of Banbury are justified and acceptable.
- The PC strongly feel that none of the competing sites should be considered for approval before the plan has been through an examination in public where all the issues can be debated properly and thoroughly in public.
- Premature – As it is considered the strategic sites should go through a public inquiry as part of the local plan process, the application is therefore premature. The Executive reports of December and March highlight the difficult issues in terms of the housing sites north of Banbury.
- Sustainability – The evidence so far does not prove the housing site is more sustainable than others which have come forward around Banbury.
- Planning principles – Despite the housing land position and the draft local Plan favouring sites in the north of Banbury it is still maintained the site is unacceptable on a number of key planning grounds.
- Urban boundary – the proposed development would breach the clear, defensible urban boundary to the north of Banbury created by Dukes Meadow Drive. The current urban edge was carefully set by the Council's adopted Local Plan policies and the Hanwell Fields Development Brief and Design Brief in 1997 and it is not a developer's or landowner's whim. The draft local plan does not explain how an effective, defensible long term urban boundary will be achieved and how this will protect Hanwell village and its rural setting from further urbanising development and how the Green Buffers would actually work.
- Urban form – in terms of topography, the site west of Southam Road is poorly related to the existing town and to Hanwell Fields and difficult to integrate into the urban form. The rising open land currently marks the transition from town to countryside. The Local Plan accepted that this prominent site will have detrimental visual impacts to the south and west and is visible from Hanwell village and other viewpoints. In contrast the Drayton/ Warwick road sites would fit far more easily into the urban form is better related to existing infrastructure and is far less visually prominent.
- Landscape impact – The development would have a very harmful, urbanising impact on the overall character and quality of the landscape in the open

countryside north of Dukes Meadow drive. Hardly likely to preserve or enhance it. Important to protect Hanwell village and its rural setting from further urbanising development. The draft local plan does not explain how the green buffers now suggested will be achieved and there is no provision in the proposals for wider landscape mitigation or protection.

- Loss of farmland – development of the site would cause the loss of best quality farmland. Cumulatively this is now becoming an important national issue.
- Remoteness – It is considered the site is physically divorced from the rest of Hanwell Fields and too remote from key community facilities at the local centre which was never planned with this development in mind. No plans to provide any on site facilities apart from play areas and an unspecified retail/ community facility.
- Access – the plans for the east and west sites propose three new vehicular access points (with pedestrian crossings) directly onto the Southam Road, a fast busy road with a 50mph limit up to the 40mph zone just north of Dukes Meadow drive. It is contended it would be potentially very hazardous and poor planning to create a multiplicity of access points on this stretch of busy road and it is assumed the Highway Authority will take this view. As far as possible vehicular accesses should be onto Dukes Meadow Drive which has spare capacity and which has a safe roundabout junction onto the A423.
- Deliverability – it is not clear how the east and west are seen as a package and interdependent in terms of viability and deliverability. Objections to both, the east is a very poor living environment close to the M40 and industry and divorced from other residential areas. Housing capacity of the west may be seriously affected by landscape and other constraints on which the Council is to publish further evidence. There must be a question mark over the ability of the two sites to create a decent and sustainable living environment and deliver the housing numbers the Council wants.
- Community consultation – The planning situation in Banbury is becoming extremely complex and confusing for many villagers of Hanwell and the Parish Councillors. Anticipate few villagers will send in comments but this is not a true reflection of the concerns expressed in relation to the local plan housing site allocations.
- Attention drawn to the comments of Hanwell Parish Council to the draft Local Plan for policy Banbury 2.

To the amended plans (many of the same points as above were made, but additionally):

- Note the revised scheme is based on the newly revised development proposals for Site Banbury 2 set out in the Local Plan Reconsultation March 2013.
- The published analysis of sites by consultants LDA shows that the issue is far from clear-cut.
- Based on the updated evidence provided as part of the Local Plan Reconsultation March 2013, it is clear the consultants LDA have serious concerns about the visual and other impacts that development West of Southam Rd would have on the landscape north of Dukes Meadow Drive, which has led to the reduction in the capacity of the site.
- If this partial development of the land West of Southam Road were allowed, it would create a rather arbitrary northern edge, as there are no natural boundaries, and it is not explained how this would form a defensible long-term urban boundary. We also understand that the undeveloped part of this site within the site boundary is to remain as open land “in agricultural use” for the short term but will not become part of the proposed “Green Buffer”. There is we assume every possibility that it might be built on in the future, once the precedent has been established for developing north of Dukes Meadow Drive. We contend it does not make planning sense to breach the existing urban boundary for the sake of a small piecemeal development that could be accommodated elsewhere.
- View that the Drayton/ Warwick road site would be more suitable is shared by

the consultants LDA in their suggested Drayton Green Buffer which omits the Drayton/Warwick Road site.

- Consultants LDA have emphasised the constraints to development in their analysis of this site.
- There seems to be no provision in these revised proposals for wider landscape mitigation or protection and we understand that the undeveloped part of will not become part of the proposed “Green Buffer”. Does it really make planning sense to harm this prominent and open landscape for the sake of a small, piecemeal development that could be accommodated elsewhere?
- The reduced – and isolated - scheme for 90 houses is now so small and lacking in infrastructure (with token retail and community use) that it makes little sense without the housing development to the East of Southam Road (which we oppose) and is arguably even less sustainable than the original.
- We note that even this reduced scheme for 90 houses requires an access point onto the A423 just a short distance north of Dukes Meadow Drive.
- We note the Highway Authority have expressed some concerns about traffic in the locality but we are surprised that they are so relaxed about adding T junctions and more turning traffic on to the A423.
- We are very concerned that the West and East sites are still being pushed through by the Council as a “package”– presumably because of the housing supply situation - despite the various objections to both. The reduced West site seems to make little sense now. Overall, there must be big question marks over the ability of the two sites to create a decent, sustainable living environment and deliver the housing numbers the Council wants:
- We still contend that the East site is a very poor living environment, close to the M40 and industry, with a number of constraints to overcome and divorced from all other residential areas, and we are perplexed why the Council is so keen on this site when for example the Drayton/Warwick Road site is available;
- The housing capacity of the West site is now reduced by 75% by landscape and other constraints, based on the new evidence, and we cannot see the planning sense in breaching the existing urban boundary for the sake of a small piecemeal development of 90 houses that could be accommodated elsewhere.

## **Cherwell District Council Consultees**

- 3.3 **Head of Strategic Planning and the Economy:** As this site has not consistently been proposed for development through the various stages of Local Plan preparation, a considered and careful judgement is required as to whether it should be released ahead of completion of the Local Plan process. On balance, the need to increase the 5 year land supply, to deliver growth in sustainable urban locations and at sites that accord with the Council’s preferred development strategy, mean that there is no planning policy objection subject to the detailed issues being satisfactorily being resolved.

### Policy History

#### *Options for Growth*

Land East and West of Southam Road was considered in 2008 in for the purpose of ‘identifying ‘reasonable alternatives’ for preparation of the then Core Strategy (now Local Plan). An officer report was considered by the Council’s Executive on 4 August 2008 which subsequently became a supporting report to the Council’s ‘Options for Growth’ consultation (September 2008). The supporting report included an initial assessment of strategic site options. The identified opportunities of the Southam Road (East) area included:

- proximity to areas of employment
- good road access
- comparable distance to town centre as for other peripheral sites



- the potential for extending public transport routes
- the proximity of the southern part of the site to facilities in the Hanwell Fields development

The identified challenges included:

- Hanwell Fields Spine Road (Dukes Meadow Drive) and steepness of land making integration / links with the built up area difficult
- impact on the setting of the crematorium
- impact of roads on landscape / gradient of land affecting access
- landscape west of Southam Road of very high value and contribution to setting of Banbury
- steeply rising and undulating countryside
- impact on brook, valley, nature reserve and setting of crematorium
- Hardwick Hill House (Listed Building) to the north of the Crematorium
- unsuitability of west of Southam Road for employment development
- Flood Zone along the brook in the far western part of site
- Development west of Southam Road considered to be an unreasonable option

This conclusion was reflected in the 'Options for Growth' consultation paper with land west of Southam Road not being identified as a reasonable option for growth. The southern half of the land to the east of Southam Road (site BAN 6A) was, however, identified as a reasonable option for growth including 400 homes: *"Potential for employment development as part of a mixed use scheme is worthy of further consideration...Further north the land is too prominent in the landscape for development and important to the setting of Banbury....More detailed work is required..."*

#### *Draft Core Strategy*

Land East and West of Southam Road was not included in the Draft Core Strategy 2010. The Draft Halcrow Landscape Sensitivity and Capacity Assessment (2009), which informed the Draft Core Strategy, concluded that land west and east of Southam Road had low capacity to accept built development (as acknowledged in the Sustainability Appraisal 2010). The Draft Halcrow Assessment considered that land to the east and west had moderate landscape sensitivity; that the visual sensitivity was high for west of Southam Road (being visible from Hanwell and large parts of Banbury) but low to the east due to industrial buildings to the south and topography to the north east; and that overall sensitivity was high for the site to the west but moderate for the remainder. The Draft Assessment considered that in terms of cultural heritage the Hardwick deserted medieval village (to the east) and listed building might warrant a moderate value, and that the scenic value of the area was ordinary. The proximity of land to the west to a district wildlife site (0.5 km) was noted but it was considered that overall value to the west was only high for the crematorium. However, it concluded that there was low capacity for development to the west due to visual sensitivity and ecological value and to the east due to archaeological value. The potential for mitigation by way of limiting the extent of development was also identified including the protection of views from Hanwell and the setting of historic Alcan buildings. The Halcrow Assessment was finalised in September 2010 and was unchanged in this regard.

The strategic sites at Banbury identified in Draft Core Strategy, including two reserve sites, were all considered to have high capacity to accept development in landscape terms apart from land to the west of Bretch Hill where the wider social benefits of development were influential in the site being proposed.

#### *Proposed Submission Local Plan (August 2012)*

The Proposed Submission Local Plan (August 2012) extended the Plan period to 2031 thereby increasing the total housing requirement. New sites were brought forward. Land East and West of Southam Road was favoured over other options, particularly

land to the West of Warwick Road (previously a reserve site), land to the south of Salt Way, and land to the west of Bloxham Road.

The Sustainability Appraisal (August 2012) noted (amongst other things) the "...*impact to the rural landscape and potential impact on Drayton Conservation Area..*" arising from development to the West of Warwick Road; the low and moderate capacity to accept development to the South of Salt Way and the impact on Salt Way as an important wildlife and recreation corridor; and, the low and moderate capacity to accept development to the West of Bloxham Road (SA, 2012, Table C.1). The SA also noted that the land East and West of Southam Road "...*was reconsidered following potential re-use of the employment site on land to the south and the potential for mitigation and integration with the town was resolved*".

The Proposed Submission Local Plan identified land East and West of Southam Road as a strategic development site including some 800 homes under Policy Banbury 2.

### *Proposed Changes (2013)*

Proposed Changes to the Proposed Submission Local Plan are presently being consulted upon until 23 May 2013.

The changes were informed by further evidence (available at <http://www.cherwell.gov.uk/index.cfm?articleid=3244> ) including:

- An updated Landscape Sensitivity and Capacity Assessment for Banbury (LSCA, 2013)
- A Banbury Environmental Baseline Report (2013)
- Banbury Analysis of Potential for Strategic Development at Banbury (BAPSD, 2013)
- Banbury Green Buffer Report (2013)

The reports are draft studies pending the completion of the current consultation on Plan changes. The two documents central to an understanding of the landscape implications of strategic development are the LSCA 2013 and the BAPSD 2013. The conclusions of each study for the area of the application site and for West of Warwick Road, South of Salt Way and West of Bloxham Road are set out below:

### *LSCA, 2013*

East and West of Southam Road: the LSCA advises that the overall landscape capacity for development is 'medium-low'. It states, "*The development of residential properties within the western area would not be in keeping with the existing landscape character of the area or the presence of Banbury Cemetery and Crematorium due to the change in the cemetery setting that would occur. The capacity for residential development is weighted more toward low than medium.*"

Within this assessment, on 'visual sensitivity', it states, "*The presence of the Cemetery within the area does...elevate the sensitivity within the west of the area as users/visitors to the cemetery use the area for contemplation and reflection; the visual sensitivity of the area is therefore elevated to the west of Hardwick Hill. The area is also overlooked by properties located on the northern edge of Banbury which have a combination of direct and oblique views to the north and north east. The sensitivity of the area to the residential population and users of the area is considered to be high overall.... Mitigation potential within the west of the area differs [from the east] due to the overlooked nature of the area and presence of the Cemetery. Planting within the area, especially close to the boundaries of the cemetery would alter the character of the area and the views into/out of the area and potentially compromise the setting of the cemetery. The sensitivity to mitigation is therefore considered to be high.*"

In terms of 'landscape value' the LSCA 2013 states, "*Within the local context, the site has important views connected with the presence and setting of Banbury Cemetery and Crematorium as the area is visited for the peace, tranquillity and contemplation. This is of high importance to the western part of the site but less so the east of the Hardwick Hill. This is fundamental to the operation of the Cemetery and therefore the area has a high scenic and tranquillity value*". The perceived value of the area is also considered to be 'medium – high' because of visitors to the cemetery.

The LSCA 2013 considers that overall there is medium-low landscape capacity for development generally (i.e. not just residential) but weighted more towards low for residential as "*the development of residential properties within the western area would not be in keeping with the existing landscape character of the area or the presence of Banbury Cemetery and Crematorium due to the change in the cemetery setting that would occur*".

West of Warwick Road – the LSCA advises that this area has 'medium-low' capacity for development overall and 'low - medium' capacity for residential development due to its openness in its context and its relationship with the surrounding landscape enabling views into and out of the site. The site abuts the Drayton Conservation Area but has fewer remaining historical connections as a result of the development of the golf course to the west and educational campus to the south. However, the study notes that the site "*...also comprises an area of land that if in filled would naturally form an extension to the western boundary of the town between Hardwick and the golf course with the latter forming a natural green boundary on the west edge of the town*".

South of Salt Way – "*Although a capacity of medium to low is identified, the site is considered to be weighted more towards low than medium for the suitability of residential development. Salt Way currently forms a defined green edge to the town maintaining the intrinsic landscape qualities of the agricultural land, associated heritage features and Wykham Park beyond to the south and to the setting of Salt Way itself. Residential development...would alter the visual and physical perception of the overall landscape character within the site and wider area and should therefore be avoided.*"

West of Bloxham Road Overall the landscape capacity for development is considered to be low. Additionally, "*There is a low capacity for residential development within the site due to the prominence of Crouch Hill and the importance of the Salt Way as a historical route. If the area south of the Salt Way was developed, this would result in a fragmentation of development located on the urban fringe and not be in keeping with the existing well defined boundary to the town.*"

BAPSD, 2013

#### Banbury 2: Southam Road – West

*"The Southam Road – West site is considered to be highly visually sensitive given its rising topography and prominent location at the fringe of the settlement edge. The site forms part of the attractive Hanwell Brook valley, an important landscape feature in the setting of the Banbury to the north and contains the remnant historic land uses of Hardwick Copse and Gorse adjacent to the Brook. It is our considered opinion that development of the whole site should not be taken forward as it would result in unacceptable harm to the setting of Banbury and because of the site's visual and landscape sensitivity. However, some development could be potentially accommodated within the site provided it is located in the less sensitive south eastern corner of the site and that suitable design and mitigation strategies are adhered to"*

An indicative capacity analysis of sites appended to the main report concludes that the

south-east corner of the site has potential for approximately 60 – 90 dwellings (maximum). It also indicates that there is potential for approximately 460 - 537 homes to the east of Southam Road.

#### West of Warwick Road

*“This site has been considered during earlier stages in the Local Plan process, but is not a preferred strategic site in the Submission Local Plan. Our analysis has shown that an area to the west of Warwick Road, whilst constrained in several respects, could accommodate development should further capacity be required through the Local Plan process, subject to a sensitive layout and suitable mitigation and green infrastructure measures being implemented.”*

The indicative capacity analysis of the site appended to the main report concludes that the site has potential for 204 - 238 homes.

#### South West Banbury

*“The countryside to the south west of Banbury is an attractive rural landscape of quintessentially English countryside. It contains an abundance of historic assets, providing significant time-depth, and a number of landscape features that contribute to the setting and local distinctiveness of Banbury as an historic market town. Salt Way is of historic value and forms a mature green edge to the town. It also represents the ‘environmental limits’ to the town in the south west.... Development in the south west would adversely affect the setting of the Banbury, extending built form beyond the ‘environmental limits’ of the town, which are defined by landform, Salt Way and historic assets in particular, as well as rural views and landscape setting. The abundance of environmental assets within this area is important in defining Banbury and they would be at risk should development encroach upon them. They are important in creating a positive setting to the town, and providing accessible countryside for residents and visitors alike, contributing to quality of life of inhabitants and the sustainability of the town.”*

The Proposed Changes to the Proposed Submission Local Plan (March 2013) included lowering the total number of homes at Southam Road from 800 to 600 and placing a restriction on the total number of homes (90) for land to the western side of the road. The number of homes proposed in the current application has been amended to reflect this change arising from the BAPSD 2013. Land East and West of Southam Road is not without challenges in landscape terms but has been favoured over other sites which also present challenges. The Sustainability Appraisal (March 2013) notes (amongst other things) the landscape issues arising from developing south of Salt Way and West of Bloxham Road and that the capacity identified for West of Warwick Road in the BAPSD (2013) “...is below the strategic size (400 dwellings) used to identify housing led sites for the Local Plan” (Annex C, site summaries).

#### **Main Policy Issues**

The main policy issues are:

1. the Development Plan and other Local Plan Policies
2. the NPPF and housing land supply position
3. whether it would be appropriate to release the site for development ahead of completion of the Local Plan

*Adopted Cherwell Local Plan 1996 and Non-Statutory Cherwell Local Plan 2011*

The application site lies in an area of countryside and is not allocated for development

by either the saved policies of the adopted Cherwell Local Plan 1996 or those of the Non-Statutory Cherwell Local Plan 2011. Saved and non-statutory policies relating (amongst other things) to the countryside, landscape and design will need to be considered subject to examination of the weight they should be given according to their degree of consistency with the NPPF.

### *Proposed Submission Local Plan Incorporating Proposed Changes March 2013*

The application site forms part of the proposed strategic allocation Banbury 2 – Hardwick Farm, Southam Road (East and West). Land east of Southam Road is the subject of a separate planning application. As indicated above, the Proposed Changes to Policy Banbury 2 currently out for consultation propose a residential development of approximately 600 homes with a limit of 90 dwellings for the western side of Southam Road and provided it can be demonstrated that high quality design has been applied to address the potential landscape/visual impact issues and that careful consideration has been given to minimise the impact on historic asset[s] / potential archaeological sensitivity of the sites.

Policy Banbury 2 sets out a range of requirements and development principles against which the application should be assessed. However, some key observations are set out below:

- it is understood that the developed area would reflect the area identified as being potentially capable of accommodating some development in the BAPSD 2013. Development should not extend beyond that area.
- the indicative layout should show that that a high quality scheme can be secured that is designed in configuration with the landscape setting and well integrated with adjacent commercial and residential uses. This is likely to require good connectivity with the Hanwell Fields development to the south and also to proposed development to the west of Southam Road (the subject of a separate application);
- detailed assessment will be required to ensure a well considered approach to mitigating the landscape sensitivities through good design, including consideration of lower density building typologies, building height and form and to ensure that development respects the landscape setting and topographical changes on site;
- there is a need to secure a high degree of integration and connectivity between new and existing communities, good accessibility to public transport services, and consideration given to the traffic calming of Southam Road, including safe pedestrian crossing points;
- there should be clarification on the type of community facility to be provided.

### *NPPF and Presumption in Favour of Sustainable Development*

The NPPF includes a presumption in favour of sustainable development and states 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 [the] Framework taken as a whole*” (para. 14).

Local Planning Authorities are expected 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" (para' 47).*

The latest position on the district's housing land supply is contained within the Annual Monitoring Report 2012. This indicates that the district presently has a 4.3 year supply (with 5% buffer) of deliverable housing land for the period 2013-18 and a 3.8 year supply with a 20% buffer.

The Council is unable to currently demonstrate a five year supply of deliverable sites with a 5% or 20% buffer as required by the NPPF. Paragraph 49 of the NPPF indicates that where this is the case relevant policies for the supply of housing should not be considered up-to-date. Housing applications must therefore be considered in the context of the presumption in favour of sustainable development (having regard to economic, social and environmental considerations). At a strategic level land East and West of Southam Road has been included in the Proposed Submission Local Plan in the interests of delivering sustainable development.

Whilst the application site is not allocated for development in the adopted Cherwell Local Plan, in view of the advice in paragraph 49 the saved policies of the adopted Plan must be considered out of date. Nevertheless, it will still be necessary to consider the detailed impact of the proposed development on this area of countryside and its landscape setting.

#### **Whether it would be appropriate to release the site for development ahead of completion of the Local Plan**

The NPPF provides (para' 17) a set of core planning principles which, amongst other things, require planning to *"be genuinely plan-led, empowering local people to shape their surroundings..."*.

The application relates to a strategic release of housing land ahead of completion of the Local Plan and ahead of the independent Examination of the Plan's proposals and policies. Although the number of dwellings proposed in the application is not of strategic significance, the relationship between this site and land east of Southam Road means that the application is of strategic significance. There are shared facilities proposed for the two sites and a need to ensure satisfactory links between east of Southam Road, west of Southam Road and the Hanwell Fields development. A comprehensive and cohesive approach is required.

Government Guidance on 'The Planning System: General Principles' remains extant and provides advice on the issue of 'prematurity'. It states:

*"In some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a DPD is being prepared or is under review, but it has not yet been adopted. 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 new development which are being addressed in the policy in the DPD. A proposal for development which has an impact on only a small area would rarely come into this category. Where there is a phasing policy, it may be necessary to refuse planning permission on grounds of prematurity if the policy is to have effect" (para 17)*

*"Otherwise, refusal of planning permission on grounds of prematurity will not usually be justified. Planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging DPDs. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached. For example:*

- *Where a DPD is at the consultation stage, with no early prospect of submission for examination, then refusal on prematurity grounds would seldom be justified because of the delay which this would impose in determining the future use of the land in question.*
- *Where a DPD has been submitted for examination but no representations have been made in respect of relevant policies, then considerable weight may be attached to those policies because of the strong possibility that they will be adopted.*

*The converse may apply if there have been representations which oppose the policy. However, much will depend on the nature of those representations and whether there are representations in support of particular policies” (para’ 18)*

*“Where planning permission is refused on grounds of prematurity, the planning authority will need to demonstrate clearly how the grant of permission for the development concerned would prejudice the outcome of the DPD process” (para’ 19)*

In addition to the current proposal, the Council has a number of other planning applications for the development of housing on greenfield sites at Banbury which are also potentially of strategic significance. The strategic sites identified in the PSLP March 2013 have been the subject of representations many of which are objections. The issue of potential prematurity must therefore be considered.

However, at the time of writing, the Proposed Submission Local Plan is the subject of further consultation (until 23 May). The outcome of the consultation and the implications for plan preparation are not yet known and a date has not been determined for Submission of the Local Plan. On this basis, it is understood that a refusal of permission on prematurity grounds would not be justified.

Notwithstanding this, the new Local Plan would ideally proceed to completion before new greenfield strategic sites are released. However, the Government policy and advice on the need for new housing to be provided urgently is clear:

- Laying the Foundations: A Housing Strategy for England, 2011) - aims to get the housing market and house building ‘moving again’ and emphasises that urgent action is need to build new homes
- Written Ministerial Statement: Planning for Growth (23 March 2011) - “...*there is a pressing need that the planning system does everything it can to help secure a swift return to economic growth*”
- Written Ministerial Statement: Housing and Growth (6 September 2012) - in announcing a package of measures to support local economic growth, the Secretary of State for Communities and Local Government advised that the need for new homes is ‘acute’

Furthermore, the district does not presently have a five year land supply (plus 5 or 20%) and has experienced lower than necessary housing completions in recent years. The release of the application site for housing would help resolve this situation and assist in ensuring that housing is delivered in the district’s most sustainable, urban locations and where the need for new housing is concentrated. Not to release land in appropriate locations at urban areas would require a less sustainable rural-led solution.

The emerging Plan has been through several rounds of consultation and is now supported by an extensive evidence base. Paragraph 216 of the NPPF indicates that weight may also be given to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the

- preparation, the greater the weight that may be given)
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - The degree of consistency of the relevant policies in the emerging plan to policies in the NPPF (the closer the policies in the emerging plan to the policies in the emerging framework, the greater the weight that may be given).

The evidence base for the emerging local plan is now substantially complete and the local plan has reached an advanced stage. The Proposed Submission Local Plan was prepared following the publication of the NPPF and the policies are considered to be generally consistent with the NPPF. It is considered that the first and third bullet points of paragraph 216 of the NPPF are met and therefore some weight can be given to the emerging plan policies.

However the requirements of the second bullet point limits the weight given to the emerging plan policies relating to the site. Whilst the application for residential development is consistent with the strategic allocation in the PSLP, there are alternative strategic sites at Banbury which are being promoted through the local plan process, which are not the subject of proposed allocations in the plan, and which are the subject of unresolved objections to the location of strategic sites. A balanced judgement is therefore required in the light of the requirement to deliver more housing over the next five years.

## **Conclusions**

The position with regard to housing land supply and advice in paragraph 49 of the NPPF means that the saved housing policies in the adopted local plan can no longer be considered up-to-date.

The application site forms part of proposed strategic site allocation Banbury 2 of the Proposed Submission Local Plan, which can be given some weight in decision making, albeit limited due to unresolved objections to the location of strategic allocations at Banbury in the Plan.

The determination of this application in advance of the local plan being finalised has to be balanced against the advice in paragraph 14 of the NPPF which sets out the presumption in favour of sustainable development, which should be seen as a “golden thread” running through both plan-making and decision taking. It states that for decision taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole, or specific policies in the framework indicate development should be restricted.

In view of the 5 year housing land supply position and the presumption in favour of sustainable development embodied in the NPPF the Council has acknowledged that sites may have to be released ahead of the local plan being adopted (ref. superseded Housing Land Supply Position Statement, February 2012).

The application site is not a straight forward site to consider. The development of land west of Southam Road was not considered to be a reasonable option for development in 2008 and was not brought forward as a proposal in 2010. However, the need to identify



additional sites in 2012 led to land East and West of Southam Road being identified having considered other options. The LSCAs produced in 2010 (Halcrow) and 2012 both considered land west of Southam Road to be very challenging. However, the BAPSD 2013 does show that “...some development could be potentially accommodated within the site provided it is located in the less sensitive south eastern corner of the site and that suitable design and mitigation strategies are adhered to”. In that context, and in the context of the parallel application for east of Southam Road, the reduced proposal for the west is one that can reasonably and carefully be considered. However, a very well laid-out and designed scheme will be required so that development respects and responds to the sensitive landscape setting, ensures that the detailed impacts on landscape character and the views into/out of the area are acceptable, and that the setting and perceived value of the cemetery are not compromised.

The application also needs to be carefully considered in the context of separate proposals for east of Southam Road and detailed consideration of the design of linkages to the land to the west and to the Hanwell Fields development to the south will be necessary.

#### 3.4 **Update from the Head of Strategic Planning and Economy**

The focused consultation on the proposed changes to the proposed submission local plan ended on 23<sup>rd</sup> May 2013. The representations received will be presented to the Executive in due course. They include objections to the proposed changes for the North of Hanwell Fields strategic site (Banbury 5) and further objections to land East and West of Southam Road (Banbury 2).

Since the original consultation responses from the Head of Strategic Planning and the Economy, there has been a small change in the district’s housing land supply position as a result of applications being considered at the last planning committee. The latest position (May 2012) is published on the Council’s website at <http://www.cherwell.gov.uk/index.cfm?articleid=3238> and shows (for the period 2013-18) that the district now has a 4.4 year supply of deliverable sites incorporating a 5% buffer and a 3.9 year supply based on a 20% buffer. This equates to shortfalls of 438 or 1001 respectively.

- 3.5 **Urban Designer:** This application forms part of the Banbury 2 allocation in the emerging Local Plan for Cherwell District Council. The development proposals have been worked up with on going liaison and advice from Officers. The Banbury 2 allocation is divided by Southam Road, a major arterial route that connects the site to the heart of Banbury. These comments refer to the proposals for the west of Southam Road. The same development consortium also owns the site to the east of Southam Road and has submitted a planning application for this area too.

The information set out below is based on a review of the Design and Access Statement for the Southam Road West site in Banbury, submitted to the Council in February 2013 alongside the recent resubmissions, which have made substantial changes to the scale of development. I have visited the site twice, in September 2012 and most recently with the case officer in early April this year to better understand the context within which the design issues need to be considered.

The Council has worked closely with the development team. Most recently a dialogue has taken place on design and landscape issues to help develop a new proposal after a number of significant landscape and visual impact issues were identified as part of the Local Plan process. There have therefore been substantial changes to the Design and Access Statement and only certain elements of the original submission still hold. A new illustrative plan has been submitted for the site, but this has not been supported by a revised Design and Access Statement. The comments set out are therefore a response to both the recent submission of a revised illustrative plan and its statement of impact,

alongside consideration and the original Design and Access Statement.

### **Site Analysis**

The proposed development site is located to the northeast of Banbury. The 17ha site is currently used as agricultural land. Following resubmission of the plan, the development area has been reduced to 3ha. Dukes Meadow Drive lies to the south of the site and Southam Road to the east of the site. To the north of the site is the Banbury cemetery. The Hanwell Brook runs along the western boundary. The site has a steep and distinctive topography, rising from the south west to the northeast of the site.

### Ecology

The Hanwell Brook runs along the western boundary and will be protected by a 10m buffer to ensure minimal risk to habitat. The treed boundaries to the north and east of the site are also potential habitat areas. No other ecological issues have been set out, and the standoff distances to these features have been set out within the Design and Access Statement.

Part of the site, adjacent to the Hanwell Brook, falls under flood zone 2/3. SUDS will form an important part of the development proposals.

### Opportunities Plan

This plan is weak and could be improved to provide a useful explanation of how the site constraints and opportunities have led to the final proposals.

### **Design Principles**

A chapter has been set out within the Design and Access statement on the design principles that have influenced the site design. For the most part this forms a basic urban design reader that covers the basic principles of site design, but does not demonstrate how these relate to the masterplanning of the site.

Since the original submission of this application, further information has come to light on the landscape and visual impact constraints on this site. Therefore only elements of the design principles set out in the Design and Access Statement still hold. While a new illustrative plan has been submitted for the site, this has not been supported by a revised analysis and design principles.

### Land Use

Community facilities and a small mixed use local centre have been located to the southeast of the plan. This is the area of lowest landscape impact and will, if designed appropriately form a landmark feature onto the Southam Road Roundabout and is considered the most appropriate location for these uses.

### Landscape

A substantial buffer to the Hanwell Brook will be retained. There is an existing green edge to the south of the site, with a 20 – 40m grass verge and swale. Much of the north of the site will be retained as agricultural land. Consideration has been given to integrating SUDS onto the site and a simple swale is proposed along the southern edge. Other SUDS features will be provided as required.

### Access and Movement

Southam Road is a major arterial route that connects the site to the centre of Banbury. The success of the Banbury 2 residential allocation will be in part dependent on the relationship between this route and proposed development. Three crossing points are proposed which will supplement the informal crossing points at Dukes Meadow Drive and Noral Way. While the plans on page 35 of the Design and Access Statement indicate that there is an existing public cycle and pedestrian route along Southam Road, after visiting the site it is clear that this is a low key footpath and consideration needs to be given as to how this can be improved to facilitate safe pedestrian and cycle

movement.

Southam Road is a busy route, trafficked by HGV and fast moving traffic, it will be important that appropriate traffic calming is considered along this route to the north of the allocation, as the residential limits of Banbury are being extended and the nature of the route needs to be changed. A primary school is proposed on the east site, which will have a catchment area beyond the Banbury 2 allocation, so it is important that the accessibility of this site by sustainable modes of transport is fully considered.

- A simple network of routes is proposed for the site. A spine road will run through the middle of development, connecting with Dukes Meadow Drive to the south west and Southam Road to the east
- To the south of spine road a simple loop will provide access to development fronting onto Dukes Meadow Drive
- To the north of the spine road small driveways will provide access to the low key development along the northern boundary.
- A footpath will run along the northern edge of development, linking the housing in this area
- To the north of the development a potential strategic footpath will provide access through the site and beyond. A potential strategic footpath is also shown at the southwest corner of development.
- I will not comment on the potential street types or parking shown within the Design and Access Statement as the development configuration has now changed substantially
- There needs to be detailed consideration to the access arrangements around the community facilities and local centre, especially in regard to servicing and customer parking. This is a tight space and the detailed design solutions for this area will be critical to their success

## **Masterplan Comments**

### Framework Plan

The plan for the site has substantially changed since the original submission of the Planning Application. CDC has worked with the developer to establish an illustrative plan for the site. While I believe there are a number of problems with the illustrative plan, I think it is helpful to abstract it, so its structure can be understood.

- The plan is structured around a spine road which runs through the site, connecting Dukes Meadow Drive to Southam Road
- The spine road will be fronted by medium density development, fronting onto this route
- Along the northern edge of development, a low density informal edge should be structured, which fits well with the landscape
- The local centre and community facilities are located to the southeast of the site, in the area with least landscape impact and greatest presence. This creates the opportunity to establish a landmark building on the corner of Dukes Meadow Drive and Southam Road
- Development to the south fronts onto Dukes Meadow Drive

### Building Heights and Density

No building heights plans have been provided for the revised plans.

- It will be important for development along the northern and western edge to be of a low scale and density to establish a layout where the built form informally sits with the landscape
- A number of bungalows are proposed and it is advised that their location is considered in relation to the low density edge
- It is acknowledged that medium density development will be required in order to allow for really low development density along the western and eastern edge. In

the heart of the site there are therefore likely to be some semi detached units

- The southeast area of the site is the most appropriate place for buildings with a larger footprint and massing. Therefore if a local centre and community facility is appropriate for this site this is the right location. I do question whether 3 storeys is appropriate, especially given the low form and impact of the rest of development. 2.5 storeys might be appropriate, but only fronting onto the roundabout area

### Sustainability

There is no reference in the Design and Access Statement as to the sustainable credentials of the development. A section on this would be useful, setting out the code levels which would be reached and how the site conditions might inform housing design (such as south facing units having larger areas of glazing, gables being used to provide south facing roof space on N – S orientated streets etc.)

### **The Illustrative Layout**

The illustrative layout should demonstrate how the site constraints and design principles could be interpreted. It is an important element, that proves to the Council and other stakeholders that the principle of development as described can be achieved in a way that offers a high quality and sustainable neighbourhood that will be durable for generations to come.

The illustrative plan presented has been put together has been turned around very quickly and does not form a fully formed approach to the masterplanning objectives for the area. What is shown on the plan is relatively weak and does not optimise the potential that this area of the site has to establish a unique high quality development on the edge of Banbury.

I would recommend that if the application is approved, Design Codes are made a condition of development, raising the opportunity to revisit these issues

- The development layout and grain is very even and is likely to give a uniform effect. This is an area that has the opportunity to create a one off high quality place
- The development along the northern and western edge, while low density, appears to have a uniform building line and spacing. I believe that the site edges could be far more interesting if a less formal approach to the layout was made in this area
- The main spine route is very wide, with little variation in its character. There is a risk that this route could become a rat run and consideration should be given to how the route could vary to add interest and to provide natural traffic calming
- The semi detached development along the spine road is neither formally nor informally arranged and there is greater opportunity to do more with the character of this area
- While it is certainly correct that frontage is provided onto Dukes Meadow Drive, what is shown could be configured in a way that provides greater enhancement to this route
- The configuration of the local centre and community facility are broadly in the right position of the site if these facilities are required. However far greater thought of the way these elements work is required if this is to sit comfortably with the rest of the site and provide a sensitive gateway to the Southam Road roundabout.

### **Parameters Plan**

I believe that the weaknesses in the illustrative plan can be overcome by setting clear design parameters for different areas of the site. This way, the Council can be clear, that the development coming forward will be appropriate to its setting.

#### Potential public realm area

- It would be useful for the structure of the Local Centre and the overall character of the development to have an open space area
- The area to the east of the site, will help provide both an entrance space for the site from Southam Road and spill over space for the Local Centre and community facilities
- There is the potential to locate the play area to this location as it will be more central

#### Area A (Northwest)

- This is the most sensitive area of the site, in terms of landscape and visual impact and will need to be of a low density. We would therefore suggest the parameters below are used to guide development
- The development plot should be a minimum of 10m wide
- Development should take up no more than 50% of the frontage, to support a landscape setting in the area
- Buildings should be two storey and no more than 6m high to the eaves and 9m high to the ridge

#### Area B (Dukes Meadow Drive)

- It is important that development should appropriately address Dukes Meadow Drive
- Development should face out onto this route in a similar way to other developments in the area
- Development should be more continuous than other areas of the site and have a slightly greater scale

#### Area C (Spine Road)

- This route provides access to the site from Southam Road and Dukes Meadow Drive
- The entrance areas should be carefully considered to ensure that they provide a gateway into the site and appropriate presence onto both the Spine Road and the existing route
- Development along the Spine Road should be configured to offer variation and interest. Perhaps this area could be considered in character to a similar way to a village street

#### Area D (Local Centre)

- The local centre and community facilities is an important component of the site and needs careful design consideration
- The drawings as presented do not set out a clear vision for how these areas should be used and operate
- Consideration needs to be given to the operational needs of this area, both in terms of servicing and access, but also in terms of how these buildings fit within the wider environment
- The massing of these buildings should be greater in the very southeast of the site, and provide a clear landmark onto the Southam Road roundabout
- It would be expected that there is active frontage onto the main routes

As mixed use blocks are proposed, care should be taken for the access and amenity of residents.

- 3.6 **Housing Officer:** This application for development to the north of Banbury is proposing to deliver approximately 90 residential units. This will therefore require 30% affordable housing provision equating to approximately 27 units.

Because this application is closely related to the Southam Road East – 13/00159/OUT application, I have considered the two schemes holistically and the following affordable housing requirements reflect this view.

Within this parcel there will be a requirement for 100% rented accommodation as part of the affordable housing requirement. The majority of the housing will be designated for the over 55's or for those that some form of mobility issue and in housing need.

All the units should meet lifetime homes standards and Code for Sustainable Homes level 3 as a minimum together with HQI standards

The units should be provided as follows;

16x1b2p Flats }  
6x2b3p Flats } + office/communal space (designated over 55's)

3x1b2p Bungalows  
2x2b3p Bungalows (1x wheelchair adapted)

The units should be located close to amenities such as shops etc which are to be located on the scheme.

The affordable units should be transferred to one of CDC's preferred RP partners.

- 3.7 **Environmental Protection Officer:** I've reviewed the GVA Grimley Phase 1 Environmental Due Diligence Report for the land at Hardwick Farm, Banbury submitted in support of this application. It is noted that this report aims to identify potential environmental liabilities and not to demonstrate the site is suitable for residential use.

Given the level of information within this report, I do not see a requirement to condition a further desktop study and walkover assessment of the risk from land contamination. To demonstrate the land is suitable for use I recommend that an intrusive investigation is required across the site to demonstrate the site is suitable for use or can be made so through remedial works. This should include the potential risk from naturally occurring contaminants within the geology of the site.

As such, I recommend applying conditions J13, J14, J15 and J16

- 3.8 **Landscape Officer:** This site is an allocated site identified in the Halcrow study and encouraged that LDA think that there should be minimal development on the site since it is particularly visually prominent. There is a difference of 27m between the highest and lowest point, this means that tree planting on lower levels will never be capable of screening development on higher ground.

Although the site adjoins the built up area of Banbury it feels detached from it by 2 key roads. The site is also tied economically with the Eastern site. It would be difficult to develop one without the other as one alone would be very disconnected.

Viewpoints 1 and 2 - The reduced scheme results in the impact of the scheme being reduced from these viewpoints. However the development will be clearly visible from point 2 particularly as there are 2 block shaped commercial buildings at this point and little landscaping either existing or proposed. I am concerned that this corner of the site is very visually exposed unlike the segment on the East site which has large mature trees and a hedgerow. In addition the hedgerow alongside Southam Road is non-existent at this point. It finishes further up the hill. Substantial planting is needed at this point.

Viewpoints 4 and 5 - There will be a reduction of impact particularly in relation to the skyline, now that development is contained below the skyline. However there will still be visibility particularly as there doesn't seem to be any screen planting on the western and southern sides of the development. Screen planting is required on the edges of the development to avoid ugly boundaries composed of close boarded fences.

Viewpoint 6 - I was surprised when I looked from viewpoint 6 how visible the W site was from Hanwell and its surroundings. Although it isn't in the immediate foreground the extent of the site is quite prominent. Clearly the reduced number of properties at a lower level will not have the same impact as the original proposal but there will still be clear views of the development from Hanwell albeit in the distance.

Viewpoint 7 - The development would be largely screened from this viewpoint

Viewpoint 8 - Views will be restricted due to distance and intervening vegetation particularly in summer

Viewpoint 9 - The development will be largely screened by existing vegetation

The outline of the proposed 90 dwellings doesn't seem to follow the contours and has an odd shaped outline. Keeping development below the 105m height contour will keep dwellings from breaking the skyline from fewer viewpoints which is to be welcome. The western edge of the proposal would look better slanted in the opposite direction as it would visually anchor the dwellings to the lowest part of the site more effectively.

The site will be very visible from Dukes Meadow Drive when standing opposite or driving past it. The road level is at about the height of the top of the hedge with a ditch in between. Along this southern boundary there are young Poplar trees and a low trimmed hedge which in its current state will provide little screening. The hedge should be allowed to grow taller and additional tree planting will be required. When viewed from Dukes Meadow Drive the development will break the skyline due to the proximity of the development to the road so good screening is essential.

LANDSCAPING - The indicative layout doesn't offer any interest, focal points or variety of spaces. Apart from some indicative street trees there is no greenspace within the development. Garden trees cannot be relied on to provide screening as owners may well cut them down and we are not able to do anything to prevent this. There needs to be landscaping in the public domain to provide visual relief from these proposals which are in a visually sensitive area. I accept that the gardens are larger than normal but they cannot be relied on to provide mitigation.

The properties on the western boundary of the proposal are shown with rear and side gardens facing onto the open space/ field with no screening. This will result in an awkward and unattractive interface.

There doesn't appear to be any attempt to integrate the dwellings into the landscape. There is no proposed landscape mitigation on the W, N or S boundary. This is essential as on the north side a completely new boundary is being created across the field. And on the S and W sides the site are very prominent when viewed from Dukes Meadow Drive.

In order to better mitigate this proposal the LAP and associated greenspace needs to be located within the development. This would move the play area to a space where it can be overlooked and be within a walkable distance of each home. Greenspace within the development as opposed to on the edge would help break up the impact of the development. In addition street tree planting could help mitigate the impact of dwellings. It is not suitable to locate the LAP on the periphery of the development. It needs to be within easy walking of children 1minute or 100m. The play facility also needs to be overlooked by dwellings for supervision purposes.

Conclusion - LDA state in the Analysis of Potential for Strategic Development that some development could be potentially accommodated in the less sensitive south east corner of the site if suitable design and mitigation strategies were adhered to. It is essential that

they are as this site is highly visually sensitive given its rising topography and position on the fringe of Banbury.

- 3.9 **Arboriculturalist:** There is not a high density of tree cover on the site. The indicative layouts for the site show that the majority of trees are to be retained. An Arboricultural survey in accordance with BS5837: 2012 should be carried out to determine what constraints the trees will pose. The constraints posed by the trees should then inform the design of the site in proximity to any retained tree. A tree protection plan should then be produced. The retention of the existing trees on site will enhance any development. There also appears to be plenty of scope on site for additional tree planting. In principle I don't have any objections on Arboricultural grounds to the proposed development.

The recommendation is that a tree survey is carried out and a tree protection plan produced in conjunction with an Arboricultural method statement for working around retained trees.

- 3.10 **Ecologist:** The site has been satisfactorily surveyed with regards to ecology at this stage, although several of the surveys are likely to need repeating if nothing commences for more than twelve months (badgers, survey of any mature trees to be removed, potentially reptiles) and to inform the full mitigation plans for the species on site.

In general the indicative layout preserves the most important ecological receptors on site. A buffer of 5m as a minimum to all hedgerows would be preferable to maintain their value as wildlife corridors.

When a final plan of the development and landscaping is produced the impact on species on site will need to be fully reassessed and a full mitigation plan or working method statements for each drawn up prior to any clearance or any other works commencing on site to include their protection both during construction and in the longterm. In addition a Management Plan to conserve and enhance the retained biodiversity - hedgerows, meadow grassland and bankside will need to be produced. Thought will need to be given to how the needs of the wildlife on site in particular protected species such as the Otter will be balanced with recreational use from residents/dog walkers in the green spaces. The lighting scheme will also be key in whether they are able to retain the value of the green infrastructure on site for wildlife.

In line with the recommendations within the NPPF we should be seeking a net gain in biodiversity on site from developments. Therefore a full plan of biodiversity enhancements to include opportunities for species within the built environment should also be produced before anything commences on site. The scale of the proposed development will put increased pressure on the open countryside in the area and therefore I would like to see a contribution requested to a green space project such as the Cherwell Country Park from which any future residents of this development would undoubtedly benefit in order to ameliorate this effect to some extent.

Planting proposals should not currently include Ash (*Fraxinus excelsior*).

Various conditions are recommended.

- 3.11 **Anti social behaviour manager:** We had become aware of this site through the pre application consultation process and identified environmental noise an issue to be consideration in the determination of any planning application submitted for the residential development of the site. The sources of environmental noise likely to impact on the proposed housing would be locally, road traffic using the Southam Road to the West of the site and more generally road traffic noise generated by the M40 located to the North East of the site.



Having identified road traffic noise as an issue it is important to put this into context now indicative site layouts have emerged. The area of the site closest to the roundabout junction between Southam Road, Dukes Meadow Drive and Noral Way has been set aside for retail/community use. These uses are less noise sensitive than dwellings this placement is advantageous. Moving north along the Southam Road there are a small number of dwellings with frontages facing on to the roadway before the ground begins to rise and the presence of a lay bay increases the distance between the proposed dwellings and the carriage way. These relationships between the proposed dwellings and the Southam Road maximise the potential for sound attenuation by virtue of design and leave a relatively small number of dwellings unprotected.

As the level of noise produced by the Southam Road is not considered to be extreme these dwellings can be effectively protected against road traffic noise by ungraded glazing and the use of either passive or active ventilation systems.

Where there is a risk of a proposed development being affected by environmental noise it is appropriate to set a noise performance standard through a planning condition in order to protect the amenity of the future occupants of the dwellings. This approach is consistent with the National Planning Policy Framework and the Noise Policy Statement for England. Unfortunately neither document defines noise targets in objective terms. Since the publication of these documents has also removed PPG 24 from the equation noise specialists now rely on the standards contained within the World Health Organisations document '*Guidelines for Community Noise*' and British Standard BS 8233:1999 Sound insulation and noise reduction for buildings. Both documents contain objective standards for dwellings and by when used in combination can be used to produce a robust set of noise targets for dwellings and their immediate environment. These levels are:

Gardens LAeq(T) = 55 dB  
Living Rooms LAeq(T) = 35dB  
Bedrooms LAeq(T) = 30 Db

Where (T) = the day time period of 16 hrs between 07:00 and 23:00 hrs or the nighttime period of 8 hrs between 23:00 and 07:00 hrs.

In addition there should not be a significant number of exceedances of the LAMAX criteria of 45 dB during the nighttime period.

To put these values in the form of a planning condition I would suggest a prior approval approach with the applicants being required to demonstrate compliance with the above levels through firstly design and layout and then enhanced glazing or ventilation prior to the development of the site commencing.

With regard to the amended plans, the Anti Social Behaviour Manager comments that the design of the revised proposal placing the community and retail elements of the development along the Southam Road has advantages in that it offers dwellings further into the site additional protection from noise from road traffic. As these elements also include flats above the functional elements, sound insulation will still be required to these dwellings but on balance this proposal would be preferable.

- 3.12 **Waste and Recycling Manager:** Waste and Recycling guidance should be taken into account. S106 contribution of £67.50 per property will be required.

### **Oxfordshire County Council Consultees**

3.13 **ARCHAEOLOGY:**

Detailed comments: The west site is located in an area of archaeological interest identified through a geophysical survey and trenched evaluation undertaken by Wessex

Archaeology in 2012. The survey and evaluation identified a number of archaeological features including ditches, gullies, pits and postholes and a single un-urned cremation. No dateable material was recovered from the evaluation although the cremation is likely to be prehistoric. It is likely that further cremations survive on the site.

Whilst no archaeological features were identified on the east site that would cause a constraint to any development of the site the evaluation did record that the site contains archaeological deposits related to the prehistoric period as well as a possible medieval roadway. These features will be impacted upon by any development of the site.

The county council would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction on both the west and east sites. This can be ensured through the attachment of suitable conditions.

### 3.14 **TRANSPORT AND PLANNING STRATEGY:**

Site location and scale: The location of this site makes it one of the more challenging sites in Banbury from a transport perspective.

- Existing bus services passing the site are infrequent.
- The site has very easy access to the M40, which may make it a desirable location for people wishing to commute by car via the M40.
- Banbury town centre and Banbury station are not within easy walking distance (approx. 3 km)
- The site is close to the Ruscote Avenue/Hennef Way corridor, parts of which are congested now and expected to worsen by 2031.

However, the town centre is within a reasonably easy cycling distance, with some good off-carriageway cycle routes in place.

Site layout and design: It is recognized that the site layout is indicative.

**The comments below should be taken into account should a reserved matters application be prepared in future:**

- The development turns its back on Southam Road, which means:
  - It will be harder to create attractive bus, walking and cycling routes along the direct radial desire line into the town centre
  - Traffic speeds on Southam Road are likely to remain high
  - The pedestrian/cycle links across Southam Road are poorer than they might be.
- The density is low; there could be opportunities for higher densities, particularly on the Southam Road frontage, perhaps with reduced car parking allocations.
- The internal road layout could be simplified and made more open to allow better pedestrian and cycle access and make the development easier to navigate.

Strategic highway impacts: The transport assessment assumes travel behaviour of neighbouring housing areas is simply perpetuated, with no aspiration to establish more sustainable travel patterns than surrounding areas. Should a reserved matters application be prepared, more efforts should be made through the design and layout of the site to encourage use of sustainable modes.

However, even with additional measures to promote sustainable modes, the site will generate additional pressures at some already congested junctions, particularly on the Hennef Way/Ruscote Avenue east-west corridor. Modelling completed for the Movement Study indicates there will be further increased congestion in this area by

2031 as a result of development pressures in the town.

The developer's transport assessment highlights a particular problem with the Southam Road/Hennef Way/Ruscote Avenue junction and proposes improvements at this junction to increase capacity, particularly for traffic entering the roundabout from the south. This proposed direct mitigation has been accepted and costed at £87,000.

It should be noted that the proposed movement strategy for the town aims to rebalance traffic flows away from the historic South Bar Street/Horse Fair/North Bar Street corridor by increasing capacity in the Windsor Street/Cherwell Street corridor. This strategy would further reduce pressure on the Southam Road/Hennef Way/Ruscote Avenue, particularly from the south.

Developer contributions: Contributions towards bus services are dealt with in Annex 1.

An Infrastructure Delivery Plan has been drafted for Banbury. This is informed by the movement strategy and will become part of the Local Plan.

**It is therefore recommended that a contribution of £469,692 is taken towards the schemes in the draft Infrastructure Delivery Plan.**

**This is £564,692 LESS the £95,000 already committed by the developer for the direct mitigation at the Southam Road/Hennef Way roundabout.**

Bus service requirements: **As agreed, the developer must procure a bespoke commercially sustainable public transport service to and from the sites into Banbury town centre.**

According to the Transport Assessment documents, particularly Appendix G, the developers propose to introduce a half-hourly bus service to the two sites which would involve altering the frequency and routing of the existing B10 (Banbury town centre – Hanwell Fields) bus service so that it connects the east and west sites to the town centre. This is not considered to be a suitable proposal for the provision of public transport to the development sites for a number of reasons.

As agreed in recent meetings, the developer(s) must procure a sustainable public transport service to and from the sites into Banbury town centre. The bus service needs to be commercially viable after a period of financial support through pump-priming. It is considered that the most appropriate way of achieving this objective is for the developer to procure a bus service to an agreed specification, and for the developer to support that service until it reaches full financial viability. Given the current financial constraints on local authorities across the country, the county council cannot assume any ongoing revenue liability for a bus service that cannot reach financial viability.

Under this arrangement the developer will be incentivised to attract as many passengers as possible to this bus service, to minimise his financial exposure. These passengers will be generated not only from this development, but from other strategic stops along Southam Road, including those in proximity to the Tesco supermarket and the employment areas west of the M40.

Residents of new residential developments need access to a credible and attractive bus service, of sufficient frequency to provide meaningful access to employment and further education in the morning and late afternoon peak travelling hours, and by a bus service of adequate frequency to provide access to other retail, leisure and health services between the peak travelling hours and during Saturday daytimes, supplemented by a less frequent service during evenings and Sundays, to enable residents to carry out a wide range of potential activities.

It is considered that Banbury Town Centre is the principal destination for any bus service from the Southam Road development, where passengers can interchange to a wide range of other bus and train services to other destinations.

The two sites will comprise a total of 600 dwellings, plus a primary school on the site east of Southam Road, and it is therefore considered that the bus service should operate as direct a route as possible, along Southam Road into the Town Centre so as to maximise the number of sustainable trips made by bus to and from the development. The exact route can be agreed later, but in principle, would provide access to Tesco Supermarket and key points around northern Banbury and the town centre, in a manner which provides reasonable interchange with other bus services.

The table below sets out the recommended service level requirements for the bus service according to the phasing/delivery of the combined east and west sites. This would be required from completion of the first dwelling on either of the sites.

Phase	No.of dwellings	Bus service requirements
1	1 to 150 dwellings	Two buses per hour Mon to Sat between 07.00 – 19.00, Using small bus (16 seater)
2	151 to 400 dwellings	Two buses per hour Mon to Sat between 07.00 – 19.00, Using standard bus (28 seater)
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)

Future developers of nearby sites or others along the bus route may also be required to contribute to the cost of this bus service.

### 3.15 TRANSPORT DEVELOPMENT CONTROL

Traffic Generation & Local Impact: The trip generation figures that have been submitted as part of the Transport Assessments (TAs) for these development sites, in my opinion appear to be a little low. I would expect to see a higher rate closer to 0.6 due to the site's location, its distance from the town centre and the limited access the proposed site will have to local facilities within the area. On this basis it was recommended a sensitivity test be run (using 85% percentile figures) on the junction capacity assessments that have been submitted to ensure a robust assessment has been carried out. These sensitivity tests were received and analysed by the Local Highway Authority and deemed acceptable.

The submitted TAs confirm that there will be an impact on the local highway network from the proposed development and the expected future growth of Banbury, specifically on the strategic junction of Southam Road and Hennef Way. To address this capacity issue, the planning submissions for Banbury 2 have identified a mitigation scheme (TA Figure 10 – drawing 13167-15). This scheme consists of widening the approach arm and flare length of the A361 to the Southam Road and Hennef Way junction. Such an improvement scheme is welcomed and is considered part of Banbury 2's contribution to the overall S106 Transport package for this strategic site. This improvement scheme is currently in "indicative form" and must go through the Local Highway Authority's S278 technical approval process.

Due to the identified impact Banbury 2 will have on the local highway network a general transport contribution is to be sought. Such a contribution is to be in line with Cherwell District Council's Planning Obligation Draft Supplementary Planning Document and secured by the Local Planning Authority via a S106 Agreement. The proposed strategic improvement scheme at the Southam Road and Hennef Way junction is to be discounted/taken off the final general transport figure to ensure such a financial contribution is CIL compliant.

The Southam Road and Hennef Way junction improvement scheme is to be secured via a S278 Agreement, and is to be provided prior to the first occupation of Banbury 2 (**to be conditioned**).

A review of the accident data for the area has been carried out, and has highlighted a number of incidents have occurred within the last 5 years. Looking through the information provided it appears that these incidents were down to driver error rather than the characteristics of the local highway network. In light of this data it is considered that the proposed development is unlikely to increase the number of recorded accidents in this area. I have re-checked the accident data since the TA was written and have also looked at the wider highway network, which has shown a few other incidents have occurred, however these were also down to driver error too.

Access Arrangements: The two vehicle access points into the West Site, one from Dukes Meadow Drive, the other via Southam Road have been agreed in principle during lengthy pre-application discussions between the Local Highway Authority and the developer's project team; subject to technical approval. The agreed access arrangements are to be in the form of a right turn lane and priority junctions (as shown on indicative drawing 13167-40). To link the West Site up to Hanwell Fields (and its facilities), town centre routes etc a Toucan Crossing is to be provided by this development on Dukes Meadow Drive.

Two vehicle access points are proposed into the East Site, and will be via the Southam Road, such access arrangements have been agreed in principle (subject technical approval). These access arrangements are to be in the form of a right turn lane and priority junctions, designed to DMRB standards (as shown on indicative drawing 13167-40).

To link the East Site up to Hanwell Fields, town centre routes and the West Site, two formal crossing facilities are to be provided. One is to be a controlled crossing point in the form of a Toucan Crossing. The second crossing point is to be in the form of an uncontrolled facility, which is to be future proofed for signal controls. A S106 contribution to provide a new Toucan Crossing is to be secured as part of the future proofing of this crossing point (agreed at part of pre-application discussions) should signal controls be needed in the future. The other Toucan Crossing is to be provided closer to the Southam Road roundabout to provide another direct link between both the East and West sites, to promote accessibility between the two sites and link up to the existing footway and cycle routes.

A new 3m wide shared footway/cycleway is to be provided along Dukes Meadow Drive from the West Site's new entrance to the Southam Road roundabout, where the footway/cycleway continues to travel northwards up the Southam Road, passing the location of the new West Site entrance up to the location of the proposed uncontrolled crossing point opposite the new vehicle entrance to the East Site. The footway/cycleway link along the west side of the Southam Road also provides a link into the West Site for occupiers of the East site when crossing the road, and vice versa.

Such facilities will provide a direct link to the local network i.e. shared footway/cycleway route along Dukes Meadow Drive. The controlled crossing facilities must be provided prior to the first occupation of the East and West Sites (**to be conditioned**). These

crossing points are considered essential to promote accessibility between the two sites and link Banbury 2 up to the existing footway and cycle routes within the area. Please note Dukes Meadow Drive remains un-adopted.

A pedestrian and cycle route is proposed from the East Site to Noral Way, which was requested and agreed during pre-application discussions. This link is seen as essential to link the development up to the rest of the local highway network and the commercial developments located nearby via Noral Way. Tactile paving etc will be required when this link joins up with Noral Way and its footway.

With the introduction of these formal crossing points the existing speed limit of 40mph is to be extended beyond the proposed second access point into the East Site. Such a proposal is subject to a separate consultation due to the amendments required to the existing TRO. It is essential that the right turn lanes and access points to the entrances along the Southam Road are designed to the Southam Road's current speed limit (50mph) should the TRO amendment fail. Such an amendment to the TRO would be part of the off-site highway works.

In addition to the TRO amendment alterations to the existing lay-by on the Southam Road opposite the East Site have been proposed. Such alterations would be in the form of introducing a one-way system. Such a system would restrict southbound movements on the lay-by. In addition to this, a right turn restriction would also be implemented to deter southbound right turn movements into the lay-by (as shown in indicative drawing Figure 11 in the TAs). Such an improvement is likely to divert vehicles to the Southam Road and Noral Way roundabout junction to turn around and access the lay-by from the northbound side of the carriageway. Appropriate highway signage would be provided.

Such an improvement offer is welcomed by the Local Highway Authority and is linked to the proposed access works, however due to the sensitive nature of HGV lay-by parking in and around Banbury, the county council would welcome further discussions with the applicant to determine the practicalities of taking this offer forward.

New street lighting is to be provided and is required as part of the off-site highway works i.e. access works.

Parking Levels: The parking levels to be provided for future reserved applications quoted within the submitted TA for both applications are acceptable in principle. However, such parking levels are subject to appropriate design and are expected to be part of an overall Design Code for Banbury 2.

For future reserved planning applications, please note that garages or car ports will only be considered a parking space if they meet the internal dimensions quoted within the County Council's adopted parking standards i.e. 6m x 3m.

The cycle parking levels are to be finalised within an approved Design Code for Banbury 2.

Layout Comments: The proposed development has been submitted as an outline planning application, with all other matters reserved apart from access. The internal layout of this site will therefore be finalised as part of a detailed design stage, which is expected to establish a Design Code for the whole of Banbury 2. Such a Design Code is expected to include a Street Hierarchy, be in line with MfS etc. Securing such Design Code is considered essential for this development, and it is recommended that this document is secured by imposing a prior to commencement of work planning condition.

Any Street Hierarchy to be agreed/approved must ensure the streets within the development are wide enough to accommodate a bus service route (minimum of 6m in width, 6.5m width on corners) and refuse vehicles.

Public Transport access to the East site is to be via the two new vehicular access points from the Southam Road (Figure 8 of TA). Such a proposed route is acceptable in principle as it provides future residents with direct access to a bus service within the development site and within the recommended 400m walking (design) distance for residential developments.

Please note any future layout is expected to be in line with the guidance in MfS and the County Council's Residential Design Guide. In addition tracking plan(s) will be required to demonstrate refuse vehicles and cars can turn within the site. If the proposed development is to be offered for adoption to the Local Highway Authority a S38 Agreement will be required, alternatively if the development is to remain private a Private Road Agreement will be required between the developer and Oxfordshire County Council.

For guidance and information on road adoptions etc. please contact the County's Road Agreements Team on 01865815700 or email [Road.Agreements@oxfordshire.gov.uk](mailto:Road.Agreements@oxfordshire.gov.uk).

Rights of Way Comments: There are no existing public rights of way that are affected by this planning application. However, it is anticipated that the development will have an impact on the surrounding countryside and the rights of way network. This is because the residents of the development are likely to access the wider countryside for recreation and for exercising dogs. In order to address increase in use, the developer is requested to provide a financial contribution of £10,000 (index linked March 2013 prices) through the S106 Agreement from this application.

Such a contribution would be towards enabling the County Council's Countryside Access team to facilitate the installation of gates or kissing gates and sections of surface treatments on public rights of way in the locality outside of the development site. For further guidance and advice the OCC Right of Way contact officer is Sarah Aldous. ([Sarah.Aldous@oxfordshire.gov.uk](mailto:Sarah.Aldous@oxfordshire.gov.uk)).

Transport Contribution & Legal Agreements: A general transport contribution is to be sought this is outlined in the Transport Strategy section of this report.

In addition to this, the county council is seeking:

- A S106 contribution to provide a new Toucan Crossing on the Southam Road is to be secured as part of the future proofing of this future uncontrolled crossing point (to be agreed if East or West site will provide or if one S106 Agreement for whole of Banbury 2).
- A Rights of Way contribution of £10,000 (index linked to March 2013 prices).
- A Travel Plan monitoring of £960 is required (to cover both East & West sites).
- The S106 Transport admin fee cannot be confirmed at this time as the overall transport contribution is yet to be formalised.

For non-highway SUDS, a future maintenance scheme and fund for such infrastructure is to be included within the associated S106 Agreement for this development. This is to ensure such drainage features are designed, constructed and maintained to an adoptable standard in the absence of the Flood & Water Management Act coming into force. Other details such easement areas to SUDS features may also need to be included within this part of a S106 Agreement.

For any off-site works i.e. new access, footway etc a Section 278 Agreement(s) will be

required between the developer/applicant and OCC to work upon the public highway. In addition to this legal agreement(s) a bond will be required to cover the construction costs of the any works as well as there being a supervision fee of 9%. This agreement will be part of a S106 Agreement for this development.

Conditions recommended

### 3.16 DRAINAGE

Within the submitted Environmental Statement, Vol 1, Main Text there are a couple of concerns that have been raised, related to the proposed design of the site, such as:

- *Concerns that the proposed properties could be flooded with the flood corridors through the Indicative Layout;*
- *Flood Storage areas all next to the stream and not spread through the development;*

Sustainability Statement – paragraph 5.3 p8 states the Drainage Strategy only to be agreed between the EA and TWA, there appears to be no mention of Oxfordshire County Council being consulted as the Local Lead Flood Authority or as the Local Highway Authority.

Flood Risk Assessment document 8b Residential Risks – it is unclear if the whole of the allocated site is to be private as there is no mention the of the Local Highway Authority or the Local Lead Flood Authority being involved in future adoption and maintenance requirements. **Further discussions are required**

Soakage Report – p4 – soakage test undertaken in boreholes – the results within this document are not considered good enough for this development to provide standard soak aways or be acceptable for Porous Pavements etc. **Further discussions are required.**

For non-highway SUDS, a future maintenance scheme and fund for such infrastructure is to be included within the associated S106 Agreement for this development. This is to ensure such drainage features are designed, constructed and maintained to an adoptable standard in the absence of the Flood & Water Management Act coming into force. Other details such easement areas to SUDS features may also need to be included within this part of a S106 Agreement.

### 3.17 ENVIRONMENT, ENERGY & TRAVEL

The county council considers that the sustainability document could be more robust:

- It challenges the CDC ambition of Code for Sustainable Homes level 4 (Section 5.2). The county council however supports level 4 and higher as essential to delivering the environmental targets in Oxfordshire 2030.
- There is no commitment to rainwater harvesting (section 5.3)
- The section on renewable energy is inadequate as it only considers one energy option, CHP. (Section 5.7) There is more detail in the Appendix but it is not sufficiently worked up to give confidence that this development will contribute positively to delivering the energy ambitions in Oxfordshire 2030.
- The statement does not consider a key adaptation issue: over-heating/ heat-waves.

The county council would like to see a more positive commitment to sustainability in general and energy in particular.

### 3.18 ECOLOGY



The developer should contribute towards the new country park in Banbury, including biodiversity enhancements, habitat creation and green infrastructure. The development of these two application sites should not result in a net loss in biodiversity, provided that the layout is sympathetic to biodiversity and appropriate mitigation is put in place.

### 3.19 ECONOMY & SKILLS

Affordable housing: It is noted that 30% of the 600 new dwellings proposed will be affordable. A recent survey, 'Barriers to Business', undertaken in December 2012 by the Oxfordshire Local Enterprise Partnership identified that housing for entry level staff was a greater problem than for mid-tier staff affecting 26% and 16% of businesses respectively either significantly or severely. The county council therefore welcomes the additional affordable housing that this development will generate.

Skills: The county council, along with the Local Enterprise Partnership and the Oxfordshire Skills Board place great emphasis on increasing the number and quality of apprenticeship places throughout the county.

The Environmental Assessment that accompanied the planning application mentions that Banbury is home to one of the Oxford & Cherwell Valley College (OCVC) campuses (page 51). OCVC run a number of courses, at varying levels, related to the construction industry including plumbing, carpentry & joinery and trowel trades. Alternatively there are other training providers that CDC might wish to engage with.

Page 56 of the Environmental Assessment states that the construction phase of the Southam Road development could create up to 110 jobs in a variety of trades, including:

- Ground workers
- Bricklayers and joinery
- Specialist steel frame construction
- Specialist car park construction staff
- Mechanical, electrical and plumbing staff
- Building and finishing trades
- Construction and landscape trades
- Construction managers and other professionals

A development site of this size could provide an opportunity for the developers to look to the local population and offer training and apprenticeship places to young people whilst construction is taking place in the event that the planning application is successful. The Oxfordshire Skills Board would welcome the opportunity to open discussions with the developer to discuss funding options and training suppliers that could aid them in offering local young people work and training experience. For more information on opportunities, please contact Paddy Patterson, Skills Partnership Officer at the county council ([paddy.patterson@oxfordshire.gov.uk](mailto:paddy.patterson@oxfordshire.gov.uk))

Alternatively Cherwell DC could discuss with the developers the possibility of entering into a S106 agreement to ensure apprenticeship places to local young people, as has happened elsewhere. There are numerous case studies of local authorities entering into such agreements which might be of interest

<http://www.pas.gov.uk/pas/core/page.do?pagelid=470508>

### 3.20 EDUCATION

#### Key issues:-

- The proposal would generate approximately 165 primary pupils (aged 4 – 10 years) which would require the provision of a new 1 Form Entry primary school.
- There are currently surplus places at secondary schools in Banbury, but these

surplus places will be in the older year-groups and will disappear as the larger cohorts of younger children move up through the school. With current trends and transfer rates, secondary schools will fall below 10% spare capacity by 2021; below 5% spare capacity by 2022 and will have no spare capacity by 2024, without allowing for any impact from housing development.

**Legal Agreement required to:**

- Provide a new 1 FE primary school on the site at a cost of £5,501,000, excluding abnormal costs
- Seek financial contributions from the developer (via a Section 106 Agreement) to provide the following in terms of education:
  - £346,000 for two temporary classrooms at another primary school, if needed, plus £30,400 to £38,000 for school transport
  - £2,004,132 for secondary education (expansion of an existing school)
  - £330,858 for additional sixth form provision
  - £90,933 for Special Educational Needs (SEN) provision

**Detailed comments:**

The Southam Road proposal would generate approximately 165 primary pupils (aged 4-10 years).

This number of children would not exceed the capacity of a 1 Form Entry primary school (210 pupils). Moreover, the peak number of children generated by the development as currently forecast is 211. In order to satisfactorily accommodate the pupils from this development it is therefore necessary to provide a 1 Form Entry primary school.

There are currently surplus places at secondary schools in Banbury, but these surplus places will be in the older year-groups and will disappear as the larger cohorts of younger children move up through the school. With current trends and transfer rates, secondary schools will fall below 10% spare capacity by 2021; below 5% spare capacity by 2022 and will have no spare capacity by 2024, without allowing for any impact from housing development.

Secondary school capacity is subject to review, as the providers of the three existing secondary schools are in control of their own admissions arrangements and site development. Specifically, one school has submitted a bid to the DfE to convert some of its accommodation into a "Studio School" for 14-19 year-olds. In the first instance this is expected to draw children from the host academy, and thus the impact on secondary school capacity is likely to be negligible. However if it proves successful and starts to draw in pupils from further afield, this would require additional capacity in Banbury.

### **3.21 OTHER COUNTY COUNCIL SERVICE DELIVERY/PROPERTY ISSUES**

#### **Library service, Adult Learning Service, Adult Day Care/Resource Centre, Early Intervention Hub, Strategic Waste Management**

**Key issues:-**

- The existing Banbury library presents challenges to customer needs in terms of its location in the town and its sustainability, being in a listed building where accessibility is poor, as well as being unable to satisfactorily meet the needs of the town's growing population
- There is a deficit of Adult Learning provision in Banbury. Any additional provision will be aligned with the priority to have a substantial new Adult Learning Centre in the town as part of developing a cultural Quarter centred on The Mill as outlined in the emerging Masterplan for Banbury.
- The recently opened Resource Centre for Older People at Stanbridge House will need to expand to meet future needs generated by new housing growth.
- The Banbury Early Intervention Hub is currently operating at capacity in the

delivery of specialist services. The impact of extra demand likely to be generated by the development proposal at Southam Road (and other proposed development in Banbury) will need to be addressed.

- The additional 600 new households that will be generated by the development at Southam Road will put additional pressure on the Household Waste and Recycling Centre at Alkerton

**Legal Agreement required to** seek financial contributions from the developers of the site to mitigate the impacts of additional population on county council services as outlined above, to include:

- £122,892 for expansion of the library service
- £19,855 for the expansion of the Adult Learning Service
- £150,420 for the expansion of the Banbury Resource Centre for Older People
- £20,685 for the expansion of the Banbury Early Intervention Hub
- £96,558 for the additional capacity that will be needed at the Alkerton HWRC
- £7,315 for the Oxfordshire Museum Resource Centre

### 3.22 **Oxfordshire Fire & Rescue Service**

The county council has a statutory duty to ensure that all development is provided with adequate water supplies for fire fighting. There will be a requirement that external fire hydrants are provided for the satisfaction of the Fire & Rescue Service; this should be dealt with by planning condition. The developer should also provide appropriate water mains with adequate capacity to supply the fire and Rescue Service with appropriate amounts of water for fire fighting purposes at appropriate pressure levels. .

The Oxfordshire Fire & Rescue Service (OFRS) strongly considers that the fitting of Automatic Water Suppression Systems (AWSS) such as sprinklers and water mist systems will materially assist in the protection of life, property and fire fighter safety. Therefore the OFRS strongly recommends the provision of such systems particularly in new build properties for the proposed sites.

The Oxfordshire Fire and Rescue Service is currently undertaking a county-wide review of Fire Service requirements, including future provision in Banbury in the context of population growth.

### 3.23 **Extra Care Housing**

The county council supports an Extra Care Housing scheme at Southam Road and for this to be either all affordable or mostly affordable but with some private sale units too. It is important however that these are combined as one development (for reasons of economy and viability) and not split over the east and west sites.

### 3.24 **Green infrastructure**

Natural England's Accessible Natural Greenspace Standard (ANGSt) provides a set of standards for ensuring access to places near to where people live. These standards recommend that people living in towns and cities should have an accessible natural greenspace of at least:

- 2 hectares, no more than 300 metres (5 minutes' walk) from home
- 20 hectares, not more than two kilometres of home
- 100 hectares, not more than five kilometres of home
- 500 hectares, not more than ten kilometres of home
- One hectare of statutory Local Nature Reserves per thousand population.

Research from Natural England (Monitoring Engagement to the Natural Environment 2009-2012) also indicate that 48~% of people in Oxfordshire who visit the countryside tend to travel over a mile to get to a destination.

Greenspace built into one of the Southam Road sites is unlikely to meet the needs of all the new residents, particularly those wishing to access 'natural' greenspace, and spaces with biodiversity interest. The development will therefore place additional pressure on existing rights of way and greenspaces.

The green infrastructure priorities for Southam Road are:

Improve the amenity and biodiversity value of open spaces already proposed within the development and ensure their long-term management and an adequate funding mechanism for the future

- Work with Oxfordshire County Council's public rights of way team to implement their recommendations.

In addition:

- Contributes towards existing greenspaces to the development for green infrastructure improvements, particularly to meet the need for larger informal space which provide access to nature.
- The county council would recommend in this instance that the developer works with Cherwell DC, contributing towards the new country park in Banbury, including biodiversity enhancements, habitat creation and green infrastructure.

## Other Consultees

- 3.25 **Thames Valley Police (Crime Prevention Design Advisor):** "Although I do not wish to object to the proposals at this time I do have significant concerns relating to the proposed development that, if not addressed are likely to result in objections being raised at reserved matters stage (assuming outline approval is given).

The applicants make mention of several aspects relating to crime prevention through environmental design (CPTED) within their Design and Access Statement (DAS) and they are obviously aware of the seven attributes of creating Safe Places. However, there appears to be no real commitment to designing out crime and, as far as I am aware, there has been no consultation with Police to this end. Therefore, opportunities to design out crime and/or the fear of crime and to promote community safety remain. To ensure that these opportunities are not missed I request that a condition be placed upon any approval for this outline application. The attachment of such a condition would help the development to meet the requirements of:

- The National Planning Policy Framework 2012 (Part 7, Sect 58; 'Requiring good Design' and Part 8, Sect 69; Promoting Healthy Communities') where it is stated that development should create '*Safe and accessible environments where crime and disorder, and the fear of crime do not undermine quality of life or community cohesion*'.
- Supplementary Planning Guidance Document '*Safer Places - The Planning System and Crime Prevention*', ODPM 2004.

In addition, it would assist the authority in complying with its obligations under Section 17 of the Crime and Disorder Act 1998 in doing all it reasonably can in each of its functions to prevent crime and disorder in its area.

Assuming approval is given, and to assist the authority and the applicants in providing as safe a development as possible, and to aid the latter in avoiding Police objections at reserved matters stage, I suggest that the applicants contact me at their earliest convenience to discuss incorporating crime prevention design within any subsequent application. To this end, I make the following observations on these proposals:

- The DAS continually refers to the 'Poundbury' and other similar models in a

positive manner but this type of design and layout can be extremely problematic in its effects on crime prevention and community cohesion:

- In the 'Parking Arrangements' section the preferred option appears to be for courts with a small number of dwellings within them. The impression is given that these will be safe and secure because they will be naturally surveyed from active rooms. In reality these types of features make vehicles and the rear of dwellings vulnerable creating excessive permeability, a lack of ownership and anonymity for criminals. They should be avoided wherever possible. For justification, I refer you to: research by CABA and the Home Office titled "Creating safe places to live through design" (the "What did we learn" findings can be found at: <http://www.designcouncil.org.uk/our-work/CABA/Localism-and-planning/Understanding-the-crime-experience-of-new-housing-schemes/>); 'Manual for Streets' (Page 108, para 8.3.36); 'Safer Places' (Page 27) and the advice on these features relating to Poundbury etc in 'By Design- Better Places to Live' and English Partnership's 'Parking-What Works Where'.
- The 'Street Sections' section shows Mews dwellings with no defensible space. Again, this causes problems relating to territoriality and ownership and, should be avoided.
- The 'Character areas' section includes some indicative drawings which show alleys making Mews streets in to leaky cul-de-sacs. I consider this to be excessive permeability which enhances the craved anonymity of criminals, aids their search behaviour and provides escape routes amongst other problems. This section also describes the apartments in the south east corner of the site as 'secured by being back to back with other gardens'. This is a good example of how wording within the DAS is misleading; the indicative site plan clearly shows very few of these gardens adjoining back to back. In fact, I consider most to be vulnerable, as they clearly abut public or semi-private space.
- Provision of green space, public art and LEAPS/NEAPS etc will need careful consideration so that their locations and functions are appropriate both for users and the rest of the community, and that they do not enhance opportunities for crime and anti social behaviour."

**3.26 Thames Valley Police Strategic Planning Team:** The proposal has been considered with regard to the implications of the development upon the infrastructure requirements of TVP and the impact the proposed development will have upon the day to day policing of the area. TVP have established that, in order to maintain the current level of policing, developer contributions towards the provision of infrastructure will be required. The proposed development will have an impact upon the ability of TVP to police the new development and surrounding area by placing an additional unplanned demand upon the existing police service.

Having undertaken a qualitative examination of the scheme and the impact of the policing the Local Police Area Commander has requested a contribution of **£76,850**, which is broken down as follows;

ANPR Cameras X2: £22,000

Bicycles X2 (including necessary kit): £1,600

Patrol Car: £21,150

Justification for each of these is given as well as explanation as to how these meet the tests for the acceptability of requesting these measures via a legal agreement. The requirement of national and local planning policy, guidance and other strategies that seek to ensure the creation of safe and accessible environments where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion is given as further justification for the requests.

- 3.27 **Thames Water:** Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Should the Local Authority look to approve the application, Thames Water would recommend a Grampian condition be imposed. The existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. A further condition should therefore be imposed in relation to this matter.
- 3.28 **Natural England:** With regard to the amended scheme, the advice previously given applies equally to the amendment although no objection was made to the original proposal. The proposed amendments to the original application relate largely to size and are unlikely to have significantly different impacts on the natural environment than the original proposal.
- 3.29 **Environment Agency:** No objection subject to a number of conditions. If these conditions were not included, the development would pose an unacceptable risk to the environment. Further advice is that:

“A Flood Risk Assessment (FRA) has been produced for both the western and eastern development sites within Hardwick Farm. The report provides enough information to confirm that the development will not be at risk of flooding and will be designed to ensure there is no increase in risk elsewhere, but due to the outline nature of the application, little detail is provided on exactly how surface water drainage measures will be implemented across the site. Without a fixed Masterplan for the site it is not possible to fix the location of strategic drainage features which are a substantial physical consideration for development layout.

Following a discussion with Sarah Smith (Rapleys planning consultant) we understand that the LPA will require the production of a Design Code to inform reserved matters application. We understand that the applicant is happy in principle that a Design Code will be produced and anticipates this being included as a condition on any permission which is granted.

If outline approval were to be granted and a condition for production of a Design Code prior to reserved matters approval was included within that permission, then we would require significantly more detail of surface water drainage proposals than has been provided to support this application. In practice, a Drainage Strategy based on proposed layout will need to be produced to support any Reserved Matters application.

In line with the requirements of the NPPF, Flood and Water Management Act and incoming Suds Approval Bodies a robust surface water drainage scheme, including Source Control, Local Control and Strategic Attenuation features will need to be produced.

It is not clear from the FRA whether there are on site watercourses but we would expect these to be retained following development. If local drainage networks are used for the discharge and conveyance of surface water then they should not be considered as attenuation features when designing the drainage network. Points of discharge should mimic the existing runoff arrangements.

We recommend that the following conditions are included with any permission which is granted and would be happy to discuss the wording with the LPA should they have any concerns or recommendation with how these conditions would sit with other proposed conditions;

Under the terms of the Water Resources Act 1991, and the Thames Region Land Drainage Byelaws, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of

the Hanwell Brook, designated a 'main river'."

To the amended plans, the Environment Agency have confirmed they continue to raise no objections, again subject to conditions and they provide the same advice as set out above as provided previously.

#### **4. Relevant National and Local Policy and Guidance**

##### **4.1 Development Plan Policy**

###### **Adopted Cherwell Local Plan (Saved Policies)**

H5:	Affordable Housing
H18:	New dwellings in the countryside
R12:	Provision of public open space in association with new residential development
C1:	Protection of sites for nature conservation value
C2:	Development affecting protected species
C4:	Creation of new habitats
C7:	Landscape conservation
C8:	Sporadic development in the open countryside
C13:	Area of High Landscape Value
C14:	Trees and landscaping
C15:	Prevention of coalescence of settlements
C17:	Enhancement of the urban fringe through tree and woodland planting
C28:	Layout, design and external appearance of new development
C30:	Design of new residential development
C31:	Compatibility of proposals in residential areas
C33:	Protection of important gaps of undeveloped land
ENV1:	Development likely to cause detrimental levels of pollution
ENV12:	Contaminated land
TR1:	Transportation funding

###### **Non-Statutory Cherwell Local Plan**

H1a:	Availability and suitability of previously developed sites
H4:	Types/variety of housing
H7:	Affordable Housing
H19:	New dwellings in the countryside
TR2:	Traffic generation
TR4:	Transport mitigation measures
EN1:	Impact on natural and built environment
EN22:	Nature conservation and mitigation
EN25:	Development affecting legally protected species
EN30:	Sporadic development in the countryside
EN31:	Development size, scale and type in a rural location
EN34:	Conserve and enhance the character and appearance of the landscape
EN44:	Setting of listed buildings
D1:	Urban design objectives
D3:	Local distinctiveness
D9:	Energy Efficient design
R6:	New or extended sporting and recreation facilities
R8:	Provision of children's play space
R9:	Provision of amenity open space
R10A:	Provision of sport and recreation facilities
OA1:	General Infrastructure policy

## 4.2 Other Material Policy and Guidance

### National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Draft (August 2012) (PSCLP)

Cherwell Local Plan – Proposed Submission Focused Consultation (March 2013)

The draft Local Plan has been through a first public consultation and is currently in the 2<sup>nd</sup> phase of public consultation and although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan Policies:

#### Sustainable communities

BSC1: District wide housing distribution

BSC2: Effective and efficient use of land

BSC3: Affordable housing

BSC4: Housing mix

BSC7: Meeting education needs

BSC8: Securing health and well being

BSC9: Public services and utilities

BSC10: Open space, sport and recreation provision

BSC11: Local standards of provision – outdoor recreation

BSC12: Indoor sport, recreation and community facilities

#### Sustainable development

ESD1: Mitigating and adapting to climate change

ESD2: Energy Hierarchy

ESD3: Sustainable construction

ESD4: Decentralised Energy Systems

ESD5: Renewable Energy

ESD6: Sustainable flood risk management

ESD7: Sustainable drainage systems

ESD8: Water resources

ESD10: Biodiversity and the natural environment

ESD13: Local landscape protection and enhancement

ESD16: Character of the built environment

ESD17: The Oxford Canal

ESD18: Green Infrastructure

#### Strategic Development

Policy Banbury 2: Hardwick Farm, Southam Road (East and West)

#### Infrastructure Delivery

INF1: Infrastructure

## 5. Appraisal

### Context

- 5.1 The application relates to the western section of land covered by Policy Banbury 2 (BAN2) of the Proposed Submission Local Plan Incorporating Proposed Changes (March 2013) (PSLPIPC) and is submitted by Pandora Ltd for upto 90 dwellings with access off the Southam Road and Dukes Meadow Drive, community and retail facilities, landscaping, play area and open space. Policy BAN2 seeks to provide approximately 600 dwellings with associated facilities and infrastructure across a



development area West and East of the Southam Road in a scheme that demonstrates a sensitive response to this urban fringe location.

5.2 In a response to the latest information provided by LDA in support of the evidence base for the local plan on landscape sensitivity, the applicant has provided an amended scheme for 90 dwellings with access still off the Southam Road and Dukes Meadow Drive, community and retail facilities, landscaping, play area and open space.

5.3 The key issues for consideration in this application are:

- Environmental Statement
- Relevant Planning History
- Planning Policy and Principle of Development
- Landscape Impact
- Indicative Design/Layout/Scale
- Housing Mix
- Residential Amenity
- Transport Impact
- Flooding and Drainage
- Loss of Agricultural land
- Historic Environment
- Ecology
- Trees
- Footpaths
- Noise
- Light
- Developer Obligations
- Pre-application community consultation

5.4 **Environmental Statement**

The application for up to 370 units is accompanied by an Environmental Statement (ES). Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, where an ES has been submitted with an application, the Local Planning Authority must have regard to it in determining the application, and can only approve the application if it is satisfied that the ES provides adequate information.

5.5 Prior to the submission of the application, the applicants submitted a Scoping Opinion covering the topics of Land Use and Agriculture, Socio Economics, Transportation, Ecology and Conservation, Archaeology /Cultural Heritage, Landscape and Visual impact, Alternatives and Cumulative impacts. Whilst the following topics were scoped out of the ES – ground conditions, air quality and water resources/drainage – separate reports were submitted for consideration with the application.

5.6 The ES covers all of the topics identified in the Scoping Report. Land uses, maximum development numbers and maximum building heights across the site are defined within the ES. Each chapter considers the impacts and significance thereof of the proposal, as well as the cumulative impacts of other permitted/proposed development nearby. A summary of these conclusions is presented below. Copies of the full ES can be viewed via the web site.

5.7 An Amended scheme and further information relating to environmental impact considerations, comprising 90 residential units (instead of 370 residential units) was received on 5<sup>th</sup> April 2013.

5.8 **Cumulative effects** - Effects that result from incremental changes caused by other past, present or reasonably foreseeable actions with a Proposed Development are

known as cumulative effects. There are two main types of cumulative effect:

- Combined effects on a particular receptor or individual effects from the Proposed Development, for example, noise, dust and visual effects; and
- Effects from several developments, which individually might be insignificant, but when considered together there could be a significant effect.

5.9 Cumulative effects are considered as part of each topic chapter within the ES involving consideration of the adjacent development to the west of Southam Road and the permitted development of the former Alcan site and have generally been found not to be significant.

5.10 **Socio economic impacts** – The ES identifies positive impacts for (i) the economy in terms of job creation, particularly during the construction period; (ii) society and community in terms of meeting the housing requirements, both market and affordable (including extra care); and (iii) the community in terms of provision of local shops and a community centre on site. Sufficient open space will be provided on site. Furthermore, officers are satisfied that the S106 package will mitigate any other minor adverse impacts identified.

5.11 **Ecology and nature conservation** - There are no statutory ecological designations (SSSI, Local Nature Reserves, County Wildlife Sites, etc.) on or in the near vicinity of the site. The Fishponds Wood Local Wildlife Site is approximately 0.5km to the north, but no adverse impacts are considered likely.

The following baseline surveys were carried out in 2012, in accordance with the methodologies recommended by Natural England – Phase I Habitat, hedgerows, badgers, bats, amphibians including great crested newts, reptiles, riparian mammals (otters and water voles), botanical and breeding birds. All habitats and identified species are considered to be of importance at a site scale only and have low/negligible ecological value, primarily due to the intensively managed nature of the site, although some hedgerows are ecologically important under the Hedgerow Regulations 1997.

The western third of the site near to the Hanwell Brook has some botanical interest of site importance – it also co-incides with the area of the site within Flood Zone 2/3. Overall, no significant impacts are anticipated. Furthermore, the retention of hedgerows, trees and the area of botanical interest, together with the creation of new areas of connected informal green space and planting as part of the scheme design will help off-set any negligible effects of the development and keep residual impacts to a minimum.

The conclusions drawn and mitigation proposed, are considered acceptable

5.12 **Landscape and visual Impacts** – The application site is not within or covered by any statutory or non-statutory landscape designation. It lies within the 'Upper Cherwell Basin' Landscape Character Area.

A Landscape and Visual Impact Assessment (LVIA) has been carried out in accordance with standard recognised methodologies. Consultations have taken place with CDC as part of both the iterative design and planning stages of the application including the methodology, the selection of the location and number of representative views and photomontages, and mitigation measures involving specific areas of planting within the scheme design.

A site and surrounding character assessment was undertaken, identifying 8 character zones and their sensitivity. Impacts have been assessed as is customary, for the construction period and at development completion. During construction visual

impact will range from slight to moderate adverse, whilst at completion, impacts area identified to range from negligible to slight adverse.

Notwithstanding the information contained in this chapter, Officers do not accept all of these landscape/visual impact conclusions – the assessed levels of impact differ from the conclusions identified within the Council’s own commissioned studies.

- 5.13 **Transport and access** – a Transport Assessment, prepared in close liaison with Oxfordshire County Highway Authority, identified that the impact of the development will be below 10% (threshold is 30% increase in traffic impact) on all junctions tested with the exception of Southam Road/Noral Way/Dukes Meadow Drive. The impact of the development is therefore of negligible adverse significance in traffic terms.

Off-site mitigation/improvements have been agreed consisting of:

- bus provision;
- improvements to Hennef Way/Southam Road junction;
- provision of new crossing points on Southam Road and Dukes Meadow Drive;
- S106 financial contributions.

Conclusions relating to junctions, modelling, impact on the network and mitigation are considered to be acceptable.

- 5.14 **Air Quality** - given the Council’s designation of an Air Quality Management Area (AQMA) within part of the town centre, it was decided that an air quality assessment would be undertaken, notwithstanding that it was considered that the development itself would not result in significant impacts. The methodology was agreed with CDC Officers. The conclusion of the assessment is that the development will not have an adverse impact on local air quality, or on the AQMA designated within the town centre;

The conclusions are considered acceptable.

- 5.15 **Hydrology, drainage and flood risk** — the Hanwell Brook borders the site to the west. There are no other watercourses or water bodies within the confines of the site itself. The eastern three quarters of the site lie entirely within Flood Zone 1. The National Planning Policy Framework confirms that all types of development are appropriate in such locations. The remaining quarter of the site (some 2.4ha) alongside the Hanwell Brook lies within Flood Zones 2 and 3 where residential development should not take place. A Flood Risk Assessment and Sequential Test analysis were undertaken in agreement with the Environment Agency.

The principle of the layout design (both the 370 unit scheme and the reduced scheme of 90 units) confines the development to within Flood Zone 1. The use of a Sustainable Urban Drainage Strategy is proposed for the site (including surface water balancing), and will be developed further through the Design Code. The effect on flood risk is considered to be negligible.

The conclusions relative to drainage and flood risk relative to both the larger and reduced unit schemes are considered to be acceptable.

- 5.16 **Ground conditions** – The site has been in agricultural use since 1887. It is underlain by Jurassic Marlstone Rock Bed and Middle Lias. It is not within a Groundwater Protection Zone and is a non-aquifer. No asbestos or evidence of contamination was identified during the site walkover.

The general conclusions of the report area acceptable – any need for further investigations will be conditioned as part of any planning permission.

5.17 **Cultural Heritage and Archaeology** - There are no Scheduled Ancient Monuments, or listed Buildings within the application site itself. Hanwell village Conservation Area lies some distance to the north-west. Key heritage assets which would be affected by the proposed development comprise a number of historic hedgerows, potential buried archaeological deposits associated with undated evidence identified through predetermination evaluation and the setting of Hardwick Farmhouse, the lodge and the Former Alcan Works. The effect of development on the fabric, setting and integrity of identified above and below ground heritage assets has been assessed.

A full programme of archaeological investigation, including desktop survey, site walkover, geophysical survey and trial trenching has been carried out in agreement with, and under the supervision of, the OCC Archaeological Officer and is reported within the ES.

The impact on potential buried archaeological features or deposits from groundworks would be mitigated by a watching brief undertaken as a condition to any granted planning consent.

The visual effect of the proposed development on the extant heritage resource is limited to low level indirect effects on the setting of a small number of heritage features. The majority of these impacts can be limited through planting and the careful placement of buildings and green space within the development.

A programme of mitigation by design has been implemented to offset or minimise the impact of development on extant heritage features and their setting within and in the vicinity of the site. The development layout has been designed to retain important hedgerows as far as practicable, with punctuation of their alignment kept to a minimum to accommodate access and circulation within the site. This minimal impact approach serves to retain the form of important hedgerows and also the 'sense' of an historic field system within a developed landscape. The retention and supplementation of strategic hedgerow alignments can also serve as a buffer between development and identified heritage assets in the wider area. Following completion of the proposed development, no specific mitigation proposals other than the introduction, maintenance and enhancement of boundary planting to retain protection of historic views are considered necessary. Overall, it is considered the development will have a negligible adverse effect on the cultural heritage.

The conclusions and identified/incorporated mitigation measures are considered to be acceptable.

5.18 **Agricultural circumstances** - The Application Site comprises 17.5ha of agricultural land of which 12.6 ha is Grade 2 and 3a. The loss of approximately 4 hectares of "best and most versatile agricultural" land comprises a negligible adverse significance of effect. While there will be an effect on the existing agricultural business this is considered to be of minor adverse significance as the remainder of the site (approx. 13.5ha) will still be used for agricultural use if required.

These conclusions are considered to be acceptable.

5.19 All new development has some impact. The ES has not identified major adverse impacts and where impacts, for example from construction and increased traffic have been identified mitigation measures are proposed. Should the application be approved, the proposed mitigation measures would need to be secured through conditions and the planning obligation. The ES and amended scheme Statement, and technical notes and details are considered to contain 'adequate information' to enable the determination of the application.

## **Planning Policy and Principle of Development**

- 5.20 The development plan for Cherwell comprises the saved policies in the adopted Cherwell Local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the development plan unless material planning considerations indicate otherwise.
- 5.21 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (para' 7). It also provides (para' 17) a set of core planning principles which, amongst other things, require planning to:
- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
  - proactively drive and support sustainable economic development
  - always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
  - support the transition to a low carbon future in a changing climate
  - encourage the effective use of land by reusing land that has been previously developed
  - promote mixed use developments
  - conserve heritage assets in a manner appropriate to their significance
  - actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are of can be made sustainable; and
  - deliver sufficient community and cultural facilities and services to meet local needs
- 5.22 Local Planning Authorities (LPAs) are expected to set out a clear economic vision and strategy for sustainable economic growth and to identify priority areas for economic regeneration, infrastructure provision and environmental enhancement (para' 21). Local Plans are considered to be the key to delivering sustainable development that reflects the vision, aspirations and agreed priorities of local communities (para's 150 & 155). An adequate, up-to-date and relevant evidence base is required (para' 158).
- 5.23 LPAs are expected to create sustainable, inclusive and mixed communities (para' 50). Paragraph 52 advises, "*The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities. Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development*".
- 5.24 As well as allocating sites to promote development and the flexible use of land, LPAs are expected to "*identify land where development would be inappropriate, for instance because of its environmental or historic significance*" (para' 157). Para' 126 of the NPPF emphasises the importance of seeking to conserve heritage assets in preparing Local Plans; the wider social, cultural, economic and environmental benefits of doing so; and, the desirability of new development making a positive contribution to local character and distinctiveness.

- 5.25 The PSLIPC seeks to meet the NPPF's objectives. A clear development strategy has been set out in the interests of securing growth and achieving sustainable development. Overall housing requirements are in line with those previously set by the South East Plan and the Plan includes proposals for major land releases to meet employment, housing and other needs and to achieve place specific objectives.
- 5.26 In terms of material considerations, the Non Statutory Cherwell Local Plan (NSCLP) 2011 was approved by the Council for development control purposes. The site is not allocated for development within this plan and therefore, is a location where new residential development is restricted to where they are essential for agricultural or other existing undertakings (Policy H19 refers). The development must also therefore be considered a departure from the NSCLP.
- 5.27 The National Planning Policy Framework (NPPF) at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking...for decision taking this means<sup>1</sup>:
- approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - any adverse impact 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 this Framework indicate development should be restricted<sup>2</sup>
- 5.28 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as an existing land use, where there is no specific allocation. Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings. The proposal clearly does not comply with this policy criterion and therefore represents a departure from the adopted development plan (the Adopted Cherwell Local Plan 1996 – ACLP).
- 5.29 Notwithstanding this policy and supporting evidence, more weight has to be attributed to the NPPF given the current status of the development plan and a deficit in the five year land supply if it can be demonstrated that the ACLP is at odds with the goals of the NPPF. The NPPF includes a presumption in favour of sustainable development and states 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 [the] Framework taken as a whole*" (para. 14).
- 5.30 The NPPF goes on to state that "*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*". (para 49).
- 5.31 Having established that the proposal conflicts with principle policy H18 it is necessary to establish the status of that policy, what it is seeking to do and how much weight it

---

<sup>1</sup> Unless material considerations indicate otherwise.

<sup>2</sup> For example, those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Specific Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast, or within a National Park; designated heritage assets and locations at risk of flooding or coastal erosion.

should be given. In referencing the experience of the recent Bloxham appeals, the position is that policy H18 of the ACLP seeks to achieve two main objectives. The first is to restrict the supply of housing (which needs to be weighed against the objective housing need test) and the second is to serve the purpose of protecting the countryside (which is ultimately a more subjective test). If the housing need argument is lost then Policy H18 is not automatically out of date because it still serves the purpose of protecting the countryside which remains very much a continued policy objective of the NPPF. The housing need and landscape impact assessments are discussed in the following paragraphs.

- 5.32 Whilst the site is not allocated for development within the ADCLP, it has been identified as a proposed site for residential development allocated under Policy Banbury 2 within the PSLPIP. This document has been through the first round of public consultation, initial amendments have been made to the plan and a second round of consultation concluded 23<sup>rd</sup> May 2013.
- 5.33 The key components of Policy BAN2 are to provide approximately 600 dwellings, to achieve 30% affordable housing, and to ensure that infrastructure needs relating to education, health, open space, access and movement, community facilities and utilities are met. The key design objectives include achieving a development that respects the landscape setting, particularly to the west of the Southam Road, consideration of topographical changes, green buffers along watercourse, retention and enhancement of significant landscape features (eg hedgerows), public open space, good accessibility, connectivity and a high degree of integration maximising walkable neighbourhoods, new footpaths and cycleways, good accessibility to public transport, a travel plan, careful consideration of active street frontages, strategic landscaping, good access to the countryside, and the opportunity to connect to the Banbury County Park.
- 5.34 Whilst the PSLPIP has limited weight, the Council's five year housing land supply must be given consideration. The housing supply figure (updated May 2013) for the period 2013 – 2018 currently stands at 4.4 years (incorporating a 5% buffer) and 3.9 year supply (with a 20% buffer)<sup>3</sup> this equates to shortfalls of 438 or 1001 respectively. Given the Government's emphasis on maintaining a five year housing land supply; and given how the advice in the National Planning Policy Framework affects decision making in such circumstances (reference paragraph 49 and 14 of the NPPF), that is plainly a matter which must weigh heavily in decision making.
- 5.35 It is material that the application site relates to a draft allocation in emerging local plan which has been considered by the Council's Executive for residential development. However, as the proposed allocation has not yet been tested at examination, is the subject of unresolved objections and as alternative sites are being promoted through the local plan process, the question of prematurity must be considered.
- 5.36 Of note, paragraph 216 of the NPPF advises that emerging Local Plan policy can attract weight and consistency with the emerging Local Plan is an advantage of those sites allocated for inclusion within the PSLPIP, whilst those sites not within the emerging Local Plan do not. This paragraph states:
- From the day of publication, decision-takers may also give weight<sup>4</sup> to relevant policies in emerging plans according to:
  - the stage of preparation of the emerging plan (the more advanced the

---

<sup>3</sup> The Council is not in a position currently to establish whether it is 5% or 20% authority and the matter is subject to debate at recent appeal public inquiries.

<sup>4</sup> Unless other material consideration indicate otherwise

preparation, the greater the weight that may be given);

- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- 5.37 Guidance on prematurity is provided in the Planning System: General Principles paras 17-19. The guidance advises where an emerging plan is out for consultation then refusal on grounds of prematurity will not usually be justified because of the delay in determining the future use of the land in question. The weight that can be given to an emerging plan depends on the stage of its preparation and the level of representations received which support or opposes the policy. The emerging local plan policy is the subject to a significant number of objections, further objections have been received in response to the recent focused consultation response, this reduces the weight that can be attached to the policy.
- 5.38 Concerns have been raised that the application should not be determined prior to the examination of the proposed submission of the local plan. Members are advised that in this regard the Council must face squarely whether there is a disadvantage in considering the planning applications now, given that the Council's ability to compare the subject site to others is limited, whereas the local plan examination inspector will have a better ability to do that comparative exercise. The importance of that factor can be seen when the merits of the current application and other competing sites are considered in detail and assertions that some sites are less harmful in landscape terms than those included within it.
- 5.39 Weighed against that disadvantage would be whatever advantages attach to the planning application, not least the provision of housing and affordable housing now, in circumstances in which there is a five year housing land supply shortfall.
- 5.40 Furthermore, it should be remembered that the advice in the PSGP document calls for a judgment to be made about whether the grant of planning permission could prejudice the emerging Local Plan by predetermining decisions about the scale, location or phasing of new development which are being addressed in the plan. If so, then it *may* be appropriate to refuse planning permission (paragraph 17). Whether it is appropriate to do so will depend on all the other material considerations weighing for/against the current application. Of note is recent caselaw, Larkfleet<sup>5</sup> case which makes clear, prematurity is "simply one relevant circumstance among others and the weight to be given to it will depend crucially on the individual circumstances of each case".
- 5.41 All applications submitted for determination should be treated fairly and consistently – whether or not they are favoured within the emerging Local Plan. That means acknowledging any disadvantage (whether in prematurity terms or otherwise), and otherwise conducting the planning balance in the ordinary way.
- 5.42 Given the number of dwellings proposed in this application it is not considered to be so significant as to prejudice the development of the local plan. However the Council is currently faced with a number of applications around Banbury which cumulatively would have a more significant impact. Nevertheless this has to be balanced against the range of issues raised by the application including the position on five year

---

<sup>5</sup> Larkfleet Limited v Secretary of State for Communities and Local Government [2012] EWHC 3592 (Admin),



housing land supply.

- 5.43 In this regard there have been a number of recent appeal decisions nationally which have given consideration to non allocated sites in Districts where housing land supply is significantly lower than five years. In these decisions weight was given to the need to meet the five year housing land supply.
- 5.44 In conclusion, it is appreciated that there are a significant number of objections to this application, and as mentioned before, not least the case that the application should not be determined before the local plan has been formally examined. However Members are also aware of the Council's current five year housing land supply position and the balancing exercise that needs to be undertaken when considering the merits of this current application. Members are advised that due regard must be had to the comments made in paragraph 3.5 by the Head of Strategic Planning and the Economy, which provide a detailed background to the current policy position. Whilst the Head of Strategic Planning and Economy considered that the application was unlikely to be premature it is clear that the application relates to a strategic site subject to unresolved objections and that there are other competing sites which are yet to be tested at examination. The grant of permission would entail making a decision about the location of new strategic development which ideally would be more appropriately made through the local plan, however, the absence of a five year housing land supply and the need to address housing need is a significant material consideration which must be weighed against any potential harm to completion of the local plan. Members therefore need to make an assessment of prematurity as guided in the PSGP and also the cumulative effect of decision making in relation to the various applications for housing development in the district in advance of the Local Plan examination. These factors are all key material considerations to the determination of this current application and that an on balance assessment of the proposal in policy terms needs to be given.
- 5.45 **Five Year Housing land Supply and proposed housing delivery programme**  
LPAs are required to boost significantly the supply of housing by meeting assessed needs and identifying key sites critical to the delivery of the housing strategy over the plan period (para' 47).
- 5.46 They are expected 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"* (para' 47).
- 5.47 Footnote 11 to paragraph 47 states, *"To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans"*.
- 5.48 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."*

5.49 The Council cannot currently demonstrate a five year housing land supply. However, in this case, the proposal whilst only providing 90 dwellings of the overall 600 allocation will make a contribution to the current five year supply position. In terms of housing delivery, the delivery programme proposed envisages construction of development in 2014/15 with the 90 dwellings being completed as a single phase on the west part of the allocation. Construction of development on the east part of the allocation as follows over a 5 year build - first 55 constructed 2014/15, a further 100-120 by 2015/16, 100-120 by 2016/17, 100-120 by 2017/18, 95 -155 by 2018/19. This phased programme assumes a swift delivery of development completions over a timescale 2 years sooner than the Councils proposed housing Trajectory 2006 - 2031 (Table 17 PSLPIP Focus Consultation March 2013). The contribution to meeting the five year housing land supply is a significant factor in favour of the proposed development.

#### **Landscape Impact**

5.50 Paragraph 9 of the NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. One of the core planning principles enshrined within paragraph 17 of the NPPF requires planning to recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

5.51 More specifically, paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, [inter alia] protecting and enhancing valued landscapes, geological conservation interests and soils.

5.52 The following policies of the Adopted Cherwell Local Plan are relevant to the consideration of the landscape impact of the proposal:

C7 – Development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.

C9 – Beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will normally be resisted.

C28 – Control will be exercised over all new development, including conversions and extensions, to ensure that the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development.

C31 – In existing and proposed residential areas, any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion, will not normally be permitted.

5.53 The Non Statutory Local Plan also contains relevant policies as set out below;

Policy EN31 (Countryside Protection) (like its equivalent policy C9 in the Adopted Cherwell Local Plan 1996) states that beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will be refused.

Policy EN34 (Landscape Character) sets out criteria that the Council will use to seek to conserve and enhance the character and appearance of the landscape through the control of development. Proposals will not be permitted if they would:

- cause undue visual intrusion into the open countryside
- cause undue harm to important natural landscape features and topography
- be inconsistent with local character

- harm the setting of settlements, buildings, structures or other landmark features harm the historic value of the landscape
- 5.54 Given its rural location and the presence of heritage assets in the vicinity, the proposal has the potential to cause harm and each of these criteria needs to be carefully considered.
- 5.55 Policy ESD13 (Local Landscape Protection and Enhancement) of the PSCLP seeks to avoid damage to local landscape character, and mitigation where damage cannot be avoided. Development proposals will not be permitted if they would:
- Cause undue visual intrusion into the open countryside
  - Cause undue visual harm to important natural landscape features and topography
  - Be inconsistent with local character
  - Impact on areas judged to have a high level of tranquillity
  - Harm the setting of settlements, buildings, structures or other landmark features, or
  - Harm the historic value of the landscape.
- 5.56 Policy ESD16 (The Character of the Built Environment) of the PSCLPIPC of the sets out that where development is in the vicinity of any of the district's distinctive natural or historic assets, delivering high quality design will be essential. New development should preserve, sustain and enhance designated and non designated heritage assets. Again, the impact of the proposal on heritage assets in the wider vicinity therefore needs to be considered.
- 5.57 Policy BAN2 within the PSCLPIPC sets out some key site specific place shaping principles, including:
- Development that respects the landscape setting with particular attention to the west of Southam Road where the visual sensitivity is considered to be greater.
  - Development that addresses the flood risk of the site, where a small part of the site to the far west is within flood zone 2 and 3 (along the route of the brook - a tributary of the River Cherwell); built development close to the watercourse will not be permitted. A green buffer should be provided along the watercourse.
  - Development that retains and enhances significant landscape features (e.g. hedgerows) which are or may be of ecological value; and where possible introduces new features (e.g. green buffer along the watercourse) to enhance, restore or create wildlife corridors and therefore preserve, enhance and increase biodiversity in the area.
  - Layout of development that enables a high degree of integration and connectivity between new and existing communities.
  - New footpaths and cycleways should be provided that link to existing networks, with a layout that maximises the potential for walkable neighbourhoods with a legible hierarchy of routes, and incorporates cycle routes to encourage sustainable modes of travel.
  - Development that considers and addresses any potential amenity issues which may arise - including noise impact from the M40 (forming the north east boundary) and any issues arising from the crematorium (to the north). The introduction of buffers/ barriers/ screening and the location of uses should be carefully considered to mitigate potential nuisances.

- Public open space to form a well connected network of green areas suitable for formal and informal recreation, with the opportunity to connect to the Banbury Country Park ('Policy Banbury 14: Banbury Country Park')
- The incorporation of urban design principles (see 'Policy ESD16: The Character of the Built Environment') including consideration of street frontages and building heights in relation to the landscape setting.
- A well designed approach to the urban edge, which relates development at the periphery to its rural setting and affords good access to the countryside.

5.58 The landscape and visual impacts of this site and the wider Banbury and Cherwell district have been subject to several reports, the latter being undertaken recently by WYG and LDA as core documents for the evidence base for the local plan, this has built on the previous findings of the Halcrow report dated Sept 2010 (CDC LSCA 2010). These reports include:

- **Banbury Landscape Sensitivity and Capacity Assessment (March 2013) WYG** - This document provides an assessment of the landscape sensitivity and capacity of 10 sites on the periphery and within the town of Banbury. Following this, the sites have then been cross referenced to The Cherwell Local Plan (Local Plan), Proposed Submission, August 2012 to provide further analysis of sensitivity and capacity in relation to the Local Plan. The site areas for each are identified within the CDC LSCA (2010) and have been used as a starting point from which to progress the assessment.
- **Banbury Environmental Baseline Report (March 2013) LDA** - The Banbury Environmental Baseline Study is intended to serve a number of purposes, including:
  - To provide a summary of the character, development and environmental assets of Banbury as a whole, but focussing in detail on its rural setting and the urban-rural fringe.
  - To allow an understanding of the environmental 'baseline' environment around Banbury.
  - To allow an understanding of the 'setting' of Banbury and how the town relates to the countryside in which it lies.
  - To identify and map environmental 'assets' around Banbury and ascertain their function, role and contribution to the sustainability and quality of life of the town's inhabitants.
  - To contribute to the evidence base of the emerging Local Plan.
  - To inform other studies of Banbury used as part of the evidence base of the Local Plan.
  - To act as a stand-alone reference document for CDC, allowing the Council to make informed decisions about the future growth and development of Banbury.
  - To inform the Banbury Masterplan work.

The study does not consider the urban settlement of Banbury in detail but provides a brief overview of relevant aspects to provide context and allow further understanding. Detailed studies concerning the urban area of Banbury

are available as part of the evidence base of the Local Plan.

- **Appendix 1 of the Baseline Report: The Historic Landscape Setting of Banbury (March 2013) LDA** – this report is an interim outline study of the heritage aspects of Banbury and its surrounding villages, in the context of assessing options for urban expansion and associated studies. The study commences with consideration of Banbury itself, and advances anticlockwise round Banbury, starting from Hardwick in the north. The purpose of the study is to provide a broad view of the relevance of the historic landscape; it does not assess in detail all the potential historic landscape features and assets that would need to be addressed in any specific site study.
- **Banbury Green Buffer Report (March 2013) LDA** – This study determines clear criteria for inclusion of land within the Green Buffer, review the illustrative Green Buffer against those criteria and recommend revised boundaries to the Green Buffers, ensuring that areas recommended for inclusion meet the requirements of the emerging Green Buffer policy. The study has taken into account the Strategic Sites allocated for development in the Proposed Submission Local Plan but, where appropriate, gives a broad indication as to whether areas of the site could meet the criteria for inclusion in the Green Buffer.
- **Banbury: Analysis of Potential for Strategic Development (March 2013) LDA** – This is an appraisal of the countryside around the margins of Banbury's fringes to assess the extent to which the town is able to accommodate strategic development whilst retaining its historic market town character and rural landscape setting. The appraisal is based on the findings of the Banbury Environmental Baseline Study and the Banbury Green Buffer Report. Reference should be made to these documents when reading this report.

The analysis of the town and its setting led to a view on the future of Banbury from an environmental perspective, taking account of the natural, historic, biodiversity and landscape assets and character of the town and its setting. These led to conclusion that the future growth of Banbury is constrained by 'environmental limits', that is, a combination of landform containment, rural setting and historic character and assets beyond which the town should not grow without significant harm to the town's special character and identity.

Conclusions from this appraisal are that Banbury does have some capacity for further growth in this plan period, but that it is very constrained beyond this. If Banbury is to retain its special identity as a historic market town, the following two guiding themes should be adopted and followed:

- A compact, sustainable, historic market town contained within its environmental limits.
- A landscape setting which is accessible and rich in environmental assets, which is protected and which contributes positively to quality of life for the town's inhabitants.

The recommendations made related to strategic development sites have been informed by these environmental themes for the future of Banbury. This strategic development sites appraisal seeks to highlight the constraints to development posed by the countryside around Banbury and identify where there is potential to accommodate strategic development without significant harm to the two environmental themes identified above.

The appraisal follows the same basis as the Banbury Environment Baseline

Study, dividing the countryside around Banbury into four quadrants. These are:

- North West
- North East
- South West
- South East

This strategic analysis includes an appraisal of each of the proposed strategic development sites shown in the Cherwell Submission Local Plan (August 2012), in order to advise on their suitability and capacity for development.

The analysis finds that the BAN2 Southam Road, allocated site (which has been divided into two for the purposes of the analysis) is considered to have strategic development potential. The Southam Road – West site is considered to be highly visually sensitive given its rising topography and prominent location at the fringe of the settlement edge. The site forms part of the attractive Hanwell Brook valley, an important landscape feature in the setting of the Banbury to the north and contains the remnant historic land uses of Hardwick Copse and Gorse adjacent to the Brook.

The analysis concludes that development of the whole site should not be taken forward as it would result in unacceptable harm to the setting of Banbury and because of the site's visual and landscape sensitivity. However, some development could be potentially accommodated within the site provided it is located in the less sensitive south eastern corner of the site and that suitable design and mitigation strategies are adhered to.

- **Banbury: Appendix 1 Peripheral Development Sites Analysis (March 2013) LDA** - As part of the Banbury Analysis for Potential Strategic Development Report, each of the proposed Local Plan allocated development sites around Banbury were reviewed in more detail to test their suitability and capacity for development. Indicative capacity studies for sites are based on policy requirements as set out within the Cherwell Local Plan Proposed Submission Draft (August 2012). Policies include guidance for housing density, employment and infrastructure needs for each site.

5.59 The WYG (Banbury Landscape Sensitivity and Capacity Assessment (March 2013)) report provides the following assessment of the BAN2 whole allocated site (both west and east):

“Landscape Sensitivity - The valley side of the tributary gently rise to the north up to a plateau extending north along the route of the A423. The scale of the landscape is small to medium with a combination of small fields associated with properties and larger fields to the east of Hardwick Hill Road. The sensitivity of natural factors is medium – low.

The site area has one listed building and four non-designated heritage sites. The presence of these is within the east of the site in the proximity of Hardwick House although it is noted within the heritage assessment that the development of Hardwick Business Park and the modifications to Hardwick House have affected the coherence of these designations. The sensitivity of cultural factors is therefore considered to be medium – low.

The area to the north of the Cemetery has retained a strong field pattern containing signs of historic ridge and furrow in smaller fields associated with Hardwick Hill House. The area south of the Cemetery and east of Hardwick Hill Road have lost this pattern with the fields being amalgamated to accommodate modern day agricultural

practices. Although the site area has few important elements of specific scenic quality, the area as a whole does perform an important function in defining the northern extent to the urban development limit whilst enabling views north and west when heading north out of Banbury. The sensitivity of aesthetic factors is medium – high.

Visual Sensitivity - The general visibility of the site is restricted from the north and east due to the localised topography and the presence of the M40 road corridor. From the south, the site is visible when heading north out of Banbury and forms part of the transitional views to open countryside north of Banbury. When looking out of the site to the south, much of Banbury town is visible however the industrial areas in the foreground adjacent to the M40 corridor (Wildmere Industrial Estate and Overthorpe Trading Estate) draw the viewers eye. Short to middle distance views are available to and from the west to the village of Hanwell and into Site A which forms part of the visual context and setting of Banbury Cemetery and Crematorium and the rural setting of the town. These are important views that should be retained. The sensitivity of general visibility is considered to be medium-high.

The site is publically inaccessible apart from the road passing through the centre which is located in a cutting along much of the route. The visual perception of road users which is the principal use within the area is therefore medium-low. The presence of the Cemetery within the area does however elevate the sensitivity within the west of the area as users/visitors to the cemetery use the area for contemplation and reflection; the visual sensitivity of the area is therefore elevated to the west of Hardwick Hill. The area is also overlooked by properties located on the northern edge of Banbury which have a combination of direct and oblique views to the north and north east. The sensitivity of the area to the residential population and users of the area is considered to be high overall.

Development within the east of the site does have the potential to be mitigated visually as the area is relatively well contained and it therefore has a low sensitivity. Mitigation potential within the west of the area differs due to the overlooked nature of the area and presence of the Cemetery. Planting within the area, especially close to the boundaries of the cemetery would alter the character of the area and the views into/out of the area and potentially compromise the setting of the cemetery. The sensitivity to mitigation is therefore considered to be high. The visual sensitivity is considered to be high.

Landscape Capacity and Capacity for residential development - The Landscape Character Sensitivity and Landscape Value are combined to arrive at the potential Landscape Capacity. In general, the potential Landscape Capacity of the site is medium – low. The potential development of residential properties within the western area would not be in keeping with the existing landscape character of the area or the presence of Banbury Cemetery and Crematorium due to the change in the cemetery setting that would occur. The capacity for residential development is weighted more toward low than medium” The east area of the site has a medium – low capacity to accommodate commercial employment that is in keeping with the existing Hardwick Business Park located in the south east corner of the site. This would not be appropriate to the west of the A423”.

There was no assessment made on the potential for residential development on the eastern side.

- 5.60 In terms of Banbury: Appendix 1 Peripheral Development Sites Analysis (March 2013) undertaken by LDA the following is the extract that identifies the issues, constraints and opportunities for this allocated site:

## SITE ISSUES IDENTIFIED FROM BASELINE AND GREEN BUFFER STUDIES

- Lies outside of 'environmental limits' of Banbury.
- Potentially constrained by future extension of Green Buffer designation.
- Northern and western parts of the site and higher land play an important role in landscape setting of Banbury.

## ENVIRONMENTAL CONSTRAINTS AND ISSUES

- Attractive sloping landform associated with Hanwell Brook and Hardwick Hill as part of undulating ridge and valley landform-landscape setting and containment to Banbury
- Visually prominent and sensitive, particularly in views from south, west and north west
- Mature boundary hedgerows.
- Group of three trees at summit acts as identifiable landmark.
- Seven mature trees in southwest (remnants of Hardwick Copse and Hardwick Gorse).
- Hanwell Brook attractive riparian feature with mature willows.
- Hedgerows likely to be of historic importance under the Hedgerow Regulations.
- No Public Rights of Way within the site.

## KEY DESIGN ISSUES

include:

- Topography of the site and visual impact of development from surrounding areas due to exposure of slopes; impact on setting.
- Relationship between development and cemetery.
- Incorporation of water course into scheme and historic pastures along it.
- Treatment of frontage on to Hardwick Hill / Dukes Meadow Drive to create a new gateway to Banbury. Green gateway objective.
- Relationship with neighbouring development, safe pedestrian access to proposed primary school and into town
- There are no rights of way surrounding the site. Potential for the development to be used as an opportunity to improve access to the wider countryside from the town. Strategic footpath links from BAN 2 (East) to recreation area and Hanwell to the west/north west.
- Sensitive higher land and western slopes/valley to be retained as farmland or to recreate informal green infrastructure.
- Special high quality, low density residential design solution required due to visual sensitivity and strategic environmental setting of Banbury.

## Indicative Capacity Study

Total Site Area	18.05 ha
Developable Area	3 ha
Density	20 - 30 dph max
No. of dwellings	60 - 90 max

•Assumes Public Open Space (POS) and SUDs provision is made outside of Developable Area. Any playing field provision offsite due to topography.

- 5.61 Whilst the application was originally submitted for upto 370 dwellings, based on the above landscape assessments, the applicant has further submitted an amended scheme for 90 dwellings along with the retail and community facility on the lower southern section of the original site comprising some 3ha. The applicant has worked collaboratively with the Council and LDA in order to find a compromise that would provide the maximum number of housing on the site that would not cause a significant landscape impact. The solution being a mixture of potentially high quality, low density residential development on the flatter section of the site that follows the contour of the land. As the land rises beyond this point the land will accommodate a new strategic footpath along its length and then will remain as agricultural land from



there to its most northerly aspect.

5.62 Although the application is in outline form, at the time the application was made, the Department for Communities and Local Government (DCLG) Circular 01/2006 set out the scope of information to be submitted with an outline application. Even if layout, scale and access were reserved, an application still required a basic level of information, including scale parameters (upper and lower limits for heights of buildings) and an indicative layout. The indicative scale parameters, layouts, densities and form contained within the Design and Access Statement have been used by the applicants to analyse the impact of the development, including landscape, within the Environmental Statement. However following the submission of the amended scheme proposed for 90 dwellings, the Design and Access Statement has not been amended in totality, a further statement has been provided along with a further indicative layout. This further statement and layout do not go into the same detail as originally submitted, but the statement does advise that :

- Development is kept below the 102m contour line, which is a clear indicator of the developable area detailed in the LDA document - Appendix 1 Peripheral Development Sites Analysis (March 2013)
- Access off Southam Road and Dukes Meadow Drive
- Building heights no more than 2 storey with the exception of a small block potentially at the Southam Road entrance which is 3 storey as a gateway/landmark building that will contain the retail/community facility and flats above
- In terms of landscape character and visual amenity, the reduction in dwelling numbers and the amount of land to be developed would have a low to medium magnitude of change given the extent of retained agricultural land across the rest of the site.

5.63 Since the submission of the application, an Order amending the rules on the information which must be submitted with an English planning application came into force on 31 January 2013. This Order removed existing national requirements for information on layout and scale to be provided with outline applications where these are reserved matters to be determined at a later date. The DCLG support Council's 'Local Validation List' approach, which sets out a list of information requirements to support specific types of planning application. Consequently, it is likely that the Council's current validation checklist will be updated to reflect the change to national information demands, to require large scale major applications such as this to be supported with information on layout and scale.

5.64 As part of the Environmental Statement submitted with the application, the applicants have undertaken a landscape and visual assessment of the construction and operation of the proposed development. Various photographic viewpoints were identified as forming part of the visual envelope (ie the extent of the area from within which the proposed development may be viewed). The environmental impact of the larger 370 scheme has been fully assessed and the level of its impact defined in general terms within the topics assessed including landscape and visual.

#### **Indicative design/layout/scale**

5.65 The application site has been subject to an original indicative layout for upto 370, following information in respect to the landscape impact, an amended scheme has been submitted for upto 90 dwelling. The comments made by the Council's Urban Designer are key to the place shaping of this site and essentially, whilst there is a great deal of detail left to be undertaken, in principle the amount of development could be accommodated within the site that will not compromise the landscape

setting of Banbury as detailed in the LDA reports.

- 5.66 Therefore whilst further detail is needed it has been concluded that the site could be sectioned into specific area which would be subject to specific forms of built development. This will form part of the design code detail that would be conditioned and would set the clear design parameters and will focus in on the more sensitive parts of the site.
- 5.67 A substantial buffer to the Hanwell Brook will be retained. There is an existing green edge to the south of the site, with a 20 – 40m grass verge and swale. Much of the north of the site will be retained as agricultural land, but will also incorporate a new strategic footpath running east to west, and this will also link up to a similar footpath on the eastern part of the allocation. Consideration has been given to integrating SUDS onto the site and a simple swale is proposed along the southern edge. Other SUDS features will be provided as required.
- 5.68 Principally, the indicative plan is structured around a spine road which runs through the site, connecting Dukes Meadow Drive to Southam Road and this will be fronted by medium density development. Along the northern edge of development, a low density informal edge should be structured, which fits well with the landscape. The small local centre and community facilities are located to the southeast of the site, in the area with least landscape impact and greatest presence. This creates the opportunity to establish a landmark building on the corner of Dukes Meadow Drive and Southam Road. Development to the south fronts onto Dukes Meadow Drive and will be subject to enhancement landscaping.
- 5.69 No building heights plans have been provided for the amended scheme, but it will be important for development along the northern and western edge to be of a low scale and density to establish a layout where the built form informally sits within the landscape. A number of bungalows are proposed and it is advised that their location is considered in relation to the low density edge. It is acknowledged that medium density development will be required in order to allow for really low development density along the western and eastern edge. In the heart of the site there are therefore likely to be some semi detached units. The southeast area of the site is the most appropriate place for buildings with a larger footprint and massing. Therefore if a local centre and community facility is appropriate for this site this is the right location. The indicative plan advises that a 3 storeys building is proposed, but given the low form and impact of the rest of development, 2.5 storeys might be appropriate, but only fronting onto the roundabout area

#### **Housing Mix**

- 5.70 An assessment of the type and size of housing needed in Cherwell informs the PSCLIPC Policy BSC4: Housing Mix. Although at this stage the policies carry limited weight, they do set out the size and type of housing expected to be required to meet the needs of Cherwell's future population.
- 5.71 For the purposes of this application based on the amended scheme for 90 residential units, the mix will require 30% affordable housing, which equates to up to 27 affordable units the remaining 63 dwellings will comprise a mix in accordance with Policy BSC4 an indication of which is as follows:

12 x 2 bed units  
22 x 3 bed units  
25 x 4 bed units  
4 x 5 bed units

- 5.72 In terms of the affordable units the Housing Officer has advised that he has taken a holistic view over the entire allocated site and suggests the following mix:

16x1b2p Flats  
6x2b3p Flats + office/communal space (designated over 55's)  
3x1b2p Bungalows  
2x2b3p Bungalows (1x wheelchair adapted)

- 5.73 There will be a requirement for 100% rented accommodation as part of the affordable housing requirement and the majority of the housing will be designated for the over 55's or for those that some form of mobility issue and in housing need.
- 5.74 All the units should meet lifetime homes standards and Code for Sustainable Homes level 3 as a minimum together with HQI standards and should be transferred to one of CDC's preferred RP partners.
- 5.75 Notwithstanding the comments made by the Housing Officer, Policy BSC4 requires some form of Extra Care Housing, however for this to be a feasible option there would be a requirement for at least 60 units to be accommodated within one building and OCC has commented on support for this facility.
- 5.76 The Housing Officer has advised that there are 700 rented sheltered housing units in Banbury which cater for those who are over 55 from the Housing Register. And 110 recently built Extra Care units delivered over the last 18 months. There has been an identified need for 788 units of sheltered, enhanced sheltered and extra care need by 2026 across the district, with the various proposed strategic sites and other development in the district we have already built or will build a further 214 extra care over the next 18 months to meet this need, with further schemes planned. Therefore it is considered that there is a reasonable position to **not** request a further 60 unit extra care scheme be provided at Southam Road and instead have designated elderly accommodation instead, which will still go towards the elderly accommodation provision.
- 5.77 Furthermore, to take 60 units of the affordable housing amount would reduce the amount of general housing which is considered to be of greater need in this locality. Consequently the holistic view taken by the Housing Officer is a pragmatic approach and therefore the type of ECH provision may need to be reconsidered, along with the affordable housing mix.
- 5.78 There is no question from the applicant that the provision of 30% affordable housing is required, but it is considered that given that this cannot be resolved without further negotiation and essentially a co-ordinated approach, should members resolve to approve this application and the other application 12/00159/OUT, this matter should be delegated to officers to resolve with all parties.

#### **Residential Amenity**

- 5.79 The indicative layout for the development demonstrates that the proposed dwellings could be accommodated on the site without causing harm to existing neighbouring properties. At the time of the reserved matters application(s), the exact detailing of the positioning of the dwellings and their fenestration would be assessed to ensure that no unacceptable harm would be caused to residential amenity by way of loss of light, being over bearing or resulting in a loss of privacy.
- 5.80 The indicative layout and submitted information also demonstrates that the new dwellings, would achieve an acceptable standard of amenity in terms of private and public amenity space.

For these reasons, officers consider that the proposed development would comply with Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the core principles of the NPPF.

### **Transport Impact**

5.81 The proposal seeks to provide a new access off the Southam Road and Dukes Meadow Drive which will provide suitable and safe access points to serve the development. Concerns have been raised that the existing road network is already at capacity and will not be able to cope with the increase in volume of traffic from the proposed development, especially at the key junction Hennef Way/Southam Road.

5.82 The application has been submitted with a Transport Assessment, which Oxfordshire County Council as local highway authority are now content with, following the submission of additional information and consider that the scheme in principle is acceptable subject to the improvements/off site mitigation measures. The Hennef Way/Southam Road junction has been identified for improvement which will address the concerns raised by those objecting to the scheme. The improvements/off site mitigation measures proposed and have been agreed are in the form of:

- Improvements to the Hennef Way/Southam Road junction as part of the package of S106 contributions £95,000 has been agreed to fund these improvements.
- To link the west site up with Hanwell Fields and its facilities, town centre routes etc a Toucan crossing is to be provided on Dukes Meadow Drive
- To link the west and east sites up with Hanwell Fields and its facilities, town centre routes etc, two formal crossing facilities are to be provided. One is to be a controlled crossing point in the form of a Toucan Crossing close to the Southam Road roundabout, the second to be in the form of an uncontrolled facility, which is to be future proofed for signal controls.
- A pedestrian and cycle route is proposed from the east site to Noral way.
- The existing 40mph speed limit is to be extended beyond the proposed second access point into the east site.
- The existing lay-by on the Southam Road opposite the east site is to have a one-way system introduced that would restrict southbound movements on the lay-by. In addition a right turn restriction would be implemented to deter southbound right turn movements into the lay-by.
- General Transport contribution of £469,692.

5.83 It is acknowledged that the proposed development will change the character of the Southam Road, but in order to provide a safe means of access into and out of the two sites from these points of access and the necessary connection of the two sites to ensure that pedestrians and cyclists have a safe crossing point, the measures proposed are necessary. OCC has been involved in pre-application discussions from the outset and the scheme has been worked through to enable the full consideration of both parts of the allocated site.

### **Loss of agricultural land**

5.84 Policy Banbury 2 states 'A detailed survey of the agricultural land quality identifying the best and most versatile agricultural land, and a soil management plan'. Within the Environmental Statement, this matter is addressed.

5.85 In terms of planning policy, National policy guidance governing the non-agricultural development of land is set out in the National Planning Policy Framework (2012). Annex 2 of the NPPF identifies the "best and most versatile agricultural land" (BMV) as land in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC).

Paragraph 112 of The Framework states: “Local planning authorities should take into account the economic and other benefits of best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality agricultural land in preference to that of a higher quality.”

- 5.86 Policy EN16 of the non statutory Cherwell Local Plan states that ‘Development on Greenfield land including the best and most versatile (Grades 1, 2 and 3a) agricultural land will not be permitted unless there is an overriding need for the development and opportunities have been assessed to accommodate the development on previously developed sites and land within the built up limits of settlements. If development needs to take place on agricultural land, then the use of land in grades 3b, 4 and 5 should be used in preference to higher quality land except where other sustainability considerations suggest otherwise’. This policy goes on to advise that ‘in some instances where there is an overriding need for a particular development and there is no suitable alternative, it will be necessary to use best and most versatile land. This is the case at Banbury, where the Panel’s report into the Structure Plan Examination in Public states “it recognises, however, that further major development could mean building on high quality land and/ or breaching landscape constraints”. The search criteria in paragraphs 30 and 31 of PPG3 mean that sustainability considerations such as building communities and reducing the need to travel by the private car have resulted in best and most versatile land being used for the urban extension at Banbury. In such circumstances, grade 3a land should be used, if possible, rather than higher grades.
- 5.87 The ES sets out how to assess the quality and therefore impact upon agricultural land. The assessment of soil quality has been carried out in accordance with the MAFF revised guidelines (1988). The main factor affecting the classification of the land at this site is soil wetness. The results show that the majority (72%) of the land falls within grades 2 and 3a, therefore the best and most versatile quality agricultural land.
- 5.88 The ES advises that the site comprises two fields, which have been in non-agricultural ownership for many years. Most of the site is formed of one large arable field which has been recently farmed by a tenant who is based 10 miles to the east of the site. The tenant has been given notice terminating the annual tenancy from the autumn of 2013. The site does not contain any farm buildings and is not subject to any agri-environmental schemes.
- 5.89 With regard to impacts, the ES advises that impacts on agricultural land are expected to occur during the construction phase and will relate to the progressive loss of agricultural land. The development will involve the loss to agriculture of 17.5ha including 12.6ha of best and most versatile quality land. There would be no impact upon agricultural interests other than land quality; the site will be vacant from Autumn 2013, does not contain any farm buildings or other infrastructure and is any subject to any management prescriptions associated with agri-environmental schemes.
- 5.90 The ES advises that as the land is of District or local significance, it is of medium sensitivity and the magnitude of change is assessed as medium therefore the development will have a direct, permanent, adverse effect on best and most versatile agricultural land of slight significance prior to the implementation of mitigation measures. Should agricultural activity be carried out in proximity to construction activity, then control would be through the normal measures of best environmental management practice and it is not therefore anticipated that the significance of any potential effects, which would be temporary in nature, would be more than negligible. The construction phase will disrupt and displace the soil reserves over the area of built development on the site. The in situ agricultural capabilities of the soils will be lost and this effect is reflected in the assessment of the loss of agricultural land.

There is the potential for risk of long term damage to soil structure and the loss of potentially valuable soil if there is uncontrolled trafficking of land and soil by heavy machinery. Trafficking of areas that are not to be built on or hard surfaced should be avoided. Top soil from the areas of built development will be used as and when required on site, for example for green spaces and garden areas.

- 5.91 The ES emphasises that the primary measures to mitigate the loss of soil resources will be to re-use as much of the soils displaced during the construction phase on site, to dispose of any unneeded surplus soils thereafter in a sustainable manner and to ensure the quality of soils retained on site and disposed off site is maintained by following best practice guidance on soil handling.
- 5.92 The ES concludes that the development will cause the loss of approximately 12.6ha of best and most versatile quality land in grades 2 and 3a, which is assessed as a direct, permanent adverse effect of slight significance. Provided that solids are handled according to current good practice guidance, there should be no residual impact on the soil resource. There are no residual effects for agricultural interests during the operational phase of the development. The only cumulative impact will be the additional loss of the land resource to the development to the east of Southam Road, which involves the loss of approximately 21.7ha of best and most versatile land. The cumulative impact of the loss of best and most versatile land at the two sites will be a direct, permanent adverse effect of moderate significance.
- 5.93 The use of the best and most versatile quality agricultural land is an unfortunate outcome from the proposed development given LPAs should seek to use areas of poorer quality agricultural land in preference to that of higher quality. In this case, it is considered that the information submitted demonstrates that the proposal would have a direct, permanent adverse affect of slight significance, however cumulatively with the East of Southam Road site, the significance of effect increases. The information demonstrates that the soil on the site will adequately be dealt with, including its management to ensure that the soil benefits the overall site including the landscaping. Furthermore as a relatively high proportion of the land falls within grade 3a quality, this meets the requirements of policy EN16, where the best and most versatile agricultural land is necessary to be used. As such, the proposal on balance, taking into account these factors as well as the other benefits that would arise from the development of the site overall, it is considered that the development of the land is acceptable in principle and that the loss of best and most versatile quality agricultural land is acceptable in this case.

#### **Flooding and Drainage**

- 5.94 The National Planning Policy Framework (NPPF) states that developers should “seek opportunities to reduce the overall level of flood risk in the area through the layout and form of the development and the appropriate application of sustainable drainage systems”. The surface water drainage will be designed in accordance with the Environment Agency’s current guidance and utilise Sustainable Drainage Systems (SUDS) so as to satisfy the following design requirements;
- Mitigate the risk of flooding to downstream receptors
  - For two credits the development must be situated in a flood zone with a low annual probability of flooding.
  - Provide sufficient attenuation to comply with the requirements of NPPF
  - Consideration of the risk of solution features
  - Provide the most practical and economic scheme, utilizing as much of the existing drainage system as practicable
  - Provide a scheme that is compatible with the development phasing and site topography
  - Designed in the spirit of SUDS techniques as defined with the CIRIA guidance
  - Pollution control

5.95 **Surface Water Drainage**

For sites greater than 1 ha in size, a surface water strategy should be carried out as part of a FRA to demonstrate that the proposed development will not create an increased risk of flooding from surface water. The surface water strategy should be carried out in accordance with NPPF and its associated practice guidance, giving preference to infiltration (where appropriate) over discharge to a watercourse, which in turn is preferable to discharge to surface water sewer

5.96 **Drainage Scheme Requirements**

Infiltration rates should be worked out in accordance with BRE 365. If it is not feasible to access the site to carry out soakage tests before planning approval is granted, a desktop study may be undertaken looking at the underlying geology of the area and assuming a worst-case infiltration rate for that site. If infiltration methods are likely to be ineffective then discharge may be appropriate. The surface water drainage strategy has been designed in accordance with the following principles:

- Look to achieve Greenfield runoff rates to reduce the impact of the development on the surface water drainage infrastructure
- Discharge volumes from site will not increase as a result of the proposed development, up to a 1 in 100 year storm with a suitable allowance for climate change;

The site will not flood from surface water up to a 1 in 100 year storm with a suitable allowance for climate change, or that any surface water flooding can be safely contained on site up to this event.

5.97 **Increases in Surface Water Volume**

If it is identified that the volume of runoff will be increased then the difference should be disposed of by way of infiltration or, if this is not feasible because of the soil type, discharged from the site at flow rates below 2 l/s/ha. Where this is not feasible, the limiting discharge for the 30 - and 100-year return 7 | 34 periods will be constrained to the mean annual peak of runoff for the Greenfield site (referred to as QBAR in IoH Report 124 as part of the ES).

5.98 **Sustainable Drainage Techniques**

A well designed drainage scheme will involve a number of SUDS features in sequence, forming a surface water management train (CIRIA C609). A management train will incrementally improve the quantity and quality of surface water run off reducing the need for a single, large attenuation feature. Guidance on the preparation of surface water strategies can be found in the DEFRA / Environment Agency publication "Preliminary rainfall runoff management for developments". Guidance on climate change allowances can be found within Annex B of NPPF.

5.99 SUDS are an approach to managing surface water run-off which seeks to mimic natural drainage systems and retain water on or near the site as opposed to traditional drainage approaches which involve piping water off site as quickly as possible. SUDS involve a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands. SUDS offer significant advantages over conventional piped drainage systems in reducing flood risk by attenuating the rate and quantity of surface water run-off from a site, promoting groundwater recharge, and improving water quality and amenity.

5.100 A flood risk assessment has been submitted, which demonstrates that the development complies with the NPPF sequential test, following Environment Agency guidance, and appraises the potential flood risk impact arising from the brook to the west of the site upon the proposed development. All built development, including housing, is proposed within the defined zone 1 area taking account of climate

change, which is the preferred location for residential/ community uses. On the west site, the area falling outside of zone 1 would be used for open space - a water compatible use. However the layout has also been designed to ensure a suitable separation distance between housing and the brook to remove the potential for adverse flooding impact. All dwellings will be situated above the 94.5AOD level which further ensures appropriate mitigation. A sustainable drainage system will be detailed at the design code stage but the current submission demonstrates that such a system can be provided within the development parameters proposed. The assessment demonstrates that there will be no adverse flood risk impacts arising from the proposed development.

- 5.101 The Environment Agency, raise no objections and are satisfied that the development can be carried out without raising flood risk of causing flood risk to any of the proposed properties. However, they do request that additional information is submitted in relation to the drainage proposals through the design code process to ensure that strategic drainage features can be accommodated, which are a substantial physical consideration for development layout. The comments of the County Council are noted in this regard.

### **Historic Environment**

- 5.102 The Council's Conservation Officer has advised that the East of Southam Road is the main site which would cause issues relating to the historic environment. Due to the west site being away from any heritage assets, it is not considered that the development proposed to the west would cause harm the significance of any designated heritage asset.

### **Ecology**

- 5.103 NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)
- 5.104 Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.
- 5.105 Paragraph 18 states that “When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”



- 5.106 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes onto advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”
- 5.107 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and;

Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.

- 5.108 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.109 Under Regulation 41 of Conservation Regulations 2010 it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if 3 strict legal derogation tests are met which include:
- 1) is the development needed for **public health or public safety** or **other imperative reasons of overriding public interest including those of a social or economic nature** (development).
  - 2) Is there any **satisfactory alternative**?
  - 3) Is there **adequate mitigation** being provided to maintain the favourable conservation status of the population of the species?

Therefore where planning permission is required and protected species are likely to be found to be present at the site or surrounding area, Regulation 53 of the Conservation of Habitats and Species Regulations 2010 provides that local planning authorities must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions and also the derogation requirements (the 3 tests) might be met. Consequently a protected species survey must be undertaken and it is for the applicant to demonstrate to the Local planning authority that the 3 strict derogation tests can be met prior to the determination of the application. Following the consultation with Natural England and the Council’s Ecologist advice given (or using their standing advice) must therefore be duly considered and recommendations followed, prior to the determination of the application.

- 5.110 With regard to ecology, the ES uses a risk matrix to determine the sensitivity of value of receptors together with the magnitude of impact. This allows the significance of effects to be determined. Various ecological reports have been completed to assess habitats and various protected species. The report concludes that there are no SSSI’s or other ecological designations within 1km of the site. The Majority of the site is

farmland, although there are other habitats including trees and hedgerows particularly on the boundaries of the site, and grassland. All the habitats are of local level significance. The proposals seek to retain the trees and hedgerows on the site as far as possible. A substantial area of the grassland associated with the flood plain of the Hanwell Brook will be retained for both open spaces and wildlife purposes. Consequently, the effect of the development on habitats and species (birds, badgers, bats, reptiles, amphibians and otters) is negligible.

- 5.111 The Council's Ecologist has provided advice as set out in paragraph 310. She is satisfied that the site has been surveyed satisfactorily at this stage. She confirms that the indicative layout preserves the most important ecological receptors on the site. When a final plan of the development and landscaping is produced the impact on species on site will need to be fully reassessed and a full mitigation plan or working method statements for each drawn up prior to any clearance or any other works commencing on site to include their protection both during construction and in the longterm. In addition a Management Plan to conserve and enhance the retained biodiversity - hedgerows, meadow grassland and bankside will need to be produced. Thought will need to be given to how the needs of the wildlife on site in particular protected species such as the Otter will be balanced with recreational use from residents/dog walkers in the green spaces. The lighting scheme will also be key in whether they are able to retain the value of the green infrastructure on site for wildlife. In line with the recommendations within the NPPF a net gain in biodiversity on site from developments should be sought. Therefore a full plan of biodiversity enhancements to include opportunities for species within the built environment should also be produced before anything commences on site.
- 5.112 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework - Conserving and enhancing the natural environment and Policy C2 and C4 where relevant of the adopted Cherwell Local Plan.

### **Trees**

- 5.113 There is not any significant tree cover on the site apart from those trees along western, southern and eastern boundaries, the majority of which save for the vehicular accesses into the site, will be retained. It is considered that there is an opportunity to enhance the site by the provision of additional tree planting on the site and this will form part of the reserved matters submission.
- 5.114 The Council's Arboricultural Officer has recommends that a tree survey is carried out to identify those trees that are to be retained along with a protection plan to ensure their longevity. This aspect will be subject to condition and consequently it is considered that the proposed development will maintain the existing boundary coverage provided by those trees.

### **Noise**

- 5.115 Paragraph 109 of the NPPF seeks to prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by inter alia unacceptable levels of noise pollution. Further, paragraph 123 advises that planning policies and decisions should aim to:
- Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development;
  - Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

- 5.116 This is further guided through the use of DEFRA Note to the Noise Policy Statement for England (NPSE), which seeks to meet the Governments objectives on sustainable development and promotion of good health and a good quality of life through the effective management of noise. For the purposes of this application and the NPSE “noise” includes “environmental noise” from transportation sources; “neighbour noise” from inside and outside people’s houses; and “neighbourhood noise” arising from within the community and includes industrial, construction sites and noise in the street.
- 5.117 Paragraph 2.14 of the NPSE advises that “It is recognised that noise exposure can cause annoyance and sleep disturbance both of which impact on quality of life. It is also agreed by many experts that annoyance and sleep disturbance can give rise to adverse health effects. The distinction that has been made between ‘quality of life’ effects and ‘health’ effects recognises that there is emerging evidence that long term exposure to some types of transport noise can additionally cause an increased risk of direct health effects. The Government intends to keep research on the health effects of long term exposure to noise under review in accordance with the principles of the NPSE.”
- 5.118 The NPSE also advises in paragraph 2.9 that “noise management is a complex issue and at times requires complex solutions Noise management is a complex issue and at times requires complex solutions. Unlike air quality, there are currently no European or national noise limits which have to be met, although there can be specific local limits for specific developments”.
- 5.119 The Council’s Anti-social behaviour manager has commented specifically on this matter in para 3.11 as the sources of environmental noise likely to impact on the proposed housing would be local road traffic noise from the Southam Road to the east and generally generated from the M40 located to the north east. Conclusions drawn indicate that the level of noise produced by the Southam Road is not considered to be extreme and dwellings within the site can be effectively protected against road traffic noise by ungraded glazing and the use of either passive or active ventilation systems. It is considered that this western part of the allocated site will not give rise to unacceptable noise levels to require further assessments to be undertaken. The eastern part of the allocated site which has the M40 on its eastern boundary will however be subject to noise performance standards.
- 5.120 Noise impacts arising from the construction phase can be overcome by a construction management plan. Therefore it is considered that with these measures in place (to be secured via planning condition), officers are satisfied that the proposed development complies with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance within the core principles and on conserving and enhancing the natural environment contained within the NPPF.
- Pre-application Community Consultation**
- 5.121 Under Section 18 of the Planning and Compulsory Purchase Act 2004 Local Planning Authorities (LPAs) are required to produce a Statement of Community Involvement (SCI). As part of the SCI, LPAs are requested to encourage participation from local community groups where development is proposed.
- 5.122 Notice of the Public Consultation Event consisted of advertisements in the Banbury Cake newspaper on 30<sup>th</sup> May and 6<sup>th</sup> June 2012 and Banbury Guardian newspaper on 31<sup>st</sup> May and 7<sup>th</sup> June 2012 and written invitations to agreed parties/stakeholders were issued on 30<sup>th</sup> May 2012 to notify them of the opportunity to participate in a community planning exhibition consultation event. The newspaper advert and invitations aimed to encourage participation by providing details relating to the public exhibition.

- 5.123 The public consultation event was held across two days at Banbury Town Hall on Thursday 7<sup>th</sup> June 2012 between 10am and 8pm and Saturday 9<sup>th</sup> June 2012 between 10am and 4pm.
- 5.124 The development proposals along with details were set out on display boards. Representatives of the Planning Consultant were in attendance throughout the exhibition who were available to explain the proposals and answer any questions. Details of the display boards have been submitted in the Statement of Community Involvement.
- 5.125 Attendees were encouraged to either complete a comments form at the exhibition and to place that within the comments box provided or take the form home to complete and post back to Rapleys within a week following the consultation event. A total of 124 people attended the public exhibition across the two days (65 on Thursday and 59 on Saturday). A total of 21 completed comments forms were received.

#### **Developer Contributions**

- 5.126 The draft Supplementary Planning Document (SPD) relating to the requirement for financial contributions towards infrastructure or service requirements was considered by the Council's Executive Committee on 23 May 2011 and was approved as interim guidance for development control purposes. It has not been subject to public consultation.
- 5.127 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are the mechanism used to secure these measures.
- 5.128 Circular 05/05 contains advice on planning obligations. Planning agreements should only be sought where the development would otherwise be unacceptable and matters cannot be covered by conditions. Clauses in agreements must be relevant to planning, necessary, directly related to the proposed development and fair and reasonably related in scale and reasonable in all other effects. The circular advises:

*The use of planning obligations must be governed by the fundamental principle that **planning permission may not be bought or sold.***

- 5.129 The full list of obligations and financial contributions will be provided as an update. These matters are directly related to the development and the effects that would arise from it and necessary to enable the impact of development to be mitigated. The proposed development, due to its scale and number of dwellings proposed, meet the threshold for a wide range of developer contributions that are normally sought by both the District and County Councils. The applicant is willing to enter into an appropriate planning obligation, but on some aspects they seek further justification. This further justification and discussions are on-going at the time of writing between officers and the applicant as to the level of contribution that would be acceptable and there is every expectation that an agreement can be reached.
- 5.130 The full S106 Heads of Terms will be based on the requirements set out below, along with development phasing and with the applicant agreeing to making contributions towards 30% affordable housing (the exact provision and terms of affordable or social rent and intermediate is still being negotiated), school provision, provision of public open space, formal open space and play areas, public art, indoor sports, access, public transport, offsite highway improvements, primary education, libraries, adult

learning and strategic waste services.

- 5.131 It is acknowledged that Thames Valley Police have made a request for contributions towards police infrastructure (set out in full in the Consultations section). This request will form part of the S106 negotiations and it along with all other requests for contributions will have to be scrutinised with regard to compliance with the Community Infrastructure Levy Regulations (CIL). It is therefore requested that Members delegate to Officers the negotiation of the S106 agreement.

#### **Other Matters**

- 5.132 It is considered that the majority of the third party representations issues and concerns have been addressed in the preceding report, however in response to the comments and issues raised by local residents, such as the views from private properties and impact on their value; these are not material to the consideration of a planning application.
- 5.133 The applicant submitted an amended scheme to show 90 units, the layout was designed so that the density relates to the topography and continues to incorporate the Class A1 retail units within proximity to the Southam Road. Landscape corridors are proposed to the boundaries. The comments received in terms of landscape impact emphasise the subjective nature of landscape assessment, however there is recognition that the lesser development of 90 dwellings will have a reduced landscape and visual impact from the majority of viewpoints. The submission of a design code can address the detailed landscape comments made in terms of landscaping strategy and play space design.
- 5.134 Officers have been advised that there is no requirement for additional health provision on site and the requirements can be met within the Banbury town centre existing health facilities.

#### **Engagement**

- 5.135 With regard to the duty set out in paragraphs 186 and 187 of the Framework, there have been a number of meetings and discussions with regard to issues arising from the application and officers have sought to address the problems and issues throughout the application process, by working with the applicants. It is considered that the duty to be positive and proactive has been discharged through consistent negotiation and discussion with the applicants over the course of the application process.

#### **Conclusion**

- 5.136 The NPPF presumes in favour of sustainable development and in the context of this application, requires that developments are considered favourably unless there are any adverse impacts that would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 5.137 The Council accepts that it cannot currently demonstrate that it has a five year housing land supply and recognises the contribution towards affordable housing provision as a material consideration in favour of the proposal.
- 5.138 Whilst the proposed development is contrary to the adopted Cherwell Local Plan insofar as it is not an allocated site for development, the land is identified for development in the PSLPIP and as such is part of the emerging strategy to accommodate necessary development, accepting that the plan is in emerging stages and can only therefore carry limited weight. However on balance it is considered that the proposed development will not be so significant as to prejudice the development of the local plan and that the Framework advises that weight can be given to emerging policies.

- 5.139 It is also acknowledged that due regard to prematurity as guided in the PSGP must be had along with the cumulative effect of decision taken to the various applications for housing development in the district in advance of the examination of the Local Plan.
- 5.140 The Council has a Local Plan evidence base for the assessment of landscape impact which has concluded that the site is capable of accommodating the proposed development without compromising the landscape setting of Banbury or the visual amenity of the locality, subject to the mitigation and green infrastructure measures proposed.
- 5.141 These factors are all key material considerations to the determination of this current application and that an on balance assessment of the proposal in policy terms needs to be given.
- 5.142 Officers accept that the PSLPIC identifies a number of requirements for such development. However, as outlined in the relevant sections above, it is considered that any potential impacts of the development can be mitigated and secured through suitable planning conditions and an appropriate S106 agreement.
- 5.143 In terms of viability, it is considered that the development of the site could make appropriate contributions to community infrastructure and affordable housing whilst still returning a reasonable return to both land owner and developer. Negotiations are progressing and given the agreed level of contributions and those offered, an appropriate S106 package needs to be achieved in order to mitigate the impacts of the development and create a sustainable, inclusive, high quality development. This requirement is reflected in the recommendation set out below.
- 5.144 Taking the above assessment into account, the proposed development is considered to be acceptable in principle. Whilst the consultee and local residents comments have raised a number of concerns and issues which require further detail it is considered that these are not insurmountable and would be subject to condition or detail/information that would be submitted as part of the next stage reserved matters application.
- 5.145 Officers consider that taking the above assessment into account, on balance it is considered that the proposed development will not be so significant on its own to prejudice the development of the local plan (although together with other current applications there is a more significant cumulative impact which weighs against the determination at the current time) , will contribute the Council's housing land supply in a plan-led way, will not significantly harm the landscape setting of Banbury, and will provide the necessary infrastructure to support it. In the context of the presumption in favour of sustainable development set out within the NPPF, it is considered that the proposal would result in sustainable development and for these reasons, the application is recommended for approval as set out below.

## **6. Recommendation**

### **Approval, subject to:**

- a) The delegation of the completion of the S106 negotiations as detailed in paragraphs 5.126 – 5.131 to Officers in consultation with the Chairman
- b) The completion of the S106 legal agreement
- c) The conditions package to follow:

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION 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 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. 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.

**Statement of Engagement**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.