

# Land North of Withycombe Farm and West of Edinburgh Way, Banbury 13/00444/OUT

**Ward:** Wroxton

**District Councillor:** Cllr Webb

**Case Officer:** Paul Ihringer

**Recommendation:** Approval

**Applicant:** Bloor Homes

**Application Description:** Construction of up to 400 residential dwellings including 60 sheltered housing/extra care accommodation, 500sq m of small scale employment and training premises, open space, new vehicular junction and access and associated infrastructure

**Committee Referral:** Major application (exceeds 10 dwellings and 1 hectare) and departure from policy

## 1. Site Description and Proposed Development

- 1.1 The application site is an elongated (north to south) strip of agricultural land, roughly trapezoid in shape which tapers to its northern edge. The plot extends approximately 1.1km on its north-south axis and between 150m and 300m on its east-west axis. The site covers approximately 26.5 hectares.
- 1.2 The site bounds the western edge of Banbury (Bretch Hill), Salt Way to the east and the A422 to the north. Salt Way is an ancient road, the remnants of which are used as a bridleway on Banbury southern and western boundaries. The affected section of Salt Way also provides a metalled vehicular link to the Grade II listed Withycombe Farmhouse which is just beyond the application site's southern boundary (defined by a field hedge). There are two other established hedges which cut across the site east to west. The three separate fields, formed by this subdivision are currently used to grow crops. Aside from the hedgerows, the only other noticeable feature (above ground) is a wooded area in the northeast corner abutting the junction of Stratford Road and Bretch Hill.
- 1.3 In respect of topography, the site has a ridge running along its north-south axis with a noticeable dip in the land in the south east corner of the site. The ground starts to fall quickly away beyond the site's western boundary to the Sor Brook in the valley floor.
- 1.4 Aside from affecting the setting of the aforementioned Withycombe Farmhouse, the development will also impact on the Grade II\* Drayton Arch (approx. 310m from the western edge of the site). The Grade II\* listed Obelisk set within the registered parkland of Wroxton Abbey, on the opposite side of the valley, is approximately 1.2km from the western edge of the site. The closest property in Drayton is approximately 165m from the north western edge of the site - the Drayton Conservation Area abuts a large proportion of the site's western boundary.
- 1.5 Outline planning permission (all matters, other than access, reserved) is being sought for up to 400 houses including 60 sheltered housing/extra care accommodation (sited in the north eastern corner). The development will also

incorporate 500sq metres of small scale employment and training premises (southern end of the site opposite a proposed attenuation basin and near the junction with Edinburgh Way). Given the sensitivity of the western boundary, a large area of open space is proposed. Comprising 11.44 hectares (approximately 43% of the application site), the *Western Park*, runs down the length of the western perimeter as well as providing a buffer at the northern end of the site. This area will be criss-crossed with footpaths and will incorporate a tree planting scheme designed to further limit the impact of the development on the historic environment beyond.

- 1.6 The development will be linked to the existing estate by a new access onto Bretch Hill between Berkeley Close and Bramber Close towards the northern end of the site. A southern access will be created on to Edinburgh Way via a landscaped gap between housing.
- 1.7 A key component in justifying the allocation of this site was the opportunity to provide long-term community-based projects designed to help community development. This will help the Council's Brighter Futures Banbury programme which seeks to improve deprived areas of the town where there are high levels of unemployment and low educational attainment. As part of a Regeneration Strategy the applicant states that:

*"The proposed development will provide a range of employment and skills development opportunities through both the construction and operational phases. Some 370 person years of construction employment will be supported by the development, paying more than £2 million in wages. There will be more than 25 training and apprenticeship opportunities through the construction period, including the development of 10\* self-build units as part of Cherwell District Council's Build! project."*

(\*The figure of 10 units has been revised to 5-10 units)

- 1.8 Once the development is completed, aside from the aforementioned small scale employment facility (which will accommodate start-up businesses) a contribution will be made to provide a new community café at the Sunshine Centre. Officers are also currently investigating the potential to build a new medical centre on site (the applicant will fund improvements to existing facilities if this does not prove to be feasible).
- 1.9 Permissions allowing, it is the applicant's current intention to have a phased development with construction starting on the first of four identified parcels in August 2015. The occupation of the final house is projected to be in April 2019. The site will be developed roughly north to south, with the works and planting in the *Western Park* taking place alongside phase 1.
- 1.10 The application is supported by: an Environmental Impact Assessment (incorporating reports on: Historic Environment; Landscape and Visual; Biodiversity; Ground Conditions; Soil and Agricultural Resources; Water Resources; Human Beings; Economics; Transport and Accessibility; Noise; Air Quality; Arboriculture; Construction; and Cumulative Impacts); a Transport Assessment, a Design and Access Statement, a Planning Statement, Regeneration Strategy and a Statement of Community Engagement.

1.11 There is no recent planning history relating to the application site (part of the site had previously been used as a football ground).

## **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 11<sup>th</sup> July 2013.

13 separate correspondences have been received (excluding subsequent amendments). 7 of these were in a standard form raising the same points. The following issues were raised:

- Increased strain on resources for an estate that already has social problems
- Commitment to integrate into existing estate unrealistic
- New community centre required – existing centre problematic
- Negative impact on the Drayton Arch and Wroxton Needle
- Access for ramblers will be unduly affected
- Increase in traffic will have negative impact on Edinburgh Way
- Edinburgh Way has too many cars using it already
- Too much development on this side of town
- Bankside should be brought forward before any more development is approved
- Congestion around the North Oxfordshire Academy and Bretch Hill Estate
- Potential traffic accidents involving children will increase
- Traffic noise
- Estate will become a rat run
- Water sewage systems would not be able to cope
- Potential encroachment into Drayton
- Insufficient linking roads (two) to rest of Bretch Hill
- Overdevelopment (400 too many)
- Consultation with locals insufficient
- Developer should undertake more consultation
- No response from developer to questions posed
- Increase the potential for anti-social behaviour
- Ecological impact on birds, bats and badgers etc
- Loss of open space
- Adverse groundwater implications
- Negative impact on neighbour amenities
- Provision of school places - schools already at capacity
- Local amenities not able to cope (shops, doctors and local hospital)
- Need to ensure that minimum distance standards are adhered to
- Inconvenience of the construction process - noise, dust, light etc
- Proximity of training facilities to existing housing
- Inconvenience of the construction process - noise, pollution etc
- Loss of value of house
- Possible cuts to gas and electricity
- Loss of water pressure

- Difficulty selling house during construction phase
- Noise from new neighbours
- Stress from when planning application is being discussed and when work is being undertaken
- Increased light will impact on astronomy hobby
- Private housing will be rented out – social problems with such housing
- Limited explanation of what is proposed in letter of notification

Requests made in standard letter from residents of Penrhyn Close:

- that the developer buys houses of those wishing to move as a result of the works
- Garden extension by 5 metres with new fencing for those affected along the site boundary
- Increase gap between houses
- Turn new build on their side to reduce overlooking
- Place proposed allotments between development and existing housing
- Consultation on site working hours
- Compensation for effects of quality of life

### 3. Consultations

#### 3.1 **Drayton Parish Council:** Object to the application and comment as follows:

“Transport Issues: the proposed roundabout goes some way to improve the access on to the Stratford Road but at peak morning flows the roundabout will impede traffic coming from the Stratford Road as there is not sufficient traffic going from Banbury to Stratford to balance the flow from Bretch Hill/New Development. Further afield the junction at the Barley Mow between the Stratford Road and Warwick Road is already at capacity at peak times and will only increase with the additional housing recently approved at Hanwell Fields. This will make access into Banbury difficult from the north of town for all routes.

“Access from the site into Edinburgh Way is putting considerable demands on to a quiet residential street where parked cars already reduce the width of the road.

“Conservation Area: the new development abuts the Drayton Conservation area and will have a major impact on the views from within the Conservation area particularly from around Wroxton Obelisk a popular country walk for villagers and Bretch Hill residents. The setting of the listed Drayton Arch Folly will be ruined against the backdrop of new housing. While tree screening has been detailed this appears light and the effectiveness of the tree screen in Winter has not been demonstrated.

“The development will isolate Withycombe Farm from the village of Drayton and ruin the setting of this listed structure.

“Protecting Rural Character of the Bridleway: The Draft Local Plan in considering this site states (Policy: Banbury 3 west of Bretch Hill):

A green buffer should be provided either side of the bridleway that marks the western boundary of the site, to safeguard the rural character of the bridleway marking the western boundary of the site and forming part of the Banbury Fringe Circular Walk which should be maintained and kept separate from the development.

“The Parish Council does not consider that the rural nature of the bridleway will be maintained by the current proposals which will become more of an urban linear park.

“Provision of Leisure and Sports Facilities: Woodgreen is a fair distance from the development. Both the development and local villages would benefit from more outdoor play area / sports facilities.”

### 3.2 **Banbury Town Council:** Object and comment as follows:

“Inadequate access arrangements. The Committee supports the concerns expressed by Ward Councillors” (below)

**Cllr Woodcock:** “Broadly I support the development. I do however strongly oppose the idea of a cut through via Edinburgh Way. This route is already lined with cars due to off-street parking issues, and increased traffic for those wishing to get from Orchard Way to Stratford Road, will cause major disruption.”

**Cllr Ross:** “Whilst I am generally in favour of this application, I am very concerned about the potential impact of a project of this size on the local infrastructure including traffic, parking, education and services. Approval should be strictly conditional.”

### 3.3 **Wroxton Parish Council:** Comments as follows:

“The major concern regarding this proposed development is, with the addition of 400 houses, the assumed increase in traffic movements on to the A422 Stratford Road. Although a roundabout is proposed, this will not reduce the congestion by North Oxon Academy, where there is a pedestrian crossing, and the traffic lights at the junction with Warwick Road, just metres away. This will be particularly noticeable at school start and end times.

“The over-all layout is so much better than the development of Bretch Hill; however, the failure of the Plan to provide adequate space for outdoor activities is a significant failure and can hardly be compensated by improvements to Woodgreen indoor facilities. Given ownership of the land by Trinity College, it must have been possible to allocate land in the neighbouring vicinity, possibly Wroxton, for outdoor activities/sports, which would be as accessible as Woodgreen.

“There are also concerns re the lack of other facilities, i.e. shops, as there are none to the west of the development.

“All of these were noted, in writing, at the presentation by Bloor Homes, at Drayton Village Hall.”

### 3.4 **North Newington Parish Council:** Comments as follows:

“North Newington has concerns regarding the infrastructure and nearby schools abilities to cope with the increased activity. It also appears to have been a creep along the length of Saltway by at least one field encroaching Withycombe Farm, which we believe to be listed. We feel the skyline in this area should be protected as it is an area of outstanding natural beauty and that the boundary should be the Saltway, and that there should be no further encroachment into the countryside. We note that the current plans outline how the green space will be maintained and planted with trees directly adjacent to the Saltway, which if planning was to be approved must be stipulated as a requirement so as to protect an area of natural beauty and associated skyline.

“One of the biggest concerns is that if Green field sites are continued to be developed, this will discourage developers from looking at Brown field sites i.e. Canalside because there will be larger profit, quicker turnover. This could lead to Banbury becoming quite vacuous and no longer having a heart and a centre.

### **Cherwell District Council Consultees**

#### 3.5 **Head of Strategic Planning and the Economy:** Comments as follows:

“The application site lies to the west of Bretch Hill on the western edge of the town. It comprises three parcels of agricultural land. Some of the field boundaries are bordered by hedges, some containing mature trees, and there is a small area of woodland in the north east corner of the site. The western boundary of the site is formed by a public bridleway forming part of the Banbury Fringe Circular Walk. Stratford Road forms the northern boundary of the site. To the south is more agricultural land together with Withycombe Farmhouse, a listed building. To the west is registered Wroxton Abbey Historic Park and Garden, containing the listed Drayton Arch. Drayton Conservation Area abuts the site with the boundary running along the bridleway. The site forms proposed strategic housing allocation Banbury 3 as contained in the emerging Local Plan.

#### **History of the site**

“The site was first identified as an option for major development at Banbury as part of the Core Strategy Options for Growth consultation on directions for growth and strategic sites in September 2008. At this stage the eastern section of the application site (comprising approximately 20ha accommodating approximately 400 homes) was included within area “BAN 2A West of Bretch Hill”. The site was seen as providing the opportunity to improve western Banbury; it was noted that integration with Bretch Hill could be achieved and the site’s development may help to reduce social problems. It was indicated that good linkages were achievable with Stratford Road and Bretch Hill north. The potential for some westward expansion was recognised but landscape considerations further west and south restricted scope for a larger urban extension.

“Following consideration of the outcome of the Options for Growth consultation and further site analysis following the completion of additional evidence base studies, a slightly larger site consistent with the application site was then included as “Policy BAN 2 Land West of Bretch Hill Strategic Allocation 5” in the

Draft Core Strategy, which was published for consultation in February 2010. The policy identified the site as being suitable for provision of up to 400 homes to provide an integrated extension to the Bretch Hill area, to provide a mix of housing and physical and social infrastructure that would assist in reducing high levels of deprivation in western Banbury and provide a significant positive contribution to improving the environment. The draft policy indicated that the development would need to include strategic public open space and other green infrastructure, and that strategic landscaping proposals would be expected to satisfactorily accommodate the development in a sensitive and historic landscape setting and improve the appearance of Banbury's western edge within the landscape.

"The Landscape Sensitivity and Capacity Assessment (LSCA Halcrow 2009) had assessed the site as having low capacity for development, apart from a narrow strip of land immediately adjacent to the existing Bretch Hill development, which was assessed as having moderate capacity. This was due to its sensitivity in relation to the settings of Wroxton and Drayton Conservation Area, Wroxton Abbey Historic Park and Garden, and the listed Withycombe Farmhouse to the south. The area with moderate capacity was seen as providing the opportunity for improving the existing urban edge. Whilst the draft policy recognised the landscape sensitivity issues of the site the wider potential benefits of development in that location were considered sufficient to justify the site's proposed allocation.

"The Proposed Submission Local Plan (formerly Core Strategy) was published for consultation in August 2012. The application site was included as a proposed strategic allocation under "Policy Banbury 3- West of Bretch Hill", to be developed with up to 400 homes to provide an integrated extension to the Bretch Hill area, to provide a mix of housing together with physical and social infrastructure.

"The Sustainability Appraisal (SA) of the Proposed Submission Plan indicated the site to be located in an area at low risk of flooding, with no statutory ecological or heritage designations on the site. It considered that integration with Bretch Hill estate could be achieved, with potential for the development to connect with pedestrian and vehicular links to existing residential areas. It indicated that provision of new open space facilities could aid integration with Bretch Hill both physically and socially and help retain important views of landscape features to the west. It stated that the site is located close to North Oxfordshire Academy and is well located in terms of local services, but is a considerable distance to employment areas and the town centre. Development would lead to the loss of agricultural land which includes some grade 1 and 2 land. Most of the site was assessed as having low capacity to accept built development (LSCA 2010) where this would extend the visible edge of Banbury over the skyline and for this reason indicated that western expansion needed to be restricted. A narrow strip of development adjacent to the existing development offered the potential for improvement to the urban edge and was seen to have moderate capacity to accept development.

"Further landscape assessment work was undertaken following the publication of the Proposed Submission Local Plan (available at <http://www.cherwell.gov.uk/index.cfm?articleid=3244>). The reports are draft

studies pending consideration of representations to the recent consultation on Proposed Changes to the Proposed Submission Local Plan:

- An updated Landscape Sensitivity and Capacity Assessment for Banbury (LSCA, 2013)
- A Banbury Environmental Baseline Report (2013)
- Banbury Analysis of Potential for Strategic Development (BAPSD, 2013)
- Banbury Green Buffer Report (2013)
- Wroxton and Drayton: Strategic Heritage Impact Assessment (SHIA, 2013)

“The LSCA 2013 assessed the site as having medium-high capacity to accept residential development in landscape terms, subject to the western boundary being sensitively defined and a landscape buffer being incorporated between the western boundary of the site and any development.

“The Banbury Analysis of Potential for Strategic Development study (2013) assessed the extent to which the town was able to accommodate strategic development whilst retaining its historic market town character and rural landscape setting. This concluded that whilst land to the north west of Banbury makes a significant contribution to the setting of the town, with the Bretch Hill ridgeline defining the “environment limits” of the town, Banbury 3 does not play an essential role in the setting of the town. As such it could accommodate development provided it is restrained in scale and suitable mitigation and green infrastructure measures are put in place, to enhance the green edge to Banbury in this area. Appendix 1 to the study, Peripheral Development Sites, assessed the potential capacity of the allocation site and indicated an indicative capacity of 378-441 dwellings.

“The Wroxton and Drayton Strategic Heritage Assessment (SHIA, 2013), assessed in more detail the potential effects of development at the West of Bretch Hill site on the setting of Drayton and Wroxton conservation areas and the Wroxton Abbey Historic Park and Garden. This concluded that with appropriate mitigation measures, adverse effects on the setting of the heritage assets could be reduced and positive outcomes achieved. The mitigation measures considered appropriate were the inclusion of a substantial landscape buffer along the western and southern perimeter of the site, and recommendations on layout and massing. (Location of internal roads and accesses away from the western perimeter of the development, low density development located towards the western edge of the development with building heights restricted to two storeys in that area, SUDS and open space to be located in the western perimeter of the development).

“The landscape studies therefore indicate that in principle, with appropriate mitigation, the site is an acceptable site for strategic development from a landscape perspective and could preserve or enhance the character or appearance of the adjacent conservation area.

“Proposed Changes to the Proposed Submission Local Plan published in March 2013 were informed by the additional landscape evidence and set out amendments to the detailed requirements of Policy Banbury 3. The public consultation period on the proposed changes has now ended but the representations received have yet to be considered.



## **Main Policy Issues**

“The main policy issues are considered to be:

- Compatibility with the Development Plan and other Local Plan policies
- Housing land supply position and associated NPPF advice
- whether it would be appropriate to release the site for development ahead of completion of the Local Plan

## **Development Plan and Other Local Plan Policies**

### *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 2013*

“The application site is proposed for development as a strategic housing allocation Banbury 3 in the proposed Submission Local Plan, for approximately 400 dwellings. Policy Banbury 3, as proposed to be amended under the proposed changes recently the subject of public consultation, together with other relevant plan policies, sets out a range of requirements and development principles against which the application proposals should be assessed. However some key observations are set out below:

“The amount of development proposed, the location of built development and the provision of a park on the western portion of the site as indicated on the illustrative Master Plan are broadly in accordance with the requirements of Policy Banbury 3 and the Local Plan landscape evidence base documents.

“The application is accompanied by a Regeneration Strategy which indicates a package of measures forming part of the application, designed to meet the Policy requirement for the development to bring about wider community benefits for the Bretch Hill area. The development will deliver a mix of housing including affordable dwellings with a mix of tenures. Affordable housing provision will include an extra care facility and an element of self build, compliant with the policy requirements. The development will include provision of small scale start up units and a training facility to support local economic activity, meeting the requirement of Policy Banbury 3 of the Proposed Submission Local Plan for the inclusion of some small scale enterprise space (*note: deleted from the requirements in the focussed consultation on proposed changes in error and considered important to delivering strategic development in this area*). The Strategy also refers to contributions towards the improvement of existing community facilities, and the encouragement of healthier life styles through the provision of on-site open space, a contribution to new sports facilities and through healthy eating promotions at the community café.

“The proposed changes to Policy Banbury 3 added a requirement for provision of an on-site Police drop in facility in response to a representation from Thames Valley Police (TVP) at the Proposed Submission Local Plan stage. The application does not refer to this provision being made however it is understood from recent correspondence that TVP now consider that a visible police presence would more effectively be provided by a contribution towards other mitigation measures rather than provision of an on-site facility.

“The application indicates that dwellings will be constructed to Code Level 3 of the Code for Sustainable Homes whereas Policy ESD 3 seeks at least Code Level 4. Whilst Policy ESD3 is an emerging policy and as such has limited weight, Code Level 4 is being sought in all new development and is seen as being particularly important in respect of the strategic allocations. The lower text to the policy does indicate some flexibility where the developer can demonstrate that the requirements of the policy cannot be met but evidence would be needed to support this.

### **Housing Land Supply and the NPPF**

“The NPPF states that planning should recognise the intrinsic character and beauty of the countryside (para' 17). It states (para' 49) that housing applications should be considered in the context of the presumption in favour of sustainable development and that 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.

“Paragraph 47 of the NPPF requires local planning authorities to identify a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% 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% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.

“The district’s housing land supply position has recently been updated. At the time of writing, the district has a 5.5 year supply of deliverable sites for the period 2013-18 incorporating an additional 5% requirement and a 4.8 year supply with an additional 20% requirement (the latter involving a shortfall of 162 dwellings).

“A written briefing on Five Year Land Supply was presented at the last planning committee meeting (13 June 2013, agenda item 6). The briefing report makes clear that the Council has not formally resolved whether the district should return to a position of five years plus an additional 5% requirement or should continue to a position of at least five years plus an additional 20%. This is a matter that has been debated at recent public inquiries and decisions are still awaited.

“However, in view of the under-delivery of housing in recent years, the fluctuations that can occur in land supply, and the need to return to a defensible five year land supply position, the advice to Members was as follows:

*“...the Council should seek to return to a position of five years plus an additional 20% requirement in the interests of meeting housing need, sustaining a five year*

*land supply, and placing the Council in a stronger position to ensure that housing is delivered in accordance with its existing and emerging planning policies. Returning to a five year plus 20% position does not of course remove the need to consider all future residential applications in the context of the Development Plan and all other material considerations”.*

“The site could potentially assist in achieving a position of five years plus 20% if it can be shown a significant number of homes could be delivered by 2018. I understand that a detailed delivery programme has not been submitted with the application but that Phase 1 works are indicated for August 2015 and the final home occupied by April 2019. This suggests the potential for a significant contribution to be made but further clarification should be sought.

“Whilst the Council is able to currently demonstrate a five year housing land supply of deliverable sites with a 5% buffer as required by the NPPF it is unable to demonstrate a five year housing land supply plus 20% buffer. Paragraph 49 of the NPPF indicates that 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. As the advice of officers has been to achieve at least five years plus 20%, in practice it is considered that para’ 49 needs to be given weight. Housing applications should 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 the application site has been included in the Proposed Submission Local Plan in the interests of delivering sustainable development. 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.

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’s Planning Committee has recently resolved to approve a number of other strategic development sites. There are also several other current planning applications for the development of housing on greenfield sites which are potentially of strategic significance. The strategic sites identified in the PSLP March 2013 have been the subject of representations many of which are objections, and a number of alternative strategic sites, including the application site, are being promoted through the Local Plan process.

“Consultation on the Proposed Changes to the Proposed Submission Local Plan has recently been completed (23 May 2013). Representations are being considered but it has not yet been determined what final changes to the Plan will be required. A date has not yet been set for Submission of the Local Plan.

“The issue of potential prematurity (including cumulative impact) must therefore be considered. However this has to be balanced against other material considerations including the current housing land supply position.

“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'

"At the time of writing, the site would potentially help achieve a position of five years plus 20% if housing is shown to be deliverable on the site within the period to 2018. The district has experienced lower than necessary housing completions in recent years and additional housing would help resolve this situation on the edge of an urban area where the need for new housing is concentrated.

"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."

"The requirements of the second bullet point limits the weight given to the emerging plan policies relating to the site. However, whilst the application for residential development is consistent with the strategic allocation in the PSLP, there are unresolved objections to the location of strategic sites, with alternative strategic sites at Banbury being promoted through the local plan process which are not the subject of proposed allocations in the plan. A balanced judgement is therefore required in the light of other considerations including the advice to achieve a housing land supply position of five years plus 20%."

## **Conclusions**

“At the time of writing, the position with regard to housing land supply is that the district has exceeded a position of five years plus 5% but has not yet achieved five years plus 20%. The advice in paragraph 49 of the NPPF is that 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.

“The application site forms proposed strategic site allocation Banbury 3 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 (at the time of writing) 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 a reasonable site to consider. It is located close to North Oxfordshire Academy and existing local services, although it is a considerable distance from the town centre and employment areas. New development could be integrated with the existing Bretch Hill estate with connection to existing pedestrian and vehicular links. The site is located in an area at low risk of flooding, with no statutory ecological or heritage designations on the site. Whilst the site lies immediately adjacent to the Drayton Conservation Area and Wroxton Abbey Historic Park and Garden, the site does not play an essential role in the landscape setting of the town, and is able to accommodate development subject to the design requirements of Policy Banbury 3 being met to mitigate the impact on the landscape and historic environment (including the adjacent conservation area) and improve the urban edge.

“The development should result in wider benefits to the Bretch Hill area. The proposed development includes the provision of small scale start up units and a training facility to support local economic activity. The affordable housing provision will include an element of self build. The proposals should result in both the enhancement of existing facilities and provision of new facilities, including the park to be located on the western portion of the site.

“A finely balanced judgement is therefore required. The application site is a proposed strategic site in the Local Plan. Ideally the Local Plan would proceed to completion in advance of strategic greenfield sites being released for development, and issues of prematurity and the cumulative impact of considering this application together with other applications for strategic housing development in advance of the Local Plan are material considerations. However the application also has to be considered in the light of the government growth agenda and advice in the NPPF. Whilst the shortfall in housing land supply is falling and the district now has a five year housing land supply plus 5% buffer, it does not have a five year supply plus 20% buffer at the time of writing. On balance it is considered that the 5 year housing land supply position and the need to maintain housing delivery, together with the presumption in favour of sustainable development embodied in the NPPF is sufficient to outweigh concerns over the release of this site in advance of the local plan being finalised. There are therefore no objections to the proposal on planning policy grounds.”

### 3.6 **Urban Design Officer:** Comments as follows:

“The proposals for this site have been developed following a number of discussions with Cherwell District Council. I attended a meeting with the developer’s urban designer and landscape architect in October last year, where the principles of development were discussed. Formal pre application comments were issued after this meeting.

#### Site Setting

“The site is located on the western edge of Banbury, adjacent to the Bretch Hill neighbourhood. The western boundary of the site is defined by a farm track which leads to Withycombe Farm, a grade II listed building. An existing hedgerow defined the southern boundary of the site and provides a visual screen to Withycombe Farm.

- The site analysis presents an understanding of the site and its issues; setting out the topographic features, ecology and heritage aspects
- The landscape setting / structure have been an important influence on the form of the plans and further information on how the views and ridgeline have combined to establish the western boundary of development
- The western edge of the site is also rich in local heritage and the setting of these will be an important consideration. The Wroxton Park is a Grade II\* registered park / garden. The Drayton Arch forms a highly visible landmark on the skyline and is a Grade II\* heritage asset
- Drayton Conservation Area also lies to the northwest of the site
- A landscape visual impact assessment has also been undertaken, which demonstrates how the site will be viewed from sensitive areas to the west of the site.

#### Character and Context

- An analysis of the local village and townscape character has been developed and sets out the surrounding character influences in Banbury, Drayton and Bretch Hill. This is a useful starting point for discussion on the character and form of the future development, and is drawn on later in the document
- While an understanding of local architectural forms and details is a useful starting point, it would also be helpful to include information on the typologies,

massing and form of different areas, alongside the structure of the public realm, threshold / boundary details

- It would be helpful if there was further information on the form of streets and movement structure around Edinburgh Way, this is especially important to understand the impact of the access arrangement on existing residents.

#### Consultation

- Consultation has been undertaken with local residents in October 2012. It would be helpful to understand how their feedback has influenced the design process
- Access to the site is one of the critical issues, especially where it requires a reconfiguration of existing residential areas, such as by Edinburgh Way. What consultation has been undertaken with the residents living in the western edge of Bretch Hill and how have any concerns about future development been resolved?

#### Concept Plans

- The broad development areas have been clearly defined by the sites landscape constraints. The landscape topography and visual impact has informed the western limits of development and the historic hedgerows, running east – west across the site, break the development into three structured three parcels
- The plans indicate that a clear decision has been made by the design team to back development onto the existing residential, to provide security and integration to the two areas. While this approach is acceptable to the Council, it is recommended that consultation is undertaken with those residents most affected.

#### Density and massing

- The average density across the site is 29.5 uha (gross or net?)
- The principle of the intensity of development is that it varies across the site, with more consolidated development along the principle route and lower density along the western edge
- The building massing is higher around the central route as it runs through the site, where development will be predominantly 2.5 storeys. Other areas of the site will be 2 storey, providing a sensitive edge onto the landscape space and adjacent to existing housing areas
- The smaller units will typically be located in the core areas, with larger housing located along the western edge
- The profile of density has changed since the draft plans were submitted to the Council earlier in the year. There are a number of areas where the density appears too high for the context
- It might be that the density plan as presented does not break down the conditions in enough detail. The Design and Access Statement clearly sets the intention that development on the western edge will be predominantly made up of larger properties that sit comfortably in the landscape
- Where the majority of the western edge was up to 25 uha. The plans as shown now set out that some development on the western edge would be up to 50uha. This is clearly too high for this sensitive area of the site and needs to be resolved. It should be conditioned that development on the western edge should be no higher than 25uha to the south and 30uha to the north



- The northeast of the site is also very dense and I question whether this will provide an appropriate setting to the site as it is much higher than existing adjacent areas

#### Landmarks and character

- The character of the site will vary as you move through and some thought has been given to what the different character cues will be in various areas of the site
- An important element of this will be the landmark or key buildings which guide you through the site. These are generally well considered, placing emphasis on key spaces in the masterplan. In addition, it might be useful to consider how landmark buildings can address the edge of the site and provide low key emphasis on the western edge to guide walkers to the east / west corridors. Obviously the response to landmarks would vary according to location

#### Site Movement

- The movement network is based upon a clear hierarchy of routes, with a central route that runs through the middle of the site, with secondary routes branching off from this
- The nature and form of previous development in the Bretch Hill area means that there is limited permeability between the existing and proposed residential areas. Two locations have been identified to provide vehicular access into the site. Other locations have been identified where pedestrian and cycle connections can be made
- Understanding how these access points relate to the existing character of the existing residential area will be critical in establishing an integrated development
- While the layout would be improved if there could be more connections points with Bretch Hill, it is acknowledged that the existing structure of the area makes this very difficult
- The proposed access point through the existing green space at Highclere needs to be fully investigated and its impact on local residents tested
- It is also likely that there will need to be traffic calming / improvements along Edinburgh Way to mitigate the impact of the increased vehicular flows
- The movement plan shown on figure 32 would if constructed in this layout require more connections to the east – west street network.
- Street hierarchy – this is clear and logical. I assume that there would be footpath / cycleways linking the edge streets along the western boundary

#### Street Sections

- The streets are an important part of the public realm and more information is required as to their character and form. Accurate cross sections and axonometric should be produced to understand the character and form of the different streets, including cross sections and planting details
- What are the plans for improving public transport in the area? The profile of the main street (5.5m) seems relatively tight if this route will be a bus route in the future
- The streets profiles should also consider how on street parking can be incorporated

### Pedestrian Movement

- The pedestrian connections through existing areas are not always clear and enlarged plans would be helpful to explain this alongside photos of these areas

### Parking

- A range of parking types have been shown in the Design and Access Statement. Some of the illustrations are unlikely to be acceptable, especially the parking courtyards, which should only be used in certain locations and constraints
- Parking strategy – it is useful that you have diagrams quoting EP's guidance Parking: what works where, however, it would be useful if this was developed further, setting out where various options are likely to be utilised (according to dwelling type, street type, density etc.)

### Framework Plan

- The assimilation of the site constraints and design principles has been presented in the masterplan plan for the site. This is a very basic framework diagram with limited detail. It does not set out how the principles have been applied to this site
- On other strategic sites we have asked for further illustrative plans which clearly sets out how the design principles can be applied to the site
- At a schematic level the diagram does begin to establish a logical framework for the site. The layout and form is based on a perimeter block system, with areas of key spaces and focus, largely formed around the principle street that runs through the site
- Where the site interfaces with existing housing along, development predominantly backs onto these houses. This approach is supported by the Council, as it will support improved security and long term integration of the two areas.
- The thresholds for the width and depth of buildings are relatively prescriptive and will not give the flexibility to use of different house types in different areas of the plan. For instance some of the small houses could be wide fronted and some of the larger houses could be terraced town houses with a deeper floor plan. It is important that this is not too prescriptive at this stage as it will limit the opportunities of the development as it is brought forward in detail.

### Materials and Details

- Some information has been provided on the materials and details for each character area. Overall I support the approach proposed, but have some thoughts on certain details.
- Reconstituted Ironstone has been used elsewhere in the District and has not been particularly successful as it had very little variation. It might be that real Ironstone is proposed in a selected number of buildings, resulting in a higher number of brick and render buildings
- Brick types will need to be of a high quality with some variation
- Some concern over the use of concrete tiles, though this can be managed through Reserve Matters Applications
- There should be no timber cladding on elevations

### Landscape and Public Realm

- The landscape framework is an important part of the scheme, given the sites sensitive context and setting

- The majority of the existing landscape features have been retained and the development has been structured around the existing field boundaries that run east – west across the site
- Adjacent to Bretch Hill, the existing hedgerow and tree belt that runs along the edge would be reinforced, though how this is managed long term within private gardens needs to be considered
- Bretch Hill is connected to the western edge and the countryside beyond by a series of green wedges, that reinforce the existing hedgerow line
- The landscape structure, especially to the west provides a transition to the open countryside, forming a linear park along the edge of the development. The concept of this edge has been morphed during the design process from a high green edge to a less formal grouping of trees. Care needs to be taken to ensure this does not become a fuzzy buffer. The character of the adjacent woodland planting has a clearly defined form
- To the southeast of the site, there is a large open space, adjacent to the access to Edinburgh Way. This is a low point on the site and will incorporate a water retention feature. No details have been provided about the character of this feature
- Three play areas are provided, located on the western edge and evenly distributed across the site. No details have been provided on the nature and form of these areas
- The design of the formal squares will be critical, especially in relation to the vehicular movement and built form. More detail on this could be provided as part of a street design guide.

### **Conclusions**

- **An illustrative plan would help explain the viability of the application**
- **The density plan is not appropriate in its current form and this could be conditioned**
- **A street design guide which refines the issue of street design and profiles, traffic calming, parking and public space design should be produced**
- **While there are some issues that I feel could have been better addressed within the application, I am comfortable that these issues could be managed at a Reserve Matter application stage**

### **3.7 Conservation Officer: Comments as follows**

“The points raised by Richard Peats of English Heritage are valid ones - the concept of 17th and 18th century parkland was that it was designed as part of the landscape and extended garden, not as agricultural pasture as we see it today. As such, the fields to the west of the proposal actually constitute the setting of the obelisk, arch and Wroxton Abbey landscape, and any development on the proposed site will have a definite impact. Whether this would be a negative, neutral or positive impact depends on the detailed design which would only be discussed as part of a reserved matters application. However, indications of what will be expected in such an application can be given now.

“The standard of design in the northern end of the proposed site would need to be high to complement the historic setting which it would become a part of. Suitable materials should be used, and viewpoints should be analysed to ensure that the right buildings are put in the right place so as not to harm the views from the obelisk and arch.

"I do not believe that the concealment of the development would be the solution. The parkland is structured with 'clumps' of established trees and lone specimens. I would suggest following that format along the western edge of the proposed development, allowing views both in and out of the site. Again, a high standard of design and materials should mitigate any detrimental impact that would come with a more typical form of housing estate. Having seen the revised planting scheme (drawing no. 4970/Figure 8.4), I am satisfied that the in/out views are being retained and that the historic planting form is being followed."

**3.8 Affordable Housing Officer:** Comments as follows:

"This outline application for 400 new residential units will require a 30% affordable housing requirement, as it is located on the outer urban edge of Banbury. The affordable housing provision should therefore make up 120 units.

"Forming part of this affordable housing provision is the need and requirement for 60 extra care units to be situated in a single location providing units of 1 and 2 bed flats for those that require a range of assisted care needs. This provision has been discussed with the County Council, who are in approval, together with the developer who have been positive in discussion around such a provision. I would look for a mix of 40 units for rent and 20 for shared ownership.

"There is also a requirement for the provision of self build, self finish units to be delivered as part of the affordable housing makeup. As before this will likely be delivered best in a single identified location, and should amount to between 5 and 10 units. This is to be determined following further discussions with the developer.

"After to consideration of the above units as described there is a reduced amount of general needs affordable housing provision which should constitute 70% rented and 30% shared ownership or some other low cost home ownership product to be agreed.

"The affordable housing units should be distributed in a cluster fashion amounting to no more than 15 units per cluster unless otherwise agreed.

"The affordable units should be built to Code for Sustainable Homes level 3 as a minimum and the HCA's Design and Quality Standards including HQI minimums.

"The following units should be provided for the general needs affordable accommodation (this breakdown includes the self-build, self-finish units)

Rent	Shared Ownership
6 x 1b2pF	4 x 1b2pF
6 x 2b4pF	4 x 2b3pF
18 x 2b4pH	8 x 2b4pH
5 x 3b5pH	2 x 3b5pH
5 x 3b6pH (1x wheelchair adapted)	
2 x 4b7pH	

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

### 3.9 Environmental Protection Officer: Comments as follows:

**Land contamination:** "I have reviewed the Nichols Cotton Geotechnical Desk study report (report no. G11104DS, July 2011) appended to the Environmental Statement. It is noted that no site walkover has been undertaken as part of this site investigation. This report proposes further intrusive site investigation works and the site walkover to be undertaken during this further investigation. These works will need to be undertaken and submitted.

"From my records, the geology on some of the site may include naturally occurring contaminants and the further site investigation works will need to demonstrate the site is suitable for use or can be made so through remedial works. To this effect I would like to see the proposed analysis schedule extended to include Vanadium. The farm is also a potential source of contamination and should be considered in the risk assessment."

**Air Quality:** "I've reviewed the local air quality management aspects of Chapter 17 of the Environmental Statement for this development. It is noted that the modelled receptors are not included in the environmental statement and have since been forwarded by Air Quality Consultants under separate cover. These should be included in the planning file to make sense of where the predicted effects and changes in air pollutant concentrations are.

"I can confirm that the scope of this assessment was agreed with Air Quality Consultants and has been undertaken in line with currently available guidance and has predicted that there is a "slight adverse" impact on modelled air quality at some locations for nitrogen dioxide.

"The report has reported predicted impacts on air quality with and without the governments predicted improvements in air quality, resulting from vehicle emission controls, as these have not delivered the results they were expected to. It is expected that future emission controls will address this although this cannot be assumed and this possibility is taken into account in the modelled air quality concentrations. With or without the expected improvements, a characterised "slight adverse" impact on air quality (nitrogen dioxide concentrations) are predicted using the terminology in current guidance. This is a combination of large changes in nitrogen dioxide concentrations in areas of good air quality and small changes in areas of poorer air quality. No exceedences of particulate air quality objectives are predicted and the impact for this pollutant is negligible.

"It is noted that in some locations air quality, without the emission improvements, a large increase in nitrogen dioxide concentrations are predicted. These large changes are not in areas where the existing air quality is poor, or may be approaching the air quality objective. Therefore this may be perceived as a significant impact on local air quality but it is not at a level which may pose a significant risk to human health.

"It is noted that this assessment has identified several areas where the nitrogen dioxide annual mean air quality objective is likely to be exceeded along Warwick Road with, or without, the development. Nitrogen dioxide concentrations are predicted to increase in these areas as a result of this development. The smaller magnitudes of these increases in areas of poor air quality, and the larger

magnitudes of these increases in areas of good air quality, has resulted in the concluded slight adverse impact. This is in line with current guidance.

“It is noted that there are no development specific mitigation measures proposed to tackle air quality. It is concluded that these will be delivered through European legislation driving better vehicle emission standards. The framework travel plan, promoting green travel, may mitigate some air quality impacts.

“Several measures for the control of construction dust and emissions are proposed in section A17.5 which should all be implemented. I would suggest a condition to ensure these measures are implemented may be appropriate, subject to confirmation from Rob Lowther.”

**3.10 Recreation and Health Improvement Manager:** Comments as follows:

“Off site sports contribution required because the development will increase the existing deficiency in Banbury. The contributions will be used to increase capacity at either the proposed community facility improvements at the NOA site or to extend provision at Hanwell Fields pitches.

£416.41 (pp) x 2.39 people = £995.21 per dwelling x 400 dwellings = **£398,088**

“Indoor sports contribution required because the indoor sports facilities are currently operating at capacity. The contributions will be used to increase capacity at the Woodgreen leisure Centre which is part of the proposed redevelopment of that area.”

£302.31 (pp) x 2.39 people = £722.52 per dwelling x 400 dwellings= **£289,009**

**3.11 Arboricultural Officer:** Comments as follows:

“There doesn't appear to be a tree Survey which correlates to the Schedule however, there are no significant existing trees which constitute a constraint in relation to the illustrative layout.

“There is an opportunity to plant ultimately large trees on the western side of the site which will have space to attain reasonable sizes without overly impacting on the residents.

“I have no objections to any of the proposals on arboricultural grounds.

“A landscape tree schedule should be provided detailing the sizes, species and tree pit specifications. These should also take into consideration underground services which may be impacted in the medium to long term.”

**3.12 Landscape Officer:** The following comments also attempt to address the concerns expressed by English Heritage:

“It is appropriate that the green buffer on the western edge is designed in such a way as to integrate the site with the parkland landscape of Drayton, with small groupings of trees, (with native understory planting), and single trees for the purposes of inter-visibility across the western site boundary in attempting to address English Heritage's objections on the grounds of the detrimental impact of

the housing development on the setting of the Archway. With the identification of the viewing corridor from the Obelisk on a drawing and the sensitive sighting of the aforementioned tree groups to provide an layered effect i.e. small groups of foreground, middle ground and background tree groups overlapping each other to provide a continuous screen from an appropriate viewpoint to be mutually agreed between EH, CDC and the developer - a photographic record is required.

“I would prefer that the buffer is planted with trees at an early stage of the development, preferably during phase 1 in the forthcoming planting season, and maintained by the developer during construction period and until such time it is adopted by the relevant party. This will ensure that the planting and establishment is at least a year 18 months ahead of the development's completion, and that all failures have been duly replaced and maintained. The green buffer should be defined as a **construction exclusion zone** once all grading, cultivations foot paths boundary fencing, gates have been completed and meadow and amenity grass areas have been sown. Robust Heras fencing will need to be erected and secured with scaffold poles with appropriate locked gated access locations for landscape maintenance.”

#### **Street Trees**

“The primary and secondary street require appropriate street trees for the purposed of providing landscape impact mitigation to building frontages, amenity for residents/occupiers, wildlife and other environment benefits. The constraints of building foundations, utilities tree size, canopy spread and density and water uptake are to be considered. In regard to achieving appropriate soil volumes in 'hard areas' I recommend the developer considers recommendations in ***Up By Roots***, written by James Urban, published by the ISA.

#### **Play Provision**

“A play strategy for the development is necessary to ensure the quality and amount of play provision is appropriate for the development. I recommend that the developer considers ***Play England's Playable Space Quality Assessment Tool*** (enclosed) to evaluate play needs. CDC's revised ***appendix D*** of the draft ***Planning Obligations*** (enclosed) is to be consulted.

“Play areas must be robust: products and materials used are robust with appropriate supplier guarantees.”

#### **3.13 Anti-Social Behaviour Manager:** Comments as follows:

“I can confirm that I have no objections to make in respect of this planning application. I note from the ES that the applicants intended to prepare and submit and construction management plan as part of their detailed planning submission. The preparation submission and approval of this document should be conditional if planning permission is granted.”

#### **3.14 Rights of Way Officer:** Comments as follows:

“Four rights of way are affected by this outline application.

“Banbury Restricted Byway No 4 runs along the western boundary of the site and Banbury Footpath No 8 runs along part of the southern boundary of the site.

“Banbury Footpath No 7 runs east/west across the site and Banbury Footpath No 3 runs across the corner of the northern part of the site from Bretch Hill to the Stratford Road.

“The illustrative masterplan suggests that the existing routes of these rights of way will be maintained and have been taken into account within the estate layout.

“If consent is granted, I recommend that an advisory note is included as follows -

"Prior to laying out the rights of way as part of the development, the applicant should seek the advice of Oxfordshire County Council's Rights of Way team to ensure that the paths are on their definitive lines"

**3.15 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**

### **3.16 Summary of Oxfordshire County Council's position:**

- In the context of the issues below, support subject to the conditions, legal agreement and informatives in the annexes

#### **Comments:**

This is an outline application for a 400 unit residential development on the western edge of Banbury, which includes provision for 500m<sup>2</sup> small scale employment and training premises and 60 sheltered housing/extra care units.

Pre-application discussions have been held between the developers and Cherwell District Council. County council transport officers provided pre-application advice to the developers in May 2012. The developers held two public exhibitions about the proposed development on 20 and 22 October 2012 in Banbury.

The site has been allocated in the Cherwell Local Plan Proposed Submission Document (August 2012) in Policy Banbury 3: West of Bretch Hill and the proposals in the application comply with the policy's objectives, including the regeneration of the Bretch Hill area and the provision of locally available employment opportunities.

Officers have raised a number of issues in response to this application, which can be found in Annex 1 of this report. The main issues are:

- The developer has undertaken transport modelling and presented this in the application; the County Council has concerns about a number of junctions in the vicinity of the proposed development which are close to or over capacity in the future. A contribution towards infrastructure improvements at these junctions or towards other measures on these strategic routes will be required.



- The council questions the need for the proposed roundabout at the junction of Bretch Hill and Stratford Road as it would reduce the priority given to traffic along the Stratford Road, a classified 'A' road. An alternative plan showing a priority junction with a gateway feature on the Stratford Road approaching the urban area has been submitted which removes this concern;
- There was a lack of information about cycle path provision and in particular ensuring connectivity. A revised movement plan has been submitted that shows the access points and links into the local area, across to North Oxfordshire Academy and out into the countryside for pedestrians and cyclists which removes this concern;
- Initial discussions have been held with the county council and the local bus operator but further discussions will be needed to firm up on the provision of public transport using an existing bus route to ensure that the existing level of service is maintained for all residents;
- The proposed development would result in a requirement for expansion of primary school capacity in existing schools in Banbury and in special educational needs provision; planning permission should be dependent on a satisfactory agreement to secure the resources needed to fund this provision.

The Design and Access statement which accompanies the application sets out a proposed housing mix. The County Council has used this mix to establish, for the benefit of Cherwell District Council, should it approve this application, a minimum level of s.106 contributions that would be expected from the developer to mitigate the impact of this proposal (there will be additional costs that the developer will need to fund and deliver themselves, such as site access arrangements):

• Primary school	=	£1,308,766
• Special educational needs	=	£ 61,312
• Community services	=	£ 331,835
• Transport	=	£ 764,804

Any payment deferred post implementation will require security for prompt payment e.g bonds. This is to ensure that once the development starts, public bodies responsible for infrastructure provision can be certain of recovering costs incurred.

Further details and justification for these figures can be found in Annex 1. Should the application be amended or the development mix changed at a later date, the county council reserves the right to seek a higher contribution according to the nature of the amendment.

**3.17 Transport Planning Officer (Transport and Planning Strategy):** Comments as follows:

**Key issues:**

“From the point of view of the wider transport issues there should be a holding objection due to the need for further information:

- Confirmation of cycle/pedestrian detail and associated facilities

- Mitigation measures or funding towards improvements not offered on junctions over 0.85 RFC (some junctions modelled well over 100% capacity)
- Further evidence required for some junctions

Legal Agreement required to secure:

- S106 Town & Country Planning Act

“The application is in outline. Our assessment of the impacts of the proposal and our required contributions are based on the housing mix within the Design and Access Statement of the planning application of:

- 4 no. x One Bed Dwellings
- 72 no. x Two Bed Dwellings
- 117 no. x Three Bed Dwellings
- 147 no. x Four Bed Dwellings
- 60 no. x Extra Care Dwellings

Based on Cherwell District Council’s Planning Obligations SPD the relevant transport contributions are as follows:-

- **£442** per 1 bed unit = £1,768
- **£638** per 2 bed unit = £45,936
- **£994** per 3 bed unit = £116,298
- **£1366** per 4+ bed unit = £200,802
- Additional bus on route B5 = £400,000

**Total General Transport = £764,804\***

\*To be index-linked from July 2011 using the Baxter index

Conditions

- A Travel Plan will need to be submitted to encourage sustainable travel.

Detailed Comments:

“This outline planning application was light on cycling. Paragraph 2.21 (numbered as 2.1 in the document) states, “There are no designated cycle routes in the vicinity of the site, however there are number of lightly trafficked roads within the vicinity of the site which may be suitable for cycling”, but nothing more was added to this. It was also unclear how the site would link with North Oxfordshire Academy and beyond to the Warwick Road (north). Pedestrian and cycle legibility/access was also not shown from the site to outlying areas including the countryside. Through discussions with the developer the movement plan that accompanies the planning application has been amended to show cycle access points and desire lines for cyclists through the lightly trafficked roads, out into the countryside and linking through Trinity Close to the proposed crossing on Stratford Road. This removes these concerns.

“Table 5.8 - Stratford Road/Warwick Road – 2030 with Development – Warwick Road north and Stratford Road arm above 0.85 RFC. There is no reserved capacity by 2030. A contribution towards infrastructure improvements at this junction and other physical transport measures within the local area which will improve this strategic route will be required.

“Table 5.11 - Warwick Road/Ruscote Avenue (2030) – this junction raises serious concerns as by 2030 the junction is predicted to be unacceptably congested on most arms. The TA points to failings of the model to accurately predict the ‘actual’ volumes from site observations. This is unacceptable as a reason for no mitigation; the model cannot be used to justify junctions within capacity but not trusted for those shown to operate over capacity. A contribution towards infrastructure improvements at this junction will be required.

“Table 5.15 – South Bar Street/West Bar Street (2030) – the High Street arm is slightly over 0.88 but this is the only arm that would not give enough reserve capacity so may be acceptable. Further evidence on the impact at this location could inform this decision.

“Table 5.16 – Bloxham Road/Queensway – 2030 with Development – operating well over capacity as a result of the development. This is considered ‘significant’ by the Highway Authority. As with the Warwick Road / Ruscote Avenue a contribution towards infrastructure improvements at this junction will be required.

**Public transport:**

“Contributions towards bus service provision and bus stops will be required from this site. With the distance from the town centre and the hill inhibiting return journeys by foot or on bicycle, public transport will be an important part of sustainable transport movements.

“The Bretch Hill area is reasonably well served by public transport, with the B5 route operating at a good level of frequency to the town centre, five times an hour on weekday daytimes and two times per hour on evenings and Sundays. It also operates over a large part of the day (first weekday bus from Bretch Hill at 0628 and the last bus from the town centre at 2330). The town centre then provides an interchange point for bus services to other parts of Banbury and to other towns, whilst the rail station is within easy walking distance for its connections to London, the Midlands, the North and the South Coast.

“There are two bus stops within reasonable walking distance of the proposed development, Bradley Arcade and Edinburgh Way. The latter stop would benefit from re-profiling and the shelter relocating. Both stops should be equipped with real-time information displays.

“However, as the proposed development stretches almost to the Stratford Road, the northernmost third of the development would be distant from the Edinburgh Way stop. It is highly probable that the B5 bus service would need to be re-configured, to serve the northern end of Bretch Hill and a new bus stop created, near to the proposed access road. In order to facilitate this and keep the current frequency levels, an additional bus would be required on route B5, at an indicative cost of £400,000 for a pump-primed arrangement, leading to full commerciality. Further discussions are required with the bus operator, to finalise

the routing strategy and to take account of stops on the existing B5 route via Hastings Road and The Fairway.

“The Travel Plan should be aligned with the Bus Strategy, to ensure enough additional passengers are attracted to the enhanced/re-routed B5 bus service, so that it will become commercially viable after four years of pump-priming support.

“The timing of the introduction of the enhanced/changed bus service would be dependent on the scheme phasing plan.

#### Infrastructure requirements from the development

- Stratford Road / Warwick Road, Ruscote Avenue / Warwick Road and Bloxham Road / Queensway – a financial contribution towards infrastructure improvements and other physical transport measures within the local area which will improve these strategic routes at these locations will be required. A legal agreement will be required to cover this.
- A contribution of circa £400k will be required to extend the bus service for the northern part of the site and two new bus stops on Bretch Hill. The details of any changes need to be discussed and agreed with the operator in the light of other changes in the town.

#### 3.18 **Senior Engineer and Transport Planner Officer (Transport Development Control):** Comments as follows:

##### Key issues:

- Access
- Traffic Calming
- New Roundabout at Bretch Hill/Stratford road Junction

##### Legal Agreement required to secure:

- S106 Town & Country Planning Act
- S278 Highways Act
- S38 Highways Act

##### Conditions:

- Detailed Plan of Access
- Detailed Plan of Traffic Calming
- Construction Phase Traffic Management Plan
- Green Travel Plan

##### Detailed Comments:

##### Access, Proposed Traffic Calming and Roundabout

“Access to the highway network is proposed via two priority junctions, one to Bretch Hill and the other to Edinburgh Way. Both proposed junctions are considered acceptable, in principle, subject to detailed submission. The access

to Edinburgh Way incorporates parking provision which would relieve existing on-street pressures. The proposed scheme of traffic calming is acceptable in principle, subject to detailed submission and public consultation.

“The proposed roundabout at the junction of Bretch Hill and Stratford Road will require further justification. The roundabout would reduce the priority given to traffic along the Stratford Road, a busy classified ‘A’ route. Furthermore, roundabouts can be obstructive to pedestrians and cyclists bringing them into conflict with motor vehicles. A replacement scheme drawing for this junction has been submitted showing a priority junction with a gateway feature on Stratford Road to slow vehicles as they approach. This removes this concern.

#### Location & Accessibility

“The site is located to the western periphery of Banbury. Banbury enjoys a wide range of shops, services and amenities as would be expected, commensurate with a market town of this size. Banbury is served by both railway and bus services, local and national. The M40 provides motorway links with a large number of employment and other commercial centres available within a reasonable driving time; as such I consider the site may be a desirable location for those wishing to commute by car.

“A range of shops and services lie within a recognised reasonable walking distance (max 2km). There is reasonable provision for pedestrians along routes to the town centre and other likely destinations although given the potential increased demand the development should contribute toward improvements. The site is required to link up with the local footway network and permeability of the site is imperative. There is good potential for cycling with the entirety of Banbury being within a recognised reasonable cycling distance i.e. less than 5km. Some provision is made for cyclists, however cycle routes/lanes are not continuous and the busy town traffic may discourage some less experienced cyclists.

“With the peripheral location of the site frequent public transport services are required. Public transport requirements are covered in detail by this Council’s Transport Strategy and Planning report. Also pedestrian links to bus stops and other associated infrastructure will be necessary.

Appropriate travel planning is necessary to encourage use of sustainable transport modes and reduce car trip generation and associated impact.

#### Internal Layout

“The internal layout should prioritise movement of pedestrians, cyclists and provide appropriately for public transport and its users. The detailed design will, no doubt, follow an iterative process and should accord with the following recommendations. The layout should be designed in accordance with the guidance of Manual for Streets. The layout should be permeable and legible with ease of movement along desire lines. A master-plan including a hierarchy of street types is recommended.

“Appropriate provision must be made for parking, not only in terms of number but in terms of size, convenience and location. A mix of allocated and unallocated parking would provide greater efficiency; visitor parking must be provided and on-street parking may be incorporated. Parking areas as streets and footpaths should be overlooked and appropriately lit to ensure security and encourage use.

OCC guidance on parking provision has been adopted by the LPA and I suggest a reserved matters application accords with these standards. If garages are to be included, which are rarely used for parking, then I recommend any garage must have minima dimensions of 3m x 6m and should not be converted to any other use.

“Provision must be made for waste collection with appropriate turning heads for HGVs/refuse vehicles. Access for fire tenders must be in accordance with relevant building regulations. Areas for adoption must include a minimum service strip of 600mm, and doors, windows, etc must not open over any area to be adopted as public highway. SUDS must be incorporated throughout the development and associated highway.

#### Conditions & Obligations

“For any off-site works i.e. access, footway works, 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.

“Areas for adoption would be subject to a Section 38 agreement. The Advance Payments Code(APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontagers’ liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a ‘Private Road Agreement’ must be entered into with the County Council to protect the interests of prospective frontage owners.

### **3.19 School Organisation Officer:** No objections subject to condition/legal agreement

- The application is in outline. In the absence of a housing mix, our assessment of the impacts of the proposal and our required contributions are based on the housing mix within the Design and Access Statement of the planning application of:
  - 4 no. x One Bed Dwellings
  - 72 no. x Two Bed Dwellings
  - 117 no. x Three Bed Dwellings
  - 147 no. x Four Bed Dwellings
  - 60 no. x Extra Care Dwellings
- The proposed development is projected to generate a demand for 113 primary school places (age 4-10), 78 secondary school places (age 11-15) and 12 sixth form places (age 16-19).
- This development lies within the school planning area of Banbury, and within the current designated areas of William Morris Primary School and North Oxfordshire Academy (secondary school).
- Expansion of primary school capacity in the area would be necessary as a direct result of this housing development. This would be achieved through the

expansion of one or more primary schools as part of a strategic growth plan for Banbury.

- Expansion of capacity at existing secondary school(s) in the area would not be necessary as a direct result of this housing development.
- The development would be expected to result in an increased demand upon special educational needs (SEN) schools, and expansion of provision would be necessary as a direct result of this housing development.

#### Detailed comments

“For the school year 2012/13, William Morris had a capacity of 175, and 158 children on roll. There is one atypically small year group (currently Year 4) which accounts for 13 of the school's 17 unfilled places. Once this cohort leaves (July 2015) the school is expected to be broadly full (within the inevitable annual fluctuations of local population).

“Banbury primary schools have experienced rapid growth in demand for places in recent years, so that overall, although there are still spare places in the older year groups, the younger year groups are full. Current admission numbers across the partnership total 618, and for September 2012 Reception class there were 686 applications, with 680 places allocated. This was only possible because one school which has enough accommodation for 1.5fe, but which has been published at 1fe (i.e. PAN 30) while demand was lower, was able to take a bulge class (intake of 60), and will be able to take another in 2013. It does not have sufficient accommodation to take 60 every year, and we are now undertaking a feasibility study into permanent expansion. We have also agreed with other schools for them to take small amounts over their admission number – in some cases this is ahead of permanent increases in PAN, in others it will need to be a one-off unless additional accommodation is provided. There is, therefore, already a deficiency of Reception places, and given the current capacity of primary schools in Banbury of 4227 places, forecasted demand for school places shows an overall deficiency of places by 2015 unless schools expand. As well as the school referred to above, we are carrying out feasibility studies at two other primary schools to provide additional space partly to meet demand from the existing population and partly to respond to housing growth. All housing development in Banbury is therefore expected to contribute towards a strategic programme of primary school capacity expansion in the town.

“Banbury secondary schools currently have spare capacity, and with their current accommodation would be expected to continue to do so until after 2020 (although as they are all their own admissions authorities, they may choose to alter their capacities). At this stage, we do not think developer contributions towards secondary school capacity are justified, but the rising numbers now in primary schools, along with the significant housing growth proposed for Banbury, will mean that at some stage in the future secondary school capacity expansion will be required.

“1.02% of children across Oxfordshire are educated in SEN schools. On this basis, it is projected that the development will generate an additional 2 pupils requiring SEN provision, and expansion of SEN capacity would be needed as a direct result of the increased school-age population.”

**3.20 Infrastructure Services Manager:** No objections subject to conditions/legal agreement/informatives

Key issues:

“The County Council considers that the impacts of the development proposal (if permitted) will place additional strain on its existing community infrastructure.

“The application is in outline. In the absence of a housing mix, our assessment of the impacts of the proposal and our required contributions are based on the housing mix within the Design and Access Statement of the planning application of:

- 4 no. x One Bed Dwellings
- 72 no. x Two Bed Dwellings
- 117 no. x Three Bed Dwellings
- 147 no. x Four Bed Dwellings
- 60 no. x Extra Care Dwellings

“It is calculated that this development would generate a net increase of:

- **998 additional residents including:**
- 70 residents aged 13-19
- 710 residents aged 20+
- 139 resident/s aged 65+

Legal Agreement required to secure:

Library:	£84,830
Waste Management:	£63,872
Museum Resource Centre:	£4,990
Integrated Youth Support Service:	£13,883
Adult Learning	£11,360
Adult Care:	£152,900
<b>Total*:</b>	<b>£331,835</b>

\*Total to be Index-linked from 1st Quarter 2012 Using PUBSEC Tender Price Index

Administration and Monitoring      £8,510

**General**

The contributions requested have been calculated where possible using details of the development mix from the application submitted or if no details are available then the County Council has used the best information available. Should the application be amended or the development mixed changed at a later date, the Council reserves the right to seek a higher contribution according to the nature of the amendment.

The contributions which are being sought are necessary to protect the existing levels of infrastructure for local residents. They are relevant to planning the incorporation of this major development within the local community, if it is



implemented. They are directly related to this proposed development and to the scale and kind of the proposal.

**3.21 Rights of Way Officer:** No objections subject to condition

- “The development will affect existing rights of way and „desire line“ walked paths in the proximity of the site due to the amount and frequency of increased use
- “The development should provide the means to improve these rights of way to make them safer, and more convenient for year round commuting and recreational use
- “The size of the development will urbanise this area and so the paths need to remain as green corridors but also made safe and fully integrated with the development
- “The area suffers from vandalism and this needs to be taken account of in the design of the area and the access measures “

**3.22 Drainage Officer:** No objections subject to condition

- “The application is outline only and therefore no specific drainage has been designed.
- “The flood risk assessment is generic regarding the drainage strategy and it contains the kind of information expected for an outline application. “

**3.23 Archaeology Officer:** No objections subject to condition

“The site is located in an area of archaeological potential as highlighted by the applicant’s Desk Based Assessment. The site of a possible Roman Villa has been identified 320m west of the application site after a number of Roman coins, a possible mosaic and a bath were found in the C19th (PRN 2347). The site of a Roman farmstead has also been recorded from pottery finds from field-walking 800m to the south of this site, 600m west of the application area (PRN 15894). The area itself has seen little formal archaeological investigation although a number of archaeological sites of all periods have been recorded in the general Banbury area and so the site has the potential to contain previously unrecorded archaeological features and deposits. A programme of archaeological investigation will be required for this site ahead of any detailed application for the development.”

**3.24 Minerals and Waste Officer:** Comments as follows:

“The application site is underlain by ironstone and is within a mineral consultation area covering a larger outcrop of ironstone between the western edge of the built-up area of Banbury and the valley of the Sor Brook.

“Under policy SD10 of the Minerals and Waste Local Plan and policy M6 of the submitted Minerals and Waste Core Strategy, mineral resources are to be safeguarded for the future and development which would sterilise them should not be permitted unless it can be shown that the need for the development outweighs the economic and sustainability considerations relating to the mineral.

“The presence of mineral deposits within the site and planning policy on safeguarding of minerals are not addressed in the application.

“In view of the proximity of residential development within the existing built-up area of Banbury to the ironstone within this site, I consider it unlikely that these mineral deposits could be worked in an environmentally acceptable manner. In addition, the extent of buffer distance that would be required to protect the amenity of existing residents would significantly reduce the potentially workable area of this ironstone outcrop.

“In the light of this, the County Council has not objected to the inclusion of Land at Bretch Hill (covering the application site) in the emerging new Cherwell Local Plan.

“Therefore, I have no objection to this proposed development on minerals planning policy grounds.

“I have no waste planning policy comments on the application.”

**3.25 Environment, Energy and Travel Strategy Manager:** Comments as follows

Key Issues:

- “Applicant proposes to build to Level 3 of the code for Sustainable Homes. CDC Local plan requires level 4.
- Renewable energy proposals very weak.”

**3.26 Ecology Officer:** Comments as follows:

“This application does not raise any major ecological issues. I support the comments made by the District Council’s Ecologist, who has suggested suitably worded conditions.

“I agree with the recommendations made by the District Council’s Ecologist on the need for the design of the scheme to retain the aspects of greatest biodiversity on the site and to incorporate biodiversity enhancements.

“In addition to appropriate mitigation and compensation, the development should result in a net enhancement in biodiversity. The development should include green infrastructure to retain a mosaic of habitats and linear features to ensure that structural diversity and habitat connectivity throughout the site is maintained. A sensitive directional lighting scheme should be implemented to ensure that additional lighting does not impact on the retained green corridors across the site.

“Biodiversity enhancements such as hedgerow and tree planting, creation of ponds, creation of habitat for bats in buildings and bird boxes, creation of hibernacula for reptiles and amphibians, log piles for invertebrates, hedgehog domes and creation of wildflower grasslands should be included in the development design in line with planning policy and guidance and the NERC Act, which places a duty on local authorities to enhance biodiversity. Provision should be made for the long term management of these areas.

“If the SUDS includes above-ground water storage (e.g. ponds or swales) these should be designed to maximise their biodiversity value, for example by the incorporation of wetland areas and native planting.”

## **Other Consultees**

### **3.27 Thames Valley Police (Traffic Management):** Comments as follows:

“I am a Traffic Management Officer for Thames Valley Police and the following comments are made on behalf of the police in terms of traffic management and road safety only. Other views from other parts of Thames Valley Police may be received. The access roads to the site come off others with speed restrictions of 20mph. It is to be accepted, then, that the speed limits on roads in the new development will also be 20mph. Department for Transport Circular 1/13 paragraph 85 states that "Successful 20 mph zones and 20 mph speed limits are generally self-enforcing, i.e. the existing conditions of the road together with measures such as traffic calming or signing, publicity and information as part of the scheme, lead to a mean traffic speed compliant with the speed limit. To achieve compliance there should be no expectation on the police to provide additional enforcement beyond their routine activity, unless this has been explicitly agreed." There is nothing stated in the transport plan regarding the speed limit or how the self-enforcing expectation is to be achieved. The design drawing for the new roundabout at the junction of Brecht Hill and Stratford Road shows the removal of the first set of chicanes that provide the traffic calming for the 20mph speed limit. As a result of this, speeds along the first section of Brecht Hill will inevitably rise. I saw no evidence of alternative measures to mitigate this. If the self-enforcing nature of the road is to be compromised then the speed limit itself should be reconsidered for this stretch of road. Section 3.3 of the transport plan states “The internal layout will be designed to discourage through traffic between the two site access points, with the secondary access designed to accommodate traffic from only the southernmost development parcels within the site.” There is no further explanation of how this will be achieved. The masterplan drawing in the transport report does not show any evidence of physical features to discourage rat-running. The introduction of the lights-controlled crossing on Stratford Road is welcomed, but should be implemented in such a way that it does not lead to traffic backing up onto the A422/B4100 junction. I would ask that when the planning decision is considered that these concerns are taken into account and the developer is required to give further explanation or develop solutions.”

### **3.28 Thames Valley Police (Property Services):** Comments as follows:

“I have now had an opportunity to carefully examine the proposals having regard to the implications of the development upon the infrastructure requirements of TVP and the impact the scheme will have upon the day to day policing of the area. TVP acknowledge and welcome the applicant’s acceptance that (*sic*)

“TVP has undertaken an assessment of the implications of growth and the delivery of housing upon the policing of Cherwell District and 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.

“TVP have been aware of the likely submission of a planning application on this allocated site for some time. In assessing the impact of the development upon policing TVP has made submissions as part of Cherwell DC’s Infrastructure Delivery Plan/CIL process requesting the provision of an on site office as part of the development thus enabling TVP to have a visible on site presence. You may be aware that the provision of this facility has been acknowledged by CDC in the emerging CIL documents and the latest version of their “Proposed Submission Local Plan”. I note that the applicant’s agents in their ES acknowledge that this emerging document should be;

*“afforded greatest weight in preparing and assessing the development proposals” Para 5.3.7*

“Having examined the proposals it does not appear that provision has been made within the development for the Police Office.

“TVP would request that should the application be approved then provision be made within the development, and secured in the S106 for such a police facility. In summary the facility would be modestly sized and enable TVP officers to utilise the space as a touch down office and facility that would enable them to meet with members of the public and thus provide a prominent community facility for the new population.

“TVP require the new facility to be provided by the developer at no cost to TVP and fitted out to an appropriate specification agreed with TVP.

“Turning to the specific tests set out in Regulation 122.

### **1. Necessary to make the proposed development acceptable in planning terms**

“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 fundamental to planning for sustainable development as confirmed in the NPPF.

“There is no dedicated Government funding to comprehensively cover the capital costs associated with policing associated new development. Unless contributions from developments are secured then TVP would be unable to maintain the current levels of policing with resources diverted and stretched, inevitably leading to increased incidents of crime and disorder within the local area.

“Developer contributions are therefore necessary to ensure development is in line with the wider objectives of sustainable development as set out in national and local planning policy.

### **2. Directly related to the proposed development**

“There is a functional link between the new development and the contributions requested. Put simply without the development taking place and the subsequent population growth there would be no requirement for the additional infrastructure. The additional population growth will lead to an increase in incidents, which will require a Police response.

“The infrastructure identified above has been specifically identified as infrastructure required to deal with the likely form, scale and intensity of incidents that the development will generate.

### **3. Fairly and reasonably related in scale and kind to the proposed development.**

“The proposed developer contribution is proposed to help achieve a proportionate increase in police infrastructure to enable TVP to maintain its current level of service in the area. As stated the contribution would assist in the provision of necessary infrastructure which have been identified by the Local Area Commander as necessary to provide an appropriate level of policing to serve the proposed development and maintain an appropriate level of community safety.

“The Council’s own document; *Cherwell Sustainable Community Strategy – Our District, Our Future* identifies as a key objective the need to reduce the number of people who fear crime and feel unsafe in their community, the strategy goes on to promote the tackling of incidences anti-social behaviour and building confidence in the police and local authority.

“Furthermore the emerging Cherwell Local Plan identifies the need to reduce anti-social behaviour in Banbury as a key objective (C.119).

“I trust this sets out sufficiently TVP’s request for infrastructure contributions to mitigate against the impact of the development.

“For clarification this response is solely linked to the impact of the development upon TVP’s infrastructure requirements. You may receive a separate response from TVP’s Crime Prevention Design Advisors relating to the prevention and reduction of crime through environmental design.”

### **Following further discussions with the TVP Property Services Officer, his comments were revised and now read:**

“Further to our discussion the other day I have now considered the matter of the on-site facility at Bretch Hill and discussed the matter in length with the Area Commander for Cherwell (Colin Paine). On reflection we feel that the more appropriate infrastructure to mitigate against the impact of the development would be the following items;

#### **ANPR – £ 11,000**

“Automatic Number Plate Recognition (ANPR) Cameras and CCTV are an increasingly important tool in the prevention and detection of crime, in particular serious offences such as burglary, drug offences and physical and sexual assaults. Given the location of and connectivity of Banbury it is particularly

susceptible to transient criminals. The development will sadly act as a further draw for criminals focussing on burglary, car theft (of and from) and the theft of materials. Another specific challenge facing TVP at present is theft from building sites, sadly a development site of this scale will result in a number of incidents of the theft of building materials, plant and machinery and domestic features within homes under construction (kitchens, bathrooms etc).

**Bicycles x 2 (including necessary kit) - £1,600**

“The provision of two dedicated bicycles will assist in enabling PCSO’s and PC’s to access the site and surrounding area and also provide a visible presence. Bicycles are viewed as a sustainable means of transport and neighbourhood officers (i.e. those that patrol a specific area) are encouraged to utilise bicycles where appropriate.

**Patrol Car – £21,150**

“The contribution represents a pooled contribution towards the provision of a new marked patrol vehicle to serve the site and surrounding area. The pooling of contributions towards infrastructure remains appropriate under the terms of the CIL Regs, up until the relevant Local Authority has adopted CIL, whereby pooling will be limited to 5 S106 Agreements (subject to other regulatory tests).

“The proportional capital cost of the provision of a patrol car equates to £21,150, this incorporates purchase price, IT fit out and a five year lifespan. The cost does not include day to day running costs of petrol or routine maintenance.

**Total £33,750**

“The broad justification for the items remains as per my original correspondence and as set out above.”

**3.29 Crime Prevention Design Advisor: Comments as follows:**

“I do not wish to object to the proposals at this time. In fact, I commend the applicants for providing within their Design and Access Statement (DAS) a specific section on Community Safety, which provides information on how the Masterplan responds to crime and anti social behaviour (ASB) issues. I hope to discuss the contents of this section with them in the near future so that any reserved matters application can also reflect the indications given and, hopefully improve upon them. In the meantime, I still have some concerns and feel that 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 the following (or a similarly worded) condition be placed upon any approval for this outline application;

*No development shall commence until details of the measures to be incorporated into the development to demonstrate how ‘Secured by Design (SBD)’ accreditation will be achieved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall not be occupied or used until the Council has acknowledged in writing that it has received written confirmation of SBD accreditation.*

“SBD is an Association of Chief Police Officers (ACPO) initiative which has a proven track record in assisting with the creation of safer places by providing guidance on Crime Prevention Through Environmental Design (CPTED), and by providing a minimum set of standards on physical security measures. Details can be found at [www.securedbydesign.com](http://www.securedbydesign.com) and further advice can be obtained by contacting Thames Valley Police’s Crime Prevention Design Team.

“I feel that attachment of this 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 ultimately achieving SBD accreditation, I make the following observations:

- Again, I commend the applicants for inclusion of how they feel the Masterplan addresses community safety within the submitted documents. I was pleased to see references made to the planning guidance quoted above and, in particular, to SBD’s guidance. However, there is no firm commitment that the principles and standards of the latter will be adopted within the proposals. I suggest that they provide this commitment within any reserved matters application documentation by stating that they aim to achieve SBD accreditation for the development. The requested condition would ensure that this is the case regardless.
- The Parking section in the DAS states that parking courts will form part of the provision and that all parking will be in line with English Partnerships’ guidance *‘Car Parking-what works where’*. Parking courts can be problematic and increase opportunities for crime and anti social behaviour. Therefore, they should be avoided wherever possible. The quoted guidance states; *‘Do not park in the back of the block until on street and frontage parking permutations have been exhausted. Use of the mews or rear court should support on street provision, not replace it.’* It goes on to say; *‘Don’t forget Secured by Design principles.’* The latter states that these features may only be acceptable depending their size, location, design and security features (which will require careful consideration). If parking courts are deemed necessary and SBD principles are not employed in their design, objections may be raised by TVP at reserved matters stage.
- *‘On or off plot drive-through courts’* are also mentioned as part of the parking regime. Although a subject for the reserved matters application, it is worth

mentioning here that these features should be overlooked by adjacent active rooms (kitchen/living/dining rooms etc.) by the provision of windows wherever possible. And, they should have appropriate lighting controlled by photo electric cell with override switch for residents use. These measures will enhance surveillance of the high value goods kept in areas that are generally hidden from view.

- Careful locating, design and equipment provision relating to the proposed play areas will be needed to reduce opportunities for criminal activity and anti social behaviour. I am presently uncomfortable that all of said features appear to have been placed on the periphery of the development. They should be included within it where possible and appropriate.
- By the same token, careful design following SBD guidance will be needed in relation to the proposed segregated pedestrian routes, particularly in relation to adjacent landscaping and to lighting them where appropriate.
- Finally, I have concerns that appropriate defensible space may not be provided to the front/sides of some plots. It appears that selected houses in certain 'character areas' may have no set back from the public realm; i.e. in mews type streets. A sense of ownership is extremely important to residents. This must be catered for and defensible space provided for every dwelling, regardless of which 'character' area it is in.

"I suggest that the applicants contact me to discuss the above at their earliest convenience.

"These comments are made on behalf of Thames Valley Police and relate to CPTED only. You may receive additional comments from TVP with regard to the impact of the development upon policing and a request for the provision of infrastructure to mitigate against this impact."

### 3.30 **English Heritage:** Comments as follows:

#### Summary

This major housing development would, in its current form, have a major impact on the setting of the Grade II\* Drayton Arch and the Grade II\* registered landscape of Wroxton Abbey. It would be possible to mitigate the harm entailed through improved landscaping and it is recommended that the application is refused unless the proposed houses are better screened in views of the arch from the east by tree planting.

#### English Heritage Advice

"Drayton Arch is a Gothic eyecatcher on a ridge at the edge of the park designed by Sanderson Miller and dating from c.1750. The arch is of particular architectural significance as an early example of a gothic style building by an important gentleman amateur architect whose work characterises the romantic and light hearted way in which gothic architecture was used in the mid 18th century. As an eyecatcher it was intended to form the focal point in views of the landscape from the high ground around the Obelisk (which is contemporary with the arch and also listed grade II\*). When built these would have been an idealised rural landscape, of grassland interspersed by trees planted either singly



or in clumps. The significance of this building is closely bound up with its parkland setting, it was intended to be viewed as part of a carefully designed landscape and its architectural qualities can only be properly appreciated as part of that landscape.

“The qualities of the landscape have been eroded. Grassland has been replaced by arable fields and many of the single trees have been lost. The screen of planting behind the Drayton Arch is also shown as extending further to the north and south on the earliest detailed map that we are aware of (the 25” OS map of Oxfordshire 1887). Houses on Edinburgh Way are also visible to the north of the screen. Despite the changes the basic structure of the landscape, that of open land interspersed by clumps of trees, remains and the arch retains the romantic rural setting and prominent role in the landscape which are essential to appreciating its architectural qualities. We therefore strongly disagree with the view expressed in the Environmental Statement and Heritage Asset Analysis that “essentially, the RPG no longer exists as parkland in any form” (ES para. 7.5.12 & HAA para. 3.2.32).

“The proposed housing development would seriously harm the setting of the arch, which, as outlined above, is key to its significance as it will no longer appear in a romantic rural landscape but be flanked on both sides by houses. While it is already possible to see some houses to the north of the tree screen the proposed houses will be much closer and play a much more prominent role in views. Houses will also be visible to the south of the screen for the first time. Visualisation D, which is appended to the Landscape and Visual Assessment makes it abundantly clear that the proposed new development would have a serious impact on the setting of both park and listed building. We consider that assertion in the Environmental Statement that the harm to the setting of the listed building and park is minor (paras. 7.5.11-12) greatly underestimates the impact on both.

“We are also concerned that the tree screen behind the arch is relatively narrow and largely made up of deciduous trees. It is unclear how effective this screen will be in winter but the setting of the arch (and therefore its significance) would be substantially harmed if any houses were visible directly behind. No information has been provided with regards to the appearance of the screen in winter and this needs to be supplied in order to properly understand the impact of the proposed development on the setting of the Arch.

“We appreciate that this site is identified as a key site for development in the local plan.

“However, the current proposals fall along way short of achieving the aim of policy C.136 of this plan which states that:

*“It is important that the rural character of the bridleway is maintained and that open space and landscaping is used to protect the character, appearance and setting of the Drayton Conservation Area, the listed Drayton Arch, the registered Wroxton Abbey Historic Park and Garden and the listed Withycombe Farmhouse to the south.”*

“The impact of the proposed development could be mitigated with sensitive landscaping, either by thickening the planting on the western boundary of the site

itself and/or by extending the tree screen behind the arch to something approaching its former limits. The land on which the latter stands is of course outside the ownership of the developers but it is surely possible to come to some sort of agreement with the land owner. It may be possible to completely shield the development from key views of the arch once a well designed planting scheme has matured.

#### Recommendation

“Given that measures to mitigate the impact of the development on the setting of the listed building and registered park have not been taken we do not consider due weight would be given to the desirability of sustaining and enhancing the significance of heritage assets or an appropriate balance struck between harm to significance and public benefit, as required by paras. 131 and 134 of the NPPF, if planning permission were granted.

“We would recommend that the landscaping proposals are amended to ensure that the proposed new development is adequately screened in views of the arch from the east.

“If the applicant is unwilling to do this we recommend that the application is refused.”

**Updated position** – following the receipt of the revised landscaping scheme English Heritage comment as follows:

“The revised landscaping plan certainly is an improvement. Whether it is sufficient to hide the new development completely in views of the arch from the obelisk is unclear as the screen is not continuous and its unclear how big the trees would be. A visualisation showing this view with trees in place would be helpful to determine this. We would be content for further information to be provided and negotiation of the details of the landscaping to be dealt with as part of reserved matters provided that we had an opportunity to be consulted on these issues.”

#### 3.31 **Banbury Civic Society:** Comments as follows:

“As you may be aware, this Society has supported the allocation of this site in preference to some others through the LDF / Core Strategy consultation, as we believe that it offers the potential to have a positive regenerating effect on the Bretch Hill area. It was always a sensitive site owing to its proximity to the Grade II\* Wroxton Abbey Registered Park and the Grade II\* Drayton Arch, a skyline eye-catcher on the edge of the Registered land. We nevertheless believed that, subject to two- and two-and-a-half storey development similar to that on Bretch Hill, local screening and locally positioning development well back from the scarp, impacts on key designed views within the Registered area could be avoided. Regarding grading criteria for Parks and Gardens, the English Heritage website notes: The grading criteria are as follows: Grade I sites are of exceptional interest Grade II\* sites are particularly important, of more than special interest Grade II sites are of special interest, warranting every effort to preserve them The majority of the sites identified on the Register are awarded a Grade II status. Around 27% of the 1,600 sites are awarded a Grade II\* status, and a further 9% are classified as Grade I. We are unfortunately profoundly disappointed by this application for outline consent. Whilst we recognise that this

is in Outline only, there is very little about the application that is in any way smart about how it responds to the site's environmental constraints. This is particularly the case with regard to the Wroxton Abbey Registered Park and the Grade II\* Drayton Arch. Consent to develop up to four storeys in height is sought within the parameters. The parameters also seek for this to be set back uniformly from the western site boundary, without reference to local screening, the location of the scarp edge or historic and extant designed views within the Registered area. There is not even any attempt to ascertain where the designed views are, or what the effects on them are. Instead the applicant has simply chosen to rubbish the folly and the park: "3.2.31. The setting of the RPG partially lies in its historic origins, where it would be experienced as part of the grounds of Wroxton House. However, this has largely been destroyed through the implementation of agriculture across much of the land. Physical elements such as thickets of trees, ponds and follies remain, but these are not seen in their original context. 3.5.26. Essentially, the RPG does not exist as parkland in any form, and the designation largely demarcates an area historically used as a pleasure park, but essentially only forms a curtilage boundary on largely agricultural land indicating the extent of the pleasure park. It is not experienced as a pleasure park, but as a series of crop fields and small thickets of trees. 3.5.27. It is thus not considered that the development of the Site can physically, visually or aesthetically impact on what is essentially an ephemeral designation of a boundary. Furthermore, there is negligible potential for impact on the remaining features of the Registered Park and Garden, as no development is proposed within the boundaries of the designated heritage asset, and thus these elements such as thickets and ponds will not be affected." This hardly seems consistent with English Heritage's assessment of a park which is viewed by English Heritage as being 'particularly important (and) of more than special interest'. The effect on the folly is dismissed because the arch is viewed as having no surviving setting of any significance. I note that English Heritage were not consulted during the preparation of the heritage assessment. Not only is the attempt to denigrate the park as being unworthy of its designation insulting to the professionalism of English Heritage who judged all of the registered area to meet the very strict criteria for designation at Grade II\* when they added the Park to the Register, it is insulting to Fairleigh Dickinson University who own its idyllic core, and it is insulting to the wider community, who have spent significant sums on the restoration of the park and its monuments since the park was added to the Register. The assessment fails to understand that the park includes, and has always included, a belt farmland around its inner core. It fails to understand that the Obelisk and the Drayton Arch have always been located in this farmland belt, acting as distant eye-catchers to be seen framed in designed views from within the inner park and from the historic approaches to the house. The failure of the assessment to even pay lip service to such very basic aspects of English historic landscape design unfortunately throws all the assessment's other conclusions regarding other heritage assets into doubt. That this is the case with the heritage assessment, throws into doubt the other studies submitted in support of the application. Given this doubt, we would expect that this application cannot be determined on the basis of the information submitted. We would also note that this application is a notifiable application under the provisions of Circular 01/2001 Failure to consult with English Heritage would render an approval unlawful and potentially open to legal challenge."

3.32 **Environment Agency:** No objection subject to condition but makes the following observations:

“The Flood Risk Assessment identifies the need for a future upgrade of the surface water drainage network if development discharge were to be directed to the adopted (Thames Water) surface water sewer network.

“Although we are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further assessment and where necessary mitigation measures, to ensure that where surface water is discharged to the adopted surface water network sufficient capacity is available within the system.”

### 3.33 **Thames Water:** Comments as follows:

#### **Waste Comments**

“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 Planning Authority look to approve the application, Thames Water would like the following 'Grampian Style' condition imposed. “Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed”. Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community. Should the Local Planning Authority consider the above recommendation is inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Control Department (telephone 0203 577 9998) prior to the Planning Application approval.

“Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

“Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water’s Risk Management Team by telephoning 020 8507 4890 or by emailing [wwriskmanagement@thameswater.co.uk](mailto:wwriskmanagement@thameswater.co.uk). Application forms should be completed on line via [www.thameswater.co.uk/wastewaterquality](http://www.thameswater.co.uk/wastewaterquality). Any discharge made without a

permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.”

#### **Water Comments**

“The existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. Thames Water therefore recommend the following condition be imposed: Development should not be commenced until: Impact studies of the existing water supply infrastructure have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the/this additional demand.”

#### **Supplementary Comments**

“The developer is encouraged to contact Thames Water Developer Services department at the earliest opportunity to progress an impact study.”

#### **3.34 Sport England:** Comments as follows:

“The site is not considered to form part of, or constitute a playing field as defined The Town and Country Planning (Development Management Procedure) (England) Order 2010 (Statutory Instrument 2010 No.2184), therefore Sport England has considered this a non-statutory consultation.

“It is understood that the application proposes outline permission for up to 400 residential dwellings, employment premises, open space and associated infrastructure.

“Sport England has assessed the application against its adopted planning policy objectives. The focus of these objectives is that a planned approach to the provision of facilities and opportunities for sport is necessary in order to meet the needs of local communities. The occupiers of any new development, especially residential, will generate demand for sporting provision. The existing provision within an area may not be able to accommodate this increased demand without exacerbating existing and/or predicted future deficiencies. Therefore, Sport England considers that new developments should be required to contribute towards meeting the demand they generate through the provision of on-site facilities and/or providing additional capacity off-site. The level and nature of any provision should be informed by a robust evidence base such as an up to date Sports Facility Strategy, Playing Pitch Strategy or other relevant needs assessment.

“This requirement is supported by the Governments National Planning policy Framework which states:

*Within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision taking. (Principle 12 is) that planning should:*

- *take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs.*

*To deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:*

- *plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
- *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services. (Paragraph 70)*

“The population of the proposed development is 920 (assuming occupancy of 2.3 persons per dwelling). This additional population will generate additional demand for sports facilities. If this demand is not adequately met then it may place additional pressure on existing sports facilities, thereby creating deficiencies in facility provision. In accordance with Circular 05/05, Sport England seeks to ensure that the development meets any new sports facility needs arising as a result of a development.”

“There is no information within the documents provided regarding a contribution towards sporting provision. Provision should usually be made on site in accordance with the minimum standards of provision set out in Table 8 ‘Local Standards of Provision – Outdoor Recreation’ attached to Policy BSC11 of the Proposed Submission Local Plan. The Council’s Playing Pitch Strategy indicated there is a shortage of sports pitches in Banbury and new development could exacerbate this shortage if new pitches are not provided with new development.”

“Contributions/facilities for indoor sport should be provided in accordance with Policy BSC12: Indoor Sport, Recreation and Community Facilities of the Proposed Submission Local Plan. Sport England requests further details of the contribution that will be made to support this development. You may be aware that Sport England’s Sport Facilities Calculator (SFC) can help to provide an indication of the likely demand that will be generated by a development for certain facility types....

“Sport England would expect the applicant to provide these minimum contributions as well as an appropriate contribution towards playing field. Should these contributions not be forthcoming, Sport England would be unable to support this application.

“In the light of the above, Sport England objects to this application.”

### **3.35 Oxfordshire Playing Field Association:** Comments as follows:

“Oxfordshire Playing Fields Association notes that the plans for the new development denote 2 possible areas for formal recreation. If the development proceeds we would endorse that it is important that these are set aside as play

areas, particularly for younger children who may not be able to access Trinity Park independently. OPFA would be happy to give any help or advice in the kind of play equipment that should be included there.”

3.36 **BOB-MK Design Review:** On the 1<sup>st</sup> May 2013, the proposed scheme was the subject of a design review undertaken by BOB-MK. The panel was made up of five independent design experts who undertook an inspection of the site prior to discussing the proposal with representatives of the developer and Council Officers. The panels findings are set out below:

“The panel view the proposal as generally well-mannered with back to backs and front to fronts. However, an allocation of land in a local plan implicitly makes at least half the urban design decisions that will be taken within the site boundary: the potential (or not) for movement links (and thus the potential for mixed-uses or a mix of residential typologies); the relationship between built-form and topography; other landscape structure, to note three or four of the most important. On this site, there is also the issue of whether the southern boundary is an edge or a future ‘seam’.

“There is a risk that local plan allocations create a series of ‘pods’ [or another layer on the onion] without ever creating a piece of town.

“The report below highlights suggested improvements, within four key areas, from the panel.

#### **Density and Morphology**

“The proposal site to the western edge of Bretch Hill and Banbury as a whole is currently envisaged, by Cherwell District Council, as the final phase of development in this direction. The shape and size of the proposed site, however, lends itself to being developed further to the south and perhaps even the west. If this scheme truly is the last phase of development to the west then it has been suggested by the panel that the site should be tapered into the eastern side of the site in order to physically discourage further development. The southernmost hedgerows, which are currently truncating the site, do not need to act as such a constraint on the shape as in reality; they are not as dominant as they seem on the plans. However, if further growth to Banbury is required in the future, the panel think that the boundary to the western edge needs to be more flexible in order to accommodate this possibility. Further integration with the western landscape through green infrastructure e.g significant blocks of woodland, and key building proposals being extended to the western edge, limited to carefully framed views, rather than just relating to the spine road.

#### **Architectural Design**

“There is a concern throughout the panel that the proposed architectural style does not reflect or integrate well with the existing form of Bretch Hill. The existing houses in the estate have a definite style and structure i.e. rows of two, four or six two storey terraces with uniform roof heights and slopes. The proposed standard house types are 2.5 storeys high, including the roof space. This could be too high and bulky in relation to Bretch Hill as the topography of the application site is higher and therefore naturally more prominent. The proposed roofs should step with the natural slope of the site. The positive characteristics already present in Bretch Hill could inform a transitional architecture for the eastern edge of the development with vernacular characteristics predominant on

the western edge. The vernacular characteristics of stone walls, roofs with chimneys, clay tiles and slates and the potential for large growing street trees could help integrate the development with the landscape.

“Landmark buildings in the street scape will help to create interest and character.

“Building lines could be stepped forward or back in cases where pinch points need to be created in order to reduce car speeds. The suggested landmark sites above could be handed over to custom builders and self-builders to achieve some genuine individuality.

“The properties are currently designed to code 3 sustainable homes; however this could be heightened to code 4 quite easily. If the blocks were to be orientated to the south, away from the conservation area, the roofs could accommodate PV solar panels or even passive, built-in, solar panels.

“The testing layouts in the Design and Access Statement show parking courts and inconvenient triple on plot parking arrangements (including a garage). The panel feel that parking courts should be avoided, except for flats, where they must be gated.

“Some on-street parking and front parking courts should be considered instead. If rear parking courts are necessary then they should provide residents only parking, visitors should be accommodated in the public realm to ensure privacy and security is maintained. All on street parking must be carefully designed into the layout.

“There is currently a risk of Bretch Hill becoming the main spine for transport and consequently turning the new development into an isolated ‘pod’ as there are not enough link roads into and out of the site. Additional link roads are required to ‘knit’ the sites together. The proposed access roads are located in front of houses, the panel think that this will have a negative impact on residents as it involves the loss of safe play areas, does not encourage socialising between neighbours and may not create the same sense of a safe community.

“The northern access roundabout appears to be too large to reduce the speed of cars, it has been suggested that a change of road surface over the whole junction rather than just the roundabout may be more effective in reducing speeds as the character of the road will change. The panel also think that the implementation of cycle routes throughout Bretch Hill and the proposed development into Banbury town would be a positive move as there is currently no defined space or short cuts for cyclists. A cycle route to the school should also be considered. It is also important for there to be physical improvements in Bretch Hill to help integrate the two communities. One way of doing this would be to extend some of the landscape structure e.g. street trees into Bretch Hill.

### **Landscape**

“The use of linear green spaces has been questioned by the panel; maintaining the sustainable blocks of woodland which already exist as well as linear hedges would give the site definite character and interest. Larger trees should be used on the streetscapes and small investments into planting throughout the site as well as beyond its boundaries would brighten up the community and give the existing residents of Bretch Hill something back from this development.



### **Neighbourhood Structure and Integration**

“The existing row of convenience stores and Sunshine Community Centre in Bretch Hill are to remain as the community hubs for both sites in order not to segregate the two communities. This is understandable but the panel have suggested that the physical community centres do not need to be the only connection between the sites. For example, the proposed allotments and the café could be linked to one another considering the current steer towards healthy eating. The utilisation of locally grown fruit and vegetables in the café would be a cost effective and natural integration of the communities. Joint management of facilities between the two communities will also facilitate integration.

### **Conclusion**

“The panel generally view this proposal as positive but feel that more needs to be done to ensure successful integration with the existing Bretch Hill estate, both physically and aesthetically.”

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

### **4.1 Development Plan Policy**

Adopted Cherwell Local Plan (Saved Policies)

- H4: Housing schemes for the elderly and disabled
- H5: Affordable housing
- H18: New dwellings in the countryside
- EMP1: Allocation of sites for employment generating development
- C1: Protection of sites for nature conservation value
- C2: Development affecting protected species
- C4: Creation of new habitats
- C7: Landscape conservation
- C10: Historic landscapes, parks and gardens and historic battlefields
- 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
- C27: Development in villages to respect historic settlement pattern
- 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

### **4.2 Other Material Policy and Guidance**

National Planning Policy Framework

Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

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  
TR3: Transport Assessments and Travel Plans  
TR4: Transport mitigation measures  
TR5 Road safety  
EN1: Impact on natural and built environment  
EN2: Environmental replacement  
EN3/EN4: Pollution control  
EN5: Air quality  
EN6: Light pollution  
EN7: Noise  
EN11: Water resources  
EN12: Water quality  
EN15: Surface water run-off and source control  
EN22: Nature conservation and mitigation  
EN23: Ecological surveys  
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  
EN35: Retain woodlands, trees, hedges, ponds, walls and other features important to the local landscape  
EN36: Landscape enhancement  
EN37: Trees, hedges and landscaping  
EN39 Conservation areas and listed buildings: general principles  
EN40: Conservation areas: preservation and enhancement  
EN44: Setting of listed buildings  
EN47: Archaeology and the build heritage  
EN48: Historic landscapes: parks, gardens and battlefields  
D1: Urban design objectives  
D3: Local distinctiveness  
D4: The quality of architecture  
D5: The design of the public realm  
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  
R11: Community facilities

## OA1: General Infrastructure policy

### Cherwell Local Plan - Proposed Submission Local Plan Incorporating Proposed Changes (March 2013) (PSLP)

The Proposed Submission Local Plan Incorporating Proposed Changes (March 2013) has just completed a second round of public consultation. 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 policy:

#### **Sustainable Communities**

- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC3: Affordable housing
- BSC4: Housing mix
- BSC7: Meeting education need
- BSC8: Securing health and wellbeing
- 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 3: West of Bretch Hill

#### **Infrastructure Delivery**

- INF1: Infrastructure

Policy Banbury 3, incorporating the changes set out in the Proposed Submission Focussed Consultation (March 2013) is set out in full below:

### **Policy Banbury 3: West of Bretch Hill**

**Development Area:** Approx 26.5 hectares

**Development Description:** Land west of Bretch Hill will be developed with approximately 400 homes to provide an integrated extension to the Bretch Hill area, to provide a mix of housing together with physical and social infrastructure.

#### **Housing**

- Land area: approximately 14 ha (net)
- Number of homes: Approximately 400
- Dwelling mix - to be informed by Policy BSC4: Housing Mix
- Affordable Housing – 30%
- The provision of extra care housing and the opportunity for community self build affordable housing

#### **Employment\***

- Inclusion of some small scale enterprise space

\*This employment requirement was inadvertently deleted in the Proposed Submission Focussed Consultation (March 2013)

#### **Infrastructure Needs**

- Education – contributions will be required towards the expansion of existing primary schools.
- Contributions may also be sought towards provision of additional secondary school places.
- Health – improvements to existing surgery/on site provision
- Open Space – to include general greenspace, play space, allotments and outdoor sports provision as outlined in 'Policy BSC 11: Local Standards of Provision - Outdoor Recreation'
- Access and Movement - A transport assessment and travel plan will be required to assess the transportation implications of the proposed development and identify mitigation measures. The existing Bretch Hill bus service may need amending/improving to serve the site. Vehicular access to the site should be provided from the existing development to the east of the site depending on the movement strategy of the Banbury Masterplan.
- Community facilities – contributions will be required towards the improvement of existing community facilities in the area. This will include a contribution towards improvement of indoor sports provision at Woodgreen.
- Police - Thames Valley Police will require an on site drop in facility
- Utilities – off site improvements to the water supply and sewerage network may be required.

### **Key site specific design and place shaping principles**

- Proposals should comply with Policy ESD16
- Development must respect the landscape setting, particularly the major ridgeline to the west of the site and the undulating landscape to the south-west. A landscape and visual impact assessment will be required.
- Development must respect the historic environment, including listed buildings (Withycombe Farmhouse, Drayton Arch and Park Farm Barns), Drayton Conservation Area and Wroxton Abbey parkland
- Development must respect and enhance significant landscape features (e.g. hedgerows) which are or may be of ecological value; and where possible introduce new features to enhance, restore or create wildlife corridors. Ecological surveys should be used to identify wildlife corridors and features to be protected, including badger, bat and bird surveys. Overall, biodiversity should be preserved and enhanced
- Existing trees and hedgerows and the area of woodland in the north east corner of the site should be retained
- New planting will be required to take place at an early stage to ensure planting is established prior to development being completed
- A well designed and soft approach to the urban edge will be required, which relates development at the periphery to its sensitive landscape setting and affords good access to the countryside. The development should improve the appearance of Banbury's western edge within the landscape
- The development layout should enable a high degree of integration with the Bretch Hill area to the east and connectivity between new and existing communities, including the provision of footpaths and cycleways that link with existing networks
- New footpaths and cycleways should be provided that link to the existing networks, the wider urban area and community facilities with a legible hierarchy of routes to encourage sustainable modes of travel
- Good accessibility to public transport services should be provided for with effective footpaths and cycle routes to bus stops
- A transport assessment and Travel Plan to accompany development proposals
- Development should bring about wider community benefits for the Bretch Hill area
- Proposals should include provision of extra care housing and the opportunity for self-build affordable housing in conjunction with the Council's "Build!" programme
- The layout should maximise the potential for walkable neighbourhoods, with a legible hierarchy of routes. Existing public rights of way crossing the site should be preserved and enhanced
- A green buffer should be provided either side of the bridleway that marks the western boundary of the site, to safeguard the rural character of the bridleway marking the western boundary of the site and forming part of the Banbury Fringe Circular Walk which should be maintained and kept separate from the development

- Public open space should form a well connected network of green areas within the site suitable for formal and informal recreation and connected with wider strategic landscaping. This should protect the landscape setting and provide a green north/south linear park along the western portion of the site. Formal recreation would be best located at the northern end of the site
- Provision of Green Infrastructure links beyond the development site to the wider town and open countryside
- Careful consideration should be given to the relationship of the development with existing streets and houses to the east
- Careful consideration should be given to the relationship between the existing edge of Bretch Hill and the new development to ensure that the impact on existing residents is minimised
- Careful consideration should be given to building heights in relation to the landscape setting
- The provision of public art to enhance the quality of the place legibility and identity
- A surface water management framework should be prepared to maintain runoff rates to greenfield run off rates and volumes
- Sustainable drainage should be provided for, including the use of SuDS in accordance with 'Policy ESD 7: Sustainable Drainage Systems (SuDS)'. The Council's Strategic Flood Risk Assessment and a site specific flood risk assessment should include consideration of whether infiltration SuDS techniques are suitable or whether attenuation techniques would be appropriate, informed by a site geological investigation
- Demonstration of climate change mitigation and adaptation measures including exemplary demonstration of compliance with the requirements of policies ESD 1 - 5
- A detailed survey of the agricultural land quality identifying the best and most versatile agricultural land, and a soil management plan will be required.

Policy Banbury 3 is supported by the following text:

**C.135** Helping to create opportunity for all and positively renew and regenerate areas with challenging social conditions in parts of Banbury is important to the delivery of the objectives of the Local Plan. This strategic development to the west of Bretch Hill will positively contribute to improving opportunities in western Banbury by providing new housing and associated facilities and improvements to the built environment. It will also enhance the built environment and provide opportunities for contributions and linkages to long-term community based projects and schemes designed to specifically help community development.

**C.136** Accommodating development in this area has challenges due to the site comprising grades 1, 2 and 3a agricultural land and landscape sensitivity. The ridges and slopes and historic environment to the west of Banbury, and the rural character of, and important views from, the Banbury Fringe Circular Walk in this area will all warrant a very carefully designed development. The boundary of the site shown extends to Stratford Road to the north and the bridleway to the west. However, the

whole of this area will not be developed. It is important that the rural character of the bridleway is maintained and that open space and landscaping is used to protect the character, appearance and setting of the Drayton Conservation Area, the listed Drayton Arch, the registered Wroxton Abbey Historic Park and Garden and the listed Withycombe Farmhouse to the south. The relationship with the wider landscape will also need careful consideration. Whilst some impact will be inevitable, the wider growth of the town and potential community benefits are considered to be overriding justification for strategic development in this area.

## 5. Appraisal

### Context

5.1 This application relates to the land identified in Policy Banbury 3 (BAN3) of the Proposed Submission Local Plan Incorporating Proposed Changes (March 2013) (PSLP). The scheme, submitted by Bloor Homes, is to provide for up to 400 dwellings with access taken off Bretch Hill and Edinburgh Way. A key justification for the allocation of this site is to assist in the regeneration of Bretch Hill in conjunction with Cherwell's Brighter Futures programme, which targets resources at issues associated with low incomes, lack of employment take up and health issues. Aside from the stimulus of new housing, this proposal will provide new employment space and give local people the opportunity to get involved in a self build scheme. Funds will also be directed at improving community facilities. In addition, a large new park area on the site's western boundary would be created alongside the normal requirements for open space and play areas.

5.2 The key issues for consideration in this application are:

- Environmental Statement
- Planning Policy and Principle of Development
- Landscape Impact
- Indicative Design/Layout/Scale
- Housing Mix
- Transport Impact
- Flooding and Drainage
- Loss of Agricultural land
- Historic Environment
- Sustainable Urban Drainage Techniques
- Ecology
- Trees
- Footpaths
- Noise
- Developer Obligations
- Pre-application Community Consultation
- Other Matters

### Environment Statement

5.3 The application is accompanied by an Environmental Statement (ES). The ES covers the application site and contains information describing the project, outlining the main alternatives considered, aspects of the environment likely to be significantly affected by the development and measures to prevent or mitigate

any identified impacts. Where an ES has been submitted with an application the local planning authority (LPA) must have regard to it in determining the application and can only approve the application if they are satisfied that the ES provides adequate information.

- 5.4 The ES covers the following areas historic environment, landscape and visual, ecology, ground conditions, agricultural resources, water resources, population, economics, transport and accessibility, noise, air quality, arboriculture, construction and cumulative impacts.
- 5.5 The ES, within each chapter considers the impacts and the significance as well as the cumulative effects. It is not possible within this report to set out all of the impacts identified but below is a summary of the areas covered (the text is largely replicated from the ES Non Technical Summary). The full reports and technical notes can be viewed via the web site.
- 5.6 **Historic Environment** - The effects of the development upon the historic environment, built heritage and archaeology of the site have been considered. The application site itself does not include any heritage assets and so there would be no direct impacts. There is some potential for archaeology on the site; therefore the construction phase could disturb archaeology. However as there is no specific evidence to prove archaeology is a constraint, a site evaluation can be undertaken prior to work commencing.

The proposed development would result in visual effects to the immediate surrounding area, with minor impacts upon the setting of the listed Withycombe Farmhouse, Drayton Conservation area, Wroxton Park and locally listed buildings.

Mitigation is proposed in the form of sympathetic landscaping and softening of the western edge of the development with new planting.

These conclusions are considered to be acceptable as whilst English Heritage challenges some of the conclusions reached (addressed fully later), they recommend that additional landscaping is utilised to help mitigate the impact, which has been agreed by the applicant.

- 5.7 **Landscape and Visual** - Together with the other strategic site allocations, landscape and visual impacts 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, which have built on the previous findings of the Halcrow report dated September 2010. This will be discussed later in this report; however the applicant has also carried out a Landscape and Visual Impact Assessment to consider the potential impact of the proposed development on landscape character and the representative visual environment.

The site is within the Hanwell Farmland Plateau and the existing urban area is largely residential in character on the edge of Bretch Hill. The existing vegetation cover on the Western edge reduces the sensitivity of the farmland. The introduction of new development creates an opportunity to improve the existing edge between the urban area and the landscape setting to the west.



Views from the western edge of Banbury have been considered with the chosen receptors being individuals whose properties back onto the site. The ES identifies that the development will result in an impact of moderate/ minor significance, which is neutral for the majority of views gained and that in longer distance views, the impact would be of moderate significance. It considers that the existing topography and vegetation separates and reduces the overall impact on the wider visual environment.

To mitigate the visual impacts upon the landscape character and representative visual receptors, the use of good design, high quality materials and new planting will be used. These measures will create an enhanced green edge to the town visible in longer distance views.

During the construction phase, there is likely to be a significant effect upon the landscape and visual receptors, however in the long term, the proposals can be integrated within the landscape and visual context without detriment to the character and qualities of the area.

These conclusions are considered to be acceptable.

- 5.8 **Biodiversity** - An Ecological Impact Assessment, supported by a Phase 1 Habitat Survey and a Bat and Badger Survey update have been submitted. The majority of the site is arable farmland with low ecological value. Replacing this with built development will have minor adverse impacts. The development layout is such that it includes a significant area, with almost half the site being available for biodiversity and public recreational areas, therefore being beneficial to biodiversity.

The existing hedgerow corridors are to be largely retained and there will be no significant impact upon them.

The bat survey found a low level of foraging and commuting activity on the site, largely by a common bat species. Surveys have also revealed an active badger sett on the site. The sett would not be affected by the vehicular access, but surrounding hard standing and its prominent position mean that it is vulnerable and so it is intended to apply for a licence to close the sett and provide a new artificial sett elsewhere within the site. The indicative layout makes provision for these species to continue to use the site.

In mitigation, a construction environment management plan would be prepared to ensure protection for biodiversity during the construction period.

These conclusions are considered acceptable.

- 5.9 **Ground Conditions** - A desk study has been submitted providing an assessment of ground conditions on site. No evidence of contamination that would suggest significant environmental effects within or close to the site has been recorded. Normal construction practices and procedures would be employed to ensure contamination risks from building works are minimised.

The conclusions here are considered to be acceptable although further investigation is nonetheless required.

- 5.10 **Soils and Agricultural Resources** - The development would lead to the loss of 26 hectares of 'best and most versatile' agricultural land (BMV). This is identified as a major adverse impact of high sensitivity. However, it is likely that any development of this scale on the edge of the town would similarly involve the loss of BMV quality land.

The site is farmed by one tenant farmer, so its loss will result in an 8% reduction in this farm unit. However the land is on the edge of the larger farm holding and its loss will not have significant impacts upon the remainder of the farm unit.

The loss of soil is minimised by creating the landscaped and recreational area along the west of the site. The design of this area will be sensitive to the agricultural context of the surrounding area.

These conclusions are considered to be acceptable.

- 5.11 **Water Resources** - The size and nature of the development has the potential to increase surface water run off and so a flood risk assessment has been carried out. A sustainable drainage system would be incorporated to mimic existing run off rates to ensure there is no increase in peak surface water flow rates. The drainage system would help to filter out pollutants that are likely to be present in run off from hard surfaces and this complies with best practice for sustainable development.

The overall effects of the proposed development upon water resources would have an impact of moderate/ neutral significance. Detailed design for the foul sewerage network and potable water supply would be to meet the requirements of Thames Water and Oxfordshire County Council.

The conclusions reached are accepted.

- 5.12 **Human Beings** - The development would represent a population increase of around 850 residents – a 1.8% increase in the population of Banbury, increasing demand on services and facilities.

A mix of accommodation and housing choice would be increased and the provision of 30% affordable housing would result. Pressure would increase on the local schools, and OCC have identified the need to enlarge one of the local primary schools to accommodate pupils generated from the development. The development provides open space for local play and recreation and a financial contribution will be made towards sports facilities at Woodgreen leisure centre, all encouraging healthy lifestyles and providing enhanced facilities for young people. Pressure would also increase on local health facilities and a financial contribution would be provided to cover additional requirements. Financial contributions would also be made to support facilities at the Sunshine Centre, which may experience additional demand from the increased population.

The improvements and support that would be made to existing facilities is considered to have beneficial impacts to the surrounding area and the conclusions reached are considered to be acceptable.

- 5.13 **Economics** - The application site is currently farmed by a tenant and so the loss of the land for agriculture will result in the loss of approximately 0.7 jobs and their

associated income. However the ES concludes that the combined elements and effects of the proposed development will have positive impacts upon the local economy. The construction phase will result in employment, which whilst limited in terms of total employment levels in Banbury will be major within the local construction sector. The construction phase will also provide a range of training and skills development opportunities, with two apprenticeships to be offered by Bloor Homes and around 25 training and work experience opportunities as part of the Build! Programme.

Once operational, the site will provide employment opportunities in the form of small scale workshop units and within the extra care/ sheltered care accommodation. Within the residential part of the development, opportunities for self employment are anticipated. Additional employment opportunities would likely arise from enhanced education, child care and community service provision directly related to future occupants. Wider linkage between the proposed development and local activities would be delivered to support local enterprises and provide a training room to deliver a range of training and outreach services. A proposed contribution towards a community café at the Sunshine Centre also creates the potential for further training and employment opportunities at the heart of the Bretch Hill community.

These improvements would similarly bring beneficial impacts to the surrounding area. Therefore these conclusions are accepted.

- 5.14 **Transport and Accessibility** - Primary vehicular access to the site will be taken off of Bretch Hill, between Berkeley Close and Bramber Close. A minor secondary access would be taken off Edinburgh Way. Traffic generated as part of the construction phase and when the development is operational will have transport and accessibility impacts along Bretch Hill, Edinburgh Way and the Stratford Road (A422). The significance of each of the impacts was concluded to be low, except for highway safety which was considered to be of moderate significance (because of the significant increase in traffic along Edinburgh Way where there was a number of accidents recorded and the potential to exacerbate the existing highway safety concern in the vicinity of the North Oxfordshire Academy).

A number of measures have been identified to address any significant traffic effects from additional traffic movements generated by the proposed development. These include the provision of a signalised pedestrian crossing, the provision of traffic calming and additional off road parking for existing residents. Junction improvements are also proposed to mitigate the impact on driver delay and improve highway safety. A construction traffic management plan would be prepared to ensure the impact of construction traffic is not significant.

The results of the assessment have demonstrated that providing the mitigation measures are implemented, the potential transport related effects arising from the increase in traffic that could be generated are predicted to be of negligible to low significance. In some cases, the proposed mitigation will result in beneficial effects, most likely in relation to highway safety and pedestrian amenity and delay.

These conclusions are accepted.

- 5.15 **Noise** - Noise to existing properties has the potential to increase given the increase in vehicular movements that could result. In the short term a moderate adverse impact will likely be experienced at 109 properties. The remaining dwellings are likely to be exposed to a minor adverse impact or less. In the long term, the residual impacts are considered to be minor adverse or less to the majority of dwellings, with a moderate adverse impact to four dwellings on Bretch Hill near the junction with Stratford Road. The significance of the impact in each case is concluded to be low because the noise levels would be below the established threshold for annoyance.

Noise during the construction period is likely, however best practicable means have been suggested to minimise the noise impacts as far as is possible and practical. Construction hours would be restricted and controlled and therefore the impact is assessed as being moderate adverse at worst and short term.

The new development has been designed to ensure a suitable noise environment for future occupiers.

The conclusions reached here are accepted.

- 5.16 **Air Quality** - At the construction stage, the works have the potential to create dust and therefore measures to minimise dust emissions will be required. The overall impacts during construction are concluded to be negligible. The increase in traffic on local roads would likely give rise to increase in concentrations of nitrogen dioxide, however the changes in concentration are mostly negligible if vehicular emission reductions occur, whereas a slight adverse impact if vehicle emission reductions do not occur.

The impact of local traffic on the air quality for residents living in the proposed development has been shown to be acceptable at the worst case locations assessed.

The overall operational air quality impacts of the development are judged to be minor adverse. This conclusion, which takes account of the uncertainties in future projections, in particular for nitrogen dioxide is based on concentrations mostly being below the objectives and impacts all mostly negligible with some slight adverse impacts.

The conclusions reached are considered to be acceptable.

- 5.17 **Arboriculture** - A total of 60 individual trees and ten groups, including 1,915 linear metres of existing hedgerows have been identified. The trees on site are not situated within a conservation area and none are subject to any statutory protection.

Impacts to the existing vegetation structure will result from works to carry out the highway improvements requiring the removal of existing vegetation. At the north of the site, the proposal necessitates the removal of a portion of a group of trees as a result of the proposed alteration to the Junction of Bretch Hill and the A422. At the eastern boundary, a small group of young trees needs to be removed and the southernmost proposed access, a portion of the existing boundary vegetation and 5 off set trees would need to be removed.

The mitigation of impacts on trees arises from opportunities to create an enhanced landscaped edge to the site, mitigating against the loss of existing vegetation and also improving biodiversity, improving habitats for wildlife and ensuring that the quality and character of the site is maintained. All other existing site vegetation is retained and enhanced as part of the proposals.

Overall, the proposal is considered to cause a minor impact on the existing vegetation and it is concluded that the removal of vegetation can be accommodated without any harm to the quality and character of the site and its setting.

The conclusions reached here are considered to be acceptable. It is worth noting that the changes proposed to the junction (i.e. right turn lane rather than a roundabout) will have no greater impact on the trees in the north east corner of the site.

- 5.18 **Construction** - The construction stage is expected to last five years and will be characterised by normal house building activities. The ES has considered the potential environmental impacts that could occur during the construction phase, including construction traffic, noise, drainage, archaeology and cultural heritage. With the implementation of mitigation measures, the impact through the construction phase will be minimised. Mitigation measures include procedural measures and means of best practice that can be implemented during construction and the submission of a Construction Environment Management Plan.

The conclusions reached are considered to be acceptable.

- 5.19 **Cumulative Impact** - Consideration has been given to the potential cumulative impact of the development proposals along with other major development proposal schemes.

The ES advises that all built operational development is included within the baseline situation and it is appropriate to consider the future development proposals in the emerging local plan. In respect of certain environmental matters, only certain proposals in the vicinity of the site would lead to a potential cumulative impact. For others, the potential cumulative impact is across a wider geographic area and the distribution of other sites would be drawn from a wider area around Banbury.

The ES concludes that none of the cumulative impacts considered suggest that this development cannot proceed on its own and in combination with other development committed and proposed at Banbury. It advises that there are no unacceptable impacts on the local or wider environments, provided the appropriate mitigation identified as part of the development scheme or as secured by the use of planning conditions/ obligations is implemented.

It is considered that due regard has been had to the cumulative effects of the proposal, which is considered acceptable.

- 5.20 **Conclusion to ES** - All new development has some impact. The ES has not identified major adverse impacts and advises that the proposed development can proceed without causing an unacceptable impact on either the local or wider

environments. It considers that in many respects, the overall effect of the scheme will be beneficial. Where impacts have been identified, mitigation measures are proposed. Should the application be approved, the proposed mitigation measures would need to be secured through conditions and planning obligation. The ES and technical information are considered to contain 'adequate information' to enable the determination of the application.

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

- 5.21 The District's development plan comprises the saved policies in the adopted Cherwell Local Plan (CLP). Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the LPA 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 and 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.
- 5.22 The National Planning Policy Framework (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 (paragraph 7). It also provides (paragraph 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*
- 5.23 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 (paragraph 21). Local Plans are considered to be the key to delivering sustainable development that reflects the vision, aspirations and agreed priorities of local communities (paragraphs 150 and 155). An adequate, up-to-date and relevant evidence base is also required (paragraph 158).

5.24 LPAs are expected to create sustainable, inclusive and mixed communities (paragraph 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”.*

5.25 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”* (paragraph 157). Paragraph 126 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.

5.26 The PSLP seeks to meet the objectives of the NPPF. 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.

5.27 The CLP 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 CLP 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.

5.28 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 in conflict with the NSCLP.

5.29 In addition to policies relating to the allocation of sites for development both the adopted CLP and NSCLP contain other policies that are relevant to this application. These are considered further in the report below.

5.30 The NPPF states (paragraph 49) that housing applications should be considered in the context of the presumption in favour of sustainable development and that 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.

*“Paragraph 47 of the NPPF requires local planning authorities to identify a supply of specific deliverable sites sufficient to provide five years worth*

*of housing against their housing requirements with an additional buffer of 5% 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% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.*

5.31 The district's housing land supply position has recently been updated. At the time of writing, the district has a 5.5 year supply of deliverable sites for the period 2013-18 incorporating an additional 5% requirement and a 4.8 year supply with an additional 20% requirement (the latter involving a shortfall of 162 dwellings).

5.32 The NPPF at paragraph 14 states that:

*“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 (unless material considerations indicate otherwise)*

- *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;*
  - *specific policies in this Framework indicate development should be restricted.”*

5.33 This position is reiterated in paragraph 49:

*“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.”*

5.34 The current situation is that given this policy background, and given the recent approval of a number of other large sites allocated in the PSLP, it is crucial to establish the up-to-date housing land supply position. The Council's Policy Team's analysis of the current situation is that there is a 5.5 year supply of deliverable sites for the period 2013-2018 incorporating an additional 5% requirement and a 4.8 year supply with an additional 20% requirement. The shortfall on the 20% requirement is 162 dwellings.

5.35 The current advice to Members as to whether the Council should seek a 5% or a 20% buffer was as follows:



*“...the Council should seek to return to a position of five years plus an additional 20% requirement in the interests of meeting housing need, sustaining a five year land supply, and placing the Council in a stronger position to ensure that housing is delivered in accordance with its existing and emerging planning policies. Returning to a five year plus 20% position does not of course remove the need to consider all future residential applications in the context of the Development Plan and all other material considerations”.*

- 5.36 As this advice remains current, the proposed site should be able to assist the Council in achieving a position of five years plus 20%. The works are scheduled to start in August 2015 and the final home occupied by April 2019. The developer has indicated that they project that approximately 250 homes would be completed in the next five years.
- 5.37 Whilst the application site relates to an allocation in PSLP, which has been considered by the Council’s Executive for residential development, it has not yet been tested at examination. Therefore, as alternative sites are being promoted through the local plan process, the question of prematurity must be considered.
- 5.38 Paragraph 216 of the NPPF advises that:

*From the day of publication, decision-takers may also give weight (unless other material considerations indicate otherwise) 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 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).*

- 5.39 Guidance on prematurity is also provided in the Planning System: General Principles (PSGP) (paragraphs 17-19 - see Head of Strategic Planning and the Economy comments). 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. PSLP policy is the subject to a significant number of objections, further objections have been received in response to the recent focused consultation response, and this reduces the weight that can be attached to the policy.
- 5.40 Concerns have been expressed that allocated sites should not be determined prior to the examination of the PSLP. Members are advised that in this regard the Council must determine whether there is a significant flaw in considering

planning applications now, given that the Local Plan Examination Inspector will have a better ability to undertake a comparative exercise against other sites that have been put forward.

- 5.41 Countered against this lack of additional scrutiny is the speeding up of the provision of housing and affordable housing where there is a five year housing land supply shortfall. It is also significant that the evidence base for the Local Plan is now substantially complete and that as the PSLP was prepared following the publication of the NPPF, the policies are considered to be generally consistent with this Government guidance.
- 5.42 More specifically, although the site is not without its constraints most notably the landscape and historic environment to the west, there are a number of positives in favour of developing this edge of Banbury. These include a low flood risk potential, no statutory ecological or heritage designations on site. This is also an opportunity to improve to the urban edge and more importantly help to regenerate the Bretch Hill area. This can be achieved through the proposed employment area, an element of self build in the affordable housing provision and enhancement of existing facilities (the Sunshine Centre) and new facilities including an 11.4 hectare park and the potential to build a new medical centre.
- 5.43 The Head of Strategic Planning and the Economy concludes his report with the following paragraph:

“A finely balanced judgement is therefore required. The application site is a proposed strategic site in the Local Plan. Ideally the Local Plan would proceed to completion in advance of strategic greenfield sites being released for development, and issues of prematurity and the cumulative impact of considering this application together with other applications for strategic housing development in advance of the Local Plan are material considerations. However the application also has to be considered in the light of the government growth agenda and advice in the NPPF. Whilst the shortfall in housing land supply is falling and the district now has a five year housing land supply plus 5% buffer, it does not have a five year supply plus 20% buffer at the time of writing. On balance it is considered that the 5 year housing land supply position and the need to maintain housing delivery, together with the presumption in favour of sustainable development embodied in the NPPF is sufficient to outweigh concerns over the release of this site in advance of the local plan being finalised. There are therefore no objections to the proposal on planning policy grounds.”

#### **Landscape Impact**

- 5.44 Paragraph 9 of the NPPF states that sustainable development requires positive improvements to the quality of the built, natural, and historic environments. 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.
- 5.45 More specifically, paragraph 109 of the NPPF maintains 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.

5.46 The following CLP policies 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.

C10 - Development which has a detrimental effect upon the character and appearance of historic landscapes, parks and gardens and battlefields and their settings will normally be resisted.

C13 - Areas of High Landscape Value (AHLV) - designated area of high landscape were the Council will seek to conserve and enhance the environment.

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.

5.47 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.

5.48 Policy ESD13 (Local Landscape Protection and Enhancement) of the PSLP 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.

5.49 Policy ESD16 (The Character of the Built Environment) of the PSLP 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.

5.50 Policy BAN3 of the PSLP (set out in full, in the policy section above) identifies the key site specific place shaping principles, these include:

- Development must respect the landscape setting, particularly the major ridgeline to the west of the site and the undulating landscape to the south west
- Development must respect the historic environment, including listed buildings (Withycombe Farmhouse, Drayton Arch and Park Farm Barns), Drayton Conservation area and Wroxton Abbey Parkland.
- Development must respect and enhance significant landscape features (e.g. hedgerows) which are or may be of ecological value; and where possible introduce new features to enhance, restore or create wildlife corridors. Ecological surveys should be used to identify wildlife corridors and features to be protected, including badger, bat and bird surveys. Overall biodiversity should be preserved and enhanced.
- Existing trees and hedgerows and the area of woodland in the north east corner of the sit should be retained.
- New planting will be required to take place at an early stage to ensure planting is established prior to development being completed.
- A well designed and soft approach to the urban edge will be required, which relates development at the periphery to its sensitive landscape setting and affords good access to the countryside. The development should improve the appearance of Banbury's western edge within the landscape.
- A green buffer should be provided either side of the bridleway that marks the western boundary of the site, to safeguard the rural character of the bridleway marking the western boundary of the site and forming part of the Banbury Fringe Circular walk which should be maintained and kept separate from the development
- Public open space should form a well connected network of green areas suitable for formal and informal recreation and connected with wider strategic landscaping. This should protect the landscape setting and provide a green north/south linear park along the western portion of the site. Formal recreation would be best located at the northern end of the site.
- Careful consideration should be given to building heights in relation to the landscape setting

5.51 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 September 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 the 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 BAN3 West of Bretch Hill allocated site is designated as a strategic development site within the PSLP and is located in the North West quadrant. Despite the sensitivities of this area, it is considered that development on this site can be accommodated without undue harm to the environmental resource provided it is restrained in scale and that suitable and successful mitigation and green infrastructure measures are put in place. The potential to enhance the green edge to Banbury in this area through development at Banbury 3 should be required.

- **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 PSLP. Policies include guidance for housing density, employment and infrastructure needs for each site.

5.52 The WYG (Banbury Landscape Sensitivity and Capacity Assessment (March 2013)) report provides the following assessment of the BAN3 allocated site:

Landscape Sensitivity

“Of importance to the cultural setting of the site is the presence of Drayton Conservation Area to the west and the Registered Park and Garden of Wroxton Abbey west of the study area. Although not generally visible from within the site, Wroxton Abbey does possess a number of features that are visible from within the site such as the Grade II\* Drayton Archway to the west of the site. Much of the Drayton Conservation Area is centred around the village itself although it does extend up to the west site

boundary. There is potential for unrecorded remains within the site to the west or south with Withycombe Farmhouse or the Wroxton Estate. The cultural sensitivity of the site is medium.

“In terms of aesthetics, the site is formed by two differing areas, each having their own characteristics. The area in the north of the site is flat and open with little enclosure on the site boundary enabling panoramic views to the west from within the site. In the south of the site, south of Withycombe Farm, the landscape becomes more intimate comprising smaller fields that are enclosed by hedgerows and hedgerow trees; these features are important to the setting of Withycombe Farm. The overall aesthetic quality of the site is medium.

“There are areas within the site where the landscape is in a good state of repair with the management of hedgerows and retention of historic field patterns; this is generally located within the south of the area. In the north however, the field pattern is much larger and landscape features such as hedgerows have been lost in places. Withycombe Farm has been modernised and appears to have been extended. This has been carried out sensitively retaining the original characteristics of the structure. The landscape quality and condition is considered to be medium. The combined landscape sensitivity of the site is medium.

#### Visual Sensitivity

“The local topography and presence of Banbury to the east limits views into the site from this direction. From the south, views are possible into the valley along Broughton Road although the local horizon south of Withycombe Farm prevents views beyond to the north. Views are possible into the site from the west at Wroxton and from the grounds of Wroxton Abbey. The general visibility of the site is medium.

“The visibility of the site from surrounding areas is low from the adjacent residential area to the east on the edge of Banbury. This is due to the screening provided by the deciduous woodland located on the east boundary of the site at Bretch Hill (along the northern end of Bretch Hill road) and fences and vegetation within the property curtilage of properties bordering the site to the east. Views into the northern area of the site are also not possible from Withycombe Farm due to screening provided by the associated outbuildings. There are views across the valley of Sor Brook to the west and from Wroxton Abbey grounds and Wroxton itself although these are from circa 1km away. There are also limited views into the southern area from Broughton Road. The sensitivity of the surrounding population is medium for the site as a whole.

“There is good potential to implement mitigation within the northern part of the area to mitigate views and maintain the existing landscape character. There is potential for structure/screen planting located along the west site boundary which would have the effect of bringing the existing tree lined boundary to Banbury further to the west. When viewed from the direction of Wroxton it is considered that this would not significantly alter the view. Within the south of the area there is less potential to carry out mitigation although it would be possible in some areas along Broughton Road.



There is a medium – low sensitivity to mitigation. The combined visual sensitivity of the site is medium.

#### Landscape Value and capacity for residential development

“There are a number of heritage designations located around the listed building of Withycombe Farm which affect the setting of the farm. The Drayton Conservation area also adjoins the west boundary of the three large fields in the north of the site. Although the site does not lie within the conservation area it does directly affect the setting of the conservation area. The Wroxton Conservation Area is located beyond this to the west and has less direct reference to the site area; although the vistas to the folly (arch) within the nearby woodland west of the site contains the site as part of the backdrop. The value of designations is medium. The scenic value of the northern area (fields) is considered to be lower than that located to the south of Withycombe Farm due to the lack of landscape features whereas the southern area forms part of the approach to Banbury along the more intimate valley at Broughton Road. The site is relatively tranquil apart from the north and southern extents where the site bounds Stratford Road and Broughton Road respectively. Views into and out of the southern half of the site are restricted however in the north, there are longer distance views across the Sor Brook Valley towards the grounds of Wroxton Abbey. There are a number of recognised views with the grounds of the Abbey although these are not part of the views from the site. The site area does however influence the backdrop of these views. The scenic value sensitivity is medium – high. There are no known local groups associated with the area however the area does appear to be relatively well used by the local community for walking as it shows heavy signs of footpath use; there is an obvious value placed upon the recreational uses although this appears more prominent within the southern section of the site. The perceived value of the area is medium – low. The combined landscape value of the area is medium.

“There is a medium – high capacity for residential development within the northern area of the site comprising the three fields south of Stratford Road and west of Bretch Hill. The existing access track to Withycombe Farm heading north south provides a natural barrier to development in this direction. Any development in these fields should consider the adjacent Drayton Conservation Area and how development affects the setting. Residential development to the south of Withycombe Farm would not be appropriate as this would not be in keeping with the small scale valley along Broughton Road on the approach to Banbury.”

- 5.53 Turning to Banbury: Appendix 1 Peripheral Development Sites Analysis (March 2013) undertaken by LDA, the following is an extract that identifies the issues, constraints and opportunities for Ban3:

#### SITE ISSUES IDENTIFIED FROM BASELINE AND GREEN BUFFER STUDIES

- Lies within ‘environmental limits’ of Banbury.
- Potential future extension of Green Buffer designation to western part of site.
- Does not play an essential role in the landscape setting of Banbury.

### ENVIRONMENTAL CONSTRAINTS AND ISSUES

- Gently sloping topography rising westward to ridgeline broadly coincident with restricted byway (old Roman Road), then falling to Sor Valley.
- Some mature boundary vegetation.
- Abuts Drayton Conservation Area to west.
- Wroxton Registered Historic Park and Garden and Conservation Area in close proximity to the west.
- Hedgerows likely to be of historic importance under the Hedgerow Regulations.
- Two Public Rights of Way traverse the site.
- Open site, but with potential for visual containment by new landscape structure.

### KEY DESIGN ISSUES

Include:

- Treatment of edge to Conservation Area.
- Frontage on to Stratford Road to create a green gateway to Banbury.
- Incorporation of significant landscape features, historic routes and footpaths into the scheme.
- Relationship between development, the school and existing residential areas.
- Visual containment of development from surrounding areas.
- Potential to improve the currently poor urban/ rural interface in this area.
- Creation of green edge to Banbury.
- Setting of old Roman Road, Banbury Fringe Walk.

### Indicative Capacity Study

Total Site Area	26 ha
Developable Area*	13.1 ha
Net Housing Area**	12.6ha
Density	30 - 35 dph max
No. of dwellings	378 - 441

\* Assumes Public Open Space (POS) and SUDs provision is within Indicative Green Infrastructure.

\*\* Figure calculated to make provision for small scale enterprise (0.5ha).

- 5.54 Whilst broadly supporting the principle of development, this detailed analysis of the application site and surrounding area highlights the sensitivity of the landscape (AHLV and proximity to historic parkland) and the importance of incorporating a green buffer on the site's western boundary.
- 5.55 A close working relationship between the Council's Landscape Officer and the developer's specialist consultant was therefore a priority at the very beginning of the design process as the design of *Western Park* (constitutes 43% of the application site) has informed the area of built development (which will only be two stories in height on the western edge) not the other way round. As part of the process, the two parties identified various photographic viewpoints which form part of the visual envelope (i.e. the extent of the area from within which the proposed development may be viewed) which guided the eventual layout.

- 5.56 The planting scheme within the green buffer has been reworked following the input of English Heritage who were concerned about the potential impact on the historic environment beyond the western boundary (see Historic Environment section below). Although a planting scheme has now been agreed with the Landscape Officer, the fine detail as to the exact position and make up of the native species will need to be confirmed at a later date. The Landscape Officer is keen that any planting is undertaken at the earliest opportunity, thus allowing the trees to establish themselves before the completion of the housing.
- 5.57 Although Sport England and some local representatives have criticised the absence of any outdoor sports facilities, the provision of a playing field in this landscape was never a realistic consideration given the constraints outlined above. The Recreation and Health Improvement Manager is therefore seeking contributions to improve facilities at the North Oxfordshire Academy or the pitches at Hanwell Field (a contribution to indoor sports will be targeted at the Woodgreen Leisure Centre).
- 5.58 Although the proposed development will have an impact on the landscape, Officers are satisfied that the proposal will not cause undue harm and that it therefore complies with Policies C7, C9, C10 and C13 of the CLP.

#### **Indicative Design/Layout/Scale**

- 5.59 The proposed development is served by a spine road that is linked to Bretch Hill (at the northern end of the site) between Berkeley Close and Bramber Close. An access near the southern end of the site would link it to Edinburgh Way via a gap between facing housing. Although it would have been preferable to have more vehicular links to the existing estate, this hasn't proved to be feasible. As the Urban Designer has acknowledged in discussions, the layout reflects the site constraints and there is no obvious way in making substantive improvements given the amount of built development proposed. For example, given the orientation of the site, there are limited opportunities for southern facing roof slopes to accommodate solar technology, as suggested by the Design Review Panel.
- 5.60 The applicant has demonstrated, on a density banding plan (page 53 of the DAS), how they intend to accommodate 400 houses on the site. The net dwelling density of the proposed scheme is 29.5 dwellings per hectare (dph). It is accepted that as the banding plan was based on 'net internal' density (includes just the housing and gardens) it resulted in a much higher density figure (44.8dph). Nonetheless, the Urban Designer was concerned that development parcels on the western edge, particularly those in the north, were unacceptably high.
- 5.61 One of the key design requirements for the Urban Designer, as well as the Conservation Officer, was to limit the density on the western fringe by having a higher concentration of larger detached properties. To allay the officers' misgivings, further clarification was provided by the applicant by the way of a density banding plan which demonstrated that the housing facing the spine road, running through the centre of the site, would be significantly more concentrated than the housing proposed for the western fringe.

- 5.62 Another feature of the western edge is the use of materials which reflect the architectural character of Drayton and the villages beyond. It has therefore been proposed that aside from adhering to a less rigid building line, the use of reconstituted ironstone should predominate with the judicious use of render and brick to add some variety. The Conservation Officer has reservations about reconstituted ironstone as, unlike limestone, it is difficult to replicate successfully. If an appropriate sample cannot be sourced, the applicant has indicated that they would be willing to construct the key buildings from natural ironstone if it is accepted that the use of brick and render for a greater proportion of the housing would be necessitated as a result. In the light of the Historic Impact assessment (below) this will require careful negotiation at the reserved matter stage.
- 5.63 In respect of massing, once again the applicant has been careful to limit the impact of the western edge by ensuring that housing is limited to two storeys. Although the 2.5 storey housing is focused primarily on the spine road, the design panel still had reservations about how such housing would integrate into the existing built form which is characterised by small two storey terraces. It is possible that the Panel's reservations could have been assuaged by more detailed drawings including an illustrative layout and a design guide as sought by the Urban Designer. The developer was however reluctant to provide more detail at this stage as it was felt that the illustrative layout was very much work in progress and would perhaps have resulted in more questions than answers. At this point it is worth noting neighbouring residents' concerns about non-compliance with minimum space standards will prove unfounded as the developer is aware of the authority's tolerances that will have to be adhered to on the finalised layout.
- 5.64 Notwithstanding the absence of this detail the Urban Designer is broadly happy with what has been proposed as were the BOB-MK Design Review Panel and the Conservation Officer. It is concluded therefore that the reservations expressed at this stage could be successfully dealt with as reserved matters.

#### **Housing Mix**

- 5.65 Policy BSC4: Housing Mix was amended as part of the changes to the PSLP in March 2013. A prescriptive break-down of house type and size has been replaced with a more flexible approach which takes into account the Council's most up-to date evidence on housing need as well as evidence from developers regarding local market conditions.
- 5.66 The proposed affordable housing mix submitted by the developer accords with the expectations of the Strategic Housing Officer who sought the following:

House Type	Rented	Shared Ownership
1 Bed (2 Person) Flat	6	4
2 Bed (4 Person) Flat	6	4
2 Bed (4 Person) House	18	8
3 Bed (5 Person) House	5	2
3 Bed (6 Person) House	5	
4 Bed (7 Person) House	2	

- 5.67 In addition to the above, the applicant has agreed to provide 60 extra care units in a block adjacent to the northern entrance to the site. The provision of extra care units accords with the expectations of Policy BSC4 of the PSLP. A total of 120 affordable houses equates to 30% of the total number of houses proposed and therefore accords with Policies BSC3 and Banbury 3 of the PSLP. The applicant also agreed to *cluster* the affordable housing throughout the site in line with current best practice.
- 5.68 However, notwithstanding the above, during a recent meeting, the Strategic Housing Officer argued that there was no longer a current demand for extra care units and that sheltered/enhanced sheltered housing would be preferable. Although the developer tentatively agreed to such a change it was recognised that additional space may be required to accommodate the change in dwelling type.
- 5.69 The applicant was more sceptical about the proposed self-build element. Whilst the registered provider (Sanctuary) were reluctant to take on this element of the affordable housing (5-10 units), there may be an opportunity for the Council's own self-build programme, Build, to take on this element of the development. Given that there are potentially negative aspects to self-build, not least financial, the developer will require reassurances as well as a possible reworking of the overall affordable housing figures. Officers accepted that further negotiations were required and appreciated the validity of some of the points raised by the developer.
- 5.70 Also requiring more discussion is the proposed market housing mix which has a much higher proportion of larger houses than the standard mix set out in the original version of Policy BSC4. Late on in the process, the applicant responded to a request for a more detailed justification which Officers will assess in due course. The final two paragraphs of the statement submitted read as follows:

*“Having regard to the above objectives to provide a range and choice of good quality homes the supporting Environmental Statement identified the current housing type within Banbury and in particular the adjoining ward of Banbury-Ruscote. The Census data identifies that there is a clear deficit in the number of detached dwellings within Banbury-Ruscote (9.1% of the ward's dwellings) and Banbury (16.5% of the town's dwellings) when compared to Cherwell District (30.2%). However, there exists a higher percentage of semi-detached dwellings in Banbury-Ruscote*

*(58.4%) than Banbury (37.6%) and Cherwell (35.2%), whilst the proportion of terraces is comparable at all three areas.*

*“Locally there exists a lack of larger detached dwellings to allow the movement and flow of homeowners which this application seeks to address. Therefore, the indicative mix aims to widen housing choice and diversifying the housing mix for the surrounding area in accordance with the aims and aspirations of policy.”*

### **Transport Impact**

- 5.71 The proposed scheme seeks to have two access points to the existing estate: one on to Bretch Hill between Berkeley Close and Bramber Close, towards the northern end of the site; and a southern access will be created on to Edinburgh Way via a gap between housing. These two points will be linked by a spine road running through a large proportion of the site.
- 5.72 Although the proposal has perhaps been better received than the other allocated sites around Banbury that have already come forward (there have been comparatively few letters of objection) one of the key concerns expressed by local residents, neighbouring Parish Councils and local Members is the potentially adverse impact on the road network. Indeed before OCC would support the principle of the development last minute discussions were required to resolve some outstanding issues.
- 5.73 As a result of this meeting, the junction of Bretch Hill with the Stratford Road has been amended so rather than a roundabout, as shown on the original plans, the Bretch Hill junction would now have a priority turning lane to ease traffic flow. The rationale for this amendment was that a roundabout would unnecessarily slow the traffic travelling along the Stratford Road.
- 5.74 Of more concern for the Highways Officers was the potential impact on key junctions further afield which are already struggling to cope with existing vehicle movements. Amongst the most notably affected identified are the junctions of Stratford Road with Warwick Road, Warwick Road with Ruscote Avenue and Bloxham Road with Queensway. The developer has agreed, in principle, with Officers to provide a contribution to existing schemes designed to improve these congestion points. Further information regarding the impact on South Bar Street and West Bar Street is also required.
- 5.75 Although the access on to Bretch Hill has not been specifically criticised, local residents and one of the local Ward Members have questioned the link on to Edinburgh Way. Their concern is based on an increase in traffic and a lack of off-street parking, which makes it difficult for vehicles trying to navigate their way past parked cars. The applicant is proposing to alleviate this problem by providing additional off-street parking and introducing speed humps (which would require further public consultation) along the length of Edinburgh Way in order to improve road safety. The Highways Authority is happy with this strategy.
- 5.76 Funding is being sought (£400,000) to improve the B5 bus service. This money will be used to purchase a new bus and provide a new bus stop near the junction of Bretch Hill and Stratford Road. The new stop will result in a reconfiguration of the existing bus route. The Travel Plan will have to be aligned with the Bus

Strategy, to ensure enough additional passengers are attracted to the enhanced/re-routed bus service.

- 5.77 The final key issue that was addressed during the aforementioned meeting was more detail in respect of cycle access. OCC's own commentary on these discussions reads as follows:

*“Through discussions with the developer the movement plan that accompanies the planning application has been amended to show cycle access points and desire lines for cyclists through the lightly trafficked roads, out into the countryside and linking through Trinity Close to the proposed crossing on Stratford Road. This removes these concerns.”*

- 5.78 Although there is still a holding objection despite the recent successful talks, the Highways Authority is nonetheless satisfied that they can be satisfactorily resolved. The proposal therefore accords with TR1 of the CLP and Policies TR2, TR3, TR4 and TR5 of the NSCLP and Government guidance contained within the NPPF.

#### **Flood Risk and Drainage**

- 5.79 The 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 (Urban) 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

- 5.80 **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.

- 5.81 **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

5.82 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.

5.83 **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).

5.84 **Sustainable Urban 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.

5.85 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. The scheme incorporates an attenuation pond on the lowest land just to the north of the new junction on to Edinburgh Way.

5.86 A flood risk assessment has been submitted (chapter 12 of the ES), which demonstrates that the development complies with the NPPF sequential test and follows Environment Agency guidance. The application site has no rivers, watercourses or drainage ditches and is within a flood zone 1, the preferred location for built development. The assessment demonstrates that there will be no adverse flood risk impacts arising from the proposed development.

5.87 As a result, 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 require that additional information is submitted in relation to the drainage proposals *to ensure that where surface water is discharged to the adopted surface water network sufficient capacity is available within the system.*

#### **Loss of Agricultural Land**

- 5.88 Policy Banbury 3 of the PSLP states that *'A detailed survey of the agricultural land quality identifying the best and most versatile agricultural land, and a soil management plan will be required'*. The ES addresses this matter.
- 5.89 In terms of planning policy regarding the loss of agricultural land, 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 NPPF reads as follows:

*"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."*

- 5.90 This Government guidance is reiterated in Policy EN16 of the NSCLP when it 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."*

- 5.91 The application site is identified as containing a mixture of different land grades, although primarily made up of grades 1, 2 and 3a. The site contains some grade 3b land and some non agricultural land, but it is primarily BMV land. The majority of the land (85%) is within grades 1 and 2 quality and 8.9% is within grade 3a quality.

- 5.92 The ES identifies two significant adverse impacts. Firstly, on land resources, most notably the loss of agricultural land of this quality, and secondly, on farm businesses (the tenant farmer who farms the land will lose 26.5 ha of his total holding which is currently around 330ha). Effects must also be considered at construction and operational phases.
- 5.93 The ES describes the loss of best and most versatile land, which is classified as a *major adverse* effect. It notes that the quality of land surrounding Banbury is high and so any development of this magnitude on the periphery of the settlement is likely to involve the loss of best and most versatile quality land. There is a small patch of grade 1 quality land, surrounded by grade 3b; however the pattern of distribution means that the grade 1 land cannot be exploited (but will be taken out of agricultural use).
- 5.94 The proposal would reduce the land rented and farmed by the tenant by approximately 8%, which would have a proportionate effect on the business but would not require a significant reorganisation of the unit. This would result in an effect of low magnitude and low significance therefore a *minor adverse* effect. The land is at the periphery of the farm and forms whole fields. Therefore, there are no resultant effects such as severance. Access to the adjoining land to the west would also be unaffected as would field drainage and water supplies. There are also no farm buildings on the application site.
- 5.95 The ES describes that mitigation of the loss of agricultural land is best achieved by limiting the extent of the development to the smallest size possible and that soil handling and conservation should be undertaken in accordance with the relevant chapters in *The Good Practice for Handling Soils* document (MAFF 2000). Soils have a number of important functions beyond the support and growth of plants, including improving drainage and maintaining solution pathways, supporting ecosystems and providing green areas for communities to use and enjoy. In order to sustain these basic functions it is important that appropriate consideration is given to the soil resource on any development site. If it is not managed carefully during construction and ground preparation these functions can be lost.
- 5.96 The use of the *Code of Practice for the Sustainability of Soils on Construction Sites* (DEFRA 2009) is a practical guide to assist managers of construction sites to protect soil resources with which they work. Implementing its recommendation would ensure that the soil may be enhanced and achieve wider environmental benefits. For example the movement of soil during ground preparation, including timing of land work and storage of soils for after use, will provide soil in better condition for landscaping and will also help natural site drainage. There are few measures that can alleviate the loss of land on agricultural businesses. However due to the identified *minor adverse* effect, no mitigation is deemed to be necessary.
- 5.97 The loss of the best and most versatile quality agricultural land would be an unfortunate consequence of approving this application. However, the information provided demonstrates that the proposal would not result in a serious economic impact for the tenant farmer. Furthermore, the soil on the site will be adequately dealt with, including its management to ensure that the soil benefits the overall site including the landscaping and as an aid to natural drainage. Nonetheless the

loss of BMV weighs against the development of the land, in the planning balance, as it conflicts with the aforementioned Policy EN16 of the NSCLP.

### **Historic Environment**

- 5.98 The application site is on a particularly sensitive edge of Banbury in respect of the historic setting against which it abuts. To the immediate west of the site is the parkland associated with Wroxton Abbey (on English Heritage's Register of Historic Parklands and Gardens). Within this parkland, and visible from parts of the site, is the Grade II\* Drayton Arch, which is approximately 310m from the western edge of the site and surrounded by a wooded area. The Grade II\* listed Obelisk is on the opposite side of the Sor Brook valley and is approximately 1.2km from the western edge of the site. There are at least two other Grade II listed buildings, including Withycombe Farmhouse (to the south of the application site), whose settings' will also be affected. Finally, the edge of the Drayton Conservation Area runs alongside a large proportion of the site's western boundary.
- 5.99 Given this context it is perhaps unsurprising that English Heritage and The Banbury Civic Society have expressed reservations about the proposed development. This is acknowledged by the Council's Conservation Officer, particularly in respect of the impact on the parkland.
- 5.100 English Heritage concluded that unless the landscaping was strengthened to obscure views of the new housing from the parkland then the application should be resisted. Whilst it was conceded that the original tree planting scheme should be strengthened in the *Western Park*, the Conservation Officer and the Landscape Officer took a different approach. They believe that planting should be used to soften the impact new structures have on the surrounding landscape and should not be used to conceal them. The revised landscaping scheme shows groups of trees along the western boundary allowing for framed views in and out of the site. This is in line with one of the recommendations of the BOB-MK Design Review Panel.
- 5.101 Having taken this approach, the Conservation Officer is of the opinion that providing the housing on the western edge is appropriately designed, positioned and is constructed using sympathetic materials then the development will not have so detrimental an impact on the listed structures, parkland and conservation area to warrant a refusal. It is also re-emphasising that the Officers support this thinking and conclude that the development at this stage accords with Policies EN39, EN40, EN44, EN47 and EN48 of the NSCLP and Government guidance contained within the NPPF. English Heritage removed their objection following the receipt of the revised plans, but they are still to be convinced that the proposed planting scheme would work.

### **Ecology**

- 5.102 The NPPF 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” (paragraph 109).*

5.103 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. LPAs should only request supporting information that is relevant, necessary and material to the application in question”.*

5.104 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 LPA 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 of Policy EN23 of the NSCLP.

5.105 Paragraph 18 of the NPPF 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;

- 5.108 LPAs 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”*.
- 5.109 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.
- 5.110 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?
- 5.111 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 LPA 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.
- 5.112 In respect of planning applications and the Council discharging of its legal duties, case law has shown that:
1. if it is clear/perhaps very likely that Natural England will not grant a licence then the Council should refuse planning permission
  2. if it is likely that Natural England will grant the licence then the Council may grant planning permission
  3. if it is unclear/uncertain whether Natural England will grant a licence then the Council must refuse planning permission (Morge has clarified Woolley)

*[R (Morge) v Hampshire County Council – June 2010 Court of Appeal case]*  
*[R (Woolley) v Cheshire East Borough Council – May 2009 High Court case]*

NB: Natural England will not consider a licence application until planning permission has been granted on a site, therefore if a criminal offence is likely to be committed; it is in the applicant's interest to deal with the 3 derogation tests at the planning application stage.

- 5.113 In support of the application, a phase 1 habitat survey was carried out in June 2010. This involved a desk top study, an extended phase 1 habitat survey and a hedgerow survey. The survey found one statutory designated site within 2km of the site (Neithrop Fields Cutting SSSI) and a single non statutory nature conservation site lies to the south west of the site (The Bretch Local Wildlife Site and the Giant's Cave Local Geological site). The desk study revealed no records of protected species within the 1km search area and only one notable species (a wall butterfly) within the search area. The field survey found various records of flora and fauna. 6 Hedgerows were recorded on the site and 5 of which were found to meet the criteria as an 'important hedgerow' under the Hedgerow Regulations. A series of badger setts, features offering roosting potential for bats and potential nesting habitat for birds were all recorded on or close to the site.
- 5.114 The survey advised that whilst there was unlikely to be any significant impact upon any designated sites or broad habitats, a follow-up badger and bat survey was required - this work was undertaken in November 2011. The report recorded four bat species with activity mainly recorded close to hedgerows and the small area of woodland. The badger sett recorded in the 2010 survey was found to still contain evidence of badger use - no other badger setts were found. Whilst it would be preferable to retain the setts, replacement artificial sett could be incorporated as necessary. The survey acknowledges the type of work proposed could affect the bat species but could be compensated for by an appropriate mitigation strategy.
- 5.115 The ES also considers biodiversity, a summary of which is provided earlier in this assessment. The ES states that the proposed layout has not allowed for the retention of the existing badger sett and that a licence will therefore be applied for to close the existing sett and to provide a replacement sett in the new linear park. The ES concludes that the layout allows for the species rich hedgerows to be retained for the vast majority of their length. This, as well as the new park, and in combination with mitigation and enhancement measures enable residual negative impacts on ecological receptors to be avoided. The park would likely lead to a positive impact on the quality of habitat on the site.
- 5.116 The Council's Ecologist has examined the information submitted and considers it to be appropriate in scope and depth at this stage but that further information as to the impacts upon species and habitats during construction would be required, which should consider cumulative impacts from other nearby developments. The acceptability of the development rests on the ability to retain aspects of greatest biodiversity and add significant biodiversity gain, which could be achieved through appropriately managing the new open space. The Ecologist recommends a number of conditions including a number that promote biodiversity gain.
- 5.117 In conclusion, it is considered that article12(1) of the EC Habitats Directive has been duly considered as the welfare of any protected species found to be present on the site and surrounding land will be safeguarded. The proposal

therefore accords with Policies C2 and C4 of the CLP and Government guidance contained within the NPPF.

### **Trees**

- 5.118 Given the agricultural nature of the site there is no significant tree cover on the site. The one principal exception being, a group of trees in the north eastern corner of the plot near the junction of Bretch Hill and the Stratford Road. Although some trees will have to be removed as part of the works to improve the junction of these two roads, the Council's Arboriculturalist has not raised any objections on the basis that *there are no significant existing trees which constitute a constraint in relation to the illustrative layout*. It should also be noted that the majority of the hedgerows dissecting the site will be retained (sections will have to be removed to accommodate the spine road and a footpath).
- 5.119 In compensation for the loss of trees/hedgerows, the Arboriculturalist recognises the potential to plant some large tree specimens along the western boundary as part of the substantial planting scheme designed to limit the harm the proposed development will have on the sensitive environment beyond. Officers concur with the Arboriculturalist recommendation of no objections subject to condition.

### **Footpaths**

- 5.120 Both the Council's and OCC's Rights of Way of Officers have not raised any objections to the scheme as the existing rights of way are protected. Indeed it is recognised that there is the potential to improve them by making them safer and more convenient for *year round commuting and recreational use*. Careful consideration will however have to be given to ensure that the paths remain green corridors and that the potential for vandalism is designed out as far as is practical.

### **Noise**

- 5.121 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.*
- 5.122 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.

5.123 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.”*

5.124 The NPSE also recommend 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”.*

5.125 The Council’s Anti-Social Behaviour Manager has concluded that noise impacts arising from the construction phase can be overcome by a construction management plan (the applicant has already recognised that they will need to provide such a plan in the ES). Subject to an appropriately worded condition, Officers are therefore satisfied that the proposed development complies with Policy ENV1 of the CLP and Government guidance within the core principles and on conserving and enhancing the natural environment contained within the NPPF.

#### **Developer Obligations**

5.126 The Planning Obligation Draft Supplementary Planning Document which sets out the 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, meets 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. 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, health, community facilities, libraries, adult learning, strategic waste services and a contribution to Thames Valley Police.
- 5.131 As all requests for contributions will have to be scrutinised with regard to compliance with the Community Infrastructure Levy Regulations. It is therefore requested that Members delegate to Officers the negotiation of the S106 agreement.

#### **Pre-application Community Consultation**

- 5.132 Under Section 18 of the Planning and Compulsory Purchase Act 2004 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.
- 5.133 Advance notice of two public consultation events consisted of an advertisement in the Banbury Guardian newspaper on the 18<sup>th</sup> October and a 3,850 leaflet drop to homes in Bretch Hill, Drayton and Wroxton. The leaflet were distributed between the 12<sup>th</sup> and the 14<sup>th</sup> October 2012 (the SCI incorrectly states November).
- 5.134 The two public consultation events being promoted took place at the Sunshine Centre in Bretch Hill on Saturday the 20<sup>th</sup> October 2012 (between 11am and 3pm) and at the Drayton Village Hall on Monday the 22<sup>nd</sup> October 2012 (between 4pm and 7pm).
- 5.135 The development proposals were set out on nine display boards. Representatives of the developer were in attendance throughout to answer any queries raised by the local residents. The display boards have been replicated in Appendix E of the SCI.

- 5.136 A total of 118 people attended the exhibition in Bretch Hill with a further 104 people going along to the Village Hall in Drayton. Attendees were encouraged to complete a questionnaire so that their views could be taken into account prior to the submission of this outline application. 66 questionnaires were filled in on the Saturday with a further 46 resulting from the Drayton exhibition. 21 more completed questionnaires were posted to the developer in the days following the exhibitions. Details of the local residents' responses can be found in Appendix F of the SCI.

#### **Other Matters**

- 5.137 It is considered that the majority of the third party representations issues and concerns have been addressed in the various sections or consultee comments that make up this report. Issues such as loss of a view and impact on house value are not material to the consideration of a planning application. The requests made by some of the residents of Penrhyn Close are also not material considerations, although the developer has been made aware.

#### **Consultation with applicant**

- 5.138 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**

- 5.139 The proposal is a departure from the development plan. However, the NPPF is centred on a presumption in favour of sustainable development and 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 NPPF taken as a whole.
- 5.140 The Council can demonstrate that it has a five year housing land supply with a buffer of 5% but accepts that it cannot currently demonstrate that it has a five year housing land supply and a buffer of 20% and recognises the contribution to housing supply and towards affordable housing provision as a material consideration in favour of the proposal.
- 5.141 Whilst the proposed development is contrary to the CLP insofar as it is not an allocated site, the land is identified for development in the PSLP and as such is part of the emerging strategy to accommodate necessary development. The PSLP carries only limited weight at this stage although the NPPF advises that weight can be given to emerging policies.
- 5.142 The proposed development on its own would not be so significant as to prejudice the development of the Local Plan. However, it is also acknowledged that due regard to prematurity must be given with regard to the cumulative effect of decisions taken on this and other applications for housing development in the

district, prior to the examination of the Local Plan. This is a disadvantage of considering the application at this stage but this must be weighed in the balance with potential advantages to housing delivery and regeneration that the proposal brings.

- 5.143 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.
- 5.144 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 should be achieved in order to mitigate the impacts of the proposal and create a sustainable, inclusive, high quality development.
- 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 as to prejudice the development of the Local Plan, will contribute to 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. It is felt that issues raised by the consultees and neighbouring residents can be successfully addressed by condition or further information provided at the reserved matter stage. 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.

## **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 Chair of the Planning Committee
- b) The completion of the S106 legal agreement
- c) The conditions (package to follow):

### **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.