

Land adjoining and west of Warwick Road, Banbury

13/00656/OUT

Ward: Wroxton

District Councillors: Councillor Webb

Case Officer: Tracey Morrissey

Recommendation: Refusal

Applicant: Miller Strategic Land

Application Description: Outline up to 300 dwellings with access from Warwick Road together with associated open space, allotments and a 500 sqm retail store

Committee Referral: Major Application (exceeds 10 dwellings and 1ha) and Departure from Policy

1. Site Description and Proposed Development

- 1.1 The application site occupies an area of approximately 12ha and is a single arable field, which slopes gently from the north east to the south west. The site is enclosed with significant boundary vegetation varying from 2m on the northern boundary with Drayton Lodge Farm to 14m along the eastern boundary with Warwick Road. Located on the north western edge of Banbury, the site is adjacent to the residential areas of Hanwell Fields and Hardwick to the east. The southern boundary is formed by the North Oxfordshire Academy School, whilst the land to the north comprises a golf club and camp site. The village of Drayton is a short distance to the south west and its conservation area encompasses agricultural land immediately adjacent to the south-western boundary of the site. The villages of Hanwell and Wroxton and their respective conservation areas lie to the north and west of the site respectively.
- 1.2 There are no public footpaths running across the site, but there are a couple in proximity, there are no TPO trees, but it is within a locally designated area of High Landscape Value (as set out in the Development Plan). There are no statutory designated sites of nature conservation interest within or adjoining the site, but there are active badger sets on the boundaries, other site constraints include naturally occurring contaminants, a minor aquifer and known records of minerals.
- 1.3 The application has been submitted in outline for the construction of up to 300 dwellings, together with a new access from Warwick Road, associated open space, allotments and a 500sqm retail store. All matters other than access are reserved, however the submission includes an indicative layout, landscape strategy and parameters plan for the proposed development.
- 1.4 The application is supported by a Environmental Impact Assessment covering Socio-Economics, Ecology and Nature Conservation, Landscape and Visual, Air Quality, Noise and Vibration, Flood Risk and Drainage, Ground Conditions, Cultural Heritage and Archaeology and Agricultural Circumstances, Transport & Accessibility, Transport Assessment, a Design and Access Statement, FRA, Ecology surveys, Arboricultural Assessment, LVIA, Energy and Code for Sustainable Homes Report, Archaeological Desk Based Assessment, Phase 1 Geoenvironmental Desk Study, Noise survey, Air Quality Assessment, Agricultural land Assessments, Statement of Community Involvement and a Planning Statement.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notices and a press notice. The final date for comment was 13th June 2013.

To date 30 letters of representation have been received. 19 of these object to the proposed development. They raise the following summarised issues (see file for full content of each):

Destroying our countryside/ green space – brownfield land should be built on first
Impact on areas of natural and outstanding beauty

There are no detailed plans as to the design; appearance and materials planned, local residents should see these before any permission is granted.

The land rises from Warkworth Close and the houses planned would invade the privacy of the existing houses

Impact on wildlife

This site is not identified in the Plans seen that identify growth for Banbury, which show the site to the north of Hanwell Fields and the Southam Road.

According to the Council's figures the allocated sites will be adequate for anticipated future housing needs.

Housing sites at Bankside and Canalside are proposed and would meet needs as well as being better located.

This site seems to make more sense than the others proposed. However it would have some impact on Drayton village and would not favour development if there is no overriding need to release the land for housing

Premature whilst Proposed submission of the Local Plan is being finalised and before an Examination in Public

It is not clear why this site has not been considered for the local plan

Still not convinced about the intention for development largely to the north of Banbury rather than to the south

Aware of the level of objection to the site north of Hanwell Fields and hope that this is not an easier option due to the smaller number of homes impacted.

Impact on local schools, they are already at capacity

If Children would be expected to walk through Fir Tree Close to school, there are no footpaths

Inadequate local facilities

Demand for housing grossly over judged by CDC

The Warwick Road already has traffic problems causing congestion and can be used as a through route if there are any problems with the motorway. It does not have the capacity to support this development.

Transport infrastructure of the town is unable to cope with the number of residents, the roads are congested and the trains are unable to cope with current demand

Road safety concerns

Why is the second access point not off of the Warwick Road/ Hardwick roundabout? Strongly object to the access as shown close to Firtree Close

The current bus stop would have to be moved and it is not clear where to

Increased traffic and noise pollution

Part of the Banbury to Drayton Village Country walk would be lost

Other planning applications combined with this will have huge overall impacts

Believe that the site (or one close by) was used for landfill in the past so its development which would have potential hazardous consequences to health

General noise impacts

What provision is being made for new GP surgeries?

Loss of property value

Loss of views – pleasant countryside view would be lost

Possibility for pedestrians to look into nearby houses.

Concern over the timing of the public notices being put up.

General lack of employment in Banbury means there is no need for this development. No benefit for new homes for local people

Is there a need when there are numerous houses for sale on Hanwell Fields?

Reasons for considering the site to better in a strategic sense include that it would fit better into the urban form and are less intrusive than those allocated under Banbury 2 and 5. Development here would round off the edge of Hanwell Fields and would not erode the strategic physical gap of open countryside between the urban area and Hanwell village and would not breach the current northern urban boundary formed by Dukes Meadow Drive. The land is not shown as being integral to the Green Buffer as identified by LDA and could be excluded for long term growth. However on the negative side, it would erode the strategic gap between Drayton and Banbury, adversely affect the setting of Drayton as a historic village and conservation area and harm views over the rural landscape between Drayton and Banbury

Correspondence has also been received from Councillor Nick Turner who is also the leaseholder of the Drayton Leisure Golf Centre that adjoins the proposed site, who objects most strongly to the application on 3 main grounds:

- 1) The golf range is just over the hedge from the proposed development and balls at present fly, over 100m out into the field, this would cause damage to houses and properties.
- 2) The golf range is floodlit and this would cause nuisance to any proposed development.
- 3) The centre has a music licence until 12.30 am for music outside and this would cause disturbance to residents of the proposed development.

Meetings with Miller Homes on all of these issues have been had and they have

failed to address any of them. They appointed consultants, GRN consulting, to produce a report on all of these issues and although I have not been privy to this report, when they came to look at the site they were very firm in the opinion that the houses would be incompatible to the golf range and no measure of fencing would prevent the risk of balls flying into the proposed development. Due to the trajectory of the balls from the golf range, any fence would have to be in excess of 30m high and even this would not ensure all balls were stopped. Any fence of this nature would be very imposing on the development and would stand out from a long distance away, and also due to the prevailing wind would be of very high maintenance, thus it is a totally impracticable and unsatisfactory and would not be a solution.

If the GRN report had come up with a satisfactory solution he is sure Miller homes would have included this in their application.

More than happy to meet with the case officer or any of the planning committee, so that the Council is able to gain a real feel for the problem on the ground. The Centre has been operating on the site for over 20 years and have become a really good sporting asset to the community, they do a lot of work in schools to help grow the game of golf and have been endorsed by the former captain of the PGA, Eddie Bullock, who said they were a "shining example" of developing community golf. This development would force them to close the Golf Range down on health and safety grounds. He is more than happy to give any further information that may be required. The question has to be, would you grant planning permission for a Golf range over the hedge from a housing development?

11 letters of support have been received raising the following points:

The location of this development will support the Northern Boundary of Dukes Meadow Drive and is the preferred location for development over housing to the north of Hanwell Fields.

Better traffic integration on the Warwick Road and the surrounding road network.

Plans are well thought out and detailed unlike others for nearby sites.

Provision of facilities for an ageing population is encouraged.

Proximity to the Academy school is positive.

The Site should be included within the Local Plan.

Traffic Calming in the local area should be a requirement

Road access from the proposed development onto the Hardwick Island should be included as better public transport could be included and an extension to the current bus routes.

3. Consultations

3.1 **Drayton Parish Council:** Comments awaited

3.2 **Wroxton Parish Council:** Has NOT received an application consultation for this application and therefore the comments have not been discussed, but have been received by Parish Council Chairman from the Parish Councillors who have accessed their e-mails (25.7.13).

The Parish Council strongly OBJECTS to the proposals:

- This proposed development of 300 houses is not in the Local Plan.
- It threatens the integrity of Drayton village.
- There is an over-bearing development of the area, with 400 houses planned opposite Drayton Academy. The proposal of 300 more houses behind the school is proof of this statement.
- More traffic chaos
- Huge impact on local services i.e. the medical profession, hospital, schools etc

3.3 **Hanwell Parish Council:** Has concluded that it would have least objections to the development of this site West of Warwick Road but recognise that it would have an impact on the character of the area north of Banbury, and we would resist development of the site if there is no overriding need to release the land for housing.

Having considered all the potential housing sites north of Banbury, Hanwell Parish Council is still puzzled why this site has not been considered seriously by CDC alongside the other greenfield sites as arguably the site is more sustainable than others proposed. We are not clear whether its size is a factor as Strategic sites are we gather supposed to be 400 houses or above.

Since CDC have made considerable progress with the Local Plan and are now at the final stage, we feel strongly that none of the competing applications should be considered for approval before the Plan has been through its Examination in public - hopefully later this year - where all the relevant issues can be debated properly and thoroughly in public. You will recall that we recently objected strongly to the Persimmon application being “premature” and we believe there are valid grounds for treating this application as premature.

On the plus side, we feel the site West of Warwick Road would fit better into the urban form and is less intrusive than those proposed under Banbury 2 and Banbury 5 policies. One could argue that development of this site north of the secondary school would “round off” this edge of Hanwell Fields, would not erode the “strategic” physical gap of open countryside between the urban area and Hanwell village, and would not breach the current northern urban boundary formed by Dukes Meadow Drive. We note the LDA study suggests this land is not integral to the Green Buffer and could be excluded to allow for longer term growth.

However, on the negative side, we recognise that the site would tend to erode the “strategic gap” between the village of Drayton and Banbury, adversely affect the setting of Drayton as a historic village and conservation area, and harm views over the rural landscape between Drayton and Banbury.

So, in conclusion, our specific grounds of objection to this application are as follows:

Prematurity - Strategic and other large housing sites for Banbury, such as this, should only be approved after a proper, informed and democratic assessment through the Local Plan process. We contend this application is therefore “premature” while the Proposed Submission Local Plan is being finalised. It is of course not included in the Plan allocations at this stage. We have already objected strongly to the Persimmon application coming before the Planning Committee on 16 May and trust that, despite the housing supply position and the draft Local Plan policies, the Council will not feel pressured into making hasty judgments.

“Strategic gap” - development of the site would tend to erode the strategic gap between the village of Drayton and Banbury, which has been suggested as a Green Buffer.

Impact on Drayton Village Conservation Area - development of the site would adversely affect the setting of Drayton as a historic village and conservation area.

Impact on Landscape - development of the site would have harmful impacts on the open countryside and rural landscape between Drayton and Banbury (previously Area of High Landscape Value) and would contribute to the growing urbanisation of the area north of Banbury.

We have endeavoured to concentrate on the principle of this development, rather than details, and trust these comments will be fully taken into account when the Council considers this application.

For your information, we also append the comments submitted by Hanwell Parish Council in October 2012 on the Draft Local Plan in relation to Policy Banbury 5 Land North of Hanwell Fields which we believe are relevant. The site West of Warwick Road was of course not included in this Draft (for reference these comments are available to view on the Council's website)

- 3.4 **Banbury Town Council:** Object 'Premature'. The Council accepts the need for CDC to meet its housing delivery and bring forward additional sites to achieve this. We would not like growth to take place in those additional areas instead of Canalside which is seen as a priority for growth. Development of these additional areas that were not within the primary site allocations consulted upon as part of the Draft Core Strategy should not be implemented until the already planned Bankside Development is completed. The site is adjacent to a recently developed site and we feel that it would be better to have a period of stability.

Cherwell District Council Consultees

- 3.5 **Head of Strategic Planning and the Economy:** Full comments available via the Council's website, but on balance, given that the site is not a proposed strategic allocation in the adopted Cherwell Local Plan or the emerging Local Plan, (albeit with objections to sites outstanding), is not needed in terms of achieving a five year housing land supply, and development in this location would extend development into and lead to the loss of open countryside, a planning policy objection is raised.
- 3.6 **Urban Design and Conservation Team Leader:** The configuration of the masterplan broadly provides an appropriate approach to the development of this site. I do however have some concerns about the integration of this site with the adjacent development and local facilities. If this site is to provide support sustainable lifestyles, further consideration of a number of elements is required:
- Further consideration is required on the relationship between the site and Warwick Road. This relationship is critical to the integration of this area by pedestrians and cyclists to adjacent facilities and the greater town.
 - Further information would be expected on street design at this stage.
 - Further consideration is required on the uses, location, massing and scale of the Local Centre area.
- 3.7 **Housing Delivery Officer:** The Heads of Terms supplied as part of the submission outlines the applicant's proposals for the affordable housing provision on the site. On the whole the affordable housing provision outlined within these Heads of Terms is conducive with the planning policy, and I can confirm my agreement to the principles outlined within this document. For the avoidance of doubt the applicant proposes:

30% affordable housing provision equating to 90 affordable housing dwellings across the site with a 70/30 split of rented and shared ownership. Further, the terms outlines the rented split as 50 units for affordable rent and 13 for social rent.

3.8 **Environmental Protection Officer:** Chapter 8 of the environmental statement has been reviewed and I can confirm the proposed methodology was agreed prior to the assessment being undertaken, in line with currently available guidance. The assessment has identified no exceedences of air quality objectives for the operational phase of the development and takes account of traffic flows for the surrounding developments. It is noted that there are several areas which are predicted to be close to the annual mean nitrogen dioxide air quality objectives.

3.9 **Anti-Social Behaviour Manager:** The issue of environmental noise has been addressed by an onsite survey and subsequent analysis carried out on behalf of the applicants by RPS. This exercise concluded that noise from road traffic using the adjoining Warwick Road will not adversely affect the development.

The other area of concern is the Daryton Lodge Golf Driving Range located to the NW of the site. Its presence is recognised as one of the constraints to the development of the site. There are two areas of concern arising from this relationship. The first and most obvious is the risk of stray balls leaving the range and striking dwellings or people on the new development. The second is an issue that does not seem to have been recognised, in that the range is lit at night. Both these issues will need to be addressed with protection from stray golf balls being afforded by some sort of physical barrier and the affect of the range lights mitigated by planting or by the design of the estate layout.

3.10 **Landscape Officer:** Initially raised concerns regarding the landscape and visual impact of the development, however concludes that the applicant's assessment of the proposal is consistent with the findings of the reports produced by LDA which form part of the evidence base for the local plan. There are certain aspects in respect to viewpoints which require further clarification. In terms of the proposed mitigation measures for the western boundary with Drayton Leisure, it would be a preferred option for Drayton Leisure to erect the golf netting on their land and for it to be maintained thereafter by them as Drayton Leisure are responsible for golf balls being knocked into the site, but ultimately there is no guarantee that the fence will stop balls entering gardens or smashing windows.

There is going to be a shortfall in LAP provision so this needs to be addressed as part of a play strategy to be agreed.

3.11 **Waste and Recycling Manager:** The developer should take into account the Waste and Recycling guidance which can be found on the Cherwell District Council website <http://www.cherwell.gov.uk/index.cfm?articleid=1735> Section 106 contribution of £67.50 per property will also be required.

3.12 **Ecology Officer:** No objection in principle. The surveys carried out to date are sufficient in scope and depth at this stage but a further assessment of impacts on all species and habitats present, mitigation and protection plans during construction will be required when details of the layout and phasing are submitted. Some surveys may need updating if more than twelve months has elapsed (badgers in particular on this site) or if current plans as to retained vegetation have changed (mature trees/bats). (Full comments via the Council's website and detailed further in the report)

3.13 **Biodiversity and Countryside Officer:** The junction of Drayton Footpath No 6 and Drayton Bridleway No 2 is close to the north western corner of the site but neither will be affected by the proposed development.

- 3.14 **Arboricultural Officer:** No objections to the proposal subject to appropriate conditions being attached to any consent given to include an appropriate landscaping scheme to include mitigating planting and the submission of an Arboricultural Method Statement and Tree Protection Plan.
- 3.15 **Arts and Visitor Services Manager:** Public art will be required at a rate of £150 per dwelling. CDC to work with the developer in determining what is to be commissioned.

Oxfordshire County Council Consultees

- 3.16 Overall view: Holding objection previously provided has now been removed and based on the further information and clarification sought, there is no objection to the proposal subject to conditions.
- 3.17 **Highways:** Minor issue that required further information has been resolved and therefore there is no objection subject to conditions in respect to highway safety, accessibility and traffic impact. (Detailed comments available via the Council's website)
- 3.18 **Transport & Planning Strategy :** The development site is within access to cycle and pedestrian links into the town centre, via the shared use facilities situated along the eastern side of Warwick Road. The council welcomes the proposals to enhance pedestrian and cycling facilities along Warwick Road, as set out in the Transport Assessment. This should be supported by way finding signage on the site connecting to these facilities, particularly directing pedestrians and cyclists to the proposed pedestrian and cycle links. (Detailed comments available via the Council's website)
- 3.19 **Drainage:** Initially objected as further information was required, however this has now been received and there is no objection to the outline drainage design.
- Porous pavement could be used on all estate roads where buses do not regularly use, this would reduce storage ponds and maximise soakage and evaporation
 - The LLFA would not adopt the storage ponds if the main SWS system is adopted by Thames Water Utilities
 - The discharge of 80 l/s should not be exceeded, when it is connected to a sewer which flows through the Ruscote and Hardwick estates.
 - Discharge from the development should be less than greenfield run off
- 3.20 **Developer Funding:** There will be a requirement to provide financial contributions towards libraries, elderly care, adult learning, education special needs, museum resources and waste management. (Detailed comments available via the Council's website)
- 3.21 **Education:** The proposed development is projected to generate a demand for 91 primary school places (age 4-10), 61 secondary school places (age 11-15) and 8 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.
 - If this application is approved in addition to the housing identified in the CDC draft Local Plan, expansion of capacity at existing secondary school(s) in the

area would 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.
- Developer contributions towards the expansion of one or more primary schools by a total of 91 pupil places. Contributions
- Developer contributions towards the expansion of secondary school capacity by a total of 69 places (including 8 6th form places).
- Developer contributions towards the expansion of one or more SEN schools by a total of 2 pupil places

3.22 **Archaeology:** The site is located in an area of some archaeological potential as highlighted by the submitted desk based assessment. Recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of an archaeological monitoring and recording action to be maintained during the period of construction

3.23 **Rights of Way:** There is a well used route to the south of the site which should be formally integrated into the greenspace area of the development. The development application may well trigger an application from user groups or local people for a Definitive Map Modification Order to add this route to the Definitive Map

- The development will affect existing rights of way in the proximity of the site due to the amount and frequency of increased use (see informatives)
- 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 make this area more urban and there should be provision to enable people to access the nearby countryside as well as providing onsite greenspace areas

Legal Agreement:

- Undertaking to improve walking and cycling within the site and provide connections to the wider network
- contribution to public rights of way in vicinity

3.24 **Minerals and Waste:** No objection

3.25 **Ecology:** A badger mitigation strategy will need to be developed at a later stage and approved by Cherwell DC before any works on site begin.

Other Consultees

3.26 **Environment Agency:** No objection to the application as submitted, subject to the inclusion of a number of conditions, detailed under the headings below, to any subsequent planning permission granted.

Without the inclusion of these conditions we consider the development to pose an unacceptable risk to the Environment

3.27 **Thames Water:** With the information provided Thames Water, has been unable to determine the waste water infrastructure needs of this application. Should the Local Planning Authority look to approve the application ahead of further information being provided, we request that the following 'Grampian Style' condition be applied - "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.

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

Wastewater - The foul sewers in the area are unlikely to be able to cope with a development of this size without causing some detriment to the system downstream. Therefore a developer funded Foul water Impact Study is requested to confirm whether capacity exists and identify what if any local upgrades are required.

- 3.28 **Thames Valley Police Strategic Planning:** It has been 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 unplanned demand upon the existing police service. As such the Local Police Area Commander requests a contribution of £32,100, broken down into:
- Automatic Number Plate Recognition (ANPR) Cameras x 2 = £22,000
 - Remote IT Facilities x 2 = £8500
 - Bicycles x 2 (including necessary kit) = £1600
- 3.29 **Thames Valley Police Crime Prevention Design Team:** No objection to the proposals at this time, the applicants are commended for providing within their Design and Access Statement (DAS) a specific section entitled Designing Out Crime, which addresses how they believe they can incorporate crime prevention design within the proposals at this stage. 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 address the concerns listed below that could lead to objections at that time should they not be addressed. In addition, although the content of the DAS is commendable, there is no firm commitment to ensuring a safe and secure environment is created. To ensure that Police concerns are addressed and opportunities to design out crime are not missed I request that a condition (as detailed in the response) be placed upon any approval for this outline application.
- 3.30 **Natural England:** The proposal is unlikely to affect any statutorily protected sites or landscapes. The protected species survey has identified that the following European Protected Species may be affected by this application: bats and great crested newts.
- BATS
- The proposal is unlikely to affect any statutorily protected sites or landscapes. Natural England advises that there is sufficient information available regarding bats. From the information available to us Natural England:
- Considers that there are suitable features on, or in the vicinity of the application site for bats to use as roosts

- Confirms that detailed visual inspections have been carried out, with no evidence of a roost found
- Advises that the application does not involve a medium or high risk building as defined in our standing advice.
- Advises that the application is unlikely to affect the species, through disturbance to individuals, or from damage or destruction of a roost.

GCN

The proposal is unlikely to affect any statutorily protected sites or landscapes. Natural England advises that there is sufficient information available regarding great crested newts.

From the information available to us, Natural England:

- Does not consider that there are suitable habitats on, or in the vicinity of the application site for great crested newts.
- Advises that the application is unlikely to affect the species, through disturbance to individuals, or from damage or destruction of a breeding site or resting place.

We advise the authority to consider requesting biodiversity enhancements for the site in accordance with the NPPF and Section 40 of the NERC Act.

- 3.31 **Sport England:** This is a non-statutory consultation which has assessed the application against adopted planning policy objectives for the provision of facilities and opportunities for sport which is necessary to meet the needs of local communities. It is expected that the applicant is to provide the necessary indoor and outdoor sports financial contributions, with outdoor sport being provided on site if possible. Should these contributions not be forthcoming, Sport England would be unable to support the application and would object.

Further to Sport England's response letter (which I attach), we have been in dialogue with the Proprietor of Drayton Leisure Golf Centre.

It is their view that the mitigation measures proposed would not be sufficient to stop balls due to the height of the ball. They also raised concerns regarding the existing floodlighting and affect this would have on residential amenity. It is their view, and understood to be GRN Consulting's (golf facility specialists) view, that these concerns could not be managed out and could potentially lead to the closure of the sports facility.

Sport England therefore request that detailed consideration is given as to whether the proposed development is compatible with the neighbouring Golf Centre.

- 3.32 **Stagecoach in Oxfordshire:** Fully supports the application (full details of the response are available via the Council's website. The bus network generally in this location, and local routes B10 specifically, suffers from problems arising from the wider context and a legacy of planning decisions made over many decades in the northwest part of Banbury. The Miller Strategic Land proposals, along with the other promotions in the near vicinity, offer a very significant opportunity to remedy many if not all of these problems. In fact, if the opportunity is not taken at this stage to take best advantage of these opportunities, it is not clear that they will be able to be revisited again for the foreseeable future, given the resource constraints on the public purse. **Positively, these proposals are well-positioned to address many of these singular difficulties**, thus contributing to the delivery of attractive bus services which can offer a good choice to existing motorists, and future residents on the development.

Despite the currently egregious lack of quality public transport to this area, Stagecoach in Oxfordshire recognises that emerging nearby allocations and this

promotion in particular offer an excellent opportunity to address these deficiencies, with modest targeted improvements to local bus service infrastructure while introducing a critical mass of population to sustain an improved service offer long term.

Shorter term the application of proportionate developer contributions from this site and others nearby to kick-start an appropriate improved service to a point where it can be sustained without further third party funding will be essential to avoid perpetuating and reinforcing car-dependency on the proposals, and nearby.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

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

Non-Statutory Cherwell Local Plan

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

- R9: Provision of amenity open space
- R10A: Provision of sport and recreation facilities
- OA1: General Infrastructure policy

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Draft (August 2012)

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

The draft Local Plan has been through two rounds of public consultation and although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan Policies:

Sustainable communities

- BSC1: District wide housing distribution
- BSC2: Effective and efficient use of land
- BSC3: Affordable housing
- BSC4: Housing mix
- BSC7: Meeting education needs
- BSC8: Securing health and well being
- BSC9: Public services and utilities
- BSC10: Open space, sport and recreation provision
- BSC11: Local standards of provision – outdoor recreation
- BSC12: Indoor sport, recreation and community facilities

Sustainable development

- ESD1: Mitigating and adapting to climate change
- ESD2: Energy Hierarchy
- ESD3: Sustainable construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable flood risk management
- ESD7: Sustainable drainage systems
- ESD8: Water resources
- ESD10: Biodiversity and the natural environment
- ESD13: Local landscape protection and enhancement
- ESD15: Green Boundaries to Growth
- ESD16: Character of the built environment
- ESD17: The Oxford Canal
- ESD18: Green Infrastructure

Infrastructure Delivery

- INF1: Infrastructure

5. Appraisal

5.1 The key issues for consideration in this application are:

- Environmental Statement
- Planning Policy and Principle of Development and prematurity
- Five Year Housing Land Supply and Proposed Housing Delivery Programme

- Landscape Impact
- Indicative Design/Layout/Scale
- Housing Mix
- Residential Amenity
- Transport Impact
- Flooding and Drainage
- Loss of Agricultural land
- Historic Environment
- Ecology
- Trees
- Noise
- Developer Obligations
- Pre-application community consultation
- Code 4 Construction

5.2 **Environmental Statement**

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 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.

5.3 The ES covers the following areas socio economic, air quality, archaeology and cultural heritage, ecology and nature conservation, flood risk and drainage, ground conditions, landscape and visual, noise and vibration, transport and accessibility and agriculture.

5.4 The ES, within each chapter considers the impacts and the significance as well as the cumulative effects on 5 other sites surrounding Banbury (BAN5 Land North of Hanwell Fields East of Warwick Road, BAN5 Land North of Hanwell Fields North of Dukes Meadow Drive, BAN2 Land at Hardwick Farm, Land at Crouch Farm East of Bloxham Road and BAN3 Land West of Bretch Hill). 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 full reports and technical notes can be viewed via the web site.

5.5 Socio Economic

The proposed development of 300 dwellings would likely give rise to an addition of up to 735 people to the population of the local area as a result of the scheme. The proposed development would generate a number of construction jobs and this would result in a major beneficial effect. The implementation of the scheme would result in the provision of 300 dwellings and all supporting infrastructure. It is considered that this would have a positive impact in terms of the provision of housing to meet the Council's shortfall and the provision of affordable housing brings a major benefit. Capacity within existing primary schools remains for pupils generated from the scheme but there is a need to expand the Secondary and Sixth form schools to accommodate pupils generated. It is considered that the operational impacts on socio-economic effects would be major beneficial.

It is predicted that cumulatively the combined number of dwellings from the five assessed sites and the mitigation measures proposed in support of each project would have major beneficial cumulative effects.

These conclusions are accepted.

5.6 Air Quality

The assessments carried out have found that Air Quality Strategy objectives for certain air pollutants are likely to be met at the edges of the development. It is therefore concluded that the site is suitable for its future use in the context of air quality. Various mitigation measures are proposed during the construction phase and it is considered that overall effects during construction such as dust generation and plant vehicle emissions would be of a short duration and, along with the implementation of mitigation, residual effects are not expected. During the operation of the development, the effects are predicted to be negligible and so no mitigation measures are deemed necessary.

Cumulatively, three of the other developments could potentially lead to cumulative effects in terms of dust risks at sensitive receptors. Dust mitigation measures appropriate to each site should be developed and effective implementation should ensure the risk of cumulative dust nuisance effects is minimal, it is concluded that no significant cumulative effects are predicted during the construction phase. There is the potential for there to be a more localised effects on the immediate highway network and so sensitivity testing has been undertaken to ensure that the cumulative effects are assessed for the five possible future development sites. When this change is considered in the context of predicted nitrogen dioxide concentrations, the impact descriptor is assessed as negligible to slight adverse.

These conclusions are considered to be acceptable.

5.7 Archaeology and Cultural Heritage

The proposal includes a number of mitigation measures including the use of buffer planting to screen the site from long distance views from Wroxton Abbey and Wroxton Conservation area, the use of high quality design of the proposed site and buildings and the use of visually and contextually appropriate materials. It is concluded that there will be no significant residual effects on archaeological assets during operation and that effects can be mitigated against prior to construction. The ES predicts that there will be no significant residual effects on any heritage assets during the operation of the development. Any heritage assets that may experience effects of a moderate or low negative nature at the operational stage will be protected through the proposed measures to screen the development, which will mature over time.

Cumulatively the ES anticipates that there will be no significant residual or cumulative adverse effects on archaeological or built heritage assets.

These conclusions are accepted.

5.8 The likely ecological receptors of the proposed development are assessed. Potentially adverse impacts prior to mitigation are identified and specific mitigation measures are included to respond to the potential impacts. Furthermore, enhancement measures are proposed as part of the development. As part of the Sustainable Drainage systems, three balancing ponds are to be created and the sensitive design of these will ensure that their value is maximised for wildlife. It is considered that due to the limited habitats and species present on the site, no residual effects would result.

Cumulative impacts have been considered. It is likely that badgers are utilising the surrounding area, however as the sett will be retained on site and commuting and foraging routes enhanced, it is concluded that there will be no significant effects on the local badger population. The Fishponds Wood Local Wildlife Site is situated within 1km of several of the identified sites and which could suffer degradation through increased visitor pressure resulting in a minor adverse impact. It is advised that this would be mitigated by the inclusion of public open space and amenity areas within each of the proposed developments. The ES advises that no other cumulative effects

are perceived from an ecological perspective and that overall it is considered that no significant cumulative residual effects will result from the proposed development.

The conclusions reached here are accepted.

5.9 Flood risk and drainage

The likely effects of the proposed development on the adjacent environment, considering flood risk and drainage impacts have been considered. Measures to mitigate effects on the existing surface water drainage include the creation of a network of swales and ponds within the proposed open space. The proposals provide attenuation in line with the Environment Agencies standards. Alternatively attenuation can be provided in an alternative way if the ponds are not deemed appropriate. Other techniques can be used to reduce generated flows. As a result of the construction work it is predicted there will be a temporary minor adverse impact due to temporary on site welfare facilities and disruption to the existing overland flows. However once the scheme is operational, it is predicted that there will be a minor beneficial effect due to the restricted surface water outfall from the site being lower than the existing overland flow estimated calculations. It is concluded that there will be negligible impact in respect to foul water and flood risk.

In terms of the cumulative impact, the ES considers that there will be no effect because each scheme will address flood risk and drainage.

These conclusions are accepted.

5.10 Ground conditions

During the construction phase, effects would be determined with a Phase 2 Intrusive investigation. Measures are likely to include localised excavation of soils and removal from site, importation of clean soils and protection of any surface and ground water features from any known contaminants. The residual significance is assessed as not significant. Once completed, no significant mitigation measures are likely to be deemed necessary providing the requirements of the Phase 2 intrusive investigation are met. The residual significance is deemed not significant.

Cumulatively it is not anticipated there will be any significant cumulative effects on ground conditions arising from the development of one or more of the sites including the application site.

These conclusions are considered to be acceptable.

5.11 Landscape and Visual

The assessments undertaken have considered effects on the landscape character, landscape features and views into and out of the site. A number of levels of mitigation have been proposed, which it is considered represent significant landscape enhancements. The scheme design has responded to the site constraints avoiding built development immediately adjacent to the most visually sensitive boundaries and by protecting existing trees and hedgerows. Further effects of the development have been minimised by retaining open space/ allotments to the north of the site, by using sensitive design considerations, minimising impacts on boundary vegetation, using design to reduce light spillage and advance landscaping to screen the site from an early stage. Various other mitigation measures are proposed in terms of landscaping throughout the development and further enhancements.

The ES concludes that no major landscape and visual effects will result from the proposed development. Cumulative effects are assessed as not significant.

These conclusions are generally accepted in principle but some viewpoint aspects are not.

5.12 Noise and vibration

Assessments have been undertaken to determine whether significant noise or vibration effects are likely to occur from the proposed development. The assessment concludes that a Construction Environment Management Plan (CEMP) should be submitted and agreed by the Local Planning Authority. With this document, it is concluded that the proposed development during construction would have a negligible effect. Once operational, mitigation measures in the form of for example window glazing, ventilation etc are proposed and with these measures the proposal is predicted to have a negligible effect.

The cumulative assessment indicates that when all developments are operational, the residual effects are considered to be negligible to minor adverse on a number of local road links.

These conclusions are acceptable.

5.13 Transport and accessibility

The environmental effects of the proposed development in terms of transport and accessibility are assessed. During construction, traffic would access the site via the Warwick Road and these movements have the potential to cause minor adverse effects in terms of driver delay and pedestrian amenity. Mitigation in the form of the CEMP and traffic management measures are proposed to minimise nuisance associated with the construction activities.

A number of proposed off site highway mitigation measures are proposed and a travel plan has been produced to ensure that journeys by sustainable modes of travel are encouraged. It is considered that these proposals will mitigate any adverse effects generated by the proposed development.

These conclusions are considered acceptable.

5.14 Agriculture

The ES concludes that the magnitude of effects on agricultural land quality is assessed to be negligible to low based on the loss of predominantly grade 3b farming land and the sensitivity of the effect is assessed as low to medium having regard to the mixture of the grades 2 and 3b land on the site. The ES concludes that the significance of the effect on soils and agricultural land quality would be minor adverse.

The land is part of a larger arable agricultural holding. The development would not affect any farm buildings and would not jeopardise the continued operation of the remaining land within the holding. It is considered that the loss of the agricultural productivity from this field would have no significant effect on agricultural productivity at a local or regional level. The ES concludes that the effect of the development of the site on farm holdings and agricultural productivity is assessed to be of minor adverse significance.

Whilst it is not possible to mitigate for the permanent loss of the land, the development of the site would include land where the soils would remain undisturbed as part of the proposals. Soils would be reused sustainably within the development as far as possible taking into account current guidance documents.

There would be no additional effects arising during the operation of the development and therefore the effect of the development of the site on farm holdings and agricultural productivity is assessed to be of minor adverse significance.

Cumulatively, the ES concludes the application site comprises some of the lowest quality agricultural land compared to alternative sites as a high proportion of the land is the lower quality 3b agricultural land. It is considered that the loss of the small area of 'best and most versatile' quality land from this site would have no significant cumulative effects on agricultural resources in addition to the loss of predominantly best and most versatile land that would arise from the remaining sites proposed.

These conclusions are accepted.

5.15 **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. 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 the planning obligation. The ES and technical information are considered to contain 'adequate information' to enable the determination of the application.

Planning Policy, Principle of Development and prematurity

5.16 The development plan for Cherwell comprises the saved policies in the adopted Cherwell Local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the development plan unless material planning considerations indicate otherwise.

5.17 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (para' 7). It also provides (para' 17) a set of core planning principles which, amongst other things, require planning to:

- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
- proactively drive and support sustainable economic development
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- support the transition to a low carbon future in a changing climate
- encourage the effective use of land by reusing land that has been previously developed
- promote mixed use developments
- conserve heritage assets in a manner appropriate to their significance
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are of can be made sustainable; and
- deliver sufficient community and cultural facilities and services to meet local needs

5.18 Local Planning Authorities (LPAs) are expected to set out a clear economic vision and strategy for sustainable economic growth and to identify priority areas for

economic regeneration, infrastructure provision and environmental enhancement (para' 21). Local Plans are considered to be the key to delivering sustainable development that reflects the vision, aspirations and agreed priorities of local communities (para's 150 & 155). An adequate, up-to-date and relevant evidence base is required (para' 158).

- 5.19 LPAs are expected to create sustainable, inclusive and mixed communities (para' 50). Paragraph 52 advises, "*The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities. Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development*".
- 5.20 As well as allocating sites to promote development and the flexible use of land, LPAs are expected to "*identify land where development would be inappropriate, for instance because of its environmental or historic significance*" (para' 157). Para' 126 of the NPPF emphasises the importance of seeking to conserve heritage assets in preparing Local Plans; the wider social, cultural, economic and environmental benefits of doing so; and, the desirability of new development making a positive contribution to local character and distinctiveness.
- 5.21 The PSLPIC seeks to meet the NPPF's objectives. A clear development strategy has been set out in the interests of securing growth and achieving sustainable development. Overall housing requirements are in line with those previously set by the South East Plan and the Plan includes proposals for major land releases to meet employment, housing and other needs and to achieve place specific objectives.
- 5.22 In terms of material considerations, the Non Statutory Cherwell Local Plan (NSCLP) 2011 was approved by the Council for development control purposes. The site is not allocated for development within this plan and therefore, is a location where new residential development is restricted to where they are essential for agricultural or other existing undertakings (Policy H19 refers). The development must also therefore be considered a departure from the NSCLP.
- 5.23 The National Planning Policy Framework (NPPF) at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking...for decision taking this means¹:
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted²
- 5.24 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as an existing land use, where there is no specific

¹ Unless material considerations indicate otherwise.

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

allocation. Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings. The proposal clearly does not comply with this policy criterion and therefore represents a departure from the adopted development plan (the Adopted Cherwell Local Plan 1996 – ACLP).

- 5.25 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...”*.
- 5.26 The application relates to a release of housing land ahead of completion of the Local Plan and ahead of the independent Examination of the Plan's proposals and policies.
- 5.27 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)

- 5.28 The Council's Planning Committee has recently resolved to approve a number of strategic development sites. There are also several other current planning applications for the development of housing on greenfield sites some of 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.

- 5.29 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.
- 5.30 The issue of potential prematurity (including cumulative impact) must therefore be considered. However this has to be balanced against other material considerations.
- 5.31 The new Local Plan would ideally proceed to completion before new greenfield strategic sites are released.
- 5.32 The proposed development conflicts with the emerging Local Plan. The 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).
- 5.33 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.
- 5.34 However the requirements of the second bullet point limits the weight given to the emerging plan policies relating to the site as there are unresolved objections relating to the non-allocation of the site. A balanced judgement is therefore required in the light of other material considerations.
- 5.35 In this regard there have been a number of recent appeal decisions nationally which have given consideration to non allocated sites in Districts where housing land supply is significantly lower than five years. In these decisions weight was given to the need to meet the five year housing land supply.

Five Year Housing land Supply and proposed housing delivery programme

- 5.36 LPAs are required to boost significantly the supply of housing by meeting assessed needs and identifying key sites critical to the delivery of the housing strategy over the plan period (para' 47).
- 5.37 They are expected to *"identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land"* (para' 47).

- 5.38 Footnote 11 to paragraph 47 states, *“To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans”*.
- 5.39 Para’ 49 states, *“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*
- 5.40 The district’s housing land supply position has recently been updated in July 2013. At the time of writing, the district has a 5.8 year supply of deliverable sites for the period 2013-18 incorporating an additional 5% requirement and a 5.1 year supply with an additional 20% requirement. Paragraph 47 is therefore considered to have been met. It should be noted that this is a new position for the Council, having not been able to demonstrate a 5-year housing land supply with additional 20% buffer for the preceding period.
- 5.41 Due to the evolving nature of the housing land supply calculation, a written briefing on Five Year Land Supply was presented at planning committee meeting (13 June 2013, agenda item 6). The briefing report makes clear that the Council had 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.
- 5.42 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”.

- 5.43 As the Council now has a defensible five year housing land supply position the application site is not needed to assist in housing delivery. It does however need to be considered in the context of the Development Plan and all other material considerations.

- 5.44 Should Members accept the proposal, in terms of the delivery of the proposed, assuming development commences in 2014, the development would progress as follows:

Year 1 - Construction start 2014
Year 2 - 50 completions (by end March 2015)
Year 3 - 90 completions (by end March 2016)
Year 4 - 90 completions (by end March 2017)
Year 5 - 70 completions (by end March 2018)
Total - 300

Landscape Impact

- 5.45 Paragraph 9 of the NPPF states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. One of the core planning principles enshrined within paragraph 17 of the NPPF requires planning to recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
- 5.46 More specifically, paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by, [inter alia] protecting and enhancing valued landscapes, geological conservation interests and soils.
- 5.47 The following policies of the Adopted Cherwell Local Plan are relevant to the consideration of the landscape impact of the proposal:
- C7 – Development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.
- C9 – Beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will normally be resisted.
- C28 – Control will be exercised over all new development, including conversions and extensions, to ensure that the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development.
- C31 – In existing and proposed residential areas, any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion, will not normally be permitted.
- 5.48 The Non Statutory Local Plan also contains relevant policies as set out below;
- Policy EN31 (Countryside Protection) (like its equivalent policy C9 in the Adopted Cherwell Local Plan 1996) states that beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will be refused.
- Policy EN34 (Landscape Character) sets out criteria that the Council will use to seek to conserve and enhance the character and appearance of the landscape through the control of development. Proposals will not be permitted if they would:
- cause undue visual intrusion into the open countryside
 - cause undue harm to important natural landscape features and topography
 - be inconsistent with local character
 - harm the setting of settlements, buildings, structures or other landmark features
 - harm the historic value of the landscape
- 5.49 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.
- 5.50 Policy ESD13 (Local Landscape Protection and Enhancement) of the PSLPIP 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.

5.51 Policy ESD16 (The Character of the Built Environment) of the PSLPIP 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.

5.52 As advised in paragraph 5.10, the landscape and visual impacts of this site and the wider Banbury and Cherwell district have been subject to several reports, the latter being undertaken recently by WYG and LDA as core documents for the evidence base for the local plan, this has built on the previous findings of the Halcrow report dated Sept 2010 (CDC LSCA 2010). These reports include:

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

The study does not consider the urban settlement of Banbury in detail but provides a brief overview of relevant aspects to provide context and allow further understanding. Detailed studies concerning the urban area of Banbury are available as part of the evidence base of the Local Plan.

- **Appendix 1 of the Baseline Report: The Historic Landscape Setting of Banbury (March 2013) LDA** – this report is an interim outline study of the heritage aspects of Banbury and its surrounding villages, in the context of assessing options for urban expansion and associated studies. The study commences with consideration of Banbury itself, and advances anticlockwise round Banbury, starting from Hardwick in the north. The purpose of the study is to provide a broad view of the relevance of the historic landscape; it does not assess in detail all the potential historic landscape features and assets that would need to be addressed in any specific site study.
- **Banbury Green Buffer Report (March 2013) LDA** – This study determines clear criteria for inclusion of land within the Green Buffer, review the illustrative Green Buffer against those criteria and recommend revised boundaries to the Green Buffers, ensuring that areas recommended for inclusion meet the requirements of the emerging Green Buffer policy. The study has taken into account the Strategic Sites allocated for development in the Proposed Submission Local Plan but, where appropriate, gives a broad indication as to whether areas of the site could meet the criteria for inclusion in the Green Buffer.

The 'Banbury: Green Buffer Report March 2013' did not include the application site within the proposed green buffer, indicating:

“Land at West of Warwick Road (shown with green hatching on Figure BAN 1.11) to the north of Oxford Academy has been excluded from the Green Buffer as analysis within the Strategic Development Site Analysis, Wroxton and Drayton Strategic Heritage Impact Assessment and analysis undertaken as part of the Green Buffer study, has shown that this land is not integral to the Green Buffer to protect the setting of Wroxton and Drayton Conservation Areas. Moreover, existing planting along the Green Buffer boundary to the east currently filters views towards the existing urban edge. The exclusion of this land from the Green Buffer will allow for longer term expansion to Banbury to meet future housing needs, should this be required. Should the land be utilised to meet future housing needs, it is recommended that the western edge, adjacent to the Buffer, is designed to ensure an appropriate substantial green interface between the edge of Banbury and wider rural landscape.”

However the report concluded that should land West of Warwick Road not be required for housing needs it could be included within the Green Buffer for logical boundary reasons.

- **Banbury: Analysis of Potential for Strategic Development (March 2013) LDA** – This is an appraisal of the countryside around the margins of Banbury's fringes to assess the extent to which the town is able to accommodate strategic development whilst retaining its historic market town character and rural landscape setting. The appraisal is based on the findings of the Banbury Environmental Baseline Study and the Banbury Green Buffer Report. Reference should be made to these documents when reading this report.

The analysis of the town and its setting led to a view on the future of Banbury from an environmental perspective, taking account of the natural, historic,

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

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

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

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

The appraisal follows the same basis as the Banbury Environment Baseline Study, dividing the countryside around Banbury into four quadrants. These are:

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

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

The analysis also identified the application site and advised that whilst the site was considered in earlier stages of the local plan it is not a preferred strategic site in the submission local plan. The conclusion drawn from the report was that whilst constrained in several respects, the site could accommodate development should further capacity be required through the local plan process subject to a sensitive layout and suitable mitigation and green infrastructure measures being implemented.

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

5.53 The WYG (Banbury Landscape Sensitivity and Capacity Assessment (March 2013)) report considered that the application site West of Warwick Road ('the southern area') has low - medium capacity for development due to it being more open in its context

and its relationship with the surrounding landscape compared to land north of Hanwell Fields (the “northern area”). However it indicated that if developed, it would naturally form an extension to the western boundary of the town between Hardwick and the golf course.

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

SITE ISSUES IDENTIFIED FROM BASELINE AND GREEN BUFFER STUDIES

- Lies within ‘environmental limits’ of Banbury.
- Potential future extension of Green Buffer designation into western part of the site.
- Plays a minor role in the landscape setting of Banbury .

ENVIRONMENTAL CONSTRAINTS AND ISSUES

- The site sits to the east of Warwick Road ridge but is relatively flat.
- Locally visually contained although filtered views from Warwick Road and public bridleway to the west are possible.
- Mature boundary hedgerows and hedgerow trees.
- Hedgerows likely to be of historic importance under the Hedgerow Regulations.
- No designated heritage within the site.
- Abuts Drayton Conservation Area.

KEY DESIGN ISSUES

include:

- Incorporation of existing significant hedgerows and boundary trees.
- Treatment of frontage on to Warwick Road to ensure green gateway to Banbury.
- Landscape buffer to protect the setting of Drayton Conservation Area.
- Relationship between development, surrounding neighbourhoods and school site.
- Opportunity to reinstate dismantled railway to improve links to the countryside from the town.

Indicative Capacity Study

Total Site Area	12.75 ha
Developable Area	9.9 ha
Net Housing Area*	6.8 ha
Density	30 - 35 dph
No. of dwellings	204 - 238

* Figure calculated makes provision for SUDs (0.37ha) and Public Open Space (POS) (2.2ha) and enterprise space (0.5ha) within Developable Area.

- 5.55 Taking into account the detail provided as part of the ES and that of the studies undertaken by Halcrow, WYG and LDA it is considered that the site is capable of accommodating some development maximum of 238 units without having significant adverse landscape impacts, however this is below the strategic size of 400 dwellings used to identify housing led sites for the local plan purposes.

As part of the Environmental Statement submitted with the application, the applicants have undertaken a landscape and visual assessment of the construction and operation of the proposed development. Various photographic viewpoints were identified as forming part of the visual envelope (ie the extent of the area from within

which the proposed development may be viewed).

Other than the built form of residential and commercial development proposed on the site, there would be the need for ball stop netting erected along the north western boundary of the site with the golf driving range on Drayton Leisure. The way the driving range is orientated means that golf ball frequently and in large numbers fly into the site. This matter is further discussed later in the report, but for the purposes of considering the netting in landscape impact terms and notwithstanding the principle reason for its existence, there is the potential to incorporate it into the landscape scheme and therefore would have minimal impact when seen as part of that. The maintenance of which would be subject to a management plan as part of the legal agreement, but the principle of this is not generally accepted by the Council's Landscape Officer, so this matter is unresolved at this time.

The Landscape Officer has fully considered the proposal in light of the landscape surveys and reports undertaken by Halcrow, WYG and LDA along with those provided by the applicant in support of their proposal. The Landscape Officer found it difficult to agree with their position on a number of issues possibly because of differing professional judgements, but on balance it is considered that the landscape impact of this proposal is marginal should the Council consider the principle of the development to be acceptable in the first instance.

Indicative Design/Layout/Scale

5.56 The proposals set out an urban extension to the north western edge of Banbury. The 11.8HA site lies to the west of Warwick Road. The site forms a single arable field in a single landholding, with field boundary hedgerows that define the edges of the site. Hanwell Fields lies to the east of Warwick Road, most of which was built out over the last ten years. To the south is the North Oxfordshire Academy. To the northwest of the site is the Drayton Leisure Golf Centre and open farmland lies on the south-western edge.

Notwithstanding that the application is in outline form with all matters save for the access reserved for a later stage, a framework and illustrative masterplan have been established for the site. These set out the broad configuration of streets, movement, urban form, open space and uses for the site. The Council's Design and Conservation Team Leader has considered the proposal from an urban design perspective and comments as follows on the illustrative layout, which would be subject to change at the reserved matters stage, but generally give a good indication where those changes need to be focused :

The Masterplan and Concept Plans

- "The proposals show a local centre located to the north of the site, with allotments behind. While this application is only at an Outline Planning Stage, it is felt that this element of the scheme could be better configured with a presence onto Warwick Road. Further consideration should be given to how this area is designed and operates. A mixed use block, with greater scale would be most appropriate given its position at the site gateway and the associated security issues of these uses.
- Two access points have been provided to the site from Warwick Road, providing access to the top half of the site. This leaves the lower, and more populous, half of the site as a long cul-de-sac. It is recommended that access is made to the roundabout at the south Warwick Road, which comfortably adjoins the bottom of the site.
- The proposals do not consider how Warwick Road would be crossed and what upgrades might be required to support pedestrian movement in the area. It is

suggested that consideration should be given to the provision of footpaths along this route, as well as traffic calming and clear pedestrian crossing points.

- The configuration of the site is based around a spine road which provides access from Warwick Road and winds from the north to the south of the site. From this a number of lower order secondary and mews streets are accessed. There are a number of private driveways that provide access to properties to the periphery of the site. Bar the comment above, relating to the potential for a third access point onto Warwick Road, I am comfortable with the approach to the vehicular movement network through the site.
- A number of footpaths are proposed along the periphery of the site and tie into Warwick Road. The comments above raise concern about the need for changes along Warwick Road to integrate this scheme into Banbury.
- There is little information on the potential street design of the site. As streets form the most important element of public realm, I recommend that further information is provided.
- The housing density will be an average of 35 uha, but will vary across the site, with higher density along the spine road and central green. Lower density frontage is proposed along Warwick Road and the southern and western edges of the site. There is no explanation of what the upper and lower level of density might be and how this will relate to the different building typologies across the site. Reviewing the illustrative plan the density appears very even throughout. Further thought should be given to this and supported by a clear diagram.
- Building heights will be predominantly 2 storey with some 2.5 storey properties. I have concerns about the scale and form of the local centre, which is marked as 1 – 1.5 storey. This is a gateway position and a more appropriate response is required.
- A number of character areas have been identified, though no thought or detail has been given to the character cues, such as urban form, scale, materials and details which will differentiate each area.
- A generic description of materials and finishes has been given. These are presented as common palette which would be used in most developments around the country and there is nothing distinctive which relates it to District. Ironstone is mentioned as an 'effect' in the facing brickwork category. Further thought and information is required in this area.

5.57 Character and Context

A brief analysis has been undertaken of the architectural context and character of the Banbury's 19th century suburbs, Hanwell Village, Drayton Village and the recent Hanwell Fields development to the east of the site. The object of this study is to help define the design rationale for future development in this area. While an analysis of the townscape character is promoted by the Council and should form a useful starting point for discussion on the character and form of the future development, we do not feel that placing greater emphasis on the review of Hanwell Fields versus the other character areas is an appropriate starting point.

- The analysis of Banbury 19th Century Suburbs focuses on the use of buildings with strong continuous frontage, 2 – 3 storeys in height, using red brick. There is no further analysis of how these character cues might be applied to

the proposed development.

- The analysis of Hanwell Village describes the arrangement of the village around its junctions; 18th and 19th century cottages defined by front walls and lawned gardens.
- The analysis of Drayton Village describes local ironstone cottages with strong building frontages. The street scene is set by a wide road fronted by dwellings.
- The summary of the character analysis is unsubstantial and does not set a clear vision for how future development can come forward. Very little information is pulled out to summarise how the findings relate to the future urban form, architecture and public realm at Warwick Road.

5.58 Landscape and Public Realm

An open space plan has been provided within the Design and Access Statement. This sets out how the open spaces are distributed through the site, alongside a general strategy for planting in gardens and the public realm.

- The existing site features such as field boundaries and hedgerows are all at the periphery of the site and are for the most part being retained.
- Allotments are being proposed to the north of the site. I have concerns about the security of this area, especially in relation to the local centre and anti social activities.
- A central green provides the main focus to the site. This appears well configured and will help give character to the development. A LEAP is provided in this space.
- The southern and western boundaries of the site have an informal landscape buffer. The depth of this varies from approximately 10m to 30m in places and is informally planted.
- A LEAP is provided in the central open space and two LAPS are proposed in the north and south of the site in the green buffer area.
- Three SUDS basins will be provided, alongside swales. Care must be taken to ensure that these are integral parts of the landscape structure and do not form alien engineered structures
- Ballstop netting is proposed to mitigate the impact of the adjacent golf course. Specialist advice is required on the height and location of this to avoid damage to persons and property”

5.59 Compatibility with adjacent land use

On this final point, this is a significant material consideration. Representations have been received from the proprietor of the Drayton Leisure Golf Centre objecting to the proposed development on the grounds that the two land uses are incompatible and currently the driving range runs alongside the western boundary of the site. Notwithstanding the proposed safety net, there is concern that balls would potentially still fly over the net to the detriment of the occupiers of the future development. Furthermore the driving range is floodlit and other uses of the site include camping and music events. In response to this matter and in support of the application the applicant has commissioned a report from a golf expert who finds that subject to 20m

mitigation net there will be no undue harm to the future occupiers of the site and that floodlights would be unlikely to have a significant impact upon these residents.

- 5.60 Officers are not convinced that the proposed mitigation measures would sufficiently address the stray golf ball issue and whilst the current land owner has control over both site, there has been no evidence to suggest that there is a alternative orientation arrangement for the driving range, which clearly would be the most logical solution, but this would be subject to further consideration and could be dealt with by way of a Grampian type condition requiring this alternative arrangement. However on the basis that no evidence has been demonstrated that this is a possibility it is considered that there is an incompatibility and that both land uses would compromise each other to the detriment of that use.

Housing Mix

- 5.61 An assessment of the type and size of housing needed in Cherwell informs the PSLPIP Policy BSC4: Housing Mix. Although at this stage the policy carries limited weight, It does identify the size and type of housing is expected to be required to meet the needs of Cherwell's future population.
- 5.62 This application for up to 300 residential units will require 30% affordable housing, which equates to up to 90 affordable units the remaining 210 dwellings will comprise a mix in general accordance with Policy BSC4.
- 5.63 For the purposes of providing an estimated education requirement from the proposed development, the following mix of residential development which includes affordable housing mix, comprises:
- 13 x 2 bed flats
 - 4 x 2/3 bed bungalows
 - 94 x 2 bed units
 - 128 x 3 bed units
 - 61 x 4+ bed units

5.64 Affordable Housing

30% affordable housing provision equating to 90 affordable housing dwellings across the site with a 70/30 split of rented and shared ownership. Further, the terms outlines the rented split as 50 units for affordable rent and 13 for social rent.

As well as the provisions set out for affordable housing within the proposed terms there is a requirement that the affordable housing is built to the HCA's Design and Quality Standards including the necessary HQI requirements. Up to 50% of the Homes are built to Lifetime Homes Standards and 2% of the affordable units are built to be fully wheelchair compliant.

In order to ensure that the affordable is integrated within the wider development the affordable housing should be clustered in groups of no more than 15 units together.

The proposal within the Heads of Terms for the breakdown of affordable unit types is considered to be acceptable. However for clarification, a more comprehensive unit type expectation is detailed below

- 12x1b2pF
- 12x2b4pF
- 30x2b4pH
- 29x3b5pH
- 5x4b6pH
- 2x2b3pBungalow

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

Residential Amenity

- 5.65 The indicative layout for the development demonstrates that the proposed dwellings could be accommodated on the site without causing harm to existing neighbouring properties. At the time of the reserved matters application(s), the exact detailing of the positioning of the dwellings and their fenestration would be assessed to ensure that no unacceptable harm would be caused to residential amenity by way of loss of light, being over bearing or resulting in a loss of privacy.
- 5.66 The indicative layout and submitted information also demonstrates that the new dwellings, could achieve an acceptable standard of amenity in terms of private and public amenity space.
- 5.67 For these reasons, officers consider that the proposed development would comply with Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the core principles of the NPPF.

Transport Impact

- 5.68 The proposal will result in the formation of two purpose built site accesses. The southern site access will be created by way of a priority controlled junction along Warwick Road whilst the northern access will be developed by creating a 4th arm at the existing roundabout junction of Warwick Road and Dukes Meadow Drive. The proposed development of 300 dwellings is structured around the creation of a main street which defines the primary vehicles access through the development. Accessed from the north east corner of the site, buildings along the main street will be orientated to create a number of character zones, promoting legibility and reducing vehicular speeds.

The application has been submitted with a Transport Assessment, which Oxfordshire County Council as local highway authority are content with having duly considered the proposal from a highway safety, strategic transport impact and public transport perspective. The TA confirms that there will be an impact on the local highway network from the proposed development and the expected future growth of Banbury, specifically on the roundabout junctions of Dukes Meadow Drive/A423 Southam Road, A423 Southam Road/A422 Hennef Way, Warwick Road/A422 Ruscote Avenue and the Warwick Road/Cromwell Road roundabout. They conclude that the proposal would be acceptable subject to offsite improvements and enhancements measures and developer contributions, further details of parking provision and layout would be dealt with under a separate reserved matters application.

Loss of agricultural land

- 5.69 National policy guidance governing the non-agricultural development of land is set out in the National Planning Policy Framework (2012). Annex 2 of the NPPF identifies the "best and most versatile agricultural land" (BMV) as land in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Paragraph 112 of The Framework states: *"Local planning authorities should take into account the economic and other benefits of best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality agricultural land in preference to that of a higher quality."*
- 5.70 Policy EN16 of the non statutory Cherwell Local Plan states that *'Development on Greenfield land including the best and most versatile (Grades 1, 2 and 3a) agricultural land will not be permitted unless there is an overriding need for the development and opportunities have been assessed to accommodate the development on previously developed sites and land within the built up limits of settlements. If development needs to take place on agricultural land, then the use of land in grades 3b, 4 and 5*

should be used in preference to higher quality land except where other sustainability considerations suggest otherwise’.

- 5.71 A detailed site survey was carried out to confirm the agricultural characteristics of the site as carried out previously by DEFRA. The conclusion is that the site comprises mainly grade 3b land (68%) with a smaller area of grade 2 land (32%) along the western edge of the site. In terms of the use of the site, it forms part of a larger arable based farm holding based to the north of the site at Drayton Lodge. Other land associated with the holding is to the north of the site; however a field to the west of the site will need to benefit from access to avoid it being severed from the holding.
- 5.72 The development of the site would lead to the permanent loss of agricultural land. This would mean the loss of some grade 2 ‘best and most versatile land but mostly grade 3b lower quality agricultural land. This land is lower in quality than a high proportion of the land around Banbury, which generally falls within the best and most versatile quality land categories. The ES concludes that the magnitude of effects on agricultural land quality is assessed to be negligible to low based on the magnitude of grade 3b to be lost and the sensitivity of the effect is assessed as low to medium based on the mixture of grades 2 and 3b land. The significance of the effect is considered to be minor adverse.
- 5.73 The land forms part of a much larger holding, therefore its loss would not affect any farm buildings or jeopardise the continued operation of the remaining land within the holding. Within the ES the magnitude of effects is assessed as low as there would only be a limited effect on a single farm and of low to medium sensitivity based on the intensive use of the land and its mixed quality. The significance of the effect of the development on farm holdings and agricultural productivity is assessed as minor adverse.
- 5.74 The ES describes that whilst it is not possible to mitigate for the permanent loss of land, the site includes approximately 2ha of land where the soils would remain undisturbed as part of the landscaping proposals and the site for the allotments. Sustainable re-use of soils within the development would occur as much as possible and relevant guidance can be drawn upon to ensure the principles of good practice in soil handling and restoration are followed to reduce the possibility of damage to soil materials during the construction process.
- 5.75 In this case, the land is predominantly the lower quality agricultural land, which LPA’s are encouraged to support the loss of over the best and most versatile quality land. Some BMV land would be lost as a result of the proposals; however this is a relatively low proportion of the overall land. It is noted that the loss of the land would have limited impact upon the operations of the farm holding overall. This assessment weighs in favour of the development of this land as the above mentioned planning policies are complied with, however other sustainability considerations need to be taken into account.

Flooding and Drainage

- 5.76 The National Planning Policy Framework (NPPF) states that developers should “seek opportunities to reduce the overall level of flood risk in the area through the layout and form of the development and the appropriate application of sustainable drainage systems”. The surface water drainage will be designed in accordance with the Environment Agency’s current guidance and utilise Sustainable Drainage Systems (SUDS) so as to satisfy the following design requirements;
- Mitigate the risk of flooding to downstream receptors
 - For two credits the development must be situated in a flood zone with a low annual probability of flooding.
 - Provide sufficient attenuation to comply with the requirements of NPPF

- Consideration of the risk of solution features
- Provide the most practical and economic scheme, utilizing as much of the existing drainage system as practicable
- Provide a scheme that is compatible with the development phasing and site topography
- Designed in the spirit of SUDS techniques as defined with the CIRIA guidance
- Pollution control

5.77 A Flood Risk Assessment (FRA) has been submitted for the site. It demonstrates that 60% of the site will be impermeable once development has taken place. The land is within Flood Zone 1 (low probability for flooding) and therefore is suitable for the proposed use. The site is not considered to be at risk from flooding from rivers, the sea, from land, from groundwater or from other sources.

5.78 The FRA concludes that there is no requirement for flood mitigation measures to be considered other than utilising best practice and sustainable drainage techniques to reduce the overall level of flood risk in the area because of the location of the site within flood zone 1. It is proposed to discharge the surface water from the private properties and adopted road into an adopted sewer network to discharge directly into the existing sewer on the Warwick Road. This would be designed to adoptable standards to ensure there is no flooding for the 1 in 30 year storm event. The scheme also includes attenuation ponds and swales within the development as part of the SUDs system and which will go towards the controlled discharge from the site. These will account for the 1 in 100 year storm event and with an additional allowance of 30% for climate change. The SUDs features will be offered for adoption by the local Sustainable Drainage Systems approving body once established. Other features such as the use of permeable surfaces, utilising soakaways and the use of other SUDs techniques can be utilised to further reduce the requirement for attenuation.

5.79 With regard to foul water drainage, the proposal is recommended to be an on site storage option with discharge from the development via a pumping station in dry weather conditions only, which should ensure there is minimal detriment to the receiving sewer system.

5.80 The Environment Agency raises no objections to the application subject to a number of conditions. Thames Water have raised a number of queries and suggested conditions and these would be recommended should the application be recommended for approval.

Historic Environment

5.81 The site forms part of a strategic rural landscape setting for the town and is important in terms of the setting, approach and identity of Banbury. The village of Drayton is a couple of hundred meters from the southwest of the site boundary, where much of the village forms part of a Conservation Area, and due consideration should be given to how the development of this site will influence the setting of this heritage asset, given that the site abuts the Conservation Area to this boundary. The villages of Hanwell and Wroxton are located to the north of the site, both of which also have designated Conservation Areas.

The Wroxton and Drayton Strategic Heritage Assessment (SHIA, 2013), assessed in more detail the potential effects of development at the West of Warwick Road 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 site is located in an area of some archaeological potential as highlighted by the submitted desk based assessment. A small number of undated linear features and a pit were recorded immediately east of the site during an archaeological evaluation and watching brief in 2001 ahead of development (PRN 16512). Evidence of a Roman farmstead or small villa has been recorded 600m SW of the application site during the C18th (PRN 2347) and a medieval fortified manor house is recorded in the same area (PRN 5410). No archaeological features are recorded for the site itself but it is possible that further archaeological deposits are present on the site and would be disturbed by this development.

- 5.82 The indicative layout addresses the historic setting constraint as detailed in the above mentioned reports and assessments through the provision of a landscape enhancement along the western boundary and the provision of public open space. Therefore it is considered that the proposal, together with the necessary mitigation package would essentially would not result in causing unacceptable harm to the significance of the heritage assets and as such the proposal complies with Government guidance on conserving and enhancing the historic environment contained within the NPPF.

Ecology

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

5.86 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.”

5.87 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and;

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

5.88 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.

5.89 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?

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

5.91 The Council’s Ecologist and Natural England are satisfied that the work done to date with regard to ecology is sufficient in scope and depth. However, the Council’s Ecologist has advised that “It would be helpful if the full assessment of impacts also included consideration of the cumulative impacts of this development on species in context of other on-going, proposed or likely developments in the area of which there

are several. In particular there is no assessment of ground nesting birds within the field which may be worthy of consideration in this context in terms of mitigation.

The site is largely arable however a housing development will constitute a significant loss of open countryside which whilst not of high ecological value itself does offer ecosystem services which will be lost under development. The acceptability of the development rests on their ability to retain those aspects of greatest biodiversity on site and add significant biodiversity gain within the proposals in line with paragraph 118 of the NPPF. The current illustrative layout does allow for retention of some green space and boundary vegetation which could constitute a net gain in biodiversity if appropriately managed and if the needs for recreation are balanced with the need of wildlife for some areas of undisturbed habitat. In particular there may significant opportunities for biodiversity gain within the proposed SUDS features and these should be fully exploited.

Opportunities for biodiversity gain should also be taken within the built environment in the form of bird and bat boxes (preferably built in to ensure their future retention), wildlife friendly garden planting, green walls or roofs on public buildings and a sympathetic management plan. Open green space should include areas of species-rich grassland and different cutting regimes to benefit invertebrates. Amenity grassland alone will have significantly less value. Full landscape and planting plans will need to be submitted along with management proposals for all retained and proposed green space and infrastructure. Planting proposals should not currently include Ash (*Fraxinus excelsior*).

- 5.92 It should be possible to retain badgers on site although some of the busier access roads may benefit from mammal tunnels. Until the layout is confirmed the closing of certain setts cannot be certain however this would be subject to licence. The setts should be checked again in 6 months to a year in order to ascertain if their status has increased particularly as a main sett has not been sited to help inform layout in those areas closest to setts.
- 5.93 If large margins 5-10m are maintained adjacent to existing hedgerows then their value as green corridors is likely to be retained although this will also depend on the lighting strategy (which is currently stated as being sympathetic to the needs of bats etc) and their management. Margins should not become entirely pedestrian access or amenity spaces”.
- 5.94 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the National Planning Policy Framework - Conserving and enhancing the natural environment and Policy C2 and C4 where relevant of the adopted Cherwell Local Plan.

Trees

- 5.95 30 individual and 11 groups of trees have been identified as part of the arboricultural assessment undertaken on site. The majority have been identified as category C and B trees in accordance with BS5837: 2012. The trees are located around the edge of the proposed site. It is proposed that the majority of the trees are to be retained. Although individually a proportion are not significant specimens collectively they will soften the impact of the proposed development. Some tree loss will be incurred through the construction of two access roads onto the site. The first proposed access road off the Dukes Meadow roundabout would result in the loss of one mature oak identified as T2 and one sycamore forming part of TG2, together with a section of hedgerow. The Council’s Arboriculturist concurs with findings of the arboricultural consultant that the oak tree is entering over maturity. This tree has been categorized as a B tree in accordance with BS5837: 2012. There are other oak trees in the

vicinity. The loss of this tree and the sycamore could be mitigated through the planting of suitable replacements. The second proposed access road would result in the loss of 2 semi-mature ash trees and a section of hedgerow. These trees are not significant specimens.

The Council's Arboriculturist advises that:

- Any access roads and footpaths should be located, where possible, outside the root protection zones of the retained trees. Where this is not possible they should be constructed using no dig techniques.
- An arboricultural method statement/tree protection plan will need to be submitted detailing tree protection measures, namely the location of tree protection fences, any ground protection and any areas of special engineering requirements.
- A landscaping scheme should be submitted detailing proposals for tree planting on the site to include a suitable replacement for the mature oak which is proposed to be removed.

Footpaths

5.96 OCC Rights of Way Officer has identified a well used route to the south of the site which in their opinion should be formally integrated into the greenspace area of the development. This is not a designated right of way, on a route to the field, which is clearly used by many locals, but as OCC point out, there may be a possibility to add this route to the Definitive Map which would be an enhancement to the footpath network in the locality.

5.97 It is considered that the development will be visible from existing rights of way in the proximity of the site and the possibility of an increased use as a direct result of the development. OCC require the enhancement of these rights of way through improvements to make them safer, and more convenient for year round commuting and recreational use via a financial developer contribution. This enhancement would comply with government guidance on promoting healthy communities contained within the NPPF.

Noise

5.98 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.

5.99 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.

- 5.100 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.”
- 5.101 The NPSE also advises in paragraph 2.9 that “noise management is a complex issue and at times requires complex solutions Noise management is a complex issue and at times requires complex solutions. Unlike air quality, there are currently no European or national noise limits which have to be met, although there can be specific local limits for specific developments”.
- 5.102 The Council’s Anti-Social Behaviour Manager has considered the information contained within the EIA with regard to the site’s existing noise climate and noise generated from the site in terms of construction and construction traffic. He is satisfied that the EIA work demonstrates that compliance with the appropriate British Standard for habitable rooms could be achieved (protecting them from unacceptable levels of noise) emanating from passing traffic on the Warwick Road. Any noise impacts arising from the construction phase can be overcome by a construction management plan.
- 5.103 With these measures in place (to be secured via planning condition), officers are satisfied that the proposed development complies with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance within the core principles and on conserving and enhancing the natural environment contained thin the NPPF.

Pre-application Community Consultation

- 5.104 Under Section 18 of the Planning and Compulsory Purchase Act 2004 Local Planning Authorities (LPAs) are required to produce a Statement of Community Involvement (SCI). As part of the SCI, LPAs are requested to encourage participation from local community groups where development is proposed.
- 5.105 A public exhibition was held at Banbury Town Hall on Friday 7th December 2012 between 12pm and 8pm and Saturday 8th December 2012 between 10am and 2pm.
- 5.106 The development proposals along with details were set out on display boards. Representatives of the Planning Consultant were in attendance throughout the exhibition who were available to explain the proposals and answer any questions. Details of the display boards have been submitted in the pre-application statement.
- 5.107 The exhibition was attended by over 80 people who raised a number of issues (as detailed in the Statement of Community Involvement) but generally included:
- Potential impact of extra traffic levels
 - Potential impact on public access to the countryside
 - Community facilities required within any future shop on the site.

Developer Contributions

- 5.108 The draft Supplementary Planning Document (SPD) relating to the requirement for financial contributions towards infrastructure or service requirements was considered by the Council's Executive Committee on 23 May 2011 and was approved as interim guidance for development control purposes. It has not been subject to public consultation.

- 5.109 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.
- 5.110 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.***

- 5.111 Listed below are the requirements and financial contributions requested and those currently agreed/resolved. These matters are directly related to the development and the effects that would arise from it and necessary to enable the impact of development to be mitigated. The proposed development, due to its scale and number of dwellings proposed, meet the threshold for a wide range of developer contributions that are normally sought by both the District and County Councils. Further justification and discussions are on-going at the time of writing between officers and the applicant as to the level of contribution that would be acceptable and there is every expectation that an agreement can be reached.
- 5.112 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, provision of public open space, formal open space and play areas, public art, indoor sports, access, public transport, offsite highway improvements, public transport, education, libraries, adult learning and strategic waste services.

5.113 Oxfordshire County Council

Public Transport

The developer would be required to provide funding for 4 'Premium Route' style pole/flag/information case units and for 2 shelters (east side of road only) and appropriate hard standing + footway connections to the bus stops. Indicative contribution for bus related infrastructure would be **£22,000** (index linked). Alternatively, these facilities can be provided as part of the S278 agreement. **(To be agreed)**

The developer is expected to make contributions towards bus services in line with the north of Hanwell Fields agreement. It would be equitable for this development to contribute **£428,571** (Index linked to June 2013 RPIX prices) towards the development of the bus service. **(Agreed)** (OCC have suggested a possible phased payment of this contribution – **this is still be to agreed**)

Schemes in the Cherwell Infrastructure Delivery (IDP) – financial contribution of **£278,828 (Agreed)** – (Index linked to June 2013 RPIX prices)

Offsite highway improvements to be secured via S278 agreement

Access works

Footway and cycle links
Controlled and uncontrolled crossing points

A contribution towards Public Rights of Way payable to OCC - financial contribution to be confirmed

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

Primary Education - financial contribution of **£1,053,962** – Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index) **(To be agreed)**

Secondary Education (including sixth form) – financial contribution of **£1,213,323** – Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index **(To be agreed)**

SEN Special Needs Provision - financial contribution of **£61,312** – Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index **(To be agreed)**

General County Council financial contributions **(To be agreed)** Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index

- Libraries - **£64,685**
- Adult Learning - **£8,496**
- Integrated Youth support service - **£10,296**
- Museum Resource Centre - **£3,805**
- Strategic Waste Management - **£48,704**
- Adult Day Care - £57,200

OCC Admin and Monitoring fee - **£8,258 (To be agreed)**

Phasing of Payments to be agreed with Oxfordshire County Council

CHERWELL DISTRICT COUNCIL

Public Art - **£45,000 (To be agreed)**

Refuse bins and recycling banks - **£20,250 (To be agreed)**

Open space, and play areas – to be advised and to include: **(To be agreed)**

- LAPs on site (1 minutes walk or 100m from each dwelling)
- 1 LEAP (5 minutes walk or 400m)
- public open space
- hedge maintenance
- mature woodland
- mature tree maintenance
- balancing pond
- ditch/ watercourse
- Junior football pitch (construction of pitch and maintenance)

Offsite Outdoor Sports pitches – **£298,566 (To be agreed)**

- There is currently a shortfall of 11 football and 1 cricket pitch in Banbury and to mitigate the increased demand from this development on the existing facilities there will be a requirement for an off site outdoor sports contribution. This will be used towards the cost of increasing capacity of the community sports pitches at the North Oxfordshire Academy site.

Offsite Indoor Sports - **£216,756 (To be agreed)**

- There is a requirement for an off site indoor sports contribution towards the planned improvements to Woodgreen Sports Centre. Indoor sports facilities in Banbury are currently operating at capacity at peak times and therefore by increasing capacity at Woodgreen it will mitigate the impact of further demand from the new developments to the North and North West of Banbury.

Offsite Community Facility – **£63,561.11 (To be agreed)**

Community Development contribution (Events & Projects and officer 15hrs p/w) - **£57,672 (To be agreed)**

30% affordable housing

- 90 Affordable units in total, with a 70/30 split of rented and shared ownership
- Rented split to be 50 units for affordable rent and 13 for social rent
- 27 units for shared ownership
- 50% lifetime homes and 2% built to be fully wheelchair compliant
- Clusters of no more than 15 units

CDC Admin and Monitoring fee – **£4,000 (To be agreed)**

OTHER

Thames Valley Police - **£32,100 (To be agreed)**

- Automatic Number Plate Recognition (ANPR) cameras x 2 £22,000.00
- Bicycles x 2 (inc necessary kit) £1,600.00
- Remote IT facilities X2 £8500

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

Code 4 construction

- 5.115 The PSLPIP3 is proposed to include Policy ESD3 concerning sustainable construction and the requirement for Code 4 for Sustainable Homes (CSH). Clearly the Policy ESD3 has limited weight given its status, however, the Council are seeking to achieve this sustainable construction value in all new development. The supporting information confirms that the proposed development would be constructed to meet this CSH level.

Other Matters

- 5.116 It is considered that the majority of the third party representations issues and concerns have been addressed in the preceding report, however in response to the comments made by local residents, such as the views from private properties an impact on their value; these are not material to the consideration of the application.

Engagement

- 5.117 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

- 5.118 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.
- 5.119 The proposed development is not in accordance with the Development Plan. 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. Neither is the site identified as a strategic allocation in the Proposed Submission Local Plan 2012 and Focused Changes 2013 although it is acknowledged that the site was considered in the earlier Options for Growth Report (along with Hanwell Fields as a combined North of Banbury Strategic Site) and as a reserve strategic allocation BAN 4: West of Warwick Road in the Draft Core Strategy.
- 5.120 The application site is not proposed to be allocated for development within 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. As indicated above, prematurity is a consideration.
- 5.121 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% and 20%. The Council is therefore considered to have met the requirements of NPPF Paragraph 47 & 49 in securing a 5-year housing land supply where this had not previously been the case with a 20% buffer. The application site is not therefore needed in terms of housing delivery.
- 5.122 The proposed application seeks to provide 300 dwellings within the application site which is above the estimated site capacity contained in the LDA Analysis of Potential for Strategic Development report. It should however be noted that this is below the Council’s definition of a strategic site (400 dwellings) used to identify housing led sites for the Local Plan and is therefore inconsistent with the emerging Plan’s aspirations for strategic greenfield sites on the edge of the main settlements of Banbury and Bicester.
- 5.123 Whilst the site lies immediately adjacent to the Drayton Conservation Area and Wroxton Abbey Historic Park and Garden, the LDA landscape studies considered that 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. The White Young Green Landscape Sensitivity and Capacity Assessment 2013 concluded the site has low - medium capacity for development due to it being more open in its context and its relationship with the surrounding landscape but indicated that if developed, it would naturally form an extension to the western boundary of the town between Hardwick and the golf course. The landscape evidence base studies therefore assessed the site as being suitable to accommodate development in landscape terms, subject to a sensitive layout and suitable mitigation being achieved.

However development would nevertheless lead to the loss of open countryside.

- 5.124 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.
- 5.125 It is noted that the application proposes 500 sqm of retail floor space to serve the proposed 300 new homes and as such it may be appropriate for retail impact to be considered. Affordable housing provision should be assessed in accordance with the latest Plan policies.
- 5.126 On balance, given that the site is not a proposed strategic allocation in the adopted Cherwell Local Plan or the emerging Local Plan, (albeit with objections to sites outstanding), is not needed in terms of achieving a five year housing land supply, and development in this location would extend development into and lead to the loss of open countryside representing sporadic development that fails to meet the Council's objectives to meet housing need in a way that is in line with the spatial vision for the area. Furthermore the proposal would represent a form of development that would potentially compromise the activity of the adjacent land use and officers are not convinced that the mitigation measures proposed would prevent golf balls from entering the site causing harm to the amenity and safety of future occupiers.

6. Recommendation

Refusal for the following reasons:

1. The proposal represents development beyond the built up limits of Banbury 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 nor is the application site proposed for development as a strategic housing allocation in the Proposed Submission Local Plan March 2013. The land is proposed to be included within the Banbury Green Buffer, the purposes of which are to maintain Banbury's distinctive identity and setting and its neighbouring settlements, prevent coalescence, protect the identity of valued features of landscape & historic value and important views. It is considered that given the Council's ability to identify a supply of specific, deliverable sites sufficient to provide 5 years worth of housing against its housing requirements with an additional buffer, the proposal represents sporadic development in the countryside which fails to maintain its rural character and appearance and which fails to conserve and enhance the environment and furthermore fails to meet the Council's objectives to meet housing need in a way that is in line with the spatial vision for the area. The application is, therefore, contrary to Policies H18, C8 and C15 of the adopted Cherwell Local Plan, Policy ESD15: Green Boundaries to Growth of the Proposed Submission Local Plan March 2013 and Government guidance contained in the National Planning Policy Framework.
2. It has not been demonstrated that the erection of a 20m high net on the western boundary of the site not have adverse landscape effects or would mitigate completely the chance of ball escape from the adjacent Drayton Leisure Golf Centre into the site, which would therefore cause harm to the amenities and safety of occupiers of the proposed development contrary to Policy C31 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

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.