

**Site Address: Land adjoining Foxhill and  
West of Southam Road, Banbury**

**14/00825/OUT**

**Ward:** Banbury Grimsbury and  
Castle

**District Councillor:** Councillor Beere, Councillor  
Bonner, Councillor Cullip

**Case Officer:** Tracey Morrissey

**Recommendation:** Refusal

**Applicant:** Pandora Ltd

**Application Description:** OUTLINE - Development of up to 230 residential units (C3), local retail community facilities (Classes A and D1) with associated access, infrastructure, parking, landscaping/open space and related works.

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

**Committee Date:** 02.10.14

**1. Site Description and Proposed Development**

- 1.1 The application relates to the west part of a site that has been identified for residential development in the Submission Local Plan (January 2014) (SLP). Land to the east of the site (on the opposite side of Southam Road) forms a separate parcel of land with 510 units approved under 13/00159/OUT. Both sites (West and East of Southam Road) form the allocated BAN2 site, with a considered yield of approximately 600 units and no more than 90 units on the west side.
- 1.2 This application site covers an area of some 17.79ha to the north of Dukes Meadow Drive and to the west of Southam Road (A423). The land to the north-east and west of the site (save for the nearby cemetery) is largely characterised by open fields, beyond which lies the village of Little Bourton. The site is located in proximity to a mix of existing and consented uses. Notably, these include Hanwell Fields residential neighbourhood to the south-west, Banbury Office Village, Hardwick House and Hardwick Business Park to the east, and Ocean House and the Banbury Cross development (the latter has permission to deliver 600,000sqft of employment uses), to the south-east/south of Noral Way.
- 1.3 The site includes a group of oak trees in the south-western corner and a number of mature willows adjacent to the Hanwell Brook along the western boundary. A small group of trees exist toward the centre of the site.
- 1.4 The site's boundaries are formed - in the main (save for the southern portion) - by mature hedgerows, most notably to the east where the land is effectively screened from Southam Road. The Hanwell Brook runs along the site's south western/western boundary. A cemetery and crematorium are situated to the immediate north of the site, beyond which lie open fields and the small village of Hanwell to the north west. To the west there are open fields and an existing sports ground.
- 1.5 The topography of the area rises to the north and is a prominent location at the fringe of the settlement edge. Forming part of the Hanwell Brook valley landscape feature, in the setting of the north of Banbury, the site is visually sensitive and contains the remnant historic land uses of Hardwick Copse and Gorse adjacent to the Brook.
- 1.6 This outline application for the above proposed development follows approval of an outline scheme for 90 residential units and retail/community facilities etc, under 13/00158/OUT on 18.12.13. That application was subject to amendment, having

been originally submitted in outline for the construction of up to 370 dwellings. The amendment in the number of units to 90 followed further evidence on landscape sensitivity that was undertaken as part the evidence base for the local plan.

- 1.7 This current submission includes indicative layouts and design principles for the proposed development, all matters save for the means of access from Dukes Meadow Drive and Southam Road are reserved. For the purposes of consideration of this application, the proposal seeks consent for a further 140 units on a site that is considered to have a capacity of accommodating upto 90 dwellings, a number that is still significantly less than the 230 now proposed, without compromising the visually sensitive landscape.
- 1.8 The application is supported by an Environmental Impact Assessment covering Socio-Economics, Ecology and Nature Conservation, Landscape and Visual, Air Quality, Noise and Vibration, Hydrology, Flood Risk and Drainage, Ground Conditions, Cultural Heritage and Archaeology and Agricultural Circumstances, a Transport Statement, a Design and Access Statement, a Planning Statement and a Statement of Community Consultation.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was the 10<sup>th</sup> July 2013.

One letter has been received to this current application (previously 63 letters were received), which raises the following issues:

- That the farmers gate adjacent to our drive be kept as access to our septic pipes and soak away at rear of our garden as shown on our deeds.
- Other concerns were why can't brown sites be used instead of green sites.
- Overcrowding of doctors surgery's- already a concern.
- Is the local hospital adequate for all these people.
- Is there enough Nursery, Primary and secondary Schools available.
- The traffic situation going into Banbury is already bad- this is going to make it even worse.
- These green fields are home to numerous wild life including deer and otters have been seen in the Stream, where will all these go?.
- Banbury is turning into concrete jungle its no wonder the country has so many flood problems the Water has nowhere to go.
- If it has to go ahead Is it not possible for Kdlington to take some of these houses.

### **Response by applicant to these concerns:**

"Acknowledges the right of Mr and Mrs Dixey to maintain an effluent pipe running west from Foxhill House, along the northern boundary of the application site. Notwithstanding this, in the context of this application, the pipe is located a good distance away from any proposed development, and is in fact within an area

proposed to be used as open space and landscaping, as illustrated on the submitted parameter plans. In these terms, the application will have no implications on the rights permitted to Mr and Mrs Dixey to maintain the effluent pipe.

In addition, other points raised by Mr and Mrs Dixey are largely unrelated to land use planning and their expressed concerns and objections are fully addressed by the evidence base in support of the planning application. The application proposals benefit from extensive research which has informed a full, and robust, evidence base in support of the proposals. Therefore, there is no basis, whatsoever, for the application to be frustrated by the stated objections”.

### **3. Consultations**

**3.1 Banbury Town Council:** No objections.

**3.2 Hanwell Parish Council:** The Parish Council object to this application on the same grounds as the previous application 13/00158/OUT (original and amended), which is as follows:

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

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

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

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

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

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

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

**Response by applicant to these objections:**

“Whilst some of the Parish Council’s objections are unrelated to land use planning (such as prematurity), the expressed concerns and objections are fully addressed by the evidence base in support of the planning application. Indeed the following will be noted:

1. That the applicant’s planning statement makes clear that the site is wholly deliverable. It benefits from single ownership and, further, is not fettered by any covenant or related issues. It is available, following consent, for early development.
2. The applicant’s transport assessment advises that the traffic generated, by the development, can be readily accommodated within the public highway. Furthermore, the access points have been safety audited. The development will not, therefore, lead to any highway safety or capacity issues, contrary to the Parish Council’s views.
3. Pandora’s environmental impact assessment, coupled with other documents in support of the application, confirms that the proposal can be readily accommodated within the local environs without demonstrable harm to the setting of Banbury nor, further, the landscape/visual amenity of the wider locale. Neither will it harm access to the countryside.
4. The development of the site is sustainable, as recognised by Policy BAN2 of the emerging local plan. The application proposals build on these policy principles, not least because they confirm the site is accessible by non-car modes and,

further, will benefit from an extended bus service which, additionally, will increase the frequency of provision for existing local residents.

5. The development is appropriately serviced by its own infrastructure, including the retail and community centre proposed.

The application proposals benefit from extensive research which has informed a full, and robust, evidence base in support of the proposals. Therefore, there is no basis, whatsoever, for the application to be frustrated by the stated objections”.

### **Cherwell District Council Consultees**

3.3 **Head of Strategic Planning and the Economy:** Comments awaited.

3.4 **Urban Designer:** Comments awaited.

3.5 **Housing Officer:** This application for 230 residential units requires that 30% of the units should be for affordable housing provision as the applicant has identified in their submission. This will amount to 69 units which the applicant has also denoted in their application.

Considering the need to provide accommodation for an increasingly elderly population within the district and the policy within the emerging local plan to provide this accommodation on certain sites I would deem it appropriate to secure a proportion of this kind of elderly accommodation on this development.

In considering this I would like to advocate a parcel of land be designated for the provision of 'affordable retirement living' which would cater for both rented and shared ownership accommodation with a mix of 1 and 2 bed flats/maisonettes, bungalows as well as a limited number of 2 bed houses for shared ownership or some other equity product. There should be provision within the flatted element to be able to be adapted to accommodate the possibility of an onsite office for care provision needed in the future

This parcel should be located near the amenities to allow easy access for these residents to shops and other facilities.

Indicatively I would suggest that 20-25 units are designated for affordable retirement living and located within the parcel of land.

This will leave 44-49 residual general needs affordable housing which should provide a range of house types from 1bed 2 person maisonettes to 4 bed 6 person houses. This again should provide a mix of tenures including affordable rent and low cost home ownership. However this provision should be distributed in clusters of 10-15 units around the development to provide an integrate tenure blind approach.

All the affordable housing should meet the HCA's Design and Quality Standards and Code for Sustainable Homes Level 4 or equivalent at the time of build.

They should also meet the necessary Housing Quality Indicators.

The 'affordable retirement accommodation' will need to meet lifetimes homes standards with an element meeting full wheelchair compliance.

The affordable units should be transferred to an RP agreed with the Council

Generally I would comment that there should be a wider provision of private housing which caters for retirement housing for those wanting to downsize in the owner-occupied market.

- 3.6 **Environmental Protection Officer:** The Phase 1 Environmental Report (Ref. No. 01B051000) prepared by GVA Grimley on behalf of Rio Tinto has been submitted with the application and reviewed.

A Phase 2 Site Investigation is required due to the sensitivity of the proposed development. (condition)

The Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of any contamination present, the risks to receptors and to inform the remediation strategy proposals.

If contamination is found by undertaking the work carried out during the Phase 2 investigations prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority.

No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

- 3.7 **Landscape Officer:** I note that despite extensive additional work being undertaken by our consultants which deemed that 90 dwellings only were suitable on this site due to its sensitive visual position that the application is for 230 dwellings on a majority of the site.

Assessment of Effects EIA: I agree that the most sensitive receptors are people walking the Hanwell- Banbury PROW, Crematorium visitors and people moving along Dukes Meadow Drive. I would also add people travelling north on the A423 particularly as they approach the roundabout.

The area of proposed land to be developed is increased from 2.4 to 8 Ha. Development extends a further 12m up a total rise of 27m. The advantage of the LDA proposal to restrict development to the lower slopes was that agricultural land at the top of the slope would still be visible. This proposal effectively covers the hill with development as can be seen in the photomontages

Photomontages from more significant viewpoints 4 and 5 show that the hill will be totally urbanised. The brown colouring of the built elements in my view downplays the effect of building on this land as red bricks and tiles tend to be used not pale brown.

Design and Access Statement: The D&A statement provides no justification for this additional housing. There is no analysis in the Site Analysis section. It is description. Findings from the LVIA should feed into the D&A statement but they don't. They say for example that 'A lower housing density is anticipated on parts of the site due to landscape constraints' with no explanation of what these constraints are or where they are.

The consented 90 dwelling scheme followed the site contours, this scheme does not. Whilst it will not breach the skyline, the proposed dwellings extend up to the skyline. Densities on the lower 'medium density' areas are higher than those on the consented scheme. There are no design principles which inform the layout

The D&A statement is not a landscape led approach as claimed. It is really just reinstating a couple of former hedgerows. Nor is it a visual impact led approach. There is no integration of the findings of the LVIA into the D&A statement. There is no information on character areas or indicative species. The landscape has not been properly considered.

There is no real explanation or justification of the proposals and as such this D&A statement is inadequate due to a depth of analysis.

I am not in favour of an increase in the number of dwellings from 90 to 230.

**Response by applicant to these objections:**

Overall, we consider the comments disappointing and rather disingenuous in terms of the supporting documentation/evidence submitted in the round. The applicant is entitled to apply for a different scheme, which may, as in this case, be for an increased number of units over a larger site area. The scheme has been fully justified and evidenced within the submission, notwithstanding that the conclusion of a different analysis suggested 90 units below the 100m contour was appropriate. It is a fact that landscape and visual analysis is subjective and not an exact science and it is also a matter of public record that the applicant considers the justification for the restriction to 90 units below the 100m contour to be very limited.

The actual development footprint covers half of the site area, not the majority. The proposal follows the site contours. It has an average density of 29.5/ha which is in general accordance with policy and reflects the nature of the nearby existing built and permitted developments. Densities reduce considerably further north into the site reflective of increasing visibility/prominence of landform and the more rural edge of the location.

We acknowledge and accept that more of the hill is developed and that this is most evident when viewed from Dukes Meadow Drive, however, open land is still visible from a number of other locations, as identified and illustrated in the ES LVIA. The development would not breach the skyline, and this fact alone demonstrates that we have given due consideration to this in the landscape analysis and master plan design – this is a positive.

The site analysis within the D&A cross refers, quite appropriately, to the LVIA rather than simply repeating verbatim elements of that report, particularly in relation to views. Notwithstanding this, the D&A analysis identifies the key views, where visibility is most sensitive and prominent; furthermore, there is a whole section devoted to landscape and setting matters, identifying opportunities and key constraints which have guided the master plan concept. The principle of the landscape strategy and its initial analysis has formed the basis of identifying where built development is appropriate. Landscape treatments have been clearly indicated on the Landscape strategy drawing within the D&A, supplemented by further information within the LVIA and again summarised within the Planning Statement.

Emerging policy requires that, in terms of the sensitivity of the site to development, the landform and adjacent land uses should be considered through the master planning process. The proposed 230 scheme has been considered in this light and indicates, as a result, that there is no evidence or analysis produced by CDC to support the assertion that development on the site should be restricted to below the 100m contour and then only to the south-eastern part.

In summary it is our view that the scheme facilitates the delivery of extensive green infrastructure and positive management of the undeveloped area of the site. It will:

- (i) Maintain an area of open and undeveloped land on the northern boundary of the application site to ensure that the peaceful character of the crematorium is preserved;
- (ii) Maintain the western flank of the hill as open and undeveloped to retain the open and green visual 'backdrop' to long-distance views from the edge of Hanwell;
- (iii) Provide a layout which incorporates 'green fingers' that penetrate the edge of the



developed area so that the visual appearance of the housing can be softened from local vantage points;

(iv) Locate development in the lower lying portions of the site so that the open and wooded hilltops typical of the area are maintained;

(v) Incorporate drainage and water management solutions in the lower lying land;

(vi) Retain the existing trees as key features in the landscape, where appropriate any new planting being designed so that these features will be appreciated in the view; and

(vii) Protect and retain as open the riparian qualities of the Hanwell Brook on the western boundary of the application site.

Furthermore, it will deliver significant environmental benefits such as:

(i) Replanting of the historic hedgerows which previously crossed the site from east to west and along the brook north to south. These are features which have been lost to modern agricultural practices. The reinstatement of these hedge lines will create defined limits to parcels of development and ultimately filter views of the housing. The hedgerows will facilitate a new green route through the development providing informal recreational opportunities connecting with the sports area to the west and the green space associated with development east of Southam Road;

(ii) Increasing biodiversity through the management of the grassland swards and provision for over sowing with wildflower seed mixes, which will enhance the value of the undeveloped land;

(iii) Retention of the brook and riparian corridor which will provide an opportunity to diversify the grassland and scrub habitats to enhance the ecological value of this part of the landscape. The creation of this level of diversity will also benefit the qualities of the recreational experience associated with the brook; and

(iv) New areas of open space/green infrastructure, designed to incorporate groups of trees to ensure the longevity of these landmark features. This new 'parkland' will incorporate circular footpaths connecting Dukes Meadows Drive to the new development to the east of Southam Road and the sports facilities to the west making a positive contribution to informal recreation on the northern edge of Banbury.

The scheme will complement and enhance the character of its environmental context through sensitive siting, layout, high quality design integrating buildings and extensive green infrastructure, thus respecting its topography, existing landscape features, skyline, historic boundaries and views.

Therefore, there is no basis, whatsoever, for the application to be frustrated by the stated objection. In these terms, it is considered that the application should be supported by the local planning authority.

- 3.8 **Arboriculturalist:** There are very few trees on site. It appears that the applicant is proposing to retain all the trees. There is one tree which may potentially be affected in the south west corner. No details have been provided to say what species of tree are present. A tree survey should be undertaken to determine what impact the proposals will have on this tree and whether it is worthy of retention. There is plenty of scope on site for tree planting. Details should be provided of proposed tree planting.

Recommendation: Provide a tree survey to determine if the trees on site are worthy of retention and if necessary a tree protection plan for the safe retention of the trees through the redevelopment of the site. Provide details of tree planting in soft and hard

surfaces.

3.9 **Ecologist:** The proposed areas of public open space mean that overall there will be little impact on the ecological interest of the site. Some of the surveys were updated this year but generally there has been little change since 2012. The surveys have been comprehensive but other than the principle of the retention of existing habitat features within public open space no ecological enhancements have been covered in detail. Therefore I would advise that the following information is required at the reserved matters stage:

- A fencing plan showing how the existing hedgerows and grassland areas to be retained will be protected during construction. This will ensure that areas of habitat that have the potential to support protected species (the marshy grassland, hedgerows and brook) are not disturbed and therefore no other precautionary measures are necessary.
- A biodiversity enhancement scheme, including details on the long-term management of these features. This could take the form of a LEMP (landscape and ecology management plan).

The following informative should also be attached:

- All wild birds and their nests receive protection under the Wildlife and Countryside Act 1981 (as amended) which makes it illegal to intentionally take, damage or destroy the nest of any wild bird while it is use or being built. Therefore in order to avoid contravention of this legislation any site works likely to affect potential bird nesting habitat should be timed to avoid the main bird nesting season which runs from March to August. If this is not possible, a check should be carried out prior to any clearance works to ensure there are no active nests present.

3.10 **Anti social behaviour manager:** Not consulted specifically on this current application but previous comments on 13/00158/OUT were as follows:

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

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

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

Where there is a risk of a proposed development being affected by environmental noise it is appropriate to set a noise performance standard through a planning condition in

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

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

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

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

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

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

## **Oxfordshire County Council Consultees**

### **3.11 ARCHAEOLOGY:**

The site is located in an area of archaeological interest as identified through an archaeological evaluation. A condition requiring a staged programme of archaeological investigation will be required on any resultant planning permission.

### **3.12 TRANSPORT DEVELOPMENT CONTROL**

An outline planning application (with all matters reserved except for access) was approved by Cherwell District Council in December 2013 to develop the proposed site for up to 90 residential units, a local retail/community facility, with associated infrastructure, parking, open space and landscaping.

The submitted revised proposal for the west site is seeking outline permission with all matters reserved except access for up to 230 residential units, a local retail/community facility, with associated infrastructure, parking, open space and landscaping.

#### Access arrangements

Two vehicular access points are proposed into the west site to provide a primary link/route through the site. One is from Dukes Meadow Drive (which remains un-adopted) from the south; the second access is via Southam Road to the east. Both these access points have been agreed and approved in principle with the Local Highway Authority as part of the existing planning permission. These arrangements remain acceptable to accommodate the proposed increase in units (140 units); subject to separate S278 Agreement approvals.

The highway mitigation works associated with the west site are shown in submitted DTA drawing 1535-14 (dated April 2014), which are acceptable as they are the same highway works which are secured in the S106 Agreement dated 18th December 2013 (and deed of variation dated 5th June 2014) for 13/00158/OUT & 13/00159/OUT).

If this application is approved the required highway works as shown in the submitted DTA drawing will need to be secured as part of a new S106 Agreement.

#### Traffic impact

The submitted Transport Assessment (TA) dated 12th May 2014 reconfirms that there will be an impact on the local highway network from the proposed development and the expected future growth of Banbury. The previously requested sensitivity test run (using 85% percentile figures) has also been re-run to ensure a robust assessment has been carried out.

The trip generation figures that were approved for 13/00158/OUT have been resubmitted as part of the west site TA, and remain acceptable. However, looking at page 43, paragraph 6.6 (Other Planned Developments), the list of developments shown in this section of the TA are not quite up to date and will require updating. Three additional sites are to be added to this list (shown below), which will require an addendum to the TA to be submitted to the Local Planning Authority for consideration and assessment.

- 12/01789 Warwick Rd North of Hanwell Fields, Banbury
- 13/00444 Bretch Hill, Banbury
- 13/00656 West of Warwick Road, Banbury

While the above sites are not expected to raise any new highway safety or capacity issues from this proposal. It is important the submitted TA is up to date and is consistent with other transport submissions which are currently being considered by the Local Planning Authority and the Local Highway Authority within the area.

Subject to an addendum to the TA being submitted and assessed acceptable, the highway mitigation works secured for planning permission 13/00158/OUT and 13/00159/OUT must be secured for this planning application (if approved) alongside a new/updated S106 Agreement for the west and east sites.

As part of the existing S106 Agreement a Transport Contribution was secured towards sustainable highway infrastructure improvements and services in Banbury. This contribution was split between the two sites with £399,238.20 from the east site and £70,453.80 from the west site (both index linked @April 2013 prices). With the proposed increase in residential units of 140 on the west site, it is appropriate to increase the west site's Transport Contribution.

#### Calculation

£70,453.80 divided by 90 units (approved for 13/00158/OUT) = £782.82 per unit

£782.82 x 230 units (proposed) = £180,048.60

Transport Contribution required = £180,048.60 @ April 2013 prices

Transport Contribution payment trigger for west site within existing agreement expected to remain the same. Other transport related contributions to remain as agreed.

For any off-site works i.e. new access, footway etc a Section 278 Agreement(s) will be required between the developer/applicant and OCC to work upon the public highway. In addition to this legal agreement(s) a bond will be required to cover the construction costs of the any works as well as there being a supervision fee of 9%. This agreement will be part of a S106 Agreement for this development.

### Layout/Design Comments

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

Any Street Hierarchy to be agreed/approved must ensure the streets within the west site are wide enough to accommodate refuse vehicles.

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

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

### Drainage comments

"Outline only so drainage layout and info is limited to being indicative only.

Full drainage strategy, layout plans and drainage calculations will be required and approved by the Lead Flood Authority (OCC) prior to the development commencing on site".

### Public Transport comments

"The developers of this site and the adjacent site East of Southam Road have already committed to provide a bus service to and from the Town Centre, and a specification has already been agreed.

Increased numbers of dwellings and local residents will assist in ensuring the on-going viability of the additional bus service already secured to support this development and the proposed development east of Southam Road".

Conditions recommended

### 3.13 **ECOLOGY**

The District Council should be seeking the advice of their in-house ecologist who can advise them on this application.

### 3.14 **ECONOMY & SKILLS**

The sustainability appraisal at paragraph 5.11 on page 10 states that ' the development will provide opportunities for employment during the construction phase in particular, and when operational...'

- The potential level of employment generated on this strategic, mixed use development site will require the developers to prepare and implement an Employment & Skills Plan

Conditions:

- The developers will be required to prepare and implement, with local agencies and providers, an Employment & Skills Plan (ESP) that will ensure, as far as possible, that local people have access to training (including apprenticeships) and employment opportunities available at the construction and end user phases of this proposed development.

Detailed Comments:

Recent policy initiatives relating to skills development are contained in:

- The Oxfordshire City Deal
- Oxfordshire European Structural Investment Fund (ESIF) Strategy
- Strategic Economic Plan

The recently launched Oxfordshire Skills Strategy has five strategic priorities:

- SP1: To meet the needs of local employers through a more integrated and responsive approach to education and training: developed in partnership with our provider network, to encourage more training provision in priority sectors - both current and projected - to meet the needs of employers or to train future entrepreneurs, particularly in science, technology, engineering and mathematics (STEM).
- SP2: Creating the 'skills continuum' to support young people through their learning journey: the ambition is to develop integrated, seamless services that support young people through school and on into training, further education, employment or business, where they understand the full breadth of career options, including local demand, and the training path to succeed in that career.
- SP3: Up-skilling and improving the chances of young people and adults marginalised or disadvantaged from work, based on moving them closer to the labour market.
- SP4: To increase the number of apprenticeship opportunities, particularly those offered by small to medium sized businesses.
- SP5: To explore how we can better retain graduates within Oxfordshire to meet the demand for the higher level skills our businesses need.

#### Employment and skills planning justification

A better, appropriately skilled local workforce can provide a pool of talent to both developers and end occupiers. This will reduce the need to import skills, and in doing so reduce congestion and unsustainable travel to work modes, reduce carbon emissions and the pressure on the local housing infrastructure.

Seeking skills and training planning obligations or conditions to maximise the potential of the existing population to compete for the jobs being created, whether during the construction phase or end user phase, through improving their skills levels, is necessary to ensure that future development is economically and socially sustainable, and that barriers to employment for those marginalised from the workforce are removed.

Developers often identify projected training and employment outcomes as part of the justification for development. It is important therefore that the impacts of economic development are mitigated and the economic benefits of new development in terms of improved local skills and employment outcomes are realised.

Not only is it clear that skills levels are a key determinant of a sustainable local economy, but they also have an impact on employment opportunities and thus an individual's economic prosperity. Up-skilling the area's labour force will be key to maintaining economic competitiveness.. Securing obligations for skills development and employment of local people will be necessary to enhance social inclusion by reducing the potential for economic and social disparity, another key policy driver at the local level.

### 3.15 EDUCATION

#### **Key issues:-**

- This application needs to be considered in conjunction with the extant East of Southam Road permission, but also in isolation, to protect against any eventuality that it proceeds without the East of Southam Road permission being implemented.
- Combined with the extant permission for East of Southam Road, this new application would generate a number of primary pupils in excess of a 1 form entry primary school, which has previously been secured through S106. This application would therefore need to pay additional S106 of £150,566 as detailed below.
- The latest assessment of future secondary school capacity needs in Banbury has identified the need to expand capacity over the next few years. £914,356 Section 106 developer contributions are sought from this application towards the expansion of permanent secondary school capacity serving the area by a total of 52\*pupil places (including 6 sixth form places).
- Section 106 developer contributions towards the expansion of permanent Special Educational Needs school capacity as a result of the combined Southam Road developments would need to increase from the previously secured £90,933 to £136,113.

#### **Legal Agreement required to:**

- £150,566 Section 106 developer contributions towards the expansion of permanent primary school capacity serving this area, by a total of 13 pupil places. This is based on Department for Education (DfE) advice weighted for Oxfordshire, including an allowance for ICT and sprinklers at £11,582 per pupil place. This is index linked from 1st Quarter 2012 using PUBSEC Tender Price Index. (NB This is in addition to the new 1 form entry primary school secured through previous S106 agreement.)
- £914,356 Section 106 developer contributions towards the expansion of permanent secondary school capacity serving the area by a total of 52\*pupil places (including 6 sixth form places). This is based on Department for Education (DfE) advice for secondary school extension weighted for Oxfordshire and including an allowance for ICT and sprinklers at £17,455 per pupil place and £18,571 per Sixth Form pupil place. This is index linked to 1st Quarter 2012 using PUBSEC Tender Price Index.
- An increase in Section 106 developer contributions towards the expansion of permanent Special Educational Needs school capacity from the previously secured £90,933 to £136,113.

This is index linked to 1st Quarter 2012 using PUBSEC Tender Price Index. We are advised to allow £30,656 per pupil place to expand capacity in special educational needs schools.

#### **Detailed comments:**

##### Pupil generation

At the time of the initial applications, the combined pupil generation of the proposed 600 homes was estimated to be 171 primary pupils, 118 secondary pupils and 18 sixth form pupils. Total pupils 307.

The pupil generation of the new application is estimated to be 67 primary pupils, 46

secondary pupils and 6 sixth form pupils. Total pupils 119.

In isolation the pupil generation from the extant 510 home East of Southam Road development is estimated to be 156 primary pupils, 108 secondary pupils and 17 sixth form pupils. Total pupils 281.

In total, therefore, the combined pupil generation of the new application and the extant East of Southam Road application is estimated to be 223 primary pupils, 154 secondary pupils and 23 sixth form pupils. Total pupils 400.

#### Primary school provision

The extant permission (13/00159/OUT) east of Southam Road included the provision of a Primary School Site not less than 1.83 hectares, which would allow a school of up to 1.5 form entry (315 pupils) with an adjacent MUGA not less than 0.39 hectares. The intention is that the use of the MUGA land would enable the school to expand to 2 form entry (420 pupils) should this be required.

This site area allows for a school of sufficient scale to also accommodate the proposed additional housing number. No additional land for school use would therefore be required as a result of this new proposal.

The pupil generation of the extant permissions would be within the capacity of a 1 form entry primary school (210 places). The S106 agreement associated with the extant Southam Road permissions, requires the developer to pay £4,883,000 (Index Linked to PUBSEC 3Q 2012) towards the provision of a new primary school on this site. This was intended to fully fund a 1 form entry primary school, on the grounds that this was the smallest feasible unit of primary school which would meet the needs of the proposed development.

The new combined pupil generation would exceed the capacity of a 1 form entry primary school. An additional contribution towards the cost of providing sufficient school capacity would therefore be required. As the pupil generation currently stands, it would not be viable to build a 1.5 form entry school in this location, and therefore it is more likely that a new 1 form entry school is built, and then another school extended to take the number of pupils exceeding this school's capacity, i.e. 13. This approach may be reviewed based on changing housing proposals.

Assuming East of Southam Road proceeds, and a new school is constructed, the previously agreed cost of a 1 form entry school (£4,883,000) should be divided between the two developments pro rata, with East of Southam Road paying 156/210 of the cost (£3,627,371) and the balance paid by West of Southam Road (£1,255,629). West of Southam Road would then also pay for the balance of 13 places at school extension rates, of £11,582 per pupil place, totalling £150,566 for extension. This is based on Department for Education (DfE) advice weighted for Oxfordshire, and is index linked from 1st Quarter 2012 using PUBSEC Tender Price Index.

The total S106 for primary school provision attributable to West of Southam Road would therefore be £1,406,195, and the total across both developments would be £5,033,566.

In the eventuality that this new application were to be implemented but not the extant application for east of Southam Road, there would be no site for a new school. In the absence of a suitable new school site, contributions from this application would in those circumstances be used to extend primary provision on an existing site, and the S106 agreement would need to be worded to provide the necessary flexibility.

In addition, the existing S106 agreement includes payments towards the cost of providing temporary school accommodation and transport to the temporary accommodation, should this be required ahead of the new school opening. An



assessment would need to be made of whether the proposed increase in dwelling numbers would increase these interim costs of school provision. This will depend on the timing of the different elements of the development and therefore cannot be assessed at this time.

#### Secondary school provision

At the time of the original application, it was agreed that there should be no contribution towards secondary school expansion, due to the existing level of spare places. However, OCC did advise at that time that the need for secondary contributions was to be reviewed in the light of new data on population growth.

Having reviewed the supply and demand for secondary school places in Banbury, OCC is now seeking contributions towards secondary school expansion. Numbers in the primary schools feeding to Banbury's secondary schools make clear the rapid growth in school age population. All year groups currently in the area's primary schools exceed the number of places currently available at secondary transfer. In reality, not all primary pupils transfer to Banbury secondary schools – some pupils go to schools outside Banbury, and others to the private sector. The current average is for 94% of children to transfer. Applying this transfer rate, the number of children from the existing school population (i.e. excluding housing growth) seeking secondary school places over the coming years is expected to exceed the current combined admission numbers by 2016 and in all subsequent years. Expansion of secondary school places in Banbury is therefore necessary to meet the needs of the existing population; any housing growth will add to the need for growth. It is expected that one additional form of entry will be required in 2017, and another in 2018, with further growth beyond this period.

We therefore require housing developments within Banbury to contribute towards the costs of secondary school expansion in a proportionate manner. As a new application, this proposal needs to be assessed in a consistent manner with other contemporaneous proposals. This proposal for 230 homes would be expected to generate 46 secondary pupils and 6 sixth form pupils.

On this basis, £914,356 Section 106 developer contributions are sought towards the expansion of permanent secondary school capacity serving the area by a total of 52\*pupil places (including 6 sixth form places). This is based on Department for Education (DfE) advice for secondary school extension weighted for Oxfordshire and including an allowance for ICT and sprinklers at £17,455 per pupil place and £18,571 per Sixth Form pupil place. This is index linked to 1st Quarter 2012 using PUBSEC Tender Price Index.

#### SEN school provision

Section 106 developer contributions towards the expansion of permanent Special Educational Needs school capacity will also be required in line with the expected increase in pupil numbers, based on 1.11% of school pupils attending SEN schools. We are advised to allow £30,656 per pupil place to expand capacity in special educational needs schools. This is index linked to 1st Quarter 2012 using PUBSEC Tender Price Index.

Based on the pupil generations above, the SEN pupil generation of the new application is estimated to be 1.32 pupils, and the SEN pupil generation from the extant 510 home East of Southam Road development is estimated to be 3.12 pupils. The total SEN contributions would therefore be £136,113, divided £40,466 from this new application and £95,647 from the East of Southam Road development.

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

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

**Key issues:-**

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

The following contributions have been calculated using the development mix provided in the plans

- 22 no. x One Bed Dwellings
- 73 no. x Two Bed Dwellings
- 63 no. x Three Bed Dwellings
- 72 no. x Four Bed Dwellings

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

- 562 additional residents including:
- 40 resident/s aged 65+ years
- 401 resident/s aged 20+ years
- 35 residents aged 14-19 years

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

- £47,770 for expansion of the library service
- £6,416 for the expansion of the Adult Learning Service
- £44,000 for health and wellbeing resource
- £6,930 for integrated youth
- £35,968 for the additional capacity that will be needed at the Alkerton HWRC
- £2,810 for the Oxfordshire Museum Resource Centre

**Other Consultees**

3.17 **Thames Water:** Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Should the Local Authority look to approve the application, Thames Water would recommend a Grampian condition be imposed. The existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. A further condition should therefore be imposed in relation to this matter.

3.18 **Natural England:** No objection. The proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species.

Reference is made to standing advice on protected species.

3.19 **Environment Agency:** No objection subject to a number of conditions. If these conditions were not included, the development would pose an unacceptable risk to the environment.

3.20 **Highways Agency:** No objection. Proposed development will not affect safety or operation of the M40

3.21 **Sport England:** No particular comments to make

3.22 **London Crematorium Company:** Raises objections to the application on the following grounds:

Banbury Crematorium is distinct from the Banbury Cemetery operated by Banbury Town Council. The Crematorium provides a peaceful tranquil and dignified setting for

cremations and the Garden of Remembrance. The relationship of the new development to this facility is barely acknowledged within the application documents. The Crematorium is indicated in the wrong location and brings into question the site analysis plan submitted.

Whilst there is no objection in principle to an increased number of houses a generous separation distance of 100m between the built development and the Crematorium should be imposed by a condition.

**Response by the applicants:** It is acknowledged that there is a distinction between the Banbury Cemetery and the Banbury Crematorium in terms of operators and that the Crematorium extends further west along the northern boundary of my clients' site. Whilst the labelling of the two facilities could have been clearer on the site analysis plan, they are thus identified on the red line application boundary plan (2149 101-P) and on the topographical survey plan (P-O-150).

It is noted that in representations to the Cherwell Local Plan that the London Cremation Company has suggested a minimum of 50m separation between any housing and the crematorium. This request has increased to 100m in their letter of 16 June without any justification. The application, as submitted, has had full regard to the concerns and earlier objections of the London Cremation Company and the indicative masterplan reflects this, with the closest proposed dwelling being located at least 100m from the boundary hedge.

Whilst it is also acknowledged that the application is in outline, it should be remembered that it is an EIA application and consequently is supported by amongst other documents, an Environmental Statement (ES), a Design and Access Statement and an Indicative Masterplan. The Indicative Masterplan results from a series of parameter plans contained within ES which identify or 'fix' the extent and type of development assessed (Figure 4.1 Land Use Parameter Plan refers). In turn, conditions attached to a planning permission, such as conditions 4 and 9 on 13/00158/OUT legally cement the development parameters. This principle was established in R v Rochdale Borough Council ex parte Tew & Others (1999) and subsequent judgements. Furthermore, any change or alteration from the parameters in a reserved matters application would have to be justified through further EIA submissions.

Consequently, my client considers that a further condition restricting development to no closer than 100m of the northern boundary of the site, is unnecessary in this instance.

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

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

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

H5:	Affordable Housing
H12:	Residential development in rural areas
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

Planning Policy Guidance

**Submission Local Plan (January 2014) (SLP)** has been through public consultation and was submitted to the Secretary of State for examination in January 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need are subject to public consultation, from 22<sup>nd</sup> August 3<sup>rd</sup> October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination is set to reconvene in December 2014.

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/Urban Rural Fringe  
ESD16: Character of the built environment  
ESD18: Green Infrastructure

#### **Strategic Development**

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

#### **Infrastructure Delivery**

INF1: Infrastructure

Cherwell District Council's Annual Monitoring Report (AMR) December 2013

The Oxfordshire Strategic Housing Market Assessment (SHMA), April 2014

Housing Land Supply Update May 2014 and June 2014

## **5. Appraisal**

### **Context**

- 5.1 The application relates to the western section of land covered by Policy Banbury 2 (BAN2) of the SLP and is submitted by Pandora Ltd for upto 230 dwellings with access off the Southam Road and Dukes Meadow Drive, community and retail facilities, landscaping, play area and open space. Policy BAN2 seeks to provide approximately 600 dwellings with associated facilities and infrastructure across a development area West and East of the Southam Road in a scheme that demonstrates a sensitive response to this urban fringe location.
- 5.2 The Council approved two schemes, one on this site and one on the eastern parcel of land last year under 13/00158/OUT (west) for 90 units and 13/00159/OUT (east) for 510 units. The current proposal seeks consent to stretch the capacity of the BAN2 allocation to 740 by increasing the number of units from the approved 90 to 230 dwellings on the western part of the allocated site.
- 5.3 The key issues for consideration in this application are:

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

#### 5.4 **Environmental Statement**

The application for up to 230 units is accompanied by an Environmental Statement (ES), which was originally submitted under 13/00158/OUT and was prepared for the consideration of 370 units. Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, where an ES has been submitted with an application, the Local Planning Authority must have regard to it in determining the application, and can only approve the application if it is satisfied that the ES provides adequate information.

5.5 Prior to the 13/00158/OUT submission, the applicants submitted a Scoping Opinion covering the topics of Land Use and Agriculture, Socio Economics, Transportation, Ecology and Conservation, Archaeology /Cultural Heritage, Landscape and Visual impact, Alternatives and Cumulative impacts. Whilst the following topics were scoped out of the ES – ground conditions, air quality and water resources/drainage – separate reports were submitted for consideration with the application.

5.6 The ES covers all of the topics identified in the Scoping Report. Land uses, maximum development numbers and maximum building heights across the site are defined within the ES. Each chapter considers the impacts and significance thereof of the proposal, as well as the cumulative impacts of other permitted/proposed development nearby and a summary of these conclusions can be found in the 13/00158/OUT report to Planning Committee. Copies of the full ES can be viewed via the Council's web site.

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

5.7 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.

5.8 The NPPF is one such material considerations and it clearly states in highlighted paragraph 14 that 'At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-

making and decision-taking'. For decision taking this means<sup>1</sup> approving development proposals that accord with the development plan without delay or where the development plan is absent silent or relevant policies are out of date, granting planning permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole or specific policies in the NPPF indicate development should be restricted<sup>2</sup>.

5.9 With specific regard to housing proposals the NPPF, in paragraph 49, further advises that 'Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.' To achieve sustainable development, the NPPF sets out the economic, social and environmental roles of planning including 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.

- 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

5.10 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).

5.11 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*".

5.12 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*

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

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

*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.

- 5.13 The NPPF does not change the statutory status of the development as the starting point for decision making. Proposed development that conflicts with the Local Plan should be refused unless other material considerations indicate otherwise. (para 12)
- 5.14 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as an existing land use, where there is no specific allocation. Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings. The proposal clearly does not comply with this policy criterion and therefore represents a departure from the adopted development plan (the Adopted Cherwell Local Plan 1996 – ACLP), as was the previous application 13/00158/OUT, however that approval is clearly material to the consideration of this current application.
- 5.15 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.
- 5.16 Having established that the proposal conflicts with principle policy H18 it is necessary to establish the status of that policy, what it is seeking to do and how much weight it should be given. Recent appeal cases have found that this policy is out of date and no weight can be attached to it, however the policy seeks to achieve two main objectives. The first is to restrict the supply of housing (which needs to be weighed against the objective housing need test) and the second is to serve the purpose of protecting the countryside (which is ultimately a more subjective test), it therefore has a dual purpose.
- 5.17 The SLP 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. The Plan includes proposals for major land releases to meet employment, housing and other needs and to achieve place specific objectives. Whilst the site is not allocated for development within the ACLP, it has been identified as a proposed site for residential development allocated under Policy BAN2 within the SLP.
- 5.18 Paragraph 216 of the NPPF advises that emerging Local Plan policy can attract weight and consistency with the emerging Local Plan is an advantage of those sites allocated for inclusion within the SLP, whilst those sites not within the emerging Local Plan do not. This paragraph states:
- From the day of publication, decision-takers may also give weight<sup>3</sup> 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

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<sup>3</sup> Unless other material consideration indicate otherwise



given); and

- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

- 5.19 The key components of Policy BAN2 of the SLP are to provide approximately 600 dwellings, to achieve 30% affordable housing, and to ensure that infrastructure needs relating to education, health, open space, access and movement, community facilities and utilities are met. The key design objectives include achieving a development that respects the landscape setting, particularly to the west of the Southam Road, consideration of topographical changes, green buffers along watercourse, retention and enhancement of significant landscape features (eg hedgerows), public open space, good accessibility, connectivity and a high degree of integration maximising walkable neighbourhoods, new footpaths and cycleways, good accessibility to public transport, a travel plan, careful consideration of active street frontages, strategic landscaping, good access to the countryside, and the opportunity to connect to the Banbury County Park.
- 5.20 A further key component of this policy allocation is the site capacity and this is particularly relevant to the west of the site allocation now subject to this current application. Given the position of the Local Plan examination that was suspended in June 2014, to provide the opportunity for the Council to propose 'Main Modifications' to the Plan in light of the higher level of need identified, the Council has undertaken a further review of the SLP allocations for the whole district and in particular has looked at site capacity as part of the 'Main Modifications'.
- 5.21 As part of these modifications, the Council has not changed the site capacity for this application site and the wider allocation of BAN2, but has reviewed the developable area to the west and has re-drawn the red line to contain the area considered suitable for built development, which is based on the landform. The Landscape Impact section of this report, further assesses this aspect but is essentially as a result of the evidence base for the site allocation. This concludes that the capacity of this site is no more than 90 dwellings because of the significant landscape impact that would result if the development were above the 102m contour line. This is detailed further in that section, but it is the Council's position that the proposal would cause significant harm to the landscape if built development were to continue up the hill as proposed in this current application. The part of the application site that is not included in the modifications is proposed to be included in the 'Banbury Green Buffer' which is covered under Policy ESD15 of the SLP. The context of this policy is covered further below in the landscape section.
- 5.22 Notwithstanding these policy provisions and the supporting evidence, they have not been through the Local Plan examination and carry limited weight; more weight has to be attributed to the NPPF given the current status of the development plan and the Council's five year land supply position. The NPPF includes a presumption in favour of sustainable development and states that where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless "any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole" (para. 14).
- 5.23 The NPPF goes on to state that "Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites". (para 49).

- 5.24 All these factors are key material considerations to the determination of this current application and that an on balance assessment of the proposal in policy terms needs to be given. As the adopted Local Plan is the 'starting point' and that it is clear that this proposal conflicts with it, the logical route should be to refuse the application but only if other material considerations do not indicate otherwise. In this planning balance is the approved scheme, landscape impact and the reasons for the restriction on the site capacity, the status of the BAN2 and ESD15 policies and the housing need (detailed further below) and that this site could provide a further 140 dwellings over the 90 previously approved, of which would be a further 42 affordable homes instead of the 27 previously provided. The housing need case is quite weighty in this regard and is considered below.
- 5.25 As detailed above, the status of the SLP and emerging policies within it are key to the consideration of the proposal and the applicant has made representations to the Examination of that local plan, which includes this site. Guidance on prematurity is provided in the Planning System: General Principle's paras 17-19. The guidance advises where an emerging plan is out for consultation then refusal on grounds of prematurity will not usually be justified because of the delay in determining the future use of the land in question. The weight that can be given to an emerging plan depends on the stage of its preparation and the level of representations received which support or opposes the policy. The emerging local plan policy is the subject to a significant number of objections, further objections have been received in response to the recent focused consultation response, this reduces the weight that can be attached to the policy.
- 5.26 Furthermore, it should be remembered that the advice in the PSGP document calls for a judgment to be made about whether the grant of planning permission could prejudice the emerging Local Plan by predetermining decisions about the scale, location or phasing of new development which are being addressed in the plan. If so, then it may be appropriate to refuse planning permission (paragraph 17). Whether it is appropriate to do so will depend on all the other material considerations weighing for/against the current application. Of note is recent case law, Larkfleet case which makes clear, prematurity is "simply one relevant circumstance among others and the weight to be given to it will depend crucially on the individual circumstances of each case".
- 5.27 All applications submitted for determination should be treated fairly and consistently – whether or not they are favoured within the emerging Local Plan. That means acknowledging any disadvantage (whether in prematurity terms or otherwise), and otherwise conducting the planning balance in the ordinary way.
- 5.28 Given the number of dwellings proposed in this application it is not considered to be so significant as to prejudice the development of the local plan. However the Council is currently faced with a number of applications around Banbury which cumulatively would have a more significant impact. Nevertheless this has to be balanced against the range of issues raised by the application including the position on five year housing land supply.
- Five Year Housing land Supply Position**
- 5.29 On 28 May 2014, the Council published a Housing Land Supply Update which showed that there was a five year housing land supply, based on the Submission Local Plan requirement of 670 homes per annum from 2006 to 2031.
- 5.30 The examination of the Local Plan began on 3 June 2014. On that day, and the following day, 4 June 2014, the Local Plan's housing requirements were discussed in the context of the Oxfordshire Strategic Housing Market Assessment (SHMA) 2014, published on 16 April 2014 (after the submission of the Local Plan in January 2014).

- 5.31 The Oxfordshire Strategic Housing Market Assessment (SHMA) 2014 was commissioned by West Oxfordshire District Council, Oxford City Council, South Oxfordshire District Council, Vale of White Horse District Council and Cherwell District Council and provides an objective assessment of housing need. It concludes that Cherwell has a need for between 1,090 and 1,190 dwellings per annum. 1,140 dwellings per annum is identified as the mid-point figure within that range.
- 5.32 The Planning Inspector appointed to examine the Local Plan made clear his view that the SHMA document provided an objective assessment of housing need in accordance with the NPPF and suspended the Examination to provide the opportunity for the Council to propose 'Main Modifications' to the Plan in light of the higher level of need identified. The 1,140 per annum SHMA figure represents an objective assessment of need (not itself the housing requirement for Cherwell) and will need to be tested having regard to constraints and the process of Strategic Environmental Assessment / Sustainability Appraisal. However, the existing 670 dwellings per annum housing requirement of the Submission Local Plan (January 2014) should no longer be relied upon for the purpose of calculating the five year housing land supply. Until 'Main Modifications' are submitted to the Secretary of State for Communities and Local Government, the objectively assessed need figure of 1,140 homes per annum from the SHMA is considered to be the most robust and defensible basis for calculating the five year housing land supply.
- 5.33 A further Housing Land Supply Update (June 2014) has been approved by the Lead Member for Planning. It shows that the District now has a 3.4 year housing land supply which includes an additional 20% requirement as required by the NPPF where there has been persistent under-delivery. It also seeks to ensure that any shortfall in delivery is made-up within the five year period.
- 5.34 Given the out of date adopted housing land supply policies and the limited weight that can be afforded to the emerging housing policies contained within the SLP and that the Council cannot demonstrate 5 year HLS Paragraphs 14 and 49 of the Framework are consequently engaged.
- 5.35 However, notwithstanding the Council's Housing Land Supply position as stated above, the proposal would give rise to conflict with a number of policies in the ACLP, NSCLP and SLP. Paragraph 14 of the Framework makes it clear that there is a presumption in favour of sustainable development and that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. It does not however indicate that an absence of a five year land supply means that planning permission for housing should automatically be granted for sites outside of settlements. There remains a need to undertake a balancing exercise to examine any adverse impacts of a development that would significantly and demonstrably outweigh the benefits of it and also the harm that would be caused by a particular scheme in order to see whether it can be justified. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the Framework. It is also necessary to recognise that Section 38 of the Act continues to require decisions to be made in accordance with the development plan and the Framework highlights the importance of the plan led system as a whole.
- 5.36 It is considered that there are adverse impacts in respect to landscape impacts and this is expanded further below, but it is considered that where harm does exist, that the presumption should not automatically apply and planning permission be granted.

#### **Landscape Impact**

- 5.37 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.

5.38 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.

5.39 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.

C8 – Prevents sporadic development in the open countryside.

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.

C13 – The site and wider landscape is within the Ironstone Downs Area of High Landscape Value

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.

5.40 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

5.41 The site lies in an area of open countryside and is prominently located within the Ironstone Downs Area of High Landscape Value, protected under saved Policy C13 of the adopted Cherwell Local Plan. Careful control of the scale and type of development is required to protect the character of these designated areas. The Policy states that, 'careful control of the scale and type of development will be required to protect the character of the AHLV, and particular attention will need to be paid to siting and design'. The Council has accepted that some harm will be caused to the landscape on part of the application land, restricted to the lower area of land below the 102m contour. Whilst the AHLV designation has not been carried though

with the SLP, the landscape significance of the site and wider landscape is, in accordance with the NPPF adopting a character-based approach instead under Policy ESD13, which seeks to conserve and enhance the distinctive and highly valued local character of the entire district.

- 5.42 Policy ESD13 (Local Landscape Protection and Enhancement) of the SLP 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.

- 5.43 Policy ESD15 (Green Boundaries to Growth) of the SLP seeks to address the need for green edges around Banbury and Bicester, through the designation of Green buffers which:

- Maintain Banbury and Bicester's distinctive identity and setting
- Protect the separate identity and setting of neighbouring settlements which surround the two towns
- Prevent coalescence and protect the gaps between the existing/planned edge of the towns and surrounding settlements.
- Protect the identity and setting of landscape and historic features of value that are important to the identity and setting of the two towns
- Protect important views

The modifications document (August 2014) proposes to change the title of the policy from "Green Boundaries to Growth" to "The Urban-Rural Fringe" and includes the following clarifying sentence:

"Development proposals within the green buffers will be assessed to determine their impact on the identity and setting of the towns and neighbouring villages including associated features of landscape or historic value, and the extent to which they would lead to coalescence, and intrude on key gaps and views.

- 5.44 The buffers do not negate the need for green infrastructure provision within the strategic allocation sites. They are intended to define the limits to built development (including associated green infrastructure) and protect the gaps between .... the existing or planned edge of Banbury and the villages of Adderbury, Bodicote, Drayton, Hanwell, Little Bourton, Nethercote, North Newington and Wroxton.

- 5.45 Policy ESD16 (The Character of the Built Environment) of the SLP 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.

- 5.46 Policy BAN2 within the SLP sets out some key site specific place shaping principles, including:

- Development that respects the landscape setting with particular attention to the west of Southam Road where the visual sensitivity is considered to be greater.

- Development that addresses the flood risk of the site, where a small part of the site to the far west is within flood zone 2 and 3 (along the route of the brook - a tributary of the River Cherwell); built development close to the watercourse will not be permitted. A green buffer should be provided along the watercourse.
- Development that retains and enhances significant landscape features (e.g. hedgerows) which are or may be of ecological value; and where possible introduces new features (e.g. green buffer along the watercourse) to enhance, restore or create wildlife corridors and therefore preserve, enhance and increase biodiversity in the area.
- Layout of development that enables a high degree of integration and connectivity between new and existing communities.
- New footpaths and cycleways should be provided that link to existing networks, with a layout that maximises the potential for walkable neighbourhoods with a legible hierarchy of routes, and incorporates cycle routes to encourage sustainable modes of travel.
- Development that considers and addresses any potential amenity issues which may arise - including noise impact from the M40 (forming the north east boundary) and any issues arising from the crematorium (to the north). The introduction of buffers/ barriers/ screening and the location of uses should be carefully considered to mitigate potential nuisances.
- Public open space to form a well-connected network of green areas suitable for formal and informal recreation, with the opportunity to connect to the Banbury Country Park ('Policy Banbury 14: Banbury Country Park')
- The incorporation of urban design principles (see 'Policy ESD16: The Character of the Built Environment') including consideration of street frontages and building heights in relation to the landscape setting.
- A well designed approach to the urban edge, which relates development at the periphery to its rural setting and affords good access to the countryside.

5.47 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 (Sept 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 (Sept 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.” (para 1.2)*

- **Appendix 1 of the Baseline Report: The Historic Landscape Setting of Banbury (Sept 2013) LDA** – *this report is an “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”. (pg 3)*
- **Banbury Green Buffer Report (Sept 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” (para 1.1).*
- **Banbury: Analysis of Potential for Strategic Development (Sept 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". (para 1.0)*

*The analysis finds that the BAN2 Southam Road, "allocated site (which has been divided into two for the purposes of the analysis) is considered to have strategic development potential" (para 3.3). "The Southam Road – West site is considered to be highly visually sensitive given its rising topography and prominent location at the fringe of the settlement edge. The site forms part of the attractive Hanwell Brook valley, an important landscape feature in the setting of the Banbury to the north and contains the remnant historic land uses of Hardwick Copse and Gorse adjacent to the Brook.*

*The analysis concludes that development of the whole site should not be taken forward as it would result in unacceptable harm to the setting of Banbury and because of the site's visual and landscape sensitivity. However, some development could be potentially accommodated within the site provided it is located in the less sensitive south eastern corner of the site and that suitable design and mitigation strategies are adhered to". (para 3.3.1)*

- **Banbury: Appendix 1 Peripheral Development Sites Analysis (Sept 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 SLP. Policies include guidance for housing density, employment and infrastructure needs for each site.

- 5.48 The WYG (Banbury Landscape Sensitivity and Capacity Assessment (25 March 2013)) report provides the following assessment of the BAN2 whole allocated site (both west and east): Site B (SLP Banbury 2) (pg 23 – 28)

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

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

The area to the north of the Cemetery has retained a strong field pattern containing signs of historic ridge and furrow in smaller fields associated with Hardwick Hill House. The area south of the Cemetery and east of Hardwick Hill Road have lost this pattern with the fields being amalgamated to accommodate modern day agricultural practices. Although the site area has few important elements of specific scenic quality, the area as a whole does perform an important function in defining the northern extent to the urban development limit whilst enabling views north and west when heading north out of Banbury. The sensitivity of aesthetic factors is medium – high.

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

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

Development within the east of the site does have the potential to be mitigated visually as the area is relatively well contained and it therefore has a low sensitivity. Mitigation potential within the west of the area differs due to the overlooked nature of the area and presence of the Cemetery. Planting within the area, especially close to

the boundaries of the cemetery would alter the character of the area and the views into/out of the area and potentially compromise the setting of the cemetery. The sensitivity to mitigation is therefore considered to be high. The visual sensitivity is considered to be high.

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

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

- 5.49 No further comment or assessment is made of the BAN2 site in the WYG Assessment Addendum to the Banbury Landscape Sensitivity and Capacity Assessment (18 August 2014).
- 5.50 In terms of Banbury: Appendix 1 Peripheral Development Sites Analysis (Sept 2013) undertaken by LDA the following is the extract that identifies the issues, constraints and opportunities for this allocated site:

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

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

#### ENVIRONMENTAL CONSTRAINTS AND ISSUES

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

#### KEY DESIGN ISSUES

include:

- Topography of the site and visual impact of development from surrounding areas due to exposure of slopes; impact on setting.
- Relationship between development and cemetery.
- Incorporation of water course into scheme and historic pastures along it.
- Treatment of frontage on to Hardwick Hill / Dukes Meadow Drive to create a new gateway to Banbury. Green gateway objective.
- Relationship with neighbouring development, safe pedestrian access to proposed primary school and into town

- There are no rights of way surrounding the site. Potential for the development to be used as an opportunity to improve access to the wider countryside from the town. Strategic footpath links from BAN 2 (East) to recreation area and Hanwell to the west/north west.
- Sensitive higher land and western slopes/valley to be retained as farmland or to recreate informal green infrastructure.
- Special high quality, low density residential design solution required due to visual sensitivity and strategic environmental setting of Banbury.

#### Indicative Capacity Study

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

Assumes Public Open Space (POS) and SUDs provision is made outside of Developable Area. Any playing field provision offsite due to topography. Also a possible strategic footpath link through the site.

- 5.51 During the consideration of the 13/00158/OUT application the applicant worked collaboratively with the Council and LDA in order to find a compromise that would provide the maximum number of housing on the site that would not cause a significant landscape impact. The solution being a mixture of potentially high quality, low density residential development comprising 90 units on the flatter section of the site that follows the contour of the land and no higher than the 102m contour line. As the land rises beyond this point the land will accommodate a new strategic footpath along its length and then will remain as agricultural land from there to its most northerly aspect.
- 5.52 As part of the Environmental Statement submitted with the application, the applicants have undertaken a landscape and visual assessment of the construction and operation of the proposed development. Various photographic viewpoints were identified as forming part of the visual envelope (ie the extent of the area from within which the proposed development may be viewed). The environmental impact of the scheme has been fully assessed and the level of its impact defined in general terms within the topics assessed including landscape and visual.
- 5.53 As part of the further consideration of the development on this site and in response to the latest submitted application, LDA have been further consulted, their comments are as follows:

#### “Landscape and Visual Impact Assessment (LVIA) Chapter LDA Observations

The LVIA makes clear this LVIA supersedes previous LVIA's undertaken for the site (S.12.1 para 3). We note effects to landscape and visual receptors have increased in certain instances, namely visual receptors at Dukes Meadow Drive. We also note they have also decreased in some instances, namely at from Hardwick Hill Cemetery.

Section 12.2 provides a summary of pertinent policy including the NPPF, Local Plan (1996), Non-Statutory Local Plan (2011) and Submission Draft Local Plan (2013). Supplementary Planning Documents are also considered in S.12.2.4.

A summary of the evidence base is made at S.12.2.5 which includes the Sensitivity and Capacity Study by WYG and Green Buffer report by LDA (2013). However the Environmental Baseline Report (2013) and Analysis of Potential for Strategic Development (2013) are not referred. This is a concerning omission given their relevance to the assessment and site.

We note that a density of 32 dwelling per hectare is proposed within the consented

approved 90 dwellings area, above the 20 - 30 d.p.h. considered appropriate within the Potential for Strategic Development document.

At S12.2.6 para 1 the LVIA states there is “*no visual connection between the site and [Hanwell] Conservation Area*”. We do not agree with this proposition. Moreover, the Hanwell Conservation Area Appraisal (2007) notes several ‘views to horizon’ east and southeast from the edge of the Conservation Area toward the site.

We note the assessment states the permitted scheme for 90 dwellings makes “*no attempt to address the interface of the built form and the undeveloped landscape or provide measures to mitigate the effects of new development*” (S12.7 para 3).

We note the LVIA assumes the approved 90 dwelling permission forms part of the baseline. This is acceptable although given it is outline approval there is a degree of uncertainty as to what form this development may take. This uncertainty is not acknowledged within the LVIA.

- 5.54 The riverside boardwalk and recreation field adjacent to the west of the site have not been assessed or acknowledged within the LVIA. These are well used recreational resources and the effects to receptors at them should be assessed.

There is no consideration of the Historic Landscape Character (HLC) within the LVIA. This is contrary to GLVIA 3. We note the development would incur into the historic landscape of Hardwick Gorse and Copse adjacent to Hanwell Brook although no recognition of this within the LVIA has been made.

Construction effects are not assessed adequately within the LVIA on the premise that they are temporary. Although the LVIA recognises there will be a period of “*constant change during construction*” (pS.12.6.2 para 3) no attempt has been made to quantify or assess potential effects in any detail even though they are considered “*likely to be significant*” (S.12.6.3 para 11).

We note the LVIA recognises the importance of respecting the landform (S.12.2.7) and that the masterplan has been landscape led. Evidence for this is provided in Section 3.2 of the DAS. However, we note within the density parameter plan the higher density of 32 d.p.h. is proposed beyond the reinstated historic hedgerow on the higher slopes of the site, contrary to landscape recommendations.

The LVIA uses its own local Landscape Character Assessment. This is acceptable although there is not reference as to how this relates to the published OWLS or Cherwell LCAs.

- 5.55 We disagree with the findings of the assessment for a number of receptors, in particular those from rights of way and public areas to the west and northwest of the site, Dukes Meadow Drive and Hardwick Hill Cemetery, which underestimate the effects to these sensitive receptors. We do not agree that that the development would not be prominent in views from Dukes Meadow Drive (S.12.4.9 para 5).

We would like to clarify that viewpoint locations for this and previous schemes were never agreed in consultation with LDA Design (S.12.4.7 para 3). We are unclear what “principal views” the applicant is referring to in this paragraph.

In Section 12.5.4 the LVIA notes Hardwick Hill Cemetery and the western flanks of the site as landscape parameters to the site.

Whilst commendable for inclusion, all of the Green Infrastructure measures could be realised under the approved 90 dwelling scheme (S12.5.4) without the harm caused to landscape and visual receptors by additional development.

We do not agree with the assertion made at S12.6.2 para 3 which states “*the landscape at a broad level is not considered to be sensitive to change.*” Evidence base documents have repeatedly emphasised the importance of the high quality countryside that surrounds Banbury and its role in the setting of Banbury as a historic market town.

- 5.56 We do not agree with the statement at (S12.6.2 para 4) that “*the masterplan still retains development within the lower lying portions of the site*” and that the development “*does not result in changes that are inconsistent with the existing situation*”. The development extends beyond the developable area considered appropriate within the Analysis of Potential Strategic Sites document. The developable area as identified within the Analysis of Potential Strategic Sites document was informed by desk-based and field observation based on the topography of the site. When viewed on the ground, and confirmed by the topographical plan for the site, there is a recognisable change of slope at 102m beyond which development would encroach on higher, steeper slopes and become highly visible. In the absence of a physical feature on the ground, the 102m contour is the most suitable delineator for this line. In terms of aspect the development extends beyond the developable area to the west. The aspect of the site changes from a southward to westward orientation, opening up views from the countryside and Hanwell to the northwest that would otherwise be largely unaffected under the approved scheme. Consequently, the development would be highly visible in views both to and from Banbury.

The methodology for visualisations as set out in Appendix 12.1 appears to be accordant with best practice.

- 5.57 We do not agree that the development would improve the visual experience from Hardwick Hill Cemetery (S.12.6.2 para 15). The LVIA states in the baseline section (S.12.4.9 para 3) that “elements in Banbury are important in respect of the skyline and the focus of views from this location” and acknowledges these would be foreshortened within the assessment (S.12.6.2 para 15). The amenity of this view would change substantially and we do not, therefore, agree with the conclusion of minor beneficial effects to visual receptors at this location (S12.6.3 para 8).

We strongly disagree with the assertion at S.12.6.3 para 9 that only views from Dukes Meadow Drive are considered to experience significant effects. Figure 12.6 of the LVIA is very helpful in comparing the change between the consent and proposed scheme and indicates significant visual effects would occur.

We note the proposal would result in the removal of the majority of the existing hedgerow which runs south-eastward from Hardwick Hill Cemetery to Dukes Meadow Drive.

5.58 Conclusions

We have concerns with the methodology deployed for the LVIA. Although purported to be drawn from best practice as detailed by Guidelines for Landscape and Visual Impact Assessment (3rd Edition) (GLVIA 3), there appears to be a number of omissions from this guidance. These principally include:

- The absence from within the LVIA text or Appendix 12.2 of reference to susceptibility and value in forming judgements of sensitivity.
- The absence within the LVIA text or Appendix 12.2 of reference to size/scale, duration or reversibility in forming judgements of magnitude of effect.
- No assessment matrix is provided illustrating how sensitivity and magnitude of effect correlate to significance.

- Construction effects have not been considered adequately.
- The omission of Historic Landscape Character considerations.

5.59 The absence of a transparent analysis of the evidence means that it is not possible to verify the process and subsequent findings.

In additional, the LVIA fails to acknowledge the Banbury Environmental Baseline Report and Analysis of Potential Strategic Sites, important evidence base documentation that have been subject to public consultation and revision. Both of these documents highlight specifically the important positive role of the site in the setting of Banbury as a historic market town. The LVIA fails to fully recognise the role and function of the site in the setting of Banbury as a historic market town and the harm that would result if development extended beyond the developable area considered appropriate as defined in the Analysis of Potential Strategic Sites document.

5.60 We do not agree with the conclusions drawn for the significance of effect for a number of landscape effects and visual receptors including Dukes Meadow Drive, public rights of way to the west and northwest, Hardwick Hill Cemetery and Hanwell Conservation Area. We believe judgements made within the LVIA have underestimated the likely effects to these receptors”.

5.61 Detailed above is the evidence base for the landscape work undertaken by this Council which deals specifically with the application site and in terms of landscape impact, it is considered that the proposal will cause significant harm to this open countryside setting Banbury. Added to this are the comments made by LDA on the latest submission, which is an assessment of the applicant’s LVIA and how the proposal seeks to address the landscape impact. The Council has previously accepted that the site has limited development capacity because of the topography and harm that would result from further development beyond the 102m contour line and notwithstanding the latest LVIA submission from the applicant in support of the proposal it is considered that the landscape has a valuable amenity roll and safeguards the setting Banbury. It is concluded that there is significant harm to the environment contrary to Paragraph 135 of the Framework and that part of the site should remain undeveloped and designated as a proposed Green Buffer as part of the emerging local plan. The Council has evidence to support the Green Buffer Policy as detailed above and through various landscape assessments draw the same conclusion that development on the application site as proposed would cause harm to the landscape setting of Banbury.

5.62 Fundamentally however is the status of that Green Buffer Policy and the recent appeal decision for Bloxham Road, Banbury (APP/C3105/A/12/2178521 (12/00080/OUT)) which focused on Salt Way specifically, found the Inspector acknowledging that there was a “(31) conflict with policy ESD 15 of the SLP which seeks the provision of green buffers that would be kept free of built development. The justification for this policy makes clear that the aim of the policy is to maintain the distinctive identity of settlements and prevent coalescence as well as protecting valuable landscape or historic features. However, I have already found that the actual physical effect of the proposed development on Salt Way would be limited and there is no case to be made that it would promote coalescence as the nearest settlement to the south-west is Bloxham which is a considerable distance away. I have also already indicated that the SLP is an emerging document that can be afforded only limited weight.”

**Indicative design/layout/scale**

5.63 The application site has been subject to an original indicative layout for up to 37 units under 13/00158/OUT and following information in respect to the landscape impact, an amended scheme was submitted for up to 90 dwelling, this scheme was then

approved. The comments made by the Council's Urban Designer were key to the place shaping of this site previously and essentially, whilst there is a great deal of detail left to be undertaken, in principle of some development on this site could be accommodated on the lower section of the site that will not compromise the landscape setting of Banbury as detailed in the LDA reports. Comments from the Council's Urban Designer were awaited at the time of report writing and will be provided as part of the updates to Planning Committee and these will provide the critique of the scheme in urban design terms, specifically addressing layout, roads, gradient, density and form of built development.

5.64 In support of this current proposal the applicant has provided a Design and Access Statement that details each element of the scheme, this is detailed as follows:

5.65 “Land Use

*The proposed site has previously been identified as an appropriate location for housing within the emerging policy framework, and also has an extant outline permission for 90 units on the southern third of the site, together with community/local retail uses. These principles have been maintained within the new development concept.*

*Within the development framework the land use is allocated as:*

- overall site area - 17.79 hectares
- residential development - 7.8 hectares
- mixed use development - 0.4 hectares
- primary road - 0.8 hectares
- open space and green infrastructure - 8.8 hectares

*Public open space and green infrastructure account for approximately half of the site area and provide specific areas for ecological interest, areas for informal public open space and areas for NEAPs and LEAPs, new woodland planting which will help frame the development as well as enhancing the separation between the new residential dwellings and the Crematorium.*

5.66 Development Framework

*The approach to site layout is very much a landscape led strategy. The reinstatement of the east-west hedgerow is key and creates a strong axis through the site It facilitates a natural transition between the low and medium density character areas.*

*The medium density character area is located to the south of the site in closer proximity to the highways and other similarly densely developed land. Previously approved access is maintained.*

*The lower density character area is located further to the north and west of the site and addresses the open space and 'green' zones, where it becomes more informal and less dense. This aims to deliver a more rural feel to the developments character in this area.*

*Additional planting and landscaped buffers along with localised water retaining swales and dry ponds reinforce this landscape led approach and develop a positive response to the siting and setting of this development.*

5.67 Density and Building Heights

*The proposal is for a mix of medium and low density housing areas, taking reference from studies of nearby developments/settlements. The LVIA has also provided landscape principles which have guided the density framework across the site. The key responses to this analysis are described within section 5.*

*Medium density housing is proposed for the southern section of the site as a*

continuation of that around Dukes Meadow with densities of approximately 32dph recommended. Further north into the site, the density thins out so that a more sensitive frontage is presented to the open landscape with generous space between dwellings. A density of 21dph is recommended within this area.

Building height parameters have been established following local character analysis and the site constraints described previously. The low density character area will be made up of dwellings of no more than two storeys. The medium density character area will be a mix of building heights but will not extend beyond 3 storeys.

#### 5.68 Low Density

Local density precedent - Hanwell Village

Approximate density = 18 dwellings per hectare

Key characteristics of low density precedents in the local area:

- staggered and angled street frontages frame views and create pockets of green space alongside the roads
- green routes and hedgerows create landscaped pedestrian and cycle routes between zones of development
- detached units are orientated where possible to provide frontages overlooking the open landscape beyond
- primarily garaged with additional off-street parking
- semi-detached and detached units set back from the secondary and tertiary roads providing protected and activated public and private spaces
- lower height dwellings with enlarged spacing between units allowing views through to green spaces easing the transition to the landscape beyond

#### 5.69 Low Density Housing Design

- The areas of low density housing are to be consistently two storeys, with a maximum frontage elevation of 10m.
- Space about dwellings will be generously proportioned to assist with permeability through the landscape.
- Generous rear gardens and planting proposed at boundaries with neighbours.
- Houses are orientated to front on to the wider landscape.
- Tree lined streets with generous open front gardens provide the setting for the houses.
- Limited use of close boarded timber fences to gardens adds to the sense of openness and the informal flow of the external spaces.
- Housing plots are generously proportioned to accommodate all of the parking requirements.
- Localised pockets of open green spaces further enhances the sense of reduced density development and are located at key transitions between low-medium density areas

#### 5.70 Medium Density

Local density precedent - Dukes Meadow Drive, Banbury

Approximate density = 34 dwellings per hectare

Key characteristics of medium density precedents in the local area:

- key junctions, visual axes and gateways are defined through varying height and massing of corner units
- clusters of terraced and semi-detached units are brought closer to the street edge to provide narrower routes with a continuity of frontage along the roads
- small defensible space provided to the front of properties



- primarily on street or driveway parking with limited vehicular garaging

#### 5.71 Medium Density Housing Design

- An increased number of terraces and semidetached dwellings.
- Houses still have a connection to the landscaping and a high proportion are fronting on to the landscape and looking out on to landscape swales, play areas and open spaces.
- The units have smaller frontages due to the increase in density and slightly fewer trees are proposed as external space is given over to the increase in visible car parking.
- Rear gardens and planting proposed at boundaries with neighbours, and where feasible gardens to the front of properties will break up the increased frequency of the off street parking bays, which is coupled with limited vehicle garaging.
- Some limited use of two and half storey houses to break up the street scene and roofline the majority of which are located along the primary vehicular route and lead to the three storey accommodation in the commercial area.

#### 5.72 Commercial / Community Design

- The commercial area adopts the design principles established in the previous consented Outline Application.
- The siting of the commercial area is bound by the major roads to the east and south and therefore its frontage addresses the proposed housing development.
- The development in the commercial area is generally two storey but has a three storey element adjacent to the primary circulation route at its junction with the A423 Southam Road and frames the view to the development from this entry point.
- There is increased parking provided, however this is off the street in dedicated bays.
- Localised external planting is utilised to break up the increased areas of hard landscaping, and in part restricts the view from the A423 Southam Road junction into the site.

#### 5.73 Drainage

The majority of the site sits within flood zone 1 with the natural drainage of the site running towards the flood zone 2/3 area and Hanwell Brook. The surface water attenuation strategy for the site provides, alongside the landscape strategy, a key framework for setting out the development.

The reinstated hedgerow running east-west and space around it will contain a swale running horizontally to slow surface water run-off vertically down the site. The drainage strategy also incorporates swales into the streetscape to provide drainage solutions as an integrated element of the design. Two attenuation dry ponds will be included to allow for severe weather events.

#### 5.74 Access and Site Navigation

The extant outline consent establishes the access points from the adjacent road network. These have been retained within the indicative masterplan. Similarly new pedestrian routes will tie in with the existing adjacent pedestrian footpaths network and pedestrian crossing points on Southam Road and Dukes Meadow Drive.

There are three levels of vehicular access around the site; primary, secondary and tertiary. These are graduated to reflect the density of the development and they each work with the site topography, reducing the required road gradients and removing the need for stepped pedestrian access, to create a fully accessible and inclusive network of routes across the site.

The reinstated hedgerow will also have a pedestrian and cycle route along its length spanning across the site. It is intended that this will form the 'strategic footpath' required by CDC as part of the extant outline scheme, ultimately linking the open land

and footpaths to the immediate west of the site, to the approved development scheme to the east of Southam Road and beyond to the proposed Country Park.

5.75 Landscape and Green Infrastructure

*The landscape strategy builds upon the ecological design principles providing buffer zones of informal landscaping to the west and north of the site. The existing mature hedgerows and trees will be retained with additional tree groups provided to aid longevity of landscape features. A new hedgerow will reinstate an historic hedge line across the central area of the site. It will provide a clear structural feature around which the principles of the development design will be developed, including a framework for pedestrian and bicycle routes through the site, a framework for the site drainage, whilst also defining the development zones, providing a distinction between low and medium density areas. The pedestrian route provides the opportunity to connect to the extant development to the east and the open land to the west via a linking bridge across the Hanwell Brook.*

*An open parkland concept will provide publically accessible recreational areas as well as an undeveloped backdrop to distant views. The design principles of the open space will provide water management as well as enhanced ecological habitats.*

*The elevated plateau to the north-east will be retained as open land with additional tree groups providing a screen between potential development areas and the Crematorium, protecting its existing setting. Within the developed residential area public space will be provided as NEAPs and LEAPs with further public open spaces created based on the context precedent of the village green”.*

- 5.76 Principally, the indicative plan is structured around a spine road which runs through the site, connecting Dukes Meadow Drive to Southam Road, secondary and tertiary vehicular/cycle routes run off this primary route and this will be fronted by medium density development. The small local centre and community facilities are located to the southeast of the site, in the area with least landscape impact and greatest presence. This creates the opportunity to establish a landmark building on the corner of Dukes Meadow Drive and Southam Road. Development to the south fronts onto Dukes Meadow Drive and will be subject to enhancement landscaping. As mentioned in para 5.63 comments are awaited from the Council’s Urban Designer, these will be provided as an update.

**Housing Mix**

- 5.77 For the purposes of this application for up to 230 residential units, the mix will require 30% affordable housing, which equates to up to 69 affordable units the remaining 161 dwellings will comprise an indicative mix as follows:

35 x 2 bed units  
56 x 3 bed units  
62 x 4 bed units  
8 x 5 bed units

- 5.78 In terms of the affordable units the Housing Officer has advised that:

“A parcel of land should be designated for the provision of ‘affordable retirement living’ which would cater for both rented and shared ownership accommodation with a mix of 1 and 2 bed flats/maisonettes, bungalows as well as a limited number of 2 bed houses for shared ownership or some other equity product. There should be provision within the flatted element to be able to be adapted to accommodate the possibility of an onsite office for care provision needed in the future. This parcel should be located near the amenities to allow easy access for these residents to shops and other facilities.

Indicatively suggest that 20-25 units are designated for affordable retirement living and located within the parcel of land.

This will leave 44-49 residual general needs affordable housing which should provide a range of house types from 1bed 2 person maisonettes to 4 bed 6 person houses. This again should provide a mix of tenures including affordable rent and low cost home ownership.

The applicant has indicated the following mix:

22 x 1b units  
38 x 2b units  
7 x 3b units  
2 x 4b units

5.79 All the units should meet lifetime homes standards and Code for Sustainable Homes level 3 as a minimum together with HQI standards and should be transferred to one of CDC's preferred RP partners.

5.80 There is no question from the applicant that the provision of 30% affordable housing is required and the final mix will be subject to further negotiation and this matter should be delegated to officers to resolve with all parties should Members approve this application.

#### **Residential Amenity**

5.81 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.

5.82 The indicative layout and submitted information also demonstrates that the new dwellings, would achieve an acceptable standard of amenity in terms of private and public amenity space.

5.83 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**

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

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

- Improvements to the Hennef Way/Southam Road junction as part of the package of S106 contributions to fund these improvements.

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

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

**Loss of agricultural land**

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

5.88 In terms of planning policy, National policy guidance governing the non-agricultural development of land is set out in the National Planning Policy Framework (2012). Annex 2 of the NPPF identifies the “best and most versatile agricultural land” (BMV) as land in Grades 1, 2 and 3a of the Agricultural Land Classification (ALC). Paragraph 112 of The Framework states: “Local planning authorities should take into account the economic and other benefits of best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality agricultural land in preference to that of a higher quality.”

5.89 Policy EN16 of the non-statutory Cherwell Local Plan states that ‘Development on Greenfield land including the best and most versatile (Grades 1, 2 and 3a) agricultural land will not be permitted unless there is an overriding need for the development and opportunities have been assessed to accommodate the development on previously developed sites and land within the built up limits of settlements. If development needs to take place on agricultural land, then the use of land in grades 3b, 4 and 5 should be used in preference to higher quality land except where other sustainability considerations suggest otherwise’. This policy goes onto advise that ‘in some instances where there is an overriding need for a particular development and there is no suitable alternative, it will be necessary to use best and most versatile land.

5.90 The ES sets out how to assess the quality and therefore impact upon agricultural land. The assessment of soil quality has been carried out in accordance with the MAFF revised guidelines (1988). The main factor affecting the classification of the

land at this site is soil wetness. The results show that the majority (72%) of the land falls within grades 2 and 3a, therefore the best and most versatile quality agricultural land.

- 5.91 The ES advises that the site comprises two fields, which have been in non-agricultural ownership for many years. Most of the site is formed of one large arable field which has been recently farmed by a tenant who is based 10 miles to the east of the site. The tenant was given notice terminating the annual tenancy from the autumn of 2013. The site does not contain any farm buildings and is not subject to any agri-environmental schemes.
- 5.92 With regard to impacts, the ES advises that impacts on agricultural land are expected to occur during the construction phase and will relate to the progressive loss of agricultural land. The development will involve the loss to agriculture of 17.5ha including 12.6ha of best and most versatile quality land. There would be no impact upon agricultural interests other than land quality; the site has been vacant from Autumn 2013 and does not contain any farm buildings or other infrastructure and is any subject to any management prescriptions associated with agri-environmental schemes.
- 5.93 The ES advises that as the land is of District or local significance, it is of medium sensitivity and the magnitude of change is assessed as medium therefore the development will have a direct, permanent, adverse effect on best and most versatile agricultural land of slight significance prior to the implementation of mitigation measures. Should agricultural activity be carried out in proximity to construction activity, then control would be through the normal measures of best environmental management practice and it is not therefore anticipated that the significance of any potential effects, which would be temporary in nature, would be more than negligible. The construction phase will disrupt and displace the soil reserves over the area of built development on the site. The in situ agricultural capabilities of the soils will be lost and this effect is reflected in the assessment of the loss of agricultural land. There is the potential for risk of long term damage to soil structure and the loss of potentially valuable soil if there is uncontrolled trafficking of land and soil by heavy machinery. Trafficking of areas that are not to be built on or hard surfaced should be avoided. Top soil from the areas of built development will be used as and when required on site, for example for green spaces and garden areas.
- 5.94 The ES emphasises that the primary measures to mitigate the loss of soil resources will be to re-use as much of the soils displaced during the construction phase on site, to dispose of any unneeded surplus soils thereafter in a sustainable manner and to ensure the quality of soils retained on site and disposed off site is maintained by following best practice guidance on soil handling.
- 5.95 The ES concludes that the development will cause the loss of approximately 12.6ha of best and most versatile quality land in grades 2 and 3a, which is assessed as a direct, permanent adverse effect of slight significance. Provided that solids are handled according to current good practice guidance, there should be no residual impact on the soil resource. There are no residual effects for agricultural interests during the operational phase of the development. The only cumulative impact will be the additional loss of the land resource to the development to the east of Southam Road, which involves the loss of approximately 21.7ha of best and most versatile land. The cumulative impact of the loss of best and most versatile land at the two sites will be a direct, permanent adverse effect of moderate significance.
- 5.96 The use of the best and most versatile quality agricultural land is an unfortunate outcome from the proposed development given LPAs should seek to use areas of poorer quality agricultural land in preference to that of higher quality. In this case, it is considered that the information submitted demonstrates that the proposal would have

a direct, permanent adverse affect of slight significance, however cumulatively with the East of Southam Road site, the significance of effect increases. The information submitted with the application demonstrates that the soil on the site will adequately be dealt with, including its management to ensure that the soil benefits the overall site including the landscaping, this aspect complies with Policy BAN2 of the SLP.

- 5.97 Notwithstanding the Council's HLS position and whilst there is a need for housing, further site allocations have been identified as part of the SLP modifications and therefore it is considered that there is no overriding need for development on this site and therefore the proposal conflicts with Policy EN16 of the NSCLP.

#### **Flooding and Drainage**

- 5.98 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

#### **5.99 Surface Water Drainage**

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

#### **5.100 Drainage Scheme Requirements**

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

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

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

#### **5.101 Increases in Surface Water Volume**

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

**5.102 Sustainable Drainage Techniques**

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

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

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

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

**Historic Environment**

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

5.107 The proposal would however cause harm to the historic landscape setting of Banbury and this is covered above in the landscape section of the report and consequently the

inclusion of part of the land within the Green Buffer will essentially maintain Banbury's distinctive landscape and historic identity and setting and to protect important views.

### **Ecology**

- 5.108 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)
- 5.109 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.
- 5.110 Paragraph 18 states that “When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principles:
- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused”
- 5.111 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.”
- 5.112 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”.
- 5.113 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.

- 5.114 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”

- 5.115 With regard to ecology, the ES uses a risk matrix to determine the sensitivity of value of receptors together with the magnitude of impact. This allows the significance of effects to be determined. Various ecological reports have been completed to assess habitats and various protected species. The report concludes that there are no SSSI's or other ecological designations within 1km of the site. The Majority of the site is farmland, although there are other habitats including trees and hedgerows particularly on the boundaries of the site, and grassland. All the habitats are of local level significance. The proposals seek to retain the trees and hedgerows on the site as far as possible. A substantial area of the grassland associated with the flood plain of the Hanwell Brook will be retained for both open spaces and wildlife purposes. Consequently, the effect of the development on habitats and species (birds, badgers, bats, reptiles, amphibians and otters is negligible.

- 5.116 The Council's Ecologist has provided advice as set out in paragraph 3.9. She is satisfied that the site has been surveyed satisfactorily at this stage. She confirms that the indicative layout preserves the most important ecological receptors on the site. When a final plan of the development and landscaping is produced the impact on species on site will need to be fully reassessed and a full mitigation plan or working method statements for each drawn up prior to any clearance or any other works commencing on site to include their protection both during construction and in the long term. In addition a Management Plan to conserve and enhance the retained biodiversity - hedgerows, meadow grassland and bankside will need to be produced. Thought will need to be given to how the needs of the wildlife on site in particular protected species such as the Otter will be balanced with recreational use from residents/dog walkers in the green spaces. The lighting scheme will also be key in whether they are able to retain the value of the green infrastructure on site for wildlife. In line with the recommendations within the NPPF a net gain in biodiversity on site from developments should be sought. Therefore a full plan of biodiversity enhancements to include opportunities for species within the built environment should also be produced before anything commences on site.

- 5.117 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**

- 5.118 There is not any significant tree cover on the site apart from those trees along western, southern and eastern boundaries, the majority of which save for the vehicular accesses into the site, will be retained. It is considered that there is an

opportunity to enhance the site by the provision of additional tree planting on the site and this will form part of the reserved matters submission.

- 5.119 The Council's Arboricultural Officer has recommends that a tree survey is carried out to identify those trees that are to be retained along with a protection plan to ensure their longevity. This aspect will be subject to condition and consequently it is considered that the proposed development will maintain the existing boundary coverage provided by those trees.

### **Noise**

- 5.120 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.

- 5.121 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.

- 5.122 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."

- 5.123 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".

- 5.124 Whilst not specifically consulted as part of this current application, the Council's Anti-social behaviour manager has commented previously under 13/00158/OUT, specifically on this matter in para 3.10 as the sources of environmental noise likely to impact on the proposed housing would be local road traffic noise from the Southam Road to the east and generally generated from the M40 located to the north east. Conclusions drawn indicate that the level of noise produced by the Southam Road is not considered to be extreme and dwellings within the site can be effectively protected against road traffic noise by ungraded glazing and the use of either passive or active ventilation systems. It is considered that this western part of the allocated site will not give rise to unacceptable noise levels to require further assessments to be undertaken. The eastern part of the allocated site which has the M40 on its eastern boundary will however be subject to noise performance standards.

- 5.125 Noise impacts arising from the construction phase can be overcome by a construction management plan. Therefore it is considered that with these measures in place (to be secured via planning condition), officers are satisfied that the proposed development complies with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance within the core principles and on conserving and enhancing the natural environment contained in the NPPF.

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

- 5.126 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.

- 5.127 The principle of development on this site has been subject to consultation as follows:

Notice of the Public Consultation Event consisted of advertisements in the Banbury Cake newspaper on 30 May and 6 June 2012 and Banbury Guardian newspaper on 31 May and 7 June 2012 and written invitations to agreed parties/stakeholders were issued on 30 May 2012 to notify them of the opportunity to participate in a community planning exhibition consultation event. The newspaper adverts and invitations aimed to encourage participation by providing details relating to the public exhibition.

- 5.128 The public consultation event was held across two days at Banbury Town Hall on Thursday 7 June 2012 between 10am and 8pm and Saturday 9 June 2012 between 10am and 4pm.

- 5.129 The development proposals along with details were set out on display boards. Representatives of the Planning Consultant were in attendance throughout the exhibition who were available to explain the proposals and answer any questions. Details of the display boards have been submitted in the Statement of Community Involvement.

- 5.130 Attendees were encouraged to either complete a comments form at the exhibition and to place that within the comments box provided or take the form home to complete and post back to Rapleys within a week following the consultation event. A total of 124 people attended the public exhibition across the two days (65 on Thursday and 59 on Saturday). A total of 21 completed comments forms were received.

#### **Developer Contributions**

- 5.131 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.

- 5.132 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.

- 5.133 These matters are directly related to the development and the effects that would arise from it and necessary to enable the impact of development to be mitigated. The proposed development, due to its scale and number of dwellings proposed, meet the

threshold for a wide range of developer contributions that are normally sought by both the District and County Councils. The applicant is willing to enter into an appropriate planning obligation, but whilst there is every expectation that an agreement can be reached no final agreement has been completed.

- 5.134 The full S106 Heads of Terms will be based on the requirements set out below, along with development phasing and with the applicant agreeing to making contributions towards 30% affordable housing (the exact provision and terms of affordable or social rent and intermediate is still being negotiated), provision of public open space, formal open space and play areas, indoor sports, access, public transport, offsite highway improvements, education, libraries, adult learning and strategic waste services.
- 5.135 Any contribution sought needs to comply with the guidance in the NPPF which states that they should be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development and compliant with the CIL Regs.
- 5.136 The heads of terms and financial contributions towards infrastructure/services are as follows:

### **Oxfordshire County Council**

#### Education

Primary school provision would be **£150,566** - Assuming East of Southam Road proceeds, and a new school is constructed, the previously agreed cost of a 1 form entry school (£4,883,000) should be divided between the two developments pro rata, with East of Southam Road paying 156/210 of the cost (£3,627,371) and the balanced paid by West of Southam Road (£1,255,629). West of Southam Road would then also pay for the balance of 13 places at school extension rates, of £11,582 per pupil place, totalling £150,566 for extension. This is based on Department for Education (DfE) advice weighted for Oxfordshire, and is index linked from 1st Quarter 2012 using PUBSEC Tender Price Index.

The total S106 for primary school provision attributable to West of Southam Road would therefore be £1,406,195, and the total across both developments would be £5,033,566.

Contributions towards expansion of permanent secondary school capacity serving the area would be £914,356

Contributions towards the expansion of permanent Special Educational Needs school capacity would be £40,466

#### Transport

The proposed development will add additional pressures to the existing public transport services (stated within submitted TA); A financial contribution of **£180,048.60** (index linked to April 2013 2014 prices) is to be sought towards public transport service improvements to serve the proposed site. This is based on previously approved scheme:

£70,453.80 divided by 90 units (approved for 13/00158/OUT) = £782.82 per unit  
£782.82 x 230 units (proposed) = £180,048.60

Transport Contribution payment trigger for west site within existing agreement expected to remain the same. Other transport related contributions to remain as agreed.

A Rights of Way contribution of **£15,000** (index linked to February 2014 prices) towards local improvements is required.

For any off-site works i.e. new access, footway etc a Section 278 Agreement(s) will be required between the developer/applicant and OCC to work upon the public highway. In addition to this legal agreement(s) a bond will be required to cover the construction costs of the any works as well as there being a supervision fee of 9%. This agreement will be part of a S106 Agreement for this development.

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.

#### Property

General County Council financial contributions Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index

- Libraries - **£47,770**
- Adult Learning - **£6,416**
- Integrated Youth support service - **£6,930**
- Museum Resource Centre - **£2,810**
- Strategic Waste Management - **£35,968**
- Health and wellbeing including day care - **£44,000**

OCC Admin and Monitoring fee - **£9,433**

Phasing of Payments to be agreed with Oxfordshire County Council

#### **CHERWELL DISTRICT COUNCIL**

Open space, and play areas – to be advised and to include:

- 2 LAPs on site (1 minutes walk or 100m from each dwelling)
- 1 LEAP/COMBINED LAP (5 minutes walk or 400m)
- public open space
- hedge maintenance
- mature woodland
- mature tree maintenance
- balancing pond
- ditch/ watercourse

Offsite Outdoor Sports pitches –

- **£228,900.57**
- The Cherwell Playing Pitch Strategy identifies an existing shortage of junior pitches in Banbury and to address the impact that any new housing development will have on this an offsite contribution is required towards the cost of increasing capacity of the community playing pitches at the North Oxfordshire Academy. £416.41 per person x 2.39 people per dwelling x 230 dwellings = £228,900.57

Offsite Indoor Sports

- **£166,179.80**
- off-site contributions for developing additional indoor sports capacity at the Woodgreen sports centre because the town's main sports centre is currently operating at capacity. A scheme to increase capacity of the Woodgreen centre is currently being developed and will cost in the region of £1.5 m. This will be funded from S106 contributions from nearby housing developments and Cherwell District Council budgets. £302.31 per person x 2.39 people per dwelling x 230 dwellings - £166,179.80

Offsite Community Facility – TBA

30% affordable housing

- 69 affordable units  
Indicative: 20-25 units are designated for affordable retirement living and 44-49 residual general needs affordable housing which should provide a range of house types from 1bed 2 person maisonettes to 4 bed 6 person houses. This again should provide a mix of tenures including affordable rent and low cost home ownership.
- Clusters of no more than 15 units

### **Other Matters**

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

### **Engagement**

- 5.138 With regard to the duty set out in paragraphs 186 and 187 of the Framework, the Council has worked pro-actively with the applicants during the course of the previous applications and discussions have continued since then to resolve other matters and throughout this application process. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

### **Conclusion**

- 5.139 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".

- 5.140 The proposed development is not in accordance with the Development Plan. The application site lies in an area of countryside, which 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 whole application site identified as a strategic allocation in the SLP, but the weight of the policies contained within this local plan can only be afforded limited weight given that the Council cannot demonstrate 5 year HLS and the consequential engagement of paragraphs 14 and 49 of the Framework. Paragraph 14 makes it clear that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

- 5.141 In respect to adverse impacts, the proposal seeks to provide up to 230 dwellings as an unplanned urban extension to the north of Banbury, encroaching into the open rural countryside. Paragraph 6 of the Framework sets out the Government's view of what sustainable development means in practice for the planning system. In a case such as this, sustainability concerns more than just proximity to facilities; it also means ensuring that the physical and natural environment is conserved and enhanced as well as creating a high quality built environment which contributes to

building a strong economy through the provision of new housing of the right type in the right location at the right time.

- 5.142 The proposal would fail to satisfy all three dimensions of sustainability identified in paragraph 7 of the Framework. In particular, the environmental aspect of sustainability requires new development to contribute to protecting and enhancing the natural, built and historic environment. The proposal represents an unplanned, urban extension, encroaching into open countryside recognised as important for the setting of Banbury as a historic market town. The proposal fails to maintain the area's rural character and appearance and fails to conserve and enhance the environment resulting in unacceptable harm to the landscape and visual amenity of the area, the distinct identity and setting of Banbury and Hanwell and features of landscape & historic value. It is therefore considered that the proposal would fail to meet the Council's objectives to meet housing need in a way that is in line with the spatial vision for the area.
- 5.143 In terms of the economic role, the proposed development would create jobs both directly and indirectly and socially the proposed development would provide the benefit of housing to help meet the 5 year HLS deficit and an additional 69 affordable homes
- 5.144 The Council accepts that it cannot currently demonstrate a five year housing land supply and recognises that the contribution towards achieving that deficit through the proposed housing provision is a material consideration in favour of the application.
- 5.145 Whilst the proposed development is contrary to the adopted Cherwell Local Plan insofar as it is not an allocated site for development, the land is identified for some development in the SLP and as such is part of the emerging strategy to accommodate necessary development, accepting that the plan is in emerging stages and can only therefore carry limited weight.
- 5.146 It is also acknowledged that due regard to prematurity as guided in the PSGP must be had along with the cumulative effect of decision taken to the various applications for housing development in the district in advance of the examination of the Local Plan.
- 5.147 The Council has a Local Plan evidence base for the assessment of landscape impact which has concluded that the part of the application site is capable of accommodating some development on the lower levels, without compromising the landscape setting of Banbury or the visual amenity of the locality, subject to the mitigation and green infrastructure measures as a soft urban edge to Banbury.
- 5.148 These factors are all key material considerations to the determination of this current application and that an on balance assessment of the proposal in policy terms needs to be given.
- 5.149 On balance, the comments and concerns made by all interested parties in respect to support of the Council's strategic approach to housing allocations and sites around Banbury have been duly considered. The supporting documents and information submitted by the applicant have also been duly considered, however, it is the opinion of your Officers that, notwithstanding the Council's 5 year housing land supply position, the whole of the site is not suitable for residential development. On that basis it is considered that the proposal is not acceptable and in accordance with Paragraph 14 of the Framework, the adverse impacts of the development significantly and demonstrably outweigh the benefits that the housing would bring to the town, having regard to what the Framework says about the importance of conserving and enhancing the natural and historic environment and the need to take account of the character of different areas. In this regard, therefore, the proposal would not

constitute sustainable development and, consequently, the presumption in favour does not apply.

**6. Recommendation**

Refusal for the following reasons:

1. The proposal represents an unplanned, urban extension, encroaching into open countryside recognised as important for the setting of Banbury as a historic market town. The proposal fails to maintain the area's rural character and appearance and fails to conserve and enhance the environment resulting in unacceptable harm to the landscape and visual amenity of the area, the distinct identity and setting of Banbury and Hanwell and features of landscape & historic value. Notwithstanding the Council's present inability to demonstrate that it has a 5 year supply of housing land, required by Paragraph 47 of the NPPF, the development of this site cannot be justified on the basis the land supply shortfall alone. Furthermore the proposal 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, C7, C8, C9, C10, C13 and C15 of the adopted Cherwell Local Plan, Policies H19, EN1, EN30, EN31, EN34, EN48 of the Non-Statutory Cherwell Local Plan 2011, Policies BAN2, ESD13, ESD15 and ESD16 of the Submission Local Plan (August 2014) and national policy contained in the National Planning Policy Framework.
2. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure directly required to service or serve the proposed development will be provided. This would be contrary to the Policy R12 of the adopted Cherwell Local Plan, Policies OA1, TR4, R8 and R10A of the Non-Statutory Cherwell Local Plan 2011, Policy INF1 of the Submission Local Plan (August 2014) and national policy contained within the National Planning Policy Framework.