

## APPENDIX

**Site Address:**

**13/00265/OUT**

**Ward:** Banbury Easington

**District Councillor:** Councillors Blackwell, Mallon and Morris

**Case Officer:** Shona King

**Recommendation:** Approval

**Applicant:** Banbury AAT (formerly Banbury School) Ruskin Road Banbury

**Application Description:** Residential development with access and associated infrastructure; the provision of a new all-weather astro turf pitch (ATP) with lighting; and the extension and alteration of the sports hall and changing facilities including the provision of an external climbing wall.

**Committee Referral:** Major

### 1. Site Description and Proposed Development

- 1.1 The application site is divided into three areas. The first area is part of the playing field of Banbury School, which is not currently used formally for sports, located to the north east of the school buildings along the boundary with the former Stanbridge Hall, the rear gardens of properties in Springfield Avenue and Blessed George Napier School. Mature trees and a hedgerow form the northern and eastern boundaries of the site. Residential development is proposed in this area.
- 1.2 The second area is also part of the school playing field and is located approximately 15m to the south of area 1. This area is currently used as part of a rugby pitch and the construction of an all weather pitch with lighting is proposed. The existing rugby pitch will be relocated to the south east.
- 1.3 The third area is part of the school sports hall building. It is proposed to improve the changing facilities at ground floor level and to construct a first floor extension above to accommodate a fitness suite and sports performance analysis room. A 13ft climbing wall is also proposed to the outside of the building and the sports hall floor is to be resurfaced.
- 1.4 The application is in outline with only access to be considered. All other matters (appearance, landscaping, layout and scale) are reserved for subsequent approval. Whilst the application is in outline an indicative layout has been submitted along with a Planning Statement and Design and Access statement, Transport Assessment, Travel Plan and Flood Risk Assessment. The application form states and the indicative layout shows that permission is sought for up to 44 units.
- 1.5 This application is a resubmission of application 12/00240/OUT for a similar proposal. 12/00240/OUT was withdrawn by the applicant in August 2012 prior to a decision being made.

### 2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letters, site notices and press notice. The final date for comment was the 28th March 2012. 20 letters and a petition with 28 signatures (13 of which also sent in letters) have been received. The following issues were raised:
  - Additional noise and disturbance
  - Highway safety and traffic congestion

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- Publicity of the application and the previous one.
- Loss of value to property
- Loss of security at Stanbridge House
- Living amenity for occupiers of flats
- Loss of sports/playing field
- Light pollution/air pollution/litter
- Adequacy of supporting information

### 3. Consultations

3.1 Banbury Town Council: No comment to date

#### **Cherwell District Council Consultees**

3.2 Planning Policy Officer: No comment to date

3.3 Housing Officer: The proposed residential development at the former school site on Ruskin Road will require an affordable housing provision due to the indicative density of units proposed. The requirement will be for 30% affordable housing to be provided on site.

The tenure split should represent 70/30 rented / shared ownership breakdown.

Given the nature of the site the affordable housing should be split into two clusters, whose location is to be agreed with planners.

The affordable units should be built to HCA's Design and Quality Standards and should meet Code for Sustainable Homes level 3 as a minimum with 50% of the units to meet Lifetime Homes Standards.

The affordable housing unit types provided should be consistent with the requirements below;

Rent	Shared Ownership
20% 1b2p Flats/Maisonettes	100% 2b4p Houses
20% 2b3p Flats/Maisonettes	
40% 2b4p Houses	
20% 3b5p Houses	

The affordable housing should be transferred to one of the Council's preferred partners.

3.4 Environmental Protection Officer: No comment to date

3.5 Landscape Officer: No comment to date

3.6 Head of Safer Communities and Community Development (Anti-social Behaviour Manager): Further to your consultation of 27/02/13 my general concerns regarding this proposal were expressed in my consultation response made in respect of the now withdrawn application. My suggestion of a curfew of 21:00 hrs for the use of the astro turf playing area and the lighting remains. If you are minded to recommend approval of this planning application then a prior approval condition will be required in respect of the floodlighting installation.

3.7 Ecologist: Residential development - I have no objections to this proposal on ecological grounds if the boundary vegetation to the North and East is to be retained

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and strengthened. Any lighting within the scheme will need to be directed away from boundary vegetation as there are records of bats in the adjacent school and to the North in this area and they are likely to use such vegetation as a commuting and foraging route. A full landscaping scheme including biodiversity enhancements on site and future management of the habitats created (as outlined on page 25 of the D&A statement) would need to be submitted with final layout plans.

Sports hall extension - It is possible that bats use this building (see below) therefore in the absence of any further information the following informative should be attached to any permission:

*Under UK and European law it is illegal to disturb, kill or injure bats, or destroy their roosting places. All persons involved in the works to the Sports Hall should be made aware as to the possibility of bats being present and the legislation protecting them. If bats or evidence of bats are found during the works at any point, all work in that area is to cease until a licensed bat worker and Natural England has been consulted for advice on how to proceed.*

If the applicant is aware of any bats using any part of the building they should contact me further. Otherwise I have no objections.

Astroturf pitch and lighting - I have no objection to the astro-turf pitch aspect of the application however there is a record of a Pipistrelle bat within the adjacent BGN School as well as a record a similar distance to the West and therefore it is possible that this species roosts within the school buildings or its vicinity and forages in this area. The impact that the proposed flood lighting may have on roosting or foraging bats in the area has not been addressed at all within the application. Lighting can cause bats to desert roosts and reduces the time for foraging. I could not find an account of how often and at what hours the lighting will be used for (did I miss this information?) or how far the lightspill/lux levels will go however it may constitute regular disturbance and 'disturbance' of this type to a European Protected Species can constitute an offence. Therefore whilst I do not object entirely to the installation of lighting around the pitch this aspect needs to be looked into and a statement from a qualified individual as to the likelihood of bat disturbance in this location and its acceptability or mitigatory measures should be submitted.

Recommends conditions 27-32 below.

### **Oxfordshire County Council Consultees**

3.8 Highways Liaison Officer: I note this a resubmission of application 12/00240/OUT and I have no reason to deviate from the previous officer's recommendation.

Previous comments:

The application is Outline with approval being sought for access only, with all other matters reserved.

The Transport Assessment includes a summary of a seven day assessment of vehicle speeds along Ruskin Road. The recorded 85th percentile wet weather speeds are 23.5mph in both directions. The achievable visibility splays at the proposed access of 2.4 x 31m accord with the MfS 2 standards for the recorded speeds. 43 metres is achievable 1m from the kerbline. In terms of visibility the proposed access is therefore acceptable.

A single footway into the site is proposed. Ideally two footways would have been provided, but the constraints of the site limit the width available. This is not ideal, but it is noted access is not provided to the adjacent school from the site.

At the pre-application stage it was advised that the site may feel detached from the existing build up area due to only a single, long access road. A pedestrian/cycle link remains desirable onto Springfield Avenue, especially as employment opportunities

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exist in this direction.

Junction modelling indicates that nearby junctions will continue to operate within capacity following development. The predicted vehicle movements associated with the development are unlikely to be a significant concern (58 two-way movements in both the am and pm peaks).

The detailed layout of the development should be designed in accordance with the guidance of Manual for Streets. Appropriate provision must be made for parking, not only in terms of number but in terms of size, convenience and location. A mix of allocated and unallocated parking in line with the County Council's new parking guidance would provide greatest efficiency. Visitor parking must be provided which can include on-street provision (preferably 'designed in'). Garages should have the internal dimensions of 3 x 6 metres.

Provision must be made for waste collection with appropriate turning heads for HGVs/refuse vehicles. Areas for adoption must include a service strip of 600mm, and doors, windows, etc must not open over any area to be adopted as public highway. SUDS drainage must be incorporated within development and associated highway.

A contribution is required towards the Banbury Transport Strategy, including but not restricted to:

- Highways schemes across Banbury
- Bus stop improvements to premium route standard on the Easington B1 Bus Service
- Provision of cycle parking in the town centre and at key destinations cross Banbury

The contribution should be in line with Cherwell Planning Obligations SPD (Table 40);

- £442 per 1 bed
- £638 per 2 bed
- £994 per 3 bed
- £1366 per 4+ bed

Recommended conditions;

- Prior to occupation; Access to be constructed to County Council specification, including visibility splays which are to be provided and maintained free from obstructions over 0.6 metres in height
- Prior to development; a construction phase travel plan shall be submitted to and approved by the Local Planning Authority. Throughout development the approved plan must be adhered to.
- Prior to development; full details of a lighting scheme shall be submitted to and approved in writing by the LPA. Prior to first occupation the lighting scheme shall be completed in all respects in accordance with the approved details, inclusive of parking courts, and maintained in a working order thereafter.
- The proposed development shall be served by an estate road (or Roads) laid out and constructed in accordance with details, including a means of surface water disposal, submitted to and approved in writing by the Local Planning Authority. (To include, amongst other details, tracking demonstrations for turning heads, rumble strips and any other lining or means of traffic calming).
- No dwelling shall be occupied until the access road between that dwelling and

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the existing county highway, including footways and turning heads (where applicable), has been laid out in accordance with the approved plans and details and constructed to at least base course level.

- No dwelling of the approved development shall be used or occupied until the car parking and associated turning area for that dwelling has been completed and marked out in accordance with the approved plan(s). The car parking area and turning areas shall thereafter be retained in accordance with the approved plans and available for use as car parking and turning.
- No garages shall be converted to habitable or any other use without the prior permission of the Local Planning Authority.
- Prior to first occupation of the development, a travel plan to reduce dependency on the private car, which shall include clear and unambiguous objectives and modal split targets, together with a time-bound programme of implementation, monitoring and regular review and improvement; shall be submitted to and approved in writing by the Local Planning Authority and thereafter operated.

3.9 Drainage Officer: No comment to date

3.10 Developer Funding Team: No comment to date

### Other Consultees

3.11 Sport England: No comment to date

3.12 Environment Agency: No comment to date

3.13 Thames Water: Waste Comments

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

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

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sewerage system.

Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at [www.thameswater.co.uk](http://www.thameswater.co.uk)

### Water Comments

Thames Water recommend the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

### Supplementary Comments

The developer is requested to contact Thames Water Developer Services department at the earliest opportunity to arrange an impact study.

- 3.14 Oxfordshire Playing Fields Association: Oxfordshire Playing Fields Association would not ordinarily be supportive of any proposal that leads to the loss of playing field land, and actively works to ensure that playing field land is not lost across Oxfordshire. We are also aware that there is a need for more playing pitch provision in Cherwell. However, we consider that this application seeks to improve existing facilities and provide new ones, and would therefore endorse it. We are also supportive of the fact that the new facilities will enable there to be an increased number of playing pitch agreements, and particularly endorse the provision of a formal community use agreement.
- 3.15 Thames Valley Police: I do not wish to object to the proposals at this time. In fact, I commend the applicants for containing within their Design and Access Statement a specific section entitled 'Secure by Design', which addresses how they intend to incorporate crime prevention design within the proposals at this stage. I hope to discuss the contents of this section with them in the near future so that any reserved matters application can also reflect the indications given. In the meantime, opportunities to design out crime and/or the fear of crime and to promote community safety will remain. To ensure that these opportunities are not missed I request that the following (or a similarly worded) condition be placed upon any approval for this outline application;

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

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

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I feel that attachment of this condition would help the development to meet the requirements of:

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

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

Assuming approval is given, and to assist the authority and the applicants in providing as safe a development as possible, and to aid the latter in achieving SBD accreditation, I suggest that the applicants contact me at their earliest convenience to discuss incorporating crime prevention design within the reserve matters application.

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

#### 4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H5:	Affordable housing
R12:	Public Open Space provision within new housing developments
TR1:	Transportation funding
C28:	Design, layout etc standards
C30:	Design control

#### 4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan – Proposed Submission Draft (August 2012)

The draft Local Plan has been through public consultation and although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031.

### 5. Appraisal

#### 5.1 The key issues for consideration in this application are:

- Policy context
- Loss of playing pitches
- Suitability of the site **and impact on neighbouring properties**
- Impact on highway safety

#### Policy Context

#### 5.2 The adopted Cherwell Local Plan, 1996, does not contain any policies specifically relevant to this site in relation to allocations for housing development.

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5.3 The National Planning Policy Framework (NPPF) sets out the government's planning policies for England and how these are expected to be applied; it provides a framework within which councils can produce their own distinctive local and neighbourhood plans. It does not replace the development plan, but is a material consideration in decision making.

5.4 At the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application this would include promoting sustainable transport, delivery of a wide choice of high quality homes, the promotion of healthy communities, meeting the challenge of flooding and the conservation and enhancement of the natural environment.

### **Loss of playing pitches**

5.5 The application seeks the redevelopment of part of the school playing field for residential development. The applicant has argued that the sale of the land for development will enable the existing sports facilities at the school to be improved and additional facilities provided. They have also argued that the area of land in question is not used for any formal sports apart from during the summer term the top of the athletics track is marked out on part of the site.

5.6 Sport England is a statutory consultee for applications where land has been used as a playing field at any time in the last 5 years and remains undeveloped; or has been allocated for use as a playing field in a development plan; or involves the replacement of the grass surface of a playing pitch on a playing field with an artificial surface. Sport England opposes development on playing fields in all but exceptional circumstances. These exceptional circumstances are where, in the judgement of Sport England:

E1 A carefully quantified and documented assessment of current and future needs has demonstrated to the satisfaction of Sport England that there is an excess of playing field provision in the catchment, and the site has no special significance to the interests of sport.

E2 The proposed development is ancillary to the principal use of the site as a playing field or playing fields, and does not affect the quantity or quality of pitches or adversely affect their use.

E3 The proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site.

E4 The playing field or playing fields which would be lost as a result of the proposed development would be replaced by a playing field or playing fields of an equivalent or better quality and of equivalent or greater quantity, in a suitable location and subject to equivalent or better management arrangements, prior to the commencement of the development.

E5 The proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field or playing fields.



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5.7 The applicant has sought to demonstrate that the proposed development accords with exception E5 in that the sporting benefits arising from the development with the provision of an ATP and extended sports hall and changing facilities are of sufficient benefit to the development of sport as to outweigh the detriment caused by the loss of the playing field. If it cannot be demonstrated that the benefit is insufficient Sport England will object to the application. Sport England has not commented on the application to date but has indicated informally that if the development can be shown to be of sufficient benefit they would not object. Sport England has requested further information and the agent is currently in discussion regarding this issue.

5.8 It is anticipated that further comments will be received from Sport England prior to the Committee and a written update will be given.

### **Suitability of the site and impact on neighbouring properties**

5.9 The proposed development is located within the built up limits of Banbury close to amenities and facilities and is accessible by public transport. It is in a sustainable location and as such accords with the presumption in favour of development within the National Planning Policy Framework.

5.10 The part of the site proposed for residential development lies immediately adjacent to other residential properties, Stanbridge House (the former Stanbridge Hall) and properties in Springfield Avenue. Other residential properties are located around the boundaries of the school. As such, notwithstanding the issues regarding the loss of playing fields, it is considered to be a suitable site for residential development.

5.11 An opportunities plan has been submitted with the application showing the location of the proposed residential zone on the site. There are several constraints to any development in this location:

- a) proximity of dwellings to Stanbridge House - the impact on the living amenities of the residents in the extra care units and those in the proposed dwellings
- b) impact on the mature trees around the site
- c) requirement for of open space/play space within the site

5.12 With these constraints officers recommend that if Members are minded to approve the application, a condition of the permission is that the planning permission does not imply the approval of the provision of 44 dwellings due to the constraints on and surrounding the site.

5.13 The site for the ATP is located some distance away from existing residential property boundaries and is not considered to cause significant harm to the amenities of those properties. However to ensure this it is considered necessary to restrict the evening use of the ATP and lighting to no later than 21.00 hrs on any day of the week.

5.14 In any reserved matters submission the layout of the proposed residential units will need to take into account the siting of the ATP and the details of the floodlighting will need to ensure that the living amenities of the new occupiers is not adversely affected

5.15 The proposed extension to the sports hall and provision of the climbing wall is considered to be acceptable in this location. It will be viewed in the context of the school buildings and will not adversely affect the visual amenities of the area.

### **Impact on highway safety**

5.16 The applicants have submitted a detailed Transport Assessment and Travel Plan with the application concluding that the development will not result in detriment to highway safety.

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- 5.17 Concerns have been expressed in the representations about the adequacy of the supporting information submitted with the application. The Transport Assessment submitted with the application was prepared in October 2011 and when development on this site was first considered (application 12/00240/OUT) the development at Stanbridge House was underway. The proposal has been assessed in the light of the Stanbridge House development and the Highway Authority is satisfied that the proposed development will not result in any significant detriment to highway safety either at the access point to the proposed residential development or in Ruskin Road and Springfield Avenue.
- 5.18 The Highway Authority has assessed the proposal based on the information provided within the Transport Assessment (i.e. 100 dwellings) and the application seeks approval for up to 44 dwellings.
- 5.19 The application seeks approval for access only and all other matters including parking space numbers and layouts are reserved. The Highway Authority concludes that the visibility from the proposed access meets an appropriate standard and junction modelling indicates that nearby junctions will continue to operate within capacity following the development.

### **Site drainage and flood risk**

- 5.20 The Environment Agency has not commented on the application to date. It is anticipated that their comments will be received prior to the committee meeting and a written update will be given. In respect to application 12/00240/OUT the EA objected to the scheme due to the absence of an acceptable Flood Risk Assessment (FRA) and they recommended refusal on that basis.

### **Planning obligations**

- 5.21 The proposed development would generate a need for infrastructure and other contributions, to be secured through a planning obligation, to enable the development to proceed.
- 5.22 Consultation responses are still awaited from a number of consultees regarding planning obligations and it is anticipated that these will be received prior to the committee when a written update will be given. However, the applicant has agreed to the following Heads of Terms relating to the obligation:

#### District Council requirements

- affordable housing at 30%
- open space, and LAP provision
- refuse bins and recycling
- timing of reserved matters application for the sports facilities
- timing of completion of sports facilities including changing facilities and resurfacing of existing ATP, climbing wall, improvements to the sports hall and gym
- size of changing facilities (to be the subject of a future application)
- affiliation of the completed sports facilities to their National Governing Body for a period of 30 years
- use of the sports facilities by sporting organisations affiliated to their National Governing Body
- co-ordination/management/maintenance of the sports facilities

#### County Council requirements

- transport and access
- education
- adult learning centre infrastructure
- library

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- Day resource centre for the elderly
- Strategic household waste management recycling centre
- Museum resource centre

### Other requirements

- Health

5.23 It is considered that as new sports facilities are being provided for school and community use, contributions towards off-site sports facilities cannot be justified in this instance.

### **Engagement**

5.24 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

### **Conclusion**

5.25 Overall, the proposed development is considered acceptable. The access for the site will not result in any significant detriment to highway safety and the proposal would see the replacement of a redundant area of playing field with an all-weather Astroturf pitch, improved gym and changing facilities and a climbing wall. The site lies within a sustainable location and will make efficient use of the land without significant harm to the living amenities of nearby properties. Therefore, the application is recommended for approval.