

Applicant: Siteplan UK LLP

Proposal: Outline application for residential development

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

Reason for Referral: Major planning application

Expiry Date: 29 September 2017 **Committee Date:** 28 September 2017

Recommendation: Refuse

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site lies at the western extent of the village of Finnmere. An old section of the Banbury Road, which has limited vehicle access, runs to the south of the site. Further to the south of the site is the A421 and then open countryside. The north edge of the site lies adjacent to existing residential properties including 1 Top Gardens and Flower Patch, whilst the north west of the site lies adjacent to Heatherstone Lodge. The garden of Westbury End runs along the northern part of the eastern boundary of the site. To the south east and south west of the site is open countryside.
- 1.2. The site slopes from approximately 121m AOD adjacent to the southern boundary to approximately 116m AOD to the north. Therefore the land rises slightly from the main part of the village to the north. The site also falls away to the west and north west. It is approximately 1.4 hectares, comprises agricultural grass land, which currently appears to be used for grazing. There are no buildings or structures on the site. There is a pond on the western boundary of the site. There are a number of public footpaths which cross the site including 213/10/10, 213/10/20, 213/1/30 and 213/1/40.
- 1.3. Finnere village does not have a Conservation Area and there are no listed buildings within close proximity to the site. The site is in an area of medium archaeological interest. The site is also within a Minerals Consultation Area. The site has some ecological potential as the protected species of the Wall butterfly has been recorded within the vicinity of the site. The site is within 250 metres of a landfill site.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application is made in outline with all matters reserved. The supporting statements note it is proposed to accommodate up to 25 dwellings on the site. The

application follows a recent dismissed appeal on the site for up to 47 dwellings which is discussed further in sections 3 and 8 of this report.

- 2.2. The current site has been reduced in size, compared to the appealed scheme, by removing the southern part of the site adjacent to the Old Banbury Road. Access however is still proposed from the south of the site using the Old Banbury Road which would need to be reopened for all traffic up to the point of access as it currently has restricted vehicle access. The indicative site layout shows a planting belt to the eastern and south western corner of the site and the retention of the planting on the western boundary. It also shows an area of open space and a pond to the northern boundary.

3. RELEVANT PLANNING HISTORY

- 3.1. 11/00503/F – Erection of 3 no. 4 and 5 bedroom detached houses with associated garages and new access – REFUSED on 7th June 2011. The dwellings were not proposed in the current site area and were proposed to the north west of the site, but the access track to the proposed dwellings ran through the site. The proposal was determined by the Local Planning Authority before the adoption of the Cherwell Local Plan Part 1. It was considered that the proposal would not represent minor development in the built-up limits of the village, but rather sporadic development extending beyond the built up limits of the village. The proposed development, including the access arrangement, was considered to represent an incremental erosion of the open countryside to the significant detriment of the rural character and visual amenities of the area. The decision by the Local Planning Authority was appealed, but this was DISMISSED by the Planning Inspectorate on 1st November 2011. The Planning Inspector noted that the site does not lie within the built up area of Finmere and that the proposal would therefore be an encroachment into the countryside. The Planning Inspector went on to note that the proposed access track across the agricultural field would represent a further encroachment of development into the open countryside. The Planning Inspector concluded that by extending the built up area of the village into the countryside the proposal would detract from its character and appearance.
- 3.2. 15/00552/OUT - Residential development together with access and associated infrastructure and public open space – WITHDRAWN. All matters apart from access were reserved. The application site was on a parcel of agricultural land immediately adjacent to the western boundary of the site under this current application and the proposal was for up to 50 dwellings. Officers were minded to recommend the application for refusal therefore the application was later withdrawn. The reasons why the application was to be recommended for refusal included:
 - The addition of 50 dwellings would amount to an undesirable over-concentration of new housing development in Finmere that would prejudice a more even planned and sustainable distribution of housing development across the District's Category A villages;
 - The proposed development of the site would encroach into the open countryside and significantly harm the open rural character of the area as well as the rural setting of the village;
 - The proposed development form would be detached from the main village structure and would poorly integrate with the existing built development.
- 3.3. 16/01209/OUT - Residential development and associated infrastructure – REFUSED AND APPEAL DISMISSED. This included the current application site but also included the land up to the Old Banbury Lane. It was refused as the

amount of development would result in an undesirable over-concentration of new housing development in Finmere that would prejudice a more even planned and sustainable distribution of housing development across the District's Category A villages. It was also considered that given the limited service provision and lack of public transport in Finmere the level of development would also be unsustainable. The development was also refused due to the excessive scale and poorly integrated relationship with existing built development which would cause significant and unacceptable harm to the historic linear form of the village, rural landscape character and quality of the area and the traditional setting of the village as experienced by local residents, visitors and users of old Banbury Road and the existing Public Rights of Way. It was also considered that the archaeological evaluation and Flood Risk Assessment were inadequate and in the absence of a planning obligation affordable housing and other financial contributions necessary to mitigate the impacts of the development would not be secured.

- 3.4. In considering the appeal the inspector agreed with the Council that the scale of the development would not be appropriate to the settlement of Finmere and its limited facilities, and residents would have high dependence on the private car. He also concluded the proposal would prejudice a more even planned and sustainable distribution of housing development across the District's Category A villages. He also considered that the proposal would result in a harmful visual intrusion into the open countryside and would be poorly related and integrated into the existing settlement. It was also considered that the proposal would result in significant harm to the rural character and appearance of the area and the setting of the village. In relation to the matters of archaeology and flood risk the inspector considered these could be dealt with through planning conditions.

4. PRE-APPLICATION DISCUSSIONS

- 4.1. No pre-application discussions have taken place with regard to this proposal.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 23.08.2017, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. 40 letters of objection have been received against the application. A petition signed by approximately 150 people has also been received. These comments have raised the following issues summarised below:
- Development is too large and is not sustainable as Finmere does not have the services or infrastructure to support it;
 - The issues raised in the dismissed appeal have not been addressed;
 - The proposal does not comply with the Councils housing strategy and would form a precedent for other development;
 - Similar concerns to a planning application which was withdrawn in 2015 (15/00552/OUT);

- Outside the built up limits of the village and an appeal for three houses near this site was dismissed at appeal in 2011 for this reason (APP/C3105/A/11/2158351/NWF);
- Reference to appeals at Kirtlington in relation to the number of dwellings proposed in proportion to the size of the village;
- A sizeable amount of the 750 houses planned for at Category A villages have already been permitted;
- Too large for the village to accommodate/disproportionate addition to the village;
- Out of keeping with the village;
- Lack of public transport serving Finmere and the development would be car reliant;
- Lack of services (pubs, shops), infrastructure and jobs to facilitate such a development;
- Lack of school places;
- It is unnecessary development;
- The development would result in more amenities and would therefore destroy the village's atmosphere;
- The Cherwell Local Plan has an urban focus;
- Cherwell District Council can demonstrate a 5 year housing land supply;
- The proposal would set a precedent for further development in the village;
- Would increase the village by nearly 1/3rd;
- It is not sustainable development;
- The proposal does not constitute 'minor development';
- Contrary to Policy Villages 1 and Villages 2 of the Cherwell Local Plan Part 1;
- Would cause detrimental harm the character and appearance of the landscape;
- Would cause detrimental harm to the overall character and setting of the village;
- The proposal would conflict with the settlement pattern and would fail to sympathetically integrate with the existing built development;
- Housing density too high;
- Housing density too low and could accommodate 82 houses comfortably;
- Contrary to Policy ESD15 of the Cherwell Local Plan Part 1;

- Would harm the village's heritage;
- Would cause archaeological damage;
- Harm the enjoyment of the footpaths and views from the footpaths;
- Loss of outlook;
- Overlooking and loss of privacy;
- Overshadowing;
- Loss of light from development and landscaping;
- Loss of light to solar panels;
- Nuisance;
- Concerns from the level of vehicular activity as a result of the development therefore increasing traffic on Banbury Road and through the village and a greater risk to pedestrians, cyclists and horse riders;
- No pavements on Banbury Road or lighting to link the development to the village;
- Additional transport will cause damage to highway network;
- The submitted travel plan and transport statement are of low quality;
- Would cause significant ecological harm;
- Would cause harm to bats and newts;
- Drainage and flooding concerns;
- Concerns with sewage and sewerage treatment;
- Electricity supply concerns;
- Lack of fresh water supply;
- Concerns as a result of the construction process (i.e. noise, traffic, dust);
- A security gate would have to be relocated as a result of the development and this would cause safety/security issues;
- Water pressure concerns;
- Air pollution;
- The site is located within close proximity to the landfill site;
- The application should not be considered;
- Too much development in Finmere already in relation to a landfill site and HS2;

- Would cause harm to the foundations of existing buildings;
- The plans do not accurately reflect the existing development in the locality;
- Only for profit.

5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

6.2. FINMERE PARISH COUNCIL: **Object.** As this application represents a major development, Finmere Parish Council held a public meeting on 11/7/17 which was attended by 39 villagers including the Chair, Barry Wood, District Councillor, and three Parish Councillors. The Chair of Finmere Parish Council had earlier declared an interest in this application and remained absent.

6.3. A vote was taken at the meeting to determine whether village residents felt that the application represented appropriate development for Finmere. The outcome of the vote was: 30 against; 4 for; 1 abstention. The Chair of the meeting and Members of Finmere Parish Council did not vote. Based on this vote and discussions held at the meeting, Finmere Parish Council wishes to object to the proposal. The grounds for objection are largely in line with those submitted in October, 2016 in response to the previous application for 47 houses (16/01209/OUT) on the same site. It is felt that the new application fails to address the concerns raised previously, and that most remain relevant.

6.4. Size, Scale and Massing- The over-arching concern regarding the proposal is its size and scale. The village currently comprises some 170 homes and this proposal seeks to increase that by a further 25 homes (a 15% increase). The Cherwell Local Plan 2012-2031 states that the "character and appearance" of villages should be protected yet the scale of the proposed development is not compatible with the number and density of existing dwellings, nor the form and layout of the village, and will significantly and detrimentally change the rural character of Finmere. This point was endorsed by the Planning Inspector at Appeal. Development is required to "make places better for people" in terms of design, social cohesion and integration. The number of dwellings proposed is too great to enable new residents to be integrated easily into a village that, over recent decades, has largely grown "organically" in line with its status as a Category A village, through infill, windfall sites and small-scale developments (at Chinalls Close and Stable Close).

6.5. Site Location - The location of the proposed development is beyond the current built-up limits of the village (as determined in a planning appeal in 2011 (Ref: APP/C3105/A/11/2158351/NWF). The appeal concluded that development of land at Heatherstone Lodge was in conflict with the settlement pattern indicated in the Local Development Plan and that it would result in encroachment of development into the countryside.

6.6. Sewage - Anglian Water stated in 1999 that the sewage system in Finmere was at capacity in terms of the dimensions of the sewage pipes and the capacity of the

pumping station. Since 1999, many of the further 24 residential units that have been built in the village have been required to install septic tanks.

- 6.7. Surface Water Drainage and Flooding - Finmere experiences regular and sometimes serious flood events, affecting predominantly the properties in Pine Close and Valley Road as a result of inadequate capacity of the culvert through which Finmere Brook runs (adjacent to and beneath Fulwell Road) following serious rainfall events. Anglian Water has confirmed that there is no capacity by way of Finmere Brook for further surface water drainage yet the proposed development, by the nature of its location, would necessarily drain into Finmere Brook.
- 6.8. 5-Year Housing Land Supply - Cherwell District Council (CDC) is currently meeting its requirement to secure a 5-year housing land supply so there is no undue pressure on CDC to accept this proposal in order to deliver the housing strategy.
- 6.9. Local Housing Needs - There has been a lot of residential development in Bicester (approx. 7 miles away), and further large-scale development is planned. There is a sizeable development in Tingewick (approx 1.5 miles away), with other applications in the pipeline. It is felt that local housing needs are being met and there is no supportable argument for substantial further development in Finmere.
- 6.10. Sustainability - Though deemed a Category A village, Finmere has few services, little or no public transport and very limited employment opportunities; even the future of the village school is uncertain. At Appeal, the Planning Inspector's comments implied that Finmere's Category A status was questionable. Existing residents rely heavily on the use of cars and it is unrealistic to suppose that occupants of the proposed new development would not do likewise, bringing into question the sustainability of the proposed housing.
- 6.11. Environmental Contraventions - It is felt that the proposed site is not appropriate for residential development due to its close proximity to the busy A421, the proposed route of HS2 high speed rail line (800 m to the south-west) and to the Finmere Quarry and Landfill Site (250 m to the south). Following a major fire in the Materials Recycling Facility (MRF) at Finmere Quarry and Landfill Site in February, 2016, the site has been taken over by new operators (AT Contracting & Plant Hire) who are in the process of seeking to obtain an Open Licence to continue operations on site until 2035. Thus far, it has been assumed that operations at the Landfill site would eventually cease, and that its impact on local residents should be viewed as a short term inconvenience. The permissions currently being sought imply however that it is the operator's intention to keep the site active with attendant long term visual and aural impacts on future residents of the proposed development at Heatherstone Lodge.
- 6.12. Recreational Receptors and Loss of Amenity - Due to the immediate proximity of the built form, the proposed development will have a detrimental effect on the amenity currently enjoyed by the many walkers, cyclists and horse riders who use the two footpaths that pass close to the site, and the circular path that follows the route of the former B4031 (gated) and the Hill Leys access road.
- 6.13. The application was supported by 4 village residents who felt that families may be attracted by new homes in the village, and that children from these families may attend Finmere School, the viability of which is in question, partially due to low pupil numbers. Others at the meeting pointed out that there are very few village children who attend the school and, in the past, development has not brought additional children to the school. It is far from certain that additional housing would help to secure the future of the school.

STATUTORY CONSULTATION

- 6.14. OCC HIGHWAYS: **Object.** There are very limited public transport services in the village and as such the development would not comply with the NPPF which requires developments to be located where there is access to high quality public transport. The majority of journeys will only be possible by car. Therefore safe and suitable access for all has not been demonstrated. The county council objects to this development because of the lack of suitable public transport. Indeed, the inspector at the recent appeal into the refusal of planning permission for the previous application for housing in this location said:

“In my view, public transport would not provide an appealing or practicable mode for many necessary journeys and not at all in the evenings or on Sundays. Accordingly, I do not find the limited public transport would reduce dependency on the private car at the appeal proposal.” (Appeal decision reference APP/C3105/W/17/3169168)

- 6.15. The following comments are made in order to consider all aspects of the development proposals despite the fact that the recommendation is to not grant planning permission.

- 6.16. *Site location and traffic impact:* The site is on the western edge of the village and even though pretty much all journeys within the settlement are within a 1km radius (heart of the village is 0.5km away), the only meaningful day to day destination is the primary school. In terms of traffic impact, the Transport Statement accompanying the application predicts that the development would generate 18 and 19 two way vehicle flows in the am and pm peaks respectively. Whilst this would represent a reasonably high percentage increase in the existing traffic flows on the roads in the village, that is clearly from a small base and it is still a very small absolute increase. Therefore, in my view this new traffic would not cause anything other than a minor negative impact on the local transport network. The main problems with this development are the lack of public transport and no safe and suitable access for pedestrians along the B4031. There is no proposal for a footway alongside the B4031 connecting the development to the rest of the village. None of the B4031 on the ‘wrong’ side of the existing ‘no vehicles’ barrier connecting to the site access would have any development frontage and as such a footway is needed to ensure safe and suitable access for all particularly in the absence of street lighting. As such, the proposals do not comply with local plan policy or the NPPF. Safe and suitable access has not been demonstrated.

- 6.1. If access is to be taken from the B4031, an amendment to the traffic regulation order (TRO) banning motor vehicles will need to be made as would a reduction in the speed limit from 60mph to 30mph. These changes would be progressed by means of the S278 for the site access (see below) subject to public consultation and a decision by a county council committee – as such the outcome is not guaranteed. Without a change to the vehicle restriction or the speed limit, safe and suitable access for all could not be made and the development would not be acceptable (or possible).

- 6.2. *Site access:* The applicant is not seeking detailed permission for the site access although it is proposed that it would be along the southern site boundary along the B4031. This location is currently approximately 150m the ‘wrong’ side of the existing restriction on motorised vehicles. Clearly, the restriction would need to be altered if vehicular access to this development is to be possible. I have no objection to this although the restriction cannot simply be removed; rather it must be relocated immediately to the west of the proposed site access. The stretch of the B4031 from the current vehicle restriction point to where it would be relocated is currently a 60mph speed limit. It is clearly necessary for the speed limit to be reduced to 30mph

in line with the rest of the village roads. This will ensure that walking and cycling to/from the site is as attractive as possible and help to integrate the development within the village. This TRO change would be progressed by means of a S278 agreement secured using a S106.

- 6.3. In order to provide safe and suitable access to the site for all in accordance with the NPPF, the section of the B4031 that would be re-opened to vehicular traffic would need to be brought back up to the standard required for regular use as a public highway – it has clearly deteriorated since the restriction has been in place. It would need to be widened to at least 5.5m and resurfaced. An assessment of the existing road construction and condition of the edges in particular would need to be carried out by the applicant. If there is sufficient width of solid construction then that might be sufficient to build on. On top of that there would need to be a binder/regulating course of at least 50mm and then surface course of 40mm along the length of re-opened road. If the current construction is unsuitable then it may need an entire reconstruction or at least edge strengthening in places prior to the overlay. Drainage would need to be repaired to current standards if necessary.
- 6.4. Because the stretch of road in question would for the most part have no properties fronting it, (which ordinarily helps to moderate vehicle speeds and ensure acceptable conditions for pedestrians) and in order to encourage as much walking as possible to and from the site for local journeys, the improvements should include a minimum 1.8m wide footway along the northern side. This footway should extend as far as the first existing property fronting the B4031 i.e. approximately 50m east of the existing vehicle restriction. This is where there is house frontage helping to positively influence vehicle speeds and making walking in the road more acceptable.
- 6.5. Assuming the vehicle restriction point is relocated immediately to the west of the site access and that the speed limit along the B4031 is 30mph, the site visibility splay at the site access to the east would be 2.4m by 43m according to Manual for Streets standards. Improvements to the B4031 would be delivered by means of a S278 agreement secured using a S106. Because these improvements have not been proposed by the applicant, the county council objects to the development because safe and suitable access for all has not been demonstrated.
- 6.6. The road connecting the site to the B4031 must be a minimum of 4.8m wide with a 1.8m wide footway on at least one side.
- 6.7. *Public rights of way:* There are two public rights of way footpaths (213/10 and 213/1) that cross the site and lead to the built up area to the east, having continued across an open field. Together with a footway alongside the B4031, these paths will be useful for residents of the proposed development, especially for journeys to school and for other leisure purposes. However, the layout of the development will need to protect the routes on the site – every effort should be made to design the footpaths into the development. For further details please contact the county council's Countryside Services team – they will be able to supply the applicant with a large scale plan showing the accurate locations of the footpaths before any detailed plans are prepared. The location of existing stiles and the routes currently walked should not be assumed as being correct. We would expect structures on the footpaths to be removed or improved (e.g. stiles replaced with gates). We also require a financial contribution of £5,000 towards the improvement of the footpaths 213/10 and 213/1 as they continue off the site towards the village. These paths are very likely to see increased usage as a result of the development and in any case should be improved to encourage people living on the development to travel as sustainably as possible.
- 6.8. *Car and cycle parking-* Car parking will need to be provided in accordance with the county council's recommendations for car parking standards as set out in the county

council's design guide. Additionally, the applicant will need to make provision for resident and visitor cycle parking, presumably on a Reserved Matters application should the Outline application be approved.

- 6.9. *Drainage* - This residential development is categorized 'more vulnerable' in terms of flood risk and is suitably located in the flood risk category Zone 1 status into which the land is categorized. A small area of land at high risk of surface water flooding is located at the extreme northern boundary of the site. It is proposed this high risk flood area will be contained within part of a wider area of Public Open Space, without impinging on any development.
- 6.10. The preferential strategy for this site is for surface water to discharge directly to ground, in accordance with the SuDS hierarchy of disposal of surface water. However, soakage testing to BRE 365 standard has yet to be carried out at the site to prove this strategy, and the applicant's outline proposals are based on disposal of surface water off-site at the existing green field runoff rates, which would require an attenuation pond to be provided as part of the strategy. Therefore, a planning condition requiring soakage testing to BRE 365 standard is required if the outline proposals are approved. The proposed allowable discharge rate of 2.5 l/s (QBAR) is reflective of the greenfield response for the site. In terms of SuDS proposals the Applicant proposes the use of pervious paving for private hard-standing areas, but not for the adoptable main carriageway, which is proposed to be traditional construction. The applicant also highlights the potential for some soft SuDS within the Public Open Space area in the proposed northern part of the site, and the use of soakaways if feasible.
- 6.11. Depending on the results of soakage tests, there may be further scope to incorporate permeable paving within the development and deal with runoff at source. The ecological report accompanying the application makes reference to 'green roofs' and walls to promote biodiversity, and these measures would also assist in meeting the SuDS objectives of biodiversity and runoff control.
- 6.12. The calculation sheets supplied with this application use 'Masterdrain' software to calculate the required attenuation storage volumes. The 'peak flow' method used to calculate the required attenuation storage volumes can produce lower storage volumes than the hydrograph method or the latest EA 'best practice' calculation method contained within the publication 'Rainfall runoff management for developments' (Report – SC030219). Therefore, further consideration of this issue and revised modelling will be required at the reserved matters application stage. Further drainage details are required to be provided prior to commencement of development. This should be secured using a relevant planning condition (see earlier). These details must include a full detailed drainage design including detailed design drawings, calculations, and soakage testing results. Further consideration and design of exceedance flowpaths must include information to demonstrate exceedance flows are safely managed on the site. A SuDS Management and Maintenance plan is also required for the development to ensure SuDS operate satisfactorily into the future as designed.
- 6.13. OCC ARCHAEOLOGY: **Object.** The site is located in an area of archaeological interest to the north of an area of Iron Age settlement recorded during the construction of the B4031 diversion. This excavation recorded a series of linear features, pits, a circular gully thought to relate to an Iron Age roundhouse and a hearth. The features extend beyond the northern limit of the road diversion and may continue into the application area. The site is also located 500m north west of the projected route of the Roman road from Alchester to Towcester.

- 6.14. It is therefore possible that archaeological features related to the Iron Age and Roman settlement of the area could survive within this proposed site. Little formal archaeological investigation has been undertaken in the area and so our knowledge of the extent of further archaeological features in the vicinity of the proposed development is limited.
- 6.15. There is currently therefore insufficient information regarding the potential impact of this development on any surviving archaeological deposits for an informed decision to be made. We previously provided advice on this site as part of a pre application response in May 2016 and on a previous planning application for the site in November 2016 (16/01209/OUT) where we highlighted the requirement for a predetermination evaluation.
- 6.16. The applicant has submitted a geophysical survey of the site. This geophysical survey was not undertaken in accordance with a written scheme of investigation as set out in the Chartered Institute for Archaeology standards and guidance for geophysical survey and a copy of the report has not been submitted to the HER, also highlighted in the standards and guidance.
- 6.17. The survey did not record any clear archaeological deposits but did record evidence of ridge and furrow on the site which may have masked any earlier archaeological deposits. The results of this survey are therefore not sufficient to assess the potential of the site to contain archaeological deposits and further information will be required ahead of the determination of any planning application for the site.
- 6.18. In accordance with the National Planning Policy Framework (NPPF, para 128), we would therefore recommend that, prior to the determination of this application the applicant should be responsible for the implementation of an archaeological field evaluation. This must be carried out by a professionally qualified archaeological organisation and should aim to define the character and extent of the archaeological remains within the application area, and thus indicate the weight which should be attached to their preservation. The report from this evaluation should be submitted along with any planning application for the site.
- 6.19. This information can be used for identifying potential options for minimising or avoiding damage to the archaeology and on this basis, an informed and reasonable decision can be taken.
- 6.20. OCC EDUCATION: **No objections.** The existing primary school infrastructure is anticipated to be sufficient to meet the additional demand generated by this development. Not seeking contributions for secondary or SEN education dues to regulation 123 of the CIL regulations (restricting pooling contributions) and the need to reserve ability to seek contributions from larger developments.
- 6.21. NATURAL ENGLAND: **No comments**
- 6.22. HIGHWAYS ENGLAND: **No comments**
- 6.23. ANGLIAN WATER: **Request conditions.** In relation to wastewater treatment the existing infrastructure has capacity for these flows. In relation to the foul sewerage network the proposal would lead to an unacceptable risk of flooding downstream. A drainage strategy will need to be prepared in consultation with Anglian Water to determine mitigation measures and these may require a pumped regime. The surface water strategy is also unacceptable and no evidence has been provided to show the surface water hierarchy has been followed. If the proposed methods of dealing with surface water are deemed unfeasible when following the surface water

hierarchy, then a full surface water strategy is required. A condition requiring a drainage strategy to be submitted and agreed is recommended.

6.24. AYLESBURY VALE DISTRICT COUNCIL: **No objections and no comments.**

NON-STATUTORY CONSULTEES

- 6.25. CDC POLICY: **Comments** Finmere is a category A village, one of the more sustainable villages in the District (Policy Villages 1). Its last recorded services and facilities included a primary school, public house, village hall, recreation facilities and vehicle garage. The village has a very limited bus service. Policy Villages 2 provides for a total of 750 homes to be delivered at the Category A villages on new sites of 10 or more dwellings (in addition to the rural allowance for small site 'windfalls' and planning permissions as at 31 March 2014). The proposal would assist in meeting overall Policy Villages 2 housing requirements and could contribute to the provision of affordable housing. The 2016 AMR (March 2017) shows that there are 179 dwellings, out of the 750 allocated for the rural areas, remaining to be identified. The AMR also demonstrates that the District presently has a 5.4 year housing land supply for the period 2016-2021 and a 5.6 year housing supply for the period 2017-2022 (commencing 1 April 2017).
- 6.26. For the period 2011 to 2016 there have been five recorded housing completions in the village. There have been no sites of 10 or more dwellings granted permission in the village since 31 March 2014.
- 6.27. The application site primarily comprises two adjacent sites identified in the Council's Strategic Housing Land Availability Assessment 2014 (SHLAA) – sites FI001 and FI006. The SHLAA concludes that site FI001 (Heatherstone Lodge and adjoining land) is '...not considered suitable for residential development as it is constrained by access issues, and would impact on the character, appearance and pattern of Finmere'. In respect of site FI006 (land south of Heatherstone Lodge) it concludes, 'The site is not suitable for residential development due to access difficulties, scale and nature of the site'.
- 6.28. The proposal would result in the development of greenfield land within an area of open countryside.
- 6.29. Of specific relevance is the appeal decision dated 14 June 2017 in relation to a 2.3 hectare site at Heatherstone Lodge (Appeal Ref: APP/C3105/W/17/3169168) which incorporated this application site. The Inspector, in dismissing the appeal states 'that the potential scale of the proposed development at a settlement with few facilities and poor public transport connectivity renders the appeal proposal unacceptable. It would conflict with CLPP1 Policies ESD 1 and Villages 2.....'(para 14). He goes on to conclude in paragraph 22 'that the appeal proposal would result in significant harm to both the settlement pattern of Finmere and the character and appearance of the surrounding area.. '
- 6.30. It is noted that this application is on a smaller site than that the subject of the dismissed appeal. However, the conclusions reached by the Inspector are still applicable.
- 6.31. There is no objection to the principle of some residential development in Finmere as it is a Category A village and development would help contribute towards the Policy Villages 2. However, the scale of proposed development in relation to the existing village is significant and its impact therefore requires careful consideration. The site is largely detached from the village and its development would have an urbanising effect in this locality which is rural in nature. There are also likely to be difficulties

with the integration and creation of connections with the existing village which requires consideration.

- 6.32. CDC LANDSCAPE: **Object.** The residential development imposes itself on an attractive, intimate landscape of rolling field and level paddock, defined by established, mature hedgerows and trees; a landscape that is appreciated by the local residents and walkers. I judge the amenity of this area for residents and walkers (recreational receptors) to be **very high**, the landscape sensitivity for a development as also **high** and its capacity to accept this development is very **low**. The proposed site access will mean an increase of traffic using the country lane (A421) resulting in harm to its amenity and landscape character. The additional housing, combined with the existing residential development on the western edge of the village will extend the village's semi-urban edge into this attractive landscape. The accumulated visual harm will result and be experienced by visual and recreational receptors of the public right of way, route code 213/9/10, as they walk southwards between the Stable Close residential development to the east.
- 6.33. The landscape officer has also challenged a number of the judgements made in the LVIA and considers this to underestimate the significance of the visual effects of the development. The imposition of the access road off the defunct A421 and though the field is also considered to cause visual harm and denigrate the attractive 'sense of place' of this attractive landscape.
- 6.34. CDC STRATEGIC HOUSING: **No objections subject to a legal agreement** securing affordable housing. This application for up to 25 homes will result in a requirement for 35% of the homes to be delivered as affordable housing. 70% of the affordable homes should be for affordable rent and 30% for shared ownership.
- 6.35. In terms of standards all the rented housing should meet the nationally described space standards and 50% of the rented units need to meet Building Regulations Requirement M4 (2) Category 2: accessible and adaptable dwellings. Shared ownership can be of a design in line with the market housing. The affordable units should be in clusters of no more than 10 units. All of the 2 bed and 3 bed dwellings should have a minimum of 2 parking spaces per unit.
- 6.36. CDC ECOLOGY: **Comments.** The preliminary ecological survey report found that the site comprises of sheep grazed poor semi-improved grassland, with areas of tall ruderal vegetation along field boundary hedgerows and a pond adjacent to the western boundary.
- 6.37. The proposed plans are not detailed at this stage however include creation of a pond and open space in the northern part of the site and creation of open space and tree/shrub planting along the eastern and southern site boundaries in particular. My comments remain largely the same as the Ecology Officer on 16/01209/OUT dated 22 Sept 2016. A number of further surveys will be required to determine an appropriate layout or undertake any site clearance. This includes a reptile survey and accompanying mitigation measures. A bat survey of any of the trees which have been identified with bat roosting potential will also be required, should any of these trees require felling or lopping or would otherwise be affected by the development i.e. through the lighting scheme. Although it appears the majority of the trees will be retained and protected, tree T10 (an infield ash) appears likely to be felled according the tree report. Great crested newt surveys of the surrounding five ponds within 500m will also be required (during the appropriate time of year March to June). Suitable mitigation measures for nesting birds and badger will also be required and should be secured via a Construction Ecological Management Plan (CEMP).

- 6.38. In addition I would also recommend that a Biodiversity Impact Assessment (BIA) is required prior to determination, which is a relatively new tool used to assess the impact of development on biodiversity to determine whether a gain or loss of habitats is expected. Although this was not required previously, this is a useful tool to provide an estimate of the overall loss or gain at this stage. Should the proposals result in an overall loss to biodiversity, I would recommend that a biodiversity offsetting scheme will be required to compensate for any residual biodiversity impact. This could be secured at the outline stage, ideally via a Section 106 agreement, whereby the developer can fund an appropriate habitat enhancement scheme elsewhere in the district, preferably close to the site. This is to ensure that the proposed development leads to a net gain in biodiversity, in line with the NPPF and Local Plan Policy ESD 10.
- 6.39. In line with the previous Ecologists comments, a full biodiversity enhancement scheme which makes it clear that an overall gain for biodiversity can be achieved from the proposals is also needed. These should include areas of species rich grassland, bat and bird boxes both within green spaces and integrated into the design of buildings, green walls and roofs, access for hedgehogs and other wildlife through fences, SUDS, native hedgerows, green spaces which encourage engagement with nature – these are in addition to any mitigation required for species found or likely to be present on site. There should also be measures in place to ensure the protection of the existing pond during construction works and to mitigate for any adverse impacts in the long-term i.e. from disturbance by increase in people, dogs etc.
- 6.40. CDC ENVIRONMENTAL PROTECTION: **No objection** but recommends a Construction Environmental Management Plan be conditioned.

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – The Effective and Efficient Use of Land – Brownfield land and Housing Density
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change

- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDs)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Villages 1 – Village Categorisation
- Villages 2 – Distribution Growth Across the Rural Areas
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18 – New dwellings in the countryside
- TR1 – Transportation funding
- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of new residential development
- ENV1 – Environmental pollution
- ENV12 – Potentially contaminated land

7.1 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Annual Monitoring Report (AMR) 2016
- Strategic Housing Land Availability Assessment (SHLAA) Update 2014
- Oxfordshire Wildlife & Landscape Study 2004

8. APPRAISAL

8.1. The key issues for consideration in this case are:

- Principle of the Development;
- Landscape and Visual Impact and Local Character;
- Design;
- Impact upon Historic Environment;
- Accessibility, Highway Safety and Parking;
- Effect on Neighbouring Amenity;
- Ecology and Trees;
- Contaminated Land;
- Flooding Risk and Drainage;
- Sustainability and Energy Efficiency;
- Effect on Infrastructure/Public Open Space/Affordable Housing;
- Other Matters.

Principle of the Development

- 8.2. Paragraph 14 of the National Planning Policy Framework (NPPF) states that a presumption of sustainable development should be seen as a golden thread running through decision taking. There are three dimensions to sustainable development, as defined in the NPPF, which require the planning system to perform economic, social

and environmental roles. These roles should be sought jointly and simultaneously through the planning system.

- 8.3. Paragraph 12 of the NPPF notes that the development plan is the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan which was adopted on 20th July 2015.
- 8.4. Cherwell District Council can demonstrate a five-year supply of deliverable housing sites therefore the presumption in favour of sustainable development, as advised by the NPPF, will therefore need to be applied in this context.
- 8.5. Policy ESD1 of the Cherwell Local Plan Part 1 states that to reduce the impact of development on climate change, growth should be distributed to the most sustainable locations as defined in the local plan and that new development should seek to reduce the need to travel and reduce the reliance on private cars.
- 8.6. The rural housing strategy is guided by Policy Villages 1 and 2 of the Cherwell Local Plan Part 1 alongside Saved Policy H18 of the 1996 Local Plan. Policy Villages 1 allows for some limited development within the built up limits of villages however as the current application site is clearly not within the built up limits of the village Policy Villages 1 is not relevant in this respect. Saved Policy H18 restricts development outside the built limits of settlement except in a number of circumstances none of which are applicable to the current proposals. The proposals therefore conflict with Saved Policy H18.
- 8.7. However Policy Villages 1 does also include a rural settlement hierarchy which includes Finmere as a Category A settlement. These are amongst the most sustainable rural settlements in the district and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth.
- 8.8. Policy Villages 2 states that: *“A total of 750 homes will be delivered at Category A villages”* in addition to the rural allowance for small sites and planning permissions for 10 or more dwellings which existed at 31 March 2014. It goes on to state “sites will be identified through the preparation of the Local Plan Part 2, through the preparation of Neighbourhood Plans where applicable, and through the determination of applications for planning permission. In identifying and considering sites, particular regard will be given to the following criteria:
 - Whether the land has been previously developed land or is of less environmental value;
 - Whether significant adverse impact on heritage and wildlife assets could be avoided;
 - Whether development would contribute in enhancing the built environment;
 - Whether best and most versatile agricultural land could be avoided;
 - Whether significant adverse landscape impacts could be avoided;
 - Whether satisfactory vehicular and pedestrian access/egress could be provided;
 - Whether the site is well located to services and facilities;

- Whether necessary infrastructure could be provided;
- Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period;
- Whether land the subject of an application for planning permission could be delivered within the next five years; and
- Whether development would have an adverse impact on flood risk.”

8.9. The acceptability of the proposal when tested against these criteria, and other material planning considerations, is discussed later in this report. However it is first important to consider the matter of scale and quantity of development, and in particular whether the proposal is in accordance with the overarching housing strategy in the development plan.

8.10. Of the 750 dwellings identified to be delivered at Category A Villages across the plan period until 2031 under Policy Villages 2, only 179 dwelling remain to be identified. Recent appeal decisions received by the Council, including at the current site, confirm that an overprovision of the rural housing allocation at an early stage in the plan period, or the overconcentration of new development at one settlement, would prejudice the sustainable growth strategy set out in the Development Plan and leave limited ability to respond to later changes in housing need in individual settlements without fundamentally compromising the overall sustainability strategy contained in the Local Plan. Furthermore whilst 750 dwellings is not to be regarded as an upper limit, significant deviation from this may result in unconstrained growth in less sustainable locations.

8.11. Finmere is one of 23 Category A villages and has the smallest population of all Category A villages (a population of approximately 466), and a pro rata share of the Policy Villages 2 allocation based on parish population size would be less than 10 dwellings. This does not represent a limit on the amount of housing that could be accommodated at Finmere, but the size of the village in relation to others is a factor to take into account in the distribution of development under Policy Villages 2, and in particular determining the amount of development that is appropriate and sustainable in any one village location. It is also noted that since the local plan was adopted the public transport services to the village have been reduced.

8.12. Finmere has limited local services including a school, public house, village hall and play area. It does not have any shop or post office or medical facilities and there is little in the way of employment opportunities. The Inspector on the scheme for 47 dwellings concluded that given the limited day to day facilities in the village, the distance and nature of connections (e.g. busy roads with no footpaths or across fields) to the neighbouring settlements such as Tingewick, and the limited public transport links to the nearest towns of Brackley and Buckingham, *‘the scale of the appeal proposal would be at odds with the need to assign most growth to the most sustainable locations where dependency on the car can be reduced.’ (para 11)*. The inspector concluded that *‘the potential scale of the proposed development at a settlement with few facilities and poor public transport connectivity renders the appeal proposal unacceptable. It would conflict with CLPP1 Policies ESD 1 and Villages 2. It would also fail to accord with the objectives of the NPPF to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to mitigate and adapt to climate change.’ (para 14)*

8.13. Whilst the current proposal is a reduction in the number of proposed dwellings from 47 to 25, it still would result in a significant development in the context of the remaining allocation under Policy Villages 1 and the size of Finmere. Taking all

matters into account including the Council's 5 year land supply, the significant progress on the 750 dwellings on Policy Villages 2, the limited facilities in Finmere and the limited opportunities for travel other than by private car, the proposed development is considered to result in an inappropriate scale of growth for Finmere which would conflict with the Council's rural housing strategy contained within Policy ESD1 and Policy Villages 1 and 2 of the Cherwell Local Plan Part 1 and Saved Policy H18 of the 1996 Local Plan.

Landscape and Visual Impact and Local Character

- 8.14. Government guidance contained within the NPPF requiring good design states that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people. Further, permission should be refused for development of poor design that fails to take the opportunities for improving the character and quality of an area and the way it functions.
- 8.15. Paragraph 61 of the NPPF states that: "Although visual appearance and the architecture of individual buildings are very important factors, securing high quality design goes beyond aesthetic considerations. Therefore planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."
- 8.16. Policy ESD15 of the Cherwell Local Plan Part 1 states that: *"New development proposals should:*
- Contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.*
 - Respect the traditional pattern routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages."*
- 8.17. Policy ESD13 of the Cherwell Local Plan Part 1 states that: *"Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. 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."*
- 8.18. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context.
- 8.19. Finmere is a traditionally linear settlement with development following the historic main roads through the village (Fullwell Road, Valley Road and Mere Road) with

relatively modern development behind this on the small lanes branching off this main route, such as Chinalls Close and Stable Close. There is also a relatively small development at the rear of Valley Road served by the Old Banbury Road.

- 8.20. The landscape around the site and village is located within the Wooded Estate Land character type within the Oxfordshire Landscape Study 2004, and this notes the area is characterised by rolling topography, arable farming and small villages with a vernacular style. The application site is typical of this landscape character and positively contributes to the rural landscape setting of this village. Large parts of the village are concealed within the fold of the valley such that there is little pronounced sense of settlement in the wider rural landscape.
- 8.21. Whilst the application site has been reduced in size, it still extends significantly beyond the built limits of the village and would be on slightly rising land. In considering the landscape and visual impact of the appealed scheme the Inspector noted that in contrast to the existing linear settlement pattern and landscape setting of the village *'the appeal proposal would constitute a dislocated limb of development projecting southwards on rising land into countryside at stark variance to the established linear form. It would also extend by some margin beyond the line created by Stable Close and due to intervening paddocks it would have a limited relationship to the pattern of development at Chinalls Close and at the eastern end of the old Banbury Road. The appeal proposal would largely appear as an incongruously isolated projection of development into the surrounding countryside.'*
- 8.22. He went on to state the development: *would involve the loss of undulating countryside whose green, open character positively contributes to the wider landscape containing Finmere. Whilst development is visible in some perspectives of the appeal site, the site itself remains to be read, principally, as part of a wider patchwork of fields across gently rolling hills. I accept the appeal site is only one part of a wider non-valued landscape but the effect at a local level on the loss of an appreciable area of verdant openness would be significantly adverse (para 18).*
- 8.23. It is not considered that the reduction in size of the site has overcome this concern. The proposed development would still occupy a large part of the site and appear poorly related to the traditional settlement pattern and rural setting of the village in conflict with Policies ESD13 and ESD15. Whilst the residential development has been moved away from the southern boundary the access would remain in this location and result in the visual envelope of the site being similar.
- 8.24. The proposal would be accessed from the Old Banbury Road to the south of the site which has limited vehicular access and only serves isolated dwellings. This access does not feel part of the built limits of the settlement and rather appears as a route into the open countryside. The servicing of the proposed development from this access exacerbates the poor levels of integration with the existing settlement pattern and form given the dislocated relationship of this access with the main part of the village. The Inspector highlighted this as a significant shortcoming of the development and noted that the development would appear and function as a separate development, harmfully at odds with the established pattern of the village. The current application does nothing to address this significant issue.
- 8.25. The applicant has produced a Landscape and Visual Impact Assessment. The Council's landscape officer has reviewed this and disagrees with a number of the findings. Overall the landscape officer has concluded that the residential development would be inappropriate in this location.
- 8.26. The proposed development would be highly visible from the Old Banbury Road to the south of the site which is a restricted byway and is a largely undisturbed route

into the countryside. The proposed development would be clearly visible from this well used route, particularly in winter, which would have a significant urbanising impact on the visual amenity of this route and the views of the setting of the village. This would be exacerbated by the fact that the development would be situated on rising land from the village. Furthermore the proposal would result in this access being opened to all traffic and it would need to be upgraded to current standards leading to a more engineered appearance including a new footpath to the southern side. All these matters would significantly urbanise this route. Whilst some landscaping is proposed to the eastern and south western corner of the site, which would help soften some views of the development, it would still be visible and poorly integrated into the existing built and natural environment and the proposed landscape would seek to hide the development rather than truly integrate the development into its setting.

- 8.27. The proposal would also impact on the public rights of way which exist to the west of the site particularly from the footpath to Hill Leys given the topography of the land. These routes are currently attractive routes with views over the undulating countryside. The proposal would be visible over and through the vegetation at this point and have a detrimental impact on the rural character of the appeal site and the surrounding area.
- 8.28. Footpaths 213/10/10 and 213/1/30 also run immediately through the site. These routes currently provide pleasant routes from the village edge into gently undulating countryside. The application proposes to maintain these in situ however the proposed development would clearly have a significant adverse impact on views from these routes.
- 8.29. In conclusion, the proposed development of the site is considered to be inappropriate. As noted above, Finmere is linear in form with a number of small lanes extending off the main route through the village. As the proposed scheme would be accessed from the Old Banbury Road to the south of the village, and would not directly connect or have a relationship with this main route through, and given the location of the site to the south east of the village, the proposed development would be disconnected from the main village structure and would fail to integrate. The proposed scheme would turn its back on the existing development within the village and would form a significant extension to the village of Finmere that would be out of character with the urban morphology of this settlement and detrimentally impact on the character and appearance of the area, the setting of the village and the amenity of a number of public footpaths and routes.
- 8.30. These conclusions were agreed by the previous inspector who stated: *the appeal proposal would result in significant harm to both the settlement pattern of Finmere and the character and appearance of the surrounding area. As such the appeal proposal would be contrary to CLPP1 Policies ESD 13, ESD 15 and Villages 2 and Policies C8 and C28 of the Cherwell Local Plan 1996.*

Design

- 8.31. Policy ESD15 of the Cherwell Local Plan Part 1 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high quality design meeting high design standards and complementing any nearby heritage assets. The National Planning Policy Framework is clear that good design is a key aspect of sustainable development.

- 8.32. The application is in outline with all matters reserved for later consideration. The application is however accompanied by an indicative layout, which seeks to demonstrate that the development proposed can be accommodated on the site, and a Design and Access Statement, which should set acceptable design principles so that future acceptable detailed proposals for the site can be achieved.
- 8.33. A masterplan has been submitted with the application indicating open space and an attenuation feature to the north of the site, a central road through the middle of the site with cul-de-sacs located from it serving residential areas, and the public rights of way retained through the site. The supporting statement indicates that up to 25 dwellings would be provided on the site. The indicative plans do not clearly indicate how these would be provided and it is considered that given the proposed level of landscaping proposed to the boundaries of the site, the siting of the site on the edge of a loose knit rural setting and the awkward shape of the site, that this level of development would be rather optimistic. However it is noted that this is only an indicative number of dwellings and at reserved matters, depending on the size and type of dwellings forthcoming the subsequent visual impact what need to be considered and potentially a fewer number of dwellings may need to be provided.
- 8.34. Officers consider that the indicative layout further emphasises that the proposed development would fail to integrate sympathetically with the existing built development in the area as it would be detached from the village, due to the fact that it would not be accessed from the village itself and because it would turn its back on the existing development within the village. Due to ownership constraints and the layout of existing development, it is unlikely that any other layout could be achieved that would better integrate with the village or provide meaningful connections through to the main routes in the village.
- 8.35. Whilst at outline stage, officers are of the opinion the indicative layout lacks cohesiveness and fails to reinforce local character or create a strong sense of place. It is understood that the indicative layout is, to some extent, influenced by the public rights of way which run through the site and through the detached location of the access. Given the constraints of the site and the lack of opportunities to better integrate the development with the village, officers consider an acceptable layout could not be achieved at reserved matters stage and this further weighs against the proposal. Further the Design and Access Statement includes reference to the house design styles however these do not seek to reinforce or reinterpret local distinctiveness and would not be an appropriate design response on this visible edge of village site.

Impact upon Historic Environment

- 8.36. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the Local Planning Authority gives special regard to the desirability of preserving a listed building or its setting.
- 8.37. Section 12 of the NPPF (Conserving and Enhancing the Historic Environment) states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Proposals that preserve those elements should be treated favourably.
- 8.38. Paragraph 132 of the NPPF states that: "Significance can be harmed through alteration or destruction of the heritage asset or development within its setting. As

heritage assets are irreplaceable, any harm or loss should require clear and convincing justification.”

- 8.39. Policy ESD15 of the Cherwell Local Plan Part 1 states that development should: “Conserve, sustain and enhance designated and non-designated ‘heritage assets’ including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and PPG.”
- 8.40. Finmere does not have a designated conservation area, and the nearest listed building to the site, this being Stone House, is approximately 200 metres away to the east of the site. Given the separation distance between the site and the Grade II listed buildings within Finmere, and the intervening landscaping and development between the site and these designated heritage assets, it is considered that the proposal could be developed so as not to cause harm to the significance of any Grade II listed buildings or their setting.
- 8.41. As in the earlier application the County Council Archaeologist has however raised an objection to the proposal. The Archaeologist has noted that the site is located in an area of archaeological interest to the north of an area of Iron Age settlement recorded during the construction of the B4031 diversion. The excavation recorded a series of linear features, pits, and a circular gully thought to relate to an Iron Age roundhouse and a hearth. The Archaeologist notes that these features extend beyond the northern limit of the road diversion and may continue into the application site. The Archaeologist has also noted that the site is located 500 metres north west of the projected route of the Roman Road from Alchester to Towcester. This leads the Archaeologist to conclude that it is possible that archaeological features related to the Iron Age and Roman settlement of the area could survive within this proposed site. The Archaeologist notes that little formal archaeological investigation has been undertaken in the area and so, knowledge of the extent of further archaeological features in the vicinity of the proposed development is limited.
- 8.42. As part of the earlier appeal and the current application the applicant has submitted a Geophysical Survey of the site. The findings only identify a small strip of potential interest to the south of the site. However the County Council’s Archaeologist has raised concerns the given the presence of ridge and furrow on the site this may have masked any archaeological deposits. However the previous inspector considered the geophysical survey and concluded that this matter could be adequately addressed by a planning condition requiring further investigation secured by planning condition. Whilst the shortcomings of the submitted information are acknowledged, based on the findings of the inspector, the limited findings of the geophysical survey and the fact that this is an outline planning consent will all matters reserved, it is considered that this could be dealt with through a planning condition which requires further work and mitigation if necessary prior to the submission of a reserved matters application.

Accessibility, Highway Safety and Parking

- 8.43. Policy ESD15 of the Cherwell Local Plan Part 1 states that: “New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions.” Policy SLE4 states that: “All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported.”

- 8.44. The highway authority has objected to the application on the basis that Finmere lacks sufficient facilities or an adequate bus service or other sustainable options of travel to reduce reliance on the private motor car. These matters are discussed in the “principle” section of this report above and officers agree with this assessment.
- 8.45. In relation to the technical matters the highway authority has not raised any objections to the increase in traffic on the local highway network as a result of the proposal and the development is considered acceptable in this regard. Whilst details of the access serving the development are not sought through the current application it is clear this would be required from the Old Banbury Road to the southern boundary. The access point is currently beyond an existing restriction on motorised vehicles so this would need to be altered which would subject to a Section 278 application with the County Council which would need to be secured using a S106 agreement. The Old Banbury Road will need to be upgraded in order to serve the development including potentially widening it, reconstructing it and resurfacing it. The highway authority have also noted that due to the lack of surveillance on the road and to encourage walking a footpath should be provided along the Old Banbury Road and the 30mph speed limited extended along the re-opened section of the road. Amended details have been received from the applicants that show a footpath along this part of the road and further comments are awaited from the highway authority.
- 8.46. Details of the internal layout of the site and parking arrangement would need to be considered through a future reserved matters application.
- 8.47. In regard to the public footpaths crossing the site, these would need to be protected and designed into the development at reserved matters stage. OCC Highways have requested a contribution of £5,000 towards the improvement of the footpaths 213/10 and 213/1 to improve the quality of the footpaths towards the villages as they are likely to experience increased use.
- 8.48. Overall, subject to receipt of additional comments from OCC Highways, from a highway safety perspective the proposed development is considered to be acceptable subject to conditions and a legal agreement to secure the improvements discussed above. However officers agree with the conclusions of the highway authority with regard to the broader sustainability of the settlement and reliance on private motor vehicles, and this weighs heavily against the proposals.

Effect on Neighbouring Amenity

- 8.49. Policy ESD15 of the Cherwell Local Plan Part 1 states that new development proposals should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. Paragraph 17 of the NPPF notes that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Saved Policy C30 of the Cherwell Local Plan 1996 states that design control will be exercised so that new housing development or any proposal for the extension or conversion of any existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority.
- 8.50. Properties adjacent to the northern boundary of the site and to the east of the site are the ones which are most likely to be affected by the proposed development and these require consideration. There are two properties which are directly adjacent to the north part of the site, these being 1 Top Gardens and Flower Patch. The side gable elevation of 1 Top Gardens faces the site, but this side elevation has windows on it including a habitable room at first floor level and this elevation is very close to

the site boundary. The rear elevation of Flower Patch faces towards the site and the rear garden serving this property separates the dwelling from the site.

- 8.51. The indicative layout of the site includes an area of public open space to the north of the site which would separate the new dwellings from the existing properties. Whilst it is accepted that the view from these properties over an open field would change, it is a long established planning principle that there is no right to a private view. It is considered that a scheme which did not significantly impact the amenity of neighbouring properties could come forward so as to prevent undue harm to the amenities of neighbouring properties as well as the amenities of the proposed properties. If this outline application were to be approved, the matter of residential amenity requires careful consideration at the reserved matters stage so as not to unduly affect the amenities of neighbouring residents, in particular those properties immediately adjacent to the site.
- 8.52. Concerns have been raised from third parties in relation to nuisance as a result of the proposed development, but the Council's Environmental Protection Officer has raised no objections to the proposal. Whilst it is likely that there is going to be an increase in noise from the site, for example from vehicular traffic, it is considered that a layout could be agreed so that noise as a result of the proposal would not unduly affect any neighbouring properties. In addition, concerns have been raised by Finmere Parish Council in relation to nuisance for the future occupiers of the proposed housing due to the location of the site near the HS2 rail line and a landfill site as well as the A421. However, no objections have been raised by the Council's Environmental Protection Officer and in the absence of clear evidence to suggest otherwise, it is considered that these local factors are unlikely to result in detrimental levels of nuisance in terms of noise and odour for the future occupiers of the proposed dwellings.

Ecology and Trees

- 8.53. Section 40 of the Natural Environment and Rural Communities Act 2006 (as amended) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making. Paragraph 99 of Circular 06/2005: Biodiversity and Geological Conservation states 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".
- 8.54. Paragraph 109 of the NPPF states 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."
- 8.55. Policy ESD10 of the Cherwell Local Plan Part 1 reflects the requirements of the Framework to ensure protection and enhancement of biodiversity. The Authority also has a legal duty set out at the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that "every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity."
- 8.56. The application is accompanied by a Phase 1 Ecological Survey which includes a walk over of the site. The assessment establishes that the proposed development would not impact upon any protected species and that no harm would result from the proposal. The survey found that there are no field signs indicating the presence

of protected species, but the site has been assessed as having suitability to support bats and bat roosts, great crested newts and reptiles. Recommendations are therefore made within the report for further survey work for bats, great crested newts and reptiles. The report also recommends best practice guidance for avoiding harm to wildlife during the construction phase. Furthermore, the survey makes recommendations in order to enhance biodiversity on the site, including the addition of bird and bat boxes, the use of native wildflower seed mixes and flowering lawns in green spaces and green walls and roofs.

- 8.57. The Council's Ecology Officer has not objected to the proposal and is of the opinion that the submitted ecological appraisal is acceptable and notes that the recommendations set out in this should be adhered to. A number of surveys are required before the determination of the appropriate layout or site clearance, including a survey for reptiles and accompanying mitigation, and a survey of the trees on site for bats to ensure they are accounted for during any tree works and within the scheme. A mitigation scheme for great crested newts for the construction phase has also been advised by the Ecology Officer. The Ecology Officer has also noted that a full biodiversity enhancement scheme will be required. These matters could all be conditioned if the application were to be approved. The Ecology Officer has also requested that a Biodiversity Impact Assessment be undertaken to determine whether a gain or loss of habitats is expected. However this was not requested on the earlier application and there has been no policy change to justify requesting this. A full biodiversity enhancement scheme which makes it clear that an overall gain for biodiversity can be achieved from the proposals would address this and could be secured through a planning condition.
- 8.58. On the matter of trees, Policy ESD10 of the Cherwell Local Plan Part 1 requires the protection of trees amongst other ecological requirements. Policy ESD13 of the Cherwell Local Plan Part 1 also encourages the protection of trees and retention of landscape features.
- 8.59. There are a number of established trees on the site, which are mainly focussed around the perimeter of the site. These are considered in the submitted Arboricultural Survey and Report, and this recommends a layout where a number of these trees can be adequately protected to ensure their long term contribution. The Council's Arboricultural Officer previously considered these details acceptable, and officers are of the opinion that a layout could be agreed which does not unduly impact upon the important trees within the site. Further information, particularly in relation to tree protection, could be sought via a planning condition. Notwithstanding this, a section of the hedge line to the south of the site, adjacent to the old Banbury Road, would require removal in order to facilitate the access and associated vision splays. This would be harmful and would contribute in urbanising this area as discuss above.

Potentially Contaminated Land

- 8.60. The site is located within 250 metres of a landfill site, but the site is not recognised as being potentially contaminated and the Council's Environmental Protection Officer has raised no objections to the proposal. It is therefore considered that the proposal is unlikely to cause public health risks to future users, workers, neighbours and other site receptors.

Flooding Risk and Drainage

- 8.61. A Flood Risk Assessment (FRA) is submitted with the application in line with the requirements of Policy ESD6 of the Local Plan and the Framework, given the site

extends to over 1ha in area and is predominantly in Flood Zone 1. Land within Flood Zone 1 is land which has a less than 1 in 1,000 annual probability of river flooding.

- 8.62. Policy ESD7 of the Local Plan requires the use of Sustainable Urban Drainage Systems to manage surface water drainage. This is all with the aim to manage and reduce flood risk in the District.
- 8.63. The FRA concludes that the proposed development would not be affected by current or future flooding and that the development would not increase flood risk elsewhere. Whilst there is an area to the north of the site that has been identified as being at low risk of surface water flooding, this area is now proposed as public open space. OCC as the Lead Local Flood Authority (LLFA) consider that the proposal can be made acceptable with the use of appropriate conditions and this reflects the conclusion of the previous inspector at the site who considered this matter could be appropriately dealt with through planning conditions.
- 8.64. Anglian Water, the Water Authority for the site, have been consulted on this application. They have indicated that the foul drainage has capacity for the development. However they state that no information has been provided regarding the foul manhole connection point and a pumped regime may be required. They also state further information is required regarding the surface water disposal. Both of these matters can be controlled with a suitably worded planning condition and it is noted that the planning inspector on the earlier appeal considered the matter of flood risk could be adequately addressed through planning conditions.

Sustainability and Energy Efficiency

- 8.65. Policy ESD1 of the Cherwell Local Plan Part 1 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the Cherwell Local Plan Part 1 seeks to achieve carbon emission reductions. Policy ESD3 of the Cherwell Local Plan Part 1 encourages sustainable construction and states that all non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect.
- 8.66. The application has not been accompanied by a Sustainability and Energy Statement and sustainability should be built into the proposal and it should be demonstrated how the proposal complies with Policies ESD1-3 of the Cherwell Local Plan Part 1. However this is a matter that would be addressed by condition if the application were to be recommended for approval.

Effect on Infrastructure/Public Open Space/Affordable Housing

- 8.67. Policy INF1 of the Local Plan states that: *development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*
- 8.68. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC3 requires development within locations such as Finmere to provide 35% affordable housing on site and provides detail on the mix that should be sought between affordable/social rent and shared ownership.
- 8.69. Policy BSC11 of the Cherwell Local Plan Part 1 states that: "Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature

and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in 'Local Standards of Provision – Outdoor Recreation'. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement."

8.70. Notwithstanding Officer's recommendation of refusal, should Members resolve to approve the application, a S106 Legal agreement would be required to be entered into to secure mitigation resulting from the infrastructure impact of the development both on and off site, and to secure provision of affordable housing and public open space to meet the needs of the future residents of the development. This would ensure that the requirements of Policies BSC3, BSC11 and INF1 of the Cherwell Local Plan can be met. The Authority is also required to ensure that any contributions sought meet the following tests, set out at Regulation 122 of the Community Infrastructure Regulations 2011 (as amended):

- Necessary to make the development acceptable in planning terms;
- Directly relate to the development; and
- Fairly and reasonable related in scale and kind to the development.

8.71. With regard to Policy BSC11, this highlights that schemes for over 10 residential units triggers the requirement for a Local Area for Play (LAP) of a minimum size of 100 square metres to be provided. The proposal would also require 200m² of general green open space to be provided on site, in accordance with Policy BSC11, and it is considered that there is adequate space available on the site to achieve this required open space, as well as the LAP.

8.72. Oxfordshire County Council have stated that there is adequate capacity in the existing primary school to accommodate the development and no contribution is required for secondary or special needs education due to the pooling restrictions of CIL. Therefore, insofar as they meet the tests set out at Regulation 122, the following would be sought if this application were to be approved:

- Affordable housing – 35% overall, with a split of 70% affordable/ social rent and 30% intermediate together with arrangements for its provision;
- Play provision in the form of a LAP, along with a commuted sum for the Council to maintain this provision;
- The maintenance of retained hedgerows, ditch, trees, pond and proposed informal open space;
- A requirement for a S278 agreement to be entered into with the County Council to include the means of access onto the B4031, upgrading working (including footpath, widening and resurfacing of B403)1, relocation of vehicle restriction point and introduction of 30mph speed limit.
- Financial contribution towards the improvement of public rights of way

8.73. Given the recommendation for refusal these matters have not been progressed with the applicant and therefore in the absence of a signed legal agreement to secure these matters the application is also unacceptable in this regard.

Local Finance Considerations

- 8.74. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a Local Planning Authority must have regard to a local finance consideration as far as it is material. This can include payments under the New Homes Bonus. However, officers recommend that such funding is given only limited weight in decision making in this case given that the payments would have no direct relationship to making this scheme acceptable in planning terms and Government guidance in the PPG states that it is not appropriate to make a decision based on the potential for the development to raise money for a local authority or other Government body.

Other Matters

- 8.75. Concerns have been raised by third parties in relation to water and electricity supply. In relation to water infrastructure capacity, on the earlier application Thames Water had noted that the existing water supply infrastructure has insufficient capacity to meet additional demands from the proposed development. Thus, Thames Water requested impact studies of the water supply infrastructure as a pre-commencement condition; this would include identifying any infrastructure improvement works required. This would be attached if the application were to be recommended for approval. In relation to electricity supply, this is a matter for the utilities provider.
- 8.76. Concerns have been raised in relation to an increase of air pollution as a result of the proposed development. Whilst an increase in houses within this rural location will undoubtedly increase air pollution omissions, it is considered that the proposal is not likely to cause materially detrimental levels of air pollution in the locality. Furthermore, no objections have been raised from the Council Environmental Protection Officer.
- 8.77. Concerns have been raised in relation to nuisance and disturbance at the construction phase, and if the application were to be approved, a Construction Environmental Management Plan would be recommended as a condition to ensure that works do not adversely affect residential properties adjacent to or surrounding the site.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out within the Framework. The three dimensions of sustainable development must be considered, in order to balance the benefits against the harm in order to come to a decision on the acceptability of a scheme.
- 9.1 The proposed development would result in a comparatively large residential development on the edge of one of the smallest Category A settlements which has limited facilities and a lack of any significant public transport links. The principle of the proposal therefore falls to be considered against Policy Villages 2 of the Cherwell Local Plan and a full range of other policies relating to detailed matters. Policy Villages 2 sits alongside the wider strategy of the Local Plan which seeks to direct residential development to the most sustainable settlements in the District and it includes a number of criteria in order to assess this.
- 9.2 It is considered that allowing 25 homes to be developed would amount to an undesirable overconcentration of new housing development in Finmere that would prejudice a more even planned and sustainable distribution of housing development across the District's Category A villages particularly given the early stage of the plan period and significant progress which has already been made on providing the 750

dwellings under Policy Villages 2. In addition Finmere is the smallest Category A village in terms of population, which offers limited facilities and services and is not as sustainable as other Category A villages in terms of transport accessibility due to the lack of a regular bus service and therefore future residents would be highly reliant on the private car to make day to day journeys.

- 9.3 The proposed development on this site would also cause significant environmental harm to the rural landscape character and quality of the area, as well as the rural setting of the village. The proposed development would also fail to integrate with the existing built environment or relate well to the traditional pattern of development.
- 9.4 The proposal would bring some social benefits including a contribution to the District's ongoing five year supply as well as the provision of affordable housing (subject to a legal agreement). New development also brings economic benefits including providing some construction opportunities.
- 9.5 However, it is considered that the economic and social benefits would be significantly and demonstrably outweighed by the adverse environmental and social impacts identified above and the clear conflict with the housing strategy of the Local Plan. Thus, and in the context of the Council being able to demonstrate an up-to-date 5 year housing land supply, the proposal is considered to be undesirable, unnecessary and unsustainable additional development in this rural location.
- 9.6 It is therefore concluded that the proposal does not constitute sustainable development and the application is therefore recommended for refusal.

10. RECOMMENDATION

That permission is refused, for the following reason(s):

- 1 The development proposed, by reason of its excessive scale in relation to the size and relative sustainability of Finmere, and taking into account Cherwell District Council's ability to demonstrate an up-to-date five year housing land supply, is considered to be unnecessary, undesirable and unsustainable development that would prejudice a more balanced distribution of rural housing growth planned for in the Cherwell Local Plan (2011-2031) Part 1 and would undermine the housing strategy in the Cherwell Local Plan which seeks to distribute new housing to the most sustainable locations having regard to such matters as public services and facilities, transport and employment. Consequently the proposal is unacceptable in principle and contrary to Policies ESD1 and Villages 2 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.
- 2 The development proposed, by reason of its detached siting, excessive scale and poorly integrated relationship with existing built development, would cause significant and unacceptable harm to the historic linear form of the village, rural landscape character and quality of the area and the traditional setting of the village as experienced by local residents, visitors and users of old Banbury Road and the existing Public Rights of Way which run through and within close proximity to the site. The development would detract from the area's established character and would fail to reinforce local distinctiveness. The proposal is therefore contrary to Policies ESD13, ESD15 and Policy Villages 2 of the Cherwell local Plan (2011-2031) Part 1, saved Policies C8 and C28 of the Cherwell local Plan 1996 and Government advice within the National Planning Policy Framework.
- 3 In the absence of the completion of a satisfactory Planning Obligation, the Local

Planning Authority is not convinced that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of safeguarding public infrastructure, mitigating highway safety concerns, delivering mixed and balanced communities by the provision of affordable housing and securing on site future maintenance arrangements, will be provided. This would be contrary to Policy INF1, BSC3 and BSC11 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

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