

**Broken Furrow
Warwick Road
Banbury
OX17 1HJ**

18/01206/OUT

Case Officer: James Kirkham

Applicant: MK1 Developments LLP

Proposal: Outline development for up to 46 dwellings including the demolition of existing buildings, structures and associated infrastructure (all matters reserved except the means of access onto Warwick Road).

Ward: Cropredy, Sibfords And Wroxton

Councillors: Cllr George Reynolds
Cllr Douglas Webb
Cllr Phil Chapman

Reason for Referral: Major development

Expiry Date: 30 April 2019

Committee Date: 30th May 2019

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT

Proposal

The current application seeks outline consent for up to 46 dwellings on the site with all matters reserved except the principal means of access from to the site, which would be created from Warwick Road.

Consultations

The following consultees have raised **no objections** to the application:

- CDC Planning Policy, CDC Ecology, CDC Strategic Housing, CDC Recreation and Leisure, CDC Arboriculture, CDC Environmental Protection, OCC Highway, OCC Education, OCC Education, OCC Archaeology, Thames Water

1 letter of comment has been received.

Planning Policy and Constraints

The site is located within the strategic housing led development allocated under Banbury 5 of the Cherwell Local Plan Pat 1 (2015) for approximately 544 dwellings. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

Conclusion

The key issues arising from the application details are:

- Principle of development
- Highways including access and connectivity
- Design, layout and impact on locality
- Flood Risk and Drainage
- Residential amenity
- Ecology and Protected Species

- Archaeology
- Affordable Housing
- Infrastructure
- Other matters

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions and a legal agreement

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises approximately 1.7 hectares of the 26 hectare strategic housing allocation known as 'Banbury 5: North of Hanwell Fields' to the north west of Banbury. The site is currently occupied by a detached dwelling in mature gardens and a field to the north east of this. The site contains multiple mature trees which are predominantly located on the boundaries of the site and on the boundary between the existing dwelling and the field to the north east. The site is relatively level and access to the existing dwellings is taken from the new access serving the Davidsons housing development from the Warwick Road to the south of the site. The remainder of the Banbury 5 allocation adjoins the northern, eastern and southern boundaries of the site.

2. CONSTRAINTS

- 2.1. The application site is part of the strategic housing development allocated under Banbury 5 of the Cherwell Local Plan Pat 1 (2015) for approximately 544 dwellings. The land surrounding the application site on the northern, eastern and southern boundaries benefits from outline planning consent for residential development for up to 350 dwellings (this is being constructed by Persimmon). The land to the north and west also has reserved matters consent and works on site is well progressed. The land immediately to the south of the site has outline planning permission but does not get benefit from reserved matters. The remainder of the Banbury 5 allocation further to the south and west of the site has outline and reserved matters for new housing which is being constructed by Davidsons Homes (14/00066/OUT and 15/01115/REM refers).
- 2.2. The site is located in an area of naturally elevated area of arsenic and radon. There are a number of protected and notable species including bats, birds and badgers which have been recorded with 250m of the site.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The current application seeks outline planning permission for up to 46 dwellings on the site. The application is made in outline with all matters reserved except the principal means of access to the site from Warwick Road. This would be situated between the existing access points serving the Permission development to the north and the Davidsons development to the south.
- 3.2. The application is supported by an indicative layout plan which demonstrates how the applicant considers up to 46 dwellings could be provided on the site. During the course of the application the indicative layout plan has been amended to reduce the

number of dwellings on the site from 55 and to show 2 pedestrian connections points to the land to the south and east of the site. A local area of play has also been included on the plans.

4. RELEVANT PLANNING HISTORY

4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
06/01600/OUT	OUTLINE - Residential development (up to a maximum of 400 dwellings) with associated vehicular access	Application Refused and appeal dismissed

The above was refused for numerous reasons and was prior to the site being allocated in the Development Plan. It included much of the land allocated under Banbury 5.

07/02052/F	Re-siting of access from highway	Application Permitted
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This allowed for a new access onto the Warwick Road but does not appear to have been implemented.

10/00450/F	Variation of Conditions 3 and 4 of Planning Consent CHN.23/80X - Erection of extension to dwelling to provide a granny flat	Application Permitted
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4.2. The planning history of the surrounding land to the north, east and south is also relevant. This includes:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
12/01789/OUT	Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space	Application Permitted
15/00462/REM	Reserved Matters to outline application 12/01789/OUT - 118 dwellings together with new vehicular access from Warwick Road and associated open space (Phase 1) (land to north west)	Application Permitted
15/01589/REM	Reserved Matters application for 210 dwellings dealing with appearance, landscaping, layout and scale (this development forming the 2nd phase of development which received Outline permission under 12/01789/OUT) (land to north east)	Application Permitted
16/01484/CDC	Erection of single storey building to provide	Application

	5 one bed flats for adults with acquired brain injury, associated parking area, secured courtyard area, and staff and communal accommodation in an additional unit (six units in total) (revised scheme of 16/00515/CDC)	Permitted
16/01485/CDC	Erection of single storey buildings to provide 6 one bed flats for adults with learning difficulties and autistic spectrum condition, associated parking area, shared landscaped gardens, secured courtyard area, and staff and communal accommodation in an additional unit (seven units in total) (revised scheme of 16/00504/CDC)	Application Permitted
16/01210/F	Erection of 20 No. dwellings, associated highways access and parking (this was a part re-plan of 15/00462/REM and lead to 8 additional dwellings)	Application Permitted
17/00708/F	Erection of 20 No. dwellings, associated highways access and parking set in the wider context of 12/01789/OUT and 15/00462/REM (this was a part re-plan of 15/00462/REM and lead to 8 additional dwellings)	Application Permitted

5. PRE-APPLICATION DISCUSSIONS

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

6. RESPONSE TO PUBLICITY

- 6.1. 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 14.01.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. One comment has been made by the developer to the south of the application site. The plan shows pedestrian links to the land they control. They indicate they are under no obligation to provide connections to these links.

7. RESPONSE TO CONSULTATION

- 7.1. 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.

CONSULTEES

- 7.2. OCC HIGHWAYS: **No objections** subject to conditions and S106 contributions. Visibility at the site access was subject to concerns during pre-app discussions however a road safety audit demonstrated that the required visibility splays are achievable and that the existing accesses and proposed access will operate safely and independently. Therefore the principle of the new access from Warwick Road is deemed acceptable.
- 7.3. Despite the distance to local facilities, the site is well connected for residents and visitors to access the development by walking and cycling and connects with the existing footpath provision on Warwick Road. The additional links now proposed would be a significant benefit to residents by making the site permeable for non-motorised modes of travel. Both pedestrian accesses must be constructed right up to the boundary to link up with adjoining parcels. The applicant should agree to a S106 obligation for public access through the proposed footpath links. Walking and cycling should be encouraged through the detailed layout.
- 7.4. The trip generation and distribution outlined in the Transport Assessment is reasonable. The TA shows the development is expected to generate 29 and 39 two-way traffic movements in the AM and PM Peaks respectively. Junction capacity assessments based on this show the proposed development would not have a significant impact on the local highway network.
- 7.5. The turning head in the development will need to accommodate the type of vehicles it is likely to generate including refuse trucks and fire tenders. Car and cycle parking will need to accord with OCC's standard.
- 7.6. Request £78,571.35 (£1,428.57 per dwelling) to sustain and develop the local bus service that offers connectivity with Banbury Town Centre which is proposed to run through the larger site. The aspiration is for the bus service to operate 7 days a week and during the evening. This is the same amount that has been agreed on other site in the vicinity.
- 7.7. In terms of strategic transport infrastructure, as set out in the Local Plan and the Local Transport Plan 4 the increased demand on highway infrastructure arising from proposed development needs to be satisfactorily accommodated. Without improvement the severe congestion impact of cumulative development would not be appropriately mitigated. Traffic from this development would contribute to the cumulative congestion impacts on Warwick Road and therefore a contribution is required towards Local Transport Plan Banbury Area Strategy Policy Ban 1 to help increase the capacity of junctions along Warwick Road. Request a contribution of £102,795 towards 'East-west strategic movements – Warwick Road corridor (covering the roundabout junctions with A422 Ruscote Avenue and Orchard Way) is therefore requested. This is in accordance with the formula in the Developer Contributions SPD.
- 7.8. The submitted residential travel plan needs to be amended to reflect OCC guidance. This can be controlled through a condition.
- 7.9. Given the size and location of the development a Construction Traffic Management Plan would need to be conditioned.
- 7.10. The proposal includes the use of permeable paving and soakaway tanks to manage surface water through infiltration. This is supported by infiltration testing which demonstrates good rates of infiltration. The drainage design should allow for climate change allowance. OCC requests a condition be imposed on any consent to require detailed design details of the proposed SuDs for the site, and a qualitative examination of what would happen if the SuDs fail.

- 7.11. CDC STRATEGIC HOUSING: **No objections subject to the provision of 30% affordable housing.** Provides an indicative mix and recommended standards.
- 7.12. CDC LANDSCAPE OFFICER: The site is visually contained by boundary vegetation and existing and proposed development. There is very limited visibility of the site. Raises concerns that there is no robust landscape strategy and very little street tree planting or open space. Also request provision of local area of play and open space, trees including commuted sums for management and maintenance in accordance with Developer Contribution SPD.
- 7.13. CDC RECREATION AND LEISURE: **No objection** subject to financial contributions to offsite outdoor sports facilities (new/extended clubhouse at North Oxfordshire academy), off-site indoor sports facilities (floodlighting of tennis courts) and community halls (towards the improvement/enhancements of Hanwell Fields Community Hall).
- 7.14. CDC ARBORIST: **Comments.** The trees to be removed are internal to the site and there is a good amount of tree cover due to be retained around the perimeter of the site. Although the trees to be removed are largely category B trees, due to the trees along the boundary, it is not considered that the removal of these trees will have a significant detrimental impact on the surrounding area. In terms of the hybrid black poplars, they are mature trees and it is not ideal to retain poplar trees adjacent to development. If they were retained there would be pressure for them to be removed due to a perceived danger. As these trees are mature they have a limited safe useful life expectancy. It would be expedient to allow the removal of the trees as long as suitable replacement trees are planted. Tree 80 (Category A) should be retained. There will be some shading issues caused by the trees on the southern boundary to the properties along this edge. There may be future pressure to allow tree 82, a sycamore tree, to be pruned. However it will be the front garden which is shaded and the front of the house rather than the back garden. Satisfied with the proposed protection of the retained trees in terms of the special surfacing that they will use, and the special measures proposed in the vicinity of certain trees as set out on the tree protection plan. In terms of the size of the gardens, they should be large enough so that reasonable sized trees can be planted to replace those trees that are going to be removed.
- 7.15. CDC ECOLOGY: **Comments.** The submitted appraisal is acceptable and both bats and badgers are present. The mitigation and method statements within the report will be sufficient to cover these matters. A licence will also be required by Natural England. However raise concern that there appears to be little room in the layout to allow for biodiversity net gain.
- 7.16. CDC ENVIRONMENTAL PROTECTION: **No objection.** Recommend conditions on land contamination investigate, noise assessment for dwellings and provision of ducting for electric vehicle charging points.
- 7.17. THAMES VALLEY POLICE: **Comment.** Requests condition that the development meets Secured by Design Accreditation. Questions need for the pedestrian linkages to the neighbouring site. Public and private spaces must be clearly distinguished. Any flats should provide details of access control etc. The LAP appears very close to houses and requires careful consideration. The parking areas need careful consideration to ensure lighting and surveillance are not compromised by landscaping.
- 7.18. OCC EDUCATION: **No objection** subject to S106 contributions for nursery, primary and secondary education provision.
- 7.19. OCC MINERALS AND WASTE: **No comments.**

- 7.20. OCC ARCHEOLOGY: **No objection** subject to conditions following field evaluation being undertaken.
- 7.21. NATURAL ENGLAND: **No comments.**
- 7.22. THAMES WATER: **No objections** subject to condition requiring water infrastructure to be provided prior to the occupation of the development. The existing foul sewage network and surface water are acceptable.
- 7.23. OXFORDSHIRE CLINICAL COMMISSIONING GROUP: Requests contribution of £47,520 to support improvement of local primary care infrastructure if this development were to go ahead.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. 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 – Effective and efficient use of land.
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC7 – Meeting Education Needs
- BSC10 - Open Space, Outdoor Sport & 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
- ESD3 - Sustainable Construction
- ESD6 – Sustainable Floor Risk Management.
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD10 – Protection of Biodiversity and Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- BAN5 - Land North of Hanwell Fields
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 - Layout, design and external appearance of new development
- C30 - Design of new residential development
- ENV1 - Development likely to cause detrimental levels of pollution
- ENV12 - Development on contaminated land

- TR1 - Transportation funding

8.3. Other Material Planning Considerations

- Cherwell Developer Contributions SPD 2018
- Cherwell New Residential Development Design Guide SPD 2018
- Local Transport Plan 4
- Infrastructure Delivery Plan (IDP) Update December 2017
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is "Clean, Green and Safe", that it supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

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

- Principle of development
- Highways including access and connectivity
- Design, layout and impact on locality
- Flood Risk and Drainage
- Residential amenity
- Ecology and Protected Species
- Archaeology
- Affordable Housing
- Infrastructure
- Other matters

Principle of Development

Policy Context

- 9.1. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 2 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. However the NPPF is a significant material consideration.
- 9.2. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up to date development plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date; granting permission unless the NPPF policies provide a clear reason for refusal or any adverse impacts significantly and demonstrably outweigh the benefits.
- 9.3. The Development Plan comprises the saved policies of the 1996 adopted Cherwell Local Plan and the 2015 adopted Cherwell Local Plan (2011-2031) Part 1. The policies important for determining this application are referenced above in Section 8.
- 9.4. The CLP 2031 seeks to guide new housing development in the district in the most sustainable manner through Policies ESD1 and BSC1. The site is located within 'Policy Banbury 5: North of Hanwell Fields', which is a strategic residential allocation situated to the northern edge of Banbury allowing for approximately 544 dwellings with associated facilities and infrastructure.

Assessment

- 9.5. Given the proposed development lies within the housing allocation identified by Policy Banbury 5, the principle of developing the site for residential purposes accords with the Development Plan. The application site is the final piece of land within the allocation to come forward for planning consent. Planning permission has already been granted on the surrounding land for residential development with the majority of the land also now benefiting from reserved matters approval. To date, detailed planning consent has been granted for a total of 515 dwellings (344 for Persimmon, 160 for Davidsons and 11 for Build!). However, a triangle piece of land (1.3ha) immediately to the south of the site only benefits from outline consent, and is therefore not included in the total number of dwellings on the site at the current time.
- 9.6. The current proposal is for up to 46 dwellings and this would mean that a total of 561 dwellings would have planning consent on the site and there would still be an undeveloped parcel of approximately 1.3ha to immediately to the south of the site. The proposal would therefore exceed the approximate number of dwellings referenced in the Local Plan allocation Banbury 5 (544 dwellings). However, it is noted that approximately 20 dwellings on the Davidsons site are not situated within the allocation site (as shown on the Local Plan Proposals map) and therefore it could be argued these should be excluded from the calculation. Furthermore it is not considered that the current proposal would lead to a material increase in housing numbers on the site above the policy to warrant the proposal representing a departure from the Development Plan and the policy does clearly use the word 'approximately' allowing for some flexibility in numbers. Whilst it is clear that the allocated site is likely to deliver in excess of the numbers of dwelling in the allocation given the current proposal would not be materially in excess of the policy requirement, the quantum of development on the site is considered to be acceptable subject to it complying with the other policies in the development plan and other material considerations, discussed below.

Conclusion

- 9.7. The proposed development is part of an allocated local plan site where the principle of residential development is acceptable. Whilst it is highly likely that the approximate housing number in the Local Plan allocation is likely to be exceeded it is not considered that the current proposal would result in a material increase above this. Subject to other material considerations the quantum of development is considered to be acceptable.

Highways matters including access and connectivity

Policy Context

- 9.8. Policy Banbury 5 states that that access to the wider site should be taken off the existing roundabout and Warwick Road. It goes on to state that the layout should allow a high degree of integration and connectivity to new and existing communities including footpaths and cycle links and create walkable neighbourhoods. Policy SLE4 of the Cherwell Local Plan Part 1 requires that new development provides financial and/or in-kind contributions to mitigate the transport impacts of development. It also states that development which is not suitable for the roads that serve the development and which would have a severe traffic impact will not be supported and that new development should facilitate the use of sustainable modes of transport such as public transport, walking and cycling.
- 9.9. The NPPF has similar themes requiring opportunities to promote walking, cycling and public transport to be identified and pursued, and ensuring that patterns of movement are integral to the design of schemes. It also requires that safe and suitable access to the site can be achieved for all users and that development would only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Assessment

- 9.10. The application is made in outline and only seeks detailed consent for the principal means of access from Warwick Road. The remainder of the layout presented as part of the application is only indicative.
- 9.11. The development proposes a single standard T junction onto Warwick Road from the development site which is 5 metre wide with footpaths either side joining into the existing network. As a cul de sac development accessed off a main distributor road and with a lack of road connection to the remainder of BAN5 development, the proposal would be relatively poorly integrated with neighbouring development. The Local Highway Authority (LHA) has been consulted on this application and has raised no objection to the creation of a new access in this location. Whilst officers originally raised concerns regarding the provision of an additional access onto Warwick Road, a road safety audit was undertaken and the visibility and spacing to other junctions is considered to be acceptable in highway safety terms. Ideally the application site would have been served from roads on the adjacent parcels of the Banbury 5 allocation to allow more cohesive integration with the surrounding development, and this is what was envisaged at the time the Persimmon site was granted outline permission. However, these have not been secured on earlier consents from other parcels of adjoining land and, on balance, given the lack of objection from the LHA to the creation of a new access the proposed access arrangement is considered to be acceptable.
- 9.12. In terms of the traffic generation the Transport Assessment provides a robust appraisal as it is based on up to 60 dwellings and indicates a worst case scenario of 39 two way traffic movements in the AM peak (08:00-09:00) and 34 in the PM peak hour (17:00-18:00). The junctions within the vicinity of the site have been modelled

and show that they operate within capacity with the development and other planned and committed growth in the area.

- 9.13. In relation to the wider transport infrastructure, the LHA has requested contributions to accommodate the increased demand on highway infrastructure arising from proposed development. Without this, the severe congestion impacts of cumulative development would not be appropriately mitigated. The proposed development would contribute directly to the congestion impact on Warwick Road and therefore a financial contribution is sought to east-west strategic movement improvements on the Warwick Road corridor (covering the roundabout junctions with Ruscote Avenue and Orchard Way) in accordance with the Local Transport Plan. This contribution is based on the strategic transport contribution formula outlined in the Cherwell Developer Contributions SPD (2018).
- 9.14. A financial contribution is also sought to sustain and improve the local bus service which offers connectivity with Banbury Town Centre. A contribution of £1,428 per dwelling is required which is the same amount per dwelling as has been secured on the wider site. This is considered to be required in accordance with the Local Plan policy and NPPF
- 9.15. The layout shown is indicative and would be subject to a further reserved matters application. This would need to ensure that the proposal was provided with sufficient parking and turning areas to serve the development.
- 9.16. However, it is considered important at this stage that the principle of creating pedestrian linkages to the surrounding wider allocation is established to ensure the development is well integrated. This could to some extent mitigate the impacts of the proposal through lack of vehicular connectivity. When the application was originally submitted the only pedestrian access to the site was from Warwick Road and there were not connections to the surrounding land allocation. The current application has been amended to provide some pedestrian linkages to the surrounding parcels of land. This includes a pedestrian link to the area to the north east of the site where an open space is planned on the adjacent development and a footpath is proposed to the application site. It also includes a link to the development to the south of the site which is yet to receive reserved matters approval. Whilst these links are indicative at the current time it is considered important to secure them through a legal agreement to ensure that the development provides a permeable and connected development and encourages walking and cycling.

Conclusion

- 9.17. Overall, subject to conditions and legal agreement, the highway impacts of the development are considered to be acceptable and comply with the relevant local and national planning policy.

Design, layout, density and impact on locality

- 9.18. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The NPPF goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 9.19. Paragraph 127 of the NPPF states that planning decisions should ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, are visually attractive as a

result of good architecture, layout and appropriate and effective landscaping; and create places that are safe, inclusive and accessible with a high standard of amenity for existing and future users. Paragraph 130 of the NPPF states that: *“Permission should be refused for development that fails to take the opportunities available for improving the character and appearance of an area and the way it functions.”*

- 9.20. Policy ESD15 of the Cherwell Local Plan (2011-2031) Part 1 states that: *“New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design. All new development will be required to meet high design standards.”* The Cherwell Residential Design Guide SPD also encourages development which is locally distinctive and the use of appropriate materials and detailing, but states that new development should avoid the creation of ‘anywhere places’ which do not respond to local context.
- 9.21. Policy BSC2 states that housing development should be efficient use of land and should be provided on net developable areas at a density of at least 30 dwelling per hectare unless there are justifiable planning reasons for lower density development.
- 9.12. Policies BSC10 and BSC11 of the Cherwell Local Plan Part 1 requires the provision of open space and recreation provision commensurate to the need generated by the proposals.
- 9.13. Policy Banbury 5 of the Cherwell Local Plan (2011-2031) Part 1 sets out some key site specific plan shaping principles in relation to the matters of landscape and visual impact, as well as the impact upon the character of the area. This includes retaining and enhancing landscape features such as trees and hedgerows
- 9.14. 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 as well as compatible with existing buildings.

Assessment

- 9.22. The current application is made in outline so the plans submitted regarding the layout are only indicative. These show the provision of a road through the middle of the site with smaller roads from this.
- 9.23. The landscape and visual impacts of the development would be relatively localised given that the site is surrounded by the wide housing allocation. Therefore the impact on the broad landscape is not considered to be significant and the main issues to consider are the site specific matters.
- 9.24. It is important to consider as part of the outline application whether up to 46 dwellings could be provided on the site in an appropriate manner. The site is a slightly awkward triangular site and has a number of mature trees on the boundaries which positively contribute to the appearance of the site. During the course of the application the number of dwellings has been reduced from 55 dwellings as concerns were raised over whether that quantum of development could be accommodated in an acceptable manner including open space whilst ensuring the existing features of the site such as the existing trees were incorporated in the scheme.
- 9.25. An indicative layout has been submitted which seeks to demonstrate how up to 46 dwellings could be provided on the site and attempts to respond to some earlier concerns have been made. The proposal now shows the provision of a Local Area of Play (LAP) on site and the provision of general green space in accordance with BSC11 of the Cherwell Local Plan, albeit much of the general green space is around

the boundaries of the site and would not be usable space. The indicative plans also show the retention of a greater number of existing trees on the site and leave the existing field boundaries discernible. Concerns have been raised during the course of the application regarding the extent of tree loss and efforts have been made by the applicant to attempt to address this. The proposal would lead to the loss of some mature Category B Black Poplar trees on the southern boundary and the Council's Arborist has not objected to this as these trees are not very suitable for residential areas and have a limited life span as they are already mature. Whilst this is unfortunate, as the site forms part of an allocated housing site it is considered to be acceptable and replacement tree planting would need to be provided to compensate for the loss of these trees.

- 9.26. The layout of the development proposes to face onto the planned public open space to the north of the site in a positive manner and this helps integrate the development into the wider site.
- 9.27. There do remain some concerns regarding the indicative layout and the potential relationship between some of the buildings in terms of residential amenity and also the relationship between the dwellings and some of the trees and the opportunities for landscaping within the main street. There also remain some concerns regarding the more detailed elements of the scheme, and the layout currently presented is unlikely to be supported. However, it is considered that these issues could be resolved at a reserved matters application with the provision of fewer detached units and a greater number of terraces and smaller units. Based on 46 dwellings the proposal would represent approximately 27 dwellings per hectare. It is important to note that the development is for 'up to 46 dwellings' and therefore – especially if the housing mix is as per the indicative layout – a fewer number of dwellings may ultimately be provided on the site. On balance it is therefore considered that up to 46 dwellings could be provided on the site in an acceptable manner taking into account the constraints of the site.
- 9.28. The detailed design of the dwellings would need to be considered at a later reserved matters stage and this would need to have regard to advice in the Council's new Residential Development Design Guide. Given the size of the site it is considered that it is not reasonable or necessary to require a Design Code for this particular site, although development of the site should have regard to the Design Code for the Persimmon part of the BAN5 allocation.

Conclusion

- 9.29. The proposed development is considered to be acceptable with regard to the landscape and visual impacts. On balance, the site is considered to be capable of accommodating up to 46 dwellings on the site and noting that the final layout and design of the scheme would be fully considered as part of a reserved matters application.

Flooding Risk and Drainage

Policy Context

- 9.30. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

- 9.31. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

Assessment

- 9.32. The proposed drainage strategy for the site includes the use of permeable paving and soakaway tanks to manage surface water from the development through infiltration to the ground and the infiltration testing has been undertaken at the site to demonstrate this is feasible. The Lead Local Flood Authority states that the 1 in 100 year design storm event must include the climate change allowance and sensitivity testing which could be secured as part of the detailed drainage scheme. Given the outline nature of the application and the fact that infiltration has been demonstrated to be feasible they have recommended a surface water drainage scheme be required by condition of any permission given.
- 9.33. Thames Water states that the foul water sewage network and surface water network have capacity to accommodate the proposed development. Following initial investigations, Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of this development and recommends a condition is imposed on any permission given to prevent occupation of any dwelling on the site until appropriate mitigation is in place.

Impact on Residential Amenity

Policy Context

- 9.34. Policy ESD15 of the CLP 2015 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. Saved Policy C30 of the CLP 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.

Assessment

- 9.35. The proposed layout is only indicative and therefore the relationship between the properties on the site would be fully considered at a later date. There are a number of relationships between dwellings on the indicative layout which do not meet the standards outlined in the Residential Design Guide SPD. However, this could be resolved at a reserved matters stage through an alternative layout. The proposed development is not considered to adversely impact on any of the existing properties adjoining the site and is part of a wider housing allocation.

Ecology Impact

Legislative context

- 9.36. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

- 9.37. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.38. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

Policy Context

- 9.39. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.40. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
- 9.41. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.42. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.43. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.44. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a

planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

- 9.45. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.46. The site is not subject to any statutory or non-statutory ecological designation. The application is supported by a detailed Ecological Report which identifies the site has several protected species present. Two summer bat roosts have been confirmed for a small number of Common Pipistrelle bat within the main dwelling and a tree on the site. The boundary vegetation was also noted to be used to a limited extent for commuting. The survey also recorded badger setts at the site. One of these was noted to be active and may potentially be used for breeding.
- 9.47. The Council's Ecologist has reviewed the assessment and is satisfied that the suggested mitigation and method statements within the submitted report should be sufficient to cover these aspects legally. A licence would be needed for bats and potentially for badgers also depending on the final layout. It has also been recommended that a lighting strategy would be needed which is sympathetic to the use of the boundary vegetation by nocturnal wildlife.
- 9.48. Concerns have been raised on earlier iterations of the scheme for more dwellings that there was little space to provide biodiversity enhancements on the site. However, the amended plans have provided more space to the boundaries of the site and it is considered that additional planting to strengthen the boundaries could be provided and the layout could be adjusted to provide more space. It is recommended that a condition be imposed on any grant of consent that a scheme demonstrating a net gain in biodiversity is provided as part of any reserved matters for the site.
- 9.49. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Archaeology

Policy Context

- 9.50. Paragraph 189 of the NPPF states that: *"In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance."*
- 9.51. Paragraph 193 of the NPPF states that: *"When considering the impacts of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the*

asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” Paragraph 194 of the NPPF goes on to state that: “Any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification.”

- 9.52. Paragraph 196 of the NPPF states that: *“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*
- 9.53. Policy ESD15 of the CLP 2015 states that new development proposals should: *“Conserve, sustain and enhance designated ‘heritage assets’ (as defined in the NPPF) 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 NPPG.”*

Assessment

- 9.54. The application site is not within a designated conservation area or within the setting of any listed buildings within the immediate vicinity of the site. However, the site is within an area of archaeological interest.
- 9.55. When the application was originally submitted the County Archaeologist objected to the scheme as the site is in an area of considerable archaeological interest with pre-historic and Roman features identified in the proximity of the site and no archaeology desk assessment or investigation had been submitted. Since that time further work has been undertaken by the applicant including field work elevation with a number of trenches on the site. This recorded a range of archaeological deposits dating from the Bronze Age through to the Roman period including pits, ditches and postholes. Having reviewed this, the County Archaeologist states that these features are not of such significance to preclude any development on the site but that a programme of further archaeological investigation would be required ahead to development, which can be controlled through a planning condition.

Affordable Housing and Housing Mix

Policy context

- 9.56. Policy BSC3 of the Cherwell Local Plan Part 1 2015 states that all proposals that include 11 or more dwellings in Banbury will be expected to provide at least 30% of new housing as affordable. It goes on to state that this should be a mix of affordable rent (70%) and intermediate tenure (30%).
- 9.57. Policy BSC4 requires that new development provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive community.

Assessment

- 9.58. The applicant has stated that the proposal would incorporate a mix of 1, 2, 3 and 4 bedroom properties in accordance with Policy BSC4 of the Cherwell Local Plan and their indicative layout broadly shows this. They also state that the proposal would provide affordable housing in accordance with Policy BSC3. This would need to be secured through a legal agreement. This would equate to 14 affordable dwellings on the site, the full details of which would be secured through the reserved matters application.

Impact on Local Infrastructure

Policy Context

- 9.59. Policy INF1 of the CLP 2015 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.”* Policy Banbury 5 also requires contributions towards additional school places, extension and improvement of bus service and community facilities.
- 9.60. Policy BSC11 of the CLP 2015 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.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.61. The Developer Contributions Supplementary Planning Document (SPD) sets out the position in respect of requiring financial and on site contributions from new development towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.62. Where on and off site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development;
 - c) Fairly and reasonably related in scale and kind to the development.
- 9.63. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.64. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- Provision of and commuted sum for maintenance of open space including open space, hedgerows, trees and attenuation features (approx. 0.275ha general green space)

- Provision of and commuted sum for maintenance of equipped Local Area of Play (100sqm activity zone – 400sqm including buffer);
- Off-site outdoor sports facilities provision – £92,782 towards the extension/new clubhouse at North Oxfordshire Academy.
- Off-site indoor sports facilities – £38,497,55 towards improvements and enhancements to Banbury West End Tennis Club
- Community hall facilities - £49,023.12 towards the improvement/enhancement of Hanwell Fields Community Hall
- £106 per dwelling for bins
- Provision of at least 30% affordable housing (70% affordable/social rent and 30% as other intermediate affordable)
- Provision of 2 new pedestrian accesses up to the boundary of the site and allow public access through these points

Oxfordshire County Council

- £1,428.57 per dwelling to sustain and enhance the local bus service
- £1,869 per dwelling towards 'east west strategic movements – Warwick Road corridor'
- Obligation to enter into a S278 agreement to secure the new access and improvements.
- £22,873 contribution towards nursery provision for expansion of provision at Harriers Banbury Academy (*note: this is approximate and would be based on the final number of dwellings and housing mix*)
- £364,587 contribution towards the primary school at Southam Road (*note: this is approximate and would be based on the final number of dwellings and housing mix*).
- £338,650 contribution towards secondary (incl. sixth form) provision at new secondary school at Banbury 12 (*note: this is approximate and would be based on the final number of dwellings and housing mix*).

9.65. CDC's Developer Contributions SPD states that new residential development will be expected to contribute towards the provision of additional health care infrastructure generated by its population growth where there is insufficient existing capacity, well located to serve the development. Whilst the Oxfordshire Clinical Commission Group has been consulted, they have not provided further information to understand where any contribution would be spent. Thus, officers do not consider that they can request contributions towards health care infrastructure.

Conclusion

9.66. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts and local infrastructure.

Other matters

9.67. Saved Policy ENV12 of the CLP1996 sets out that development on land which is known or suspect to be contaminated will only be permitted if

- (i) Adequate measures can be taken to remove any threat of contamination to future occupiers of the site.
- (ii) The development is not likely to result in contamination of surface or underground water resources
- (iii) The proposed use does not conflict with other policies in the plan.

- 9.68. The site is on land which is potentially contaminated and the Council's Environmental Protection Officer (EPO) therefore recommends that phased contaminated land conditions need to be attached should permission be granted. Officers agree with this assessment.
- 9.69. Regarding air quality, the Council's EPO requests that ducting is provided for the future installation of Electric Vehicle charging infrastructure in order to make resident parking places EV ready for future demand. The NPPF and Policies SLE4 and ESD1 of the CLP 2015 encourage and support the incorporation of measures into new development that promote more sustainable forms of transport. The provision of EV charging infrastructure is also reflected in the Council's Infrastructure Delivery Plan. It is considered reasonable and necessary for this to be secured through a condition of any permission given.
- 9.70. Policy ESD1 of the CLP 2031 states that measures should be taken to mitigate the impact of development within the District on climate change, and Policy ESD2 of the CLP 2031 seeks to achieve carbon emission reductions. Policy ESD3 of the CLP 2031 encourages sustainable construction methods. The reference to allowable solution in Policy ESD2 and 'zero carbon' are no longer being pursued by the government so are no longer relevant. However, the water usage requirements of ESD3 are still required to be met. In regard to energy efficiency the Council now seeks to secure in excess of that required under the 2013 Building Regulations. These could be controlled through a condition.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. The proposal is located on a strategic housing allocation where the principle of new residential development is considered to be acceptable. Whilst the proposal would lead to the number of dwellings in the policy being exceeded, this is not considered to be a material increase and the policy allows for some flexibility. On balance, and taking into account the density of the scheme, it is considered that the site could be successfully developed for up to 46 dwellings whilst preserving most of the key natural features of the site and contributing to diversity. Whilst the provision of a new access onto Warwick Road is not ideal, given there is no objection from the LHA on this and the scheme secures pedestrian links through the site into the surrounding allocation on balance this is considered to be acceptable.
- 10.2. The scheme would provide the social and economic benefits associated with the provision of new housing and would also provide additional affordable housing in the district. Whilst there are some concerns regarding the layout and detail of the scheme these could be resolved at a reserved matters stage.
- 10.3. Overall, subject to conditions and a legal agreement, the development is considered to comply with the Development Plan when read as a whole and it is recommended that planning permission be granted.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) Provision of at least 30% affordable housing on site

- b) Provision of and commuted sum for maintenance of open space including open space, hedgerows, trees and attenuation features
- c) Provision of and commuted sum for maintenance of equipped Local Area of Play
- d) Off-site outdoor sports facilities provision – £92,782
- e) Off-site indoor sports facilities – £38,497,55
- f) Community hall facilities - £49,023.12
- g) £106 per dwelling for bins
- h) Provision of 2 new pedestrian accesses up to the boundary of the site and allow public access through these points
- i) £1,428.57 per dwelling to sustain and enhance the local bus service
- j) £1,869 per dwelling towards 'east west strategic movements – Warwick Road corridor'
- k) Obligation to enter into a S278 agreement to secure the new access and improvements.
- l) £22,873 contribution towards nursery provision
- m) £364,587 contribution towards the primary school provision
- n) £338,650 contribution towards secondary (incl. sixth form) provision

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 30th JUNE 2019 IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND ECONOMY IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:

1. In the absence of the completion of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the necessary infrastructure directly required both on and off site as a result of this development, in the interests of: safeguarding public infrastructure, education provision, community facilities and indoor and outdoor sports/recreation facilities; mitigating highway safety concerns; encouraging use of sustainable modes of transportation; 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, PSD1, SLE4, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, Banbury 5, ESD1 and ESD15 of the Cherwell Local Plan (2011-2031) Part 1 and Government guidance contained within the National Planning Policy Framework.

CONDITIONS

Time Limits

1. No development shall commence until full details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

Plans

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out in broad accordance with the following plans and documents: Flood Risk Assessment; Arboricultural Impact Assessment; Ecological Appraisal; Archaeological Desk-Based Assessment; Flood Risk Assessment and drainage Strategy.

Reason: For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and comply with Government guidance contained within the National Planning Policy Framework.

Finished floor levels

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Desk Study / Site Walkover

6. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and has been submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason: To ensure that any ground and water contamination is identified and

adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Intrusive Investigation

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Scheme

8. If contamination is found by undertaking the work carried out under condition 7, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Land Contamination Remediation Works

9. If remedial works have been identified in condition 8, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 8. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning

Policy Framework.

Drainage

10. Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- SUDS (Permeable Paving, Soakaway Tanks)
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- Network drainage calculations
- Phasing
- Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

Access

11. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway on Warwick Road including position, layout, and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of any of the development, the means of access shall be constructed and retained in accordance with the approved details. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

Reason - In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

Construction Traffic Management Plan

12. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved CTMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

Archaeology

13. Prior to any demolition and the commencement of the development a

professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2018).

14. Following the approval of the Written Scheme of Investigation referred to in condition 13, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority and approved in writing.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF.

Energy Statement

15. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the local planning authority) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

Reason - In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

Biodiversity enhancement

16. Prior to the commencement of the development hereby approved including any demolition, and any works of site clearance, and as part of any reserved matters application for layout and landscaping, a method statement and scheme for enhancing biodiversity on site such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be submitted to and approved in writing by the Local Planning Authority. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

NOTE: It is advised that this condition include a Biodiversity Impact Assessment metric to show how a clear net gain for biodiversity will be achieved.

Landscape and Ecological Management Plan (LEMP)

17. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out other than in accordance with the approved LEMP.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Lighting strategy

18. Prior to the installation of any external lighting a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Water system upgrade

19. No properties shall be occupied until approval has been given in writing by the Local Planning Authority that either:

- all water network upgrades required to accommodate the additional flows from the development have been completed; or
- a housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason - The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development

Travel information packs

20. Prior to first occupation the development a Travel Information Pack shall be submitted to and approved by the Local Planning Authority. Thereafter the first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

Water usage

21. No dwelling shall be occupied until it has been constructed to ensure that it

achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason - In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Compliance with ecological appraisal

22. The development hereby approved shall be carried out strictly in accordance with the recommendations set out in sections MM1-MM8 and MM11-MM14 of the Ecological Appraisal carried out by Aspect Ecology dated March 2018 unless otherwise agreed in writing by the Local Planning Authority.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Electrical Vehicle Infrastructure

23. Each dwelling shall be provided with ducting to allow for the future installation of electrical vehicle charging infrastructure to serve that dwelling prior to its first occupation.

Reason - To maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

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