

**Case Officer:** Rebekah Morgan

**Applicant:** Grundon Waste Management Ltd & Cemex UK

**Proposal:** Proposed residential redevelopment for approximately 200 units

**Ward:** Banbury Grimsbury and Hightown

**Councillors:** Cllr Andrew Beere, Cllr Perran Moon, Cllr Shaida Hussain

**Reason for Referral:** Major development

**Expiry Date:** 30 November 2016

**Committee Date:** 19 September 2019

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**This application was subject to a Committee Members Site Visit, which took place on 19<sup>th</sup> September 2019**

### **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

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

##### **Proposal**

This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.

##### **Consultations**

The following consultees have raised **objections** to the application:

- Banbury Town Council, Network Rail, CDC Environmental Protection and Banbury Civic Society

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

- Environment Agency, Oxfordshire County Council (Single response), Thames Water, Thames Valley Police, CDC Planning Policy, CDC Housing, CDC Landscape, CDC Recreation and Leisure, CDC Waste and Recycling, CDC Ecology and CDC Finance

3 letters of objection have been received.

##### **Planning Policy and Constraints**

The site is subject to the Banbury 19 strategic allocation which proposes 150 residential units on this site. Other relevant policies are set out in paragraphs 7.2 and 7.3 of the previous case officers report (attached at Appendix 1).

The site is contaminated land, is immediately adjacent a mainline railway, and is also partially within Flood Zone 3 (the zone of highest flood risk).

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

## **Conclusion**

The key issues arising from the amended application details are:

- Principle of development
- Access and transport impacts
- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

The application was previously reported to Planning Committee on 18<sup>th</sup> July 2019 but was deferred to allow for a pre-committee site visit to take place. This report is an addendum to the previous case officer report (attached at Appendix 1) and addresses additional information submitted in respect of flooding and drainage, and noise.

The report provides updates on these two issues (to be read in conjunction with the original report) and Officers conclude that the proposal is acceptable subject to conditions and a s106 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. PURPOSE OF THIS REPORT**

- 1.1. The purpose of this report is to provide an update on application 16/00472/OUT (S Grundon Services Ltd, Merton Street, Banbury). On 18 July 2019 members took a decision to defer the application for a pre-committee site visit.
- 1.2. This report is an addendum to the original case officers report and should be read in conjunction with the report contained within the agenda pack for planning committee on 18 July 2019 (included at Appendix 1).
- 1.3. This report focusses on two outstanding matters:
  - Flood risk and drainage
  - Noise impact assessment

## 2. ADDITIONAL COMMENTS

- 2.1. The following comments have been received since the writing of the previous committee report (some of these were included in the written updates for planning committee on 18 July 2019).
- 2.2. ENVIRONMENT AGENCY: **Objection withdrawn.** Comments are set out in full at paragraph 3.3 below.
- 2.3. CDC ENVIRONMENTAL PROTECTION: No objections but make the following comments;

*Damage Cost Assessment* – Satisfactory, no comments.

*Noise Assessment* – The Council's Environmental Protection Officer has discussed this matter with the agent's consultant. A summary of the technical comments have been provided which state:

### *'Section 4.3*

- *Paragraph 2 and 3. It's not clear how the 'representative' background levels have been arrived at?*
- *Paragraph 3 should refer to Figure 9 not 8 and the time period should be 8 not 16 hours. The last sentence should also read 'night-time' and not 'daytime'.*
- *The night time background level is 6dB higher than the day time, is that correct? You thought it might be to do with the LMD but see query below.*
- *Paragraph 7 (2<sup>nd</sup> paragraph on page 14) gives the night time levels without LMD. The background level dropped by 2dB but is still higher than the daytime background? The night time background was 51dB in paragraph 3 so a 2dB drop would give a level of 49dB and not 48 as shown.*
- *With all noise sources removed attributable to the rail line and the LMD (paragraph 1 top of page 15) the night time background is still 49dB and still higher than the day time level. In the next paragraph it mentions the M40 as another residual noise, however I would expect the noise from this to be lower at night.*
- *Last paragraph on page 15, the start of the third line needs to be deleted. Probably a copying and pasting typo from the paragraph above.*

### *Section 4.5*

- *As the first bullet point above, how have the 'Ambient' and 'Background' levels been arrived at in Table 3? Are they the average of all the hourly and 15 minute readings for the day and night respectively? What is the range i.e. max and min? The night time background should be 49 according to previous calculations in the report.*

### *Section 5.3*

- *Should a higher penalty be applied to account for all the acoustic characteristics of the noise from trains idling in the LMD and not just the air brakes?*

### *Section 8.3*

- *Can you confirm, as it's not that obvious from the figures showing the modelled data in section 7.4, that acceptable internal levels can only be achieved with the glazing specifications detailed in section 8.3 and with windows closed, in which case alternative ventilation other than trickle vents will be required?*

- *Octave band data is shown for the glazing specifications but not for the measured data.*

2.4. BANBURY CIVIC SOCIETY: The Society made comments on this site in 2017 (?) and we hope these will be reflected in the report to Committee. We note that Network Rail have also made extensive critical remarks concerning the use of this site for housing, notwithstanding its allocation for that purpose in the Approved Local Plan. It seems to us that, despite the urgent need for social housing, this site has many disadvantages to that end, especially given the complaints that have already arisen from existing nearby residents citing noise, vibration and other disturbance to the detriment of their living conditions.

However, the Society is most concerned about retaining the long term possibility of extending Higham Way southwards to either a) connect with the proposed South-to-East link road between Bankside and Chalker Way (see Banbury Vision and Masterplan), OR b) to swing eastwards around the perimeter of Ban 6 also to link with Chalker Way, thereby also providing access possibilities to the presently undeveloped remainder of Ban 6. The Indicative Layout, as posted, does not engender confidence that either of these options would be possible.

Both of the above options would provide a secondary access to / from both the area south of Causeway and the railway car park. This would contribute towards relieving, to a greater or lesser degree depending on other construction, the congestion at the Middleton Road / Merton Street junction and provide improved connectivity to the whole area.

It is argued that, as the area south of Causeway is predominantly social housing in character, traffic generation is low. Observation at various times of the day indicates that this assumption is not true and therefore any opportunity to alleviate the situation should be promoted.

Furthermore the alignment of Higham Way extension into the proposed development, as shown on the submitted drawings, is very much of 'switchback' in nature and is barely suitable for an estate access road. It would certainly not be suitable if a further extension southwards, as envisaged, is ultimately achieved.

If committee is minded to support the southward extension of Higham Way, we would suggest a reappraisal of the layout in order to make it suitable for both those living nearby and those who might be using it as a through route to (say) the railway car park.

*Officer Comment: The current illustrative layout plan demonstrates that it is possible to form a new route through the site to connect to the 'Banbury 6' site and therefore potentially to the proposed link road.*

2.5. COUNCILLOR SHAIDA HUSSAIN: **Objects**

2.6. ALMA ROAD RESIDENT: Objects on the grounds that –

I believe the area is already overdeveloped in terms of housing and there are far too many homes in too close proximity.

The road network cannot cope with the current amount of traffic and cannot sustain further housing development in the area. There is a huge issue of slow moving traffic and congestion in the whole area around Middleton Road, Merton Street, Higham Way, Alma Road, Bridge Street and beyond.

There is a massive issue with air quality in the area and the effects of traffic fumes and pollution for pedestrians and people who live and work locally.

*Officer comment: The application site is allocated with the Cherwell Local Plan 2031 and therefore expected to be re-developed for residential use. Oxfordshire County Council as the Local Highway Authority raise no objections to the proposal with regards to highways issues.*

### **3. APPRAISAL**

#### **FLOOD RISK AND DRAINAGE**

3.1. The applicants have entered into further correspondence with the Environment Agency to overcome the objection set out in the previous report.

3.2. The Environment Agency have made comments and stated:

*'We have re-reviewed the application and consider that the principle of development is acceptable based upon the flood water compensation information submitted thus far. Subject to the conditions below, we therefore withdraw our previous objection, dated 23 October 2018.*

*The proposed development will be acceptable if the following conditions are included on the planning permission's decision notice. Without these conditions we would object to the proposal due to its adverse impact on the environment'.*

3.3. The Environment Agency has recommended six conditions which (in brief) cover the following areas:

1. Flood compensation scheme
2. Specified minimum finished floor levels
3. Remediation strategy to deal with risks associated with contamination of the site
4. Verification of works being carried out in accordance remediation strategy
5. No piling using penetrative methods to be carried out without the written consent of the LPA
6. No drainage systems for the infiltration of surface water to ground are permitted without the written consent of the LPA

3.4. The recommended conditions have been included in the revised recommendation for the application and the conditions are set out in full below.

#### **NOISE IMPACT ASSESSMENT**

3.5. As noted in the previous case officers report (see Appendix 1) the site is particularly constrained in terms of noise levels especially with its location adjacent to the railway line.

3.6. The Noise Assessment report has concluded that due to the relatively high noise levels across the site, the dwellings cannot be ventilated by openable windows whilst meeting the internal noise criteria set by the Council. To address this, it is proposed to install a noise barrier along the south-west boundary of the site. The details of the noise barrier will be required via condition, but it is expected to be a minimum of 6m in height and can be comprised of a mixture of bunding and fencing.

3.7. The latest comments made by the Council's Environmental Protection Officer raise some queries with the submitted Noise Assessment. The applicant has submitted further information and revised reports to address these comments. At the time of

writing this report, further comments from the Environmental Protection Officer are expected and will be provided in the written update.

- 3.8. However, it is anticipated that current noise constraints affecting the site can be overcome with the combination of acoustic sound installation to individual properties and the construction of an acoustic bund/fence (minimum 6m high). The details of both measures will be dealt with via planning conditions, as recommended below

#### **4. PLANNING BALANCE AND CONCLUSION**

- 9.1. I reiterate the conclusions set out in the original case officers report. The site is allocated for residential development under Policy Banbury 19 of the Cherwell Local Plan 2031. However, the site faces several challenges due to its shape, the need to provide a through route from Higham Way to connect to the Policy Banbury 6 site (and hence the proposed South East Link Road), the cost of remediation of contaminated land, and the high noise levels on the site.
- 9.2. The applicants are proposing that in order to meet these demanding requirements, that the density of the development is increased to make the site feasible/viable to develop. In your officer's opinion this increase in density is necessary.
- 9.3. Furthermore, given the size/shape of the site, the increase is only possible if the scheme comes forward as a wholly flatted development. Whilst this is contrary to Policy Banbury 19 of the Cherwell Local Plan 2031, the land is unlikely to come forward in any other form of residential development. This would impact on housing delivery rates and leave an allocated brownfield site undeveloped. The alternative of reducing housing numbers to provide a policy compliant housing mix would impact further on the sites viability.
- 9.4. It is anticipated that current noise constraints affecting the site can be overcome with the combination of acoustic sound installation to individual properties and the construction of a minimum 6m high acoustic bund/fence.
- 9.5. The Environment Agency have now withdrawn their objection and are content that flood risk, contamination and drainage matters can be dealt with via suitable conditions. These have been included in the officer recommendation.
- 9.6. Due to the lack of viability of the scheme, driven by high remediation costs, it is necessary to strike a balance between affordable housing and other infrastructure contributions and negotiations will be ongoing taking account of any views expressed by members and the interests of both the district and County Council. Provided members are satisfied with all other aspects of the proposal, it is recommended the committee resolve to grant permission (as set out in the recommendation below) allowing negotiations to proceed with confidence that if an acceptable conclusion is reached then planning permission will be forthcoming. Failure to reach agreement would of course result in the application returning to committee.

#### **5. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE RESOLUTION OF THE OUTSTANDING NOISE ISSUES, 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, IN ACCORDANCE WITH THE**

TERMS SET OUT IN PARA 8.51 OF THE ORIGINAL COMMITTEE REPORT AT APPENDIX 1.

## CONDITIONS

### **Time Limits and General Implementation**

1. No development shall commence until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) of the hereby approved development 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, and Article 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

2. In the case of the reserved matters, no application for approval shall be made 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, and Article 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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, and Article 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

4. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application forms, Design and Access Statement, Energy Statement, and drawings numbered: PL-99 Location Plan (July 2015), PL-103A Proposed Site Access Plan (June 2017) and 116150\_TP\_0002 Proposed Site Access Arrangements (September 2017).

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

### **Phasing**

5. Prior to the commencement of the development hereby approved, a phasing plan covering the entire application site 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 phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to each phase (or phases) it relates to as set out in the approved phasing plan.

Reason – To ensure that the proposed development proceeds in a manner which minimises impacts on external infrastructure and the amenity of the area, and to secure a form of development that is in accordance with the aims of the site allocation, to comply with Policy SLE4, ESD15 and Banbury 19 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Finished Floor Levels**

6. All reserved matters submissions within an approved phase (where buildings are proposed) shall be accompanied by details of the proposed finished floor levels of all proposed buildings in relation to existing surrounding ground levels for that phase. Where the floor level details are approved as part of the reserved matters approval, the development in that phase shall be undertaken in accordance with the approved levels.

Reason – To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Demolition of Existing Buildings**

7. Prior to the commencement of the development hereby approved, the buildings and structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site.

Reason – In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Maximum No. of Dwellings**

8. No more than 200 dwellings shall be accommodated on the site.

Reason – In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policy ESD15 and Banbury 19 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Means of Access**

9. Prior to the commencement of the development hereby approved, full details of the means of access between the land and Higham Way, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

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

### **Estate Roads and Footpaths**

10. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

Reason – In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

### **Completion of Access Road**

11. Prior to the first occupation of any of the dwellings hereby approved the main access road shall be completed in accordance with condition 10 above to a point on the south-east boundary to be first submitted to and agreed in writing with the Local Planning Authority.

Reason – In order to secure the proper planning of the area and the development of adjoining land and to safeguard the opportunity to provide a link to the proposed South East Link Road to comply with Policy SLE4, ESD15 and Banbury 19 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

### **Drainage Strategy**

12. Prior to the commencement of the development hereby approved, a detailed drainage strategy for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on a phase of the development a detailed surface water and foul water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

The strategy shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The phases shall subsequently be implemented in accordance with the approved details before the development is completed. The detailed drainage schemes shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (this may be secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations

- Phasing plans
- Flood Risk Assessment

Reason – To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Noise Levels/Insulation**

13. Prior to the commencement of the development hereby approved, full details of a scheme for acoustically insulating all habitable rooms within the dwelling(s) such that internal noise levels do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014, 'Guidance on sound insulation and noise reduction for buildings', shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the dwelling(s) affected by this condition, the dwelling(s) shall be insulated and maintained in accordance with the approved details.

Reason – To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

#### **Noise Barrier**

14. Prior to the first occupation of any dwelling a noise barrier to perform in accordance with the requirements of the submitted noise report (reference to be inserted) shall be installed in accordance with full details of its design, siting, layout, height, construction and finished appearance which have first been submitted to and approved in writing by the Local Planning Authority prior to its installation. The noise barrier shall thereafter be retained in situ.

Reason – To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

15. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### **Reptile Survey**

16. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance or the translocation of any reptile, a reptile survey (which shall be in accordance with best practice guidelines) shall be carried out, and the findings, including a mitigation strategy if required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works of mitigation shall be carried out in accordance with the approved details.

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.

#### **Breeding Birds (Hedgerow Removal)**

17. No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

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.

#### **Ecology Enhancement Measures**

18. Prior to the commencement of any phase of the development hereby approved, full details of a scheme for the location of bat, bird, owl and invertebrate boxes on that phase of development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building on that phase of the development, the bat, bird, owl and invertebrate boxes shall be installed on the site in accordance with the approved details.

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.

#### **LEMP**

19. Prior to the first occupation 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 LEMP shall be carried out and adhered to in accordance with the approved details.

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.

#### **CEMP**

20. No development shall take place (including demolition, ground works, vegetation

clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- a) Risk assessment of potentially damaging construction activities;
- b) Identification of 'Biodiversity Protection Zones';
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) The times during construction when specialist ecologists need to be present on site to oversee works;
- f) Responsible persons and lines of communication;
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority

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.

#### **Energy Strategy (Reserved Matters)**

21. Reserved matters applications made for any phase as defined in the approved phasing plan shall be in general accordance with the submitted Energy Strategy and shall be the subject of a further energy statement that demonstrates how the development in that phase will take the opportunities available to improve energy efficiency and incorporate low carbon technology to minimise environmental impact. No dwelling shall be occupied until it has been constructed to meet the energy performance standard in accordance with the approved details.

Reason – To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. Details are required at pre-commencement stage to ensure that from the outset each dwelling is designed and constructed to achieve a high level of fabric efficiency in the interests of environmental sustainability.

#### **Domestic Waste Disposal**

22. Prior to the commencement of each successive phase of the development hereby approved, full details of the location, method of storage and disposal of all means for the disposal of domestic waste from the dwellings along with a timetable for their provision within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out and maintained in accordance with the approved details

Reason – To ensure that proper arrangements are made for the disposal of waste, to ensure the creation of an environment free from intrusive levels of odour/flies/vermin/litter, in accordance with Policy ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy

Framework.

### **Residential Travel Plan**

23. Prior to occupation of any phase of the development a residential travel plan shall be submitted to and approved by the Local Planning Authority. The plan shall incorporate details of the means of regulating the use of private cars at the development in favour of other modes of transport and the means of implementation and methods of monitoring.

Reason – In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

### **Construction Traffic Management Plan**

24. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason – In the interests of highway safety and the residential amenities of neighbouring occupiers, to comply with Policy SLE4, ESD15 and Banbury 19 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

### **Flood Water Compensation Scheme**

25. Prior to the approval of reserved matters, a flood water compensation scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

1. Calculations, assessment and details of proposed flood water storage areas and methods used to provide the required compensation;
2. A phasing plan demonstrating installation and completion of the compensatory flood water storage areas prior to construction of any of the proposed dwellings on site;
3. A maintenance strategy explaining how the flood water storage areas will remain clear and operational for the lifetime of the development;
4. Details of the floodable undercroft parking areas.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason – This condition is sought in accordance with paragraph 163 of the National Planning Policy Framework to reduce the risk of flooding on-site and elsewhere, and to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1.

### **Finished Floor Levels (Flood Risk)**

26. Finished floor levels shall not be set lower than 90.45m AOD (at the southeast end of the site) and 90.85m AOD (at the north-west end of the site) as stated within paragraph 5.1.2 of the Flood Risk Assessment, prepared by Peter Brett

Associates, reference 33390/4001, revision A, dated 3 October 2017.

Reason – This condition is sought in accordance with paragraph 163 of the National Planning Policy Framework to reduce the risk of flooding on-site and elsewhere, and to comply with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1.

### **Contamination**

27. Prior to commencement of each phase of development approved by this planning permission, a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. This strategy will include the following components:
1. A preliminary risk assessment which has identified:
    - All previous uses
    - Potential contaminants associated with those uses
    - A conceptual model of the site indicating sources, pathways and receptors
    - Potentially unacceptable risks arising from contamination at the site
  2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
  3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason – To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of ground and water pollution in line with Policy ENV1 of the Cherwell Local Plan 1996 and paragraph 170 of the National Planning Policy Framework.

28. Prior to each phase of development being occupied, a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason – To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site complete. This is in line with Policy ENV1 of the Cherwell Local Plan 1996 and paragraph 170 of the National Planning Policy Framework.

### **Piling etc.**

29. Piling using penetrative methods shall not be carried out other than with the written

consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason – To ensure that the proposed development, does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework.

### **Surface Water Infiltration**

30. No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled water. The development shall be carried out in accordance with the approved details.

Reason – To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

### **Planning Notes**

1. The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:
  - On or within 8 metres of a main river (16 metres if tidal)
  - On or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
  - In a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact the National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by e-mailing [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

2. With regard to condition 27, previous activities at this site may have resulted in contamination. Potential sources of contaminations have been noted on this site. In particular a former gas works, waste sites and oil storage have been described. This site is located within a sensitive area with regards to underlying aquifers and surface watercourses. These are controlled water receptors which could be impacted by any contamination present on the site.

Further investigation is required to determine the extent of any contamination present and to what extent it poses a risk to controlled waters. Any risk identified would need to be adequately addressed to ensure that controlled water receptors are not impacted. This could include remedial works to resolve contamination issues.

## **APPENDIX 1 – PREVIOUS COMMITTEE REPORT**

Below is the report included in the agenda for planning committee on 18 July 2019. This should be read in conjunction with the above report.

### **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

#### **Proposal**

This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.

#### **Consultations**

The following statutory consultees have raised objections to the application:

- Banbury Town Council, OCC Highways, and Environment Agency

The following non-statutory consultees have raised objections to the application:

- Banbury Civic Society

2 Letters of objection have been received

#### **Planning Policy**

The site consists of the Banbury 19 strategic allocation which proposes 150 units on this site. Other relevant policies are set out at para 7.2 and 7.3 below

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

#### **Conclusion**

The key issues arising from the amended application details are:

- Principle of development
- Access and transport impacts
- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

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. The scheme meets the requirements of relevant CDC policies.

## **RECOMMENDATION - GRANT PERMISSION 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. This application relates to a 3 hectare site on the eastern side of the railway just south of Banbury railway station. It is currently used as an operational base for waste freighters operated by the applicants. It consists in part of surfaced and unsurfaced yard areas and contains some buildings in workshop and welfare uses.
- 1.2. The site is bounded to the south west by the London-Birmingham rail lines, beyond which lie commercial buildings accessed off Station Approach (the area is known as Power Park). To the north lie 2 and 3 storey houses and 3 and 4 storey flats in Marshall Road and Vernay Road. To the north-east are areas of parking and open space associated with the development off Vernay Road and Chandos Close, and areas of open undeveloped land lie to the south east.
- 1.3. The site is accessed off Higham Way, which in turn are linked through Merton Street to Middleton Road.

#### **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. This outline application (with all matters reserved) seeks planning permission for 200 dwellings. Illustrative plans accompanying the application show that the dwellings would be provided in multiple blocks of apartments of three, four and five stories in height. Car parking (at one space per unit) would be provided as undercroft parking in the ground floors of the blocks. Communal landscaped areas and play provision would be provided around the blocks.
- 2.2. The road access to the site would be an extension of Higham Way and would skirt the western side of the site (next to the railway) for most of its length. It is designed to provide a through route from north to south to provide the possibility of onward connection to the land allocated for commercial development in the Cherwell Local Plan to the south, and possibly through to a south eastern perimeter road at some time in the future.
- 2.3. Due to the noise levels on the site, from the adjacent railway and newly opened railway depot, the site will need currently unspecified noise mitigation measure on the western boundary.

#### **3. RELEVANT PLANNING HISTORY**

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
01/01030/OCC	Building to house a material recovery facility	Objections
15/00069/SO	SCREENING OPINION - Proposed	Screening

#### 4. PRE-APPLICATION DISCUSSIONS

- 4.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
14/00190/PREAPP	Preapplication Advice - Proposed residential redevelopment
15/00161/PREAPP	Follow-up Pre-App enquiry - Proposed residential development

#### 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 10.10.2018, although comments received after this date and before finalising this report have also been taken into account.

The comments raised by third parties are summarised as follows

**Banbury Civic Society's** most recent comments are that they are surprised and dismayed that no notice appears to have been taken of the Society's earlier comments. The Society therefore wishes to restate its **objection** to the current application.

It is the Society's view that, if Cherwell Street is to be relieved of traffic for the benefit of the economic health of both the town and residents, then additional east / west 'cross valley' infrastructure will have to be provided. At the moment the only viable option on the table is a South-to-East Link Road from the A361 to Chalker Way (and thence to the M40) via the Bodicote Flyover, and we believe the County Council has accepted this idea in principle, subject, of course, to further study and, possibly, alternative routes - which have not been forthcoming to date.

The Society's outline proposals envisage a link from the S-to-E route to Higham Way in order to provide essential connectivity to the Grimsbury area in general and the railway (east-side) car park in particular, thereby relieving the Merton Street junction and providing a more acceptable access to the car-park from the south and west of the town.

It is perverse, therefore, not to keep this future use of Higham Way in mind when considering any future use and layout of the 'Grundon' site particularly in relation to the alignment and width requirements that the possible extension of Higham Way southwards to junction with any S-to-E road that will be necessary for the predicted traffic load. If such future opportunities are not kept in mind at this stage, then options will be closed that could be to the detriment of the town in the future.

As a second comment, and in the light of recent complaints regarding noise from railway operations, the Society wishes to re-iterate its previous view that the 'Grundon' site would be better utilised for the relocation of businesses displaced from Canalside than for residential purposes, that is unless extensive noise suppression measures are incorporated on the western boundary treatment.

In their original comments the Civic Society also noted that whilst not objecting to housing in this location per se, they wish consideration to be given to the facts that the site is (a) in close proximity to a 24 hr. working railway and (b) is not far from the 24 / 7 rolling stock maintenance depot now under construction. Have noise, light pollution and vibration predictions for this site been supplied?

**Two Letters** have been received from residents of Marshall Road and Alma Road. Concerns are raised about

- overdevelopment of the site,
- potential to increase peak time congestion on Higham Way, Merton Street, Middleton Road, and Bridge Street
- Parking on residential streets
- Impact on air quality
- Concerns about increased flooding risks
- Noise from increased accessing traffic

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.

### **6.2. PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS**

**BANBURY TOWN COUNCIL:** would like to object to this application. We believe the development does not comply with policy BSC 3 as the details of the affordable housing within the scheme are unclear or absent. Members also expressed concern over the feasibility and practicality of the new access road between Higham Way and Chalker Way which has been proposed. This leads us to believe that the proposal does not comply with policy SLE 4 "development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported". Members also had some environmental concerns with this development, particularly relating to policy ESD 7 as there does not appear to be a SuDS scheme attached to the proposal.

The scheme is not in line with policy Banbury 19 – Land at Higham Way. Paragraph C.217 states "in principle the site offers a suitable location for development, and would contribute to the creation of sustainable and mixed communities". We do not believe a development consisting totally of one and two bedroom flats in this circumstance could contribute towards creating "sustainable and mixed communities". Policy Banbury 19 also clearly states that a Travel Plan and transport assessment should be submitted with any proposals for the policy area, neither has been submitted by the applicant. Banbury 19 states that the site is fit for approximately 150 units comprising of 70% houses and 30% flats, we do not believe the applicants reasons for submitting a proposal for 200 flats and ignoring this recommendation are strong enough. Lastly, a wholly flatted development such as this is unlikely to provide "an age friendly neighbourhood with extra care housing

and housing for wheel chair users and those with specialist supported housing needs” as stated in policy Banbury 19.

### STATUTORY CONSULTEES

- 6.3. ENVIRONMENT AGENCY’s latest comments are that in their response to this application dated 6 August 2018, they objected to this proposal and recommended refusal of planning permission because of the absence of an acceptable Flood Risk Assessment (FRA). In particular, the submitted FRA failed to provide detailed information on the proposed croft parking and underfloor voids regarding losses and gains in floodplain storage, and clarify whether there would be any loss in flood plain storage proposed from the under crofts.

Since that response, they have received additional information. They are pleased to see the clarification that there will be 576.4m<sup>3</sup> of flood plain storage gained on this site. They are however concerned, that the proposed undercroft parking drawing prepared by JSA Architects, reference PL-127, has not confirmed whether the proposed undercroft void would be set above the 1 in 100 year flood level with an appropriate allowance for climate change. As no height for this void has been specified on this drawing, it has not been demonstrated whether flood flows would be impeded and if flooding would occur elsewhere. They therefore **maintain their objection** to this proposal as submitted. An update on this Issue will be given in an update to Committee if available.

- 6.4. OXFORDSHIRE COUNTY COUNCIL initially responded in November 2016 raising objections on transport grounds due to the lack of traffic modelling and on drainage grounds. They indicated that there were no objections on education issues subject to the securing infrastructure contributions for secondary, SEN and early years provision. They also sought contributions for library and adult care provision. They further commented that the current waste management facility is being relocated to a nearby site at Thorpe Mead, where planning permission was granted in 2011 for the redevelopment and extension of an existing waste transfer and recycling facility also operated by Grundon. There would therefore be no loss of waste management capacity as a result of the proposed development of the Merton Street site, and the proposed development would not be contrary to policy W11 of the emerging new Minerals and Waste Local Plan: Part 1 – Core Strategy.

Since then there has been detailed negotiation on traffic and transport matters including the provision for the access road to be to adoptable standard and to be built to the southern limit of the site in such a form that it could act as a through road to the BAN 6 site and a potential link road between Chalker Way and Bodicote.

More recently the County Council stressed that the scheme should only be approved if the applicants committed to the delivery of an estate road through the site allowing a future link to the planned Banbury SE link road. In Jan 2018 the County Council withdrew its objection to the scheme on drainage grounds subject to the imposition of a suitable drainage condition.

By October 2018 they indicated that a revised indicative layout plan, PL111G, had been provided, showing a road linking the site access with the southern boundary. The county council welcomed the inclusion of this link road. However, they still had the following comments on the layout and alignment:

- The link road appears sufficiently wide for two-way traffic, but vehicle swept path analysis should be provided to demonstrate this.
- A turning head will need to be provided at the southern end of the road.
- Near block J the edge of the carriageway is very close to the site boundary. There will need to be adequate space for a verge of no less than 1m.

- It is undesirable for the play area to be on the opposite side of the road to the majority of the housing. The crossing points are close to the bend, and sufficient visibility will need to be demonstrated.
- Traffic calming measures will need to be introduced. These could be short narrowings, but this detail can be conditioned.
- There is no footway shown on the railway side of the site. This is acceptable in principle except at the southern end of the site, where there are residential units on both sides of the road. 2m footways would be required on both sides along this section of road, with a suitable crossing point for continuity.
- It is noted that there are no off-carriageway cycle facilities on the road. The application mentions a green pedestrian/cycle route through the heart of the site, but the layout does not show a clear route that would be sufficiently wide, and the route appears to use the road at the northern and southern end of the site. There should be a continuous shared use pedestrian/cycle route 3m wide through the site.
- There are two areas of perpendicular parking proposed along the link road, one of which comprises nine spaces, and the other is close to a bend and blocks visibility from the adjacent access. This is unsuitable for this type of road, due to the risk of reversing vehicles. With adjacent spaces occupied, there would be insufficient pedestrian visibility splay to the back of the footway, and traffic flow would be adversely affected. The county council would not adopt perpendicular parking and would require an 800mm maintenance strip between the back of the spaces and the adopted footway.
- It is recommended further work is done on the road alignment to address the above issues, so that a corridor can be defined and specified in the S106 agreement. It is recommended that, if the development comes forward in phases, the detail of the link road is included in the first reserved matters application, and that no reserved matters layouts are approved at the site that does not include the road.
- Although the layout is indicative, I also note that the side roads do not have turning heads. I am not confident that refuse vehicles and other delivery vehicles could turn in the layout provided, so additional space (potentially taking up parking spaces) may need to be provided for turning. There is then a question as to whether the site could provide sufficient parking for residents.
- I also note that the Proposed Site Plan PL111G is inconsistent with the proposed site access plan, PL-103, which showed a narrower access road. While this is an application for outline planning permission with all matters reserved, the ability of the site to provide safe and suitable access for all road users, should be considered at this stage. The carriageway and footway must tie in with existing facilities on Higham Way. In particular, as the footway at the end of Highway Way is not adjacent to the carriageway (i.e. not as shown in the site layout plan) some highway works will be required to tie the proposed footway within the site, into the footway on Higham Way.

Since then further amended plans have been received and all of the above issues appear to have been satisfactorily dealt with bearing in mind that the layout and access are reserved matters which will be determined later in the planning process.

6.5. NETWORK RAIL In their original response in 2016 they commented that the scheme is just to the south-east of Banbury Railway Station, and the proposal also includes works both during construction and as a permanent arrangement in relation to the layout and design of the site that will be undertaken next to the existing operational railway. Having reviewed the documentation as submitted by the developer Network Rail had a whole series of detailed comments on the then

proposed earth bunding and fencing (specifically its stability). They said that acoustic fencing / close boarded fencing that is proposed to be installed along the boundary with Network Rail is a cause for concern. Therefore the acoustic fence and its foundation design would be subject to the Network Rail Asset Protection Engineer review. Any acoustic fencing should be set back from the railway boundary such that the fence and its foundations can be constructed and maintained wholly within the applicant's land ownership footprint. They also had comments about the drainage of the site, likely noised impact of rail operations upon the residents, and congestion of the road network around the station.

In their most recent comments they indicate that all these concerns remain.

#### 6.6. THAMES WATER comment as follows:

##### Waste Comments

With the information provided Thames Water, has been unable to determine the waste water infrastructure needs of this application. Should the Local Planning Authority look to approve the application ahead of further information being provided, we request that the following 'Grampian Style' condition be applied - "Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed". Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

##### Surface Water Drainage

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

##### Water Comments

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

##### Supplementary Comments

Thames Water advises that a drainage strategy should be provided with the details of the points of connection to the public sewerage system as well as the anticipated flows (including flow calculation method) into the proposed connection points. This data can then be used to determine the impact of the proposed development on the existing sewer system

## NON-STATUTORY CONSULTEES

### 6.7. CDC POLICY raise no objection in principle and comment:

The adopted Cherwell Local Plan states that, in principle, the site offers a suitable location for development, and would contribute to the creation of sustainable and mixed communities. Policy Banbury 19 provides greater detail on the Council's site specific requirements. In particular it states that this is an appropriate location for higher density housing to include a mix of dwelling styles and types. Taking advantage of the accessibility of the site to the town centre, development should create an age friendly neighbourhood with extra care housing and housing for wheel chair users and those with specialist supported housing needs. It also states there is potential for live/work units.

Future detailed reserved matters will need to include, inter alia, the following elements to meet the requirements of Policy Banbury 19:

- a) Approximately 70% houses, 30% flats
- b) 30% Affordable Housing
- c) The provision of extra-care housing and the opportunity for community self- build affordable housing.
- d) Open space as outlined in Policy BSC 11 (NB 200 dwellings will meet the threshold for providing NEAPS, LEAPS/LAPS and outdoor sports provision on site)
- e) Developer contributions towards primary school and secondary education provision.

These specific requirements, and the others required to meet Local Plan policies, may limit the number of dwellings able to be accommodated satisfactorily on the site.

### 6.8. CDC LANDSCAPE ARCHITECT initially commented that they had concerns in respect of future ownership and maintenance responsibility of the sound attenuation wall. This matter will be clarified with the 106 agreement. We at Landscape Services would appreciate being involved in the drafting of the 106 in respect of the sound attenuation wall and the play area and public open space.

I look forward to the submission detailed hard and soft landscape proposals:

All plants are to be supplied in accordance with Horticultural Trade Association's National Plant Specification and from a HTA certified nursery. All plants are to be planted in accordance with BS3936. Trees are to be supplied, planted and maintained in accordance with BS8545. Delivery and backfilling of all plant material to be in accordance with BS4428/JCLI/CPSE Code of Practice for 'Handling and Establishing Landscape Plants, Parts I, II and III.

All excavated areas to be backfilled with either topsoil from site or imported to be BS3882 –General purpose grade. All topsoiled areas to be clear of rocks and rubble larger than 50mm diameter and any other debris that may interfere with the establishment of plants.

### 6.9. CDC STRATEGIC HOUSING comments that we have no objection to the proposed residential development and there is a 30% affordable housing requirement to be made on site. There should be a mix of tenure within that affordable housing provision of 70/30 rented and shared ownership which should be agreed with the Council.

As stated, our preference would be for some affordable houses to be designed into the scheme. If this is not possible we would need to have some discussions regarding the best use of the affordable housing on this site in terms of client groups and tenure mix.

We would expect to see a mix of houses and flats making up the affordable housing provision, which should include 1,2, and 3 bed units with the majority being 1 and 2 beds.

However, there is still no indication as to how the affordable housing will be provided. The design appears to consist of large blocks of flats over undercroft parking which may cause issues with the clustering of the affordable units and potential mixed tenure blocks. In general we do not like to have 2 bed flats for rent above first floor level.

The affordable units should be delivered in clusters of no more than 10-15 units although this can be discussed further at reserved matters stage, should this be awarded outline permission.

All of the affordable housing units are to be built to the government's Nationally Described Space Standard (Technical Housing Standards), and we would expect that 50% of the affordable rented units meet the Building Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings requirement.

The parking provision does not seem adequate, we would expect that for the affordable units the 1 bedroom properties should have a minimum of 1 parking space per unit – and the 2 and 3 bedroom properties should have a minimum of 2 parking spaces per unit.

There may be scope for some form of specialised housing provision on the site due to its town centre location, which may present a more concentrated affordable housing provision, however this will need to be considered further should the scheme progress.

The Registered Provider taking on the affordable housing units would need to be agreed with the council.

6.10. CDC RECREATION AND LEISURE raises no objections subject to a legal agreement securing necessary infrastructure for the site in the following manner:

On-site outdoor sports facilities (as per the 2018 SPD)

Off-site contribution towards the development of on-site outdoor sports facilities. Based on 1.13ha per 1000 people. 1 dwelling = 2.49 persons. 200no dwellings x 2.49 = 498 x 0.00113ha = 0.56ha requested.

Off-site indoor sports facilities (as per the 2018 SPD):

Off-site contribution towards the expansion and/or enhancement of existing indoor sports facilities within the vicinity of Banbury (more specific information to be provided as the new district sports studies emerge). Based on £335.32 per person. 200 dwellings x 2.49 x £335.32 = £166,989.36.

Community Hall Facilities (as per the 2018 SPD):

In accordance with the recommendation of the 2017 CCDS Study a required community hall facility standard of 0.185m<sup>2</sup> per person will be applied for applications of 10 dwellings or more. The minimum onsite facility size is 345m<sup>2</sup> (approx. 750 dwellings). For applications smaller than this, a financial contribution towards existing facilities within the vicinity of the development will be requested. Based on the cost of existing facilities, £298.88 per 1m<sup>2</sup> will be expected. 200 x 2.49 persons x 0.185m<sup>2</sup> x £298.88 = £27,535.81.

Public Art Provision:

Financial contributions will be sought for public realm and public art projects listed in the Council's IDP which is updated on an annual basis. Community Services Arts officers to be consulted on a case by case basis for guidance on what projects to request funding towards.

6.11. CDC ENVIRONMENTAL PROTECTION comment:

**Air Quality**

The Air Quality Assessment referenced 3382/AQ/001 submitted by Accon UK does not include damage cost calculations, which was previously advised would be required.

**Noise**

The Noise Assessment initially submitted is limited to a desk study of noise break-in only and does not include an assessment of the impact of the LRMD and sidings as previously requested.

With regard to the LRMD reference has just been made to a previous report prepared by Spectrum Acoustics indicating that average operational noise levels from the depot would be approximately 45-50dB(A). It also goes on to state the Spectrum Acoustics report does not discuss maximum levels from the LRMD and therefore these could not be assessed. The LRMD wasn't built in accordance with the application for which the Spectrum Acoustics report was submitted. The noise from the sidings is intermittent with the frequent stopping and starting of engines and the release of air brakes. The assessment therefore needs to be in accordance with the requirements of BS4142 and include corrections for the character of the noise. Quoting an indicative average level from a previous report is not sufficient.

Data for the number of train movements has just been taken from the Rupert Taylor report as 'likely to be 22 passenger trains and 36 freight trains', there is also no data for the number of night-time movements. The assessment needs to be based on current movements.

Further uncertainties with this assessment are detailed in section 3.5 of the report, the last paragraph of which mentions that these would be reduced with a detailed acoustic survey and modelling.

With regard to source height the last paragraph in section 4.1.2 mentions that this cannot be determined without a more detailed site survey. In section 4.2 'Proposed mitigation measures' the last sentence states 'However, we do not have sufficient information to accurately assess this', and in section 4.4 the last sentence states 'Again, we would need more detailed survey information to assess this'.

The submitted report is insufficient and does not address the issues previously raised. As previously advised a detailed noise impact assessment is required to include an assessment of all potential noise sources that might impact on the proposed development site.

Since these comments a further noise report has been submitted. At the time of writing this report the further comments of the EPO were awaited. They are expected to be received before the Committee and will be included in the written update.

6.12. CDC WASTE AND RECYCLING comment that the Developer will have to satisfy the local authority that they have adequate provision for waste and recycling storage, before the application is agreed. Bin stores for flats need to be 1.4 sq.m. and households need space of 1.8 sq.m. If the developer needs any more advice please refer to: Waste and Recycling guidance which can be found on the Cherwell District Council website. Section 106 contribution of £106.00 per property will also be required.

#### 6.13. CDC ECOLOGY

Regarding the above outline application, generally the conclusions of the ecological assessment report are considered to be sound. Since the original habitat survey was undertaken in January 2015, over two years have passed and it is possible that the habitats have become more developed over this time as such updated surveys would be recommended prior to commencement of development. The existing trees should be retained where possible, and all retained trees should be protected in line with the British Standards. Although no evidence of bats was found in the buildings and they are sub-optimal construction for bats, an updated inspection of the buildings should be undertaken prior to demolition works due to the time that has passed since the survey in January 2015. The site comprises large areas of suitable habitat for nesting birds, including the buildings and scrub/trees, as such works should be timed to avoid the nesting bird season (approx. March to August).

The reptile survey was undertaken during April - June 2015, at an appropriate time of year and largely during appropriate weather conditions, although I do note that the temperature during the first visit was cool (6 degrees C) as such no reptiles were likely to have been found. No reptiles were recorded during the survey. As highlighted in the report, a small population of common lizard has been recorded to the north of the site. In addition, a medium population has been recorded to the south of the site (14/01621/F). Given the suitability of the existing habitat within the site from aerial photography and the description (rubble piles), and known records and time since the survey was undertaken, an updated reptile survey should be undertaken prior to any site clearance works commencing, during appropriate weather conditions and at the appropriate time of year (optimal periods are April - June or September-October). I recommend a condition for an updated reptile survey below. The results of which would then inform appropriate mitigation measures should common lizard be present, which should be provided as part of an overarching Construction Environmental Management Plan (CEMP) of the site.

There are no known records of GCN in the local area which appears to have been well surveyed. However as a precaution, great crested newts will need to be considered within the CEMP given the ephemeral pool which is present within the site and ditches present, and an updated assessment of these habitats will be required to inform the CEMP. The site must be cleared sensitively, with ecological supervision of clearance of suitable habitat. Should any GCN be found during works, all works must stop immediately whilst Natural England is contacted for advice and a licence is likely to be required.

From the indicative landscape proposals, I can see that areas of native trees and shrubs are proposed along the north-east boundary of the site and extensive tree planting within the site, including along part of the south-west boundary. The proposed sound bund to the railway line is also a good opportunity to provide biodiversity enhancements within the detailed landscaping. The tree and shrub planting should comprise of a variety of different native species, as these are far more beneficial to biodiversity than non-native species. The detailed landscaping plans should include a suitable buffer to the proposed hedgerows/linear scrub boundaries such as rough grassland/wildflower grassland margins, and be managed

for wildlife to ensure these are protected as functioning wildlife corridors. Although the rough grassland, disturbed ground and scrub habitats will be lost to development, given the large areas of existing hardstanding, it is considered likely that a biodiversity gain will be achievable within any detailed plans provided that biodiversity enhancements are considered at the detail design stage, e.g. through the creation of wildflower grasslands within the proposed landscaping areas, SuDs/swales, and provision of log piles, invertebrate boxes, reptile and amphibian hibernacula in suitable locations along the boundaries of the site. Provision of integrated bat and bird boxes in suitable locations within the proposed buildings are also strongly recommended due to the opportunities within the built environment, e.g. sparrow terraces, bat tubes/boxes etc. Given the swift records in the local area, at least 10 swift bricks should also be incorporated into the walls of the buildings in suitable locations to be advised by an ecologist. Further information can also be provided by the swift conservation officer for Cherwell. In line with the report, the design of the lighting scheme should also consider the use of the site by foraging and commuting bats. A detailed landscape and ecological management plan (LEMP) of the site should include all details of appropriate habitat creation and long term management across all phases of the development.

I therefore have no objections subject to the conditions below:

K9 Reptile Survey

K12 Nesting Birds: No Works Between March and August Unless Agreed

K18 Habitat Boxes

K20 Landscape and Ecological Management Plan (LEMP)

K21 Construction Environmental Management Plans (CEMP) for Biodiversity

K23 Use of Native Species

#### 6.14. CDC FINANCE

It is estimated that this development has the potential to attract New Homes Bonus of £858,800 over 4 years under current arrangements for the Council. This estimate includes a sum payable per affordable home.

#### 6.15. THAMES VALLEY POLICE

I do not wish to object to the proposals. However, I consider some aspects the design and layout to be problematic in crime prevention design terms and therefore feel that the development may not meet the requirements of:

- The National Planning Policy Framework 2018, Section 12 'Achieving well-designed places', point 127 (part f), which states that; 'Planning policies and decisions should ensure that developments... create places that are safe, inclusive and accessible... and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience'.
- HMCLG's Planning Practice Guidance on 'Design', which states that; 'Although design is only part of the planning process it can affect a range of objectives... Planning policies and decisions should seek to ensure the physical environment supports these objectives. The following issues should be considered: safe, connected and efficient streets... crime prevention... security measures... cohesive & vibrant neighbourhoods.'

In addition, the Design and Access Statement (DAS) does not adequately address crime and disorder as required by CABE's 'Design & Access Statements- How to write read and use them'. This states that DAS' should; 'Demonstrate how development can create accessible and safe environments, including addressing crime and disorder and fear of crime'. I

suggest the omission of a section on crime and disorder prevention is addressed at reserved matters.

In addition, I offer the following advice in the hope that it will assist the authority and applicants in creating a safer and more sustainable development, should outline approval be granted:

- I am concerned about the provision of undercroft parking. These features can attract antisocial behaviour (ASB) and make vehicles and people vulnerable. This design also creates a development with little or no active frontage to the street at ground level, which can have a negative effect on community interaction. I would prefer to see designs amended to omit the undercrofts or convert them to secure garages. If they must remain, they should be made secure, have appropriate lighting and be overlooked by active rooms of dwellings.
- Blocks A and G have vehicle routes under/through the block. This design can cause the same issues as the above and should be omitted. Again, if they must remain, they should have appropriate lighting and be overlooked by active rooms of dwellings.
- It is unclear from the plans supplied if any of the flat blocks have rooms of dwellings on the ground floor. Regardless, but especially if this is the case, there should be defensible space provided for each of the blocks. An area of at least 1m in depth should be provided to afford the occupants ownership of their private space and provide definition from public areas.
- I note that some flats have balconies. There should be no easily climbable access to these as this will make the blocks more vulnerable to burglary etc.
- The landscaping scheme should ensure that natural surveillance throughout the development and to/from dwellings is not compromised. I am also concerned that some trees and other features may impinge upon street lighting in future. Tree positions and final growth height/spread should be considered to avoid this. A holistic approach should be taken in relation to landscape and lighting and the police's Secured by Design (SBD) scheme guidance on both should be followed.
- The landscaping scheme and maintenance plan must ensure that areas of ambiguous ownership are not created. Measures to prevent vehicle intrusion onto any segregated pedestrian routes and public open spaces must also be provided.
- The design of play areas etc. require careful consideration in relation to proximity to housing, equipment selection (to define user group age etc.), boundary treatment, lighting and landscaping etc. The designs should promote ownership and enjoyment for all users as well as child safety, but they should also deter ASB. Locations must not isolate users and natural surveillance must be maintained.
- I feel there are too many pedestrian routes from the proposed development to the adjacent recreation ground. I believe two would be sufficient and designs of the bridges and an appropriate lighting plan for these routes should be provided prior to submission of a reserved matters application.
- I note that the south facing gable end elevations of the blocks appear to have no windows. Although I am sure the views of the rail lines are not very desirable, there should be oversight of the access road and open spaces at the southern edge of the development from active rooms of the dwellings. Active rooms include living rooms, kitchens and hall ways. Studies, bedrooms, bathrooms/toilets etc. are not considered active.
- Finally, I will have much to advise on at reserved matters in relation to the security of the blocks themselves. Physical security, access control, internal layout, delivery provision, refuse and cycle storage etc. all needs careful consideration. I am of course available to advise the applicants on these aspects should outline approval be granted.

- I would also like to remind the applicants that Building Regulations Part Q requires them to install doors and windows that 'Resist unauthorised access to... new dwellings'. Advice on how to achieve this can be found in Building Regulations Approved Document Q and in SBD's New Homes Guide. The authority may wish to condition that the development incorporates the physical security principles/standards of SBD as this would ensure Part Q is also achieved

The comments above are made on behalf of Thames Valley Police and relate to crime prevention design only. You may receive additional comments from TVP on other Policing issues regarding infrastructure etc. (CDC officers note – no further comments received).

## **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)

- Policy PSD 1: Presumption in Favour of Sustainable Development
- Policy SLE4 Improved Transport and Connections
- Policy BSC 1: District Wide Housing Distribution
- Policy BSC 2: The Effective and Efficient Use of Land
- Policy BSC 3: Affordable Housing
- Policy BSC 4: Housing Mix
- Policy BSC 11 : Local Standards for Outdoor Recreation
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 4: Decentralised Energy systems
- Policy ESD 5: Renewable Energy
- Policy ESD 7: Sustainable Drainage Systems (SuDs)
- Policy ESD 10: biodiversity
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy Banbury 19: Land at Higham Way

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy C28: Layout, Design and External Appearance of New Development.
- Policy C30: Design Control

- Policy ENV12: Development on Contaminated Land

### 7.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Relevant Policies of the Non-Statutory Cherwell Local Plan 2011
  - Policy EN 8: Development sensitive to rail traffic
  - Policy EN 14: Development and Flood Risk
  - Policy EN 15: Surface water run-off and flooding
  - Policy EN 17: Development on contaminated land
- Oxfordshire Minerals and Waste Local Plan: Part 1
  - Core Strategy (2015) policy W11

## 8. APPRAISAL

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

- Principle of development
- Access and transport impacts
- Car parking
- Flood risk and drainage
- Design, and impact on the character of the area
- Housing mix and affordable housing
- Ecology and biodiversity
- Noise impact assessment
- Climate change mitigation
- Open space and outdoor recreation
- Minerals and waste matters
- Contaminated land
- Planning obligations

#### *Policy Context*

8.2. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Section 70 (2) of the Town and Country Planning Act 1990 also provides that in dealing with applications for planning permission that the local planning authority shall have regards to the provisions of the development plan so far as is material to the application and to any material considerations. The Development Plan for Cherwell District comprises the adopted Cherwell Local Plan 2011-2031 and the saved policies of the adopted Cherwell local Plan 1996.

8.3. The National Planning Policy Framework (NPPF) states that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 of the NPPF sets out what is sustainable development, the three strands being economic, social and environmental. It is clear from this that as well as proximity to facilities, sustainability also relates to ensuring the physical and natural environment is conserved and enhanced as well as contributing to building a strong economy through the provision of new housing of the right type in the right location at the right time.

- 8.4. The NPPF does not change the status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise. Cherwell District Council has an up-to-date Local Plan that was adopted following Examination in July 2015 and can demonstrate a 5 year housing land supply.
- 8.5. Policy PSD1 of the Cherwell local Plan 2011-2031 accords with the NPPFs requirement for 'sustainable development' and that planning applications that accord with the policies in the statutory Development Plan will be approved without delay unless material considerations indicate otherwise.
- 8.6. The Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus strategic housing growth at the towns of Bicester and Banbury and a small number of strategic sites outside these towns.
- 8.7. The application site is identified as a strategic residential development site under Cherwell Local Plan Policy Banbury 19. This policy is therefore fundamental to the consideration of the application as the site is an allocated and identified site. The policy sets out a number of parameters which need to be considered and addressed as part of any application. The site allocation description is '*a redevelopment that would bring about environmental benefits in terms of using previously developed and vacant land within the town*'. The policy further specifies that the dwelling mix shall 30% affordable housing with a dwelling mix of 70% houses and 30% flats with opportunities for extra-care housing and self-build.
- 8.8. The Plan also includes a number of other relevant policies to this application, including those related to sustainable development, transport, flood risk, ecology, environment and design. These policies are all considered in more detail in the appraisal below.
- 8.9. The adopted Cherwell Local Plan 1996 includes a number of policies saved by the adopted Cherwell Local Plan 2011-2031, most of which relate to detailed matters such as layout and design. The policies of the adopted Cherwell Local Plan 1996 are also considered in more detail below.

#### *Assessment*

- 8.10. The Council's current position on housing land supply is published in the 2018 AMR which shows that the district has a 5.0 year housing land supply for the period 2018-2023 and a 5.2 year supply for the next year period (2019-2024). Cherwell District Council can therefore demonstrate a five year housing land supply. In addition to this, the Written Ministerial Statement of 12<sup>th</sup> September 2018 provides for a temporary change to housing land supply policies as they apply in Oxfordshire. Until the adoption of the Joint Statutory Spatial Plan, the Oxfordshire Authorities are required to demonstrate only a 3 year supply of deliverable housing sites (as well as meeting their requirements in respect of the Housing Delivery Test). As such, policies for determining the application are only to be considered out of date where a 3 year supply of deliverable sites cannot be demonstrated.
- 8.11. Given the proposed development is allocated for residential development under Policy Banbury 19, the principle of developing the site for residential purposes is established. Whilst the proposed allocation refers to approximately 150 dwellings, this application seeks consent for up to 200 dwellings and is therefore technically a departure from the Development Plan. Policy BSC2 of the Cherwell Local Plan seeks to ensure the effective and efficient use of land and it is considered that the

increase in housing numbers may be acceptable provided it can be shown that the site can be delivered without causing undue harm and subject to complying with other policies in the plan and other material considerations.

#### Access and transport impacts

- 8.12. Access for vehicles, cyclists and pedestrians is proposed by means of a 5.5m wide road with one footway connecting into Higham Way. Higham Way itself is adopted highway although comparing the original site plan and the highway records suggested that there is a gap between the adopted road and the planning application site boundary. This has now been corrected. As noted at para 6.4 above the traffic and transport implications of this proposal have been analysed and the subject of discussion over the time period that this application has been processed.
- 8.13. Following initial concerns, due to the lack of adequate modelling, about the possible impact upon the Merton Street/Bridge Street junction, further assessment work was undertaken. The County Council, as local highway authority, are now content that the addition of the traffic produced by the development would not cause severe harm to this part of the local highway network.
- 8.14 The County Council also initially expressed the view that the development provided the opportunity to provide a road linkage southwards across this site and into the BAN 6 policy area allowing a future connection through to the South East Link road identified in the OCC Local Transport Plan 4. A road through this development linking into the adjoining Banbury 6 site would help to mitigate the impact of this site and wider Cherwell Local Plan growth in Banbury. A South East Link Road has been identified in the county council's LTP4 linking Chalker Way to Bankside. The benefits of this road will be greatly enhanced if a vehicular link through to this development site (Banbury 19) is made. At present only two roads cross the railway in Banbury (Bridge Street and Hennem Way). Providing a route from Grimsbury into the proposed South East Link Road via Higham Way and the proposed development site will provide greater connectivity and access from the Grimsbury area to southern Banbury, the eastern employment areas, and the motorway/strategic road network beyond. Without the link from Higham Way to the South East Link Road, the existing connectivity and access issues at Grimsbury will be exacerbated. The road link between this development site and Banbury 6 should be secured through a S106 agreement. In order for the road link to safely accommodate cars and buses it should be at least 6.5m wide.
- 8.15 The illustrative plan for the scheme has now been amended to show the ability to construct a road of appropriate alignment and construction from Higham Way to the boundary of the site.
- 8.16 The County Council have commented that over and above what is required to mitigate the direct impacts of a development in this location, development that is likely to create general demand for new transport infrastructure, or overload the existing off-site transport infrastructure and/or traffic management arrangements, will be expected to contribute to future measures (to be undertaken by public authorities) designed to mitigate the impact. They calculate that an appropriate contribution (based on all flats being two-bedroomed) would be £145,464. The basis of this calculation seems reasonable and can be justified.
- 8.17 Policy Banbury 19 in the Cherwell Local Plan sets out how this development should encourage walking and cycling, particularly in the local area. One of the policy's key site specific design and place shaping principles is:

*“A layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity between new and existing communities. New footpaths and cycleways should be provided that link to existing networks “*

As such it is welcome that potential links are shown on the illustrative proposed site plan that lead to the open space to the north east of the site. These connections will need to be secured by means of the S106 agreement. The connections must then lead to Padbury Drive so that onward journeys can be made to Thorpe Way which will give access to the employment area there. The illustrative plans thereby indicate that compliance with that element of Banbury 19 can be achieved.

- 8.18 With regards to public transport this site is located some 800 metres from bus services passing along Middleton Road and Bridge Street to Banbury Town Centre. In the opposite direction, buses extend beyond Grimsbury to Brackley (service 200); to Daventry (service 500) and to the Gateway Retail Park (service B6). The Banbury bus strategy includes a proposal to develop a cross-town route between the Gateway Retail Park, from employment areas to the north-east of Banbury, through Grimsbury and the Town Centre towards Bretch Hill in the western suburbs. This service would provide direct links between residential and employment areas on opposite sides of the town, that currently do not exist. The County Council suggest that the developers of this site should be required to contribute £1,000 per dwelling towards the delivery of the new east-west public transport corridor through Banbury. Residents of the Higham Way development would then have access to a frequent bus service to the Banbury Cross area and to the various facilities such as educational and medical facilities in this area. This contribution is matched by an equivalent per-dwelling contribution from a development site in Bretch Hill and will be matched by requests to other developers along this corridor.
- 8.19 Whilst there are no public rights of way that actually cross the site, there are a number that are close and which will see increased usage if the development is permitted. The routes potentially provide a useful route for pedestrians to get access to the Chalker Way industrial/employment area. In their current state they are not suitable for increased pedestrian usage. The County Council therefore seeks the developer to pay a contribution of £30,000 towards an upgrade of the route – specifically improvements to the surfacing. This would help provide a suitable route to this employment area from the development, showing that the applicant has considered all opportunities for sustainable transport modes in line with the NPPF.

#### Car parking

- 8.20 Car parking is proposed at just over 1 space per dwelling allowing a limited number of visitor spaces. This is considered acceptable given the proximity of railway station, the funding to improvements of the public transport system, and the proximity of the town centre and schools. In their original comments OCC expressed the view that more car parking as required, but more latterly has not made any further comment on this, and has few remaining concerns.

#### Flood risk and drainage

- 8.21 Policies ESD6 and ESD7 of the adopted Cherwell Local Plan relate to Sustainable Flood Risk management and Sustainable Drainage Systems. Policy ESD6 requires that developments are assessed according to the sequential approach and where necessary the exceptions test as set out in the NPPF and NPPG. Policy ESD7

Sustainable Drainage Systems (SuDS) requires that all development will be required to use SuDS for the management of surface water run-off. This policy also requires ground water quality to be protected, flood risk to be reduced where possible, reduce pollution and provide landscape and wildlife benefits.

- 8.22 A Flood Risk Assessment was originally submitted with the application, and following initial objections from the Environment Agency and OCC as lead local flood authority a revised document was submitted. The Environment Agency (EA) Flood Zone map shows the site lies partly within Flood Zone 3 'High Probability' area for the River Cherwell, defined as follows:

*Flood Zone 3 'High Probability' (greater than 1 in 100 (1.0%) annual probability of river flooding or greater than 1 in 200 (0.5%) annual probability of sea flooding)*

The Flood Zone classification ignores the presence of flood defences. However, the detailed EA flood data confirms that the site is offered up to a 1 in 200 year (0.5% annual probability) standard of protection from the Banbury Flood Alleviation Scheme (Banbury FAS), which opened in 2012.

- 8.23 In their latest response the EA comment that  
*"In our response to this application dated 6 August 2018, we objected to this proposal and recommended refusal of planning permission because of the absence of an acceptable Flood Risk Assessment (FRA). In particular, the submitted FRA failed to provide detailed information on the proposed undercroft parking and underfloor voids regarding losses and gains in floodplain storage, and clarify whether there would be any loss in flood plain storage proposed from the under crofts.*

*Since our response, we have received additional information. We are pleased to see the clarification that there will be increased flood plain storage gained on this site. We are however concerned, that the proposed undercroft parking drawing ..., has not confirmed whether the proposed undercroft void would be set above the 1 in 100 year flood level with an appropriate allowance for climate change. As no height for this void has been specified on this drawing, it has not been demonstrated whether flood flows would be impeded and if flooding would occur elsewhere. We therefore maintain our objection to this proposal as submitted".*

Your officers are awaiting confirmation that this issue has been satisfactorily resolved.

Design and impact upon the character of the area

- 8.24 The illustrative plans and asymmetric views of the proposed development show the 200 units being provided in 12 blocks of 3-5 storey flats. These blocks are orientated to be set at an angle to the railway line to minimise noise nuisance and to maximise sunlight to the dual aspect flats and the intervening courtyards. It is proposed that a large percentage of the car parking would be under the flat blocks in under crofts. This will produce a distinctively different form of development, albeit that there are other forms of flat development to the north and east of the application site in Marshall Road and Vernay Road.
- 8.25 The site is long narrow and not regularly shaped, and consequently it is difficult, if not impossible, to envisage a layout in a traditional street format. Given the need to accommodate over 150 units (see later in the report for the justification of the number of units proposed) the scheme, of necessity, requires an approach using multiple flat blocks to be used. High density schemes were envisaged in Policy

Banbury 19. The illustrative material shows an innovative layout and potential design for the blocks which deals with the competing pressures of parking, the provision of open space, the need to provide the through route, and providing the best possible living conditions for future residents of the development.

- 8.26 The use, in part, of four and five storey blocks of flats has been assessed both in terms of its impacts upon wider views and from the immediate vicinity of nearby residential property and the railway. The southern end of the site is potential visible in the wider views from Bankside and the canal and from closer views from the roadway leading from the station to Banbury United FC. The illustrative layout plans show a reduction in building height at the southern end of the site. In your officers opinion this impact would be acceptable and not overly intrusive.
- 8.27 The northern end of the site tucks into the corner created by existing development of Marshall Road and Vernay Road which is predominantly four and three storey developments respectively. This relationship and the character of the existing and proposed development are considered to be compatible.

#### Housing mix and affordable housing

- 8.28 Policy Banbury 19 requires that 30% of the new dwellings provided on the site shall be affordable in the interests of supporting the creation of mixed and balanced communities in accordance with both local and national planning policy objectives. Policy BSC3 is also material and specifies that the council seeks at least 70% of the affordable homes to be affordable rented units with the remainder intermediate housing (such as shared ownership). In the original application the applicant has indicated a commitment to provide such affordable housing but an issue has arisen with regard to the viability of the site. See section below on the planning obligation. Any affordable housing will need to be secured through a section 106 agreement.
- 8.29 Policy Banbury 19 also indicates that the dwelling mix aimed for on this site should be 70% houses and 30% flats. The submitted scheme deviates from that dramatically as it is proposed to be made up entirely of flats, and with an additional 50 units over and above the 150 proposed in the allocation. Policy BSC4 relating to housing mix aims to encourage a mix of housing to suit the needs of the population and enable movement through the market from one house type to another as the needs of households change. The Oxfordshire Strategic Housing Market assessment provides conclusions on a strategic mix of housing for Oxfordshire to 2031. The development economics of this site (influenced significantly by the high cost of remediation of the site) have led the applicant to promote the site for a denser development than envisaged in the Local Plan policy to make the site feasible for development. In your officers opinion the provision of either 150 units (as proposed in BAN 19), or the 200 proposed in this application, would results in the need to produce a scheme made up of all flats given the shape of the site, the need to accommodate car parking, the through route for the road, and the provision of necessary open space and play space.
- 8.30 In the Strategic Housing Officers comments they raise no objections but then confusingly refer to seeking a mixture of houses and flats and indicating that they try not to agree 2-bed flats above first floor level. Whilst this may be desirable, as Development Management officers we do not consider that anything other than a scheme of all flats is feasible and deliverable on this site, and that therefore this exclusion of houses should be agreed.

## Ecology and Biodiversity

- 8.31 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.
- 8.32 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; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 8.33 Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 8.34 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.
- 8.35 Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 8.36 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.
- 8.37 The application is supported by an Ecological Assessment that concludes that subject to appropriate mitigation, on the basis of current evidence, there are not considered to be any overriding ecological reasons why the site could not be developed. The Council's Ecology Officer has commented that generally the conclusions of the assessment are considered sound and raises no objections subject to conditions covering issues such as the need for a further reptile survey; protection of nesting birds; provision of nesting boxes; the need for Management Plans for landscape and ecological management and construction management. This issue is therefore considered acceptably dealt with by the imposition of conditions.

## Noise impact

- 8.38 A revised noise impact report was received on 16 May 2019. The significant noise sources affecting the site are:

- Diesel locomotives on the rail line on the site's southern boundary;
- Activities taking place at Chiltern Railway's Light Maintenance Depot close to the site's south-eastern boundary;
- Road traffic on the M40 approximately 950m east of the site;
- Noise from the industrial estate approximately 300m north-east of the site.

- 8.39 The conclusions of that report are that due to the relatively high noise levels across the site the dwellings cannot be ventilated by openable windows and meet the internal noise criteria set out by the Council. It is proposed to install a noise barrier along the south-west boundary of the site. They recommend that the proposed barrier should be a total of 6 metres high and can be a combination of earth bund topped with a fence if achieving this height is difficult with either bund or fence alone. Fencing should have no holes or gaps and be made of an appropriate dense material. It is also proposed that the flats shall be fitted with various grades of acoustic double glazing depending on whether the windows are facing the railway or other directions. With the proposed mitigation measure and the facade treatments in place, internal noise levels should comply with the noise criteria set out by the Council. External amenity areas across most of the site meet the recommended levels set out in BS8233. They have assessed the noise from the Light Maintenance Depot to the south west of the site according to BS4142:2014. The proposed dwellings will require noise control measures to avoid significant adverse impacts at night.
- 8.40 It will be noted that one element of the noise mitigation is the installation of tall fencing and/or bunding. Comments on the visual impact of such mitigation measures is referred to at para 8.45 below.
- 8.41 At the time of writing this report the further comments of the EPO had not been received. These will be reported to Committee in the written update

#### Climate Change mitigation

- 8.42 The applicant has submitted an energy statement. The applicants indicate that they intend to follow a fabric-first policy and propose the installation of triple glazing to improve acoustics and heat loss; solar pv on all south facing roof slopes; mini wind turbines per block; and communal heating systems consisting of air source heat pumps, ground source heat pumps and biomass boilers. The proposal will therefore be able to comply with the ESD policies of the Local Plan and with the relevant bullet point in Policy Banbury19 . This exemplary approach will be secured by condition

#### Open space and recreation

- 8.43 The submitted illustrative layout indicates that the areas between the multiple blocks will be separated by communal soft landscaping areas. It is intended that there will be either on-site play provision or the possibility of enhancing nearby spaces. The applicants indicate that the distribution of open space has evolved by taking into account the need to link into existing neighbourhood spaces. Residential areas will be characterised by street trees, landscaped verges, with the inclusion of a green link running through the heart of the site interrupting the building pattern and softening the street scenes.
- 8.44 At para 6.5 above the views of the Council's Recreation and Leisure team are reported. It will be seen that they seek contributions towards indoor sports facilities, and the provision of on-site outdoor facilities. No such facilities are

proposed, and there is not sufficient land available to provide them. Policy Banbury 19 does not require on-site provision, albeit that Policy BSC11 indicates that new development should contribute to the provision of open space, sports and recreation. This on-site shortfall would therefore need to be overcome by a further contribution via the legal agreement that secures other infrastructure contributions.

- 8.45 Due to the noise climate on the site it will be necessary to place a continuous noise bund/fence combination along the railway boundary. Careful attention will be needed to the appearance of this, especially on the site side of that structure, which otherwise could have a dominant appearance. Along approximately half of its length there will be good opportunities for screen planting, but at other points, because of the alignment of the internal access road such opportunities are more limited. It will be necessary to carefully consider the form of the noise mitigation structure at reserved matters stage.

#### Minerals and waste matters

- 8.46 The proposed development site includes a waste transfer station operated by Grundon. This site is proposed to be safeguarded for waste management use in the submitted Oxfordshire Minerals and Waste Local Plan: Part 1 – Core Strategy (2015) (policy W11 and Appendix 2).

This waste management facility is being relocated to a nearby site at Thorpe Mead, where planning permission was granted in 2011 for the redevelopment and extension of an existing waste transfer and recycling facility also operated by Grundon. There would therefore be no loss of waste management capacity as a result of the proposed development of the Merton Street site, and the proposed development would not be contrary to policy W11 of the emerging new Minerals and Waste Local Plan: Part 1 – Core Strategy, and consequently OCC do not object to the proposal.

#### Contaminated land

- 8.47 The site was initially developed as a gasworks in the late 1880s and was further expanded in the 1930s and 40s with a railway line that was present in the central and western parts of the site. The site was decommissioned between 1955 and 1978, however, some historical structures remained.

Historical decommissioning of Gasworks generally comprised the levelling of a site with the retention of in ground structures. Previous site investigation has identified the remnants of below ground structures including the gasworks house, tar and liquor wells, retort house, carburetted water gas (CWG) plant and purifier and below ground storage tanks. Following the decommissioning of the site as a gasworks the site was used for scrap metal storage, a steel fabricators and more recently a waste collection depot.

- 8.48 The site was the subject of previous intensive site investigation. Significant soil contamination has been identified, mainly associated with the former gasworks (particularly the tar wells) and former structures in the northwest of the site up to a depth of 5m below ground level. Additional contamination has been recorded in the south of the site including asbestos contaminated ground and fly-tipped rubbish. The primary soil contaminants of concern have been identified to be Total Petroleum Hydrocarbons (TPH), Polycyclic Aromatic Hydrocarbons (PAHs), Ammonia, Cyanide, Heavy Metals, Phenols, asbestos and BTEX compounds

- 8.49 As a result of the findings above the site will require extensive remediation. The Council's Environmental Protection Manager has commented that if planning consent were to be granted he would recommend the standard contaminated land conditions be applied to any consent. The submitted reports meet the

requirements of conditions concerning a desk study/site walk over and for an intrusive investigation.

#### Planning Obligations

8.50 Policy INF1 of the Cherwell Local Plan 2011-2031 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*. Contributions can be secured via a section 106 agreement provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.

8.51 Having regard to the above, in the event that Members were to resolve to grant planning permission, the following matters 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:

In summary the overall heads of terms sought by OCC and CDC amount to

#### Cherwell District Council

- 30% affordable housing
- Provision of on-site public open space and future maintenance arrangements – potentially this would be dealt with by a management company
- Financial contribution towards the provision of off-site outdoor sports pitches, and financial contribution for future maintenance arrangements
- Financial contribution towards community hall facilities
- Financial contribution to indoor sports improvements at Spiceball
- Provision of on-site children's play provision and financial contribution for future maintenance (again potentially by management company); or contribution to improvement of nearby play provision
- Provision of on-site SuDS drainage and financial contribution for its future maintenance
- Public art provision on site
- Financial contribution towards police infrastructure

#### Oxfordshire County Council

- Strategic transport contribution
- Vehicular/pedestrian/cycle connection to Banbury 6 Site
- Pedestrian/cycle connections to north-east – including improvements to public rights of way
- Public transport – bus services contribution
- Travel plan monitoring contribution

- Section 278 highway works – to connect to Higham Way
- Early years education contribution
- Secondary education contribution
- Special Education Needs contribution
- Financial contribution towards Libraries and adult day care

8.52 It is recognised that the need for the remediation of the contamination of this site adds significantly to the cost of developing the site and has a significant impact upon the viability of the site. The applicant has submitted a confidential detailed site viability assessment and the Council have had that document independently reviewed. As part of that external review detailed examination was given to the applicants costs and a revised conclusion was agreed. In simple terms the conclusion is that due to the exceptional costs of site restoration the development of the site is not viable if both the normal affordable housing requirement is met and full Section 106 payments are made. The latter amount to in excess of £2.1 million for the District and County Council contributions.

8.53 Your officers have been working on the assumption that the Council will wish to seek to ensure that this site provides at least some affordable housing. In the light of the above it will be necessary to seek the overall extent of financial payments to be reduced. As a guide the applicants have indicated that if the infrastructure contributions were reduced to £1.1 million then it should be possible to provide in the region of 9% affordable housing. Clearly there is the need for complex three-way negotiations between the applicants and both Councils to conclude a level of contributions and affordable housing that are acceptable. Difficult decisions about foregoing elements of essential infrastructure are necessary if this scheme is to be approved. Whilst these discussions are on-going they will not be concluded by the date of Committee. It is therefore recommended that the Committee indicate their general agreement to this scheme subject to achieving a satisfactory resolution of the planning obligation issues. Any views expressed by the Committee can of course be taken into account in the negotiations.

8.54 Some of the shortfall in either affordable housing or infrastructure contributions may be eligible to be enhanced by seeking Growth Deal money. This possibility will be pursued separately.

## **9. PLANNING BALANCE AND CONCLUSION**

9.1. This site is allocated under Policy Banbury 19 for residential development. However it is a difficult site to develop because of its shape, the need to provide a through route from Higham Way to the south to connect to the Policy Banbury 6 site and hence to the proposed South East Link Road, the cost of remediation of the contaminated land, and the high noise levels on the site. The applicants are proposing that in order to meet these demanding requirements that the density of development is increased to make the site feasible/viable to develop at all.

9.2. In your officers opinion this increase in density is necessary. Given the size and shape of the site this increase is only possible if the scheme becomes all flats. Whilst this is contrary to Policy Banbury 19, not agreeing to such an increase in density and the consequent omission of houses may result in the land not coming forward for residential development with the consequent impact upon housing

delivery. Any reduction in density and hence housing unit numbers will only worsen the viability of the site.

- 9.3. The design of the layout of the proposal has been revised to ensure that a through route can be provided across the site so that a future link from Merton Street to the proposed South East Link Road can be safeguarded. Other aspects of Policy Banbury 19 and other relevant policies are met.
- 9.4. Clearly the issue of noise levels on the site, and the need for extensive mitigation to create an acceptable residential amenity level are important. It is hoped that this matter can be dealt with by conditions. The final views of the EPO are awaited.
- 9.5. Due to the lack of viability of the scheme, driven by the high remediation costs, it is necessary to strike a balance between affordable housing and other infrastructure contributions. It is recommended that provided Members find other aspects of the proposal acceptable that the recommendation set out below is accepted allowing negotiations to proceed with confidence that if an acceptable conclusion is reached then planning permission will be forthcoming. Failure to reach agreement would of course result in the application returning to Committee.

## **10. RECOMMENDATION**

That permission is granted, subject to (i) the satisfactory resolution of the outstanding drainage and noise issues; (ii) the following conditions (with delegated authority given to the Senior Manager Development Management to add to or amend conditions as deemed necessary) and (iii) subject to the applicants entering into a legal agreement in the terms set out in para 8.51 above as amended by ongoing negotiations with regards to affordable housing and the overall infrastructure costs

1. No development shall commence until full details of the layout, scale, appearance, access and landscaping (hereafter referred to as reserved matters) of the hereby approved development 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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). In the case of the reserved matters, no application for approval shall be made later than the expiration of three years beginning with the date of this permission.

2. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

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, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

3. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and documents: Application

forms , Design and Access Statement, Energy Statement, and drawings numbered: [insert]

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

4. Prior to the commencement of development hereby approved, a phasing plan covering the entire application site 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 phasing plan and each reserved matters application shall only be submitted in accordance with the terms of the approved phasing plan and refer to the phase (or phases) it relates to as set out in the approved phasing plan.

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

5. All reserved matters submissions within an approved phase (where buildings are proposed) shall be accompanied by details of the proposed finished floor levels of all proposed buildings in relation to existing surrounding ground levels for that phase shall be submitted as part of the reserved matters application. Where the floor level details are approved as part of the reserved matters approval, the development in that phase shall be undertaken in accordance with the approved levels.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework

6. Prior to the commencement of the development hereby approved, the buildings and structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site.

Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. No more than 200 dwellings shall be accommodated on the site.

Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, full details of the means of access between the land and Higham Way, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

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

9. Prior to the first occupation of any of the dwellings hereby approved, all of the estate roads and footpaths (except for the final surfacing thereof) shall be laid out, constructed, lit and drained in accordance with Oxfordshire County Council's 'Conditions and Specifications for the Construction of Roads' and its subsequent amendments.

Reason - In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

10. Prior to the first occupation of any dwelling hereby approved the main access road shall be completed in accordance with condition 10 above to a point on the south-east boundary to be first agreed with the Local Planning Authority

Reason - In order to secure the proper planning of the area and the development of adjoining land and to safeguard the opportunity to provide a link to the proposed South East Link Road

11. Prior to the commencement of the development hereby approved, a detailed drainage strategy for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on a phase of the development a detailed surface water and foul water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

The strategy shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The phases shall subsequently be implemented in accordance with the approved details before the development is completed. The schemes shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features (this may be secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration tests to be undertaken in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the suds features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy)
- Network drainage calculations
- Phasing plans
- Flood Risk Assessment

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, full details of a scheme for acoustically insulating all habitable rooms within the dwelling(s) such that internal noise levels do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014, 'Guidance on sound insulation and noise reduction for buildings', shall be submitted to and approved in writing by the Local

Planning Authority. Thereafter, and prior to the first occupation of the dwelling(s) affected by this condition, the dwelling(s) shall be insulated and maintained in accordance with the approved details.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

To be reviewed once EPO comments received

13. Prior to the first occupation of any dwelling a noise barrier to perform in accordance with the requirements of the submitted noise report shall be installed and thereafter retained in situ

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

To be reviewed once EPO comments received

14. 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

15. If remedial works have been identified in condition 14 above the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 15. 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

16. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a

remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance or the translocation of any reptile, a reptile survey (which shall be in accordance with best practice guidelines) shall be carried out, and the findings, including a mitigation strategy if required, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works of mitigation shall be carried out in accordance with the approved details.

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.

18. No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1<sup>st</sup> March and 31<sup>st</sup> August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

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.

19. Prior to the commencement of any phase of the development hereby approved, full details of a scheme for the location of bat, bird, owl and invertebrate boxes on that phase of development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building on that phase of the development, the bat, bird, owl and invertebrate boxes shall be installed on the site in accordance with the approved details.

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.

20. Prior to the first occupation 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 LEMP shall be carried out in

accordance with the approved details.

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.

21.No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall include as a minimum:

- i) Risk assessment of potentially damaging construction activities;
- j) Identification of 'Biodiversity Protection Zones';
- k) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- l) The location and timing of sensitive works to avoid harm to biodiversity features;
- m) The times during construction when specialist ecologists need to be present on site to oversee works;
- n) Responsible persons and lines of communication;
- o) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- p) Use of protective fences, exclusion barriers and warning signs

The approved CEMP: Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority

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.

22.Reserved matters applications made for any phase as defined in the approved phasing plan shall be in general accordance with the submitted Energy Strategy and shall be the subject of a further energy statement that demonstrates how the development in that phase will take the opportunities available to improve energy efficiency and incorporate low carbon technology to minimise environmental impact. No dwelling shall be occupied until it has been constructed to meet the energy performance standard in accordance with the approved details.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. Details are required at pre-commencement stage to ensure that from the outset each dwelling is designed and constructed to achieve a high level of fabric efficiency in the interests of environmental sustainability.

23.Prior to the commencement of each successive phase of the development hereby approved, full details of the location, method of storage and disposal of all means for the disposal of domestic waste from the flats shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development

shall be carried out and maintained in accordance with the approved details.

Reason – To ensure that proper arrangements are made for the disposal of manure/slurry/waste, to ensure the creation of an environment free from intrusive levels of odour/flies/vermin/smoke/litter and to prevent the pollution of adjacent ditches and watercourses, in accordance with Policies AG5 and ENV1 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

24. Prior to occupation of any phase of the development a residential travel plan shall be submitted to and approved by the local planning authority in consultation with the local highway authority. The plan shall incorporate details of the means of regulating the use of private cars at the development in favour of other modes of transport and the means of implementation and methods of monitoring.

Reason - In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

25. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of highway safety and the residential amenities of neighbouring occupiers.