

Case Officer: Wayne Campbell

Applicant: Miss Katie Christou

Proposal: OUTLINE application for up to 30 Dwellings and detailed access from Banbury Road, with all other matters reserved

Ward: Fringford and Heyfords

Councillors: Cllr P. Clarke, Cllr Corkin, and Cllr Wood

Reason for Referral: Development of 10 or more dwellings

Expiry Date: 14 February 2022

Committee Date: 10 March 2022

SUMMARY OF RECOMMENDATION: SUBJECT TO RESOLUTION OF CONSULTEE OBJECTIONS, DELEGATE POWERS TO GRANT PERMISSION, SUBJECT TO CONDITIONS AND S106 PLANNING OBLIGATION

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located to the south west of the village of Finmere and measures an area of approximately 1.94 ha. The site shares a common boundary to the immediate south of the existing residential development of Stable Close and a boundary to the immediate west of the development at Chinalls Close. The site is currently used as an area of grazing land for ponies and horses and does not constitute part of the built form of the village. The southern and western edge of the site appears as open countryside.
- 1.2. Access to the site is currently gained via a gated single access point in the south eastern corner of the site off Banbury Road before Banbury Road is gated off as an area of private access serving the private dwelling known as Foxley. Although an area of grazing land, the site does contain three separate public rights of way which criss-cross the site in a north-south and east-west direction.

2. CONSTRAINTS

- 2.1. Several public rights of way cross the site with access via the existing gated access point and separate pedestrian rights of way points in the north and western edge.
- 2.2. The north, south and eastern boundaries to the site are marked by a line of mature and semi-mature trees and hedgerow.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for the erection of up to 30 new homes, access from Banbury Road and associated works including attenuation pond. Vehicular access is proposed directly to Banbury Road from the south edge of the site.

- 3.2. The application is made in outline, seeking approval for the principle of the development and the means of access into the site. However, the application is supported by an illustrative masterplan. This indicative plan shows the proposed layout of the site providing an approximate development gross density of 16 dwellings per hectare across a site area of 1.94 ha, which is comparable with the adjacent development at Stable Close (approximately 15 dwellings per hectare). The applicant cites an average net density of 31 dwellings per hectare (i.e. excluding areas of open space)
- 3.3. The scheme would provide at least a 35% provision of affordable housing and one of the affordable units would be provided as a wheelchair user dwelling, fully compliant with Building Regulations requirement M4(3). The applicant states that the indicative mix of affordable units is based on local need and would provide 2 x 1-bedroom homes (18%); 5 x 2-bedroom homes (46%); and 4 x 3-bedroom homes (36%).
- 3.4. The applicant has advised that, in the event that planning permission is granted, a housebuilder would be capable of delivering the site within the next five years. In the event that outline consent is granted, the applicant would need to make a further application(s) for the reserved matters details before construction could commence.

4. RELEVANT PLANNING HISTORY

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

16/01209/OUT

Outline application for residential development and associated infrastructure (Heatherstone Lodge, Banbury Road, Finmere) – Planning permission refused for development of land (up to 47 homes) adjoining and to the west of the current application .Appeal dismissed on 14 June 2017 (APP/C3105/W/17/3169168).

17/01328/OUT

Outline application for residential development - (OS Parcel 3498 East of Heatherstone Lodge, Fulwell Road, Finmere) - Planning permission refused for development of land (25 homes) adjoining and to the west of the current application site. Appeal dismissed on 29 August 2018 (APP/C3105/W/17/3189420).

5. PRE-APPLICATION DISCUSSIONS

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

15/00026/PREAPP

Proposed residential development together with access and associated infrastructure.

- 5.2. Pre-application advice was sought on the development of the site for 45 new dwellings. The advice provided preceded adoption of the Local Plan in July 2015. It concluded “*The development of this site is contrary to the adopted Development plan policies. However, the Council does not currently have any up to date adopted policies to ensure the future delivery of housing and there currently remains a shortfall in housing land supply. In this case, it is the benefit of seeking to meet the housing land supply and the provision of affordable housing that weigh heavily in the balance. On balance therefore, it is considered that some residential development on the site may be acceptable in principle...*”
- 5.3. The pre-application response continued by stating, “*Having regard to the comments of Oxfordshire County Council, the position of the site beyond the existing built up limits of the village and the public rights of way which cross the site, it is considered*

that a reduced number of dwellings must be proposed which enables a scheme to be designed which better reflects the character and size of the village, pays proper regard to existing public rights of way which cross the site and reduces the impact of the development on the open countryside”.

6. RESPONSE TO PUBLICITY

6.1. This application has been publicised 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, and by consultations with statutory and non-statutory consultees. The final date for comments was **29 November 2021**. There were 43 objections, no submissions of support and 1 comment received.

6.2. The comments raised by third parties are summarised as follows:

- This is a small village, no need for more housing and 30 dwellings would represent a 20% increase in the size of the village
- Significant flooding in the village in the past year and development would only exacerbate the flood risk
- The site is on a slope and the run-off increases the risk flooding while the natural surface water drainage would be reduced by roads and properties and the speed of run off would be increased
- Object to additional houses being built without appropriate drainage issues taken into account as the sewer/drainage within the village would not cope with this further development
- The attenuation basins shown are inadequate and pose a significant safety risk to children and present an incremental flooding risk to properties in Stable Close, Fulwell Road, Valley Road, and The Pines
- Anglian Water's report for 2015 application on this site recognised the fact that Finmere's drains were declared at capacity in 1999, and since then. there has already been a 22% increase in the number of properties in the village, without any improvement to the system (*officer note: a 2015 application was withdrawn*)
- Highway impact of the additional cars / vehicles
- Lack of shop, job opportunities and other village amenities in Finmere would mean that there is a constant to-ing and fro-ing of cars in and out of the village with the accompanying noise, pollution and safety issues
- Inconsistent information regarding the level of Banbury Road to be re-surfaced
- Lack of footpaths along Banbury Road
- 30 houses would probably mean 60 or more cars which could not be accommodated by the road
- The field has been used by locals for over 40 years and at one time was used to play football
- The village does not have the amenities to support a further 30 homes
- No plan for trees or hedge between Chinalls Close which is at a lower level than the application site
- Finmere is deemed a Category A village and new housing developments should be 'minor developments or 'infill' development contrary to adopted policies

- Negligent to consider this application without also considering the other issues currently impacting the village, the landfill issues, HS2 with its many impacts including increased traffic and noise
- Loss of wildlife habitat
- Impact on established public rights of way used by many dog walkers and others looking to escape constant noise of traffic along the bypass
- Application is not in keeping with the rest of the village while the noise and light pollution both during the construction and beyond will adversely affect the quality of life for residents of the village
- The development would result in the removal of right of way from a residents' property. The previous owner of Westbury End provided for a farm gate access to the field at the top of the property to allow access. The proposed development does not maintain this access by blocking it with the construction of the proposed "attenuation basin"
- Welcome hedgerow, trees and green space as emphasised in the outline plan; however, over the years those hedgerows have not been managed and are now mainly just banks of nettles and brambles along the Chinalls Close border
- Welcome the potential this development would have in creating a barrier that may reduce the noise and pollution from the very busy A421
- Welcome developments to create affordable housing in the village, particularly if priority is given to local young people

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

7. RESPONSE TO CONSULTATION

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

PARISH COUNCIL

7.2. Finmere Parish Council: **Objects** on the grounds of sustainability; likely exacerbation of existing severe flooding problems, as well as size, scale, form, location and access.

CONSULTEES

7.3. CDC Legal Services – Public Rights of Way: **No objections.** Pleased to see that the developer has fully considered the Public Rights of Way Network and has included all of the existing Public Rights of Way within the proposed new development layout.

7.4. OCC Highways: **Objection.** Site is not easily accessible by sustainable transport modes and therefore future residents are likely to be overly reliant on the private car. Pedestrian access to the site from the local area would not be considered to provide safe access for all users. The proposals are therefore contrary to Policies Villages 1 and Villages 2 of the Cherwell Local Plan 2011-2031 Part 1 and paragraphs 104, 105, 110, 111 and 112 of the National Planning Policy Framework. Nonetheless, advice provided on developer contributions, through a Section 106 legal agreement.

7.5. OCC Archaeology: **Objection.** The site is located in an area of archaeological interest to the north of an area of Iron Age settlement recorded during the construction of the B4031 diversion. The applicant has submitted a written scheme of investigation (WSI)

for this evaluation and a programme of mitigation. This WSI was not agreed with County Archaeology in advance and is not an acceptable scheme. Recommend that, prior to the determination of any planning application for this site the applicant should be responsible for the implementation of an archaeological field evaluation. This information can be used for identifying potential options for minimising or avoiding damage to the archaeology and on this basis, an informed and reasonable decision can be taken.

- 7.6. OCC Education: **No objections** subject to developer contributions, through a Section 106 legal agreement, towards Secondary Education.
- 7.7. OCC Waste Management: **No objection** subject to developer contributions through a Section 106 legal agreement
- 7.8. CDC Environmental Protection: **Comments** on detailed requirements relating to air quality, land contamination and conditions to ensure adequate internal and external noise levels.
- 7.9. Oxfordshire Fire Service: **Comments**: It is taken that these works will be subject to a Building Regulations application. With regard to B5 (Fire Service access) it is taken that the roads indicated on the plan are suitable for a fire appliance. Based upon the plans submitted we have no adverse comments in relation to fire service access to this building as a result of the proposed works.
- 7.10. Anglian Water: **Comments**: Wastewater treatment - The foul drainage from this development is in the catchment of Buckingham Water Recycling Centre which currently does not have capacity to treat the flows the development site. Anglian Water are obligated to accept the foul flows from the development with the benefit of planning consent and would therefore take the necessary steps to ensure that there is sufficient treatment capacity should the Planning Authority grant planning permission. Used water network and proposed drainage strategy: The sewerage system at present has available capacity for the flows. An informative is suggested on network connection. Surface water disposal - The surface water strategy/flood risk assessment submitted with the planning application relevant to Anglian Water is unacceptable. Recommend that the applicant consults with Anglian Water and the Lead Local Flood Authority (LLFA). A condition requiring a surface water management strategy is requested.
- 7.11. Environment Agency: **Advice**: not an application on which it wishes to be consulted on.
- 7.12. Thames Valley Police Crime Prevention Design Advisor: **No objections**. The illustrative masterplan appears to indicate a good layout, incorporating secure perimeter blocks and clearly defined routes through the site. General comments provided.
- 7.13. CDC Recreation and Leisure: **Comment**: advice provided on developer contributions through a Section 106 legal agreement.
- 7.14. CDC Strategic Housing: **Comments** on the provision of affordable housing as part of a Section 106 legal agreement. Supported by local and national policy, the Housing team's approach to affordable housing provision extends beyond achieving numbers – it is about meeting a range of housing needs which have been identified through an appropriate level of research and consultation. In order for the Strategic & Development team to support this proposal, evidence of households in need with a verified village connection is required. There are no households on CDC register with a verified village connection to Finmere, there have been no recent Parish Housing

Needs surveys carried out and there is no Neighbourhood Plan containing this information. Affordable housing required at a minimum of 35% and with a tenure split of 70% rented and 30% intermediate is also required by policy BSC 3. This equates to 11 affordable homes with 8 rented and 3 intermediate tenure(s) on this proposal.

- 7.15. CDC Ecology: No comments received
- 7.16. CDC Arboriculture: No comments received
- 7.17. CDC Building Control: Comments provided on compliance with Building Regulations requirements M4(1),(2) and/or (3) (accessibility standards) dependent on planning conditions.
- 7.18. CDC Conservation Officer: **No objections** on heritage grounds
- 7.19. CDC Landscape: No comments received
- 7.20. CDC Waste & Recycling: No comments received
- 7.21. OCC Lead Local Flood Authority (LLFA): **No objection** subject to conditions
- 7.22. British Horse Society: No comments received
- 7.23. Natural England: No comments received
- 7.24. Wildlife Trust: No comments received
- 7.25. Clinical Commissioning Group: No comments received
- 7.26. National Grid: No comments received

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2015') was formally adopted by Cherwell District Council in July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 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 2015)

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

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

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H18: New dwellings in the countryside
- C5: Protection of ecological value and rural character of specified features of value in the district
- C8: Sporadic development in the open countryside
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C33: Protection of important gaps of undeveloped land
- ENV1: Environmental pollution
- ENV12: Potentially contaminated land
- TR1: Transportation funding

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

9. APPRAISAL

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

- Principle of development
- Design, and impact on the character of the area
- Landscape and visual impact
- Historical Impact
- Highway Implications
- Residential amenity
- Ecology impact
- Sustainable construction
- S106

Principle of Development

9.2. This application seeks outline planning permission for the development of this paddock field for up to 30 dwellings, with associated access, drainage and open

space. The site lies outside the built-up area of Finmere and comprises an area of open countryside.

Policy Context

- 9.3. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (NPPG).
- 9.4. The NPPF explains 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.
- 9.5. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 10). Paragraph 11 states that applying the presumption to decision-making means:
- approving development proposals that accord with up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;
 - ii. or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 9.6. The position in which the most important policies are considered to be out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.
- 9.7. Paragraph 12 advises, *'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*
- 9.8. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes. Paragraph 60 states, *'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay'*.
- 9.9. Paragraph 74 highlights the need for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted

strategic policies, or against their local housing need where the strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case). The supply of specific deliverable sites should, in addition, include a buffer - 5% in Cherwell's current circumstances (moved forward from later in the plan period).

Development Plan

- 9.10 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires any application for planning permission to be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996.
- 9.11 Policy PSD1 of the CLP 2015 embeds a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development. It states, '*The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area*'.
- 9.12 The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, '*The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car*'.
- 9.13 Policy BSC1 states that Cherwell District will deliver a wide choice of high quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.14 Paragraph E.10 of the Plan states, '*Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and the NPPG (to maintain a continuous five year supply of deliverable (available, suitable and achievable) sites as well as meeting its overall housing requirement*'.
- 9.15 Cherwell's five-year housing land supply position was reviewed in the 2021 Annual Monitoring Report (AMR). Despite a strong record of delivery since 2015, the AMR presents a 3.8 year supply position for 2021-2026 and 3.5 years for the period 2022-2027 (the latter being effective from 1 April 2022). This compares to the 4.7 year housing land supply for the period 2021-2026 reported in the 2020 AMR. An additional 1,864 homes would need to be shown to be deliverable within the current 2021-2026 five-year period to achieve a five-year supply as required by the NPPF.
- 9.16 Paragraph E.19 of the Local Plan states, "*If the supply of deliverable housing land drops to five years or below and where the Council is unable to rectify this within the next monitoring year there may be a need for the early release of sites identified within this strategy or the release of additional land. This will be informed by annual reviews of the Strategic Housing Land Availability*".
- 9.17 The Council's latest assessment of housing land availability is its 'HELAA' published in 2018. This is a technical rather than a policy document but provides assessments of potentially deliverable or developable sites; principally to inform plan-making. The application site features as site HELAA125 and is considered to be, in part, a potentially developable site for residential development:

“Greenfield site outside the built-up limits. Finmere is a Category A village in the adopted Local Plan Part 1, the category of the most sustainable villages in the district. The adopted Local Plan makes provision for some development (10 or more homes and small scale employment) at Category A villages. Three public footpaths cross the site. It is considered that the eastern part of the site has potential for residential development. The area is adjacent to the village and if access could be achieved as well as retaining the Public Rights of Way network, which provides access to the rest of the village then the harm would likely be limited. Development would also need to respect the trees/hedgerows that form the edge of the site. The impacts of development would need to be further mitigated by appropriate design, layout and high quality build. Development on the western part of the site would start to encroach into the open countryside and affecting the open rural character of the area. The site could accommodate 20 dwellings based on 20 dph on 1 ha. This takes account the provision of open space and creating an appropriate edge to the village but also considering the surrounding densities (Chinalls Close and Stable Close)...” (2018 HELAA, Appendix 4)

- 9.18 Policy Villages 1 of the CLP 2015 provides a framework for housing development in the rural areas of the district and groups villages into three separate categories (A, B and C), with Category A villages being considered the most sustainable villages in planning terms. The categorisation of villages was informed by a defined range of sustainability criteria (CLP para C.255). Finmere is a Category A village.
- 9.19 Policy Villages 2 of the CLP 2015 states, ‘A total of 750 homes will be delivered at Category A villages. This will be in addition to the rural allowance for small site ‘windfalls’ and planning permissions for 10 or more dwellings as at 31 March 2014’. This Policy notes, ‘Sites will be identified through the preparation of the Local Plan Part 2, through the preparation of the Neighbourhood Plan where applicable, and through the determination of applications for planning permission’.
- 9.20 Policy Villages 2 states that in identifying and considering sites, particular regard will be given to the following criteria:
- i. *‘Whether the land has been previously developed land or is of less environmental value’;*
 - ii. *‘Whether significant adverse impact on heritage and wildlife assets could be avoided’;*
 - iii. *‘Whether development would contribute in enhancing the built environment’;*
 - iv. *‘Whether best and most versatile agricultural land could be avoided’;*
 - v. *‘Whether significant adverse landscape impacts could be avoided’;*
 - vi. *‘Whether satisfactory vehicular and pedestrian access/egress could be provided’;*
 - vii. *‘Whether the site is well located to services and facilities’;*
 - viii. *‘Whether necessary infrastructure could be provided’;*
 - ix. *‘Whether land considered for allocation is deliverable now or whether there is a reasonable prospect that it could be developed within the plan period’;*
 - x. *‘Whether land the subject of an application for planning permission could be delivered within the next five years’;*
 - xi. *‘Whether development would have an adverse impact on flood risk’.*

Assessment

- 9.21 Finmere is identified in the Local Plan as a sustainable location for meeting defined housing requirements – one of 23 Category A villages intended to provide 750 homes from 2014 to 2031 (Policy Villages 2). The Local Plan reached that conclusion having undertaken a comparative assessment and categorisation of all the district's villages.
- 9.22 The Local Plan does not allocate non-strategic sites. Instead, Policy Villages 2 provides the above criteria against which individual proposals are required to be assessed.
- 9.23 The requirement of Policy Villages 2 to provide 750 homes at category A villages is monitored in the 2021 AMR. Table 39 of the AMR shows that 749 dwellings are either completed or under construction on sites with planning permission. Para. 5.159 records that since 1 April 2014 a total of 1,062 dwellings have been identified for meeting the Policy Villages 2 requirement of 750 dwellings.
- 9.24 The achievement of the requisite 750 homes is a material consideration in considering 'major' developments at the Category A villages. However, in the context of policy BSC1 and the need to meet overall district housing requirements by 2031, it does not mean that there is a moratorium on future development. Furthermore, at the present time there is a need to consider the district's 5 year land supply position. The lack of a 5 year supply renders Policy Villages 2 out-of-date. There is a current housing need to be met.
- 9.25 In determining whether the application site is acceptable there is a need to apply the site criteria within Policy Villages 2. The assessment of suitability included in the 2018 HELAA is material. The conclusions of two appeal decisions are also material (East of Heatherstone Lodge, Fulwell Road, Finmere (appeal decisions APP/C3105/W/17/3169168 and APP/C3105/W/17/3189420))

Policy Villages 2 Criteria

- 9.26 The applicable criteria are provided at paragraph. 9.20 above. It is clear that the site is not previously developed land. However, the development would not result in significant adverse impact on heritage or wildlife assets. However, Agricultural Land Classification mapping suggests that the site includes grade 1 and grade 2 best and most versatile agricultural land. The application is not supported by any soil assessment to confirm the actual land classification.
- 9.27 It is considered that a sympathetic design would allow for a development to make a positive contribution towards the built environment and mitigate landscape impact. More detailed consideration of landscape impact is provided below.
- 9.28 Access can be achieved off the Old Banbury Road and would allow for a pedestrian access by incorporating the existing rights of way across the site as part of the final scheme.
- 9.29 Finmere's main services and facilities comprise a primary school, a village hall with sports field and play area, and a public house. These are considered to be within a reasonable walking distance from the application site. The Inspector for planning appeal APP/C3105/W/17/3169168 drew the same conclusion for land to the west of the application site (appeal decision, para. 7).
- 9.30 The applicant has confirmed that the development of the site could be achieved within a five year period and that the land is available to develop. Officers have no reason to dispute this.

- 9.31 Finally the site is not located within a flood zone and with no objections from the Lead Local Flood Authority (LLFA) it is considered that the development could be designed to ensure no adverse impact.
- 9.32 Overall, based upon the application of the criteria at paragraph 9.20, it is considered that the development would be in accordance with Policy Villages 2 (notwithstanding the fact that the district's five-year land supply position renders the policy out-of-date). The HELAA assessment reinforces this view. However, there is a need to consider landscape impact in more detail below.

Appeal Decisions

- 9.33 The Planning Inspector who dismissed the appeal in relation to a proposal for up to 25 homes on land adjoining the application site (East of Heatherstone Lodge, Fulwell Road) highlighted that *'One of the nearest settlements is Tingewick which provides a shop and post office. However, its distance and the nature of the route to it means that it would not be convenient to walk or to cycle, in my judgement. The towns of Buckingham and Brackley would provide a much greater range of services and employment opportunities but my judgement is that cycling to either would not be attractive. Evidence in relation to bus services from Finmere indicates a very limited service to Buckingham and Brackley and would not be conducive for commuting. There is no service in the evenings or on Sundays. My view is that future residents of the appeal site would be left with very little alternative other than private car trips when accessing work, secondary school, shopping or medical visits and other routine services. Therefore, the proposal is contrary to the policy aim of directing most growth to sustainable locations where dependency on the car can be reduced.'*
- 9.34 The Inspector concluded *'...I consider that the development of up to 25 homes would represent a sizeable amount of the remaining balance of the rural housing allocation. It would provide this amount of housing in a location which has very limited access to shops, services and employment opportunities and access to these and other facilities would place heavy reliance on private cars. As a consequence, it would prejudice the aim of aligning the provision of rural housing with the sustainability of a location. In this way, the proposal is contrary to Policies ESD1 and Category Villages 2 and would not accord with the objective of the Framework to actively manage patterns of growth to make the fullest use of public transport, walking and cycling'*.
- 9.35 The Inspector dealing with the previous appeal (APP/C3105/W/17/3169168) considered the likely impact of a more extensive proposal in earlier in the plan period and was concerned about achieving a *'more balanced distribution of rural housing growth'* (appeal decision, para. 13). In that context, he opined that *'the potential scale of the proposed development at a settlement with few facilities and poor public transport connectivity renders the appeal proposal unacceptable. It would conflict with CLPP1 Policies ESD 1 and Villages 2. It would also fail to accord with the objectives of the NPPF to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to mitigate and adapt to climate change.'*
- 9.36 That Inspector stated, *'Given the local and national planning objectives to secure sustainable patterns of growth and reducing dependence on the private car, the relatively limited day-to-day service provision in Finmere requires, in my view, a prudent approach to the scale of additional housing development in the village'* (appeal decision, para. 7)
- 9.37 The Inspectors' conclusions on the transport sustainability of the location of the adjoining appeal site are material and weighs against the current application for adjoining land.

- 9.38 The village has a very limited bus service in the form of the 132 route, which stops four times during weekdays and three times on Saturday between Brackley and Buckingham, and route 80 and 81 between Akeley and Brackley which also stops once in the morning and once in the afternoon but operates only during school days and not during Bank Holidays. The bus service would be of limited assistance to those travelling to work as the early morning bus from Little Tingewick (not referenced in the Transport Statement) arrives in Buckingham very early. Therefore, the residents of the proposed development would be reliant on the private car to access shops, employment and most services. This would be contrary to NPPF objectives for maximising sustainable transport solutions and providing a genuine choice of transport modes and the site's location weighs against the proposed development.
- 9.39 However, the Council's housing land supply position means that reduced weight must be given to the proposal's conflict with its housing strategy. In addition, whilst not one of the largest and 'best served' Category A villages, the Local Plan considers Finmere to be a more sustainable location for development than Category B or C Villages and potentially suitable for some development. It continues to have a primary school, village hall (with sports field & playground) and a local pub. From an employment perspective it has a small independent car dealership. The accommodation of residential development at villages generally creates a greater need to travel longer distances than in urban areas, albeit relative to other Category A Villages, this would particularly be the case at Finmere.
- 9.40 It should also be noted, on the matter of visual impact rather than geographical sustainability, that there are differences between the appeal site and the current application site. The most recent appeal case involved a proposed development projecting more prominently into the open countryside and described by the Planning Inspector in the 2018 appeal decision as a 'dislocated limb of development':

Rather than reinforcing or seeking to fit in with the predominant settlement character, I consider that the proposal would provide a mainly isolated extension of Finmere out into the open countryside which would not site comfortably within or immediately adjacent to its existing form. Much of the appeal site would be on rising land with open land around it. Whilst I have noted the reduced form and extent of the appeal site when compared to the previous appeal, I consider that the description of the proposal as a "dislocated limb of development" can justifiably be applied to the scheme now before me. It would extend considerably beyond the southerly extent of Stable Close and would not relate visually with Chinalls Close due to the extent of the intervening open land. The provision of an access which is quite separate from the rest of the village and which itself would form an extended limb of development, would serve to accentuate this unacceptable form of development. Although it is not for me to seek to justify the developments at Chinalls Close and Stable Close, although I regard these areas as not conforming strictly to the linear form, they have been developed without resulting in limbs of development extending into the countryside, as I consider the appeal scheme would. (Appeal Decision, para. 13).

- 9.41 The current application relates to land to east of the appeal site with existing residential development to both the north and east. Development would be viewed as being more integrated to the south of the village. It is considered that impact of the development on the open countryside would be less harmful than in the two appeal cases.
- 9.42 The district's lack of a five-year housing land supply position and the benefit of providing additional homes, including affordable housing, must be weighed against the likely harm. As required by the NPPF, there is a need to consider whether the proposal's adverse impacts would significantly and demonstrably outweigh the benefits.

Conclusion

- 9.43 Consideration below of matters of detail are required to reach an overall conclusion. However, in principle, the consideration of the Policy Villages 2 criteria, and with regard for the conclusion of the HELAA's assessment of partial site suitability, suggest that whilst there would be harm from a sustainable transport perspective, it could not be said that such impacts are likely to significantly and demonstrably outweigh the housing benefits or providing new homes and affordable housing, particularly in the absence of a five-year supply of deliverable sites.

Design, and impact on the character of the area

- 9.44 Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets. Section 12 of the National Planning Policy Framework is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.45. BSC2 of the CLP 2015 states that new housing should be provided on net development areas at a density of at least 30 dwellings per hectare unless there are justifiable reasons to lower the density.
- 9.46. The Council's Design Guide seeks to ensure that new development responds to the traditional settlement pattern and character of a village. This includes the use of continuous building forms along principal routes and the use of traditional building materials and detailing and form that respond to the local vernacular
- 9.47 Although this application is in outline form, and therefore only seeks approval of the principle of a residential development on the site, an indicative layout has been provided in support of the application. This layout shows an estate of 29 dwellings although the application seeks permission for up to 30 dwellings and the density of is suggested by the applicant to be in the region of 16 dwellings per hectare. The applicant has stated that the proposal has an indicative mix of affordable units based on local need and would be equal to 2 x 1-bedroom homes (18%); 5 x 2-bedroom homes (46%); and 4 x 3-bedroom homes (36%). It is also stated that one of the affordable homes will be provided as a bungalow, to respond to local demand and to address the Policy preference for schemes to include homes for older and/or disabled people.
- 9.48 Access to the site would be provided with a single point off Banbury Road with the re-location of the existing wooden gates further along Banbury Road. The access through the site is in the form of a single spine road with a number of cul-de-sacs and private driveways branching off to serve a series of detached and semi-detached dwellings. The dwellings are shown arranged around the site with positions largely determined by the position of the three public rights of way which dissect the site. An area of Public Open Space is located to the north, which will accommodate a SuDS attenuation basin and trim trail, which will be accessible for use by existing and future residents. A large area of Public Open Space is proposed to the south of the site which will provide for amenity green space.
- 9.49 The current layout presented would result in an unacceptable form of development. However, the application is made in outline with all matters reserved, and the details submitted are indicative - the layout, scale and appearance of the development would be considered at a later stage. Given the relatively low density of the scheme and the not irregular shape of the site it is considered that a revised layout could be negotiated

at reserved matters stage to ensure that the proposed development achieved a high quality and locally distinctive scheme.

- 9.50 The gross density of the scheme is stated by the applicant in their Design and Access Statement as 16 dwellings per hectare (dph). The proposed residential area itself is cited as having a net of 31 dph. Policy BSC3 seeks new housing to be provided on net developable areas at a density of at least 30 dwellings per hectare unless there are justifiable planning reasons for lower density development. The surrounding area which is stated by the applicant as being 15 dwellings per hectare and officers concur it is of a lower density form. In this case, given the edge of settlement location of the development and the need for a robust landscape strategy to the boundaries of the site, it is considered that the proposed density would be acceptable.
- 9.51 In addition, it is also important to note the impact this development would have upon the nature of the village. The development of up to 30 dwellings would be an increase in the size of the village by approximately 22%, which is a significant increase in scale. Finmere is not a large village and it is considered that this proposed increase in size in a single development would appear out of scale for the character of the village. This weighs against the proposal.

Landscape and Visual Impact

Policy context

- 9.52 The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.53. Policy ESD15 of the CLP 2015 looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that, *new development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages.*
- 9.54. Saved Policy C28 of the CLP 1996 states that *control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development.* Furthermore, saved Policy C30 of CLP 1996 states *control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.*
- 9.55. Policy ESD13 of the CLP 2015 states that *development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not normally be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural landscape features and topography, be inconsistent with local character, or impact on areas judged to have a high level of tranquillity.*
- 9.56. Policy ESD15 of the CLP 2015 highlights the importance of the character of the built and historic environment. This Policy states, amongst other things, that *successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.* The Policy continues by stating that new development proposals should,

amongst other things, *contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views.* Development should also respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.

- 9.57 Further, as noted above, Policy Villages 2 of CLP 2015 requires consideration of landscape and associated impacts.
- 9.58. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development.

Assessment

- 9.59 The site is not located within the built-up area of Finmere but comprises an area of open paddock with grazing horses and ponies. The field is open in nature with the boundaries to the south, north and west marked by hedgerows and trees, while the boundary to the east is marked by a mix of hedgerow and fencing to the existing residential properties. Although the site is currently used as a paddock the details of the Councils constraints plan suggests that the central section of the site is listed as grade 1 agricultural land while the southern section of the site is allocated as grade 2. The application is not however, supported by any soil assessment to confirm the actual land classification. Notwithstanding this, it is considered that the area of the site has an important landscape value providing an attractive rural setting for the edge to Finmere from the west and south with a rural and tranquil character. There are presently strong natural boundaries to the south of Stable Close and to the west of Chinalls Close.
- 9.60 In dismissing the appeal on the adjoining site (APP/C3105/W/17/3189420) the Inspector noted that *the overriding character of Finmere is a linear settlement which reflects its historic development along a shallow valley. Although there has been some relatively modern development at Stable Close and Chinalls Close, the predominant character is as described. This means that much of the settlement is concealed within the valley and it does not intrude significantly into the wider rural landscape.* This current application would not follow this linear form of development but would extend the southern boundary of the site further from the centre of the village. The proposed development would start to change the character of the village by affecting its linear form. Development would extend significantly into open countryside, albeit it could be designed to be contiguous with built up area boundaries to the north and east.
- 9.61 On the second dismissed appeal for development on the adjoining site (APP/C3105/W/17/3169168) the Inspector noted that *the Old Banbury Road (the former A421) now forms a rural byway with evidently very little vehicular traffic due to its restricted access and terminated function. Utilising this road to serve a development of up to 47 dwellings would harmfully erode its rural character and its role as a largely undisturbed route into the countryside. The detrimental urbanising effects of the vehicular access and proximity of the appeal proposal on this byway adds to my concerns about the appeal proposal's impact on the rural character of the locality.*
- 9.62 This current application seeks access off the old Banbury Road and although serving a lower amount of development of up to 30 dwellings there has been no significant change in the character of the area since this appeal decision in 2017 as well as the one in 2018. It is considered that the western / southern edge of the village marked by this paddock makes a positive contribution towards the rural nature of the village.

It is therefore reasonable to come to the same conclusions in respect of visual amenity about the current proposal as did the previous Inspectors in dismissing appeals relating to the adjacent site.

Conclusion

- 9.63 As outlined above, Policy Villages 2 requires a number of key criteria to be taken into account in considering the development of housing in the village. This includes whether '*significant adverse landscape impacts could be avoided*'. The above analysis suggests that there would be adverse impact. The proposal conflicts with Policies ESD13 and ESD15 of the CLP 2015. This harm weighs against the proposals.

Historical Impact

- 9.64 Although the site is not recorded as being within a Conservation Area nor adjoining a listed building, an objection has been raised by the County Archaeologist. The objection confirms that archaeological advice was provided on a previous planning application for this site in 2015 (15/00552/OUT) where it was highlighted that the results of an archaeological field evaluation would need to be submitted with this application in line with paragraph 128 of the National Planning Policy Framework (2021). The site is located in an area of archaeological interest to the north of an area of Iron Age settlement recorded during the construction of the B4031 diversion. This excavation recorded a series of linear features, pits, a circular gully thought to relate to an Iron Age roundhouse and a hearth. The features extend beyond the northern limit of the road diversion and may continue into the application area. The site is also located 500m north west of the projected route of the Roman road from Alchester to Towcester. It is therefore possible that archaeological features related to the Iron Age and Roman settlement of the area could survive within this proposed site.
- 9.65 Paragraph 194 of the NPPF covers the issue of proposals affecting heritage assets and states amongst other things that *where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation*. Paragraph 195 continues by stating that *Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal*.
- 9.66 Policy ESD15 of the CLP 2015 covers the issue of the Character of the Built and Historic Environment. The Policy states, amongst other things, that *new development proposals should: include information on heritage assets sufficient to assess the potential impact of the proposal on their significance. Where archaeological potential is identified this should include an appropriate desk based assessment and, where necessary, a field evaluation*.
- 9.67 The concerns raised by the County Council's Archaeologist are noted and the advice that a field excavation would be required prior to any determination was made as part of a previous application. The applicant was therefore fully aware of the need to provide a field excavation but decided to provide a written scheme of investigation which does outline areas of trial trenching across the site. The written scheme also highlights that overall, there is quite a large amount of later prehistoric features and specifically likely Iron Age remains in close proximity to the south of the Site, including settlement remains. There is thus a moderate potential for Iron Age remains (or

Bronze Age remains) to be present within the Site area. The report also highlights that it is quite likely that the Iron Age sites recorded in the previous section may have had some continuation of occupation into the Roman period. The potential for Roman remains to be present within the Site is considered moderate.

- 9.68 In response to this request, the applicant has provided a Geophysical Survey of the site which the County Archaeologist have advised is not sufficient without a written scheme of investigation of the site. It is clear that both the applicant and the County Archaeologist recognise that the site has the potential to contain archaeological material and that there is a need to carry out further works to establish what that material is. The difference in view relates to when the excavation work is carried out on the site. At the time of drafting this report the applicant has confirmed that a full copy of the Geophysical Survey Report along with a written scheme of investigation will be provided to the county Archaeologist. These two reports in combination are intended to address the outstanding concerns raised by the Archaeological Team, with evaluation trial trenching capable of being secured by way of a planning condition, prior to the submission of any reserved matters.
- 9.69 The key is whether the decision maker has sufficient confidence that the proposals are capable of being acceptable in principle (in which case a condition is reasonable) or whether the further information (trial trenching) is required before that conclusion can be reached. The advice in the NPPF is clear that *with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation*. The advice of the County Archaeologist is that a field evaluation is required in this instance and that this has been raised before. The lack of a suitable field evaluation is therefore contrary to paragraph 194 of the NPPF as well as Policy ESD15 of the CLP 2015.
- 9.70 Additional information had been provided by the applicant to address the concerns raised by the County Archaeologist and a response to this additional information is awaited. Providing that the Archaeologist confirms that the information submitted demonstrate that the development of this site will ensure that any archaeological artifacts are recovered and secured by a condition there is no objections to the scheme on the issue of archaeology.

Highway Implications

Policy context

- 9.71 Paragraph 110 of the NPPF states that in assessing specific applications for development, it should be ensured that:
- a) *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - b) *safe and suitable access to the site can be achieved for all users; and*
 - c) *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*
- 9.72 In addition to this paragraph 111 highlights that *development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

Assessment

- 9.73 This application seeks outline permission for the development of the site with all matters other than access to be reserved for a later date. As such the application is

supported by details of the access into the site which would be via a new single access road off Banbury Road.

- 9.74 The LHA advises that the NPPF requirement is for development to provide safe and suitable access for all users and that the needs of people with disabilities and reduced mobility should be addressed in relation to all modes of transport. While the proposals are able to demonstrate safe access for vehicles, access on foot requires users to share the carriageway with vehicles where there is no street lighting and vehicle speeds are likely to be higher than the posted speed limit. This would be unattractive to the majority of potential users and is likely to be a sufficient barrier to those groups of people with mobility and sensory disabilities as to preclude them access to the site by all modes.
- 9.75 It is noted that secondary pedestrian access to the site is available via Public rights of Way at the north of the site connecting to Chinalls Close and Fulwell Road and that these are welcomed in terms of increasing the connectivity of the site; however, the routes are narrow, enclosed, require surfacing improvements and will not be suitable for cycling.
- 9.76 The Transport Statement (TS) submitted in support of the application outlines that the traffic generated by the proposed development is not considered to have a severe impact on the existing highway network given the scale of the development and the nature of the roads. The LHA's objection revolves around the site's unsustainable location rather than highway safety.

Conclusion

- 9.77 Overall, the proposals are considered capable of being made acceptable in highway safety terms. This weighs neutrally in the planning balance as it is a policy / principle requirement rather than any benefit of the scheme.

Residential amenity

- 9.78 Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.79 The application is in outline only and therefore all detailed proposals in the reserved matters applications would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD with regard to appropriate standards of amenity for both existing and future residents. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.80 The current application is supported by an indicative masterplan which shows a suggested layout for 29 dwellings. In this layout the proposed development would be located away from surrounding residential properties. The existing properties which would be most impacted upon by the proposed development would be the properties to the east and north of the site in Chinalls Close and Stable Close. These properties are separated from the application site by landscaping belt, and as shown on the indicative plan a significant distance from the proposed development. For these reasons it is considered that the development could be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupiers, with acceptable details to be secured at reserved matters stage.

- 9.81 In terms of the living conditions of future residents of the development, one must consider the impact of noise. Paragraph 174(e) of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by, amongst other things, *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability*. Paragraph 185 continues by stating, amongst other things, that planning decisions should *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: a) mitigate and reduce to a minimum potential adverse impact resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life*.
- 9.82 The Council's Environmental Protection Officer comments on the applicant's submitted noise report, noting that to mitigate for predicted noise levels on the site as a result of road traffic on the A421, satisfactory internal and external noise levels can only be achieved with mitigation in place. For external areas the Council's requirement is that noise levels should not exceed a level of 50dB LAeq,16 hour (good standard) and not 55dB LAeq,16hour (upper limit) as proposed in the report. It is considered that an additional mitigation such as a bund/barrier at the site boundary is likely to be required. It is considered feasible for a bund to be provided along the southern / western boundary to the site as this area of the site on the indicative masterplan is allocated as an area of open space. The bund could be integrated into the overall landscaping for the development which would have the added benefit of reducing the appearance of the development on the area of open countryside.
- 9.83 Turning to the issue of internal noise this is of some concern in that satisfactory internal levels can only be achieved with windows closed. If it is acceptable to have windows closed having regard to the concerns about overheating in dwellings and climate change then an overheating assessment will be required to confirm that a suitable living environment can be provided with windows closed. This would need to include the specification for the alternative means of ventilation requirements. It is noted in the applicant's noise report that the maximum (LAmax) noise levels have not been considered in the assessment. It is therefore recommended that a site assessment be undertaken to confirm this and also the predictions based on traffic flow data.
- 9.84 Although mitigation can ensure that internal noise levels can be achieved if this is at the cost of having windows closed this would not provide "Good living conditions" for the residents on the site particularly during warm weather when windows are likely to be opened during both day and night. Furthermore, it is not clear how overheating conditions would be avoided again to the detriment of future residents.
- 9.85 In response to this concern the applicant has confirmed that *as set out in the submitted Noise Technical Note, external areas have been designed to not exceed 55dB in relation to the proposed development. This accords with the assessment noise criteria provided within BS8233:2014 'Guidance on Sound Insulation and noise reduction for buildings', and 'Professional Practice Guidance on Planning & Noise, New Residential Development 2017' (ProPG). It is therefore not clear why an upper limit of 50dB is requested from the Council's Environmental Protection Officer, as no justification has been provided. An upper limit of 50dB for external areas is not considered justified or appropriate*.
- 9.86 With regards to any mitigation measures the applicant has advised that *mitigation at the southern boundary of the site is proposed in the form of 1.8m fencing on exposed*

garden boundaries. The illustrative masterplan has been designed to ensure that dwelling frontages provide screening to gardens along the southern edge. These combined measures are likely to provide the required mitigation to ensure that the 55dB criteria is met. This would be confirmed through on-site surveys and noise modelling at the Reserved Matters stage, once a detailed layout is available and any mitigation measures for external and internal amenity can be refined. On the issue of internal noise levels, the applicant has confirmed that to achieve internal noise levels, windows do not need to be sealed and the choice to open windows would be at the preference of future residents. As part of the development, suitable glazing and ventilation would be provided so that windows can be closed and the internal standard can be achieved, in accordance with Building Regulations and Approved Document F. This is a detailed design matter which would be addressed at the Reserved Matters stage. On the final point regarding an overheating assessment the applicant has advised that as there is no existing requirement for an Overheating Assessment to be undertaken However, should it be considered appropriate, a planning condition could be attached to any outline consent for a ventilation strategy to be provided at the Reserved Matters stage.

- 9.87 In considering the applicants response, it is accepted that no objection to the proposal on noise and ventilation of the accommodation has been raised. It is also accepted that mitigation measures to address the noise and ventilation of the accommodation could form part of the reserved matters details. However, in considering the potential noise mitigation measures this could include a high acoustic fence along the southern boundary to the site which in itself would have implications in terms of design and appearance to the edge of the development.

Conclusion

- 9.88 Notwithstanding this point with the lack of an objection to the scheme from the Environmental Protection Officer it is not considered that noise and / or ventilation of the future accommodation need to be addressed to allow the application to be seen as acceptable.

Ecological impact

Legislative context

- 9.89. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.90. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.91 The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or

forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.92 The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

(1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?

(2) That there is no satisfactory alternative.

(3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.93 The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

9.94 Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.95 Paragraph 180 states, amongst other things, 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.

9.96 Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.97 These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.98. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities (LPAs) should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

9.99 Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

9.100 It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.101 This application is supported by an Ecological Impact Assessment (EIA) of the site dated August 2021 with a separate bat survey also dated August 2021 undertaken by a suitably experienced ecologist. The results of this EIA underline that the proposal will result in permanent losses of habitats under the footprint of the development. The habitats lost are of low ecological importance. Mitigation through design has been utilised to avoid impacts to valuable, onsite habitats, including the hedgerows and trees which are largely retained within the scheme.

9.102. With regard to the bat survey it highlights that eight species of bat were identified utilising the site with low numbers and levels of activity levels detected. No significant bat foraging / commuting activity was identified within the site. The northern, eastern and southern boundary (H1, H2 and offsite trees) were highlighted as areas which must be retained as dark corridors (< 1 lux of light spill) to avoid disturbance of the low numbers of Barbastelle, a light sensitive species of bat. A sensitive lighting scheme is required throughout the development and long-term management of the retained habitats is required. Furthermore, the bat assessment highlighted that measure to improve connectivity will include the planting of new species rich native hedgerows and as an additional enhancement bat boxes should be placed in suitable locations within the development.

9.103. A further assessment for great crested newts (GCN) also supported the application. This assessment highlights that a small population of great crested newts are present within pond P2. Suitable terrestrial habitats are present within the site for this species (though they are considered to be sub-optimal). The proposed development could result in impacts to the GCN population within the 50-250m and 250-500m impact area of P2. Furthermore, the assessment confirms that the mitigation and enhancement strategy set out within this report has been designed to maximise GCN habitats and connectivity within the context of the final development layout. It is considered that on completion of all mitigation and compensation measures, the favourable conservation status of this species will not only be maintained but enhanced as a result of the proposals.

Conclusion

9.104. Officers are satisfied, on the basis of the absence of any objection from Natural England or the Council's Ecology Officer, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land would continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Sustainable construction

Policy Context

9.105. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that: *a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.* Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

Development Plan

9.106. Policy ESD1 of the CLP 2015 covers the issue of Mitigating and Adapting to Climate Change and includes criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*

9.107. With regards to Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.

9.108. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with Government policy.* The Policy continues by stating that *Cherwell District is in an area of water stress and as such the Council will seek a higher level of water efficiency than required in the Building Regulations, with developments achieving a*

limit of 110 litres/person/day. The Policy continues by stating that all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials. Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.

Assessment

9.109 This application seeks outline planning permission for a new development of up to 30 dwellings on the site. As such the final design of the buildings is not provided as this would be the subject of a reserved matters application. At that stage it is considered that the full details of the sustainability measure to be incorporated into the design would be provided and agreed.

Conclusion

9.110 Given this is an outline application, no information is provided with regards to the final design and hence sustainability measures to be used on this site. However, it is considered that conditions could be imposed on any outline planning permission given to secure the sustainability credentials of the development which would comply with the aspirations of these policies.

Flooding Risk and Drainage

Policy context

9.111 Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 163 of which states that *when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

9.112. Paragraph 165 of the NPPF continues by stating that *major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:*

- a) take account of advice from the lead local flood authority;*
- b) have appropriate proposed minimum operational standards;*
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and*

d) where possible, provide multifunctional benefits.

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

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

Assessment

9.115. The current is situated wholly within Flood Zone 1 which is land which has a less than 1 in 1,000 annual probability of river flooding.

9.116. The applicant has submitted a Flood Risk Assessment (FRA) which outlines that to address surface water drainage post-development the site levels would be re-profiled to remove any surface water ponding caused by localised low points. Permeable paving would be utilised across the development to avoid any ponding of surface water above ground.

9.117. As part of the drainage strategy the applicant has shown on the indicative layout an area of attenuation ponds located in the northern section of the site. The details of these attenuation basins in the FRA highlights that a storage volume of 456.3m³ is required within the proposed attenuation basin, this is to allow sufficient time for all surface water to discharge at a controlled rate of 5l/s and cater for all events up to the 1 in 100-year return period with a 40% climate change allowance.

9.118. Given the above, surface water is likely to be collected by the proposed site-wide drainage infrastructure and conveyed to a proposed discharge point on site and as such the risk of flooding will be managed at the development site post-development and the remaining risk will be very low.

Conclusion

9.119. As such and with no objections being received from the Lead Local Flood Authority Officer it is considered that the information submitted demonstrate that the development would provide adequate drainage upon the site to ensure that the development does not lead to problems of surface water flooding both on the site and to adjoining sites there is no objections to the scheme on the issue of drainage

Infrastructure / S106

Policy Context

9.120. Paragraph 54 of the NPPF states that *local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.* Paragraph 56 continues by stating that *planning obligations must only be sought where they meet all of the following tests:*

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.*

Development Plan

9.121. Policy INF 1 of the CLP 2015 covers the issue of Infrastructure. This Policy states, amongst other things, that the *Council's approach to infrastructure planning in the District will identify the infrastructure required to meet the District's growth, to support the strategic site allocations and to ensure delivery by:*

- *Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.*

9.122 Policy BSC 3 of the CLP 2015 states, amongst other things that *at Kidlington and elsewhere, all proposed developments that include 11 or more dwellings (gross), or which would be provided on sites suitable for 11 or more dwellings (gross), will be expected to provide at least 35% of new housing as affordable homes on site. The Policy continues by stating that, all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Social rented housing will be particularly supported in the form of extra care or other supported housing. It is expected that these requirements will be met without the use of social housing grant or other grant.*

9.123. The Council also has a Developer Contributions SPD in place which was adopted in February 2018, and which follows the tests of the National Planning Policy Framework and is therefore relevant to this planning application. Under the SPD it is outlined that, although the scope for securing S106 planning obligations has been reduced since April 2015 due to the pooling restrictions, it is expected that planning obligations will still be sought for:

- Affordable housing; and
- Infrastructure which is required to mitigate the direct impact of a development.

9.124. It should, however, be noted that this is a general guide and development proposals will continue to be assessed on a case by case basis with the individual circumstances of each site being taken into consideration when identifying infrastructure requirements.

Assessment

9.125. Due to the level of development on the site the issue of affordable housing should be taken into account. Paragraph 65 of the NPPF states that *where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.* This application is for up to 30 dwellings on the site which would represent a major application in terms of definition. As such the application should provide an element of affordable housing as part of the proposal.

9.126. In addition, this it is also considered that the development should contribute towards community hall facilities, Indoor and outdoor sports provision, towards Public Art and highway infrastructure improvements necessary for the development as outlined by the comments of the consultees.

9.127. The application is supported by a draft heads of terms under which the applicant has confirmed that they would be looking for a S106 agreement to cover the following areas:

- Affordable Housing Affordable housing provision in accordance with local policy.

- Public Open Space To provide the public open space and provide for an appropriate maintenance regime.
- Education Contribution to additional education provision (if required). Health Contribution to additional health provision (if required).
- Transport and Movement Contribution to highway improvements to Banbury Road, and off-site highway improvements. The on-site PRowWs will be upgraded to provide a surface suitable for year-round use.

9.128. Although the draft heads of terms do not cover all the areas where a contribution would be required it does show a commitment of the applicant to opening negotiations on an agreement. Notwithstanding this, the applicant has confirmed that they are willing to enter into a S106 agreement to cover the costs of the items outlined in the consultee comments. A commitment to this has been made by the applicant and solicitor details provided to allow for this process to proceed. As such it is considered that in the event that permission was to be approved for this development it would be the subject of an agreed S106 being in place. As such it is considered that the development will comply with Policies BSC3 and INF1 of the CLP 2015 as well as guidance outlined in paragraph 54 of the NPPF.

9.129. However, in the event of a refusal of planning permission, and in order to safeguard the Council's position and be able secure planning obligations should there be a resubmitted application or an appeal, an additional refusal reason relating to the lack of a completed legal agreement should be included.

10. PLANNING BALANCE AND CONCLUSION

10.1. In reaching an informed decision on planning applications there is a need for the Local Planning Authority to undertake a balancing exercise to examine whether the adverse impacts of a development would be outweighed by the benefits such that, notwithstanding the harm, it could be considered sustainable development within the meaning given in the NPPF. In carrying out the balancing exercise it is, therefore, necessary to take into account policies in the development plan as well as those in the NPPF. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those which do not should normally be refused unless outweighed by other material considerations.

10.2. The site comprises an area of countryside beyond the built-up limits of Finmere. Finmere is designated as a Category A Village under Policy Villages 1 of the CLP 2015. Policy Villages 2 supports development of sites for more than 10 homes at Category A villages in certain circumstances. This development would be for up to 30 dwellings and therefore falls within this category. Policy Villages 2 outlines the need to provide 750 homes to be delivered across these villages. The AMR 2021 highlights that this objective has essentially been met.

10.3. However, the Council is not presently able to demonstrate a five-year supply of deliverable housing sites and so the relevant development plan policies for housing are to be considered 'out of date' and attract reduced weight.

10.4. Plans and decisions should apply a presumption in favour of sustainable development. In the circumstances where the housing supply policies are to be considered out of date, this means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

- 10.5. Although Finmere is a Category A village under the 2015 Local Plan it has limited services, public transport links and employment opportunities. Future residents of the development would have no choice but to use their own private cars to access many services. Previous appeal decisions have concluded that Finmere is not a sustainable location for developments of this scale. Reliance on the private car does not presently assist in reducing carbon emissions nor help achieve sustainable transport objectives.
- 10.6. The size of development would represent a 20% increase in the size of the village and would impact on the linear form of the village character. However, development could, in principle, be continuous with two built-up area boundaries and achieve visual integration. The Council's 2018 HELAA suggests that the site is suitable for some development (approximately 20 dwellings).
- 10.7. The site is not within a conservation area and there are no listed buildings on the site there is an objection to the proposal from the County Archaeologist, on the basis that the application is not supported by a field evaluation but a written scheme of investigation. It is clear that the advice in the NPPF and Local Plan Policy ESD15 highlights that *with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation*. The advice of the County Archaeologist is that a field evaluation is required in this instance and that this has been raised before. Further information has been provided to address this objection and comments of the County Archaeologist are awaited and will form part of the update report during this committee meeting in the event that comments are received.
- 10.8. In conclusion, there would be harm by way of landscape and visual impact affecting the character of this linear village; and, for a development of this scale, because of the likely reliance on unsustainable transport to access many services and facilities. However, as Finmere was envisaged by the Local Plan to potentially accommodate some development, and in view of the fact that Council officers have considered that some development could be accommodated on this site, it is not considered that the adverse impacts of development would significantly and demonstrably outweigh the benefits of providing new homes including affordable housing in the absence of a five year land supply.
- 10.9. Therefore, despite there being some conflict with Local Plan policies and NPPF objectives, it is recommended that outline planning permission should be granted in this instance.

11. RECOMMENDATION

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

S106 Obligations

- a) Provision of 35% affordable housing on site
- b) Payment of a financial contribution towards Community Hall Facilities in the locality of £34,301.24
- c) Payment of a financial contribution towards Outdoor Sport Provision in the

- locality of £60,510.90
- d) Payment of a financial contribution towards Indoor Sport Provision in the locality of £25,048.40
 - e) Payment of a financial contribution towards the provision of Public Art in the locality of £6,720.00
 - f) Payment of a financial contribution towards Public Transport services of £31,530
 - g) Payment of a financial contribution towards Public Transport infrastructure of £1,428
 - g) Payment of a financial contribution towards Public Rights of Way of £20,000
 - h) Payment of a financial contribution towards Secondary Education of £232,659
 - i) Land contribution towards new secondary school of £23,331
 - j) Payment of a financial contribution towards household waste / recycling centres of £2,818.80
 - k) CDC and OCC Monitoring fees - TBC

Conditions

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

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

2. Details of the layout, scale, appearance, access and landscaping (hereafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

3. The development shall not be carried out otherwise than in complete accordance with the approved plans P21-2023_02, P21-2023_03, P21-2023_07 Rev B, 26717_08_020_01 Rev A, 26717_08_020_02, 26717_01_230_01 Rev B and received 07/09/2021 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason: To clarify the permission and for the avoidance of doubt.

4. No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. No hard-standing areas to be constructed until the works have been carried out in accordance with the surface water strategy so approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: To prevent environmental and amenity problems arising from flooding.

5. Construction shall not begin until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:
- A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";
 - Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
 - A Flood Exceedance Conveyance Plan;
 - Comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
 - Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
 - Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;
 - Details of how water quality will be managed during construction and post development in perpetuity;
 - Confirmation of any outfall details.
 - Consent for any connections into third party drainage systems

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. Prior to first occupation of any dwelling, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- a) As built plans in both .pdf and .shp file format;
 - b) Photographs to document each key stage of the drainage system when installed on site;
 - c) Photographs to document the completed installation of the drainage structures on site;
 - d) The name and contact details of any appointed management company information.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

7. The vision splays off Old Banbury Road into the development shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

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

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

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

9. A Construction Traffic Management Plan (CTMP) will need to incorporate the following in detail:
- Routing of construction traffic and delivery vehicles is required to be shown
 - and signed appropriately to the necessary standards/requirements. This
 - includes means of access into the site.
 - Details of and approval of any right of way closures/diversions needed during construction.
 - Details of and approval of any traffic management needed during construction.
 - Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
 - Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
 - The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
 - Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.
 - A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0345 310 1111. Final correspondence is required to be submitted.
 - Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times.

10. No dwelling shall be occupied until the associated vehicle parking is complete and available for use.

Reason: To prevent displaced car parking in the interests of highway safety.

11. No dwelling shall be occupied until the associated cycle parking is complete and available for use.

Reason: To ensure that the opportunity of sustainable transport modes have been taken up in accordance with the National Planning Policy Framework

12. Prior to the first occupation of the development, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the dwelling they serve and retained as such thereafter.

Reason: To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

13. Prior to the submission of reserved matters:-

1. An archaeological evaluation shall be undertaken in the form of a geophysical survey and trial trenching in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.
2. If archaeological remains of such significance to warrant their preservation in situ are confirmed as being present, an appropriate methodology for their preservation in situ shall be submitted as part of the reserved matter of Layout and to be approved by the planning authority.
3. Where archaeological remains are recorded by evaluation and are not of sufficient significance to warrant preservation in situ but are worthy of recording, no development shall take place until a programme of archaeological work has been carried out in accordance with a written scheme of investigation which has been approved by the planning authority.

The archaeological investigation(s) should be undertaken by a professionally qualified archaeologist working to the agreed written scheme(s) of investigation which should be based on a template brief from the planning authority.

Reason: To secure the provision of archaeological investigation and the subsequent recording of the remains, to comply with Government advice in the National Planning Policy Framework (NPPF) (Section 16). This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

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

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

15. If contamination is found by undertaking the work carried out under condition 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

16. If remedial works have been identified in condition 15, 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 any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

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

18. The development hereby permitted shall be carried out in accordance with the recommendations set out in Ecological Impact Assessment of the Land at Banbury Road, Finmere, Cherwell, Oxfordshire by Futures Ecology Ltd reference FE100/EclA01 dated 13/08/2021 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

19. A method statement for enhancing the Biodiversity shall be submitted to and approved in writing by the Local Planning Authority prior to the development reaching slab level. Thereafter, the biodiversity enhancement measures approved shall be carried out prior to occupation and retained 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 Section 15 of the National Planning Policy Framework.

20. No development shall take place until the existing tree(s) to be retained have been protected in the following manner unless otherwise previously agreed in writing by the Local Planning Authority;
 - a. Protective barriers shall be erected around the tree(s) to a distance not less than a radius of 12 times the trunk diameter when measured at 1.5m above natural ground level (on the highest side) for single stemmed trees and for multi-stemmed trees 10 times the trunk diameter just above the root flare.
 - b. The barriers shall comply with the specification set out in British Standard BS5837:2012 'Trees in Relation to Construction – Recommendations' that is steel mesh panels at least 2.3m tall securely fixed to a scaffold pole framework

with the uprights driven into the ground a minimum of 0.6m depth and braced with additional scaffold poles between the barrier and the tree[s] at a minimum spacing of 3m.

- c. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development [and / or demolition] and shall be maintained until all equipment, machinery and surplus material has been removed from the site.
- d. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason: To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape 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. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

21. A detailed drainage scheme to prevent surface water from the development being discharged onto the adjoining highway shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to first use or occupation of the development hereby approved.

Reason: In the interests of highway safety and to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1

23. The landscaping scheme to be provided as part of the reserved matters submission shall show details of the necessary noise mitigation measures along and as part of the landscape boundaries of the development site to a depth of not less than 7.5 metres. The landscaping details shall show a mix of species of trees, hedgerow and plants to provide a screen for the site along its eastern and northern boundaries. The trees shall be to a height of not less than 3 metres and shall be completely implemented within the first planting season following the first date on which any part of the approved development is completed.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of well-planned development and visual amenity and to accord 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. OR

23. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development, or in accordance with any other program of landscaping works previously approved in writing by the Local Planning Authority and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a

reasonable period that will permit its establishment in the interests of visual amenity and to accord 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.

24. Prior to the commencement of development above slab level, a design stage confirmation that the development shall be constructed to high environmental standards, demonstrating sustainable construction methods and measures to reduce impact on the environment shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1, and the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework.

25. The development shall be constructed so as to meet as a minimum the higher Building Regulation standard for water consumption limited to 110 litres per person per day.

Reason: The site is located in an area of water stress and therefore reaching a higher level of water efficiency is required to comply with Policy ESD3 of the Cherwell Local Plan 2011-2031.