

**Land Opposite Hanwell Fields Recreation Adjacent to  
Dukes Meadow Drive, Banbury**

**24/02514/OUT**

**Case Officer:** Lewis Knox

**Applicant:** Mr & Mrs Donger & Manor Oak Homes

**Proposal:** Outline planning application for up to 114 dwellings and associated open space with all matters reserved other than access - re-submission of 23/03366/OUT

**Ward:** Banbury Hardwick  
Cropredy, Sibfords & Wroxton

**Councillors:** Banbury Hardwick – Cllr Besmira Brasha, Cllr Andrew Crichton, Cllr Dr Kerrie Thornhill  
Cropredy, Sibfords & Wroxton - Cllr Chris Brant, Cllr Phil Chapman, Cllr Douglas Webb

**Reason for Referral:** Major development of 10+ dwellings/Significant departure from adopted development plan

**Expiry Date:** 25 December 2024

**Committee Date:** 16 January 2025

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**SUMMARY RECOMMENDATION:**

**GRANT PERMISSION SUBJECT TO CONDITIONS AND THE PRIOR COMPLETION OF A S106 LEGAL PLANNING OBLIGATION**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is located north of Dukes Meadow Drive and extends to approximately 8.6 hectares of fallow agricultural land. It comprises the eastern extent of a larger parcel of undeveloped land to the north of Dukes Meadow Drive, opposite the school, shops and community centre. It has been resolved previously to grant the same applicant outline planning permission for the erection of 78 dwellings immediately to the south of the site (Ref: 21/03426/OUT) adjacent to Dukes Meadow Drive. This application seeks consent for a further 114 dwellings (previously 176 dwellings) and is described within the application submission as 'Phase 2'.
- 1.2. The southern, eastern and northern boundaries are defined by mature hedgerows but is open to the elevated plateau land to the west. The site slopes upwards from Dukes Meadow Drive (rising from both east to west and from south to north) and the higher ground is open and exposed in views from the south and east. The Hanwell Fields Recreation Ground and pavilion lies immediately to the east of the site and the Hanwell Fields Community Centre, school, dental surgery, pub and shops all lie immediately to the south, on the opposite side of Dukes Meadow Drive, at its junction with Lapsley Drive.

**2. CONSTRAINTS**

- 2.1. The application site comprises Grades 2 and 3 agricultural land and the Neithrop Fields Cutting SSSI is located within about 1km of the site. Site investigations have identified that the site could potentially contain Priority Grassland Habitat and also Oxfordshire Protected and Notable Species.
- 2.2. On the plateau land to the west of the site is a network of Public Rights of Way (PRoW) linking Hanwell village to the north with the northern edge of Banbury. In addition to the nearby PRoW, there is clear evidence of informal pathways across parts of the application site.
- 2.3. The site is in flood zone 1 although site investigations have identified that surface water pooling can occur at the bottom of the slope, in the southeast corner of the site, abutting the eastern edge boundary with the Recreation Ground.

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The application proposes the erection of a further 117 dwellings, described in the application as Phase 2 of the previously approved development of 78 dwellings north of Dukes Meadow Drive. All matters are reserved except for access.
- 3.2. Vehicular access to the site is proposed via a new northern spur to the existing Dukes Meadow roundabout junction with Lapsley Drive, which was previously agreed as the new access to serve the Phase 1 development. The design and layout of the access would be unchanged from that previously approved under the Phase 1 development (Ref: 21/03426/OUT).

### **4. RELEVANT PLANNING HISTORY**

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

21/03426/OUT – Outline permission consented for up to 78 dwellings subject to prior completion of a Section 106 planning obligation agreement (referenced as Phase 1).

21/03484/SO – Screening Opinion to the above outline – EIA not required.

- 4.2. It was resolved to grant the outline planning permission for the 78 dwellings under 21/03426/OUT on the grounds that the site was close to very local amenities, it formed a natural bowl at the base of the slope, and any harmful landscape impact would not outweigh the benefits of the proposal having regard to the fact that the Council could not demonstrate a five-year housing land supply at the time of the determination.

22/03064/OUT - Outline planning application for up to 176 dwellings and associated open space with all matters reserved other than access – Application Withdrawn.

23/03366/OUT - Outline planning application for up to 117 dwellings and associated open space with all matters reserved other than access – Application Refused and an appeal against that refusal currently held in abeyance by PINS pending resolution of this new application for 114 dwellings on the same site.

### **5. PRE-APPLICATION DISCUSSIONS**

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

### **6. RESPONSE TO PUBLICITY**

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **31 October 2024**, although comments received after this date and before finalising this report have also been taken into account.

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

- Harmful increase to traffic levels in and around Hanwell;
- Erosion of gap to Hanwell village;
- Loss of greenness and openness of countryside;
- Visually prominent site, particularly from the east;
- Impact on heritage and Hanwell Conservation Area;
- Flood risk;
- Contrary to CLP 2015;
- Contrary to HELAA assessment;
- Beyond built up limits of Banbury;
- Impact on climate change; and
- Lack of additional local facilities proposed.

6.3. The comments received can all 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/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. HANWELL PARISH COUNCIL: **Objects strongly** and considers that the application should be refused as follows:

- Not allocated for housing and therefore contrary to Development Plan;
- Site recently assessed by the CDC 2018 HELAA (Site 036) as not suitable for development;
- Contrary to Policy ESD13 as would cause undue visual intrusion into open countryside and cause harm to important natural landscape features and topography;
- Would have seriously harmful impacts on the local area which Local Plan policies aim to prevent, namely significant urban extension not in the adopted CLP – BSC2, ESD1, piecemeal development on open countryside (saved policy C8) and loss of important landscape feature (ESD13);
- Would set a precedent for further urban development north of Dukes Meadow Drive, adversely affecting setting of surrounding villages, notably Hanwell. This is further demonstrated by previous approval 21/03426/OUT. Damaging

precedent for greater coalescence of Banbury and Hanwell (saved policy C15);

- Future housing should be identified in formal updates of housing land supply through CLP for example, the balance between greenfield and previously used land as well as sustainability issues, so they can be considered in a comprehensive fashion;
- Site is not sustainable in all other respects as claimed by the submission as loss of an important and prominent landscape feature (C13, ESD13); loss of important open vistas (saved policy C33 & ESD13); loss of informal open space for residents of Hanwell Fields (BSC11); adverse impacts on environment and biodiversity (ESD10), does not enhance the area (ESD10); adverse impact on local road networks, poor public transport (TR7, SLE4, ESD1, ESD15) and lack of further community facilities to serve the development (saved policy R14 and BSC12);
- Notional benefits of the development are outweighed by the harm;
- After COP26 must be more emphasis on overall sustainability of future development if we are to combat global warming, which can only be achieved through robust national and local planning framework, not piecemeal developments;
- Is Grade 2 and 3 best and most versatile arable land;
- Impacts on Hanwell Village include, but not limited to: increased traffic through the village; light pollution including impact on the observatory; further erosion of green buffer which conveys Hanwell's integrity as a village;
- Over the years this area has absorbed thousands of new homes and there is simply not the local infrastructure either in Hanwell or Banbury to support such over-development; enough is enough; and
- Any future additional housing provision for the Banbury area must be assessed through the Cherwell Local Plan review process, so that proper consideration can be given to all the key planning issues and all potential housing sites.

7.3. BANBURY TOWN COUNCIL: **Objects** to this development as being premature pending the outcome of the emerging Cherwell Local Plan 2021-2042.

7.4. By reason of its scale and siting beyond the built-up limits of the settlement, and within the countryside, the proposal would result in development of a greenfield site that contributes to the rural character of the approach into Banbury and is important in preserving the character of this edge of Banbury and would be unduly prominent in the landscape. This concern is considered to outweigh any tilted balance that would exist if the land supply were deemed to be insufficient after the outcome of the Local Plan examination and inspectors report. The proposal is therefore considered to be unacceptable in principle and contrary to Policies ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C33 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

#### OTHER CONSULTEES

7.5. OCC HIGHWAYS: Raised **objection** on the grounds the information initially submitted was out of date and as such did not give a realistic assessment of existing traffic – It should be noted that the requested update documents were subsequently submitted by the Applicant and that this is virtually the same scheme which was applied for last year in respect of access and no objections were raised during that application by the Local Highway Authority.

- 7.6. OCC LOCAL LEAD FLOOD AUTHORITY: **No objection** subject to conditions.
- 7.7. OCC EDUCATION: **No objection** subject to S106 contributions.
- 7.8. OCC ARCHAEOLOGY: **No objection** subject to conditions.
- 7.9. OCC WASTE MANAGEMENT: **No objection** subject to S106 contributions.
- 7.10. CDC LANDSCAPE SERVICES: No comment received.
- 7.11. INDEPENDANT LVIA ASSESSMENT BY LANPRO: Subject to appropriately worded landscape conditions, it is considered that the development as proposed would, in time (fifteen years), suitably mitigate any potential landscape harm and thus would accord with both national and local policies in this respect.
- 7.12. CDC ECOLOGY: Comments in respect of ecological mitigation measures and suggested conditions in the event of any possible approval.
- 7.13. BBOWT: **Object** Potential impact on Hanwell Brook Wetland including hydrological impact, and recreational impact. Potential impact on existing grassland with Adder's-tongue fern. Application does not provide adequate evidence of a net gain in biodiversity; the importance of a net gain in biodiversity being in perpetuity. Buffer zones and management of hedgerows needed in order to achieve any biodiversity net gain. Application does not provide evidence that it will help to achieve the aims of the Conservation Target Area.
- 7.14. NATURAL ENGLAND: No comments received.
- 7.15. CDC PLANNING POLICY: No comments received.
- 7.16. CDC STRATEGIC HOUSING: **No objection** in principle subject to affordable housing mix being agreed.
- 7.17. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to conditions.
- 7.18. CDC RECREATION AND LEISURE: **No objection** Seek S106 contributions towards community hall facility enhancement, outdoor and indoor sport, public art, community development worker and community development fund towards enhancement of existing facilities within the locality.
- 7.19. BOBICB: Seek S106 local health service enhancement contributions.
- 7.20. THAMES VALLEY POLICE: Seek S106 policing contributions.
- 7.21. CDC BUILDING CONTROL: No comments received.
- 7.22. **Officer comment:** - *Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*
- 7.23. *In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential*

*for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.*

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced several of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- Policy SLE4: Improved Transport and Connections
- Policy PSD1 – Presumption in favour of Sustainable Development
- Policy BSC1: District Wide Housing Distribution
- Policy BSC3: Affordable Housing
- Policy BSC4: Housing mix
- Policy BSC10: Open Space, Outdoor Sport and Recreation Provision
- Policy BSC11: Local Standards of Provision – Outdoor Recreation
- Policy BSC12: Indoor Sport, Recreation and Community Facilities
- Policies ESD1-5: Mitigating and Adapting to Climate Change
- Policy ESD6: Sustainable Flood Risk Management
- Policy ESD7: Sustainable Drainage Systems
- Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD13: Local Landscape Protection and Enhancement
- Policy ESD15: Character of the Built and Historic Environment
- Policy ESD17: Green Infrastructure
- Policy INF1: Infrastructure

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

- Policy H18: New dwellings in the open countryside
- Policy C7: Landscape Conservation
- Policy C8: Sporadic development in the open countryside
- Policy C28: Layout, design and external appearance of new development
- Policy C30: Design Control

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- CDC adopted Residential Design Guide SPD 2018
- CDC Planning Obligations SPD 2018
- National Design Guide
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- 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
- Landscape Impact
- Heritage impact
- Site Layout and Design Principles
- Highways and Vehicular Access
- Housing Mix and Affordable Housing
- Ecology and Biodiversity
- Flood Risk and Drainage
- Sustainability
- Section 106

### Principle of Development

#### *Policy Context*

- 9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
- 9.3. The Development Plan for this area comprises the adopted Cherwell Local Plan 2011-2031 Part 1 (CLP 2015) and saved policies of the Cherwell Local Plan 1996 (CLP 1996).
- 9.4. 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 means that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'*.
- 9.5. 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'*.
- 9.6. 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.
- 9.1. 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 (PPG).
- 9.2. 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.

9.3. 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 an 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.

9.4. 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'.

9.5. 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.'*

9.6. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and 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'*.

9.7. 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).

#### *Assessment*

9.8. Following the publication of the revised NPPF in December 2024, the LPA can no longer demonstrate a 5YHLS. At the time of writing, the LPA cannot confirm the exact housing land supply position. However, this is currently being calculated and will be included in the updated Annual Monitoring Report which is due to be published in February 2025. It is therefore considered that the NPPF paragraph 11 d) 'tilted balance' should apply when considering housing developments such as is proposed



in this application. The delivery of homes across the district remains an important material consideration, particularly at the largest and most sustainable settlements.

- 9.9. This application seeks outline planning permission for the development of agricultural land for a scheme of up to 114 dwellings. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan. The site is undeveloped greenfield land that, given its physical and visual relationship with the adjacent and surrounding area, is outside of the existing built-up form of Banbury and the Hanwell Fields development and is therefore in open countryside. It is however noted that the parcel of land adjoining the site to the southwest has already been granted outline consent for 78 dwellings with a reserved matters coming forward in due course. Given this, it is considered that the site would be connected to the built form of Banbury and would not appear as a standalone development within the open countryside.
- 9.10. The development would not be in accordance with the development plan's allocations, however given the current housing land supply within the district it is considered that the tilted balance is engaged. The overall goal of the Cherwell Local Plan 2031 is to direct housing towards the most sustainable metropolitan areas such as Banbury, Bicester and Kidlington. It is considered that the proposed development would be located in a sustainable location on the edge of Banbury close to a wide range of facilities including schools, shops, community centres and has good transport links into the town centre and beyond through cycle routes and bus services.
- 9.11. In terms of the three legs of sustainability as defined in the NPPF, the economic impact of, the proposed development would create jobs both directly and indirectly. Socially, the development would provide much needed market and affordable housing on the edge of a sustainable main settlement and immediately alongside a wide range of local community facilities served by regular public transport services. Environmentally, it would provide new planting and some enhancements for a range of ecological habitats available for wildlife and the setting of the site. It is considered that the proposed development fulfils the requirements of paragraph 8 of the Framework and could be considered sustainable. These aspects are explored in greater detail through the coming paragraphs.

#### *Conclusion*

- 9.12. The provision of residential development on this site would assist in meeting the overall housing requirements of the district and would contribute to the provision of affordable housing in a sustainable location.
- 9.13. The latest housing supply figure for Cherwell District is calculated at significantly less than 5 years as such the 'tilted balance' is engaged and therefore a presumption is in favour of sustainable development. The site is located on the edge of one of the most sustainable settlements within Cherwell and would benefit from proximity to existing infrastructure and facilities. Whilst there may be some impact upon the character and appearance of the open countryside and locality through the development of this greenfield site, Officers accept the applicant's assessment within the submitted LVIA that the proposed mitigation would, in time, be acceptable and sufficiently reduce any harm. It is considered that the harmful impact would be mitigated and would be outweighed by the benefits of the additional housing, which would boost the housing land supply within the district at its most sustainable settlement. The provision of affordable housing, the sustainability of the location and the long term socio-economic benefits which additional housing and population would bring render this proposal acceptable.

- 9.14. Overall, it is considered that the development would boost the local housing supply in a sustainable way and therefore would comply with the goals of both the Local Plan and NPPF.

### Landscape Impact

#### *Policy Context*

- 9.15. Policy ESD13 of the adopted CLP 2015 requires landscape protection and enhancement opportunities to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats or where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows. Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would: cause visual intrusion into the open countryside; cause undue harm to important natural landscape features and topography; be inconsistent with local character impact on areas judged to have a high level of tranquillity.
- 9.16. Paragraph B.252 of the CLP 2015 lists key landscape and landform features of value around Banbury which includes ironstone ridges and valleys; the open and agricultural setting and identity of the outlying villages surrounding Banbury and Bicester and the historic villages and parkland of Hanwell and Wroxton. The site comprises open and prominent steeply rising ground (rising from east to west) and from Dukes Meadow Drive with the northern boundary of the site being located on the brow of the hill. The site consists of open, agricultural land which is classified Grades 2 and 3 with field hedges and trees that contribute to its rural character. The site is visible from the adjacent public right of way network.

#### *Assessment*

- 9.17. The site is included within the Council's Housing and Economic Land Availability Assessment (HELAA) dated February 2018 (site HELAA036) – It concluded as follows: *Greenfield site outside the built-up limits. The site is considered to be unsuitable for development in this location would be prominent in the landscape, particularly when viewed from the east, on one of the highest points in the vicinity. It would lead to the loss of greenfield land and informal recreation resource for local people which is in close proximity to the existing Hanwell Fields development.*
- 9.18. The application site forms part of a parcel of land assessed by the Landscape Sensitivity Capacity Assessment prepared to inform the emerging Cherwell Local Plan Review. Although a much wider parcel of land was assessed, including the higher plateau land to the west, the Study concluded that the assessment unit had moderate-high sensitivity for residential and commercial development. The sensitivity to logistics development was considered high. This sensitivity arises from the physical character including the undulating valley slopes and openness of the assessment unit to views from the north and north-east. Observations from the top of the plateau showed that Grimsbury Reservoir was clearly visible as was the M40, Southam Road and Little Bourton. There was no intervisibility with Hanwell village to the north.
- 9.19. In describing the landscape setting of Banbury, the September 2013 Banbury Green Buffer Report (paragraph 3.1.1) states; *'The town itself is strongly contained by landform, with the River Cherwell and its floodplain located on the eastern side of the town and the Sor Brook and its tributaries to the west. The rounded ridge-line located to the west and south west of the town, between the Sor Brook and Cherwell, marks the edge of development to the town, whilst to the east and north, a series of*

*undulating hills and valleys beyond the River Cherwell create a sense of enclosure in the wider landscape.*

- 9.20. It is noted that the site will be visible from several vantage points around the town, particularly from the east. It is further noted that there are panoramic views of parts of the development site from some of the higher ground to the west which would restrict building heights on the western part of the site.
- 9.21. The application submission and the submitted Landscape Impact Assessment has been assessed by an independent Landscape consultant on behalf of the Council.
- 9.22. The consultant noted that neither the site nor the surrounding context is designated in landscape, ecological or historical terms. The consultant concluded that in landscape terms the retention and enhancement of existing boundary vegetation; together with new planting as illustrated on the Landscape Strategy Plan (drawing 5982/LSP/ASP4) provides a suitable quantum and approach to mitigation of the development. The placement of development away from the northern and northwestern edges of the site as shown on the Landscape Strategy Plan contained within the LVIA helps to reduce landscape effects on site and associated harm creating a compact development form. Along the eastern boundary the retention of existing vegetation and proposed SuDS attenuation creates embedded mitigation by restricting development here. Ideally, the regeneration of the poplar trees should be retained and would allow a natural and defined boundary to the east of the site where visibility for transport receptors travelling east to west along Dukes Meadow Drive is possible, with the site visible below the centre of the principal view. Such vegetation would form a large vertical form over time and would reinforce the character of Hanwell Brook and help define it as a feature in this landscape. The southern boundary has a strong residential character, and the cumulative effects of the approved Hanwell Fields Development Site (Phase I) reinforces this character.
- 9.23. In general terms, due to the landform and vegetation on the site's boundaries and the wider landscape context, visibility of the site is limited to the immediate area with main effects visible within 350m of the site boundary predominantly to the east. The natural ridge to the northern boundary and boundary hedgerow and trees; together with falling levels within the site limit visibility to the north of the site. To the east whilst the site is visible along Dukes Drive, it forms the lower portion of the view composition and therefore could be mitigated by appropriate landscape treatments. Views from the south would be limited by existing and proposed vegetation and by Phase I (Ref: 21/03426/OUT) and would affect transport receptors on Dukes Meadow Drive and residential properties fronting onto this highway. Views to the west are limited by existing vegetation, landform and public access is limited to defined PRow where visibility is likely to be limited or wholly restricted.
- 9.24. Since the previous application the site has been further assessed through the creation of the new Local Plan. The site is identified as Banbury L1 within the Landscape Evidence Base Site Landscape Assessments prepared by LUC. The assessment concludes that the majority of the site would have a moderate sensitivity to residential development as is proposed. The principal issue with development on this site would be the perceived encroachment on the undeveloped valley landform to the north which would impact on the site's relationship with Hanwell as well as some long range views.
- 9.25. The assessment concludes that development on the western part of the site; on the highest ground, would have a moderate-high sensitivity to residential development and should be avoided to ensure the rural character of the valley landscape is protected as well as the gap to Hanwell being maintained.

- 9.26. Through the lifetime of the previous application as well as this proposal, Officers have managed to remove any built form from the most sensitive parts of the site and brought any built form down the slope and is now contained solely within the area defined as having a moderate sensitivity in terms of landscape.

### *Conclusion*

- 9.27. Subject to appropriately worded landscape conditions which ensure the protection to and retention of existing trees is secured; together with the quantum and depth of planting defined both on the site's boundaries and within the site are secured in line with the Landscape Strategy Plan then it is considered that the site complies with National Planning Policy Framework (NPPF) 180 (b). It is also considered that subject to the above, due to the site's location in relation to local landform and on lower ground where landform is more closely associated with areas of new development, that harm to the character of the landscape and to visual receptors is localised to the site and immediate environs to the south, east and west. The proposed retention and enhancement of existing vegetation and proposed new mitigation planting shown on the Landscape Strategy Plan is considered appropriate in both quantum and location and can be controlled via a suitably worded condition which should also include requirements for restoration and management of existing and proposed features.
- 9.28. In this context it is considered that the proposals comply with Policy ESD 13 of the CLP 2015. As such in Landscape and Visual terms it is considered that the level of harm assessed within the LVIA is correctly assessed and mitigation to address identified harm is acceptable and compliant with both national and local plan policy.

### Heritage Impact

#### *Legislative and policy context*

- 9.29. The site if developed as proposed could potentially affect the wider setting of Hanwell Conservation Area and the setting of Hanwell Castle, a Grade II\* listed building, although there is no observed direct intervisibility.
- 9.30. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.31. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.32. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 193 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.33. The site is also located in an area of archaeological interest with later prehistoric through to Roman archaeological deposits recorded in the vicinity.

- 9.34. Two prehistoric ring ditches were recorded 600m west of the site along the prehistoric ditches and several undated post holes and pits, which are likely to be of a similar date. A recent archaeological excavation to the west of Southam Road recorded prehistoric worked flint and Beaker Pottery (Wessex Archaeology forthcoming). A post medieval ring ditch, probably from a windmill, was also recorded on the site. This may have been built on a surviving prehistoric barrow mound. Iron Age and Roman settlement evidence has also been recorded 1km to the west of the site. Historic England have recorded the line of a Roman Road (RR 161a) from Harwell to Oxford 270m west of the application site. It is therefore likely that further archaeological deposits could survive on the application site and a programme of archaeological evaluation would therefore need to be undertaken in the event of planning permission being granted.
- 9.35. As a consequence of the above, the applicant has submitted a heritage impact assessment, which also provides verified views of the proposed development (winter views) from the Conservation Area/Hanwell Castle grounds. The Heritage Statement as submitted appears to corroborate the assessment made by the application submission that the proposed development would not be perceived in views from Hanwell Conservation Area or the setting of the listed buildings and conservation area.
- 9.36. The level of heritage harm likely to be experienced would be less than substantial and probably would be towards the lower end of a less than substantial impact.

#### Site layout and design principles

##### *Policy Context*

- 9.37. 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. The NPPF is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.38. Policy BSC10 of the CLP 2015 outlines the requirements for open space, outdoor sport and recreation provision. Policy BSC11 sets out the local standards of provision for outdoor recreation including children's play space.

##### *Assessment*

- 9.39. The application is submitted in outline with a site plan submitted for illustrative purposes. Whilst design and materials would be assessed under a reserved matters application it is considered that, given the location of the site on the edge of the town and adjacent to an existing residential area, appropriate levels of control should be secured at any such detailed application stage, to ensure compliance with design principles reflective of those within the local area and wider district.
- 9.40. The indicative landscaping, with retention of the existing trees and proposals for a green buffer along the northern and eastern edges allowing for a transition to the rural landscape would be acceptable in principle. The effect of the development on the landscape is considered later in this appraisal.
- 9.41. That said, whilst every application would need to be assessed on its own planning merits at the time of any such application, Officers are confident of the level of control

that could be safeguarded through ensuring broad compliance with any approved plans secured by way of appropriate condition(s) attached to any such permission.

### *Conclusion*

- 9.42. It is considered that the submitted indicative layout is generally acceptable and demonstrates that 114 dwellings could be satisfactorily accommodated on the site and also allows for the provision of a well-designed, safe, accessible and well-connected environment, with an appropriate tenure mix. As such, the proposal accords with Policy BSC10.

### Highways and vehicular access

#### *Policy Context*

- 9.43. The NPPF (Para.105) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, it notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.44. The NPPF (Para.106) advises 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.
- 9.45. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported”*.
- 9.46. Policy TR7 states that: *‘Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted’*.

#### *Assessment*

- 9.47. The proposed development would be accessed via a fourth arm (western arm) of the existing Dukes Meadow Drive/Lapsley Drive roundabout. Supporting this application is a Transport Assessment (TA) that suggests a realignment that would render access from Phase 1 to be the minor arm of a simple priority junction. This is acceptable in principle subject to an updated junction capacity assessment.
- 9.48. An emergency access point that also doubles as an updated cycle track or reinforced grass area is proposed off Dukes Meadow Drive further north of the access roundabout. A Construction Traffic Management Plan and temporary access for construction traffic would need to be agreed.
- 9.49. The nearest bus stops to the site are located on Highlands to the south of the site, approximately 790m from the site’s proposed western pedestrian/cycle access and

are served by the B9 bus. The distance from the site could act as a deterrent to public transport use for those with mobility issues or small children but is considered an accessible distance in Manual for Streets guidance. As with Phase 1, a transport contribution of £1,502 per dwelling would be required to support the continued operation of the bus service. A Residential Travel Plan would be required to be submitted and approved as part of any approval.

- 9.50. Planning for cycling/walking, space for cycling within highways, transitions between carriageways, cycle lanes and cycle tracks, junctions and crossings, cycle parking and other equipment design within the development should follow LTN 1/20 guidance. Contributions towards upgrading the current footpath on the southern side of the carriageway to a segregated cycle and footpath in line with LTN 1/20 should be provided from Lapsley Drive roundabout to Winter Gardens Way roundabout. Contributions would also be sought towards enhanced connectivity between the development site and Banbury town and the emerging Banbury Local Cycling and Walking Infrastructure Plan.
- 9.51. Whilst this is an outline application, it is expected that subsequent applications would show a comprehensive network throughout the site with footways provided on each side of the carriageway to make it suitably permeable with the surrounding infrastructure.
- 9.52. In terms of traffic impact, the submitted Transport Assessment has been assessed by OCC as local highway authority who consider that the person trip rates and resultant trips by mode presented in the TA are reasonable for a development of this size and in this location. The peak hour vehicular trips obtained from the trip generation exercise have been assigned onto the network using the distribution patterns obtained in 2011 Census data, which is deemed acceptable.
- 9.53. In attempting to appraise the traffic impact of this development onto the local highway network, the TA has undertaken modelling exercises at the access Dukes Meadow Drive/Lapsley Drive, A423 Southam Road/Dukes Meadow Drive and Dukes Meadow Drive/B4100 Warwick Road/Walker Road. Assessment was undertaken for both the baseline scenario to forecast how these junctions would operate without and with the development traffic. The modelling undertaken on the A423 Southam Road/ Dukes Meadow Drive roundabout in the PM peak showed the RFC value for the Southam Road south to operate slightly over its designed threshold.

### *Conclusion*

- 9.54. OCC have required the development to adequately mitigate the seemingly meagre impact on the network such as has been demonstrated at this roundabout, the approach captured in OCC's LTCP policies however seek only to consider road capacity improvements as the last resort. It is acknowledged that with improved public transport services and active travel opportunities, there would be a modal shift that would eventually balance out the need for the increase in road capacity.
- 9.55. In summary, it is agreed by OCC that subject to the improvements to public services and active travel infrastructure identified, the proposed development would not result in a detrimental impact on the highway network.

### Housing Mix and Affordable Housing

- 9.56. The proposed development provides for up to 114 new dwellings on the site. No details of housing mix are provided at this stage. It is important to have consideration of the mix of housing when considering urban design as well as responding to identified local housing needs. Policy BSC4 of the adopted Cherwell Local Plan 2025

seeks to encourage a mix of housing on all new developments that meets the need of the district as identified by the results of the SHMA 2014. This advises that there is a greater need for 3-bedroom properties in Cherwell and the suggested mix is shown on Table 67 of the Local Plan. Consideration of and compliance with Policy BSC4 is relevant in this respect.

- 9.57. Policy BSC3 requires the provision of 30% affordable housing which equates to 35 dwellings. The required tenure split is 70% rented and 30% Low Cost Home Ownership (LCHLO). National policy requires that 10% of the overall scheme is provided as Low Cost Home Ownership, and that 25% of the affordable element is provided as First Homes. A policy compliant affordable housing mix would therefore equate to 11 LCHO dwellings of which 9 would be First Homes and 4 shared ownership, with 25 dwellings for social rent. The proposed tenure mix set out in the application Planning Statement complies with this.

#### *Assessment*

- 9.58. In terms of housing mix, that proposed within the Planning Statement is not currently acceptable as there would be insufficient 2-bed houses proposed. This number would need to be increased significantly as 2-bed flats and maisonettes are not considered suitable for families with children. Maisonettes are also preferred to flat as they offer greater privacy, although provided the affordable flats have the same external appearance as the market flats, flats may be considered acceptable in this instance. The number of 4-bed properties should be increased from 3 to 4. The application proposes that the proposed sizes comply with NDSS requirements, which is welcomed.
- 9.59. The Developer Contributions SPD requires that 50% of rented dwellings meet M4(2) requirements and 1% meet M4(3) requirements. Whilst 1% is less than 1 dwelling, it would contribute significantly to meeting pressing needs if one dwelling could be delivered to full wheelchair standard. There are households currently on CDC's housing register who specifically require a 3-bed wheelchair adapted property in the Banbury area.
- 9.60. All affordable housing units would need to deliver high standards/rates of energy efficiency to ensure household fuel (and water) bills are also affordable for the tenants. This supports the delivery of sustainable development and contributes to the Government objective to reach Net Zero carbon.
- 9.61. The Developer Contributions SPD requires affordable units to be indistinguishable from market units in terms of materials used, design, parking arrangements etc. It is also expected that where appropriate, affordable housing should not be clustered in any more than 10 units of one tenure and 15 units of multiple affordable tenures with no contiguous boundary of the clusters. These matters would be addressed at reserved matters/detailed design stage.

#### *Conclusion*

- 9.62. Any planning approval would be subject to a Planning Obligation and many of the requirements above would necessarily be incorporated into the Section 106 to ensure that the affordable housing delivered would accord with CDC standards, tenure mix and housing mix accordingly.

#### Ecology Impact

#### *Legislative context*



- 9.63. 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.
- 9.64. 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.
- 9.65. 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 would 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.
- 9.66. 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.
- 9.67. 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.
- 9.68. 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*

- 9.69. Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

- 9.70. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) 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.
- 9.71. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.72. 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.
- 9.73. Policy ESD11 is concerned with Conservation Target Areas (CTAs) and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.74. 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.
- 9.75. 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 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*

- 9.76. 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.

It also states that LPA's 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').

- 9.77. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is within 1km of Neithrop Fields Cutting SSSI and Fishponds Wood, Hanwell Local Wildlife Site (LWS) and there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.78. In order for the LPA to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the Local Planning Authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the Authority has to consider itself whether the development would meet the 3 derogation tests listed above.
- 9.79. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England would not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England would grant the licence then the Council may grant planning permission.
- 9.80. The application is supported by an updated ecological appraisal completed in September 2024 following site surveys between August 2020 and July 2022, based on a standard extended Phase 1 methodology. In addition, a general appraisal of fauna species was undertaken to record the potential presence of any protected, rare or notable species, with specific surveys conducted in respect of bats, reptiles and badger.
- 9.81. The site forms the eastern part of a semi-improved grassland field, with other habitats including boundary hedgerows and scattered scrub. Features of ecological importance include the hedgerows and associated trees, which would be retained under the proposals and would be protected during construction, with only small sections removed to facilitate access. It is proposed to compensate by new hedgerow planting, which would link with the existing/retained hedgerows. Further new planting is also proposed within the development itself. In terms of protected species, potential opportunities or confirmed use of the site by badger, bats and common nesting birds have been recorded.
- 9.82. The submitted appraisal concludes that the proposals have sought to minimise impacts on biodiversity and subject to the implementation of appropriate avoidance, mitigation and compensation measures, the proposals are unlikely to result in any significant harm to biodiversity.
- 9.83. The application however has been separately assessed by the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) who have raised an objection to the proposals on several grounds. Just to the east of the development site lies an area known as the Hanwell Brook Wetland, which supports a range of wildflowers such as bugle, meadowsweet and greater bird's trefoil and a range of birds, dragonflies, damselflies, frogs and toads. The proximity of the proposed development site to the wetland combined with the topography of the site which slopes steeply to the east (toward the wetland) means there is potential for a negative hydrological impact on the wetland.
- 9.84. The site is also located very close to the North Cherwell Conservation Target Area and the submission does not include information to illustrate how the development

will secure biodiversity enhancement to help achieve the aims of the Conservation Target Area in line with Policy ESD11.

- 9.85. Despite the concerns raised by BBOWT, Officers consider that the applicants have provided sufficient information to ensure harm is not caused to the Hanwell Brook Wetland and measures have been taken to reduce any impact on the Adders Tongue Fern which was an issue raised in the previous application.

#### *Conclusion*

- 9.86. Having regard to the objections raised by BBOWT above, and the Local Planning Authority's duty under the Conservation of Habitats and Species Regulations 2017, it is considered that the applicant has demonstrated a suitable level of proposed mitigation to ensure that the proposal would not cause harm to any protected species or its habitat which is reasonably likely to be present and affected by the development. The development would provide an appropriate level of biodiversity net gain, which will also be controlled via appropriately worded conditions. The proposal is therefore considered to be acceptable in respect of its impact on ecology.

#### Flood Risk and Drainage

- 9.87. Section 14 of the NPPF considers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 167 states that when determining any 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*'.
- 9.88. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk and 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.
- 9.89. Policy ESD7 of the CLP 2015, relates to sustainable drainage systems and advises that all development will be required to use sustainable drainage systems (SuDS) for the management of surface water run-off. Where site specific Flood Risk Assessments are required in association with development proposals, they should be used to determine how SuDS can be used on particular sites and to design appropriate systems. In considering SuDS solutions, the need to protect ground water quality must be taken into account, especially where infiltration techniques are proposed. Where possible, SuDS should seek to reduce flood risk, reduce pollution and provide landscape and wildlife benefits. SuDS will require the approval of Oxfordshire County Council as Lead Local Flood Authority (LLFA). Proposals must also include an agreement on the future management, maintenance and replacement of the SuDS features.

#### Assessment

- 9.90. The application site is located in Flood Zone 1 (low probability) and as such, the development itself is at a low (less than 1 in 1000 year) risk of flooding from rivers or the sea but is more than 1 hectare in size and therefore a detailed Flood Risk Assessment is required. The application was therefore accompanied by a Flood Risk Assessment accordingly.
- 9.91. The application submission has been assessed by OCC as Local Lead Flood Authority who has raised no objection to the proposal subject to conditions being included on any permission.

9.92. These conditions relate to implementation in accordance with the submitted documents, a detailed surface water drainage scheme, a detailed Surface Water Management Scheme for each phase or sub-phase of development and a record of the installed SuDS and site wide drainage scheme being included and approved in any reserved matters application. Officers concur with the advice given by the LLFA and as such consider that the principle of the development is acceptable subject to further detailing being approved at reserved matters stage.

#### *Conclusion*

9.93. This is an outline application with all matters other than access reserved, the issue of drainage is a material consideration. Officers consider that the information submitted with this application to be sufficient in principle with further detailing to be provided in subsequent applications. As such it is considered that the development would accord with Policies ESD6 and ESD7 of the CLP 2015 and advice contained within the National Planning Policy Framework.

#### Sustainability

9.94. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Policies ESD1-5 of the CLP 2015 address this.

9.95. Policy ESD1 of the CLP 2015 deals with the issue of Mitigating and Adapting to climate change and includes criteria under which applications for new development will be considered, such as the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts by proposing sustainable drainage methods and increased green infrastructure provision.

9.96. Policy ESD2 considers Energy Hierarchy and Allowable Solutions and 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 and making use of allowable solutions*. Any new development will be expected to consider these and address the energy needs of the development.

9.97. Policy ESD3 considers Sustainable Construction and states 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*'. Cherwell is also in an area of water stress and therefore requires all new development to achieve a limit of 110 litres/person/day.

9.98. Policy ESD4 considers the use of decentralised energy systems and requires a feasibility assessment to be submitted with a relevant application which includes developments of 100 dwellings or more.

9.99. Policy ESD5 considers renewable energy and requires that all residential developments of 100 dwellings or more are accompanied by a feasibility assessment of the potential for significant on-site renewable energy provision, above that required to meet national building standards.

#### *Assessment*

9.100. The application is accompanied by an energy and sustainability report. This report confirms that the development proposed would adopt the following:

- Use of passive solar design for heating and cooling;
- Use of SuDS drainage;
- Sustainable and active modes of transport;
- Electric vehicle charging;
- Water efficient fittings to reduce water consumption to 110 litres per person per day;
- Tree lined streets to assist in temperature reduction;
- Use of recycled and energy efficient materials and locally sourced materials;
- Maximise natural daylight and ventilation;
- An all-electric heating strategy.

### *Conclusion*

9.101. The details submitted are considered to comply with the requirements of the policies above in respect of sustainability.

### Planning Obligations

9.102. In order to ensure that the development would be acceptable in planning terms, a number of the impacts of the development need to be mitigated and/or controlled through covenants in a legal agreement. All section 106 requirements are subject to statutory tests and in order to be taken into account in deciding to grant planning permission they need to be: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind.

### *Assessment*

9.103. It is considered that should planning permission be forthcoming that the following additional items/contributions should be secured as part of the permission relating to the new dwellings (and any amendments deemed necessary).

9.104. CDC Obligations:

- 30% affordable housing to NDSS and CDC requirements and standards;
- contribution to the provision or enhanced facilities at Hanwell Fields; - TBC
- contribution towards outdoor sport provision at Hanwell Fields Recreation Ground and/or North Oxfordshire Community use site; - TBC
- contribution towards indoor sport, - Banbury indoor tennis centre and/or improvements to the leisure centre; - TBC
- contribution for community development worker to help integrate residents into the wider community; - TBC
- contribution towards initiatives to support groups for residents; - TBC
- contribution towards public art within the vicinity; - TBC
- £5,000 monitoring fee.

9.105. OCC Obligations:

- £114,000 – strategic highway works;

- £171,228 – public transport;
- £1,985 – travel plan monitoring;
- £TBC – public rights of way;
- £897,399 – secondary education;
- £89,991 – secondary land contribution;
- £62,818 – special education;
- £11,614 – household waste and recycling centres.

9.106. Other obligations – Health Care Provision - £98,640.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.

10.2. The Council cannot currently demonstrate a 5-year housing land supply and as such a tilted balance assessment must be applied. It is considered that the proposal would demonstrate a sustainable development with the proposed application site being located close to local amenities including shops, school and community facilities and is easily accessible for pedestrians and cyclists. The development would not cause harm to the local highway network or flood risk. It is considered that the proposal would have some limited impact on wider landscape views, but this harm would be sufficiently mitigated through appropriately worded conditions and so would not outweigh the substantial benefits of the proposal. Housing developments of this kind should be located close to the most sustainable locations within the district. Banbury is the most sustainable town and as such can accommodate a development of this size thus boosting the district's overall housing supply.

10.3. The indicative plans demonstrate the site can accommodate the level of development suggested within the application and through careful design, the proposal would integrate well with the existing residential development. The development proposes 30% affordable housing and an acceptable mix.

10.4. On balance and subject to appropriate conditions and S106 obligations, planning permission should be granted.

## **11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO:**

- i) THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- ii) THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

- a) Provision of 30% affordable housing on site;
- b) Payment of a financial contribution towards off site outdoor sports and recreation provision in the locality and indoor sports £TBC
- c) Payment of a financial contribution towards enhanced Hanwell Fields community facilities £TBC;
- d) Payment of a financial contribution towards the provision of refuse/recycling bins for the development of £111 per dwelling (index linked);
- e) Payment of a financial contribution towards Public Art £TBC
- f) Payment of a financial contribution towards local Resident Groups of £TBC
- g) Payment of a financial contribution towards educational infrastructure serving Secondary education £897,399, a Secondary school land contribution of £89,991, Special education £62,818 (index linked);
- h) Payment of a financial contribution towards household waste and recycling £11,614 (index linked);
- i) Payment of a financial contribution towards strategic highway works of £114,000 (index linked);
- j) Payment of a financial contribution towards public transport enhancements of £171,228 (index linked);
- k) Payment of a financial contribution towards Public Rights of Way £TBC
- l) Payment of the District Council's monitoring costs of £5,000 and the County Council's travel plan monitoring costs of £1,558;
- m) Provision of a Residential Travel Plan; and
- n) Payment of a financial contribution towards County Council monitoring costs (TBC).
- o) Payment of a financial contribution towards health care provision of £98,640

**FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION, AS EXTENDED BY AGREEMENT EXPIRES ON 20 FEBRUARY 2025. IF THE SECTION 106 AGREEMENT/ UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY ANY FURTHER AGREED EXTENSION DATE, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate mitigation required as a result of the development and necessary to make the ecological, landscape and highway impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to development plan policies SLE4, ESD10, ESD13, INF1, C7, C8 and C28 and national guidance contained in the National Planning Policy Framework.

SUGGESTED CONDITIONS OF ANY APPROVAL



## **Time Limit**

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

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

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of 18 calendar months beginning with the date of this permission.

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

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of 18 months from the date of this permission and the development hereby permitted shall be begun either before the expiration of 40 calendar months from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). The time period for submission has been reduced from standard period. The application has been submitted to address the Council's 5-year housing land supply position and is in accordance with the applicant's planning statement.

## **Compliance with Plans**

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

- Forms and Certificates
- Covering Letter – Ref: GA/AM/03222/L0006am
- Planning Statement / SCI – ARP - 03222/S0005
- Design and Access Statement (September 2024)
- Site Location Plan (for approval) - Thrive - SLP 03 Rev H
- Parameter Plan (for approval) - Thrive - SHLUDPP 01 Rev C
- Access Drawing (for approval) - MAC - 802-TA10 Rev B
- Site Sections (illustrative only) - Thrive,
- Site Layout (illustrative only) - Thrive - SL 01 Rev F
- FRA & Drainage Strategy – MAC - 802-FRA 33 A
- Landscape Strategy Plan – LSP/ASP4 Rev G
- Transport Assessment – MAC - 802-TA 02 0
- Framework Travel Plan – 802-TP-02-0
- Heritage Statement - Asset Heritage - 10178

- Archaeology Geo-Physical - TVAS - HRB21/169
- Trial Trenching Report - TVAS - HRB22 200
- Landscape and Visual Impact Assessment (September 2024) – Aspect - 5982 P2 LVIA 006
- Ecology – Aspect - EAP2 vf5
- BNG Matrix 3.0 (appended to PEA) - Aspect
- Arboricultural Impact Assessment – Aspect - AIA.002 Rev D
- Sustainability & Energy Statement - Manor Oak Homes - BAN 065 MOH SES Rev A (August 2024)

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

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

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

6. 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.

7. If remedial works have been identified in condition 6, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. 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.

8. As part of any application for reserved matters relating to layout, a detailed surface

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

- Discharge rates based on 1:1 year greenfield run off rate
- Discharge Volumes
- SUDS
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers.
- Network drainage calculations
- Phasing
- Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)
- A detailed maintenance regime for all proposed drainage features and SuDS features.
- A detailed surface water catchment plan.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 6 and 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. As part of any reserved matters application including layout, a noise assessment shall be submitted and approved in writing by the Local Planning Authority demonstrate how acceptable internal and external noise levels will be achieved for the proposed dwellings and amenity spaces. If the proposal includes the use of background ventilation, then a ventilation and overheating assessment should be carried out and submitted to be approved. The development shall thereafter be carried out in accordance with the approved details and any mitigation retained thereafter.

Reason: To ensure the development provides a good standard of amenity for future residents in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.

10. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 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.

11. No development shall commence unless and until a detailed air quality impact assessment to identify the impact of the development on local air quality has been submitted to and approved in writing by the Local Planning Authority. The assessment shall include damage cost calculations where applicable along with a proposal for abatement measures that will be undertaken in addition to those already required from the developer. This shall have regard to the Cherwell District Council Air Quality Action Plan and no development shall take place until the Local Planning Authority has given its written approval that it is satisfied that the impact of the development on air quality has been adequately quantified. The development shall not be carried out other than in accordance with the approved details.

Reason: To ensure the creation of a satisfactory environment for future residents in accordance with Government Guidance contained in the NPPF.

12. As part of any reserved matters for layout, an updated Arboricultural Impact Assessment, Tree Protection Plan and an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To protect the existing trees and hedgerows on site and to accord with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.

13. a) No tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a "retained tree" is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the approval of the final reserved matters.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development 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.

14. No development shall commence unless and until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in accordance with the approved details prior to first occupation of the development and shall be retained as such thereafter.

Reason: In the interests of highway safety and to comply with Government

guidance contained within the National Planning Policy Framework.

15. No development shall commence unless and until full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing, lighting and drainage, have been submitted to and approved in writing by the Local Planning Authority. The access, driveways and turning areas shall be constructed in accordance with the approved details prior to the first occupation of any of the dwellings and shall be retained as such thereafter.

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

16. No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

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

17. No development shall commence above slab level unless and until a scheme for electric vehicle infrastructure to serve each dwelling has been submitted and approved in writing by the Local Planning Authority. The approved electrical vehicle charging infrastructure shall be provide in accordance with the approved details prior to the first occupation of the dwelling it serves.

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

18. Prior to occupation of any part of the development hereby approved, a revised Residential Travel Plan Statement meeting the requirements set out in the Oxfordshire County Council guidance document, "Transport for New Developments; Transport Assessments and Travel Plans" shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried on in accordance with the approved details.

Reason: To encourage occupiers to use sustainable modes of transport in line with the NPPF.

19. Prior to first occupation a Travel Information Pack shall be submitted to Local Planning Authority for approval. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To encourage occupiers to use sustainable modes of transport in line with the NPPF.

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

- Evidence to demonstrate that all water network upgrades required to accommodate the additional flows/demand from the development have been completed; or
- A housing and infrastructure phasing plan has been agreed with Thames

Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

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

21. No development shall commence including any demolition, and any works of site clearance, unless and until a method statement and scheme for enhancing biodiversity such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, has been submitted to and approved in writing by the Local Planning Authority, which shall accompany any reserved matters application for layout and landscaping. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter in accordance with the approved details.

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

22. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall also cover the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.

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

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

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

24. As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan Part 1.

25. Prior to the commencement of any works associated with the construction of a

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

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

26. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

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

CASE OFFICER: Lewis Knox