

**Town and Country Planning Act 1990 – Section 78
Town and Country Planning (Development Management
Procedure) (England) Order 2013**

**Town and Country Planning (Hearings Procedure) (England)
Rules 2000**

Appeal by Gladman Developments Limited

Land off White Post Road

Banbury

Cherwell District Council

**Proposed development of up to 280 dwellings with landscaping,
open space, highway improvements and associated works**

15/01326/OUT

APP/

**DRAFT Statement of Common Ground between Gladman
Developments and Cherwell District Council**

March 2017



1 INTRODUCTION

1.1 Background

1.1.1 This Statement of Common Ground (SoCG) has been prepared by Gladman Developments Ltd and Cherwell District Council (CDC).

1.1.2 It has been prepared in accordance with the guidance at Annexe T of the PINS Procedural Guide, Planning Appeals – England (5 August 2016).

1.2 Officer’s Report

1.2.1 Where appropriate, especially on agreed matters, more detail is set out in Officer’s Report to Committee dated 4th August 2016 (CD 5.3).

1.3 Parties

1.3.1 This final version of the SoCG is jointly agreed by:

Signed _____ Date _____
XXX
Title XXXXX
On behalf of Gladman Developments Ltd

Signed _____ Date _____
XX XX
Title XXX
On behalf of Cherwell District Council

2 CONTEXT

2.1 The Appeal Site

- 2.1.1 The proposed application site is located to the west of White Post Road, Banbury and comprises three agricultural fields with a number of mature trees and hedgerows which denote the boundaries of each of the fields. The site is presently in use predominantly as agricultural land and has an area of approximately 17.53 hectares (43 acres).
- 2.1.2 The eastern edge of the site is bound by White Post Road, with the south-eastern boundaries being formed around Banbury Cricket Club. The southern boundary is defined by Wykham Lane, with existing allotments falling outside the site boundary to the south-west of the site. The northern boundary abuts existing residential development on Sycamore Drive. The western boundary is defined by a hedgerow interspersed with a number of mature trees, beyond which are agricultural fields. The Access into the site is proposed via White Post Road.

2.2 The Appeal Proposal

- 2.2.1 This appeal seeks Outline Planning Permission for a residential development comprising:

Outline Planning Application for up to 280 residential dwellings (including 30% affordable housing), introduction of structural planting and landscaping, informal public open space and children's play area, surface water flood mitigation and attenuation, vehicular access point from White Post Road and associated ancillary works. All matters to be reserved with the exception of the main site access, on land west of White Post Road, Banbury.

2.3 Plans for Approval

- 2.3.1 The drawings for which planning permission is sought are as follows:

Drawing ref	Drawing Name
5713/ASP01	Location Plan
1361/22 Rev E	Proposed Site Accesses and Highway Improvements

- 2.3.2 The illustrative drawings submitted for consideration include:

Drawing Ref	Drawing Name
5713/ASP03 Rev H	Illustrative Framework Plan
JJG0043/50H	Joint Masterplan

2.4 Relevant Planning History

- 2.4.1 The site itself does not have any relevant planning history. However, the site forms part of the Banbury 17 allocation within the Cherwell Local Plan (2011-2031), for the delivery of 1,345 dwellings. An application for 145 dwellings was granted outline approval at appeal in June 2012. A subsequent reserved matters approval was granted in November 2014.
- 2.4.2 The site to the west of Banbury 17, Banbury 16, was allocated for 150 dwellings in the Cherwell Local Plan (2011-2031). An outline application (14/01188/OUT) has subsequently been approved for up to 350 dwellings, associated open space and associated infrastructure.
- 2.4.3 An application for 1,000 dwellings (14/01932/OUT), directly adjacent to this scheme, is subject to a resolution to grant planning permission subject to signing of the S106. The resolution was passed at the same committee meeting as the appeal site. An illustrative masterplan has been prepared by the Appellant and the adjacent landowner, to ensure the proposed access and general layout arrangements have taken the opportunities available to deliver sustainable, high quality urban design.

3 PLANNING POLICY

3.1 Introduction

- 3.1.1 The Development Plan for this site consists of the Cherwell Local Plan (2011-2031), adopted on the 20th July 2015. The site forms the eastern section of the strategic site allocation Banbury 17 as contained in the plan.

3.2 The Cherwell Local Plan (2011-2031)

- 3.2.1 The Cherwell Local Plan, adopted July 2015, sets the strategic framework for Cherwell District. Policy BSC 1 sets out the District wide housing distribution, outlining provision of 22,840 dwellings between 1 April 2011 and 31 March 2031 (1142 dwellings per annum). The site, which forms the eastern parcel of the Banbury 17 housing allocation (see Appendix 5), will provide up to 280 dwellings towards the overall housing requirement.
- 3.2.2 Paragraph 1.27 of the adopted Local Plan (and B.95), identifies the need for a review of the plan within two years of adoption in order to plan to meet the unmet needs of Oxford City. Cherwell have agreed to deliver a further 4,400 dwellings to meet these needs and a review is underway.

3.3 Accordance with the Cherwell Local Plan 2011-2031 (and Policy Banbury 17)

- 3.3.1 The development proposal accords with the objectives of the Local Plan which seeks to provide a continuous supply of housing land to meet strategic requirements in sustainable locations. The site is considered to be situated in a sustainable location and will contribute towards the housing needs of Banbury and Cherwell as a whole, and in particular meeting objectives set out in Policy BSC1: District Wide Housing Distribution.
- 3.3.2 The conclusions of the Officer's Report to Committee state:

"The principle of residential development on this site as part of a wider urban extension on the allocated Banbury 17 site has been established and it is the detail of elements of the scheme that is now for consideration. The proposals as submitted would make a very significant contribution towards meeting the housing needs of the District and ensuring the Council's housing delivery trajectory in the Local Plan remains on target. For reasons set out in this report, subject to the recommended conditions and covenants in a legal agreement, the potential for significant adverse impacts arising from the development can be mitigated to an acceptable level such that the proposals amount to sustainable development in accordance with the provisions and requirements of Policy Banbury 17 and other relevant development

plan policies. In addition to being found in general accordance with the development plan, the proposals are also considered to be consistent with Government guidance set out in the NPPF which establishes a presumption in favour of sustainable development. Officers consider there to be no other material planning considerations of significance that indicate determining the application otherwise in accordance with the development. As a consequence, officers recommend that Committee resolves to grant outline planning permission."

- 3.3.3 The parties agree that delivery of the appeal site is essential for the Council to deliver their full, objectively assessed needs and the housing requirement outlined in the adopted Cherwell Local Plan (2011-2031).

3.4 The NPPF

- 3.4.1 The parties agree, as per §7.1 of the Officer's Report to committee (CD 5.3), that:

"In addition to being found to be in general accordance with the development plan, the proposals are also consistent with Government Guidance set out in the NPPF which establishes the presumption in favour of sustainable development. Officers consider there are no material considerations of significance that indicate determining the application otherwise than in accordance with the development plan."

- 3.4.2 The parties agree that the §14 of the NPPF calls for decision takers to grant planning permission without delay where development proposals accord with the development plan.
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4 OTHER MATTERS ON WHICH PARTIES AGREE

4.1 Introduction

4.1.1 The following matters are agreed between the parties and are not at issue in this appeal:

4.2 Delivery of the Link Road

4.2.1 The parties agree that Condition 50 of the Officer's Report (CD 5.3) represents a sensible way forward to deliver the link road to the western boundary in a timely fashion and in accordance with Policy Banbury 17. The Condition states:

The spine road approved under the requirements of condition 7 shall be fully completed and available for public use from its new junction with White Post Road through to the site's western boundary prior to whichever occurs earliest of the following:

- *Occupation of 75% of the final number of dwellings approved on the site (as determined by reserved matters approvals);*
- *Four years following first commencement of any part of the development on the site.*

4.2.2 The parties agree that the Link Road to the west of the Appeal site is not required to mitigate any of the traffic generated by the appeal scheme and this is also agreed with OCC. The parties agree that the officer's report to committee of May 2016 (CD 5.1) concluded that the development would accord with the Development Plan and the NPPF without inclusion of any additional non-implementation mechanisms/measures.

4.3 Landscape

4.3.1 Both parties agree, as per the Officers' Report (§6.37), that the impact of the development on the wider landscape would not be significant having regard to the limited height of the proposed buildings on site, the site's urban edge location, flat topography and the site's modest natural landscape value.

4.3.2 The Officer's Report to committee, at §6.37 states:

"The proposals as submitted have taken the opportunities available to mitigate their impact on the local landscape in the manner required by the Policy Banbury 17 and as such officers are satisfied that the proposals are acceptable in this regard."

4.3.3 The parties agree that the scheme is acceptable in landscape terms, is in compliance with Policy Banbury 17, and with the relevant paragraphs of the NPPF.

4.4 Biodiversity

- 4.4.1 The parties agree that, as per the officer's conclusions in the report to committee (§6.56), that subject to the imposition of the recommended conditions, the proposals have the potential to deliver net biodiversity gains on the site in accordance with the requirements of Policies ESD10 and Banbury 17 of the Local Plan Part, as well as the guidance in the NPPF such that the scheme is considered acceptable in ecological terms.

4.5 Heritage

- 4.5.1 The Officer, in his report to committee concluded, at §6.44, the following:

"In conclusion on the issue of heritage impact, officers are of the view that the proposals would give rise to moderate harm to the historic significance of the Salt Way even with the mitigation measures proposed to be secured through conditions and legal agreement. However, the Salt Way is a non-designated heritage asset and the weight to be afforded to its preservation is not substantial and the overall benefits of providing a significant number of new homes in this location outweighs this harm as reflected in the provisions of Policy Banbury 17. The impact on the special character of the Bodicote Conservation Area would be limited and thus acceptable in the context of the significant wider public benefits stemming from the provision of much-needed new housing in this otherwise sustainable location – a fact also intrinsically recognised in the decision to allocate the Banbury 17 site. The harm caused to the setting of individual listed buildings would in officers' view be negligible and therefore of no particular concern. Consequently officers are satisfied that subject to the recommended conditions and covenants, the proposals are acceptable in heritage terms in accordance with the requirements of Policy Banbury 17 and all other relevant local and national planning policies."

- 4.5.2 The parties agree that the proposals would cause moderate harm to the Salt Way, but as a non-designated heritage asset the weight to be afforded to its preservation is not substantial and the overall benefits of the proposals outweighs this harm. The proposals would have a limited impact on the Bodicote Conservation Area and the harm caused to the setting of individual listed buildings would also be negligible and of no particular concern. Therefore, the parties agree that the proposals are in compliance with Policy Banbury 17 and Policy ESD15 of the Cherwell Local Plan, and §134 of the NPPF does not apply.

4.6 Housing Mix/Affordable Housing

- 4.6.1 The parties agree that, subject to recommended conditions, the proposals are in accordance with Policies BSC3, BCS4 and Banbury 17 of the Local Plan Part 1 with the result that they will make a strong contribution towards meeting the identified housing needs of the District.

4.7 Open Space and Recreation

- 4.7.1 The parties agree, as per the officer's conclusions at §6.52 of the report to committee, that:

"...officers are satisfied that subject to the inclusion of relevant covenants in a legal agreement to secure the necessary provision and maintenance of formal and

informal recreation facilities, the needs of the residents of the new homes would be adequately served by the type, quality and quantity of facilities proposed and this the development would mitigate its impact on existing recreation provision and provide a suitable quality residential environment within the site for future residents."

4.8 Trees and Landscaping

- 4.8.1 The parties agree that all trees of significance are proposed to be retained and officers are satisfied that they can be suitably protected during construction through the tree protection measures recommended in the submitted Arboricultural report and a condition is recommended to be imposed to ensure this.
- 4.8.2 With regards to landscape, the parties agree that the proposals would not have a materially adverse effect on existing landscape features of significance due to the majority being proposed for retention together with proposals offering significant opportunities for enhancement on the site. The parties agree that the proposals are in compliance with Policies ESP10, ESD13, ESD15 and Banbury 17 of the Local Plan Part 1.

4.9 Drainage and Flooding

- 4.9.1 The Officer's Report to committee, at §6.66 states:

"Policy ESD6 of LPP1 reflects Government guidance in the NPPF by resisting development where it would be unduly susceptible to flooding and/or increase the risk of flooding elsewhere. The site itself is not known to be at risk of either fluvial or pluvial flooding but it is nonetheless necessary for development on the site to appropriately manage surface water to ensure that it does not increase the risk of localised flash flooding in a storm event. As such, it is necessary and in accordance with both local and national planning policy for a sustainable drainage system (SuDS) to be fully incorporated into the development in a manner that mimics natural greenfield rainwater treatment so that there is no net increase in the rate of surface water discharge from the site. Full details of the SuDS on the site have not been provided at this stage given that the application is in outline but the flood risk assessment (FRA) submitted alongside the application clearly demonstrates that the ground conditions on the site and space available make SuDS viable on the site – a conclusion with which drainage officers at OCC concur. A condition is therefore recommended that requires full details of the drainage scheme to be submitted prior to commencement of development. A number of above and below ground drainage features are likely to be provided on site as part of the drainage scheme including ponds and swales which would in turn have occasional maintenance requirements such that appropriate arrangements for long term maintenance will need to be included in a legal agreement before it can be considered satisfactory. In conclusion, subject to conditions and relevant clauses in a legal agreement, officers have concluded that the proposed development would be acceptable in flood risk terms."

- 4.9.2 The parties agree that the development is acceptable in flood risk terms.
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4.10 Impact on Public/Community Infrastructure

4.10.1 The Officer's report to committee states, at §6.78:

"...the proposals would have a significant and unacceptable impact on public/community infrastructure without the mitigation measures set out above being secured through conditions and/or a legal agreement as appropriate. Subject to satisfactorily securing the mitigation, the proposals are considered to be acceptable and in accordance with the requirements of Policies BSC9, INF1 and Banbury 17."

4.10.2 The parties agree that, subject to agreeing the relevant conditions and S106 obligations, the proposals are in accordance with national and local planning policy with regard to public/community infrastructure.

4.11 Market Housing

4.11.1 It is agreed that the supply of additional market housing represents a material benefit of the scheme which should be considered appropriately in the planning balance.

4.12 Affordable Housing

4.12.1 Both parties agree that 30% of the scheme shall be affordable housing.

4.13 Open Space and Green Infrastructure

4.13.1 The parties agree that the development provides the opportunity to create an environment with healthy spaces where it is easier for people arising from the new community to lead healthier lifestyles. With appropriately designed linkages to the adjacent open space and play areas, this would also be accessible to the wider community.

4.13.2 Both parties agree that this will be dealt with by an appropriate condition / obligation.

5 S.106 OBLIGATION

- 5.1.1 The parties will liaise regarding the planning obligation and a final draft unilateral undertaking will be circulated in advance of the Hearing. The parties agree that any differences on whether contributions would be CIL compliant would be discussed as part of the Hearing.

6 CONDITIONS

- 6.1.1 A draft list of suggested conditions, should the Inspector be minded to allow the Appeal, can be found at Appendix 1. The parties are seeking to agree conditions in advance of the Hearing.

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