

**Land off White Post Road, Banbury - Conditions**

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

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended).

2. Prior to the submission of any application for approval of reserved matters, a phasing plan covering the entire site (that indicates clear development parcels/phases for which applications for approval of reserved matters will be submitted) shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved phasing plan and reserved matters applications shall only be submitted in accordance with the approved phasing plan and refer to the phase(s) they relate to.

Reason - To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

3. In the case of the reserved matters, no application for approval shall be made later than the expiration of four years beginning with the date of this permission. The reserved matters application is to be submitted in a single phase which specifies the total number of dwellings and the mix (including numbers of bedrooms) of homes to be provided on the scheme, and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). A longer than standard period is considered appropriate given the scale of the development and its interrelationship with wider planned development. The condition also allows that the total contributions for the whole site can be known at the approval of the first reserved matters stage.

4. The development to which this permission relates shall be begun not later than the expiration of two years from the date of the approval of the last of the reserved matters to be approved.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

5. No more than 280 dwellings shall be accommodated on the site under the provisions of this permission.

Reason - To ensure that the local planning authority can consider the wider sustainability implications of a more intensive development on the site and to ensure the Environmental Statement is appropriate to the scale/impact of the development.

6. Except where otherwise stipulated by condition on this planning permission, the development shall be carried out in accordance with the following plans and drawings but only insofar as they do not relate to matters reserved for later approval: 1361/22 Rev. E.

The development shall also be carried out in broad accordance with the details shown in the submitted Development Framework Plan (ref: [5713/ASP03 Rev H](#)).

**Commented [LR1]:** As the Appellant proposes the development coming forward within one phase, it is not considered that condition 2 is necessary.

It was agreed at the hearing that this condition could be deleted, on the basis that development will come forward within one phase.

**Commented [LR2]:** Moved up in the list.

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

7. Prior to the submission of any application for the approval of reserved matters, full details of the section of new link road within the site (from its approved new junction with White Post Road, [as shown on plan 1361/22 Rev E](#), through to the western boundary of the site, [to the coordinates agreed within Annex 2 of the Unilateral Undertaking](#)) including its alignment, specification, junctions, drainage, crossings, road markings, traffic calming, footways/cycle lanes, verges, on-street parking bays, street lighting, bus stop infrastructure and associated soft landscaping shall have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved link road details unless otherwise with the prior written agreement of the local planning authority.

Reason - To ensure that a suitably designed link road is approved to enable proper design and consideration of reserved matters submissions and to facilitate appropriate and timely delivery of the link road to assist in bringing forward development on the wider Banbury 17 allocated site.

8. The section of link road approved under the requirements of condition [7](#) shall be completed [to binder course](#) and available for public use from its new junction with White Post Road (as set out in drawing no. 1361/22 Rev. E) through to the site's western boundary prior (as set out in drawing no. [SK201-01-P3](#)) prior to whichever occurs earliest of the following:
  - The first occupation of the [151<sup>st</sup>](#) dwelling as part of the development;
  - Three years from commencement of the development.

In the event that the approved section of link road has not been provided in accordance with the above requirement, no further dwellings shall be constructed or occupied on the site until the section of link road has been completed in accordance with the details approved pursuant to condition [7](#).

Reason - To ensure the satisfactory comprehensive development of the wider site allocated as Banbury 17 in the Cherwell Local Plan 2011-2031 Part 1 and to prevent significant adverse impact on the local highway network.

9. No development shall take place until full details of the surface water drainage scheme to be incorporated together with details of how the surface water drainage arrangements are consistent with the overall drainage strategy for the site shall have been 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 is served by the approved surface water drainage scheme.

Reason - To ensure that as the development progresses appropriate consideration is given to ensuring that overall the development does not increase the risk of localised flash flooding in accordance with the requirements of Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1.

10. No development shall take place until full details of existing and proposed ground and floor levels have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out only in accordance with the approved levels.

Reason - In the interests of visual amenity in accordance with the requirements of Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

11. No development shall take place until full design details of the play areas proposed (including Local Areas of Play [LAPs], Local Equipped Areas of Play [LEAPs] and Multi-Use Games Area [MUGAs]) have been submitted to and approved in writing by the local planning authority. The development shall thereafter take place only in accordance with the approved details.

Reason - To ensure the development is served by appropriate play facilities in the interests of sustainably providing for the amenities of the new residents in accordance with the requirements of Policies Banbury 17, BSC10 and BSC11 of the Cherwell Local Plan 2011-2031 Part 1.

12. No development shall take place until a full arboricultural survey, method statement and arboricultural implications assessment that accords with BS: 5837:2012 (or any superseding British Standard) for all existing trees and hedgerows within and around the perimeters of that phase of the site have been submitted to and approved in writing by the local planning authority. The development shall take place only in accordance with the approved details.

Reason - To ensure the continued health of retained trees/hedges of importance in the interests of visual amenity and biodiversity in accordance with the requirements of Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

13. No development shall take place including works of site clearance/preparation until that phase of the site has been thoroughly checked by a suitably qualified ecologist to ensure that no statutorily protected species which could be harmed by the development have moved on to the site since the date the previous surveys supporting the application were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm 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 mitigation scheme.

Reason - To ensure the development does not cause harm to protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

14. Prior to the commencement of any development, a statement setting out the measures that will be incorporated into the development proposed in that phase to demonstrate how it will accord with the principles of 'Secured by Design' (SBD) shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason - To ensure the development is designed in a manner that reduces risk and fear of crime in accordance with the requirements Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

15. No development shall take place until a detailed foul drainage scheme detailing any on and/or off site foul drainage works has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. No discharge of foul drainage from development shall be accepted into the public system until the approved drainage works referred to in the scheme have been completed.

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

**Alternate Condition**

No development shall take place until a scheme of onsite foul drainage up to the proposed point of discharge has been submitted to, and approved in writing by the local planning authority. The element of the approved scheme required to drain each dwelling shall be completed before the occupation of each dwelling.

16. No development shall take place until impact studies on the existing water supply have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

17. Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present on the site, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the

**Commented [LR3]:** The Appellant does not consider a Foul Drainage Condition is required for the reasons presented at the Hearing. Please also refer to the ULS Foul Drainage Note distributed at the Hearing.

**Commented [LR4]:** Appellant's preferred wording in the event that the Inspector considers that despite the ULS report, a foul drainage condition is required.

**Commented [LR5]:** The Appellant does not consider this condition to be necessary.

The statutory undertaker has a statutory requirement to supply water by gravity continuously for domestic purposes that will; 'reach the top of the top-most storey of every building' (Water Industry Act 1991, Section 65).

In addition, the water industry regulator Ofwat, under the guaranteed standards scheme (GSS) sets out that water companies shall maintain a minimum pressure of water in the communication pipe serving the premises supplied with water of seven metres static head.

Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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

18. If contamination is found by undertaking the work carried out under condition 16, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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

19. If remedial works have been identified in condition 17, no development shall be occupied within an approved phase (other than for construction purposes) until the remedial works have been carried out for that phase in accordance with the scheme approved. 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 before any occupation of development on that phase can take place.

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

Commented [LR6]: See Alternate Condition

**Alternate Condition (to conditions 17 – 19)**

No development shall take place until:

- a) A Phase II contamination investigation shall be carried out in accordance with a scheme to be submitted to and approved in writing by the local planning authority;
- b) The results shall be submitted to the local planning authority and if the Phase II contamination investigation indicates that remediation is necessary, then a Remediation Statement shall be submitted to the local planning authority for its approval in writing. The remediation scheme in the approved Remediation Statement shall then be carried out.
- c) If remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the local planning authority prior to the first use or occupation of any part of the development hereby approved.

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

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological

systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

21. Prior to the commencement of the development hereby approved, including any works of site clearance, a mitigation strategy for badgers, which shall include details of a recent survey (no older than six months), whether a development licence is required and the location and timing of the provision of any mitigation or protective fencing around setts/commuting routes, 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 details.

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

22. Prior to the first occupation of any dwelling as part of the development, a full Ecology Management Plan (EMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the EMP shall be carried out in accordance with the approved details. The EMP shall include:

- Description and evaluation of the features to be managed
- Ecological trends and constraints on site that may influence management
- Aims and objectives of management
- Appropriate management options for achieving aims and objectives
- Prescriptions for management actions for a 20 year period and beyond
- Preparation of a work schedule (including a 5yr project register, an annual work plan and the means by which a plan will be rolled forward annually)
- Personnel responsible for implementation of the plan
- Monitoring.

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 and Government guidance contained within the National Planning Policy Framework.

23. Prior to the commencement of the development hereby approved, including any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works minimise adverse effects on neighbouring residential amenity and biodiversity, 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 CEMP at all times.

Reason - To avoid causing undue environmental nuisance associated with the construction of the development in accordance with the requirements of Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

**Alternate Condition (to conditions 23 and 29)**

Development shall not take place until a Site Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan should comply with the Considerate Constructors Scheme and include the following details:

- Location of site compound.
- Parking of vehicles of site personnel, operatives and visitors.
- Loading and unloading of plant and materials.
- Storage of plant and materials in constructing the development.
- Storage of oil, fuel and chemicals.
- Protection of ecology and archaeology.
- Prevention of mud being deposited on highway.

**Commented [LR7]:** The Appellant considers that the Landscape Management Plan is covered by provisions within the UU.

The Appellant proposes amending the condition to allow for the submission and approval of an Ecology Management Plan.

**Commented [LR8]:** The Appellant has combined this condition with condition 29, as discussed at the Hearing.

- Measure for the control and reduction of noise from construction works.
- Measures for control of construction traffic within the site and on the surrounding highway network.
- Days and hours of operation of construction works and others works on the site.
- Measures for the monitoring and enforcement of the plans.
- The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate.
- Routing arrangements for construction vehicles (which shall not be via Wykham Lane);
- Deliveries/collections timetable and arrival/departure times for site workers;
- Timing of construction of site access and highway works along White Post Road together with associated traffic management measures;
- Wheel washing facilities;
- Parking/turning and storage areas within the site;
- Appropriate contact details for the contractors;
- Details of the site compound and contractor welfare facilities
- Measures for the management, storage and/or disposal of spoil.

24. Except where a public right of way has been authorised to be formally extinguished or diverted (either temporarily or permanently) by the local planning or highway authorities, no development shall take place within 10m of any public right of way until the affected public right of way is protected during development to accommodate a width of a minimum of 5m in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter, the public right of way shall remain protected, unobstructed and available for use at all times in accordance with the approved details throughout the construction of the development unless otherwise agreed in writing by the local planning authority.

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

25. Details of the improvements to the existing public footpath within the site (Bodicote Footpath 13 - No. 137/13) together with a timetable for their provision shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling on the site. The approved footpath improvements shall be provided and thereafter retained in accordance with the approved details.

Reason - To encourage sustainable walkable neighbourhoods in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031.

26. No dwelling shall be occupied until details of the specification of any and all new and/or enhanced public footpaths, bridleways and cycle tracks to be provided within/through that phase together with a timetable for their completion shall have been submitted to and approved in writing by the local planning authority. Thereafter the new footpaths, cycle tracks and bridleways shall be provided in that phase in accordance with the details approved.

Reason - In the interests of the amenities of future residents and to maximise walkable neighbourhoods in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1.

27. Prior to the commencement of the development and any archaeological site investigations, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare a first stage archaeological Written Scheme of Investigation, relating to the application area, which shall be submitted to and approved in writing by the Local Planning Authority.

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

28. Prior to the commencement of the development and following the approval of the first stage Written Scheme of Investigation, a programme of archaeological evaluation, investigation and recording of

the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation.

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework,

Commented [LR9]: See alternate condition

**Alternate Condition (to Conditions 27 and 28)**

No development shall take place until a written scheme of archaeological investigation/resource management; that includes post excavation analysis and publication has been submitted to and approved in writing by the Local Planning Authority. The development hereby approved shall only be implemented in full accordance with the approved scheme.

29. Prior to the commencement of the development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority in consultation with the local highway authority. The CTMP shall include details on at least the following matters:

- Routing arrangements for construction vehicles (which shall not be via Wykham Lane);
- Deliveries/collections timetable and arrival/departure times for site workers;
- Timing of construction of site access and highway works along Wykham Lane together with associated traffic management measures;
- Wheel washing facilities;
- Parking/turning and storage areas within the site;
- Appropriate contact details for the contractors;
- Details of the site compound and contractor welfare facilities.

Thereafter, the development shall be carried out only in accordance with the approved Construction Traffic Management Plan.

Reason - To minimise adverse impact on the road network in accordance with the requirements of Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

Commented [LR10]: Combined with Condition 23, as outlined above.

30. No development shall take place until details of the on site renewable energy provision, pursuant to the Energy Statement submitted with the outline planning application, to serve the dwellings within that phase have been submitted to and approved in writing by the local planning authority. No dwelling shall thereafter be occupied until it is being served by the approved on-site renewable energy generation measures and shall remain so thereafter.

Reason - In the interests of creating sustainable development in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

31. No development shall commence until full details (including construction specification) of the new 34 space public car park adjacent to White Post Road (shown indicatively on dwg no. 1361/22 Rev. E) together with a timetable for its completion have been submitted to and approved in writing by the local planning authority. The new car park shall be completed prior to first occupation in accordance with the approved details and retained for free public use thereafter as a car park.

Reason - To ensure the development does not give rise to extreme parking stress on surrounding roads in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

32. No development shall commence until full details of the allotments, including a timetable for their completion, have been submitted to and approved in writing by the local planning authority. The allotments shall be completed in accordance with the approved details.

33. Prior to the commencement of the development, details for the management, storage and/or disposal of spoil resulting from construction works on the site shall be submitted to and approved in

writing by the local planning authority. The development shall thereafter only take place in accordance with the approved details.

Reason - To ensure inappropriate storage of earth material does not occur on the site leading to harm to the soil structure and loss of good growing medium as well as inappropriate and unsightly landscape features both during construction and afterwards.

34. No occupation of any dwelling as part of the development shall take place (except for construction purposes) until the highway works shown in drawing no. 1361/22 Rev. E have been fully completed and made available for use.

Reason - To ensure the development is served by an appropriate form of access that does not have an unacceptable impact on the wider highway network in accordance with the requirements of Policies Banbury 17 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

35. No dwelling shall be occupied until full details of the street lighting to be provided within that phase has been submitted to and approved in writing by the local planning authority. Thereafter the street lighting shall be provided as approved prior to the first occupation of any dwelling within the phase and retained as approved thereafter.

Reason - To ensure a safe and satisfactory residential environment is provided and to mitigate impact on public infrastructure in accordance with the requirements of Policy ESD15, Banbury 17 and INF1 of the Cherwell Local Plan 2011-2031 Part 1.

36. Prior to the first occupation of any dwelling, fire hydrants shall be provided for that phase in accordance with details to be first submitted to and approved in writing by the local planning authority.

Reason - To secure the provision of essential infrastructure in the interests of reducing risk of fire damage in accordance with the requirements of Policy INF1 and BSC9 of the Cherwell Local Plan 2011-2031 Part 1.

37. Prior to the first occupation of any dwelling on the site, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall thereafter be implemented and operated in accordance with the approved details.

Prior to the occupation of the 140th dwelling on the site, an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved updated Travel Plan shall be implemented and operated thereafter in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

38. Prior to the first occupation of any dwelling on the site, details of a scheme of public artwork to be installed within the site (including a timetable for its provision and future maintenance arrangements) shall be submitted to and approved in writing by the local planning authority. The public artwork shall thereafter be installed in accordance with the approved details.

Reason - In the interests of creating a high quality public realm in accordance with the requirements of Policy Banbury 17 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

39. No dwelling shall be occupied on the site until 3 bins for the purposes of recycling, residual and garden waste have been provided for that dwelling, in accordance with the following specification:

- One 240 litre blue wheeled bin for the collection of dry recyclable material;
- One 240 litre green wheeled bin for the collection of residual waste;
- One 240 litre brown bin for the collection of garden waste material

**Commented [LR11]:** This has now been included within the alternate Condition to conditions 23 and 29, subject to the Council's approval



Reason - To provide appropriate and essential infrastructure for domestic waste management in accordance with the provisions of Policies INF1 and BSC 9 of the Cherwell Local Plan 2011 - 2031 Part 1.

40. No dwelling shall be occupied until that dwelling has been constructed so that it is capable of achieving a water efficiency limit of 110 litres person/day.

Reason - In the interests of water efficiency in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1.

41. Prior to the commencement of any work associated with the construction of the approved new access from White Post Road (as shown in dwg no. 1361/22 Rev. E), details of safety measures to be incorporated into the new cycle lanes along White Post Road to reduce risk of conflict between cyclists and pedestrians outside Bishop Loveday Primary School shall be submitted to and approved in writing by the local planning authority. The new access shall thereafter be constructed in accordance with dwg no. 1361/22 Rev. E together with the approved additional safety measures and shall not be brought into use until the cycle lanes have been constructed and made available to public use in accordance with the approved details and shall be retained as such thereafter.

Reason - In the interests of highway safety in accordance with the requirements of Government guidance set out in the National Planning Policy Framework.

42. No occupation of any of the approved dwellings shall take place until details of the on-street parking controls to be introduced on the link road and White Post Road in the immediate vicinity of Bishop Loveday Primary School have been submitted to and approved in writing by the local planning authority in consultation with the local highway authority. Occupation of dwellings shall not take place until the approved on-street parking controls have been introduced and such controls shall be retained/implemented as approved thereafter unless otherwise agreed in writing by the local planning authority.

Reason - To ensure that further indiscriminate parking of cars along sections of White Post Road and the new link road does not occur as a result of the development which would be likely to prejudice highway safety.

43. Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (and any Order or Statutory Instrument revoking and re-enacting that order), all new water supply, wastewater, power and communication related public infrastructure on the site (including anything proposed to be undertaken by a Statutory Undertaker) shall be submitted and approved in writing by the local planning authority. Where approved in writing by the local planning authority, relevant above ground infrastructure shall be provided only in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

44. No trees or hedgerows on the site (as existing at the date of this decision) shall be lopped, felled, uprooted or wilfully damaged unless otherwise approved pursuant to approvals of reserved matters with the exception of those necessary to facilitate the creation and laying out of the approved vehicular and pedestrian access arrangements from White Post Road as set out in the submitted Arboricultural Assessment produced by FCPR and dated April 2016. The approved means of access from White Post Road and associated highway works shall be constructed only in accordance with the methodology and tree protection measures set out in the submitted Arboricultural Assessment (produced by FPCR and dated April 2016).

Reason - To ensure existing landscape features of significance are retained in the interests of creating a high quality development that is sympathetic to its setting and preserves/enhances biodiversity in accordance with the requirements of Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031.

45. No removal of hedgerows, trees or shrubs shall take place between the 1st March and 31st August inclusive, unless the local planning authority has confirmed in writing that such works can proceed based on the submission of a recent survey (no older than one month) that has been undertaken by a suitably qualified ecologist to assess the nesting bird activity on site together with details of measures to protect the nesting bird interest on the site.

Reason - In the interests of preventing harm to protected species in accordance with the requirements of Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

#### **Alternate Condition to Condition 45**

46. No demolition, ground clearance or vegetation clearance works shall take place within the bird nesting season (between 1 March and 31 August inclusive in any year unless a nesting bird check is carried out. This shall, be undertaken by a suitably qualified ecologist immediately prior to the works taking place. If any active nest sites are identified, these nests shall remain undisturbed until all the young have fledged naturally.

47. Any and all non-residential buildings on the site shall meet at least BREEAM 'Very Good' based on the standard applicable at the date of this decision.

Reason - In the interests of sustainable construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031.

48. No building on the site shall have a maximum height greater than 8.5m.

Reason - To ensure that the Environmental Statement robustly assessed the landscape impacts of the development.

49. The open market dwellings provided on the site shall include a minimum of the following dwelling sizes:

- 20% as two bedroom dwellings;
- 40% as three bedroom dwellings.

The development shall reflect these requirements and all applications for approval of reserved matters shall be consistent with them unless with the prior written agreement of the local planning authority.

Reason - In order to provide an appropriate mix of housing on the site to respond to the objectively assessed housing needs of the District in accordance with the requirements of Policy BSC4 of the Cherwell Local Plan 2011-2031 Part 1.

50. No part of any building shall be located within 20m of any part of the Salt Way restricted byway.

Reason - To ensure the rural setting, heritage and public amenity value of this historic trade route is adequately protected in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1.

51. Prior to the first use of the approved new vehicular access arrangement (as shown on drawing no. 1361/22 Rev. E) and/or the new public car park (condition 28), details of the means by which the existing vehicular access to Banbury Cricket Club will be stopped up to motor vehicles shall be submitted to and approved in writing by the local planning authority. Neither the approved new vehicular access nor public car park shall be brought into use until the existing access has been stopped up in accordance with the approved details and shall be retained as such thereafter.

Reason - In the interests of preventing risk of undue conflict between different users of the highway in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

**Commented [LR12]:** The Appellant does not consider that this condition works. The condition allows for a situation to arise where a survey is conducted at the start of a month, and by the end of the month nesting bird activity may have returned.

The Appellant has therefore proposed the alternate condition below, which allows for the nesting bird check to be carried out immediately prior to the works taking place.

The alternate condition below was included by the Secretary of State for the appeal on Land off Burnell Road, Yapton (APP/C3810/V/16/3158261). The condition was condition 16 attached to the Secretary of State's decision letter.

**Commented [LR13]:** Agreed at the Hearing that this could be covered by condition 3 to allow flexibility to accommodate local need at the point of the submission of the reserved matters.