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## Appeal Decision

Hearing Held on 10 October 2017

Site visit made on 10 October 2017

**by Karen L Baker DipTP MA DipMP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20<sup>th</sup> December 2017**

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**Appeal Ref: APP/C3105/W/17/3172731**

**White Post Road, Banbury (Grid Ref. Easting: 445726 and Grid Ref. Northing: 238365)**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Limited against Cherwell District Council.
  - The application Ref. 15/01326/OUT, is dated 13 July 2015.
  - The development proposed is 'up to 280 residential dwellings (including up to 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'.
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### Decision

1. The appeal is allowed and outline planning permission is granted for up to 280 dwellings (including 30% affordable housing), introduction of structural planting and landscaping, formal and informal public open space and play areas, surface water flood mitigation and attenuation, new priority junction arrangements to White Post Road, creation of section of spine road to link Bloxham Road with White Post Road as well as creation of 34 space car park and other associated ancillary works, at White Post Road, Banbury (Grid Ref. Easting: 445726 and Grid Ref. Northing: 238365) in accordance with the terms of the application, Ref. 15/01326/OUT, dated 13 July 2015, subject to the conditions in Appendix 1.

### Procedural Matters

2. The description of development has been changed from that included on the application form, and referred to in the bullet points at the start of this Decision, to 'up to 280 dwellings (including 30% affordable housing), introduction of structural planting and landscaping, formal and informal public open space and play areas, surface water flood mitigation and attenuation, new priority junction arrangements to White Post Road, creation of section of spine road to link Bloxham Road with White Post Road as well as creation of 34 space car park and other associated ancillary works.' I have, therefore, had regard to this revised description in the remainder of my Decision.
3. The planning application was made in outline, with all matters reserved for subsequent approval, with the exception of access.

4. At its Planning Committee, on 4 August 2016, the Council resolved to grant outline planning permission for the proposed development, subject to the imposition of the conditions set out in the Officer's Report and the satisfactory completion of a Section 106 Agreement to secure relevant on and off site infrastructure, together with a means by which to either impose a ceiling on the amount of development that can take place on the overall Banbury 17 site until the full link road is provided or secure delivery of the completed spine road at an appropriate stage. The appellants lodged this appeal against non-determination on 29 March 2017, before the Council had issued any decision. In its Hearing Statement the Council confirmed that, subject to a suitable planning obligation and conditions, it would consider that the appeal should be allowed. However, in the absence of a satisfactory planning obligation to properly secure the on and off site infrastructure, the Council would contend that the appeal should be dismissed.
5. The appellants submitted a final draft of a Unilateral Undertaking<sup>1</sup> at the Hearing for consideration. During the discussions it became apparent that the Council and Oxfordshire County Council each had significant concerns about its drafting. During an adjournment, the main parties were given the opportunity to discuss these concerns and, as a result, the appellants agreed to redraft the Unilateral Undertaking. This was undertaken following the close of the Hearing and both the District and County Councils, along with the neighbouring developer, were consulted upon the revised draft. A certified, hard copy of the Unilateral Undertaking<sup>2</sup> was received by The Planning Inspectorate on 22 November 2017. The District Council has subsequently confirmed<sup>3</sup> that it is now content with the obligations made with respect to both it and the County Council in the revised Unilateral Undertaking and its execution. As such, the Council now raises no objection to the appeal scheme and recommends that it be allowed, subject to the imposition of appropriate conditions.
6. The obligations within the Unilateral Undertaking include: the provision of 30% of the new dwellings on the site as affordable homes; the provision of allotments on the site, in accordance with a scheme to be submitted to, and approved in writing by, the Council, along with a financial contribution towards their future management and maintenance; the provision of a bridleway along the southern boundary of the site, linking with existing and new footpaths to form a new circular route around the development, along with a requirement for a scheme for its future management and maintenance to be submitted to, and approved in writing by, the Council, along with its funding and its future management and maintenance in accordance with the approved management plan; the provision of a 34 space car park, in accordance with a detailed scheme to be submitted to, and approved in writing by, the Council and its future management and maintenance in accordance with the approved management plan; the provision of on-site outdoor sports facilities, comprising an adult football pitch, a junior football pitch and a small sports pavilion/changing room, in accordance with a specification to be submitted to, and approved in writing by, the Council, along with a financial contribution towards their future management and maintenance; the provision of on-site open space, including informal open space, 2 Local Areas for Play (LAPs), a combined LAP/Local Equipped Area for Play (LEAP) and a Multi-Use Games Area

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<sup>1</sup> Document 2

<sup>2</sup> Document C1

<sup>3</sup> Document C4

- (MUGA), in accordance with a specification to be submitted to, and approved in writing by, the Council, along with a financial contribution towards the future management and maintenance of the open space and its future management and maintenance in accordance with the approved management plan; the provision of a spine road running east to west across the appeal site and linking in to the remainder of the route across the neighbouring site to the west, in accordance with the attached plans; and the provision of a Sustainable Drainage System (SuDS) for the development, in accordance with a scheme to be submitted to, and approved in writing by, the Council, along with a financial contribution towards its future maintenance and management, and its future management and maintenance in accordance with the approved management plan. The Unilateral Undertaking also makes provision for the setting up of a Management Company to maintain and manage the car park, open space, SuDS and the bridleway.
7. In addition, the Unilateral Undertaking includes financial contributions towards: an extension to the existing cemetery; bus stop infrastructure on White Post Road, Oxford Road and within the site and a new bus service linking the development to Banbury town centre; land for a community facility on the adjacent site, and its construction; education, including infrastructure and land for a new primary school and an extension to a secondary school on the adjacent site, along with the expansion of Special Educational Needs provision at a local school; improvements to off-site sports facilities at the Spiceball Sports Centre; policing; improvements to local public rights of way; and strategic transport schemes at A4260 Upper Windsor Street/A460 Cherwell Street/Swan Close road junction. I have had regard to the obligations within this Unilateral Undertaking, along with the Council's Planning Obligation Compliance Statement and the County Council's Regulation 122 Compliance Statement, during my consideration of this appeal.
  8. For the avoidance of doubt, I have considered the appeal on the basis of the following plans: Location Plan (Drawing No. 5713/ASP01); and Proposed Access Arrangements (Drawing No. 1361/22 Rev. E). In addition, I have had regard to the following plans which were submitted for illustrative purposes only: Development Framework Plan (Drawing No. 5713/ASP03 Rev. H); and Banbury 17 Master Plan (Drawing No. JJG0043-050H).
  9. The appellants have annexed a further 2 plans to the Unilateral Undertaking: Initial Road Alignment and Corridor (Drawing No. SK201-01 Rev. P3); and Initial Road Alignment and Corridor Long Sections (Drawing No. SK205 Rev. P2). At the Hearing the Council stated that these plans should be included as approved plans if the appeal is allowed and outline planning permission is granted for the proposed development. However, the appellants considered that it would be sufficient that these plans are included within the Unilateral Undertaking.
  10. The Council confirmed at the Hearing that these plans were not subject to public consultation as they did not form part of the original planning application. The plans indicate the initial road alignment at the eastern and western edges of the appeal site, along with the corridor to be safeguarded across the site for the remainder of the proposed link road within the appeal site. The road alignment reflects the submitted plan (Drawing No. 1361/22 Rev. E) at the eastern edge of the appeal site with White Post Road. I note that access is to be considered as part of this appeal and would not be subject

to the submission of reserved matters. However, the Unilateral Undertaking requires that the spine road be constructed within the spine road corridor and in accordance with the spine road specification identified on the annexed plans and specification. Furthermore, a planning condition requires the submission and approval of full details of the section of new link road within the site, from its approved new junction with White Post Road through to the western boundary of the site.

11. Although these plans have not been subject to public consultation, I am satisfied that the interests of third parties would not be prejudiced were I to consider them as part of the planning application. However, given that the access to the site is already included within the submitted plan (Drawing No. 1361/22 Rev. E) and the Unilateral Undertaking and suggested planning conditions specify the broad location and require the details of a scheme for the link road to be submitted to, and approved in writing by, the Council, I do not consider that it would be necessary to consider these plans as part of the planning application the subject of this appeal, save where I consider the obligations within the Unilateral Undertaking.

### **Main Issues**

12. There are no main issues remaining in this appeal between the Council and the appellants, as confirmed in the Council's letter<sup>4</sup> dated 28 November 2017, subject to the obligations within the Unilateral Undertaking and the imposition of appropriate planning conditions. However, there are a number of matters of concern to local residents and others opposing the proposed development and I shall consider these further below.

### **Reasons**

#### *Principle of Development*

13. The appeal site forms part of a larger site, on land south of Salt Way – East, which is allocated to deliver a new neighbourhood of up to 1,345 dwellings with associated facilities and infrastructure as part of South West Banbury, in Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1, adopted in July 2015. The policy sets out the infrastructure needs for the allocated site as including education, open space, community facilities, access and movement, and a Transport Assessment and Travel Plan. Furthermore, key site specific design and place shaping principles are set out. The Council now considers that, subject to the obligations within the Unilateral Undertaking and the imposition of appropriate conditions, the site specific requirements would be met and, from the evidence before me, I concur with that view. I note that some interested parties are concerned about the loss of open countryside. Nevertheless, the incursion of development into the open countryside on this site has been considered through the Local Plan process, which has allocated this site for this use. I am therefore satisfied that the principle of residential development has been established on the appeal site and would be acceptable. As such, the proposal would accord with Policy Banbury 17 of the Local Plan.

#### *Highway and Pedestrian Safety*

14. Several local residents and interested parties have expressed concern about the impact of the proposed development on the surrounding highway network,

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<sup>4</sup> Document C4

- including the loss of on-street parking along White Post Road. The Highway Authority also raised concerns that, in the absence of a masterplan for the allocated site, there would be a risk that the spine road would not be secured and that adequate pedestrian and cycle links to the adjacent site<sup>5</sup> to the west, within the allocated site, would not be adequate.
15. Policy Banbury 17 requires the principal access to the allocated site to be created off the Bloxham Road (A361), with the layout also providing for an east-west link to join White Post Road. It also requires that the layout of the site maximises the potential for walkable neighbourhoods with new footpaths and cycleways that link with existing networks.
  16. The proposed access arrangements for the development, shown on the submitted plan (Drawing No. 1361/22 Rev. E) and included within the Unilateral Undertaking, would include a new access road, with vehicles using this road having priority over those using the realigned White Post Road which would join the new access road at a T-junction. The proposal would also include pedestrian crossing points with new pedestrian/cycle refuges on the new access road and the realigned White Post Road, a new zebra crossing, with parallel cycle crossing, and the conversion of the existing puffin crossing on White Post Road to a toucan crossing. A 34 space car park would also be provided on the appeal site, close to White Post Road, which would replace on-street car parking spaces lost through the siting of the new access road and the realignment of White Post Road.
  17. The Unilateral Undertaking makes provision for the construction of the spine road within a spine road corridor, which safeguards an area between the proposed new access road and agreed co-ordinates on the western boundary of the appeal site. It also makes provision for the construction of a new bridleway within the appeal site, which would meet the western boundary of the appeal site at specific co-ordinates in order that it could link in to the bridleway proposed within the neighbouring development, along with financial contributions towards the cost of improvements to several local public rights of way.
  18. Although the proposed development would lead to an increase in traffic on the local highway network and would lead to a loss of on-street car parking along White Post Road, given the design of the proposed access arrangements and the provision of a 34 space public car park, I am satisfied that the proposed development would not be detrimental to highway or pedestrian safety. These matters would be secured through the obligations within the Unilateral Undertaking and the imposition of appropriate planning conditions on any approval. Furthermore, the Unilateral Undertaking would include obligations in respect of the provision of a spine road and a bridleway within the appeal site,

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<sup>5</sup> The adjacent site is under the control of Gallagher Estates and an application for outline planning permission for 'up to 1,000 dwellings together with a mixed use local centre [including A1 retail up to 1,000sqm, financial services (A2), restaurants, pubs and takeaways (A3, A4, A5), community uses (D1)]; primary school and safeguarded additional primary school land; secondary school playing field land; green infrastructure including formal (including playing fields) and informal open space, landscape and amenity space; changing and sports facilities (including D2); sustainable drainage systems; highway, cycle and pedestrian routes; car parking; infrastructure (including utilities); engineering works including ground remodelling; demolition, site reclamation and removal of structures. Formation of a new roundabout access from the A361 together with associated alterations to alignment of Bloxham Road and provision of a section of link road through the site up to its eastern-most boundary together with associated uses to include land for education, both primary and secondary, local centre and open space uses' (Ref. 14/01932/OUT) is subject to a resolution to grant outline planning permission, subject to the completion of a Section 106 Agreement.



which would ensure that the requirements of Local Plan Policy Banbury 17 would be met in this regard.

*Character and Appearance of the Area, including the Bodicote Conservation Area*

19. Local residents and interested parties are concerned about the impact of the proposed development upon the character and appearance of the area and the Bodicote Conservation Area, along with the coalescence of Banbury and Bodicote. Paragraph C.209 of the supporting text to Policy Banbury 17 says that the eastern most part of the site is to be utilised as informal open space in order to maintain an important gap between the settlements of Banbury and Bodicote, with each maintaining its separate identity and the character of Bodicote Conservation Area protected.
20. The appeal site is not located within the Bodicote Conservation Area and I note the Council's statement that the proposed development would be unlikely to be visible from any part of the public realm within it. However, the Council has also stated that the new vehicular access and spine road would be located on part of the land shown on the Policies Map as the informal greenspace buffer and that this could have a minor impact on the setting of the conservation area, given that the new highway arrangement would give rise to a further degree of urbanisation that would be visible from a small part of the conservation area at the junction between White Post Road and Wykham Lane.
21. Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. One of the Core Planning Principles of The Framework is that planning should conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations (paragraph 17). Government policy on conserving and enhancing the historic environment is set out in Section 12 of The Framework. Paragraph 132 advises that great weight should be given to the designated heritage asset's conservation and that the more important the asset, the greater the weight should be.
22. The Bodicote Conservation Area includes a considerable number of high quality vernacular buildings and several large impressive detached houses, some of which are listed buildings, of high environmental quality and architectural interest. The historic core of the village is linear in form, where the development is compact. However, beyond this, the development is more spacious, with larger houses set back within gardens, many beyond front boundary walls, and a more rural feel.
23. The proposed development would include the construction of a new access road within an area shown on the Policies Map as an informal greenspace buffer. The construction of this access road in this location would lead to the urbanisation of this area which would be visible from a small part of the conservation area at the junction between White Post Road and Wykham Lane. This would reduce the openness and rural character of the setting of the Bodicote Conservation Area and would cause harm to the character and appearance of the heritage asset. Nevertheless, I consider that this would be less than substantial harm.

24. As I have identified less than substantial harm to the designated heritage asset, it is necessary to weigh the harm against the public benefits of the appeal proposal, as required by paragraph 134 of The Framework. The proposed development would provide up to 280 dwellings, including 30% affordable housing, along with a spine road which could reduce traffic flows through Bodicote, which is recognised in the Council's Conservation Area Appraisal as being a threat to its special character. The proposal would be a substantial benefit to the housing stock in terms of both market and affordable housing and would be likely to reduce traffic flows within Bodicote, which would be a significant benefit to the character and appearance of the conservation area. As such, I conclude that the benefits of the proposed development would outweigh the less than substantial harm identified to the Bodicote Conservation Area.
25. The proposed development would fail to preserve the character and appearance of the Bodicote Conservation Area and would be contrary to Local Plan Policy ESD 15, which requires new development proposals to conserve, sustain and enhance designated heritage assets, including conservation areas and their settings. I am also mindful of the Section 72 duty and this is a matter for the final planning balance.

#### *The Salt Way*

26. The Salt Way, a non-designated heritage asset, is located along the northern boundary of the appeal site. Several local residents and interested parties have expressed concern about the impact of the proposed development upon the Salt Way. Local Plan Policy Banbury 17 requires that any development on the allocated site must respect the landscape setting and provide an appropriate development interface with Salt Way, with any buffer likely to be 20m wide in accordance with the approach adopted at land east of Bloxham Road and south of Salt Way.
27. The proposal the subject of this appeal is made in outline, with details relating to the layout of the development reserved, along with other matters, for subsequent approval. Nevertheless, given the size of the site, I am satisfied that a suitable layout could be achieved which would accommodate a 20m wide buffer, which would safeguard the setting of the Salt Way. This matter could be controlled by a planning condition on any approval.

#### *Biodiversity*

28. Local residents and interested parties have expressed concerns about the impact of the proposed development on biodiversity. Local Plan Policy Banbury 17 requires the detailed consideration of ecological impacts, wildlife mitigation and the creation, restoration and enhancement of wildlife corridors to preserve and enhance biodiversity. The Council considers that, subject to the imposition of appropriate planning conditions on any approval, the proposed development would have the potential to deliver net biodiversity gains.
29. The appellants submitted an Ecological Appraisal<sup>6</sup> with the planning application. It concludes that designated sites would not be adversely impacted by the proposed development, with none in the vicinity of the appeal site. Furthermore, it says that the Salt Way, an adjacent proposed Local Wildlife

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<sup>6</sup> Core Document 1.11

Site, would also be unaffected being suited to withstand additional footfall and with connectivity with its hedgerows retained, along with the provision of a 20m wide buffer. The Appraisal also concludes that the appeal site does not support any notable plant species or habitats, except for hedgerows, which would largely be retained and incorporated into the development layout. It goes on to say that, where loss is unavoidable, this would be mitigated with the planting of replacement and additional native hedgerows appropriate to the local area.

30. The Appraisal also recommends a number of ecological enhancement measures, including the use of native and ecologically valuable species within the soft landscaping; designing SuDS water attenuation and storage features to provide year round waterbodies for wildlife, planted with only native marginal vegetation; installing low effort, high impact green roofs on any communal buildings to provide sources of nectar and pollen for invertebrates and in turn forage for insectivorous birds and bats; and, installing a variety of types of bat and bird boxes on retained trees and on, and integrated into, the structure of new buildings adjacent to retained and created open space, to increase availability of roosting and nesting sites.
31. I concur with the Council's view that the ecological enhancement measures put forward in the appellants' Appraisal could be satisfactorily dealt with through the imposition of appropriate conditions on any approval and through the consideration of the detailed design of the proposed dwellings at the reserved matters stage. As such, I conclude that the proposed development would not harm biodiversity and would have the potential to deliver net biodiversity gains.

#### *Flood Risk*

32. Local residents and interested parties have expressed concerns about the impact of the proposed development on flooding in the local area. A Flood Risk Assessment<sup>7</sup> (FRA) was submitted with the planning application. The FRA concludes that the development would be low risk in respect of flooding and there should be no impediment to development on these grounds.
33. The Council is satisfied that, subject to the imposition of appropriate conditions and relevant obligations within a legal agreement in respect of the provision of a SuDS as part of the development proposed, it would not lead to a net increase in the rate of surface water discharge from the site and would be acceptable in flood risk terms.
34. The Unilateral Undertaking includes the provision of a SuDS scheme for the development, details of which would be submitted to, and approved in writing by, the Council prior to the commencement of the development. As such, there are no suggested conditions in this regard. From the evidence before me, I am satisfied that, given the obligations included within the Unilateral Undertaking, the proposed development would not lead to an increased risk of flooding in the local area.

#### **Conclusions**

35. I have considered all the other matters raised by third parties, including the need for, and proportion of, new housing in the settlement; the impact of the

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<sup>7</sup> Core Document 1.17



proposed development on the local landscape; views into the open countryside from neighbouring dwellings; and, the consultation procedure used by the Council. However, paragraph 14 of The Framework says that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay. Whilst it would be desirable to preserve or enhance the character and appearance of the Bodicote Conservation Area, I consider that the impact that the proposed development would have on its setting would be minimal. As such, I have afforded it modest weight. In terms of the overall planning balance, I have afforded very significant weight in this case to the planning merits of the proposal for the reasons I have set out. As such, I consider that the proposed development would accord with the Cherwell Local Plan taken as a whole and should therefore be approved without delay. As such, I conclude that the appeal should be allowed.

### **Unilateral Undertaking**

36. I have considered the planning obligations included within the Unilateral Undertaking<sup>8</sup> in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. I have had regard to the Council's Planning Obligations Compliance Statement and Oxfordshire County Council's Regulation 122 Compliance Statement, submitted prior to the Hearing. I have also had regard to the Council's statement at the Hearing and the Note<sup>9</sup> submitted by the County Council at the Hearing that, where Regulation 123 applies, there are less than 5 planning obligations in respect of the infrastructure projects for which obligations are sought in respect of this proposal. As such, the obligations within the Unilateral Undertaking would be compliant with Regulation 123. Local Plan Policy INF 1 says that development proposals will be required to demonstrate that infrastructure requirements can be met, including the provision of transport, education, health, social and community facilities. The obligations within the Unilateral Undertaking relate to the following matters.
37. *Affordable Housing*: Local Plan Policies Banbury 17 and BSC 3 require all proposed developments that include 11 or more dwellings (gross) to provide at least 30% of new housing as affordable homes on site. Policy BSC 3 goes on to say that all qualifying developments will be expected to provide 70% of the affordable housing as affordable/social rented dwellings and 30% as other forms of intermediate affordable homes. Paragraphs B.104 and B.105 of the supporting text to this policy indicate that the need for affordable housing is high in the District.
38. The Unilateral Undertaking includes the provision of a minimum of 30% of the total number of dwellings to be constructed on the site to be affordable units, with at least 70% of these to be affordable rented housing or social rented housing and up to 30% to be intermediate housing. Given the level of unmet need for affordable housing in Cherwell, and having regard to the policy requirements, I am satisfied that this obligation would pass the statutory tests.
39. *Allotments*: Local Plan Policy BSC 11 requires development proposals to contribute to the provision of open space, sport and recreation, together with

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<sup>8</sup> Document C1

<sup>9</sup> Document 9

secure arrangements for its management and maintenance. Table 7 in the supporting text to this policy sets out the local standards of provision. For allotments it states that the threshold for on-site provision is 275 dwellings with the provision equating to 9sqm per dwelling or 0.2ha, whichever is the greater.

40. The Unilateral Undertaking includes the provision of allotments on the site equating to 0.2ha or 9sqm per dwelling, whichever is the greater, in accordance with a scheme to be submitted to, and approved in writing by, the Council. Furthermore, the Unilateral Undertaking includes a financial contribution payable to the Council (to be passed on to the First Owner who will manage and maintain the allotments) towards the cost of managing and maintaining the allotments, calculated by multiplying the number of square metres comprised in the allotments by £4.22. Given the scale and nature of the proposed development it is likely that there would be some demand for allotments from future occupiers of the dwellings on the appeal site. The new allotments would encourage future occupiers to grow their own fruit and vegetables in a convenient and accessible location. As such, I consider that these obligations would pass the statutory tests.
41. *Bridleway*: Local Plan Policy Banbury 17 requires the provision of a new footpath bridleway running from east to west along the southern boundary of the development area, incorporating links with existing footpaths to form a new circular route around the development linking back to the Salt Way. The Unilateral Undertaking includes obligations in respect of the provision of a bridleway within the development, including its connection to the remainder of the bridleway within the adjacent site on the Banbury 17 allocation, and the submission and approval of a scheme for its future management and maintenance, along with its funding. Given the scale and nature of the proposed development it is likely that there would be some demand from future occupiers of the dwellings on the appeal site to use the new bridleway for recreational purposes. As such, I consider that these obligations would pass the statutory tests.
42. *Burial Site*: Local Plan Policy Banbury 13 states that an extension to the existing cemetery is required to meet the needs of both the existing population and future development in the town. The Council's Planning Obligations Draft Supplementary Planning Document (SPD), published in July 2011, sets out the methodology for calculating the required contribution.
43. The Unilateral Undertaking includes a financial contribution to be calculated using the Council's formula, once the number and mix of dwellings on the site is known. Given the scale and nature of the proposed development it is likely that there would be some demand for burial plots within the existing cemetery from future occupiers of the dwellings on the site. As such, I consider that this obligation would pass the statutory tests.
44. *Public Transport*: Policy 34 of Connecting Oxfordshire: Oxfordshire County Council's Fourth Local Transport Plan 2015-2031 (LTP4) requires developments to be served by frequent, reliable and efficient public transport by identifying the requirement for passenger transport services to serve the development, seeking developer funding for these to be provided until they become commercially viable and providing standing advice for developers on the level of Section 106 contributions towards public transport expected for different

locations and scales of development. The County Council is seeking a financial contribution of £280,000 or £1,000 per dwelling towards pump priming a new bus service through the development. Furthermore, it is seeking a bus infrastructure contribution of £34,230 towards the provision of bus shelters and flagpole and information cases.

45. The Unilateral Undertaking includes a bus service contribution of £1,000 per dwelling towards the cost of new bus services linking the proposed development to Banbury town centre and a bus infrastructure contribution of £34,230 towards the costs of new bus stop infrastructure on White Post Road, Oxford Road and within the site. Given the scale, nature and location of the development proposed, I consider that there would be significant demand from future occupiers to use a local bus service linking the development to the town centre. As such, I am satisfied that these obligations would pass the statutory tests.
46. *Car Park*: Local Plan Policy SLE 4 says that new development in the District will be required to provide financial and/or in-kind contributions to mitigate the transport impacts of development. The Council is seeking the provision of a car park close to the site entrance on White Post Road to replace on-street parking which would be lost along this road following the highway works associated with the creation of a new access arrangement onto White Post Road. The Unilateral Undertaking would include the provision of a 34 space car park within the appeal site, in accordance with a detailed scheme to be submitted to, and approved in writing by, the Council prior to the commencement of development, which would also include a timetable for the construction and completion of the car park. It would then be managed and maintained in accordance with the approved management plan. Given that the proposed development would lead to a significant loss of on-street car parking spaces which are subject to substantial parking stress, particularly during drop-off and collection times associated with Bishop Loveday Primary School, I am satisfied that these obligations would pass the statutory tests.
47. *Community Facility*: Local Plan Policy BSC 12 encourages the provision of community facilities to enhance the sustainability of communities and Policy Banbury 17 requires an on-site community facility within the allocated site to meet the needs of the new population. The Council is seeking the provision of the new community facility on the neighbouring site to the west of the appeal site, and a financial contribution towards its provision from the proposed development. The Unilateral Undertaking includes a financial contribution of £20,625 towards the cost of acquiring land for the community facility as well as a financial contribution, based on a formula set out in the Unilateral Undertaking which has been agreed with the Council, towards the cost of constructing the community facility. It is apparent that there would be a demand for the use of a community facility from future occupiers of the proposed dwellings and the contributions would be proportionate to the size of the development proposed. As such, the obligations would pass the statutory tests.
48. *Education*: Local Plan Policy Banbury 17 requires an on-site primary school and seeks financial contributions towards the provision of secondary school places, along with the reservation of land to meet town-wide secondary school needs. The County Council is seeking: a contribution of £1,953,744 towards a new primary school on land within the adjacent site within the Banbury 17

allocation; a contribution of £153,750 towards the cost of the land for the new primary school; a contribution of £1,430,582 towards the expansion of the Blessed George Napier Catholic Secondary School; a contribution of £146,250 towards the cost of the land within the adjacent site within the Banbury 17 allocation for the expansion of the Blessed George Napier Catholic Secondary School; and a Special Educational Needs contribution of £63,241 towards the expansion of the Frank Wise School.

49. The Unilateral Undertaking includes contributions of £153,750 and £146,250 towards the land for the new primary school and the expansion of the secondary school respectively, along with primary and secondary schools infrastructure contributions and a Special Educational Needs contribution, to be based on formulae set out in the Unilateral Undertaking which have been agreed with the District and County Councils. It is likely that a significant number of additional primary and secondary school pupils, as well as pupils with Special Educational Needs, would be generated by the proposed development, given its scale. Given the emerging shortage of primary school places and the requirement to expand secondary schools in the Banbury/Bloxham area to meet the rising pupil numbers already in the town's primary schools, excluding the impact of new development, along with the Special Educational Needs provision in Banbury already being at capacity, I am satisfied that these obligations would pass the statutory tests.
50. *Sports Facilities:* Local Plan Policy BSC 11 requires contributions towards the provision of sport and recreation, together with secure arrangements for its management and maintenance. Policy BSC 12 encourages partnership working to ensure that built sports provision is maintained in accordance with local standards of provision by a number of means including ensuring that development proposals contribute towards the provision of new or improved facilities where the development would generate a need for sport and recreation which cannot be met by existing provision. Policy Banbury 17 requires sports provision on the allocated site. The Council is seeking a financial contribution towards the increase in capacity of sports facilities at the Spiceball Leisure Centre in Banbury, along with the on-site provision of outdoor sports facilities.
51. The Unilateral Undertaking includes a financial contribution based on a formula set out in the Unilateral Undertaking, which has been agreed with the Council, towards improvements to the Spiceball Sports Centre. Furthermore, the Unilateral Undertaking includes the provision of on-site sports facilities comprising an adult football pitch, a junior football pitch and a small sports pavilion/changing room, in accordance with a scheme to be submitted to, and approved in writing by, the Council, which would be transferred to the Council, along with a financial contribution of £186,869.12 towards the future management and maintenance of these facilities. Given the scale and nature of the proposed development, it is likely that there would be significant demand by the future occupiers of the dwellings for sports facilities both on-site and at the nearby leisure centre. I am satisfied, therefore, that these obligations would pass the statutory tests.
52. *Open Space and Play Areas:* Local Plan Policy BSC 11 requires contributions towards the provision of open space, together with secure arrangements for its management and maintenance. Policy Banbury 17 requires the provision of open space, including general greenspace and play space, within the allocated

- site. The Council is seeking the provision of on-site public open space along with 2 LAPs, a combined LAP/LEAP and a MUGA, as well as a financial contribution towards their future management and maintenance.
53. The Unilateral Undertaking includes the provision of informal open space, including retained/new landscaping within the site, trees and hedgerows, along with 2 LAPs, a combined LAP/LEAP and a MUGA in accordance with a specification for its laying out to be submitted to, and approved in writing by, the Council. The Unilateral Undertaking also includes a financial contribution, based on an agreed formula for calculating the contribution in respect of the open space, hedgerows and trees, and £27,501.52 for the LAPs, £121,492.13 for the combined LAP/LEAP and £47,735.92 for the MUGA, along with their transfer to the Council or the Management Company. The open space and play areas would then be managed and maintained in accordance with the approved management plan. Given the scale and nature of the proposed development, it is likely that there would be significant demand by the future occupiers of the dwellings for informal open space and play areas. I am satisfied, therefore, that these obligations would pass the statutory tests.
54. *Policing*: Thames Valley Police is seeking a financial contribution, based on a formulaic approach, towards the provision of additional resources to mitigate the impact of the proposed development. The Unilateral Undertaking includes a financial contribution of £40,303 towards the infrastructure of Thames Valley Police, including ANPR cameras, new premises, patrol vehicles and staff set up costs. Given the scale and nature of the proposed development, I am satisfied that the increase in population would lead to an increase in demand on police resources. As such, I am satisfied that this obligation would pass the statutory tests.
55. *Rights of Way*: Policy BAN 4 of the LTP4 says that the County Council will work closely with the District Council and other strategic partners and developers to provide facilities for pedestrians and cyclists and to fill in gaps in the walking and cycling network, including Public Rights of Way. The County Council is seeking a financial contribution of £28,600 towards improvements to off-site rights of way in the vicinity of the development. The Unilateral Undertaking includes a rights of way contribution of £28,600 towards the cost of improvements to local public rights of way including Banbury Bridleway 45, Bodicote Bridleway 11, Bodicote Footpath 16 and the Salt Way. Given the scale, nature and location of the proposed development it is likely that there would be significant demand for the use of these public rights of way for recreational purposes. Furthermore, any improvements would be likely to encourage future occupiers to walk and cycle, thereby increasing sustainable travel and promoting healthy lifestyles. As such, I am satisfied that the obligation would pass the statutory tests.
56. *Spine Road*: Local Plan Policy Banbury 17 requires that the layout of the development within the allocated site should provide a route for an east-west link to join White Post Road for local traffic. The Council is seeking the provision of a spine road within the development which would link the development of the site to the west with White Post Road. The Unilateral Undertaking includes the provision of a spine road, within a designated spine road corridor, constructed in accordance with the specification detailed in the Unilateral Undertaking, which would align with that part of the east-west link which would be sited within the neighbouring site to the west at the co-



ordinates agreed and set out in the Unilateral Undertaking. The provision of this east-west link is important in terms of the accessibility of the site. As such, I am satisfied that this obligation would pass the statutory tests.

57. *Strategic Transport:* Policy BAN 1 of the LTP4 seeks opportunities to deliver transport schemes which will support the regeneration and growth of Banbury to 2031 and protect the historically sensitive areas of the town through Bridge Street/Cherwell Street eastern corridor improvements, amongst other things. Furthermore, Policy BAN 6 of the LTP4 says that where schemes are needed to mitigate one particular development, the developer will be expected to deliver infrastructure directly, or provide funding for the scheme. The County Council is seeking a strategic transport contribution of £275,662 towards improvements at the A4260 Upper Windsor Street/A4260 Cherwell Street/Swan Close road junction which forms part of the Banbury Area Transport Strategy.
58. The Unilateral Undertaking includes a contribution towards this scheme based on the formula included in the District Council's Planning Obligations Draft SPD which has been used to calculate the contribution towards the Banbury Area Transport Strategy. Given that it is likely that traffic from the appeal site would distribute northwards via this key corridor and through this junction, which has been shown to be significantly over capacity by the end of the plan period, I consider that this obligation would pass the statutory tests.
59. *Sustainable Drainage System (SuDS):* Local Plan Policy ESD 7 requires all development to use a SuDS for the management of surface water run-off. It goes on to say that proposals must include an agreement on the future management, maintenance and replacement of the SuDS features. The Council is seeking the provision of a SuDS for the development, along with a financial contribution towards the costs of ongoing management and maintenance of any balancing pond and ditch. The Unilateral Undertaking includes the provision of a SuDS for the development which would be submitted to, and approved in writing by, the Council prior to the commencement of the development as part of a SuDS scheme, which would also include details of all the works, features and measures proposed and the timescales for when they would be carried out. Furthermore, the Unilateral Undertaking includes a maintenance contribution (£17.30/sqm of balancing pond and £32.58/linear metre of ditch) to be paid to the Council in the event that the SuDS is transferred to the Council, for its ongoing management and maintenance. It would then be managed and maintained in accordance with the approved management plan. The development proposal would generate significant levels of surface water which would require continued management and maintenance in order to reduce the risk of flooding. As such, I am satisfied that these obligations would pass the statutory tests.
60. *Travel Plan Monitoring:* Paragraph 36 of the National Planning Policy Framework (The Framework) states that all developments which generate significant amounts of movement should be required to provide a Travel Plan. The preparation of a Travel Plan is required by a condition. However, the County Council is seeking a financial contribution of £1,240 to cover the cost of monitoring the Travel Plan for this residential development for a period of 5 years after the occupation of the site. The Unilateral Undertaking includes a financial contribution of £1,240 towards the cost of monitoring the Travel Plan for this development. In order for it to be effective, it is important that the Travel Plan is monitored so that survey data is reviewed, progress is compared

against the targets set and any necessary changes can be agreed. I note that the County Council has a small, dedicated team which undertakes Travel Plan monitoring and that the cost of carrying out this work is set out in the County Council's 'Transport for new developments; Transport Assessments and Travel Plans.' As such, I am satisfied that this obligation would pass the statutory tests.

61. *Administration and Monitoring:* The County Council is seeking a financial contribution of £3,750 towards the costs associated with administering and monitoring those obligations within the Unilateral Undertaking that have been sought by the County Council in respect of education and transport, excluding those costs involved in monitoring the Travel Plan, which are listed separately. The Unilateral Undertaking includes a financial contribution of £3,750 towards the cost of monitoring and administration of the deed. Given that the obligations would meet the statutory tests, I am satisfied that the reasonable costs of administering and monitoring these obligations would be necessary. As such, this obligation would pass the statutory tests.
62. I conclude, therefore, that all of the obligations within the Unilateral Undertaking would be appropriate having regard to the CIL Regulations and should be enforced in full.

### **Conditions**

63. Following the close of the Hearing, the appellants submitted a schedule<sup>10</sup> of 51 suggested conditions. Although most of these conditions are agreed by the appellants and the Council, there remains a number in dispute. I have had regard to the advice in the Planning Practice Guidance<sup>11</sup> (The Practice Guidance) and the comments made by both parties when considering these conditions.
64. The submission of full details of the reserved matters within 4 years of the date of this permission, and its commencement within 2 years from the date of the approval of the last of the reserved matters to be approved, would be necessary to ensure a satisfactory form of development and to allow sufficient time for the development to come forward, given its scale. The appellants have indicated that the proposed development would come forward within a single phase. As such, a condition requiring the submission of a phasing plan prior to the submission of reserved matters would not be necessary, nor would references to phases within other conditions. Furthermore, the additional text proposed by the appellants which would require the reserved matters application to be submitted in a single phase which specifies the total number of dwellings and the mix of homes would not be necessary as all reserved matters would be required to be approved prior to the commencement of development. The Council considers that a condition which requires a minimum percentage of 2 bedroom and 3 bedroom dwellings to be constructed as open market dwellings would be necessary at this stage. However, as part of any reserved matters application the appellants would submit details of the number and mix of dwellings and, given the requirements of Local Plan Policy BSC 4, the Council would be able to assess and determine any proposed

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<sup>10</sup> Document C3

<sup>11</sup> Circular 11/95: The Use of Conditions in Planning Permissions has been largely superseded by the Planning Practice Guidance, with the exception of Appendix A (Model Conditions)

- development in that regard. As such, I do not consider that such a condition would be necessary.
65. A limit of 280 dwellings to be constructed on the site would be necessary for the avoidance of doubt. A condition requiring that the development be carried out in accordance with the approved plans would be necessary for the avoidance of doubt and in the interests of proper planning. However, the second part of the suggested condition, which requires the development to be carried out in broad accordance with the details shown in the submitted Development Framework Plan would not be sufficiently precise. Nevertheless, I concur that any future development should be carried out in broad accordance with this plan and this should be set out in an informative at the end of my Decision. In any event, given the outline nature of this planning permission, the Council would have sufficient control over the details approved as part of any submission of reserved matters. Furthermore, the inclusion of the detailed plans for the link road included in the Unilateral Undertaking would not be necessary, as the conditions attached to any approval would be read alongside the Unilateral Undertaking and any duplication should be avoided.
66. A requirement that full details of the section of new link road within the appeal site be submitted and approved prior to the submission of any application for the approval of reserved matters and should be completed to binder course and available for public use following either the first occupation of the 151<sup>st</sup> dwelling or 3 years from the commencement of the development, whichever is the earlier, would be necessary to ensure that the provision of this link road is appropriate and to ensure the comprehensive development of the Banbury 17 allocation. A reference to the coordinates on the western boundary of the site included in the Unilateral Undertaking would not be necessary as this matter is controlled by the Unilateral Undertaking.
67. Full details of the surface water drainage scheme would be reasonable to ensure that the development does not increase the risk of flooding. The submission and approval of full details of the existing and proposed ground and floor levels would be necessary to safeguard the character and appearance of the area. Full details of the design of the proposed play areas would be necessary to ensure that the future occupiers of the proposed development would be served by the appropriate level of play facilities. Conditions requiring the submission and approval of a full arboricultural survey, method statement and arboricultural implications assessment and the checking of the site for protected species by a qualified Ecologist prior to its development would be necessary to safeguard the character and appearance of the area and the ecology of the local area. The submission and approval of a statement which sets out the measures that would be incorporated into the development proposed that would demonstrate how it would accord with the principles of 'Secured by Design' would be necessary to reduce the risk and fear of crime.
68. I acknowledge the concerns of Thames Water relating to foul drainage capacity and the need to ensure that sufficient upgrades can be put in place prior to foul discharge being received from the proposed development. I also note the appellants' position expressed at the Hearing, which is supported by a note prepared by Utility Law Solutions on Foul Drainage Planning Conditions<sup>12</sup> submitted at the Hearing. In my opinion, a condition which requires a detailed

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<sup>12</sup> Document 13

foul drainage scheme detailing any on and/or off-site foul drainage works to be submitted and approved in consultation with the sewerage undertaker would not be necessary to ensure that sufficient upgrades would be put in place, given the outline nature of the planning permission and the likely timescale for the commencement of the proposed development, which would ensure that the sewerage undertaker has adequate time to implement any necessary improvement measures to the public sewerage network pursuant to the statutory framework that applies to the water industry. In any event, this site, along with the adjacent site to the west, is allocated in the Local Plan as being capable of delivering a new neighbourhood of up to 1,345 with associated facilities and infrastructure. In terms of infrastructure needs, Policy Banbury 17 does not refer to any foul drainage capacity concerns or the need to ensure that sufficient upgrades are put in place. Furthermore, given that this site is allocated within the Local Plan as part of a larger site for residential development, the statutory undertaker would have been aware that this site would be coming forward for this scale and nature of development and would, as a result, have had sufficient time to ensure that appropriate upgrades could be put in place prior to the development commencing.

69. A condition which requires the submission and approval of impact studies on the existing water supply to determine the magnitude of any new additional capacity required in the system and a suitable connection point would not be reasonable or necessary as the statutory undertaker has a duty to provide a mains water supply to a new dwelling. Furthermore, this site is allocated in the Local Plan, along with the adjacent site, for residential development and any issues relating to capacity should have been raised at that point, but in any event, the statutory undertaker would have been aware that this site would be coming forward for this scale and nature of development and would, as a result, have had sufficient time to ensure that sufficient capacity would exist.
70. Conditions requiring that a comprehensive investigation in order to establish the nature, type and extent of any contamination present on the site, its remediation and implementation, along with a condition setting out how to deal with contamination found during the development, would be necessary to safeguard future users of the land from any risks associated with contamination. The separate conditions put forward by the Council would provide a more comprehensive and robust approach to dealing with these matters. The requirement that a mitigation strategy for badgers and a full Ecology Management Plan be submitted and approved would be necessary to safeguard protected species and for the protection of habitats of importance to biodiversity conservation.
71. A Construction Environmental Management Plan (CEMP) and a Construction Traffic Management Plan would be necessary to safeguard the living conditions of neighbouring residents during the construction phase. Nevertheless, I am satisfied that these matters could be amalgamated into a single condition. However, I concur with the Council's view that there should be a separate condition in respect of the management, storage and/or disposal of spoil, as this would relate to potentially new and permanent landscape features. Conditions which seek to protect existing public rights of way during the development and require details of improvements to the existing public footpath within the site and the specification of any new and/or enhanced public footpaths, bridleways and cycle tracks would be necessary in the

- interests of highway safety, providing a sustainable walkable neighbourhood and the living conditions of future occupiers.
72. Conditions requiring the carrying out of an archaeological Written Scheme of Investigation along with a programme of archaeological evaluation, investigation and recording, along with publication, would be reasonable to determine the extent, character and significance of any archaeological remains and to ensure that they are inspected and recorded. I consider that these matters could be combined in a single condition, which could be made sufficiently robust to reflect the requirements of the suggested conditions.
73. A requirement that details of the on-site renewable energy provision, pursuant to the submitted Energy Statement, be submitted and approved would be reasonable in the interests of creating a sustainable development. The provision of a new 34 space public car park within a timetable to be agreed prior to the commencement of the development would be necessary to ensure that the proposed development would not give rise to extreme parking stress on the surrounding roads. A condition requiring the submission and approval of full details of the allotments, including a timetable for their completion, would not be necessary as this matter could be dealt with as part of the landscaping reserved matter. Furthermore, the Unilateral Undertaking requires the submission and approval of an allotment scheme and sets out the timetable for their provision.
74. A requirement that the highway works shown in Drawing No. 1361/22 Rev. E be completed before the occupation of any dwelling on the site would be reasonable in the interests of highway safety. The submission and approval of details of the street lighting to be provided would be necessary to provide a safe and satisfactory residential environment. A requirement that fire hydrants be provided within the development would be necessary to reduce the risk of fire damage. The preparation of a Travel Plan for the development would be reasonable in the interests of promoting a sustainable development. The provision of public artwork within the development would be reasonable in the interests of creating a high quality public realm. The provision of 3 bins per dwelling for the purposes of recycling, residual and garden waste would be necessary to provide the appropriate infrastructure for domestic waste management.
75. A condition requiring that each dwelling should be constructed so that it is capable of meeting a water efficiency limit of 110 litres per person per day would be reasonable in the interests of water efficiency. The submission and approval of details of the safety measures to be incorporated into the new cycle lanes along White Post Road and the on-street parking controls to be introduced along the link road and White Post Road would be reasonable in the interests of highway safety.
76. A condition which removes permitted development rights for statutory undertakers in relation to the provision of public infrastructure on this site would be reasonable in the interests of the character and appearance of the development. The retention of existing trees and hedgerows on the site would be necessary to safeguard the character and appearance of the area and in the interests of biodiversity. A condition requiring that no hedgerows, trees or shrubs be removed between 1 March and 31 August in any year unless there is no evidence of nesting bird activity would be reasonable to safeguard protected



species. I have reworded the suggested condition having regard to the concerns of the appellants and the Council.

77. A requirement that all non-residential buildings on the site meet at least BREEAM 'Very Good' would be necessary in the interests of sustainable construction. Restricting the maximum height of all buildings on the site to 8.5m would be reasonable to safeguard the character and appearance of the area. A restriction on building within 20m of the Salt Way restricted byway would be necessary to safeguard the character and appearance of the area. Finally, details of the stopping up of the existing vehicular access to the Banbury Cricket Club would be reasonable in the interests of highway safety.

*Karen L Baker*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANTS:

Mr Chris Still MRICS	Planning and Development Director, Gladman Developments Limited
Mrs Rachel Goddard	Solicitor, Gladman Developments Limited
Mr Liam Ryder MRTPI	Senior Planner, Gladman Developments Limited
Mr Andrew Green	Project Manager, Gladman Developments Limited

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Parry	Planning Case Officer, Cherwell District Council
Mr Ben Arrowsmith	Planning Solicitor, Cherwell District Council
Ms Jennifer Crouch	Solicitor, Oxfordshire County Council
Mrs Joy White	Transport Development Control Officer, Oxfordshire County Council
Mr Richard Oliver	Infrastructure Funding Officer, Oxfordshire County Council

### INTERESTED PERSONS:

Mrs Francesca Parmenter	David Lock Associates
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## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Council's letters giving notice of the Hearing and a list of people notified, submitted by the Council.
- 2 Final Draft of the Planning Obligation by deed of undertaking under the Town and Country Planning Act 1990 Section 106, submitted by the appellants.
- 3 Planning Obligation Summary, submitted by the appellants.
- 4 Amendments to the suggested planning conditions, submitted by the appellants.
- 5 Comments on the appellants' draft Unilateral Undertaking, submitted by the Council.
- 6 Track changes made by the District Council to the draft Unilateral Undertaking on 26 September 2017, submitted by the Council.
- 7 Track changes made by the County Council to the draft Unilateral Undertaking on 26 September 2017, submitted by the Council.
- 8 Track changes made by Gladman Developments Limited to the draft Unilateral Undertaking on 4 October 2017, submitted by the Council.
- 9 Regulation 123 of the Community Infrastructure Levy (CIL) Regulations (2010) (as amended) – Note on compliance of planning obligations sought by Oxfordshire County Council, submitted by the County Council.
- 10 Policy INF 1 of the Cherwell Local Plan 2011 – 2031 Part 1, adopted in July 2015, submitted by the Council.
- 11 Planning Obligations Draft Supplementary Planning Document, July 2011, submitted by the Council.
- 12 17.5 Class Primary School (2.5 Form Entry): Notes on Pricing, submitted by the County Council.
- 13 Foul Drainage Planning Conditions, Utility Law Solutions, submitted by the appellants.

## **DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE HEARING**

- C1 Certified, hard copy of the signed Unilateral Undertaking, submitted by the appellants.
- C2 Planning Obligation Summary, submitted by the appellants.
- C3 Schedule of suggested conditions, submitted by the appellants.
- C4 Letter from the Council, dated 28 November 2017, setting out its updated position in respect to the appeal, submitted by the Council.

## **APPLICATION PLANS**

- A1/1 Location Plan (Drawing No. 5713/ASP01)
- A1/2 Proposed Access Arrangements (Drawing No. 1361/22 Rev. E)
- A1/3 Development Framework Plan (Drawing No. 5713/ASP03 Rev. H)
- A1/4 Banbury 17 Master Plan (Drawing No. JJG0043-050H)

## Appendix 1 – Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 4 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) No more than 280 dwellings shall be accommodated on the site under the provisions of this permission.
- 5) Except where otherwise stipulated by condition on this planning permission, the development hereby permitted shall be carried out in accordance with the following approved plans but only insofar as they do not relate to matters reserved for subsequent approval: 1361/22 Rev. E.
- 6) 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 through to the western boundary of the site) including its alignment, specification, junctions (other than private drives), 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. The development shall thereafter be carried out in accordance with the approved link road details.
- 7) The section of link road approved under the requirements of Condition 6) 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 (as set out in Drawing No. SK201-01 Rev. P3) prior to whichever occurs earlier of the following:
  - the first occupation of the 151<sup>st</sup> dwelling as part of the development; or,
  - 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 6).
- 8) 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 hereby permitted 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.

- 9) 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 hereby permitted shall be carried out only in accordance with the approved levels.
- 10) 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 [MUGA]), including a timetable for their implementation, have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall thereafter take place only in accordance with the approved details and timetable.
- 11) 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 the site have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall take place only in accordance with the approved details.
- 12) No development shall take place including works of site clearance/preparation until 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 hereby permitted shall be carried out in accordance with the approved mitigation scheme.
- 13) Prior to the commencement of any development, a statement setting out the measures that will be incorporated into the development to demonstrate how it will accord with the principles of 'Secured by Design' shall have been submitted to, and approved in writing by, the local planning authority. The development hereby permitted shall thereafter be carried out in accordance with the approved details.
- 14) 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 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.
- 15) If contamination is found by undertaking the work carried out under Condition 14), prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person



and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to, and approved in writing by, the local planning authority. No development shall take place until the local planning authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

- 16) If remedial works have been identified in Condition 15), no development shall be occupied (other than for construction purposes) until the remedial works have been carried out 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 can take place.
- 17) If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to, and approved in writing by, the local planning authority. Thereafter the remediation shall be carried out in accordance with the approved details.
- 18) 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.
- 19) 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 5 year 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; and,
  - Monitoring.
- 20) 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;
  - Measures for the protection of ecology and archaeology;
  - Measures to control the deposition of mud on the highway, including the provision of wheel washing facilities;
  - Measures for the control and reduction of noise from construction works;
  - Measures for the control of construction traffic within the site and on the surrounding highway network, including routing arrangements for construction vehicles (which shall not be via Wykham Lane);
  - Days and hours of operation of construction works and other 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;
  - 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;
  - Parking/turning and storage areas within the site;
  - Appropriate contact details for the contractors;
  - Details of the site compound and contractor welfare facilities.
- 21) No development shall take place until details of the management, storage and/or disposal of spoil resulting from construction works on the site have been submitted to, and approved in writing by, the Council. The development hereby permitted shall thereafter be carried out in accordance with the approved details.
- 22) 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 hereby permitted.
- 23) 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.
  - 24) 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 the site 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 accordance with the approved details and retained thereafter.
  - 25) No development shall take place until an archaeological Written Scheme of Investigation relating to the site has been submitted to, and approved in writing by, the local planning authority. The archaeological Written Scheme of Investigation should include a programme of archaeological evaluation, investigation and recording of the site, along with details of publication, together with a timetable for their completion.
  - 26) No development shall take place until details of the on-site renewable energy provision, pursuant to the submitted Energy Statement, to serve the dwellings hereby permitted 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.
  - 27) 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 Drawing 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 in accordance with the approved details and retained for free public use thereafter as a car park.
  - 28) No occupation of any dwelling as part of the development hereby permitted 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.
  - 29) No dwelling shall be occupied until full details of the street lighting to be provided within the site, together with a timetable for their implementation, have been submitted to, and approved in writing by, the local planning authority. Thereafter the street lighting shall be provided as approved and in accordance with the agreed timetable and retained thereafter.
  - 30) Prior to the first occupation of any dwelling, fire hydrants shall be provided in accordance with details to be first submitted to, and approved in writing by, the local planning authority.
  - 31) 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.

- 32) 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.
- 33) 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.
- 34) No dwelling shall be occupied until that dwelling has been constructed so that it is capable of meeting a water efficiency limit of 110 litres per person per day.
- 35) Prior to the commencement of any work associated with the construction of the approved new access from White Post Road (as shown in Drawing No. 1361/22 Rev. E), details of safety measures to be incorporated into the new cycle lanes along White Post Road to reduce the 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 Drawing 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 for public use in accordance with the approved details and shall be retained as such thereafter.
- 36) No dwelling shall be occupied 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. 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.
- 37) 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 to 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.

- 38) 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, 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.
- 39) No removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive in any year, unless a competent Ecologist has undertaken a check of the site for active birds' nests immediately before works commence and provided written confirmation to the local planning authority that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on-site.
- 40) 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.
- 41) No building on the site shall have a maximum height greater than 8.5m.
- 42) No part of any building shall be located within 20m of any part of the Salt Way restricted byway.
- 43) 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 27), 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.

**INFORMATIVE:**

The development shall be carried out in broad accordance with the details shown in the submitted Development Framework Plan (Drawing No. 5713/ASP03 Rev. H).