



PINS REFERENCE: APP/C3105/W/17/3189611
LPA: REFERENCE: 15/00837/OUT

Section 78 of the Town and Country Planning Act 1990
Town and Country Planning (Inquiries Procedure) (England) Rules 2000

Appeal by Gallagher Estates, Charles Brown and Simon Digby

PROOF OF EVIDENCE

of Mr David Keene MRTPI
of David Lock Associates Limited

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ENCLOSURES

DAK/ENC1: Committee Report and Update

DAK/ENC2: Local Plan Inspectors Report on Cherwell District Council Local Plan
Part 1

DAK/ENC3: Report to Council on 19 December 2016

DAK/ENC4: Email to Matthew Parry on 24 May 2017

DAK/ENC5: Cherwell District Council Annual Monitoring Report 2017

PREFACE

David Keene will say:

I hold a Bachelor of Arts in Geography from the University of Durham and a Post Graduate Diploma in Town Planning from Kingston Polytechnic. I am a member of the Royal Town Planning Institute.

I am a Partner and Chairman of David Lock Associates (DLA), chartered town planning and urban design consultants based in Milton Keynes. I have been a practicing town planner for some 42 years with experience in local government with Berkshire County Council and Basingstoke & Deane Borough Council. In addition, I have worked in planning consultancy and previously held senior positions with the Barton Willmore Planning Partnership, Conran Roche/EDAW and the Babbie Group.

DLA advises many national housebuilders and town developers, including Gallagher Estates, on sustainable urban extensions and new settlements across the country. I am personally engaged in major residential, mixed-use and employment development proposals in Rugby, Slough, Fareham, Ansty and Swindon.

I have detailed knowledge of the planning and regeneration context in Cherwell District, having been the project director for the Gavray Drive Project since 2003.

1.0 INTRODUCTION

- 1.1 The scope of my evidence is in relation to the planning issues arising as a result of the appeal proposals. It will demonstrate that the outline planning application for Gavray Drive – West (the appeal site) is compliant with current national planning and local policy and should be allowed. Cherwell District Council (hereafter referred to as CDC) refer to the appeal site as *Part Land on the North East Side of Gavray Drive, Bicester*. The planning application documentation prepared by the appellants refers to the appeal site as **Gavray Drive – West (GDW)**. In similar vein, the appellants refer to the land east of the Langford Brook as **Gavray Drive - East (GDE)**. Parties to the Inquiry have raised issues in relation to planning policy and ecology. **Mr Rowlands** of the Environmental Dimension Partnerships (EDP) will deal with ecology issues.

Application Proposals – Description of Development and Drawings

- 1.2 The description of development for the application proposals, considered by CDC at its Planning Committee on 18th May and 15th June 2017, is set out below:

OUTLINE – Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting.

- 1.3 There is no dispute between the parties about nature of the appeal proposals. A full description of them is set out in the appellant's Statement of Case and is not repeated here. The application drawings submitted for consideration are set out below, all matters were reserved except for access:

- Site Location Plan (JJG050-015-A)
- Site Plan (JJG050-014-A)
- Proposed Site Access (14-033-009 REVB)
- Proposed Site Access Visibility Splay Analysis (14-033-010)

- Gavray Drive West Parameter plan (DLA edit 22/02/17) 001
Rev D 13.02.2015 Parameter Plan as amended 22/02/17

- 1.4 During the appeal process the appellants have provided the Inspector and Rule 6 Parties with an update to relevant sections of the Environmental Statement (ES) and Transport Assessment (TA) and notified all interested parties. These updates reflect changes in the background legislation or actual changes in the context of the appeal site and will help the Inspector to reach a decision in the context of current information and assessment. The substantive updates cover ecology, transportation, noise and air quality. There are no significant changes from the original ES to the chapters on socio-economics, landscape, arboriculture, historic environment, agriculture, flood risk & drainage, ground conditions and waste & utilities.
- 1.5 Having considered the Statements of Case provided by the various parties who resist the appeal, it is clear that the only issues raised relate to planning policy and ecology. Accordingly, in the interests of proportionality the appellant has not submitted proofs of evidence from all of the various authors of the ES. However, the appellants reserve the right to call to the Inquiry the authors of individual ES chapters should any of the matters be challenged in evidence received from the other parties. The appellants are not seeking amendments to the scheme. The purpose of the additional information is to provide an update to the ES and the Inspector with updated environmental information. The original ES was prepared in early 2015 prior to submission of the planning application.
- 1.6 The appellants have sought to contact, in writing, all parties who made representations on the outline planning application offering the opportunity to make further comments. In addition, an advert was placed in the Bicester Advertiser on 3rd May 2018 similarly inviting further comments on the ES and TA updates. All comments were to be directed to the Planning Inspectorate at the following address:

Major Casework Team (for attention of Leanne Palmer)
The Planning Inspectorate
Room 3/O, Temple Quay House
The Square

Bristol BS1 6PN

Reasons for Refusal and Issues raised by CDC

- 1.7 The outline planning application was first considered by CDC Planning Committee on 18th May 2017. The application was deferred and then re-considered on 15th June 2017. On both occasions the outline planning application was recommended for approval, supported by an extensive committee report. The decision notice was issued on 22nd June 2017.
- 1.8 The application was refused by the CDC Planning Committee. This was contrary to the planning officer's recommendation for approval. The Committee Report and Update is attached at **DAK/Enc1**:. There are two reasons for refusal:
1. *The proposed development represents an inappropriate attempt at piecemeal development of the strategically allocated Bicester 13 site in the Cherwell Local Plan 2011-2031 Part 1 which, in the absence of a single comprehensive application covering the whole of the allocated site, leaves the Council unable to satisfactorily determine whether the proposals would enable development across the whole of the site to properly meet the overall objectives and requirements of Policy Bicester 13. In doing so the proposals fail to demonstrate that the allocated housing total can be appropriately provided across the allocated site in a manner that adequately protects and enhances locally significant ecological interests on the land to the east of Langford Brook which is in direct conflict with the inherent and sustainable balance contained within Policy Bicester 13 between housing delivery and biodiversity enhancement. As a result the proposals are considered to be contrary to the overall provisions of the Development Plan and the specific requirements of Policies Bicester 13, ESD10 and ESD11 of the Cherwell Local Plan 2011-2031 Part 1.*
 2. *In the absence of a satisfactory completed legal agreement, the proposals would not commit to the necessary provision of on-site and off-site infrastructure to mitigate the impact of the development or contribute towards providing affordable housing in order to create a mixed and balanced community. As a consequence the proposals would*

not deliver suitable and sustainable residential development and would have a significant detrimental impact on wider public infrastructure. The proposals are therefore found to be contrary to the requirements of Policies Bicester 13, BSC3, BSC4, BSC9, BSC10, BSC11, BSC12, SLE4, ESD15 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 as well as Government guidance set out in the National Planning Policy Framework.

1.9 CDC's Statement of Case expands upon the issues that now concern them.

Objections Raised by Rule 6 Parties

1.10 The Planning Inspectorate has granted Rule 6 Status to the following parties (in no specific order):

- Berkshire, Buckinghamshire, Oxfordshire Wildlife Trust (BBOWT)
- Butterfly Conservation
- The Campaign for the Protection of Rural England (CPRE)
- Dominic Woodfield, Bioscan
- Save Gavray Meadows for Bicester

1.11 The objections set out in the Statements of Case of the Rule 6 Parties overwhelmingly relate to ecology. These points will be addressed in the Proof of Evidence prepared by **Mr Rowlands** of EDP.

Structure of the Evidence

1.12 My evidence to this inquiry seeks to provide a comprehensive appraisal of the planning issues arising from the appeal proposals. My evidence is structured in the following way:

Section 2.0 considers Site Context, Site Description & Planning History;

Section 3.0 deals with Policy Context;

Section 4.0 deals with the overall balance of considerations; and

Section 5.0 sets out my conclusions.

1.13 This Proof of Evidence is supported by enclosures which are attached separately.

2.0 SITE CONTEXT, SITE DESCRIPTION & PLANNING HISTORY

- 2.1 I briefly consider the urban context of the appeal site set by its location within the urban area of Bicester and then its more immediate surroundings.

Bicester

- 2.1 In 2014 the Government announced that Bicester had achieved Garden Town status after the Council had successfully demonstrated plans to meet the necessary criteria of providing affordable homes, schools and jobs while preserving the countryside. Since then grants have been awarded to fund the necessary feasibility studies and provide additional capacity for the implementation of the Garden Town as set out in the adopted Cherwell Local Plan Part 1.

- 2.2 There is no argument between parties that Bicester is an appropriate location to accommodate significant housing growth in the period to 2031. The Local Plan Part 1 states that:

...most of the growth in the District will be directed to locations within or immediately adjoining the main towns of Banbury and Bicester... Bicester will continue to grow as the main location for development within the District within the context of wider drivers for growth" (Local Plan Para A.11, pg 29).

- 2.3 Bicester is a historic market town which has seen rapid growth over the past 50 years. It has a significant number of employers primarily in the distribution and manufacturing sectors attracted by good road, rail and infrastructure links. Significant further investment is planned. It is evident that CDC's intentions are for Bicester to become an important economic centre in its own right and a key destination within the Oxford-Cambridge Corridor.
- 2.4 Looking to the future of the Town, CDC started to develop a Masterplan for Bicester which will be adopted as Supplementary Planning Document (SPD). Whilst it has stalled its intent was to ensure that growth is integrated and meets the needs of the communities.

Appeal Site and Immediate Surroundings

- 2.5 The appeal site comprises some 6.92 ha of land comprising an arable field located to the north of Gavray Drive. The site is defined by the residential area of Langford Village to the south of Gavray Drive and Bicester Park Industrial Estate to the north. Railway lines form the immediate northern and western boundaries including the new rail chord connecting the East-West rail line with the Chiltern line. The Langford Brook forms the eastern boundary. Comprehensive site descriptions are set out in the Statements of Common Ground.
- 2.6 The appeal site forms part of a more extensive strategic allocation of land for residential development within the Cherwell Local Plan 2011-2031 Part 1 (the Local Plan) in Policy Bicester 13: Gavray Drive (re-adopted). In the Local Plan the whole site is referred to as Bicester 13. The reason for re-adoption of the policy is set out below.
- 2.7 The appeal site has some known environmental constraints comprising:
- the eastern part is identified on the Environment Agency's maps as being at high risk of flooding; and
 - the eastern part of the site lies within River Ray Conservation Target Area.

Relevant Planning History

- 2.8 The whole of Gavray Drive, including the appeal site, has a long and complex planning history, dating back some two decades. It has been allocated for development in various Cherwell Local Plans since 1996. The principle of residential development as the preferred designated land use was first decided following an appeal in 2006. Whilst much of that planning history is not pertinent to the current appeal site it is relevant to set out the reasons for the re-adoption of Policy Bicester 13 which is the prime site allocation policy.
- 2.9 The Gavray Drive allocation was considered by the Inspector into the Cherwell Local Plan in 2015. The section of the Inspector's Report dealing with Gavray

Drive is attached at **DAK/Enc2**. The report also dealt with issues raised by several participants concerning, *inter alia*, the River Ray Conservation Target Area, the Local Wildlife Site, flood risk, housing capacity and the suggestion that the site be designated as Local Green Space. The Inspector assessed the arguments raised and concluded in his Report dated May 2015 in Paragraph 141 that:

All in all the most suitable balance between the need to deliver new housing locally and to protect and enhance environmental assets hereabouts would essentially be achieved through policy Bic 13, as modified, and the land's allocation for 300 new homes on approximately 23 ha in total, given that the requirements of policies ESD10 and ESD 11, including to achieve a net gain in biodiversity arising from the scheme as a whole, can also be delivered as part of an overall package of development with appropriate mitigation measures.

- 2.10 The re-adoption issue centred on some seventeen words within the original Policy Bicester 13 – the policy assessed by the Inspector. In September 2015, an application was made to the High Court by JJ Gallagher Ltd, London and Metropolitan Developments Ltd and the Norman Trustees to challenge the decision of the CDC to adopt the Cherwell Local Plan 2011- 2031. The claim succeeded, and a Court Order was issued. The basis of the claim was:

The Claimants submit that in adopting the Plan the Council erred in law because (a) Policy Bicester 13 of the Plan fails to give effect to the Inspector's reasons and therefore adopting it is illogical/irrational, and/or (b) the policy is inconsistent with Policy ESD11 of the same Plan and therefore the decision to adopt it is illogical/irrational. Alternatively, it is submitted that the Inspector failed to provide any reasons for recommending adoption of Policy Bicester 13 in the way currently drafted, and the Council's decision to adopt the plan based on those lack of reasons is therefore unlawful. (Challenge to Cherwell District Council Local Plan Facts and Grounds)

- 2.11 CDC would not determine the planning application until the position over the legal challenge was resolved. The Order was subject to an appeal which was dismissed in full. The legal issues were the principal reason why there was a delay in the application coming before CDC's Planning Committee.

- 2.12 The outcome of these legal processes was that the third bullet point of Policy Bicester 13, as adopted in July 2015, was altered to read as follows:

~~That part of the site within the Conservation Target Area should be kept free from built development. Development~~ **(the deleted words)**. Development must avoid adversely impacting on the Conservation Target Area and comply with the requirements of Policy ESD11 to secure a net biodiversity gain.

- 2.13 CDC re-adopted Policy Bicester 13 of the Cherwell Local Plan in accordance with that order and an associated addendum to the Local Plan Inspector's Report at the Council meeting on 19th December 2016 included as **DAK/Enc3**. Therefore, the Local Plan policy controlling development of Gavray Drive is unambiguous and has been the subject of considerable scrutiny. The legal challenge to the Policy Bicester 13 has meant that the policy has been exhaustively tested by the Local Plan Inspector, the High Court and the Court of Appeal.
- 2.14 Policy Bicester 13 of the Cherwell Local Plan confirms the principle of development on the whole site for up to 300 dwellings whilst acknowledging the influence of constraints including the Gavray Meadows Local Wildlife Site (LWS) and River Ray Conservation Target Area (CTA).

CDC Consideration of the Outline Planning Application

- 2.15 The outline planning application was considered at the CDC Planning Committee on 18th May 2017, with a recommendation for approval. The report to Planning Committee made the clear assessment that the outline planning application complied with Policy Bicester 13 and would not prejudice the objectives for both development and ecology for the wider site. At that time officers were clearly of the view that it was possible to make a proper assessment of the likely implications of Bicester Policy 13 for the whole site. The Planning Committee resolved to defer consideration of the outline planning application and invited the submission of an Ecological Management Plan. The CDC minute of that meeting is set out below:

The Committee considered application 15-00837-OUT an outline application for Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood

storage and structural planting at Part Land on The North East Side of Gavray Drive, Bicester for Gallagher Estates, Charles Brown And Simon Digby.

Councillor Richards proposed that application 15-00837-OUT be deferred to allow the applicant to submit an appropriate ecological management plan relating to Gavray Drive Meadows LWS. Councillor Dhesi seconded the proposal.

- 2.16 In response to that outcome DLA wrote in reply on 24th May 2017 (**see DAK/Enc4**) setting out why the submission of an Ecological Management Plan for the whole of Gavray Drive was not necessary in these circumstances. The appellants clearly stated an acceptance that a Landscape, Ecology and Arboricultural Management Plan (LEAMP) was an integral part of the ecology strategy for the appeal site. This requirement, relating to the appeal site, was properly addressed by prospective Condition No 17 as set out in the Committee Report. Having considered the appellants' response CDC officers maintained their view that the outline planning application should be approved and found no reason to reach a different conclusion.
- 2.17 The outline planning application was considered again at the Planning Committee on 15th June 2017. CDC produced an Update Report (**see DAK/Enc1**) which included a direct quotation of most of the David Lock Associates email sent to CDC on 24th May. The Report to Planning Committee on 18th May was attached in its entirety as an Appendix to the Update Report. The Update Report concluded with the same officer recommendation, namely that the outline planning application be approved.
- 2.18 The outline planning application was then refused. On the advice of officers, it was agreed that the precise reasons for refusal were to be agreed with the Chairman, Councillor Sibley and Councillor Wood. Following those deliberations, the OPA was eventually refused for the two reasons set out above and the Notice of Decision issued, dated 22nd June 2017.

3.0 POLICY CONTEXT

- 3.1 I deal with both the national planning policy and local planning context.

Overview

- 3.2 In determining an appeal under section 78 of the Town & Country Planning Act 1990 the Secretary of State must follow the decision-making process indicated in Section 70(2) of the Act (as amended by section 143 of the Localism Act 2011). In addition, Section 38(6) of the Planning and Compensation Act requires planning decisions to be in accord with the development plan unless material considerations indicate otherwise. Therefore, the starting point for the consideration of any planning application must be the statutory development plan.

The National Planning Policy Framework

- 3.3 The National Planning Policy Framework (NPPF) was published in March 2012. It placed a new emphasis on the need for a positive approach to plan making and decision taking. In the Ministerial Foreword it is stressed that sustainable development

...is about positive growth. ...development that is sustainable should go ahead without delay.

- 3.4 The '*presumption in favour of sustainable development*' is described as the '*golden thread*' running through decision-taking. Paragraph 7 of the NPPF identifies the three dimensions to sustainable development, those being the economic, social and environmental dimensions.
- 3.5 The NPPF stresses the importance of having a planning system that is genuinely plan-led. Where a proposal accords with an up-to-date development plan it should be approved without delay, as required by the presumption in favour of sustainable development (para 14). To achieve this aim, the NPPF is clear that a positive approach should be taken in decision making

Local Planning Authorities should approach sustainable decision taking in a positive way to foster the delivery of sustainable development (para 186, emphasis added)

- 3.6 It is acknowledged that the Government have recently consulted on a Draft Review of the NPPF. Whilst the weight that should be applied to it is limited, given it is in draft, the Government's intentions to unlock residential sites and speed up housing delivery is maintained and the emphasis on housing delivery is undiminished.
- 3.7 The appeal proposal seeks to deliver up to 180 dwellings on the western sector of the allocated site, in a context where Policy Bicester 13 (re-adopted) allocates the site for 300 dwellings in total. The proposed development will deliver a range of housing opportunities, including private market and affordable housing, that will be of significant benefit both to Bicester and Cherwell District. Predicted completions from the site are already accounted for as part of CDC's housing land supply calculations. The CDC Annual Monitoring Report 2017 Housing Delivery Monitor acknowledges the refused application but, nonetheless, shows phased housing completions of 300 dwellings from Gavray Drive commencing in 2019/2020 and completing in 2022/2023 (**see DAK/Enc5**). There is full acceptance by CDC of the general principle of residential development on GDW. The form and scale of development on GDW was assessed robustly by the appellant and CDC at the planning application stage.
- 3.8 The appellants view is that the residential capacity of GDE will be tested when a subsequent planning application is submitted. It is absolutely accepted that development must avoid adversely impacting on the Conservation Target Area, comply with the requirements of ESD11 and must protect the Local Wildlife Site. It is worth noting that the appellants have reigned back the development of GDE from the previously approved scheme (2006) so that there is no built development within the Local Wildlife Site – a clear indication of the appellant's awareness and appreciation of the issues affecting GDE.

Planning Practice Guidance

- 3.9 The Planning Practice Guidance (PPG), published in March 2014, provides more detailed guidance on the application of the policies of the NPPF. It has

been taken into account in the preparation of the appeal proposals and in the setting out of evidence

- 3.10 The PPG (Paragraph: 006 Reference ID: 21b-006-20140306) reiterates that decisions must be taken in accordance with the development plan unless there are material considerations that indicate otherwise, it is reiterated that these provisions also apply to appeals. The guidance then goes on to state that:

Provided it has regard to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case, and (subject to the test of reasonableness) the courts will not get involved in the question of weight.” (Paragraph: 009 Reference ID: 21b-009-20140306).

The PPG continues by stating that “*National Planning Policy places Local Plans at the heart of the planning system*” (Paragraph: 001 Reference ID: 12-001-20170728 Revision date: 28 07 2017).

The Development Plan

- 3.11 The Cherwell Local Plan 2011-2031 – Part 1 (*‘The Local Plan’*) was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy for the district to 2031. It is the *development plan* in this instance. The validity of Cherwell’s Local Plan is not disputed, it is agreed in the Statement of Common Ground between the Council and appellant that the Development Plan is up to date. The Development Plan includes both the adopted Cherwell Local Plan 2011-2031 Part 1, as well as a number of saved policies within the Cherwell Local Plan 1996. Three policies are most obviously relevant to the consideration of this appeal. These are considered below.

Policy Bicester 13

- 3.12 Bicester Policy 13: Gavray Drive was re-adopted on 19 December 2016 following a series of legal challenges. The pre-amble to the policy identifies that there are number of known constraints upon development such as Flood Zone 3, the River Ray Conservation Target Area and protected species. It also considers that these factors could be addressed with appropriate mitigation measures by any proposal.

- 3.13 Policy Bicester 13 is a comprehensive allocation policy which sets out an extensive list of requirements. These are set out word for word in the table below together with a commentary on how each requirement has been addressed in the appeal proposals. This robust approach demonstrates compliance with policy.

Policy Bicester 13: Gavray Drive	Appellants Commentary
<i>Development Area: 23 hectares</i> <i>Description of Development: a housing site to the east of Bicester town centre. It is bounded by railway lines to the north and west and the A4421 to the east.</i>	The application is for 6.92 ha
Housing	
<i>Number of homes – 300 dwellings</i>	Planning permission is sought for part of the site for up to 180 dwellings. This would provide circa 60% of the total allocation. This capacity is consistent with the characteristics of the site and has been robustly tested through the planning application process by officers at CDC.
<i>Affordable homes – 30%</i>	The affordable housing provision will be addressed in the Section 106 agreement. The Council's Heads of Terms have always referred to 30% affordable housing, the appellants agree to this level of affordable housing provision.
Infrastructure Needs	
<i>Education – Contributions sought towards provision of primary and secondary school places</i>	Oxfordshire County Council (OCC) have requested sums of money towards: the expansion of Longfields Primary School, North West Bicester new secondary school and Bardwell School Phase 2 Expansion. These will

	be secured through a Unilateral Undertaking that is being prepared by the appellant in consultation with OCC.
<i>Open Space – to include general greenspace, play space, allotments and sports provision as outlined in Policy BDC11: Local Standards of Provision – Outdoor Recreation. A contribution to offsite formal sports provision will be required.</i>	The application has been made in outline so the matters of layout and landscaping are reserved for later approval. However, the Parameters Plan and Indicative Master Plan demonstrate how appropriate forms of green space and play space can be accommodated on the site. CDC's Heads of Terms seek a financial contribution towards off site outdoor and indoor sports provision as well as allotments. These items will be secured through a bilateral S106 Agreement being prepared between the appellant and CDC.
<i>Community – contribution towards community facilities</i>	Financial contributions have been sought by CDC to provide an expansion of Langford Village Hall to create additional storage space. This will be secured through a bilateral S106 Agreement being prepared between the appellant and CDC.
<i>Access and movement – from Gavray Drive</i>	This appeal proposal takes both pedestrian and vehicular access from Gavray Drive.
Key Site Specific Design and Place Shaping Principles	
<i>Proposals should comply with Policy ESD15.</i>	
<i>A high-quality development that is locally distinctive in its form, materials and architecture. A well-designed approach to the urban edge which relates to the road and rail corridors</i>	The application has been made in outline and all matters of layout, scale, appearance and landscaping are reserved for later approval. Notwithstanding this, a parameters

	<p>plan and indicative masterplan accompanied the outline application. Officers concluded in the Committee Report that although details have not been provided at this stage the proposals have the ability to provide a development of high quality that is appropriate to the site and its context. This is a conventional approach at outline planning application stage.</p>
<i>Development must avoid adversely impacting on the Conservation Target Area and comply with the requirements of Policy ESD11 to secure a net biodiversity gain.</i>	<p>No built development is located within the River Ray CTA. That part of the Appeal Site located within the River Ray CTA currently makes no significant ecological contribution to the CTA (it is dominated by arable land). The appeal proposals complement the aims of the CTA by reverting arable land into grassland of greater biodiversity value; again, consistent with and complementary to the aims of the CTA.</p>
<i>Protection of the Local Wildlife Site and consideration of its relationship and interface with residential and other built development.</i>	<p>As set out in the Mr Rowland's Proof of Evidence the appeal proposals do not include any land within the LWS. Measures have been taken to protect the LWS including open space which will absorb some of the natural recreational pressures and a significant area of buffers between the built development and the LWS, will help protect the LWS as it relates to the Appeal proposals. As documented in the ES, no residual significant adverse effects on the LWS are anticipated</p>
<i>Detailed consideration of ecological impacts, wildlife mitigation and the creation, restoration and enhancement of</i>	<p>Detailed consideration of the ecological impacts are set out in Mr Rowlands Proof of Evidence. The</p>

<i>wildlife corridors to protect and enhance biodiversity. The preparation and implementation of an Ecological Management Plan to ensure the long-term conservation of habitats and species within the site.</i>	<p>proposed development will not result in significant residual adverse effects on ecology.</p> <p>A Management Plan is proposed and a mechanism for its delivery in the long-term has been identified for the appeal proposals. CDC have suggested conditions to ensure its delivery.</p>
<i>Development proposals to be accompanied and influenced by landscape/visual and heritage impact assessments.</i>	<p>Whilst this application has been submitted in outline, the Indicative Masterplan and Parameters Plan have been influenced by the landscape and heritage assessments undertaken as part of the Environmental Statement which accompanied the outline planning application.</p>
<i>The preparation of a structural landscaping scheme, which incorporates and enhances existing natural features and vegetation. The structural landscaping scheme should inform the design principles for the site. Development should retain and enhance significant landscape features (e.g. hedgerows) which are or have the potential to be of ecological value. A central area of open space either side of Langford Brook, incorporating part of the Local Wildlife Site and with access appropriately managed to protect ecological value. No formal recreation within the Local Wildlife Site.</i>	<p>Structural landscaping is clearly shown on the Parameters Plan which reflects the policy criteria. This includes the corridor of the Langford Brook and open spaces adjacent to Langford Brook. The structural landscaping for GDE will be considered in any separate planning application.</p>
<i>Provision of public open space to form a well-connected network of green areas within the site, suitable for formal and informal recreation.</i>	<p>Public open space is clearly shown on the Parameters Plan which reflects the policy criteria requirements and as stated above, will be secured through</p>

	the S106 Agreement, and in subsequent reserved matters applications.
<i>Provision of Green Infrastructure links beyond the development site to the wider town and open countryside.</i>	Green infrastructure links, often associated with footpath routes, cross the site.
<i>Retention of Public Rights of Way and a layout that affords good access to the countryside.</i>	The plans submitted as part of this application shows the footpath to be retained in its existing location.
<i>New footpaths and cycleways should be provided that link with existing networks, the wider urban area and schools and community facilities. Access should be provided over the railway to the town centre.</i>	Footpath and cycleway connections are designed to connect the development with the town centre. Routes connect to the new footbridges across the East-West rail line – one at Tubbs Lane and the other in the northwest corner of the site. These will provide residents pedestrian access to the wider area.
<i>A linked network of footways which cross the central open space, and connect Langford Village, Stream Walk and Bicester Distribution Park.</i>	Footpath and cycleway connections are designed to connect the development with the town centre. Routes connect to the new footbridges across the East-West rail line – one at Tubbs Lane and the other in the northwest corner of the site. These will allow residents pedestrian access to the wider area.
<i>Ensure that there are no detrimental impacts on downstream Sites of Special Scientific Interest through hydrological, hydro chemical or sedimentation impacts.</i>	Mr Rowlands documented in his Proof of Evidence that no significant adverse effects are anticipated on any downstream SSSIs. Again, the appeal proposals do not preclude GDE also demonstrating no significant adverse effects on SSSIs once it comes forward. It should also be noted that the points raised in the scoping report have been carried

	forward into the Environmental Statement and the subsequent updates.
<i>A layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity between new and existing communities.</i>	The final detailed layout of the scheme will be determined at reserved matters stage. However, both the Indicative Masterplan and Parameters Plan demonstrate how integration and connectivity will be achieved.
<i>A legible hierarchy of routes to encourage sustainable modes of travel. Good accessibility to public transport services with local bus stops provided. Provision of a transport assessment and Travel Plan.</i>	The hierarchy of routes is to be dealt with at the reserved matters stage. The OCC Heads of Terms request monies to provide a new bus stop and improvements to the frequency of the public transport services. These items will be secured through a Unilateral Undertaking that is being prepared by the appellant in consultation with OCC.
<i>Additional bus stops on the A4421 Charbridge Lane will be provided, with connecting footpaths from the development. The developers will contribute to the cost of improving local bus services.</i>	This application has been submitted in outline, the provision of an additional bus stop will be dealt with via legal agreement. During recent negotiations Oxford County Council have requested £180,000 to improve bus frequency serving the site and £18,000 towards infrastructure on A442. These items will be secured through a Unilateral Undertaking being prepared by the appellant in consultation with OCC.
<i>Provision of appropriate lighting and the minimisation of light pollution based on appropriate technical assessment .</i>	This application seeks outline planning permission, the provision of appropriate lighting will be dealt with at the reserved matter stage.
<i>Provision of public art to enhance the quality of the place, legibility and identity.</i>	This application seeks outline planning permission, the provision of public art can be dealt with via the

	reserved matters application or via a legal agreement.
<i>Demonstration of climate change mitigation and adaptation measures including exemplary demonstration of compliance with the requirements of policies ESD 1 – 5.</i>	The appellants have agreed to a condition which requires details of the renewable energy provision to be incorporated in to the development.
<i>Take account of the Council's SFRA for the site.</i>	The Council's SFRA is addressed in the Environmental Statement, Chapter 13: Flood Risk & Drainage prepared by JBA Consulting.
<i>Consideration of flood risk from Langford Brook in a Flood Risk Assessment and provision of an appropriate buffer. Use of attenuation SuDS techniques (and infiltration techniques in the south eastern area of the site) in accordance with Policy ESD 7: Sustainable Drainage Systems (SuDS) and taking account of the Council's SFRA.</i>	<p>An area located along the Langford Brook's western bank and outside of the 100-year floodplain will provide floodplain compensatory flood storage.</p> <p>Surface water runoff will be discharged into the Langford Brook via SuDS.</p>
<i>Housing must be located outside Flood Zone 3 and the principles set out in Policy ESD 6 will be followed.</i>	The submitted parameters plan and indicative masterplan shows all new dwellings are located outside Flood Zone 3.
<i>The provision of extra-care housing and the opportunity for community self-build affordable housing.</i>	The opportunity for community self-build affordable housing will be considered at the reserved matters stage.
<i>An archaeological field evaluation to assess the impact of the development on archaeological features.</i>	An archaeological evaluation accompanied the outline planning application. The evaluation recorded a number of features including possible Iron Age pits. Oxfordshire County Council's Archaeologist was satisfied that the information provided was sufficient to determine the application. It was acknowledged that further features may have survived on

	site and that this could have be dealt with via condition.
<i>A detailed survey of the agricultural land quality identifying the best and most versatile agricultural land and a soil management plan.</i>	A detailed survey of the agricultural land was provided in the Environmental Statement Chapter 12: Agriculture and Soils prepared by Kernon Countryside Consultants.

- 3.14 The pre-amble to Policy 13 acknowledges that there a number of known constraints such as Flood Zone 3, River Ray Conservation Target Area and protected species. The appeal proposal addressed all these issues. This is confirmed by Paragraph 7.21 of the CDC Committee Report which identified that whilst the application has been submitted in outline, officers are satisfied that the approach to development demonstrates that a suitable detailed scheme can be brought forward on the application site at the reserved matters stage in a manner that meets the requirements and objectives of Policy Bicester 13 (as well as other relevant policies in the Development Plan).
- 3.15 The above analysis supports my view that the appeal proposal complies with the provisions of Policy Bicester 13. There is no stated requirement that the development must come forward comprehensively or that CDC will only accept an outline planning application that relates to the whole site. The appeal proposals is for a clearly defined sector of the allocation – with the Langford Brook providing a clear physical definition to its eastern boundary. The appeal proposals, therefore, constitute a robust response to the complexities of the Gavray Drive allocation and represent an appropriate first phase development.
- 3.16 Policy Bicester 13 is a very detailed and precisely defined policy that provides every foreseeable safeguard to control the type and amount of development on GDE, which appears to be the overriding concern; and ensure that any future development proposal is appropriate. The policy is both substantial, detailed and prescriptive – its provisions contain all the criteria that any planning application must meet before it is recommended for planning permission. All the appropriate safeguards that CDC seeks, through the detailed provisions of the policy, are already in place. The appeal site can readily be developed as the first phase of development in full compliance with the Policy. Any planning application for GDE will have to address and meet

the same stringent tests. The phased development and implementation of housing allocations is not in any way unusual and does not create any abnormal or insoluble development management issues.

- 3.17 CDC acknowledge that the appeal proposal meets the relevant ecological criteria set out in Policy Bicester 13. The ecological proposals deliver a net biodiversity gain on GDW. Thus, they clearly meet the test in bullet Point 3 under Key Site-Specific design and Place Shaping Principles. The same test will be applied to development proposals for GDE, in due course, to determine if proposals meet the policy test. There is no challenge to the balance sought between housing delivery and long term ecological enhancement.

Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment:

- 3.18 The central thrust of Policy ESD10 is to ensure that development proposals deliver a net gain in biodiversity. A Biodiversity Impact Assessment (BIA) was submitted to CDC to aid consideration of the OPA. CDC's committee report deals with biodiversity gain in **Para 7.34**: It reports that CDC's ecologist is content that there are opportunities for modest net gain in biodiversity resulting from GDW. This issue is dealt with comprehensively in **Mr Rowlands'** proof of evidence.

Policy ESD11 Conservation Target Areas:

- 3.19 Policy ESD 11 Conservation Target Areas is the other most pertinent policy for consideration. Again, I assess the appeal proposal against its provisions.

Policy ESD 11: Conservation Target Areas	Appellants Response
<i>Where development is proposed within or adjacent to a Conservation Target Area biodiversity surveys and a report will be required to identify constraints and opportunities for biodiversity enhancement.</i>	The proposed development takes the CTA into account and provides the opportunity for delivering enhancements. These enhancements are addressed in further detail in Mr Rowlands Proof of Evidence.

<i>Development which would prevent the aims of a Conservation Target Area being achieved will not be permitted.</i>	The policy does not prohibit development in the CTA. Notwithstanding this, the appeal proposal does not propose any inappropriate development within the River Ray CTA that would cause unacceptable harm. It is therefore, concluded that the proposals do not prevent the aims of the CTA from being achieved
<i>Where there is potential for development, the design and layout of the development, planning conditions or obligations will be used to secure biodiversity enhancement to help achieve the aims of the Conservation Target Area.</i>	This approach is accepted, and the proposals will secure biodiversity enhancements that will help achieve CTA aims

3.20 In my view the appeal proposal complies with Policy ESD11.

4.0 OVERALL BALANCE OF CONSIDERATIONS

- 4.1 This section considers first the benefits of the proposal followed by the harm identified by CDC in its reasons for refusal.

Benefits of the Proposals

Location

- 4.2 Both National and Local Planning Policy requires development to be concentrated in the most sustainable locations. The principle of this site as a sustainable location to deliver housing within Bicester is well established and is reinforced by Bicester Policy 13 of the adopted Cherwell Local Plan 2031.

Housing Delivery

- 4.3 Nationally and more locally within Oxfordshire there is an identified housing shortage. Development of this site contributes to a locally derived strategy for growth in line with this national agenda. CDC included the site within its most recent housing trajectory with the first 50 houses recorded as being delivered in 2019/2020.
- 4.4 In addition to market housing, the proposed development will provide affordable housing in accordance with policy requirements. The need for affordable housing in Oxfordshire has been well documented, the requirement in Paragraph 47 of the NPPF to boost the supply of housing applies to affordable housing as well as market housing. It should be noted that, Gallagher Estates have been approached by a local resident who lives just off Gavray Drive and is keen to obtain a shared ownership property but keeps missing out. This example reinforces the acute need for affordable homes within the area.

Design

- 4.5 Whilst the application has been submitted in outline, the parameters have been developed around the landscape context and topographical features. The arrangements of land parcels has allowed for open space and connectivity to enhance the sustainability of the site.

- 4.6 There is no highway objection to the appeal proposals whether based on accessibility or technical grounds relating to the specific access measure. The proposed development will result in enhanced public transport and pedestrian and cycle routes. The appellants are progressing a Unilateral Undertaking which seeks to address the obligations requested by OCC.

Other Benefits

- 4.7 In terms, of the other benefits I note that the following will also contribute positively to the balance of the proposals:
- while there will be an effect in bolstering the town centre and existing business in the town other economic benefits will result in terms of jobs employed in the construction and related activities;
 - the appellants are entering into a S106 agreement with CDC that will ensure that a proportion of the jobs are for apprentices;
 - the investment in the town as a result of the proposed planning obligations – for instance towards the expansion of primary and secondary school capacity; towards leisure and sports facilities within Bicester; a financial contribution towards the expansion of Langford Village Hall; and a financial contribution to expand existing allotment provision and cemeteries; and
 - the enhancement and strengthening of public open space.

- 4.8 I conclude that the benefits of the proposal meet the economic, social and environmental aspects of the sustainable development objectives of the NPPF. Moreover, I find the benefits to be compelling and rooted in the aspirations of national and local policy.

Potential Harm Arising from the Proposals

- 4.9 I now consider the potential harm arising from the proposal to be set against such benefits. In so doing I consider the reasons for refusal set out in the Council's decision notice and the Council's case. The third parties' concerns

relate to ecology and have been addressed in **Mr Rowland's** proof of evidence.

Reason for Refusal One:

The crux of the issue between the appellant and CDC are the points raised in the first reason for refusal. The reason for refusal deprecates what it refers to as "piecemeal" development. This term is unhelpful because it does not assist in analysing the relevant planning and legal principles. The appeal proposal is for a clearly defined sector of the Gavray Drive allocation – hence it is identified as *Gavray Drive – West*, with the Langford Brook providing a clear physical definition to its eastern boundary. In my view, this creates a logical and well-defined development area. There is no policy that requires the entirety of the site to be brought forward for development in one composite planning application. The information provided as part the outline planning application demonstrates that the level of development proposed on the appeal site is appropriate. This is tested through the Development Framework, other drawings and capacity analysis. The capacity point is not contested by CDC.

- 4.2 It is accepted that the characteristics of Gavray Drive – East will present different challenges when development proposals come forward. Those will have to be addressed in any future planning application. The Local Plan Inspector was satisfied that the capacity estimates provided to him for Gavray Drive – East were robust. In any event it will be for a planning application to determine the precise capacity and form of development at the reserved matters stage. In addition, any such planning application will be required to demonstrate compliance with the criteria comprehensively set out in Policy Bicester 13, at the appropriate time.

- 4.10 CDC's Statement of Case states that Policy Bicester 13 is clearly written and intended to be read and applied across a single site and as such, it is

...impossible for the Council to make an adequate assessment of the likely implications of the appeal proposals on Policy Bicester 13 (as a whole, as required) given that only part of the site is being proposed for development. This leaves significant question marks as to whether a sufficient number of

homes can be proposed in a suitable manner on the remainder of the allocated site in a way that delivers on all the requirements of Policy Bicester 13.” (CDC statement of case para 6.6).

- 4.11 This more recent view is contrary to the carefully considered arguments set out in the CDC Planning Committee Report. That report provides a thorough and logical assessment of the application of Policy Bicester 13 – that analysis concluded that planning permission should be granted subject to conditions and the completion of a legal agreement. I completely concur with the thorough analysis contained in the Committee report and supporting justification which is clear that the appeal site can be acceptably developed in the manner proposed. Nothing has substantively changed in the content of the planning application or the planning policy context to evidence this reversal of opinion.
- 4.12 There is no evidence that demonstrates that allowing the appeal proposals will lead to an unacceptable form or density of development on GDE, or that the policy objectives of Bicester 13 will be compromised or not achieved. The appeal proposals represent a step towards achieving those policy objectives. This point is dealt with in the CDC Committee Report (para 7.7) responding to third parties who raised issues about the influences on the capacities of GDW and GDE. Should a future planning application determine that the capacity of GDE was less than 120 units it would not result in any change to the development capacity of GDW. The Committee Report carefully addresses this point. It states that:

...Officers however do not agree and have found that there is no reason why accepting the amount of development currently proposed would in any way directly or indirectly lead to inappropriate future levels of housing on land to the east of the brook and thereby prejudice the Development Plan’s wildlife conservation objectives for the LWS or CTA. This is for several reasons:

- Policy Bicester 13 is an adopted planning policy but it is not a planning permission and nor is it legislation. It does not require exactly 300 dwellings to be proposed/approved on Bicester 13 and it does not follow that proposing slightly less than 300 dwellings overall in order to respond to the site constraints would necessarily be a departure from the policy. There are other*

material planning considerations to address as part of the overall planning balance that takes place in making planning decisions which ensures that there is not a commitment to delivering 300 dwellings at the expense of all other impacts;

- Policy Bicester 13 specifically resists harm to the CTA and includes protection of the LWS. These are key requirements of the policy and provide the necessary means by which to robustly defend against any future planning application on land to the east of the brook where this would be materially harmful to wildlife interests even, potentially, at the expense of delivering the full 300 homes across the allocated site. Other Development Plan policies (such as ESD10 and ESD11) would also be material and similarly resist adverse impacts on local sites of wildlife value;*
- The application site is being proposed to be developed to a reasonably high density in the context of surrounding development. There is no suggestion that it could be developed more densely and still deliver a suitable scheme that accords with other requirements of Policy Bicester 13. Put simply, there is no reason at all to conclude that the land to the west of Langford Brook is being proposed to be underdeveloped having regard to the Development Plan. Nevertheless, even if it transpires that achieving 120 dwellings on land to the east would lead to net ecological harm, there is still a strong planning policy basis on which to resist such a development proposal;*
- The applicant has submitted a notional Biodiversity Impact Assessment relating to potential development on the remainder of the allocated site to the east of Langford Brook. Whilst not specific to a detailed proposal and therefore entirely theoretical, it does assist in demonstrating that there is scope for some built development in the CTA (but not LWS) whilst still achieving overall net biodiversity gains for the CTA and the LWS such that the full objectives of Policy Bicester 13 can be achieved in due course.*

4.13 Paragraph 7.8 continues, to state that;

...Having regard to the above, officers are therefore satisfied that there can be no objection to this application covering only part of the allocated Bicester 13 site and that the principle of the proposed development (both in terms of the type and amount of development proposed) is acceptable given its accordance with up-to-date planning policies within the Development Plan.

- 4.14 Put simply the appeal proposal, as CDC officers concluded, is compliant with an up-to-date Development Plan and the relevant policies controlling development on the appeal site. This is the prime test of suitability for a development proposal.

Reason for Refusal Two

- 4.15 The Committee Report recommended that the issue of the decision notice be delegated to the Head of Development Management following satisfactory completion of a legal agreement to secure the items listed in Para 7.68 of the original Committee Report. The Committee Report included Heads of Terms. This is a standard and a perfectly acceptable approach.
- 4.16 The appellant is currently working with officers at CDC and Oxfordshire County Council to prepare and sign a S106 and Unilateral Undertaking (UU), respectively, based on the Heads of Terms set out in the original Committee Report. It is the intention of the appellant that a S106 agreement and will be signed by the relevant parties prior to the close of the Public Inquiry.

5.0 CONCLUSION

5.1 I conclude that the appeal should be allowed for the following reasons.

- The appeal proposal complies with the up to date Development Plan which is the Cherwell Local Plan and its relevant policies.
- The appeal proposal would result in the construction of up to 180 homes within the urban area of Bicester on a part of a site allocated for development since 1996 and contribute to housing land supply.
- There are no substantive technical issues which limit or would prevent the development proposed.
- The appeal proposals comply with the requirements of Policy Bicester 13 and will make an important contribution towards achieving its environmental objectives, as well the delivery of much needed new homes in the area consistent with NPPF.
- There is no policy basis on which to refuse planning permission.
- The concerns raised by CDC and the Rule 6 Parties relate primarily to the development of Gavray Drive East which will require its own planning application in due course. If those proposals do not comply with the policies of Policy Bicester 13, planning permission will be refused.

5.2 I, therefore, respectfully request the appeal be allowed and planning permission granted.

DAK/ENC1: Committee Report and Update

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Applicant: Gallagher Estates, Charles Brown And Simon Digby

Proposal: OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting

Ward: Bicester South And Ambrosden

Councillors: Cllr David Anderson
Cllr Nick Cotter
Cllr Dan Sames

Reason for Referral: Major Development

Expiry Date: 10 August 2015 **Committee Date:** 18th May 2017

Recommendation: Approve subject to legal agreement

1. Update

- 1.1 This application was reported to the previous meeting of the Planning Committee on 18th May 2017. The original committee report is attached as Appendix 1. The application was recommended for approval subject to conditions and the satisfactory completion of a legal agreement. A slightly revised recommendation was included in the written updates paper that would have given delegated authority to the Head of Development Management to make any necessary minor post-Committee amendments to the recommended conditions and legal agreement clauses subject to the Chairman's prior approval.

- 1.2 Planning Committee resolved to defer the determination of the application to allow the applicant to submit an Ecological Management Plan as is specified in Policy Bicester 13. The applicant has not volunteered to submit such a document at this stage and has instead made the following statement:

"The Ecology Chapter of the Environmental Statement clearly sets out a requirement for the preparation, implementation and funding of a Landscape, Ecology and Arboricultural Management Plan (LEAMP) as part of the Ecology Strategy for the Gavray Drive West proposals (see paras. 9.6.13 to 9.6.16). The measures to be included within the LEAMP are clearly set out in subsequent paragraphs of this Chapter (see paras. 9.6.17 to 9.6.22). This is entirely consistent with the requirements of Policy Bicester 13; particularly with respect to securing such a Plan and also ensuring that Gavray Drive West (in its own right) delivers a net gain in biodiversity. The preparation of a LEAMP is properly a prospective condition to be attached to a planning consent for Gavray Drive West. There is no policy requirement or obligation for there to be a single planning application or Ecological Management Plan covering the whole site.

With respect to a planning application which will come forward in the future on Gavray Drive East, that application will also have to comply with Policy Bicester 13 in its own right. We therefore re-affirm the commitment made on several occasions previously with respect to the key principles of an outline planning application for Gavray Drive East, namely:

- *no development will be proposed to take place within the currently designated Local Wildlife Site;*
- *the submission, implementation and funding of a long-term Ecology Management Plan for the Gavray Drive Meadows Local Wildlife Site; and*
- *ensuring that the Ecological Management Plan addresses the objectives of the River Ray Conservation Target Area (CTA) such as the restoration of Lowland Meadow habitat. The implementation of the Management Plan could contribute significantly to the CTA's published target to restore 22ha of such habitat; mindful that the LWS is c. 15.6ha in extent.*

Planning Committee Members need to be made aware of the above intentions and safeguards already contained within the outline planning application together with the details of proposed conditions in advance of the meeting scheduled for 15th June. A single site-wide Ecology Management Plan is both unnecessary and inappropriate in the context of the adopted Local Plan Policy Bicester 13 and the outline planning application before the Council. For that reason no site-wide Ecology Management Plan is being offered and we would ask the Council to determine the planning application on that basis at the next Planning Committee meeting."

- 1.3 Officers have therefore been unable to fulfil the previous Planning Committee's resolution on this application and so have returned the application for determination on the same basis that it was reported previously. Officers have considered the views expressed by Members at Planning Committee as well as third parties but see no reason to reach a different recommendation to that presented previously. As a result, officers are continuing to recommend that Members resolve to approve the application subject to the proposed conditions and planning obligations. However, in order to assist Members in their decision making, officers have set out below some additional commentary to help respond to some of the ecology concerns raised at the previous Planning Committee meeting.

2. Further Assessment

- 2.1 Residential development is proposed on part of a site allocated for such purposes through Policy Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1. As such, it is against the relevant provisions/requirements of Policy Bicester 13 that the application should primarily be assessed though other relevant Development Plan policies as well as national planning policy/guidance are also material. Policy Bicester 13, inter alia, is summarised as requiring the following from proposed development with respect to ecology :
- (a) Development to avoid adversely impacting on the River Ray Conservation Target Area (CTA);
 - (b) Detailed consideration of ecological impacts, wildlife mitigation and wildlife corridors to protect and enhance biodiversity;
 - (c) Delivery of net gains for biodiversity;
 - (d) Protection of the Gavray Drive Meadows Local Wildlife Site (LWS);
 - (e) The preparation and implementation of an Ecological Management Plan to ensure the long-term conservation of habitats and species within the site.

- 2.2 For reasons set out in the main report, officers (and the Council's ecologists) are satisfied that detailed and robust assessments of the proposed development's impacts on habitats and species have been carried out. The vast majority of existing habitat of wildlife value on the application site is proposed to be retained and there is significant opportunity for habitat creation, particularly along the boundary with the new east-west rail chord and adjacent to Langford Brook. In officers' view there is little doubt therefore that the proposals have the ability to deliver net biodiversity gains on the application site. The detailed layout and landscaping of the proposed development would follow as part of a reserved matters application and it will be necessary at that stage for the Council to ensure that these details are consistent with the overall ecological enhancement objectives of Policy Bicester 13. Condition 18 (as recommended by officers) requires the submission of a biodiversity statement to accompany a reserved matters application to demonstrate how this is the case. A number of other recommended conditions (16 and 17) would require the submission and approval of details of ecological mitigation measures to be adhered to during the construction stage as well as a long-term ecological and landscape management plan for the application site which would set out means by which retained and new habitat would be maintained both by the developer in the interim and then, following adoption, by the District or Town Council. Furthermore, subject to the proposed mitigation measures, there would be negligible impact on protected or priority species.
- 2.3 The planning application proposals do not include any built development within the designated River Ray CTA or LWS. Whilst part of the CTA is within the application site (alongside Langford Brook), the existing arable crops are proposed to be replaced by informal grassland (including SuDS balancing ponds) which will have the ability to support a greater breadth of wildlife and is also consistent with the objectives for the CTA which includes restoration of lowland meadow. Officers are therefore satisfied that the proposals comply with points (a)-(c) of the aforementioned ecology-related requirements of Policy Bicester 13.
- 2.4 With respect to point (d), as the planning application relates to only that part of the allocated site to the west of Langford Brook, there is no built or other development proposed in the LWS. As a result, it will not be directly impacted. For reasons set out in the main report, any indirect impacts on the LWS will in officers' view be negligible and limited to temporary minor disturbance arising from the proposed nearby construction activities as well as a possible increase in unauthorised recreation use of the privately owned LWS. If Members are still concerned about the potential for increased trespass onto the privately owned LWS by members of the public (and consequent damage to habitat and/or disturbance of wildlife), then Members could consider imposing an additional condition that requires the approval and erection of new fencing and signage along the northern side of the public footpath that passes through the part of the allocated site to the east of Langford Brook. This would dissuade potential trespassers. Such fencing would have to be designed to be as visually sympathetic as possible for the context. However, in officers' view given that the proposed development would only have the potential to give rise to a comparatively minor increase in the local population within walking distance of the LWS, officers do not think such a condition is necessary. Officers are therefore satisfied that, with or without the aforementioned potential condition, the proposals comply with the Policy Bicester 13 requirements set out at point (d).
- 2.5 The provisions and requirements of Policy Bicester 13 are predicated upon residential development being proposed across the entirety of the site. Not all of the requirements of the policy are therefore necessarily applicable at this stage given that development is only proposed on part of it. As officers have already commented, a long-term landscape and ecology management plan is sought by

condition in relation to the application site to ensure that the proposed development mitigates its adverse impacts and results in long-term net biodiversity gain. However, with respect to the remainder of the allocated site (i.e. the land to the east of Langford Brook in the LWS and CTA), officers do not think the proposals would have a materially adverse impact on its ecological interest. To secure implementation of an Ecological Management Plan for the entirety of the allocated site would require the use of planning obligations or a condition which in either case would be subject to tests set out in the NPPF (as well as legal tests in the case of planning obligations). Put simply, given that both officers and the Council's ecologist believe that the proposed development would have a negligible impact on the ecological value of the allocated land to the east of Langford Brook, officers do not consider that either a planning obligation or condition securing the implementation of an Ecological Management Plan across the entirety of the allocated site would meet the legal or policy tests of necessity, relevance or reasonableness. In essence, officers do not think that the applicant should be expected or required to deliver the entirety of the potential ecological benefits of the overall development at this stage in a manner that goes well beyond mitigating the current proposed development's adverse impacts when only 180 of the allocated 300 dwellings are being proposed. To do so could in fact jeopardise the delivery of further planned housing on the more ecologically sensitive eastern part of the allocated site given that a future planning application for residential development would then struggle to demonstrate mitigation of its own adverse ecological impacts as a result of most or all of the biodiversity gains having been offered and secured previously.

- 2.6 Consequently, and to re-iterate the position set out in the main report, officers are satisfied that (subject to the recommended conditions and planning obligations) the proposed development complies with all relevant requirements of Policy Bicester 13 and does not fetter the full achievement in due course of all other provisions and requirements of that policy and therefore the Development Plan as a whole. As such, and in the absence of any significant material planning considerations indicating otherwise, officers continue to recommend that the application should be approved. Officers would also remind Members that the proposed development is for housing on a strategically allocated site and the housing projected to be delivered on it has been partly included in calculating the District's housing supply position. Maintaining a minimum five year supply of housing in the District is important to retaining the full weight of the housing supply policies within the Cherwell Local Plan 2011-2031 Part 1 and officers would advise that Members do not risk the Council's current housing supply position without good cause.

3. Recommendation

- 3.1 For the reasons set out in the report to the 18th May 2017 Planning Committee and amplified further by this update report, Members are recommended to:
- **Resolve to grant outline planning permission subject to the conditions listed in the original committee report (Appendix 1) and delegate the issuing of the decision notice to the Head of Development Management following satisfactory completion of a legal agreement to secure the items listed in paragraph 7.68 of the original committee report (Appendix 1); and**
 - **Delegate authority to the Head of Development Management to make any necessary post-Committee minor amendments to the recommended conditions and terms of the legal agreement subject only to the prior written approval of the Chairman of Planning Committee and that such amendments do not materially affect the substance of the decision made by the Planning Committee.**

APPENDIX 1 – REPORT TO 18TH MAY 2017 PLANNING COMMITTEE

**Part Land On The North East Side Of
Gavray Drive
Bicester**

15/00837/OUT

Applicant: Gallagher Estates, Charles Brown And Simon Digby

Proposal: OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting

Ward: Bicester South And Ambrosden

Councillors: Cllr David Anderson
Cllr Nick Cotter
Cllr Dan Sames

Reason for Referral: Major Development

Expiry Date: 10 August 2015 **Committee Date:**

Recommendation: Approve subject to completion of a legal agreement

1. APPLICATION SITE AND LOCALITY

- 1.1 The application site relates to a 6.92 hectare area of land comprising an arable field to the north of Gavray Drive in Bicester. The site is situated between the 1990's era residential estate of Langford Village to the south and Bicester Park Industrial Estate to the north. Railway lines are beyond the western and northern boundaries including the new east-west rail chord that connects the two lines.
- 1.2 Langford Brook flows along the site's eastern boundary and features overhanging trees and shrubs although this is mostly along its eastern bank. The brook flows from the north underneath the east-west railway line via a newly installed culvert which is secured by steel palisade fencing. The site's southern boundary with Gavray Drive is formed by a belt of woodland with an existing access stub providing the only break in the woodland at a relatively central position along the southern boundary. A short section of the southern boundary immediately adjacent to Langford Brook is also open and formed by grassland and scrub. The site's northern boundary is delineated by the new east-west rail chord which rises to adjoin the main east-west railway line up on its embankment. The site's western boundary is now similarly formed by the new east-west rail chord and the western corner of the site has until recently been used as the Network Rail works compound associated with the construction of the new rail chord.
- 1.3 A single hedgerow traverses the site on a southwest-northeast alignment and follows the route of an existing public footpath (129/3/20) which runs from Langford Village through the application site, over and then under the railway line, and then through the industrial estate to the north to meet Charbridge Lane (A4421). It forms

part of a wider footpath network that connects with countryside routes in and around Launton.

- 1.4 A strip of land forming the eastern part of the application site is within an area designated in the Development Plan as a Conservation Target Area where restoration of important habitats and the conservation and enhancement of species is sought. Approximately one-third of the site (adjacent to Langford Brook) is also within land identified by the Environment Agency to be variously at medium and high risk of fluvial flooding (Flood Zone 2 and 3). Langford Brook itself as well as land to its east is part of the designated Gavray Drive Meadows Local Wildlife Site (LWS) which also includes an area of land to the opposite side of Charbridge Lane.
- 1.5 The application site forms part of a wider site allocated in the Cherwell Local Plan 2011-2031 Part 1 as Bicester 13. This includes land to the east of Langford Brook up to the boundary with Charbridge Lane. Bicester 13 is allocated for residential development for approximately 300 dwellings together with associated infrastructure.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 The application is made in outline with all matters reserved except for details of access. The application seeks outline planning permission for a development of up to 180 dwellings together with associated public amenity space, recreation areas, localised land remodelling, flood storage compensation works and new structural landscaping.
- 2.2 As the application is in outline, Members are only considering the principle of accommodating the amount and type of development proposed on the site. The details of the design and layout of the development would then fall to be determined later as part of subsequent reserved matters application.
- 2.3 Members should note that the application has been accompanied by an Environmental Statement (ES). It therefore falls to be considered as an EIA application for the purposes of the Environmental Impact Assessment (EIA) Regulations 2011 (as amended). Officers have considered the ES in assessing the proposals, writing this report and reaching the overall recommendation.

3. RELEVANT PLANNING HISTORY

- 3.1 The following planning history is considered potentially relevant to the proposals:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
96/00255/F	Construction of 20,864m ² manufacturing assembly plant, for automotive components, together with ancillary offices.	Application Refused
96/00321/F	Construction of 20,864m ² manufacturing and assembly plant, for automotive components, together with ancillary offices. Construction of new access.	Application Refused
04/02797/OUT	OUTLINE - Residential development (including affordable housing) incorporating	Not Determined.

	a County Wildlife Site, together with the land reserved for a primary school, community facilities, public open space, rail chord and structure planting.	Appeal allowed 12.07.2006
05/01035/OUT	OUTLINE - Residential development (including affordable housing) incorporating a County Wildlife Site, together with the land reserved for a primary school, community facilities, public open space, rail chord and structure planting.(Duplicate application)	Application Refused
09/00584/F	Variation of Condition 8 of planning permission 04/02797/OUT.	Application Permitted
09/00909/REM	Reserved matters to Outline 04/02797/OUT. Road and drainage infrastructure.	Not Proceeded With
10/01667/OUT	Extension of time limit to 04/02797/OUT: Residential development.	Pending Consideration
12/00850/OUT	Extension of time limit of 09/00584/F - Variation of Condition 8 of planning permission 04/02797/OUT relating to residential development (including affordable housing) incorporating a County Wildlife Site, together with the land reserved for a primary school, community facilities, public open space, rail chord and structure planting	Pending Consideration
12/00024/SO	Screening Opinion to 12/00850/OUT - Extension of time limit of 09/00584/F - Variation of Condition 8 of planning permission 04/02797/OUT relating to residential development (including affordable housing) incorporating a County Wildlife Site, together with the land reserved for a primary school, community facilities, public open space, rail chord and structure planting	Screening Opinion Issued – EIA Required
14/00008/SCOP	SCOPING OPINION - Proposed residential development (including affordable housing) public open space, localised land remodelling, structure planting and retention of the local wildlife site.	Scoping Opinion Issued

4. RESPONSE TO PUBLICITY

- 4.1 Following receipt of the application in May 2015 it was publicised by way of site notices displayed near to the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council was able to identify from its records. The application was originally publicised as an EIA development, departure from the Development Plan and affecting a public right of way.
- 4.2 In March 2017, the applicant submitted additional information in the form of a minor revision to the illustrative parameters plan as well as biodiversity metrics as part of efforts to appraise the ecological implications of the proposals. Officers did not request this information and it was submitted voluntarily by the applicant. This additional information was then the subject of further publicity for a minimum of 21 days in the same manner as the original submission though the proposals were no longer considered to represent a departure from the Development Plan and were not publicised as such this time around. The Secretary of State has also been sent a copy of all of the applicant's substantive submissions as part of this application (both application documentation as well as the ES) given that it constitutes an EIA application.
- 4.3 The comments received can be viewed in full on the Council's website, via the online Planning Register. Over 60 third party objections have been received and the concerns raised have been summarised as follows:
- Development to the east of Langford Brook should be resisted as it is important for wildlife;
 - Further housing is completely unnecessary and would destroy one of the few remaining wildlife habitats in Bicester;
 - Bicester has been ruined by overdevelopment;
 - Affordable housing is not needed and would affect the quality of the area;
 - The land east of Langford Brook should be designated as a local green space;
 - The new homes would experience significant noise and vibration from the railway line and would be unsuitable for families;
 - Gavray Meadows are akin to a green lung for residents of Langford Village;
 - The site has considerable landscape and amenity value for local residents who appreciate the views across the open field when using the public footpath;
 - The proposals will increase traffic on local roads that are already subject to significant congestion;
 - Building on land to the west of Langford Brook would have a negative ecological impact. The land adjacent to the brook is wet meadowland which is increasingly rare;
 - The land to the east of Langford Brook, including the Gavray Drive Meadows Local Wildlife Site, would suffer from adverse effect due to recreational disturbance, domestic cats and dogs etc;
 - The group of small fields to the east of Langford Brook have historical value as well as landscape value as the field pattern together with ridges and furrows indicate historic agricultural use;
 - The land remodelling together with the three year duration of the construction works would be of particular nuisance to local residents;
 - The Council has indicated that it is looking to designate the LWS as a Local Green Space in its Local Plan. Future residents will wish to use the Local Green Space. The unavoidable increase in public use of the LWS will cause further deterioration of its habitat and is in need of active management;

- The applicant too easily dismisses the proposed loss of the hedgerow within the site which was found to show evidence of habitat for White Letter Hairstreak butterfly. This requires mitigation through new hedgerow planting of Dutch elm disease resistant strains of elm in the new hedgerows;
- The submission of an application to develop only part of the site under the control of the applicant is contrary to Policy Bicester 13. That policy seeks to secure an holistic scheme for all of the site – i.e. both Gavray Drive West and Gavray Drive East, not piecemeal development that prejudices the likelihood of the policy aspirations being achieved. Amongst other things, the site-wide policy seeks to secure ‘no net loss’ of biodiversity, in concert with the principles of the NPPF. It recognises that this can only be achieved through the appropriate protection and securing of the assets of high nature conservation value east of the Langford Brook. The current application makes no such provision, and given that it will generate additional pressures on those assets, is clearly contrary to the policy. Even taken in isolation, it would result in net loss to biodiversity if the balance of loss versus gain is tested using the Defra ‘biodiversity offsetting’ metrics, a system which I believe Cherwell are considering greater use of in common with neighbouring authorities. The applicant should be invited to withdraw the application and submit a scheme for the whole of the land between Gavray Drive and the Bicester-Marylebone railway line so that can be properly assessed against the emerging local and incumbent national planning frameworks.
- Application 15/00837/OUT makes no provision to protect and enhance the LWS or indeed any of the land east of the Langford Brook. This land represents over 50% of the allocation site and it is inconceivable that future residents will not use or otherwise benefit from it.
- Application 15/00837/OUT seeks to deliver 180 units on the least constrained and most profitable part of the allocation site, west of the Langford Brook. It is not clear whether there has been adequate exploration of whether a higher density could be achieved on this least constrained land. Taking account of the other policy objectives and constraints, the grant of this application would therefore create a situation where, if 300 units are to be achieved, some 120 units will have to be squeezed onto land east of the brook. It is clear that creating this situation through grant of this application would compromise the full suite of adopted policy objectives set out under Bicester 13 being delivered.
- The applicant has not sought to address concerns regarding increased recreational pressure on the LWS and so the application should be refused.
- The application does not take account of impacts that the development would have on the wildlife interest of land to the east of Langford Brook;
- The application should be refused unless a holistic masterplan for the whole of Bicester 13 is submitted that demonstrates proper preservation, restoration and management of the CTA and LWS;
- The density of new housing should be increased on the application site to reduce the amount of development necessary on land to the east and thereby help preserve its wildlife value;
- The whole of the land to the east of the brook within the CTA should become the Gavray Meadows Local Nature Reserve with interpretation panels provided to increase knowledge and interest in nature conservation;
- The LWS should be protected, Bicester is becoming a ‘garden town’ with few areas for wildlife;
- The additional information submitted by the developer is unclear – why are they now assessing biodiversity impact resulting from development on the land to the east of the brook? In assessing the impact of development on the application site – are they considering the implications of noise, predation by cats, dog walkers, litter etc – these are indirect impacts that need to be addressed.

- The developer's claims that the proposals would not indirectly adversely affect the LWS to the east are not credible;
- Why is Cherwell District Council using Warwickshire County Council's ecology service and then utilising their biodiversity metric? Cherwell District Council should use its own system which is more robust;
- The submitted Biodiversity Impact Assessments are unintelligible and the public cannot give them the scrutiny they deserve;
- Without more detailed contextual information to support the Biodiversity Impact Assessment relating to developing land to the east of the brook, it is not possible for the public to accurately comment on it. Nevertheless, concerns are raised about some of the classifications of habitat as well as the grading attributed to them.
- Biodiversity Impact Assessments are of limited value and can be manipulated to provide the result sought by the developer.
- The application represents the piecemeal development of a wider allocated site and should be resisted as it jeopardises the end-objectives for development on Bicester 13;
- Policy Bicester 13 requires any development proposal on the site to make appropriate provision for preventing harm to the LWS and protected species interests on the eastern part of the site. The application makes no such provision and should be resisted;
- The capability of the eastern part of Bicester 13 to accommodate circa 120 dwellings whilst also delivering net gains for biodiversity is uncertain. Granting permission for 180 dwellings on the application site would sabotage the prospects of net biodiversity gain ultimately being achieved across the whole of Bicester 13;
- There is no reason why the developer could not submit a holistic masterplan for the whole of the site given that all of the land is within their control;
- Councillors voted to pursue Local Green Space designation for the allocated land to the east of the brook and north of public footpath 129/4. Approving this application would jeopardise this as it would indirectly lead to new housing on part of the land intended to be designated a Local Green Space.
- Residential development on the site could affect business operations at British Bakels Ltd off Granville Way due to its close proximity;
- Bicester has become a massive housing estate with little area left for nature and walkers. To build on this lovely meadow is completely wrong and against being a "Healthy Town";
- The developers have let the site run down for over 10 years and now say that it is of lesser wildlife value than it was. Because of this decade long neglect when they restore it to its original state, there will be no net loss of biodiversity when they build their houses. This is plainly wrong and the Council is being fooled.

Butterfly Conservation – Objection. Insufficient regard has been taken of Species of Principal Importance with the hedgerow proposed to be lost resulting in the loss of habitat confirmed to support white-letter hairstreak butterfly. This impact has been dismissed too readily by the developer in the Environmental Statement. The destruction of the hedgerow requires appropriate mitigation through inclusion of Dutch elm disease resisted strains of elm in the new hedgerows. All plantings in the green spaces should reflect the quality of the habitat to be found to the east of Langford Brook and the needs of the key species known to exist there. The applicant also fails to propose management of the LWS to the east of the brook that is within the applicant's control. This will suffer from increased indirect impact through recreational use and it requires management to protect its wildlife value. It is requested that planning officers reconsider their view that surrounding the LWS with housing will have no significant impact on its wildlife.

Bicester Local History Society - The Local Plan indicates that 300 houses should be built on Gavray Meadows. We feel strongly that these should be concentrated on the west side of the site, so as to reduce the impact on the sensitive wildlife site to the east. The developers have failed to make clear their plans for the whole site - CDC should not be making decisions based on piecemeal information. We feel that you are not able to protect the conservation area or wildlife site if you proceed in this manner. It's essential that this application makes provision for funding and managing the wildlife site/nature conservation area on the east side which contains some of the UK's most endangered land, unimproved flood meadows and all the special plants and animals that depend on it. Bicester Garden Town needs to retain as many of its precious green spaces as possible. The developers have let the site run down for over 10 years and say that it is now of lesser wildlife value than it was, so that when they restore it to its original state, there will be no nett loss of biodiversity when they build their houses. CDC should be challenging this assertion, which is plainly wrong.

5. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL

Bicester Town Council – Objection

The proposed new homes would increase Langford Village's population by approximately 441 people using the developer's estimates. This will put increase pressure on Langford's Primary School and GP practice which are already under some pressure. No additional provision is proposed as part of this application. Traffic on Mallards Way is also likely to increase and this is a residential road designed to have a 20mph speed limit.

Thames Water has already identified potential lack of capacity in the sewage network to accommodate this development which would lead to sewage flooding and therefore adverse environmental impact.

Building on the site would also have negative effects on ecology through loss of land as wet meadowland. The proposals would also jeopardise the ability to secure land to the east of Langford Brook as a Local Green Space.

CHERWELL DISTRICT COUNCIL (INTERNAL CONSULTEES)

Community Services – No objection subject to the following being secured through planning obligations:

- Financial contribution sought towards expansion of Langford HalCentre Community Centre based on CDC matrix;
- Financial contribution towards a community welcome packs;
- Scheme of public art together with long term maintenance;

Recreation and Leisure – No objection subject to the following being secured through planning obligations:

- £179,889 index linked towards off-site provision of outdoor sports facilities at the Bicester Sports Village;
- £130,598 index linked towards expanding indoor sports facilities in Bicester;

Landscape Services – No objection subject to conditions/planning obligations:

The LVIA is a comprehensive report and I mostly agree with its conclusions. However, in respect of photo-view EDP7 where the development will be clearly seen by visual receptors on the PRoW and cycle way to Gavray Drive (there is no hedgerow in the way) , and I disagree with EDP's assumption that the receptor sensitivity is medium (Landscape and Visual – Constructional and Operational Effects) because of the existing urban influence. This should be judged as high visual sensitivity for receptors with a magnitude of change of high resulting in a significance of effect of Major/Moderate (adverse), as considered from DLA/PDD's visualisation Fig 7 pp. 23 of the Design and Access Statement, April 23, against photo-view EDP 7. In order to effectively mitigate this potentially detrimental effect the landscape proposals must not only screen the built form but enhance the POS corridor/ flood Zone, as suggested in the illustrative masterplan, subject to EA approvals.

With the onset of winter and associated leaf drop of deciduous hedgerow to Gavray Drive the effect on visual receptors will more apparent because of the increased permeability. In order to mitigate the effect additional native hedgerow trees should be planted along this boundary, however the build line of the south facing units must be at a distance to reduce the effects of shade and light reduction caused by this hedgerow and trees. In this respect I would prefer to see a wider landscape buffer, than that proposed on the illustrated masterplan, between the road and the hedgerow. A particular concern is the proximity of the block adjacent to the retained hedgerow in the western corner. The building appears to not only conflict with the surveyed root protection area but will also be subject to the problems mentioned above (to be address at the reserved matters stage).

The public footpath is to be integrated into the scheme as proposed by the illustrative masterplan.

There are no recorded views from the new railway over-bridge. I judge the visual effect would a major magnitude of change from this however it is not a PRoW and therefore deemed less sensitive to visual receptors which would not be encouraged to linger on the over bridge.

The northern site boundary would benefit from the woodland buffer planting as indicated on the illustrative masterplan, this will be have many environmental benefits especially in landscape mitigation terms: the screening of the railway corridor and visual receptors of the railway, and the screening of the northern edge of the development from the aspect of the over bridge/PRoW.

I am encouraged to see visualisations of street trees in the DAS I would hope that the detailed design layout provides enough space for such trees to grow to full maturity, with appropriate amounts of soil volume in structured cell tree pits. Drainage /utility layouts are to work effectively with the street tree planting scheme, as evidenced by combining utility (sewerage and potable water systems, gas street light and electricity) information with tree planting proposals. The east-west orientation of the street will mean that trees on the northern side of the street will cast shade and reduce light levels to windows in south facing units. Therefore species, their mature sizes and location must be carefully considered. I suggest that the tree canopy sizes are drawn at the 25 year interval for the species proposed in order to ensure enough surrounding space is allocated.

There is no provision for LAPs within the housing areas. There should be at least 4 un-equipped LAPs within 100m of the farthest extremity of the housing to allow for

children, parents and carers to walk to the play area on 'safe' footways without the need get in a car, and so be more sustainable. A combined equipped LEAP and LAP is required in an area that does not flood. The illustrative masterplan shows the play area overlays flood compensation which is unacceptable given future flooding problems and deprivation of play opportunities. A LAP should be located close to the PRoW.

Environmental Protection – No objection

Further details are required at detailed application stage to see the proposed mitigation measures for noise. Planning conditions are required on any planning consent requiring the mitigation measures to be submitted, approved and completed prior to any dwellings being occupied.

OXFORDSHIRE COUNTY COUNCIL

No objection subject to conditions and planning obligations.

Transport

The Cherwell Local Plan details the requirements for development of the Gavray Drive allocation under 'Policy Bicester 13 - Gavray Drive'. In terms of transport infrastructure, access and movement from Gavray Drive needs to be demonstrated. In particular, details of the Key Site Specific Design and Place Shaping Principles must be provided to include:

- Retention of Public Rights of Way and a layout that affords good access to the Countryside.
- New footpaths and cycleways should be provided that link with existing networks, the wider urban area and schools and community facilities. Access should be provided over the railway to the town centre.
- A linked network of footways which cross the central open space, and connect Langford Village, Stream Walk and Bicester Distribution Park.
- A layout that maximises the potential for walkable neighbourhoods and enables a high degree of integration and connectivity between new and existing communities
- A legible hierarchy of routes to encourage sustainable modes of travel. Good accessibility to public transport services with local bus stops provided. Provision of a transport assessment and Travel Plan
- Additional bus stops on the A4421 Charbridge Lane will be provided, with connecting footpaths from the development. The developers will contribute towards the cost of improving bus services in the wider South East Bicester area.

The development will contribute to a severe cumulative impact on Bicester's peripheral route and so a contribution reflecting the scale of this development will be required through S106 agreement to mitigate this. The Local Transport Plan 4 Bicester Area Strategy includes proposals for improvements to the Eastern peripheral corridor to which Gavray Drive connects. The scheme of particular relevance towards mitigating proposals at Gavray Drive is as follows:

"Implementing increased link capacity on the A4421 between the Buckingham Road and Gavray Drive to complement the transport solution at the railway level crossing at Charbridge Lane and facilitate development in the area. This scheme will improve the operation of this section of the eastern perimeter road, and enhance the integration of the North East Bicester Business Park site with the rest of the town." As a result S106 contributions are sought towards the implementation of this scheme.

In addition, households proposed are likely to use Langford Village shops and facilities. Vehicular trips between the development and these facilities are therefore expected to use the Wretchwick Way/Peregrine Way Priority Junction, intensifying its use. The distributed flows used to model the junction do not allow for any peak traffic to or from the development turning into Peregrine Way here. In reality there would be a fair proportion of linked trips and in the am peak in particular, trips to the primary school. There is a local concern about safety risk at the ghosted right turn at this junction. These are not included in the assessment within the TA as only a three-year assessment has been provided (a five year assessment was requested in scoping). £20,000 in contributions are therefore requested by S106 agreement for a scheme of safety improvements to this junction.

It was noted that within the TA, with the exception of the Graven Hill/Rodney House roundabout, junctions were forecast to operate within capacity with the development, and that with the introduction of the S278 scheme of improvements at the Graven Hill roundabout (to be delivered as part of the Graven Hill development) this would also operate within capacity with the development. Junctions were modelled with and without the allocated development site at South East Bicester, on the southeast side of Wretchwick Way. (This site is now adopted Policy Bicester 12). However, the Transport Assessment is now almost two years old and therefore, were we advising on the scope of a new TA, there would be many revisions that would be requested, including updating the assessment year, and making use of the newly updated Bicester Transport Model to provide future year forecast baseline flows and/or the use of the latest version of TEMPRO. The public transport information will also be out of date due to the withdrawal of some services.

Nevertheless, the updated Bicester Transport Model confirms the future severe impact on Bicester's peripheral route, taking into account Local Plan development, and it is not considered necessary to update the TA provided a proportionate contribution towards strategic improvements can be secured. The TA lacked detailed information about how the development would link into the local pedestrian and cycle network. Local routes have been examined as part of the work on the Bicester 12 Policy Site, and OCC has identified the following improvements which this site should provide, in order to link it to Bicester Town Centre, the adjacent Langford Village, and Bicester 12, which will offer employment and facilities. These are:

- ☐ Connection points at the northern and southern end of the site, with crossings over Gavray Drive to the existing cycle facility on the SW side.
- ☐ A raised crossing of Mallards Way.

These should be done as S278 works in connection with the site access, secured via the S106 agreement.

Within the site, connections should be provided through to the wider site, and the footpath towards the new footbridge over the railway will need to be surfaced and lit. Details of these connections should be required by condition.

Public transport

The site is within reasonable walking distance of Bicester Village rail station and Bicester Town centre, albeit these walking distances are in excess of national guidelines of 400 metres.

The half-hourly local bus service 22/23 which previously operated along Gavray Drive has now been withdrawn, so there are no services passing the site frontage. It is vitally important that residents are encouraged to walk to catch services that run along the Bicester peripheral route.

Significant new residential developments are planned to the south and south-east of Bicester, including Graven Hill and the planned South East Bicester development

(Bicester 12). This development is requested to provide a proportionate contribution towards the delivery of a new and viable network of bus routes to the south and south-east of Bicester which will serve these other developments but will include a good level of service along Charbridge Lane/Wretchwick Way.

The developer will need to provide a pair of bus stops on Wretchwick Way, with appropriate hardstanding, crossing and footway. Given the traffic speed and volumes on Wretchwick Way, and the need to make the bus stops attractive to users, we require this to be a signalised crossing. These bus stops will provide the new residents with access to bus services operating via the eastern peripheral route, such as the S5. When other services also run through Wretchwick Green via the new spine road, residents will also be able to walk to stops proposed at the northern end of that spine road.

Public rights of way

A footpath runs across the site and over the new footbridge across the rail chord (shown on the plans). The footpath will need to be diverted at the point where it runs over the railway bridge. A surfaced path must be provided by the developer to link to the steps of the footbridge. This must follow the existing alignment as far as possible and must be sensitively planned into the development as a distinct path.

Travel Plan

A travel plan has been submitted with this application. This travel plan has been referred to as a 'full' travel plan. I would like this term of reference to be changed to 'framework' or 'interim' travel plan as the submitted document does not contain the level of information required to be a full travel plan. A full travel plan should be submitted on occupation of the 90th house.

Contact details for the site Travel Plan Co-ordinator should be forwarded to the Travel Plans Team at Oxfordshire County Council. Paragraph 5.5 of the travel plan states that this will happen three months before occupation. This is welcomed.

I would like to question the pedestrian modal shift targets within table 7.1 of the travel plan. It appears that the pedestrian target decreases rather than increases?

The Baseline survey should happen at **50%** of full occupation not **75%** as outlined within the action plan.

The travel plan measures section is particularly vague. I would like to see a stronger commitment to the travel plan objectives within this section with the inclusion of more persuasive measures and incentives.

Paragraphs 6.19, 6.20 and 6.21 refer to a car sharing database for the site. I would question why this is required when residents can take advantage of the Oxfordshire liftshare site www.oxfordshireliftshare.com

Paragraph 6.22 – the wording within this paragraph should be stronger i.e likely – should

A Residential Travel Information Pack should be submitted to the Travel Plans Team at Oxfordshire County Council for approval prior to first occupation.

Drainage Engineers

The Flood Risk Assessment has been reviewed and the principles embodied are considered to be appropriate with respect to surface water drainage. A suitable drainage strategy can be secured via planning condition.

Archaeology

The site is of some archaeological interest as identified by a trenched evaluation undertaken as part of a previous planning application. A staged programme of archaeological investigation is required ahead of the development and should be secured by planning conditions.

Property

As a result of pooling restrictions pursuant to Regulation 123 of the CIL Regulations 2010 (as amended), no mitigation of the impact on OCC community infrastructure is able to be secured.

Education

The following approximate financial contributions are required (dependent on final dwelling numbers/size/mix) to be secured through planning obligations to mitigate the impact of the proposed development:

- £1,015,716 towards expansion of Longfields Primary School;
- £1,013,954 towards new secondary school capacity in Bicester;
- £35,134 towards expansion of special educational needs facilities at Bardwell School.

OTHER EXTERNAL CONSULTTEES

Environment Agency – No objection subject to conditions securing accordance with the Flood Risk Assessment as well as a management plan of a buffer zone along Langford Brook;

Natural England – No objection to the proposals on the basis of impact on SSSIs. It is for the LPA to assess the impact on local wildlife sites and priority species/habitats. The LPA should have regard to Natural England's standing advice with respect to potential impact on protected species.

Thames Water – The existing waste water public network may not have sufficient capacity to accommodate the development. As a result, a 'Grampian' type condition is necessary to prevent development until a drainage strategy detailing necessary on and off site infrastructure has been submitted to and approved in consultation with the sewerage undertaker.

Berkshire, Buckinghamshire, Oxfordshire Wildlife Trust (BBOWT) – Objection.

Gavray Drive Meadows Local Wildlife Site (LWS) is directly to the east of the application site and falls within the ownership of the applicant. The LWS and part of the application site sit within the Ray Conservation Target Area (CTA). There is also a specific policy for the allocated site, Bicester 13, which amongst other things protects the Local Wildlife Site and CTA, and highlights the need to comply with ESD11. It also sets out a requirement for an Ecological Management Plan to be agreed with the Council in consultation with local biodiversity interest groups. This approach is supported in the Inspector's Report on the Local Plan, which highlights the need for the development to contribute towards enhancement of the Local Wildlife Site's ecological interest (para 139 Cherwell Local Plan Inspector's Report).

It is recognised within the Ecology Chapter of the Environmental Statement (9.5.17) that the development will put the LWS at risk from adverse effects resulting from increased recreational pressure. To comply with Policy ESD10, mitigation is required to reduce the impact on the Local Wildlife Site and achieve a net gain in biodiversity. We do not consider the Public Open Space proposed along the Langford Brook sufficient to entirely mitigate the recreational pressure that will be generated by the development. Existing residents utilise Gavray Drive Meadows, and it is reasonable to expect that new residents of the proposed development would also. Long term nature conservation management of the Local Wildlife Site would help to mitigate the impact of recreational pressure on the site, improving the condition of the habitats and making them more resilient to recreational pressures.

The lack of management in recent years is regrettable, but it is encouraging that almost all of the meadow indicator species recorded in 2002 were found to still be present on the site. As is concluded in the botanical survey this indicates that, with management, the botanical interest of the LWS can be conserved and enhanced.

Management intervention is essential to prevent the loss of botanical diversity through ecological succession, and to improve condition of the grassland habitats. Management of the LWS is necessary to ensure its biodiversity interest is conserved, and by improving habitat condition could also help towards mitigating impacts from recreational pressure. It is also clear from the emerging Local Plan that the area of the LWS should be protected and enhanced and an ecological management plan produced and implemented. This is an approach endorsed in the Inspector's Report on the Local Plan. An Ecological Management Plan for the long term management of the LWS should be produced by the applicant, and its implementation secured by planning obligation. Without this commitment the application does not comply with emerging Local Plan policy.

Network Rail – No objection subject to conditions

- The proposals could give rise to a material increase in usage at Bicester London Road level crossing and Bicester Eastern Perimeter Road (Charbridge Lane). No objection in principle to this but monitoring of the level crossings will take place. In approving the application Network Rail would like to rely on the LPA, Highways Authority and Rights of Way to support any future proposal to either close the crossing(s) and / or provide a replacement bridge or diversion, and not act to prevent it;
- There is a footpath / bridleway running through the red lined area. Network Rail will require access around the clock (24/7, 365) for not only maintenance and project works but also emergency services;
- Conditions are required in order to assess details of excavations, control the use of vibro-compaction equipment, prevent over-sailing of the railway line by scaffolding or drainage works discharging towards the railway line. A fence (possibly acoustic) is also required around the western and northern perimeters to prevent unauthorised access from the development onto the railway line in the interests of public safety;
- A minimum of a 2m gap between buildings and the boundary of Network Rail operational land is required to ensure that future maintenance of buildings does not require access onto railway land which could have disruption/safety implications and is a criminal offence;
- No trees should be planted next to the boundary with the operational railway. Network Rail would request that only evergreen shrubs are planted along the boundary and we would request that they should be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height.

6. RELEVANT PLANNING POLICY AND GUIDANCE

- 6.1 Planning law requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.
- 6.2 The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The

relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- SLE4 – Improved Transport and Connections
- BSC1 – District Wide Housing Distribution
- BSC2 – Effective and Efficient Use of Land
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC9 – Public Services and Utilities
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD11 – Conservation Target Areas
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- Bicester 13 – Gavray Drive
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic Development in the Open Countryside
- C28 – Layout, design and external appearance of new development
- C30 – Residential Amenity
- C31 – Residential Compatibility
- ENV1 – Pollution Control
- ENV12 – Contaminated Land

6.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Circular 06/2005: Biodiversity and Geological Conservation
- Circular 01/09: Rights of Way

7. APPRAISAL

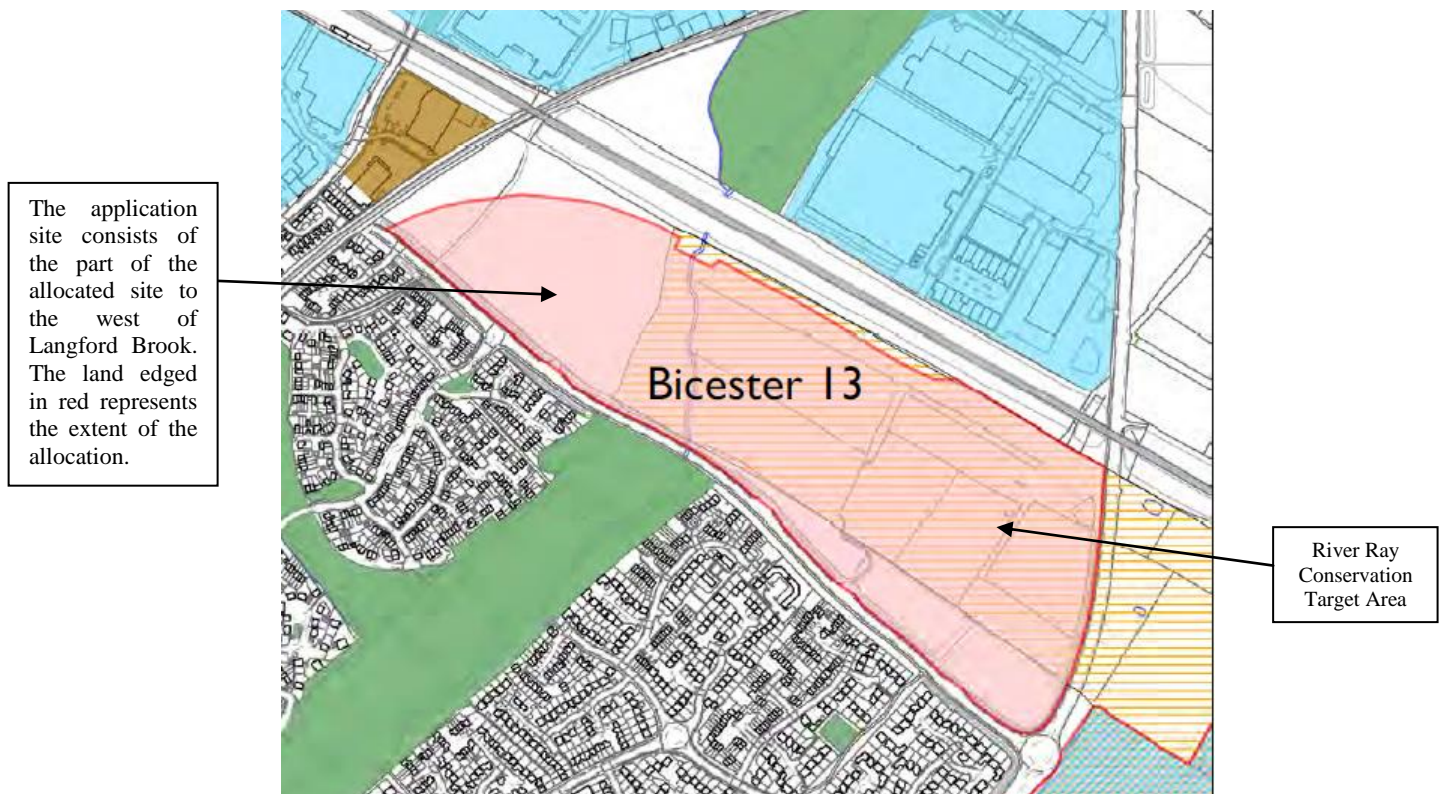
7.1 The key issues for consideration in this case are:

- Principle of Proposed Development;
- Access and Transport;
- Design and Layout;

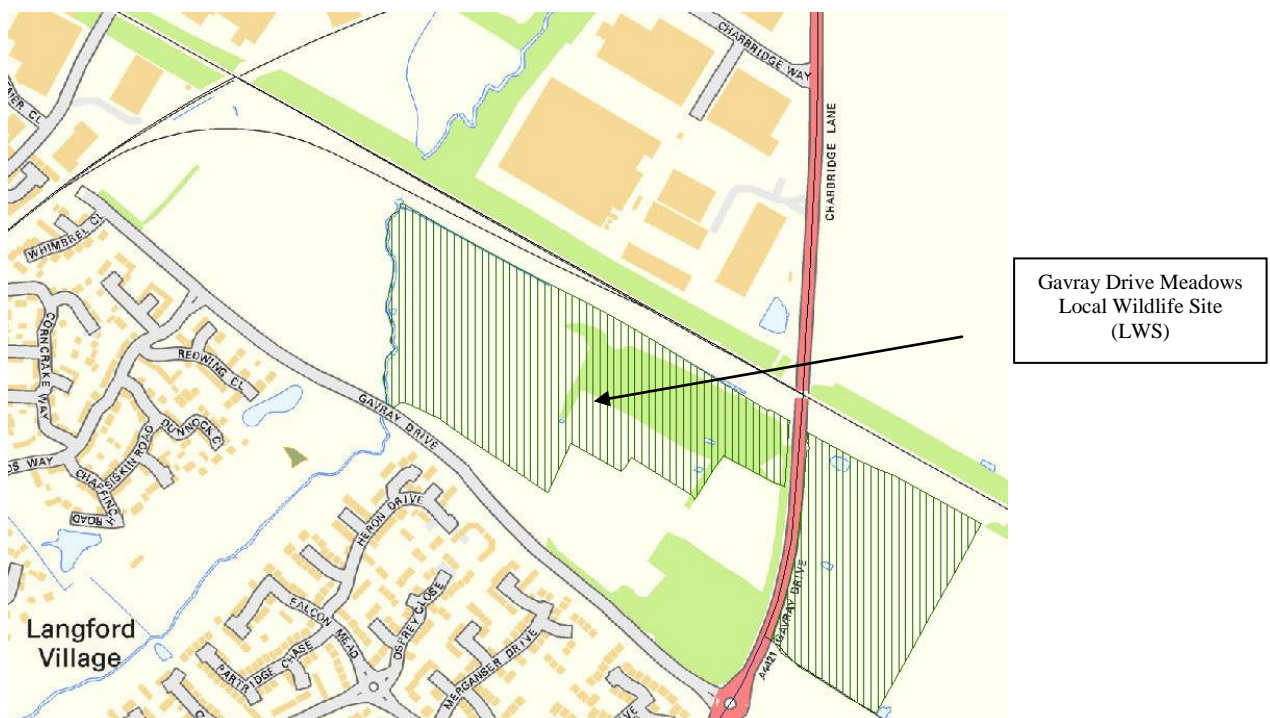
- Housing Mix;
- Residential Amenity;
- Ecology;
- Flood Risk and Drainage;
- Infrastructure;
- Historic Environment;
- Trees/Landscaping;
- Energy Efficiency/Sustainability;
- Land Contamination;
- Local Finance Considerations;
- Planning Obligations.

Principle of Proposed Development

7.2 Planning legislation requires planning applications to be determined against the provisions of the Development Plan unless material considerations indicate otherwise. The Cherwell Local Plan 2011-2031 Part 1 (CLPP1) is the primary document in the District's Development Plan and is up-to-date with national planning policy and guidance. The starting point is therefore to approve proposals that accord with the Development Plan without undue delay. The application proposes residential development on the western part of land allocated for new housing through Policy Bicester 13 of the CLPP1. Policy Bicester 13 is thus the primary planning policy of the Development Plan that these application proposals should be assessed against and has full weight. This policy provides for a total of 300 dwellings across the wider allocated site but is not so prescriptive as to apportion amounts of development to land either side of Langford Brook, nor does it specifically seek a comprehensive masterplan for development across the whole of the allocated site. The below extract from the Local Plan Policies Map shows the extent of the allocated Bicester 13 site.



- 7.3 Whilst it is often desirable for planning applications to be submitted that cover the whole of an allocated site, there is no planning policy or statutory basis on which to reject applications coming forward on parts of an allocated site subject to them being consistent with the overall objectives and requirements of the allocation policy. In this case the application site is a logical and easily defined part of the wider allocated site that does not, in principle, present undue difficulty in assessing its merits against the overall provisions of Policy Bicester 13. It is necessary however to be mindful of the overall provisions of Policy Bicester 13 throughout the consideration of the application to ensure that officers and Members are cognisant of any potential to unduly fetter the wider policy aspirations.
- 7.4 As the application proposes up to 180 dwellings on part of a site allocated for 300 dwellings the indications are that the proposals are acceptable in principle due to accordance with the provisions of Policy Bicester 13. Whilst, the remainder of the allocated site to the east of Langford Brook is larger it is evidently more constrained and would appear to leave approximately 120 dwellings to be provided across the remainder of the site. In considering the acceptability of the principle of the development, regard needs to be had as to whether the amount of development proposed is appropriate to the application site itself as well as the wider allocated site in light of the overall objectives of Policy Bicester 13.
- 7.5 Development on Bicester 13 to the east of Langford Brook is heavily restricted by the allocation policy which prevents any development in the LWS (as shown hatched in the below map extract). This means that there is a significantly reduced capacity to accommodate new housing on the land to the east of the brook particularly given the awkward shape of some of the remaining land. Furthermore, approximately half of the land potentially available for housing development to the east of the brook is within the designated River Ray Conservation Target Area (CTA) where (through Policies ESD11 and Bicester 13) development can only be considered acceptable if it is consistent with the objectives of nature conservation in the CTA. With this in mind, officers are satisfied that a greater amount of development should be proposed to the west of the brook in order to avoid undue pressure on land to the east and that this approach is consistent with the provisions of Policy Bicester 13.



- 7.6 The application site equates to 6.92 hectares of land and which, based on the submitted parameters plan, would leave approximately 4.5 hectares subject to housing development. As such, the application is proposing new housing at a density of approximately 40 dwellings/hectare which not only significantly exceeds the Council's specified 30 dwellings/hectare minimum density (see Policy BSC2) but is also greater in density than the majority of other greenfield housing developments currently proposed or recently approved in the immediate area. It is also of a higher density than the Langford Village development with which it would share its most immediate relationship. Officers therefore cannot see any grounds for concluding that development proposed on the application site should be to a greater density as it currently provides an appropriate balance between making efficient use of land whilst also providing opportunity for a suitable quality and layout of development in keeping with the site and its surroundings. Furthermore, together with the Council's Urban Design officer, planning officers have considered and tested the illustrative plans submitted, including those shown within the Design and Access Statement, and concluded that whilst a number of indicative block depths are a little tight, it is possible to satisfactorily achieve 180 dwellings on the site subject to realistic detailed proposals (i.e. smaller, higher density housing and/or a greater proportion of apartments) being submitted in due course.
- 7.7 Notwithstanding the above, third parties have raised the prospect of the potential to increase the amount and therefore density of development on the application site in order to reduce potential pressure on the allocated land to the east to accommodate approximately 120 dwellings (the residual housing figure as provided for by Policy Bicester 13). Officers however do not agree and have found that there is no reason why accepting the amount of development currently proposed would in any way directly or indirectly lead to inappropriate future levels of housing on land to the east of the brook and thereby prejudice the Development Plan's wildlife conservation objectives for the LWS or CTA. This is for several reasons:
- Policy Bicester 13 is an adopted planning policy but it is not a planning permission and nor is it legislation. It does not require exactly 300 dwellings to be proposed/approved on Bicester 13 and it does not follow that proposing slightly less than 300 dwellings overall in order to respond to the site constraints would necessarily be a departure from the policy. There are other material planning considerations to address as part of the overall planning balance that takes place in making planning decisions which ensures that there is not a commitment to delivering 300 dwellings at the expense of all other impacts;
 - Policy Bicester 13 specifically resists harm to the CTA and includes protection of the LWS. These are key requirements of the policy and provide the necessary means by which to robustly defend against any future planning application on land to the east of the brook where this would be materially harmful to wildlife interests even, potentially, at the expense of delivering the full 300 homes across the allocated site. Other Development Plan policies (such as ESD10 and ESD11) would also be material and similarly resist adverse impacts on local sites of wildlife value;
 - The application site is being proposed to be developed to a reasonably high density in the context of surrounding development. There is no suggestion that it could be developed more densely and still deliver a suitable scheme that accords with other requirements of Policy Bicester 13. Put simply, there is no reason at all to conclude that the land to the west of Langford Brook is being proposed to be underdeveloped having regard to the Development Plan. Nevertheless, even if it transpires that achieving 120 dwellings on land to the east would lead to net ecological harm, there is still a strong planning policy basis on which to resist such a development proposal;

- The applicant has submitted a notional Biodiversity Impact Assessment relating to potential development on the remainder of the allocated site to the east of Langford Brook. Whilst not specific to a detailed proposal and therefore entirely theoretical, it does assist in demonstrating that there is scope for some built development in the CTA (but not LWS) whilst still achieving overall net biodiversity gains for the CTA and the LWS such that the full objectives of Policy Bicester 13 can be achieved in due course.

7.8 Having regard to the above, officers are therefore satisfied that there can be no objection to this application covering only part of the allocated Bicester 13 site and that the principle of the proposed development (both in terms of the type and amount of development proposed) is acceptable given its accordance with up-to-date planning policies within the Development Plan.

Access and Transport

7.9 Policy SLE4 together with national planning policy in the NPPF requires developments to be served by suitable and safe means of access for all road users. Policies SLE4 and Bicester 13 also require development proposals to maximise opportunities for sustainable modes of travel and provide a walkable neighbourhood with integration and connectivity to surrounding development as well as the wider countryside. Policy Bicester 13 also requires additional bus stops on Charbridge Lane to serve the development as well as financial contributions towards improving local bus services.

7.10 Access is not a reserved matter as part of this application for outline planning permission. As such, the means of access to and from the development is to be determined at this stage. A single vehicular access to the development is proposed from Gavray Drive through enlargement and modification of the disused existing bellmouth stub. Due to the alignment of Gavray Drive and the existing 30mph speed limit, highway officers at OCC have raised no concern regarding the visibility from this new junction and have similarly found that it is adequate to serve the expected levels of traffic. Officers have no reason to disagree with this conclusion.

7.11 A public footpath (129/3/20) passes through the site from its southwest corner to the new footbridge over the east-west rail chord and then underneath the main east-west railway line into the Bicester Park Industrial Estate. The proposals indicate that this public footpath would be predominantly retained on its existing alignment though, dependent on the detailed layout, might result in a need for a minor diversion to link up to the new footbridge. Nevertheless, the proposed development has the opportunity to substantively retain the existing public footpath. Officers would expect this to be hardsurfaced, safe and with an attractive setting, separated from new estate roads so that its use as a walking route is encouraged. Dropped kerbs to facilitate pedestrian and cycle crossing points over Gavray Drive would also be necessary and are recommended to be secured as part of granting planning permission.

7.12 The illustrative plans also indicate a further footpath linking Langford Village's Stream Walk with the new public amenity area proposed along the brook. Officers consider this to be a welcome proposal and assists in conveniently linking the new development to existing residential development and associated green infrastructure. The detail of such a link through the site would be expected to follow as part of reserved matters submissions but officers are satisfied that the proposals have the potential to provide good connectivity with the surrounding area in a manner that accords with the requirements of Policy Bicester 13. A condition is however recommended that requires approval of the means of crossing Gavray Drive and the associated works necessary to the footways to enable this.

- 7.13 In order to enable suitable access to a bus service for new residents of the development, bus stops along Charbridge Lane are required to be provided in accordance with Policy Bicester 13. No details have been provided at this stage but the applicant has confirmed willingness to provide this infrastructure in advance of any occupations on the site. Access to the bus stops would require an upgraded footway to the north side of Gavray Drive as well as a signalised crossing of Charbridge Lane so that there is safe and convenient access to both north and southbound bus stops. Details of such infrastructure together with its provision is recommended to be secured by condition as well as through appropriate planning obligations. OCC is also seeking funding to cover the cost of providing bus shelters as well as real time information displays at the bus stops. Furthermore, and in accordance with the requirements of Policy Bicester 13, OCC is seeking a financial contribution of £1000/dwelling (index linked) towards improving the frequency of the bus service to ensure access to sustainable modes of travel for the new residents has been maximised.
- 7.14 In addition, and in reflection of the likely increased use of the existing cycleway along Gavray Drive as a result of the new development, officers a raised crossing of Mallards Way in accordance with the recommendations of OCC. This would raise driver awareness of cyclists and help to give priority to those travelling by bike. Officers are recommending that details of these works together with their construction are secured via both a condition on a planning permission as well as through a planning obligation.
- 7.15 Notwithstanding the provisions for travel by walking, cycling and by bus, it is inevitable that the proposed development would give rise to a significant number of car trips. As the planning application has been pending determination for a significant period of time, the Transport Assessment that accompanied the application is now a little out of date. Nevertheless, it was considered by OCC to be generally robust at the time of its submission and they have advised that by applying the updated Bicester Transport Model it confirms a future severe impact on Bicester's peripheral route and so a financial contribution reflecting the scale of this development should be required through a planning obligation to mitigate this. This amount has yet to be determined by OCC and officers are awaiting details of the sum sought. OCC's Local Transport Plan 4 Bicester Area Strategy includes proposals for improvements to the eastern peripheral corridor to which Gavray Drive connects. The scheme of particular relevance that the financial payment would contribute towards mitigating is stated by OCC to be as follows: "Implementing increased link capacity on the A4421 between the Buckingham Road and Gavray Drive to complement the transport solution at the railway level crossing at Charbridge Lane and facilitate development in the area. This scheme will improve the operation of this section of the eastern perimeter road, and enhance the integration of the North East Bicester Business Park site with the rest of the town." Subject to securing this financial contribution through a planning obligation, officers are satisfied that the proposal would adequately mitigate its wider adverse impacts on the local highway network to prevent future severe congestion in accordance with the requirements of Policies SLE4 and Bicester 13 of the CLPP1. In accordance with Policy Bicester 13 the applicant has submitted a travel plan that includes measures to reduce dependency on the private car. Whilst OCC has identified some concerns with the travel plan, there is no reason to conclude that an appropriate revised travel plan could not be submitted and approved via condition prior to occupation of any of the dwellings. Officers are also recommending that a financial contribution is also secured to cover OCC's costs of monitoring the travel plan.

- 7.16 It is also thought that residents of the proposed new development would be likely to use Langford Village shops and facilities and so vehicular trips through the Wretchwick Way/Peregrine Way priority junction would increase. There is local concern about safety risk at the ghosted right turn at this junction but the TA does not capture a number of incidents due to it only assessing a three year accident record. In order to ensure that this safety risk does not increase, OCC are recommending that £20,000 is secured towards safety improvements to this junction. A number of highway improvements and alterations are currently proposed as part of an application for outline planning permission on land allocated as Bicester 12 in the Local Plan which requires far more extensive works given the scale of that development. Development on Bicester 12 is however unlikely to commence for a number of years and so this planning application on Bicester 13 has been considered on its individual merits so that highway improvements to the network are able to be provided sufficiently early to appropriately mitigate the impact of these application proposals rather than await necessary future and as yet undefined wider transport network upgrades.
- 7.17 In conclusion therefore, officers are satisfied that through the use of appropriately worded conditions and planning obligations, the proposed development would integrate successfully with surrounding routes, provide suitable and safe access for all whilst not having an undue adverse impact on the operation of the local highway network. In this respect therefore, the proposals are considered to comply with the requirements of relevant Development Plan policies including SLE4 and Bicester 13.

Design and Layout

- 7.18 Policy Bicester 13 requires development on the site to be of high quality and locally distinctive in its form, materials and architecture. It also seeks a well-designed approach to the urban edge which relates to the road and rail corridors. Policy Bicester 13 also requires provision of general greenspace, play space, allotments and outdoor sports facilities as outlined in Policy BSC11. Policy Bicester 13 also requires existing landscape features of significance to be retained as well as the provision of green infrastructure links including a central area of open space either side of Langford Brook. Policy ESD15 of the CLPP1 is also material and this supports the efficient use of land and requires new development proposals to be designed so as to improve the quality and appearance of an area and the way it functions. Saved Policy C28 of the Cherwell Local Plan 1996 (CLP 1996) is broadly reflective of these requirements too and adds that development should be designed to be sympathetic to its context. Together these Development Plan policies are consistent with national planning policy and guidance of the NPPF and PPG which reinforce the importance of good design as part of sustainable development.
- 7.19 The application is made in outline and so all matters of layout, scale, appearance and landscaping are reserved for later approval. Nevertheless, it is still necessary to consider whether the proposals could be properly accommodated on the site so that a suitable reserved matters scheme could be submitted in due course. In order to demonstrate this, the applicant has submitted a parameters plan and illustrative masterplan. This indicates that all of the existing boundary hedgerows would be retained with the exception of very minor works to open up the existing public footpath which would be safeguarded on its existing alignment. Furthermore, it also shows a central area of informal open space to the west of Langford Brook as specified in Policy Bicester 13 both to facilitate the creation of a green infrastructure link to Stream Walk to the south as well as act as a buffer to the brook. All new dwellings are also shown to be located outside Flood Zone 3 as required by Policy Bicester 13. The illustrative plan also indicates scope for significant new structural landscaping along the northern and western boundaries with the railway line and the proximity of dwellings to the railway has not been indicated to be of concern to the

Council's Environmental Protection officers (and in any event they are shown to be further away than some existing houses in Langford Village).

- 7.20 The applicant proposes new children's play areas within the development and, following discussions with officers, these are outside of the central open space buffer to Langford Brook to ensure that they would not be at undue risk of flooding or affect wildlife conservation interest. The proposals exceed a number of thresholds set out in Policy BSC11 in relation to on-site recreation provision though Policy Bicester 13 recognises that the constrained nature of the site means that a contribution towards off-site formal sports provision is required rather than on-site provision. As a result, no formal sports facilities are indicated in the illustrative plans and officers are satisfied that this is appropriate. With respect to play facilities, a development of this size should typically be served by a Neighbourhood Equipped Area of Play (NEAP) to accord with Policy BSC11 however the scale and nature of this facility on Bicester 13 would probably be inappropriate on the site as it would either prejudice the ability to achieve sufficient levels of new housing or the objectives for preserving and enhancing the ecological value of the site. For this reason officers are content that the illustrative plans do not indicate provision of a NEAP on the site. Similarly, the Policy BSC11 requirement for the provision of allotments on developments of 280 dwellings or greater would be exceeded across the whole of the Bicester 13 site but the small pro-rata level of required provision would not be appropriate either in terms of its future management for the town council or its potential to lead to further pressure on retention/provision of ecological habitat. Officers are therefore content that the illustrative plans do not indicate any provision for allotments on the site.
- 7.21 With the above in mind, officers are satisfied that the indicated general approach to development as set out in the submitted documents demonstrates that a suitable detailed scheme can be proposed on the application site at reserved matters stage in a manner that meets the requirements and objectives of Policy Bicester 13 as well as other relevant policies of the Development Plan. For this reason officers have concluded that the proposals have the ability to provide a development of high quality that is appropriate to the site and its context such that, in this respect, officers have no objections to the proposals.

Housing Mix

- 7.22 Policy Bicester 13 requires 30% of the dwellings to be provided on the site to be affordable units. Policy BSC3 goes on to require 70% of these affordable units to be affordable rented units with the remainder intermediate (i.e. shared ownership) in tenure. The application commits to meeting these affordable housing requirements which would need to be secured through a planning obligation if planning permission was to be granted.
- 7.23 Policy BSC4 also requires new residential development to provide a mix of homes to meet current and expected housing need. As the application is in outline, no details are available of the precise mix of dwellings proposed and it is not an issue able to be left to reserved matters stage. Therefore, in order to ensure that the development responds to current identified needs, officers recommend that a condition be imposed on a planning permission that specifies the minimum proportions of 2 and 3 bedroom dwellings (25% and 45 % respectively) to be included as part of applications for reserved matters approval which should ensure that the development appropriately responds to the District's housing needs. Such a mix would be consistent with the objective of achieving a higher density of development on the site. Advice from the Council's housing officers indicates that there has been little demand as of late for extra-care housing in the Bicester area and so this is not sought on the site. In any event, the requirement for it in Policy Bicester 13 conflicts

with the 400 dwelling threshold set out in Policy BSC4 and background evidence to the CLPP1 indicated that provision as part of developments smaller than 400 dwellings would usually not be financially viable. Officers are therefore not recommending that extra-care housing is sought as part of this development.

- 7.24 Consequently, and having regard to the above, officers are satisfied that the proposed development would provide an appropriate mix of housing to meet those in priority need as well as the needs of the market in accordance with the requirements of Policies BSC3, BSC4 and Bicester 13 of the CLPP1.

Residential Amenity

- 7.25 Policy ESD15 of the CLPP1 requires the amenity experienced at both existing and future development to be considered as part of planning proposals. Similarly, Saved Policy C30 of the CLP 1996 requires new housing to provide acceptable standards of amenity and privacy. These Development Plan policies have requirements consistent with the NPPF which sets out, as a core planning principle, the need to seek a good standard of amenity for all existing and future occupants of land and buildings. The NPPF also states that *“planning decisions should aim to avoid noise from giving rise to significant adverse impact on quality of life and the need to mitigate/reduce other adverse impacts on health arising from noise”*.
- 7.26 The application is in outline and so the relationships between new houses on the site cannot be considered at this stage. Existing residential properties are however separated from the development by Gavray Drive as well as woodland along the roadside. The separation distance is significant and, as a result, the living conditions experienced at existing dwellings should not be adversely affected by the proposed development. A couple of third parties have raised some concerns that the new dwellings could be affected by noise and nuisance from the existing industrial premises along Granville Way which could in turn prejudice the businesses. However, due to the significant separation distance and intervening landscape features, which includes the railway line and its associated embankment, officers consider this concern to be without justification. In any event, the site is allocated for residential development and its principle has therefore been established. A third party has also raised a concern about children from the new homes crossing the railway footbridge and following the public footpath underneath the railway embankment and into an unsurveilled open amenity area adjacent to Bicester Distribution Park which contains open drains. Officers consider this risk to be insignificant and, indeed, low probability off-site risks can be identified with any development proposals. In any event, the site is allocated and so the principle of residential development is established and it is not within either the applicant's control to resolve these risks.
- 7.27 The site is in close proximity to the new east-west rail chord which links the two railway lines and wraps around the western and northern site boundaries. There is the potential for some train noise as well as vibration to be experienced at new dwellings close to the railway line. However, the new homes are illustratively shown to be located further away from the line than many existing dwellings in Langford Village and the Council's Environmental Protection officers have not raised particular concerns about the future living conditions. A condition is however recommended that requires submission of a noise assessment and associated mitigation measures as part of reserved matters applications so that all homes are, if necessary, attenuated to achieve the relevant World Health Organisation standard. Furthermore, there is scope for structural planting between the new dwellings and the railway line to help reduce noise penetration as well as the erection of acoustic and security fencing. Further details of these are recommended to be required through a condition if planning permission is granted which accords with Network

Rail's consultation response. It also needs to be recognised that the site is allocated and so the principle of erecting new homes in close proximity to the railway line has already been established.

- 7.28 Consequently, officers have no concerns in relation to the quality or living or the safety of occupants of the proposed new dwellings nor the impact of the development on existing occupiers of neighbouring buildings/land. As such the proposals are considered to accord with the abovementioned Development Plan policies as well as relevant national policy set out in the NPPF.

Ecology

- 7.29 Policy Bicester 13 requires development on the site to secure a net biodiversity gain, avoid adversely affecting the Conservation Target Area and protect the Local Wildlife Site. The policy also requires the detailed consideration of ecological impacts together with the preparation and implementation of an Ecological Management Plan to ensure the long-term conservation of habitats and species within the site. Policy Bicester 13 also states that development proposals should retain and enhance significant landscape features which are of ecological value.
- 7.30 Policy ESD10 is also of relevance and, inter alia, seeks a net gain in biodiversity and the protection of trees together with avoidance/mitigation of harm caused to wildlife. Policy ESD10 also states that development resulting in damage to or loss of a site of local biodiversity importance will not be permitted unless the benefits of the development clearly outweigh the harm it would cause and that such harm could be mitigated. Policy ESD11 is also material and resists development in a CTA where it would prevent the objectives of that CTA being achieved.
- 7.31 These Development Plan policies are consistent with national planning policy in the NPPF which characterises sustainable development as including a move from net loss of biodiversity to achieving net gains and encourages opportunities to incorporate biodiversity in and around developments. The NPPF also emphasises the need to promote the preservation, restoration and recovery of priority habitats and species as well as the need to avoid harm to biodiversity as part of developments or, where unavoidable, adequately mitigate that harm. The Council also has a statutory duty under s40 of the Natural Environment and Rural Communities Act 2006 (NERC Act 2006) to have due regard to the purposes of conserving biodiversity as part of exercising its functions which includes determining planning applications.
- 7.32 The existing site comprises predominantly arable land with a woodland belt along its southern boundary, the tree-lined Langford Brook to its east and a hedgerow that projects into the site along the route of the public footpath. With the exception of the proposed removal of the section of hedgerow along the footpath, the remainder of the land to be developed is arable and so of very little value as ecological habitat and which should be outweighed by new habitat created in the form of residential gardens and public amenity areas. The loss of the hedgerow is regrettable but inevitable as part of creating a suitable form and layout of development on the site and in any event the surveys submitted as part of the application demonstrate that its ecological value is comparatively low. As it contains Elm, this hedgerow does however have the potential to support white-letter hairstreak butterfly and there was some limited evidence of this as part of the species surveys undertaken in support of the planning application. This species is listed nationally as one of principal importance (i.e. priority species) and regard must be had to impacts on it. However, there is significant scope for new hedgerow planting as part of the development including along the western and northern boundary which could include Dutch-elm disease resistant species of Elm and should provide greater amounts of such habitat

than exist at present. Officers are therefore satisfied that as part of detailed landscaping proposals at reserved matters stage, the potential impact on this species could be adequately mitigated.

- 7.33 The ecological appraisal accompanying the application also identifies the other protected or priority species that might be affected by the proposed development, both during construction and post-completion. Dealing with these in turn, there were limited records of bats foraging within the woodland along the southern boundary and these could be disturbed temporarily due to increase levels of artificial lighting and noise during construction. However, the retention and enhancement of the woodland together with new planting and a suitable lighting scheme as part of reserved matters details should ensure that in the long term the effect on bats is negligible. Similarly, a single Harvest mouse nest has been found in rough grassland at the southeast corner of the site which could be affected by the proposed development though conditions are recommended that require the works to take place outside the breeding season in late winter to early spring and the existing small area of rough grassland can be retained. The application also provides the opportunity for significant informal public open space including opportunity for areas of grassland along Langford Brook and so includes the potential for a minor increase in habitat for Harvest mice. There is however the potential for increased predation by cats but overall the effect on the Harvest mouse is considered to be negligible. As with any development of arable land, the proposals have the potential to reduce the habitat available to a number of species of farmland birds, some of which are listed as priority species, including skylark and lapwing. Construction activity would also disturb foraging and/or nesting. However, the amount of farmland lost to development in this case would be very limited in the context of the amount of remaining local farmland (both individually and cumulatively with other committed development schemes) and so the permanent adverse impact would be very minor. Temporary harm to farmland birds could be partly mitigated during construction through the use of sensitive working hours, lighting and construction methods which could be secured through the use of recommended conditions.
- 7.34 The part of the site to the west of the public footpath has also recently been used as the works compound associated with the construction of the east-west rail chord. These works have resulted in the loss of a section of the hedgerow along the public footpath as well as the entirety of the previous hedgerow adjacent to the railway line as well as a short section of the woodland belt along Gavray Drive. Together these works have resulted in loss of habitat on the site and whilst Network Rail have provided some new planting as part of conditions attached to their consent, the application proposals provide the opportunity to further restore some of the site's previous ecological value. As part of efforts to objectively assess the potential ecological impacts of the development, the applicant has submitted a Biodiversity Impact Assessment (BIA). This utilises a DEFRA-based metric to quantitatively value the overall net gain/loss of habitat on a site which in turn indicates the corresponding impact on biodiversity. Whilst a slightly crude tool as there is little room for qualitative assessment or indeed the recording of all habitat gains and losses, it is a useful instrument as part of the wider process of considering biodiversity implications of a development proposal. The Council's ecologist has reviewed the submitted BIA for the proposed development and is satisfied that it provides a realistic and robust appraisal of the long term impacts of the proposed development and demonstrates opportunity for modest net gains for biodiversity through further hedgerow management and planting, new water features (SuDS basins), replacement of arable crop with areas of residential gardens and the provision of new wildflower grassland meadow within the informal amenity space adjacent to Langford Brook which would contribute towards the habitat targets for

the River Ray CTA. Once completed all such new and retained habitat within the public realm would need to be transferred to the Council via terms within a s106 agreement for future management (which the applicant has agreed to in principle) and this would secure its wildlife value in the long term. Moreover, as a public authority, all of the Council's functions are subject to the statutory duty to give due consideration to the conservation of biodiversity (NERC Act 2006) which gives additional future security to the habitat on the site once transferred to the Council. Officers recommend that if approved, a condition be imposed that requires the submission, approval and implementation of a Landscape and Ecology Management Plan (LEMP) that will set out the means by which retained and new landscaping on the site will be managed thereafter in the interests of ensuring continued biodiversity gain.

- 7.35 With the proposed development demonstrating opportunity for material gains for biodiversity both generally and within the River Ray CTA, officers are satisfied that the application is making the necessary contribution towards the ecological enhancement objectives contained within Policy Bicester 13 and does not lead to any further pressure on the remainder of the allocated site to rectify any deficiencies in this respect which might in turn prejudice the value of the LWS or CTA. Furthermore, the applicant's ecological appraisal and Environment Statement have concluded that, subject to conditions controlling construction measures, there would be no adverse impacts on the Langford Brook watercourse and so no downstream effects on wildlife or other wildlife sites. The Council's ecologists have raised no concerns in relation to these conclusions and so officers have no reason to disagree.
- 7.36 Policy Bicester 13 requires the preparation and implementation of an Ecological Management Plan to ensure the long-term conservation of habitats and species within the site. The policy also states that access to the LWS should be appropriately managed to protect ecological value. Policy Bicester 13 relates to the whole of the allocated Bicester 13 site and there are elements of its requirements that are not necessarily relevant, necessary or proportionate to proposals on only part of the site. As previously mentioned in this report, officers are satisfied that proposals on part of a site can be acceptable on this basis provided they do not fetter the ability to achieve the objectives of the allocation policy overall.
- 7.37 The Council has received a number of representations raising concern about the potential adverse impact of the proposed development on the LWS to the east of Langford Brook and the failure of the applicant to offer an ecological management plan for the LWS (which is within their control) to mitigate this impact. The concerns raised relate to the indirect effect of an additional population living in close proximity to the LWS and using it for recreation purposes which can lead to further dog walking, cat predation, littering and disturbance to wildlife.
- 7.38 Officers recognise the requirements of Policy Bicester 13 but are also cognisant that interventions through planning decisions need to be necessary, reasonable and proportionate to a development and its impacts. The application proposes up to 180 dwellings which would, once completed, be expected to support a population of about 400-450 residents. The development proposes children's play areas and an area of public open space alongside Langford Brook. There are also formal sports facilities to the south of Gavray Drive within Langford Village. As such, there are recreation facilities available to the new residents that would prevent undue pressure to utilise the LWS. Furthermore, there are also public footpath links out to the wider countryside beyond Charbridge Lane. Moreover, the proposed additional population represents only a minor increase in the context of the thousands of existing residents surrounding the LWS including within Langford Village. Any

increase in recreational use of the LWS is therefore unlikely to be material and therefore it is difficult to conclude at this stage that it would be proportionate or necessary to impose financially significant as well as burdensome requirements relating to future management of the LWS. Members should also note that the LWS is separated from the application site by Langford Brook which presents a natural barrier and so access to it is not immediately available. This reduces the prospect of its regular access as well as potential for predation within the LWS by domestic cats resulting from the new homes.

- 7.39 Members should also bear in mind that the LWS is wholly on private land and there is no public right of access to it. Those that currently access it are therefore trespassing though the landowner has taken a relaxed approach and not sought to actively prevent public access though does not encourage it. It is therefore difficult to have regard to the potential for future residents to act unlawfully by accessing neighbouring private land without permission. Nevertheless, even if trespassing onto the LWS was to take place, for the above reasons officers are not convinced that it would be to such a level that it would be materially significant in the context of existing levels of trespass to justify a requirement for a fully funded ecological management plan. The applicant is however fully aware (and has acknowledged) that as part of development proposals on land to the east of Langford Brook there is likely to be a significant net adverse impact on wildlife without proposing (and securing) a comprehensive strategy for long term management and enhancement of the LWS and the remaining parts of the CTA. Officers agree that it is only at this stage that a comprehensive ecological management plan could reasonably be requested and secured. Notwithstanding this, if Members are still concerned about the potential for indirect adverse impact on the LWS resulting from the proposed development increasing the risk of unauthorised recreational use then a condition could be imposed that requires the approval and implementation of measures to prevent public access to the LWS (as this is within the applicant's control).
- 7.40 The construction stage of the proposed development has the potential to give rise to harm to wildlife and, as with many major development proposals, this can be appropriately controlled and minimised through the use of conditions. This includes a requirement for the approval and implementation of an Ecological Construction Method Statement (ECMS) that would need to include measures to protect retained landscape features, minimise any risk of construction disturbance to wildlife as well as reduce risk of contamination of the brook. Moreover, officers recommend that a condition be imposed that prevents removal of hedgerows during the bird breeding season as well as a condition that requires a further site survey by an ecologist to take place less than three months before commencing development to determine whether there has been any changes to circumstances with respect to statutorily protected species.
- 7.41 Consequently, and subject to the imposition of the abovementioned conditions, officers are satisfied that the proposals would adequately protect and enhance biodiversity on the site as well as adequately mitigate any limited harm to protected and priority species in accordance with the requirements of Policies Bicester 13, ESD10 and ESD11 of the CLPP1 as well as national policy contained in the NPPF. Furthermore, there is no evidence that the proposals would give rise to direct or indirect material harm to the adjacent Gavray Drive Meadows LWS or the wider River Ray CTA and so there is no reasonable justification for an ecological management plan for the wider Bicester 13 site to be secured as part of these application proposals. There is no reason therefore to conclude that there is anything within the application proposals that is contrary to the overall biodiversity enhancement objectives set out in Policy Bicester 13.

Flood Risk and Drainage

- 7.42 Policy Bicester 13 requires consideration to be given to flood risk from Langford Brook and the incorporation of a sustainable drainage system (SuDS). Policies ESD6 and ESD7 resist development where it would be unduly vulnerable to flooding as well as proposals that would increase the risk of flooding either locally or elsewhere. Policies ESD6 and ESD7 closely reflect national planning policy and guidance set out in the NPPF and PPG.
- 7.43 The eastern third of the application site lies within a combination of Flood Zones 2 and 3 as defined in the Council's Strategic Flood Risk Assessment (SFRA) and the Environment Agency's flood mapping. Sites allocated within a Development Plan that have been subject to the Sequential Test through the preparation, examination and adoption of a Local Plan do not need to be the subject of a further sequential test as part of determining a planning application. This is confirmed within the Government's PPG. Consequently, the principle of constructing new homes in Flood Zone 2 does not need to be considered further as Policy Bicester 13 endorses this. However, Policy Bicester 13 states that all housing must be located outside Flood Zone 3 yet some of the new housing is indicated to be provided in this flood zone given that the southeast corner of the site is modelled to be more likely to experience flooding. In order to obtain a sensible building line and eastern development edge, the applicant proposes that level-for-level flood compensation works are undertaken which slightly raise part of the southeastern corner of the site and lower land at the northeastern corner with the result that the flood zones are altered to remove all new housing from what would be Flood Zone 3. The Environment Agency has confirmed that they are satisfied with the works proposed and have no objection to the proposals subject to the development being carried out in the manner specified in the application's Flood Risk Assessment.
- 7.44 Notwithstanding the above, housing is technically proposed in the existing Flood Zone 3 and Bicester 13 was not subject to a Sequential Test as part of the preparation of the CLPP1 to accommodate development in such a flood zone. The aim of the Sequential Test is, as defined in the NPPF, to steer new development to areas with the lowest probability of flooding. However, having regard to the lack of available land within Flood Zones 1 and 2 on the application site to reasonably accommodate further development, the desire to avoid increasing levels of development on the part of the allocated site to the east of Langford Brook, the lack of obvious more suitable alternative residential development sites in or around Bicester as well as the appropriate nature of the flood compensation scheme proposed, officers are satisfied that there is no objection to development taking place in Flood Zone 3 and that the Sequential Test is passed in this case.
- 7.45 As set out above, whilst all new housing would ultimately end up within Flood Zone 2 as a result of flood compensation works, the proposals would see some new housing within the existing extent of Flood Zone 3 and the starting point is to avoid such development. With the sequential test considered to be passed, the NPPF and Policy ESD6 now require the application of the Exception Test. Such a test is necessary where new housing is proposed within Flood Zone 3 and is only passed where two criteria are met: (a) the wider sustainability benefits of the development outweigh flood risk; and, (b) a Flood Risk Assessment demonstrates that the development will be safe for its lifetime and not increase flood risk elsewhere.
- 7.46 With respect to criteria (a), officers are satisfied that the substantial need for new housing in a sustainable location on a site otherwise suitable for development provides significant wider sustainability benefits having regard to the Development Plan and national planning policy which would outweigh any limited impact of carrying out ground works to modify flood risk. With respect to criteria (b), the

Environment Agency has advised that the flood compensation works would result in all new housing within Flood Zone 2 and which are suitably safe and has not raised any concerns that the works would lead to increased risk of flooding elsewhere. Officers are therefore satisfied that the Exception Test is passed and that subject to conditions requiring the recommendations of the Flood Risk Assessment to be carried out and imposing a restriction on new housing in the existing extent of Flood Zone 3, the proposals are considered to accord with the relevant requirements of the NPPF, Policy ESD6 of the CLPP1 and the spirit of Policy Bicester 13.

- 7.47 Both Policies Bicester 13 and ESD7 of the CLPP1 require new development to incorporate SuDS to ensure that there is no increase in risk of surface water discharge from the site which could cause flash flooding in a storm. The Flood Risk Assessment includes an overarching surface water drainage strategy for the development which the drainage engineers at OCC (the Lead Local Flood Authority) consider to be appropriate and which includes a system of balancing ponds and swales to store, treat and disperse storm water before controlled discharge to the brook so that there is no increase in the rate of surface water run-off in comparison to pre-development levels. Full details of the surface water drainage scheme are recommended to be secured by condition and officers are satisfied that the details of such a scheme can accord with the requirements of Policies Bicester 13 and ESD7 of the CLPP1 as well as national planning policy which seeks sustainable drainage systems as part of major development.

Infrastructure

- 7.48 Policy Bicester 13 requires new development on the site to provide on-site infrastructure as well as provide financial contributions towards off-site infrastructure in order to deliver a suitable quality of new development and to mitigate the impact of development on public and community infrastructure. Policy INF1 has similar requirements though is not site specific.
- 7.49 Turning first to on-site infrastructure, this primarily relates to public amenity space and recreation facilities. New housing developments of the size proposed exceed thresholds in Policy BSC11 for a variety of children's play areas including for a Local Area of Play (LAP), Local Equipped Area of Play (LEAP) and a Neighbourhood Equipped Area of Play (NEAP). Given the limited size of the site, the walking distances from the new houses to centrally located play areas would not be significant and so officers are of the view that a single combined LAP/LEAP facility would be satisfactory and its provision should be secured through a planning obligation. A NEAP requires a greater area of land (8500sq m) and its provision on the site would either materially reduce the amount of land available for housing or put pressure on the CTA to accommodate more built development. In this case and given the site constraints, officers are satisfied that provision of funding towards an off-site facility would be more appropriate and so are recommending that a financial contribution is secured towards this through a planning obligation. Policy BSC11 also requires general green space to be provided to serve new dwellings and about 1.2ha would be expected to be provided as part of this development. Officers are satisfied that the area of public amenity space adjacent to Langford Brook constitutes suitable provision in this respect in that it is of an appropriate size and is pleasant, overlooked and easily accessible. A planning obligation is necessary to secure its provision together with other areas of public green space and their long term maintenance through transfer to the Council.
- 7.50 Policy Bicester 13 recognises that the site is constrained and so includes requirements for contributions towards off-site outdoor sports facilities rather than on-site provision. To this end officers recommend securing financial contributions of approximately £179,000 towards new outdoor sports facilities in the local area

through a planning obligation. Similarly, officers also recommended that a financial contribution (approximately £130,000) is secured towards enhancing local indoor sports provision through a planning obligation to mitigate the impact of additional demand arising from the proposed development.

- 7.51 Developments of 275 dwellings or more are also required, through Policy BSC11, to provide allotments on site. Whilst the proposed development is less than 280 dwellings, cumulatively with development across the whole of the allocated site the policy threshold would be exceeded. As a result, officers recommend that the application proposals make a proportionate contribution. Rather than providing the necessary 0.2ha of allotments on the application site, which would be difficult to manage as such a small facility and which could prejudice the ability to achieve suitable efficiency of housing development on the site, officers recommend that a financial contribution is sought through a planning obligation for provision of further allotments off-site as part of wider new allotment provision at southwest Bicester. Policy Bicester 9 also requires new residential developments to make a contribution towards establishing new cemetery provision in the town and officers recommend that such a contribution is sought through a planning obligation.
- 7.52 New residents as part of the proposed development would also place additional demand on the local community hall within Langford Village. Officers recommend that a financial contribution is secured towards improvements to this existing community hall to mitigate the impact of additional use. Further funds are also sought towards community integration packs for each household.
- 7.52 With respect to education, OCC has identified the need for additional capacity at primary, secondary and special education schools to accommodate new pupils arising from the proposed development. This includes a need to expand Longfields Primary School, provide a new secondary school in Bicester as well as improvements at Bardwell School. The application is in outline with the mix of housing unknown at this stage but OCC is seeking a contribution based on a matrix that corresponds to the final housing numbers/sizes approved as part of reserved matters applications. Officers agree that financial contributions are required to be secured as part of planning obligations to mitigate the impact on local education provision.
- 7.53 Having regard to the above, subject to securing the necessary on and off-site infrastructure through planning obligations, officers are satisfied that the proposed development would provide a satisfactory residential environment for new residents as well as adequately mitigate its impact on public infrastructure in accordance with the requirements of Policies Bicester 13, BSC11 and INF1 of the CLPP1.

Historic Environment

- 7.54 The NPPF places great importance on the preservation and enhancement of heritage assets, dependent on significance, as part of achieving sustainable development. The NPPF further adds that harm to heritage assets should be avoided unless outweighed by public benefits.
- 7.55 The application site is not in close proximity to any designated heritage assets with the Bicester Conservation Area and nearest listed buildings being some distance away. Similarly there are no scheduled monuments on the site or in the immediate surrounding area. There are also no non-designated heritage assets or locally listed buildings close to the site. As a result, the proposals would not have any effect on above-ground heritage assets and so there is no conflict with local or national planning policy in this respect.

- 7.56 Policy Bicester 13 requires an archaeological field evaluation to be undertaken to assess the impact of the development on archaeological features. An archaeological evaluation has been undertaken which recorded a number of archaeological features including possible Iron Age pits and a number of gullies. The evaluation only investigated part of the application site though OCC's archaeologist is satisfied that this is sufficient at this stage to determine likely archaeological interest. Further archaeological features may survive on the site however and a programme of archaeological investigation would therefore be required ahead of any development on the site. Officers are therefore recommending that, in the event planning permission is granted, that conditions should be imposed that require the approval and implementation of a staged programme of archaeological investigation that would be maintained during the period of construction. Subject to such conditions, officers are satisfied that the proposals would adequately preserve and record any buried heritage assets on the site in accordance with best practice and guidance set out in the NPPF.

Trees/Landscaping

- 7.57 As stated previously in this report, Policy Bicester 13 requires the retention and enhancement of significant landscape features. This reflects some of the requirements of Policy ESD10 which promotes the protection of trees as part of development proposals. The Council also has a statutory duty to ensure that in granting planning permission that adequate provision is made for the preservation or planting of trees. Landscaping is a matter reserved for later approval and so detailed landscape protection and planting schemes have not been proposed at this stage. However, the illustrative plans indicate the retention of all existing trees and hedgerows with the exception of the hedgerow that follows the public footpath through the site. Officers have already commented on the acceptability of removing this hedgerow which could be mitigated through new planting around the site edges and which would be expected to be detailed as part of reserved matters submissions. The existing woodland belt along the southern boundary is proposed to be retained and there is the potential for enhancement to replace some of the trees and hedgerows lost as part of the recent Network Rail works which have left a barren northern and western boundary to the site. Reserved matters applications would be expected to detail this new landscaping as well as demonstrate suitable protection measures with respect to retained trees. Reserved matters submissions would also be expected to detail the wildflower planting and grassland along Langford Brook to ensure that it provides suitable ecological habitat.
- 7.58 Consequently, officers are satisfied that a suitable detailed scheme is able to be proposed as part of reserved matters applications that would retain existing landscape features of importance whilst providing opportunity for mitigatory and further planting that would contribute towards biodiversity enhancement objectives and deliver an appropriate quality of development that is in keeping with its context. In this regard officers are therefore of the view that the proposals accord with the requirements of relevant policies of the Development Plan including Bicester 13 and ESD10.

Energy Efficiency/Sustainability

- 7.59 Policy ESD3 of the CLPP1, inter alia, requires new residential development to achieve zero carbon. This part of the policy is however no longer consistent with national planning policy and so can be afforded limited weight. Policy ESD3 does however require new dwellings to achieve a water efficiency limit of 110 litres/person/day – this requirement of the policy is still up-to-date and so a condition is recommended that requires new homes to accord with this limit.

- 7.60 Policies ESD4 and ESD5 are also material and the applicant has submitted an Energy Statement to demonstrate the potential feasibility of incorporating significant on-site renewable energy provision as well as the use of District Heating (DH) or Combined Heat and Power (CHP). Officers are satisfied that there is not a suitable local DH system to draw heat from. CHP is also not considered to be feasible given the lack of a consistent significant heating and water demand from the new homes. CHP systems can only operate efficiently where year round heating demand can utilise the available waste heat from co-generation to improve efficiency – this is not the case as part of the development. Officers have therefore found that the proposals have adequately demonstrated that DH and CHP systems are neither feasible nor viable in accordance with the requirements of Policy ESD4 of the CLPP1.
- 7.61 In accordance with Policy ESD2, the applicant proposes a fabric first approach to energy efficiency with details that would be provided as part of the detailed reserved matters submissions. The applicant does however commit to incorporating solar PV, solar thermal and waste water heat recovery as part of meeting the requirements of Policy ESD5. Officers are satisfied that such commitments meet the need to incorporate significant on-site renewable energy provision and a condition is recommended that requires further details to be submitted as part of reserved matters applications.
- 7.62 Consequently, and having regard to the above, officers have found that the proposals have the opportunity to be sustainably constructed in accordance with the requirements of Policies Bicester 13 and ESD1-5 of the CLPP1 and that further assessments would be required as part of later reserved matters submissions to ensure the relevant standards continue to be met.

Land Contamination

- 7.63 Policy ENV12 of the CLP 1996 resists development that would take place on land that is potentially contaminated unless it is adequately remediated such that there is not a risk to human health or water resources. These policy requirements are consistent with national planning policy in the NPPF. There is no evidence that the site is contaminated such that it would be unsafe for occupation. Nevertheless, as a precautionary measure officers recommend the imposition of conditions that require a phased contamination risk assessment to be undertaken to determine the potential for contamination and any potentially necessary remedial works. Subject to these conditions, officers have no objection to the proposals in this respect.

Local Finance Considerations

- 7.64 The proposed development has the potential to attract New Homes Bonus of £956,196 over 4 years under current arrangements for the Council. Local finance considerations such as this can be material in the determination of planning applications. However, Government guidance set out in the PPG is clear that whether a local finance consideration is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. Government guidance goes on to state that *'it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.'*
- 7.65 In the case of the proposed development, it is not clear how the New Homes Bonus payment would make the development acceptable in planning terms. As a result it should not be afforded material weight in the determination of this application. In any event, officers do not think it appropriate that the harmful impacts of a development should be balanced against financial gain for the Council and to do so would jeopardise public confidence in the planning system.

Planning Obligation(s)

- 7.66 Where on and off site infrastructure needs to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). Each obligation must be:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development;
 - c) fairly and reasonably related in scale and kind to the development.
- 7.67 Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. To do so would potentially render any decision unlawful. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. The statutory tests also ensure that planning permissions cannot lawfully be 'bought' by developers offering unrelated, disproportionate but nonetheless attractive contributions to try to achieve a planning permission that would otherwise not be granted. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them.
- 7.68 In order for the proposed development to be acceptable having regard to local and national planning policy requirements, officers recommend that the following items need to be secured via planning obligations within a legal agreement (with both Cherwell District Council and Oxfordshire County Council) in order to mitigate the impact of the proposed development:

Cherwell District Council:

- Provision of 30% affordable housing (70% affordable rent, 30% social rent);
- Provision of a combined LAP/LEAP on the site together with transfer to the Council and commuted sum to cover long term maintenance;
- Financial contribution in lieu of on-site provision of a NEAP;
- Financial contribution towards off-site improvements to indoor and outdoor sports facilities;
- Financial contribution in lieu of on-site provision of allotments (0.12ha);
- Financial contribution towards additional cemetery provision in Bicester;
- Financial contribution towards expansion of Langford Village Community Hall;
- Provision, maintenance and transfer to the Council of on-site public realm features including open space, trees, hedgerows, SuDS features etc;

Oxfordshire County Council:

- Financial contribution of £1000/dwelling towards improving local bus services;
- Financial contribution towards a strategy to increase capacity on the A4421 between Buckingham Road and Gavray Drive;
- £18,000 towards new bus stop infrastructure on Wretchwick Way;
- £1,240 towards monitoring the travel plan;
- £20,000 towards safety improvements at junction between Peregrine Way and Wretchwick Way;
- Financial contributions towards expansion of Longfields Primary School, provision of a new secondary school in Bicester and improvements at Bardwell School;
- A requirement to enter into a highway agreement under s278 of the Highways Act 1980 prior to commencement of the development to provide:
 - works on Gavray Drive including vehicular, pedestrian and cycle access, safe crossing points and a raised crossing across Mallards Way;
 - signalised crossing of Wretchwick Way including hardstanding for bus stops.

Other Matters

- 7.69 Network Rail has raised a number of matters in relation to the proposal that seek to ensure safety of the railway. Much of this relates to construction measures and the need to avoid oversailing of the railway and avoidance of undue levels of vibration. Officers propose that details of such measures are required to be contained within a construction management plan that is recommended to be secured by condition. It is unclear at this stage whether an acoustic fence would be necessary or simply a security fence to reduce risk of trespass onto the railway line and further details are recommended to be required through a condition. Where new fences are necessary, details of long term maintenance will need to be provided. Network Rail would be consulted as part of considering any details submitted in requirement of these conditions.
- 7.70 Network Rail has raised some queries regarding future soft landscaping treatment along the boundary with the east-west rail chord and expressed a preference for evergreen vegetation to avoid risk of leaves falling onto the tracks. It is not clear to what extent these comments are generic to development proposals or perhaps unduly precautionary. Officers would expect Network Rail to be consulted on the landscape proposals that are submitted as part of reserved matters applications to ensure that it has the opportunity to provide input into consideration of the detailed scheme.
- 7.71 The comments from Network Rail are noted and in officers' view can be responded to appropriately through the use of conditions. As a result there is no reason to conclude that the proposed development would be inherently unsafe either for future residents or users of the railway or indeed be generally incompatible with its surroundings.
- 7.72 Bicester Town Council has raised some concern about the capacity of existing sewerage infrastructure to accommodate the development. These concerns would be overcome through the imposition of the condition recommended by Thames Water which would prevent development taking place until any necessary improvements to infrastructure have been identified and undertaken.
- 7.73 Some third parties have raised concerns about the implications of the proposals on the Council's aspirations to designate a Local Green Space on part of the allocated land to the east of Langford Brook. Even if this remains an aspiration through Local Plan Part 2, and it is not clear to officers how this would be consistent with Local Plan Part 1, it has absolutely no weight in the consideration of this application as it is not part of an emerging or adopted development plan document and so is not a material planning consideration.

8. PLANNING BALANCE AND CONCLUSION

- 8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined against the provisions of the Development Plan unless material considerations indicate otherwise. Government guidance within the NPPF supports the plan-led system and advises that applications that accord with an up-to-date plan should be approved without delay. For the reasons set out in the report, officers have found that the proposals are consistent with the policies of the Development Plan including, in particular, Policy Bicester 13. As such, the starting point is to approve the application.
- 8.2 It is then necessary to consider whether any material planning considerations indicate otherwise. National planning policy and guidance is one such consideration and includes a presumption in favour of sustainable development. The Council can

demonstrate 5+ years of housing supply within the District and the policies of the CLPP1 were examined and found sound (subject to incorporation of modifications) against the provisions of the NPPF. As such, there is no reason to conclude that its policies are anything other than sustainable, up-to-date and consistent with the NPPF. As a result, the NPPF does not indicate a reason to depart from the decision that would otherwise be reached against the provisions of the Development Plan. Officers are unaware of any other material consideration of significant weight, including matters raised in response to consultation/publicity, that would justify departing from the decision that would be taken against the Development Plan.

- 8.3 As a result, officers have concluded that the application should be approved and outline planning permission granted subject to conditions and the completion of a legal agreement. In coming to this conclusion officers have had regard to the Environmental Statement submitted alongside the planning application and are satisfied that the proposals would not have significant adverse environmental effects subject to the conditions and planning obligations recommended. This report should be considered to constitute the local planning authority's statement for the purposes of reg. 24(c) of the EIA Regulations 2011 (as amended) as to the main reasons and considerations on which a decision to grant planning permission would be based including a description of the measures to avoid, reduce or offset the major adverse effects of the development.

9. RECOMMENDATION

That Members resolve to grant outline planning permission subject to the conditions listed below and delegate the issuing of the decision notice to the Head of Development Management following satisfactory completion of a legal agreement to secure the items listed in paragraph 7.68.

Conditions

1. No development shall commence until full details of the layout, scale, appearance and landscaping (hereafter referred to as reserved matters) of the hereby approved 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. In the case of the reserved matters, no application for approval shall be made later than the expiration of three years beginning with the date of this permission.

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

3. The development to which this permission relates shall be begun not later than the expiration of two years from the approval of all of the reserved matters or, in the case of approval on different dates, the approval of the last such matter to be approved.

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).

4. Except where otherwise stipulated by condition, the development shall be carried out strictly in accordance with the following plans and drawings:

JJG050-015 Rev. A

14-033/009 Rev. B

and all applications for reserved matters approval shall be in general accordance with the principles set out in the submitted Parameters Plan (dwg no. 001 Rev. D).

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.

5. Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels of proposed buildings in relation to existing ground levels on the site 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 finished floor levels plan.

Reason - To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. No dwelling hereby approved shall be occupied 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

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.

7. Prior to the first occupation of any dwelling hereby approved, full details of the fire hydrants to be provided on the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any dwelling, the fire hydrants shall be provided in accordance with the approved details and retained as such thereafter.

Reason - To ensure sufficient access to water in the event of fire in accordance with Government guidance contained within the National Planning Policy Framework.

8. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day.

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

9. Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development) Order 2015 (and any Order or Statutory Instrument

amending, revoking or re-enacting that order), all water supply, foul drainage, power, energy and communication infrastructure to serve the proposed development shall be provided underground and retained as such thereafter unless with the prior written approval of the local planning authority.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy 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.

11. Prior to the commencement of the development, impact studies on the existing water supply infrastructure, which shall determine the magnitude and timing of any new additional capacity required in the system and a suitable connection point, 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 the water supply infrastructure has sufficient capacity to accommodate the additional demand in accordance with Government guidance contained within the National Planning Policy Framework.

12. All applications for reserved matters approval shall be accompanied by a surface water drainage scheme for the site, based on the agreed JBA Consulting Flood Risk Assessment (FRA) and Drainage Assessment of reference 2013s7196, dated April 2015 and its accompanying appendices. The development shall subsequently be implemented in accordance with the surface water drainage scheme approved as part of the grant of reserved matters approval. The scheme shall include:

- Details of the stone blankets/storage basin as outlined in the FRA, including a network drainage plan of these details.
- Reduction in surface water run-off rates to 3.22 l/s/ha for the 6.7ha site.
- Detailed drawings of the flood compensation scheme.

Reason - To prevent the increased risk of flooding, to improve and protect water quality and ensure future maintenance of these in accordance with the requirements of Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1.

13. No development shall take place until a scheme for the provision and management of an eight metre wide buffer zone alongside the Langford Brook shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping; and could form a vital part of green infrastructure provision. The schemes shall include:

- plans showing the extent and layout of the buffer zone
- details of any proposed planting scheme (for example, native species)

- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan
- details of any proposed footpaths, fencing, lighting etc.

Reason - Development that encroaches on watercourses has a potentially severe impact on their ecological value. Insert site specific examples, e.g. artificial lighting disrupts the natural diurnal rhythms of a range of wildlife using and inhabiting the river and its corridor habitat. Land alongside watercourses, wetlands and ponds is particularly valuable for wildlife and it is essential this is protected.

14. The development shall be carried out in accordance with the recommendations and conclusions set out in the Flood Risk Assessment submitted as part of the planning application (produced by JBA Consulting and dated April 2015). No dwelling shall be constructed within that part of the site shown to be currently in Flood Zone 3 (as shown in submitted Flood Risk Assessment) except following the completion of the flood compensation scheme set out in the aforementioned Flood Risk Assessment to ensure the risk of flooding has been suitably reduced.

Reason – To ensure the development does not increase risk of flooding or result in new dwellings being unduly vulnerable to flooding in accordance with the requirements of Policy Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

15. All applications for reserved matters approval shall be accompanied by details of the renewable energy provision to be incorporated into the development. Thereafter the development shall be carried out in accordance with the details of renewable energy provision approved as part of the granting of reserved matters approval.

Reason – In the interests of delivering environmentally sustainable development in accordance with the requirements of Policy ESD5 of the Cherwell Local Plan 2011-2031 Part 1.

16. Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, an Ecological Construction Method Statement (ECMS), which shall include details of the measures to be taken to ensure that construction works do not adversely affect 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 ECMS.

Reason - To protect habitats and species of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

17. Prior to the first occupation of any dwelling hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the retained and proposed landscaped areas on the site shall be managed in accordance with the approved LEMP.

Reason LR4 - To ensure the delivery of green infrastructure and biodiversity gain in accordance with Government guidance contained within the National Planning Policy Framework.

18. All applications for reserved matters approval shall be accompanied by a Biodiversity Statement setting out how the detailed reserved matters proposals would ensure adequate protection and enhancement of biodiversity on the site so that an overall net gain is achieved as part of the development.

Reason – To ensure that a detailed scheme continues to achieve the net gains for biodiversity that the planning application and its supporting documentation indicate is deliverable in accordance with the requirements of Policies ESD10 and Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

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

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2012).

20. Following the approval of the Written Scheme of Investigation and prior to the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority.

Reason – To safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF (2012).

21. Prior to the commencement of the development, full details of proposed alterations to the alignment, surfacing and treatment of Public Footpath 129/3/20 including the link to the rail footbridge to the north and a timetable for its delivery shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason – To ensure suitable permeability of the development in the interests of pedestrian amenity in accordance with the requirements of Policy Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

22. Prior to commencement of the development hereby approved, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the Local Planning Authority. The CMP shall include measures relating to:

- Management and routing of construction traffic;
- Measures to reduce adverse impact on neighbouring amenity;
- Details of measures to reduce risk of harm to the safety and operability of the railway.

The development shall be carried out in accordance with the approved Construction Management Plan at all times.

Reason – To ensure that construction work adequately safeguards the amenity of nearby residents and to minimise adverse impacts from construction traffic on the local highway network.

23. Prior to first occupation of the development hereby approved, the name and contact details of the Travel Plan Co-ordinator should be submitted to the Local Planning Authority and prior to the occupation of the 90th dwelling a full 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. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

24. All applications for reserved matters approval shall be accompanied by a noise impact assessment to demonstrate that all habitable rooms within the proposed dwellings experience internal noise levels that do not exceed the criteria specified in Table 4 of the British Standard BS 8233:2014. Thereafter the approved dwellings shall be constructed in accordance with the details set out in the noise impact assessment approved as part of the grant of reserved matters approval so that the above noise standard is achieved.

Reason – In the interests of ensuring a suitable standard of internal and external living environment as part of all new dwellings in accordance with the requirements of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

25. No vibro-compaction machinery or piling shall take place as part of the construction of the development unless the details of such machinery has been submitted to and approved in writing beforehand by the local planning authority in consultation with Network Rail.

Reason – In the interests of the safety of users of the adjacent railway line.

26. All applications for reserved matters approval shall be accompanied by details of the boundary treatment between the site and the adjacent railway line together with details of its long term maintenance arrangements. Thereafter the development shall be carried out in accordance with the details approved as part of the granting of reserved matters approval.

Reason – To ensure the appearance and safety of such a feature can be considered holistically as part of the wider urban design merits of the detailed scheme in accordance with the requirements of Policies ESD15 and Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

27. Prior to the commencement of the development, an earthworks management plan that sets out the approach to the storage and disposal of spoil created as a result of the construction of the development shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved plan.

Reason – In the interests of the visual appearance of the site in accordance with the requirements of Policy ESD15 and Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

28. Prior to the commencement of any part of the development within 10m of the existing public footpath, the footpath shall be protected and fenced 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 footpath shall remain fenced and available for use throughout the construction phase in accordance with the approved details.

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

29. Prior to, and within no more than three months of the commencement of the development, the site shall be 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 previous surveys in support of the planning 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 prior to any development commencing. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

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.

30. 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 beforehand that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

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.

31. No development shall commence until details have been submitted and approved in writing by the local planning authority that demonstrate how all dwellings on the site will achieve an energy performance standard equivalent to at least Code Level 4 of the former Code for Sustainable Homes. No dwelling shall be occupied until it has been constructed to meet the energy performance standard in accordance with the approved details.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

32. No dwelling shall be occupied until the means of vehicular access to the development and associated highway works as shown in drawing no. 14-033/009 Rev. B have been fully laid out and made available for continued use.

Reason – To ensure that there is a suitable means of access to the development in accordance with the requirements of Policies SLE4 and Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

33. No dwelling shall be occupied until a scheme of public art for the site has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the artwork, timetable for its provision as well as details of its long term maintenance. Thereafter the public art shall be provided and maintained in accordance with the approved scheme.

Reason – In the interests of creating a high quality residential environment in accordance with the requirements of Policy Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

34. No development shall commence until details of the pedestrian and cycle access links into the development from Gavray Drive as indicated in the Parameters Plan (dwg no. 001 Rev. D) together with associated works to the highway to enable connections with existing footpath/cycle links have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the pedestrian and cycle links have

been provided as approved.

Reason – To enable appropriate means of pedestrian connectivity between the development and the surrounding area in accordance with the requirements of Policies SLE4, ESD15 and Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

35. No dwelling shall be occupied until details of a raised crossing of Mallards Way have been submitted to and approved in writing by the local planning authority together with a timetable for its provision. The development shall thereafter only take place in accordance with the approved details.

Reason – To ensure suitable and safe means of pedestrian and cycle connectivity to and from the development in accordance with the requirements of Policies SLE4 and Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

36. No development shall commence until details of two new bus stops on Wretchwick Way together with associated hardstanding, infrastructure, signalised crossing and footway improvements have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the bus stops and associated means of access to them have been provided in accordance with the approved details.

Reason – In the interests of promoting and delivering sustainable modes of travel for the residents of the development in accordance with the requirements of Policies SLE4 and Bicester 13 of the Cherwell Local Plan 2011-2031 Part 1.

37. The development shall include a minimum of:

- 45% of the total number of private/market dwellings as three bedroom dwellings;
- 25% of the total number of private/market dwellings as two bedroom dwellings.

All applications for reserved matters approval shall reflect these requirements.

Reason – To ensure that the development responds to identified housing needs within the District in accordance with the requirements of Policy BSC4 of the Cherwell Local Plan 2011-2031 Part 1.

CASE OFFICER: Matthew Parry

TEL: 01295 221837

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DAK/ENC2: Local Plan Inspectors Report on Cherwell District Council Local
Plan Part 1

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Report to Cherwell District Council

by Nigel Payne BSc (Hons), Dip TP, MRTPI, MCM

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

Date: 9th June 2015

PLANNING AND COMPULSORY PURCHASE ACT 2004 (AS AMENDED)

SECTION 20

REPORT ON THE EXAMINATION INTO THE CHERWELL LOCAL PLAN

Document submitted for examination on 31 January 2014

Examination hearings held between 3 June and 23 December 2014

File Ref: PINS/C3105/429/4

ring road is allocated for mixed use development in policy Bic 12. Whilst suitable in principle and in a relatively sustainable location on the edge of the town, it is adjacent to a Scheduled Ancient Monument (SAM) - the Wretchwick Deserted Medieval Settlement, and in the vicinity of the River Ray Conservation Target Area to the north. Therefore, for this major scheme to be sound, the policy needs to provide suitable and sufficient clarification relating to these important design and layout considerations, in addition to requiring that a route be provided for a future south east relief road around this part of Bicester, that would link into the similar provision on the Graven Hill site (Bic 2) to the south west, to provide a consistent policy approach on this matter.

132. In order to help meet the full OAN of the district the Council now proposes a significant increase in the size of this site from 40 to 155 ha, in the number of new homes from 400 to 1,500 and in the level of new jobs from 2,000 to 3,000, primarily in B8 uses, given the location and local demand, from that in the submitted plan. As a result, further modifications to the policy relating to a Masterplan, an Ecological Management Plan, retention of the northernmost part of the site free from built development, as well as providing links between areas of ecological interest, landscape/visual and heritage impact assessments and an archaeological field evaluation are needed for soundness (**MM 88**).
133. The policy also needs to ensure protection of the grade II listed Wretchwick Farmhouse, as well as the SAM and its setting, including through the provision of a landscape buffer. However, the exact nature and extent of that buffer is a matter for determination in the context of a detailed design and layout for the scheme, rather than predetermination in this policy. Furthermore, policy amendments to refer to improved pedestrian and cycle links, including to Bicester town centre, plus the protection of existing public rights of way and improved public transport services, including a through route for buses between the A41 and the A4421, are also necessary for soundness, as are contributions to secondary school provision and a mixed use local centre to serve new residents (**MM 88**).
134. It is only in the context of a Masterplan having been prepared that the details of the scheme in relation to the specific ecological interests of the site and its immediate surroundings can be resolved, rather than in a strategic plan. Similarly, any limited extension of the site, which might potentially assist in the resolving those issues, is a matter for either the LP Part 2 and/or a planning application, partly due to the non-strategic scale of the land involved.

Policy Bicester 13 – Gavray Drive

135. This area of largely flat land, bounded by railway lines to the north and west, the ring road to the east and residential development to the south lies to the east of Bicester town centre in a very sustainable location. Planning permission has previously been granted for new housing but that has now expired. In view of the need for additional sites to help meet OANs it is still considered suitable in principle to accommodate new development. However, the eastern part is now designated as a Local Wildlife Site, with the central/eastern sections containing lowland meadow; a BAP priority habitat.
136. Additionally, roughly a quarter of the site lies in Flood Zones 2 and 3 adjacent to the Langford Brook that runs north-south through the centre of the site.

The majority also lies within the River Ray Conservation Target Area. Nevertheless, even with these constraints, indicative layouts demonstrate that, taking into account appropriate and viable mitigation measures, the site is capable of delivering around 300 homes at a reasonable and realistic density not greatly different from that of the modern housing to the south.

137. In addition to necessary infrastructure contributions towards education, sports provision off site, open space, community facilities and public transport improvements, a number of other specific requirements are needed under policy Bic 13 for this proposal to be sound, in the light of current information about the site's ecological interests and environmental features. In particular, that part of the allocation within the Local Wildlife Site east of Langford Brook (just under 10 ha) needs to be kept free from built development and downstream SSSIs protected through an Ecological Management Plan prepared and implemented to also ensure the long term conservation of habitats and species within the site. Landscape/visual and heritage impact assessments and archaeological field evaluation are also required.
138. There must also be no new housing in flood zone 3 and the use of SUDs to address flood risks will be required. Subject to such modifications (**MMs 89-91**), policy Bic 13 is sound and would enable this site to make a worthwhile contribution to new housing needs in Bicester and the district in a sustainable location. This can be achieved without any material harm to environmental or ecological interests locally as a result of the various protection, mitigation and enhancement measures to be included in the overall scheme.
139. Requests that the developable area shown on the policies map should be reduced to avoid any development in the whole of the River Ray Conservation Target Area would significantly undermine this contribution. It would also potentially render the scheme unviable or at the very least unable to deliver a meaningful number of new affordable units, as required under policy BSC 3, when all other necessary contributions are also taken into account. Moreover, it could well materially reduce the potential for the scheme to contribute to enhancement of the Local Wildlife Site's ecological interest as part of the total scheme, thereby effectively achieving the main objective of the Conservation Target Area. Consequently, it would not represent a reasonable, realistic or more sustainable alternative to the proposals set out in the plan, as modified.
140. Similarly, despite the historic interest of parts of the site in terms of their long established field patterns and hedges, this does not amount to a justification for the retention of the whole of the land east of the Langford Brook as public open space, nor for its formal designation as Local Green Space. This is particularly so when the scheme envisaged in the plan should enable the more important LWS to be protected with funding made available for enhancement at a time when the lowland meadow habitat is otherwise likely to deteriorate further without positive action. Such an approach would be capable of ensuring no net loss of biodiversity as a minimum and also compliance with policies ESD 10 and 11 as a result.
141. All in all the most suitable balance between the need to deliver new housing locally and to protect and enhance environmental assets hereabouts would essentially be achieved through policy Bic 13, as modified, and the land's allocation for 300 new homes on approximately 23 ha in total, given that the

requirements of policies ESD 10 and 11, including to achieve a net gain in biodiversity arising from the scheme as a whole, can also be delivered as part of an overall package of development with appropriate mitigation measures.

Issue 9 – Bicester Other Sites

General

142. Alongside the major housing growth, the plan allocates sustainable sites for significant growth in employment provision in Bicester, as well as for related infrastructure, facilities and services. In total, this should help to create a more varied employment base, reduce the current level of out-commuting and also accommodate some of the growth pressures on Oxford city, given the proximity and improving transport links.

Policy Bicester 4 – Bicester Business Park

143. To the south of the town centre and with good access to J9 of the M40 via the A41 to the west, the extended site of almost 30 ha provides a sustainably located opportunity for a principally B1a use (office) business park that is capable of delivering up to 6,000 jobs. Taking into account existing permissions, there are no material constraints to early delivery or that affect overall viability.
144. Given the flexibility demonstrated by the Council in accepting some alternative uses to help bring forward the overall scheme and the allocations elsewhere in the plan, there is no justification for changing the policy to permit further retail and/or leisure uses on the site. Subject to amendments reflecting the need for landscape/visual and heritage impact assessments of specific proposals and to fully take account of flood risks, as well as for improved walking and cycling connectivity, the policy is sound, as modified (**MM 77**).

Policy Bicester 5 – Bicester Town Centre

145. The plan seeks to improve the town centre by providing a wider range of retail, commercial and leisure facilities to better serve the growing population, including through redevelopment schemes, increased car parking and complementary, rather than competing, retail growth at the nearby Bicester Village Retail Outlet Centre. However, pending completion of the on-going Bicester Masterplan, that is being produced on a collaborative basis with local interests, such as the Town Council, any changes to the town centre boundary or the primary shopping frontage are deferred to the LP Part 2.
146. Consequently, only an "Area of Search" for potential future town centre related development is defined in this plan, which includes Bicester Village and the land between it and the existing town centre. In the absence of any urgent need for any additional convenience retail floorspace over and above that already committed in Bicester, albeit there is a need for more comparison stores, it is not unreasonable for further such prospects in and around the town centre to be addressed in this way at present.
147. Nevertheless, for soundness, it is necessary to clarify that residential schemes, including as part of mixed uses, are acceptable in principle in the town centre except where they would result in the loss of sites for retail or other main

DAK/ENC3: Report to Council on 19 December 2016

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Meeting of Council

Monday 19 December 2016

Members of Cherwell District Council,

A meeting of Council will be held at Bodicote House, Bodicote, Banbury, OX15 4AA on Monday 19 December 2016 at 6.30 pm, and you are hereby summoned to attend.



**Sue Smith
Chief Executive**

**Friday 9 December
2016**

AGENDA

1 Apologies for Absence

2 Declarations of Interest

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting.

3 Communications

To receive communications from the Chairman and/or the Leader of the Council.

Cherwell District Council

Council

19 December 2016

<p>Re-adoption of Policy Bicester 13 of the Cherwell Local Plan 2011-2031</p>
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Report of Head of Strategic Planning and the Economy

This report is public

Purpose of report

To seek re-adoption of Policy Bicester 13 of the Cherwell Local Plan 2011-2031 in accordance with a Court Order and an associated addendum to the Local Plan Inspector's Report.

1.0 Recommendations

- 1.1 That the Council notes the Court Judgment, Court Order and addendum to the Local Plan Inspector's report presented at Appendices 2, 3 and 4 to this report.
- 1.2 That the Council adopts Policy Bicester 13 of the Cherwell Local Plan 2011-2031 (Part 1) as presented at Appendix 5 to this report in precise accordance with the addendum to the Local Plan Inspector's Report dated 18 May 2016 and the Court Order dated 19 February 2016.
- 1.3 That, upon adoption by the Council, Policy Bicester 13 be inserted as modified into the published Cherwell Local Plan 2011-2031 (Part 1).

2.0 Introduction

- 2.1 This report concerns seventeen words of Policy Bicester 13 of the Cherwell Local Plan 2011-2031 only. Policy Bicester 13 relates to the strategic development site at Gavray Drive, Bicester. The scope of this report is tightly defined by the outcome of legal proceedings. There are no other matters considered by officers and no other implications.
- 2.2 On 20 July 2015, the Council resolved to approve the Main Modifications to the Cherwell Local Plan 2011-2031, as recommended by the Local Plan Inspector, together with additional modifications. The Plan was adopted at the same meeting. An extract from the Local Plan for Policy Bicester 13: Gavray Drive as adopted in July 2015 is produced at Appendix 1. It includes the following 'Key site specific and place shaping principle' (third bullet point, p. 172 of the Local Plan as published):

“That part of the site within the Conservation Target Area should be kept free from built development. Development must avoid adversely impacting on the Conservation Target Area and comply with the requirements of Policy ESD11 to secure a net biodiversity gain” (emphasis added).

- 2.3 The seventeen words underlined above are those that have been the specific subject of legal proceedings. They reflect a Main Modification (no. 91) recommended by the Local Plan Inspector in his report and the proposed modifications originally approved by the Council for submission on 20 October 2014.
- 2.4 On 7 September 2015, the Council received notification that an application had been made to the High Court by (1) JJ Gallagher Ltd, (2) London and Metropolitan Developments Ltd and (3) Norman Trustees to challenge the decision of the Council to adopt the Local Plan. The application proceeded to Court and a hearing was held on 9 February 2016. Both the Council and the Secretary of State for Communities and Local Government appeared as Defendants, separately representing their own positions.
- 2.5 The Claimants’ case, and the cases of the Defendants are explained in the court judgment presented at Appendix 2 to this report. I do not, in this report, summarise each case in detail, but instead identify key elements pertaining to this report and its recommendations.
- 2.6 The Claimants submitted (Appendix 2, para. 6) that in adopting the Local Plan, the Council had erred in law because:
- i) Policy Bicester 13 fails to give effect to the inspector’s reasons and adopting it as it stands was illogical and irrational;
 - ii) Policy Bicester 13 is inconsistent with policy ESD11 (Conservation Target Areas) of the Local Plan and so the decision to adopt was illogical and irrational on the basis of its current wording also (adopted policy ESD 11 is reproduced at Appendix 6 to this report);
 - iii) the inspector failed to provide reasons for recommending adoption of policy Bicester 13 as drafted so that the Council’s decision to adopt the plan was unlawful.
- 2.7 The factual background to the court case is summarised in the court Judgment at paragraphs 12 to 27.
- 2.8 It explains (para. 14) how the Claimants had previously sought (through representations), deletion of the relevant bullet point which stated, *“That part of the site within the Conservation Target Area should be kept free from built development.”*
- 2.9 It also explains (para. 16) how, *“At the examination before the inspector the [Council], supported by members of the public, argued that there should be no built development on any part of the allocated site designated as a [Conservation Target Area]”*

- 2.10 At paragraph 17, the Judgment explains that *“The day before the examination commenced the [Council] passed a resolution that sought a modification to the policy that would designate the [Conservation Target Area] as “Local Green Space” within the meaning of paragraph 76 of the National Planning Policy Framework (“NPPF”).*
- 2.11 The Judgment also explains (para’s. 20 to 24) that following the Local Plan hearings, the draft Inspector’s Report was sent to Council officers for fact checking.
- 2.12 The Inspector’s Report as originally sent to officers included the following text: *“Requests that the developable area shown on the policies map should be reduced to avoid any building in the whole of the River Ray Conservation Target Area, as distinct from the smaller Local Wildlife Site, would significantly undermine this contribution...”* to meeting new housing needs (emphasis added). The implication here is that the Inspector’s view was that ‘building’ should not be precluded in the Conservation Target Area part of the site.
- 2.13 Officers were unable to reconcile this with the Inspector’s recommended Main Modification (no. 91) which included the wording for Policy Bicester 13 *“That part of the site within the Conservation Target Area should be kept free from built development...”* (emphasis added). Officers therefore queried this as part of the fact check process, seeking clarification on two occasions (Appendix 2, para’s. 20 to 24).
- 2.14 The final Inspector’s Report received by officers included the following change: *“Requests that the developable area shown on the policies map should be reduced to avoid any development in the whole of the River Ray Conservation Target Area would significantly undermine this contribution...”* (emphasis added to illustrate the word change). This change suggested to officers that the Inspector did not intend to preclude all development in the CTA part of the site, only ‘built’ development as specified in Main Modification no. 91. The final Inspector’s Report was presented to Members at the Council meeting on 20 July 2015.
- 2.15 However, in pursuing their legal case, the Claimants submitted that the inspector did not give any reasons as to why there should be no development within the Conservation Target Area (CTA) and that all the reasons that he gave pointed in the opposite direction, namely, that there should be some (including built) development within the CTA area. The Council conceded that the reasoning given by the inspector was unsatisfactory (Appendix 2, para. 57).
- 2.16 The Secretary of State argued that he had not erred in law, that his duty was to examine the submitted plan for its soundness, that his reasoning was clear that he had addressed matters raised during the hearing session and that it was open to the Council to make modifications to the plan which did not materially change it (Appendix 2, para. 59).
- 2.17 The Court Judgment states (Appendix 2, para’s. 65 to 69),
“The inspector’s overall reasoning was to retain the allocation as shown on the proposals map of the submitted [Cherwell Local Plan] and to use the development proposed to deliver gains to enhance the [Local Wildlife Site] and produce a net gain in biodiversity as part of an overall package. That overall package centred on

the delivery of around 300 homes. The inspector was satisfied that the indicative layouts showed that that was realistic and appropriate with viable mitigation measures. Notably those indicative layouts showed built form within the CTA.

The inspector's reasoning, therefore, is inimical with the first sentence of the key site-specific design and place shaping principles referring to keeping that part of the site within the CTA free from built development. He gave no reason at all to explain or justify the retention of that part of policy Bicester 13 that prevented built development in the CTA. As the claimants submit all his reasoning pointed the other way. Therefore, I find that the inspector failed to give any reasons for, and was irrational, in recommending the adoption of a policy that prevented built development in the CTA.

The inspector's findings were clear, both in rejecting the argument that there should be a reduction of the developable area to avoid any development in the whole of the CTA and on the absence of justification for the retention of the whole of the land to the east of the Langford Brook as public open space or its designation of [Local Green Space]. His reasoning was that the [Local Wildlife Site] needed to be kept free from built development and protected, together with downstream [Sites of Special Scientific Interest], through an ecological management plan which would ensure the long term conservation of habitats and species within the site.

Against that background it is difficult to understand how the inspector recommended that policy Bicester 13 should remain in its current form. Part of his modifications, consistent with his report, should have been to recommend the deletion of the first sentence of the third bullet point within the policy. That would have produced a justified and effective allocation consistent with national policy which was then sound and consistent with his report.

For those reasons the inspector erred in law in failing to give reasons for acting as he did, taking into account the duty upon him to examine the plan for soundness. Alternatively, the inspector was irrational in recommending as he did without supplying any reasons."

- 2.18 In the next paragraph, the Court Judgment clarifies the scope of the Council's options in considering the Inspector's recommendations:

"The first defendant [the Council] had no legal power to make a modification to the plan which would have had the effect of deleting the disputed sentence as that would materially change the contents of the CLP" (Appendix 2, para' 70)

- 2.19 The Judge concluded that "some remedy is clearly appropriate" (Appendix 2, para' 71) and considered submissions.

- 2.20 The claimants sought a Court Order that included (Appendix 2, para. 72):

- i) Policy Bicester 13 be treated as not adopted and remitted to the Secretary of State;
- ii) the Secretary of State appoint a planning inspector who recommends adoption of Policy Bicester 13 subject to a modification that deletes from the

policy the words “*That part of the site within the Conservation Target Area should be kept free from built development*”;

- iii) Cherwell District Council adopt Policy Bicester 13 subject to the modification recommended by the planning inspector appointed.

- 2.21 The Council submitted that (ii) and (iii) were inappropriate as they as they asked the Court to assume plan making powers and redraft the plan; because they would constrain the Secretary of State and Council as decision makers; and because they would exclude the public from participation. It stated that the extent to which policy Bicester 13 should allow housing development on the site or protect the site as an environmental resource is pre-eminently a matter of planning judgment and not one for the Courts. The Council also highlighted that the Local Plan’s Sustainability Appraisal noted that policy Bicester 13 required that the part of the site within the CTA should be kept free from built development (Appendix 2, para’s.73-77).
- 2.22 The Council sought the appointment of a planning inspector (through the Secretary of State) to “...*reconsider the way in which policy Bicester 13 treated the designated CTA...*” and “....*that the planning inspector appointed permit representations by all interested parties on the way in which policy Bicester 13 treated the CTA and how that policy should be drafted....*” before the inspector makes recommendations in respect of modifications and the Council re-adopts policy Bicester 13 subject to those modifications (Appendix 2, para’ 78).
- 2.23 The Secretary of State considered that the ‘answer’ was fully contained within the inspector’s report, that a reopened examination was not necessary, and that in respect of sustainability, without the contentious bullet point in policy Bicester 13, the policy is clear in that it says that the development must not adversely impact upon the CTA. The Secretary of State said there was no suggestion that the sustainability appraisal was not properly considered (Appendix 2, para’s. 79-82).
- 2.24 On the appropriate remedy, the Judge concluded that (Appendix 2 para’s. 85-87):
- an extensive examination process had taken place into the plan as a whole;
 - the inspector had exercised and made clear his planning judgment on, amongst other matters, housing across the district;
 - his decision was to permit policy Bicester 13 to proceed on the basis that it made a valuable contribution of 300 houses to the housing supply;
 - this conclusion was reached having heard representations from the claimants, the Council and the public;
 - the representations from the public argued that there should be reduced developable areas on the allocation site and that part of the site was suitable for designation as Local Green Space;
 - the public had therefore fully participated in the planning process;
 - the error found was not as a result of the public having any inadequate opportunity to participate in the examination process;
 - there is no statutory requirement in the circumstances to require a rerun of part of the examination process that has already taken place;
 - there may be circumstances where it is appropriate to do so where, for example, there is a flaw in the hearing process but this was not one of those cases;

- there was a full ventilation of issues as to where development should take place within the Bicester 13 allocation site, the importance of biodiversity and the ecological interests, Local Green Space issues and whether there should be any built development within the CTA. Those are all matters upon which the inspector delivered a clear judgment;
- the difficulty has arisen because the Inspector did not translate that planning judgment into an appropriately sound policy.

2.25 In those circumstances, the Judge did not agree to the Council's suggested remedy which would amount to a *"...a rerun of the same issues for no good reason, without any suggestion of a material change in circumstance, and at considerable and unnecessary expenditure of time and public money"* (Appendix 2, para. 88).

2.26 The Judge also rejected the contention that a further sustainability appraisal would be required stating, *"...I reject the contention that a further sustainability appraisal will be required. The residual wording of the policy is such that it secures the objective of any development having a lack of adverse impact upon the CTA"* (Appendix 2, para. 88).

2.27 The claim made by Gallaghers et al succeeded. The Judge stated that the Court Order should be in the terms of paragraphs 1, 2 and 3 of the draft submitted by the claimants (Appendix 2, para's 89-90 cited at para. 2.20 above).

2.28 A subsequent appeal to the Court of Appeal was dismissed in full and no subsequent application for appeal has been registered. The Council must now fulfil its legal obligation to re-adopt Policy Bicester 13 in the requisite amended form.

2.29 On 5 December 2016, a report was presented to a meeting of the Council's Executive providing the same account of the legal case as is now presented. It was resolved:

- (1) that the Court Judgment, Court Order and addendum to the Local Plan Inspector's report be noted.
- (2) that the Council be recommended to adopt Policy Bicester 13 of the Cherwell Local Plan 2011-2031 in precise accordance with the addendum to the Local Plan Inspector's Report dated 18 May 2016 and the Court Order dated 19 February 2016.
- (3) that it be noted that upon adoption by Council, Policy Bicester 13 will be inserted as modified into the published Cherwell Local Plan 2011-2031.

3.0 Report Details

3.1 The Court Order dated 19 February 2016 includes the following requirements:

- "1. Policy Bicester 13 adopted by the [Council] on 20th July 2015 be treated as not adopted and remitted to the [Secretary of State];
2. The [Secretary of State] appoint a planning inspector who recommends adoption of Policy Bicester 13 subject to a modification that deletes from the

policy the words “That part of the site within the Conservation Target Area should be kept free from built development”;

3. *The [Council] adopt Policy Bicester 13 subject to the modification recommended by the planning inspector appointed by the [Secretary of State]...*

3.2 The immediate effect of the Court Order was that Policy Bicester 13 of the adopted Cherwell Local Plan 2011-2031 could no longer be considered to be part of the adopted Development Plan. The rest of the Local Plan is unaffected.

3.3 On 10 March 2016, the Council was notified that a Planning Inspector had been appointed – Mr Nigel Payne, the original Local Plan Inspector.

3.4 On 18 May 2016 an addendum to the Local Plan Inspector's report was received (Appendix 4).

3.5 The Addendum states (Appendix 4, para' 2):

“Following the Order of the High Court of Justice No. CO/4622/2015, dated 19 February 2016, I recommend that, in relation to Policy Bicester 13 – Gavray Drive, Main Modification No. 91, page 130, the first sentence of the third bullet point under “Key Site Specific Design and Place Shaping Principles” which states – “That part of the site within the Conservation Target Area should be kept free of built development.” be deleted in the interests of soundness, clarity and to facilitate implementation of the policy and allocation in the plan.”

3.6 In his conclusion and recommendation, the Inspector states *“...I conclude that with the amendment to the schedule of main modifications recommended in this addendum report relating to Policy Bicester 13 the Cherwell Local Plan satisfies the requirements of Section 20(5) of the 2004 Act and meets the criteria for soundness in the National Planning Policy Framework.”*

3.7 On 15 July 2016, Mr Dominic Woodfield, an objector to Policy Bicester 13, was granted permission to appeal against the Court Order. The two grounds of appeal were:

“1. Having found that there was an error of law the judge should have remitted the matter of the wording of Policy Bicester 13 of the Cherwell Local Plan for public re-examination.

2. In directing that an order be made to revise the policy wording without remitting the matter for re-examination, the judge made an error of principle because she exercised a planning judgement which should have been exercised by [the Secretary of State's] inspector and by [the council].”

3.8 The appeal was opposed by Gallagher and the Secretary of State. The Council played no part in the appeal. On 2 August 2016, officers sent a letter to the Court, saying its position on the appeal was “neutral”.

3.9 Officers have awaited the outcome of the appeal before proceeding to recommend re-adoption of the policy in the requisite amended form.

- 3.10 On 12 October 2016, the Court of Appeal's judgment was given. It was concluded that the High Court Judge had exercised her discretion appropriately in the order she made and that there was no reason to disturb the Court Order. The appeal was dismissed in full.
- 3.11 The 21 day period to potentially appeal to the Supreme Court has passed. No application to appeal has been registered with the Court.
- 3.12 The Council must now adopt Policy Bicester 13 subject to the modification recommended by the planning inspector to comply with the Court Order dated 19 February 2016 (CO/4622/2015).
- 3.13 Policy Bicester 13 incorporating the Inspector's recommended modification is presented at Appendix 5.
- 3.14 The affected bullet point of Policy Bicester 13 now reads, "*Development must avoid adversely impacting on the Conservation Target Area and comply with the requirements of Policy ESD 11 to secure a net biodiversity gain*".
- 3.15 Following the Executive's decision of 5 December 2016, the Council is advised to formally adopt Policy Bicester 13 as recommended to be modified and in precise accordance with the Court Order. Not to do so would leave the Council in a position of legal non-compliance.
- 3.16 There are no other implications for the Local Plan and the Judgment makes clear that no further sustainability appraisal is required (see para. 226 above). An Addendum to the Adoption Statement for Strategic Environmental Assessment / Sustainability Appraisal is presented at Appendix 7 which reflects this conclusion and will be published upon adoption of Policy Bicester 13. As highlighted by the Judge, "...*The residual wording of the policy is such that it secures the objective of any development having a lack of adverse impact upon the CTA*" (see para 2.26 above).
- 3.17 Following adoption, Policy Bicester 13 as modified will need to be inserted into the published Local Plan.

4.0 Conclusion and Reasons for Recommendations

- 4.1 A Court Order dated 19 February 2016 requires specific actions of the Secretary State, an appointed Planning Inspector and the Council pertaining to the legally prescribed modification of Policy Bicester 13 of the Cherwell Local Plan 2011-2031. A specific modification to Policy Bicester 13 has been recommended by a Planning Inspector on behalf of the Secretary of State. The modification requires the deletion of the first sentence of the third bullet point under "Key Site Specific Design and Place Shaping Principles" which states – "*That part of the site within the Conservation Target Area should be kept free of built development.*"
- 4.2 To comply with the Court Order, the Council is advised that it formally adopts Policy Bicester 13 as presented at Appendix 5 to this report in precise accordance with the Court Order.

5.0 Consultation

Internal briefing: Councillor Colin Clarke, Lead Member for Planning

6.0 Alternative Options and Reasons for Rejection

- 6.1 There are no other options. The Court Order dated 19 February 2016 states (para.3), “*The First Defendant [the Council] adopt Policy Bicester 13 subject to the modification recommended by the planning inspector appointed by the Second Defendant [the Secretary of State for Communities and Local Government]*”.

7.0 Implications

Financial and Resource Implications

- 7.1 Re-adoption of Policy Bicester 13 and re-publication of the adopted Local Plan is being met within existing budgets.

Comments checked by:

Paul Sutton, Chief Finance Officer, Tel. 01295 221634

Paul.Sutton@cherwellandsouthnorthants.gov.uk

Legal Implications

- 7.2 The Council is ordered by the High Court (Planning Court) to adopt Policy Bicester 13 subject to the modification recommended by the planning inspector. Not to do so would therefore be unlawful.

Comments checked by:

Nigel Bell, Team Leader – Planning & Litigation, Law and Governance,
Tel. 01295 221687

Nigel.Bell@cherwellandsouthnorthants.gov.uk

8.0 Decision Information

Wards Affected

All (including Bicester South and Ambrosden directly)

Links to Corporate Plan and Policy Framework

Accessible, Value for Money Council
District of Opportunity
Safe and Healthy
Cleaner Greener

Lead Councillor

Councillor, Colin Clarke, Lead Member for Planning

Document Information

Appendix No	Title
Appendix 1	Policy Bicester 13: Gavray Drive as adopted on 20 July 2015 (Local Plan extract)
Appendix 2	High Court Judgment 18 February 2016
Appendix 3	Court Order dated 19 February 2016
Appendix 4	Addendum to the Local Plan Inspector's Report 18 May 2016
Appendix 5	Policy Bicester 13 – Modified Policy for Adoption
Appendix 6	Adopted Policy ESD11 – Conservation Target Areas (Local Plan Extract)
Appendix 7	SA Adoption Statement – Addendum
References	
Report by the Head of Strategic Planning and the Economy to the Council's Executive 5 December 2016, <i>Re-adoption of Policy Bicester 13 of the Cherwell Local Plan 2011-2031</i> (Item 10), http://modgov.cherwell.gov.uk/ieListDocuments.aspx?CId=115&MId=2749	
Background Papers	
None	
Report Author	David Peckford, Planning Policy Team Leader
Contact Information	01295 221841 david.peckford@cherwell-dc.gov.uk

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DAK/ENC4: Email to Matthew Parry on 24 May 2017

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From: [David Keene](#)
To: ["Matthew Parry"](#)
Cc: [Glen Langham - Gallagher Estates \(Glen.Langham@gallagherestates.com\)](#); ["Rob Rowlands"](#); [Peter Chambers](#)
Subject: Gavray Drive West - Ref: 15/00837/OUT
Date: 24 May 2017 09:28:00
Attachments: [image001.png](#)
[image002.png](#)

Matthew

The Cherwell Local Plan 2011 – 2013 Part 1 - Policy Bicester 13: Gavray Drive (re-adopted) includes, *inter alia*, the following bullet point under **Key site specific design and place shaping principles**:

Detailed consideration of ecological impacts, wildlife mitigation and the creation, restoration and enhancement of wildlife corridors to protect and enhance biodiversity. The preparation and implementation of an Ecological Management Plan to ensure the long term conservation of habitats and species within the site.

The outline planning application for Gavray Drive West addresses that point precisely. The Ecology Chapter of the Environmental Statement clearly sets out a requirement for the preparation, implementation and funding of a Landscape, Ecology and Arboricultural Management Plan (LEAMP) as part of the Ecology Strategy for the Gavray Drive West proposals (see paras. 9.6.13 to 9.6.16).

The measures to be included within the LEAMP are clearly set out in subsequent paragraphs of this Chapter (see paras. 9.6.17 to 9.6.22). This is entirely consistent with the requirements of Policy Bicester 13; particularly with respect to securing such a Plan and also ensuring that Gavray Drive West (in its own right) delivers a net gain in biodiversity. The preparation of a LEAMP is properly a prospective condition to be attached to a planning consent for Gavray Drive West. This provision deals with the reason why the outline planning application was unnecessarily deferred at the Planning Committee on 18th May. In addition, there is no policy requirement or obligation for there to be a single planning application or Ecological Management Plan covering the whole site.

With respect to a future planning application which will come forward in the future for Gavray Drive East, this application will also have to comply with Policy Bicester 13 in its own right. We, therefore, re-affirm the commitment made on several occasions previously with respect to the key principles of an outline planning application for Gavray Drive East, namely:

- no development will take place within the currently designated Local Wildlife Site;
- the delivery, implementation and funding of a long-term Ecology Management Plan for the Local Wildlife Site; and
- ensuring that the Ecological Management Plan addresses the objectives of the River Ray Conservation Target Area such as the restoration of Lowland Meadow habitat. The implementation of the Management Plan could contribute significantly to the CTA's published target to restore 22ha of such habitat; mindful that the LWS is c. 15.6ha in extent.

Planning Committee members need to be made aware of the above intentions and safeguards already contained within the Outline Planning Application together with the details of proposed conditions in advance of the meeting scheduled for 15th June. A single site-wide Ecology Management Plan is both unnecessary and inappropriate in the context of the adopted Local Plan Policy and the outline planning application before the Council. For that reason no site-wide Ecology Management Plan is being offered and we would ask the Council to determine the planning application on that basis at the next Planning Committee meeting.

Please do not hesitate to contact me if you need more information.

Regards

David Keene

Partner

David Lock Associates

50 North Thirteenth Street

Central Milton Keynes

MK9 3BP

t. 01908 666276 f. 01908 605747 m. 07764 241454

e-mail: dkeene@davidlock.com

Visit our website at www.davidlock.com

cid:image005.png@01D283A8.3F9094F0



cid:image006.png@01D283A8.3F9094F0



DAK/ENC5: Cherwell District Council Annual Monitoring Report 2017

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• your say



Annual Monitoring Report 2017

(01/04/2016 – 31/03/2017)

December 2017

Cherwell
DISTRICT COUNCIL
NORTH OXFORDSHIRE

			Monitor for progress and update on delivery.
Policy Bicester 13 Gavray Drive	Housing and infrastructure completions at Gavray Drive	As set out in policy Bicester 13 (and agreed masterplan/detailed planning documents)	A planning application (15/00837/OUT) for 180 dwellings was refused in June 2017. Please see Appendix 2 – Housing Delivery Monitor for progress and update on delivery.

5.68 At 31 March 2017 there have been 91 housing completions on the strategic allocations at Bicester, 90 at North West Bicester Eco-Town (Bicester 1) and 1 at Graven Hill (Bicester 2). Planning permissions and resolutions to approve have already been given at North West Bicester Eco-Town, Graven Hill, South West Bicester Phase 2 (Bicester 3), Bicester Business Park (Bicester 4), North East Bicester (Bicester 11) and South East Bicester (Bicester 12) therefore progress is being made at the Local Plan allocations. There is a planning application pending consideration at South East Bicester. Details on the delivery of housing sites are provided in Appendix 2 - Housing Delivery Monitor. At 31 March 2017 there were planning permissions at the above sites for 2,293 dwellings.

5.69 Policy Bicester 8 supports heritage tourism uses, leisure, recreation, employment and community uses. A planning permission at the Former RAF Bicester site was approved for a net gain of 948 sqm in employment floorspace.

Completions at strategic allocations: Banbury

Policy	Indicator	Target	Progress
Policy Banbury 1 Banbury Canalside	Employment, housing and infrastructure completions at Canalside	As set out in Policy Banbury 1 and Canalside SPD (i.e. masterplan/detailed planning documents)	A Canalside SPD is currently being prepared and will be consulted in spring 2018. Please see Appendix 2 – Housing Delivery Monitor for progress and update on delivery.
Policy Banbury 2 Hardwick Farm, Southam Road (East and West)	Housing and infrastructure completions at Southam Road	As set out in Policy Banbury 2 (and agreed masterplan/detailed planning documents)	Planning permissions for a total of 600 dwellings were given. Southam Road East is under construction with 99 dwellings completed during 2016/17. Please see Appendix 2 –

Appendix 2 - 2017 AMR Housing Delivery Monitor

Sites	Status	Site Area	Greenfield (G) or Previously Developed Land (PDL)	Planning Permissions at 31/3/17 minus units built & recorded at 31/03/17 (net)	Completions 01/04/11 to 31/03/17	Projection 17/18	Projection 18/19	Projection 19/20	Projection 20/21	Projection 21/22	Projection 22/23	Projection 23/24	Projection 24/25	Projection 25/26	Projection 26/27	Projection 27/28	Projection 28/29	Projection 29/30	Projection 30/31	Total Completions and Projected Completions 2011-2031	Details
1C Banbury - Specific, Developable Sites Sub-Totals				44	0	0	40	99	209	200	200	200	200	200	150	100	0	0	0	1598	
1D Banbury - Remaining Allocation - Non-Strategic Sites	Remaining from allocation (150 homes) in the adopted Local Plan (July 2015)			0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
1A BANBURY - COMPLETED IDENTIFIED SITES				0	259	0	0	0	0	0	0	0	0	0	0	0	0	0	0	259	
1B BANBURY - DELIVERABLE (AVAILABLE, SUITABLE & ACHIEVABLE) SITES				3091	1042	511	816	969	793	650	285	210	122	117	117	117	117	92	17	5975	
1C BANBURY - SPECIFIC, DEVELOPABLE SITES				44	0	0	40	99	209	200	200	200	200	200	150	100	0	0	0	1598	
1D BANBURY - REMAINING ALLOCATION FOR NON-STRATEGIC SITES				0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
1E BANBURY- HOUSING LAND AVAILABILITY TOTAL (1A + 1B + 1C + 1D)				3135	1301	511	856	1068	1002	850	485	410	322	317	267	217	117	92	17	7832	
2. BICESTER																					
Bicester Completed Identified Sites (10 or more dwellings)																					
Former Oxfordshire County Council Highways Depot	Non-Statutory allocation for 30 dwellings. Outline permission 06/01003/OUT granted for 60 dwellings and a care home. Reserved Matters approvals 06/01166/REM & 09/01077/REM. An amended application (09/01076/F) approved extending permission to 7 October 2014. An alternative application for 42 dwellings (13/01708/CDC) was approved on 25 April 2014. Site completed in March 2016 (2015/16).	0.56	PDL	0	62	0	0	0	0	0	0	0	0	0	0	0	0	0	0	62	Site completed in March 2016 (2015/16).
Transco Depot, Launton Road	Non-statutory allocation for 25 dwellings. 12/01216/F approved 5 March 2013 for 23 dwellings. Site completed in 2013/14.	0.4	PDL	0	23	0	0	0	0	0	0	0	0	0	0	0	0	0	0	23	Site completed in 2013/14.
West of Chapel St. & Bryan House	Complete. Planning permission (10/00106/F) for 23 homes (5 net). Similar site to the Non-Statutory allocation for 20 dwellings.	0.5	PDL	0	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	5	Allocated in the Non-Statutory Cherwell Local Plan 2011. Informal development principles produced in December 2008. Permission granted on 11/1/11 (10/00106/F) for the demolition of Bryan House (18 sheltered homes) and for 23 new affordable homes (gross). Constructed as an Eco-Bicester demonstration project by Sanctuary housing association.
Bicester Community Hospital Kings End	Application (12/00809/F) for demolition of existing community hospital and redevelopment of site to provide a new community hospital and 14 residential units was approved on 27 September 2012. Site completed in March 2017 (2016/17).	0.9	PDL	0	14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	14	Site completed in March 2017 (2016/17).
Winners Bargain Centres, Victoria Road	Application (15/00412/F) for redevelopment to form 42 sheltered apartments for the elderly, communal facilities, access, carparking and landscaping was approved on 15 June 2015. Site completed in September 2016 (2016/17).	0.33	PDL	0	42	0	0	0	0	0	0	0	0	0	0	0	0	0	0	42	Site completed in September 2016 (2016/17).
2A Bicester - Completed Identified Sites Sub-Totals				0	146	0	0	0	0	0	0	0	0	0	0	0	0	0	0	146	
Bicester - Deliverable (Available, Suitable and Achievable) Sites (10 or more dwellings)																					Contributing to the '5 year land supply'
Gavray Drive	A strategic allocation in the adopted Local Plan 2011-2031 Part 1 for 300 dwellings (Bicester 13). Application (15/00837/OUT) for 180 dwellings was refused on 22 June 2017.	23	G	0	0	0	0	50	75	100	75	0	0	0	0	0	0	0	0	300	A strategic allocation in the adopted Local Plan 2011-2031 for 300 dwellings (Bicester 13). Following a legal challenge, Policy Bicester 13 (Gavray Drive) was re-adopted on 19 December 2016. Planning application for 180 dwellings (15/00837/OUT) was refused. The site is located in a sustainable location and close to Bicester town centre. Development could provide integration with the existing Langford Village development to the south and west. Agents (David Lock Associates) advised (October 2017) that the expected delivery rates should remain unchanged.