

<b><u>Consultee</u></b>	<b><u>Date Sent</u></b>	<b><u>Expires</u></b>	<b><u>Reply</u></b>
Bicester Town Council	15.05.2015	05.06.2015	03.06.2015
Waste & Recycling (CDC)	15.05.2015	29.05.2015	
Strategic Housing (CDC)	15.05.2015	29.05.2015	
Contaminated Land	15.05.2015	29.05.2015	
Arboriculture (CDC)	15.05.2015	29.05.2015	09.06.2015
Ecology (CDC)	15.05.2015	29.05.2015	23.10.2015
Landscape Services (CDC)	15.05.2015	29.05.2015	09.06.2015
Planning Policy	15.05.2015	29.05.2015	26.11.2015
Economic Development (CDC)	15.05.2015	29.05.2015	
Recreation & Leisure (CDC)	15.05.2015	29.05.2015	23.06.2015
Oxfordshire County Council	15.05.2015	05.06.2015	04.06.2015
Environment Agency	15.05.2015	05.06.2015	15.06.2015
Natural England	15.05.2015	05.06.2015	22.05.2015
Thames Valley Police (Design Adviser)	15.05.2015	05.06.2015	
Thames Water	15.05.2015	05.06.2015	29.05.2015
Strategic Housing (CDC)	15.05.2015	29.05.2015	
Recreation & Leisure (CDC)	15.05.2015	29.05.2015	18.05.2015
Landscape Services (CDC)	15.05.2015	29.05.2015	09.06.2015
Lead Local Flood Authority (Drainage OCC)	15.05.2015	05.06.2015	
National Planning Casework Unit	15.05.2015	05.06.2015	
Anti-social Behaviour (CDC)	02.06.2015	16.06.2015	
BBO Wildlife Trust	22.05.2015	12.06.2015	12.06.2015
Network Rail	22.05.2015	12.06.2015	22.07.2015

CPRE Oxfordshire (Mr B Tremayne)	22.05.2015	12.06.2015	
Ecology (CDC)	12.01.2017	26.01.2017	28.03.2017
Natural England	05.04.2017	26.04.2017	25.04.2017
Environment Agency	05.04.2017	26.04.2017	
Oxfordshire County Council	05.04.2017	26.04.2017	12.05.2017
Bicester Town Council	05.04.2017	26.04.2017	27.04.2017
BBO Wildlife Trust	05.04.2017	26.04.2017	28.04.2017

## Bicester Town Council

Planning Department -  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
OX15 4AA

Mrs Susan Mackrell - Chief Officer  
The Garth  
Launton Road  
Bicester  
OX26 6PS

Telephone 01869 252915

Fax 01869 352554

Case Officer : Matthew Parry

Date 03/06/2015

Application No 15/00837/OUT

Type : OUT

Status : 0 New Application

Date Received : 20/05/2015

Applicant : Gallagher Estates  
Part Land on the North East  
Side of Gavray Drive  
Bicester

Agent/Architect :

Location : Part Land on the North East  
Side of Gavray Drive  
Bicester

Parish : Bicester

N.G.R. :

Road Class :

Proposal : Expected Decision Level:  
Ward: South

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.

### TOWN AND COUNTRY PLANNING ACT 1990 - LOCAL COUNCIL OBSERVATIONS

Bicester Town Council have considered the Application No 15/00837/OUT and observations thereon are as follows :

RESOLVED that Bicester Town Council object to this application.

Cherwell District Council have yet to publish the decision of the Planning Inspector about this site and there are major problems with this current application to build 180 houses on the west side of the brook which forces us to strongly object. Thames Water have identified an inability of the existing waste water infrastructure to accommodate the needs of this application, and this might lead to sewage flooding and have an adverse environmental impact on the community.

The developers estimate that the 180 houses will increase Langford Village's population by 441 people. This will put increased pressure on Langford's Primary School and GP practice which are already under some pressure as no school or health provision is planned for the 180 houses. Traffic on Mallards Way is likely to increase. This is a residential road, and was designed as a Home Zone to have 20 mph speed limits but this has never been introduced.

Building on the west of the brook will also cause considerable negative effects on the ecology of the land to the east of the brook. This is wet meadowland and its ecology is increasingly rare (only 2% left in the UK since the 1930s). There is clear evidence of the value of the LWS and the public footpath along the parish boundary in the Conservation Target Area. There is also considerable public feeling against this land being degraded by development. A petition of 1,480 signatures was presented to CDC and similar numbers of people are following the posts on the campaign 'facebook' pages. In response to public pressure CDC requested the designation of Gavray East as a Local Green Space under the terms of the NPPF, that is, as a site of beauty, tranquility and importance to wildlife. However, the developers' environmental specialists admit (Environmental Impact Assessment para 9.6) that building Gavray West will threaten the wildlife on Gavray East LWS because of increased recreational pressure resulting from increased housing provision. This will degrade valuable flora and trees through trampling and littering and disturb associated fauna such as birds, great crested newts and reptiles. Retained habitats that are not built on are at risk of damage, disturbance and deterioration by the increased population (para 9.8). Domestic cats and dogs will damage, disturb and predate on wildlife (para 9.9).

Worryingly, Gallagher's Planning Statement para 1.12 says, "The application package...delivers necessary infrastructure without compromising delivery of the remainder of the Gavray Drive allocation". This refers to building on Gavray East which is clearly the developer's intention as they say they control this land as well.

The threat to the Local Green Space is the strongest reason that we object to the current planning application. Bicester

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Telephone 01869 252915

Fax 01869 352554

Case Officer: Matthew Parry

Date 03/06/2015

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needs its historic, beautiful natural green spaces to remain intact in the face of the massive future developments outlined in the Local Plan.

# Bicester Town Council

Planning Department -  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
OX15 4AA

Mrs Samantha Shippen - Chief Officer  
The Garth  
Launton Road  
Bicester  
OX26 6PS

Telephone 01869 252915

Fax

Case Officer : Matthew Parry

Date 25/04/2017

Application No :15/00837/OUT

Type : OUT

Status : 0 New Application

Date Received : 10/04/2017

Applicant : Gallagher Estates  
Part Land on the North East  
Side of Gavray Drive  
Bicester

Agent/Architect :

PLANNING HOUSES & ECONOMIC DEVELOPMENT				
HDCM1	UPAHP	HEUL	HDEL	HTL
27 APR 2017				
PASSED		CARRY TO		
ACK			FILE	

Location : Part Land on the North East  
Side of Gavray Drive  
Bicester

Parish : Bicester

N.G.R. :

Road Class :

Proposal : Expected Decision Level:

Ward: South

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.

5 April 2017 - Amendments: Submission of revised illustrative parameters plans an additional biodiversity assessment information (Biodiversity Impact Assessment metric)

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Date 25/04/2017

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The threat to the Local Green Space is the strongest reason that we object to the current planning application. Bicester needs its historic, beautiful natural green spaces to remain intact in the face of the massive future developments outlined in the Local Plan.

24th April 2017. Response to amended plans:-

RESOLVED that Bicester Town Council Object to this amendment, feel that there is not enough information and that a master plan is required before any comment can be made.  
There is also a concern that the Bio Diversity Impact Assessment is not a sound document.

15/00837/OUT

18-May-15

Mr Ian Upstone  
Bodicote House White Post Road  
Bodicote  
Oxfordshire  
OX15 4AA

No mention of separate waste or recycling storage this needs to be addressed before permission is granted. If the developer needs any more advice please refer to: Waste and Recycling guidance which can be found on the Cherwell District Council website  
<http://www.cherwell.gov.uk/index.cfm?articleid=1735> Section 106 contribution of £106.00 for bin and collection vehicle provision £5.00 towards recycling banks per property will also be required.  
Thanks

**From:** Charlotte Watkins  
**Sent:** 20 July 2015 16:54  
**To:** Matthew Parry  
**Subject:** 15/00837/OUT Part land on North East Side Gavray Drive

Matthew

Further to our discussion last week I wish to submit preliminary formal comments below:

With regard to the application 15/00837/OUT in general the ecological information submitted for the site within the boundary line is OK. However I am in agreement with the well worded comments submitted by BBOWT on 12<sup>th</sup> June 2015. The submission of an application which excludes the LWS from consideration whilst at the same time stating there will be additional pressure on it as a result of this application is unacceptable under emerging policy. An ecological plan for the management of the adjacent LWS should be submitted for assessment in conjunction with this application.

I will assess the application site in isolation as regards level of ecological information submitted and whether a net gain is likely as soon as possible. Please let me know if there is a deadline. I am out of the office until 3rd August but am happy to discuss this further with yourself or the applicants on my return.

Regards  
Charlotte

Dr Charlotte Watkins  
Ecology Officer  
Cherwell District Council  
Direct Dial 01295 227912  
Charlotte.Watkins@Cherwell-DC.gov.uk  
[www.cherwell.gov.uk](http://www.cherwell.gov.uk)

*Office hours: Monday, Tuesday and Thursday mornings.*



**From:** Charlotte Watkins  
**Sent:** 23 October 2015 23:50  
**To:** Matthew Parry  
**Subject:** 15/00837/OUT Part land on North East Side Gavray Drive

Matthew

With regard to the above application, my comments from 20/07/2015 below still stand as I believe the site needs to be considered in holistic fashion with the LWS included. Habitat degradation and disturbance is very likely on the LWS as development proceeds around it and recreational pressure is too difficult to quantify in terms of discounting it as minor impact. Although the future of the LWS may be secured when development is proposed to the West of the brook, additional pressure on the LWS will occur with this development with no guarantee of when or if conservation management of the LWS might begin.

However I have assessed the application independently of the LWS as regards site ecology within the red line of the development boundary:

The Environmental Statement makes a fair assessment of the ecological receptors on site and the likely impacts on them. There are no major constraints on site as regards protected species and indirect or potential impacts are largely dealt with by the choice of placement of the Public Open Space, proposed mitigation and reasonable avoidance measures. The additional mitigation measures proposed by Butterfly conservation for white letter hairstreaks are appropriate and would help to fully mitigate for this species and potentially enhance black and brown hairstreaks. In addition to butterflies, five Priority bird species were present on site for which there should also be targeted mitigation.

Part of the site falls within a Conservation Target Area which corresponds to the area set aside for Public Open Space. As far as possible this should be managed to meet the aims of the CTA and the ES outlines proposals to do this.

Should permission be granted an ECMS should include an update check for protected species that might have moved onto the site prior to any site clearance if more than 12 months elapses since the last walkover. A biodiversity enhancement scheme should be submitted that demonstrates a net gain for biodiversity can be achieved on site in line with NPPF and Local policy (or this can be part of the LEAMP). A range of enhancements are suggested but quantity, quality and layout will all have a bearing. The LEAMP should also identify the funding mechanism for management of the various habitats on site in to the future.

Beyond this I do not have any further comments at this stage. Please get back to me if we need to discuss anything else or appropriate conditions in detail.

Regards  
Charlotte

Dr Charlotte Watkins  
Ecology Officer  
Cherwell District Council  
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Charlotte.Watkins@Cherwell-DC.gov.uk  
[www.cherwell.gov.uk](http://www.cherwell.gov.uk)

*Office hours: Monday, Tuesday and Thursday mornings.*

**From:** David Lowe [<mailto:davidlowe@warwickshire.gov.uk>]  
**Sent:** 28 March 2017 16:06  
**To:** Matthew Parry  
**Subject:** Re: Gavray Drive West, Bicester - 15/00837/OUT

Matthew

As you will be aware the developer's ecological consultants and I have been in discussions about how this development sits with the Policy associated with the wider site. The particularly areas of policy were biodiversity net gain, impacts on the Local Wildlife Site and Conservation Target Area (CTA)..

It has been demonstrated that it is possible to provide net gains to biodiversity through the retention and management of the majority of the Local Wildlife Site and therefore overall enhancement of the CTA. Therefore, it would suggest that, on ecological grounds, one can look at bringing the western part forward first. To this affect it is recommended that the following conditions are placed on any approval granted.

*K21 Construction Environmental Management Plans (CEMP) for Biodiversity*

*Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works 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 CEMP.*

*Reason KR2 -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*

*K20 Landscape and Ecological Management Plan (LEMP)*

*Prior to the commencement of development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.*

*Reason KR2 - 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*

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

As a precaution to ensure that a net gain for biodiversity net gain is achieved as this application is an outline application and therefore the understanding that aspects of the design may change it is also recommended that the following condition is also placed on the proposal.

*Biodiversity Offsetting*

*Within 3 months of the approval of the Landscape and Ecological Management Plan (LEMP) a Biodiversity Impact Assessment using the locally derived Defra metrics shall be submitted to the Local Planning Authority for approval. If the approved Biodiversity Impact Assessment reports a biodiversity loss then a scheme ("the scheme") to ensure that there is no net biodiversity loss as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The scheme shall include proposals for off-site offsetting to include;*

- *A methodology for the identification of any receptor site(s) for offsetting measures;*
- *The identification of any such receptor site(s);*
- *The provision of arrangements to secure the delivery of any offsetting measures (including a timetable for their delivery); and*
- *A management and monitoring plan (to include for the provision and maintenance of any offsetting measures for a minimum of 30 years).*

*The written approval of the Local Planning Authority shall not be issued before the arrangements necessary to secure the delivery of any offsetting measures have been executed. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved.*

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

If this advice conflicts with other professional advice, please let me know.

Thanks

**David Lowe B.Sc Hons MCIEEM BES**

**Team Leader, Ecology, Historic Environment & Landscape**

Community Services

PO Box 43

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Tel: 01926 418076

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**From:** Tim Screen  
**Sent:** 05 June 2015 17:16  
**To:** Matthew Parry  
**Cc:** Jon Brewin  
**Subject:** FW: 15/00837/OUT - Part Land on North East Side of Gavray Drive Bicester

Matt

Further to consideration of the above planning application I respond as follows.

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 view for 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 receptor which would not be encourage 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 encourage to see visualisations if street trees in the DAS I would hope that he detailed design layout provides enough space for such trees to ground 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 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 100 metres 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 to get in a car, and so more sustainable. A combined equipped LEAP and LAP is required in the area of POS 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.

A play strategy and masterplan proposals would be very useful. The quality standards for the provision are:

#### Unequipped/free play zone LAP

- 50 m<sup>2</sup> min. of play activity area
- 350 m<sup>2</sup> min. of landscaped buffer between activity areas and active unit frontages
- Protective dog proof play area fencing and gates (two entrance/exits for ease of escape if child is threatened), to standard BS EN 1176
- A single robust steel seat with back and armrests for users of varying disabilities
- Robust litter bin with lockable lid
- Paved (slab) 'no dog' signs at each entrance
- Robust non-toxic planting scheme of scent, texture, flower and movement
- Mown grass areas
- Shade trees (no seating to be sited beneath them because of bird staining, etc.)
- Clear surveillance from adjacent footways and housing.
- No utilities under or above the play provision.

#### LEAP/LAP Combined

- At least 3 pieces of interesting and challenging play equipment for age ranges 2 -6 with facility for disabled children (with wet pour safer surfacing to BS EN 1176)
- 500 m<sup>2</sup> min. of play activity area
- 3500 m<sup>2</sup> min. of landscaped buffer between activity areas and active unit frontages
- Protective dog proof play area fencing and gates (minimum two entrance/exits for ease of escape if child feels threatened), to standard BS EN 1176
- 2 or 3 robust steel seats with back and armrests for users of varying disabilities
- 2 Robust litter bins with lockable lid
- Paved (slab) 'no dog' signs at each entrance
- Robust non-toxic planting scheme of scent, texture, flower and movement (protected by fencing)
- Mown grass areas
- Shade trees (with no play equipment or seating under them due to staining from birds, etc.)
- Amenity trees
- No utilities under or above the play provision.

The committed sums and rates/m/lm of all the typologies will be provided in due course.

Recommended Planning Conditions are:

A standard landscape conditions for a detailed landscape scheme indicating plant schedule, sizes, planting distances, plant names and aftercare/maintenance;

Standard POS/play area condition;

hedgerow retention with minimum maintenance height of 3 m above adjacent ground levels;

and a condition for tree pit details in hard and soft landscaped areas.

Please do not hesitate to make contact if you have any questions on the above matters.

Regards.

Tim

Tim Screen CMLI  
**Landscape Architect**

Environmental Services  
Cherwell District and South Northants District Councils  
Ext. 1862  
Direct Dial 01295 221862  
Fax 01295 263155  
<mailto:tim.screen@cherwellandsouthnorthants.gov.uk>  
[www.cherwell.gov.uk](http://www.cherwell.gov.uk) [www.southnorthants.gov.uk](http://www.southnorthants.gov.uk)

# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

PLANNING HOUSING ECONOMY				
HDCMD	HPAHP	HEDE	HECE	HEE
11 JUN 2015				
PASSED TO			COPY TO	
ACK: LS/DC/210			FILE	

**From:** Landscape Services

**To:** Head of Development Management and Major Developments  
**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:**

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

<b>Application/Site Reference:</b>	15/00837/OUT				
<b>Development Location:</b>	Part Land On The North East Side Of Gavray Drive Bicester				
<b>Development Proposal:</b>	OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting				
<b>Hedgerows and formal hedges in Informal Open Space</b>					
CLP 1996 R12 SPD NSLP R8 & R9 Prop LP BSC 10 and 11					
A commuted sum for the maintenance of the hedgerows and formal hedges for a period of 15 years					
<b>Detail Specification:</b>	Total length of hedges to be measured and this figure to be multiplied by current CDC rate for hedge maintenance of £35.78/m2 to gain commuted sum total				
<b>Trigger for works/Contribution:</b>					
<b>Capital:</b>		<b>Revenue:</b>	£35.78/m2	<b>Indexation:</b>	Fluctuation in accordance with BCIS All In One Tender Price Index by RICS
<b>Capital Management:</b>		<b>Revenue Management:</b>	NA		
<b>Standard Heads of Terms:</b>	Hedgerows and Formal Hedges				
<b>CDC Contact:</b>	Tim Screen		<b>Ext:</b>	1862	
<b>Signed:</b>			<b>Date:</b>	09.06.2015	

# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

PLANNING OBLIGATION REQUEST				
HDCMD	HPAHP	HEDE	HILC	FILE
11 JUN 2015				
PASSED TO			COPY TO	
LS/DC/210			FILE	

**From:** Landscape Services

**To:** Head of Development Management and Major Developments  
**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:** LS/DC/210

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

<b>Application/Site Reference:</b>		15/00837/OUT			
<b>Development Location:</b>		Part Land On The North East Side Of Gavray Drive Bicester			
<b>Development Proposal:</b>		OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting			
<b>Existing Mature Trees</b>					
CLP 1996 R12 SPD NSLP R8 & R9 Prop LP BSC 10 and 11					
A commuted sum for mature tree maintenance for 15 years					
<b>Detail Specification:</b>		The number of mature trees are to be counted and this figure to be multiplied by the current CDC sum of £2,527.20 to gain the commuted sum total			
<b>Trigger for works/Contribution:</b>					
<b>Capital:</b>		<b>Revenue:</b>	£2,527.20/Mature Tree	<b>Indexation:</b>	Fluctuation in accordance with BCIS ALL In One Tender Price index by RICS
<b>Capital Management:</b>		<b>Revenue Management:</b>	NA		
<b>Standard Heads of Terms:</b>	Matures Trees				
<b>CDC Contact:</b>	Tim Screen	<b>Ext:</b>	1862		
<b>Signed:</b>		<b>Date:</b>	09.06.2015		



# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

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**To:** Head of Development Management and Major Developments  
**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:** LS/DC/210

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

PLANNING HOUSING & ECONOMIC DEVELOPMENT				
HDCMD	HPAMP	HEDE	HDCP	HPH
11 JUN 2015				
PASSED TO		COPY TO		
LS/DC/210		FILE		

<b>Application/Site Reference:</b>	15/00837/OUT				
<b>Development Location:</b>	Part Land On The North East Side Of Gavray Drive Bicester				
<b>Development Proposal:</b>	OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting				
<b>Play areas on site</b>					
CLP 1996 R12 SPD NSLP R8 & R9 Prop LP BSC 10 and 11					
Local area of play (LAP) with a minimum of three pieces of play equipment. Design and standards to be in accordance with CDC's Planning Obligations SPD. Commuted sum for maintenance for 15 years					
<b>Detail Specification:</b>	LAPs – Free Play Zone (un-equipped) £15,194.85 x 4 = £60,779.40 LEAP/LAP Combined (equipped) = £122,889.10				
<b>Trigger for works/Contribution:</b>	75% occupation before practical completion and public use of play provision				
<b>Capital:</b>		<b>Revenue:</b>	£183,668.50	<b>Indexation:</b>	Fluctuation in accordance with BCIS All In One Tender Price index by RICS
<b>Capital Management:</b>		<b>Revenue Management:</b>	Na		
<b>Standard Heads of Terms:</b>	LAPs – Free Play Zones (un-equipped) LEAP/LAP Combined (equipped)				
<b>CDC Contact:</b>	Tim Screen		<b>Ext:</b>	1862	
<b>Signed:</b>			<b>Date:</b>	09.06.2015	

# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

**From:** Landscape Services

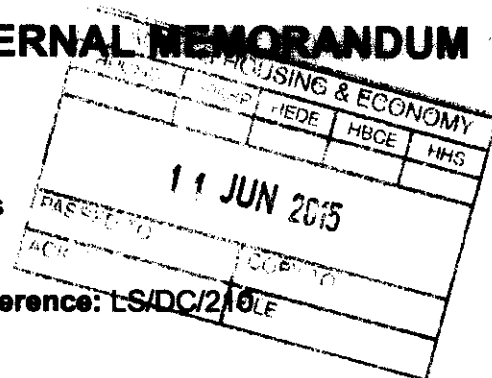
**To:** Head of Development Management and Major Developments  
**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:** LS/DC/2106

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days



<b>Application/Site Reference:</b>		15/00837/OUT			
<b>Development Location:</b>		Part Land On The North East Side Of Gavray Drive Bicester			
<b>Development Proposal:</b>		OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting			
<b>Attenuation Pond</b>					
CLP 1996 R12      SPD NSLP R8 & R9 Prop LP BSC 10 and 11					
A commuted sum for the maintenance of the attenuation pond for a period of 15 years					
<b>Detail Specification:</b>		The total area of the attenuation pond to be measured the figure to be multiplied by the current CDC rate of £14.91/m <sup>2</sup> to gain commuted sum total			
<b>Trigger for works/Contribution:</b>		Attenuation pond to be constructed to practical completion ready to attenuate runoff from built development			
<b>Capital:</b>		<b>Revenue:</b>	£14.91/m <sup>2</sup>	<b>Indexation:</b>	Fluctuation in accordance with BCIS All In One Tender Price index by RICS
<b>Capital Management:</b>		<b>Revenue Management:</b>	NA		
<b>Standard Heads of Terms:</b>	Attenuation Pond				
<b>CDC Contact:</b>	Tim Screen	<b>Ext:</b>	1862		
<b>Signed:</b>		<b>Date:</b>	09.06.2015		

# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

PLANNING HOUSING & ECONOMY  
 HPAHP HEDE HBCE HPS  
**11 JUN 2015**  
 PASSED TO  
 ACK  
 COPIES  
 FILE

**From:** Landscape Services


**To:** Head of Development Management and Major Developments  
**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:** LS/DC/210

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

<b>Application/Site Reference:</b>		15/00837/OUT			
<b>Development Location:</b>		Part Land On The North East Side Of Gavray Drive Bicester			
<b>Development Proposal:</b>		OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting			
Informal open space on site					
CLP 1996 R12 SPD NSLP R8 & R9 Prop LP BSC 10 and 11					
Design and standards to be in accordance with CDC Planning obligations SPD. A commuted sum for the maintenance of the informal open space for a period of 15 years					
<b>Detail Specification:</b>		The area of POS to be measured and the figure multiplied by the current CDC rate of £25.07/m2 to gain commuted sum total			
<b>Trigger for works/Contribution:</b>					
<b>Capital:</b>		<b>Revenue:</b>	£25.07/m2	<b>Indexation:</b>	Fluctuation in accordance with BCIS All In One Tender Price index by RICS
<b>Capital Management:</b>		<b>Revenue Management:</b>	NA		
<b>Standard Heads of Terms:</b>	Informal Open Space				
<b>CDC Contact:</b>	Tim Screen	<b>Ext:</b>	1862		
<b>Signed:</b>		<b>Date:</b>	09.06.2015		

# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

**From:** Landscape Services

**To:** Head of Development Management and Major Developments  
**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:** LS/DS/210

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

PLANNING HOUSING & ECONOMIC DEVELOPMENT			
HDCMD	HPAHP	HEDE	HBCE
PASSED TO		11 JUN 2015	
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		FILE	

<b>Application/Site Reference:</b>	15/00837/OUT				
<b>Development Location:</b>	Part Land On The North East Side Of Gavray Drive Bicester				
<b>Development Proposal:</b>	OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting				
<b>Exiting Watercourse and Swale</b>					
CLP 1996 R12 SPD NSLP R8 & R9 Prop LP BSC 10 and 11					
A commuted sum for the maintenance of the watercourse for a period of 15 years					
<b>Detail Specification:</b>	Total length of watercourse and swale to be measured and this figure to be multiplied by current CDC rate for watercourse maintenance of £50.09/m2 to gain commuted sum total				
<b>Trigger for works/Contribution:</b>					
<b>Capital:</b>		<b>Revenue:</b>	£50.09/m2	<b>Indexation:</b>	Fluctuation in accordance with BCIS All In One Tender Price index by RICS
<b>Capital Management:</b>		<b>Revenue Management:</b>	Na		
<b>Standard Heads of Terms:</b>	Watercourse Swale				
<b>CDC Contact:</b>	Tim Screen		<b>Ext:</b>	1862	
<b>Signed:</b>			<b>Date:</b>	09.06.2015	

# DEVELOPMENT INTERNAL MEMORANDUM

**From:** Head of Strategic Planning and the Economy

**To:** Head of Public Protection & Development Management (FAO Matthew Parry)

**Our Ref:** 3.2

**Your Ref:** 15/00837/OUT

**Ask for:** David Peckford

**Ext:** 1841

**Date:** 26 November 2015

## APPLICATION FOR PLANNING PERMISSION PLANNING POLICY CONSULTATION RESPONSE

<b>Planning Application No.</b>	15/00837/OUT
<b>Address / Location</b>	Part Land On The North East Side Of Gavray Drive Bicester
<b>Proposal</b>	OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting
<b>General Comments</b>	There is on-going legal claim made by one of the applicants, with others, to part of Policy Bicester 13 of the Cherwell Local Plan 2011-2031
<b>Main Local Plan Policies</b>	<p>Adopted Cherwell Local Plan 2011-2031</p> <ul style="list-style-type: none"> <li>• Bicester 13 – Gavray Drive</li> <li>• BSC1 – District Wide Housing Distribution</li> <li>• BSC2 – Effective and Efficient Use of Land</li> <li>• BSC 3 – Affordable Housing</li> <li>• BSC 4 – Housing Mix</li> <li>• BSC10 – Open, Space, Outdoor Sport and Recreation</li> <li>• BSC 11 &amp; 12 – Outdoor &amp; Indoor Recreation</li> <li>• ESD1-5 - Climate Change, Sustainable Construction &amp; Energy</li> <li>• ESD6 – Sustainable Flood Risk Management</li> <li>• ESD7 – Sustainable Drainage Systems</li> <li>• ESD8 – Water Resources</li> <li>• ESD10 – Biodiversity</li> <li>• ESD11 – Conservation Target Areas</li> <li>• ESD 13 – Local Landscape Protection &amp; Enhancement</li> <li>• ESD 15 – Character of Built &amp; Historic Environment</li> <li>• ESD 17 – Green Infrastructure</li> <li>• Bicester 7 – Open Space, Sport and Recreation</li> <li>• Policy INF1 – Infrastructure</li> </ul> <p>Saved Policies of the Adopted Cherwell Local Plan 1996 - (DM policies)</p> <p>Relevant Policies of the Non-Statutory Cherwell Local Plan 2011</p> <ul style="list-style-type: none"> <li>• EN13 - Watercourses</li> <li>• EN28 – Langford Stream</li> </ul>
<b>Main Policy Observations</b>	<p>The Planning Policy Team's main observations are:</p> <ul style="list-style-type: none"> <li>• This is an outline proposal for residential development with all matters reserved other than access</li> <li>• The application site comprises part (land west of Langford Brook) of a strategic housing allocation for 300 homes.</li> </ul>

- Para. 3.2 of the Planning Statement states “*The application has tested the development of up to 180 new dwellings*”
- Para. 2.3.1 of the Environmental Statement states, “*The Environmental Statement assessed a residential component comprising up to 180 new dwellings at an average density of around 40 dwellings per hectare*”
- The strategic allocation is a constrained site and it is necessary to consider whether release of part of the site would prevent the complete requirements of Policy Bicester 13 from being met
- Policy Bicester 13 includes a ‘key site specific design and place shaping principle’ which reads, “*That part of the site within the Conservation Target Area should be kept free from built development...*”.
- The interpretation of these words is the subject of an on-going legal claim. It affects the potential quantum of developable land (for ‘built’ development) within the strategic allocation
- The Council considers that 300 homes can be provided without any homes or other ‘built’ development being constructed within the Conservation Target Area and that this is a requirement of the policy. The legal claim affects the weight that can be attached to the contested part of the policy
- The application area is stated as being 6.9 ha. This produces a gross density of about 26.1 dwellings per hectare
- Whilst this is an outline application, there is a lack of analysis on the deliverable net density within the Planning Statement and Design and Access Statement in view of the constraints of the site
- From the application, it is unclear whether or not approximately 120 homes could be provided on the remaining developable land (the Council’s interpretation) outside of the Conservation Target Area
- Additional information was provided on 24 November 2015
- It states, “*The current application for up to 180 homes west of the brook results in a housing density of circa 38 dwellings*”
- Two scenarios are presented for the remainder of the Gavray Drive site, assuming no built development in the Conservation Target Area
- Under one (scenario 2) at a density of 38 dwellings per hectare, 54 dwellings would be provided - a total of 234 dwellings across the whole allocation. This would represent a significant shortfall and would not enable Policy Bicester 13 requirements to be met
- Under another (scenario 3) at a density of 84 dwellings per hectare, 120 homes would be provided, meeting the allocation of 300.
- There needs to be detailed consideration of whether approximately 84 dph would be an acceptable density in order to meet Bicester 13 requirements.
- If this is shown not to be the case, then a higher number of dwellings on the application site would need to be tested to ensure that the requirements of Policy Bicester 13 can be met. The size and mix of dwellings may be material
- For example, the submitted parameters plan indicates a residential area of 4.62 hectares. A density of 45 dph would enable a yield of 208 homes, leaving 92 homes to be provided on the rest of the site outside of the Conservation Target Area
- It is noted that the additional information provided advises that scenarios 2 and 3 have not been fully tested against ecological and other considerations possible.
- The application proposal would deliver new homes but not necessarily a sufficient number to meet policy requirements
- The site is not presently included as a deliverable site in the district’s five year land supply

	<ul style="list-style-type: none"><li>• Other policy requirements, including for a net biodiversity gain to the whole of the allocated site, must be met.</li></ul>
<b>Policy Recommendation</b>	Objection to the principle of up to 180 homes being provided unless it can be demonstrated that approximately 120 homes can be satisfactorily provided on the remainder of the allocation while meeting other requirements of Policy Bicester 13.

# DEVELOPMENT - INTERNAL MEMORANDUM

**From:** Head of Development Management and Major Developments

**To:** Recreation, Health And Communities  
**FAO** Rebecca Dyson  
Public Art/Community Halls/Community Dev./Indoor Sports/Outdoor Sports

**Our Ref:** 15/00837/OUT

**Ask for:** Matthew Parry                      **DDI:** 01295 221837                      **Date:** 15.05.2015

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**Subjects:** CONSULTATION - APPLICATION

REQUEST FOR INFORMATION RELATING TO A PLANNING OBLIGATION

**Application No.:** 15/00837/OUT

**Applicant's Name:** 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

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

**Parish(es):** Bicester

**UPRN :** 010011922653

I should be grateful if you would let me have your observations on the above application by submitting your comments via the Consultee Access online service within **14 days** from the date of this memorandum. Any observations received after this date may fail to be taken into account in the determination of the application.

[ConsulteeAccess](#) can be used to view details of this application. If you wish to submit your comments via this service, you must be logged in to do so.

If you have any problems using the service please contact Planning on extension 1882. Alternatively, you can log a call through the Council's IT Service Desk on extension 7080, or via the Intranet [self-service facility](#).

If you have any queries regarding the application, please contact **Matthew Parry** on extension number **01295 221837**.



Head of Public Protection  
& Development Management



# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

**From:** Recreation, Health And Communities

**To:** Head of Development Management and Major Developments

**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:**

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

<b>Application/Site Reference:</b>	15/00837/OUT		
<b>Development Location:</b>	Part Land On The North East Side Of Gavray Drive Bicester		
<b>Development Proposal:</b>	OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting		
<b>Planning Obligation Requirement :</b>			
That condition be placed on the developer to provide a suitable public art scheme to ameliorate the impact of the development and contribute to the character and distinctiveness of the development			
<b>Justification Policies:</b>			
Cherwell DC public art policy			
<b>Detail:</b>			
Developers should provide a suitable scheme to be approved by CDC arts team; public art can be functional – lighting, benches, railings as well as purely decorative, but should add to the sense of place and support cultural wellbeing as identified in NPPG			
<b>Detail Specification:</b>	A sum in the region of £150 per dwelling is the benchmark – developer’s schemes that are significantly less than this are unlikely to be approved.		
<b>Trigger for works/Contribution:</b>	40% of the properties sold		
<b>Commuted sum:</b>			
<b>Capital:</b>		<b>Revenue:</b>	<b>Indexation:</b>
<b>Capital Management:</b>		<b>Revenue Management:</b>	
<b>Standard Heads of Terms:</b>			
<b>CDC Contact:</b>	Nicola Riley	<b>Ext:</b>	1724
<b>Signed:</b>		<b>Date:</b>	18/05/15

# **OXFORDSHIRE COUNTY COUNCIL'S RESPONSE TO CONSULTATION ON THE FOLLOWING DEVELOPMENT PROPOSAL**

**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Purpose of document**

This report sets out Oxfordshire County Council's view on the proposal.

This report contains officer advice in the form of a strategic localities response and technical team response(s). Where local member have responded these have been attached by OCCs Major Planning Applications Team ([planningconsultations@oxfordshire.gov.uk](mailto:planningconsultations@oxfordshire.gov.uk)).

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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**Officer's Name:** Lisa Michelson

**Officer's Title:** Locality Manager

**Date:** 04 June 2015

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Transport**

### **Recommendation:**

No objection subject to conditions

### **Key issues:**

- Some queries with regard to transport assessment:
  - Justification for not assessing junctions to the north on A4421
  - Assumptions regarding eastern relief road
  - Car trips to local centre in Peregrine Way
  - Lack of walking and cycling audit
- Need for improvements to access by public transport
- Need for contribution to local highway schemes to address cumulative impact
- Need for improvements to pedestrian/cycle access to the site – access arrangements to include ped/cycle access points
- Accident history – five years required

### **Legal agreement required to secure:**

Section 106 contributions:

- A contribution towards strategy to increase capacity on the A4421 between the Buckingham Road and Gavray Drive (amount to be confirmed).
- £1000 per additional dwelling towards the procurement of additional bus services to the south and south-east of Bicester.
- £2000 towards the erection of a pair of bus stop pole/flag/information units in Gavray Drive.
- £10,000 towards the delivery of a pair of bus stops on Charbridge Lane, inclusive of hard-standing areas, pole/flag/information case units.
- A monitoring fee of £1,240 to enable the travel plan to be monitored for a period of five years.

S278 works to include:

- Infrastructure for of a pair of bus stops on Gavray Drive, adjacent to the development, inclusive of hardstanding areas and any connecting footways.
- Pedestrian and cycle access improvements on Gavray Drive including crossing points, plus minor off-site improvements as identified by a walking and cycling audit.

## **Conditions:**

### **Pedestrian and cycle access**

Prior to the commencement of the development hereby approved, full details of pedestrian and cycle access between the development and Gavray Drive, and pedestrian access linking to the adjacent development to the south and to the rail footbridge to the north shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the means of access shall be constructed and retained in accordance with the approved details.

### **Bus access**

Prior to commencement of the development hereby approved, full details of bus stop arrangements on Gavray Drive and Charbridge Lane shall be submitted to and approved in writing by the Local Planning Authority.

### **D10 Estate Accesses, Driveways and Turning Areas**

Prior to the commencement of the development hereby approved, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

[Reason DR2](#)

### **D20 Travel Plan**

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 90<sup>th</sup> 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 DR4](#)

### **Construction traffic management plan**

Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

**Drainage Strategy** – full drainage strategy to be submitted and approved in writing prior to commencement.

## **Informatives:**

Please note the Advance Payments Code (APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners. For guidance and information on road adoptions etc. please contact the County's Road Agreements Team on 01865 815700 or email [roadagreements@oxfordshire.gov.uk](mailto:roadagreements@oxfordshire.gov.uk)

## **Detailed comments:**

### **Strategy**

The emerging 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.

These principles have not been fully addressed by the Transport Assessment and so it must be demonstrated how the development will meet these requirements. Particular reference should also be made to how the development will contribute towards strategies set out in the Infrastructure Development Plan where the Gavray Drive allocation is identified.

The development as proposed will play a part in cumulative impact on the local highway network and so a contribution will be required through S106 agreement to mitigate this. The emerging 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 should be sought towards the implementation of this scheme. It is notable that junctions to the north of Gavray Drive on the A4421 have not been assessed. (This was not requested in scoping, subject to a justification being provided). Trip distribution applied in the TA based on 2011 census data suggests around a quarter of a.m. peak traffic from the development could head north on Charbridge Lane, which would add to the cumulative impact on these junctions. Trip distribution could also change as a result of additional employment at Bicester 11 off Skimmingdish Lane.

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, which could be based on accidents which occurred in 2009, including one fatal accident. 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 is noted that within the TA, with the exception of the Graven Hill/Rodney House roundabout, junctions are 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 are modelled with and without the allocated development site at South East Bicester, on the southeast side of Wretchwick Way. However, the 'with South East Bicester' scenario assumes that this development will include a new section of eastern perimeter road which will take traffic away from the Graven Hill roundabout. In fact the nature of the road associated with the South East Bicester development has not been fully established and it may only take a portion of the traffic. This requires further discussion and possible further junction modelling.

In terms of walking and cycling links, the TA lacks detailed information about how the development links into the local network. At scoping, a walking and cycling audit was requested, but this has not been carried out. Scoping also highlighted the need for local improvements, in particular crossings of Gavray Drive, which have not been addressed. To the north, it is noted that a ped/cycle access will be provided into the development, opposite the entry to the cycle track link to the town centre. Verge crossings and dropped kerbs will be required here. Consideration also needs to be given to the link towards the local centre in Langford Village, with appropriate crossings. Again, it is noted a ped/cycle access will be provided onto Gavray Drive south of the main vehicle access. Both these access points and crossing arrangements need to be included in the access arrangements, to be provided by the developer under S278, along with any other off-site pedestrian/cycle improvements identified by the audit.

Consideration should be given to cycle links towards Charbridge Lane heading north, including possible conversion of the footway on the east side of Gavray Drive to shared use, if a direct cycle route through the wider site cannot be provided.

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.

### **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.

Whilst half-hourly local bus service 22/23 currently operates along Gavray Drive, the continued operation of this service in its present form cannot be guaranteed due to the Council's announced intention to secure significant savings in revenue expenditure.

Chiltern Railways currently operate an Urban Taxibus service from the Langford Village area to Bicester North rail station, connecting with peak hour trains to London. A new rail station is opening at Bicester Village station, offering frequent direct trains to London, so the continued operation of this taxibus to Bicester North station may be unlikely.

Significant new residential developments are planned to the south and south-east of Bicester, including Graven Hill and the proposed South East Bicester development. Developer contributions towards public transport have already been secured at Graven Hill and at smaller developments in Ambrosden. These developments will require new bus services to be provided, so the new residents have access to a credible level of public transport. 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.

The developer will also need to propose a solution to the provision of a pair bus stops on Charbridge Lane, near to the junction of Gavray Drive, which will include calling a site meeting with stakeholders (bus company, Police, local councillor, highway authority representative). These bus stops will provide the new residents with access to bus services operating via Charbridge Lane, such as the s5 and any new services operating via the proposed South East Bicester development.

Services 22/23 currently operate twice per hour (hourly in each direction) between Langford Village, Bicester Town Centre and Caversfield between approximately 0800 and 1800 on weekdays. The section of route through Gavray Drive is currently relatively lightly used by bus passengers, and so the longer-term operation of this bus service is in doubt.

The Council's bus strategy aims to develop a network of commercially viable bus services, to provide new residents with a credible choice of transport, especially for journeys to work when the Council is concerned about the impact of additional cars on the congested strategic road network.

Significant residential and employment development is planned to the south east of Gavray Drive which will generate contributions towards a new and enhanced network of commercially viable bus services. Some of this will be in the form of inter-urban services to Oxford as well as local services to Bicester. The exact routing of these additional services is not fixed, as it will depend on the speed of housing delivery on other housing developments and also the delivery of new bus links.

The delivery of a completely new bus service (such as to/from Graven Hill) is reckoned to require pump-priming financial support of £720k for an additional bus in the local network, spread over 8 years on an annually-declining basis as revenues from passengers increase.

Whilst the routing of the future bus network south and east of Bicester is not fully known, the availability of proportionate funding from this development will certainly have an influence on the future provision of a bus service within easy walking distance for residents of this development.

Given the proximity of this development to the Town Centre, it is probable that inter-urban bus services such as the s5 from Arncott and Langford to Oxford bus service will be of particular interest to new residents. Such inter-urban services are inherently more commercially viable than purely local bus services, whilst still also providing a local facility for those preferring not to walk to the Town Centre.

### **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.

### **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 90<sup>th</sup> 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](http://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**

The Flood Risk Assessment has been reviewed and I confirm that the Drainage Strategy can be dealt with by condition.

**Officer's Name: Joy White**

**Officer's Title: Principal Transport Planner**

**Date: 04 June 2015**

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Archaeology**

### **Recommendation:**

No objection subject to conditions

### **Key issues:**

The site is located in an area of archaeological interest as identified by a trenched evaluation undertaken on the site as part of an earlier planning application. A number of archaeological features were identified and a staged programme of archaeological investigation will be required ahead of the development.

### **Legal agreement required to secure:**

None

### **Conditions:**

1. Prior to any demolition and 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).

2. Following the approval of the Written Scheme of Investigation referred to in condition 1, and prior to any demolition on the site and 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).

### **Informatives:**

If the applicant makes contact with us at the above address, we shall be pleased to outline the procedures involved, provide a brief upon which a costed specification can be based, and provide a list of archaeological contractors working in the area.

**Detailed comments:**

An archaeological evaluation has been undertaken on the site which recorded a number of archaeological features including possible Iron Age pits and a number of gullies. The evaluation only investigated part of the current redline area and further archaeological features may survive on the site. A programme of archaeological investigation will therefore be required ahead of any development on the site.

We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be ensured through the attachment of a suitable negative condition as suggested above.

**Officer's Name: Richard Oram**

**Officer's Title: Planning Archaeologist**

**Date: 21 May 2015**

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Education**

### **Recommendation:**

No objection subject to conditions

### **Key issues:**

Based on the following mix of units:

- 22 x One Bed Dwellings
- 46 x Two Bed Dwellings
- 78 x Three Bed Dwellings
- 34 x Four Bed Dwellings

£934,983 Section 106 required for necessary expansion of permanent primary school capacity in the area. This site lies within the current Longfields Primary School designated catchment area.

£899,450 Section 106 required towards necessary construction of a new secondary school in Bicester.

£30,656 Section 106 required as a proportionate contribution to expansion of Special Educational Needs provision in the area. SEN provision for this area is provided by Bardwell School in Bicester, as well as by those schools serving the whole county.

### **Legal Agreement required to secure:**

£934,983 Section 106 developer contributions towards the expansion of Longfields Primary School, by a total of 51 pupil places. This is based on an estimated project cost of £2,200,000 to expand Longfields Primary School by 120 pupil places. This equates to £18,333 per pupil place. This is index linked from 3<sup>rd</sup> Quarter 2012 using PUBSEC Tender Price Index.

£899,450 Section 106 developer contributions towards the construction of a new secondary school in Bicester by a total of 38 pupil places (including four 6th form places). This is based on Department for Education (DfE) advice for secondary school new build weighted for Oxfordshire and including an allowance for ICT and sprinklers at £23,670 per pupil place. This is index linked to 3rd Quarter 2012 using PUBSEC Tender Price Index.

£30,656 Section 106 developer contributions towards Bardwell School, based on projected pupil generation of 1 pupil. This is index linked to 1st Quarter 2012 using PUBSEC Tender Price Index. We are advised to allow £30,656 per pupil place to expand capacity in special educational needs schools.

## **Conditions:**

Planning permission to be dependent on a satisfactory agreement to secure the resources required for the necessary expansion of education provision. This is in order for Oxfordshire County Council to meet its statutory duty to ensure sufficient pupil places for all children of statutory school age.

## **Informatives:**

### **Indexation**

Financial contributions have to be indexed-linked to maintain the real values of the contributions (so that they can in future years deliver the same level of infrastructure provision currently envisaged). The price bases of the various contributions are covered in the relevant sections above.

### **General**

The contributions requested have been calculated where possible using details of the development mix from the application submitted or if no details are available then the County Council has used the best information available. As the planning application is an outline proposal and in recognition that the delivered scheme may differ from that so far assumed and assessed the council provides & requires a matrix mechanism for inclusion within the S106 agreement. The matrix sets out the contributions payable per 1, 2, 3 & 4+ bedroomed dwelling built. This avoids potential over / under payment of infrastructure contributions.

The matrix for this application would be:

<b>Service</b>	<b>1 Bed</b>	<b>2 Bed</b>	<b>3 Bed</b>	<b>4+ Bed</b>
Primary Education	£0.00	£2,859.79	£6,560.69	£8,579.37
Secondary Education	£0.00	£2,296.86	£5,971.83	£9,646.81
Special Educational Needs	£0.00	£87.16	£210.17	£301.58

## **Detailed Comments:**

### **Primary:**

Longfields Primary School increased its admission number recently, rising to 45 from 40 in 2013. It had previously admitted up to 45 in September 2012 also. The school's accommodation is under pressure and expansion is planned to increase it to 2 form entry, with an admission number of 60.

A capital project will achieve this for the academic year 2016/17 and will deliver an additional 120 pupil places at a total cost of £2,200,000. Housing development will be expected to contribute towards this expansion of capacity. Demand for Bicester primary school places has risen in recent years; a strategic approach to expanding primary school capacity across the town is required to meet the demands of the local population and housing growth.

**Secondary:**

Bicester secondary schools currently have spare capacity, but this will be filled as the higher numbers now in primary school feed through. The large scale housing development planned for the town will require new secondary school establishments, which are planned in SW Bicester and NW Bicester. Housing developments in the area would normally be expected to contribute towards the cost of these new establishments.

**Special:**

Bardwell School admits from Bicester, Kidlington and surrounding villages. A £1m capital project, due to complete 2015, is underway which adds 9 SEN places and re-provides 11 places previously in temporary accommodation. Across Oxfordshire 1.11% of pupils are taught in special schools and housing developments would normally be expected to contribute proportionately toward expansion of this provision.

**Officer's Name: Diane Cameron**

**Officer's Title: School Organisation Officer**

**Date: 20 May 2015**

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Property**

### **Recommendation:**

No objection subject to conditions

### **Key issues:**

- The County Council considers that the impacts of the development proposal (if permitted) will place additional strain on its existing community infrastructure.
- The following housing development mix has been used:

22 x One Bed Dwellings

46 x Two Bed Dwellings

78 x Three Bed Dwellings

34 x Four Bed Dwellings

- It is calculated that this development would generate a net increase of:

#### **443 additional residents including:**

30 resident/s aged 65+

313 residents aged 20+

29 resident/s ages 13-19

37 resident/s ages 0-4

### **Legal Agreement required to secure:**

Admin & Monitoring fee £5,000

OCC is not seeking property contributions to mitigate the impact of this development on infrastructure if other proposed development takes place. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended).

If a S106 agreement is required to secure either transport or education contributions then the County Councils legal fees in drawing up and/or completing a legal agreement will need to be secured. An administrative payment would also be required for the purposes of administration and monitoring of the proposed S106 agreement.

## **Conditions:**

- The County Council as Fire Authority has a duty to ensure that an adequate supply of water is available for fire-fighting purposes. There will probably be a requirement to affix fire hydrants within the development site. Exact numbers and locations cannot be given until detailed consultation plans are provided showing highway, water main layout and size. We would therefore ask you to add the requirement for provision of hydrants in accordance with the requirements of the Fire & Rescue Service as a condition to the grant of any planning permission.

## **Informatives:**

- Fire & Rescue Service recommends that new dwellings should be constructed with sprinkler systems

## **Contributions required to mitigate the impact of the development on infrastructure but which due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) OCC cannot require a s106 obligation in respect of: to be confirmed at Full Planning stage**

• Library	£37,655.00
• Central Library	£7,597.45
• Waste Management	£28,352.00
• Museum Resource Centre	£2,215.00
• Integrated Youth Service	£5,742.00
• Adult Day Care	£33,000.00
<b>Total*</b>	<b>£114,561.45</b>

\*Price Base 1<sup>st</sup> Quarter 2012

Oxfordshire County Council is **not** seeking a contribution towards library, central library, waste management, museum resource centre or adult day care infrastructure from this application due to the pooling restrictions contained within Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) which took effect from the 6<sup>th</sup> April 2015. The property response '*No objection subject to conditions*' relies upon funding for infrastructure as critical mitigation being delivered through CIL where there is no opportunity to gain contributions through Section 106 due to current legislation. OCC hold a statutory obligation to deliver services such as education through schools.

Details of these contribution rates for sustainable capital development are set out below.

## **Detailed Comments:**

### **Local Library**

This development is served by Bicester Library.

This provision is significantly under-size in relation to its catchment population and this development will therefore place additional pressures on the library service.

Costs for improvements are based upon the costs of extending a library.



The costs of extending a library is £2,370 per m<sup>2</sup> at 1st Quarter 2012 price base; this equates to £65 (£2,370 x 27.5 / 1,000) per resident.

This calculation is based on Oxfordshire County Council adopted standard for publicly available library floor space of 23 m<sup>2</sup> per 1,000 head of population, and a further 19.5% space is required for support areas (staff workroom, etc.), totalling 27.5 m<sup>2</sup> per 1,000 head of population.

The development proposal would also generate the need to increase the core book stock held by 2 volumes per additional resident. The price per volume is £10.00 at 1st Quarter 2012 price base; this equates to £20 per resident.

- The contribution for the provision of library infrastructure and supplementary core book stock in respect of this application would therefore be based on the following formula:

$$\mathbf{£85 \times 443 \text{ (the forecast number of new residents)} = £37,655.00}$$

### **Central Library**

Central Library in Oxford serves the whole county and requires remodelling to support service delivery that includes provision of library resources across the county.

Remodelling of the library at 3rd Quarter 2013 base prices leaves a funding requirement still to be secured is £4,100,000. 60% of this funding is collected from development in the Oxford area. The remainder 40% is spread across the four other Districts. 40% of 4.1M = £1,604,000.

Population across Oxfordshire outside of Oxford City District is forecast to grow by 93,529 to year 2026. £1,604,000 ÷ 93,529 people = £17.15 per person

- The contribution for the provision of central library infrastructure in respect of this application would therefore be based on the following formula:

$$\mathbf{£17.15 \times 443 \text{ (the forecast number of new residents)} = £7,597.45}$$

### **Strategic Waste Management**

Under Section 51 of the Environmental Protection Act 1990, County Councils, as waste disposal authorities, have a duty to arrange for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of that waste.

To meet the additional pressures on the various Household Waste and Recycling Centre provision in Oxfordshire enhancements to these centres are either already taking place or are planned, and, to this end, contributions are now required from developers towards their redesign and redevelopment.

A new site serving 20,000 households costs in the region of £3,000,000 at 1st Quarter 2012 price base; this equates to £64 per resident.

- The contribution for the provision of strategic waste management infrastructure in respect of this application would therefore be based on the following formula:

$$\mathbf{£64 \times 443 \text{ (the forecast number of new residents)} = £28,352.00}$$

### **County Museum Resource Centre**

Oxfordshire County Council's museum service provides a central Museum Resource Centre (MRC). The MRC is the principal store for the Oxfordshire Museum, Cogges Manor Farm Museum, Abingdon Museum, Banbury Museum, the Museum of Oxford and the Vale and Downland Museum. It provides support to these museums and schools throughout the county for educational, research and leisure activities.

The MRC is operating at capacity and needs an extension to meet the demands arising from further development throughout the county. An extended facility will provide additional storage space and allow for increased public access to the facility.

An extension to the MRC to mitigate the impact of new development up to 2026 has been costed at £460,000 at 1st Quarter 2012 price base; this equates to £5 per person

- The contribution for the extension of the Museum Resource Centre in respect of this application would therefore be based on the following formula:

$$\mathbf{£5 \times 443 \text{ (the forecast number of new residents)} = £2,215.00}$$

### **Integrated Youth Support Service**

This development is served by 0 Early Intervention Hub which is currently operating at capacity in the delivery of specialist services and this development will therefore place additional pressures on the early intervention hub.

To increase the provision by 235sqm it costs £595,000 at 1<sup>st</sup> Quarter 2012 price base. This increase will provide 3,000 places (for 13-19 year olds); this equates to £198 per place.

- The contribution for the provision of integrated youth support service infrastructure in respect of this application would therefore be based on the following formula:

$$\mathbf{£198 \times 29 \text{ (the forecast number of new residents aged 13-19)} = £5,742.00}$$

### **Social & Health Care - Day Care Facilities**

This development is served by Bicester Day Centre and this development will place additional pressures on this adult day care facility. To meet the additional pressures on day care provision the County Council is looking to expand and improve the adult day care facility in Bicester Day Centre

Contributions are based upon a new Day Care centre offering 40 places per day (optimum) and open 5 days per week; leading to an equivalent costing of £11,000 per place at 1<sup>st</sup> Quarter 2012 price base (this in non-revenue). Based on current and predicted usage figures we estimate that 10% of the over 65 population use day care facilities. Therefore the cost per person aged 65 years or older is £1,100.

- The contribution for the provision of adult day care infrastructure in respect of this application would therefore be based on the following formula:

$$\mathbf{£1,100 \times 30 \text{ (the forecast number of new residents aged 65+)} = £33,000.00}$$

### **Indexation**

Financial contributions have to be indexed-linked to maintain the real values of the contributions (so that they can in future years deliver the same level of infrastructure provision currently envisaged). The price bases of the various contributions are covered in the relevant sections above.

### **General**

The contributions requested have been calculated where possible using details of the development mix from the application submitted or if no details are available then the County Council has used the best information available. Should the application be amended or the development mixed changed at a later date, the Council reserves the right to seek a higher contribution according to the nature of the amendment.

The contributions which are being sought are necessary to protect the existing levels of infrastructure for local residents. They are relevant to planning the incorporation of this major development within the local community, if it is implemented. They are directly related to this proposed development and to the scale and kind of the proposal.

**Officer's Name: Oliver Spratley**

**Officer's Title:** Corporate Landlord Officer

**Date:** 19 May 2015

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Ecology**

### **Key issues:**

The District Council should be seeking the advice of their in-house ecologist who can advise them on this application.

In addition, the following guidance document on Biodiversity & Planning in Oxfordshire combines planning policy with information about wildlife sites, habitats and species to help identify where biodiversity should be protected. The guidance also gives advice on opportunities for enhancing biodiversity:

<https://www.oxfordshire.gov.uk/cms/content/planning-and-biodiversity>

### **Legal agreement required to secure:**

N/A - For the District Council to comment

### **Conditions:**

N/A - For the District Council to comment

### **Informatives:**

N/A - For the District Council to comment

**Officer's Name:** Tamsin Atley

**Officer's Title:** Ecologist Planner

**Date:** 03 June 2015

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# **OXFORDSHIRE COUNTY COUNCIL'S RESPONSE TO CONSULTATION ON THE FOLLOWING DEVELOPMENT PROPOSAL**

**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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**This report sets out Oxfordshire County Council's view on the proposal.**

**This report contains officer advice in the form of technical team responses. Where local members have responded these have been attached by OCCs Major Planning Applications Team ([planningconsultations@oxfordshire.gov.uk](mailto:planningconsultations@oxfordshire.gov.uk)).**

This response updates OCC's consultation response of 04 June 2015 in regard to Transport, Education and Property. Archaeology and Ecology responses remain unchanged and are reproduced below for ease of reference.

**Officer's Name:** David Flavin

**Officer's Title:** Senior Planning Officer

**Date:** 22 March 2017

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Updated Transport Response**

### **Recommendation:**

No objection subject to conditions

### **Key issues:**

This is an updated response to the one provided on this application in June 2015, and reflects changes since then including:

- Adoption of Cherwell Local Plan
- Adoption of Policy Bicester 12
- Withdrawal of bus services along Gavray Drive

### **Legal agreement required to secure:**

Section 106 contributions:

- A contribution towards strategy to increase capacity on the A4421 between the Buckingham Road and Gavray Drive (amount to be confirmed).
- £1000 per additional dwelling towards the procurement of additional bus services running along Charbridge Lane and/or Wretchwick Way
- £18,000 towards bus stop infrastructure for stops on Wretchwick Way (shelter and real time information on northbound stop, flagpole and information case on both northbound and southbound)
- A monitoring fee of £1,240 to enable the travel plan to be monitored for a period of five years.
- £20,000 towards safety improvements at the junction of Peregrine Way and Wretchwick Way.

S278 works to be secured via the S106, to be delivered prior to first occupation:

- Works on Gavray Drive to include vehicle access, pedestrian and cycle access, safe crossing points across Gavray Drive, and raised crossing across Mallards Way
- Signalised crossing of Wretchwick Way (to allow residents to cross safely to and from the southbound bus stop) plus hardstanding for bus stops

Drawings for the above have not been agreed. Indicative drawings will need to be agreed as part of the S106.

## **Conditions:**

Prior to the commencement of the development hereby approved, full details of improvements to the public footpath crossing the site and the pedestrian link to the rail footbridge to the north shall be submitted to and approved in writing by the LPA. Thereafter, and prior to first occupation, the link shall be constructed in accordance with the approved details.

### **D10 Estate Accesses, Driveways and Turning Areas**

Prior to the commencement of the development hereby approved, full specification details of the vehicular accesses, driveways and turning areas to serve the dwellings, which shall include construction, layout, surfacing and drainage, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of any of the dwellings, the access, driveways and turning areas shall be constructed in accordance with the approved details.

[Reason DR2](#)

### **D20 Travel Plan**

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 90<sup>th</sup> 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 DR4](#)

### **Construction traffic management plan**

Prior to commencement of the development hereby approved, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

**Drainage Strategy** – full drainage strategy to be submitted and approved in writing prior to commencement.

## **Informatives:**

Please note the Advance Payments Code (APC), Sections 219 -225 of the Highways Act, is in force in the county to ensure financial security from the developer to off-set the frontage owners' liability for private street works, typically in the form of a cash deposit or bond. Should a developer wish for a street or estate to remain private then to secure exemption from the APC procedure a 'Private Road Agreement' must be entered into with the County Council to protect the interests of prospective frontage owners. For guidance and information on road adoptions etc. please contact the County's Road Agreements Team on 01865 815700 or email [roadagreements@oxfordshire.gov.uk](mailto:roadagreements@oxfordshire.gov.uk)

## **Detailed comments:**

### **Strategy**

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 90<sup>th</sup> 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](http://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**

The Flood Risk Assessment has been reviewed and I confirm that the Drainage Strategy can be dealt with by condition.

**Officer's Name: Joy White**

**Officer's Title: Principal Transport Planner**

**Date: 22 March 2017**

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Archaeology**

### **Recommendation:**

No objection subject to conditions

### **Key issues:**

The site is located in an area of archaeological interest as identified by a trenched evaluation undertaken on the site as part of an earlier planning application. A number of archaeological features were identified and a staged programme of archaeological investigation will be required ahead of the development.

### **Legal agreement required to secure:**

None

### **Conditions:**

1. Prior to any demolition and 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).

2. Following the approval of the Written Scheme of Investigation referred to in condition 1, and prior to any demolition on the site and 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).

## **Informatives:**

If the applicant makes contact with us at the above address, we shall be pleased to outline the procedures involved, provide a brief upon which a costed specification can be based, and provide a list of archaeological contractors working in the area.

## **Detailed comments:**

An archaeological evaluation has been undertaken on the site which recorded a number of archaeological features including possible Iron Age pits and a number of gullies. The evaluation only investigated part of the current redline area and further archaeological features may survive on the site. A programme of archaeological investigation will therefore be required ahead of any development on the site.

We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be ensured through the attachment of a suitable negative condition as suggested above.

**Officer's Name: Richard Oram**

**Officer's Title: Planning Archaeologist**

**Date: 21 May 2015**

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Updated Education Response**

### **Recommendation:**

Approval subject to conditions

### **Key issues:**

Based on the following housing development mix:

- 22 x One Bed Dwellings
- 46 x Two Bed Dwellings
- 78 x Three Bed Dwellings
- 34 x Four Bed Dwellings

This proposed development has been estimated to generate 10.36 Nursery Pupils, 51 primary pupils, 38 secondary pupils and 1.0 pupils requiring education at an SEN school.

### **Primary education**

- £1,015,716 Section 106 required for the necessary expansion of permanent primary school capacity serving the area, at Longfields Primary School.

### **Secondary education**

- £1,013,954 Section 106 required for the necessary expansion of permanent secondary school capacity serving the area, contributing to the cost of new secondary capacity planned for construction in Bicester.

### **Special Educational Needs (SEN) education**

- £35,134 Section 106 required for the necessary expansion of permanent SEN school capacity serving the area, at Bardwell School.

### **Legal Agreement required to secure:**

£1,015,716 Section 106 developer contributions towards the expansion of Longfields Primary School. This is based on actual capital project costs at £19,916 per pupil place and 51 pupils being generated. This is to be index linked from 4th Quarter 2015 using PUBSEC Tender Price Index.

£1,013,954 Section 106 developer contributions towards the cost of building a new secondary school in Bicester. This is based on the current cost estimate for a 600 place school of £26,683 per pupil place, and 38 secondary pupils being generated. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index.

£35,134 Section 106 developer contributions towards Bardwell School, based on projected pupil generation of 1 pupil. This is to be index linked from 4th Quarter 2014 using PUBSEC Tender Price Index. We are advised to allow £35,134 per pupil place to expand capacity in special educational needs schools.

**Informatives:**

As the planning application is an outline proposal and in recognition that the delivered scheme may differ from that so far assumed and assessed the council provides & requires a matrix mechanism for inclusion within the S106 agreement. The matrix sets out the contributions payable per size of dwelling built.”

**Detailed Comments:**

**Primary:**

The large-scale housing growth planned and underway in Bicester requires a strategic approach to increasing school capacity, involving both new schools and expansions of existing schools.

For this proposed development a new school is not required. The additional primary school capacity made necessary as a result of this development is provided through the second phase of a two-phase expansion of Longfields Primary School, which is the designated school for this area, lying approximately 0.5 miles’ walking distance from the proposed development.

In phase 1, this school increased its admission number from 40 to 45 in 2013. In Phase 2 the school expanded further to 2 form entry (60 children per year group) through a capital project completed recently in 2016/2017 and costing £2,390,000. Phase 2 provides four new classrooms, i.e. 120 pupil places, and the cost per place is therefore £19,916. Part of the cost has been forward funded by the county council from corporate resources, in anticipation of retrospective s106 developer contributions being required from development including the one in this application.

Prior to the Phase 2 expansion, Longfields Primary School could accommodate 45 children per year group, or 315 children in total. As of the October 2016 pupil census, the school already had 318 children on roll. The school therefore could not accommodate the children expected to be generated from this proposed development. The Phase 2 expansion has created sufficient places for the proposed development.

October 2016 pupil census data for Longfields Primary School:

<b>Reception</b>	<b>Y1</b>	<b>Y2</b>	<b>Y3</b>	<b>Y4</b>	<b>Y5</b>	<b>Y6</b>
<b>44</b>	<b>54</b>	<b>44</b>	<b>43</b>	<b>44</b>	<b>47</b>	<b>42</b>

**Secondary:**

The scale of housing growth planned for Bicester is expected to require around 2000 more secondary school places in the town by the mid-2030s. The provision of this has been planned strategically to be implemented in the following phases:

- In 2016 a new 300-place studio school for 14-18 year olds opened. It is expected that this will draw in pupils from a wider area, and may also increase the staying-on rate of pupils in education post-16. This school is not, therefore, primarily about meeting the needs of population growth, but will provide some extra capacity.

- In 2019 a new 600-place secondary school for 11-16 year olds will open on the SW Bicester development.
- The NW Bicester development will include a secondary school site – the size of this school is flexible to respond to the eventual scale of local population growth. For the same reason, the school is planned to be built in phases of 600 or 300 places, to allow it to grow in line with demand.

This development is required to contribute proportionately towards new secondary school capacity within Bicester. The current cost estimate for a 600 place school is £26,683 per pupil place (price base 4<sup>th</sup> Quarter 2014).

**Special:**

Bardwell School admits from Bicester, Kidlington and surrounding villages. A recently completed (2016/17) £1.39m capital project provided 9 additional SEN places and re-provided 11 places which were previously in temporary accommodation. £0.672m of the cost was funded from a Demographic Growth Capital Fund grant. Contributions are sought towards the forward funding the county needed to contribute towards this project.

Due to the scale of planned local housing growth, options for further capacity growth are currently being explored. Across Oxfordshire 1.11% of pupils are taught in special schools.

**Early Years:**

Under Section 7 of the Childcare Act 2006 the Council has a responsibility to ensure that there is sufficient childcare to enable families to access their entitlement to free early education of 570 hours per year. Early education is a statutory entitlement for eligible two-year old children, where such eligibility is targeted at circa 40% of this age group, and for all three year old children.

The Childcare Act 2016 extends the Council’s responsibility to ensure that there is sufficient provision, as the entitlement to free early education will double to 1,140 hours for children, aged 3 and 4, of eligible working parents from September 2017. Delivery of early years’ education and childcare provision in Oxfordshire is through a mixed market of private and voluntary providers, including pre-schools, day nurseries and childminders, and through schools, including academies and Free Schools.

**Officer’s Name:** Diane Cameron  
**Officer’s Title:** School Organisation Officer  
**Date:** 28/02/17

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**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Updated Property Response**

### **Recommendation**

**No objection subject to conditions**

### **Key issues:**

- The County Council considers that the impacts of the development proposal (if permitted) will place additional strain on its existing community infrastructure.
- The following housing development mix has been used:

22 x One Bed  
Dwellings

46 x Two Bed  
Dwellings

78 x Three Bed  
Dwellings

34 x Four Bed  
Dwellings

- It is calculated that this development would generate a net increase of:

#### **443 additional residents including:**

30 resident/s aged 65+

313 residents aged 20+

29 resident/s ages 13-19

37 resident/s ages 0-4

### **Legal Agreement required to secure:**

OCC is not seeking property contributions to mitigate the impact of this development on infrastructure. This is solely due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended).

If a S106 agreement is required to secure either transport or education contributions then the County Councils legal fees in drawing up and/or completing a legal agreement will need to be secured. An administrative payment would also be required for the purposes of administration and monitoring of the proposed S106 agreement.

If payment of the requested education or transport contributions is deferred post implementation then security for those payments (i.e a bond) will be required.



### **Conditions:**

- The County Council as Fire Authority has a duty to ensure that an adequate supply of water is available for fire-fighting purposes. There will probably be a requirement to affix fire hydrants within the development site. Exact numbers and locations cannot be given until detailed consultation plans are provided showing highway, water main layout and size. We would therefore ask you to add the requirement for provision of hydrants in accordance with the requirements of the Fire & Rescue Service as a condition to the grant of any planning permission.

### **Informatives:**

- Fire & Rescue Service recommends that new dwellings should be constructed with sprinkler systems

### **Contributions required to mitigate the impact of the development on infrastructure but which due to Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) OCC cannot require a s106 obligation in respect of:**

• Library	£37,655.00
• Central Library	£7,597.45
• Waste Management	£28,352.00
• Museum Resource Centre	£2,215.00
• Integrated Youth Service	£5,742.00
• Adult Day Care	£33,000.00
<b>Total*</b>	<b>£114,561.45</b>

\*Price Base 1<sup>st</sup> Quarter 2012

Oxfordshire County Council is **not** seeking a contribution towards library, central library, waste management, museum resource centre or adult day care infrastructure from this application due to the pooling restrictions contained within Regulation 123 of the Community Infrastructure Regulations 2010 (as amended) which took effect from the 6<sup>th</sup> April 2015. The property response '*No objection subject to conditions*' relies upon funding for infrastructure as critical mitigation being delivered through CIL where there is no opportunity to gain contributions through Section 106 due to current legislation. OCC hold a statutory obligation to deliver services such as education through schools.

Details of these contribution rates for sustainable capital development are set out below.

### **Detailed Comments:**

#### **Local Library**

This development is served by Bicester Library.

This provision is significantly under-size in relation to its catchment population and this development will therefore place additional pressures on the library service.

Costs for improvements are based upon the costs of extending a library.

The costs of extending a library is £2,370 per m2 at 1st Quarter 2012 price base; this equates to £65 (£2,370 x 27.5 / 1,000) per resident.

This calculation is based on Oxfordshire County Council adopted standard for publicly available library floor space of 23 m2 per 1,000 head of population, and a further 19.5% space is required for support areas (staff workroom, etc.), totalling 27.5 m2 per 1,000 head of population.

The development proposal would also generate the need to increase the core book stock held by 2 volumes per additional resident. The price per volume is £10.00 at 1st Quarter 2012 price base; this equates to £20 per resident.

- The contribution for the provision of library infrastructure and supplementary core book stock in respect of this application would therefore be based on the following formula:

$$\mathbf{£85 \times 443 \text{ (the forecast number of new residents)} = £37,655.00}$$

### **Central Library**

Central Library in Oxford serves the whole county and requires remodelling to support service delivery that includes provision of library resources across the county.

Remodelling of the library at 3rd Quarter 2013 base prices leaves a funding requirement still to be secured is £4,100,000. 60% of this funding is collected from development in the Oxford area. The remainder 40% is spread across the four other Districts. 40% of 4.1M = £1,604,000.

Population across Oxfordshire outside of Oxford City District is forecast to grow by 93,529 to year

2026.  $£1,604,000 \div 93,529 \text{ people} = £17.15 \text{ per person}$

- The contribution for the provision of central library infrastructure in respect of this application would therefore be based on the following formula:

$$\mathbf{£17.15 \times 443 \text{ (the forecast number of new residents)} = £7,597.45}$$

### **Strategic Waste Management**

Under Section 51 of the Environmental Protection Act 1990, County Councils, as waste disposal authorities, have a duty to arrange for places to be provided at which persons resident in its area may deposit their household waste and for the disposal of that waste.

To meet the additional pressures on the various Household Waste and Recycling Centre provision in Oxfordshire enhancements to these centres are either already taking place or are planned, and, to this end, contributions are now required from developers towards their redesign and redevelopment.

A new site serving 20,000 households costs in the region of £3,000,000 at 1st Quarter 2012 price base; this equates to £64 per resident.

- The contribution for the provision of strategic waste management infrastructure in respect of this application would therefore be based on the following formula:

$$\mathbf{£64 \times 443 \text{ (the forecast number of new residents)} = £28,352.00}$$

### **County Museum Resource Centre**

Oxfordshire County Council's museum service provides a central Museum Resource Centre

(MRC). The MRC is the principal store for the Oxfordshire Museum, Cogges Manor Farm Museum, Abingdon Museum, Banbury Museum, the Museum of Oxford and the Vale and Downland Museum. It provides support to these museums and schools throughout the county for educational, research and leisure activities.

The MRC is operating at capacity and needs an extension to meet the demands arising from further development throughout the county. An extended facility will provide additional storage space and allow for increased public access to the facility.

An extension to the MRC to mitigate the impact of new development up to 2026 has been costed at

£460,000 at 1st Quarter 2012 price base; this equates to £5 per person

- The contribution for the extension of the Museum Resource Centre in respect of this application would therefore be based on the following formula:

**£5 x 443 (the forecast number of new residents) = £2,215.00**

### **Integrated Youth Support Service**

This development is served by 0 Early Intervention Hub which is currently operating at capacity in the delivery of specialist services and this development will therefore place additional pressures on the early intervention hub.

To increase the provision by 235sqm it costs £595,000 at 1<sup>st</sup> Quarter 2012 price base. This increase will provide 3,000 places (for 13-19 year olds); this equates to £198 per place.

- The contribution for the provision of integrated youth support service infrastructure in respect of this application would therefore be based on the following formula:

**£198 x 29 (the forecast number of new residents aged 13-19) = £5,742.00**

### **Social & Health Care - Day Care Facilities**

This development is served by Bicester Day Centre and this development will place additional pressures on this adult day care facility. To meet the additional pressures on day care provision the County Council is looking to expand and improve the adult day care facility in Bicester Day Centre

Contributions are based upon a new Day Care centre offering 40 places per day (optimum) and open 5 days per week; leading to an equivalent costing of £11,000 per place at 1<sup>st</sup> Quarter 2012 price base (this in non-revenue). Based on current and predicted usage figures we estimate that 10% of the over 65 population use day care facilities. Therefore the cost per person aged 65 years or older is £1,100.

- The contribution for the provision of adult day care infrastructure in respect of this application would therefore be based on the following formula:

**£1,100 x 30 (the forecast number of new residents aged 65+) = £33,000.00**

**Officer's Name:** Will Madgwick

**Officer's Title:** Planning Liaison Officer

**Date:** 03/03/2017

**District:** Cherwell

**Application no:** 15/00837/OUT

**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

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

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## **Ecology**

### **Key issues:**

The District Council should be seeking the advice of their in-house ecologist who can advise them on this application.

In addition, the following guidance document on Biodiversity & Planning in Oxfordshire combines planning policy with information about wildlife sites, habitats and species to help identify where biodiversity should be protected. The guidance also gives advice on opportunities for enhancing biodiversity:

<https://www.oxfordshire.gov.uk/cms/content/planning-and-biodiversity>

### **Legal agreement required to secure:**

N/A - For the District Council to comment

### **Conditions:**

N/A - For the District Council to comment

### **Informatives:**

N/A - For the District Council to comment

**Officer's Name:** Tamsin Atley

**Officer's Title:** Ecologist Planner

**Date:** 03 June 2015

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# OXFORDSHIRE COUNTY COUNCIL'S RESPONSE TO CONSULTATION ON THE FOLLOWING DEVELOPMENT PROPOSAL

**District:** Cherwell

**Application no:** 15/00837/OUT-2

**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.

**Location:** Part Land On The North East Side Of Gavray Drive, Bicester.

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## Purpose of document

This report sets out Oxfordshire County Council's view on the proposal.

This report contains officer advice in the form of a strategic localities response and technical team response(s). Where local member have responded these have been attached by OCCs Major Planning Applications Team ([planningconsultations@oxfordshire.gov.uk](mailto:planningconsultations@oxfordshire.gov.uk)).

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This response relates to the submitted revised illustrative parameters plan and additional biodiversity assessment information (Biodiversity Impact Assessment metric). All comments in OCC's responses dated 04 June 2015 and 22 March 2017 continue to apply other than where addressed below.

**District:** Cherwell

**Application no:** 15/00837/OUT-2

**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.

**Location:** Part Land On The North East Side Of Gavray Drive, Bicester.

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## **Ecology**

### **Key issues:**

The District Council should be seeking the advice of their in-house ecologist who can advise them on this application.

### **Legal agreement required to secure:**

N/A

### **Conditions:**

N/A

### **Informatives:**

N/A

### **Detailed comments:**

**Officer's Name:** Sarah Postlethwaite

**Officer's Title:** Protected Species Officer

**Date:** 11 May 2017

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# DEVELOPMENT - INTERNAL MEMORANDUM

**From:** Head of Development Management and Major Developments

**To:** Recreation, Health And Communities  
**FAO** Rebecca Dyson  
Public Art/Community Halls/Community Dev./Indoor Sports/Outdoor Sports

**Our Ref:** 15/00837/OUT

**Ask for:** Matthew Parry                      **DDI:** 01295 221837                      **Date:** 15.05.2015

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**Subjects:** CONSULTATION - APPLICATION

REQUEST FOR INFORMATION RELATING TO A PLANNING OBLIGATION

**Application No.:** 15/00837/OUT

**Applicant's Name:** 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

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

**Parish(es):** Bicester

**UPRN :** 010011922653

I should be grateful if you would let me have your observations on the above application by submitting your comments via the Consultee Access online service within **14 days** from the date of this memorandum. Any observations received after this date may fail to be taken into account in the determination of the application.

[ConsulteeAccess](#) can be used to view details of this application. If you wish to submit your comments via this service, you must be logged in to do so.

If you have any problems using the service please contact Planning on extension 1882. Alternatively, you can log a call through the Council's IT Service Desk on extension 7080, or via the Intranet [self-service facility](#).

If you have any queries regarding the application, please contact **Matthew Parry** on extension number **01295 221837**.



Head of Public Protection  
& Development Management

# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

**From:** Recreation, Health And Communities

**To:** Head of Development Management and Major Developments

**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:**

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

<b>Application/Site Reference:</b>	15/00837/OUT
<b>Development Location:</b>	Part Land On The North East Side Of Gavray Drive Bicester
<b>Development Proposal:</b>	OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting

**Planning Obligation Requirement :**

**HALLS:**

A contribution per dwelling based on the size of the dwelling as per the following schedule:

Size of Property	Contribution per dwelling based on figures @ April 2015 subject to further inflation as appropriate
1 bed	103.39
2 bed	149.27
3 bed	232.37
4 + bed	319.55

This contribution would be used to build an exterior storage area that would free up internal space currently used for storage. This would increase the internal space available to users and address the increased demand on the facility as a result of the Gavray Drive development.

If further development is undertaken in this area this contribution may be used in conjunction with any subsequent contribution that may be acquired and may result in an alternative use for the funding.

**COMMUNITY DEVELOPMENT – EVENTS 7 PROJECTS:**

Contribution of £22,988.79 @ April 2015 (subject to any further inflation as appropriate) towards community events and projects such as information events, newsletters and welcome packs, to support the new residents to integrate into the community.

Calculations based @ 2010 plus inflation to 2015.

**Justification Policies:**

Planning Obligations  
SPD

**Community Halls:**

Section 6  
Section 14  
Appendix I (i)  
Appendix B (ii)  
Appendix I (ii)  
2010 figures plus RPI to 2014/15)



Community Development:  
Section 15  
Appendix J (i)

**Detail:**

**Detail Specification:**

**Trigger for  
works/Contribution:**

**Commuted sum:**

**Capital:**

**Revenue:**

**Indexation:**

**Capital  
Management:**

**Revenue  
Management:**

**Standard  
Heads of  
Terms:**

**CDC Contact:**

**Ext:**

**Signed:**

**Date:**

Cherwell District Council  
Planning & Development Services  
Bodicote House White Post Road  
Bodicote  
Banbury  
OX15 4AA

**Our ref:** WA/2015/120594/01-L01  
**Your ref:** 15/00837/OUT  
**Date:** 15 June 2015

Dear Mr Parry,

**Outline - residential development of up to 180 dwellings to include affordable housing, public open space, localized land remodeling, compensatory flood storage and structural planting  
Part Land on the North East Side of Gavray Drive, Bicester**

Thank you for consulting us on this matter. We received the letter on 15 May 2015 and we are now in a position to respond.

**Environment Agency Position**

We have no objection to the application as submitted, subject to the inclusion of a couple of conditions, detailed under the headings below, to any subsequent planning permission granted.

Without the inclusion of these conditions we consider the development to pose an unacceptable risk to the Environment

**Condition 1**

Development shall not begin until 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 has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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

Environment Agency  
Red Kite House Howbery Park, Wallingford, Oxfordshire, OX10 8BD.  
Customer services line: 03708 506 506  
[www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)

Cont/d..

ensure future maintenance of these.

## **Condition 2**

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.

This condition is supported by the National Planning Policy Framework (NPPF), paragraph 109 which recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The Natural Environment and Rural Communities Act which requires Local Authorities to have regard to nature conservation and article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.

Such networks may also help wildlife adapt to climate change and will help restore watercourses to a more natural state as required by the river basin management plan .

Yours sincerely,

**Mr Jack Moeran**  
**Planning Advisor**

Direct dial 01491 828367

Direct e-mail [planning-wallingford@environment-agency.gov.uk](mailto:planning-wallingford@environment-agency.gov.uk)

cc David Lock Associated Ltd

Cherwell District Council  
Planning & Development Services  
Bodicote House White Post Road  
Bodicote  
Banbury  
OX15 4AA

**Our ref:** WA/2015/120594/01-L01  
**Your ref:** 15/00837/OUT  
**Date:** 15 June 2015

Dear Mr Parry,

**Outline - residential development of up to 180 dwellings to include affordable housing, public open space, localized land remodeling, compensatory flood storage and structural planting  
Part Land on the North East Side of Gavray Drive, Bicester**

Thank you for consulting us on this matter. We received the letter on 15 May 2015 and we are now in a position to respond.

**Environment Agency Position**

We have no objection to the application as submitted, subject to the inclusion of a couple of conditions, detailed under the headings below, to any subsequent planning permission granted.

Without the inclusion of these conditions we consider the development to pose an unacceptable risk to the Environment

**Condition 1**

Development shall not begin until 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 has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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.

Cont/d..



## **Condition 2**

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.

This condition is supported by the National Planning Policy Framework (NPPF), paragraph 109 which recognises that the planning system should aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. The Natural Environment and Rural Communities Act which requires Local Authorities to have regard to nature conservation and article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors to allow movement of species between suitable habitats, and promote the expansion of biodiversity.

Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged.

Such networks may also help wildlife adapt to climate change and will help restore watercourses to a more natural state as required by the river basin management plan .

Yours sincerely,

**Mr Jack Moeran**  
**Planning Advisor**

Direct dial 01491 828367

Direct e-mail [planning-wallingford@environment-agency.gov.uk](mailto:planning-wallingford@environment-agency.gov.uk)

cc David Lock Associated Ltd

**From:** Consultations (NE) [<mailto:consultations@naturalengland.org.uk>]  
**Sent:** 22 May 2015 11:21  
**To:** Planning  
**Subject:** 15/00837/OUT Consultation Response

**Application ref: 15/00837/OUT**  
**Our Ref: 154414**

Dear Sir/Madam

**Natural England has no comments to make regarding this application.**

### **SSSI Impact Risk Zones**

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on "*Development in or likely to affect a Site of Special Scientific Interest*" remains in place (Schedule 4, w). Natural England's **SSSI Impact Risk Zones** are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments *likely to affect a SSSI*. The dataset and user guidance can be accessed from the [gov.uk](http://gov.uk) website.

Please see the information below for further advice on when Natural England should be consulted and links to guidance on the gov.uk website.

Unless there are additional local consultation arrangements in place, Natural England **should** be consulted for all developments where:

- The proposal affects a protected species not covered by the [Standing Advice](#)
- The proposal requires an [environmental impact assessment](#)
- The proposal is likely to damage features of a Site of Special Scientific Interest (SSSI)
- The proposal is likely to have a significant effect upon Special Area of Conservation (SAC), Special Protection Area (SPA) or Wetland of International Importance under the Ramsar Convention (Ramsar Sites)
- The proposal could lead to the loss of more than 20 ha of the [best and most versatile agricultural land](#)
- Any minerals and waste development where the land will be restored for agriculture

### **Protected Species**

If the proposed works could, at any stage, have an impact on protected species, then you should refer to our Standing Advice which contains details of survey and mitigation requirements

Yours faithfully



***Tom Reynolds***

Planning Advisor  
Sustainable Development Consultations Team  
Natural England  
Block B  
Government Buildings  
Whittington Road  
Worcester  
WR5 2LQ

Tel 0300 060 2290

[www.gov.uk/natural-england](http://www.gov.uk/natural-england).

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

**Natural England is accredited to the Cabinet Office Customer Service Excellence Standard**

Date: 03 June 2015  
Our ref: 155632  
Your ref: 15/00837/OUT



planning@cherwell-dc.gov.uk  
**BY EMAIL ONLY**

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

Dear Sir/Madam

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

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

Thank you for your consultation on the above.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

## **WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)**

### **Nationally Designated Sites**

#### **No objection – no conditions requested**

This application is upstream of Wendlebury Meads and Mansmoor Closes Site of Special Scientific Interest and Otmoor Site of Special Scientific Interest (SSSI). Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which the site has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(l) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England.

### **Local Sites and Priority Habitats and Species**

We would expect the Local Planning Authority (LPA) to assess and consider the other possible impacts resulting from this proposal on the following when determining this application:

- local sites, particularly the Gavray Drive Meadows LWS
- local or national biodiversity priority habitats and species.

Natural England does not hold locally specific information relating to the above. These remain material considerations in the determination of this planning application and we recommend that you seek further information from the appropriate bodies, in particular Berks, Bucks and Oxon Wildlife Trust and Butterfly Conservation, in order to ensure the LPA has sufficient information to fully understand the impact of the proposal before it determines the application.

## Protected Species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has published [Standing Advice](#) on protected species. The Standing Advice includes a habitat decision tree which provides advice to planners on deciding if there is a 'reasonable likelihood' of protected species being present. It also provides detailed advice on the protected species most often affected by development, including flow charts for individual species to enable an assessment to be made of a protected species survey and mitigation strategy.

You should apply our Standing Advice to this application as it is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation.

The Standing Advice should not be treated as giving any indication or providing any assurance in respect of European Protected Species (EPS) that the proposed development is unlikely to affect the EPS present on the site; nor should it be interpreted as meaning that Natural England has reached any views as to whether a licence may be granted.

If you have any specific questions on aspects that are not covered by our Standing Advice for European Protected Species or have difficulty in applying it to this application please contact us at with details at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

## Biodiversity enhancements

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Charlotte Frizzell on 07824 597885 or [charlotte.frizzell@naturalengland.org.uk](mailto:charlotte.frizzell@naturalengland.org.uk). For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours faithfully

Charlotte Frizzell  
Thames Valley Team  
Sustainable Development and Regulation

**15/00837/OUT**

**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

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

Please find Natural England's response in relation to the above mentioned consultation attached below.

Dear Sir or Madam,

**Our ref:** 212929

**Your ref:** 15/00837/OUT

Thank you for your consultation.

Natural England has previously commented on this proposal and made comments to the authority in our letter dated 03 June 2015.

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendments to the original application are unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us the amended consultation, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.

Yours faithfully

Kate Mulveagh  
Technical Support Advisor – Consultation Team  
Natural England



Simon Dackombe  
Strategic Planner

Thames Valley Police  
Property Services Department  
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OX5 1YE  
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[simon.dackombe@thamesvalley.pnn.police.uk](mailto:simon.dackombe@thamesvalley.pnn.police.uk)

Our Ref SD/CDC/025  
Your Ref P15/0837/OUT

21<sup>st</sup> May 2015

Mr M Parry  
Planning Officer  
Cherwell District Council  
Bodicote House  
Bodicote  
BANBURY  
OX15 4AA

Dear Mr Parry

**PROPOSED 180 DWELLINGS AT GAVRAY DRIVE, BICESTER - P15/0837/OUT**

I write on behalf of Thames Valley Police (TVP) with regard to the above application that seeks to deliver 180 new dwellings and other associated development at the above site.

As you are aware from previous submissions TVP has undertaken an assessment of the implications of growth and the delivery of housing upon the policing of the Cherwell District Council area and in particular the major settlements in the district where new development is being directed towards. We have established that in order to maintain the current level of policing developer contributions towards the provision of infrastructure will be required. This assessment and information has been fed into the Council's Infrastructure Delivery Plan and is acknowledged by the Council as a fundamental requirement to the sound planning of the area.

The additional population generated by the development will inevitably place an additional demand upon the existing level of policing for the area. In the absence of a developer contribution towards the provision of additional infrastructure then TVP consider that the additional strain placed on our resources and therefore ability to adequately serve the development.

At present the Cherwell Local Police Area (within which Bicester lies) has a population of approximately 141,900 and 56,700 households. based on 2011 Census information

At present this population generates an annual total of 32,871 incidents that require a Police action. These are not necessarily all "crimes" but are calls to our 999 handling centre which in turn all require a Police response/action. Effectively therefore placing a demand on resources.

The proposed development of 180 units would have a population of 432 (at 2.4 per unit). Applying the current ratio of "incidents" to population then the development would generate an additional 100 incidents per year for TVP to deal with.

In total Cherwell area is served by; (all figures = FTE)

- 124.3 Uniformed Officers – a mixture of Patrol and Neighbourhood
- 21 PCSO's.
- 11 CID Officers.
- 9.25 Dedicated staff

Central staffing provision is provided and drawn upon when required – this ranges from support functions (HR, IT, etc) to operational functions (SOCO, Forensics, Major Crime Unit) these services are provided force wide. Again utilising the ratio of current staff/officers to the projected additional demand then the development would generate the following additional requirements.

Total Additional LPA Officers Required	0.38
Total Additional PCSO	0.06
Total Additional CID	0.03
Total Additional Support Staff (Local/Central)	0.03

In order to mitigate against the impact of growth TVP have calculated that the “cost” of policing new growth in the area equates to **£31,057** to fund the future purchase of infrastructure to serve the development.

The contribution represents a pooled contribution towards the provision of new infrastructure to serve the site and surrounding area. The pooling of contributions towards infrastructure remains appropriate under the terms of the CIL Regs, up until the relevant Local Authority has adopted CIL, whereby pooling will be limited to 5 S106 Agreements (subject to other regulatory tests).

The contribution will mitigate against the additional impacts of this development because our existing infrastructures do not have the capacity to meet these and because like some other services we do not have the funding ability to respond to growth.

The contribution requested will fund, in part, the following items of essential infrastructure and is broken down as follows;

### **STAFF SET UP**

The basic set up costs of equipping and training of staff;

<b>OFFICER/PCSO</b>	
Uniform	£873
Radio	£525
Workstation/Office Equip	£1508
(2:1 ratio)	
Training	£4515
<b>TOTAL</b>	<b>£7421</b>

<b>STAFF</b>	
Workstation/Office Equip	£1508
(2:1 ratio)	
Training	£687
<b>TOTAL</b>	<b>£2195</b>

On the basis that the development generates a requirement for 0.44 additional uniformed officers – including PCSO, and 0.06 staff/CID included the set up costs equate to **£3397 (7421 x 0.44 + 2195 x 0.06)**.

## **PREMISES**

At present within Cherwell Neighbourhood Policing is delivered from premises in Banbury, Bicester and Kidlington. At present TVP maintain full capacity of accommodation for staff and officers, with any additional capacity delivered via new works to provide floorspace. Each new officer/member of staff is allocated an average of 16.88sqm of floorspace (workstation, storage, locker room etc) at a cost of £1800per sq m. This is a derived cost of adaptation/new build (TVP operate an estate policy of delivering new accommodation principally through the adaptation of existing buildings as opposed to new build at a 90:10 ratio. As this development will generate 0.5 and additional person (staff + officers) the cost is **£15,192** ( $16.88 \times 1800 \times 0.5$ )

## **VEHICLES**

The purchase of vehicles including response and neighborhood patrol cars and bicycles. The (three year lifetime) capital costs of these items are;

Patrol Vehicle – **£42,300**  
PCSO Vehicle - **£25,960**  
Bicycles - **£800**

Current fleet deployment within Cherwell administrative area (therefore serving 56,700 households) is broken down as follows;

Patrol Vehicle – 18  
PCSO Vehicle - 12  
Bicycles – 15

This equates to a cost of £19.13 per household. Accordingly therefore in order to maintain this level of provision the development would generate a required contribution of **£3,443** ( $19.13 \times 180$ )

## **MOBILE IT**

Provision of mobile IT capacity to enable officers to undertake tasks whilst out of the office, thus maintaining a visible presence. Cost of each item - **£4250**, therefore for this development (which generates 2.45 additional uniformed officers, the cost would be **£1870** ( $4250 \times 0.44$ ).

## **RADIO COVERAGE/AIRWAVE CAPACITY**

Radio Coverage/Capacity – TVP is currently at capacity with regard to its coverage, therefore each additional household places an additional burden upon our communications ability. TVP roll out a programme of capacity enhancements and improvements of £368,467p.a that is based on a cost of **0.40 per household**. These improvements are expected to last for 5 years, by which time the telecom capacity will be able to absorb this additional demand. Therefore the cost of this contribution would amount to **£360** ( $.40 \times 180 \times 5$ )

## **ANPR CAMERAS**

Automatic Number Plate Recognition (ANPR) Cameras – TVP has a desire to roll out ANPR Cameras throughout the area. There is a limited budget for this at present but a requirement to roll out more cameras. The number and location of cameras is driven by the scale and location of proposed development and the road network in the area. Current coverage in Cherwell is extremely limited. An assessment based on the significant planned growth within Cherwell District has been undertaken and it has been assessed that there is a requirement for additional ANPR camera coverage in the area to mitigate the impact of planned growth. Each camera

costs £11,000, and requirement is assessed on the basis of the scale, location, and proximity to the road network of the proposed development. Operationally it has been determined that this development should support the contribution of **£3960** towards the provision of ANPR in the area.

### **CONTROL ROOM AND POLICE NATIONAL DATABASE CAPACITY**

At present Police control room handling is used to capacity at peak times. Our various call handling centre's deploy resources to respond to calls as quickly as possible. We are able to assess the capacity of the existing technology and calls currently dealt with (based on the minimum times with callers) and are able to assess the additional impact of growth upon this capacity. Existing lines, telephony, licenses, IT, workstations and monitoring will be required on the basis of **£15.75** per unit. Therefore the cost generated by this development would be **£2835 (15.75 x 180)**.

#### **1. Necessary to make the proposed development acceptable in planning terms**

The creation of safe and accessible environments where crime and disorder, and the fear of crime do not undermine the quality of life or community cohesion is fundamental to planning for sustainable development as confirmed in the NPPF.

The Council's own document; *Cherwell Sustainable Community Strategy – Our District, Our Future* identifies as a key objective the need to reduce the number of people who fear crime and feel unsafe in their community, the strategy goes on to promote the tackling of incidences anti-social behaviour and building confidence in the police and local authority.

There is no dedicated Government funding to comprehensively cover the capital costs associated with policing associated new development. Unless contributions from developments are secured then TVP would be unable to maintain the current levels of policing with resources diverted and stretched, inevitably leading to increased incidents of crime and disorder within the local area.

Developer contributions are therefore necessary to ensure development is in line with the wider objectives of sustainable development as set out in national and local planning policy.

#### **2. Directly related to the proposed development**

There is a functional link between the new development and the contributions requested. Put simply without the development taking place and the subsequent population growth there would be no requirement for the additional infrastructure. The additional population growth will lead to an increase in incidents, which will require a Police response.

The infrastructure identified above has been specifically identified as infrastructure required to deal with the likely form, scale and intensity of incidents that the development will generate.

#### **3. Fairly and reasonably related in scale and kind to the proposed development.**

The proposed developer contribution is proposed to help achieve a proportionate increase in police infrastructure to enable TVP to maintain its current level of service in the area. As stated the contribution would assist in the provision of necessary infrastructure which have been identified by the Local Area Commander as necessary to provide an appropriate level of policing to serve the proposed development and maintain an appropriate level of community safety.



I would also highlight two recent appeal decisions in Leicestershire (APP/F2415/A/12/217984 & APP/X2410/A12/2173673, Enclosed). In assessing the request from Leicestershire police for developer contributions towards infrastructure the Inspector commented at **para 29** of decision 2179844;

*The written evidence submitted by Leicestershire Police detailed the impact the proposed development would have on policing, forecasting the number of potential incidents and the anticipated effect this would have on staffing, accommodation, vehicles and equipment. In view of the requirement of national planning policy to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life, it is considered that, on the evidence before me, a contribution towards policing is necessary to make the development acceptable in planning terms.*

Furthermore with regard to appeal decision 2173673, the Inspector is unequivocal in highlighting the acceptability of police contributions being recipients of developer's contributions;

*Adequate policing is so fundamental to the concept of sustainable communities that I can see no reason, in principle, why it should be excluded from the purview of S106 financial contributions, subject to the relevant tests applicable to other public services. There is no reason, it seems to me why police equipment and other items of capital expenditure necessitated by additional development should not be so funded, alongside, for example, additional classrooms and stock and equipment for libraries.*

#### **Para 292**

These appeal decisions confirms that the approach of TVP in assessing the impact of development, having regard to an assessment of the potential number of incidents generated by growth is appropriate, and fundamentally it confirms that police infrastructure should be subject to developer contributions as the provision of adequate policing is fundamental to the provision of sustainable development.

I trust this sets out sufficiently TVP's request for infrastructure contributions to mitigate against the impact of the development.

For clarification this response is solely linked to the impact of the development upon TVP's infrastructure requirements. You may receive a separate response from TVP's Secure by Design advisor relating to detailed matters of the design and layout of the proposals.

As always I am more than happy to discuss the content of this submission with yourself and the applicant.

Yours sincerely

SIMON DACKOMBE  
BA DipTP MRTPI  
Strategic Planner

Enc      Appeal Decisions



# Appeal Decision

Hearing held on 5 December 2012

Site visit made on 5 December 2012

**by Kay Sheffield BA(Hons) DipTP MRTPI**

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

**Decision date: 14 February 2013**

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**Appeal Ref: APP/F2415/A/12/2179844**

**Land north of Bill Crane Way, Lutterworth, Leicestershire.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
  - The appeal is made by William Davis Limited against the decision of Harborough District Council.
  - The application Ref 12/00613/VAC, dated 26 April 2012, was refused by notice dated 4 July 2012.
  - The application sought outline planning permission for residential development with associated infrastructure, public open space and provision of vehicular and pedestrian access without complying with a condition attached to planning permission Ref 11/00117/OUT, dated 23 January 2012.
  - The condition in dispute is No 3 which states that: The development hereby approved shall be carried out in general accordance with the plan "Indicative Site Layout B" (Drawing Ref: 10-116 SK09).
  - The reason given for the condition is: To ensure a satisfactory form of development that mitigates impact on the character and appearance of the countryside and the Conservation Area settlement of Bitteswell and to accord with Policies IN/1, EV/5, EV/11 and EV/16 of the Harborough District Local Plan and the aims and objectives of PPS1 "Delivering Sustainable Development", PPS3 "Housing" and PPS5 "Planning for the Historic Environment".
- 

## Decision

1. The appeal is allowed and planning permission is granted for residential development with associated infrastructure, public open space and provision of vehicular and pedestrian access at land north of Bill Crane Way, Lutterworth, Leicestershire in accordance with the application Ref 12/00613/VAC dated 26 April 2012, without compliance with condition number 3 previously imposed on planning permission Ref 11/00117/OUT dated 23 January 2012 but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect and subject to the following new condition:

The development hereby approved shall be carried out in general accordance with the plan entitled Indicative Site Layout A 10-116 SK08 with regard to the extent of the area of the site to be used for the erection of housing.

## Procedural matters

2. The outline planning permission for the residential development of the appeal site restricted the area which could be built upon in order to mitigate the effect of the development on the character and appearance of the countryside and the Bitteswell Conservation Area. In imposing the condition which placed this

restriction on the development the Council relied on policies of the Harborough District Local Plan, 2001 (the LP) and various Planning Policy Statements (PPS) in force at the time. However, subsequent to the granting of the outline permission the Council adopted the Harborough District Local Development Framework Core Strategy, 2011 (the CS) and whilst the Council's reasoning behind the refusal of the application to vary the condition reflected the reason for its initial imposition, it relied on policies of the CS which has replaced most of the LP.

3. In addition the PPS's cited by the Council in the reason for imposing the condition on the outline permission have been cancelled by the National Planning Policy Framework, 2012 (the Framework). The Framework reaffirms the statutory duty to determine planning applications and appeals in accordance with the development plan unless material considerations indicate otherwise. It also indicates that for 12 months from the date of its publication decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework. Since the Council relied on policies of the CS in refusing permission and this was only adopted in 2011 full weight can be attributed to them in the determination of the appeal.
4. Therefore, in determining the appeal, regard has been had to extant policies of the LP, policies of the CS and the guidance in the Framework.
5. On 11 December 2012 the Government made an Order in Parliament to revoke the Regional Strategy for the East of England with effect from 3 January 2013. Whilst the Regional Strategy forms part of the development plan, none of its policies have been relied on in evidence by the parties. I am therefore satisfied that the revocation of the Regional Strategy does not alter my conclusions in respect of the appeal.

### **Main Issue**

6. The main issue is the effect the variation of the condition to allow a greater part of the site to be built upon would have on the character and appearance of the countryside and whether it would preserve or enhance the setting of the Bitteswell Conservation Area.

### **Reasons**

#### *The appeal site and its surroundings*

7. The appeal site is undeveloped land in the open countryside but lies at the edge of the built development of Lutterworth. The southern and eastern boundaries of the site are marked by Bill Crane Way and Leicester Road respectively and to the north and west are open fields, Bitteswell Brook forming the western boundary. To the south of the site is a modern residential estate set back from the carriageway of Bill Crane Way behind landscaped verges. To the south west lies the settlement of Bitteswell, a large proportion of which is designated as a Conservation Area and within which the Church of St Mary, a Grade II\* Listed Building, is located.
8. The appeal site currently consists of three open fields with the ground levels falling in an east to west direction across the site, dropping down towards Bitteswell Brook. The extent of the built development as allowed by the condition which is in dispute is restricted to the largest of these fields which

would leave land at the western end open. The variation of the condition proposes extending the built development into part of this open area which would bring the development closer to Bill Crane Way along a greater part of the site frontage with the highway and would reduce the distance between the built development and Bitteswell Brook.

### *Planning Policy*

9. The Council acknowledged that at the time it took the decision to refuse to vary the condition, it did not have a five year supply of housing land. However, recently published figures confirmed that at 30 September 2012 a supply in excess of five years and including a 5% buffer as required by paragraph 47 of the Framework was available.
10. Nevertheless Policy CS2 of the CS requires at least 700 dwellings to be provided in Lutterworth over the plan period. In addition Policy CS14 of the CS indicates that in the provision of new housing, any extensions to the settlement boundary will take place to the north of the town. Whilst the appellant contended that there would be a shortfall in the number of dwellings, the evidence does not indicate that the target for Lutterworth would not be met. Notwithstanding this, there is no reason to resist development which may result in this figure being exceeded, particularly in light of the guidance in the Framework which seeks to boost significantly the supply of housing.
11. The use of the appeal site for residential development has been established by the outline planning permission and although the Council has an adequate supply of housing land, it is considered that there are no policy reasons with regard to housing land supply to resist an increase in the number of dwellings by increasing the area of the site which could be built upon.
12. The coalescence of Bitteswell with Lutterworth has evidently been of long standing concern to the Council and extant Policy EV/3 of the LP identifies an area between the settlements within which development that would adversely affect the open character of the land or result in a reduction in the existing open land separating them would be resisted. The western end of the appeal site abuts the northern boundary of the separation area. Policy CS14 of the CS maintains the principle of a separation area and states in the justification of the policy that the proximity of Lutterworth and Bitteswell demands an approach which in seeking appropriate location for additional housing development, avoids coalescence.
13. In the Council's Areas of Separation Review, 2011 consideration has been given to the designation of the separation area in the light of the policy context set by the CS. This document is a technical report which will provide evidence to help inform the preparation of the Council's Allocations Plan and it is acknowledged that as part of this process the extent of the separation area may alter.
14. However, the likely location of new development has been taken into account in assessing where existing separation may be threatened. Although the land to the south of the appeal site, which is currently within the separation area, and that to the west are both recommended in the report to be considered for allocation within an Area of Separation, the appeal site has not been identified for inclusion. In addition the extent of the built development proposed would be offset from the boundaries of the site with the separation area ensuring

open land would be directly adjacent to it. Although the extent of the separation area will be subject to further consideration as part of the development plan, a need to keep any part of the appeal site free from development has not been highlighted in the Review and given that open space retained within the site would continue to support the Council's aim to ensure that the coalescence of Lutterworth and Bitteswell does not take place, it is considered that there is insufficient reason to warrant dismissal of the appeal on these grounds.

*Effect on character and appearance*

15. At present there are clear views from the site and its immediate surroundings towards Bitteswell, its Conservation Area, the church and the mature trees which form a prominent feature of the Conservation Area and the surrounding landscape. However, these views would change and become more restricted by the development allowed by the outline permission and it is therefore the additional effect of the increased development being sought by the variation of the condition which needs to be assessed.
16. The appeal site is reviewed in the Council's Lutterworth and Broughton Astley Landscape Character Assessment and Landscape Capacity Study, 2011 which will be used to inform the Council's Local Development Documents. It gives a detailed analysis of the sensitivity of the land around the edge of Lutterworth and assesses the capacity to accommodate future development, particularly residential. Although it may have some bearing on further consideration given by the Council to the extent of the separation area in the preparation of the Allocations Plan, limited weight can be attributed to it in the determination of this appeal.
17. The study identifies the part of the appeal site on which development is allowed by the outline permission as having a medium capacity for development and the land on which the additional built development is being sought as having a low capacity. The study recognises that there are important views from Bill Crane Way towards Bitteswell which show the open countryside to the north west and the separation between Lutterworth and Bitteswell. It also considers that the development of this land would not relate well to the existing residential development on the northern edge of Lutterworth or to Bitteswell and would compromise the separation between the two settlements. The study concludes that given the prominent nature of the slopes within the parcel, their visibility from the surrounding area and their importance in the setting of Bitteswell it is not considered appropriate to develop this area of land.
18. However these comments are made in relation to an area of land which stretches along Bitteswell Brook and includes part of the separation area set out in the Areas of Separation Review, 2011. The appeal site forms only a small part of its eastern edge and development on it would be seen not only in the context of existing built development but also in the context of the development allowed by the outline permission which itself will restrict views of the open countryside to the north west and will be highly visible from the surrounding area.
19. The main effect of the proposed increase in the area of the built development on the surrounding area would be in views from Bill Crane Way looking in a westerly direction from its junction with Leicester Road. The extent of the built development being sought would bring the development closer to the frontage

- with Bill Crane Way which would reduce the extent of the view of Bitteswell, its church and the Conservation Area. However, the development would relate well to both the existing and proposed developments and although views towards Bitteswell would be reduced, when these are considered in the light of the restriction which would be placed on them by the development already permitted it is considered any additional harm which may be caused to the character or appearance of the area or the setting of the Conservation Area would not be significant.
20. The northern boundary of the appeal site is marked by a mature hedge and it is proposed that this would be supplemented by a belt of tree planting which would break up views of the built development from this direction. In addition the properties would be seen against the backdrop of the existing residential development to the south. Also in views from Bitteswell the properties, which would be set on lower ground, would be seen against the backdrop of the development allowed by the outline permission as well as in the context of existing development. Although the distance between the development and the Bitteswell Conservation Area would be reduced, ample separation would be retained to ensure that the effect of the additional built development would not cause harm to its setting.
21. Similarly from the south, a relatively wide section of open land would remain on the western boundary of the site which would allow views through to the open countryside beyond. Although the outline permission would allow a greater expanse of open space, it is considered that the reduction as part of the appeal proposal would still ensure that adequate separation between the two settlements would remain and that the setting of the Conservation Area and Bitteswell Brook would be preserved, particularly in views from the public footpath which crosses the western end of the appeal site on a line parallel to the brook.
22. In addition, the permission for the development of the site was granted in outline and although the submitted drawings showed an indicative layout of the site, this is a matter which, together with the design of the dwellings, requires approval. Although the Council is of the opinion that the design and layout of the development would not satisfactorily mitigate its effect on its surroundings, there is no definitive evidence that the detailed design of the overall scheme would not ensure that views of the open countryside and towards the Conservation Area from significant viewpoints both outside the site and from within the development would not be treated sensitively.
23. The evidence therefore leads me to conclude that the effect of the additional built development would not be detrimental to the character and appearance of the countryside and would preserve the setting of the Bitteswell Conservation Area, in accord with Policies CS11, CS14 and CS17 of the CS which seek to ensure development respects the context in which it is taking place.

#### *Unilateral Undertaking*

24. A signed Unilateral Undertaking (UU) under Section 106 (s106) of the Town and Country Planning Act, 1990 was submitted to the hearing. It covers the same range of contributions as the s106 agreement in respect of the outline planning permission although the level of the contributions has been adjusted to reflect the increase in the number of dwellings as a consequence of the increased area to be developed.

25. The UU would not replace the s106 agreement already in place thus ensuring that contributions would be required whichever permission was implemented. However, its wording makes some matters dependent on the UU being found to be compliant with the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations, 2010 (the CIL Regulations). These tests are whether the UU is necessary to make a development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
26. The UU covenants in favour of the Council contributions in respect of the provision and maintenance of open space as part of the development and towards allotments, cemetery provision, policing services, medical facilities, recycling, community facilities and the provision of 30% of the units as affordable housing. The UU also covenants in favour of the Leicestershire County Council financial contributions towards education, public transport measures including bus stops, travel packs and bus passes, and library provision.
27. Whilst the Council and the County Council confirmed that the terms of the submitted UU were acceptable, the appellant questioned whether the contribution in respect of policing was compliant with the tests set out in the CIL Regulations. The appellant suggests that there is no evidence that the proposed development would result in a need for increased police resources. It is also argued that there should be no automatic assumption that the development should bear the cost of the provision of additional policing since the anticipated growth of such costs in this area could have been budgeted for and the new residents will generate Council Tax revenue.
28. However, it is recognised by both the County Council and the Council's guidance<sup>1</sup> that a contribution towards policing could be triggered if there is a need arising from the development. The guidance therefore establishes the principle of a contribution although there needs to be clear evidence that the level of contribution would be justified having regard to the tests set out in the CIL Regulations.
29. The written evidence submitted by Leicestershire Police detailed the impact the proposed development would have on policing, forecasting the number of potential incidents and the anticipated effect this would have on staffing, accommodation, vehicles and equipment. In view of the requirement of national planning policy to create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life, it is considered that, on the evidence before me, a contribution towards policing is necessary to make the development acceptable in planning terms.
30. Whilst the additional staff, accommodation, vehicles and equipment detailed by the Police could not be regarded as being for the exclusive use of the development, they would be necessary to provide for the effective policing of and to attend incidents on the site. In addition the number of staff and level of resources required to police the development has been based on the number of incidents estimated to be generated by the site. In respect of policing services the UU makes provision for the payment of £426 per dwelling and this is the figure sought by Leicestershire Police. The level and range of the mitigation

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<sup>1</sup> Leicestershire County Council Statement of Requirements for Developer Contributions in Leicestershire, 2006 and Harborough District Council Planning Obligations Developer Guidance Note, 2009.

would therefore appear to be directly related to the development and also to be fairly and reasonably related in scale and kind to it.

31. I have had regard to the fact that the s106 Agreement, dated 18 January 2012, in respect of the existing outline planning permission makes provision for a contribution of £606 per dwelling for policing. The appellant has indicated that this agreement was concluded under time pressure and the police have had a change in policy since, under which only major developments would be targeted for contributions. However, the report also states that contributions would be pursued where a significant impact on policing is foreseen and can be quantified. It would appear that the most relevant implication of the change in policy is that the contribution required by the police in respect of this appeal was reduced following quantification of the anticipated effect of the development. This affirms my view that the UU before me meets the CIL tests.
32. Reference has been made to a number of appeal decisions where it has been concluded that the police contributions failed to meet the tests and others where a contrary conclusion has been reached. However, I am not aware of the scope of the evidence provided in these cases and a comparison with the appeal cannot therefore be made.
33. On the basis of the evidence before me, therefore, I am satisfied that the contribution towards policing set out in the UU is necessary, directly related to the development and fairly and reasonably related to it in scale and kind – as required by the tests set out in the CIL Regulations. I conclude the same with regard to the elements of the UU which are not in dispute and I have taken the UU into consideration in reaching my decision.

### **Conclusions**

34. For the reasons given above, and having had regard to all other matters raised, it is concluded that the variation of the condition to allow a greater part of the site to be built upon would not be detrimental to the character or appearance of the countryside and would preserve the setting of the Bitteswell Conservation Area. The appeal is therefore allowed and planning permission is granted.

*Kay Sheffield*

Inspector



## **APPEARANCES**

### FOR THE APPELLANT:

Mark Flood BA(Hons) DipTP MRTPI	Insight Town Planning Limited.
Simon Roper-Pressdee BSC(Hons) PGCert MIHBC PIFA	Senior Associate Director, CgMs Consulting.
Phil Rech BA(Hons) BPhil MLI	Director, FPCR Environment and Design Limited.
Elizabeth Marjoram LLB	Partner, Bird, Wilford and Sale Solicitors.

### FOR THE LOCAL PLANNING AUTHORITY:

Nicholas White	Planning Officer.
Adrian Eastwood MRTPI	Development Control Manager.

### INTERESTED PERSONS:

Andrew Tyrer BS(Hons) MRTPI	Development Contributions Officer, Leicestershire County Council.
John Prendergrast	Principal Solicitor, Leicestershire County Council.
Steve Kettle	Modernising Services Manager, Leicestershire County Council.

## **DOCUMENTS**

- 1 Council's notification letter dated 1 November 2012 and circulation list regarding the arrangements for the hearing.
- 2 Statement submitted by Andrew Tyrer on behalf of Leicestershire County Council.
- 3 Signed Section 106 Unilateral Undertaking.
- 4 Plan showing the boundary of the Bitteswell Conservation Area.
- 5 Planning Obligations Developer Guidance Note, 2009.
- 6 Assessment of Local Community Provision and Developer Contribution, 2010.
- 7 Decision letter in respect of Appeal Ref: APP/T2405/A/10/2125563, Land off Huncote Road, Stoney Stanton, Leicestershire, LE9 4DH.
- 8 Areas of Separation Review, December 2011.



Department for  
Communities and  
Local Government

Mr R J Gardner  
GVA Grimley Ltd  
3 Brindley Place  
BIRMINGHAM  
B1 2JB

Our Ref: : APP/X2410/A/12/2173673  
Your Ref: Jelson Barrow on Soar

14 May 2013

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY JELSON HOMES  
LAND AT MELTON ROAD, BARROW UPON SOAR, LEICESTERSHIRE, LE12 8NN  
APPLICATION REF: P/10/1518/2**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Keith Manning BSc (Hons) BTP MRTPI, who held a public local inquiry on 7 days between 9 October 2012 and 16 January 2013 into your clients' appeal against the refusal of Charnwood Borough Council ("the Council") to grant outline planning permission for residential development at land at Melton Road, Barrow Upon Soar, Leicestershire, LE12 8NN, in accordance with application ref: P/10/1518/2.
2. On 18 June 2012, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a proposal over 150 units on a site of more than 5 ha which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

**Matters arising following the close of the inquiry**

4. Nicky Morgan MP wrote to the Planning Inspectorate on 2 April 2013 to point out that the Council's Cabinet would be considering their draft Core Strategy document at a meeting on 11 April with a view to approving it for consultation, and the Parish Council

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wrote to the Secretary of State on 7 May 2013 drawing attention to the revocation of the *East Midlands Regional Plan 2009 (RS)* and to the Council's approval of the Core Strategy for public consultation. Copies of this correspondence can be obtained by written application to the address at the bottom of the first page of this letter, and the points raised are covered in paragraph 5 below.

### **Policy considerations**

5. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, following the revocation of the RS with effect from 12 April 2013, the Development Plan consists of the saved policies of the Charnwood Local Plan 1991-2006. The Secretary of State does not consider that the revocation of the RS raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced. He has also had regard to the fact that the Council is progressing work on its Core Strategy. However, as that is at an early stage in its preparation, he gives it little weight.
6. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (The Framework); *Technical Guidance to the National Planning Policy Framework* (March 2012); Circular 11/1995: *Use of Conditions in Planning Permission*; and the *Community Infrastructure Levy (CIL) Regulations 2010* as amended.

### **Main issues**

7. The Secretary of State agrees with the Inspector that the main issues in this case are those identified by the Inspector at IR219.

#### Housing land supply

8. The Secretary of State agrees with the Inspector that, for the reasons given at IR220-221, the presumption in favour of sustainable development set out in paragraph 14 of the Framework is engaged and the failure to demonstrate a 5 year supply of deliverable housing sites is a matter to which substantial weight must be accorded.

#### Sustainability

9. For the reasons given at IR222-232, the Secretary of State agrees with the Inspector's conclusion at IR233 that the appeal site's basic credentials in terms of natural resource conservation, potential for good design, choice of sustainable transport modes and scope for future improvement of public transport in response to demand are highly conducive to development of the type proposed. Like the Inspector (IR234), the Secretary of State recognises that other considerations impinge on the overall sustainability of the site, and he goes on to consider those individually below.

#### Highway safety

10. The Secretary of State notes (IR236) that the Highway Authority has not objected to the appeal proposals but that the junction of Grove Lane with Sibley Road/South Street does not provide the visibility to the left that, ideally, it should. Having carefully

considered the evidence summarised by the Inspector at IR235-243, the Secretary of State agrees with him (IR244) that it is appropriate to consider the matter of the safety of the Grove Lane junction in the round. He therefore agrees with the Inspector (IR244-245) that, despite its perceived deficiency in respect of visibility to the left, the junction operates safely and should not trigger prevention of the proposed scheme unless the impact of the proposed development on its continued safe operation would be demonstrably severe in the sense intended by paragraph 32 of the Framework.

11. Accordingly, for the reasons given at IR247-248, the Secretary of State agrees with the Inspector that it would not be unreasonable to conclude that the safety of the junction would not be materially diminished by the extra traffic from the proposed development. He also agrees with the Inspector (IR249) that, on the basis of the evidence seen by the Inspector, there would seem to be no reason why safety should be reduced for pedestrians or cyclists. Overall, therefore, he agrees (IR250) that the balance of evidence points to a judgement that highway safety would not be materially compromised by the appeal scheme and that only limited weight should be afforded to the perception of any such risk.
12. With regard to the site access itself (IR251-253), the Secretary of State agrees with the Inspector that there is no reason to disagree with the Highway Authority with regard to the need for a separate emergency access (IR252); and that no weight should be accorded to any potential deficiencies in the forward visibility to the access roundabout from the north east (IR253).

#### Traffic circulation in Barrow Upon Soar

13. Having regard to the Inspector's consideration of the traffic circulation issues arising from the concentration of traffic onto the listed Barrow Road bridge, and the periodic inundation of the alternative route via Slash Lane placing more pressure on the bridge when such flooding occurs (IR254-256), the Secretary of State agrees with the Inspector at IR257 that the key question is whether the extra traffic impact of the proposed development on flood days would be so severe as to render it untenable. Taking account of the Inspector's deliberations at IR258-264, including the appellant's off-site proposals to improve capacity through traffic management measures and the fact that the highway authority is satisfied with them, the Inspector concludes that he has seen no cogent evidence to suggest that the position would be untenable; and the Secretary of State sees no reason to disagree with that conclusion.

#### Flood risk

14. Like the Inspector, the Secretary of State considers that, despite the apprehension of local residents, the proposed development should not make matters worse in any significant way for the existing population (IR265-267) and may possibly improve the position for some existing householders (IR274). The Secretary of State also agrees with the Inspector (IR268) that, although the evidence produced so far has been sufficient to satisfy the Environment Agency that relevant objectives could be met, if more detailed investigation subsequently shows that they could not actually be satisfied, the development would not be able to proceed. Overall, for the reasons given at IR269-274, the Secretary of State agrees with the Inspector's conclusions at IR275-276 that there is no significant conflict with the intentions of the development plan or the Framework in respect of flood risk, and that any potential impact on foul

drainage and risk of surcharge arising from flooding of Fishpool Brook can be addressed by the imposition of conditions.

### Infrastructure

15. Like the Inspector (IR301), the Secretary of State appreciates the local perception in the community of growth and consequent pressure. Nevertheless, having carefully considered the Inspector's deliberations on infrastructure provision at IR277-300 (and taking account of his conclusions on the terms of the planning obligation at paragraph 20 below), the Secretary of State agrees with the Inspector at IR 301 that the proposed development would provide the necessary mitigation, but little more, of its own impact and so should not lead to the deterioration in the quality of life which the Parish Council and others assert. He therefore also agrees with the Inspector (IR302) that the proposed development would not lead to a deterioration in the quality of life of existing residents sufficient to warrant dismissal of the appeal.

### Accordance with the development plan and the Framework

16. For the reasons given at IR303-311, and taking account of the revocation of the RS, the Secretary of State agrees with the Inspector's conclusion at IR312 that the appeal scheme displays a very substantial degree of accordancy with the development plan as a whole apart from the conflict with the protection of the countryside outside defined settlement boundaries - where the local plan intention has to be tempered by the presumption in favour of sustainable development in the Framework. The Secretary of State also agrees with the Inspector's more detailed conclusions with regard to accordancy with the Framework at IR313-323.

17. Furthermore, like the Inspector, he has given careful consideration to the core principle with regard to "empowering people to shape their surroundings" (IR324), but he agrees with the Inspector that that pulls in the opposite direction to the presumption in favour of sustainable development that is engaged in this case. In coming to this conclusion, the Secretary of State agrees with the Inspector (IR326) that, as the aspiration to prepare a neighbourhood plan is clearly some time from fulfilment, with no firm programme for preparation, paragraph 14 of the Framework is inescapably influential in the context of the Framework as a whole, bearing in mind the sustainability of the appeal scheme in terms of its location and characteristics.

### The planning balance

18. For the reasons given at IR327-337, the Secretary of State agrees with the Inspector at IR338 that, while there are harmful aspects to the appeal scheme to which weight should be accorded, these have to be weighed against the very substantial contribution to housing needs that the site is capable of providing in the context of an acknowledged shortage of suitable land and the inherent sustainability of the location. He also agrees that those aspects of the planning obligation which help to mitigate the impact of the proposed development should be accorded due weight and that, bearing in mind the policies of the Framework as a whole and the development plan taken as a whole, the presumption in favour of sustainable development should be the decisive factor.

### **Conditions and obligations**

19. The Secretary of State has considered the Inspector's reasoning and conclusions on planning conditions as set out at IR197-215, and he is satisfied that the conditions as proposed by the Inspector and set out at Annex A to this letter are reasonable, necessary and comply with Circular 11/95.
20. With regard to the Planning Obligation (IR4, IR216-218, and IR283-301), the Secretary of State is satisfied that the provisions set out in the signed and sealed Planning Agreement dated 4 October 2012, as varied by the Deed of Variation dated 15 January 2013 (to make its provisions conditional upon their items being determined by the Secretary of State to meet the statutory tests) can be considered to be compliant with CIL Regulation 122. For the reasons given at IR286, the Secretary of State agrees with the Inspector at IR287 that no weight should be given to the Travel Plan Penalty element of the planning obligation.

### **Overall Conclusions**

21. The Secretary of State gives significant weight to the fact that the Framework indicates that, in the absence of a 5 year housing land supply in an up-to-date, adopted development plan, planning permission should be granted for the proposal. He is satisfied that the appeal site is in a sustainable location for housing development, and that, as the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole, he does not consider that there are any material considerations of sufficient weight to justify refusing planning permission.

### **Formal Decision**

22. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby grants outline planning permission for residential development at land at Melton Road, Barrow Upon Soar, Leicestershire, LE12 8NN, in accordance with application ref: P/10/1518/2.
23. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
24. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### **Right to challenge the decision**

25. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

26. A copy of this letter has been sent to the Council. A notification e-mail / letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**JEAN NOWAK**

Authorised by Secretary of State to sign in that behalf

## CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
4. No development shall commence until both a Master Plan in general conformity with the submitted Illustrative Masterplan 4045\_SK\_001 rev E and a Design Code for the site have been submitted to and approved in writing by the local planning authority. Both shall substantially accord with the submitted Design and Access Statement Rev G. Any amendment to either shall be submitted to and approved in writing by the local planning authority. The Design Code shall address the following:-
  - i) Architectural and sustainable construction principles
  - ii) Character areas
  - iii) Lifetime home standards
  - iv) Car parking principles
  - v) Cycling provision including pedestrian and cycle links to adjoining land
  - vi) Street types and street materials
  - vii) Boundary treatments
  - viii) Building heights (which should be limited to a maximum height of three storeys, being located on the main street only, as indicated on pages 33/34 of the Design and Access Statement, and two storeys for the remaining parts of the development)
  - ix) Building materials
  - x) Provision of public open spaces (including timetable for implementation)
  - xi) Design of the site to accord with Secure by Design principles.
  - xii) Phases of development.

Applications for approval of the reserved matters submitted pursuant to condition 2) above shall be in accordance with the Master Plan and Design Code as approved. In addition to the Design and Access Statement previously referred to, The Master Plan and Design Code and the reserved matters submitted for approval shall also accord with the principles set out in the following submitted documents: Flood Risk Assessment June 2010; Addendum to Flood Risk Assessment January 2011; Ecological Appraisal June 2010; Bats in Trees Addendum December 2010; Tree Assessment Report Rev A; and Badger Mitigation Strategy December 2010. Development shall be carried out in accordance with all matters approved pursuant to this condition.

5. Notwithstanding the generality of condition 4) above, the development hereby permitted shall be carried out in accordance with the following approved plans:

4045\_SK\_005 Site Location Plan  
 0940/SK/010 rev C Typical Badger Tunnel Detail  
 0940/SK/013 rev E Melton Road Alternative Site Access Roundabout  
 0940/SK/014 rev A Site Access Roundabout  
 0940/SK/022 rev B Fishpool Brook Pedestrian Footbridge Crossing  
 0940/ATR/002 rev A Proposed Site Access – Swept Path Analysis  
 4045-L-01 rev D Types of Open Space



4045-L-02 rev A Extended Floodplain Area to be Regraded  
4045-L-04 Public Open Space Phasing Plan  
NTW/307/Figure 4 Rev A Indicative Floodplain Sections  
NTW/307/Addendum Figure 1 Rev A Fishpool Brook Modelled Floodplain Extent

6. The maximum area of residential development on the site (excluding the areas of public open space, structural landscaping, meadow and SUDS) shall be defined on the Master Plan to be approved pursuant to condition 4) above and shall not exceed 8.32 hectares, and no more than 300 dwellings shall be constructed on the site.
7. No construction on any phase of the development hereby permitted shall commence until such time as the following details in respect of that phase have been submitted to and approved in writing by the local planning authority:
  - a) Siting including details of proposed levels of ground surfaces and finished floor levels of all buildings and a number of selected typical sections across the phase.
  - b) A landscaping scheme including details of all trees and hedgerow to be retained, full planting specification, timing or phasing of implementation, services above and below ground; and a landscape management plan covering a minimum period of 10 years following completion of the development. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted;
  - c) Treatment of all hard surfaced areas, including types and colours of materials street furniture, signing and lighting of all public spaces.
  - d) Boundary treatment to all open areas where the site bounds other land (where confirmed in writing by the local planning authority to be required) including design, height, materials and colour finish.
  - e) Details of the proposed standard signage for the footpaths at the points where footpath I 23 is proposed to be crossed by the new estate roads.
  - f) Layout and design of children's play areas; Multi Use Games Area/skate park area and any other play/ recreation area within the development;
  - g) Details of external lighting.

Development shall be carried out in accordance with the approved details.

8. No development shall commence until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority, and no development shall take place except in accordance with the approved scheme details.
9. No development shall commence until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.
10. No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydro-geological context of the development, including any requirement for the provision of a balancing pond, has been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details. The balancing pond, if required, shall be completed and be in operation before the occupation of the first dwelling on any phase.

11. No development shall commence until a scheme to install trapped gullies has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.
12. If during development contamination not previously identified is found to be present at the site then no further development should be carried out in that location until such time as a remediation strategy has been submitted to and agreed in writing by the local planning authority and the works carried out in accordance with the agreed strategy prior to re-commencement on that part of the site.
13. Prior to the commencement of development, a scheme for the protection of trees and hedges to be retained on site shall be submitted to and approved in writing by the local planning authority. The scheme shall include:-
  - Details of all trees and hedges to be retained on site.
  - Details of any works proposed in respect of any retained trees and hedges on site.
  - Details of operational and physical measures proposed for the protection of trees and hedges
  - Details of any ground works that are to be carried out within 10 metres of any tree or hedge identified as being retained.
  - Details of the methodology to be employed when carrying out ground or other works within 10 metres of any tree or hedge to be retained.

Development shall be carried out in accordance with the approved details.

14. No development shall commence on any phase until the tree/hedge protection measures for that phase approved pursuant to condition 13) above have been fully implemented. The approved tree/hedge protection measures shall be retained and maintained in their approved form until development on the phase in which they are located is complete. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon unless approved as part of the details submitted to discharge the condition.
15. No development shall commence until a scheme of noise attenuation/mitigation measures (in order to reduce noise likely to be experienced in dwellings and private gardens from the use of the railway corridor to the south west of the site) has been submitted to and approved in writing by the local planning authority. No dwelling in any phase of the site identified by the scheme as being affected by railway noise shall be occupied until the required measures have been implemented in accordance with the approved scheme.
16. No development shall commence until details of the construction of the proposed access roundabout (as shown indicatively on drawing 0940/SK/013 Rev E) and the footpath/cycleway bridge across the Fishpool Brook (as shown indicatively on drawing 0940/SK/022 rev B) have been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the access roundabout and pedestrian bridge have been constructed in accordance with the approved details.
17. No development shall commence until a detailed scheme of works for the improvement of traffic flow at the Barrow Road Bridge of the type illustrated on WSP UK drawing numbered SK/017 Rev A has been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the improvement works at the bridge have been fully implemented in accordance with the approved details.
18. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors
- ii) the routing of construction traffic throughout the construction process and the mechanism for securing adherence to approved routes
- iii) loading and unloading of plant and materials
- iv) storage of plant and materials used in constructing the development
- v) the erection and maintenance of security fencing
- vi) wheel washing facilities
- vii) measures to control the emission of dust and dirt during construction
- viii) a scheme for recycling/disposing of waste resulting from the construction works
- ix) precautionary measures to ensure that no badgers become trapped or injured during development work

19. No development shall commence until procedures have been initiated to upgrade the existing public footpaths I 23 and I 24 (part) beyond the edge of the meadow boundary to the eastern boundary of the application site to footpaths/cycleways. The upgrading works (including those approved through Condition 7) shall be completed prior to the occupation of 50% of the dwellings on the site.
20. No development shall commence until a scheme of electronic or other suitable signing to warn of flooding on Slash Lane has been submitted to and approved by the local planning authority. No dwelling on the site shall be occupied until the scheme has been fully implemented in accordance with the approved details.
21. No development shall commence until a scheme of public art to be delivered on site has been submitted to and agreed in writing by the local planning authority. Those elements of the approved public art scheme which are to be delivered on a particular phase of the development shall be delivered prior to the occupation of 80% of the dwellings in that phase.
22. No development shall commence until an assessment of the anticipated energy requirements arising from the development has been submitted to and approved in writing by the local planning authority. That assessment must demonstrate how a minimum of 10% of the energy requirements shall be secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how these measures are to be achieved, including details of any physical works on site, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.



The Planning  
Inspectorate

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# Report to the Secretary of State for Communities and Local Government

by Keith Manning BSc (Hons) BTP MRTPI

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

Date: 13 March 2013

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**TOWN AND COUNTRY PLANNING ACT 1990**

**CHARNWOOD BOROUGH COUNCIL**

**APPEAL BY**

**JELSON HOMES**

Inquiry opened on 9 October 2012

Land at Melton Road, Barrow Upon Soar, Leicestershire LE12 8NN

File Ref(s): APP/X2410/A/12/2173673

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**File Ref: APP/X2410/A/12/2173673**

**Land at Melton Road, Barrow Upon Soar, Leicestershire LE12 8NN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Jelson Homes against the decision of Charnwood Borough Council.
- The application Ref P/10/1518/2, dated 12 July 2010, was refused by notice dated 9 December 2011.
- The development proposed is residential development.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions**

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**Procedural Matters**

1. The Inquiry sat for seven days in total, from 9 October – 12 October and on 13 November 2012, and on 15 and 16 January 2013, having been unfortunately delayed in its completion by the serious illness of one of the parties' representatives. I visited the site and various other locations in Barrow Upon Soar, on an accompanied basis, on 6 December 2012.
2. For consistency, I use the spelling Barrow Upon Soar throughout. 'The Council' is a reference to the Charnwood Borough Council. 'The County Council' is a reference to the Leicestershire County Council and 'The Parish Council' is a reference to the Barrow Upon Soar Parish Council.
3. The application subject to appeal is in outline with all matters except access reserved for subsequent approval.
4. A Planning Agreement dated 4 October 2012 was submitted at the Inquiry, accompanied by a Deed of Variation dated 15 January 2013. This does not affect the substance of the Agreement, the signatories to which are Jelson Limited, the Council of the Borough of Charnwood and Leicestershire County Council.
5. The agreement provides for financial contributions in respect of Community Facilities, Healthcare, Policing, Education, Libraries, Pedestrian and Cycle Routes, Travel Passes, Travel Packs and Bus Shelters. It provides for a financial penalty in respect of the Travel Plan in prescribed circumstances.
6. The agreement also provides for the provision and maintenance of open space within the site and for the provision of Affordable Housing as part and parcel of the residential development proposed in accordance with an Affordable Housing Scheme to be approved by the Council prior to the commencement of the proposed development. 30% of the dwellings would be Affordable Housing as defined in the National Planning Policy Framework or any successor document.
7. A Statement of Common Ground (SoCG) between the Council and the appellant was agreed in May 2012 confirming a good measure of agreement across a broad spectrum of considerations. It lists the following as having been submitted in support of the application: Planning Statement (PS); Design and Access Statement (DAS); Transport Assessment (TA), Addendum Transport Assessment (ATA), Framework Travel Plan (FTP), Updated Framework Travel Plan (UFTP), VISSIM Modelling Report (VMR), Stage One Road Safety Audit (RSA1); Flood Risk Assessment (FRA); Arboricultural Survey (AS); Ecological Survey (ECOS);

Archaeological Information (AI); and an Acoustic Report (AR). There is also a submitted Addendum (AFRA) to the Flood Risk Assessment dated 17 January 2011. [The abbreviations are mine for the purposes of this report].

### **The Site and Surroundings**

8. The site comprises approximately 15 hectares of agricultural land on the eastern edge of Barrow upon Soar. None of the land falls within the category of Best and Most Versatile. It is predominantly Sub-grade 3b with small pockets of Sub-grade 3c.<sup>1</sup>
9. The site fall into two distinct parts; a relatively low-lying area of meadow surrounded by mature hedgerows and semi-mature trees on its western side, associated with the line of Fishpool Brook and Breachfield Road; and a large sloping field surrounded by mature hedges and trees. The field slopes gently upwards towards the north-east and gives the impression of being part of a shallow bowl or valley side in the broader scale rural landscape beyond, with much of the existing built-up area of the village occupying a corresponding slope to the north-west. West of Fishpool Brook, houses on Breachfield Road stand elevated above much of their back garden areas, which are susceptible to flooding.
10. To the south, the site is bounded by the Midland Main Railway.
11. The site is traversed by two public footpaths.

### **Planning Policy**

12. National Planning Policy, which is a material consideration, is contained in the Framework.
13. The development plan currently comprises the East Midlands Regional Plan (RSS) and saved policies of the Charnwood Local Plan 1991-2006 ('the local plan').
14. The Council's Core Strategy has not progressed since 2008 (Issues and Options stage) and it is common ground between the main parties that it should be accorded no weight in the determination of the appeal.<sup>2</sup>
15. It is common ground between the main parties that the Council's Supplementary Planning Guidance (SPG) documents *Leading in Design* and *S106 Developer Contributions* are relevant material considerations.<sup>3</sup>
16. While many policies in the development plan taken as a whole are relevant, an agreed range being set out in Section 4 of the SoCG, there are few which are in contention as policies which the proposed development would conflict with and these are confined to the local plan. The policies of the RSS were in force at the time of the Inquiry and remain in force at the time of my report. They may be accorded due weight on that basis. The following local plan policies merit explanation at this point, whereas other policies may need to be referred to and their gist explained at the relevant point in my conclusions. The text of the

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<sup>1</sup> Doc 35

<sup>2</sup> SoCG paragraph 5.7

<sup>3</sup> Ibid paragraph 5.6

following policies is reproduced in Appendix 2<sup>4</sup> to the evidence of Mr Thorley and elsewhere.

17. Local plan policy **TR/6** concerns the impact on highways of development on non-designated sites. Its first requirement (i) is that such development should not result in “unsafe and unsatisfactory operation of the highway system”. This is not inconsistent in principle with the relevant intentions of the Framework, albeit paragraph 32 creates a test of “severity” for the residual impacts after mitigation that the local plan policy does not. The latter refers in its explanation to the “acceptability” and “unacceptability” of such impacts with relevant adopted standards to be fully taken into account.
18. Local plan policy **ST/1** is a multi-faceted policy concerning the development needs of the Charnwood Borough and, inter alia; promotes sustainable development; aims to conserve, protect and enhance those features of the environment particularly valued by the community; and seeks to protect the character and appearance of the countryside for its own sake, especially within areas of particularly attractive countryside and other areas of local landscape value. In principle, such intentions are not inconsistent with broadly equivalent intentions of the Framework.
19. Local plan policy **ST/2** effectively confines built development (subject to specified exceptions) to allocated sites and other land within identified limits to development. To the extent that such an intention supports the concept of development being plan-led, it is not inconsistent with the intentions and core principles of the Framework.
20. Policies **CT/1** and **CT/2** together seek to strictly control development in the open countryside, i.e. outside the development limits defined for settlements. Insofar as they recognise the intrinsic character and beauty of the countryside and seek to conserve environmental assets, the policies are not inconsistent with broadly equivalent intentions of the Framework.
21. A wide range of other relevant policies, including RSS policies, is listed in the SoCG, albeit with no suggestion of conflict. I refer to policies from this list only if it is necessary to do so.

## Planning History

22. A previous application for residential development of the appeal site, Ref P/09/2376/2, was refused by the Council in March 2010 for nine reasons. In addition to concerns over the Grove Lane junction, these related primarily to an absence of certain supporting technical information and a number of site specific matters since addressed. It is common ground that none of the reasons concerned the principle of residential development on the site.
23. The application subject to appeal was refused for the following single reason:

***“The existing junction of Grove Lane with South Street/Sileby Road\* is lacking in adequate visibility to the left out of Grove Lane. The proposal if approved would lead to increased dangers for road users and not be in the interests of highway safety. Accordingly, the development is contrary to policy TR/6 of the Borough of Charnwood Local Plan 2004.”*** (\* NB For convenience, I refer to this throughout as ‘the Grove Lane junction’.)

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<sup>4</sup> A1a

## The Proposals

24. Although the application is in outline, considerable supporting information to explain and illustrate the intended manner of development of the site has been submitted, encapsulated in the Illustrative Masterplan.<sup>5</sup>
25. Within the envelope created by the existing boundary vegetation comprising hedgerows and trees, up to 300 dwellings of varying size and type would be constructed, arranged around a central loop road and access ways off. The loop would be designed to accommodate buses and access to the existing highway system would be via a new roundabout constructed on Melton Road at the north west extremity of the site, linked to an internal roundabout by a short stretch of road incorporating a badger tunnel and designed with the roundabouts to facilitate "run-over" for emergency access purposes in the event of carriageway blockage.
26. The public footpath crossing the site west to east would be retained, as would a route from Breachfield Road across to the south east extremity of the site, where the old footbridge across the railway has been demolished pending replacement by Network Rail. A new pedestrian/cyclist bridge across Fishpool Brook to Breachfield Road is proposed.
27. Open space would generally be disposed around the periphery of the site but a more substantial area of open space would correspond to the existing meadowland in the floodplain of the Fishpool Brook, the capacity of which would be increased by limited excavation and re-grading of the existing landform. A broadly equivalent area of open space would be created in the lower lying southern margin of the site near the railway. This would incorporate an attenuation pond. A multi-use games area, a play area and a community orchard would be located in the main area of open space in the south and west of the site.

## Other Agreed Matters Defining the Common Ground

28. The SoCG sets out in detail what is agreed as common ground. The following points agreed by the main parties are salient:
  - Following a lengthy period of negotiation and discussion between the appellant and officers of the Council, the application was reported to the Council's Development Control Committee in December 2011 with a recommendation for approval.
  - The only robust and evidence-based housing targets for the Borough of Charnwood at present are those within the RSS and that these should be used to assess the five year supply for the purposes of the Framework. As at October 2011 the housing land supply for the period April 2012 to April 2017 was 2.63 years for the district as a whole. The position has not materially altered (for the better) since the application was refused and that it will not improve during the anticipated determination period of the appeal. Indeed, the August 2012 Addendum to the SoCG shows that as at June 2012, the supply position had worsened significantly, with only 1.98 years' supply of deliverable sites being available when a 20% buffer to compensate for under-

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<sup>5</sup> Drawing No 4045\_SK\_001 rev E.



delivery, as per the Framework, has been added to the base calculation. When divided between the Principal Urban Areas and the Non-Principal Urban Areas, this deficit equates to 0.59 years and 3.55 years supply respectively. It is common ground that the allocations in the local plan only cover the period to 2006 and are now expended. The Council will be unable to meet its needs on brownfield land alone and the majority of new housing will need to be on greenfield sites.

- Barrow Upon Soar is a sustainable location for development on the scale proposed. In the "Further Consultation" version of the emerging Core Strategy it is suggested as a "Service Centre", a higher order settlement for nearby villages with a range of community facilities including a supermarket, post office, primary school, secondary school, health centre, pharmacy, optician, library, cash points and public houses. It is suggested that the village could accommodate in the region of 500 new homes in the period to 2026.
- The site is within easy walking distance of the community facilities in the village centre of Barrow upon Soar, existing bus stops and the Barrow upon Soar railway station. It is also common ground that this gives ready access to the major centres of Leicester, Loughborough and Nottingham.
- The site is suitable and sustainable and that the proposals represent sustainable development for the purposes of paragraphs 14, 49, and 197 of the Framework and that the proposals comply with the intentions of paragraphs 37 and 38.
- The proposals accord with relevant policies of the RSS, notably Policy 3 and Policy 12, and that they will help to meet the housing needs of the district as set out in Policies 13a and SRS3.
- The proposals accord with a wide range of local plan policies but conflict with the intentions of policies ST/2, CT/1 and CT/2 which generally seek to restrict development in the countryside. Insofar as these policies concern the supply of housing land, it is common ground between the main parties that these should not be considered up-to-date in the context of paragraph 49 of the Framework bearing in mind the lack of a five-year supply of deliverable housing sites.<sup>6</sup>
- The residential development of the site is acceptable in principle.
- Save for the Grove Lane junction, the base data used in the preparation of the highways and transport assessments are robust and fit for purpose and that the inclusion of the FTP accords with the intentions of paragraphs 35 and 36 of the Framework.
- Save for the Grove Lane junction, all other impacts on the highways network would be satisfactorily mitigated by the package of highways measures proposed, including those for the Barrow Road Bridge.

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<sup>6</sup> SoCG paragraph 6.12

- Save for the impact on the Grove Lane junction, the proposals fully comply with the relevant transport policies of the local plan and the intentions of paragraphs 32 and 35 of the Framework.
- The proposals demonstrate a high standard of design and that they comply with the design policies EV1 and H16 of the local plan, the Council's *Leading by Design* SPG and Section 7 of the Framework 'Requiring good design'.
- There would be no adverse impact on the living conditions of existing residents in the vicinity of the site and that an adequate standard of residential amenity for up to 300 dwellings within the site can be achieved and that this would not be compromised by noise from the railway. There would, it is agreed, be no conflict with the intentions of the relevant local plan policies in this respect.
- The interests of nature conservation would not be compromised and that biodiversity would be maintained or enhanced, satisfying relevant policies in the local plan and according with the relevant intentions of paragraph 118 of the Framework.
- Existing flooding in the area would not be exacerbated by the proposed development and that the resulting increased capacity of the floodplain of Fishpool Brook would be a benefit with the potential to reduce the risk of flooding in the gardens of the adjacent properties on Breachfield Road. It is therefore agreed that the relevant policies and intentions of the local plan and the Framework in respect of flood risk and climate change would be complied with.
- Save for the policing contribution, the provisions of the planning obligation accord with relevant local policy, meet the intentions of the Framework and comply with the CIL Regulations.

29. The only area of disagreement between the main parties concerns the safety of the Grove Lane junction, specifically with regard to visibility to the left.

### **The Case for Jelson Homes** (Docs 2, 44, A1, A2, A3 & A4)

*The salient material points are:*

30. This is an appeal in respect of a single reason for refusal, on highway grounds, issued contrary to the advice of the Council's own officers and that of the highway authority.
31. It is agreed that the proposal represents sustainable development in a sustainable location that would contribute to overcoming a severe shortfall of housing land, would provide needed affordable housing and that the presumption in favour of sustainable development applies.
32. Policies 1, 3, 12, 13a, 14, 15 and SRS3 of the RSS are complied with and it was accepted by the Council that this was so. The proposal would deliver market and affordable housing in accordance with the relevant targets adjacent to a service centre without infringing any environmental restraint in the RSS.
33. The local plan contains policies to prevent development in the countryside outside settlements defined to accommodate a level of housing need that is now historical. It was prepared in the 1990s. Current needs cannot be met by the

- local plan and require that development takes place on substantial areas of land classified by the local plan as “countryside” adjoining urban areas or settlements, the boundaries of which reflect historical needs. There is therefore a conflict within the development plan and section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the RSS prevails.
34. The development plan as a whole is complied with and the alleged conflict with policy TR/6 of the local plan is not accepted.
  35. In any event the Framework now provides, at paragraph 32, that proposals should only be refused (on highways grounds) where the impacts are severe. The second bullet point thereof clearly refers to the access to the site itself, a matter that can be controlled by the developer, whereas the third bullet point refers to the wider highway network. Safety is important, but real evidence of danger has not been demonstrated. The risk referred to by the Council and others is theoretical.
  36. Overall, the proposals conform to the development plan and should be approved without delay according to paragraph 14 of the Framework.
  37. It is agreed that the policies preventing development in the countryside are out-of-date and they are in any case deemed to be so by virtue of paragraph 49 of the Framework. The proposition put by Mr Reid for the Council, that they should nevertheless attract substantial weight, is untenable. His approach was rejected in two recent appeal decisions in Charnwood<sup>7</sup> and he accepted the approach in the Bishop’s Cleeve decision<sup>8</sup> that such policies should be given substantially reduced weight. Following the approach in the Worsley decision<sup>9</sup>, very little weight should be accorded to the Council’s 27 September 2012 decision regarding what may be an emerging local plan strategy. These are simply early thoughts on its part.
  38. The objection to the proposal on highway grounds cannot be sustained. There is no material shortfall in visibility. On the basis of appropriate calculations<sup>10</sup>, visibility to the left (‘Y –distance’) of some 38 metres is required but some 42 metres<sup>11</sup> is actually available.
  39. The accident record over many years confirms the Grove Lane junction to be a safe junction. The evidence of experience clearly demonstrates this to be so. Circa 1.5 million vehicles per annum use it, together with many pedestrians and cyclists. Its physical circumstances have remained constant and over the eight years for which formal accident records are now available there have been none recorded relating to visibility. There have been two recent accidents<sup>12</sup> but one (3 October 2012) occurred 500 metres to the east and there is no evidence that lack of visibility played any part in the accident of 27 September 2012.

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<sup>7</sup> Documents 36 & 37

<sup>8</sup> Appendix 7 to evidence of Mr Thorley

<sup>9</sup> Appendix 6 to evidence of Mr Thorley

<sup>10</sup> Evidence of Mr Young paragraph 6.3.12 and Appendix H

<sup>11</sup> Subsequently confirmed to be 42.5 metres with one metre encroachment or 40.3 metres with 0.75 metres encroachment (Doc 20).

<sup>12</sup> Docs 8 and 10

40. In any event Manual for Streets<sup>13</sup> states that there is no evidence of a relationship between reduced visibility and the potential for accidents and there is no evidence that an increase in traffic will lead to any increased risk of accidents. The TMS report<sup>14</sup> shows that the statistical correlation is nowhere near that which would be required to demonstrate a reliable relationship between the two factors. This junction has huge spare capacity. Increasing flows will not have any effect on the potential for accidents.
41. There is no evidence that the relevant criterion (i) of local plan policy TR/6 would be breached and no evidence of any harmful impact on the highway network.
42. It should be borne in mind as context that the proposed development will add only 30 movements to the left turn in the peak hour, which would be imperceptible, the average "queue" over this period being less than one vehicle. Any delays will be minimal and will not lead to frustrated drivers taking risks.
43. Two factors should be taken into account in calculating the appropriate visibility requirement, the appropriate 85th percentile speed and the appropriate MfS2 calculations.
44. The speed survey of the appellant's consultant, Mr Young, is to be preferred to that of the Council's consultant, Mr Bancroft. It complied with the mandatory TA22/81 requirement of 200 readings. Furthermore these readings were taken beyond the potential influence of local or bank holidays. The appropriate wet weather correction was made, whereas no such correction was made by Mr Bancroft whose recorded speed of 31.4 mph was not so corrected despite conditions being observed as merely damp/intermittent rain. The further readings<sup>15</sup> were inappropriately contrary to TA22/81 methodology being over a 24 hour period and thereby distorting the results with high speeds.
45. Mr Young's Stopping Sight Distance (SSD) calculation correctly made no allowance for HGVs and buses in compliance with the guidance because 2.9% HGV/bus content in the recorded vehicles was by reference to 2 X 3 hour periods rather than simply peak hours. It is therefore reliable.
46. If it is assumed that such vehicles should be included then the MfS2 reduction for buses of 10% (not accounted for by Mr Bancroft) should be applied to HGVs also. This is consistent with everyday observation and the admittedly small sample of readings referred to by Mr Young which show a 10.03% reduction. This approach results in a SSD of 40.83m.<sup>16</sup>
47. The amended figures from Mr Bancroft<sup>17</sup> are wrong because they do not make any speed reduction and the Council's preferred figure of 47.5 makes no speed reduction at all. In summary, the 43.86 metre splay distance requirement is based on the incorrect speed of 31.48mph; the 42.93 metre requirement is based on the WSP speed but uncorrected for wet weather; the 38.21 metre requirement is correct; and all the figures in the right hand column are wrong as they fail to allow for the lower speeds of HGVs and buses.

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<sup>13</sup> Referred to generally as MfS (or more specifically MfS1 or MfS2 as appropriate)

<sup>14</sup> Doc 9

<sup>15</sup> C1b Appendix I to the evidence of Mr Bancroft

<sup>16</sup> Rebuttal evidence of Mr Young, but based on Mr Bancroft's speed, not Mr Young's.

<sup>17</sup> 09/10/12 *Statement to address amendment to visibility calculation* (Mr Bancroft C1c)

48. As far as the available visibility is concerned, there is agreement between all three highway witnesses following a visit to the junction observed by the Inspector. From 2.4m on the centre line of Grove Lane (a starting point accepted by Mr Bancroft) there is a Y distance of 42.5m to a 1m off-set and Mr Bancroft accepted<sup>18</sup> a 1.3m off-set, so on his evidence there would be materially more than 42.5m. From 2.4m offset by 1m to the centre of the left turning lane there is a Y distance of 40.3m to a 0.75m off-set. But such a small offset cannot be justified because there is a virtually non-existent possibility of a motorcycle being closer into the kerb on approach from the east.
49. Mr Young's measurements are not only vindicated but found to be understated and there plainly is no material shortfall in visibility, even on the basis of unreliable speeds.
50. However the requirement should be calculated the junction has proved to be very safe and drivers in any event take more care at restrictions on the road network. If the objection were to prevail, moreover, needed development would be stifled at countless locations as Mr Young explained that the majority of junctions in most towns and cities are substandard; and that would be flatly contrary to the intentions of the Framework. The conventional approach to such matters is used in the recent appeal decision<sup>19</sup> at Bramcote Road, Loughborough and a similar approach is advocated here. In any event, if ever the operation of the junction required improvement, there is adequate scope for improvement.
51. The additional points raised by the Parish Council and others have no support from either the Council or the highway authority.
52. The highways objections raised by the Parish Council cannot be substantiated. First, at the site access it is inappropriate to rely on DMRB<sup>20</sup>, which is primarily for motorways and trunk roads when the proper guidance for this location, applied by the highway authority, is MfS. If the 85<sup>th</sup> percentile speed of 34.5mph is correct the required SSD is 52.5m which is achievable.<sup>21</sup> There is no problem with levels.
53. The visibility requirements of MfS are not absolute and applying the necessary wet weather reduction gives a 28.5 mph speed generating a requirement of 38 metres, which is available.
54. The single point of access contested as inappropriate by the Parish Council raises no objection from the highway authority whose own guidance advocates assessment of the matter on a site-by-site basis and concludes that a cul-de-sac may be the best solution in certain circumstances.
55. Thirdly, conflict with local plan policy TR/6 or the Framework does not arise at the Barrow Road Bridge as in the peak hour the development would add an imperceptible 93 vehicles and there is no evidence that this would make any difference to the safety or satisfactory operation of the bridge. The proposed

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<sup>18</sup> Paragraph 5.5 of the evidence of Mr Bancroft

<sup>19</sup> Doc 37, para. 29

<sup>20</sup> *Design Manual for Roads and Bridges*

<sup>21</sup> Rebuttal evidence of Mr Young Appendix D

- improvements would more than offset any impact as is shown by the LINSIG output in the ATA.
56. The VISSIM model showed the effects of the MOVA system proposed as reducing delay by around 13% with a consequential 2-3% improvement in capacity at the bridge accepted as an improvement arising from the development by the highway authority. It was accepted by Mr Cage in cross-examination that paragraph 6.3 of the later report,<sup>22</sup> which stated that the CD modelling the traffic flows showed the impact of development at the bridge, was misleading.
  57. Mr Cage's second proof is of no assistance because the model deployed assumes fixed timings which ignores the reality and negates the purpose of the MOVA system proposed, which shares out capacity according to demand at any given time. In fact, table 3.2/3.3 of the relevant report shows an improvement in capacity that exceeds the impact of the development with consequential benefits for base traffic. There would be a decrease not an increase in queuing at the bridge.
  58. There are other problems with the figures and results and, in summary, the report is not reliable evidence, whereas the WSP model is.
  59. So far as Appendix B to the report<sup>23</sup> is concerned, it simply ignored the proposed improvements to hatching which would enable the optimum location of stop lines for a 9/10 second intergreen phase.
  60. The occasional flooding at Slash Lane cannot be a highway objection to the proposed development. Unlike the Redland development<sup>24</sup>, there is no proposal to take access at this location. A number of the other points raised in respect of the bridge scheme are matters for detailed design.
  61. Two thirds of the development will be within 400 metres of a good bus service to Leicester and Loughborough and the extremities within 800 metres, which is comfortably accessible and both the Council and the highway authority consider this a sustainable location. Access to the rail station and good services is also easy.
  62. Even without the rail footbridge to the south-east corner of the site the accessibility of the proposed development would be good and the Council and the highway authority are satisfied that is so. In any event network Rail are pursuing its replacement, having obtained permission and approached landowners. Mr Cage thinks it could be built within five years.
  63. The Breachfield Road junction with Grove Lane (a short one-way stretch) is an existing situation with no record of accidents. The developer is entitled to assume that people will continue to observe the law here.
  64. The concern of the Parish Council as set out in its statement of case is with the impact of the proposed development on the existing community and its facilities, as set out in evidence by Mr Cattle, not the proposition in its closing submissions that deliverability over a five year period is in doubt. The technical material

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<sup>22</sup> Doc 26

<sup>23</sup> Ibid.

<sup>24</sup> Ref T/APP/X2410/A/95/259402/P4 at Appendix A to PC3

- supporting the proposal satisfies the Council and the highway authority in that context and the appellant is an experienced developer well versed in addressing practical issues.
65. Service capacity constraints in Barrow (identified by the Council as a service centre appropriate for growth) are to be addressed by the section 106 obligation that meets the requirements of the relevant statutory providers. This also provides for benefits sought by the Parish Council.
  66. The benefits of the proposed development for the whole settlement will include; increased floodplain capacity; improvements at Barrow Road Bridge; the introduction of warning signs to alert people of flooding on Slash Lane; upgraded pedestrian and cycle links to the centre of the village; the services of a Travel Plan Co-ordinator; additional public open space and some additional community facilities.
  67. Despite this, the Parish Council maintains that Barrow has had enough of development and can take no more, a position adopted by many residents and Barrow upon Soar Community Association (BUSCA). It is not for the developer to remedy the perceived deficiencies referred to by the latter, but the substantial S106 contributions are agreed as appropriate by the local planning authority and the statistics demonstrate that Barrow's growth has been comparable to other settlements and relatively less in some cases. It is calculated that less than 20% of the village population object to the proposal, rather than the overwhelming majority as claimed.
  68. 'Amber' values in the Council's assessment of potential service centres<sup>25</sup> do not preclude growth, simply some constraints. Several of the potential service centres are constrained in some respect. The 'amber' status in respect of health services is historic and rectified and the appropriate contribution in the planning obligation is supported by the Primary Care Trust and the Council. The excellence of care at the health centre was explained by Dr Parker who was careful to explain not that this would be jeopardised but that future improvement would be more challenging. Similarly, education is not threatened and very substantial contributions to education are provided for with the support of the relevant authorities.
  69. Parking difficulties in the village centre are aggravated by commuter parking and is not a matter peculiar to this village, being also a question of management. Few objectors refer to landscape and visual impact and the site has no special designations. In the Worsley decision previously referred to substantial harm in that respect was outweighed by the benefits of housing gain.
  70. No part of the developed area would be outside Flood Zone 1 according to the FRA which has been rigorously assessed by the Environment Agency, whose findings have subsequently been verified by the new hydraulic model of the Fishpool Brook catchment it has created. The proposals comply with the relevant policies of the Framework and there will be some betterment in that although gardens on Breachfield Road will continue to flood the occurrence and severity of

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<sup>25</sup> *Charnwood 2028 Local Development Framework (LDF) Core Strategy Service Centre Capacity Assessment (Final Report) December 2011 ('SCCA')* – Appendix D to Evidence of Mr Cantle (PC4) and Appendix 2 to Evidence of Mr Thorley (A1a)

such events will be reduced. With appropriate planning conditions as recommended by the EA, there is no reason to resist the proposal on surface or foul water drainage grounds.

71. **In conclusion**, the proposals comply with the development plan as a whole and should be approved without delay.

**The Case for Charnwood Borough Council** (Docs 4, 43, C1 & C2)

*The salient material points are:*

72. The application was refused because members disagreed with their officer's view. This was based on advice from the highway authority. Although this recognised the Grove Lane junction to be deficient it decided, all other objections having been addressed, that it could not support an objection on the basis of the one single issue of visibility alone.
73. At the time of application the appellant recognised that the junction fell short of the relevant visibility standard but now claims it will be met.
74. This standard is that the 'x' distance should be measured from a point 2.4m back from the give way line in the centre of the carriageway. The 'y' distance depends on variables affecting the SSD.
75. On a robust assessment the visibility splay is inadequate and the junction will not operate safely, giving rise to conflict with policy TR/6(i) of the local plan and the intentions of the Framework.
76. The conflict with the development plan is not outweighed by other considerations and the appeal should be dismissed.
77. Two recent appeals<sup>26</sup> in the Charnwood District have been allowed because of the inadequate housing land supply but that makes little difference to the merits of this case. In particular the junction inadequacy on its own should preclude the grant of permission in this case. None of the appeal decisions referred to in evidence by the appellant<sup>27</sup> involved determinative highway inadequacies and they are of limited assistance in this case.
78. The Council is cognisant of the benefits of the proposed development (these are set out for example in the officer's committee report) and the appellant has not suggested that the Council was not aware of them.
79. The main issue for the Council is the adequacy of the visibility for left turning traffic at the Grove Lane junction.
80. UK practice (as explained by MfS2) generally focuses on SSD. Paragraph 10.3.1 explains how the minimum SSD is deployed. This shows why a cautious approach is necessary to permitting additional traffic at junctions with inadequate visibility.
81. Although MfS2 explains, on the basis of research undertaken by TMS, that there was no evidence to suggest that failure to provide standard visibility at junctions

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<sup>26</sup> Docs 36 & 37

<sup>27</sup> Appendices 3 – 7, 12 – 14 and 16 – 18 to A1 Evidence of Mr Thorley



- resulted in an increase in injury collisions at 'high-risk' urban sites, it did not conclude that the evidence disproved the assumption that this would be so. The outcome of the research should be treated with caution and it is significant that MfS2 does not jettison the concept of adequate visibility splays being required.
82. Without local evidence to the contrary, it says, a reduction from recommended visibility will not necessarily lead to a significant problem.
  83. Local evidence goes beyond the Personal Injury Accident (PIA) record. It means all relevant local circumstances, including the particular features of the junction.
  84. In this case these include: frequent overrunning of the kerb (where it is dropped to facilitate crossing by pedestrians) by left turning vehicles so as to avoid encroaching onto the westbound lane used by oncoming vehicles; the route is also well used by cyclists; there are a number of private drives impinging on the junction layout, adding to potential conflicts; marked turning lanes are often ignored; and bus turning manoeuvres using the entire carriageway cause oncoming vehicles to brake suddenly.
  85. This local evidence militates in favour of caution as it may simply be good fortune that there are no recorded PIAs, rather than the junction being safe as the appellant suggests.
  86. It became common ground that the appropriate point in the carriageway to measure the 'y' distance to is 1 metre in from the carriageway edge.
  87. Based on one day surveys the parties variously calculated the appropriate wet weather speed for calculating SSD as 28.51mph (appellant) and 31.38mph (Council). In view of these differences a subsequent survey was undertaken by the Council between Thursday 30 August and Monday 3 September 2012, giving a 7 day average 85th percentile speed of 32.8mph.
  88. The Council's interpretation is that wet weather conditions do not have a major impact on speeds at this junction and it may therefore be unwise to rely on the lowest 85th percentile speed of 28.51mph advocated by the appellant.
  89. Notwithstanding criticism from the appellant that the Council's survey did not comply with TD22/81 guidance, aspects of its own work failed to comply, including reliance on single day surveys. Moreover, informed interpretation of the guidance by experienced professionals is more important than the quantity of vehicles included. Therefore surveying only 100 vehicles rather than the 200 advocated by the guidance is common practice among professionals, usually acceptable to highway authorities. The Council's results are reliable.
  90. Buses and HGVs have different characteristics in this context, with slower deceleration making for longer SSD and hence longer visibility splays, but guidance suggests that, in combination, bus and HGV traffic of less than 5% of total flow need not be assessed, subject to local circumstances. The appellant's TA did not contain information on the composition of traffic flow but both the appellant and the Council commissioned further survey work to address the point.
  91. However, the appellant's survey covered only the AM and PM peak hours, contrary to MfS2 guidance, whereas the Council's work covered 24 hour periods in which the proportion of HGVs/buses significantly exceeds the 5% threshold.

- The only criticism by the appellant was that the survey was 30 August to 3 September, which, although school term time locally, was not entirely neutral given that results could still be affected by the holiday period. This is a flimsy criticism, not based on guidance, which should be rejected.
92. It was agreed by the appellant that on the basis of the Council's data HGVs/buses should be taken into account. However, no separate survey of HGV/bus speeds has been undertaken by any party and therefore the information is imperfect.
  93. In these circumstances the 85th percentile speed for all vehicles should not be used as it includes buses and HGVs.
  94. Although MfS2 does not recommend it, the appellant sought to argue that there should be a 10% reduction of the 85th percentile speed for HGVs as well as buses, indicating how constrained the junction is. No such reduction is warranted in relation to HGVs. The practical consequences are that an overtaking HGV driver might not see a driver emerging from Grove Lane until it is too late to stop.
  95. The available splay measured to the agreed 1 m point in the carriageway is agreed to be 42.5m.<sup>28</sup>
  96. The appellant considers the required splay length to be 38m, but this assumes a wet weather 85th percentile speed of only 28.51mph, much lower than that observed by the Council in wet weather and lower than the ATC data suggests the average 7 day 85th percentile speed is. The appellant's splay length takes no account of the different deceleration rate for HGVs and buses.
  97. The Council concludes that the required splay length is 47.5m, using an 85th percentile speed of 31.48mph, which is reasonable given that it is in the middle of the three available measured speeds, also reasonably not discounting buses and HGVs as there is insufficient data upon which to do so. The Council's assessment is more robust and is to be preferred.
  98. That leads to a shortfall against the available splay of 5m which is in excess of 10% and not de minimis. MfS2 does not endorse unlimited flexibility but rather says that 'y' distances should be based on the recommended SSD values. While a reduction in visibility will not necessarily lead to road safety problems, that depends on local evidence.
  99. The Council submits that the shortfall in visibility is a serious one and should not be accepted. Its evidence is that adding additional traffic as proposed would lead to a situation on the highway that is unsafe and unsatisfactory and hence there is conflict with policy TR/6 of the local plan.
  100. This policy is not out-of-date and is in any event consistent with the aims of the Framework.
  101. The threshold of severity the appellant claims to be the meaning of paragraph 32 of the Framework is not relevant to this as there is either a well founded highway safety concern or there is not and it would be extraordinary if planning permission could not be refused on the basis of a really serious (as opposed to

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<sup>28</sup> Doc 20

severe) risk to highway safety. It is more likely that the “safety” part of paragraph 32, the second bullet point, applies here, whereas the third bullet point is concerned with convenience, delay etc where severity is a more meaningful concept.

102. **In conclusion**, the appeal should be dismissed.

**The Case for Barrow Upon Soar Parish Council** (Docs 3, 42 & PC1 - PC4)

*The salient material points are:*

103. The Parish Council does not oppose the principle of residential development in the settlement but believes it cannot support substantial development of the type proposed in this case without major infrastructure improvements, principally the upgrading of Slash Lane to provide two flood free links to the A6 and the provision of a new or significantly upgraded health centre. These concerns are evidenced by the Parish Plan final report, the NHS response to the application and the lack of permissions for major house building in the last 12 years.<sup>29</sup>
104. But for the Secretary of State’s intervention and consequent inquiry, the application would not have been sufficiently scrutinised in terms of deliverability in the context of meeting the Charnwood shortfall in housing land supply. Moreover, the proposed development is not “sustainable development” of the type envisaged by the Framework and insufficient mitigation is provided in respect of local infrastructure constraints, the consequences of which are articulated by those with local knowledge and experience.
105. The Parish Council’s concerns lead to technical objections concerning traffic impact, safety, sustainability and flood risk management and practical objections in respect of the ability of the village infrastructure to cope with this and other housing development that may occur.
106. The Council’s emerging core strategy shifts the emphasis away from the identified service centre settlements such as Barrow Upon Soar.
107. The proposed development will increase the risk of accidents at the Grove Lane junction and the wider highway network is severely constrained. The approaches to the village are subject to capacity issues as a consequence of growth in traffic with attendant safety concerns, notably when Slash Lane is flooded for typically 2 or 3 days around 12 times a year. The exacerbation of these concerns by the proposed development will not be adequately mitigated.
108. The site access arrangements and external linkages are inadequate.
109. There should be at least two points of access for a development on this scale, one of which could be an emergency access. This should be separate from the principal access and the proposed arrangements in this case are unacceptable. The development could be marooned by a road accident or a fuel spillage.

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<sup>29</sup> Appendix G to the Parish Council’s evidence in fact records, inter alia, the grant of permission for 360 dwellings to David Wilson homes (land between Cotes Road and Willow Way Ref P/04/0999/2 in outline and subsequent reserved matters P/05/2778/2)

110. There is insufficient assurance from the submitted material that adequate forward visibility to the access roundabout on approach from the north east could be achieved without tree removal and re-grading of third party land.
111. There will be a risk that the short section of Grove Lane that is one-way to the north of its junction with Breachfield Road will be increasingly abused by impatient drivers, an occurrence which anecdotal evidence suggests to be periodic and which led to a recorded accident with a pedestrian on 17 December 2008. This is a further indicator that the main vehicular route to the site is constrained.
112. The Grove Lane junction has been considered in great detail and the Parish Council endorses the case made by the Council. The second scenario agreed by the parties<sup>30</sup> is considered appropriate, i.e. Splay 2: 2.4 (offset 1 metre east of centreline) x 40.3 x 0.75 (encroachment) metres. This is because right turning vehicles constrain the observed propensity of left turning drivers to position themselves at the centreline for maximum turning advantage.
113. The majority of vehicles turning left emerge from the junction and impinge on the opposite carriageway to avoid overrunning the kerb.
114. Even with speed cushions the surveyed wet weather speed recorded by the Council is 31mph and should not be reduced further for the purposes of calculating the splay requirement. The requisite 45m visibility is not available.
115. Both MfS2 and the WSP supporting research paper are caveated by cautions as to their conclusions regarding the relationship between visibility at junctions and accidents. It is common sense that constrained visibility to the left reduces the necessary attention that drivers can give to traffic approaching from the right.
116. This is the principal route from the site and it is unsuitable for serving significant new housing development.
117. With regard to the proposed improvements at the Barrow Road Bridge, the ATA acknowledges that MOVA control is only likely to result in a 2-3% increase in capacity. Moving the stop lines closer prevents HGVs passing or causes vehicles passing to take additional time. The humpback of the bridge restricts visibility and deters efficient use of the green phase. Cyclists now have a dedicated phase that will negate the proposed capacity improvements. The absence of an adverse impact from this has not been demonstrated. The location of the signal heads cannot be optimised because the bridge is a listed structure.
118. The anticipated MOVA improvements will only materialise if both approaches are not at saturation. The WSP VISSIM model underestimated the queues and therefore didn't account for queuing vehicles beyond the purview of the model, a deficiency that will be exacerbated by anticipated traffic growth. The proposed 'hurry loop' to prevent vehicles queuing back onto the Jerusalem roundabout will cause excessive queuing from the west in the AM peak.
119. Barrow upon Soar is a constrained location due to periodic flooding of Slash Lane and the Barrow Causeway. It is primarily a dormitory settlement and travel beyond it to work and for main food shopping and leisure is a constant necessity.

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<sup>30</sup> Doc 20

- No meaningful improvements to current travel patterns are proposed and the principles of paragraph 32 of the Framework need to be applied.
120. The sustainability credentials of the proposal are questionable as far as travel is concerned, with most residents travelling to work by car outside the settlement. There is no new employment proposed and no linkage across the railway and parking facilities in the village centre are inadequate.
121. Without the replacement footbridge, the programme for which is uncertain, over one third of the site would be in excess of 400m from a bus stop. The footpath crossing of Fishpool Brook will be within the flood alleviation area and if raised to avoid the water would impede flow, a scenario that has not been modelled.
122. The proposed improved pedestrian routes to the village centre are subject to a number of deficiencies and it has not been demonstrated that the £40,000 provided for improvement will be adequate. It is questionable whether the routes are truly “walkable” and hence whether the centre is within 10 minutes walk of the site as advised by MfS.
123. The Travel Plan target of a 14% modal shift away from the private car is unlikely to be realised as it has no real incentives. There is no proposed increase in the level of bus services and no proposed changes to train services or accessibility to the train station.
124. The train station suffers from the lack of car parking or drop-off facilities; it is only accessible by a large number of steps and is unmanned with an isolated platform with little in the way of shelter. It is an overstatement to say that it offers an excellent level of service. Its existence does not automatically make the appeal site sustainable. Only 1% of the Barrow Upon Soar population used the train to travel to work in 2001 and despite increased rail patronage the level of service remains unaltered, indicative of the usage made. Similarly the existence of a half-hourly bus service does not automatically make the appeal site sustainable. It is the practical ability to use such services on a sustained basis that is material. The Travel Plan does not and cannot provide that level of reassurance. The Travel Plan Co-ordinator may be of some benefit but without improved services there is little that can be achieved. The Travel Plan Penalty is nowhere near the level of funding that would be required to improve services.
125. The gaps in the technical information concerning the site development profile, sewage disposal and ground conditions mean that there is insufficient means to assess whether the houses proposed can be delivered within five years, with question marks also in respect of highway capacity, traffic flow and surface water drainage.
126. Ground conditions including a Phase 1 contamination survey have yet to be investigated but it is known that there are lime kilns within the site and old mine workings in the vicinity. The effect on works required to drain the site is unknown.
127. The potential increase in surface water flows have not been properly assessed and flood risk and flood management issues will be exacerbated, together with foul drainage difficulties. There is doubt about the ability of the site to contain its surface water flows so as to ensure no further increase in flood risk to adjoining land and this could affect layout and hence housing yield.

128. The exacting requirements of the Environment Agency's suggested condition (8)<sup>31</sup>, the lack of discussions with Severn Trent Water and the configuration of the existing drainage diminish confidence in the occupation of any dwellings on the site within 5 years. This is highlighted by the fact that the appellant has not had discussions with Severn Trent Water and the knowledge that the sewer is at capacity due to gradient and already discharges at times of peak flow. The opportunities for redirecting the flow away from this catchment are limited and the construction of a new sewer would require a tunnel under the railway and the crossing of third party land, possibly with a need to upgrade a pumping station. There is therefore no certainty that any houses on the site could be occupied within 5 years.
129. There are concerns about the impact of the culvert under the railway being blocked and the revised modelling that took some account of this took no account of the impact of serviceable pedestrian crossing points for Fishpool Brook.
130. EA acceptance of the revised FRA was not without reservation and the exacting requirements of the suggested conditions (5), (7) and (8)<sup>32</sup> should be borne in mind.
131. The EA response is detailed and prescriptive and indicates that much detailed work is yet to be done, including soakage tests. No assessment of the consequences of exceedance of the propose drainage systems in extreme events such that water flows directly into Fishpool Brook and no conclusions can be drawn on the adequacy of the drainage proposals.
132. The EA remains concerned because it advocates the lifting of floor slabs to 48m AOD. However, a large element of the proposed development is below 48m AOD and the raising of slab levels to that height has unknown consequences for the layout.
133. The absence of blockage modelling highlights the issue that at a flood level of 48m there would be an impact on the floor slabs of existing houses on Breachfield Road.
134. The proposed and any additional pedestrian crossings of Fishpool Brook will cause more flooding of properties upstream than has currently been modelled.
135. There will be a greater risk of debris in the brook and consequent blocking of the culvert during significant events with deeper flooding of the properties on Breachfield Road as a consequence.
136. The local health centre will be placed under unacceptable pressure and the mitigation proposed in the form of a contribution for extra car parking spaces will not address the underlying concern regarding a health centre operating at capacity.
137. The education contributions, which are phased, will not guarantee the provision of new classrooms and the same applies to contributions to community facilities and other contributions. The proposed mitigation will not deliver the necessary

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<sup>31</sup> Doc 29 Revised Draft Conditions

<sup>32</sup> Ibid

facilities to achieve the improvements now required from the planning system by paragraph 9 of the Framework.

138. **In conclusion**, the proposals will not lead to a better quality of life or positive improvements as advocated by the Framework but rather it will lead to deterioration in the quality of life currently enjoyed by Barrow Upon Soar residents. Although they seek to meet the Charnwood housing shortfall, they remain incomplete and uncertain in delivery with harmful impacts such as not to be the type of sustainable development the Framework encourages. The grant of outline consent would have a number of adverse effects and the appeal should be dismissed.

### **The Cases for Interested Parties**

*The salient material points are:*

#### **Mr Hilsdon** (Docs 32 & 34)

139. Gardens in Breachfield Road flood on a regular basis. This won't affect the new residents but the situation for existing residents will be made worse. There is a danger that the culvert under the railway will block, making the situation worse. What guarantee do the residents have that these things will not occur? Old mine workings could exacerbate drainage and flood problems.

#### **Mr Willcocks**

140. The travel plan will not work. Experience of commuting to Leicester prior to retirement is that the service is poor, unreliable and overcrowded. There are only two carriages on the relevant trains and the station is rudimentary. The railway is only useful for a journey to work if the stations are walkable at both ends of the journey.

#### **Dr Sarah Parker** (Doc 5 re: GPs' practice at the Barrow Upon Soar Health Centre)

141. The health centre was purpose built in 1980 around which time the practice list of 4,500 was broadly comparable to the population. The current population of Barrow Upon Soar is circa 6,320 but the practice list is around 8,650. New types of patient place new demands on a practice and at present the clinical skills available match the demographic profile.
142. The premises have adapted in response to a rising population, with S106 monies from another development being used for refurbishment in 2011, bringing into use rooms vacated by district nurses, health visitors and school nurses pursuant to NHS re-organisation. The limited surgery space is shared to manage clinical availability and evening appointments are offered on a Wednesday.
143. The practice boundary has been redrawn to curtail pressure and patients are no longer accepted from outside the boundary. The appeal site is within it and will therefore have an impact, as only under exceptional circumstances can GPs lists be closed.
144. The objection arises because the appeal proposal comes hard on the heels of the challenge posed by the ongoing construction of 360 houses elsewhere in Barrow Upon Soar.

145. The Practice is challenged by the rising population, having been rated “deep amber” by the PCT prior to refurbishment and there are ongoing uncertainties arising from further NHS reorganisation. The health centre is currently operating at 70% over capacity and will be 90% over if the appeal scheme is developed. There is no prospect of NHS funded capital investment at present. Adding patients to the current practice list will cause deterioration in the services offered.
146. The central location of the health centre is appreciated by patients for its good public transport links but at busy times the car park is often full.
147. The quality of care provided is good and the Practice is keen to improve it further. The continued rapid growth of the Practice population would make achieving improvement extremely challenging and would be detrimental to the care of both existing and future patients.
148. The appeal should be dismissed.

**Nicky Morgan MP** (Doc 16 on behalf of constituents in Barrow Upon Soar)

149. First, the former Planning Minister Greg Clark and the former Local Government Minister Bob Neill have both emphasised the Government’s commitment to Localism and empowering communities to shape their neighbourhoods through neighbourhood plans as the Parish Council wants to do. This is clear in the Framework. To ignore residents’ concerns is to ignore the policy intentions of Localism. I have not been contacted by a single resident of Barrow Upon Soar in favour of this development. The community has had more than its fair share of new development through the large Willow Road development. This proposal outside the village limits is a step too far.
150. Secondly, the Secretary of State needs to be aware of the vulnerability of Councils such as Charnwood, which does not yet have a core strategy in place, to speculative applications such as this. The framework says weight can be given to an emerging core strategy and in September 2012 the Council indicated its intention that service centres including Barrow upon Soar would share 200 homes between them over 15 years, whereas this proposal is for 300 homes in Barrow Upon Soar alone.
151. Thirdly, the development would put intolerable strains on the physical and social infrastructure of the settlement and it is inconceivable that the residents of the proposed development would use public transport rather than their cars. The development cannot be considered sustainable.
152. The appeal should be dismissed.

**Mr Rowland** (Doc 18 Landmark Planning for Barrow Residents’ Action Group)

153. BRAG supports the Council’s reason for refusal.
154. The appeal site is on rising land and prominent. The proposed development would harm the landscape and the harm could not be mitigated by the proposed landscaping scheme. It would therefore be contrary to saved local plan policies CT/1 and CT/2.
155. The harm to the rural landscape and the danger to highway safety would outweigh the benefit of reducing Charnwood’s housing land deficit.



156. The appeal should be dismissed.

**Councillors Ranson and Fryer** (Docs 17 & 40)

157. We support the Parish Council, the Barrow Residents' Action Group (BRAG) and the residents in their opposition to the development.

158. Its adverse effects would significantly outweigh its benefits when assessed against the Framework as a whole. It is over dominant and alters the whole character of the village. The roads will not cope and access to the schools is under stress as roads serving them do not have the scope to be improved. More than 500 houses have been built or approved in 10 years and the High Street facilities suffer from lack of parking already. It is unrealistic to suppose people will walk to the shops and back.

159. Slash Lane is often closed by flooding and more warning signs would do little to help drivers already committed to using the route through the village, which takes traffic from other villages en route to the A6, M1 and A46.

160. The health centre is heavily oversubscribed and access to it from the appeal site would be by car, adding to congestion.

161. Existing residents have made welcome the occupiers of many new houses in recent years. They are not "NIMBYs" but do object to the sheer scale of what is proposed. The changing climate is increasingly disrupting the road system through flooding around the village and the measures proposed will not help. Huge investment is needed, for example at Slash Lane.

162. The appeal should be dismissed.

**Mr Wilson**

163. Experience suggests that, with the fire station being based in Loughborough, there will be problems of accessibility for it if the roads are congested at times of flood.

**Mr Burton** (Doc 39)

164. This is the first area to flood in Leicestershire, up to 12 times per year. Traffic congestion is always caused, with of a mile in length. The police put signs up and additional signs will not help as most people know when roads will be closed.

165. The abuses of the one-way system between Breachfield Road and Melton Road are not reported to the police. The station is inaccessible due to the many steps and people are more likely to drive in any event because they can visit superstores and the like during the course of their journeys, or they will drive to the station and park on roads near the station.

166. The sewer is at capacity and subject to storm overflows, but Severn Trent Water tends not to object. However, there has been no mention of the water Framework Directive which requires rivers to be improved by 2027. It is doubtful if surface water can be dealt with using SUDS

167. Previous applications in the countryside have been rejected and nothing has changed to justify this one.

**Mr Smith** (Doc 19)

168. There is a highway danger at the Melton Road/Breachfield Road/Babington Road junction close to the appeal site as illustrated on my annotated plan.<sup>33</sup>
169. MOVA might help with Barrow Road Bridge but the wider area including Slash Lane needs to be looked at.

**Councillor Forrest** (Chair of BRAG)

170. Local residents are not "NIMBYs". Lots of them have had new houses "in their back yard". Barrow Upon Soar is a great place to live and we do welcome newcomers, but we are at saturation point and enough is enough. The infrastructure will not cope.

**County Council** (represented by Mr Prendergrast, Mrs Owen, Mr Kettle and Mr Tyrer) (Docs CC1 & CC2)

171. In its essentials, the position of the County Council is as set out in the written evidence submitted and there is little to add. A Civic Amenities site is no longer required as one has been provided at Mountsorrel.
172. The adopted County Council policy in respect of developer contributions is the *Statement of Requirements for Developer Contributions in Leicestershire* (SRDCL) which is the starting point for negotiating appropriate contributions, the latest review of which was in 2007.
173. There are written submissions from Mr Tyrer, the Developer Contributions Officer and Mr Cook in respect of highways and transportation matters.

**Mrs Anderson** (Doc 15 for Leicestershire and Rutland Primary Care Trust)

174. The concerns expressed by the practice regarding the pressure of extra patients are echoed<sup>34</sup> but in terms of consequential capacity improvements to premises the need would be for extra parking capacity, for which a £30,000 contribution is sought.

**Mr Page**

175. Traffic on Grove Lane/Melton road is at the capacity of the highway and creates a potential danger to children.

**Mrs Noon** (Doc 28 for CPRE Charnwood District Group)

176. The County Council has given insufficient weight to the appeal decision referenced T/APP/X2410/A/95/259402/P4<sup>35</sup> regarding the disruptive effect to traffic of flooding on Slash Lane. This is relevant to any additional development in Barrow Upon Soar. The circumstances have not changed in the 14 years that have since elapsed but rather they have been exacerbated.
177. This is an important appeal decision and consideration should be given to the increased volumes of traffic that the proposed development would add to various

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<sup>33</sup> Doc 19

<sup>34</sup> Doc 15

<sup>35</sup> Included also as Appendix 2 to Doc 28

routes in Barrow Upon Soar that are already disrupted by flooding and the appeal should be dismissed for this reason.

**Mrs Reed**

178. Parked vehicles disrupt the flow of traffic, especially lorries, on the eastern approach to the Barrow Road Bridge and this will undermine the proposed improvements.

**Mr Pepper**

179. Cyclists will inevitably slow traffic as it passes over Barrow Road Bridge because of the configuration of the highway and cycling has been encouraged in Barrow Upon Soar. Mountsorrel Lane also floods and that practically leaves the bridge as the only route. 30% of residents in a Parish Plan survey cited flood disruption as a reason not to build.

**Mr Hobbs**

180. A trial run of MOVA should be considered as set out in letter.<sup>36</sup>

**Mrs Rodgers** (Doc 41 for Barrow Upon Soar Community Association)

181. BUSCA is looking to build a new purpose built community centre in the village to accommodate a variety of activities in response to identified needs.<sup>37</sup> Dual use of the Humphrey Perkins School facilities, including the sports hall, has been curtailed for practical reasons. Little attention has been given by the developers, or by the Council, to the detrimental impact of a large influx of new residents and the social consequences.

182. In order to maintain social cohesion it is imperative that the village has the facility BUSCA hopes to build at an estimated cost of around £1.5 million. This is an essential facility that would be necessitated by the proposed development and the sum proposed in the planning obligation (£100,000) will not cover the cost.

**Written Representations**

*The salient material points are:*

**The County Council**

183. The signing of the S106 planning obligation obviated the need for the representatives of the County Council who had prepared evidence to be called as witnesses. That evidence therefore effectively becomes written submissions.

184. The gist of the evidence in respect of financial contributions to education and library services is that they are based on formulae in the SRDCL,<sup>38</sup> adopted by the County Council as Supplementary Planning Guidance.

185. In respect of education, the proposed development will not affect the high school but will impact on the primary and upper schools, which are full and predicted to remain so. This will give rise to a need for funding of school places

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<sup>36</sup> Doc 31

<sup>37</sup> Detailed in Doc 41

<sup>38</sup> *The Statement of Requirements for Developer Contributions in Leicestershire*

at circa £12,099 per primary school place and circa £18,355 per upper school place, the deficit in the number of places relative to the number of dwellings being calculated according to standard formulae.

186. The contributions sought are proportionate, necessary and directly related to the development. They are therefore CIL compliant.
187. In respect of library facilities, the contribution would be used to improve the lending stock and computing facilities at Barrow Upon Soar Library and reconfigure its internal space to provide for additional public access. Calculated by standard formulae, the contribution sought is proportionate, necessary and directly related to the development. It is therefore CIL compliant.
188. The contributions for public transport and pedestrian and cycle improvements stem from the core principle of the Framework that patterns of growth should be actively managed to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
189. The proposed enhancements to the walking and cycling routes to the High Street, the Humphrey Perkins High School and the Sibley Road bus stops are necessary to cater for and encourage increased use in accordance with travel plan objectives. £40,000 is proportionate and the need stems from the development given the likely demand that development on this scale will give rise to. The Travel Packs Contribution, 6 month public transport passes and the funding of two bus shelters are necessary, proportionate and directly related to the proposed development, the object being to facilitate and encourage public transport use from the outset.
190. The Travel Plan Penalty will become payable if monitoring demonstrates that the modal shift target of 14% in the Travel Plan is not achieved. This penalty will incentivise the developer to seriously implement the travel plan and give comfort to the County Council that further funding would be available to encourage modal shift if targets are not met. The penalty is necessary, directly related and proportionate.

### **Nicky Morgan MP**

191. The application was refused prior to the finalisation of the Framework. This clarifies the meaning of sustainable development and the impact on the roads, schools and health services in particular render it unsustainable in terms of the Framework. There is a five year land supply in the local area. The development will, by taking open countryside, harm the character and visual amenity of the area contrary to saved policies CT/1 and CT/2 of the local plan. It is also contrary to saved policy ST/1(ii) because it is clear from the level of objection that this landscape is "particularly valued by the local community". The refusal on highway safety grounds is supported.

### **Barrow Upon Soar Parish Council**

192. It is misleading for the appellant to suggest that the Borough Council has previously supported the proposed development "in principle". The application is speculative and exploits the Borough Council's failure to deliver a Local Development Framework. It is unsustainable because it is on greenfield valuable

agricultural land outside the limits to development, visually dominant on high ground, and will overload healthcare and schools in the village.

### **Leicestershire Constabulary**

193. The policing contribution is necessary, proportionate and directly related to the development. It is therefore CIL compliant.

### **Barrow Residents' Action Group**

194. The appeal site is on rising land and prominent. The proposed development would harm the landscape and the harm could not be mitigated by the proposed landscaping scheme. It would therefore be contrary to saved local plan policies ST/1(ii), CT/1 and CT/2. The harm to the rural landscape and the danger to highway safety would outweigh the benefit of reducing Charnwood's housing land deficit.

### **Private Individuals**

195. There is a great weight of correspondence from local residents. In reading this I have discerned a number of consistent themes:

- First, there is a widespread feeling that the village community has witnessed rapid expansion and that it is outgrowing the physical and social infrastructure available to it.
- Secondly, there is a concern at the loss of countryside around the village.
- Thirdly, there is a concern with highway safety, especially at the Grove Lane junction
- Fourth, many people believe that the capacity of the highways is near its limit, certainly at peak times, and that the problems are particularly intense because periodic flooding already disrupts flows.
- Fifth, there is a perception that the proposed development will increase flooding.

196. In addition, there are numerous comments raising concerns which include; the effect on the living conditions of neighbouring residents, parking pressure in the village centre, noise and disturbance to existing residents, destruction of trees and hedges, inadequate public transport, harm to biodiversity, loss of agricultural land, unsuitable ground conditions, potential to increase crime and disorder, the slow progress or halting of existing residential developments for lack of demand, encouragement of car-based travel building and the disregard of the opportunities for using existing empty properties.

## **Conditions and the Planning Obligation**

### *Conditions*

197. A number of suggested conditions (SC) were agreed between the Council and the appellant.<sup>39</sup> Discussion of these at the Inquiry was inclusive of the Parish Council and interested local residents.

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<sup>39</sup> Doc 29

198. I have reviewed the SC in the light of the advice in Circular 11/95 *The Use of Conditions in Planning Permissions* and the relevant tests therein, together with the advice of the Framework. Some require minor rewording to more closely accord with the relevant advice of the circular and others may usefully be combined for economy, but in general they are appropriate.
199. The standard timescales (SC1) for an outline permission and submission of reserved matters are appropriate but these should be more precisely expressed so as to define the reserved matters and the associated timescales.
200. Accordance with the definitive plans (SC2) should be prescribed by condition for the avoidance of doubt and in the interests of good planning but general accordance with supporting documents is an imprecise approach. However, precision may be introduced by requiring the submission of details for approval by the local planning authority in relevant cases to be in accordance with the principles contained therein. Bearing in mind, inter alia, the planning obligation, I do not consider the approach appropriate for the TA, the ATA, the UFTP or VISSIM modelling. It is inappropriate to address the proposed off-site works at Barrow Road Bridge in this fashion as the land involved is not in the control of the appellant. However, bearing in mind that these are essentially traffic management measures susceptible to refinement and I am not persuaded, having considered the evidence and observed the relevant circumstances of the bridge on site, by the proposition [117] that there would be impediments to its detailed implementation in practice that could not be readily resolved, I consider it could appropriately be dealt with separately through a Grampian style condition. (See also my comments on SC15 below.)
201. The various assessments have been based on a maximum of 300 new houses and as this number is not specified in the description of the development or the application, which is simply for "residential development" it is necessary to limit the number to a maximum of 300 (SC3) by specific condition. Moreover, it is necessary to prescribe the maximum developable area bearing in mind the importance of flood alleviation, the scope for SUDS and the role of the structural landscaping, with a Master Plan creating an overarching framework for the submission of reserved matters. However, the submitted masterplan is purely illustrative. This difficulty may be overcome by the approach advanced in SC4, as this builds on the general principle illustrated to create a firm framework and phasing programme, the latter being necessary for a development on this scale, in my view. I see no difficulty in requiring general conformity to the illustrated principles according to which the proposal has been advocated as a sustainable form of development. This would not fail the test of precision as those principles are spatially expressed on the illustrative masterplan and articulated in the Design and Access Statement. It would be for the Council to reasonably consider whether or not the Master Plan and Design Code submitted pursuant to the relevant condition were in general conformity with them.
202. SC5 increases the focus on the detailed implementation of any particular phase approved pursuant to SC4 and this seems to me to be an entirely necessary and reasonable approach.
203. The site is known to have some archaeological potential including the remains of lime kilns of varying age from early post-medieval until perhaps as recently as the nineteenth century, but the Archaeological Services team at the University of

Leicester is satisfied that the matter can be addressed by a programme of work following a written Scheme of Investigation.<sup>40</sup> This may be secured by a condition such as SC6.

204. Although SC7 – SC9 are all essentially concerned with drainage it seems to me that, in the circumstance of the site, the matters addressed are most practically dealt with by separate conditions specifically concerned with sustainable surface water drainage, foul sewage and the specific detail of trapped gully provision in each phase of development.
205. The site is currently in arable use and there is no reason to suspect widespread contamination. However, its archaeological characteristics suggest that disturbance of buried deposits might, in places, give rise to concern and hence, on balance, a precautionary condition of the type suggested (SC10) is appropriate.
206. SC11 seeks to protect retained trees and hedges on the site as the development progresses through phases. It would require an overall scheme to be first approved, supplemented as necessary by the implementation of the approved measures as each phase commences (SC12). This seems to me to be a logical and methodical approach to this important matter that it is necessary to address in the interests of sustainability.
207. SC13 reflects the concerns regarding the impact of the railway on the living conditions of future occupiers of parts of the site and while there is no reason to constrain development in principle for that reason, suitable detailed measures to secure amenity are necessary.
208. SC14 effectively requires the precise details of the access applied for to be resolved and the works, including the pedestrian and cyclists' bridge over the Fishpool Brook to be fully implemented before any dwelling is occupied; and I consider this to be necessary as these involve the sole vehicular access and the principal pedestrian route anticipated.
209. SC15, in effect, partially replicates the suggested content of SC2 insofar as it specifically concerns the off-site works for the Barrow Road Bridge traffic management scheme to improve its capacity, and involves further consideration of the details of the improvement, notwithstanding the satisfaction of the highway authority with the details submitted to date. This is necessary and will potentially cater for the effects of the cyclists phase subsequently introduced. Being off-site on land not controlled by the appellant, it needs to be negatively expressed in 'Grampian' style and to ensure early delivery and benefit the condition should, as suggested, make first occupation of a dwelling contingent upon its implementation.
210. SC16 – SC18 are best combined within the purview of a standard form of construction management condition suitably adapted to include, inter alia, the precautions to be taken in respect of badgers passing through the works.
211. SC19, if appropriately cross-referenced to the details of design, would require the retained public footpaths within the site to be upgraded by the time half the houses are occupied. This seems a reasonable and necessary precaution to

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<sup>40</sup> Doc 24

ensure that such improvements are incorporated in the development in a timely fashion whilst accommodating any unavoidable delay.

212. The Slash Lane Flood warning system (SC20) is promoted as a benefit of the proposal and a means of mitigating the impact of extra traffic on such occasions and is seen as such by the highway authority. Despite some scepticism amongst third parties as to its value or efficacy I am nevertheless satisfied that it is necessary to secure the benefit by condition.
213. Insofar as public art (SC21) is required by the provisions of the development plan, it is necessary to secure its implementation by condition. Local plan policy EV/43 seeks to make public art integral to the design of major developments and, given this development plan rationale for the condition, it is not in my view inappropriate, in this instance, to seek to reinforce the quality of the detailed scheme design in this way.
214. Insofar as the Framework encourages renewable energy as an important aspect of sustainability, it is necessary to reinforce this locally on a development of this scale by a condition such as SC22.
215. The Parish Council promoted a condition to minimise the risk of flooding caused by the blocking of the Fishpool Brook culvert under the railway line, suggesting that the land as far as the culvert is in the control of the appellant and that the test of necessity is met by the need to avoid such blockage. However, I am not persuaded that this is appropriate or necessary as the potential blockage of culverts is a universal and ongoing matter for the appropriate authorities rather than the developer of any particular site. Moreover, I do not consider the risk of blockage to be demonstrably increased by the proposed development as the risk of unauthorised disposal of items likely to cause such a problem would arguably be reduced by the greater surveillance of the Fishpool Brook that is likely.

#### *Planning Obligation*

216. The Framework sets the tests for planning obligations consistent with the statutory requirements of the Community Infrastructure Levy Regulations 2010 (CIL Regulations). The Council's evidence addresses in some detail<sup>41</sup> the developer contributions provided for and concludes, with reservations regarding the Travel Plan Penalty, that all bar the Policing Contribution are compliant with the relevant tests and the CIL Regulations. The separate matter of Affordable Housing in the obligation is justified on the basis of local and national policy and the relevant local evidence base. The precise level of affordable housing is a matter of negotiation on the specifics of any particular site, but it seems to me that 30% affordable, to be tailored to local needs as regards the mix of Social Rented Dwellings and Intermediate Affordable Dwellings, is a reasonable expectation on a greenfield site of this nature. The rationale for the Education and Library Facilities contributions is set out in the written evidence of the County Council,<sup>42</sup> which also refers to the original request for a Civic Amenity contribution, subsequently dropped as a result of convenient local facilities with adequate capacity having been provided.

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<sup>41</sup> C2 Evidence of Mr Reid, Section 3

<sup>42</sup> CC1 Evidence of Mr Tyrer



217. I have no reason to depart from the Council's analysis in respect of Public Open Space/Recreation and Community Facilities, Education and Library Services, all of which are calculated on the basis of established practice locally and with a view to specific provision in response to the predicted impacts of the proposed developments. Full weight may be accorded to those elements of the Planning Obligation. They are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

218. More substantial comment, to which I return in due course in the context of my conclusions regarding infrastructure, is necessary on the financial contributions provided for in respect of Highways and Transport, Policing and Health.

## Conclusions

*References are made, where appropriate, to previous parts of the report by indicating the relevant paragraph number thus [0].*

## Main Considerations

219. I have identified the following main considerations in this case:

- (i) Whether the Council can demonstrate a five year supply of deliverable housing;
- (ii) The sustainability of the proposed development;
- (iii) The effect of the proposed development on highway safety, in particular its effect on the safe operation of the junction of Grove Lane with Sibley Road and South Street ('the Grove Lane junction');
- (iv) The effect of the proposed development on traffic circulation within Barrow Upon Soar, including at times of flooding;
- (v) The effect of the proposed development on flood risk;
- (vi) The effect of the proposed development on the infrastructure of the village and whether its impacts may be adequately mitigated by the provisions of the planning obligation;
- (vii) Whether the proposed development accords with the development plan for the area in respect of highway safety and the protection of the countryside;
- (viii) The accordance of the proposed development with the intentions of the National Planning Policy Framework ('the Framework') regarding the delivery of a wide choice of high quality homes, good design and the promotion of healthy communities; and
- (ix) Whether any harm arising from the proposals would be outweighed by other considerations, i.e. the planning balance.

### *(i) Housing Land Supply*

220. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites and there was no substantive, evidence-based, challenge from any party regarding this. Accordingly, the Council accepts that the local plan policies

concerning housing land supply, specifically, cannot be considered up-to-date. [28]

221. I have no reason to doubt the position and it merits no further discussion other than to note that the presumption in favour of sustainable development set out in paragraph 14 of the Framework is thereby engaged. The failure to demonstrate a five year supply of deliverable housing sites is a matter to which substantial weight must be accorded.

*(ii) Sustainability*

222. Sustainability is a multi-faceted concept most authoritatively articulated in the Framework for present purposes. It merits some attention in that the sustainability credentials of the site are questioned by many, albeit not the Council [28], including numerous local residents who object to the proposals.

223. In land resource terms it has been established that the site does not comprise Best and Most Versatile land [8] and hence the loss of farmland does not weigh significantly against the proposal in sustainability terms, given the inevitability of having to develop greenfield sites in the Council's area.

224. Moreover, I am satisfied that there are no seriously adverse implications from the point of view of biodiversity. Again this is common ground between the main parties [28]. It seems to me that, if anything, the enrichment of habitat through extensive landscaping with appropriate species and the additional benefits afforded by individual suburban gardens in the fullness of time would be a benefit, notwithstanding that some species associated with farmland would be unlikely to return to the site itself.

225. Insofar as design is an important facet of sustainability, the qualities of the layout are such that it is common ground [28] between the main parties that relevant objectives would be met or would be capable of being achieved at the detailed design stage. It seems to me that the proposals balance the need to make efficient use of the site with the need to provide adequate open space to not only create a pleasant setting but also to accommodate appropriate SUDS measures and flood attenuation in a practical fashion.

226. The majority of the site is within a reasonable walking distance of the village centre. I noted that at reasonable walking pace it is 10-15 minutes and the upgrading of the routes would encourage their use. The south eastern part of the site is the least accessible at present, including to the bus stops on Sibleby Road to the south. However, the evidence before me suggests [62] that Network Rail fully intends to replace the closed pedestrian crossing point of the railway that currently disrupts the footpath network with a footbridge and I have no reason to believe that this replacement will not in due course be implemented. The layout of the site makes for the encouragement of trips on foot and by bicycle and certainly facilitates such modes for those who wish to utilise them in preference to using a car for local journeys.

227. More strategically, the existence of the railway station, which provides access to major centres for employment, shopping and leisure, is a major advantage of the settlement of Barrow Upon Soar which would be readily shared by residents of the proposed development. I acknowledge that the station is perhaps more properly described as a 'halt' rather than a 'station', insofar as the latter is more

commonly understood as a substantial building or group of buildings with ticket office, staff and possibly shops and cafés. Nevertheless, the fact of the matter is that it exists and enables the population of Barrow Upon Soar to make ready use of the railway to travel to a variety of important destinations for employment, shopping, leisure and many other services, should they choose to do so. It may not be the most comfortable of facilities but for the majority of able-bodied people it is a perfectly practicable proposition.

228. This is an important consideration in terms of the concept of sustainability, to which the long view is intrinsic. Transient factors such as the state of the rolling stock or the quality of the service are less important than the fact of heavy and permanent infrastructure investment having already been undertaken, thereby representing an asset to be capitalised upon as needs dictate. The fact that usage is apparently low at present [124]<sup>43</sup> does not detract from the fundamental long term advantage of the railway as a focus for residential development.
229. The Framework<sup>44</sup>, importantly, puts it thus: (Planning should)... *“actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus development in locations which are or can be made sustainable”*. This core principle places Barrow Upon Soar in a category of existing settlements which are inherently sustainable and, moreover, the appeal site itself is all within an entirely comfortable walking distance of the station<sup>45</sup>. Many of the houses would be within 800m and none would be further than one kilometre, equivalent to a 10-15 minute comfortable walk for most. [28,61]
230. In addition, the existence of regular local bus services, for the most part within 400m<sup>46</sup> of the proposed houses with the potential for diversion through the site in due course, complements the more strategic accessibility afforded by the railway. [25,28,61]
231. It is relevant in this context to note in full the reported comments of the County Council’s Director of Environment and Transport, set out in full in Appendix 3 to *Charnwood 2028 Local Development Framework (LDF) Core Strategy Service Centre Capacity Assessment (Final Report) December 2011* (‘the SCCA’) [68]. These were that Barrow Upon Soar... *“is well served by bus services, and has a railway station but accessibility for pedestrians is currently limited to stairs only. However, existing public transport levels are insufficient to cater for the level of modal shift away from the car that would be required in order for the village to be considered suitable for a further significant expansion in housing provision.”*
232. The third key element in the equation as regards the sustainability of the location is the existence of a village centre with a good range of services that is already accessible on foot for those with the time and inclination to walk, and can be made more pleasantly so by the measures provided for in the planning obligation. There is no reason to regard the site as disadvantageous or discouraging to the use of bicycles.

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<sup>43</sup> PC1 Evidence of Mr Cage, Appendix 1

<sup>44</sup> Paragraph 17

<sup>45</sup> ATA fig 3.2

<sup>46</sup> ATA Fig 3.1

233. For the above reasons I conclude that the appeal site's basic credentials in terms of both natural resource conservation, potential for good design, choice of sustainable transport modes and, importantly, scope for future improvement of public transport in response to demand, are in fact highly conducive to development of the type proposed.

234. It is of course the case that many other considerations impinge on the overall sustainability of the site and those that are of potentially decisive importance, namely highway safety, traffic circulation, flood risk and village infrastructure are separately considered below in order that an assessment in the round within the context of the development plan and the Framework can be made.

*(iii) Highway safety*

235. Grove Lane joins Sileby Road/South Street in the form of a section of one-way street with left turning and right turning lanes. The visibility to the right is entirely adequate but the visibility to the left is constrained by an existing property and it was agreed,<sup>47</sup> on the basis of on-site measurement during the course of the Inquiry, that the available visibility was, in practical terms, 42.5 metres to a 1 metre offset from the kerb. [48].

236. Much evidence was adduced regarding observed speeds on the road, adjustments for wet weather conditions and the composition of the traffic, to which I have given careful consideration. It seems to me, bearing in mind not only the totality of the evidence but also the response of the Highway Authority, which does not object to the proposals that, were the junction being constructed today, a more generous 'Y' distance of around 45 metres would be provided as a matter of course. Correspondence between the appellant's highway engineers and the highway authority<sup>48</sup> indicates its view that 45 metres was the appropriate standard to work to and that this could be achieved by the use of a 1.31m offset from the kerb. In other words, the layout of the junction does not provide the visibility to the left that, ideally, it should [114] [38 - 50, 73-99 and 112 – 114 for detail of the cases put].

237. This perceived deficiency must, in my view, be considered in the light of a number of factors, including the, albeit cautious, conclusion in MfS2 that there is no invariable relationship between visibility and collision risk. A second contextual factor is the reality that numerous junctions in urban areas are below current standards but are not normally reconfigured unless there is evidence of safety problems arising on a regular basis as a consequence. Otherwise they are left alone to carry volumes of traffic far in excess of those that originally typified the streets, on the basis that drivers exercise the necessary degree of caution as circumstances demand. The proposition was advanced that, if absolute standards were to be routinely applied to junctions in the network at a distance from individual application sites, this would unnecessarily inhibit the development of urban areas [50].

238. In response to my questions on that matter, Mr Young, for the appellant, explained the reality of the general picture very clearly and I concur with the commonsense assessment that he gave. Moreover, the Framework, at

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<sup>47</sup> Doc 20

<sup>48</sup> ATA, Appendix A email from Younus Seedat to Stephen Yeates 25/01/11 @16:46

paragraph 32, sets out an approach which takes account the need for safety at the site access itself and residual cumulative impacts on the network that must be severe if development is to be prevented or refused. While it was submitted on behalf of the Council [101] that severity is a concept that that is inapplicable to the safe operation of a junction, i.e. it is either safe or it is not, I do not consider that the real world operates in that way. It would of course be wrong to sanction any development that self-evidently gave rise to significant deterioration in road safety without effective mitigation of the problem, but there is no cogent evidence to suggest that would be the case here.

239. MfS advises that local evidence should be taken into account in exercising the necessary judgement about any junction and the evidence in this instance is a sustained freedom from recorded accidents at the Grove Lane junction. It is of course the case that lack of accidents related to visibility is not proof that a substandard junction is inherently safe, but it does strongly suggest that it operates in practice in a safe manner because of its particular circumstances and the response of the drivers using and approaching the junction to such circumstances.
240. I observed the operation of the Grove Lane junction both as a driver and as a bystander on a number of occasions during the course of my visit to the area. There is no doubt that larger vehicles emerging from the junction to turn left do impinge on the far side of the carriageway, but they appear to do so in a cautious manner which gives adequate time where necessary for vehicles approaching from the east to adjust their speed to accommodate the manoeuvre. I also observed that certain other vehicles turning left do cross the lowered kerb so as to remain within the nearside of the highway whilst effecting the manoeuvre, whereas the great majority had no need to do that. The tyre marks and the evidence of my own eyes suggest that this is a regular, if not unduly frequent, occurrence, but the fact remains that large numbers of vehicles have exited the junction over the years without mishap. On the basis of agreed flows the junction carries in excess of 1.5 million vehicles annually, albeit right turning as well as left turning [39].
241. The reasons for the evidently safe operation of the junction may well include driver knowledge of its characteristics, including the lack of turns into it by reason of its one-way flow. But I also note that the approach to the junction from the east is up a perceptible gradient which is traffic calmed to some extent with occasional speed cushions and subject to the "friction" of parked cars where parking is not restricted and the improved forward visibility that results where it is, the net result being that drivers unfamiliar with the road are likely to approach the junction from the east with appropriate caution rather than assuming that they may proceed with impunity at a constant speed, as would be the tendency for instance on a free-flowing rural road. The urban and complex driving conditions give rise to a driver response that meets the circumstances, as is the case in countless situations throughout the country.
242. Competing assessments on the part of the appellant and the Council<sup>49</sup> make for a range of required visibility from 38.21m to 43.86m when appropriate reductions in average speeds to account for HGVs and buses are made [47].

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<sup>49</sup> Doc 44, paragraph 25

The actual visibility based on what I consider to be an appropriate offset from the kerb of 1 metre, inside of which the highly unlikely and extremely rare occurrence of a motorcycle overtaking another vehicle overtaking a parked vehicle would not be entertained by its rider owing to the risk of kerb clipping, grids etc, is 42.5m from the centre line of Grove Lane<sup>50</sup>. This comfortably exceeds the mid-point of the range, which is fractionally over 41m. Therefore, if the appellant is right in its calculation of 38m<sup>51</sup> being the appropriate distance there is clearly no deficiency at all but the Council's more cautious approach without speed reductions for HGV/Bus content in the flows would produce a deficiency of the order of 3% against the 42.5m available. Using the appellant's surveyed speed uncorrected for wet weather, the 42.93m requirement would give a deficiency of around 1%. Only the most extreme requirement canvassed of 47.5 metres (Council's preferred figure with no speed reductions at all) would give a deficiency of around 10%.

243. Clearly a deficiency of that order would not be de minimis, but it is material that a more pragmatic approach was taken by the highway authority itself, which regarded 45 metres as being the desirable visibility and in any event does not object to the proposed development, and that the appellant's approach, in my view, more closely accords with the totality of the relevant available advice, little of which is wholly prescriptive, and contains the necessary ingredient of judgement on the circumstances and evidence.

244. I therefore consider it is appropriate to consider the matter of the safety of the Grove Lane junction in the round, bearing in mind the contextual considerations I have described, the lack of recorded accidents that could be ascribed to visibility, and the fact that the highway authority has at no time considered the junction to be in any sense a priority for improvement, notwithstanding that it is one of the principal junctions in the settlement of Barrow Upon Soar. I am also conscious that its one-way operation makes for a simpler pattern of movement and interaction between road users than would be the case if it were a conventional two-way flow with traffic entering it from the main road. It is pertinent to bear in mind the advice originally set out in MfS1<sup>52</sup> concerning driver reaction and stopping sight distances, the various strands of local evidence and the revised guidance in MFS2<sup>53</sup>. All things considered, I conclude that, despite its perceived deficiency in respect of visibility to the left, the junction, on the basis of that local evidence, operates safely and would not, understandably, be a priority candidate for improvement on the basis of current usage.

245. In my estimation, the deficiency, such as it is, is of marginal significance when the judgement is made in the round and should not trigger prevention of the proposed development unless the impact upon its continued safe operation would be demonstrably severe in the sense intended by paragraph 32 of the Framework. In the ordinary course of events developers cannot reasonably be expected to address imperfections in the existing network unless the impact of the proposals would be significantly adverse.

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<sup>50</sup> Doc 20

<sup>51</sup> Doc 44 paragraph 19

<sup>52</sup> MfS1 7.5

<sup>53</sup> MfS2 10.1 – 10.5

246. That begs the question in this instance of whether the impact of additional traffic on the junction would be so significant as to undermine its currently safe operation.
247. The traffic forecast calculations accepted by the highway authority and the parties as the correct basis of calculation show that with no allowance for modal shift as a result of the Travel Plan but with allowance for unreduced<sup>54</sup> traffic growth to 2020 the proposed development would add some 62 right turners and some 30 left turners during the am peak hour to the one way exit from Grove Lane. PICADY results show that the consequential delays per vehicle at 2020<sup>55</sup> would be of the order of a few seconds only for left turners and a little longer for right turners, with less than one vehicle being added to the left turning queue and 1.3 vehicles being added to the right turning queue. The ratio of flow to capacity would be 0.401 for left turners and 0.58 for right turners, well within the accepted capacity threshold of 0.850. Similarly, the pm peak flows would be well within capacity.
248. On that basis, it is evident that the junction would continue to operate comfortably within capacity at the busiest times, with little additional delay for drivers that might otherwise cause impatient behaviour that could potentially undermine the demonstrably safe current operation of the junction. It seems to me that the evidence demonstrates conclusively that the junction should continue to operate without significant change when the additional traffic from the development has built up to its maximum anticipated level, which would in any event be a gradual process which would allow drivers to adjust their habits to compensate for any perceptions of additional delay in any event. Bearing all the relevant considerations in mind, I see no reason why, on a robust assessment, the safety of the junction would be materially diminished by the extra traffic from the proposed development.
249. Nor do I see any reason on the basis of the evidence before me [39, 83 - 85] why pedestrian safety in the vicinity of the junction should be any less than it is now, or that safety for cyclists would be diminished. In relation to the latter, I am conscious that MfS2 notes that greater visibility at T- junctions is associated with higher cycle collision rates.
250. For all the above reasons, while I understand the perception of the Council and the Parish Council that the imperfection of the Grove Lane junction with regard to its geometry and visibility to the left would be a cause for concern [72 - 101, 112 - 116] albeit not one ultimately shared by the highway authority, if the proposed development were to go ahead, I consider that the balance of evidence points conclusively to the judgement that highway safety would not be materially compromised by it. I therefore accord only limited weight to that perception and accordingly, I am unable to conclude that the effect of the proposed development would have an unacceptable impact in those terms as far as the Grove Lane junction is concerned. It follows that the claimed conflict with criterion (i) of local plan policy TR/6, set out in the Council's sole reason for refusal [23], is not, in my estimation, substantiated.

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<sup>54</sup> Surveyed flows at the junction have decreased between 2009 and 2012

<sup>55</sup> Capacity assessment updated to 2020 at request of highway authority and summarised in evidence of Mr Young at table 5.3 of his evidence (A2)

251. I turn now briefly to the matter of the site access itself. The Council raises no objection to the proposed site access [28] and neither does the highway authority. The Parish Council, on the other hand maintained that the vehicular access to the site itself would be unsatisfactory in two principal respects, namely the single access point (with no separate emergency access) and the forward visibility to the access roundabout from the north east [109, 110].

252. The more usual approach is to provide for two or more access points on a development of this size, or a separate emergency access, but that is not always possible, a fact recognised by the highway authority's own guidance<sup>56</sup> which advocates assessment on a site-specific basis [54]. In this case, the requisite emergency access would be 'designed in' to the access roundabouts and short connecting road by the provision of over-run areas to be constructed sufficiently firmly and kept free of obstruction so as to allow emergency vehicles the option of leaving the carriageway itself to get round any obstruction within it. Clearly there is always the possibility that an incident such as a road traffic accident or fuel spillage could close the access itself for a while, but in such circumstances emergency vehicles would be able to reach the relevant area and no doubt by-pass it on the over-run area provision in the event that a simultaneous emergency occurred within the housing area beyond. The highway authority is entirely satisfied on this point [28] and I have no reason to disagree. There are no objections from the relevant emergency service providers in any event.

253. As far as the forward visibility to the roundabout is concerned, the relevant and appropriate guidance in MfS2 suggests that on the current observed speeds the necessary distance is around 52 metres and that, it is claimed by the appellant can be achieved, even when the changing levels of the land and adjacent land are taken into account as the Parish Council suggests. Having carefully studied the levels information on Drawing No 0940/SK/014 rev A and the drawing at Appendix D to Mr Young's rebuttal evidence,<sup>57</sup> and having observed the lie of the land and positioning of retained trees at my site visit I am satisfied that is so. The Highway authority has no objection to the proposed geometry either. Moreover, the speeds measured by the Parish Council in this 30 mph limit are clearly a driver response to the highway geometry as it currently exists, not the geometry proposed, which would include a signified roundabout and a more curved road, both of which would tend to reduce speeds in any event. This is not, in my estimation, a significant point against the proposed development which would create conflict with the intentions of the development plan or the Framework in respect of highway safety and no weight should be accorded to it [52,53,110].

*(iv) Traffic circulation in Barrow Upon Soar*

254. The particular geography of Barrow Upon Soar tends to concentrate traffic entering and leaving the settlement via the nearby A6 onto the historic Barrow Road Bridge, a listed structure. The alternative route to and from the A6 via Slash Lane to the east of the settlement is regularly inundated by flooding, albeit there appear to be no reliably precise records of exactly how many days in the year it is wholly impassable to motor vehicles.<sup>58</sup> Nevertheless, from all that I

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<sup>56</sup> The so-called '6 C's' guidance (Appendix C to PC1 Evidence of Mr Cage)

<sup>57</sup> A3

<sup>58</sup> See for example paragraph 13.1 of evidence of Mr Cage on flooding (PC3)



saw and heard I have no doubt that this is a strategic difficulty for the settlement, indeed a difficulty that contributed to the dismissal of an appeal in of an appeal in 1997 [60,176]. I have studied this decision carefully and it seems to me that the circumstances of the site were different in that it was directly related to the possibility of providing a flood reduced link via Slash Lane to ensure the accessibility of the business premises at that time proposed, but there were in any event a range of other substantiated objections to the proposal and the Inspector concluded, amongst other things, that... *“such consequences of poorly sited development are particularly unnecessary at this time when there is no urgent need for further employment land to be released and when there is to be debate over how to best provide for future needs in the context of the emerging Local Plan.”*<sup>59</sup>

255. At the strategic level a further distinguishing feature was the lack of demonstrable need for the release of employment land at the time and I am also conscious that housing development has continued apace in Barrow Upon Soar, especially on its northern fringe, despite the obvious difficulty that the periodic severance of Slash Lane and other routes causes. Nevertheless, it seems to me that in the ordinary course of events the expansion of the settlement without resolution of the problem via public investment in the necessary works, however funded, does weigh against the current proposal in the absence of a clear mechanism, set out for example in an up to date development plan, so as to overcome the difficulty, which, unresolved, must ultimately limit the growth of the settlement, especially if climate change increases its frequency.
256. Against that, the settlement is established and must continue to thrive despite those intermittent difficulties which load additional traffic onto the more reliable route across Barrow Road Bridge, leading on such occasions to additional and widespread congestion. The relationship of the proposed development to the Slash Lane difficulty is not so direct or unique that it would be reasonable to require resolution of the problem, which is common to the entire settlement, to be funded by the appellant in this case and there is no suggestion from the Council or the highway authority (neither of which objects to the proposed development on the grounds of the Slash Lane situation) that it should be. Some mitigation of the extra impact of the proposed development on ‘flood days’ is arguably necessary but has been catered for by the commitment to extra warning signs, albeit these do not address the root cause of the difficulty.
257. The key question is whether the extra traffic impact of the proposed development on flood days would be so severe as to render the development untenable as a consequence of the extra loadings on the Barrow Bridge route on those occasions which disrupt the traffic flow and cause congestion in the settlement in any event, but I have no cogent evidence to suggest that a critical threshold would be crossed so as to render the existing unfortunate situation wholly unacceptable.
258. Moreover, the appellant’s off-site proposals to improve the capacity of the Barrow Road Bridge through the use of some additional traffic management measures, including the repositioning of the traffic lights and stop-lines and the installation of MOVA technology would serve to ease, it seems to me, the position

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<sup>59</sup> Ibid paragraph 33

on flood days in the same way that it would on the ordinary days when Slash Lane and sometimes Mountsorrel Lane, apparently, are closed. Clearly the congestion would be greater and more enduring on such occasions but that simply reflects the current position without the proposed Barrow Road Bridge improvements necessitated by the additional traffic from the development proposed in this instance.

259. The effectiveness of those proposed improvements was questioned by the Parish Council [117,118], albeit not the Council or the highway authority, on a number of counts. While I can see that an overly ambitious approach to repositioning the stop lines could potentially cause difficulties in the event of large vehicles meeting at the point of constriction, I have no doubt that precise positioning at the point of implementation would minimise the risk of such an occurrence. Moreover, there is no cogent evidence that the listing of the structure would necessarily inhibit the most advantageous re-positioning of the traffic signals. It does seem that the recent introduction of a dedicated cyclists' phase by the highway authority has the potential to require further modification to the proposals, but the highway authority is the instigator of that and I have no doubt that adjustments could be made as it considers necessary.
260. Fundamentally, it seems to me, the MOVA system proposed, being a dynamic means of traffic management in response to the prevailing circumstances, has the potential for continuous adjustment, for example in the event of the so-called 'hurry loop' introducing unintended consequences<sup>60</sup>, to achieve the optimum outcome at a bridge which has served the settlement and will continue to do so on the basis of alternating one-way flows. The appellant's VISSIM modelling was criticised as being too limited in its scope on the approach roads, for example stopping short of the 'Jerusalem Roundabout' but the inclusion of the additional traffic in a wider purview would tend to dilute its significance in any event. Ultimately, all such modelling has its limitations and the Parish Council's evidence failed to convince me that its VISSIM modelling ultimately gave a more accurate prediction. It seems to me that the CD visualisation of the predicted traffic movement failed to take into account matters that would be properly addressed by experienced drivers on a day to day basis, such as minimising delays caused by right turners into Proctor's Park Road.
261. In any event, the addition of around 90 vehicles in the peak hour or around 1.5 vehicles per minute, whilst not perhaps, at 6% increase, imperceptible as the appellant claims<sup>61</sup>, would certainly not give rise to insurmountable or unacceptable levels of increase in congestion relative to the existing situation, even if the installation of the proposed measures were to be less effective than predicted. While I have no doubt that there are occasions when the bridge does give rise to difficulties in the settlement, I observed it on a number of occasions, including my formal site visit (timed to observe am peak conditions at the Jerusalem Roundabout.) I can only conclude, having done so, that, given the constriction in the network that the bridge must inevitably create, for the most part it operates as well as can reasonably be expected and that, with the benefit of the improvements proposed, it will continue to do so and may even experience some improvement as the appellant claims. It is significant that the highway

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<sup>60</sup> Doc 42 paragraph 5.16

<sup>61</sup> Doc 44 paragraph 39

authority is satisfied with the proposed mitigation of additional flows on the network in this respect and that there is in any event continuing scope for refinement of a system that is intrinsically sensitive to demand at any time and allocates the available capacity of the bridge accordingly, i.e. an intelligent system. A 'trial run', as has been suggested by a local resident [180], would, in the circumstances, neither be practical, nor, in my view, necessary.

262. All in all, given the proposed improvements, there is no reason to consider that the increased traffic at the Barrow Road Bridge would lead to any conflict with the intentions of the development plan or those of paragraph 32 of the Framework, which says that decisions should take account of, inter alia, whether...

*"improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."* The residual impact of the proposal on the Barrow Road Bridge following the introduction of the proposed MOVA system, even if were to fail to fully live up to its promise of more than compensating for the impact of the proposed development<sup>62</sup>, could by no stretch of the imagination be described as 'severe' even though some adverse impact might at some point on some occasions conceivably occur.

263. Moreover, the visibility towards the bridge is perfectly adequate from both directions and would remain so even after the adjustments proposed to the signal heads were effected. There is no convincing evidence to demonstrate that visibility at the bridge, or the layout of the road, is in any sense a cause of undue danger. The bridge is an inconvenience known, logically, to most drivers in the peak hours and almost certainly to a sizeable majority of those using it outside those hours. The only potentially decisive question is one of consequential materially and unacceptably reduced capacity on the highway network and, for the reasons previously explained, I do not consider that to the case in any event.

264. Finally, as regards the day to day operation of the highway network elsewhere, there was contention; from the Parish Council [111]<sup>63</sup> that abuse of the short stretch of one-way routeing between the junction of Breachfield Road with Grove Lane, between it and Melton Road; and from Mr Smith [168]<sup>64</sup> regarding the speed of traffic passing the junction of Babbington Road with Melton Road in the vicinity of the northern end Breachfield Road; that both were potential sources of danger, underlining constraints in the network. With regard to the latter point, I consider that the introduction of the proposed site access roundabout (Drawing No 0940/SK/014 rev A) would advantageously change the geometry of Melton Road, improving visibility whilst calming traffic. As regards the former point, it can only reasonably be assumed that local motorists will obey the law and resist the temptation to short-cut. If anything, a perception of increased flow, such as it would be, would reduce that temptation rather than increase danger, in my view. I do not consider that either point would amount to a conflict with local plan policy TR/6 or the intentions of Framework policy concerning road safety and, again, I am conscious that there is no objection from the highway authority.

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<sup>62</sup> Ibid paragraph 45

<sup>63</sup> Doc 42 paragraph 5.4

<sup>64</sup> Doc 19

*(v) Flood risk*

265. Flood risk is not an objection raised by the Council, which is satisfied on the basis of the technical evidence and the position of the Environment Agency (EA) that, with the imposition of appropriate conditions, the appropriate standard of mitigation will be achieved, principally through siting the dwellings wholly within Flood Zone 1 within a specified maximum area, by SUDS techniques to maintain run-off rates of surface water at the existing greenfield level and by an engineered increase in the capacity of the existing floodplain of Fishpool Brook. The latter would ameliorate<sup>65</sup>, it is suggested, albeit not eliminate, the problems for existing householders on Breachfield Road with rear gardens bounded by the brook.
266. Having visited certain of the gardens and studied, in particular, the photographs<sup>66</sup> submitted by Mr Hilsdon and Mr Burton, as well as those appended<sup>67</sup> to the FRA and AFRA, I can well appreciate the apprehension of residents [139] that flooding of Fishpool Brook would be exacerbated, notwithstanding that their gardens are clearly designed and profiled to cope with such periodic flooding. It plainly occurs. It cannot be pleasant, and the prospect of it increasing would be a cause for dismay. However, such a prospect is not borne out by the evidence, even though it was not possible for the FRA to survey this private land specifically, causing reliance on so-called 'glass wall' modelling techniques.
267. Understandable apprehension is no substitute for robust evidence and the FRA and its submitted addendum to address masterplan amendments provides just that. The evidence of Mr Rassool, sections 3.00 – 6.00 in particular, demonstrates very effectively that a robustly pessimistic or conservative approach in the modelling has been taken and that there could well be the prospect of a slight improvement in the experience of the householders, albeit that flooding of their lower gardens will still occur. The proposed development would not, therefore, be a panacea. However, I am satisfied that a careful approach has been taken, rooted in the appropriate scientific principles and, on that basis, the proposed development should certainly not make matters worse in any significant way. The EA's updated modelling<sup>68</sup> provides a further level of comfort on the issue. Moreover, the note prepared by Mr Rassool<sup>69</sup> in response to Mr Hilsdon's concerns about drainage from old mine workings<sup>70</sup> deals authoritatively, in my view, with that matter.
268. The Parish Council's submissions on flooding<sup>71</sup> are extensive but miss the essential point that, whilst stating that its requirements would be "exacting", the work undertaken satisfies the EA, and the essential point also that such requirements can be secured through the imposition of appropriate planning conditions such that the development could not proceed if more detailed investigations belie the conclusion that, in principle, all relevant requirements

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<sup>65</sup> AFRA paragraphs 1.16, 1.17 and 1.23

<sup>66</sup> Docs 32 and 39 respectively

<sup>67</sup> Appendices I and A respectively

<sup>68</sup> Ref NTW307/TN1 (Appendix B to A4 Evidence of Mr Rassool)

<sup>69</sup> Doc 38

<sup>70</sup> Doc 32

<sup>71</sup> Doc 42 Section 4.0

appear capable of being satisfied on the basis of the work undertaken to date. This is an outline application for a large development with sufficient scope for flexibility, for example in attenuation capacity, regarding SUDS techniques built into the basic masterplan; and it would negate the spirit and purpose of the outline procedure if the expense of comprehensive and definitive investigation and design of the end state solution were to be required in advance of the certainty of planning permission that might be withheld for other reasons. It is sufficient at this stage to demonstrate to the EA and, with the benefit of its advice, the decision maker, that the most up to date and refined modelling available, in combination with a site layout that incorporates the principles that would enable the relevant objectives to be met, give sufficient comfort that a practicable solution is in prospect. I have seen no evidence sufficiently compelling to convince me that is not the case.

269. Moreover, it seems to me that future investigation of the permeability of the sub-strata in detail, bearing in mind the above, may improve upon the situation, if it proves better than has been portrayed,<sup>72</sup> although there would be no adverse consequences if it did not.

270. Further, while I note the contention that the modelling did not account for any reduction in capacity of the floodplain of Fishpool Brook if, for example, a causeway approach were to be adopted in its design, I am conscious that other solutions could be considered which would allow the free passage of floodwater in any event, whilst maintaining the passage of pedestrians across the low lying area. Alternatively, acceptance of the partial submergence of an at grade pedestrian route as a temporary inconvenience would not significantly undermine the sustainability credentials of the site as alternative routes would be available via the principal access to the site. Although perhaps not ideal, I do not consider the consequences of the pedestrian link crossing the floodplain to be intrinsically insurmountable and I have no reason to consider that the consequences in terms of flood risk would be sufficient to change my overall assessment that the flood risk modelling is adequate.

271. Nor do I consider the alleged increase in risk of the culvert under the railway blocking to be a matter to which weight should be accorded. The culvert is presently rather inaccessible and consequently rarely observed. Hence debris potentially causing a blockage is likely to go unreported. More natural surveillance of the Fishpool Brook could just as readily reduce the risk of blockage as more public access to the adjacent land might increase it. I have no evidence to suggest that this is a serious criticism of the scheme which should carry any weight. Similarly, the maintenance of the culvert is ultimately the responsibility of Network Rail and I have no evidence that the potential for increased scour is a serious threat to its structural integrity or continued effectiveness.

272. The Parish Council's submission [132] that the EA recommendation to keep floor slabs at 48 metres AOD or above to cater for potential 50% blockage of the culvert in the 1 in 100 year plus climate change event would cause significant problems is not borne out by the evidence. The western edge of the development area shown on the masterplan, within which the layout is

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<sup>72</sup> Ibid paragraph 4.6

illustrative, broadly corresponds with the 48m contour shown on the site survey drawing included as Appendix A to the FRA. It is plain to me that the necessary precautionary minimum slab level which the EA recommends would readily be achieved by the scheme as currently conceived without unduly radical revisions to the layout. Moreover, the AFRA<sup>73</sup> shows the 100 year plus 20% for climate change modelled floodplain to be well below this level, such that any blockage would have to cause flooding at significant additional depth over a very extensive area to cause significant problems in that respect. That possibility is plainly remote in the extreme when the relevant contours are studied.

273. In the final analysis, the expert responsible statutory consultee is content that the approach to flood risk at outline stage is sufficient to engender confidence that its requirements can be met in practice. This is powerful evidence of the ability of the scheme to comply with relevant policy regarding flood risk in the Framework and associated technical guidance and a position to which substantial weight and credence is to be accorded. The logic of the approach to flood risk within the design of the scheme is compelling and I am satisfied that in principle it effectively addresses the matter, with a firm prospect of the broad approach to the disposition and extent of land uses illustrated being retained in broadly the same form at detailed design stage. The illustrative masterplan has a logic to it that has clearly taken into account the relevant precautionary requirements regarding flood risk. In short, I am satisfied that the evidence shows that, subject to the imposition of the EA's requirements, the proposed development would not be subject to fluvial inundation on any reasonable assessment of risk and nor would it materially increase flood risk elsewhere in the catchment.

274. For all the above reasons I am able to conclude that, whilst the definitively detailed measures have not been designed at this stage, the evidence, including the evident satisfaction of the EA, which is fully aware of the master plan proposals for the site, clearly indicates that in practice they will be effective in avoiding any increase in flood risk; and may possibly give rise to betterment that could, on occasion, improve the position of certain of the existing householders whose lower rear gardens are currently affected by flooding.

275. There is, therefore, no significant conflict with the intentions of the development plan or the Framework in respect of flood risk.

276. As to the potential impact of the flooding of Fishpool Brook on foul drainage and the risk of surcharge, I see no reason in principle why appropriate design measures could not be incorporated to secure the system, thereby effecting an improvement on the current situation. The matter is capable of being addressed as necessary by planning condition.

*(vi) Infrastructure*

277. It is apparent that Barrow Upon Soar, over a number of decades, has expanded through the development of housing estates from its original core. Its location on the north east side of the of the River Soar, which effectively separates the settlement from the group of settlements comprised of Loughborough, Quorn and Mountsorrel, makes it relatively freestanding but there is little to suggest that it is notably self-contained despite its identification as a 'Potential Service Centre' in

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<sup>73</sup> Figure 1

the evidence base for the Council's forthcoming Core Strategy. Nevertheless, in the context of an expansion of the total Charnwood population of 15.4%, the document in question (SCCA) [68] indicates, at Table 7, that other settlements - Mountsorrel (36.9%), Rothley (30%) and Wymeswold (24.5%) – have expanded in population terms relatively more in the period 1991 – 2009. Barrow Upon Soar, by comparison, has expanded by some 20.6% in population terms over the same period, with 619 houses having been built. Clearly, this expansion is ongoing with the continuing development at the Willow Road site in the northern part of the settlement, together with smaller sites, as the Parish Council's evidence clearly indicates, suggesting a likely increase of the order of 50% since 2001 if the proposed development in this case were to be allowed and constructed.<sup>74</sup>

278. Table 12 of the SCCA broadly classifies the range of facilities on a comparative basis as between their level of provision in the identified Service Centres. In the case of Barrow Upon Soar 'Services and facilities', 'Quality of centre', 'Opportunities for improvement' and 'Planning constraints' are ranked as "reasonable" with a moderate level of capacity constraint, whilst 'Transport access', 'Employment self-containment' and 'Infrastructure capacity' are ranked as "fair" with a significant level of capacity constraint. No category is ranked as poor or as giving rise to a very significant or potentially overriding level of constraint.
279. The classification is broad and has yet to be tested through independent examination. Moreover, the development strategy itself for the district has yet to be settled in terms of the emerging plan and it is common ground between the main parties that it should be accorded no weight in the determination of the appeal [14]. Nevertheless, the evidence base presents a picture that is perhaps less constrained than the very clear perception of the Parish Council and the numerous local residents [103 -105, 136,137, 141-148,151,158-161,170,174,181,182 185] who have made representations that the physical and social infrastructure of Barrow Upon Soar is unduly stretched, although elsewhere in the SCCA [68] specific concerns are highlighted. For example, Table 2 notes the highway authority's concern that the Barrow Road bridge is constrained in capacity terms and that the settlement is prone to disruption when Sibley Road and Slash lane are flooded, together with the comment that *"it is not readily apparent how these issues might be addressed in order to accommodate further housing growth in the village"*.
280. I also note that Table 11 of the SCCA indicates, inter alia, that there is potential for improvement through contributions to *"capacity of services and facilities where justified"* and that there is the opportunity to... *"Improve provision for buses, cycling and walking plus better traffic management to help reduce pressures. New highway capacity only considered where no other reasonable alternative can address traffic related problems."*
281. These matters go to the heart of my previous consideration of the suggested planning conditions and the planning obligation submitted and what, because of the statutory CIL tests, may or may not be accorded weight in the decision making process as far as the latter is concerned, notably in relation to the

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<sup>74</sup> PC4 Evidence of Mr Cattle paragraphs 2.2 – 2.7

- financial contributions provided for in respect of Highways and Transport, Policing and Health.
282. The County Council's written evidence to inform the Inquiry [183 – 190] includes details<sup>75</sup> of the manner in which specified contributions for Highways and Transport are intended to be spent and my conclusions are summarised below.
283. The bus shelter and pedestrian and cycle routes contributions relate to physical works and infrastructure so as to more effectively serve the proposed development by public transport and physically link it into the existing built village with improved access to the village centre and the Humphrey Perkins High School. They involve capital expenditure which is necessary to make the development acceptable in the sense of keying it in to the fabric of the settlement and this is directly related to the development and, it seems to me, fairly and reasonably related to it in scale and kind. Full weight may be accorded to this element of the Planning Obligation.
284. It is common ground between the main parties that the site is sustainably located. The 'Travel Pass Contribution' is essentially a form of revenue expenditure effectively, albeit indirectly, subsidising the provision of rail and bus services for a temporary period to induce good habits in potential customers. There can be no guarantee that such habits will continue. People tend to be rational in the exercise of transport choice and, if it suits their needs to make use of the public transport services to which the site is inherently accessible, they will do so; otherwise they will use other means, whether that be bicycle, motorcycle or motor car. However, insofar as it would promote sustainable transport habits to capitalise on the advantages of the site's location, thereby contributing to the promotion of sustainable transport advocated by the Framework, the contribution may be regarded as a necessary complement to help ensure that the sustainability credentials of the development are maximised at the outset.
285. The obligation also provides for a 'Travel Packs Contribution'. Such packs are undoubtedly good practice. They may influence the behaviour and travel choices of a proportion of the occupants of the proposed houses, initially at least. Again, to the extent that they would promote sustainable transport habits from the outset, they may be regarded as a necessary complement to help ensure that the sustainability credentials of the development are fully utilised early on. The packs would clearly be directly related to the development proposed and I have no reason to consider the sums of money involved disproportionate.
286. However, the Travel Plan Penalty (CC2, para. 3.3) cannot, logically, be necessary to make the development acceptable in planning terms. It caters for the possibility that, notwithstanding the services of a Community Travel Plan Co-ordinator (CTC) for a temporary period<sup>76</sup> whilst the development takes place, the Travel Plan fails to meet its target of 14% modal shift away from the private car, which of itself is a laudable objective in policy terms. However, by the time that failure had become apparent, the houses would have been built and occupied and the additional measures to pursue modal shift objectives that the £45,000 penalty would fund would be further physical measures or travel packs and passes, it is said, but the latter would only be for a temporary period. It is also

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<sup>75</sup> CC2 Evidence of Mr Cook

<sup>76</sup> Fourth Schedule to planning obligation, paragraph 5.3.7



said that the penalty provides an incentive for the developer to seriously implement the measures in the travel plan but, realistically, in the context of a development of 300 new houses and, possibly, a commensurate reduction in the base value of the land in any event, I cannot see that this would be so. It may have merit as a signal that necessary good practice is expected, but I do not consider such an arrangement to be necessary to make the development acceptable in planning terms in the longer term. The concept of necessity, in my view has to be more robust than a measure that, at best, would seek to retrofit good practice and unspecified physical measures at some point in the future after the development had been implemented in any event.

287. For these reasons, I do not consider that any weight should be accorded to that particular element of the planning obligation.

288. The 'Police Authority Contribution' is for £177,255. The manner in which the authority would seek to spend it is set out in the Third Schedule to the Planning Obligation. By letter to the Planning Inspectorate of 6 August 2012, the Leicestershire Constabulary explained in some detail its approach to the use of S106 monies for police infrastructure throughout the county, supported by a number of appeal decisions in which it was concluded that the contributions in each case passed the relevant tests and could therefore be accorded weight. The letter appends (Appendix 2) a useful note from the Association of Chief Police Officers which draws the distinction between capital expenditure on equipment and premises, the basic infrastructure of policing, and revenue expenditure which might reasonably be expected to be supported by the increased number of households. A January 2012 policy statement from the Leicestershire Police Authority *Policing Contributions from Development Schemes* is also included. This sets out its approach to the increased pressure on policing from additional housing development. The document includes at Section 7 the principles whereby financial contributions will be deployed, including provision for repayment if the police authority fails to spend the contributions, linkage to the development in question and use for additional needs arising from it and a "clear audit trail demonstrating that financial contributions have been used in a manner that meets the tests" (in the subsequently cancelled Circular 05/2005 Planning Obligations.)

289. Those tests are essentially the same as those of the extant CIL Regulations and hence there is a clear recognition by the Leicestershire Police Authority that development is not simply a source of additional finance to be spent in an unspecified or unrelated way. Moreover, the appellant in this case has "signed up" to the Policing Contribution, albeit under, it seems, protest. The evidence of Mr Thorley<sup>77</sup> addresses this matter at Section 12 and his Appendix 10<sup>78</sup> is a paper on the topic that refers to a number of appeal decisions where a contribution to policing has not been supported, for example the appeal in Sapcote (Ref APP/T2405/A/11/2164413) in which the Inspector comments, in paragraph 41 of his decision, that... *"it has not been shown, in the light of the statutory tests, that the contribution would be directly linked to the impacts arising from the appeal proposal."*

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<sup>77</sup> A1

<sup>78</sup> In A1a

290. Equally, the material submitted by the Police Authority under cover of its letter of 6 August 2012 includes a number of appeal decisions pointing in the opposite direction, for example the appeal in Bottesford (Ref APP/Y2430/A/11/2161786) where the Inspector comments, in paragraph 68, that *“there was also specific justification of the individual elements within this global sum directly related to the circumstances of the appeal proposal. Therefore the contribution does meet all three tests for CIL compliance.”*
291. The Inspectors will have reached their own conclusions on the particular evidence and submissions put to them at appeal and I shall approach the evidence in this case in the same way, i.e. on its merits. It seems to me that the introduction of additional population and property to an area must have an impact on policing, in the same way as it must on education and library services, for example. Moreover, it also seems to me that the twelfth core planning principle of the Framework, that planning should... *“take account of and support local strategies to improve health, social and cultural wellbeing for all, and deliver sufficient community and cultural facilities and services to meet local needs”*, can only be served if policing is adequate to the additional burdens imposed on it in the same way as any other local public service. The logic of this is inescapable. Section 8 of the Framework concerns the promotion of healthy communities and planning decisions, according to paragraph 69, should aim to achieve places which promote, inter alia, *“safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion.”*
292. Adequate policing is so fundamental to the concept of sustainable communities that I can see no reason, in principle, why it should be excluded from the purview of S106 financial contributions, subject to the relevant tests applicable to other public services. There is no reason, it seems to me why police equipment and other items of capital expenditure necessitated by additional development should not be so funded, alongside, for example, additional classrooms and stock and equipment for libraries.
293. In this case, the planning obligation clearly sets out in its third schedule the items anticipated to be needed as a consequence of policing the proposed development alongside the existing settlement and apportioned accordingly. It seems to me to be sufficiently transparent to be auditable and at a cost equivalent to, perhaps (if 300 dwellings are constructed) £590.85 per dwelling, it does not equate to an arbitrary “roof tax” of the type complained of, whatever previous practice may have been.
294. For these reasons I am of the view that the ‘Police Authority Contribution’ is compliant with the CIL Regulations and that weight should therefore be accorded to it as a means of mitigating the predicted impact of the development.
295. The ‘Healthcare’ contribution of £30,000 is solely for the improvement of the health centre car park rather than, for example, additional consulting space, albeit more efficient use of space and hence easier parking should, in principle, help to improve the efficiency of throughput as people have less difficulties in prompt attendance. The PCT,<sup>79</sup> despite its reservations about the impact of the proposed development on its ability to deliver continuously improving services

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<sup>79</sup> Doc 15

through the health centre, nevertheless sees this specific action as complementary to premises improvement funded by previous S106 monies. Given the inevitable increase in patient numbers that the proposed development would give rise to, it does appear to be a considered and specified use of funds for a relevant capital project to cater for additional demand rather than simply a bid to overcome an existing deficiency. In the circumstances that have been described to me [145,146,174] it would therefore meet the relevant tests and may be accorded weight.

296. For the above reasons, I consider the contributions to the infrastructure of Barrow Upon Soar and encouragement of public transport use that would be delivered via the executed obligation should be accorded weight in the planning balance, but that the Travel Plan Penalty ought not to be accorded weight.
297. The majority of the provisions in the obligation are necessary to the grant of planning permission and do otherwise meet the relevant tests, the upshot being that the concerns of the residents and the Parish Council concerning pressures on the physical and social infrastructure of the village are capable of being met, but only barely so in the context of individual applications for development such as this one. The reality is that the mitigation of impact is confined to that which may directly be ascribed to the proposed development. Therefore, whilst the impact of development might be mitigated in the sense of services and infrastructure ultimately remaining no more stretched than previously, the perception is one of increased pressure on a finite quantum of service provision; hence the sentiment expressed in the Parish Council's closing submissions that the proposals will not lead to a better quality of life or positive improvements as advocated by the Framework but rather it will lead to deterioration in the quality of life currently enjoyed by Barrow Upon Soar residents [138].
298. I have previously drawn conclusions in respect of traffic and the highways infrastructure which, with the measures proposed, the highway authority considers will cope and I do not consider that the residual cumulative impacts would be severe. Therefore, bearing in mind the principle set out in paragraph 32 of the Framework and notwithstanding that the existing situation is perceived as unsatisfactory, certainly on flood days when one or more routes out of the settlement is closed, refusal would not be warranted on that ground, albeit the prospects for further growth in the absence of more radical measures would in my view be questionable and would ideally be addressed in the context of the development plan.
299. As I have noted, the planning obligation makes sufficient provision to mitigate the impacts of the proposed development on schools, libraries, policing, open space and recreation facilities and community facilities. In other words, the status quo would be broadly maintained at the existing level of pressure, whereas, it seems to me that local residents and the Parish Council feel that the existing level of pressure is already unsatisfactory due to the pace of growth in the relatively recent past. Perhaps understandably in the circumstances, a single proposal to construct up to 300 additional dwellings is perceived as too much for the community to absorb. It would of course be built out over a period of time, albeit relatively short, and the planning obligation makes provision for that in terms of stepped contributions as specified thresholds are crossed in respect of, for example, education. In other words, funds would be released proportionate to the impact over time.

300. The Health Centre and its services are clearly under pressure from an increasing population [141-148], albeit its commitment to excellence suggests that it would cope even if anticipated improvements are delivered less rapidly than might be hoped for. However, notwithstanding my previous observations on the generality of public services for the community in the context of policing, I do not consider that the limits to growth of a settlement can in principle be determined by the availability of health service resources that the increasing population would have to avail itself wherever it was housed in any event. It seems to me that such services are inherently malleable and capable of being expanded locally to meet demand, much in the same way as commercially provided services in a settlement respond to the opportunities created by additional population, albeit in the case of public services the necessary funding is prone to different disciplines and priorities. Put simply, it would be absurd to turn away needed housing simply because the present number of medical staff in a particular settlement was set at a finite number. The answer is clearly to improve upon their availability through the established funding channels to match population growth. The adequacy or otherwise of such funding is not a matter for me to address. Provision is made, in this instance, for the physical improvement of the capacity of the Health Centre car park so as to improve efficiency and help mitigate the impact [145] of significantly increased patient numbers.

301. In all the circumstances, while I can appreciate the local perception in the community of growth and consequent pressure, the reality is that in accordance with the CIL Regulations and the relevant formulae where applicable used by the public services, the proposed development would provide for the necessary mitigation, but little more, of its own impact and on that basis should not lead to the deterioration in the quality of life that the Parish Council and others assert. If additional benefits were to be provided for in the sense of positive but extraneous improvements not directly related to the proposed development, I would not be able to recommend that they should be given weight in the determination of the appeal. The most obvious example of this would be the funding sought by BUSCA for a community centre. I have no doubt that it would be perceived as a substantial benefit by the community, but funding of that order is not on offer and could not weigh in favour of the proposed development if it were.

302. In the final analysis, the approach adopted by the appellant, the Council and the County Council to the provision of physical and social infrastructure is, in the main, the correct one insofar as it aims to provide for proportionate mitigation of impact. There is no lack of such mitigation that would weigh decisively against the proposed development in this case, whatever the perception to the contrary might be. The provision made is sufficient, in accordance with relevant legislation and local and national policy. Given that position, I do not accept the proposition that in those terms the proposed development would lead to a deterioration in the quality of life of existing residents sufficient to warrant dismissal of the appeal.

*(vii) Accordance with the development plan*

303. The appellant maintains that the proposed development accords with the development plan as a whole [32-34,71]. I consider it more correct to say that there is substantial accordance with many aspects of the development plan, but clear conflict with certain key elements of it.

304. It is common ground between the main parties that the proposed development accords with a wide range of policies [21,28], both in the RSS and in the local plan. I have no reason to depart from that analysis.
305. The Council [23] alleges conflict with policy TR/6 but I have concluded that there is no conflict with that policy.
306. It is common ground that the proposals conflict with the intentions of policies ST/2, CT/1 and CT/2 which generally seek to restrict development in the countryside [28].
307. More specifically: ST/2 seeks to confine development to allocated sites within the defined limits of settlements and the appeal site lies outside the defined limit for Barrow Upon Soar. CT/1 seeks to strictly control development in the open countryside outside such limits to specified categories of essentially rural development. CT/2 permits development that would not harm the character and appearance of the countryside and which would safeguard its historic, nature conservation, amenity and other local interest value.
308. The conflict with ST/2 is self-evident. Moreover, suburban housing estates do not fall within the purview of what is contemplated by policy CT/2. The rural ambience of the appeal site would be transformed into that of such an estate and in that sense the conflict with CT/2 is clear, albeit there is no objection on the grounds of nature conservation or historic value in this instance.
309. Third parties [191,194] have specifically cited conflict with local plan policy ST/1(ii) in the sense that the nature of the many objections was indicative of the value ascribed by the community to the appeal site. Policy ST/1 states that, in providing for the development needs of the Borough measures will be taken to, amongst other things.....*"conserve, protect and enhance those features of the natural, historic and built environment which are particularly valued by the community"*... but gives no objective criteria by which to identify such features, specifically, albeit the explanation associated with the policy at paragraphs 2.24 – 2.27 appears to imply by its topic coverage that criterion (ii) is primarily concerned with heritage assets and designated sites, rather than the more nebulous concept simply of environment that is valued. On that basis, there would be no conflict with the policy as the appeal site contains no such assets or designations or features otherwise formally recognised.
310. Notwithstanding the groundswell of objection to the prospective loss of the site to development, I therefore do not consider the policy as originally conceived and drafted would be contravened in the manner that has been suggested and there is no suggestion from the Council that this would be the case, either in the SoCG or the evidence of Mr Reid. In terms of impact the loss of "ordinary" undesignated countryside that the appeal site represents would undoubtedly be keenly felt by a significant section of the community. However, although pleasant in its present rural appearance, the site is well contained by the vegetation at its margins that has the potential to be retained and strengthened in the overall landscaping scheme that would be necessary. The sloping nature of the site does make for prominence but the nature of the topography is such that this would be largely confined to visibility from within the existing settlement and the outer margins would be below the skyline given the nature of the topography [9] and would in some respects mirror the existing development on the gently sloping land to the west of the Fishpool Brook. This is particularly

evident when the site is viewed in context from its north-eastern margin. If it is necessary to release this greenfield site for development, there are, in my estimation, no overriding aesthetic objections to doing so based on development plan policy.

311. What the SoCG does confirm is the Council's view that policies ST/2, CT/1 and CT/2, being adopted prior to 2004, may only be given weight commensurate with the extent that they comply with the provisions of the Framework.<sup>80</sup> Moreover, it also confirms the Council's view that the policies, whilst generally restricting development in the countryside, also relate to the supply of housing and are "out of date" when considered in the context of paragraph 49 of the Framework because the Council is unable to demonstrate a five year supply of deliverable housing land [28]. I have no reason to depart from that analysis.
312. For the above reasons, I consider the proposed development displays a very substantial degree of accordance with the development plan as a whole, bar conflict with the protection of the countryside outside defined settlement boundaries. However, that local plan intention must be tempered by the presumption in favour of sustainable development as set out in paragraph 14 of the Framework. The Council accepts that the proposed development represents sustainable development [28] and I have drawn a similar conclusion in my initial broad analysis of its sustainability credentials. Nothing in my subsequent analysis of the main considerations would lead me to an alternative view.

*(viii) Accordance with the Framework*

313. The Framework promotes sustainable development and I have concluded that the proposal represents sustainable development in a sustainable location where a variety of transport choices, including rail travel, are already available and could in principle be improved upon.
314. I have also concluded, with the pedestrian and cycling measures provided for, that safe and suitable access to the site can be achieved for all and that the improvements to the operation of the Barrow Road Bridge would help to limit the impact of additional traffic and that the residual cumulative impacts of the proposed development in transport terms would not be severe and that the Grove Lane junction geometry is not, in the light of local evidence and circumstances, a sufficient reason to withhold planning permission.
315. The Travel Plan measures provided for can only serve to improve the situation and at least encourage the sustainable transport choices necessary to serve broad policy intentions articulated in the Framework. This represents good practice that accords with the spirit of the Framework's intentions in respect of promoting sustainable transport, albeit I do not consider the Travel Plan Penalty to be justified. Moreover, the site is capable of being readily linked in to the existing fabric of the settlement in terms of footpaths and cycleways and there is no reason to doubt that this objective will ultimately be better realised at the south-eastern extremity of the site when Network Rail fulfils its putative obligations<sup>81</sup> by constructing a footbridge to restore the footpath connection across the tracks.

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<sup>80</sup> SoCG paragraph 6.13

<sup>81</sup> Submitted Planning Statement, paragraphs 8.15 – 8.23 and Doc 44, paragraph 56

316. The layout of the site avoids placing residential development in the floodplain of the Fishpool Brook, allows for increasing its capacity and, moreover would enable houses to be placed above the required level to future proof them in respect of the potential effects of climate change, whilst allowing sufficient scope through SUDS techniques not to increase levels of run-off. The generous provision of open space within the proposed development required to achieve these outcomes would also facilitate recreational activity, a pleasantly landscaped setting and the promotion of biodiversity.
317. Many of the above characteristics assist the promotion of a healthy community and the housing proposed, which would be 30% affordable would make a valuable contribution to the delivery of a wide choice of high quality homes. Although there is evident and widespread concern that the existing community of Barrow Upon Soar will struggle to accommodate the additional population, especially in view of ongoing expansion as a result of permissions granted in the relatively recent past, the executed planning obligation would at least mitigate the impact of additional population in a proportionate manner commensurate with statutory requirements, even if compensating provision for perceived pressure already arising from existing expansion would not be added to that mitigation. The proposed development achieves what it must in terms of the latter.
318. The design of the proposed houses themselves is a reserved matter but given the carefully conceived layout to address a number of the above matters, I have no reason to consider that a standard of design appropriate to the essentially suburban nature of the existing settlement could not be achieved. The layout itself is also a reserved matter but its importance to the acceptability of the proposal is such that it would be necessary to secure its essential principles through the imposition of a planning condition (SC4 as previously referred to). The Framework of course provides for that approach.
319. As the proposed development is able to adequately address flood risk, the appeal site is not subject to any specific policies in the Framework that would inhibit its development in the manner indicated by paragraph 14 (Footnote 9 to the Framework refers). Nor would the development involve the loss of Best and Most Versatile land as discouraged by paragraph 112.
320. Bearing all of the above in mind and the acknowledged inability of the Council to demonstrate a five year supply of deliverable housing sites, together with its acknowledgement that policies ST/2, CT/1 and CT/2 may thereby not be considered up-to-date, and my conclusion that in any event the proposed development displays a very substantial degree of accord with the development plan as a whole, I have no doubt that the presumption in favour of sustainable development is, in principle, engaged.
321. The Parish Council submitted [125 – 131] that the practical difficulties associated with bringing the site into development would inhibit its full development within a five year period, but that approach is in my view a misconception as to the relevant approach to land availability as conceived by the Framework at paragraph 47. To enter the five year land supply an unallocated site such as this must be granted planning permission, not necessarily full permission, with a realistic prospect that housing will be delivered on the site within five years. There is no clear evidence in this case that the scheme would

- or could not be delivered over a five year period. There is no evidence to suggest that it is not viable, or that there is no longer a demand for the types of units (primarily family housing) proposed. For practical reasons the build-out of a site such as this should and would be phased, but that is a sequence of events, not in this case a means of preventing development prior to specified dates.
322. There would of course be practical matters to address, conditions precedent to discharge and consents to be gained before development could commence, but that is by no means unusual for a greenfield development on this scale. There is nothing to suggest that that an experienced developer, with the surety of an outline planning permission, would not invest heavily and with alacrity in the necessary up-front efforts to bring a site such as this into development. It is in no way dependent on a significant publicly funded infrastructure programme that might have to be implemented in advance. Even though other agencies such as Severn Trent Water and the highway authority may be involved in various ways they have statutory obligations in any event and the major financial resources needed would be in the control of the developer, to be deployed through other agencies where necessary.
323. It cannot of course be guaranteed that all the dwellings would be built and occupied within five years but there is, in my view, a realistic prospect of substantial delivery, thereby facilitating the availability of needed houses as the Framework intends. At this juncture, there is no cogent evidence that would significantly belie the appellant's intention or ability to secure substantial delivery within an appropriate timescale. I have no reason to doubt that, building on the work undertaken so far, vigorous concerted action by an experienced house builder would bring the development into being within a realistic timescale. Approval in principle is the essential catalyst to the necessary action on a site such as this. Little weight should, in my view, therefore be placed on the Parish Council's submissions in this respect.
324. The Framework does incorporate the core principle that decision taking should be... *"genuinely plan-led, empowering people to shape their surroundings, with succinct local and neighbourhood plans setting out a positive vision for the future of the area"*. This principle was most forcefully put by Nicky Morgan MP [149] and is without doubt material. It pulls in the opposite direction to the presumption in favour of sustainable development that is engaged by this case and I have given considerable thought to those representations, summarised below.
325. The Council itself specifically states that no weight should be accorded to its emerging core strategy and it is clear that with the exception of the single highway safety reason for refusal based on conflict with local plan policy TR/6 it considers the proposal to be not only sustainable but substantially in accordance with the development plan as it currently stands, with the obvious exception of policies ST/2, CT/1 and CT/2, which it says are "out-of-date". Bar its conclusion on policy TR/6 I have no reason to take a different view in this case and therefore place less weight on Mrs Morgan's proposition than might be appropriate in other circumstances.
326. Moreover, in respect of the neighbourhood planning process, Mr Cattle confirmed, in response to my question on the matter, that it was the Parish Council's intention, following discussions with the Council, to follow the progress



and context of the core strategy insofar as its aspiration to prepare a neighbourhood plan was concerned. That is clearly some time off and Mr Cattle confirmed that the Parish Council did not have 'Frontrunner' status in the neighbourhood planning initiative. Nor do I have any evidence of a firm programme of preparation (albeit reference is made by the Parish Council to the spirit and implementation of the Localism Act 2011).<sup>82</sup> Accordingly, although the representations on the point merit weight in the context of the first core principle of the Framework, and might be regarded as an adverse impact in terms of public expectations, the presumption set out in paragraph 14 is inescapably influential in the context of the Framework as a whole, bearing in mind the sustainability of the proposal in terms of its location and characteristics.

*(ix) The planning balance*

327. The background to this appeal includes an uncontested shortfall in residential land supply in Charnwood Borough. A development of the order of 300 dwellings, deliverable at pace once necessary investigative and detailed design work and associated approvals are achieved, would make a significant contribution to reducing that shortfall, representing around 10% of the current deficit.<sup>83</sup> Nearly a third of the dwellings would be affordable. This quantum of housing in that context is a benefit which merits substantial weight.
328. Notwithstanding the existing disruption to road traffic that the settlement periodically experiences as a consequence of the flooding of strategic highway connections, the evidence demonstrates that on a day to day basis the traffic flows generated by the proposed development would be accommodated by the highway network, with specific improvements to the Barrow Road Bridge provided for, without the modal shift intended by the Travel Plan and its associated incentives and penalty. If that shift occurs it would be a bonus and a significant benefit, but I am unable to conclude that it would be necessary for the development to go ahead, or that it would be necessary to make it sustainable.
329. The essential characteristics of the settlement in this context are that it is served by a railway and bus services. The infrastructure for public transport is already in place, with connections to a variety of significant destinations. The existence of such infrastructure is particularly advantageous in the case of rail. Services are potentially capable of being improved in response to demand as the operators may see fit. The settlement has an accessible centre, albeit with parking difficulties as many are, but can be reached on foot from the site by those wishing to do so, relatively easily. Given the existence of the settlement and the public transport infrastructure, the location of the site is inherently sustainable. This weighs heavily in favour of the proposed development.
330. Other aspects of sustainability, including the direction of development away from Best and Most Versatile land and the protection and promotion of biodiversity, would be well served by the proposals.
331. While the highway safety arguments of the Council and others are not in my estimation substantiated in all the local circumstances, the perception that further traffic growth should not be contemplated is understandable in a

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<sup>82</sup> PC4 Evidence of Mr Cattle, paragraph 4.3

<sup>83</sup> Addendum to SoCG shows a shortfall of 2,980 units at June 2012

settlement that is regularly disrupted by flooding on the highway network. This is a matter to which some, weight should, in my view, be accorded. If it is a problem that merits significant investment to overcome it, it is an existing and long-established problem that cannot reasonably be resolved by private funding from an individual developer such as the appellant. The proposed development would not worsen the flooding, but its occupants are potentially inconvenienced by it, if they choose to travel by car on flood days. While the problems of Barrow Upon Soar in this regard must ultimately inhibit the further growth of the settlement if not resolved, I am unable to conclude on the evidence that the present periodic disruption is a sufficient reason in itself to refuse permission for the development at issue, large though it may be. The matter does weigh against the development but not, in my view, decisively so.

332. The outline design of the development has the potential to at least adequately mitigate the potential run-off through SUDS techniques. It would not place the new dwellings proposed at risk from fluvial inundation and could create some marginal improvement for existing homeowners with gardens prone to flooding. Importantly, the Environment Agency is satisfied that, with the measures it recommends, the development may go ahead without causing harm in this context.
333. Given the expansion of the village, recently and in previous decades, the concerns of the community regarding its social as well as its physical infrastructure are understandable and should, in the circumstances, be accorded weight. This is a material concern. However, within the constraints of what is permitted by the CIL Regulations, the appellant has made provision to mitigate the impact of the proposed development, calculated in the main according to the established formulae of the relevant service providers. Clearly, there will be additional pressure but, given that provision, the existing situation should not be materially worsened even if no tangible improvements are perceived. Due weight should be therefore accorded to the planning obligation entered into by the appellant, the Council and the County Council.
334. While the dismay of the local health centre at the prospect of additional pressure on its services must be acknowledged, I do not accept that such pressure should count decisively against the development. Such services must perforce adapt to demand within the budgetary constraints within which they operate and the obligation provides for physical improvements to the operation of the centre, albeit to the car park, in any event. Only limited weight should therefore be accorded to the representations made against the proposals on such grounds.
335. There is no significant conflict with an extensive range of policies identified in the SoCG [21] and this is a factor to which significant weight should be accorded. Nor have I found there to be significant conflict, in practice, with the intentions of local plan policy TR/6. Again, this is a factor to which significant weight should be accorded. There is clear conflict with the intentions of local plan policies ST/2, CT/1 and CT/2 but, insofar as the effective operation of these policies is contingent upon an adequate supply of housing land in the form of specific allocations or unallocated land within the existing settlement boundaries, these policies are rendered out-of-date by paragraph 49 of the Framework and it is common ground that is so. I have no reason to take a different view and the

weight that might otherwise be accorded to such harmful conflicts is thereby reduced.

336. The conflict with local plan policy ST/1 alleged by certain parties [191,194] is not borne out, on analysis, by the terms of the policy and its explanation. The sense of prospective loss expressed by local residents regarding the appeal site as a positive contribution to the rural setting of Barrow Upon Soar is real nevertheless and merits weight insofar as the intrinsic character and beauty of the countryside is valued by the Framework.

337. The intentions embodied in the first core principle of the Framework concerning plan-led development and local empowerment at the neighbourhood level is also a material consideration to which weight should be accorded. However, substantial harm or potential harm in that respect has not been demonstrated in this instance, and there is substantial accordance with the intentions of the Framework to promote sustainable development, in this case contributing to the delivery of a wide choice of high quality homes in a well designed scheme that facilitates healthy lifestyles.

338. While I am bound to report that there are harmful aspects to this development to which weight should be accorded, these must be weighed against the very substantial contribution to housing needs that the site is capable of providing in the context of an acknowledged shortage of suitable land and the inherent sustainability of the location. Those aspects of the planning obligation which may be taken into account to mitigate the impact of the proposed development should also be accorded due weight. The presumption in favour of the sustainable development, bearing in mind the policies of the Framework as a whole and the development plan taken as a whole, should therefore be the decisive factor in this case.

### **Overall Conclusion and Recommendation**

339. In the light of the above main considerations and having taken full account of all other matters raised, I consider the balance of planning advantage to be in favour of the scheme. I therefore recommend that the appeal be allowed and planning permission granted, subject to the conditions set out in the attached annex.

*Keith Manning*

Inspector

## **Annex: Schedule of Recommended Conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No development shall commence until both a Master Plan in general conformity with the submitted Illustrative Masterplan 4045\_ SK\_ 001 rev E and a Design Code for the site have been submitted to and approved in writing by the local planning authority. Both shall substantially accord with the submitted Design and Access Statement Rev G. Any amendment to either shall be submitted to and approved in writing by the local planning authority. The Design Code shall address the following: -
  - i) Architectural and sustainable construction principles
  - ii) Character areas
  - iii) Lifetime home standards
  - iv) Car parking principles
  - v) Cycling provision including pedestrian and cycle links to adjoining land
  - vi) Street types and street materials
  - vii) Boundary treatments
  - viii) Building heights (which should be limited to a maximum height of three storeys, being located on the main street only, as indicated on pages 33/34 of the Design and Access Statement, and two storeys for the remaining parts of the development)
  - ix) Building materials
  - x) Provision of public open spaces (including timetable for implementation)
  - xi) Design of the site to accord with Secure by Design principles.
  - xii) Phases of development.

Applications for approval of the reserved matters submitted pursuant to condition 2) above shall be in accordance with the Master Plan and Design Code as approved. In addition to the Design and Access Statement previously referred to, The Master Plan and Design Code and the reserved matters submitted for approval shall also accord with the principles set out in the following submitted documents: Flood Risk Assessment June 2010; Addendum to Flood Risk Assessment January 2011; Ecological Appraisal June 2010; Bats in Trees Addendum December 2010; Tree Assessment Report Rev A; and Badger Mitigation Strategy December 2010. Development shall be carried out in accordance with all matters approved pursuant to this condition.

- 5) Notwithstanding the generality of condition 4) above, the development hereby permitted shall be carried out in accordance with the following approved plans:

4045\_SK\_005 Site Location Plan  
0940/SK/010 rev C Typical Badger Tunnel Detail  
0940/SK/013 rev E Melton Road Alternative Site Access Roundabout  
0940/SK/014 rev A Site Access Roundabout  
0940/SK/022 rev B Fishpool Brook Pedestrian Footbridge Crossing  
0940/ATR/002 rev A Proposed Site Access – Swept Path Analysis  
4045-L-01 rev D Types of Open Space  
4045-L-02 rev A Extended Floodplain Area to be Regraded  
4045-L-04 Public Open Space Phasing Plan  
NTW/307/Figure 4 Rev A Indicative Floodplain Sections

NTW/307/Addendum Figure 1 Rev A Fishpool Brook Modelled Floodplain Extent

- 6) The maximum area of residential development on the site (excluding the areas of public open space, structural landscaping, meadow and SUDS) shall be defined on the Master Plan to be approved pursuant to condition 4) above and shall not exceed 8.32 hectares, and no more than 300 dwellings shall be constructed on the site.
- 7) No construction on any phase of the development hereby permitted shall commence until such time as the following details in respect of that phase have been submitted to and approved in writing by the local planning authority:
  - a) Siting including details of proposed levels of ground surfaces and finished floor levels of all buildings and a number of selected typical sections across the phase.
  - b) A landscaping scheme including details of all trees and hedgerow to be retained, full planting specification, timing or phasing of implementation, services above and below ground; and a landscape management plan covering a minimum period of 10 years following completion of the development. Any trees or plants removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced in the following planting season by trees or plants of a size and species similar to those originally required to be planted;
  - c) Treatment of all hard surfaced areas, including types and colours of materials street furniture, signing and lighting of all public spaces.
  - d) Boundary treatment to all open areas where the site bounds other land (where confirmed in writing by the local planning authority to be required) including design, height, materials and colour finish.
  - e) Details of the proposed standard signage for the footpaths at the points where footpath I 23 is proposed to be crossed by the new estate roads.
  - f) Layout and design of children's play areas; Multi Use Games Area/skate park area and any other play/ recreation area within the development;
  - g) Details of external lighting.Development shall be carried out in accordance with the approved details.
- 8) No development shall commence until the applicant or developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority, and no development shall take place except in accordance with the approved scheme details.
- 9) No development shall commence until drainage plans for the disposal of foul sewage have been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.
- 10) No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydro-geological context of the development, including any requirement for the provision of a balancing pond, has been submitted to and approved in writing by the local planning authority. No dwelling, in any phase of construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details. The balancing pond, if required, shall be completed and be in operation before the occupation of the first dwelling on any phase.
- 11) No development shall commence until a scheme to install trapped gullies has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details. No dwelling, in any phase of

construction, shall be occupied until all the works necessary in respect of that phase have been implemented in accordance with the approved details.

- 12) If during development contamination not previously identified is found to be present at the site then no further development should be carried out in that location until such time as a remediation strategy has been submitted to and agreed in writing by the local planning authority and the works carried out in accordance with the agreed strategy prior to re-commencement on that part of the site.
- 13) Prior to the commencement of development, a scheme for the protection of trees and hedges to be retained on site shall be submitted to and approved in writing by the local planning authority. The scheme shall include: -
- Details of all trees and hedges to be retained on site.
  - Details of any works proposed in respect of any retained trees and hedges on site.
  - Details of operational and physical measures proposed for the protection of trees and hedges
  - Details of any ground works that are to be carried out within 10 metres of any tree or hedge identified as being retained.
  - Details of the methodology to be employed when carrying out ground or other works within 10 metres of any tree or hedge to be retained.

Development shall be carried out in accordance with the approved details.

- 14) No development shall commence on any phase until the tree/hedge protection measures for that phase approved pursuant to condition 13) above have been fully implemented. The approved tree/hedge protection measures shall be retained and maintained in their approved form until development on the phase in which they are located is complete. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil of any kind shall be placed or stored thereon unless approved as part of the details submitted to discharge the condition.
- 15) No development shall commence until a scheme of noise attenuation/mitigation measures (in order to reduce noise likely to be experienced in dwellings and private gardens from the use of the railway corridor to the south west of the site) has been submitted to and approved in writing by the local planning authority. No dwelling in any phase of the site identified by the scheme as being affected by railway noise shall be occupied until the required measures have been implemented in accordance with the approved scheme.
- 16) No development shall commence until details of the construction of the proposed access roundabout (as shown indicatively on drawing 0940/SK/013 Rev E) and the footpath/cycleway bridge across the Fishpool Brook (as shown indicatively on drawing 0940/SK/022 rev B) have been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the access roundabout and pedestrian bridge have been constructed in accordance with the approved details.
- 17) No development shall commence until a detailed scheme of works for the improvement of traffic flow at the Barrow Road Bridge of the type illustrated on WSP UK drawing numbered SK/017 Rev A has been submitted to and approved in writing by the local planning authority. No dwelling on the site shall be occupied until the improvement works at the bridge have been fully implemented in accordance with the approved details.
- 18) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors

- ii) the routing of construction traffic throughout the construction process and the mechanism for securing adherence to approved routes
  - iii) loading and unloading of plant and materials
  - iv) storage of plant and materials used in constructing the development
  - v) the erection and maintenance of security fencing
  - vi) wheel washing facilities
  - vii) measures to control the emission of dust and dirt during construction
  - viii) a scheme for recycling/disposing of waste resulting from the construction works
  - ix) precautionary measures to ensure that no badgers become trapped or injured during development work
- 19) No development shall commence until procedures have been initiated to upgrade the existing public footpaths I 23 and I 24 (part) beyond the edge of the meadow boundary to the eastern boundary of the application site to footpaths/cycleways. The upgrading works (including those approved through Condition 7) shall be completed prior to the occupation of 50% of the dwellings on the site.
- 20) No development shall commence until a scheme of electronic or other suitable signing to warn of flooding on Slash Lane has been submitted to and approved by the local planning authority. No dwelling on the site shall be occupied until the scheme has been fully implemented in accordance with the approved details.
- 21) No development shall commence until a scheme of public art to be delivered on site has been submitted to and agreed in writing by the local planning authority. Those elements of the approved public art scheme which are to be delivered on a particular phase of the development shall be delivered prior to the occupation of 80% of the dwellings in that phase.
- 22) No development shall commence until an assessment of the anticipated energy requirements arising from the development has been submitted to and approved in writing by the local planning authority. That assessment must demonstrate how a minimum of 10% of the energy requirements shall be secured from decentralised and renewable or low-carbon energy sources. Details and a timetable of how these measures are to be achieved, including details of any physical works on site, shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter.

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## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Melissa Murphy	Of Counsel
She called	
Mr Chris Bancroft Adv Tip TS FCILT	Director, Bancroft Consulting
Mr Iain Reid DipTP DipLD MRTPI	Director, Iain Reid Landscape Planning Limited

### FOR THE APPELLANT:

Christopher Lockhart-Mummery QC	
He called	
Mr Robert Thorley BA (Hons) DipTP MRTPI	Associate Planner, GVA
Mr Alan Young BSc (Hons) MBA CEng MICE FCIHT	Senior Technical Director, WSP
Mr Iqbal Rassool BEng (Hons) CEng MCIWEM	Service Director, BWB

### FOR THE BARROW UPON SOAR PARISH COUNCIL:

John Pugh-Smith	Of Counsel
He called	
Parish Councillor Peter Cantle CertEd DipComEd	Barrow Upon Soar Parish Council
Mr Jonathan Cage Eng (Hons) MSc CEng MCIHT MICE	Managing Director, Create Consulting Engineers Limited

### INTERESTED PERSONS:

Councillor P Ranson	Ward Councillor
Councillor H Fryer	Ward Councillor
Dr Sarah Parker	GP Barrow Upon Soar Health Centre, on behalf of Dr NHR Simpson and Partners
Mrs Nicky Morgan MP	MP for the Loughborough constituency
Councillor S Forrest	Chair of BRAG
Mr P Rowland	Landmark Planning on behalf of BRAG
Mr J Prendergrast	Solicitor, Leicestershire County Council (LCC)
Mrs Owen	LCC
Mr Kettle	LCC
Mr A Tyrer	Development Contributions Officer LCC
Mrs A Anderson	Primary Care Premises Manager, Leicester, Leicestershire and Rutland PCT Cluster
Mrs J Noon	CPRE Charnwood Group
Mrs S Rodgers	Vice Chair Barrow Upon Soar Community Association
Mrs P Reed	Local resident



Mr K Pepper	Local resident
Mr T Burton	Local resident
Mr C Smith	Local resident
Mr P Hilsdon	Local resident
Mr A Willcocks	Local resident
Mr D Wilson	Local resident
Mr K Page	Local resident
Mr G Hobbs	Local resident
Mrs Burrows	Local resident
Mr R Billson	Local resident
Mr T Anderson	Local resident
Mrs C Hilsdon	Local resident
Mr D Ellison	Local resident

## INQUIRY DOCUMENTS

- 1 Council's notification letter
- 2 Appellant's opening submissions
- 3 Parish Council's opening submissions
- 4 Council's opening submissions
- 5 Dr Sarah Parker's speaking notes
- 6 Report to Cabinet of 27 September 2012 re local development framework
- 7 Minutes of Cabinet meeting of 27 September 2012
- 8 Email exchange of 9 October 2012 between Create Consulting Engineers and Leicestershire Police re Incident 82: 03/10/2012 and Incident 460: 27/09/2012
- 9 Extract (pages 13 – 16) from TMS report *Safer Roads for Everyone*
- 10 Email exchange of 4 October between Parish Council and Leicestershire Police re Incident 460: 27/09/2012
- 11 Tables of Estimated Population Increase in Barrow Upon Soar
- 12 Letter dated 5 May 2011 from Parish Council with Parish Council minutes of 02/11/10, 7/12/10, 13/04/11, 03/07/11 and 06/07/11
- 13 Email from Alison Saunders (08 October 2012 @ 14:24) with Technical notes from Create Consulting Engineers Ltd re Micro-simulation Traffic Model, email exchange with Leicestershire Police re Incident 460: 27/09/2012 and Telephone Note by Mark Allen (dated 08/10/120 re conversations on 3/10/12 with Richard Clay and Kingsley Cook of Leicestershire County Council.
- 14 2001 Census data re Travel to Work
- 15 Representation from Primary Care Trust re impact of proposed development on GP practice at Barrow Health Centre
- 16 Statement by Nicky Morgan MP
- 17 Statement by Councillors Ranson and Fryer
- 18 Statement by Barrow Residents Action Group
- 19 Annotated map of local road network by Mr Charles Smith
- 20 Agreement by Bancroft Consulting, WSP and Create Consulting re achievable visibility at South Street/Sileby Road/ Grove Lane junction
- 21 Report of the Overview Scrutiny Group re Local Development Framework Position Report and Way Forward: Cabinet – 27 September 2012
- 22 East Midlands Trains Timetable (Leicester-Nottingham-Cleethorpes) 09/12/12 to 18/05/13
- 23 Committee Report of 9 December 2009 on Application Ref P/09/2376/2
- 24 University of Leicester letter dated 5 July 2010 concerning archaeological work
- 25 Various emails (12/01/10, 11/11/10 & 14/02/11) from Network Rail (Margaret Lake) to Council (Neil Thompson)
- 26 CCE VISSIM Model Report
- 27 Email from GVA 24/10/12 re CCE VISSIM Model Report and response from Parish Council (Lesley Bell 29/10/12) with comments from Jonathan Cage of CCE
- 28 Statement from Charnwood District Group CPRE
- 29 Revised Draft Conditions
- 30 Extract (R A Crowder) Chapter 7 Hydraulic Analysis and Design
- 31 Letter from Mr Hobbs to PINS dated 27/11/12
- 32 Letter from Mr Hilsdon received by PINS 24/12/12 'Record of Flooding, Fishpool Brook. Barrow upon Soar 1983-2012'
- 33 Email from Parish Council dated 10/01/13 with Analysis of Comments
- 34 Letter from Mr Hilsdon received by PINS 10/01/13 re; mine workings (Soar Valley Local Plans) Agricultural Land Classification of appeal site
- 35 Appeal Ref. APP/X2410/A/12/2177327 (Iveshead Road, Shepshed)
- 36 Appeal Ref. APP/X2410/A/12/2177036 (Bramcote Road, Loughborough)
- 37 Appeal Ref. APP/X2410/A/12/2177036 (Bramcote Road, Loughborough)
- 38 Note by Mr Rassool in response to letter from Mr Hilsdon (Doc 32 above)

- 39 Set of photos of flooding at locations in Barrow Upon Soar submitted by Mr Burton
- 40 Concluding statement from Councillors Ranson and Fryer
- 41 Statement from Barrow Upon Soar Community Association
- 42 Closing Statement – Barrow upon Soar Parish Council
- 43 Closing Submissions – Charnwood Borough Council
- 44 Closing Submissions – Appellant

**S106 Planning Agreement dated 4 October 2012 (with Deed of Variation dated 15 January 2013)**

**Proofs of Evidence**

*Appellant*

- A1 Evidence of Mr Thorley
- A1a Appendices to A1
- A2 Evidence of Mr Young (Volume 1)
- A2a Appendices to A2 (Volume 2)
- A3 Rebuttal evidence of Mr Young
- A4 Evidence of Mr Rassool

*Council*

- C1 Evidence of Mr Bancroft (Volume 1)
- C1a Appendices A-E to C1 (Volume 2)
- C1b Appendices F-N to C1 (Volume 3)
- C1c Statement to address amendment to visibility calculation (Mr Bancroft)
- C2 Evidence of Mr Reid

*Parish Council*

- PC1 Evidence of Mr Cage – highways, transport, sustainability
- PC2 Evidence of Mr Cage – flood risk and drainage
- PC3 Evidence of Mr Cage – Slash Lane flooding
- PC4 Evidence of Councillor Cattle
- PC5 Appendices to PC4

*County Council*

- CC1 Evidence of Mr Tyrer
- CC2 Evidence of Mr Cook



## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.

Sent: 29 May 2015 14:34  
To: Planning  
Subject: 3rd Party Planning Application - 15/00837/OUT

Cherwell District Council  
Planning & Development Services  
Bodicote House  
Bodicote, Banbury  
Oxon  
OX15 4AA

Our DTS Ref: 42649  
Your Ref: 15/00837/OUT

29 May 2015

Dear Sir/Madam

Re: LAND ON THE NORTH EAST SIDE OF, GAVRAY DRIVE, BICESTER, OXFORDSHIRE, OX26

#### Waste Comments

Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application. Should the Local Planning Authority look to approve the application, Thames Water would like the following 'Grampian Style' condition imposed. "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. Should the Local Planning Authority consider the above recommendation is inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Control Department (telephone 0203 577 9998) prior to the Planning Application approval.

Surface Water Drainage - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

#### Water Comments

Thames Water recommend the following informative be attached to this planning permission. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

## Supplementary Comments

The receiving public sewer may not have sufficient spare capacity to accommodate the anticipated net foul flow increase from the proposed development. Thames Water request that an impact study be undertaken to ascertain, with a greater degree of certainty, whether the proposed development will lead to overloading of existing infrastructure, and, if required, recommend network upgrades. The applicant is requested to contact Thames Water Developer Services on 0800 009 3921 at the earliest opportunity to progress an impact study.

Yours faithfully  
Development Planning Department

Development Planning,  
Thames Water,

Berkshire  
Buckinghamshire  
Oxfordshire



The Lodge, 1 Armstrong Road  
Littlemore  
Oxford  
OX4 4XT

FAO Matthew Parry

**By email only**

12<sup>th</sup> June 2015

Dear Mr Parry,

**OBJECTION Re: 15/00837/OUT | OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting. Part Land On The North East Side Of Gavray Drive Bicester**

Thank you for consulting the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) on the above planning application. As a wildlife conservation charity, our comments relate specifically to the protection and enhancement of the local ecology on and around the application site.

**I wish to submit an *objection* on the grounds that the application does not secure any management on the adjacent Local Wildlife Site (LWS) and is therefore contrary to emerging Local Plan policies.**

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).

**Relevant policy in the emerging Local Plan**

*Policy ESD10: 'Development which would result in damage to or loss of a site of biodiversity or geological value of regional or local importance including habitats of species of principal importance for biodiversity will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity'*

*Policy ESD11: '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. Development which would prevent the aims of a Conservation Target Area being achieved will not be permitted. 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.'*

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).

### **Impact from development on the Local Wildlife Site**

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.

### **Ecology of the Local Wildlife Site**

The ecological surveys undertaken to support the Environmental Statement demonstrate the continued ecological importance of Gavray Drive Meadows Local Wildlife Site. The long awaited moth surveys have demonstrated that the site is of regional importance for this species group, and other surveys show the continued (and in some cases, increasing) value of the site for butterflies, great crested newts and reptiles.

The botanical surveys conclude the site still qualifies botanically as LWS, and identify the significant changes that have occurred on the site through natural succession during the past 9 or more years during which the site has unfortunately received no management. This highlights the importance of management to conserve the botanical interest of the LWS. 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.

### **Conclusion**

It is evident from the botanical survey report that 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 it's implementation secured by planning obligation. Without this commitment the application does not comply with emerging Local Plan policy.



I hope that these comments are useful; should you wish to discuss any of the matters raised, please do not hesitate to get in touch.

Yours sincerely,

Rebecca Micklem  
Senior Conservation Officer (Oxfordshire)

[beccymicklem@bbowt.org.uk](mailto:beccymicklem@bbowt.org.uk)

The Lodge  
1 Armstrong Road  
Littlemore  
Oxford OX4 4XT

FAO: Matthew Parry  
Cherwell District Council  
[Matthew.Parry@Cherwell-DC.gov.uk](mailto:Matthew.Parry@Cherwell-DC.gov.uk)  
[DM.Comments@cherwell-dc.gov.uk](mailto:DM.Comments@cherwell-dc.gov.uk)

**By email only**

26<sup>th</sup> April 2017

Dear Mr Parry,

**Application:** 15/00837/OUT, Gavray Drive, Bicester

**Proposal: 15/00837/OUT | OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting. Part Land On The North East Side Of Gavray Drive Bicester**

Thank you for consulting the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) on the above planning application. As a wildlife conservation charity, our comments relate specifically to the protection and enhancement of the local ecology on and around the application site.

**We wish to submit an *objection* on the grounds that the application does secure any management on the adjacent Local Wildlife Site (LWS) and is therefore contrary to Local Plan policies.**

Having reviewed the latest information on the website we cannot see any material change since my predecessor Beccy Micklem responded in 2015. Our comments therefore still apply and are attached to this letter for completeness.

In addition we would like to make the following comments:

General

It is our understanding that this application is for 180 units on the western part of the site only. We are therefore surprised to see the submission of a drawing titled 'Gavray Drive East - Illustrative Masterplan' as part of this application, which suggests that a further phase of development is planned for the eastern part of the site. We are concerned that it is proposed for development to come forward in a piecemeal fashion with no holistic view being taken of

the site as a whole and its context (including the LWS). This concern was also voiced by the Council's internal ecological advice in October 2015.

The Illustrative Masterplan for the eastern part also shows development coming right up to the LWS boundary. Being mindful of the LWS designation, its ecological interest and wider Green Infrastructure links we consider potential development in this eastern part of the site completely unacceptable in ecological terms.

In line with BS42020:2013 standard we would also like to highlight that much of the ecological survey information used in the EIA is from 2013/14 and might require updating.

#### Biodiversity calculator

We note the submission of a Biodiversity Impact Calculator to demonstrate a net gain in biodiversity. We welcome its submission and recognise it as a useful tool when considering ecological impacts. However, it can in our view not give the complete answer as it only addresses impacts on habitats on site but does not take account of protected/notable species interest nor does it fully address indirect effects on adjacent habitats and species such as the ones found in the Gavray Drive Meadows Local Wildlife Site (LWS).

It is difficult to fully understand the calculation without further information and a corresponding plan, which outlines how areas have been included in the calculation. We have therefore not re-run the metric but are aware that there is a level of disagreement of how the calculator has been applied, which needs to be resolved. We are happy to assist in this process if required.

Dominic W has provided a useful example of how the single addition of indirect effects into the metric fundamentally changes the outcome from a 'net gain' to a 'net loss'. This clearly highlights that development on the western site can only be acceptable if indirect effects on the LWS are avoided (e.g. by restricting access) and subsequent management is secured.

It is our understanding from recent email exchanges that this is a view shared by others including the Council's ecological advisor, David Lowe (David L emails to Dominic W, 20<sup>th</sup> April).

#### Local Wildlife Site (LWS) – Ecology and Impact

The LWS is a mosaic of habitats that support remnants of lowland grassland as well as scrub, hedgerows, trees and ponds. It is rich in wildlife (including protected and notable habitats and species) and one of only three sites in the UK that is home to all five hairstreak butterflies, some of which are very rare. The biodiversity calculator cannot do this rich species ensemble justice and it is important that this special interest is recognised in any assessment. Unfortunately, the site is no longer actively managed and therefore declining but its interest would increase with appropriate management, which is a priority.

The importance of lowland grassland habitats as found within LWS is further supported by the recent changes to the JNCC guidelines for designating Lowland Grasslands as Sites of Special Scientific Interest (SSSI). The changes from 2014 recommend that not only rarer grassland types such as MG4 and MG5 but all decent semi-improved grassland sites over a size threshold might be eligible for designation highlighting an urgency to protect and manage lowland grassland habitats where they still exist.

Gavray Drive LWS includes remnants of lowland grassland and as such might not only satisfy LWS criteria but also qualify for SSSI designation under the new rules, especially if appropriately managed.

As outlined in our previous comments we are concerned about indirect impacts the development might have on the nature conservation interest of the LWS in the long term. We remain unconvinced that the proposed open space will be sufficient in size and nature to fully mitigate recreational pressure on the LWS without active management.

Indirect effects are difficult to quantify but Natural England's research on LWS in urban fringe situations shows that such sites tend to deteriorate more than their rural counterparts due to insufficient positive management. The report states: "... *positive management for wildlife was notably less likely when the site was within 100m of an urban area*". (ROUTH, C. 2016. *Natural England Research Reports, Number 063*). This was found to be particularly the case for grassland sites. Reasons for this include amongst other things indirect impacts of people (eg vandalism, stock worrying and dog fouling), private ownership and the lack of economic incentive to allow the biodiversity value of the site to decline.

The findings of the report are applicable to this situation and also reflect our experience of managing designated sites near urban centres.

Conclusion:

Policy ESD 10 of the New Local Plan seeks the protection and enhancement of locally designated sites. It is clear from this that the LWS should be protected from impacts and subject to an ecological management plan. 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. Without this the application does in our view not comply with Local Plan policy (ESD 10 and ESD 11).

I hope that these comments are useful; should you wish to discuss any of the matters raised, please do not hesitate to get in touch.

Yours sincerely,

*Haidrun Breith*

Haidrun Breith  
Senior Biodiversity & Planning Officer (Oxfordshire)

[haidrunbreith@bbowt.org.uk](mailto:haidrunbreith@bbowt.org.uk)

## Appendix 1: BBOWT's comments from June 2015

Berkshire  
Buckinghamshire  
Oxfordshire



The Lodge, 1 Armstrong Road  
Littlemore  
Oxford  
OX4 4XT

FAO Matthew Parry

**By email only**

12<sup>th</sup> June 2015

Dear Mr Parry,

**OBJECTION Re: 15/00837/OUT | OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting. Part Land On The North East Side Of Gavray Drive Bicester**

Thank you for consulting the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) on the above planning application. As a wildlife conservation charity, our comments relate specifically to the protection and enhancement of the local ecology on and around the application site.

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### **Relevant policy in the emerging Local Plan**

Policy ESD10: *'Development which would result in damage to or loss of a site of biodiversity or geological value of regional or local importance including habitats of species of principal importance for biodiversity will not be permitted unless the benefits of the development clearly outweigh the harm it would cause to the site, and the loss can be mitigated to achieve a net gain in biodiversity/geodiversity'*

Policy ESD11: *'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. Development which would prevent the aims of a Conservation Target Area being achieved will not be permitted. 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.'*

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).

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### **Conclusion**

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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.

I hope that these comments are useful; should you wish to discuss any of the matters raised, please do not hesitate to get in touch.

Yours sincerely,

Rebecca Micklem  
Senior Conservation Officer (Oxfordshire)

[beccymicklem@bbowt.org.uk](mailto:beccymicklem@bbowt.org.uk)

FAO Matthew Parry

15/00837/OUT	Part Land On The North East Side Of Gavray Drive Bicester	Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting
Gallagher Estates, Charles Brown And Simon Digby		
459411	222489	

Network Rail has the following comments to make.

### (1) Level Crossings

Network Rail is concerned that the proposal may result in a material increase in the volume of users at:

#### **Bicester London Road**

And

#### **Bicester Eastern Perimeter Road (Charbridge Lane)**

Level Crossings

We are also aware that Gavray Drive north east is part of larger developments in the area, adjacent to the operational railway. Network Rail has modelled a nearly 50% increase in risk at the level crossing by 2020.

The Office of Road and Rail mandates that risk at level crossings are reduced:

#### **Level Crossings: A guide for managers, designers and operators – Dec 2011 RSP7**

##### ***“What is ORR’s policy on level crossings?”***

*2. ORR seeks to influence duty holders and others to reduce risk at Britain’s level crossings. It does this through a variety of means ranging from advice to formal enforcement action. ORR checks that preventive and protective measures are implemented in accordance with the principles of prevention set out in the Management of Health and Safety at Work Regulations 1999. Risk control should, where practicable, be achieved through the elimination of level crossings in favour of bridges, underpasses or diversions. Where elimination is not possible, ORR aims to ensure that duty holders reduce risk so far as is reasonably practicable and in accordance with the principles of protection.*

*4. ORR believes that it is neither effective nor efficient for only rail companies to be responsible for managing safety at level crossings. Decisions about level crossings should involve rail companies, traffic authorities and other relevant organisations as early on as possible. Relevant authorities should recognise the wider benefits that safety improvements at level crossings (for example, replacing them with bridges) can bring about, particularly for road users. If wider benefits can be achieved, the appropriate funding bodies should agree on how the costs of making safety improvements will be met.”*

Also there is the ORR Safety, Strategy chapter which states that:

*“25. Since 2009 Network Rail has put a level crossing risk reduction programme in place which has a target to reduce level crossing risk by 25% in Control Period 4 (CP4) (which ends on 31 March 2014). As part of ORR’s final determination for the next Control Period (CP5) – published on 31 October 2013, funding has been made available for Network Rail to make a further 25% risk reduction.”*

It is however noted that as part of the East-West Rail project that level crossings on the route of the project are closed and / or closed and replaced with replacement bridges. The LPA / developer should be made aware however, that the proposed dwellings will in all likelihood be sold and have residents prior to the proposed level crossing closures and bridge construction works, much of which is still subject to funding.

We note that there could be a material increase in usage at **Bicester London Road and Bicester Eastern Perimeter Road (Charbridge Lane)**

but within the timeframe of a consultation and decision making process it would be difficult to formulate a formal response or to provide definitive figures of how many extra users the crossing would have as a result of the proposed development (or indeed as a result of the 180 dwellings and any further dwellings in the area resulting in a cumulative impact over time). Whilst we have no



objection in principle to the proposed 180 dwellings we will be monitoring the level crossings once the proposal is up and running. In approving the application we would want 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. Network Rail would look to the LPA to consider and support a CIL contribution (subject to timing of the Charging Schedule) or a planning obligation to contribute towards funding the replacement bridge. Network Rail is aware that the CIL for Cherwell area will not be in place until September 2016. Network Rail would wish to be consulted on the CIL policy documents once these are in draft stage and before they are finalised and adopted by the LPA.

## **(2) Access**

There is a footpath / bridleway running through the red lined area. We believe that the footpath used for Network Rail access is the one running adjacent to the hedgerow that dissects the development plot. Network Rail has been in contact with Kevin Brown of Gallagher Estates and we have been reassured that the footpath is to remain and will link up to that part featuring in the land compulsory acquired by Network Rail and a new footbridge. Network Rail will require access around the clock (24/7, 365) for not only maintenance and project works but also emergency services. We will need further discussion on this matter.

## **(3)**

### **Asset Protection**

#### **(a)**

Network Rail requests that the developer submit a risk assessment and method statement (RAMS) for the proposal to Network Rail Asset Protection, once the proposal has entered the development and construction phase. The RAMS should consider all works to be undertaken within 10m of the operational railway. We require reviewing the RAMS to ensure that works on site follow safe methods of working and have taken into consideration any potential impact on Network Rail land and the operational railway. The developer should contact Network Rail Asset Protection prior to works commencing at [AssetProtectionLNWSouth@networkrail.co.uk](mailto:AssetProtectionLNWSouth@networkrail.co.uk) to discuss the proposal and RAMS requirements in more detail.

Please use the reference number WM/NAJ3/8/4/LF.

#### **(b)**

If not already in place, the Developer must provide, at their own expense, a suitable trespass proof steel palisade fence **of at least 1.8m in height** adjacent to Network Rail's boundary and make provision for its future maintenance and renewal without encroachment upon or over-sailing of Network Rail land. Network Rail's existing fencing / wall must not be removed or damaged and at no point either during construction or after works are completed on site should the foundations of the fencing or wall or any embankment therein be damaged, undermined or compromised in any way. Any vegetation on Network Rail land and within Network Rail's boundary must not be disturbed. Any fencing installed by the applicant must not prevent Network Rail from maintaining its own fencing/boundary treatment.

Any existing Network Rail fencing at the site has been erected to take account of the risk posed at the time the fencing was erected and not to take into account any presumed future use of the site, where increased numbers of people and minors may be using the areas adjacent to the operational railway. Therefore, any proposed residential development imports a risk of trespass onto the railway, which we would remind the council, is a criminal offence (**s55 British Transport Commission Act 1949**). As the applicant has chosen to develop a proposal next to the railway, they are requested to provide a suitable trespass proof fence to mitigate any risks imported by the proposal.

Network Rail is a publicly funded organisation and it would not be reasonable to require Network Rail to fund boundary works, fencing and boundary enhancements necessitated by third party commercial development adjacent to the railway.

Network Rail's Asset Protection Engineer will need to review the fencing to ensure that no works to the foundations undermine or destabilise Network Rail land, or encroach onto Network Rail land.

The applicant is reminded that any works close to the Network Rail boundary, and any excavation works are also covered by the Party Wall Act of 1996. Should any foundations, any excavations or any part of the building encroachment onto Network Rail land then the applicant would need to serve notice on Network Rail and they would be liable for costs. An applicant cannot access Network Rail land without permission (via the Asset Protection Team) and in addition to any costs under the Party Wall Act, the applicant would also be liable for all Network Rail site supervision costs whilst works are undertaken. No works in these circumstances are to commence without the approval of the Network Rail Asset Protection Engineer.

We would request a condition is included in the planning consent as follows:

*“Prior to occupation of the dwellings the developer is to provide a suitable trespass proof fence adjacent to the boundary with the railway. Details of the fencing to be submitted to the LPA and Network Rail.”*

*Reason: To protect the adjacent railway from unauthorised access*

Should the council obviate Network Rail’s request for a trespass proof fence and decide that an acoustic fence is more suitable then we would have the following comments.

Acoustic fencing / close boarded fencing that is proposed to be installed along the boundary with Network Rail is a cause for concern. Therefore the acoustic fence and its foundation design would be subject to the Network Rail Asset Protection Engineer approval. Any acoustic fencing should be set back from the boundary with Network Rail by 1m.

Over the height of 1.8m, Network Rail would have to consider the impacts of wind loading on the fence. There is the potential for the fence to topple over and fall onto or towards the operational railway and damage Network Rail’s existing boundary treatments, safety critical lineside equipment as well as the issue of falling into the path of trains using the line. De-stabilisation of land, soil slippage and railway fencing foundations being undermined should also be considered as potential areas impacted by a high acoustic fence. We also request a 1m stand off to ensure that the supports for the acoustic fence do not encroach onto Network Rail land or impact upon the railway.

We would request a condition is included in the planning consent as follows:

Condition:

*“Prior to the commencement of the development, acoustic fencing mitigation measures shall be submitted to the Local Planning Authority and Network Rail.”*

*Reason: To protect the adjacent railway boundary.*

(c)

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land and soil.
- Any future maintenance must be conducted solely within the applicant’s land ownership.
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by a third party that may adversely impact its land and infrastructure.
- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

(d)

Any scaffold which is to be constructed within 10 metres of the Network Rail / railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. The applicant / applicant’s contractor must consider if they can undertake the works and associated scaffold / access for working at height within the footprint of their property boundary. The applicant is reminded that when pole(s) are erected for construction or maintenance works, should they topple over in the direction of the railway

then there must be at least a 3m failsafe zone between the maximum height of the pole(s) and the railway boundary.

This is to ensure that the safety of the railway is preserved and that scaffolding does not:

- Fall into the path of on-coming trains
- Fall onto and damage critical and safety related lineside equipment
- Fall onto overhead lines bringing them down, resulting in serious safety issues (this is applicable if the proposal is above the railway and where the line is electrified).

The applicant is requested to submit details of proposed scaffolding works to the Network Rail Asset Protection Engineer for review and approval.

We would request a condition is applied as follows:

*“Any scaffolding which is to be erected /constructed within 10metres of a boundary to a railway line must be erected in such a manner that at no time will any poles over-sail the railway line. A method statement giving details of measures to be taken to prevent construction materials from the development reaching the railway (including protective fencing) shall be submitted to the LPA before the development commences.”*

Reason - In the interests of railway safety

(e)

If vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement should be submitted to the Network Rail Asset Protection Engineer.

- All works shall only be carried out in accordance with the method statement and the works must be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.
- The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement.

If vibro-impact equipment is to be used we would request a condition is added to the planning consent as follows:

*“Prior to any vibro-impact works on site, a risk assessment and method statement shall be submitted to the LPA and Network Rail.”*

Reason – to prevent any piling works and vibration from de-stabilising or impacting the railway.

(f)

All surface water is to be directed away from the railway.

Soakaways, as a means of storm/surface water disposal must not be constructed near/within 20 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property.

- Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains.
- Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property.
- Proper provision must be made to accept and continue drainage discharging from Network Rail's property.
- Suitable foul drainage must be provided separate from Network Rail's existing drainage.
- Once water enters a pipe it becomes a controlled source and as such no water should be discharged in the direction of the railway.
- Drainage works could also impact upon culverts on developers land.

Water discharged into the soil from the applicant's drainage system and land could seep onto Network Rail land causing flooding, water and soil run off onto lineside safety critical equipment or de-stabilisation of land through water saturation.

Full details of the drainage plans are to be submitted to the Network Rail Asset Protection Engineer. No works are to commence on site on any drainage plans without the review of the Network Rail Asset Protection Engineer.

We would request that a condition is included in the planning consent as follows:

Condition:

*“Prior to the commencement of the development details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted to the Local Planning Authority and Network Rail.”*

*Reason: To protect the adjacent railway from the risk of flooding and pollution.*

No infiltration of surface water drainage into the ground is permitted other than where it has been demonstrated that there is no resultant unacceptable risk to controlled waters.

If the developer and the LPA insists on a sustainable drainage and flooding system then the issue and responsibility of flooding and water saturation should not be passed onto Network Rail and our land. The NPPF states that, “103. *When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere,*” We recognise that councils are looking to proposals that are sustainable, however, we would remind the council in regards to this proposal in relation to the flooding, drainage, surface and foul water management risk that it should not increase the risk of flooding, water saturation, pollution and drainage issues ‘*elsewhere*’, i.e. on to Network Rail land.

(g)

We would request that the applicant submit drainage plans and excavation plans for the balancing / attenuation ponds to the Network Rail Asset Protection Team for review. No works are to commence on the pond until the Network Rail Asset Protection Engineer has reviewed the plans.

Any water feature is of concern to Network Rail as there is potential for the water to drain onto Network Rail land / operational railway land, causing flooding and disturbing soil resulting in slippage onto the operational railway, which raises safety issues for Network Rail earthworks and lineside equipment and delays to trains. Any water feature positioned above the level of the railway is also a cause for concern as water tends to run downhill and this could result in flooding or seepage of water onto Network Rail land affecting lineside equipment and earthworks with potential for flooding.

(h)

Network Rail will need to review all excavation works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. We would need to be informed of any alterations to ground levels, de-watering or ground stabilisation. When under-taking ground works, developers should take all necessary measurements from the boundary with Network Rail land and not the distance from their works to the nearest railway tracks. We would request a condition is included in the planning consent as follows:

Condition:

*“Prior to the commencement of the development full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted to the Local Planning Authority and Network Rail.”*

*Reason: To protect the adjacent railway.*

The NPPF states:

*120. To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.*

(i)

Network Rail requests that the developer ensures there is a minimum 2 metres gap between the **buildings and structures on site** and our boundary fencing.

- To allow for all construction works on site and any future maintenance to be carried out wholly within the applicant's own land ownership and without encroachment onto Network Rail land and air-space. Any unauthorised access to Network Rail land or air-space is an act of trespass and we

would remind the council that this is a criminal offence (**s55 British Transport Commission Act 1949**).

- To ensure that should the **buildings and structures on site** fail or collapse that it will do so without damaging Network Rail's boundary treatment or causing damage to the railway (e.g. any embankments, cuttings, any lineside equipment, signals, overhead lines) and to prevent the materials from the **buildings and structures on site** falling into the path of trains.
- To ensure that the **buildings and structures on site** cannot be scaled and thus used as a means of accessing Network Rail land without authorisation.
- To ensure that Network Rail can maintain and renew its boundary treatment, fencing, walls.
- That the proposal will not be impacted by overhead electrified lines. Induced voltage can affect structures or individuals up to 20m from the overhead line. AC lines have overhead cables, DC lines are third rail.
- There are no Party Wall issues for which the applicant would be liable for all costs.
- To ensure that the applicant does not construct their proposal so that any foundations (for walls, buildings etc) do not end up encroaching onto Network Rail land. Any foundations that encroach onto Network Rail land could undermine, de-stabilise or other impact upon the operational railway land, including embankments, cuttings etc. Under Building Regulations the depth and width of foundations will be dependent upon the size of the structure, therefore foundations may impact upon Network Rail land by undermining or de-stabilising soil or boundary treatments.

The NPPF at Section 17, bullet 4 states:

*"Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings"*

We believe this comment supports our position on the location of buildings close to the railway boundary.

(J)

Network Rail requests that the LPA and the developer (along with their chosen acoustic contractor) engage in discussions to determine the most appropriate measures to mitigate noise and vibration from the existing railway to ensure that there will be no future issues for residents once they take up occupation of the dwellings. Network Rail is aware that residents of dwellings adjacent to the railway have in the past discovered issues upon occupation of dwellings with noise and vibration from the existing operational railway, as a consequence of inadequate mitigation measures for the site, and therefore it is a matter for the developer and the LPA via mitigation measures and conditions to ensure that these issues are mitigated appropriately prior to construction.

- The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains.
- Network Rail also often carry out works at night on the operational railway when normal rail traffic is suspended and often these works can be noisy and cause vibration.
- Network Rail may need to conduct emergency works on the railway line and equipment and these would not be notified to residents in advance due to their safety critical nature.
- The proposed noise and vibration mitigation measures should include consideration of the potential for works to EWR and for a potential future increase in linespeed and frequency of service.
- The proposal should not prevent Network Rail from its statutory undertaking

(k)

We would draw the council's and developer's attention to the Department of Transport's 'Transport Resilience Review: A Review of the Resilience of the Transport Network to Extreme Weather Events' July 2014, which states, "*On the railways, trees blown over in the storms caused severe disruption and damage on a number of routes and a number of days, particularly after the St Jude's storm on 28th October, and embankment slips triggered by the intense rainfall resulted in several lines being closed or disrupted for many days..... 6.29 Finally the problem of trees being blown over onto the railway is not confined to those on Network Rail land. Network Rail estimate that over 60% of the trees blown over last winter were from outside Network Rail's boundary. This is a much bigger problem for railways than it is for the strategic highway network, because most railway lines have a narrow footprint as a result of the original constructors wishing to minimise land take and keep the costs of land acquisition at a minimum.*"

In light of the above, Network Rail would request that no trees are planted next to the boundary with our land and the operational railway. Network Rail would request that only evergreen shrubs are planted 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.

- Trees can be blown over in high winds resulting in damage to Network Rail's boundary treatments / fencing as well as any lineside equipment (e.g. telecoms cabinets, signals) which has both safety and performance issues.
- Trees toppling over onto the operational railway could also bring down 25kv overhead lines, resulting in serious safety issues for any lineside workers or trains.
- Trees toppling over can also destabilise soil on Network Rail land and the applicant's land which could result in landslides or slippage of soil onto the operational railway.
- Deciduous trees shed their leaves which fall onto the rail track, any passing train therefore loses its grip on the rails due to leaf fall adhering to the rails, and there are issues with trains being unable to break correctly for signals set at danger.

The Network Rail Asset Protection Engineer must approve all landscaping plans.

Network Rail has a duty to provide, as far as is reasonably practical, a railway free from danger or obstruction from fallen trees. Trees growing within the railway corridor (i.e. between the railway boundary fences) are the responsibility of Network Rail. Trees growing alongside the railway boundary on adjacent land are the primary responsibility of the adjoining landowner or occupier.

All owners of trees have an obligation in law to manage trees on their property so that they do not cause a danger or a nuisance to their neighbours. This Duty of Care arises from the Occupiers Liability Acts of 1957 and 1984. A landowner or occupier must make sure that their trees are in a safe condition and mitigate any risk to a third party. Larger landowners should also have a tree policy to assess and manage the risk and to mitigate their liability.

Regards

**Diane Clarke TechRTPI**

Town Planning Technician LNW

Network Rail

Town Planning Team LNW

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[www.networkrail.co.uk/property](http://www.networkrail.co.uk/property)

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**From:** Philip Rolls  
**Sent:** 23 June 2015 16:48  
**To:** Matthew Parry  
**Cc:** Judith Ward  
**Subject:** RE: Land North of Gavray Drive, Bicester - Ref: 15/00837/OUT

Mathew,

There is a requirement for an off-site contribution towards the cost of increasing capacity of existing playing pitch facilities in Bicester which are currently operating at capacity. This is also supported by the Cherwell Playing Pitch Strategy which identifies a need for 4 additional Junior football pitches, 2 additional mini football pitches, 2 additional cricket pitches and 2 rugby pitches. The contribution is to provide facilities at the Bicester Sports Village which is proposed to be operational in 2016/17.

The contribution is;

180 dwellings x 2.4 people per dwelling x £416.41 per person = **£179,889**.

There is also a plan to increase the capacity of the indoor sports facilities to meet the expected demand of the additional community in the town. The contribution is;

180 dwellings x 2.4 people per dwelling x £302.31 = **£130,598**.

You will need to speak to Judith Ward about play provision.

Phil.

**Philip Rolls**

Recreation and Health Improvement Manager  
Community and Environment Directorate  
Cherwell District and South Northants District Council  
Direct dial: 01295 221697  
Mobile: 07789000506  
[philip.rolls@cherwell-dc.gov.uk](mailto:philip.rolls@cherwell-dc.gov.uk)  
[www.cherwell.gov.uk](http://www.cherwell.gov.uk)

**From:** Matthew Parry  
**Sent:** 23 June 2015 14:50  
**To:** Philip Rolls  
**Subject:** Land North of Gavray Drive, Bicester - Ref: 15/00837/OUT

Philip

I have consulted you on a planning application for up to 180 dwellings on this site which is allocated in the emerging Local Plan – see Policy Bicester 13. Normally planning policy would require a NEAP and outdoor sports provision on site from a development of this size (Policy BSC11 of emerging Local Plan) though due to the site's ecological constraints formal outdoor sports provision can't be provided as set out in Policy Bicester 13. The policy however requires contributions towards outdoor sports provision off-site. Are you able to advise on the contributions necessary and what you would expect on-site from this proposed development?

Thanks

**Matthew Parry**  
**Principal Planning Officer**  
Development Management  
Cherwell District Council  
Telephone: 01295 221837  
Email: [matthew.parry@cherwell-dc.gov.uk](mailto:matthew.parry@cherwell-dc.gov.uk)

Website: [www.cherwell.gov.uk](http://www.cherwell.gov.uk)



# DEVELOPMENT - INTERNAL MEMORANDUM

**From:** Head of Development Management and Major Developments

**To:** Recreation, Health And Communities  
**FAO** Rebecca Dyson  
Public Art/Community Halls/Community Dev./Indoor Sports/Outdoor Sports

**Our Ref:** 15/00837/OUT

**Ask for:** Matthew Parry                      **DDI:** 01295 221837                      **Date:** 15.05.2015

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**Subjects:** CONSULTATION - APPLICATION

REQUEST FOR INFORMATION RELATING TO A PLANNING OBLIGATION

**Application No.:** 15/00837/OUT

**Applicant's Name:** 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

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

**Parish(es):** Bicester

**UPRN :** 010011922653

I should be grateful if you would let me have your observations on the above application by submitting your comments via the Consultee Access online service within **14 days** from the date of this memorandum. Any observations received after this date may fail to be taken into account in the determination of the application.

[ConsulteeAccess](#) can be used to view details of this application. If you wish to submit your comments via this service, you must be logged in to do so.

If you have any problems using the service please contact Planning on extension 1882. Alternatively, you can log a call through the Council's IT Service Desk on extension 7080, or via the Intranet [self-service facility](#).

If you have any queries regarding the application, please contact **Matthew Parry** on extension number **01295 221837**.



Head of Public Protection  
& Development Management

# PLANNING OBLIGATION REQUEST - INTERNAL MEMORANDUM

**From:** Recreation, Health And Communities

**To:** Head of Development Management and Major Developments

**FAO:** Matthew Parry

**Your Reference:** 15/00837/OUT

**Our Reference:**

**Date of Consultation:** 15.05.2015

**Target Date for Response:** 14 days

<b>Application/Site Reference:</b>	15/00837/OUT
<b>Development Location:</b>	Part Land On The North East Side Of Gavray Drive Bicester
<b>Development Proposal:</b>	OUTLINE - Residential development of up to 180 dwellings to include affordable housing, public open space, localised land remodelling, compensatory flood storage and structural planting

**Planning Obligation Requirement :**

**HALLS:**

A contribution per dwelling based on the size of the dwelling as per the following schedule:

Size of Property	Contribution per dwelling based on figures @ April 2015 subject to further inflation as appropriate
1 bed	103.39
2 bed	149.27
3 bed	232.37
4 + bed	319.55

This contribution would be used to build an exterior storage area that would free up internal space currently used for storage. This would increase the internal space available to users and address the increased demand on the facility as a result of the Gavray Drive development.

If further development is undertaken in this area this contribution may be used in conjunction with any subsequent contribution that may be acquired and may result in an alternative use for the funding.

**COMMUNITY DEVELOPMENT – EVENTS 7 PROJECTS:**

Contribution of £22,988.79 @ April 2015 (subject to any further inflation as appropriate) towards community events and projects such as information events, newsletters and welcome packs, to support the new residents to integrate into the community.

Calculations based @ 2010 plus inflation to 2015.

**Justification Policies:**

Planning Obligations  
SPD

**Community Halls:**

Section 6  
Section 14  
Appendix I (i)  
Appendix B (ii)  
Appendix I (ii)  
2010 figures plus RPI to 2014/15)

Community Development:  
Section 15  
Appendix J (i)

**Detail:**

**Detail Specification:**

**Trigger for  
works/Contribution:**

**Commuted sum:**

**Capital:**

**Revenue:**

**Indexation:**

**Capital  
Management:**

**Revenue  
Management:**

**Standard  
Heads of  
Terms:**

**CDC Contact:**

**Ext:**

**Signed:**

**Date:**

From: Vickie Zielinski  
Sent: 19 May 2015 15:59  
To: Planning  
Cc: Matthew Parry; Rebecca Dyson; Nicola Riley  
Subject: RE: Planning Application Consultation 15/00837/OUT [North Area]

Hi

Please find attached my response in respect to the planning application 15/00837/OUT

Rebecca : I have updated our spreadsheet.

Vickie

-----Original Message-----

From: Rebecca Dyson  
Sent: 15 May 2015 16:27  
To: Nicola Riley; Philip Rolls; Liam Didcock; Sharon Bolton; Vickie Zielinski  
Subject: FW: Planning Application Consultation 15/00837/OUT [North Area]

Responses required by 29th May - can you please send me a copy for my files.

Thanks

Rebecca Dyson  
PA to Interim Community Services Mgrs/Recreation Facilities Officer (P/T) Community &  
Environment Directorate Tel No: 01295 221722 Ext: 1722  
email: [rebecca.dyson@cherwell-dc.gov.uk](mailto:rebecca.dyson@cherwell-dc.gov.uk) [www.cherwell.gov.uk](http://www.cherwell.gov.uk) [www.southnorthants.gov.uk](http://www.southnorthants.gov.uk)

-----Original Message-----

From: Planning  
Sent: 15 May 2015 15:49  
To: Rebecca Dyson  
Subject: Planning Application Consultation 15/00837/OUT [North Area]

Please see attached consultation document.

Regards  
Development Management