



## Appeal Decision

Inquiry held 6,7,13 and 14 June 2023

Site visits made on 30 May, 7 and 14 June 2023.

**by R Barrett BSc (Hons) MSc Dip Hist Cons Dip UD IHBC MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> July 2023**

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**Appeal Ref: APP/C3105/W/23/3315849**

**Land at North West Bicester, Charlotte Avenue, Bicester OX27 8BP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Firethorn Developments Ltd against Cherwell District Council.
  - The application Ref 21/01630/OUT, is dated 5 May 2021.
  - The development proposed is described as, 'outline planning application for up to 530 residential dwellings (within Use Class C3), open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout and scale reserved for later determination'.
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### Decision

1. The appeal is allowed and planning permission is granted for development described as 'outline planning application for up to 530 residential dwellings (within Use Class C3), open space provision, access, drainage and all associated works and operations including but not limited to demolition, earthworks, and engineering operations, with the details of appearance, landscaping, layout and scale reserved for later determination at 'Land at North West Bicester, Charlotte Avenue, Bicester OX27 8BP' in accordance with the terms of the application, Ref 21/01630/OUT, dated 5 May 2021, subject to the conditions set out in annex C to this Decision.

### Preliminary Matters

2. There are some minor details in the above banner heading that differ from those on the appeal application form. For clarity, I have taken the appeal address, appellant name and description of development from section 1 of the Planning Statement of Common Ground (SoCG). That includes a revised description of development which I have also used in my formal Decision.
3. The appeal application was submitted in outline with approval of access only. Therefore appearance, landscaping, layout and scale of the proposed development are to be determined at a later date.
4. The appeal application includes an illustrative masterplan and a number of parameter plans. Those amongst other things define areas of built development, green spaces, access and building heights. A condition could secure development in accordance with those parameter plans. I have had regard to that in determining this appeal.
5. The Inquiry was attended by two Rule 6(6) parties (R6). These were the North West Bicester Alliance (NWBA) and Bicester Bike Users Group (BBUG).

6. Prior to opening the Inquiry, I undertook an unaccompanied site visit, following an itinerary agreed between the two main parties and R6 parties. In addition, I carried out an accompanied site visit, which took place during the Inquiry. I also carried out a site visit having heard all highway evidence.
7. In pre-Inquiry engagement the main parties agreed a number of SoCG, in relation to my main issues. Those included SoCG on planning matters signed by the two main parties and R6 dated 6 June 2023; housing land supply (HLS) agreed between the Council and appellant dated 23 May 2023; viability matters agreed between the Council and appellant dated 28 April 2023, and between appellant and NWBA dated 3 May 2023, and a SoCG on highways between the Council and appellant, Oxfordshire County Council and the appellant, appellant and NWBA and appellant and BBUG, all dated 3 May 2023.
8. The Council advised, that had it determined the appeal application within the prescribed period, it would have refused permission. The Council provided five putative reasons for refusal, which included those relating to my main issues below. However, prior to the start of the Inquiry, in light of ongoing studies and pre-Inquiry engagement carried out by the appellant and Council, in particular, it confirmed that it did not wish to defend any of those putative reasons for refusal.
9. The first reason for refusal relates, in part, to viability in relation to carbon reduction measures. In pre-Inquiry engagement a detailed analysis of build costs and updated analysis of sales values were agreed between appellant and Council. Further studies identified the funds that would be available for carbon reduction measures and how they would be allocated. In addition, appellant and Council agreed a planning condition and mechanism within a legal Agreement to ensure the appeal scheme delivered a True Zero Carbon development, to meet the requirements of Cherwell Local Plan Part 1 2011-2031 (Local Plan) Policy Bicester 1. On that basis the Council does not defend its first reason for refusal.
10. The second reason for refusal relates to the proposed access arrangements and pedestrian and cycling provision along Charlotte Avenue, and its impacts on street trees. However, as part of pre-Inquiry engagement the appellant provided a revised indicative scheme using a priority shuttle working system which retained street trees along Charlotte Avenue. It was also agreed that protection for street trees could be further secured through a legal Agreement. On that basis the Council does not defend its second reason for refusal.
11. The third reason for refusal relates to congestion at the junction of Charlotte Avenue with the B4100, particularly at peak period. In pre-Inquiry engagement appellant and Council agreed revised modelling based on 50%, rather than the 40% car mode used by the appellant in earlier modelling to account for the fact that proposed enhanced bus provision would not be in place by 2031 at build out. The revised modelling indicated to the Council's satisfaction that there would not be unacceptable impact on highway safety nor that the residual cumulative impacts on the road network would be severe. The Council therefore does not defend its third reason for refusal.
12. The fourth reason for refusal relates to affordable housing provision. Given the agreement between the two main parties reached on viability matters and the presence of a significant financial gap, the Council consider the offer of 10% affordable housing to represent a significant benefit of the appeal scheme. It

does not defend its fourth reason for refusal therefore on the basis of a viability review mechanism aimed to capture any financial surplus and increase the amount of affordable housing to as near 30% as possible, should there be any change in sales values or build costs. On that basis, the Council does not defend its fourth reason for refusal.

13. The fifth reason for refusal relates to the absence of a legal Agreement to secure appropriate infrastructure contributions necessary to make the proposed development acceptable in planning terms. A draft s106 Agreement was submitted at Inquiry and a final version prior to closing. A final completed version was submitted after the Inquiry closed, in accordance with an agreed timetable. I have taken that into account in coming to my Decision. The Council confirmed that its provisions address its concerns in regard to the appeal development's infrastructure impacts including, provisions relating to carbon reduction measures, highways and affordable housing. On that basis the Council does not defend its fifth reason for refusal.
14. However, the two R6 parties supported those putative reasons for refusal, in particular those relating to highways, viability and related impacts on carbon reduction measures and affordable housing. Their objections to the proposed development were therefore still before the Inquiry.

### **Main issues**

15. On the basis of the above considerations, my main issues in this appeal are:
  - Given the viability of the proposed development, whether it would provide appropriate affordable housing to address local need;
  - Given the viability of the proposed development, whether it would achieve a 'True Zero Carbon' development;
  - The effect of the proposed access arrangements on the safety and convenience of road users, and whether they would promote active forms of transport, with particular regard to walking and cycling;
  - Whether the proposal adequately addresses its infrastructure impacts.

### **Reasons**

#### Affordable Housing and Viability

##### *Viability*

16. The most recent viability evidence base underpinning the Local Plan dates to 2017. This is now dated and sales values and build costs in particular are likely to be out of date. As there have been significant changes in the macro economic landscape since then, including Brexit, Covid, the war in Ukraine and related high build cost inflation and falling house prices, the submission of a viability appraisal to support the appeal development is justified.
17. Further, the appellant has justified the reason for a viability review, which is agreed by the Council. Overall, the submission of a viability review in this case would accord with National Planning Policy Framework (NPPF) paragraph 58, which sets out that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage.

18. In addition, Local Plan policy BSC3, dealing with affordable housing, requires open book financial analysis of proposed developments to enable in-house economic viability assessment, where proposed development is considered unviable. Viability testing is therefore an integral part of determining a viable affordable housing requirement. Whilst other North West Bicester Ecotown developments may not have required a viability appraisal at application stage, no substantive evidence in this regard is before to enable meaningful comparisons to be drawn.
19. Pre-Inquiry, the Council and appellant worked together, to agree the inputs to a detailed viability appraisal. The two main parties have signed a SoCG on viability matters which indicates no outstanding areas of disagreement.
20. Build costs are based on recent updates in February 2023, which includes the significant recent cost inflation. Those are based on delivery of a True Zero Carbon development, which would include a number of True Zero Carbon and sustainability measures, including rainwater/grey water harvesting and fruit tree planting in private gardens, all excluded in previous 'value engineered' estimates. Whilst those costs would be greater than those supporting net zero policies in the Central Lincolnshire Local Plan 2023, that is a high level evidence base figure that underpins the development strategy of a local plan in a different part of the country and is not directly comparable to this development. Overall, I heard no substantive evidence to challenge the work undertaken by the Council to agree build costs.
21. At this stage the viability appraisal is based on the range of energy reduction opportunities available to deliver a True Zero Carbon development. At reserved matters stage, within that framework, the most appropriate designs, and technologies available at the time, will be assessed to provide a final solution. At this outline application stage, however, the assessment of a range of possible solutions provides an appropriate level of detail to define the associated viability appraisal inputs.
22. The methodology used to establish Benchmark Land Value using Existing Use Value Plus accords with the Planning Practice Guidance (PPG). That takes account of planning policy requirements. A methodology based on value creation being shared between the landowner and developer would not accord with that standard methodology set out in the PPG. Substantive evidence sufficient to justify departure from the standard methodology or resultant values is advanced. Further, the appellant confirms that it has retained rights of access and services from the public highway, the effect of which is to ensure that the site is not landlocked and therefore its valuation should not be reduced on that assumption.
23. Sales values are based on comparable developments in the locality and include the most recent sales in the Exemplar development. They include evidence of available properties, sales prices, including net achieved sale prices, taking account of any negotiation on price and sales incentives. Evidence is based on sales data up to April 2023, which includes the spring and winter seasons and related changes in house sale activity. Overall, sales values are based on recent and comparable evidence and are therefore justified.
24. The developer's profit used is 20% on Gross Development Value for private sales and 6% for affordable tenure units. Those values fall within the ranges set out in the PPG. Given the True Zero Carbon and other sustainability

requirements which set a very high bar for construction methods and associated costs, and the inherent risk therein, I consider them appropriate. NWBA suggest a blended average margin of 8.6%, but no evidence is advanced to indicate that is a realistic level and acceptable in the market.

25. Marketing and disposal costs, including legal work for private sales are a standard development cost. A figure of 3% has been included, which is agreed between appellant and Council. Those costs have adopted standardised inputs set out in the PPG and Royal Institution of Chartered Surveyors (RICS) guidance referred to below.
26. Overall, the viability appraisal and documents underpinning it have been made available for scrutiny by all parties in the appeal. The viability appraisal work has followed the recommended approach set out in PPG<sup>1</sup>, including the adoption of standardised inputs and accords with relevant RICS guidance<sup>2</sup>. For that reason, I find it a sound basis on which to assess the contribution that the appeal scheme should be required to make to carbon reduction measures, affordable housing and its infrastructure impacts.

### *Affordable Housing*

27. Local Plan policy BSC3 set out a requirement for 30% affordable housing. It specifies a tenure mix of 70% affordable/social rented and 30% as other forms of intermediate affordable housing. Local Plan policy BSC3 makes it clear that those requirements are subject to viability.
28. It is common ground between the two main parties that the appeal development cannot viably provide for 30% affordable housing, in accordance with Local Plan policy BSC3, whilst delivering a True Zero Carbon development, compliant with Local Plan sustainability policies and mitigating its infrastructure impacts. Given my findings on the viability evidence, I have no reason to take an alternative view on this matter.
29. However, the appellant has offered a minimum of 10% affordable housing, which will require a reduced developer margin. It is acknowledged that such a contribution would not meet the requirement in Local Plan policy BSC3.
30. In this regard the appeal includes a legal Agreement with provisions to secure an upwards only affordable housing review mechanism. That would give the Council an opportunity to capture the possible shortfall in affordable housing provision should the viability picture change at build out. That mechanism includes a two stage review process that would ensure any affordable housing provision would be directly proportionate to the development.
31. Taking all matters into account, I conclude that given the viability of the proposed development, it would provide appropriate affordable housing to address local need. In this respect it would accord with Local Plan policy BSC3, which seeks 30% affordable housing and a preferred mix to meet local need, subject to viability.

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<sup>1</sup> PPG Viability, para 007 Reference ID:10-007-20190509

<sup>2</sup> RICs Professional Statement: Financial Viability in Planning: Conduct and Reporting 1<sup>st</sup> edition May 2019 and RICs Guidance Note: Assessing Viability in Planning under NPPF 2019 for England 1<sup>st</sup> edition May 201

## Carbon Reduction Measures

32. The appeal application is supported by an outline energy statement. That appraises a suite of approaches, aligned to the energy hierarchy defined in Local Plan policy ESD2, aimed to deliver a True Zero Carbon development. At reserved matters stage the most appropriate design approach and technology implementation available at that time will be assessed to provide a final energy strategy. Given the limited information available regarding appearance, landscaping, layout and scale of development, all to be determined at a later stage, I consider the appellant's approach acceptable in this regard. That conclusion is supported by the North West Bicester SPD, with an intention not to be too prescriptive on the means employed to achieve True Zero Carbon.
33. The appellant's initial approach was to rely to some extent on carbon offsetting to deliver a True Zero Carbon development, which the Council considered was not in accordance with the hierarchy set out in Local Plan policy ESD2 and therefore Local Plan policy Bicester 1. However, the Council and appellant agreed a suitably worded planning condition that requires the submission of a zero carbon strategy for each phase of development. That would ensure that a carbon balance is created for each phase and if any phase fails to reach 'zero' in terms of the amount of carbon generated for the phase, a further strategy would be required explaining how zero carbon will be reached by utilising other measures. Other measures could include off-setting, but only in accordance with the hierarchy of measures set out in Local Plan policy ESD2 and Bicester 1.
34. Provisions within the legal Agreement would deal with the situation in which, despite the submission of a zero carbon strategy, zero carbon has not been achieved. It provides for a performance review to be undertaken to identify whether built development has in fact achieved zero carbon, and if not, the developer is required to provide a strategy for remedying the situation. As a last resort the developer may offset any carbon emissions if the Council is satisfied that this cannot be achieved on site.
35. In accordance with Local Plan policy ESD2, allowable solutions/offsetting should be at the bottom of the hierarchy and a last resort. The proposed planning condition and legal Agreement provisions, together, would accord with that hierarchy and ensure that the development as a whole would meet Local Plan policy Bicester 1's definition of True Zero Carbon. That requires that over a year the net carbon dioxide emissions from all energy use within the buildings on the eco-town development as a whole are zero or below.
36. Following the technical housing standards review, the Government withdrew the Code for Sustainable Homes in 2015. Compliance with that Code cannot be achieved as there is no mechanism to measure, report, monitor or verify the process. The appellant has however committed to meeting the Fabric Energy Efficiency standards of the Code at level 5 or 6 by meeting the expected Future Homes Standards.
37. On that basis, I conclude given the viability of the proposed development, it would achieve 'True Zero Carbon'. In this respect the appeal development would meet Local Plan policy Bicester 1's definition of True Zero Carbon. It would also generally accord with Local Plan policies Bicester 1 and ESD 1-5, in that they together seek a True Zero Carbon development which mitigates and adapts to climate change, supporting sustainable construction, decentralised



energy systems and renewable energy in accordance with a defined energy hierarchy.

## Highways

### *Bicester Transport Model (BTM)*

38. The Traffic modelling for this appeal proposal is based on the BTM. The BTM is a sophisticated traffic model used to understand the impacts of growth anticipated through the Local Plan. It underpins the Local Plan's growth strategy and will have been through the rigour of Examination. I agree therefore that the use of the BTM is the most appropriate approach for assessing the transport impacts of this appeal. That will ensure that the cumulative impacts associated with the wider Local Plan growth are accounted for. The trip rates, trip generation methodology, and traffic data from the BTM as presented in the Transport Assessment are all agreed between the Council and the Highways Authority.
39. Suggested errors and anomalies in the BTM were identified to question its robustness. That includes the calculation of negative traffic flows near Cranberry Avenue. However, it was established that those were calculated by the appellant in an effort to isolate the future appeal development traffic impacts and did not have their genesis in the BTM. Overall, together the anomalies and errors identified do not justify a departure from the BTM as a basis for the appeal's transport modelling.

### *Traffic Generation Calculations*

40. Errors, anomalies and missing information in the appellant's transport modelling were identified. Those were rectified as necessary. None indicate a fundamental flaw in its methodology or findings.
41. Survey data carried out by objectors was presented to test the appellant transport modelling outcomes. However, whilst useful as a snap-shot, such findings are unable to take account of future material changes. In themselves they do not challenge the transport modelling undertaken as a basis for understanding the transport impacts of the appeal development.
42. The appellant's transport modelling is based on 40% of residents using cars, 60% using other means. This is set against the background of significant national policy support to limit the need to travel and offer genuine choice of transport modes<sup>3</sup>.
43. At a local level, Local Plan policy Bicester 1 requires master planning, compact layout, infrastructure provision and financial contributions to reduce reliance on the private car and promote cycling and walking. The North West Bicester SPD builds upon those ambitions and requires Travel Plans to enable at least 50% of trips originating in the masterplan area to be made by non-car modes of travel, with the potential to increase this to 60% by 2020 and include significantly more ambitious targets than the 50%. Against this strong policy context, in combination with Oxfordshire County Council's expectation for a 10 minute bus service to serve the Ecotown, the 40% target appears realistic.

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<sup>3</sup> NPPF104,105 and 110

44. However, Oxfordshire County Council's aspiration for a 10 minute bus service through the site would be funded by contributions from 2,600 dwellings, which includes other future developments. It will therefore not be up and running in full by 2031, which is the build out year for this development.
45. To account for that delay, the appellant has modelled the proposed development at 50% car share, which, given the strong policy support for non car modes and expected bus provision, provides a very robust assessment. It was on the outcome of this sensitivity testing that the Council withdrew its concern on this matter.

#### *Junction of Charlotte Avenue with B4100*

46. On the basis of the appellant's 50% car use sensitivity testing, the impacts on the Charlotte Avenue/B4100 junction indicate an exceedance of capacity. The PICARDY analysis resulted in a Ratio of Flow to Capacity of 91%. That sits just above the recommended limit. However, it still remains below the absolute limit of 100%. The forecast delays are a maximum of 90 seconds affecting the North arm of the junction in the AM peak. That would delay traffic on Charlotte Avenue waiting to join the B4100. It would not affect through traffic on the B4100, and at its highest delays last only for part of the peak period.
47. To help to mitigate development impacts, a financial contribution is sought to signalise this junction. When linked to the recently permitted and funded A4095/B4100 signal junction, I consider that the B4100 junction with Charlotte Avenue would operate at an acceptable level. All in all, the delays that would be incurred would not result in unacceptable impact on highway safety. Neither would the residual cumulative impacts on the road network be severe.
48. As the traffic surveys carried out by objectors do not take account of the upgraded A4095/B4100 junction or the signalisation of the Charlotte Avenue B4100 junction, they do not accurately reflect future conditions.

#### *Improvements to Charlotte Avenue*

49. The appeal development includes a financial contribution towards necessary improvements to Charlotte Avenue. That is because Oxfordshire County Council identified the need to assess the suitability of Charlotte Avenue for the appeal development traffic and non-motorised users.
50. In response, the appellant carried out an assessment. That identified two areas that could potentially require improvement, given expected traffic flows and road conditions. Those are north of Gagle Brook School and south of the bus gate, known as Area 1 and the stretch of Charlotte Avenue from Gagle Brook school to the B4100, known as Area 2.
51. Charlotte Avenue is not currently adopted and therefore any road works cannot be undertaken by the appellant, or future developer, under a section 278 Agreement. Any necessary Charlotte Avenue improvement works would therefore be designed and executed by the Highways Authority once Charlotte Avenue is adopted. A proportionate contribution towards those necessary improvements is therefore sought. Having designed and costed the final schemes, if additional funds are required they would be sought from other developments impacting Charlotte Avenue.



52. At present the Highways Authority has not authorised any scheme design. However, its design and implementation will need to include consideration of Oxfordshire County Council's Street Design Guide, LTN1/20 Cycle Infrastructure Design and Manual for Streets 2, along with other relevant guidance. All would be expected to inform the design process. It would also be for the Highways Authority to ensure, to its satisfaction, that its design solutions accord with the hierarchy of road users and have regard to relevant policy. Exactly what the proposed improvements are, where they are targeted and how guidance informs the design and implementation process will be for the Highways Authority at that time.
53. The appellant has provided illustrative schemes to indicate how such improvements could be designed. Much concern was expressed regarding the detail of those schemes, including errors and incorrect measurements in the drawings along with non-compliance with LTN1/20 and other guidance. However, those schemes are for illustrative purposes only. They are not final design solutions. However, it will be for the Highways Authority to ensure that those matters inform any final design.
54. It is therefore not for me to consider the detailed design, which will be fully explored by Oxfordshire County Council when it designs and implements the necessary improvements. My consideration is confined to whether such improvements are possible in principle. I am aware that the Highways Authority, along with the Council consider that improvements, that would retain street trees, are possible.
55. Given the additional traffic associated with the proposed development, on-site conditions and the requirements of LTN1/20 and the Street Design Guide, which are guidance documents and need to be interpreted in relation to the specific circumstances of any proposal, I have no reason to take an alternative view on this matter. That is that the provision for pedestrians, cyclists and vehicles along Charlotte Avenue is suitable to accommodate the expected level of demand and in doing so non-motorised forms of transport can be prioritised.
56. In coming to this conclusion, I have taken account of nearby uses, the type of traffic anticipated, including larger vehicles near to Gagle Brook School, the proximity of a play space to Area 2, the Gagle Brook school and that there is an alternative cycle route that could be used, its constraints and that it would not be suitable for all cyclists and pedestrians.
57. For the purposes of calculating a proportionate financial contribution towards Charlotte Avenue improvements, Oxfordshire County Council costed the appellant's illustrative schemes. Given those illustrative schemes are suggested opportunities to achieve the necessary improvements, that is a proportionate and justified approach. If additional funds are required for the final improvement solutions those would be sought from other relevant future development in a proportionate manner.

#### *Gagle Brook School*

58. The Gagle Brook School Travel Plan 2019 confirms that the 2018 pupil intake is mostly from outside Elmsbrook. However, the appeal development would result in more children living closer to the school. It is likely therefore that the school would primarily accommodate those children. That is likely to reduce the

- number of parents driving to the school and increase those using more sustainable forms of transport, including walking and cycling.
59. In addition to pupils living closer to the school, the long term school Travel Plan target is for only 20% of pupils arriving at school by car. Measures in that Travel Plan are likely to result in a significant reduction in vehicle trips associated with the school during peak periods along Charlotte Avenue. That would be the case even if the Travel Plan target was not fully achieved.
60. Coming to the above conclusion, I have taken account of the school being the only One Planet school in the locality. However, due to the anticipated future increase in pupils living close to the school, it is unlikely to continue to be able to accommodate significant numbers of pupils from further afield.
61. It has been brought to my attention that the school has a NEST Special Resource Base to cater for pupils with special educational needs and/or disabilities. At present that facility draws children from a wider area than the rest of the school, including Oxford and Banbury as other local schools do not have that facility. I have limited substantive evidence on this issue. However, given the size of the school as a whole, this matter is unlikely to have a material impact on either the parking demand or traffic flows.
62. Further, for the same reasons, as a result of the appeal development a reduction in parking demand in the vicinity of the school is likely. Financial contributions have been requested to accommodate the expansion of the Gagle Brook School to accommodate development in North West Bicester. That will require planning permission and the need for any additional parking associated with that expansion will be fully considered at that time.
63. Overall, taking all these matters into account, I consider that the resultant traffic flows and parking demand as a result of the proposed development would not have a detrimental impact on the safety or convenience of school users, including staff, pupils and parents.
64. Whilst the appellant has not engaged specifically with the school, consultation during consideration of the appeal application and the appeal has enabled both parties to fully take account of each other's position on this matter.

#### *Alternative Access*

65. The appeal development proposes to take temporary construction access for the eastern parcel of the appeal site from the B4100 Banbury Road. Even though there are visibility constraints at this point, subject to a temporary Traffic Regulation Order (TRO) to reduce the speed limit on the B4100, neither the Highways Authority nor the Council has raised objection. Given the road conditions, the road's generally straight alignment at this point, and observed traffic flows, I have no reason to take an alternative view on this matter.
66. Objectors, including the R6 parties, have suggested that permanent access to the eastern parcel should be taken from this point. This may indeed reduce the amount of traffic that might access directly onto Charlotte Avenue from the eastern parcel. It may also deliver a scheme which provides a better walking and cycling environment. However, that scheme is not before me. I am tasked with assessing the appeal development, not other alternatives that may or may not be preferable.

67. In any event, the appellant produced drawings exploring the feasibility of providing permanent access from the B4100 to the eastern parcel. It considered none were suitable or deliverable, due to constrained visibility that would require a permanent Road TRO to reduce traffic speed on the B4100. The appellant takes the view that any TRO would be subject to consultation, the outcome of which is unknown. That would be a serious delivery risk. For that reason, the appellant has not included this access arrangement in the appeal application.

#### *Other Concerns*

68. There is concern that Oxfordshire County Council has not responded to objectors regarding the appeal application's supporting information and have made a number of errors in its assessment of the transport impacts. I have no reason to consider this to be the case. I am content that any necessary omissions or errors in the appeal application's supporting information have been rectified. The way in which the Council and Oxfordshire County Council dealt with the appeal application is a matter between the complainant and the Council or Highways Authority in the first instance. That includes Oxfordshire County Council's consideration of its Local Transport and Connectivity Plan 2022 in its decision making.

69. Concerns regarding the fairness of financial contributions from other development to the proposed bus service are not a matter for me. As the appellant's sensitivity testing was based on a 50% car use scenario, the impact of the bus provision not being in place at build out in 2031 has been reflected in the appellant's transport modelling. Given the transport modelling findings, whilst that may result in inconvenience for existing and future residents, the development would not result in unacceptable impacts in this regard.

70. Objectors suggest that Access D on to the western parcel is not 'a viable option' as no evidence is provided that the Highways Authority intends to adopt it. It is not totally clear what is meant by this. However, given the carriageway conditions and the proposed traffic flows, whether adopted or not, that access would not result in unacceptable highway impacts.

71. Taking all of the above into consideration, the proposed access arrangements would not have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. Generally the proposed development would promote active forms of transport, with particular regard to walking and cycling. In this regard the appeal development would accord with Local Plan policies SLE4 and Bicester1 and the North West Bicester SPD. In addition, it would accord with Oxfordshire County Council's Local Transport and Connectivity Plan 2022 policies 1, 2b, 8, 9, 11, 35, 45 and 46b, and Oxfordshire County Council's Tree Policy for Oxfordshire policies 11, 18, 19,20. Those policies, together, seek development that facilitates sustainable forms of transport, that reduce congestion and gas emissions, and do not have a severe traffic impact.

#### **Other Matters**

##### *Heritage*

72. Two listed buildings lie near to the appeal site. Those include the Church of St Laurence, which is Grade II\* and Home Farm, which is Grade II.

73. In respect of the Church of St Laurence, its significance is principally derived from its historic fabric. However, its setting also contributes its significance. The Church's immediate setting, including its church yard, trees and planting, make a positive contribution to that significance. Its wider setting, in which the appeal site lies, includes the rural agricultural land around. That makes a lesser contribution to its significance. Although views of the church tower can be appreciated from within the appeal site, any contribution the appeal site makes to the rural agricultural setting of the church is diminished by the existing development on the Exemplar Site, the adjacent B4100 road and intervening planting.
74. However, the appeal proposal would result in a substantial amount of development closer to the church. That would inevitably erode its rural agricultural setting. However, any impacts would be diminished through distance, the intervening road, trees and planting.
75. The appeal scheme would retain views of the church tower from the appeal site through the heritage corridor, which would be aligned on the church tower, and with built development and possibly trees on either side, it would draw views to the prominent tower and reinforce and frame that view. That is a heritage benefit of the proposal, which should be weighed against the identified harm. Taking the heritage benefits into account, the identified harm would rest at the lower end of less than substantial harm.
76. Home Farm includes a later altered and added to early 17<sup>th</sup> century farmhouse, which is grade II listed. Its significance is principally derived from its preserved architectural fabric and historic form. However, its setting also contributes to a lesser extent to that significance. That includes its immediate setting comprising its enclosed gardens and historic farm buildings, but also its wider setting which includes the surrounding agricultural land and the historic buildings within it, including the appeal site. Evidence of historic tenancies and ownerships linked to Home Farm indicate a historic functional relationship with the surrounding agricultural land. For this reason, the wider setting, in which the appeal site sits, contributes to the significance of the listed building.
77. However, the contribution of the appeal site to significance is diminished by the lack of a physical and visual link between the two due to a dense tree belt, which may be historic, dividing Home Farm and its immediate setting from the appeal site. Views from the appeal site of Home Farm are only afforded above the high and dense vegetation that surrounds it, which somewhat limits an appreciation of its historic functional relationship to its wider rural agricultural setting. Further that historic functional relationship is further diminished by the Exemplar Site which has introduced built development within the wider setting already.
78. The proposed development would change the open, rural character of the appeal site within Home Farm's wider setting. Design of new development sympathetic to Home Farm would help to reduce any harm by ensuring that development does not jarr. That could be controlled through a suitably worded planning condition. Overall, identified harm would be less than substantial at the lower end of that spectrum.
79. There are other heritage assets, both designated and non-designated within the locality, including Caversfield House (the Manor House) and village earthworks and RAF Bicester Conservation Area.

80. Caversfield House and the earlier structures associated with it, are non-designated heritage assets. They are surrounded by dense vegetation that contributes to their significance as a self-contained complex. Their wider rural and agricultural setting makes a positive contribution to that significance, within which the appeal site sits. Views of the structures at Caversfield House are limited from within the appeal site. Due to the lack of visual relationship, I have no reason to take an alternative view to that of the two main parties, that the appeal site makes a limited contribution to the significance of Caversfield House and the impact of the appeal development would be limited.
81. The significance of RAF Bicester Conservation Area is principally derived from its layout and development, collection of military buildings and historic connections to the aviation and wartime history. The wider setting of rural agricultural land contributes to its significance to a lesser extent. Given the separation distance, intervening landscape features and built form, the appeal site makes a very limited contribution to its significance as a heritage asset.
82. On the basis of the limited contribution that the appeal site makes to significance of Caversfield House and RAF Bicester Conservation Area, the harm identified to the group of heritage assets as a whole is not greater than that attributed to the two nearest listed buildings on an individual basis.
83. I have had regard to the green buffer along the B4100 and note that this is reduced in scale compared to the North West Bicester Masterplan. However, that masterplan is for guidance only and I have found that the appeal proposal in outline form is acceptable in this regard. For all the reasons set out above, the reduced green buffer does not in itself result in harm to the heritage assets in the locality, or indeed conflict with Local Plan policy ESD15, in this regard.
84. I have had regard to a previous Inspector's Decision brought to my attention (APP/C3105/A/13/2208385). That Decision is somewhat aged, related to a different site, nearer to Caversfield House and the RAF Bicester Conservation Area, and built development has taken place since. However, where relevant to this appeal, I have generally concurred with those findings.

#### *Public Benefits*

85. In accordance with paragraph 199 of the National Planning Policy Framework (NPPF), I accord great weight to the conservation of a designated heritage asset. I consider that the harm to the significance of the listed buildings and other heritage assets, when taken together, would be less than substantial at the lower end of that spectrum. That is a matter to which I attach considerable importance and weight. As identified in NPPF paragraph 202, that harm should be weighed against the public benefits of the appeal proposal.
86. In this regard, the appeal development would help to realise the aims of Local Plan policy Bicester 1 and North West Bicester SPD, to deliver North West Bicester Ecotown as set out in Local Plan policy Bicester 1 and the North West Bicester SPD. That is a central plank of the Local Plan's spatial strategy, and the appeal development would help to realise it. That is a benefit of the appeal development to which I attach significant weight in favour of the appeal.
87. The appeal development would provide 530 homes, including affordable housing. That would boost the Council's housing supply and help to address the shortfall in delivery since the beginning of the Plan period. It would help to



ensure sufficient number and range of homes are provided to meet the needs of present and future generations. The provision of homes is a benefit to which I attach substantial weight in favour of the appeal.

88. The appeal development would deliver a number of highway and public realm improvements, ensure safe pedestrian and cycle linkages to the surrounding and wider town networks and enhance linkages within the Ecotown. It would also enhance the accessibility of the Ecotown through the provision of a regular bus service. It would have many environmental benefits, including innovative environmental building fabric measures, 40% green space, over half of which would be public open space and 10% biodiversity net gain. However, most of those are policy requirements, which reduces the weight I attach to them.
89. The appeal development would provide for upgrades in local infrastructure, including education, health and community facilities. However, whilst those upgrades may be a benefit of the appeal they are required to mitigate its impacts, which reduces the weight I attach to them.
90. Overall, the public benefits of the appeal development, taken together, would outweigh the less than substantial harm that I have identified to heritage assets in the locality, when taken together. In that regard, the appeal development would accord with Local Plan policy ESD15. That policy seeks to conserve, sustain and enhance heritage assets and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and PPG.

#### *Building heights*

91. Development parameter plan 1 indicates maximum building heights across the site. Whilst the majority of the development would be lower, up to 12 metres above ground level, the area in the centre of the site on the principal access road would comprise buildings with a maximum height of 14 metres above ground level (up to three storeys). Ground levels at the appeal site are not expected to require extensive remodelling and therefore a 2 metre variation would provide a gentle and pleasing variation in height.
92. In addition, Charlotte Avenue and Braeburn Avenue, within the central core, are at present, and likely to continue to be, the public transport route. Therefore, to increase density and height slightly would be appropriate. It would generally accord with the North West Bicester SPD in this regard, which appropriately gives some flexibility in building heights enabling some deviation from the 12 metre height intended norm, in addition to higher buildings in local centres and along the strategic route through the site.

#### *Other Matters Raised*

93. Given my findings on the transport impacts of the appeal development, undue impacts on pollution, traffic congestion and emergency vehicle access, would not be a consequence. Related negative health and wellbeing impacts would not therefore result. Given road and traffic conditions and the temporary nature of the construction access to the western parcel, no unacceptable impacts would arise.
94. The appellant has provided evidence of some community engagement during the course of the appeal application and worked to resolve areas of dispute where appropriate and possible, generally in accordance with NPPF paragraph 132. Whilst it has not worked with all community organisations and some



issues of concern are before me to determine, that does not render the process that was undertaken invalid.

95. Given my findings on the substantive issues in this appeal, on the basis of the evidence supporting the appeal taken in the round, alongside necessary planning conditions and legal Agreement provisions, Ecotown requirements would overall not be degraded.
96. Some consider the density too high. However, it would accord with adjacent development and help deliver Local Plan Bicester 1. Drainage would be dealt with at a later stage of the development process.
97. The Church of St Laurence has indicated the need for a car park to ensure its future survival. In this regard, I have limited substantive evidence on that point. Neither have I evidence to satisfy me that such a proposal would be required to make the appeal development acceptable in planning terms.
98. Sport England has not raised objection to the appeal development. That includes the use of a Multi-Use Games Area on the Elmsbrook site. Given the proximity of that facility, I see no reason to take an alternative view to that of the Council and Sport England.
99. In coming to my conclusions on this appeal I have had due regard to the aims expressed in S149(1) of the Equality Act 2010. This has included my consideration of people using motorised and non-motorised modes of travel.
100. I recognise that some of my findings on this appeal will be disappointing to those opposing the development. However, the views of local people, very important though they are, must be balanced against other considerations, including national and local planning policy. In coming to my conclusions on the various issues that have been raised, I have taken full and careful account of all the representations that have been made, which I have balanced against the provisions of the Development Plan, the NPPF and other material considerations.

### **Legal Agreement**

101. An executed S106 Agreement (legal Agreement) is before me. Whilst the Council has confirmed that it is satisfied with its contents, for its provisions to be given weight in the determination of this appeal, I am required to assess whether they are necessary to make the proposed development acceptable in planning terms, directly related to the proposed development and fairly and reasonably related in scale and kind.
102. There is an evidenced need for affordable housing in the District. Policy requirements are set out in Local Plan policy BSC3 and, in relation to this site policy Bicester 1. Together, those require 30% affordable housing, subject to viability. However, the appellant has proposed 10% affordable housing, adjusting the developer return accordingly in line with my findings on viability.
103. The legal Agreement includes provisions to secure the design, location and timing of the affordable housing offer in addition to the mechanics of its provision to ensure that it fits the Government's definition.
104. In addition, it includes a mechanism to secure an upwards only review mechanism, which would give the Council an opportunity to capture the

possible shortfall in provision should the viability picture change at build out. That mechanism would ensure any provision would be directly proportionate to the overall scale of development. Therefore, in this respect the provisions meet the above tests and weigh in favour of the appeal.

105. Provisions to secure a True Zero Carbon development are required to deliver the aims of Local Plan policy Bicester 1 along with the detailed requirements of policies ESD1-5 for the reasons set out earlier in my Decision.
106. The legal Agreement includes provisions to secure financial contributions for infrastructure aimed to mitigate the impacts of development. In each case, a need is identified, a policy referred to, the way in which the contribution has been calculated explained, and a project where the money would be spent identified. Contributions where relevant are calculated in accordance with the Council's Developer Contributions SPD. Therefore, I am satisfied that in each case the financial contributions sought would meet the relevant tests set out above.
107. Those sought by the Council include contributions towards health provision, neighbourhood policing, provision of a community building, its maintenance and support for a Local Management Organisation, a burial ground contribution, and provision and maintenance of sports pitches, indoor sport provision, open space, play areas, allotments, and their maintenance. Provisions also set out requirements for green space, its provision and maintenance along with management for the green and open space and sports facilities. Together those contributions would be necessary to meet the requirements of Local Plan policies Bicester 1 and INF1. Together those policies require infrastructure to address the needs of the development.
108. Financial contributions required by Oxfordshire County Council include those for the full range of education provision, household waste and recycling provision, library provision, strategic highway improvements to the A4095, junction improvements to the Charlotte Avenue/B4100 junction, pedestrian/cycle infrastructure improvements between the appeal site and Bicester town centre, bus service contribution, improvements to Charlotte Avenue, public rights of way improvements, and pedestrian/cycle bridge upgrades over the Gagle Brook. Those requirements will further the aims of Local Plan policy INF1, Bicester 1 and meet the aim of North West Bicester SPD. Provisions also set out the mechanisms by which highway works will be delivered and the protection of street trees, necessary to ensure a high quality development.
109. Provisions within the legal Agreement also require local sourcing of labour, including providing apprenticeships during construction. That is necessary to secure sustainable economic growth. The requirement has been calculated in accordance with the Developer contributions SPD and in that respect would meet the requirements of Bicester 1 and the North West Bicester SPD.
110. The legal Agreement is complex given the number of contributions and sought, affordable housing review mechanisms, True Carbon Zero provisions, and Ecotown standards. Therefore, a monitoring charge is justified in relation to both the Council and Oxfordshire County Council requirements, including the Travel Plan.

## Conditions

111. A list of suggested planning conditions was discussed at the Inquiry and an agreed list produced by the two main parties with input from both R6 parties. Those conditions generally accord with national policy and guidance<sup>4</sup>. A list of planning conditions to be imposed is set out in Annex C.
112. Conditions are necessary to identify the period within which development is to commence, ensure that reserved matters are submitted, confirm the time scale for submission of reserved matters, specify approved plans and ensure that full details of internal roads are submitted. Those are all required to ensure certainty in the planning process and consistency with national policy and guidance.
113. Conditions to limit the maximum number of units to be built along with those accessed from accesses A and B (as set out on drawing 4600-1100-T-041 Rev A) are necessary to ensure that the environmental and traffic impacts of development are acceptable. A restriction on the development footprint and raising ground levels is necessary to reduce the risk of flooding, both on and off-site. For the same reason, details of finished floor levels are required at reserved matters stage.
114. To ensure the proper phased implementation of the development and associated infrastructure a pre-commencement phasing condition is necessary. I have modified this to remove agreement with an alternative scheme and ensure that the phasing plan is approved prior to the submission of the first reserved matters application. Those changes are necessary to ensure that the condition works effectively and is enforceable and precise.
115. A condition requiring a design code is necessary to ensure a quality development. A condition requiring a sustainability strategy to include rainwater harvesting and recycling, climate adaptation infrastructure, and enhanced planting, including fruit trees in gardens, will ensure a scheme that mitigates the impacts of climate change and in the interests of sustainability. I have modified this to give greater certainty that its requirements are delivered.
116. The requirement for a zero carbon strategy that accords with the hierarchy set out in Local Plan policy Bicester 1 and ESD1-5 along with the North Bicester SPD, is necessary to ensure a True Zero Carbon development. Whilst the listing of policy and SPD requirements does not affect their implementation, a defined hierarchy in relation to their application will aid understanding.
117. A surface water drainage scheme is required to reduce the risk of flooding and to promote the use of sustainable urban drainage systems. It will also ensure maintenance and efficient use and management of water within the site and ensure the quality of the water entering receiving water. A condition requiring a flood risk assessment to accompany any watercourse crossing is necessary to prevent flooding.
118. To ensure that the proposals deliver an appropriate amount and variety of habitats and support the biodiversity net gain opportunities and to limit the volume and rate of water leaving the site, a biodiversity net gain strategy is necessary. A landscape and biodiversity management plan will ensure its long term management.

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<sup>4</sup> Paragraphs 55 and 56 of the Framework and PPG including paragraph 21a-003-20190723

119. A Construction Environmental Management Plan is required to mitigate environmental impacts during construction. Ground investigation works are necessary to minimise risks from land contamination. A foul water strategy is required to ensure wider water quality. An updated Great Crested Newt survey will ensure that species of importance are protected. A condition controlling the removal of hedgerows, trees and shrubs will conserve the natural environment. Submission of hard and soft landscape details, including details of tree planting and tree retention are required to ensure a high quality development, along with control of planting timing and future maintenance.
120. Conditions requiring archaeological investigation, evaluation and mitigation are necessary to preserve and interpret the appeal site's archaeology. That would include all archaeology likely to be impacted by the appeal development. Conditions to manage any contamination and ensure remediation are required in the interests of public safety and the environment.
121. To ensure a high quality development all services should be underground where possible. Noise attenuation measures are required to ensure acceptable living conditions for future occupiers. A retention clause would not be overly onerous for future occupiers.
122. Provision of high quality broadband infrastructure is required to facilitate energy monitoring, travel and home working changes, which is necessary to ensure a sustainable community. A condition to control the timing of water network upgrades is necessary to ensure sufficient water capacity for the proposed development.
123. A condition requiring measures to restrict water consumption to a target of 110 litres per day is necessary given that the appeal site is in a water stress area. That requirement is set out in Local Plan policy ESD3. Whilst the North West Bicester SPD indicates a higher target, that is not set out within the Development Plan. Whilst other schemes in the North West Bicester Masterplan Area may have met a higher target, I am making my decision on the basis of the evidence before me on this appeal.
124. A travel plan will promote non-car modes and active forms of travel, along with real time energy and travel information. An external lighting strategy will help to deliver a high quality development. A waste strategy will ensure appropriate waste management along with provision of household bins.
125. The addition of a condition requiring details of advanced infrastructure works would not be necessary, given the requirement for a phasing plan which could define advanced infrastructure works. I consider the implementation of such a condition would significantly complicate the discharge of the conditions as a whole. Given that finding no associated alterations to other conditions are required, as suggested by the appellant.
126. The list of conditions includes a number of pre-commencement conditions. Those are agreed between the Council and appellant for the purposes of section 100ZA and regulation 2 of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018. In each case they are required pre-commencement as they are fundamental to the acceptability of the proposed development.

## Planning Balance

127. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out, that if regard is to be had to the Development Plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the Plan, unless material considerations indicate otherwise. In this case, I have no reason to determine that regard should not be had to the Development Plan.
128. The main parties have agreed that for the purposes of this appeal, the Council can demonstrate a five year housing land supply. Given the evidence that underpins the identified supply, I have no reason to take an alternative view on this matter. I apply the appropriate planning balance on this basis.
129. I have found that the appeal development would not viably be able to provide 30% affordable housing in accordance with Local Plan policies BSC3 and Bicester 1. However, given my findings on viability, I am content for the reasons given earlier, that no policy conflict would result. In any event, with the review mechanisms in place, secured through the legal Agreement, a higher level nearer the 30% may yet still be achieved.
130. Through provisions in the legal Agreement and an appropriately worded planning condition, effective mechanisms are in place to ensure that the appeal scheme delivers a True Zero Carbon development. Mechanisms would ensure that each phase of the appeal scheme would be supported by a zero carbon strategy, which sets out how zero carbon would be achieved. Together with the legal Agreement provisions, a True Zero Carbon development would be delivered. In this regard no conflict with Local Plan policies Bicester 1 and ESD1-5 or the North West Bicester SPD would result.
131. Less than substantial harm would result to the heritage assets in the locality through development within their setting. That harm would be at the lower end of that spectrum; a finding that would be unaffected when assessed on a cumulative basis taking the Church of St Laurence, Home Farm and Caversfield House into account as a group. I have set out that the harm identified would be outweighed by the public benefits of the appeal development. Therefore, I find no conflict with Local Plan policy ESD15.
132. The proposed access arrangements would not have an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe. Generally, the proposed development would promote active forms of transport, with particular regard to walking and cycling. In this regard the appeal development would accord with Local Plan policies SLE4 and Bicester1 and the North West Bicester SPD.
133. A legal Agreement is in place with provisions to ensure, amongst other things, that the impacts of development are appropriately mitigated. The appeal development would therefore deliver on Local Plan policy Bicester 1 and INF1 in that regard.
134. Overall, on the basis of my findings on the substantive issues in this case, the appeal development would accord with the Development Plan when read as a whole. I consider that the other material considerations raised in this case, indicate that this appeal should not be determined other than in accordance with the Development Plan. The appeal therefore should succeed.

**Conclusion**

135. For the reasons given above, I conclude that the appeal should be allowed and planning permission should be granted, subject to the conditions set out in Annex C to my Decision.

R Barrett

INSPECTOR



**Annex A  
APPEARANCES**

FOR THE APPELLANT:

Zach Simons and Barney Mc Cay of Counsel	Instructed by Juliet Munn Town Legal
Jonathan Riggall BSc (Hons) MSc MIEnvSc CES FRGS CG	Technical Director Aether
Nicholas Fell LLB (Hons) PGDip MRICS	Partner Rapleys
Mark Kirby BTEC MSc	Director Velocity Transport Planning
Hannah Leary BA (Hons) DiP TP MRTPI	Director Barton Wilmore now Stantec
Juliet Munn for S106 RTD	

FOR THE LOCAL PLANNING AUTHORITY:

Stephanie Hall and Shemuel Sheikh of Counsel	Instructed by Andrew Maughan, Planning Solicitor Cherwell District Council
Those who submitted proofs were available to the Inquiry on the first day. They include:	
James Sheldon MA Hons Meng (Cantab) MSc Hons	
Ian Tarbet BSc	
Nigel Simkin MA (Oxon) MA (Dist) MRICS MRTPI	
Patrick Moss BSc (Hons) DipTP MRTPI	
Jon Goodall MA (Cantab) MSc MRTPI	
James Clark Wombles Bond Dickinson	
Caroline Ford and Thomas Webster for legal Agreement and conditions discussion Richard Oliver and Joy White for Oxfordshire County Council for legal Agreement discussion	

FOR NWBA:

Robert Fellows	
David Miles Mason MBA BSc (Hons) CEng MICE DipEM	Director DM Mason Engineering Consultants Ltd,

FOR BBUG:

Peter Turner	
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INTERESTED PARTIES:

Reverend Peter Wright	Bicester Team Ministry of St Laurence Church
Rhianna Dearden	Local Resident
Cory Johnson	Local Resident
Catherine Hickman	Local Resident
Sarah Nolan	Local Resident
Raghav Narula	Local Resident
Brigitte Hickman	Local Resident and representing Windrush Bike Project
Safak Bennett	Local Resident
Therese Gear	Local Resident
Doug Torrent	Local Resident
Paul Troop	Local Resident

## **Annex B Inquiry Documents**

- IQ1 Appellant opening and list of appearances
- IQ2 Council list of appearances
- IQ3 Evidence ET-9 statement from Gagle Brook Primary School and Chair of Governors submitted by NWBA
- IQ4 Draft section 106 Agreement
- IQ5 Council revised Statement of Case V2
- IQ6 Signed Planning SoCG between appellant, Council, and R6s dated 6 June 2023, signed 7 June 2023
- IQ7 Updated Housing Land Supply SoCG between Council and appellant dated 17 May 2023 (previously submitted as CD 10.5)
- IQ8 Council opening
- IQ9 BBUG opening
- IQ10 List of suggested planning conditions (v1)
- IQ11 Addendum to Council's CIL compliance statement
- IQ12 Development appraisal Highgate Land and Development dated 7 June 2023 and North West Bicester s106 contributions and indexation at May 2023
- IQ13 NWBA opening
- IQ14 List of suggested planning conditions (v2)
- IQ15 Addendum to Council's CIL compliance statement
- IQ16 Appendix to Addendum to Council's CIL compliance statement 'Planning for LMO for the new community at North West Bicester (Oct 2012)'
- IQ17 Addendum to Oxfordshire County Council's CIL compliance statement
- IQ18 Hand written note from Brigitte Hickman
- IQ19 Email from Council dated 12 June 2023 regarding a suggested levels condition and appellant's emailed comment in this regard dated 13 June 2013
- IQ20 Updated copy of Drawing Reference: 4600-1100-T-041 Rev A with access A and B labelled (in relation to suggested condition 8)
- IQ21 Hard copy of highway plans on which approval is sought

- IQ22 Bundle of 9 statements from interested parties who spoke to the Inquiry on morning of 14 June (Ms Dearden; Ms C Hickman, Ms Nolan; Mr Narula; Ms B Hickman; Mr Bennett; Ms Grear; Mr Torrent; Mr Troop)
- IQ23 Appendices and plans to agreed legal Agreement
- IQ24 Final version of legal Agreement
- IQ25 Mr Turner Evidence in Chief
- IQ26 Final list of suggested planning conditions (v3) and non tabulated version
- IQ27 Addendum 2 to Oxfordshire County Council's CIL compliance statement
- IQ28 BBUG closing statement
- IQ28A NWBA closing statement
- IQ29 Council closing statement
- IQ30 Appellant closing statement
- IQ31 Executed legal Agreement

## **Annex C**

### **Schedule of Planning Conditions**

#### **1. Reserved Matters**

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

#### **2. Reserved Matters - Access**

No development shall commence on any phase until full details of the internal access roads (including footway and cycleway links between the land, the local highway network and adjacent parcels) for that phase have been submitted to and approved in writing by the Local Planning Authority.

#### **3. Time Limit for First Reserved Matters**

In the case of the reserved matters, application for approval shall be made for the first phase of development not later than the expiration of three years beginning with the date of this permission.

#### **4. Time Limit for Remaining Reserved Matters**

In the case of all other reserved matters, in respect of subsequent phases, application for approval shall be made not later than the expiration of five years beginning with the date of this permission.

#### **5. Time limit for Implementation**

The development to which this permission relates shall be begun not later than the expiration of two years from the approval of the first residential phase reserved matter. For all subsequent phases, development of a phase shall commence not later than the expiration of two years from the approval of reserved matters for that phase or, in the case of approval of reserved matters on different dates, the final approval of the last reserved matters to be approved for that phase.

#### **6. Approved Drawings**

Except where otherwise stipulated, the development hereby permitted shall be carried out in accordance with the following approved plans and documents:

- i. Development Parameter 1: Maximum Building Heights and Footprint (Drawing ref: 003 Rev N)
- ii. Development Parameter Plan 2 Green Space (Drawing Ref: 003 Rev N)
- iii. Development Parameter Plan 3: Access and Movement (Drawing Ref: 003 Rev M)
- iv. Site Location Plan (Drawing Ref: 001 Rev J)
- v. Access drawings:
  - Site access A – Access to Eastern Parcel (4600-1100-T-040 Rev A)
  - Site accesses A&B – Access to Eastern Parcel and Western Parcel (south) (4600-1100-T-041 Rev A)
  - Site access C – Access to Western Parcel (north) (4600-1100-T-042 Rev A)

- Site access D – Direct Access to North of the Western Parcel (4600-1100-T-010 Rev B)
- Site access E – Proposed Construction Access (4600-1100-T-011 Rev F)
- Construction Access Western Parcel (4600-100-T-027 Rev B)
- Proposed Pedestrian Crossing to Church (4600-1100-T-004 Rev D)

The Development Parameters Schedule and Plans (Ref. V6.1) dated 16 December 2022 also forms part of the permission in setting parameters and principles of the permission.

## **7. Maximum Number of Units**

No more than 530 dwellings falling within Use Class C3 shall be constructed on the site.

## **8. Number of Units via Accesses A and B**

No more than 69 dwellings shall be constructed on the western parcel to be accessed from Access B (Drawing Ref: 4600-1100-T-041 Rev A) and there shall be no vehicular access into or between the rest of the western parcel beyond those dwellings. No more than 138 dwellings shall be constructed on the Eastern Parcel to be accessed from Access A (Drawing Ref: 4600-1100-T-041 Rev A).

## **9. Ground Levels**

There shall be no residential development or raising of existing ground levels within the areas identified in the 1 in 100 plus 'higher' change event, as shown in Appendix A of letter reference L01/205550D/NB dated 04 February 2022, from Vectos Limited to Environment Agency.

## **10. Finished Floor Levels**

Any reserved matters application/s shall include details of the finished floor level of all residential units which shall be set at 300mm above the expected 1% annual probability flood level with the appropriate allowance for climate change.

## **11. Phasing Plan**

Prior to, or at the same time as the submission of the first reserved matters application, a phasing plan covering the entire site the subject of this application, shall be submitted to the Local Planning Authority and approved prior to the submission of the first reserved matters application. Each reserved matters application shall thereafter refer to a phase, phases or part thereof identified in the approved phasing plan. The development shall be carried out in accordance with the approved phasing plan unless a further phase specific planning application is submitted and approved by the Council in substitution for that part of the approved development.

## **12. Design Code**

Prior to, or at the same time as the submission of the first residential reserved matters application, a Design Code shall be submitted to the Local Planning Authority for approval thereafter. The Design Code shall include, but shall not be limited to, information relating to:



- a. The creation of character areas, neighbourhoods, development parcels and unifying features common across the wider development;
- b. Key views, vistas and landmarks;
- c. Primary and secondary streets and access points to create an appropriate hierarchy of routes based on sustainable travel hierarchy of walking, cycling, public transport and the car;
- d. Landscape character, landscape types, green infrastructure, amenity spaces, public open space, play areas including their distribution;
- e. A strategy of the design and delivery of the green and blue infrastructure;
- f. Crime prevention and community safety

All reserved matters applications shall be made in accordance with the approved Design Code and the development shall thereafter be carried out in accordance with the principles of the approved Design Code.

A Design Code Compliance Statement shall be submitted as part of each residential reserved matters application.

### **13. Sustainability Strategy**

Prior to or concurrently with the submission of a Reserved Matters application for a phase other than a phase specifically relating to infrastructure works, a sustainability strategy shall be submitted detailing how the development will achieve additional measures relating to adapting to climate change and water resource efficiency as defined across Local Plan Policies ESD 1 to 5. Such measures shall include:

- Rainwater harvesting and recycling infrastructure to support water neutrality;
- Climate adaptation infrastructure including enhanced ventilation measures for dwellings and permeable paving; and
- Enhanced planting including private fruit trees in gardens.

The development of a phase shall be carried out in accordance with the approved details for that phase and the measures approved shall be implemented prior to occupation.

### **14. Zero Carbon Strategy**

Each reserved matters application for a phase of the development, shall include a Zero Carbon Strategy for that phase. The Strategy shall be informed by, but not limited to, the contents of the Outline Energy Statement (prepared by Stantec, March 2021) and address the requirements of Policy Bicester 1, the North West Bicester SPD (2016) and Policies ESD1 – ESD5, and must include details of the following (as a minimum):

- (1) An energy demand assessment which:
  - a) specifies thermal performance standard and estimates total energy demand in kWh/year. This can be calculated using Standard Assessment Procedure for residential buildings version 10.2 June 2023 or any subsequent version (SAP) or other software tools approved under the Notice of Approval or agreed in writing by the District Council, that calculates energy demand based on information provided, including construction materials, insulation levels, choice of fuel for heating and efficiency and control of heating systems.
  - b) estimates hot water demand in kWh/year.

- c) estimates regulated and unregulated residential electrical demands (kWh/year). Regulated demand can be calculated using SAP or SBEM as above. Unregulated demand should be estimated using best practice benchmarking and referencing suitable historic demand data.
- (2) Energy demand reduction proposals, which:
  - a) provides details of how energy demand will be reduced through design and specification and the estimated carbon savings. and quantifies this reduction in kWh/year.
  - b) provides details on how the developer proposes to balance ensuring good insulation and air tightness to minimise heat loss in the winter months, and potential overheating in the summer months.
- (3) An energy generation strategy which:
  - a) specifies energy generation technologies to be included within the approved development and their outputs in kWh/year (including efficiencies and coefficient of performance)
  - b) specifically for photovoltaics, provides the estimated area of panels and locations
  - c) for gas CHP, provides the separate heat and power outputs and efficiencies and the heat : power ratio as well as the overall efficiency of the plant
  - d) provides details of thermal storage if applicable
  - e) provides details of back and peak boilers if applicable
  - f) provides details of predicted losses, such as distribution losses
- (4) A Carbon balance which:
  - a) utilises the fuel Carbon factors contained in the SAP current at the date of submittal of each reserved matters application
  - b) provides a spreadsheet demonstrating that the overall carbon balance for the development is zero or below
- (5) The anticipated annual carbon tonnage of the Development
- (6) SAP or other software tools approved under the notice of approval analysis for each individual property
- (7) daylighting analysis showing how all residential properties achieve both of the following:
  - a) kitchens to achieve a minimum Average Daylight Factor of at least 2%
  - b) all living rooms, dining rooms, studies and home offices to achieve a minimum Average Daylight Factor of at least 1.5%
- (8) detailed photovoltaic area schedule
- (9) assessment of over shading, either from adjacent buildings or from trees, and the consequent building by building effect on photovoltaic output (kWh/year)
- (10) overheating assessment using the Chartered Institution of Building Services Engineers(CIBSE), Technical Memorandum 52(TM52) or any subsequent amendment to the memorandum for non-domestic, and CIBSE Technical Memorandum 59 (TM59) or any subsequent amendment to the memorandum for domestic properties as the methodology and including modelling of 2050 climate scenarios
- (11) details of back up boilers, peak boilers, sizing of plant, thermal storage capacity and district heating efficiencies

If the submitted scheme demonstrates that True Zero Carbon cannot be achieved on that phase as defined within Policy Bicester 1 and the North West Bicester SPD (2016) to the Local Planning Authority's satisfaction, a carbon offsetting scheme shall be submitted to and approved in writing by the Local Planning Authority which sets out how further zero carbon measures can be achieved on site or off-site, to the Local Planning Authority's satisfaction.

The Zero Carbon Strategy and any approved carbon offsetting scheme shall be approved as part of the reserved matters application (s) for each phase and each phase shall be implemented in accordance with the relevant approved details.

### **15. Surface Water Drainage Scheme**

Each reserved matters application for a phase shall be accompanied by a detailed Surface Water Drainage Scheme for that phase which sets out how it complies with the outline drainage strategy and its principles outlined in the submitted Flood Risk Assessment and Surface Water Drainage Strategy prepared by Vectos dated April 2021 (Issue 3). For each phase, the Surface Water Drainage Scheme shall be accompanied by details of the sizing of features and their attenuation volumes, infiltration in accordance with BRE365, detailed drainage layout with pipe numbers, SUDS and drainage calculations, plus a maintenance plan for all drainage features, which shall include timings of the implementation of the plan, long term objectives, management responsibilities, maintenance schedules and procedures for dealing with the failure of any part of the system. No development of a phase shall commence until the detailed Surface Water Drainage Scheme has been approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved scheme.

### **16. Biodiversity Net Gain Strategy**

Prior to the commencement of development a site-wide Biodiversity Net Gain (BNG) strategy (incorporating a calculation) for the development shall be submitted to the Local Planning Authority and approved in writing. Each reserved matter application shall be accompanied by a BNG compliant statement setting out how the proposed phase of development will contribute to achieving a site-wide BNG target of at least 10%, in order to ensure that whilst there may be variation in the BNG calculation on a phase-by-phase basis, the site-wide target is achieved upon completion of the scheme.

The proposed biodiversity enhancement measures shall be implemented in accordance with the approved details and shall be managed and maintained for a minimum period of 30 years in accordance with a Biodiversity Enhancement Management Plan which should form part of the Landscape and Biodiversity Management Plan required under Condition 26.

### **17. Watercourse Crossing**

Any reserved matters application which includes a new or amended crossing of a watercourse (excluding pedestrian) shall include a Flood Risk Assessment and detailed design drawings of the crossing that demonstrates that there will be no increase in flood risk or adverse effect on flood flow up to and including an appropriate allowance for climate change.

### **18. Construction Environmental Management Plan (CEMP)**

No development shall take place until a site wide Construction and Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Local Planning Authority. The CEMP shall include:

- a. Soil Handling and Earthworks Strategy
- b. Dust Management Plan;
- c. Protection of water resources

- d. Protection of species and habitats (including arrangements for a site walkover survey undertaken by a suitably qualified Ecologist, including for badgers);
- e. Arboricultural Method Statement undertaken in accordance with BS:5837:2012
- f. Carbon Reduction Strategy (which outlines how embodied carbon will be reduced)
- g. Emergency Planning and Incidents Response
- h. Construction Traffic Management Plan (CTMP)
- i. Waste Management
- j. Details of site compounds, offices temporary fencing and lighting.
- k. Delivery and construction working hours
- l. Details of site management practices for contractors and visitors
- m. Wastewater strategy.

The approved Construction Environment Management Plan shall be adhered to throughout the construction period for the development.

### **19. Ground Investigation Works**

No development shall take place until the ground investigation works outlined at Section 10 of the Desk Study and Site Investigation report dated 16 April 2021 (doc ref. 13603-HYD-XX-XX-RP-GE-1000) have been carried out and a report detailing the outcomes of the further ground investigation works, any required phasing, any risks from contamination and/ or gas, any radon protection measures and a remediation strategy where required shall be submitted to and approved in writing by the Local Planning Authority.

### **20. Foul Water Strategy**

No development shall commence within each phase of development other than a phase specifically relating to infrastructure works until a Foul Water Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The strategy should include:

- a) Coloured plan to show the different foul and surface water sewers;
- b) Routes of all sewers for that phase;
- c) A delivery programme for the works
- d) Provision for inspection by the Local Planning Authority.

The Strategy for each phase as approved shall be constructed and completed in accordance with the approved plans/specification for their phased delivery.

### **21. Great Crested Newts**

No development shall take place on any phase (or the Advanced Infrastructure Works) until an updated survey for Great Crested Newts, has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where required, a mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing and shall thereafter be implemented in accordance with the approved Strategy.

### **22. Protection of Nesting Birds**

No removal of hedgerows, trees or shrubs, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has otherwise confirmed in writing that such works can proceed, based on the submission of a

recent survey (no more than 1 week before works commence) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

### **23. Archaeological Written Scheme of Investigation (WSI)**

No development shall take place on the land identified for archaeological excavation (as set out within the Archaeological Assessment (April 2021) provided in Appendix 11.2 of the Environmental Statement) until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority.

### **24. Archaeological Evaluation and Mitigation**

Following the approval of the Written Scheme of Investigation, referred to in Condition 23, and prior to the commencement of the development other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years from the completion of the archaeological fieldwork.

### **25. Trees and Landscaping**

No development of a phase shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the landscape design within that phase which shall include:-

- (a) Details of the proposed tree and shrub planting including their species, number, sizes, positions and planting densities (where appropriate), and tree planting pits together with grass seeded/turfed areas,
- (b) Details of the existing trees and hedgerows to be retained, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) Details of the hard surface areas, pavements, pedestrian areas, crossing points and steps including the final surfacing thereof.
- (d) Details of SUDs features including proposals for lining features to retain water
- (e) Details of any proposed changes in levels
- (f) Details of the design and construction of bridges within areas of open space

### **26. Landscape and Biodiversity Management Plan**

No development shall commence on a phase until a Landscape and Biodiversity Management Plan (LBMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter the LBMP shall be implemented in accordance with the approved details.

### **27. Timing of New Planting**

All planting, seeding or turfing comprised in the approved details of landscaping for each phase, phases or part thereof (as set out within the Phasing Plan approved under Condition 11) shall be carried out in the first planting and seeding seasons

following the occupation of the building(s) and shall be maintained for a period of 5 years from the completion of each phase, phases or part thereof. Any trees and/or shrubs which within a period of five years from the completion of each phase, phases or part thereof die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

## **28. Contamination**

If contamination is found during the development/construction phase, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development within that phase shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring.

## **29. Remediation Statement**

Where remediation is identified by the report required by Condition 28, any works specified within the remediation statement for that phase shall be completed, and a verification report submitted to and approved in writing by the Local Planning Authority prior to the first occupation of development in that phase.

## **30. Provision of Services**

All services serving the proposed development shall be provided underground unless details of any necessary above ground service infrastructure, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), have first been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development that they serve, the above ground services shall be provided on site in accordance with the approved details.

## **31. Noise Attenuation**

The development shall be carried out in accordance with the mitigation measures identified in the document titled 'Noise Assessment' dated 13th April 2021 prepared by Tetra Tech (provided in Appendix 8.1 of the Environmental Statement).

## **32. High Speed Broadband**

No dwelling shall be occupied until it has been provided with service connections capable of supporting the provision of high-speed broadband from the building to the nearest broadband service connection outside the site.

## **33. Water Network Upgrades**

With respect to the water network, no occupation beyond the 49th dwelling shall be made until confirmation has been provided to the Local Planning Authority that either:

- a. all water network upgrades required to accommodate the additional flows to serve the development have been completed; or-



- b. a development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan.

#### **34. Water Consumption**

The residential development shall be constructed so as to meet as a minimum the higher Building Regulation standard for water consumption limited to 110 litres per person per day.

#### **35. Framework Travel Plan**

Prior to the first occupation of the development a Framework Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note 'Using the Planning Process to Secure Travel Plans' and which includes a target for at least 50% of trips originating within the development to be made by non-car means with the potential for this to increase over time to at least 60% shall be submitted to and approved in writing by the Local Planning Authority. The Framework Travel Plan shall thereafter be implemented in accordance with the approved details.

#### **36. External Lighting Strategy**

Prior to the first occupation of any building within a phase, an external lighting strategy (including management and maintenance) for that phase shall be submitted to and approved in writing by the Local Planning Authority. The external lighting approved shall be implemented and made operational prior to the occupation of any building in that phase.

#### **37. Waste Strategy**

Prior to the occupation of any phase of the development, a waste strategy, setting targets for residual waste levels, recycling levels and landfill diversion and which identifies measures to facilitate waste reduction and recycling for commercial occupiers of that phase shall be submitted to and approved in writing by the Local Planning Authority. The waste reduction measures shall be implemented in accordance with the approved strategy.

#### **38. Household Waste Bins**

Each dwelling shall be provided with household waste bins prior to its first occupation.

#### **39. Real Time Energy and Travel Information**

Each dwelling hereby approved shall be provided with real time energy and travel information prior to its first occupation. Details of the provision for each phase shall be submitted to the Local Planning Authority and agreed in writing prior first occupation of that phase.

*End of List of Planning Conditions*