

Agenda Item 9
21/03426/OUT

**Land Opposite Hanwell Fields Recreation
Adj To Dukes Meadow Drive
Banbury**

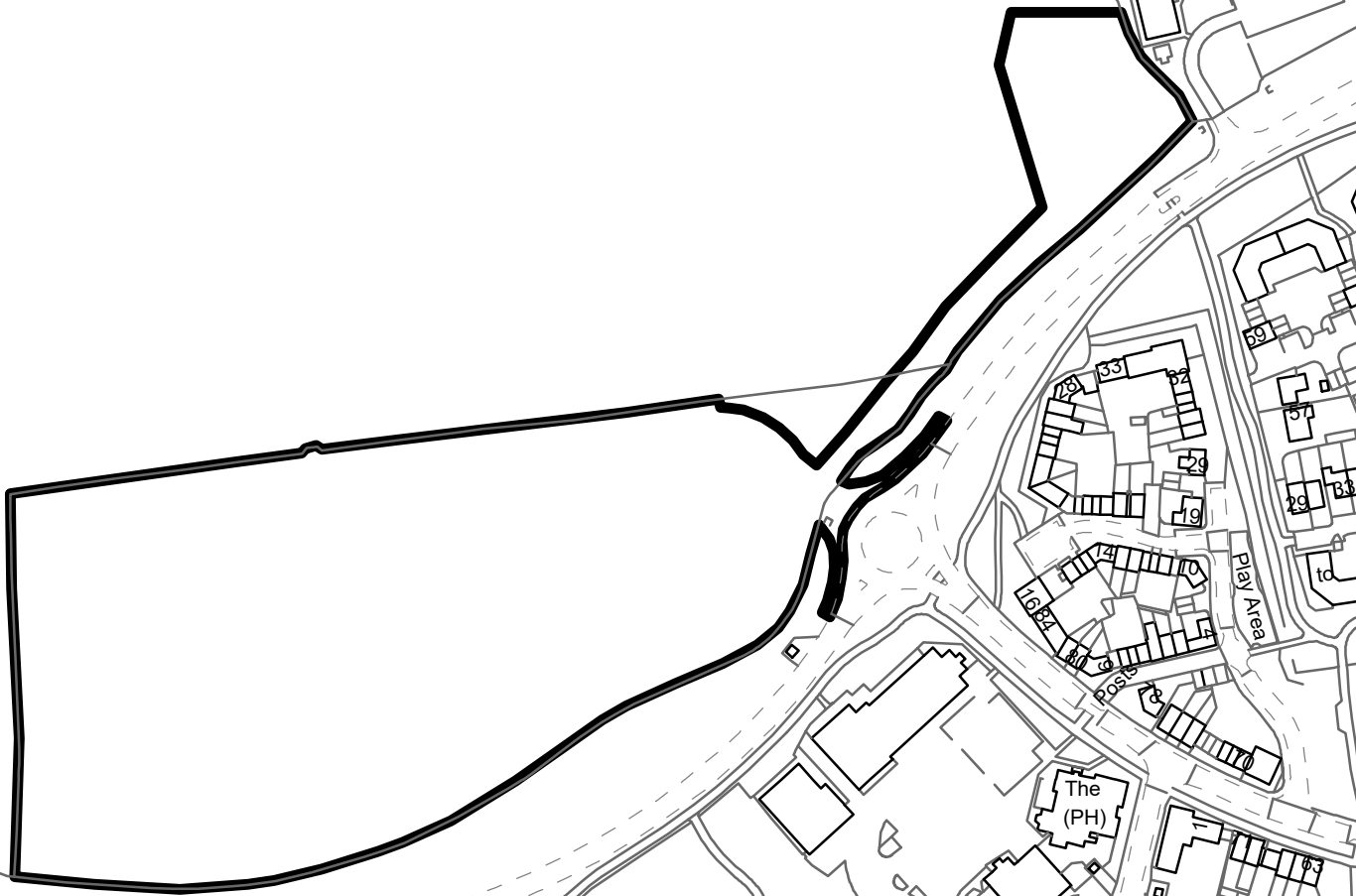


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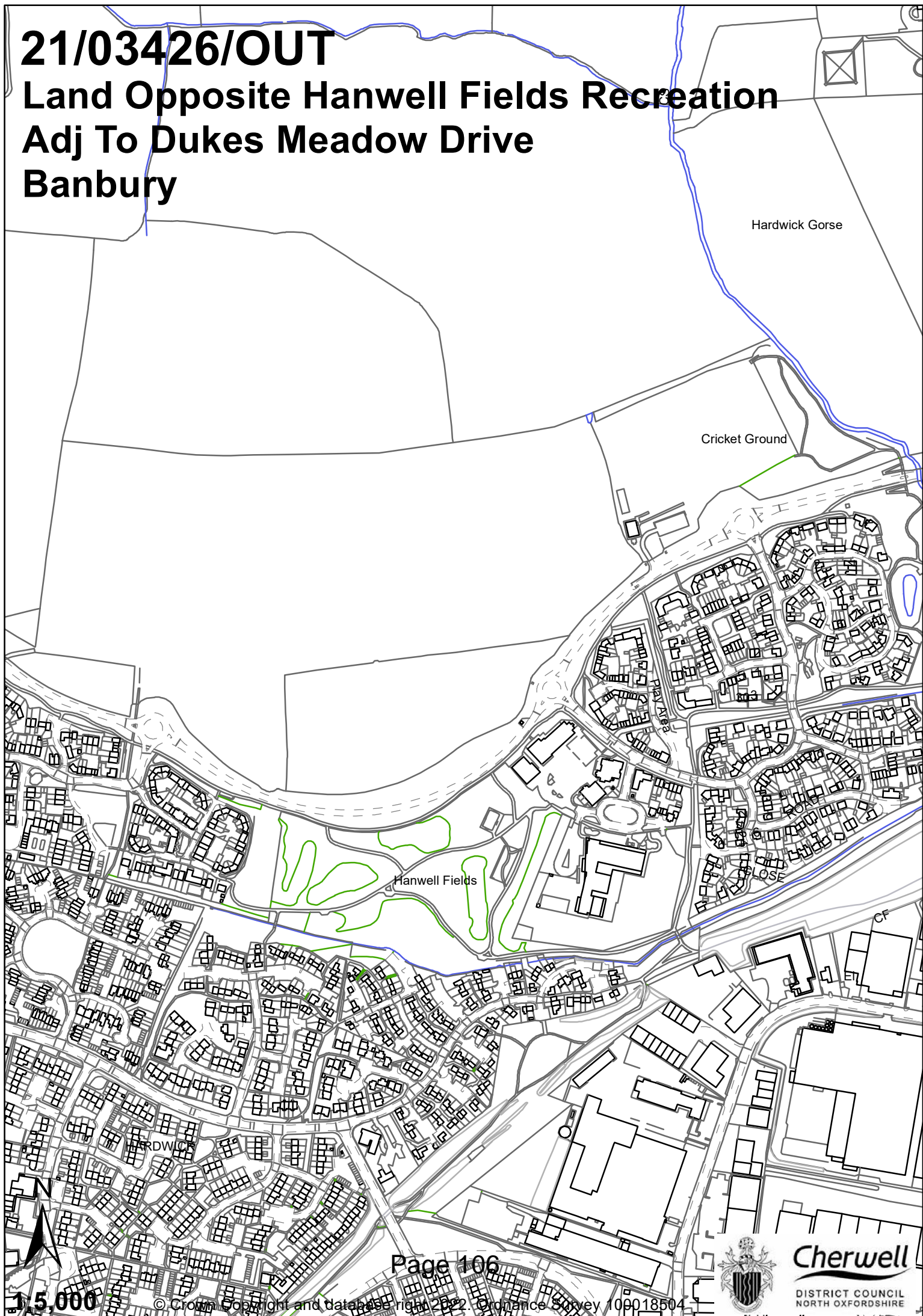


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21/03426/OUT

Land Opposite Hanwell Fields Recreation Adj To Dukes Meadow Drive Banbury



Hardwick Gorse

Cricket Ground

Hanwell Fields

BANBURY



Case Officer: Rebekah Morgan

Applicant: Mr P M Donger, Mrs S M Donger and Manor Oak Homes

Proposal: Outline planning application for up to 78 dwellings and associated open space with all matters reserved other than access

Ward: Banbury Hardwick

Councillors: Cllr Nathan Bignell, Cllr John Donaldson and Cllr Tony Ilott

Reason for Referral: Major development

Expiry Date: 6 May 2022

Committee Date: 7 April 2022

SUMMARY OF RECOMEDNATION: DELEGATE POWERS TO GRANT PERMISSION SUBJECT TO CONDITIONS AND THE COMPLETION OF A SECTION 106 AGREEMENT.

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is comprised of former agricultural land totalling approximately 3.6 hectares of land to the north of the existing Hanwell Fields estate in Banbury. The land is accessed from an existing arm on a roundabout on Dukes Meadow Drive (the spine road for the existing residential estate). The site is bounded by established hedgerows along the northern, western and eastern edges and landscaping and post and rail fence along the southern edge (Dukes Meadow Drive). The site slopes gently upwards from east to west.
- 1.2. The site is immediately to the north of the built-up residential area of Hanwell Fields, directly opposite the community facilities, local shopping area, public house, school, public open space and play areas and the sports/recreation ground lies immediately to the east.

2. CONSTRAINTS

- 2.1. The application site has the following constraints:
- Within Flood Zone 1 – i.e., the land is the lowest flood risk
 - Within 2km of a Site of Special Scientific Interest, but not close
 - There is a public footpath on land to the west of the site that leads up the hill to the village of Hanwell, to the north

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for up to 78 dwellings and associated open space. All matters are reserved except for access.

- 3.2. The applicant states the proposal is led by the following key principles:
- The delivery of up to 78 dwellings in total of a range of sizes, types and tenures;
 - Development at an approximate density of 25-30 dph (typical of the existing Hanwell Fields estate);
 - Provision of just over 30% affordable housing (24 dwellings) – with mix in line with SHMA requirements;
 - A suitable layout and planting scheme;
 - Access from Dukes Meadow Drive roundabout;
 - Two new footpath links southwest from the site towards the existing footpath network;
 - A proposed perimeter block style layout in keeping with the existing development on the southern side of Dukes Meadow Drive and taking cues from the emerging development at Sites Banbury 2 and Banbury 5; and
 - An integrated SUDS drainage system using a series of surface attenuation ponds to ensure discharge can be maintained at greenfield rates.
- 3.3. Timescales for Delivery: The applicants planning statement advises that, in the event that planning permission is granted, *'swift delivery could be assured through the application of bespoke conditions requiring submission of reserved matters within 18 months and a shortened implementation period thereafter'*. The letter advises that first to last completion would likely take around 18 months, with a single developer on the site.

4. RELEVANT PLANNING HISTORY

- 4.1. The following application(s) are relevant to the application:

21/03484/SO: Screening opinion 21/03426/OUT – Outline planning application for up to 78 dwellings and associated open space with all matters reserved other than access.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions have taken place with regard to this proposal:

21/01880/PREAPP: Erection of between 60 to 70 dwellings dependent on officer advice and design.

- 5.2. The pre-application advice set out the Council's 5-year housing land supply position (4.7yrs at the time of issue) and accepted the LPA could not demonstrate a 5-year housing land supply. Therefore, the tilted balance as set out in para.11 of the NPPF would apply in the consideration of any application.

- 5.3. With regards to impact on the character of the area, the applicant was advised to submit a full LVIA, however, it was considered that the lack of a 5-year housing land supply was likely to outweigh any potential visual impact bearing in mind the site lay in a natural dip and was well contained by natural topography and boundary hedgerows. The principal of the proposal was supported given the sustainability credentials of the settlement and site.

6. RESPONSE TO PUBLICITY

6.1. The application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **24 November 2021**.

6.2. 36 letters of objection have been received, no comments and no letters of support. The comments raised by third parties are summarised as follows:

- The site is not allocated in the Cherwell Local Plan;
- There are areas of land around Banbury already approved for development – these should be developed first;
- Application is premature in light of the current Local Plan review;
- Development would encroach on the village of Hanwell and impact its rural setting;
- It would set a precedent for further development towards Hanwell;
- Development should focus on brownfield sites;
- Conditions should be included to protect the land beneath existing and planted trees to keep them free from surface treatments;
- Comments relating to sustainability (reference to public transport, access to further transport opportunities, and the commercial and employment activities in Banbury) are overly optimistic;
- Dukes Meadow Drive should form the northern (unbreachable) extent of the town;
- The immediate locality and services of the town more broadly are currently unable to cope with further development;
- Loss of countryside;
- Detrimental impact on wildlife;
- Detrimental impact on traffic in the area and through the village of Hanwell;
- Light pollution;
- Noise pollution;
- Disruption during construction;
- Landscape impact – prominent views of the site from the east; and
- Banbury does not have suitable infrastructure to accommodate further development.

6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **Objects**; they understand the District Council cannot demonstrate a 5yr housing land supply, but nevertheless object that by reason of its scale and siting beyond the built up limits of the settlement, and within the countryside, the proposal would result in development of a greenfield site that contributes to the rural character of the approach into Banbury and is important in preserving the character of the this edge of Banbury, with Dukes Meadow Drive providing a firm urban fence to the town.

This concern is considered to outweigh the tilted balance that exists where land supply is deemed to be insufficient. The proposal is therefore unacceptable in principle and contrary to Policies ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policy C33 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

- 7.3. HANWELL PARISH COUNCIL: **Objects**; for the following reasons:
- The proposed site is not allocated within the Cherwell Local Plan and is therefore premature and contrary to the Development Plan. Approval of the proposal would seriously prejudice consideration of alternative sites and preparation of the current Local Plan review;
 - The site was assessed as 'not suitable' in the 2018 HELAA;
 - The proposed housing development would have seriously harmful impacts on the local area, which adopted planning policies prevent; namely a significant urban extension (unallocated site), piecemeal housing development in the open countryside and loss of important, prominent landscape features that add to the character and identity of the area of open countryside;
 - Development of the site would set a precedent for further development north of Dukes Meadow Drive, resulting in the gradual loss of the strategic gap between Banbury and Hanwell;
 - Do not support the argument that a lack of 5yr housing land supply justifies the development;
 - The site is not sustainable and therefore contrary to planning policies;
 - Consider the notional benefits of the scheme (argued by the applicant) are demonstrably outweighed by the harm associated with the development; and
 - After COP26, there must be much more emphasis on the overall sustainability of future development. This can only be achieved through a robust national and local planning framework, not through piecemeal development.

It is noted that the full response makes reference to relevant adopted planning policies in the Cherwell Local Plan 2011-2031 and 'saved' policies from the Cherwell Local Plan 1996.

CONSULTEES

- 7.4. LEAD LOCAL FLOOD AUTHORITY: **No objection**, subject to conditions relating to surface water drainage and a site wide SUDs strategy.
- 7.5. OCC HIGHWAYS: **No objection**, subject to:
- Section 106 contributions (as set out in the report)
 - An obligation to enter into a Section 278 agreement (as detailed in the response)
 - Planning conditions and informative notes

Key points:

The development is acceptable in principle and the vehicular access arrangement appear to be acceptable.

Given the scale of the development, there is no reason that the 3m wide shared use provision shouldn't continue along the entire length of the access. 3 metres is considered the minimum for shared use cycle/footways in LTN1/20.

The proposed pedestrian links from the south of the site to Hanwell Fields Park should be formalised with dropped kerb crossing points and self-binding gravel type paths.

- 7.6. OCC EDUCATION: **No objection**, subject to Section 106 contributions (as set out in the report).
- 7.7. OCC ARCHAEOLOGY: **No objection**. We have now received and accepted a revised archaeological evaluation report for this site, and no further archaeological work will be required.
- 7.8. OCC WASTE MANAGEMENT: **No objection**, subject to Section 106 contributions (as set out in the report).
- 7.9. CDC CONSERVATION: **Comments** - The site is not immediately adjacent to or within the immediate setting of Hanwell Conservation Area but lies in the open land between the edge of Banbury and Hanwell village, which have historically had a clear separation between the two settlements. There are concerns with the principle of developing so close to the historic settlement boundary could lead to coalescence between two distinct settlements and have a detrimental impact on the character of Hanwell Conservation Area.

In terms of the visual impact on the setting of Hanwell Conservation Area further information will be required in the form of a visual appraisal and potentially drawn sections of the site. Efforts should be made to use the natural topography, existing trees and hedgerows and potentially additional screening measures to ensure the visual impact on the setting is minimised.

- 7.10. CDC ENVIRONMENTAL PROTECTION:

Noise – **Comment** - conditions are recommended relating to noise levels within dwellings (and any required sound insulation) and the requirement for a Construction Environment Management Plan.

Contaminated land – **Comment** - A Phase 2 contaminated land report will be required to be produced and agreed with the LPA prior to the construction of the dwellings.

Air quality – **Comment** - conditions are recommended requiring a detailed air quality impact assessment to be submitted/approved by the LPA and the provision of a system of electric vehicle charging for the dwellings.

Odour – **No comments**.

Light – **Comment** - A condition is recommended requiring full details of the proposed lighting scheme to be submitted/approved by the LPA.

- 7.11. CDC ARBORICULTURE OFFICER: **No objections** to the proposal as no significant trees are going to be removed. Conditions are recommended relating to a tree

protection plan and submission of an arboricultural impact assessment and arboricultural method statement.

- 7.12. CDC LEISURE: **Comment** - Section 106 contributions have been requested towards enhancement of community hall facilities, outdoor sports provision, indoor sports provision and public art commensurate with the scale of development proposed. The details are set out in the report.
- 7.13. CDC STRATEGIC HOUSING: **No objection in principle**, subject to the provision of 30% affordable housing to the required standard and tenure mix.

The proposal is for up to 78 dwellings, 24 of which would be affordable housing. This complies with policy BSC 3 of the adopted Cherwell Local Plan 2011 -2031. The proposed tenure split of 17 rented and 7 shared ownership also complies with this policy, which requires 70% rented and 30% intermediate tenure(s). However, the NPPF requires that on major developments 10% of the overall scheme is delivered as low-cost home ownership. 8 dwellings of intermediate tenure(s) would therefore be required on a scheme of 78 dwellings. Further details of required tenures are set out.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council in 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1 – Presumption in Favour of Sustainable Development
- BSC1 – District Wide Housing Distribution
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC10 – Open Space, Outdoor Sport and Recreation Provision
- BSC11 – Local Standards of Provision – Outdoor Recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD7 – Sustainable Drainage Systems (SuDS)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- H5 – Affordable Housing
- H18 – New Dwellings in the Countryside

- C7 – Landscape Conservation
- C8 – Sporadic Development in the Open Countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design of New Residential Development

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Cherwell Residential Design Guide SPD (2018)
- Developer Contributions SPD (2018)

9. APPRAISAL

9.1. The key issues for consideration in this case are:

- Principle of development
- Impact on the character of the area
- Impact on heritage assets – Hanwell Conservation Area and its listed buildings
- Site layout and design principles
- Highways and vehicular access
- Rights of Way, access and pedestrian and cycle connectivity
- Residential amenity
- Affordable housing
- Ecology impact
- Flood risk and drainage
- Infrastructure provision and Section 106 contributions

Principle of Development

Policy Context

9.2. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise. Cherwell has an up-to-date Local Plan but cannot demonstrate a deliverable 5-year housing land supply. The current monitoring report shows just a 3.5-year housing land supply (Apr.'22-Mar.'27). The NPPF is a significant material consideration.

9.3. Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up-to-date Development Plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date applying a 'tilted balance' – i.e., placing great weight in the planning balance to granting permission unless the NPPF policies as a whole (and relevant Development plan policies) provide a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits of providing housing to meet identified needs.

- 9.4. The Development Plan comprises saved policies in the 1996 adopted Cherwell Local Plan (CLP1996) and the 2015 adopted Cherwell Local Plan (CLP 2015). The policies important for determining this application are referenced above.
- 9.5. Policy PSD1 of the CLP 2015 Part 1 accords with the NPPFs requirement for sustainable development and that planning applications that accord with policies in the statutory Development Plan will be approved without delay.
- 9.6. The CLP 2015 Part 1 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus housing growth at the towns of Bicester and Banbury. However, notwithstanding that CDC has an adopted Development Plan the lack of a five-year housing land supply requires the 'tilted balance' to be engaged in accordance with the NPPF guidance set out above.

Assessment

- 9.7. The Council's 2021 Annual Monitoring Report (AMR) confirms that the District cannot demonstrate a 5-year housing land supply. In the circumstances that an LPA cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and the circumstances at paragraph 11d of the NPPF are engaged. In short, development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of delivering housing when assessed against the policies in the Framework as a whole.
- 9.8. In terms of the three legs of sustainability as defined in the NPPF, the economic impact of the proposed development would create jobs both directly and indirectly. Socially, the development would provide needed market and affordable housing on the edge of a sustainable main settlement and immediately alongside a wide range of local community facilities that are served by regular public transport services. Environmentally, it would provide new planting and some enhancements for a range of habitats available for wildlife and the setting of the site. The site is well contained by natural topography and established hedgerows and relates reasonably well to the existing built form. It is considered that the proposed development fulfils the requirements of paragraph 8 of the Framework and can be considered to be sustainable. However, these aspects are explored in greater detail through the coming paragraphs.

Conclusion

- 9.9. The proposal as submitted is considered by Officers, having regard to the consultation responses and the analysis of the relevant issues identified above and analysed below, to be sustainable development notwithstanding the fact that the development falls contrary to the Development Plan by not comprising an existing development allocation.

Impact on the character of the area

Legislative and policy context

- 9.10. Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

9.11. Paragraph 130 of the NPPF states that planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change;
- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

9.12. Policy ESD15 of the Adopted Local Plan Part 1 states that 'new development proposals should:

- Contribute positively to an area's character and identity by creating or reinforcing distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views;
- Respect the traditional pattern, routes, spaces, blocks, enclosures and (inter alia) create clearly defined active public frontages.

9.13. Policy ESD13 of the Cherwell Local Plan Part 1 states that: "Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would:

- Cause undue visual intrusion into the open countryside;
- Cause undue harm to important natural landscape features and topography;
- Be consistent with local character;
- Harm the setting of settlements, buildings, structures, or other landmark features;
- Harm the historic value of the landscape.

9.14. Saved Policy C28 of the Cherwell Local Plan 1996 exercises control over all new developments to ensure that the standards of layout, design and external appearance are sympathetic to the character of the context and Saved Policy C8 seeks to limit sporadic development beyond the built limits of settlements.

9.15. The Cherwell Residential Guide SPD (2018) builds on the above policies and provides a framework to deliver high quality locally distinctive development. In addition, policies ESD1 to 3 of the Adopted Local Plan seek to mitigate and adapt to climate change.

Assessment

- 9.16. The application site is located on the northern edge of Banbury, adjacent to existing residential and community-use development. The application site formed part of a larger parcel of land that was assessed in the Housing and Economic Land Availability Assessment (HELAA), February 2018. In relation to site HELAA036, the document states: *'Greenfield site outside the built-up limits. The site is considered to be unsuitable for development as development in this location would be prominent on the landscape, particularly when viewed from the east, one of the highest points in the vicinity. It would lead to the loss of greenfield land and informal recreation resources for local people, which is in close proximity to the existing Hanwell Fields development'*.
- 9.17. It is noted that the HELAA assessment considered a much larger parcel of land comprising 19.74ha, with the application site only being 3.64ha (18%) at its eastern end. The application proposal sits within the lowest part of the site, closest to the existing spine road, the roundabout and local centre and therefore would have considerably less landscape impact than the larger site considered within the HELAA, which was primarily on the western plateau land bisected by public footpaths linking directly to Hanwell village.
- 9.18. The application has been submitted with a Landscape and Visual Technical note that considers the impact of the proposal on the wider visual landscape. It reaches a conclusion that the site is considered to be relatively well contained in visual terms. It does acknowledge that the sloping nature of the site does mean there would be some short range and longer distance cross-valley views available, however these would sit within the context of the immediate and wider developed context of the settlement of Banbury. Overall, the report considers the site's immediate and localised environment has capacity in visual terms to integrate a sensitive, high quality residential proposal.
- 9.19. Due to the size and location of the proposed site, Officers agree with the assessment set out in the Landscape and Visual Technical note. Although there would be some wider views and therefore some visual harm, the proposal would sit within those views in the context of existing development. Furthermore, any limited harm must be assessed against the considerable weight afforded to the 'tilted balance' set out in paragraph 11 of the NPPF. In this case, the limited harm is not considered to 'significantly and demonstrably outweigh the benefits' of the proposal in terms of the presumption in favour of residential development afforded to sustainable locations.

Impact on heritage assets

- 9.20. Hanwell Village is located to the north of the application site. A large proportion of the village is designated Conservation Area and there are several listed buildings within the village.
- 9.21. Although the proposal would extend the residential development of Banbury closer to Hanwell, due to the curve of the existing spine road and dip in the natural topography, this would not be substantially closer than existing development. The development, when limited to the application site, would not result in coalescence of the settlements or any significant inter-visibility.
- 9.22. When considering any future reserved matters application, the applicant would need to have careful regard to the heritage assets when considering the design, style and heights of building, in particular along the northern edge of the site. Overall, it is

considered a residential development could be satisfactorily accommodated on this site without causing significant harm to heritage assets.

- 9.23. The site sits within an area identified as of potential 'archaeological interest'. The applicant submitted an Archaeological Written Scheme of Investigation, undertook trenching works and submitted an Archaeological Evaluation of the site. The results of that investigation were that the site has low archaeological potential. Oxfordshire County Council's Archaeologist has confirmed they are content with the work that has been carried out, the findings of the report and therefore require no further work.

Site layout and design principles

Policy Context

- 9.24. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets. The NPPF is clear that good design is a fundamental to what the planning and development process should achieve.
- 9.25. Policy BSC10 of the CLP 2015 outlines the requirements for open space, outdoor sport and recreation provision. Policy BSC11 sets out the local standards of provision for outdoor recreation including children's play space.

Assessment

- 9.26. The application is submitted in outline with a site plan submitted for illustrative purposes. Whilst design and materials would be assessed under a reserved matters application it is considered that, given the location of the site on the edge of the town and adjacent to an existing residential area, appropriate levels of control should be secured at any such detailed application stage, to ensure compliance with design principles reflective of those within the local area and wider district.
- 9.27. The indicative landscaping, with retention of the existing trees and proposal for a green buffer along the northern edge allowing for a transition to the rural landscape is deemed acceptable in principle. The effect of the development on the landscape is considered later in this appraisal.
- 9.28. That said, whilst every application would need to be assessed on its own planning merits at the time of any such application, Officers are confident of the level of control that could be safeguarded through ensuring broad compliance with any approved plans secured by way of appropriate condition attached to any such permission.

Conclusion

- 9.29. It is considered that the submitted indicative layout is generally acceptable and demonstrates that 78 dwellings could be satisfactorily accommodated on the site and also allows for the provision of a well-designed, safe, accessible and well-connected environment, with an appropriate tenure mix. As such, the proposal accords with Policy BSC10.

Highways and vehicular access

Policy Context

- 9.30. The NPPF (Para.105) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport.

However, it notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.

- 9.31. The NPPF (Para.106) advises that in assessing specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 9.32. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported”*.
- 9.33. Policy TR7 states that: *‘Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted’*.

Assessment

- 9.34. All matters are reserved except for access. The development would include a new access from the existing fourth arm on the roundabout on Dukes Meadow Drive.
- 9.35. The Local Highway Authority (LHA) advises the proposed vehicular access is acceptable based on the information submitted. In terms of traffic impact, the overall conclusions of the Transport Statement are accepted. The LHA is content with the methodology used to generate the final trip generation figures and the junction is considered to have suitable capacity.
- 9.36. The NPPF (Para.111) states that: *‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe’*.
- 9.37. The LHA raises no objection to the application on the basis of highway safety.
- 9.38. The LHA has requested financial contributions towards enhancement of public transport services, public transport infrastructure, a traffic regulation order, travel plan monitoring, public rights of way and strategic highway contribution. The details of the requested contributions are set out in full in a later section of this report.

Conclusion

- 9.39. In light of the LHA’s advice, and subject to conditions, S106 contributions and an obligation to enter into a S278 agreement with OCC for implementation of agreed highway works, it is concluded that the proposal would not have a significant adverse impact upon the safe and efficient operation of the highway network, and therefore complies with Local Plan Policy ESD15 in this regard and Government guidance within the NPPF.

Rights of Way, access and pedestrian and cycle connectivity

Policy Context

- 9.40. The NPPF outlines three overarching objectives being economic, social and environmental. From a social perspective the NPPF discusses achieving sustainable development means supporting “*strong, vibrant and healthy communities.... By fostering a well-designed and safe built environment*”. At paragraph 126 the NPPF requires transport issues to be considered at the earliest stages of development proposals “*so that opportunities to promote walking, cycling and public transport use are identified and pursued*”.
- 9.41. Paragraph 119 of the NPPF states that planning decisions should support development which make effective use of land, taking into account “*the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit car use*”.
- 9.42. Local Plan Policy SLE4 relates to improved transport and connections. It supports the NPPF where it states, “*all development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling.*”
- 9.43. The Cherwell Residential Design Guide SPD gives advice on routes for pedestrians and cyclists and states they “*should be safe, direct, attractive and legible*”. The SPD sets out guidance on how developments should respond to the site context and this includes where can access and connection to the wider network be gained and whether there are existing movement routes that should be retained. The SPD also poses questions about how the scheme can connect into the surrounding street and footpath/cycleway network and how does the site relate to existing public transport routes.
- 9.44. In addition, Oxfordshire County Council’s Residential Design Guide requires all developments of more than 50 homes to be served by at least an hourly bus service and for homes to be within 400m walkable distance of a bus stop.
- 9.45. Policy 34 of LTP4 states that “*Oxfordshire County Council will require the layout and design of new developments to proactively encourage walking and cycling, especially for local trips, and allow developments to be served by frequent, reliable and efficient public transport*”. One of the ways this is done is “*ensuring that developers promote and enable cycling and walking for journeys associated with new development, including through the provision of effective travel plans*”.

Assessment

- 9.46. There is a public Right of Way to the west of the site connecting the existing Hanwell Fields (Banbury) estate with the village of Hanwell. The site would be situated on the existing spine road for the Hanwell Fields estate which provides pedestrian footpaths which join Warwick Road to the west and Southam Road to the east. There are also pedestrian links through the Hanwell Fields estate to the neighbouring Hardwick estate.
- 9.47. The nearest bus stop is located on the Hardwick estate (approximately 650 metres from the site) and is served by the B9 bus route. The walking route is not ideal as it goes via unlit paths through public open space. Alternative stops are located approximately 950 metres away on Southam Road and are served by the B3 bus

route. Oxfordshire County Council have stated that the current bus stops are not ideal to serve the proposed development, however, they are seeking a financial contribution towards public transport to ensure the existing services can be maintained at a high frequency for a longer period of time. They have also suggested it may be possible to divert the existing B3 bus service from its current route on Southam Road along Dukes Meadow Drive to the development.

- 9.48. The proposed location of the site is immediately opposite an existing local centre containing a convenience store, food outlets, other retail premises, dentist, public house, community centre and primary school. These are ideally located and provide safe/convenient pedestrian access to these facilities from the site.
- 9.49. Overall, the development would provide sufficient pedestrian and cycle access to/from the site, which is considered to be safe and attractive. Existing public transport links are not currently ideal, but they still have the ability to serve residents of the site and there is the potential for future improvements to the current service.

Residential Amenity

- 9.50. Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: *'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'*.
- 9.51. The application is in outline only. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD about appropriate standards of amenity for both existing and future residents together with adopted Policies ESD 1 to 3. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.52. The nearest residential properties to the site would be on the opposite side of Dukes Meadow Drive; these being the flats above the local centre. There would be a sufficient distance between the properties and some intervening landscaping, therefore it is considered that, subject to appropriate scale and design of any proposed dwellings along the southern boundary of the site, it is likely that a satisfactory layout could be achieved that would avoid any significant unacceptable impacts on the residential amenity of the neighbouring residential properties.
- 9.53. Assessment of internal amenity with the proposed dwellings would be a matter for consideration at any reserved matters or detailed application stage. Whilst only indicative at this stage, the concept layout indicates an appropriate layout that would provide for both public and private outdoor amenity space that would allow for an acceptable standard of living to be achieved for potential future occupants.
- 9.54. Given the above, Officers are satisfied that the development can be made acceptable in residential amenity terms, both for existing residents neighbouring the site and future occupants, with acceptable details to be secured at reserved matters stage.

Affordable Housing

- 9.55. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the adopted Cherwell Local Plan part 1 2011-2031 requires new residential development to provide a mix of homes in the interests of meeting housing need and creating

socially mixed and inclusive communities. Policy BSC3 requires development such as this are to provide 30% affordable housing on site and provides details on the mix that should be sought between affordable/social rent and shared ownership. Policy BSC2 requires that to make efficient use of land that new residential development should be provided at a net density of at least 30 dwellings per hectare.

- 9.56. On a development of 78 units Policy BSC3 requires 24 units to be provided as affordable housing. Of these 24 affordable units, the Strategic Housing Team recommends an indicative mix of tenures and sizes. Policy BSC 3 of the Local Plan requires 30% of the total number of dwellings to be affordable housing with a tenure split of 70% rented and 30% intermediate. The proposed tenure split of 17 rented and 7 shared ownership dwellings complies with this policy and is acceptable to the Strategic Housing Team. However, the NPPF requires that on major developments 10% of the overall scheme is delivered as low-cost home ownership. 8 dwellings of intermediate tenure(s) would therefore be required on a scheme of 78 dwellings.
- 9.57. The Council's Strategic Housing Officer has provided detailed comments on the size, type and tenure that would be required of the development. Additional information has also been provided on parking provision requirements, accessibility, layout and appearance, energy efficiency and the requirement to notify the Council of the proposed Registered Provider.
- 9.58. The First Homes initiative that has recently been introduced by Government will be applicable to this proposal because it will be determined after 28 March 2022. As outlined in the Cherwell First Homes Interim Policy Note, there is now a national requirement for a minimum of 25% of all affordable homes to be provided as First Homes (as new discounted market sale product). As such, the expected tenure mix for affordable homes on the proposed site is:
- 25% First Homes
 - 70% Social Rent
 - 5% Intermediate housing such as shared ownership
- 9.59. The application will be subject to a Section 106 agreement which will include clauses relating to affordable housing, including the housing mix. The applicant has demonstrated within the application that the policy requirement for 30% affordable housing can be met. Therefore, Officers are seeking delegated authority within the recommendation to finalise the details of the affordable housing and precise dwelling numbers for each tenure type as part of the discussions for the Section 106 agreement.

Ecology Impact

Legislative context

- 9.60. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.61. Under the Regulations, competent authorities i.e., any Minister, Government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

- 9.62. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.63. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
 - (2) That there is no satisfactory alternative.
 - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.
- 9.64. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.65. Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.66. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.67. Paragraph 180 states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

- 9.68. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.69. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.70. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.71. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.72. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development
- It also states that LPA's can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.73. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site there are a number of mature trees and hedgerows within and adjacent the site, and therefore has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates.
- 9.74. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.75. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence

then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

- 9.76. The application is supported by a detailed protected species survey which concluded that *'the extended Phase 1 habitat survey has established that the site is dominated by habitats not considered to be of ecological importance, whilst the proposals have sought to retain those features identified to be of value. Where it has not been practicable to avoid loss of habitats, new habitat creation has been proposed to offset losses, in conjunction with the landscape proposals. A number of specific measures and recommendations are set out in order to ensure the suitable protection of the retained habitats and associated fauna, whilst where possible it is recommended that any new planting at the site incorporate native species for the benefit of local wildlife, in combination with the enhancement and management of the retained features of value.*

The habitats within the site have the potential to support several protected species, including species protected under both national and European legislation and indeed, badger activity is confirmed on site through the presence of latrines, whilst the habitats present appear suitable for use by common reptile species and nesting birds. Accordingly, a number of mitigation measures have been proposed to minimise the risk of harm to protected species, with compensatory measures proposed, where appropriate, in order to maintain the conservation status of local populations where appropriate.

In conclusion, subject to the implementation of the measures and recommendations set out, the proposals will have sought to minimise impacts and subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals will result in significant harm to biodiversity. On the contrary, the opportunity exists to provide a number of biodiversity net gains as part of the proposals'.

- 9.77. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Flood risk and drainage

- 9.78. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.
- 9.79. Policy ESD7 of the CLP 2015 requires the use of Sustainable urban Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.
- 9.80. The application was supported by a Flood Risk Assessment. Following initial objections from the Lead Local Flood Authority (OCC), the applicant submitted further information in the form of a Technical Note relating to surface water discharge.
- 9.81. Following re-consultation, the LLFA have raised no objections to the proposal subject to the impositions of appropriate conditions. The suggested conditions have been included within the recommendation and are set out in a later section of the report.

- 9.82. Officers consider that the current proposals can be considered acceptable in terms of flood-risk and drainage, in accord with local and national planning policy in this regard.

Infrastructure provision and Section 106 contributions

Policy Context

- 9.83. Policy INF1 of the CLP 2015 states that: *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*
- 9.84. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’. Where this is not possible or appropriate, a financial contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”* Policy BSD12 requires new development to contribute to indoor sport, recreation and community facilities.
- 9.85. The Developer Contributions Supplementary Planning Document (SPD February 2018) sets out its position in respect of requiring financial and on-site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

Assessment

- 9.86. Where on and off-site infrastructure/measures need to be secured through a planning obligation (i.e., legal agreement) they must meet statutory tests set out in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development; and
 - c) Fairly and reasonably related in scale and kind to the development.
- 9.87. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.
- 9.88. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in Officers’ view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council (all contributions will be index linked)

- Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows, woodland. SUDS etc) or details

of long term management provisions in accordance with the Policy BSC11 of the CLP

- Provision of a Local Area of Play and a Local Equipped Area of play and commuted sum for maintenance or details of other management provisions
- Off-site outdoor sports facilities capital provision – Towards enhancement of outdoor sporting provision Hanwell Fields Recreation Ground and/or North Oxfordshire Community use site - Up to £157,328.34 (based on 78 dwellings)
- Off-site indoor sports facilities – Towards Indoor Tennis Centre and/or improvements of leisure centre provision in the locality. - Up to £65,125.85 (based on 78 dwellings)
- Community hall facilities – Up to £89,178.26 (based on 78 dwellings) – To be spent on improvements/enhancements/redevelopment of Hanwell Fields Community Hall
- £106 per dwelling for bins
- Affordable housing provision – 30%
- Provision of Public Art in the locality – Up to £17,472.00 (Based on 78 dwellings)
- CDC monitoring fee.

Oxfordshire County Council

- Public transport contribution of £117,156 (based on 78 dwellings) for the continued provision of higher frequency bus services in the area around the site, which may include the B3 and/or B9 services
- Public transport infrastructure contribution (if not dealt with under S278/S38 agreement)
- Travel Regulation Order (if not dealt with under S278/S38 agreement) of £2,250 to accommodate new bus stop on new footpath east of site access
- Travel Plan Monitoring
- Public Rights of Way of £10,000 to improve the surfaces of all routes within 2km and to take account of the likely increase in use by residents of the development as well as new or replacement structures like gates, bridges and seating, sub-surfacing and drainage to enable easier access, improved signing etc.
- Strategic Highway Contribution of £70,000 towards active Travel improvements along Dukes Meadow Drive in accordance with the emerging Banbury LCWIP
- Obligation to enter into a S278 agreement to secure:
 - a. A bus stop on the northern side of Dukes Meadow Drive to the east of the Lapsley Drive / site entrance roundabout, together with associated footway works for adequate access from the development. This bus stop should include a pole, flag and timetable case to OCC specification (attached) and a two-bay shelter, the details of which should be discussed with Banbury Town Council who have an arrangement with Clear Channel for the provision of shelters
 - b. Two dropped kerb crossing facilities to be provided at the proposed pedestrian crossing points south of the site to Hanwell Fields Park. These should include tactile paving
 - c. Provision of two pedestrian paths linking the site to the two dropped kerb crossing points on Dukes Meadow Drive. These should be at minimum, self-binding gravel type surfaces as this area is currently grass, not suitable for crossing by pedestrians and vulnerable users

- £631,503 towards secondary education capacity and £63,327 towards secondary school land contribution for secondary school places in Banbury area to ensure adequate secondary school provision
- £37,757 Special School contribution to be spent on expansion of SEN school capacity to ensure adequate SEN provision
- £7,329 contribution towards expansion and efficiency of Household Waste Recycling Centres as existing facilities at capacity and to provide additional capacity
- Monitoring Fee.

Conclusion

9.89. Subject to the above the proposal is considered to be acceptable with regards to its impact on local infrastructure and would mitigate acceptably mitigate the impact arising from the development.

10. PLANNING BALANCE AND CONCLUSION

10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.

10.2. The proposal proposed application site is located close to local amenities including shops, school and community facilities and is easily accessible for pedestrians and cyclists. The proposal would have some limited impact on wider landscape views, but this harm would not outweigh the benefits of the proposal, especially when considered within the context of the Council being unable to demonstrate a 5-year housing land supply.

10.3. The indicative plans demonstrate the site can accommodate the level of development suggested within the application and through careful design, the proposal would integrate well with the existing residential development. The development proposes 30% affordable housing and an acceptable mix.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 6 MAY 2022. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE, AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON (AND ANY AMENDMENTS AS DEEMED NECESSARY):

1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate highway mitigation works required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, contrary to Government Guidance contained with the National Planning Policy Framework.

S106 HEADS OF TERMS

As set out in the table set out at Appendix 1.

CONDITIONS

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

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of 18 calendar months beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. The time period for submission has been reduced from the standard period. The application has been submitted to address the Council's 5 year housing land supply position and is in accordance with the applicant's planning statement.

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of 18 months from the date of this permission and the development hereby permitted shall be begun either before the expiration of 40 calendar months from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). The time period for submission has been reduced from the standard period. The application has been submitted to address the Council's 5 year housing land supply position and is in accordance with the applicant's planning statement.

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form and the following plans and documents: Drawing numbers SLP-02 Rev P4 (Site Location Plan), LUPP-01 Rev P4 (Land Use Parameter Plan) and 340-TA114 Rev A (Proposed Access: Option 2 without layout).

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

5. No development shall take place until details of all finished floor levels in relation to existing and proposed site levels and to the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be constructed strictly in accordance with the approved levels.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

6. In accordance with the recommendations of the Phase 1 report submitted with the application, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

7. If remedial works have been identified in condition 6, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

8. As part of any application for reserved matters relating to layout, a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall not be implemented other than in accordance with the approved details and shall be implemented before the development is completed. It shall thereafter be managed in accordance with the approved details. The scheme shall also include:

- Discharge rates based on 1:1 year greenfield run off rate
- Discharge Volumes
- SUDS
- Maintenance and management of SUDS features (To include provision of a SuDS Management and Maintenance Plan)
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers

- Network drainage calculations
- Phasing
- Flood Flow Routing in exceedance conditions (To include provision of a flood exceedance route plan)
- A detailed maintenance regime for all proposed drainage features and SuDS features
- A detailed surface water catchment plan.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 6 and 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. As part of any reserved matters application including layout, a noise assessment shall be submitted and approved in writing by the Local Planning Authority demonstrate how acceptable internal and external noise levels will be achieved for the proposed dwellings and amenity spaces. If the proposal includes the use of background ventilation, then a ventilation and overheating assessment should be carried out and submitted to be approved. The development shall thereafter be carried out in accordance with the approved details and any mitigation retained thereafter.

Reason: To ensure the development provides a good standard of amenity for future residents in accordance with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.

10. Prior to the commencement of the development, a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with approved CEMP.

Reason: To ensure the environment is protected during construction in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

11. Prior to the commencement of the development hereby permitted a detailed air quality impact assessment to identify the impact of the development on local air quality shall be submitted to and approved in writing by the Local Planning Authority. The assessment should include damage cost calculations where applicable along with a proposal for abatement measures that will be undertaken in addition to those already required from the developer. This shall have regard to the Cherwell District Council Air Quality Action Plan and no development shall take place until the Local Planning Authority has given its written approval that it is satisfied that the impact of the development on air quality has been adequately quantified.

Reason: To ensure the creation of a satisfactory environment for future residents in accordance with Government Guidance contained in the NPPF.

12. As part of any reserved matters for layout, an updated Arboricultural Impact Assessment, Tree Protection Plan and an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837:2012 and all subsequent amendments and revisions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason: To protect the existing trees and hedgerows on site and to accord with Policy ESD15 of the Cherwell Local Plan Part 1 (2015) and Government guidance in the National Planning Policy Framework.

13. a) No tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and matters (a) and (b) shall have effect until the expiration of five years from the date of the approval of the final reserved matters.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

14. Prior to the commencement of the development hereby approved, full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to first occupation the means of access shall be constructed and retained in accordance with the approved details.

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

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

Reason: In the interests of highway safety, to ensure a satisfactory standard of construction and layout for the development and to comply with Government guidance contained within the National Planning Policy Framework.

16. No development shall commence unless and until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Construction Traffic Management Plan shall be implemented and operated in accordance with the approved details.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers.

17. No development shall commence above slab level unless and until a scheme for electric vehicle infrastructure to serve each dwelling has been submitted and approved in writing by the Local Planning Authority. The approved electrical vehicle charging infrastructure shall be provide in accordance with the approved details prior to the first occupation of the dwelling it serves.

Reason: To maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

18. Prior to occupation of any part of the development hereby approved, a revised Residential Travel Plan Statement meeting the requirements set out in the Oxfordshire County Council guidance document, "Transport for New Developments; Transport Assessments and Travel Plans" shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried on in accordance with the approved details.

Reason: To encourage occupiers to use sustainable modes of transport in line with the NPPF.

19. Prior to first occupation a Travel Information Pack shall be submitted to Local Planning Authority for approval. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To encourage occupiers to use sustainable modes of transport in line with the NPPF.

20. No properties shall be occupied until approval has been given in writing by the Local Planning Authority that either:

- Evidence to demonstrate that all water network upgrades required to accommodate the additional flows/demand from the development have been completed; or
- a housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason: The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development.

21. No development shall commence including any demolition, and any works of site clearance, unless and until a method statement and scheme for enhancing biodiversity such that an overall net gain for biodiversity is achieved, to include details of enhancement features and habitats both within green spaces and integrated within the built environment, has been submitted to and approved in writing by the Local

Planning Authority, which shall accompany any reserved matters application for layout and landscaping. This shall also include a timetable for provision. Thereafter, the biodiversity enhancement measures shall be carried out in accordance with the approved details and shall be retained as such thereafter in accordance with the approved details.

Reason: To ensure the development provides a net gain in biodiversity in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

22. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall also cover the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

23. Prior to the installation of any external lighting, a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance in relation to ecological impact, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved document.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

24. As part of any submission for reserved matters, full details of a renewable energy strategy for the site in accordance with Policy ESD5 of the Cherwell Local Plan, shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of any building the renewable energy serves.

Reason: To encourage the use of renewable and low carbon energy in accordance with Policy ESD5 of the Cherwell Local Plan Part 1.

25. Prior to the commencement of any works associated with the construction of a dwelling, details of the means by which all dwellings will be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the local planning authority) shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

Reason: In the interests of environmental sustainability in construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance in the National Planning Policy Framework.

26. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

Reason: In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Planning Notes

1. OCC require a swept path analysis for an 11.6m in length refuse vehicle for all manoeuvres in forward gear. All internal bends and junctions will need to be tracked with two vehicles using the bend/junction at the same time.
2. Highway boundary needs to be checked with OCC Highway Records (highway.records@oxfordshire.gov.uk) to determine whether or not it coincides with the site boundary at the proposed access junction. If there is a ditch present the highway boundary is usually the roadside edge of the ditch.
3. Visibility Splays must be dedicated to OCC if they fall out of the existing highway boundary.
4. No private drainage to discharge onto existing Highway.
5. No private drainage to discharge onto any area of proposed adoptable highway.
6. No Highway materials, construction methods, adoptable layouts and technical details have been approved at this stage. The detailed design will be subject to a full technical audit.

APPENDIX 1- Heads of Terms for Section 106 Agreement/undertaking

Planning obligation			Regulation 122 Assessment
Detail	Amounts (all to be Index linked)	Trigger points	
Provision of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows, woodland, SUDS etc) or details of long term management provisions in accordance with the Policy BSC11 of the CLP	<p>Provision on site.</p> <p>Commuted sum as set out in the Developer Contribution SPD (as updated by annual tendering).</p> <p>Details of ongoing management company if no commuted sum.</p>	To be delegated to officers	<p>Necessary – To meet the demands generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the CLP 2015 and advice in the Developer Contributions SPD (2018).</p> <p>Directly related – For the use of future occupiers of the development.</p> <p>Fairly and reasonably related in scale and kind – In accordance with the policy and guidance provisions adopted by the Council.</p>
Provision of a Local Area of Play and a Local Equipped Area of play and commuted sum for maintenance or other management provisions	<p>Provision on site.</p> <p>Commuted sum as set out in the Developer Contribution SPD (as updated by annual tendering).</p>	To be delegated to officers	<p>Necessary – To meet the demands generated from the proposal and to ensure long term maintenance in accordance with Policy BSC10 and BSC11 of the CLP 2015 and advice in the Developer Contributions SPD (2018)</p> <p>Directly related – For the use of future occupiers of the development</p>

	Details of ongoing management company if no commuted sum		Fairly and reasonably related in scale and kind – In accordance with the policy and guidance provisions adopted by the Council
Off-site outdoor sports facilities capital provision – towards enhancement of outdoor sporting provision Hanwell Fields Recreation Ground and/or North Oxfordshire Community use site	£157,328.34 (based on 78 dwellings)	To be delegated to officers	<p>Necessary – The proposed development will lead to an increase in demand and pressure on existing services and facilities in the locality as a direct result of population growth associated with the development in accordance with Policy BSC12, INF1 and advice in the Developer Contribution SPD</p> <p>Directly related – The future occupiers will place additional demand on existing facilities.</p> <p>Fairly and reasonably related in scale and kind – Calculations will be based on the Developer Contributions SPD calculation based on the final mix of housing and number of occupants.</p>
Off-site indoor sports facilities – Towards Indoor Tennis Centre and/or improvements of leisure centre provision in the locality	Up to £65,125.85 (based on 78 dwellings). Final calculation to be based on calculation outlined in the Developer Contribution SPD		
Community hall facilities – To be spent on improvements/enhancements/redevelopment of Hanwell Fields Community Hall.	Up to £89,178.26 (based on 78 dwellings). Final calculation to be based on calculation outlined in the Developer Contribution SPD		
Contributions to bins	£106 per dwelling	To be delegated to officers	Necessary – The dwellings will required adequate waste receptacles for future occupants and in

			<p>accordance with the advice in the Developer Contribution SPD</p> <p>Directly related – The need for these comes from the increase in the number of dwellings</p> <p>Fairly and reasonably related in scale and kind – Costs in accordance with the advice in the Developer Contribution SPD</p>
Affordable housing provision on site	<p>At least 30% of total number.</p> <p>Housing mix – To be delegated to officers.</p> <p>To be in accordance with the standards outlined in Developer Contributions SPD and Cherwell First Homes Interim Policy Guidance Note</p>	To be delegated to officers	<p>Necessary – as would provide housing for those who are not able to rent or buy on the open market pursuant Policy BSC3 of the Cherwell Local Plan</p> <p>Directly related – The affordable housing would be provided on-site in conjunction with open market housing</p> <p>Fairly and reasonably related in scale and kind – Based on the Cherwell Local Plan requirement for percentage of affordable housing.</p>
Public Art Contribution	Based on 78 dwellings @ £200 per dwelling plus		Necessary – Public realm and public art can play an important role in enhancing the character of an area, enriching the environment, improving the overall

	5% management and 7% maintenance. £17,472.00	To be delegated to officers	<p>quality of space and therefore peoples' lives. Public art and the quality of the public realm are important considerations in the design and layout of a development.</p> <p>Directly related – We are seeking public art in the locality of the development. The final location would need to be related to the proposed development site.</p> <p>Fairly and reasonably related in scale and kind – The scheme could include artwork on the roundabout near the local centre. This would be in keeping with the other roundabouts on earlier phases of the development each with a landmark artwork and be prominent and visible.</p>
Monitoring Fee Contribution towards the Council's (both district and County Council) costs of monitoring compliance with the agreement or undertaking.	To be confirmed	To be delegated to officers	<p>Necessary in order to ensure the planning obligations are complied with.</p> <p>Directly related as only costs arising in connection with the monitoring of the development and these planning obligations are covered.</p> <p>Fairly and reasonably related in scale and kind considering the extent of the development and the obligations to be monitored.</p>
Public transport contribution of £117,156 (based on 78 dwellings) for the continued provision of	£117, 156		Necessary to ensure sustainable mode of transport and encourage and integrated into the development

higher frequency bus services in the area around the site, which may include the B3 and/or B9 services.		To be delegated to officers	and made attractive to future users to reduce car dependency. Directly related as these will benefit the future occupants of the site and encourage use of sustainable transport options in the locality. Fairly and reasonably related in scale and kind. The contributions are in scale with the development and would be directly benefiting residents of the future development.
Public transport infrastructure	TBC		
Travel Regulation Order (TRO) (if not dealt with under S278/S38 agreement) to accommodate new bus stop on new footpath east of the site.	£2,250		
Travel Plan Monitoring	TBC		
Strategic Highway Contribution towards active Travel improvements along Dukes Meadow Drive in accordance with the emerging Banbury LCWIP.	£70,000		
Public Rights of Way of £10,000 toward improvements to PROW in the vicinity of the site.	£10,000		
Obligation to enter into a S278 agreement, including:	To be delivered on and off site	To be delegated to officers	Necessary to provide safe and suitable access to the site and the highway network and ensure the

<ul style="list-style-type: none"> • A bus stop on the northern side of Dukes Meadow Drive to the east of the Lapsley Drive / site entrance roundabout, together with associated footway works for adequate access from the development. This bus stop should include a pole, flag and timetable case to OCC specification (attached) and a two-bay shelter, the details of which should be discussed with Banbury Town Council who have an arrangement with Clear Channel for the provision of shelters. • Two dropped kerb crossing facilities to be provided at the proposed pedestrian crossing points south of the site to Hanwell Fields Park. These should include tactile paving. • Provision of two pedestrian paths linking the site to the two dropped kerb crossing points on Dukes Meadow Drive. These should be at minimum, selfbinding gravel type surfaces as this area is currently grass, not suitable for crossing by pedestrians and vulnerable users. 			<p>development does not result in unacceptable impacts on highway safety.</p> <p>Directly related. This will provide safe and suitable access to the site and as a result of additional traffic and pedestrian movements associated with the development.</p> <p>Fairly and reasonably related in scale and kind. The contributions are in scale with the development and would be directly benefiting residents of the future development.</p>
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Secondary education capacity contribution and contribution towards secondary school land in Bicester	£631,503 towards secondary educate capacity and £63,327 towards secondary school land contribution for secondary school places in Banbury area (final amount to be based on final housing mix).	To be delegated to officers	<p>Necessary to provide adequate education provision in the locality as existing infrastructure is at capacity with planned growth.</p> <p>Directly related. Will provided additional school places for children living at the proposed development</p> <p>Fairly and reasonably related in scale and kind. In accordance with the County Councils standards for provision of new school places based on cost per additional pupil.</p>
Special School contribution to be spent on expansion of SEN school capacity	£37,757 (final amount to be based on final housing mix)		<p>Necessary to provide adequate waste and recycling provision in the locality as existing infrastructure is at capacity with planned growth.</p> <p>Directly related. Will provided additional capacity for household waste recycling centres which the occupiers of the proposed development will utilise.</p> <p>Fairly and reasonably related in scale and kind. In accordance with the County Councils standards for provision based on build costs.</p>
Contribution towards expansion and efficiency of Household Waste Recycling Centres.	£7,329	To be delegated to officers	