



CHERWELL DISTRICT COUNCIL

STATEMENT OF CASE

Appeal by Gladman Developments under Section 78(2) of the Town and Country Planning Act 1990 against Cherwell District Council's failure to determine within the prescribed statutory time limits an application for outline planning permission (with all matters reserved except for access) for the erection of *"Up to 280 dwellings (including 30% affordable housing), introduction of structural planting and landscaping, formal and informal public open space and play areas, surface water flood mitigation and attenuation, new priority junction arrangements to White Post Road, creation of section of spine road to link Bloxham Road with White Post Road as well as creation of 34 space car park and other associated ancillary works. All matters reserved except for access."* The application related to land known as OS Parcels 6741 And 5426 on land west of Cricket Field, north of Wykham Lane, Bodicote.

Appellant	:	Gladman Developments
Appeal Site	:	OS Parcels 6741 And 5426 on land west of Cricket Field, north of Wykham Lane, Bodicote
Appellant's Agent	:	N/A
LPA Reference	:	15/01326/OUT
PINS Reference	:	APP/C3105/W/17/3172731

1. Introduction

- 1.1 The appeal proposals were subject to a planning application submitted to Cherwell District Council (the Council) as the local planning authority and validated on 14th July 2015.
- 1.2 The application was reported to the Council's Planning Committee on 4th August 2016 with a recommendation for approval subject to the imposition of conditions, the satisfactory completion of a legal agreement and the use of suitable controls to secure delivery of the link road through the allocated Banbury 17 site. The Council resolved to grant planning permission in accordance with the officer recommendation.
- 1.3 Discussions regarding the means by which link road delivery could be secured then took place over the following months involving officers from the local planning authority and local highway authority (Oxfordshire County Council) together with the proposed developers of the adjacent site (Gallagher Estates). However these discussions did not reach a conclusion before the appellant lodged an appeal against non-determination of the planning application. Those discussions have since ceased.
- 1.4 This appeal will be determined through the informal hearing procedure which the Council considers to be appropriate. This Statement of Case sets out the Council's position on the appeal proposals at the time of writing though this position may be amplified further or modified accordingly at the hearing dependent upon any changes in circumstances or if further submissions/representations are made by the appellant.

2. Appeal Site and Locality

- 2.1 The appeal site is located to the west of White Post Road, Bodicote and comprises three agricultural fields with a number of mature trees and hedgerows which denote the boundaries of each of the fields. The site is presently in use predominantly as agricultural land and has an area of approximately 17.53 hectares (43 acres). The part of the site adjacent to White Post Road is not in active arable use and has more of a parkland character with some animal grazing. The eastern edge of the site is bound by White Post Road, with the south-eastern boundaries being formed around

Banbury Cricket Club. The southern boundary is defined by Wykham Lane, with the existing allotments falling outside the site boundary to the south-west of the site. The northern boundary is formed by the Salt Way, a public right of way and historic trading route, beyond which lies existing 1970s era residential development of Banbury. The western boundary is defined by a hedgerow interspersed with a number of mature trees, beyond which are further arable fields.

- 2.2 The appeal site forms the eastern part of a larger site allocated within the Development Plan for a strategic urban extension to the southwest of Banbury. The site is known as Banbury 17 in the Development Plan and there is an equivalent planning policy that regulates its development. The northwestern corner of the allocated Banbury 17 site is already being developed by Morris Homes for 145 dwellings and is nearing completion. Land immediately to the west of the appeal site and covering the remainder of Banbury 17 is the subject of a live planning application (14/01932/OUT) submitted by Gallagher Estates and which proposes up to 1000 dwellings together with associated development. Land to the west of the A361 (Bloxham Road) also forms part of the planned urban extension to the southwest of Banbury but is covered by a separate allocation policy – Banbury 16. Outline planning permission for up to 350 dwellings has already been granted on this land.
- 2.3 The appeal site can be seen edged red in the site location plan submitted as part of the appellant's appeal document. The appeal scheme can be seen in its wider planned development context as part of the appellant's submitted illustrative masterplan (dated July 2016).

3. The Appeal Proposals

- 3.1 The appeal seeks outline planning permission for the erection of up to 280 dwellings with vehicular access created via a new junction with White Post Road and in time through a link road connection with development planned on the remainder of the allocated Banbury 17 to the west. The appeal also proposes other associated infrastructure including public open space, recreation and sports facilities, drainage features and landscaping together with a section of new bridleway and other pedestrian/cycle connections. All matters have been reserved except for access. An illustrative framework plan and masterplan have been submitted in coordination with Gallagher Estates as the proposed developer of the site to the west as part of efforts to demonstrate that the site can satisfactorily accommodate the development proposed and that there has been a joint approach to the proposed development of the allocated site.

- 3.2 A request for the Council to adopt an EIA Screening Opinion was submitted in advance of the submission of the planning application. The Council concluded that the proposals constituted EIA development primarily due to the cumulative environmental effects of the proposed development together with other committed development in the immediate area. An Environmental Statement (ES) was submitted with the planning application and the application publicised it as EIA development accordingly. The Council had regard to the information contained within the ES as part of considering the planning application.
- 3.3 Copies of representations from statutory consultees, internal consultees and third parties that were submitted to the Council in relation to the planning application will have already been forwarded to the Inspectorate as part of completing the appeal questionnaire. A Statement of Common Ground should hopefully have been agreed between the Council and the appellant for submission to the Inspectorate in advance of the hearing.
- 3.4 On 4th August 2016 at its Planning Committee, the Council resolved to grant the application for outline planning permission subject to the imposition of the conditions recommended by officers in their report as well as the satisfactory completion of a legal agreement to secure relevant on/off site infrastructure together with a means by which to either cap the amount of development that can take place on the overall Banbury 17 site until the full link road is provided or the securing of a means to fully secure link delivery. The appellant lodged an appeal against non-determination of the planning application on 29th March 2017 before the decision of the Planning Committee could be fulfilled and so no decision had been issued. Nevertheless, following the lodging of the appeal the Council resolved that in the absence of suitable conditions and a satisfactory planning obligation(s) that it would have refused to grant planning permission for reasons to be detailed further in this Statement.

4. Planning History

- 4.1 There is no relevant planning application history on the appeal site. The site is however subject to a wider allocation for residential development within the Development Plan pursuant to Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1. Land adjoining the appeal site to the west is the subject of a live planning application (14/01932/OUT) that is pending determination by the Council.

5. Planning Policy Context

- 5.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require the determination of planning applications and therefore appeals to be in accordance with the development plan unless material planning considerations indicate otherwise. The statutory development plan for Cherwell District includes both the adopted Cherwell Local Plan 2011-2031 Part 1 (CLPP1) as well as a number of 'saved' policies within the Cherwell Local Plan 1996 (CLP 1996).
- 5.2 The Council sets out below the Development Plan policies that it considers relevant to the determination of the appeal proposals and which provide the starting point for the consideration of the planning merits of the appeal scheme. The Inspectorate should have already been sent copies of these policies together with their supporting texts as part of the completion of the appeal questionnaire.

Development Plan Policies:

Cherwell Local Plan 2011-2031 Part 1

- BSC1: District Wide Housing Distribution
- BSC2: Effective and Efficient Use of Land
- 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
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD4: Decentralised Energy Systems
- ESD5: Renewable Energy
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment
- ESD17: Green Infrastructure
- Banbury 17: South of Salt Way - East

- INF1: Infrastructure

Cherwell Local Plan 1996

- C8: Sporadic Development in the Open Countryside
- C28: Layout, Design and External Appearance of New Development
- C30: Design Control
- ENV1: Pollution Control
- ENV12: Contaminated Land

Other Material Planning Considerations:

National Planning Policy Framework (NPPF)

- 5.3 National planning policy is a material planning consideration. The NPPF sets out the Government's definition of sustainable development and the policies through which it envisages the planning system will deliver this. It reinforces the plan-led system introduced through the Planning and Compensation Act 1991 and has at its heart a presumption in favour of sustainable development. The NPPF has been updated via a number of written ministerial statements made since its publication.

Planning Practice Guidance (PPG)

- 5.4 Guidance that assists in interpretation of national planning policy in the NPPF and its application to both plan-making and decision-taking. It also provides guidance on Government interpretation of relevant planning legislation as well as details of best practice in the planning system to assist practitioners and the public with general development management and plan-making queries.

Non-Statutory Cherwell Local Plan 2011

- 5.5 Conceived and intended as a replacement for the adopted Cherwell Local Plan 1996. In light of the changes introduced by the Planning and Compulsory Purchase Act 2004 and the introduction of the Local Development Framework system, the Council took the decision to discontinue work on the plan in December 2004 and withdrew it from the local plan process before its examination in public. It was however endorsed by the Council for development management purposes. As an emerging development plan document that has not been subject to examination, the weight afforded to it has always been limited. With the publication of the NPPF in March 2012 and the adoption of the CLPP1 in July 2015 its relevance has diminished further as many of its draft policies have been effectively superseded or rendered out-of-date. Whilst still of limited weight in certain circumstances, it is not considered to be of particular relevance to the determination of the appeal proposals.

- 5.6 Sets out further detail on those matters expected to be secured through planning obligations by the Council. Whilst not formally adopted this document has been endorsed for development management purposes by the Council.

Oxfordshire County Council's Local Transport Plan 2015-2031

- 5.7 This document is not part of the Development Plan for the local planning authority but it sets out the local highway authority's strategic policy framework, transport vision and objectives over the coming years. Implications for the objectives within this plan can be material in the consideration of major development proposals in the District.

6. Procedural Matters

- 6.1 Following the lodging of the appeal the Council has continued to consider and work towards determining the application for outline planning permission (14/01932/OUT) on the adjoining land to the west. This application has the benefit of a Planning Committee resolution for its approval subject to the satisfactory completion of a legal agreement and the imposition of conditions as determined by officers. The legal agreement is currently in the process of being drafted. Given that this planning application relates to adjoining land within the same allocated site it is inherently interlinked with the appeal scheme particularly given that the allocation policy (Banbury 17) requires an integrated and coordinated approach to development. Progress in the determination of this planning application is therefore materially relevant to the consideration of the appeal scheme and regard should be had to the proposals and commitments to be made as part of this live application to ensure that the overall outcome achieves the objectives of Policy Banbury 17 and contributes towards delivery of sustainable development. The Council considers it important to draw to the Inspector's attention any important updates in relation to this planning application insofar as it may affect the merits of the appeal proposals. An update is intended to be provided at the appeal hearing.
- 6.2 Since the lodging of the appeal the Council has continued to have discussions with the appellant regarding the content of a planning obligation that it is understood will be submitted as part of the appeal. A draft Unilateral Undertaking pursuant to S106(1) of the Town and Country Planning Act 1990 has been submitted to the Council by the appellant as part of ongoing discussions. At the time of writing this Statement a completed and satisfactory planning obligation has not been submitted and the Council reserves it right to make representations on any deed that is later submitted as part of this appeal. It is hoped that the appellant and the Council can

agree certain matters with respect to the planning obligation(s) and conditions in advance of the hearing and a Statement of Common Ground will hopefully be able to be prepared and submitted to the Inspectorate to confirm this.

7. The Council's Case

7.1 The Council's planning officers reported the planning application and therefore now the appeal scheme to its Planning Committee meeting of 4th August 2017. A copy of this report has been sent to the Inspectorate. The report included a recommendation for approval subject to the following:

- Satisfactory completion of a legal agreement to secure the items set out in paragraph 6.76 of the report;
- Imposition of the conditions recommended by officers;
- Either, imposition of a ceiling on the amount of development that can take place on the Banbury 17 site through use of additional planning condition(s) and/or via planning obligation; Or, securing delivery of the completed link road at an appropriate stage through a mechanism similar to that set out in OCC's consultation response;
- Provision for authority to be delegated to the Head of Development Management to make any necessary post-committee minor amendments to the conditions and legal agreement (with the Planning Committee Chairman's prior approval) in the interests of satisfactory decision making having regard to the Development Plan and any changes in circumstances including updates to central Government policy/guidance.

7.2 The Planning Committee endorsed the officer recommendation and resolved that the Council should approve the application subject to the above criteria.

7.3 Broadly speaking the Council retains the same view on the appeal proposals as expressed within the officer report to Planning Committee and its subsequent resolution but its position with respect to necessary infrastructure has modified to reflect changes in circumstances since the date of the Planning Committee meeting. However, in all main respects the appeal scheme is considered to be in accordance with the Development Plan and therefore able to be approved but only on the basis of the completion of a satisfactory planning obligation that appropriately secures all necessary on and off site infrastructure. The Council does not therefore intend to revisit the planning merits of the proposals as part of this appeal save for its ability to provide the necessary on and off site infrastructure to ensure a satisfactory quality of development and mitigate impact on wider public/community resources. The Council has not seen a finalised planning obligation in order to be able to comment on its

acceptability and reserves its position accordingly for the hearing. In the event that the Inspector concludes that a satisfactory planning obligation has subsequently been entered into, the Council also considers it essential that appropriate conditions are imposed on any consent in order to ensure the development is satisfactorily regulated in the interests of good planning to ensure the objectives of the Development Plan and Policy Banbury 17 are properly achieved. In the absence of a satisfactory completed planning obligation and appropriate conditions, the Council will contend that the appeal should be dismissed.

Planning Obligation(s)

- 7.4 Policies BSC3, BSC10, BSC11, BSC12, Banbury 13, Banbury 17 and INF1 of the CLPP1 are considered to be those planning policies of the Development Plan that are of primary relevance to considering the infrastructure required to be secured through a planning obligation. These policies are consistent with national planning policy set out in the NPPF, in particular through paragraphs 156, 157 and 162, which set out support for Local Plans to include policies to deliver the necessary infrastructure to support planned growth.
- 7.5 The Council has also had regard to the policy tests of planning obligations set out in paragraph 204 of the NPPF which is replicated on a statutory basis through regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and requires that planning obligations be:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
- 7.6 The Council has not adopted a CIL Charging Schedule and progress on the introduction of CIL has been paused in the light of recent Government indications of further announcements in relation to its future. Regulation 123 of the CIL Regulations 2010 (as amended) places pooling restrictions on funding towards infrastructure secured since April 2010 that is capable of being funded through CIL. The Council has had regard to this.
- 7.7 The Council, together with Oxfordshire County Council, will prepare a further statement providing justification (based on the statutory tests set out in reg. 122 of the CIL Regulations 2010 (as amended)) for the infrastructure that it considers should be appropriately secured through a planning obligation before planning permission should be granted. However, in broad terms the following headline infrastructure requirements are considered necessary to be satisfactorily secured and

the Council will expect to see suitable provisions in a planning obligation to achieve these before it considers that planning permission should be granted.

Affordable Housing

- 7.8 Policy Banbury 17 reflects the requirements of Policy BSC3 of the CLPP1 by requiring a minimum of 30% of the new dwellings provided on Banbury 17 to meet the definition of affordable homes as set out in the NPPF. Policy BSC3 includes a requirement for 70% of the new homes to be affordable rented in tenure with 30% intermediate tenure. This helps create mixed and balanced communities by providing for those in priority need. The application proposes 30% affordable housing and the Council has no reason to object to the proposals in this respect subject to suitable covenants being included in a planning obligation to ensure such provision is made and retained in perpetuity as well as appropriate sizes and types of affordable units as well as phasing of provision relative to market housing. The Council reserves the right to comment further on the content of any submitted planning obligation in this respect.

Sport and Recreation Facilities

- 7.9 Policy Banbury 17 of the CLPP1 requires development on the allocated site to include play space and sports provision as set out in Policy BSC11. Utilisation of table 7 that supports Policy BSC11 concludes that a development of the size of the appeal proposals should include 0.76ha of formal outdoor sports provision on the site. This assumes an average of 2.4 persons per dwelling which equates to the District average as determined through the 2011 Census. The Council currently has an underprovision of football pitches rather than other sports facilities and it is these that are considered to be necessary as part of the development. This equates to 1 x full sized adult pitch and 1 x junior pitch based on Football Association standards. The Council will expect a planning obligation to include suitable provisions in relation to the delivery of these facilities and the subsequent transfer of these facilities to the Council for their management and maintenance so that they are properly available to the public in perpetuity.
- 7.10 A full sized pavilion is expected to be a requirement of development proposed by Gallagher Estates on the adjoining land to the west. However, as the illustrative masterplan submitted by the two developers indicates separation between the sets of sports pitches, a further smaller changing room facility is considered to be necessary to serve the new football pitches as part of the appeal scheme. The Council will be

looking for a planning obligation to include suitable provisions in relation to the delivery of a changing room facility so that it is available for use together with the pitches as well as suitable covenants that commit to transfer the facility to the Council for ongoing management and maintenance.

- 7.11 Policy BSC11 also includes a requirement for provision of children's play spaces including a combination of Local Areas for Play (LAP), Local Equipped Areas for Play (LEAP) and Neighbourhood Equipped Areas for Play (NEAP). The development exceeds the thresholds for the provision of a LAP, LEAP and NEAP as set out in table 7 to Policy BSC11. LAPs and LEAPs cater for smaller children (2-8 years), and NEAPs for older children including teenagers. Development proposed by Gallagher Estates on the remainder of the allocated Banbury 17 site is expected to provide a NEAP close to the centre of the overall Banbury 17 site. As a result, and also due to existing underprovision in the immediate locality, the Council will be content to accept provision of a Multi-Use Games Area (MUGA) in lieu of a NEAP as part of the appeal proposals given that it serves a similar age group to a NEAP. Given the size of the development and likely walking distances for new residents to the play facilities the Council will expect a planning obligation to include suitable provisions for the delivery of 2 x LAPs, a combined LAP/LEAP facility, and a Multi-Use Games Area (MUGA) as well as suitable arrangements for the timing and specification of their provision, public accessibility as well as ongoing maintenance.

General Green Space/SuDS

- 7.12 Policy BSC11 requires areas of general green space within new residential developments (as set out in table 7) and Policy ESD7 requires a Sustainable Drainage System (SuDS) to be incorporated into new development including an agreement on the future management, maintenance and replacement of the SuDS features. The appeal proposals are shown to include areas of general green space within the development including new areas of public realm that incorporates new amenity space as well as landscaping including new and existing trees/hedgerow as well as SuDS features. In order to ensure that these are laid out appropriately, available to the public where necessary and managed/maintained properly in perpetuity in the interests of public amenity and reducing flood risk, the Council will expect to see suitable provisions within a planning obligation including a requirement that the cost of these features does not impact upon the public purse. The Council reserves the right to make representations on the content of the final planning obligation in this respect that is submitted as part of the appeal.

Community Facility

- 7.13 Policy Banbury 17 requires the provision of an on-site community facility on the allocated Banbury 17 site. This facility is being proposed as part of the application by Gallagher Estates on the remainder of the allocated site given that this represents by far the largest part of the overall allocated site. However, in order to adequately provide for the needs of the residents of the new dwellings across the entirety of the Banbury 17, the community facility needs to be larger than that solely necessary to mitigate the impact of the development proposed by Gallagher Estates. Development that has already taken place at the northwestern corner of Banbury 17 (by Morris Homes) mitigated its impact by making a financial contribution towards improvement of an existing facility and so is no longer relevant to the overall requirements. Based on similar sized developments within the District over recent years, the Council calculates that a community facility of 600sq m internal floorspace is required on Banbury 17. As the appeal proposals would represent 22% of the total number of dwellings proposed between the two current schemes on Banbury 17 it is considered to be reasonable for it to contribute 22% of the estimated build and maintenance costs of the community facility. The Council expects to see the planning obligation include for provision of payment of this proportionate financial contribution to the Council (based on the capital cost figures set out in section 14 of the Draft Planning Obligations SPD 2011 as well as the commuted sums for maintenance set out in Appendix I of the SPD) that is index linked to build costs. The Council expects to then refund this contribution to the developers of the Gallagher Estates scheme where they are committing to deliver the community facility (assuming planning permission is granted and implemented) to ensure that they are appropriately reimbursed for the costs of delivery a larger and more expensive facility on their site. The Council also expects to see a suitable financial contribution made towards the additional land cost associated with the provision of a larger facility on the neighbouring Gallagher Estates site which the Council then expects to reimburse Gallagher Estates at the appropriate stage based on covenants within a legal agreement associated with a planning permission issued pursuant to their current planning application. The Council reserves the right to comment further on the content of the planning obligation in this respect once it is formally submitted as part of the appeal.

Allotments

- 7.14 Policy Banbury 17 requires the provision of allotments across the Banbury 17 site in accordance with that set out in further detail in Policy BSC11. Policy BSC11 sets out a requirement for 0.37ha of allotment provision per 1000 people. On the basis of an average occupation of 2.4 persons per new dwelling this equates to approximately 0.25ha of allotments if the maximum of 280 dwellings are developed on the site. The Council will be expecting a planning obligation to include provisions securing delivery of the required allotments at a suitable stage and to a satisfactory specification together with arrangements for their management and maintenance in perpetuity. The Council reserves the right to comment further at the hearing on the adequacy of the final planning obligation with respect to its allotment provisions.

Cemeteries

- 7.15 Policy Banbury 13 requires developer contributions to be sought from new residential development in Banbury towards the costs of establishing new cemetery provision. The Council expects a planning obligation to include suitable clauses making a financial contribution towards off-site cemetery provision in accordance with the approach set out in section 12 of the draft Planning Obligations SPD 2011. In this respect the Council reserves the right to comment further on the content of the planning obligation that is submitted as part of the appeal.

Police Infrastructure

- 7.16 Policy INF1 requires development proposals to meet the necessary provision of infrastructure which is consistent with Government guidance set out in the NPPF, particularly in paragraph 156 where the NPPF references provision of security infrastructure.
- 7.17 Thames Valley Police has set out in some detail how the proposed development would require specific increases in police capital resources which should be funded through the development. The Council considers that these have been clearly evidenced and have been shown to be necessary, relevant and reasonable having regard to the statutory tests of planning obligations. The Council expects to see appropriate commitments within a planning obligation to make financial contributions to the Council in accordance with those set out in the representation made by Thames Valley Police. The Council expects to then act as a collecting authority before onward transfer of the funds received. Thames Valley Police is expected to be

able to provide any further justification for the contributions at the hearing if considered necessary.

Access and Transport

7.18 Both the Council as the local planning authority and Oxfordshire County Council (OCC) as the local highway authority have concluded that the means of access to the proposed development and its wider transport impacts are acceptable subject to securing improvements/contributions through a combination of planning obligations and conditions. It is expected that OCC will provide further justification for much of this infrastructure both in advance of and at the hearing. However, as a minimum, the Council expects the following to be appropriately secured through a planning obligation to ensure that the development is served by a safe and suitable means of access, promotes sustainable travel and mitigates significant adverse impact on the local highway network:

- Financial contribution towards the cost of pump priming the provision of a new bus service to link the development to the town centre as well as associated bus infrastructure (shelters, RTI, flagpoles etc) both within the development site as well as along Oxford Road in accordance with the requirements of Policies SLE4 and Banbury 17 of the CLPP1;
- Financial contributions towards the improvement of surrounding public rights of way that would experience increased pedestrian and cycle usage as a result of the development in accordance with the requirements of Policies SLE4, ESD15 and Banbury 17 of the CLPP1;
- Travel Plan monitoring contribution to ensure the development continues to take the opportunities available to prioritise sustainable modes of travel in accordance with Policy SLE4 of the CLPP1 as well as the NPPF;
- Financial contribution towards improvements of existing junctions to ensure that the development does not cause severe cumulative congestion on the local highway network in accordance with the requirements of Policy SLE4 of the CLPP1 as well as the NPPF;
- A requirement to construct and complete the section of link road within the appeal site to the western boundary in accordance with a suitable specification and approved drawings prior to whichever is the earliest of: the first occupation of the 150th dwelling on the appeal site or, within three years of the commencement of the development. This is to ensure that the appeal proposals contribute towards the delivery of the required link road through Banbury 17 at an appropriately early stage

in the interests of integrating the overall development, enabling a suitable bus service to be provided and mitigating traffic impacts on surrounding roads in accordance with the requirements of Policy Banbury 17;

- A requirement to enter into a highway agreement under the provisions of s278 of the Highways Act 1980 (as amended) and dedicate the new section of link road for adoption under a s38 highway agreement prior to commencement of development to enable and control the highway works to be undertaken by the developer as part of creating the new vehicular access arrangements from White Post Road. This is to ensure that the new link road is designed and constructed to an appropriate specification so that it is fit for purpose and in turn able to be adopted as public highway.

7.19 Subject to a planning obligation satisfactorily including commitments relating to the above infrastructure in addition to appropriate conditions as detailed in Appendix 1, the Council would have no objection to the appeal proposals with respect to access and transport matters. Further justification for the Council's position is able to be provided as necessary in advance of the hearing and at the hearing itself in response to the contents of the planning obligation submitted by the appellant.

Education

7.20 Policy Banbury 17 requires the provision of a new primary school on the allocated site as well as land to meet increased secondary school needs. Policy Banbury 17 also requires financial contributions to be provided towards expansion of existing secondary school capacity within the locality in order to accommodate further secondary school places to mitigate the impact of the development. There is inadequate existing primary, secondary and special educational school capacity in the local area to accommodate the additional pupils generated by development on Banbury 17. On and off-site education infrastructure is therefore required to mitigate the impact of the development in accordance with Policies Banbury 17 and INF1 of the CLPP1 as well as Government guidance set out in the NPPF. Oxfordshire County Council is the local education authority and has a statutory duty to ensure sufficient places are available for every child of school age in its area. OCC is expected to provide further justification in advance of and at the hearing in relation to the specific requirements it considers are necessary within a planning obligation in order to make the development acceptable with respect to local education provision.

7.21 The application submitted by Gallagher Estates on the adjoining land relates to what is by far the largest part of the allocated Banbury 17 site. It is on this land that the

new primary school is proposed with land expected to be secured through a legal agreement associated with a planning permission. At this stage it is unclear whether the primary school would be delivered directly by the developer or by Oxfordshire County Council itself via pooled financial contributions from relevant developments so it is envisaged that any legal agreement associated with a planning permission will include provision for either approach. Policy Banbury 16 of the CLPP1 also allocates land south of Banbury for residential development though this is to the western side of the A361 (Bloxham Road). Outline planning permission for up to 350 dwellings was granted on this land under reference 14/01188/OUT (and then varied under 16/00597/F) in November 2015 and a legal agreement associated with the permission secures financial contributions towards the creation of a new primary school on the allocated Banbury 17 site.

- 7.22 Based on evidence provided by OCC as the local education authority, the combined projected pupil generation from the appeal scheme, together with development on the remainder of Banbury 17 (application ref: 14/01932/OUT by Gallagher Estates) and development on Banbury 16 (planning permission 14/01188/OUT) is expected to amount to approximately 485 pupils of which 93 would result from the appeal scheme. The Council will expect to see a planning obligation committing to make a proportionate financial contribution to OCC towards the build costs of a new primary school as well as the additional land required on the Gallagher Estates application site to accommodate a larger primary school than is necessary to mitigate the impact of that development alone.
- 7.23 OCC as the local education authority is expected to provide further information as part of the appeal to justify the required contribution towards the new primary school build costs as well as its associated land costs. The Council reserves the right to comment at the hearing on the adequacy of the commitments made in this respect in the final planning obligation submitted as part of the appeal.
- 7.24 The appeal proposals would also result in additional demand for secondary school places and the existing local secondary school capacity is inadequate to accommodate them. Policy Banbury 17 recognises this and requires financial contributions from development towards provision of additional secondary school places. Policy Banbury 17 also requires land to be reserved within the allocated Banbury 17 site to meet wider secondary school needs.
- 7.25 OCC as local education authority has identified the nearby Blessed George Napier School as needing to be expanded to create the additional secondary school

capacity to mitigate the impact of additional pupils generated through development on Banbury 17. The Council will expect to see a planning obligation include suitable provisions securing payment of appropriate and proportionate contributions from the appeal proposals towards the expansion of Blessed George Napier School. In order for this school to expand it will require further playing field land to cater for the additional pupil numbers. This playing field land is expected to be secured via a legal agreement on the Gallagher Estates application site given that it is better located to the existing school site than the appeal site. In reflection of this and the requirements of Policy Banbury 17, the Council will expect to see a planning obligation commit to making appropriate financial contributions towards the land costs of providing a larger site for secondary school playing field land on the Gallagher Estates application site to mitigate the combined impact of development on Banbury 17. OCC is expected to set out in further detail, both in advance of and at the hearing, the justification behind the precise level of the contributions necessary and the requirements for the secondary school playing field and the Council will expect a planning obligation to satisfactorily fulfil these requirements.

- 7.26 Development proposed both on the appeal site and across Banbury 17 is also expected to give rise to some additional demand for special educational need school places. The nearby Frank Wise School caters for such needs and as part of the appeal proposals the Council will expect to see a planning obligation include provisions that secure an appropriate financial contribution towards improvements at the school. OCC as the local education authority is expected to provide further justification for the contribution as part of the appeal process. The Council reserves its right to comment further at the hearing on the contents of the final planning obligation in this respect.

8. Conclusion

- 8.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 require determinations to be made in accordance with the development plan unless material considerations indicate otherwise. The NPPF, as Government guidance, reinforces the importance of a planned system and the aforementioned statutory provisions.
- 8.2 The CLPP1 forms the principal development plan document for Cherwell District and was examined and found sound against the provisions of the NPPF such that it is consistent with national planning policy. Amongst other things, the CLPP1 provides for meeting the full objectively assessed housing needs of the District over the plan

period in a sustainable manner and development on Banbury 17 forms a strategic element of meeting this objective. As the Council can demonstrate in excess of a five year supply of housing within the District, full weight must be attached to the relevant policies of the CLPP1 including its policies for the supply of housing and therefore Policy Banbury 17.

- 8.3 The Council considers that the appeal proposals, subject to suitable planning obligations and conditions, would contribute appropriately towards meeting the requirements and objectives of Policy Banbury 17 as well as other relevant policies of the Development Plan. As such, in the event that a satisfactory planning obligation is submitted as part of the appeal and suitable conditions proposed to be imposed on a planning permission, the Council considers that the appeal should be allowed as there are no material considerations that exist to outweigh accordance with the Development Plan.
- 8.4 In the absence of the submission of a satisfactory planning obligation to properly secure the on and off-site infrastructure considered to be necessary as set out in this Statement, the Council contends that the appeal should be dismissed given that the proposals would not adequately mitigate their wider impact on public infrastructure, contribute sufficiently towards mixed and balanced communities or deliver a satisfactory quality of development on the site. Furthermore, the failure to satisfactorily secure the infrastructure necessary could prejudice successful delivery of the strategically allocated development on Banbury 17 and thus compromise the Local Plan's objective of creating a sustainable, cohesive and high quality urban extension to the southwest of Banbury.
- 8.5 The Council and other statutory consultees are expected to make further written representations once the appellant has submitted a final planning obligation and may choose to make further representations on this matter at the hearing with the Inspector being advised of the Council's final position.
- 8.6 In the event that the Inspector considers the submitted planning obligation to be acceptable (irrespective of the Council's final position) and is minded to allow the appeal, the Council recommends that the following conditions be imposed, and any others the Inspector considers appropriate, subject to any modifications necessary:
1. No development shall commence on a phase identified within an approved phasing plan (see condition 2) until the full details of the layout, scale, appearance and

landscaping (hereafter referred to as reserved matters) of the development within that phase have been submitted to and approved in writing by the Local Planning Authority.

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

2. Prior to the submission of any application for approval of reserved matters, a phasing plan covering the entire site (that indicates clear development parcels/phases for which applications for approval of reserved matters will be submitted) shall have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved phasing plan and reserved matters applications shall only be submitted in accordance with the approved phasing plan and refer to the phase(s) they relate to.

Reason - To ensure the proper phased implementation of the development and associated infrastructure in accordance with Government guidance contained within the National Planning Policy Framework.

3. In the case of the reserved matters, no application for approval shall be made later than the expiration of four years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). A longer than standard period is considered appropriate given the scale of the development and its interrelationship with wider planned development.

4. The development to which this permission relates shall be begun not later than the expiration of two years from the date of the approval of the last of the reserved matters to be approved.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

5. Except where otherwise stipulated by condition on this planning permission, the development shall be carried out strictly in accordance with the following plans and drawings but only insofar as they do not relate to matters reserved for later approval: 1361/22 Rev. E.

The development shall also be carried out in broad accordance with the details shown in the submitted Development Framework Plan (ref: JJG043-035 Rev. Q).

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

6. Prior to the submission of any application for the approval of reserved matters, full details of the section of new link road within the site (from its approved new junction with White Post Road through to the western boundary of the site) including its alignment, specification, junctions (other than private drives), drainage, crossings, road markings, traffic calming, footways/cycle lanes, verges, on-street parking bays, street lighting, bus stop infrastructure and associated soft landscaping shall have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved link road details unless otherwise with the prior written agreement of the local planning authority.

Reason - To ensure that a suitably designed link road is approved to enable proper design and consideration of reserved matters submissions and to facilitate appropriate and timely delivery of the link road to assist in bringing forward development on the wider Banbury 17 allocated site.

7. The section of link road approved under the requirements of condition 6 shall be fully completed and available for public use from its new junction with White Post Road (as set out in drawing no. 1361/22 Rev. E) through to the site's western boundary prior (as set out in drawing no. _____) prior to whichever occurs earliest of the following:
 - The first occupation of the 150th dwelling as part of the development;
 - Three years from commencement of the development..

In the event that the approved section of link road has not been provided in accordance with the above requirement, no further dwellings shall be constructed or occupied on the site until the section of link road has been completed in accordance with the details approved pursuant to condition 6.

Reason - To ensure the satisfactory comprehensive development of the wider site allocated as Banbury 17 in the Cherwell Local Plan 2011-2031 Part 1 and to prevent significant adverse impact on the local highway network.

8. No development shall take place within an approved phase until full details of the surface water drainage scheme to be incorporated within that phase together with details of how the surface water drainage arrangements within that phase are consistent with the overall drainage strategy for the site shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until it is served by the approved surface water drainage scheme

Reason - To ensure that as the development progresses appropriate consideration is given to ensuring that overall the development does not increase the risk of localised flash flooding in accordance with the requirements of Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1.

9. No development shall take place on any approved phase until full details of existing and proposed ground and floor levels within that phase have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out only in accordance with the approved levels.

Reason - In the interests of visual amenity in accordance with the requirements of Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

10. No development shall take place on any approved phase until full design details of the play areas proposed within that phase (including Local Areas of Play [LAPs], Local Equipped Areas of Play [LEAPs] and Multi-Use Games Area [MUGAs]) have been submitted to and approved in writing by the local planning authority. The development within that phase shall thereafter take place only in accordance with the approved details.

Reason - To ensure the development is served by appropriate play facilities in the interests of sustainably providing for the amenities of the new residents in accordance with the requirements of Policies Banbury 17, BSC10 and BSC11 of the Cherwell Local Plan 2011-2031 Part 1.

11. No development shall take place on any approved phase until a full arboricultural survey, method statement and arboricultural implications assessment that accords with BS: 5837:2012 (or any superseding British Standard) for all existing trees and hedgerows within and around the perimeters of that phase of the site have been submitted to and approved in writing by the local planning authority. The development shall take place within that phase only in accordance with the approved details.

Reason - To ensure the continued health of retained trees/hedges of importance in the interests of visual amenity and biodiversity in accordance with the requirements of Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

12. No development shall take place on any approved phase including works of site clearance/preparation until that phase of the site has been thoroughly checked by a suitably qualified ecologist to ensure that no statutorily protected species which could be harmed by the development have moved on to the site since the date the previous surveys supporting the application were carried out. Should any protected species be found during this check, full details of mitigation measures to prevent their harm shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved mitigation scheme.

Reason - To ensure the development does not cause harm to protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

13. Prior to the commencement of any development within an approved phase, a statement setting out the measures that will be incorporated into the development proposed in that phase to demonstrate how it will accord with the principles of 'Secured by Design' (SBD) shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.

Reason - To ensure the development is designed in a manner that reduces risk and fear of crime in accordance with the requirements Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

14. No development shall take place within an approved phase until a detailed foul drainage scheme detailing any on and/or off site foul drainage works has been submitted to and approved in writing by the local planning authority in consultation with the sewerage undertaker. No discharge of foul drainage from development within a phase shall be accepted into the public system until the approved drainage works referred to in the scheme have been completed.

Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community.

15. No development shall take place until impact studies on the existing water supply have been submitted to, and approved in writing by, the local planning authority (in consultation with Thames Water). The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

16. Prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present on the site, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

17. If contamination is found by undertaking the work carried out under condition 16, 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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

18. If remedial works have been identified in condition 17, no development shall be occupied within an approved phase (other than for construction purposes) until the remedial works have been carried out for that phase in accordance with the scheme approved. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority before any occupation of development on that phase can take place.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

19. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation shall be carried out in accordance with the approved details.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework

20. Prior to the commencement of the development hereby approved, including any works of site clearance, a mitigation strategy for badgers, which shall include details of a recent survey (no older than six months), whether a development licence is required and the location and timing of the provision of any mitigation or protective fencing around setts/commuting routes, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved details.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

21. Prior to the first occupation of any dwelling as part of the development, a full Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details. The LEMP shall include:

- o Description and evaluation of the features to be managed
- o Ecological trends and constraints on site that may influence management
- o Aims and objectives of management
- o Appropriate management options for achieving aims and objectives
- o Prescriptions for management actions for a 20 year period and beyond
- o Preparation of a work schedule (including a 5yr project register, an annual work plan and the means by which a plan will be rolled forward annually)
- o Personnel responsible for implementation of the plan
- o Monitoring and remedial contingency measures triggered by monitoring.

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 and Government guidance contained within the National Planning Policy Framework.

22. Prior to the commencement of the development hereby approved, including any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works minimise adverse effects on neighbouring residential amenity and biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP at all times.

Reason - To avoid causing undue environmental nuisance associated with the construction of the development in accordance with the requirements of Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

23. Except where a public right of way has been authorised to be formally extinguished or diverted (either temporarily or permanently) by the local planning or highway authorities, no development shall take place within 10m of any public right of way until the affected public right of way is protected during development to accommodate a width of a minimum of 5m in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter, the public right of way shall remain protected, unobstructed and available for use at all times in accordance with the approved details throughout the construction of the development unless otherwise agreed in writing by the local planning authority.

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

24. Details of the pedestrian connection to be provided directly between the site and the Salt Way including details of improvements to the existing public footpath within the site (Bodicote Footpath 13 - No. 137/13) together with a timetable for their provision shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any dwelling on the site. The approved pedestrian connection and footpath improvements shall be provided and thereafter retained in accordance with the approved details.

Reason - To encourage sustainable walkable neighbourhoods in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031.

25. No dwelling shall be occupied within an approved phase until details of the specification of any and all new and/or enhanced public footpaths, bridleways and cycle tracks to be provided within/through that phase together with a timetable for their completion shall have been submitted to and approved in writing by the local planning authority. Thereafter the new footpaths, cycle tracks and bridleways shall be provided in that phase in accordance with the details approved.

Reason - In the interests of the amenities of future residents and to maximise walkable neighbourhoods in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1.

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

Reason - To safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

27. Prior to the commencement of the development and following the approval of the first stage Written Scheme of Investigation, a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation.

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

28. Prior to the commencement of the development, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the local planning authority in consultation with the local highway authority. The CTMP shall include details on at least the following matters:
- Routing arrangements for construction vehicles (which shall not be via Wykham Lane);
 - Deliveries/collections timetable and arrival/departure times for site workers;
 - Timing of construction of site access and highway works along Wykham Lane together with associated traffic management measures;
 - Wheel washing facilities;
 - Parking/turning and storage areas within the site;
 - Appropriate contact details for the contractors;
 - Details of the site compound and contractor welfare facilities.

Thereafter, the development shall be carried out only in accordance with the approved Construction Traffic Management Plan.

Reason - To minimise adverse impact on the road network in accordance with the requirements of Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

29. No development shall take place within an approved phase until details of the significant on site renewable energy provision to serve the dwellings within that phase have been submitted to and approved in writing by the local planning authority. No dwelling within that phase shall thereafter be occupied until it is being served by the approved on-site renewable energy generation measures and shall remain so thereafter.

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

30. No development shall commence until full details (including construction specification) of the new 34 space public car park adjacent to White Post Road (shown indicatively on dwg no. 1361/22 Rev. E) together with a timetable for its completion have been submitted to and approved in writing by the local planning authority. The new car park shall be completed in accordance with the approved details and retained for free public use thereafter as a car park.

Reason - To ensure the development does not give rise to extreme parking stress on surrounding roads in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

31. Prior to the commencement of the development, details for the management, storage and/or disposal of spoil resulting from construction works on the site shall be submitted to and approved in writing by the local planning authority. The development shall thereafter only take place in accordance with the approved details.

Reason - To ensure inappropriate storage of earth material does not occur on the site leading to harm to the soil structure and loss of good growing medium as well as inappropriate and unsightly landscape features both during construction and afterwards.

32. No occupation of any dwelling as part of the development shall take place (except for construction purposes) until the highway works shown in drawing no. 1361/22 Rev. E have been fully completed and made available for use.

Reason - To ensure the development is served by an appropriate form of access that does not have an unacceptable impact on the wider highway network in accordance with the requirements of Policies Banbury 17 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

33. No dwelling shall be occupied within any approved phase until full details of the street lighting to be provided within that phase has been submitted to and approved in writing by the local planning authority. Thereafter the street lighting shall be provided as approved prior to the first occupation of any dwelling within the phase and retained as approved thereafter.

Reason - To ensure a safe and satisfactory residential environment is provided and to mitigate impact on public infrastructure in accordance with the requirements of Policy ESD15, Banbury 17 and INF1 of the Cherwell Local Plan 2011-2031 Part 1.

34. Prior to the first occupation of any dwelling within an approved phase, fire hydrants shall be provided for that phase in accordance with details to be first submitted to and approved in writing by the local planning authority.

Reason - To secure the provision of essential infrastructure in the interests of reducing risk of fire damage in accordance with the requirements of Policy INF1 and BSC9 of the Cherwell Local Plan 2011-2031 Part 1.

35. Prior to the first occupation of any dwelling on the site, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments, shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall thereafter be implemented and operated in accordance with the approved details.

Prior to the occupation of the 140th dwelling on the site, an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved updated Travel Plan shall be implemented and operated thereafter in accordance with the approved details.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

36. Prior to the first occupation of any dwelling on the site, details of a scheme of public artwork to be installed within the site (including a timetable for its provision and future maintenance arrangements) shall be submitted to and approved in writing by the local planning authority. The public artwork shall thereafter be installed in accordance with the approved details.

Reason - In the interests of creating a high quality public realm in accordance with the requirements of Policy Banbury 17 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

37. No dwelling shall be occupied on the site until 3 bins for the purposes of recycling, residual and garden waste have been provided for that dwelling, in accordance with the following specification:
- One 240 litre blue wheeled bin for the collection of dry recyclable material;
 - One 240 litre green wheeled bin for the collection of residual waste;
 - One 240 litre brown bin for the collection of garden waste material

Reason - To provide appropriate and essential infrastructure for domestic waste management in accordance with the provisions of Policies INF1 and BSC 9 of the Cherwell Local Plan 2011 - 2031 Part 1.

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

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

39. Prior to the commencement of any work associated with the construction of the approved new access from White Post Road (as shown in dwg no. 1361/22 Rev. E), details of safety measures to be incorporated into the new cycle lanes along White Post Road to reduce risk of conflict between cyclists and pedestrians outside Bishop Loveday Primary School shall be submitted to and approved in writing by the local planning authority. The new access shall thereafter be constructed in accordance with dwg no. 1361/22 Rev. E together with the approved additional safety measures and shall not be brought into use until the cycle lanes have been constructed and made available to public use in accordance with the approved details and shall be retained as such thereafter.

Reason – In the interests of highway safety in accordance with the requirements of Government guidance set out in the National Planning Policy Framework.

40. No occupation of any of the approved dwellings shall take place until details of the on-street parking controls to be introduced on the link road and White Post Road in the immediate vicinity of Bishop Loveday Primary School have been submitted to and approved in writing by the local planning authority in consultation with the local highway authority. Occupation of dwellings shall not take place until the approved on-street parking controls have been introduced and such controls shall be retained/implemented as approved thereafter unless otherwise agreed in writing by the local planning authority.

Reason – To ensure that further indiscriminate parking of cars along sections of White Post Road and the new link road does not occur as a result of the development which would be likely to prejudice highway safety.

41. Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (and any Order or Statutory Instrument revoking and re-enacting that order), all new water supply, wastewater, power and communication related public infrastructure on the site (including anything proposed to be undertaken by a Statutory Undertaker) shall be provided underground and retained as such thereafter unless otherwise with the specific prior approval in writing of the local planning authority. Where approved in writing by the local planning authority, relevant above ground infrastructure shall be provided only in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

42. No trees or hedgerows on the site (as existing at the date of this decision) shall be lopped, felled, uprooted or wilfully damaged unless otherwise approved pursuant to approvals of reserved matters with the exception of those necessary to facilitate the creation and laying out of the approved vehicular and pedestrian access arrangements from White Post Road as set out in the submitted Arboricultural Assessment produced by FCPR and dated April 2016. The approved means of access from White Post Road and associated highway works shall be constructed only in accordance with the methodology and tree protection measures set out in the submitted Arboricultural Assessment (produced by FPCR and dated April 2016).

Reason - To ensure existing landscape features of significance are retained in the interests of creating a high quality development that is sympathetic to its setting and preserves/enhances biodiversity in accordance with the requirements of Policies ESD10, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031.

43. No more than 280 dwellings shall be accommodated on the site under the provisions of this permission.

Reason - To ensure that the local planning authority can consider the wider sustainability implications of a more intensive development on the site and to ensure the Environmental Statement is appropriate to the scale/impact of the development.

44. No removal of hedgerows, trees or shrubs shall take place between the 1st March and 31st August inclusive, unless the local planning authority has confirmed in writing that such works can proceed based on the submission of a recent survey (no older than one month) that has been undertaken by a suitably qualified ecologist to assess the nesting bird activity on site together with details of measures to protect the nesting bird interest on the site.

Reason - In the interests of preventing harm to protected species in accordance with the requirements of Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

45. Any and all non-residential buildings on the site shall meet at least BREEAM 'Very Good' based on the standard applicable at the date of this decision.

Reason - In the interests of sustainable construction in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031.

46. No building on the site shall have a maximum height greater than 8.5m.

Reason - To ensure that the Environmental Statement robustly assessed the landscape impacts of the development.

47. The open market dwellings provided on the site shall include a minimum of the following dwelling sizes:

- 20% as two bedroom dwellings;
- 40% as three bedroom dwellings.

The development shall reflect these requirements and all applications for approval of reserved matters shall be consistent with them unless with the prior written agreement of the local planning authority.

Reason - In order to provide an appropriate mix of housing on the site to respond to the objectively assessed housing needs of the District in accordance with the requirements of Policy BSC4 of the Cherwell Local Plan 2011-2031 Part 1.

48. No part of any building shall be located within 20m of any part of the Salt Way restricted byway.

Reason - To ensure the rural setting, heritage and public amenity value of this historic trade route is adequately protected in accordance with the requirements of Policy Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1.

49. Residential development across the site shall achieve a minimum net density of no less than 30 dwellings/hectare including within each and every residential parcels/phases and all applications for approval of reserved matters shall be in accordance with this minimum requirement.

Reason – In the absence of a range or minimum amount of development specified in the description of the proposed development it is necessary to ensure that as development progresses it takes the opportunity to make at least a moderately efficient use of land in the interests of sustainability and to contribute properly towards housing delivery in accordance with the requirements of Policies BSC1, BSC2 and Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1.

50. Prior to the first use of the approved new vehicular access arrangement (as shown on drawing no. 1361/22 Rev. E) and/or the new public car park (condition 28), details of the means by which the existing vehicular access to Banbury Cricket Club will be stopped up to motor vehicles shall be submitted to and approved in writing by the local planning authority. Neither the approved new vehicular access nor public car park shall be brought into use until the existing access has been stopped up in accordance with the approved details and shall be retained as such thereafter.

Reason - In the interests of preventing risk of undue conflict between different users of the highway in accordance with the requirements of Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1.

