

OS Parcels 6741 And 5426 West Of Cricket Field North  
Of Wykham Lane  
Bodicote  
Oxfordshire

15/01326/OUT

**Case Officer:** Matthew Parry                      **Ward(s):** Adderbury, Bloxham And Bodicote

**Applicant:** Gladman Developments Ltd

**Ward Member(s):** Cllr M Bishop  
Cllr C Heath  
Cllr N Randall

**Proposal:** OUTLINE - 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.

**Committee Date:** 4<sup>th</sup> August 2016                      **Recommendation:** Approval subject to conditions and completion of a legal agreement

**Reason for Committee Referral:** Major Development

### **Introduction**

*This application was reported to Planning Committee on 19<sup>th</sup> May 2016. It was subsequently deferred on a revised recommendation from officers following a late representation by Oxfordshire County Council that objected to consideration of this application separately from the other live application (ref: 14/01932/OUT) on the allocated Banbury 17 site as the two schemes were considered to give rise to interrelated impacts and on-site infrastructure requirements that needed comprehensive assessment. These applications are now both on the agenda for this Planning Committee and Oxfordshire County Council has withdrawn its objection to the application subject to their detailed comments set out in Appendix 2 to this report. As stated in the report for application reference 14/01932/OUT, whilst each application is the subject of its own individual report and recommendation, officers' intend to present the schemes together in the interests of enabling informed decision making. However, ultimately they form two separate applications and therefore two decisions need to be made at Committee.*

## **1. Application Site and Locality**

- 1.1 The application site consists predominantly of an area of greenfield land to the south of the existing built-up edge of Banbury and to the northwest of Bodicote village. The site lies within the administrative area of Bodicote Parish Council. The majority of the site forms part of the countryside and is in arable use though the eastern section of the site adjacent to White Post Road has more of a parkland character with a number of mature oak and beech trees and is sometimes used for sheep grazing. The application site also includes

part of the Banbury Cricket Club site adjacent to White Post Road including the initial section of its access road and associated verges.

- 1.2 The site is comparatively flat though there are modest undulations within the site and it does fall slightly from the northwest (along the Salt Way) down to the southeast adjacent to Wykham Lane. This fall is characteristic of the modest rolling agricultural countryside found immediately to the south of Banbury.
- 1.3 The site is bounded by established hedgerows along the majority of its boundaries and contains three hedgerows within the site running from its northern to southern boundaries. To the north, separated by a hedgerow of varying density, lies the historic trade route of Salt Way that is also a public right of way (a restricted byway). Beyond this lies the suburban 1970's era residential area known as the Timms' Estate. To the northeast is the Saltway House nursery with which the site has a dense landscaped boundary of hedgerows and trees. The eastern boundary is formed by a low hedgerow along White Post Road which connects Bodicote with Banbury. The access to Bishop Loveday Primary School lies directly opposite the site and the Cherwell District Council offices lie a little further to the south. The site's southern boundary is jointly comprised of the Banbury Cricket Club grounds, Wykham Lane and Bodicote allotments. Beyond Wykham Lane to the south lies further undulating agricultural countryside interspersed by belts of trees and hedgerows. To the west of the site lies farmland that continues through to Bloxham Road in addition to associated farm houses and agricultural buildings.
- 1.4 In addition to the Salt Way restricted byway that passes along the northern boundary of the site, a public footpath bisects the site in a north-south alignment connecting Wykham Lane to Salt Way.
- 1.5 The application site is part of a wider parcel of land allocated in the recently adopted Cherwell Local Plan 2011-2031 Part 1 (LPP1) to which Policy Banbury 17 relates. This policy allocates a parcel of land between Bloxham Road and White Post Road for a residential-led urban extension to the south of Banbury (for up to 1,345 dwellings) to contribute towards meeting the identified housing needs of the District over the plan period. The application site comprises the eastern part of the land allocation which amounts to approximately 25% of the overall area of the allocated land. Somewhat unusually, due to a variety of different ownership interests in this land, the proposals on Banbury 17 have not come forward as part of one application as is typically the case but over three different sets of applications.
- 1.6 Land to the northwest corner of the allocated Banbury 17 site now has the benefit of full planning permission for 145 dwellings with both outline and reserved matters applications being approved on the site. Development is currently underway on what has now been called 'Victoria Park' by the developer Morris Homes and occupations are beginning to take place. Permission was granted on this part of Banbury 17 prior to the site being formally allocated in the adopted LPP1 but is still recognised in the policy.
- 1.7 The largest part of the allocated Banbury 17 land is the subject of a current planning application submitted on behalf of Gallagher Estates for up to 1,000 homes and associated infrastructure which is the subject of the preceding report. As a consequence, whilst this site and the wider Banbury 17 land are formed of predominately hedge-lined arable countryside, they sit within a strategic residential development context, the principle of which was approved by the Council in its adoption of Part One of the Local Plan.

## 2. Description of Proposed Development

- 2.1 The application seeks outline planning permission for up to 280 dwellings on the site with matters of scale, layout, appearance and landscaping reserved for later approval. As a result, only a limited number of plans and drawings have been submitted as part of the application with most of these illustrative. Access has not been reserved for later consideration and so access to and within the development (vehicular, cycle and pedestrian) is therefore a matter of detail to be determined as part of this outline application and the drawings provided in this respect are the final detailed proposals and should be considered as such. As part of this application Members should therefore be considering the impacts of all aspects of the proposals except matters directly related to the detailed design and layout of the scheme on the site.
- 2.2 In addition to the maximum of 280 dwellings, both formal recreation and play facilities as well as informal amenity areas are proposed in addition to surface water drainage features (attenuation ponds, swales etc) and new allotments adjacent to the existing Wykham Lane allotments. An entirely new access is proposed to the site from White Post Road which sees a new spine road proposed through the centre of the site on an east-west alignment which would then connect through to the existing four-arm roundabout in place of White Post Road. In turn, White Post Road would take on a secondary form and meet the new spine road at a proposed priority junction just to the north of the existing vehicular access to Bishop Loveday Primary School.
- 2.3 The central spine road is then proposed to continue through to the western-most boundary of the site where it meets the Gallagher Estates application site. A 34 space car park is proposed close to the new junction between the spine road and White Post Road to provide a public car parking facility to replace with greater capacity the on-street parking capacity lost as a result of creating the new access arrangement.
- 2.4 A replacement vehicular access to Banbury Cricket Club is proposed off the new spine road which would then quickly align with the remaining driveway to the clubhouse. A variety of new footpaths and a bridleway are also proposed within the site, some of which would link through to the Gallagher Estates land to the west.
- 2.5 A request for the Council to adopt a screening opinion was made in advance of the submission of the application. The Council concluded that the proposed development represented EIA development due to the potential for significant environmental effects arising from the development when considered cumulatively alongside other committed developments to the south of Banbury. An Environmental Statement (ES) has been duly submitted by the applicant and needs to be considered as part of assessing the proposals.

## 3. Relevant Planning History on the Allocated Banbury 17 Land

### Land South Of Salt Way at Crouch Farm, Bloxham Road, Banbury (Victoria Park):

12/00080/OUT - OUTLINE - Residential development of up to 145 dwellings with associated access. **Refused 25.06.2012. Allowed on Appeal 23.09.2013**

14/01225/REM - Reserved matters application to Outline 12/00080/OUT - Appearance, Landscaping, Layout and Scale. **Approved 28.11.2014**

### Land adjoining and South of Salt Way, Wykham Park Farm, Banbury (Gallagher Estates site):

13/00321/OUT - OUTLINE - 1000 dwellings together with a local centre including retail (A1), financial services (A2), restaurants (A3-A5), up to a combined total floorspace of 1000m<sup>2</sup>, employment space (B1) up to a total floorspace of 5000m<sup>2</sup> with the B1(a) office component limited to a maximum of 2,500m<sup>2</sup>, associated car parking, a community primary school (including space for community uses (D1) and assembly and leisure uses (D2)), green infrastructure including formal and informal open space, amenity space, retained hedgerows, structural landscaping, supporting infrastructure (including gas, electricity, sewerage, water, telecommunications), sustainable urban drainage systems, new connection to the A361 Bloxham Road, pedestrian and cycling connections to the surrounding footpath and cycle network and any necessary demolition and ground remodelling. **Undetermined by the Council. Appeal against Non-Determination Withdrawn 21.03.2014.**

14/01932/OUT - OUTLINE - Development of up to 1,000 dwellings together with a mixed use local centre. [including A1 retail up to 1,000 m<sup>2</sup>, financial services (A2), restaurants, pubs and takeaways (A3, A4, A5), community uses (D1)]; primary school and safeguarded additional primary school land; secondary school playing field land; green infrastructure including formal (including playing fields) and informal open space, landscape and amenity space; changing and sports facilities (including D2); sustainable drainage systems; highway, cycle and pedestrian routes; car parking; infrastructure (including utilities); engineering works including ground remodelling; demolition, site reclamation and removal of structures. Formation of a new roundabout access from the A361 together with associated alterations to alignment of Bloxham Road and provision of a section of spine road through the site up to its eastern-most boundary. **Pending Decision.**

Land west Of Cricket Field and north Of Wykham Lane, Bodicote (the application site):

15/00040/SO - Screening opinion - proposed outline application with means of access to be considered for residential development of up to 250 dwellings (use class C3), access, open space and associated infrastructure. **EIA Required 01.06.2015.**

#### **4. Response to Publicity and Consultation**

##### **Third Party Comments:**

- 4.1 The application as originally submitted was publicised by way of site notices, neighbour letters and a notice in the local press. 20 third party objections were received and the concerns raised are summarised as follows:
- The proposals would destroy the local landscape and harm wildlife;
  - The proposals would have a significant negative impact on the pleasant wide open views of the countryside as experienced from neighbouring houses. There are so many homes being built in Banbury, Bodicote and Adderbury that the need for 280 more seems ludicrous;
  - The proposals will significantly increase the levels of traffic using Wykham Lane which is already dangerous for vehicles and pedestrians including children attending Bishop Loveday Primary School;
  - The proposals amount to the urban sprawl of Banbury that would destroy the character and setting of Bodicote;
  - The additional traffic through Bodicote would harm its village character;
  - The Council should not let the spine road 'wander about' at the developers' discretion – this is too important an issue and a consistent width and layout should be stipulated. This should be a 7.3m wide carriageway with 2.5m footways to either side;

- The green space associated with the recreation facilities should be provided adjacent to the Salt Way to reduce the perception of coalescence between Banbury and Bodicote;
- There is no need for this level of new housing given the amount of housing that has already been provided in Banbury, Bodicote and Adderbury;
- The access to the site is in a dangerous location opposite the school which will increase traffic movements and conflict to the detriment of child safety. There are already numerous near-misses, minor accidents and points of conflict as a result of drivers trying to progress through restrictions caused by parked cars on White Post Road;
- The spine road will inevitably become a 'rat run' for traffic trying to cross Banbury which will increase its use beyond that currently envisaged;
- Salt Way is a place of recreation and relaxation for pedestrians, joggers, dog walkers, horse riders and cyclists. The development would reduce it to little more than an alleyway and lose its rural feel due to lighting, noise and views of houses. Views from the Salt Way south over the countryside towards Bloxham would also be substantively lost. The new footpaths will not compensate for this as they would be surrounded by buildings rather than have the pleasant countryside setting/views that the Salt Way enjoys;
- The proposals would disturb badger setts and badger paths. Skylarks nest in the fields in spring. Swifts and bats are present in the area;
- There have been some instances of flooding in the fields at the south of the site adjacent to Wykham Lane;
- The spine road coming out onto an already gridlocked White Post Road makes no sense;
- The proposals are in Bodicote, not Banbury. The developer has misinformed local residents in its consultation leaflets by using an incorrect address for the site;
- Bodicote has become a dumping ground for new housing. No other village within the District seems to have to accommodate so many new homes;
- Bodicote should be protected from coalescence;
- Bodicote will not be able to retain its village status if this development goes ahead;
- No amount of hedges will disguise the new houses and the Salt Way will lose its status as a rural public right of way as well as its biodiversity interest;
- There have been numerous instances of people being injured along White Post Road in accidents between pedestrians and vehicles. This would only get worse as a result of the development.

4.2 Following receipt of amended plans and further information to support the proposals, the application was re-publicised in March 2016. In response, 404 objections were received (many of which were in the form of a signed letter template) and as such the issues raised by many of the objectors are identical. In addition to the concerns raised in response to the original consultation, the following points were made:

- The Council's procedure for consultation is predominantly electronically based. This means some residents are unable to view, access or even manage to find them and so will be unaware of the impact of the proposals;
- The proposals for the spine road would confuse the boundary between Banbury and Bodicote and further erode the distinct definition between the town and village;
- The new site access cuts through part of the land allocated in the Local Plan for new informal green space. This would reduce the green buffer between Banbury and Bodicote;
- Oxfordshire County Council's consultation response suggests that all accesses onto Wykham Lane shall be permanently stopped up – this would prevent access to the cemetery, allotments etc;
- White Post Road is subject to considerable traffic originating from Bishop Loveday Primary School and Cherwell District Council. There are numerous reports of near miss incidents from residents yet this is frequently ignored. This will only be exacerbated as a result of the intensification of traffic flows along White Post Road;

- The proposed cycle bypass has been positioned directly outside Bishop Loveday Primary School entrance/exit. This is dangerous as a cyclist could collide with a child entering/leaving the School;
  - The proposed spine road removes a section of road currently used for parking and, whilst the 34 space car park now proposed is an improvement on the 26 originally proposed, it has not been assigned to anyone and cannot be policed. This could result in those spaces being used solely by school staff and council employees displacing school traffic further along Sycamore Drive, into Bodicote or on the spine road;
  - The proposed spine road between the A361 and A4260 must not be viewed as an isolated road used just by residents who live on the new development. It is part of a much broader infrastructure plan and is included in OCC's Local Transport Plan 4 (LTP4). With other policies in LTP4 promoting use of Bankside and provision of a link road east of the M40 Junction 11, there is a real concern that existing town/motorway traffic will also be encouraged to use the spine road. Oxford Road is already very congested with no real understanding of how future developments could impact the roads in Bodicote;
  - Policy Ban 1 in LTP4 will result in heavier traffic flows entering Bodicote. The proposed spine road sits between Salt Way Nursery and Bishop Loveday Primary School and any increase in traffic would undoubtedly affect child safety and have an adverse impact on air quality levels to the detriment of children's health;
  - Increases in traffic through Bodicote will adversely affect the special character of its conservation area.
- 4.3 A further representation has been received from the landowners of a section of the Salt Way to the north of the application site. The landowners claim that they own the boundary between Salt Way and the application site which prevents new connections being created onto the Salt Way without their consent. As no such consent has been provided, it must be assumed that no new footpath/cycleway connections can be provided.
- 4.4 A letter has also been received from the Governors of Bishop Loveday Primary School. This raises a number of concerns about the proposals which are summarised as follows:
- White Post Road is exceptionally busy at school drop-off and pick-up times. Adding a further 280 houses in the vicinity will hundreds of new cars with the potential for many more to the roads in the area;
  - The new spine road will become a bypass for cars coming from the south of Banbury through to Bloxham Road increasing traffic movements past the school;
  - The school is concerned that adding the new development and the new spine will add further risks to its children, parents, staff and visitors;
  - The school has serious concerns about the safety of children from construction traffic whilst the development is being built and are seeking assurances that there would be appropriate strict controls on traffic movements at specific times;

### **Response to Consultation:**

#### Bodicote Parish Council – Objection.

- The last field of the site included in the application proposals is not included within the Banbury 17 allocation in the Local Plan. If this is included in the permission, ownership should be transferred to the Parish Council;
- White Post Road is not in Banbury but in Bodicote;
- The new spine road should not come out onto White Post Road. This would not provide a link for east-west local traffic but will become a 'rat run' for traffic coming off Oxford Road;
- It is totally inappropriate for the spine road to be access from White Post Road opposite the school. White Post Road is already gridlocked at school times and is often full of parked cars on both sides of the road;

- The spine road should connect directly to the existing roundabout rather than to White Post Road opposite the school;
- The spine road must be laid out in its entirety and not completed in a piecemeal fashion;
- The Environmental Statement concludes that the cumulative effect of the proposed development in conjunction with other committed developments will have no significant adverse impacts on the local highway network. This statement is “ridiculous”;
- The proposals would be in conflict with the Council’s planning policies that seek to enhance the beauty and diversity of the countryside;
- What is planned for the additional primary and secondary school children – this will adversely impact existing provision;
- Bodicote is a Category A settlement as defined in the Local Plan. No other developments should be approved other than minor residential and infill schemes. The entire development is proposed within Bodicote Parish;

In response to re-consultation Bodicote Parish Council has continued to raise its objection to the proposals and made the following comments:

- The future of Bodicote as a village is very bleak;
- Bodicote is at risk of becoming part of Banbury which is contrary to Policy C15 of the Local Plan 1996;
- A full air quality assessment is needed to address the impact of the additional traffic travelling both ways on the new spine road as it could impact upon the health of children;
- The developers should provide a bus service along the spine road to alleviate some of the traffic problems;
- The developers need to provide an access road to the site for the contractors and their materials. This must not cause problems for the already congested White Post Road;
- Existing footpaths should be maintained and remain accessible during the period of the construction of the development as well as afterwards;
- A safety audit and transport assessment needs to be provided showing the impact of the development on the local transport network and highway safety;
- The green space to the south of the site is in Bodicote Parish and should stay with the Parish. The Parish is keen to adopt this land together with a proper commuted sum;
- There must be no access to/from Wykham Lane for the housing. This should be enshrined in any permission;
- The cycle lane crosses the exit from the school and could present a safety risk for children;
- Concerns raised about the junction between White Post Road and the new spine road – what provision will there be to prevent vehicles waiting a long time to get onto the spine road;
- The new car park is welcomed provided it is available for school dropping off and picking up. The car park should however be widened to introduce a separate entrance/exit to avoid chaos at peak school times. However, how will this car park be maintained?
- The provision of a MUGA is something the Parish Council welcomes.

## **Cherwell District Council:**

Community Services – A new community centre is required to serve the development somewhere on Banbury 17 which should be approximately 600sq m in floorspace. Funding is also required towards a community development worker and community events/projects. A financial contribution of £150/dwelling in addition to enabling fees are required towards public artwork on the site.

## **Planning Policy**

### *Main Observations:*

-The application site forms the eastern section of strategic allocation Banbury 17 as contained in the adopted Cherwell Local Plan. The eastern and western parts of the allocation are in separate ownerships.

-Policy Banbury 17 requires an integrated, co-ordinated and comprehensive planning approach to be taken, with a link road between the sites in separate ownership, and a masterplan to be prepared in consultation with the Council, Oxfordshire County Council, the Local Nature Partnership and local communities, to ensure that this is delivered.

-An Illustrative Framework Plan has been submitted as part of the application. It is understood that this has been prepared in consultation with the adjacent site promoters, and the same framework plan also now forms part of the pending outline application on the adjacent site. However it is not clear to what extent the current Indicative Framework Plan has been the subject of wider consultation.

- The Illustrative Framework Plan indicates a spine road through the strategic allocation with the spine road connection between the two land ownerships to be made between specified coordinates.

- In terms of the framework plan as it applies to the application site, a number of elements are broadly in accordance with the requirements of Policy Banbury17.

Built development is focussed in the northern part of the site and does not intrude into the easternmost parcel indicated as public open space, the proposals include SUDs and an indicative route for a proposed bridleway along the southern boundary of the site and linking to Salt Way. The southern portion of the application site is also kept free from built development.

-The area of informal open space immediately to the north of the Bodicote Recreation Ground, intended to create a buffer between the development and Bodicote village, has been reduced by the indicative link road and junction arrangement with White Post Road and the proposed car park to serve Bishop Loveday Primary School. This will need careful consideration at the detailed stage and it should be ensured that the remaining area of open space is secured for such use. Policy Banbury 17 requires a route for an east-west link road for local traffic and it is understood that the arrangements now indicated as part of the application are the County Council's (as Highways Authority), preferred arrangements.

-The southern portion of the application site is indicated as a combination of an extension to the existing allotments, playing fields and amenity open space. This differs from Policy Banbury 17 which indicates this area as pitch provision to serve the allocation as a whole.

-It is noted that the Indicative Framework Plan indicates additional pitch provision in the western part of the allocation site outside of the application area. The spread of pitch provision may be less beneficial in operational and maintenance terms although the proposed location of playing fields in the adjoining site forming part of the allocation site are linked to the playing fields in this application by open space. The make-up of provision should be informed by the outcome of the Playing Pitch Strategy about to be undertaken.

-The framework plan alternative proposals for a combination of open space use in the southern part of the application site for the most part avoids built development in this

most sensitive part of the site in terms of landscape impact. It is important to ensure that sufficient open space and recreation space in accordance with Policy BSC11 is secured, as at this stage the Illustrative Framework Plan indicates key components only.

-It should be ensured that an adequate buffer is provided between the development and Salt Way, in accordance with the requirements of Policy Banbury 17 (which suggests the buffer should be at least 20m wide).

- In view of the impact the development is likely to have on the character and setting of Salt Way, Policy Banbury 17 requires the provision of a new footpath bridleway running from east to west along the southern boundary of the development area, incorporating links with existing footpaths to form a new circular route linking back to Salt Way. The Indicative Framework Plan includes an indicative location for a proposed bridleway in accordance with this requirement. Strategic landscaping could be provided along the route of the new bridleway as it passes along the southern boundary of the site which would help to reduce the visual impact of the development from the south.

#### *Recommendations:*

The site forms part of a strategic allocation in the adopted Cherwell Local Plan Part 1 and the indicative quantum and distribution of development, provision of an integrated spine road and new bridleway and pedestrian cycle link linking with land in separate ownership to the west of the application site, general provision of open space and the avoidance of direct coalescence with Bodicote are broadly supported, being generally in accordance with Policy Banbury 17. However the issues raised under the observations above should be taken into account as the proposals are progressed. Key components of the Illustrative Framework Plan and requirements of Policy Banbury 17 should be conditioned or secured through legal agreement as appropriate.

Ecologist - The submitted ecological appraisal for the application is fine with the appropriate aspects surveyed in appropriate depth. The field to the East bordering the road is not used for parking and recreation as stated however – it is currently used for sheep grazing, sometimes for horses and is probably more accurately described as pasture.

There are no major ecological issues on site. The most valuable features are the hedgerows, however breeding birds, badgers, reptiles and bats also need consideration.. Some of the species of open arable landscape (brown hare and farmland birds), which are also being lost adjacent, are largely dismissed as being necessarily displaced or mitigated through sub-optimal habitat provision. When considered in the context of neighbouring developments I would like to see greater effort to mitigate for the effects on these species, or where not possible, to compensate off site. Brown hares in particular are a Priority Species and as such we need to have regard for to their conservation.

In general the recommendations in the ecological report are appropriate. To retain the value of the hedgerows a wider buffer than the 2m suggested (this is anyway inconsistent with the 3m recommended later for retaining the hedgerow's value to and mitigating for reptiles). In hedgerows where there are trees a 5m buffer would be better to avoid root damage and in general more generous buffers to hedgerows would be better for wildlife. There are other indirect effects on wildlife using the hedgerows not assessed, such as an increase in domestic pets and dog walking, which a wider buffer would help ameliorate.

A scheme of biodiversity enhancements both within the proposed open space and the built environment (the ecological appraisal makes some appropriate suggestions for the built areas including green roofs and incorporation of bird and bat boxes into dwellings)

should be conditioned. It should aim to show how a net gain will be achieved on site in line with National and Local policy. A CEMP should include measures for removal of any trees with bat potential, protection of the hedgerows and The Saltway and restrictions on lighting during construction. A lighting design scheme should be submitted which is in line with the Bat Conservation Trust guidelines and shows in terms of light spill how dark corridors will be maintained.

The following conditions are recommended to be imposed on any permission:

**K12 Nesting Birds: No Works Between March and August Unless Agreed**

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 health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site. Reason KR1

**K14 Badgers: Mitigation Strategy**

Prior to the commencement of the development hereby approved, including any demolition and 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 KR1

**K17 Biodiversity Enhancement**

Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on site which includes assessment of net gain shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details. Reason KR3

**K20 Landscape and Ecological Management Plan (LEMP)**

Prior to the commencement of the development hereby approved, 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. Reason KR2

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

Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the approved CEMP. Reason KR2

**K23 Use of Native Species**

All species used in the planting proposals associated with the development shall be native species of UK provenance. Reason KR3

**Lighting**

Prior to the commencement of the development hereby approved, a lighting design scheme shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, lighting shall be installed and operated in accordance with the approved details.

Reason KR2

### Environmental Protection

#### *Land Contamination:*

The findings of the Phase 1 land contamination report are acceptable. The recommendations for further works to investigate and clarify the potential risk from land contamination are acceptable. As such, the following conditions should be applied to ensure these works are submitted to the LPA:

#### Land contamination: Intrusive Investigation

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, 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 JR6

#### Land Contamination: Remediation Scheme

If contamination is found by undertaking the work carried out under condition [J13], 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 JR6

#### Land Contamination: Carry out Remediation

If remedial works have been identified in condition [J14], the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition [J14]. 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 JR6

#### Land Contamination not Previously Found

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 strategy 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.

#### *Air Quality:*

Conditions are recommended to be applied to ensure air quality impacts from construction are mitigated and a low emission strategy is provided. The Peter Brett air quality assessment report (reference: 29541/001, dated July 2015) refers to construction impacts being adequately mitigated through condition. These fugitive emission controls should be included in a construction management plan, which should be required by condition.

The report has concluded there is an insignificant impact from road traffic generated from the operational site. The report refers to the inherent uncertainties in this prediction and has used predicted vehicle emission factors for the operational stage of the development. These emission factors assume a level of uptake of new vehicles and the associated improvements in vehicle emission technology which significantly improve over time. This is in line with a good practise approach but it is acknowledged that predicted improvements in air quality with vehicle technology haven't been realised so far. I'd like to see a scheme proposed that identifies and facilitates opportunities to encourage the adoption of new vehicle emission technologies as part of this development and its traffic generation. This could be in the form of a low emission strategy.

Arboriculture - The arboricultural assessment has evaluated the site well and is protecting high quality species. A tree constraints plan will be required by condition to ensure that the retained trees are well protected during construction.

Landscape Services – The current indicatively shown LAP/LEAP/NEAP provision is inadequate and does not accord with the requirements/thresholds in Policy BSC11 of the Local Plan. Financial contributions will be required towards ongoing maintenance of landscape features and play areas through a legal agreement. Initial concerns were raised regarding the adequacy of the landscape assessment that supported the application. Following the receipt of further supporting information, the landscape impact of the proposals have now been appropriately assessed. The assessment states that the proposals will result in a significant change to the character of some views along the Salt Way to which I agree. There are only trees proposed to retain the feel of the Saltway and these are planted in a line. The growth rate of trees in year 1 is wildly optimistic. There will be very little screen in winter with a single line of trees. The houses should be set much further away from the Saltway to enable trees and shrubs to be planted within the development site. In addition the hedgerow which at this point is more gap than hedge should be reinforced (the montages show mostly seasonal vegetation). Even at 10 years the trees will form little in the way of a barrier in winter. The houses are much closer to the Saltway on this parcel than other parcels. There needs to be a well thought out strategy to mitigate the effects not just planting a line of trees.

#### **Oxfordshire County Council:**

See Appendix 2

#### **Other External Consultees:**

Environment Agency – No longer a statutory requirement to consult on this type of application. Consulted by the Council but no response received.

Natural England – No objection. No impact likely on any statutorily protected sites. Impact on statutorily protected species to be assessed by Council's own ecologist.

#### Thames Water

Waste Comments- Following initial investigation, Thames Water has identified an inability of the existing waste water infrastructure to accommodate the needs of this application.

Should the Local Planning Authority look to approve the application, Thames Water would like the following 'Grampian Style' condition imposed. "Development shall not commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved by, the local planning authority in consultation with the sewerage undertaker. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed". Reason - The development may lead to sewage flooding; to ensure that sufficient capacity is made available to cope with the new development; and in order to avoid adverse environmental impact upon the community. Should the Local Planning Authority consider the above recommendation is inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Control Department (telephone 0203 577 9998) prior to the Planning Application approval.

Surface Water Drainage Comments - With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of groundwater. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0800 009 3921. Reason - to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.

Water Comments - The existing water supply infrastructure has insufficient capacity to meet the additional demands for the proposed development. Thames Water therefore recommend the following condition be imposed: Development should not be commenced until: Impact studies of the existing water supply infrastructure 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/this additional demand.

Supplementary Comments: Detailed discussions about the design and funding of the offsite drainage infrastructure to serve this development are still ongoing with the developer and Thames Water. Additional foul flows arising from this development are likely to lead to sewer flooding of properties without an off-site drainage solution being put in place. We consider that the Foul Drainage Analysis dated August 2015 submitted as part of the reserved matters application does not address this issue. The drainage report needs to include the details of the offsite drainage measures to avoid the risk of sewer flooding to existing residents caused by the additional flows from the development.

Thames Valley Police – Finacail contributions should be secured through a Planning Obligation to mitigate impact of the additional population arising from the development on police resources. The following contributions are considered necessary:

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

Total Additional LPA Officers Required	0.60
Total Additional PCSO	0.10
Total Additional CID	0.05
Total Additional Support Staff (Local/Central)	0.05

In order to mitigate against the impact of growth TVP have calculated that the “cost” of policing new growth in the area equates to £40,323 to fund the future purchase of infrastructure to serve the development.

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

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

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

#### STAFF SET UP

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

OFFICER/PCSO	
Uniform	£873
Radio	£525
Workstation/Office Equip (2:1 ratio)	£1508
<b>TOTAL</b>	<b>£2906</b>

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

On the basis that the development generates a requirement for 0.70 additional uniformed officers – including PCSO, and 0.10 staff/CID included the set up costs equate to £2185 (2906 x 0.70 + 1508 x 0.10).

TVP would utilise the contribution in the following manner;

£2034 as one of five pooled resources towards the set up costs of an additional officer to work within the Banbury Neighbourhood team.

£150 as one of five pooled resources towards the set up costs of an additional member of staff to work within the Banbury Neighbourhood team.

## PREMISES

At present within Cherwell Neighbourhood Policing is delivered from premises in Banbury, Bicester and Kidlington. At present TVP maintain full capacity of accommodation for staff and officers, with any additional capacity delivered via new works to provide floorspace. Each new officer/member of staff is allocated 16.88sqm of floorspace (workstation, storage, locker room etc) at a cost of £1800per sq m. This is a derived cost of adaptation/new build (TVP operate an estate policy of delivering new accommodation principally through the adaptation of existing buildings as opposed to new build at a 90:10 ratio. As this development will generate 0.80 staff/officers the cost is £24,307 (16.88 x 1800 x 0.80)

This contribution would be utilised as one of five pooled resources towards an approved programme of building works to be undertaken at Banbury Police Station over the next 5-8 years.

## VEHICLES

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

Patrol Vehicle – £42,300

PCSO Vehicle - £25,960

Bicycles - £800

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

Patrol Vehicle – 18

PCSO Vehicle - 12

Bicycles – 15

This equates to a cost of £19.13 per household. Accordingly therefore in order to maintain this level of provision the development would generate a required contribution of £5,356 (19.13 x 280)

The payment would be used as one of 5 pooled payments towards the purchase of a patrol vehicle for use within the Banbury Neighbourhood area.

## MOBILE IT

Provision of mobile IT capacity to enable officers to undertake tasks whilst out of the office, thus maintaining a visible presence. Cost of each item - £4250, therefore for this development (which generates 2.45 additional uniformed officers, the cost would be £2975 (4250 x 0.70).

This payment would be used as one of upto 5 pooled payments towards the purchase of 1 additional Mobile IT kit for officers working within the Banbury Neighbourhood team

## ANPR CAMERAS

Automatic Number Plate Recognition (ANPR) Cameras – TVP has a desire to roll out ANPR Cameras throughout the area. There is a limited budget for this at present but a requirement to roll out more cameras. The number and location of cameras is driven by the scale and location of proposed development and the road network in the area. Current coverage in Cherwell is extremely limited. An assessment based on the significant planned growth within Cherwell District has been undertaken and it has been assessed that there is a requirement for additional ANPR camera coverage in the area to mitigate the impact of planned growth. Each camera costs £11,000, and requirement is assessed on the basis of the scale, location, and proximity to the road network of the proposed development. Operationally it has been determined that this development should support the contribution of £5,500 towards the provision of ANPR in the area.

This payment would be one of 5 pooled contributions towards the purchase of one ANPR camera to serve the development. The precise location will be determined with regard to operational requirements. TVP are happy to confidentially share this information with the Council regarding the precise location in due course.

Sport England – No objection. The proposals would not materially reduce the amount of usable playing field land available and, subject to securing suitable provision of new on-site recreation facilities through a planning obligation to mitigate the impact of the new population, no objection is raised.

## **5. Relevant National and Local Planning Policy and Guidance**

### **5.1 Development Plan Policies:**

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

#### Cherwell Local Plan 2011 - 2031 Part 1

BSC1 – District Wide Housing Distribution  
BSC2 – Efficient and Effective Use of Land  
BSC3 – Affordable Housing  
BSC4 – Housing Mix  
BSC7 – Meeting Education Needs  
BSC9 – Public Services and Utilities  
BSC10 – Open Space, Outdoor Sport and Recreation Provision  
BSC11 – Local Standards of Provision – Outdoor Recreation  
BSC12 – Indoor Sport, Recreation and Community Facilities  
SLE4 – Improved Transport and Connections  
ESD1 – Mitigating and Adapting to Climate Change  
ESD2 – Energy Hierarchy and Allowable Solutions  
ESD3 – Sustainable Construction  
ESD4 – Decentralised Energy Systems  
ESD5 – Renewable Energy  
ESD6 – Sustainable Flood Risk Management  
ESD7 – Sustainable Drainage Systems

ESD8 – Water Resource  
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  
Banbury 13 – Burial Site Provision

Cherwell Local Plan 1996 (Saved Policies)

C8 – Sporadic Development in the Open Countryside  
C15 – Coalescence of Settlements  
C28 – Design of New Development  
C30 – Residential Amenity

## 5.2 Other Material Planning Considerations:

National Planning Policy Framework (NPPF) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (PPG) – This sets out regularly updated guidance from central Government to assist in interpretation of national planning policy and relevant legislation.

Banbury Masterplan – Development on this allocated site is included within the approved Banbury Masterplan.

Cherwell District Council's Home Extensions and Alterations Design Guide – Principally of relevance to householder applications but is material in that it sets out appropriate residential amenity standards that are applicable to new developments too.

## 6. Appraisal

6.1 Officers' consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Access and Transport Impacts;
- Landscape, Visual Impact and Coalescence;
- Impact on Heritage Assets;
- Housing Mix/Affordable Housing;
- Open Space and Recreation;
- Biodiversity;
- Trees and Landscaping;
- Effect on Neighbouring Properties
- Flood Risk;
- Sustainability and Energy Efficiency;
- Impact on Public/Community Infrastructure;
- Planning Obligations;
- Local Finance Considerations.

### Principle of Development

- 6.2 Planning legislation requires proposals that accord with the development plan for an area to be approved unless material considerations indicate otherwise. The development plan for Cherwell District now principally comprises the Cherwell Local Plan 2011-2031 Part 1 (LPP1). LPP1 sets out the strategy for sustainable growth within the District over the plan period in a manner consistent with Government guidance. It is therefore a development plan document that is up-to-date and sound. Furthermore, as a 5+ year supply of housing is projected to be delivered across the District to meet identified need, the housing supply policies within LPP1 can be afforded full weight.
- 6.3 In order to meet the identified housing needs of the District up to 2031, LPP1 incorporates a strategy to principally concentrate housing growth in and around the District's largest two settlements – Banbury and Bicester. These towns are considered the most sustainable to accommodate the new housing due to proximity to services, amenities, employment and public transport links. As part of this strategy, a number of significant sites have been allocated on the edge of Banbury in LPP1 of which Banbury 17 is one. Together with Banbury 16, these provide for a significant new urban extension to the south of Banbury onto existing greenfield land.
- 6.4 The site allocated as Banbury 17 is more complicated than many other allocated sites in LPP1 as it has multiple ownership interests and has come forward as part of three planning applications. The first, in the northwest corner of Banbury 17 (at the corner between Bloxham Road and the Salt Way), has been approved and development is now underway. This was a speculative submission without development plan support and was refused by this Council though ultimately allowed at appeal by the Secretary of State. The remaining part of Banbury 17 has come forward as two applications which are both pending determination and are on this Committee agenda. This application relates to the smaller eastern part of Banbury 17 adjacent to White Post Road. The site area broadly accords with the boundaries of the land allocation although an element of the new access and spine road is located within an area of land shown on the LPP1 Policies Map as informal green space. It should be noted that Policy Banbury 17 requires an integrated, coordinated and comprehensive approach between the individual Banbury 17 sites despite the fact that they are in separate ownerships. Accordingly the policy requires a comprehensive masterplan to be submitted for the whole of the allocated site. Oxfordshire County Council (OCC) had previously raised concern about the lack of the submission of a comprehensive masterplan for the site though as part of the amended/updated information a comprehensive illustrative masterplan has been submitted by both applicants of the Banbury 17 sites and officers consider this to provide a sufficient basis on which to consider the applications.
- 6.5 Officers consider Policy Banbury 17 to be material to the consideration of the proposals and the policy of primary relevance against which these proposals should be assessed. The policy provides for a total of 1,345 homes across Banbury 17 which corresponds to approximately 1,200 across the application site and the adjoining Gallagher Estates site. The provision of up to 280 dwellings on the northern half of the application site equates to a density of approximately 33 dwellings/hectare on the proposed net developable area of the site which officers are satisfied strikes an acceptable balance between efficiency of land use and ensuring that it can be comfortably delivered on the site within the parameters set out by Policy Banbury 17. The areas shown for built development on the illustrative framework plan correspond with that shown in the Policies Map for Banbury 17 and indicates that the southern half of the site will feature associated outdoor sport, recreation and amenity areas in accordance with the objectives of the policy to reduce impact on the surrounding landscape by creating a 'soft' approach to the new urban edge.

A buffer of approximately 20m to the Salt Way is also indicated in line with other requirements of Policy Banbury 17.

- 6.6 The policy includes a number of other requirements including the need to mitigate the impact of the development on public infrastructure by providing new/additional education facilities on the site including a primary school and secondary school playing field land as well as a new community centre. It is a key requirement of the policy to make timely provision for a new spine road through the site linking the A4260 with the A361 to ensure that the site can be properly served by a bus and so that traffic movements associated with new residents do not give rise to unacceptable traffic increases on surrounding roads. The indicative framework plan shows the approximate position and alignment of the spine road together with associated detailed proposals for a new vehicular access arrangement.
- 6.7 As this application site is considerably the smaller of the two current Banbury 17 application sites and is less suitably located to provide the larger infrastructure elements necessary to fulfil the policy requirements, officers consider it reasonable in principle that the primary school, secondary school land, local centre and community facility are all left to be provided on the larger Gallagher Estates site. Indeed the current Gallagher Estates application on this land commits to providing this infrastructure subject to equalisation of relevant costs between the two developers.
- 6.8 As discussed previously and as raised by a number of objectors, the proposed spine road and new vehicular access does pass through part of the Banbury 17 site that is shown in the Policies Map as being allocated as a green space. The Policies Map however makes no allowance for the need to provide a new vehicular access from White Post Road as required by Policy Banbury 17 in order to create a central spine road. As such, in this respect the Policies Map is not wholly consistent with the wording contained in Policy Banbury 17 and there is simply no alternative but for the new vehicular access to be provided on part of the green space. With this in mind, officers are satisfied that the amount, location and type of development proposed on the site is in accordance with the provisions of Policy Banbury 17 such that the principle of residential development on this part of the Banbury 17 site is acceptable and in accordance with the development plan. As a consequence, the principle of residential development on the site is established and it is now the detail of the proposals that are for consideration as part of this application.

#### Access and Transport Impacts

- 6.9 Policy Banbury 17 requires development on the allocated site to be served with the principal access created off the A361 but with provision of a route for an east-west link through the site to join White Post Road. The policy goes on to require early delivery of the link road along with associated junctions which should be designed to be suitable for the provision of a bus service through the site. In addition to matters of vehicular access, Policy Banbury 17 also requires the development to provide a linked network of cycle ways and footpaths in a layout that maximises walkable neighbourhoods and integrates successfully with existing development.
- 6.10 Policy Banbury 17 has requirements that are consistent with national planning policy set out in the NPPF given that it was found sound at examination which includes an assessment of compliance with Government guidance. The NPPF states that planning decisions should take account of whether the opportunities for sustainable transport have been incorporated within a development, whether safe and suitable access to a site can be achieved for all people and whether improvements can be undertaken to the transport network that limit the significant adverse transport impacts of the development. Policy SLE4 of LPP1 is also material in that it requires new development within the District to mitigate the transport impacts of development and facilitate the fullest possible use of public transport, walking and cycling. In reflection of national policy in the NPPF, it also

states that development proposals will not be supported where they would have severe traffic impacts that cannot be properly mitigated. It is against this national and local planning policy context that the proposals should be considered with respect to access and transport impacts. The application has been accompanied by a Transport Assessment (TA) as required by Policy Banbury 17 that addresses the transport implications of this development cumulatively with wider development on Banbury 17 and other committed/allocated sites which officers consider to be a robust approach.

- 6.11 As described previously, the proposals make provision for a significant change to the existing road network. The original proposals for the new spine road to connect direct to White Post Road via a priority junction were not supported by Oxfordshire County Council (OCC) as Local Highway Authority (LHA) on the basis that they were not the optimum means by which to ensure an appropriate balance between traffic flows on the spine road and White Post Road and, furthermore, did not deliver suitable provision for access to and from the site by cyclists and pedestrians. Through consultation with the LHA, further traffic modelling work was undertaken that considered the total projected vehicle movements arising from the whole of Banbury 17. In response, the proposals were subsequently amended so the spine road became the primary road connecting to/from the existing A4260 roundabout with White Post Road instead forming a minor arm with a priority junction onto the proposed spine road. Traffic flows along the spine road would therefore have priority with traffic on White Post Road having to enter onto it. This would require significant works to the highway by the developer, at the developer's expense, following separate technical approval of the works by OCC.
- 6.12 As already discussed, it is essential to consider these proposals against the requirements of Policy Banbury 17 as a whole and not just the impacts of these proposals alone. It is therefore fundamental to the acceptability of this application that it in no way prejudices the overall deliverability of successful development on the wider site in accordance with the allocation policy. To this end the proposed development must not only be provided with suitable access arrangements to serve itself but must also facilitate and contribute towards appropriate development coming forward in a timely manner across the whole of Banbury 17. Consequently, whilst Members should consider the individual merits of these applications proposals, in all respects including particularly transport matters, Members should be cognisant of the wider provisions of Policy Banbury 17 and its strategic importance within the development plan.
- 6.13 As a consequence of the requirements of Policy Banbury 17, a spine road is required to be provided through the site that connects, in an appropriate manner, with the remainder of the Banbury 17 land to the west. It is therefore essential that any access from the application site out towards Oxford Road is suitable to serve the whole of the development allocated by Policy Banbury 17 and not just the 280 dwellings currently proposed in this application. However, as set out in the allocation policy, the spine road is needed to serve local traffic associated with the development and immediate surroundings rather than have a more strategic function notwithstanding some of the concerns raised by third parties in response to consultation. To this end the LHA has been involved from the outset in prescribing the specification of the spine road and the timescales in which it is needed to adequately prevent significant adverse impacts on the wider local highway network.
- 6.14 It has therefore been necessary to strike an appropriate balance between creating a spine road capable of adequately serving a bus whilst being attractive only to local traffic. In discussion with LHA officers, the applicant has proposed a carriageway width of 6.75m designed for a speed limit of 30mph which officers consider to be suitable based on advice from highway officers. A combined footway/cycle lane on one side of 3m wide and a footway of 2m on the other together with grassed verges on each side of at least 1m wide give a total spine road corridor of a minimum of 13.75m wide. The proposed detailed

access arrangement is in accordance with this specification and this is then indicatively shown throughout the Banbury 17 site. The current Gallagher Estates application is similarly proposing this specification of spine road. Full details of the spine road and its alignment have not been provided at this stage and would follow as a reserved matter however officers consider it essential that the full details of this road are provided and approved before any other detailed design and layout submissions for the development are made to ensure the later details are fully consistent with the design objectives of the spine road. This relates to matters such as its alignment, junctions, crossings, traffic calming, parking bays and street lighting. Officers are also recommending that the full specification of the spine road together with precise details of its point of connection between the application site and the adjoining Gallagher Estates site are established within a legal agreement before planning permission is granted to ensure that there is no opportunity to deviate from this at a later date. Both Gladman Developments and Gallagher Estates (the two applicants) have put forward an agreed point of connection and officers will need to consider the precise suitability of this as part of completing the legal agreement process. A similar clause would be needed in a legal agreement associated with the Gallagher Estates application to ensure the two are consistent with each other.

- 6.15 Policy Banbury 17 requires early delivery of the spine road both to ensure that the site can be served by a bus at the earliest opportunity and to prevent traffic associated with the development using Wykham Lane, Sycamore Drive or roads within Banbury that in many cases are already operating above safe and/or suitable capacity to reach either the A361 or A4260. However, a balance does need to be struck between ensuring reasonable commercial viability of the development and the need to mitigate transport impacts. Officers consider the deliverability of the spine road to be fundamental to the acceptability of proposals on Banbury 17 and any suggestion from either developer that the spine road is necessary is strongly disputed. However in officers' view, based on advice from the LHA and evidence in the supporting TA, in terms of traffic flows alone on the local road network, these application proposals in themselves do not necessitate the early delivery of the spine road in order to be acceptable purely in highway terms. Indeed in officers' view the spine road to serve these proposals alone does not become necessary until later in the built-out of the proposed development and is principally required to mitigate the cumulative transport impact of development on the wider Banbury 17 site. As a consequence, officers are satisfied that appropriate triggers to complete the spine road to the western boundary of the application site are needed in order to facilitate mitigation of the full impact of cumulative development on Banbury 17 rather than specifically to mitigate the individual transport impacts of development proposed in this application alone. Officers are therefore recommending that two triggers be included in a legal agreement (as well as by condition) to ensure that the section of spine road within the application site is completed prior to whichever occurs the earliest of the following: the occupation of the 201st dwelling on the application site; 4 years from commencement of development. Taking such an approach provides further support for the early approval of the spine road detail (as discussed in the above paragraph) to ensure that in the event the Council is required to enforce the aforementioned triggers, the full laying out of the spine road could be compelled by injunction as it would have already been approved prior to any development taking place on the site. A related approach with respect to triggers is necessary on the application by Gallagher Estates (14/01932/OUT) though with alternative triggers that reflect the larger scale of that proposed development and therefore potential for greater individual and cumulative transport impacts. OCC is also raising concern about the potential implications of the unlikely scenario in which there is a failure of either of the two developers to implement their planning permissions (if granted) or that implementation on site is slow to take place. The non-implementation of one of the planning permissions would result in the triggers for that part of the site not being engaged. Officers consider the spine road to be an essential requirement for development

to take place in an acceptable form on Banbury 17 and the allocation of the eastern part of Banbury 17 by the Council (i.e. this application site) was, in part, predicated upon its ability to deliver the full spine road. Members should note that it is inherent to officers' recommendation that neither of the two current Banbury 17 planning applications be approved until there is complete security for the Council that a substantial proportion of the total proposed development cannot take place without the full spine road being in place and available for use. Therefore, in addition to the aforementioned spine road delivery triggers being included in a legal agreement, further agreements may be necessary that either limit the amount of development that can take place on the overall Banbury 17 site until the full spine is in place or, alternatively, provide pro rata funding for completion of the spine road by OCC in the event of non-implementation or non-delivery of it by one of the developers.

- 6.16 It is inevitable that the proposed development would increase the overall number of vehicular traffic movements on the highway network simply due to the additional population that it would generate. Significant local concern has been raised about the potential impact of these additional trips on the roads around Bodicote. Without mitigation in the form of improvements to the existing road network, the development is considered likely to have a significant adverse effect on the local highway network based on advice from the LHA. A financial contribution toward the Banbury Area Transport Strategy is therefore required to be secured through a legal agreement to mitigate the cumulative impact of planned growth by funding transport infrastructure and services which cannot be attributed to a single development, but which would benefit trips from this proposed development.
- 6.17 Based on the results of the TA submitted as part of the application, improvements are required to junctions within Banbury to mitigate any increased congestion that would otherwise be caused by traffic arising from the development on the local road network. It is expected that OCC would utilise funding through the Banbury Area Transport Strategy to make improvements to the A4260 Upper Windsor Street/A4260 Cherwell Street/Swan Close Road junction and the Bridge Street/Cherwell Street corridor.
- 6.18 Notwithstanding the need to make improvements to some existing junctions to prevent significant additional congestion within the road network, particular local concern has been raised about the impact of additional traffic movements along Wykham Lane and White Post Road as well as along the spine road in close proximity to the primary school. Officers agree that any material increase in traffic using Wykham Lane is highly undesirable. However, based on advice from the LHA and evidence contained within the submitted TA, officers are satisfied that traffic movements along Wykham Lane would not materially increase as a result of the proposals once the spine road is completed. Once the spine road is completed the use of Wykham Lane by new residents on the Banbury 17 site should not be desirable given that the spine road should provide a sufficiently attractive route to dissuade use of Wykham Lane given its inherent navigability issues and safety risks. The spine road could also take a small amount of the existing traffic that currently makes use of Wykham Lane though it would not be designed to be an attractive alternative. However, until the spine road has been completed and made available for public use, some increased use of Wykham Lane is inevitable by residents of the proposed new houses where access is needed to the A361. However, traffic modelling suggests that this would be a minority of the projected trips and so officers are content that for an interim period this is tolerable.
- 6.19 Similarly, the overall amount of vehicular traffic using White Post Road should not materially increase in the longer term and could potentially even decrease once the spine road is completed for reasons similar to that of Wykham Lane. The new public car park should also reduce the number of vehicular trips into White Post Road for school traffic as

it would be accessed from the new spine road directly rather than via White Post Road. Furthermore, the vast majority of new traffic originating from the Banbury 17 site would continue along the spine road to either the A361 or A4260 and would not divert into Bodicote, particularly once the local centre is operating on the site which would provide similar levels of convenience services to that available within Bodicote. It is however recognised that along the spine road itself both prior to and following its completion, there would be a significant increase in overall traffic movements to the north of Bodicote in comparison to the existing situation as a result of new traffic originating from development on the Banbury 17 site in addition to a small amount of diverted existing traffic. However, whilst this may potentially have some implications for village character, there is no suggestion that this would in any way be significantly harmful in transport terms. Some local concern has been raised about the potential for the completed spine road to attract other traffic, including that which OCC is encouraging to use Bankside as part of its Local Transport Plan 4. However, OCC reject these suggestions given that they project the vast majority of any diverted traffic on Bankside to exit onto the A4260 rather than head southwest on the A361 towards Chipping Norton. In any event, officers are clear that the spine road would not be designed or aligned in a manner that that would see it have any greater status than as a primary estate road and certainly not equivalent to a bypass that would encourage existing traffic to divert along it in any material numbers. Whilst increased traffic flows have the potential to increase accident risk and risk of conflict with other road users, officers are satisfied that this should not be the case with these proposals given the enhanced pedestrian crossing and cycle lane facilities to be provided as well as the new public car park and introduction of on-street parking controls which will be discussed later in this section of the report.

- 6.20 Turning to consideration of the specifics of the new access proposed, the LHA has indicated they are generally content with the proposals. Suitable provision is made for pedestrian crossings through both new refuge islands, a zebra crossing on the spine road and an upgraded toucan crossing on White Post Road which should improve the safety and convenience of pedestrian access to the primary school from Easington to the north and Bodicote to the south.
- 6.21 It is well recognised that at peak periods associated with the primary school operating hours, White Post Road becomes very congested with parked cars. Some of the parked cars are associated with staff at the primary school, some are visitors to the Cherwell District Council offices, and some is overspill from the village hall car park. The majority however are connected to parents/guardians of children attending Bishop Loveday Primary School who park for a short duration to either drop off children or park for a matter of minutes to accompany them to and from the school gate. The nature of the school traffic means a large number of vehicle movements condensed into a short period of time and therefore presents opportunities for a variety of conflicts between vehicular traffic and pedestrians.
- 6.22 Given the existing on-street parking congestion problems on White Post Road, officers consider that it would simply be unacceptable to add to this congestion by, amongst other things, reducing the overall level of parking capacity in the immediate area. The changes to the road layout as a result of the new access would however directly remove on-street parking capacity for approximately 22 cars. In order to ensure safe and suitable use of the new road layout a comprehensive system of on-street parking controls would be necessary to prevent on-street parking on the spine road and White Post Road in the vicinity of the new junction. Without such controls there could be a temptation for some drivers to park directly outside the school as this could be more convenient than using the new car park. A condition is recommended to be imposed that requires the parking controls (as agreed by OCC) to be in place prior to first use of the new access. A financial contribution to cover the costs to OCC of introducing these controls is recommended to be

secured by legal agreement. In order to mitigate the impact of the lost on-street parking capacity, a new public car park is proposed opposite the primary school entrance providing space for 34 cars. The proposed car park is shown only indicatively on the proposed access drawing and so its detailed layout and landscaping could be expected to change as part of a reserved matters application. Officers concur with the views of OCC in finding that the car park as indicatively shown could be awkward to access and egress given the high number of vehicle movements expected over a short duration that is typical around school opening times. Given the nature of the users of the car park it is likely that it needs to be larger than that currently shown to allow more space for manoeuvring given the intensity turnover of vehicles at certain limited times of the day with the spaces provided more suitable for parents with children.

6.23 Nevertheless there is clearly space available in the area between the spine road and Banbury Cricket Club to provide a suitably designed 34 space car park which would represent a material increase in parking capacity in comparison to the existing situation. Whilst it may be argued that the car park might be slightly less convenient for parents to use given that it is on the opposite side of White Post Road, it is likely to be more attractive to primary school staff in comparison to parking on the road given the longer duration of time over which they park. Furthermore, the overall net increase in parking capacity should outweigh any concerns about reduced convenience for parent parking particularly given that on-street parking controls would be introduced to prevent parking along the northern section of White Post Road. Concern has been raised by some local residents and governors of the primary school that the new car park is less convenient and more dangerous for children to reach the school than being dropped off along White Post Road. It is perhaps arguable that the route from the car park is a little more convoluted than being able to park directly outside the school though it should be noted that the majority of parents cannot achieve this anyway due to congestion. The proposals do however introduce a new pedestrian refuge at the spine road junction and an upgraded pedestrian crossing on White Post Road which should make crossing the road easier and safer than it is at present. Furthermore, visibility splays for pedestrians crossing the road should improve as the immediate stretch of road either side of the school entrance should be free of parked cars. With this in mind, officers are satisfied overall that the proposed increased parking provision together with the associated introduction of on-street parking controls as well as additional formal pedestrian crossings would ensure that there is no material harm caused to the functioning of White Post Road and the safety of pedestrians using it including school children.

6.24 Given that the current car park is shown only indicatively on the submitted plans, a condition has been recommended that requires detailed approval of an alternative car park layout suitable for 34 cars prior to commencement of any development. In turn, a condition has been recommended that requires the car park to be provided prior to commencement of any other development to ensure that compensatory parking provision is available from the outset in the interests of preventing increased local parking congestion. In order to ensure that the car park is available for public use without charge in perpetuity, covenants to this effect are recommended to be included in a legal agreement together with arrangements for its long term maintenance. Consideration has been given as to whether it would be more appropriate for the car park to have a separate entrance and exit to allow for better circulation of cars as suggested in a number of the third party representations. However, the LHA has advised that a vehicular entrance or exit serving the car park on White Post Road is not feasible given its proximity to the junction with the spine road which would result in awkward and potentially dangerous vehicle manoeuvres.

6.25 The proposals should also significantly improve the suitability and safety of the immediate road network for cyclists and make strong provision for encouraging use of cycles by new

residents of the development. As stated previously, a 3m wide combined pedestrian/cycle lane is proposed along the northern edge of the spine road which would extend round into White Post Road. This provision contributes towards the development taking the reasonable opportunities available to maximise promotion of sustainable transport modes and should also lead to a material benefit to existing cyclists using the northern section of White Post Road as it removes them from the carriageway and onto designated cycle lanes. The concerns of local residents with respect to potential conflict between cyclists and children outside the primary school are noted and the LHA has raised similar concerns in its consultation response. As a result, following discussions with highway officers at the LHA, officers are recommending that a condition be imposed that requires the submission, approval and implementation of measures (potentially in the form of signage, bollards, road markings and appropriate variation in surfacing of the cycle lane) to restrict cycle speeds along the proposed new bypass in the vicinity of the primary school entrance. Subject to such a condition, officers are satisfied that the proposals make appropriate provision for cyclists and pedestrian safety in accordance with the requirements of Policy Banbury 17.

6.26 Policy Banbury 17 also requires development proposals on the site to '*maximise walkable neighbourhoods*' and provide "*a linked network of cycle and footways to provide access into Banbury*". Furthermore, it requires a new bridleway to be provided that circulates the entire Banbury 17 site to partly mitigate any harm caused to the setting and enjoyment of the Salt Way. The submitted illustrative framework plan indicates the approximate route for the new bridleway for which details of its route are recommended to be sought by condition prior to commencement of development. It is recommended that its specification (width, surfacing etc) together with the position at which the bridleway connects to the Gallagher Estates site at the western boundary are secured within a legal agreement to provide certainty to the Council that it will be delivered appropriately across the wider Banbury 17 site. A public footpath bisects the site in a north-south alignment and connects to the Salt Way. This is proposed to be safeguarded as part of the proposals with the exception of its inevitable crossing by the spine road, which may require a separate footpath order to authorise it which would be subject to public consultation. Officers see no reason why this should be objectionable. Officers would be looking for a generous soft landscaped buffer to be provided either side of the retained public footpath as part of a reserved matters application to ensure existing routes are safeguarded as enjoyable links to the wider countryside beyond.

6.27 Within the application site, a number of new footpath routes are shown indicatively though final details of the linkages would be addressed at reserved matters stage. There is clearly scope for them to be provided within the site in a manner that accords with the requirements of Policy Banbury 17. Proposed links between the application site and Salt Way are shown to be relatively limited on the illustrative framework plan and in officers' view there should ideally be at least one more footpath and/or cycle track connection onto the Salt Way to encourage proper integration with the existing public rights of way network, as required by Policy Banbury 17. However, there is some uncertainty about the ownership rights to the boundary between the application site and the stretch of the Salt Way immediately to the north of the application site. The applicant has not proven willing to engage with the landowner of this section of the Salt Way and so it must be considered unlikely that further connections onto the Salt Way (other than the improvement of the one existing public footpath link) can be delivered as part of this scheme. On balance however, given the significant number of links onto the Salt Way that are likely to be provided as part of the Gallagher Estates scheme (which does not have the same ownership complications) and the level of integration between the two parts of Banbury 17 (i.e. new spine road, bridleway and other footpaths) officers are content that the overall development on Banbury 17 would adequately provide sufficient walking/cycling routes to

encourage sustainable travel and integration with Banbury in accordance with the requirements of Policy Banbury 17.

6.28 As stated previously in this report, it is essential to the acceptability of proposals on Banbury 17 that the site features a bus service to provide an alternative link to the town centre and key employment sites and thus avoids reliance on the private car. In addition to designing the spine road around this service, it is also necessary for the development to make a proportionate financial contribution towards pump priming this bus service to mitigate its impact particularly in light of OCC's recent decision to withdraw all subsidies for bus services in the County. In addition to the financial contribution towards creating the new bus service, the developer is also expected to fund new bus stop infrastructure on Oxford Road and White Post Road which new residents are likely to require. Bus stop infrastructure would also be required either side of the spine road within the site to serve the new residents and these are recommended to be required by legal agreement with details of them assessed by the Council as part of the application for the detailed layout of the spine road.

6.29 On the issue of transport impacts, officers have carefully considered the implications of the scheme having regard to the requirements of Policies Banbury 17 and SLE4 of LPP1, Government guidance in the NPPF/PPG and advice from highway officers at the LHA. In conclusion, subject to the conditions and covenants referred to above controlling the detailed design of the access and spine road, the timing of the completion of the spine road as well as financial contributions towards off-site highway improvements, officers have found the proposals to be acceptable given that the adverse transport impacts of development on this site are not significant subject to securing the necessary mitigation. Furthermore, officers are satisfied that the mechanism by which the spine road detail would be assessed is appropriate and that subject to the controls proposed, the spine road would be delivered in a suitably timely manner in the interests of successfully facilitating development across the whole of the Banbury 17 site without having unacceptable wider transport impacts. In reaching this conclusion officers have considered the public sector equality duty imposed on it by the Equalities Act 2010 as well as the UN Convention on the Rights of the Child. The proposed access arrangements are considered to maximise accessibility to, from and around the site by providing a range of safe inclusive transport options attractive to all and in doing so does not discriminate against groups with a protected characteristic and takes the opportunity to advance equality of opportunity with respect to access to services, amenities and employment. The best interests of children have been a primary consideration in the assessment of this application and in raising no objection to the proposals on transport grounds subject to conditions/covenants, officers are satisfied that the wellbeing of children would not be unduly affected by the development.

#### Landscape, Visual Impact and Coalescence

6.30 Policy Banbury 17 requires development proposals on the site to have a well-designed soft approach to the urban edge with consideration given to its landscape setting. The policy also requires the retention and enhancement of existing hedgerows and trees including those along the boundary with the Salt Way where a 20m wide green buffer is required. The policy also requires the retention of Public Rights of Way on the site.

6.31 Policy ESD13 of LPP1 is also material and requires new development to respect and enhance local landscape character. It also resists undue harm to important natural landscape features as well as significant visual intrusion into the open countryside. Policy C15 of LP 1996 is also relevant as a 'saved' adopted policy. It resists the coalescence of settlements by preventing development in areas of open land which is important in distinguishing them.

- 6.32 The site has already been allocated as part of a residential-led urban extension to the south of Banbury through Policy Banbury 17. The principle of the incursion of development into the countryside on this site has therefore been accepted by the Council as part of the adopting the Local Plan process as it was deemed necessary in order to sustainably meet the objectively assessed housing needs of the District. As an up-to-date policy this attracts full weight in decision-taking. In establishing the principle of residential development on the site, it was accepted that development proposals would inevitably lead to loss of the countryside and in turn harm to the natural landscape. In this respect the proposals are clearly harmful given that they result in the loss of open countryside; a finite resource; in perpetuity. However, landscape capacity studies undertaken as part of the preparation of LPP1 concluded that development on this site could be assimilated more easily into the landscape than other tracts of land in the surrounding area and hence was considered suitable for allocation in landscape terms.
- 6.33 Policy Banbury 17 does however reflect the harm that would be caused to the local landscape both in terms of its character and views of it from the surrounding area. The policy therefore includes requirements to limit the visual impact of the development by restricting built development to the northern half of the Banbury 17 site, requiring new and augmented soft landscaped buffers and boundaries as well as the safeguarding of the enjoyment of existing public rights of way. In recognition of the potential impact of built development on the character of Bodicote as a separate village and the setting of its conservation area, Policy Banbury 17 also provides for an area of informal open space to be located adjacent to White Post Road to act as a small green buffer between Bodicote and Banbury. Policy Banbury 17 and Policy C15 of the LP 1996 are both adopted policies but are not necessarily entirely consistent with one another given that Policy C15 includes a clear blanket restriction on new development that could give rise to coalescence. The provisions of s38(5) of the Planning and Compulsory Purchase Act 2004 are relevant here as this establishes that where a policy contained in a development plan conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted – in this case Policy Banbury 17 of LPP1. It is therefore against the requirements of this policy that the proposals should be considered with respect to coalescence.
- 6.34 Whilst new homes would appear to be set back significantly from White Post Road, views of the new houses would be apparent from the rear of existing houses on Wykham Lane as well as publicly visible from the southern section of White Post Road. This would have the effect of bringing the urban edge of Banbury visually closer to Bodicote and to this extent would reduce the perception of its identity as a separate village. However, informal green space along White Post Road as well as the existing sports fields would still provide a degree of visual separation between the two settlements. The new access and spine road would inevitably have an urbanising effect at the northern edge of Bodicote and this is recognised by officers. Whilst an area of informal green space would remain between the new spine road and Banbury it would be small and indeed smaller than that shown on the Policies Map associated with LPP1. However, as set out previously in this report, the Policies Map is not consistent with the overall requirements of Policy Banbury 17 as it makes no allowance for the space required to deliver the necessary spine road access into the site. This conflict must be resolved in favour of the actual wording of the policy itself. In reaching this conclusion officers have recognised that the need for providing the spine road in order to prevent severe harm to the local transport network outweighs any reduction in the informal green space buffer between Bodicote and Banbury. Moreover, it should be recognised that in deciding to adopt Policy Banbury 17 as part of LPP1, an impact on the setting and identity of Bodicote as a separate village was inevitable but was considered tolerable in the context of the overall sustainability benefits associated with new housing in this location. The application proposals simply reflect the provisions of the

adopted policy and, as such, there is no reason for officers to conclude that the proposals would unduly affect Bodicote's separate identity or its immediate landscape character.

- 6.35 The evidence base underpinning LPP1 included a landscape capacity study of areas around Banbury and Bicester. Amongst other things, this study concluded that residential development on the Banbury 17 would not have a substantial impact on wider landscape character given that the site was not characterised as unduly sensitive given its relatively flat topography, lack of notable natural landscape features and existing backdrop against the urban edge of Banbury. To this end, the site was considered suitable for allocation in landscape terms subject to the southern areas of the site being kept free from built development to help blend the development into the countryside beyond. The application proposals demonstrate a commitment to this policy requirement given that the southern half of the application site is set aside for both formal and informal recreational green space and officers have no doubt that 280 dwellings could be comfortably accommodated on the northern half of the site in such a way as to protect the southern area of the site from harmful built development.
- 6.36 As required by Policy Banbury 17, the application proposals were accompanied by a landscape and visual impact assessment. The implications of development on the landscape were also considered as part of the Environmental Impact Assessment. The assessments undertaken and submitted by the applicant have been reviewed by the Council's own landscape officers who generally concur with its findings that both individually and cumulatively with other development on Banbury 17 the development would not be significantly prominent in the majority of wider views from the surrounding landscape in part due to the modest height of new buildings proposed on the site (8.5m maximum height) and their distance from the southern boundary. The most significant impacts would be experienced in immediate views from the existing public footpaths during the construction phase when new strategic planting would not have had time to establish. However, the new soft landscaping proposed along the northern and southern edges of the site would mitigate some of the visual harm caused by the expansion of built development into the countryside. As this application is submitted in outline only, details of landscaping of the site will subsequently need to be submitted and approved as a reserved matter prior to any development commencing.
- 6.37 In summary, the proposals would result in the loss of open countryside which is inherently harmful to local landscape character does not amount to environmental sustainability given that it is a finite resource. However, the impact of the development on the wider landscape would not be significant having regard to the limited height of the proposed buildings on the site, the site's urban edge location, flat topography and the site's modest natural landscape value. Whilst the proposals would inevitably give rise to a degree of further actual and perceived coalescence between Bodicote and Banbury, this would not be significant in the context of the existing relationship between the two settlements and, in any event, the principle of it has already been accepted by the Council in allocating Banbury 17 for development. The proposals as submitted have taken the opportunities available to mitigate their impact on the local landscape in the manner required by the Policy Banbury 17 and as such officers are satisfied that the proposals are acceptable in this regard.

#### Impact on Heritage Assets

- 6.38 National planning policy in the NPPF emphasises the great weight that should be afforded to preserving heritage assets as they represent irreplaceable social resources. The NPPF states, inter alia, that the weight to be afforded to the impact on a heritage asset as a result of a development proposal depends upon both its significance and the level of harm that would be caused. Moreover, the NPPF adds that harm to heritage assets should only be justified where outweighed by public benefits and the greater the harm and significance

of the heritage asset, the greater the public benefits need to be. It is also necessary to have regard to statutory duties on the Council imposed by the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires special consideration to be given to the desirability of preserving or enhancing conservation areas as well as the preservation of the special architectural/historical interest of listed buildings. In short, having regard to the scale of the proposals and the distances to surrounding heritage assets, officers' believe the proposals have the potential to impact mainly upon three heritage assets: the Salt Way (a non-designated heritage asset), Bodicote Conservation Area, and individual Grade II listed buildings in the immediate area including Bodicote House.

- 6.39 Policy Banbury 17 recognises the potential for impact on both the Salt Way and Bodicote Conservation Area. It is now established (as a result of the Secretary of State's recovered appeal decision to allow the Victoria Park development on land comprising the northwest of Banbury 17) that new development to the south of the Salt Way does not unacceptably harm its historic significance provided that the development retains a sensitive landscaped buffer between it. To this end, Policy Banbury 17 requires all built development on the site to be set at least 20m back from the Salt Way together with requirements for its existing boundary vegetation to be augmented to both help reinforce its rural character as a historic trade route as well as mitigate views of new housing to the south. The existing hedgerows along the section of the Salt Way to the north of the application site are sparser than that to the north of the rest of the Banbury 17 land. The proposals therefore provide an opportunity to 'gap up' the landscaping in a number of places to help create more of a sense of a green enclosure to the Salt Way. Whilst this does reduce the opportunity for views over parts of the open landscape to the south (which does contribute towards the sense of the rural setting of Salt Way), the denser hedgerows and trees are necessary to prevent the Salt Way from feeling unduly urbanised to avoid replicating and compounding its existing poor relationship with the Timms' Estate. The additional planting also provides an opportunity for biodiversity enhancements which will be discussed later in this report.
- 6.40 Notwithstanding the minimum 20m buffer and additional planting along the Salt Way boundary, it is inevitable that the presence of new housing would adversely affect its historic rural character. New planting would soften the views of the new homes but this would take time to establish and it would not be possible to eliminate the experience of them completely particularly in winter time. Conversely the additional planting would in time reduce views southerly views out over the countryside from the Salt Way which contributes towards its rural feel and character which is a feature of its heritage significance. Together with existing development on the Timms' Estate to the north, this would have a cumulatively significant effect on the integrity of the Salt Way as a historic rural trading route. However, as part of the requirements of Policy Banbury 17, a new bridleway is required to be provided along the entire southern boundary of Banbury 17 that would provide a public right of way with a southerly outlook over wider countryside beyond which would in part offset some of the harm caused to the public enjoyment of the Salt Way though of course its heritage significance cannot be replicated. However, officers recommend that a financial contribution is sought from the development towards improvements to the Salt Way stemming from its likely increased use. Such contributions could provide enhancements to surfacing, landscaping and possibly interpretative signage to help promote the history of the Salt Way.
- 6.41 In summary, Salt Way is a non-designated heritage asset and therefore any harm is regrettable but attracts less weight than harm to designated heritage assets such as listed buildings and conservation areas. Nevertheless, it is of local value and even with the aforementioned mitigation measures, its significance would be adversely affected as a result of the proposed development. However, such harm was recognised as part of allocating the site and in doing so it was inherently concluded that the overall benefits of

the proposals outweighed the harm that would be caused to the historic significance of the Salt Way. The proposals as submitted do however make provision for all of the requirements within Policy Banbury 17 to help mitigate the impact on the Salt Way such that, subject to conditions and a financial contribution via legal agreement, the proposals are considered to be in accordance with the development plan in this respect.

- 6.42 The proposals also have the potential to affect Bodicote Conservation Area albeit the new development itself is unlikely to be materially visible from any part of the public realm within it. In order to help preserve the setting of Bodicote Conservation Area which in part derives its distinctiveness from its village character, Policy Banbury 17 required the southern half of the land to be free from built development and an area of informal green space retained as a buffer between Banbury and Bodicote. As discussed previously in this report, it is however necessary for transport reasons for the new vehicular access and spine road to be provided on part of the land shown within the Policies Map as the informal green space buffer. This could in turn have a minor additional impact on the setting of the Bodicote Conservation Area given that this new highway arrangement would give rise to a further degree of urbanisation that would be visible from a small part of the Conservation Area at the junction between White Post Road and Wykham Lane. However, the separation distance in this respect is still relatively significant such that any adverse impact on the setting of the Conservation Area as a result of the development is likely to be limited and in turn consistent with the requirements of Policy Banbury 17. It should also be added that the proposals for the spine road could, once completed, ultimately have a minor beneficial effect on the Bodicote Conservation Area as the traffic modelling work undertaken indicates that it could reduce traffic flows through Bodicote village itself which is recognised in the Council's Conservation Area Appraisal as being a threat to its special character. Overall therefore, officers are satisfied that the effect on the heritage significance of the Bodicote Conservation Area would be limited as a result of the proposals and that, in this respect, the proposals are consistent with the requirements of Policy Banbury 17.
- 6.43 The proposed development would be in comparatively close proximity to a number of individual listed buildings all of which are Grade II. The closest of these is Bodicote House – home to the District Council offices. However, whilst the heritage significance of Bodicote House and other nearby listed buildings derives in part from their setting, the application site itself is not of historic relevance to the setting of these buildings and the development proposals would not detract from their setting given the separation distance involved. Furthermore, in the context of longer distance views of the existing 1970s era housing of the Timms Estate as well as other more recent intervening developments, the special interest of Bodicote House and other nearby listed buildings would not be appreciably harmed by the proposed development. Consequently officers have concluded that no adverse effect on the special interest of surrounding listed buildings would occur as a result of the development.
- 6.44 In conclusion on the issue of heritage impact, officers are of the view that the proposals would give rise to moderate harm to the historic significance of the Salt Way even with the mitigation measures proposed to be secured through conditions and legal agreement. However, the Salt Way is a non-designated heritage asset and the weight to be afforded to its preservation is not substantial and the overall benefits of providing a significant number of new homes in this location outweighs this harm as reflected in the provisions of Policy Banbury 17. The impact on the special character of the Bodicote Conservation Area would be limited and thus acceptable in the context of the significant wider public benefits stemming from the provision of much-needed new housing in this otherwise sustainable location – a fact also intrinsically recognised in the decision to allocate the Banbury 17 site. The harm caused to the setting of individual listed buildings would in officers' view be negligible and therefore of no particular concern. Consequently officers

are satisfied that subject to the recommended conditions and covenants, the proposals are acceptable in heritage terms in accordance with the requirements of Policy Banbury 17 and all other relevant local and national planning policies.

#### Housing Mix/Affordable Housing

- 6.45 Policies BSC3 and Banbury 17 of LPP1 require provision of a minimum of 30% of the new homes on the site as affordable housing. Of this 30%, a minimum of 70% is required to be affordable or social rent in tenure with the remainder intermediate housing. The proposals include a commitment to deliver this policy requirement which needs to be secured through a legal agreement as recommended by officers. It will be necessary to be mindful of likely forthcoming legislation and national planning policy changes with respect to Starter Homes as it appears likely that within the coming months they will form part of the definition of affordable housing and there may be an associated national planning policy requirement to provide a certain proportion of them on major residential development sites. In the event that Members resolve to approve the application but changes come into effect prior to a decision being issued on the application (as a result of the legal agreement pending completion), it may well be necessary to make amendments to the affordable housing covenants in the legal agreement to reflect the changes. To make allowance for such circumstances to occur, if Members resolve to approve this application it is recommended that Members delegate authority to the Head of Development Management to make any necessary changes to the legal agreement in this regard in consultation with the Committee Chairman.
- 6.46 Policy BSC4 of LPP1 requires new residential development to provide a mix of homes to meet current and expected requirements of the District in the interests of responding to housing need and creating mixed and inclusive communities. The Oxfordshire Strategic Housing Market Assessment of 2014 identified 2 and 3 bedroom homes to be in greatest need across the District over the next 15 years. To this end it is recommended that if this application is approved, a condition is imposed on the planning permission that ensures later applications for reserved matters approval come forward with new housing that responds to the identified need rather than allowing this to be driven purely by developer profit objectives. The condition requires a minimum of 40% of the market houses provided on the site to be 3 bedroom homes with a minimum of 20% as 2 bedroom dwellings. Separate housing mixes for the affordable units would be determined as part of the completion of the legal agreement based on current need but it is likely that the majority would also be 2 and 3 bedroom houses with some provision of 1 bedroom units too.
- 6.47 Policy BSC4 also includes a requirement for self-contained extra care dwellings to be provided on the site but only where a minimum of 400 dwellings are proposed on a site. The application proposals by themselves do not therefore trigger this requirement though some extra care dwellings (or equivalent) are expected on the wider Banbury 17 site through the larger Gallagher Estates scheme.
- 6.48 Consequently, subject to the imposition of the above recommended condition as well as satisfactory inclusion of relevant covenants in a legal agreement, officers find the proposals to be in accordance with the requirements of Policies BSC3, BSC4 and Banbury 17 of LPP1 with the result that they will make a strong contribution towards meeting the identified housing needs of the District.

#### Open Space and Recreation

- 6.49 Policies BSC10 and BSC11 of LPP1 require provision of suitable informal and formal recreation facilities on site to meet the needs of future residents of the development. The vast majority of the necessary sports facilities would be provided within the southern half of the site where built development is restricted by Policy Banbury 17. The Council has an identified deficit of football pitches in and around Banbury and in response to this the

provision on site of adult and junior pitches is recommended together with arrangements for continued maintenance. A new four team pavilion to serve these football pitches would also be required in order to ensure proper usability of these new pitches as well as an associated car park facility. Such facilities should be constructed by the developer before transfer to the District Council together with a commuted sum for long-term maintenance and it is recommended that a legal agreement make provision of this arrangement unless an acceptable alternative arrangement for long term maintenance/management can be agreed during completion of the legal agreement.

- 6.50 In addition to formal sports provision, Policies BSC10 and BSC11 require on-site provision of various forms of play facilities for children. This includes LAPs, LEAPs and NEAPs which serve children of a variety of ages. Due to the size of the development, all of these facilities would be required on the site which would need to be laid out by the developer and then transferred to the District Council once completed together with necessary maintenance contributions. Having regard to the approach taken at other surrounding recently approved developments, it is recommended that two LAPs are provided on the site (one either side of the spine road), one combined LAP/LEAP together with a multi-use games area. Details of the design and location of such facilities would follow as part of reserved matters applications however the arrangements for their provision and transfer to the Council as well as commuted payments for their maintenance should be secured within a legal agreement.
- 6.51 In addition to the sports facilities and play areas, other informal open space would be provided within the site. Part of this would include surface water drainage features such as attenuation ponds and swales as well as general landscaped areas. These would primarily be in the remaining undeveloped areas to the south of the site as well as in the buffers between the development and Salt Way as well as the remaining gap between Bodicote and Banbury. The landscaping proposals for these areas would be assessed in detail as part of reserved matters applications. Other informal green spaces would be provided in and around the new houses though the details of this would only become apparent as part of reserved matters applications. However, as all of these areas would ultimately form part of the public realm, their future maintenance needs to be secured. Arrangements for this are recommended to be included within a legal agreement. The proposed development is also likely to have an impact on existing indoor sport provision within the District given that new residents are likely to make use of these facilities. This impact cannot be mitigated on site and so, in accordance with Policy BSC12 of LPP1, a financial contribution will be necessary to be secured via the legal agreement towards improvement/expansion of the nearby Spiceball Sports Centre.
- 6.52 Having regard to the requirements of Policies BSC10, BSC11 and Banbury 17, officers are satisfied that subject to the inclusion of relevant covenants in a legal agreement to secure the necessary provision and maintenance of formal and informal recreation facilities, the needs of the residents of the new homes would be adequately served by the type, quality and quantity of facilities proposed and thus the development would mitigate its impact on existing recreation provision and provide a suitable quality residential environment within the site for future residents.

#### Biodiversity

- 6.53 Policies ESD10 and Banbury 17 seek net gains for biodiversity on the site in reflection of guidance contained in the NPPF. These policies are also consistent with the Council's wider statutory duty as set out in the Natural Environment and Rural Communities Act 2006 (NERC Act 2006) to have due regard to the desire to increase biodiversity as part of carrying out its functions including in its role as a planning authority.

- 6.54 An ecological appraisal has been submitted to accompany the application which the Council's ecologist is generally satisfied with in terms of its general conclusions and recommendations. In short, there are no major ecological issues on site given that the majority of the site comprises actively farmed agricultural land. The most valuable features are the hedgerows as a habitat and pathway for birds, reptiles and bats. Overall, the vast majority of existing hedgerows would be retained and augmented on the site and where some areas are lost due as part of constructing and laying out the new spine road, new planting along the Salt Way and within the southern areas of the site would more than outweigh this. Wider hedgerow buffers are however thought to be necessary than that recommended in the ecological report with a 5m buffer being more appropriate to avoid root damage and alleviate disturbance associated with domestic pets and dog walking. There are a number of badger setts on the site and where these are proposed to be disturbed by construction works, a licence will first be required from Natural England.
- 6.55 Some of the species associated with open arable landscape, particularly the brown hare, have in officers' view been dismissed a little too easily in the ecological report as being necessarily displaced. Whilst significant farmland would remain in the surrounding area, as the brown hare is a priority species as determined under the NERC Act 2006, this needs to be given more careful attention. It is unlikely that a scheme of on-site biodiversity enhancements can mitigate for the loss of agricultural land that supports the brown hare given that all land is proposed to be either for built development or in some form of public greenspace and/or formal recreation land. This impact is considered all the greater given the cumulative scale of development proposed to take place to the south of Banbury which exacerbates the local impact. As a result, and to accord with the requirements of Policy ESD10 of LPP1, where harm cannot be avoided or directly mitigated, compensation is necessary in order to ensure significant harm to this species does not occur. The Council's ecologist has therefore recommended that a financial contribution be sought from the development towards an off-site ecological enhancement project that aims to improve the conservation status of the brown hare. The details of this project and its amount have yet to be determined and officers are awaiting the outcome of discussions with local wildlife groups. The submitted ecological report recommends a number of biodiversity enhancements to be incorporated into the built environment including bird and bat boxes as part of many of the dwellings as well as some green roofs. Details of this can be addressed as part of a recommended condition as well as during consideration of the detailed design of the dwellings at reserved matters stage. It is also recommended that a Construction Environment Management Plan (CEMP) be required by condition and submitted for approval prior to commencement of development that should include measures for protecting ecology on the site during construction including restrictions on works around hedgerows, restrictions on lighting during construction as well as the need for a consultant ecological to check any trees for bat potential prior to them being lopped/removed. The Council's ecologist has suggested that a condition requiring a scheme of lighting to be submitted and approved to ensure that dark corridors are created and maintained to encourage use by bats. Whilst officers' endorse this view, such considerations are best left to considering the detailed design, layout and landscaping of the development as part of the reserved matters.
- 6.56 Consequently, officers are satisfied that subject to the imposition of the recommended conditions, the proposals have the potential to deliver net biodiversity gains on the site in accordance with the requirements of Policies ESD10 and Banbury 17 of LPP1 as well as guidance in the NPPF such that the scheme is considered to be acceptable in ecological terms.

#### Trees and Landscaping

- 6.57 As set out previously, the application proposes details of landscaping to be a reserved matter. Therefore, no landscape scheme has been submitted and neither is it required at

this stage. However, it is still necessary to consider whether the proposals would be likely to be acceptable in terms of the impact on landscape features within the site having regard to the requirements of Policies ESD10, ESD13 and Banbury 17 of LPP1 which together seek the protection of valuable existing trees on the site together with appropriate new planting. There is also a statutory requirement on the Council by virtue of s197 of the Town and Country Planning Act 1990 to have consideration to the appropriate preservation and planting of trees as part of considering planning applications.

- 6.58 The vast majority of existing trees and hedgerows would be retained as part of the proposed development given the necessary buffers imposed by requirements within Policy Banbury 17. Existing north-south hedgerows that demarcate field boundaries within the site will inevitably have some sections removed to facilitate the creation of a spine road however the majority of their extent should be retained. There is clearly significant capacity within the site to mitigate any hedgerow loss in this respect by creating new/enhanced soft landscaped areas and corridors along and between the site's edges and so officers have no concerns in this respect.
- 6.59 The proposed new access and spine road as shown on drawing no. 1361/22 Rev. E is however in detail and so the implications for existing trees and hedgerows need to be considered. All existing trees of public amenity significance are proposed to be retained as part of these works with the exception of a mature horse chestnut just to the south of the spine road that would see significant development within its root protection area and so is proposed for removal. However, it has subsequently been found that this tree is actually in poor physiological condition and so its removal and replacement is considered good arboricultural practice. A small common lime tree along the boundary with White Post Road is also proposed to be removed though this makes little contribution to public amenity and can be easily mitigate through new planting. All trees of significance are therefore proposed to be retained and officers are satisfied that they can be suitably protected during construction through the tree protection measures recommended in the submitted arboricultural report and a condition is recommended to be imposed to ensure this.
- 6.60 A significant section of the existing hedgerow along White Post Road would need to be removed as part of creating the new access though the principle of this has been accepted as part of allocating the site. The hedgerow is not of particular importance in landscape terms though does contribute positively towards the White Post Road streetscene. Whilst its loss is inevitable and established in principle, there is significant opportunity to mitigate the impact of its loss through new planting along the site's boundaries which would be considered as part of the reserved matters.
- 6.61 Consequently officers have concluded that the proposals would not have a materially adverse effect on existing landscape features of significance due to the majority being proposed for retention together with proposals offering significant opportunities for enhancement on the site. Officers are therefore satisfied that the proposals accord with the requirements of Policies ESD10, ESD13, ESD15 and Banbury 17 of LPP1 in this respect and are therefore found to be acceptable.

#### Effect on Neighbouring Properties

- 6.62 Policy C30 of the LP 1996 and Policy ESD15 of LPP1 require new development to safeguard reasonable living conditions for occupants of existing dwellings with respect to daylight/sunlight, outlook, privacy and quality of indoor/outdoor space. These policies reflect guidance in the NPPF which sets out as a core planning principle the need for the planning system to *“seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”*.

- 6.63 All new buildings would be set a significant distance away from existing dwellings. The minimum 20m buffer to Salt Way ensures that even at their closest point, the new homes would be at least 25m from any existing dwelling on the Timms' Estate which comfortably exceeds the distances expected by the Council based on that set out in its Home Extensions Design Guide. This 25m separation distance would also feature significant augmented intervening soft landscaping that would further reduce the impact on outlook and privacy for occupants of existing dwellings to the north. Distances between new built development and existing dwellings on White Post Road and Wykham Lane would be substantial and so the proposals would not have any material adverse effect on the residential amenity associated with these properties.
- 6.64 The quality of amenity at the nearby nurseries and primary school could reduce slightly as a result of increased disturbance from traffic noise but this would not significantly prejudice their operations. In any event, the standard of amenity expected at these commercial/institutional premises is lower than that for a dwelling given that they are not places of permanent residence. Whilst existing residents and occupants of surrounding premises may in the interim experience disruption as a result of construction operations this could be partly mitigated through appropriate controls to be secured by condition in a construction environment management plan. This would include controls over hours of working, noise, dust, construction traffic etc. As discussed previously in this report, until the spine road is completed it is likely that some additional traffic movements may be experienced along White Post Road and Wykham Lane which could have an adverse effect on the enjoyment of established residential properties along these roads. However such an effect would be temporary and in any event not sufficient to be unacceptable, particularly in the context of the prospect of significant development on the site, having been accepted in principle by the Council in its decision to allocate the site.
- 6.65 As a result, subject to a condition requirement the submission, approval and implementation of a construction environment management plan, officers find that the proposals adequately protect established residential amenity in accordance with the standards expected by development plan policies and Government guidance.

#### Flood Risk

- 6.66 Policy ESD6 of LPP1 reflects Government guidance in the NPPF by resisting development where it would be unduly susceptible to flooding and/or increase the risk of flooding elsewhere. The site itself is not known to be at risk of either fluvial or pluvial flooding but it is nonetheless necessary for development on the site to appropriately manage surface water to ensure that it does not increase the risk of localised flash flooding in a storm event. As such, it is necessary and in accordance with both local and national planning policy for a sustainable drainage system (SuDS) to be fully incorporated into the development in a manner that mimics natural greenfield rainwater treatment so that there is no net increase in the rate of surface water discharge from the site. Full details of the SuDS on the site have not been provided at this stage given that the application is in outline but the flood risk assessment (FRA) submitted alongside the application clearly demonstrates that the ground conditions on the site and space available make SuDS viable on the site – a conclusion with which drainage officers at OCC concur. A condition is therefore recommended that requires full details of the drainage scheme to be submitted prior to commencement of development. A number of above and below ground drainage features are likely to be provided on site as part of the drainage scheme including ponds and swales which would in turn have occasional maintenance requirements such that appropriate arrangements for long term maintenance will need to be included in a legal agreement before it can be considered satisfactory. In conclusion, subject to conditions and relevant clauses in a legal agreement, officers have concluded that the proposed development would be acceptable in flood risk terms.

### Sustainability and Energy Efficiency

- 6.67 In the interests of ensuring new development contributes towards the wider objectives of achieving sustainable development, new dwellings and other buildings are expected to be constructed to accord with particular energy performance and design criteria. With respect to dwellings, much of this has now been superseded by requirements in Part L of the Building Regulations now that the former Code for Sustainable Homes (CfSH) has been cancelled by Government. Statements from Government have made it clear that in time requirements equivalent to level 4 of the former CfSH will be fully incorporated into the Building Regulations though debates continue on this at national level including through the passage of the Housing and Planning Bill. In the interim, Government guidance suggest that requirements relating to energy performance are still a matter relevant to planning though no higher than a level equivalent to the former CfSH level 4 can be sought by planning authorities. As such, officers recommend a condition requiring all dwellings on the site to accord with the energy performance standards equivalent to level 4 of the former CfSH. In addition, as Cherwell District has been identified as an area of water stress a condition is also recommended in line with the requirements of Policy ESD3 for all dwellings to be designed to be limited to a maximum usage of 110 litres/person/day.
- 6.68 With the exception of a sports pavilion, no other non-residential buildings are proposed on the application site. Policy ESD3 of LPP1 requires all non-residential buildings to be constructed to BREEAM 'very good' standard which relates to all matters associated with sustainable construction and not just energy efficiency. A condition is recommended to be imposed requiring non-residential buildings on the site to be constructed to meet the BREEAM 'very good' standard.
- 6.69 In addition to sustainable construction, Policies ESD4 and ESD5 of LPP1 are also material. Policy ESD4 requires a feasibility assessment to be carried out to determine whether there are opportunities for combined heat and power (CHP) systems to be utilised in the development. An Energy Statement submitted alongside the application however demonstrates that this is not viable given the lack of any significant 24-hour heat demand in the immediate vicinity that could make such a system commercially viable or indeed environmentally suitable. Policy ESD5 of LPP1 requires significant provision of on-site renewable energy generation as part of major new residential developments. Opportunities on the site have however been found to be limited principally to solar PV and solar thermal technologies on appropriately sited/orientated buildings as well as some opportunities for ground or air source heat pumps given that wind turbines and biomass boilers are not feasible given site circumstances. Full details of the on-site renewable energy generation measures for each new dwelling would be assessed at reserved matters stage and a condition has been recommended in this respect.

### Impact on Public/Community Infrastructure

- 6.70 Policies BSC9, INF1 and Banbury 17 are all material in this respect and require development proposals to adequately mitigate their impact on transport, education, health, social and community facilities. In the interests of achieving sustainable development, it is essential that the proposed development would not give rise to harm to existing community/public infrastructure at the expense of the services/facilities enjoyed by existing residents in the local area. Where mitigation is necessary to prevent this occurring, some of this mitigation can be provided on site and other elements cannot. This is further complicated by the fact that the overall Banbury 17 site has come forward as part of separate applications rather than as a single development proposal.
- 6.71 As stated already in this report, on-site provision can be made for outdoor sports and recreation facilities together with arrangements for long term maintenance. Similarly, arrangements can be made for long term maintenance of other landscape features

(including surface water drainage features) that would be in the public realm to ensure that this does not adversely affect public resources. A financial contribution will however be needed for improvements towards off-site indoor sport provision as this cannot be mitigated on site. Proposals for greater than 275 dwellings require new allotments to be provided on site and indeed the illustrative framework plan submitted as part of the application indicates such new allotments to be provided at the south of the site adjacent to the existing allotments. In accordance with the requirements of Policy BSC11 of LPP1, provision of a minimum of 0.2ha of allotment land is required in order to mitigate the impact of the new housing and there is clearly space for this to be provided on the site together with any associated car parking and facilities. Policy Banbury 13 identifies a shortfall in cemetery provision in the town in order to meet the needs of future development. As such, the policy seeks financial contributions towards expansion of the existing Banbury Town Council cemetery in order to mitigate the impact of the development and such contributions are duly recommended to be secured via legal agreement.

6.72 Policy Banbury 17 makes it clear that a new primary school is required on the Banbury 17 as well as land for expansion of playing fields associated with the nearby Blessed George Napier Secondary School. These facilities cannot be provided on the application site given its size and position relative to existing facilities. As such, it is necessary for land to be designated elsewhere on Banbury 17 (as part of the Gallagher Estates site) to meet the educational needs of both sites as well as the primary school needs associated with development on Banbury 16 (from which financial contributions were secured as part of granting planning permission). As a result, land for a 2.5 form entry primary school suitable to serve all of these new homes is necessary together with financial contributions towards the built costs of the new primary school. The application proposals should therefore be required to meet an equitable proportion of the build costs of the new primary school as well as provide a contribution towards land costs for OCC in order to secure the larger land area for the primary school on the Gallagher Estates part of the Banbury 17 site. Furthermore, it is anticipated that the Blessed George Napier Secondary School would need to expand in order to increase its capacity to 1,200 pupils in order to mitigate additional secondary school pupil numbers generated by development on Banbury 17. Such an expansion would need to be funded proportionately by financial contributions from the application proposals as well as proposals on the Gallagher Estates site. In order to facilitate the expansion of the secondary school onto its existing playing fields, further playing field land is required to mitigate this impact and in a situation similar to that of the primary school provision, the new playing fields need to be on the Gallagher Estates part of the Banbury 17 site so that they are adjacent to existing school playing fields. In addition to financial contributions towards the build costs of the expansion of the secondary school, contributions are also necessary towards the land costs associated with providing larger playing field land on the Gallagher Estates site. Consequently officers recommend that financial contributions are sought for both school build and land costs from this development through a legal agreement before planning permission is granted. To ensure that there is capacity to accommodate future primary school pupils arising from this development in the event that the new primary school on the Gallagher Estates part of Banbury 17 is slow to come forward, officers recommend a legal agreement includes additional covenants requiring a staged system of approval by OCC for a developer to progress beyond occupation of 100 and then 200 dwellings. This will ensure that, if necessary, further occupations can be prevented if there is found to be insufficient existing primary school place capacity in the local area unless the developer is prepared to provide additional financial contributions towards providing temporary teaching facilities.

6.73 In accordance with Policy Banbury 17, a community facility and local centre are also required to be provided on the site in order to create a sustainable urban extension to

Banbury. However, these facilities are proposed to be provided as part of the Gallagher Estates scheme given that these proposals are for a significantly larger development which would generate this level of mitigation by itself. Nevertheless the new residents of the homes proposed as part of this application would be expected to make use of the community facility and so a financial contribution is recommended towards the part-provision of a suitably sized community facility together with a commuted sum for maintenance as well as funding towards a community development worker.

- 6.74 Given the size of the proposed development and the opportunity to deliver a good quality public realm, a scheme of public artwork is considered necessary to be provided on the site either through financial contributions to the Council or being provided directly by the developer. It is necessary to make provision for the necessary arrangements for this as part of a legal agreement. A condition is also recommended requiring the submission and approval of details of the public artwork prior to first occupation of any homes on the site. In addition, given that the proposals would be likely to directly intensify use of the Salt Way, financial contributions are recommended to be sought to mitigate the impact of this additional use.
- 6.75 Further impact on public infrastructure is expected with respect to the transport implications of the proposed development. Whilst the development would partly mitigate its impact on own impact through the provision of the new spine road together with an upgraded access arrangement, further impacts would be experienced elsewhere on the local road network which necessitates a financial contribution to OCC for them to carry out relevant improvements to the A4260 Upper Windsor Street/ A4260 Cherwell Street /Swan Close Road junction. In addition, financial contributions are required from these proposals to part fund the cost of operating a dedicated bus service through the site to help connect new residents to Banbury town centre and other key employment sites thereby reducing dependence on the private car. Furthermore, new infrastructure improvements to upgrade existing off-site bus stops are also required as well as new bus stop infrastructure within the site.
- 6.76 It is apparent in consultation responses from Thames Water that there are concerns that there is a shortfall in existing capacity to provide both water supply and foul drainage services to the site and that off-site upgrades may be required. In recognition of this and in accordance with the suggestions of Thames Water, officers recommend the imposition of conditions that prevent any development taking place until the developer has carried out an investigation of existing capacity and identified if/where upgrades are required. Thames Water would be involved in assessing the conclusions of these investigations and advising on the approach to take thereafter to ensure sufficient capacity is available and thus avoid putting pressure on existing infrastructure to the detriment of the environment and amenity of existing residents.
- 6.77 To ensure the proposals do not adversely affect the Council's waste and recycling services, a condition is recommended that requires the provision of the three necessary waste bins for each new home prior to its occupation to ensure the cost of doing so does not fall on the District Council and in turn prejudice services for the existing local community.
- 6.78 In short, the proposals would have a significant and unacceptable impact on public/community infrastructure without the mitigation measures set out above being secured through conditions and/or a legal agreement as appropriate. Subject to satisfactorily securing the mitigation, the proposals are considered to be acceptable and in accordance with the requirements of Policies BSC9, INF1 and Banbury 17.

#### Planning Obligation(s)

6.79 In order to ensure that the development is acceptable in planning terms, a number of the impacts of the development need to be mitigated and/or controlled through covenants in a legal agreement. All covenants are subject to statutory tests and in order to be taken into account in deciding to grant planning permission they need to be: necessary to make the development acceptable in planning terms; directly related to the development; and; fairly and reasonably related in scale and kind. Furthermore, officers have had regard to the statutory restriction on being about to take into account a planning obligation where it pools funds towards more than five types/projects of infrastructure within the District since April 2010. Having regard to these statutory tests, officers consider that the following items need to be satisfactorily secured as part of a legal agreement before planning permission should be granted:

*Cherwell District Council:*

- Provision of on-site outdoor sports facilities, sports pavilion and arrangements for future maintenance;
- Provision of 2 x LAPs on site, 1 x combined LAP/LEAP and 1 x multi-use games area together with commuted sums for future maintenance by the Council;
- Maintenance arrangements for informal public amenity space, trees/hedgerows, footpaths, and other landscape features including drainage ponds whether in the form of commuted sums to the Council or a suitable management company;
- Financial contribution towards off-site indoor sport improvements at Spiceball Sports Centre;
- Provision of on-site public art in addition to arrangements for future maintenance or cash-in-lieu contribution to the Council;
- 30% affordable housing;
- Financial contribution towards the community centre on Banbury 17 as well as a proportionate commuted sum towards future maintenance;
- Financial contribution towards additional burial site provision within Banbury;
- Provision of 0.2ha of allotments and associated facilities on the site together with commuted sums for future maintenance by the Council;
- Arrangements for the provision and maintenance of the new car park adjacent to White Post Road to ensure that it functions as a free public car park in perpetuity;
- Financial contributions towards Thames Valley Policy infrastructure based on that set out in their consultation response but only that infrastructure that has not been pooled more than five times since April 2010;
- Financial contribution towards compensation through off-site project resulting from unmitigated adverse impacts on priority species (farmland birds and brown hare).

*Oxfordshire County Council:*

- Financial contributions towards the land and build costs associated with provision of a new primary school on the Gallagher Estates part of the Banbury 17 site, contribution towards expansion of Blessed George Napier Secondary School and the costs associated with the provision of secondary school playing field land on the Gallagher Estates part of Banbury 17;
- Arrangements for provision of temporary teaching accommodation facilities at existing local primary schools in the event that the provision/opening of the new primary school on the Gallagher Estates part of Banbury 17 is delayed or the actual build rates on the application site are faster than expected;
- Financial contribution towards improvements to the Salt Way and public rights of way network;
- £1,000 per dwelling towards the cost of introducing a bus service for the site;

- Financial contribution towards improvements to the A4260 Upper Windsor Street/ A4260 Cherwell Street /Swan Close Road junction based on the Banbury Area Transport Strategy;
- Financial contribution towards new bus stop infrastructure on Oxford Road;
- Financial contribution towards upgraded bus stop infrastructure on White Post Road;
- A requirement for the developer to enter into a highway agreement under s278 of the Highways Act 1980 to construct the new access from White Post Road and the spine road;
- Provision of a central spine road through the site to its western boundary to coordinates to be agreed so that it facilitates connection to the spine road proposed on the Gallagher Estates site. Legal agreement to include details of the specification of the spine road together with triggers for its completion from the new White Post Road junction to the site's western boundary based on whichever occurs earliest of: 1) First occupation of the 200<sup>th</sup> dwelling on the site; 2) Four years from commencement of development;
- Financial contribution towards making/varying traffic regulations order(s) to introduce on-street parking controls in the vicinity of Bishop Loveday Primary School;
- Provision of bus stop infrastructure within the site;
- Provision of a new bridleway through the site to an appropriate specification to meet the Gallagher Estates site at a precise point to be determined in the legal agreement at the south-western boundary. Bridleway to be secured in perpetuity as publicly available together with arrangements for maintenance.

6.80 Members should note that Cherwell District Council will receive a number of financial contributions from development on the adjacent allocated Banbury 16 site once the approved scheme is implemented. This includes a contribution towards providing sports facilities and a community centre on the Banbury 17 site. National planning policy and guidance is clear that double charging developers for elements of infrastructure is not appropriate and the contributions sought will not meet the statutory tests of necessity. To ensure double charging does not occur, during the process of completing the legal agreement officers will need to take account of any relevant contributions relating to Banbury 17 that are likely to be received following implementation of developments on other sites and any requirements associated with this development amended accordingly.

#### Local Finance Consideration(s)

6.81 This development has the potential to attract New Homes Bonus for the Council equivalent to approximately £2,183,543 over 6 years based on current arrangements from Government. This is potentially a local finance consideration which can be a material planning consideration in weighing up the merits of the proposed development. Officers however recommend that Members give this very little weight given that it is unclear how much of a direct impact that this funding would have on making this development acceptable in planning terms. Furthermore, it is officers' view that other matters are of significantly more importance for a local planning authority given that it should be acting in the wider public interest and it is not appropriate for any genuine concerns in this respect to be outweighed by a financial matter such as this.

## **7. Conclusion**

7.1 The principle of residential development on this site as part of a wider urban extension on the allocated Banbury 17 site has been established. For reasons set out in this report, the development proposed is in accordance with the basis on which the site was allocated and contributes to meeting the overall requirements of Policy Banbury 17. Furthermore, subject to conditions and covenants in a legal agreement, any significance adverse effects resulting from the proposed development can be adequately mitigated to ensure that

overall the proposals accord with the provisions of the development plan and amount to sustainable development. In addition to being found to be in general accordance with the development plan, the proposals are also considered to be consistent with Government guidance set out in the NPPF which establishes a presumption in favour of sustainable development. Officers consider there to be no other material planning considerations of significance that indicate determining the application otherwise than in accordance with the development plan. As a consequence, officers recommend that Committee resolves to grant outline planning permission. It is also prudent for Members to have regard to the District's ongoing housing supply position and the importance of development taking place on strategic allocated sites such as this to ensure consistent delivery of housing in the District. In doing so this ensures that the housing that proposed and delivered in the District is on the more suitable sites and in the most sustainable locations rather than through poor quality, undesirable speculative applications that are more likely when the District's supply of housing drops due to delays in delivery of housing on the larger established strategic allocations. The proposed development would make a substantial contribution towards meeting housing need in the District and in turn would help maintain at least a minimum five year supply of housing that is important to ensuring proper sustainable planning and decision making takes place within the District.

- 7.2 In coming to this conclusion, officers have had regard to the development plan, Government guidance as well as statutory and third party representations made in response to the application. In addition, the information contained within the submitted Environmental Statement has been considered as part of assessing the merits and impacts of the proposed development. Officers are satisfied for the reasons set out in this report that the adverse environmental effects of the development would not be significant subject to the mitigation measures secured through the recommended conditions and legal agreement clauses. This report should be considered as the Council's statement for the purposes of regulation 24(c) of the EIA Regulations 2011 (as amended).

## **8. Recommendation**

### **Approval, subject to:**

- 1. Satisfactory completion of a legal agreement to secure the items set out in paragraph 6.79;**
- 2. Imposition of the conditions set out below;**
- 3. 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 spine road at an appropriate stage through a mechanism similar to that set out in OCC's consultation response;**
- 4. 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 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.**

### Conditions

- 1 No development shall commence on a phase identified within an approved phasing

plan (see condition 2) until full details of the layout, scale, appearance and landscaping (hereafter referred to as reserved matters) of the development proposed to take place 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 of the Town and Country Planning Development Management Procedure Order 2015 (as amended).

2 Prior to the submission of any application for approval of reserved matters but following written approval by the local planning authority of details submitted in requirement of conditions 6 and 7:

A phasing plan covering the entire application site (that indicates clear development parcels for which reserved matters applications will be submitted and the order in which they shall 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 consideration and 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 of the Town and Country Planning (Development Management Procedure) Order 2015 (as amended).

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, 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 general accordance with the details shown in the submitted Development Framework Plan (ref: JJG043-035 Rev. Q) except insofar as it conflicts with the masterplan and design code approved under the requirements of condition 6

of this planning permission.

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 No application for reserved matters approval shall be submitted nor shall any submissions be made under the requirements of any other condition attached to this consent (except condition 7) until a Design Code and Masterplan covering the entire application site has been submitted to and approved in writing by the local planning authority.

The Design Code shall include:

- a) A density plan for the site;
- b) Design influences study and character areas;
- c) The general scale, form and style of buildings within each area of the site as well as details of the means of enclosure to be used;
- d) The street form, street frontage and hierarchy for all types of street/road including details of street design and surfacing;
- e) The approach to car and cycle parking across all areas of the site;
- f) The materials to be used across the site;
- g) The treatment of all on-site hedge corridors, retained trees and public rights of way.
- h) The means by which sustainability features will be incorporated into the development
- i) Details of how the principles of Secured by Design will be incorporated into the development

The Masterplan shall include:

a) An overall layout plan showing the distribution of all principal land uses throughout the site including residential (identifying any extra care/retirement homes), the local centre, primary school, secondary school land, community facilities, public open space, play areas, sports pitches and recreation facilities, locations of existing and new footpath/bridleway/cycle links, the alignment of the spine road and general location of bus stops/crossing points on it as well as the general alignment of principal estate roads.

b) The character areas to be covered in the Design Code.

c) Details of the ecological enhancement strategy to be incorporated together with associated landscape structure, mitigation planting and hedge and tree protection corridors.

d) The Parcels/Phases into which the development is to be divided (each parcel/phase being one that is intended to be developed as a single entity and for which a Reserved Matters application is to be submitted).

e) The strategy for foul, surface and land drainage from the site including surface water source control measures such as approximate locations for attenuation/retention ponds,

swales, pumping stations etc.

f) Details of the location of public artwork within the development.

g) The strategy for on-site renewable energy generation.

All subsequent applications for approval of reserved matters and submissions in requirement of all other conditions imposed on this outline planning permission shall be in accordance with the approved Design Code and Masterplan.

Reason - To ensure the development proceeds in a manner that is consistent with national and local planning policy objectives to deliver high quality residential environments that integrate successfully with the surrounding area in accordance with the requirements of Policies Banbury 17 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

7 Prior to the submission of any applications for approval of reserved matters or submissions under the requirements of any other condition but following submission of details to accord with the requirements of condition 6, full details of the spine road (from its 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 be submitted to and approved in writing by the local planning authority in consultation with the local highway authority. No application shall be made that submits details in compliance with the requirements of this condition until a Design Code and Masterplan document (pursuant to the requirements of condition 6) has been submitted to the local planning authority.

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

8 All applications for approval of reserved matters relating to a phase shall be accompanied by full details of the elements 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 to ensure surface water run-off resulting from the whole development will not exceed pre-development greenfield run-off rates in a manner that accords with best practice for Sustainable Drainage Systems (SuDS).

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 phase (as approved under condition 2) 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 phase as approved under condition 2 until full design details of the play areas proposed within that phase as determined by the Masterplan approved under condition 6 (including Local Areas of Play [LAPs], Local Equipped Areas of Play [LEAPs], Neighbourhood Equipped Areas of Play [NEAPs] and Multi-Use Games Areas [MUGAs]) have been submitted to and approved in writing by the local planning authority. The development 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 phase approved under condition 2 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 phase approved under condition 2 including works of site clearance/preparation until 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 All applications for reserved matters approval relating to a phase (as approved under condition 2) shall be accompanied by 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). 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 until a fully detailed drainage strategy detailing any on and/or off site 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 or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed.

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

15 No development shall take place until impact studies of the existing water supply and 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 a phase (as approved under condition 2) (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 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.

20 All applications for reserved matters approval relating to a phase shall be accompanied by a statement demonstrating how the development in that phase would contribute towards and be consistent with the objectives for enhancement of biodiversity across the site to achieve an overall net gain. Thereafter, the development approved on that phase shall be carried out in accordance with the approved statement.

Reason - To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Government guidance contained within the National Planning Policy Framework.

21 Prior to the commencement of the development hereby approved, 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 do not adversely affect 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 No development shall take place within 10m of an existing or new 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 except where the affected public right of way has the prior authorisation of the local planning (or highway) authority to be diverted or extinguished. Thereafter, the public right of way shall remain protected 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 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 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 All applications for reserved matters approval relating to a phase (as approved under condition 2) shall include details of the alignment and specification of any and all new and/or enhanced footpaths, bridleways and cycle tracks to be provided within/through that phase together with a timetable for their provision/completion. Thereafter the new footpaths, cycle tracks and bridleways shall be provided in accordance with the details approved as part of the reserved matters approval for that phase.

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);
- Delivery/collection timetable and arrival/departure times for site workers;
- Wheel washing facilities;
- Parking/turning and storage areas within the site;
- Appropriate contact details for the contractors.

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 Full details of the approved new 34 space public car park adjacent to White Post Road (shown indicatively on dwg no. 1361/22 Rev. E) including a timetable for its completion shall have been provided and approved as part of an application for approval of reserved matters prior to commencement of any development on the site. The new car park shall be completed in accordance with the approved details and retained for free public use thereafter.

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.

30 All applications for reserved matters approval for a phase proposing residential development shall be accompanied by details of the significant on site renewable energy provision to serve the dwellings within that phase. 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.

31 Prior to the commencement of the development, details of measures to mitigate car parking stress on surrounding roads during the period of the construction of the approved new access to the site from White Post Road shall be submitted to and approved in writing by the local planning authority. The approved temporary measures shall be put in place prior to the commencement of any part of the development and remain in place until the approved new access arrangement has been completed and the permanent new car park fully laid out and made available for public use as per the requirements of condition 29.

Reason - To ensure severe parking stress does not occur during the construction phase of the development to the detriment of local amenity and highway safety.

32 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 inappropriate and unsightly landscape features on the site both during construction and afterwards.

33 No occupation of any 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 continued public 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.

34 No dwelling shall be occupied within any phase (as approved under condition 2) 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 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.

35 Prior to first occupation of any dwelling within a phase (as approved under condition 2), fire hydrants shall be provided or enhanced 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.

36 Prior to the first occupation of any dwelling on the site, covered and secure cycle parking facilities shall be provided on the site in support of the community/recreation uses in accordance with details which shall be first submitted to and approved in writing by the Local Planning Authority. Thereafter, the secure cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of encouraging sustainable travel in accordance with the requirements of Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the National Planning Policy Framework.

37 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 be implemented and operated in accordance with the approved details.

Prior to occupation of 50% of the dwellings approved 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.

38 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.

39 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.

40 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.

41 All dwellings on the site shall achieve an energy performance standard equivalent to at least Code Level 4 of the former Code for Sustainable Homes. No dwelling shall be occupied until it has been constructed to meet this energy performance standard unless otherwise agreed in writing by the local planning authority.

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

42 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 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 the approved 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.

43 No occupation of any of the approved dwellings shall take place until details of the on-street parking controls to be introduced on the spine 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 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 spine road does not occur as a result of the development which would be likely to prejudice highway safety.

44 Notwithstanding any provisions contained within the Town and Country Planning (General Permitted Development Order) 2015 (and any Order or Statutory Instrument revoking or re-enacting that order), all new water, waste, energy and communication related public infrastructure on the site shall be provided underground and retained as such thereafter unless otherwise with the specific approval in writing of the local planning authority as part of a reserved matters approval or separate grant of full planning permission. Where approved in writing by the local planning authority, the 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.

45 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 strategy 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

46 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 in writing by the local planning authority except to directly facilitate the creation and laying out of the approved vehicular and pedestrian access arrangements from White Post Road as set out in drawing no. 5773-A-04 of the submitted Arboricultural Assessment produced by FCPR 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.

47 The hereby approved means of access from White Post Road 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 the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape 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.

48 Prior to the first use of the approved new vehicular access from White Post Road, any and all existing vehicular accesses to the site from Wykham Lane shall be permanently stopped up and shall not be used by any vehicular traffic whatsoever unless otherwise agreed in writing by the local planning authority.

Reason - To ensure that the proposals do not materially increase traffic flows along Wykham Lane to the detriment of highway safety.

49 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.

50 The spine road approved under the requirements of condition 7 shall be fully completed and available for public use from its new junction with White Post Road through to the site's western boundary prior to whichever occurs earliest of the following:

- Occupation of 75% of the final number of dwellings approved on the site (as determined by reserved matters approvals);
- Four years following first commencement of any part of the development on the site.

In the event that the approved spine road has not been provided in accordance with the above requirements, no further dwellings shall be constructed or occupied on the site until the spine road has been completed in accordance with the details approved under condition 7.

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.

51 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.

52 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.

53 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.

54 Prior to first use of the approved new vehicular access arrangement (as shown on drawing no. 1361/22 Rev. E) or new public car park (condition 29), details of the means by which the existing 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.

55 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.

All applications for reserved matters approval shall reflect these requirements 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.

56 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 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.

57 All applications for reserved matters approval relating to a phase (as approved under condition 2), shall be accompanied by a lighting strategy outlining how lighting will be sensitively designed within that phase to minimise disturbance to wildlife (in particular bats). Thereafter, the development approved for that phase shall be carried out in accordance with the approved lighting strategy.

Reason - To ensure suitably dark areas of the site and pathways are retained/created in the interests of wildlife in accordance with the requirements of Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1.

58 Residential development on the site shall achieve an average minimum density of 30 dwellings/hectare across each and all residential parcels (as approved within the Design Code/Masterplan under the requirements of condition 6).

Reason - To ensure that as development progresses it takes the opportunity to make efficient use of land in the interests of sustainability contributing towards housing delivery in accordance with the requirements of Policies BSC1, BSC2 and Banbury 17 of the Cherwell Local Plan 2011-2031 Part 1.

#### **Planning Notes/Informatives:**

Attention is drawn to a Legal Agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.

The District Council, as local planning authority, in deciding to approve this proposal has taken into account the Environmental Statement submitted with the application and any relevant representations made about the likely environmental effects by the public or consultees.

Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 0300 060 2501.

#### **Closure of Public Highway**

If the permission hereby given requires work within the public highway, the applicant is advised that he/she should not commence such work before formal consent is secured from the Highway Authority by way of either (a) a Section 184 Highways Act 1980 notice, or (b) the completion of a formal agreement between the applicant and the Highway Authority. Details of the form of both a) and b) above may be obtained direct from Oxford County Council, the Highway Authority on Tel. (01865) 844300.

No development shall take place across any public footpath/right of way unless and until it has been legally stopped up or diverted.

**STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), the Council has worked positively and proactively to determine this application in an efficient manner having worked with the applicant/agent where necessary to resolve any concerns that have arisen during consideration of the application in the interests of achieving more appropriate and sustainable development proposals. Consent has been granted accordingly.

**CONTACT OFFICER:** Matthew Parry

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