



Appeal Decision

Hearing held on 11 June 2024

Site visits made on 10, 11 & 12 June 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2024

Appeal Ref: APP/C3105/W/24/3339370

Land West of Bloxham Road, Banbury, Oxfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Barwood Development Securities Limited and Mr M Horgan against the decision of Cherwell District Council.
 - The application Ref is 22/03868/OUT.
 - The proposal is for a development of up to 60 homes including open space provision, parking, landscaping, drainage and associated works.
-

Decision

1. The appeal is allowed and planning permission is granted for a development of up to 60 homes including open space provision, parking, landscaping, drainage and associated works, at land West of Bloxham Road, Banbury in accordance with the terms of the application, Ref 22/03868/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. Although as originally submitted, the application sought outline planning permission for up to 65 dwellings, by the time it was determined it had been amended to be for up to 60 dwellings. I have considered the scheme accordingly.
3. This is an outline application with all matters other than access reserved for later consideration. Moreover, the only element of access being considered is the site's entry/exit point to the existing road network. As a result, I am treating all details on the various submissions relating to matters other than the point of access as being informative but illustrative.

Main Issues

4. By the opening of the Hearing the Council was raising no objection to the development, considering its concerns in the decision notice could be addressed through the legal agreement, could be resolved by conditions, or were outweighed by the scheme's benefits. Nonetheless, based on the submissions before me I consider the main issues in this case are
 - a) whether the development would be contrary to the spatial strategy
 - b) its effect on the character and appearance of the countryside and
 - c) the effect on the residents in the vicinity

and, if harm would be caused by any or all of the above

- d) whether material considerations justify a decision otherwise than in accordance with the development plan (the planning balance).

Reasons

Spatial Strategy

5. Policy BSC1 in the *Cherwell Local Plan 2011-2031* (the Local Plan), which was adopted in 2015, seeks to focus the District-wide housing distribution on Banbury and Bicester. The upper-case policy therefore attributes housing numbers between those 2 towns and the rest of the District, based on the targets in place when the plan was adopted. The supporting text makes clear this is because these towns are the most sustainable settlements in the District and such an approach would mean new housing could benefit from the services and facilities they offer. To my mind, the underlying strategy of this policy accords with the thrust of guidance in the *National Planning Policy Framework* (the Framework). However, although it relies heavily on allocated sites, I was drawn to nothing in the policy that clarified whether housing it attributed to Banbury had to be within the built-up limits of the town, or whether it could also be outside of but immediately adjacent to those built-up limits.
6. This policy is ostensibly a strategic one concerned with the overall distribution of housing. To direct individual applications, saved Policy H18 from the *Cherwell Local Plan* (1996) says that planning permission will only be granted for new dwellings beyond the built-up limits of settlements in certain specified instances, none of which are applicable to this case.
7. The development plan framework does not define the built-up limits of settlements with settlement boundaries or similar. Rather, it can be seen to include allocated sites on the periphery of towns, but otherwise it is a judgement based on the pattern and arrangement of built form at the time. It was therefore accepted that it was an organic definition, and, even if outside the built-up limits beforehand, once a site on the edge of a town or village was developed for housing, for whatever reason, it could well then become part of that settlement's built-up limits, so extending those limits further outward.
8. This appeal relates to a field on the south side of Banbury. To the north, and separated by a narrow intervening belt of woodland (the woodland), is a large new housing development of just over 300 dwellings that is known as Bloxham Vale, which was built partly on an allocated site in the Local Plan, and partly on land lying outside of that allocation, in the countryside.
9. In this location it appeared to be accepted that the southern edge of the Bloxham Vale development now formed the built-up limit to Banbury. As such, if developed this scheme, in turn, would then become in part the new built-up limit for the town. Irrespective of this though, to my mind it now lies outside of the built-up limits and so allowing housing here would be in conflict with saved Policy H18.
10. However, although in the countryside, the Council has not contended the appeal site would be an unsustainable location and could not benefit from the services and facilities in Banbury, and I have no reason to disagree with such

an assessment. Consequently, I see nothing to mean that the proposal would conflict with Local Plan Policy BSC1 or its underlying sentiment and aims, as the scheme would be focussing housing on one of the 2 most sustainable towns identified. In this regard it would also be in line with the guidance in the Framework.

11. Accordingly, whilst I find no conflict with Local Plan Policy BSC1, by reason of being outside the existing built-up limits of Banbury, I conclude the proposal would conflict with saved Policy H18.

Character and appearance

12. Although no doubt the site is appreciated by local residents, it does not fall within a valued landscape under the intentions of the Framework. However, as an area of countryside the Framework still advocates that the decision-maker has regard to its intrinsic character and beauty. This reflects Policy ESD13 in the Local Plan, which seeks to resist development that would cause undue visual intrusion into the open countryside. Other policies were cited, but it was accepted that this was the policy that addressed this concern most clearly.
13. The site is a large, relatively flat square field of grass that is bounded by trees and hedging on its southern and western sides, and the woodland is to the north. Housing on Bloxham Vale can be seen to the north-east, while, to the east, and separated from the site by a simple fence, is an area of open space laid out for that existing new housing development (the existing open space). This existing open space has relatively dense planting along its southern and eastern sides. The boundary treatments around the existing open space and the appeal site mean the appeal site is well-contained when looking from the countryside beyond. In this regard it is very different to the fields to the west and south, which, because they are larger and because the land falls away, are far more prominent in the wider landscape. However, despite being grassed it is not devoid of human influence, as the existing open space and the housing on Bloxham Vale to the north-east are readily apparent.
14. When I visited, views of the housing immediately to the north from the appeal site were very much restricted by the woodland. However, to my mind this belt of trees is not a feature of sufficient depth to mean it would decisively separate development on either side, especially once the access had been formed through the middle. Indeed, I find this area of woods would have a positive effect as, even with the access, it would bring visual relief to the resultant area of housing.
15. Moreover, the existing open space, although quite pastoral in nature, is nonetheless distinct and separate from the agricultural land that makes up the wider countryside. This is due partly to its containment with hedges and trees referred to above, but also because of the trim-trail, the benches and the water retention features, while the new houses to the north can be perceived to a great extent through and around the gaps in the planting along that boundary. The illustrative plans have shown the scheme has opportunity, through its landscaping and layout, to be visually integrated into this existing open space. Accordingly, I find the proposal before me would not be isolated from, divorced from or poorly related to the Bloxham Vale development.
16. By introducing a housing estate, the proposal would change the character of this field and also, to a lesser degree, the ones immediately adjacent.

However, the scheme has potential for extensive areas of open space with additional planting, and opportunity would exist to bolster the boundary treatments there now.

17. When looking from the north, the woodland means there is little appreciation of this field now. In winter months though, when the trees in the woodland have lost their leaves, the estate may be visible from Crouch Hill, but then it would be seen with the rooftops of the sizeable Bloxham Vale scheme in the foreground. In summer from this direction, whether on Crouch Hill or in the roads closer to the development, the woodland would conceal the new housing to a great extent. The gap in the trees formed by the access would allow views through, but once more these would be in the context of the large housing scheme adjacent. Consequently, when looking from the north the scheme would not prove harmful.
18. From the existing open space, the new housing would be visible throughout the year, though this would be softened by the introduction of planting along that side of the scheme. Although it would be clearly apparent from here that a field had become a housing estate, I am aware that the planting to the west and south of the appeal site mean it is not seen in the context of the wider countryside. As stated this area has a character that is more recreational than agricultural, while it is separated already from the rural landscape to the south by the strong boundary treatments. Moreover, although pleasantly laid out, there is an awareness of housing with filtered views through to the dwellings to the north. Therefore, I consider the proposal would not have a harmful effect on the character and appearance of this area, or any appreciation it offers of the wider countryside.
19. From Wykham Lane to the south, the effect of the rising land, the planting on the site's southern boundary and the distances involved all mean the scheme would not be unduly apparent. Similarly from Bloxham Road to the south-east the hedging on the roadside and on the appeal site boundary would do much to soften the scheme. The houses could be seen from the new farm access that has been formed off this road, but they would, again, be concealed to a great extent by the existing hedging. This concealment would not be total, and so the scheme would have the effect of introducing some awareness of urban development where it is not now present, albeit being a heavily filtered view and over the farm access. I therefore accept there would be some slight harm to the intrinsic character and beauty of the countryside when seen from here.
20. Footpaths run in a north/south route to the west of the appeal site, from the western end of Bloxham Vale down to Wykham Lane. Mindful that these are well-maintained, I have no reason to assume they are not popular with walkers and currently allow a refreshing appreciation of the countryside. They do not directly abut the appeal site though, being separated by at least an intervening field. However, the houses could be seen to some extent above and through the trees and hedging along the western boundary, especially in the south-western corner of the site, and inevitably this would detract to a degree from the rural ambience these paths offer. Whilst I recognise that the new planting would reduce these effects, this would take time to become established and any screening it offered in the early years would be minimal.
21. Overall, I therefore conclude there would be some limited visual intrusion into the countryside, and some harm to its intrinsic character and beauty, especially

in the early years. In this regard I therefore conclude the development would conflict with Local Plan Policy ESD13 and the Framework.

The effect on residents

22. No specific route is proposed for construction traffic at this stage, and, while the appellants say there are 'numerous' ways it could enter and leave the site, only 3 were given. The most apparent is via the existing Bloxham Vale estate, utilising the site's intended access. The appellants noted that at present construction vehicles associated with building the last few properties in that development already use the roads through the estate. However, residents on Bloxham Vale raised concerns about noise, safety, damage and disturbance. A second option was along the old farm track that runs from the north-east corner of the site to the side of Crouch Cottages and onto a short spur off Bloxham Road. Again local residents expressed concern about the effect on living conditions and on the safety of pedestrians as they crossed it to access the existing open space. There were also further concerns about whether it could be legally used in that manner, though that is not a matter I can resolve. The third option was off the new farm track, which runs close to the southern boundary of the appeal site and on my visit I saw it was capable of carrying larger lorries.
23. Initially the lack of a construction traffic management plan (a CTMP) was a reason for refusal, but in the Statement of Common Ground the Council accepted it could be agreed by a condition. This agreement would have to be secured before development began, as construction traffic would need to access the site at the earliest stage of implementation. It would therefore be inappropriate to impose such a condition if there was no prospect of a CTMP being agreed. I note the concerns about the first and second options, but even if they were proposed under a condition and deemed to have unreasonable impacts, no grounds were given to me to show the third option would not be practicable. As such, it would appear that some form of access for construction traffic could be secured. In such a situation it is not for me to assess the relative merits of these options or indeed any others that may come forward.
24. Measures could be agreed to mitigate any dust generated by either the traffic or the construction works, while a condition could also secure matters such as hours of operation, parking for construction workers and so on.
25. Accordingly, I consider the construction phase and access by construction traffic could be achieved without unreasonable harm to residents in the vicinity.
26. Turning now to the effects of the scheme's residential traffic, when I travelled round Bloxham Vale in the late afternoon, in the evening and in the mid-morning on different days, the roads were, in my opinion, quiet with little activity. To my mind the additional flows associated with this scheme would not be significant within the road network on that estate. In places there were parked cars that had the effect of narrowing the carriageway down to a single lane, but given the low level of traffic movement this was not a hazard. Indeed, to my mind it had the effect of slowing down any traffic. I therefore consider the scheme would not compromise highway safety for the occupiers on the estate, or indeed result in unacceptable noise and disturbance on the routes that would be favoured.

27. Concern was raised over the evidence-base for vehicle movements. However, whilst the figures appear to me to be reasonable, even if they were an underestimate, I consider my findings would have been the same for an appreciably greater flow. I was also told that the modelling for the Bloxham Road roundabout was based on it serving 400 houses on the Bloxham Vale site and, even with this development, that number would not be breached. Again, from my observations I had no grounds to consider that roundabout was functioning under stress.
28. A condition was suggested to secure access for cyclists and pedestrians to Bloxham Road in the interests of sustainability. If this is also to run past Crouch Cottages, it may be subject to the same legal concerns that were raised about the CTMP. Again though possible alternatives exist and so requiring the matter to be addressed before development begins would be reasonable.
29. With regard to pollution, this would presumably be coming from car fumes associated with the appeal scheme. Once more having regard to the existing traffic flows across the estate, I have no evidence to show these fumes would be unreasonable. A condition was suggested requiring the submission of an air quality impact assessment. However, putting aside the fact that I had no basis to consider this aspect of the scheme needed addressing to make it acceptable in planning terms, I had little awareness of what that condition would actually achieve, as there is limited control over the number and nature of cars owned by future residents, and their usage. I therefore consider such a condition to be unnecessary.
30. Accordingly I conclude the scheme would not have an adverse effect on the adjacent residents by reason of traffic generation or pollution, and so would not be contrary to Local Plan Policy ESD15, which requires safe and healthy places to live and work, and a consideration of amenity, or saved Policy TR7 in the *Cherwell Local Plan* (1996), which seeks to resist larger vehicles or larger car movements on unsuitable minor roads.

Other Matters

Effect on the listed building

31. A little over 200m from the north-west corner of the site is the Grade II listed Crouch Farm, an impressive farmhouse that has origins in the 17th Century but has been subsequently modified. Its significance is partly historic and partly architectural, as it still displays many of the characteristics of a farmhouse from these periods. Although it is strongly contained by hedging and similar, its setting amongst fields contributes positively to this significance by emphasising its rural origins.
32. The proposal would be behind the existing and additional boundary planting, and would be no closer to the farmhouse than the existing houses on Bloxham Vale. Moreover, they would be separated from the farmhouse by an intervening paddock that would maintain its rural context. I therefore consider the effect of the development on the setting of this listed building would not cause harm to its significance.

Affordable Housing

33. Local Plan Policy BSC3 says that 'at Banbury and Bicester' 30% of new housing on sites of 11 or more dwellings should be affordable, while 'at Kidlington and

elsewhere the figure should be 35%. This apparently is to reflect higher land values at Kidlington and in rural areas.

34. Given this policy context and the other supporting evidence, I am satisfied that securing affordable housing accords with Regulation 122 in the *Community Infrastructure Levy Regulations 2010* (the Regulations).
35. It is the Council's contention though that by being outside the built-up limits, this site is not 'at' Banbury and so the higher figure of 35% is required. However, my attention was drawn to nothing in the policy or its supporting text to clarify how 'at' Banbury should be defined. The development would be separated from the built-up limits of the town by only the woodland, and access would just be from within Banbury. Indeed, it was confirmed that if constructed the scheme would, in turn, become part of the town's built-up limits, and in my opinion it would be perceived as part of Banbury and nowhere else. The development would be relying on the town for all its services, and any local housing needs it addressed would presumably be focussed on Banbury itself. I note too that the Officer Report states '*Policy BSC3 requires the provision of 30% affordable housing*', and I understand that this was also the level of provision sought for the portion of the Bloxham Vale development that fell outside of the allocated area.
36. Consequently, in the absence of any definition to the contrary, I consider it reasonable to view this as being a site 'at' Banbury and so, in order to be policy-compliant and to accord with Regulation 122 of the Regulations, 30% of the scheme should be affordable.

Planning Obligation

37. The appellants have submitted a Unilateral Undertaking. As well as securing affordable housing, this commits to contributing to a range of matters including education, cycle improvements, public transport contributions, sports facilities, community facilities and so on. Given the evidence submitted, I am satisfied that the effect on the town's infrastructure would be appropriately addressed. I find all of the contributions in the Unilateral Undertaking are material planning considerations, all can be given weight in determining the appeal and all constitute a reason for granting planning permission. I am therefore satisfied that they accord with Regulation 122 in the Regulations.

Ecology

38. As the site is on the edge of the countryside it is to be expected that it would be used for foraging by wildlife. However, on the evidence before me, and mindful of the various ecological improvements that could be included within the scheme, I have no basis to find its effect on ecology and wildlife would be unacceptable on either the field or the woodland.

Design

39. Although an initial concern of the Council's, the illustrative details have shown that there is opportunity for the scheme to be appropriately laid out.

Other concerns

40. Mindful of what can be secured by conditions, I have insufficient grounds to resist the scheme on the basis of drainage.

41. I have had regard to the various other concerns raised by third parties, and consider none of them constitute unacceptable harm.

Planning Balance

42. I consider that Local Plan Policy BSC1 and saved Policy H18 are the most important in determining the appeal as they govern the location of housing. I have found no conflict with the former, but I have come to the view that the scheme would be contrary to the latter. I have also found a conflict with Local Plan Policy ESD13. However, the Council acknowledged that Local Plan Policy BSC1 is out-of-date because its underlying evidence is materially different to the most recent evidence on housing need. At the Hearing it confirmed that saved Policy H18 is also out-of-date as its closed list of acceptable development outside of the built-up limits is contrary to the more balanced approach in the Framework.
43. Various benefits have been offered to weigh against the identified harm. Firstly, there is the benefit of additional housing. Even if the Council can demonstrate a housing land supply of 5 years, that is not a maximum figure, and delivery above that would serve to boost the supply of homes in line with the Framework. Moreover, benefits would also accrue from providing 30% of the properties as affordable, particularly in the light of an apparent shortfall against the targets in the development plan. These factors I afford significant weight, especially given the site's location with reasonable access to services and facilities in one of the 2 most sustainable towns in the District.
44. On top of this, there would be economic benefits both during the construction phase and afterwards, though these would be likely to occur wherever the housing was, and so I afford them only limited weight. I also acknowledge there would be environmental benefits being delivered to which I attach moderate weight.
45. Section 38(6) of the *Planning and Compulsory Purchase Act 2004* says development should be in accordance with the development plan unless material considerations indicate otherwise, which is a position that is reaffirmed in the Framework. Therefore, this section accepts that, whilst the development plan has primacy in decision-making, there are situations where material considerations could indicate a decision that was otherwise than in accordance with the plan. I shall term this a 'flat balance'.
46. One such material consideration is paragraph 11(d) in the Framework. This says that where the most important policies for determining an application are out-of-date planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits (the so called 'tilted balance').
47. In assessing these various balancing exercises, I have therefore taken the benefits given above, and weighed them against the identified harms, being mindful that saved Policy H18 and, indeed, Local Plan Policy BSC1 are out-of-date, and the conflict with Local Plan Policy ESD13 arises from a limited impact on a few viewpoints.
48. By the start of the Hearing the Council considered that, when the 'flat balance' was applied, the benefits of the scheme outweighed any harm and permission should be granted. However, as Local Plan Policy BSC1 and saved Policy H18

are out-of-date, and as these are the 2 most important policies in determining this appeal, I consider it more appropriate for me to engage paragraph 11(d) of the Framework and apply 'the tilted balance' as suggested by the appellants. Doing this, I find the stated adverse impacts of the scheme would not significantly and demonstrably outweigh the benefits I have identified. Consequently, material considerations indicate the decision should be otherwise than in accordance with the development plan and so permission should be granted.

49. In the submissions there was much discussion about whether or not the Council could demonstrate a 5-year housing land supply, but given my findings above that is not a matter on which I need to come to a view.

Conditions

50. Many conditions have been suggested. In considering these though I am mindful that a further submission could be coming in to allow the consideration of the Reserved Matters, and opportunity would exist to resist that later submission if the necessary concerns were not addressed, or to impose conditions pertaining to those reserved matters.
51. Standard conditions relating to the submission of Reserved Matters and the commencement of development should be imposed for the avoidance of doubt [Conditions 1-3]. Similarly, as the only element of access that has been considered at this stage is the point of entry/exit, a condition should require the submission of the remaining aspects of that matter [10]. Moreover, a condition concerning the arrangement of the exit/entry is also justified in the interests of highway safety [11].
52. Mindful of the appearance of the impact of the scheme on the countryside, conditions pertaining to the principle of the development should be added, controlling the maximum net developable area, the housing density within that area, and the maximum heights of properties [4]. However, to my mind the other matters covered under suggested Condition 4 would be issues addressed as part of the Reserved Matters submission. Moreover, given these controls I see no basis for requiring development to be '*generally in accordance with*' the illustrative plans.
53. The archaeological evidence supports an archaeological written statement of investigation [5] while in the interests of health and safety, a contaminated land survey is justified [13]. It has not been demonstrated though why, given other legislation, such a condition should include provision for contamination found during construction that was not previously identified.
54. To address possible disturbance for nearby residents a CTMP should be agreed [6]. In the suggested condition though I consider the hours of operation should be explicitly confirmed, and there is no need for '*local residents to be kept informed of significant deliveries*' as there is an identified point of contact for the development. In any event, such a requirement is unduly vague and so could be open to misunderstanding as to what it entailed. I am not satisfied that a CTMP requires the agreement of hoardings and scaffolding.
55. So as not to cause undue nuisance to neighbouring residents during the construction phase, piling, dust [7], on-site burning [8] and hours of operation [9] should also be controlled.

56. Having regard to sustainability details of access for cyclists and pedestrians to Bloxham Road is necessary [12], it should be demonstrated that the housing would meet a suitable sustainability standard [17], a Travel Plan should be agreed [20] and fibre optic provision should be secured to facilitate home working [18].
57. In the interests of ecology, lighting should be controlled during construction [7] and thereafter in public areas [21]. A Landscape and Ecology Management Plan should be agreed [15], as should precise measures for biodiversity net gain [16]. However, given the requirements, I see no reason why a higher level than 10% should be required at this stage. There should also be agreement as to how habitats are to be protected during the construction period [7].
58. Having regard to drainage, a drainage strategy including a SuDS provision should be agreed and installed [14 & 19].
59. However, given there are no apparent noise sources close to the development I see no reason for specific noise mitigation to be agreed. Furthermore, the landscaping strategy and management, the housing mix strategy, the details of the play facilities, the site levels and groundwork details, the waste and recycling facilities and the parking strategy are matters that can be requested and addressed as part of the Reserved Matters submissions and do not need to be controlled or requested at this stage. Noting controls put in place in other conditions, I see no reason for a condition stipulating that development must accord with the approved plan, as the only approved plan is the one depicting the site edged in red.

Conclusions

60. For the reasons given I therefore conclude the appeal should be allowed.

JP Sargent

INSPECTOR

Conditions Schedule

- 1) Details of the appearance, landscaping, layout, and scale (the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The reserved matters submission shall accord with the following principles and parameters in line with the Illustrative Parameters Plan (Drawing No 3931-03 Rev F) to established parameters for future development:
 - a) A maximum net developable area of no greater than 1.65ha
 - b) A minimum density within the net developable area of 30dph
 - c) A maximum height above ground level of 2½ storeys in areas identified accordingly on the Illustrative Parameters Plan and otherwise development shall be a maximum of 2 storeys in height above ground level.
- 5) Prior to the commencement of the development hereby approved an Archaeological Written Scheme of Investigation (AWSI), relating to the application site, shall be submitted to and approved in writing by the local planning authority. Prior to the commencement of the development (other than in accordance with the agreed AWSI), a programme of archaeological mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved AWSI. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the local planning authority within 2 years of the completion of the archaeological fieldwork.
- 6) Prior to the commencement of the development hereby approved a construction traffic management plan (CTMP) shall be submitted to and approved in writing by the local planning authority. The CTMP shall include:
 - a) Routing of construction traffic and delivery vehicles together with appropriate signing to the necessary standards/requirements. This includes:
 - Means of access to/egress from the site from the adopted highway.
 - Details of and approval of any road closures needed during construction.
 - Details of and approval of any traffic management practices needed during construction.
 - Details of appropriate signing to accord with standards and requirements for pedestrians during construction works, including any footpath diversions.
 - A regime to inspect and maintain all signing, barriers etc.
 - b) Details of wheel cleaning/wash facilities, to prevent mud from being carried onto the adjacent highway by vehicles.

- c) Contact details of the Project Manager and Site Supervisor responsible for on-site works.
- d) Details of how appropriately trained banksmen will be used for guiding vehicles and unloading.
- e) Details of where staff and visitors to the construction site will park.
- f) Details of times for deliveries to and the removal of materials from the site.
- g) Layout plan of the site that shows haul roads, site storage, compound and pedestrian routes.

The development shall then be undertaken in accordance with the approved CTMP.

- 7) Prior to the commencement of the development hereby approved, a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include
- a) A strategy of mitigation to reduce light pollution during the construction period.
 - b) A Dust Management Plan to achieve dust suppression measures.
 - c) Measures and management practices to protect habitats to be retained around the site.
 - d) Details of tree and hedge protection measures during construction and any timetable for their implementation
 - e) Details to reduce noise and vibration from any piling that may be undertaken.

The development shall then be implemented in accordance with the approved CEMP and any timetables it contains.

- 8) During the construction of the development hereby approved, there shall be no burning of waste on site.
- 9) During the construction of the development hereby approved, no construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 0800h to 1800h on weekdays (excluding Bank Holidays and Public Holidays) and between the hours of 0800h to 1400h on Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of the permitted hours stated here.
- 10) With or before the submission of reserved matters, details of all access routes between each property and the approved site access shall be submitted to and approved in writing by the local planning authority. Prior to the first occupation of each dwelling, the access routes to that dwelling shall then be provided in accordance with the approved details and to a standard that has been approved in writing by the local planning authority.
- 11) With or before the submission of reserved matters, details of the means of access between the net developable area and the adopted highway, including alignment, construction, drainage, and vision splays, shall be submitted to

and approved in writing by the local planning authority. Prior to the first occupation of any dwelling hereby approved, the means of access shall be constructed, in accordance with the approved details, and thereafter retained.

- 12) With or before the submission of reserved matters, details of the means of pedestrian and cycle access between the site and Bloxham Road shall be submitted to and approved in writing by the local planning authority. Prior to the first occupation of any dwelling hereby approved, this means of access shall be constructed, in accordance with the approved details, and thereafter retained.
- 13) With or before the submission of reserved matters, a comprehensive intrusive investigation characterising the type, nature and extent of contamination present, identifying the risks to receptors and informing the remediation strategy proposals shall be 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 the risk from contamination has been adequately characterised as required by this condition.

If contamination is found by undertaking the work carried out above, 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 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.

If remedial works have been identified above, the development shall not be occupied until the remedial works have been carried out in accordance with the approved scheme of remediation and a verification report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the local planning authority.

- 14) With or before the submission of reserved matters, details of the surface water drainage scheme (including sustainable drainage details), the foul water drainage scheme and timetables for their implementation shall be submitted to and approved in writing by the local planning authority. These shall include details of all flow control systems and the design, location and capacity of all strategic SuDS features and shall include ownership, long-term adoption, management and maintenance schemes, and monitoring arrangements and responsibilities. No development shall commence until those schemes have been approved in writing by the local planning authority, and the surface water drainage scheme and the foul water drainage scheme shall then be implemented in accordance with the approved schemes and timetables, and thereafter retained.
- 15) With or before the submission of reserved matters, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. Thereafter, the LEMP shall be carried out in accordance with the approved details. The content of the LEMP shall be guided by the requirement to achieve the Biodiversity Net Gain scheme approved under condition 16. The LEMP shall ensure management for at least 30 years from the completion of the scheme and shall set out the occurrence

of monitoring reports, which shall be submitted to and approved in writing by the local planning authority in accordance with the agreed details.

- 16) With or before the submission of reserved matters, details of how the development will enhance biodiversity (demonstrating a minimum of 10% biodiversity net gain) shall be submitted to and approved in writing by the local planning authority. The details shall comprise:
- a) updated Metric calculations based on the site layout, landscape scheme and up-to-date baseline habitat and condition assessments and justifications.
 - b) a Biodiversity Gain Plan.
 - c) Mitigation proposals for specific species identified through baseline habitat assessments (such as Great Crested Newts, amphibian/invertebrates, hedgehogs).
 - d) Bat and bird boxes.
 - e) A timetable for implementation.

The development shall be carried out in accordance with the approved details and timetable.

- 17) The reserved matters submissions shall include a statement to demonstrate how the proposal meets sustainability standards to mitigate climate change and maximise the opportunities for renewable energy, together with a timetable for the implementation of any measures or actions. Prior to the commencement of the development this statement shall be approved in writing by the local planning authority, and the development shall be implemented in accordance with the approved statement and timetable.
- 18) The reserved matters submissions shall include a strategy to demonstrate the completion of infrastructure to facilitate the provision of fibre optic cable to each property upon the completion of the infrastructure, together with a timetable for its delivery. Prior to the commencement of the development this strategy shall be approved in writing by the local planning authority, and the scheme shall be implemented in accordance with the approved timetable and thereafter retained.
- 19) Prior to the first occupation of any dwelling a record of the installed SuDS and wider drainage scheme shall be submitted to and approved in writing by the local planning authority. These details shall include
- a) As built plans.
 - b) Photographs to document each key stage of the drainage system when installed on site.
 - c) Photographs to document the completed installation of the drainage structures on site.
 - d) The name and contact details of any appointed management company information.
- 20) Prior to the first occupation of any dwelling a Travel Plan Statement with accompanying Residential Travel Information Pack shall be submitted to and approved in writing by the local planning authority. Thereafter, the Travel

Plan Statement shall be implemented and operated in accordance with the approved details.

- 21) Prior to the installation of any external lighting outside of domestic curtilages a detailed lighting strategy for those areas shall be submitted to and approved in writing by the local planning authority. The details to be submitted shall include:

- a) Lighting for play areas
- b) Lighting for public realm and walking and cycling routes
- c) Lighting for roads.
- d) Ecological areas where lighting will be prohibited.

Lighting outside of domestic curtilages shall then only be in accordance with the approved strategy.

APPEARANCES

FOR THE APPELLANTS:

S Choongh	Barrister
Mr Dorrian	Barwood Development Securities Limited
K Fenwick	Planning consultant
W Gardner	Landscape consultant
E Liggins	Planning consultant
B Pycroft	Housing consultant

FOR THE LOCAL PLANNING AUTHORITY:

C Ford	Team Leader South Area Major Projects with the Council
P Goodall	Housing consultant
R Oliver	Infrastructure Planning Officer with Oxfordshire County Council
M Topping	Landscape consultant

DOCUMENTS SUBMITTED AT OR AFTER THE HEARING

BY THE APPELLANTS:

APP1 – Policy H18 and supporting text from the *Cherwell Local Plan 1996*
APP2 – Appeal decision APP/C3105/W/18/3194018 concerning Crouch Farm, Bloxham Road, Banbury (dated 5 July 2018).
APP3 – Hand-annotated Housing Land Supply calculations (dated 11 June 2024)
APP4 – A signed and executed Unilateral Undertaking (dated 11 June 2024).
APP5 – Pages 78-90 from the 2022 Sensitivity Assessment
APP6 – Email confirming conditions relating to the LEMP and the requirement for Biodiversity Net Gain (dated 13 June 2024)
APP7 – Email confirming acceptability of revised timetable for submissions of details in Condition 15 (dated 21 June 2024)

BY THE LOCAL PLANNING AUTHORITY

LPA1 – Hand-annotated Housing Land Supply calculations (undated).
LPA2 – *Supplemental Proof of Evidence on Five Year Supply of Housing* (dated February 2024) and *Supplemental Rebuttal Proof of Evidence on Five Year Supply of Housing* (dated March 2024)
LPA3 – List of those notified of the Hearing (dated 13 June 2024)
LPA4 – Further list of those notified of the Hearing (dated 14 June 2024)
LPA5 – Email confirming the acceptability of the Unilateral Undertaking (dated 18 June 2024)
LPA6 – Email confirming acceptability of revised timetable for submissions of details in Condition 15 (dated 21 June 2024)