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Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Committee: Planning Committee
Date: Thursday 7 September 2023
Time: 4.00 pm
Venue Bodicote House, Bodicote, Banbury, Oxon OX15 4AA

Membership

Councillor George Reynolds (Chairman)

Councillor Andrew Beere
Councillor John Broad
Councillor Becky Clarke MBE
Councillor Ian Harwood
Councillor Fiona Mawson
Councillor Julian Nedelcu
Councillor Les Sibley
Councillor Amanda Watkins

Councillor Maurice Billington (Vice- Chairman)

Councillor Rebecca Biegel
Councillor Phil Chapman
Councillor Jean Conway
Councillor Simon Holland
Councillor Lesley McLean
Councillor Lynn Pratt
Councillor Nigel Simpson
Councillor Barry Wood

Substitutes

Councillor Sandy Dallimore
Councillor David Hingley
Councillor Harry Knight
Councillor Ian Middleton
Councillor Dorothy Walker
Councillor Bryn Williams

Councillor John Donaldson
Councillor Matt Hodgson
Councillor Andrew McHugh
Councillor Dan Sames
Councillor Douglas Webb
Councillor Sean Woodcock

AGENDA

1. **Apologies for Absence and Notification of Substitute Members**

2. **Declarations of Interest**

Members are asked to declare any interest and the nature of that interest which they may have in any of the items under consideration at this meeting.

3. **Requests to Address the Meeting**

The Chairman to report on any requests to address the meeting.

Please note that the deadline for requests to address the meeting is noon on the working day before the meeting. Addresses can be made virtually or in person.

4. **Minutes** (Pages 4 - 18)

To confirm as a correct record the Minutes of the meeting of the Committee held on 10 August 2023.

5. **Chairman's Announcements**

To receive communications from the Chairman.

6. **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

7. **Proposed Pre-Committee Site Visits (if any)**

The Committee to consider requests for and proposed pre-committee site visits.

Any requests or recommendations for site visits will be published with the written update.

Planning Applications

8. **Land West Adj To Salt Way And West Of Bloxham Road, Banbury** (Pages 21 - 46) **22/03868/OUT**

9. **Apollo Office Park, Ironstone Lane, Wroxton, OX15 6AY** (Pages 47 - 62) **22/03245/F**

Review and Monitoring Reports

10. **Appeals Progress Report** (Pages 63 - 70)

Report of Assistant Director Planning and Development

Purpose of report

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

Recommendations

The meeting is recommended:

1.1 To note the position on planning appeals contained within the report.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwell-dc.gov.uk or 01295 221534 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Aaron Hetherington / Matt Swinford, Democratic and Elections
democracy@cherwell-dc.gov.uk, 01295 221534

Yvonne Rees
Chief Executive

Published on Wednesday 30 August 2023

Agenda Item 4

Cherwell District Council

Planning Committee

Minutes of a meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, Oxon OX15 4AA, on 10 August 2023 at 4.00 pm

Present:

Councillor George Reynolds (Chairman)
Councillor Rebecca Biegel
Councillor John Broad
Councillor Phil Chapman
Councillor Becky Clarke MBE
Councillor Jean Conway
Councillor Ian Harwood
Councillor Simon Holland
Councillor Fiona Mawson
Councillor Lesley McLean
Councillor Lynn Pratt
Councillor Les Sibley
Councillor Nigel Simpson
Councillor Barry Wood

Apologies for absence:

Councillor Maurice Billington (Vice-Chairman)
Councillor Andrew Beere
Councillor Julian Nedelcu
Councillor Amanda Watkins

Substitute Members:

Councillor David Hingley (In place of Councillor Julian Nedelcu)
Councillor Matt Hodgson (In place of Councillor Andrew Beere)
Councillor Sean Woodcock (In place of Councillor Amanda Watkins)

Also Present Virtually:

Councillor Gemma Coton (Speaking as Ward Member for agenda item 8 only)

Officers:

Shiraz Sheikh, Assistant Director Law, Governance & Democratic Services/Monitoring Officer
Paul Seckington, Senior Manager Development Management
Gemma Magnuson, Senior Planning Officer

Andy Bateson, Development Management Team Leader - North Area
Saffron Loasby, Principal Planning Officer
Jeanette Davey, Principal Planning Officer
Karen Jordan, Deputy Principal Solicitor
Natasha Clark, Governance and Elections Manager
Matt Swinford, Democratic and Elections Officer

Officers Attending Virtually:

Ian Boll, Corporate Director Communities

32 **Declarations of Interest**

9. Land East of Warwick Road Drayton, Warwick Road, Banbury.

Councillor Matt Hodgson, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Rebecca Biegel, Other Registerable Interest, as a member of Banbury Town Council which had been consulted on the application.

33 **Requests to Address the Meeting**

The Chairman advised that requests to address the meeting would be dealt with at each item.

34 **Minutes**

The Minutes of the meeting held on 13 July 2023 were agreed as a correct record and signed by the Chairman.

35 **Chairman's Announcements**

The Chairman made the following announcements:

1. Reminded Members of the Committee that there will be a meet and greet session with Planning Officers prior to the next Planning Committee meeting on 7 September 2023.
2. Advised members of the public attending the meeting that only registered speakers may address the Committee and requested that they did not cause a disturbance.

36 **Urgent Business**

There were no items of urgent business.

37 **Proposed Pre-Committee Site Visits (if any)**

There were no proposed Pre-Committee site visits.

38 **Otmoor Farm, Ragnalls Lane, Horton Cum Studley, OX33 1AR**

The Committee considered application 23/01086/F for an RSPB Work base comprising change of use and conversion and extension of an existing bungalow for office/residential intern use, construction of two agricultural storage buildings for maintenance of the reserve and new security fencing at Otmoor Farm, Ragnalls Lane, Horton Cum Studley, OX33 1AR for the RSPB.

Councillor Gemma Coton addressed the Committee as a Local Ward Member who had called in the application to Committee for consideration.

David Slingo, Chair of Horton Cum Studley Parish Council, addressed the Committee in objection to the application.

David Wilding, on behalf of the applicant, RSPB, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers' report and presentation and the addresses of the public speakers.

Resolved

- (1) That application 23/01086/F, in line with the officer's recommendation, authority be delegated to the Assistant Director for Planning and Development to grant permission, subject to the conditions set out below (and any amendments to those conditions as deemed necessary)

Conditions

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

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.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Design and Access Statement, Primary Ecological Appraisal dated April 2022, Biodiversity Plan, Tree Survey, Letter from agent received 24 June 2023, Location plan received

29 June 2023, Location within RSPB Otmoor Nature Reserve plan received 29 June 2023, Location plan with ROW received 29 June 2023, Drawing No's: SA-20-001 Rev. D, SA-20-002 Rev. D, SA-20-012 Rev. A, SA-20-013 Rev. A, SA-20-015, SA-20-016 Rev. A, Fortex fence specification details

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

Prior to commencement of groundworks, works of site clearance or demolition

3. Prior to the commencement of any groundworks, works of site clearance or demolition, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be undertaken in accordance with the approved CTMP at all times.

Reason - In the interests of highway safety and the safety of users of the public right of way, and to ensure the environment is protected during construction in accordance with saved Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

4. Prior to the commencement of any groundworks, works of site clearance or demolition, 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 - To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Prior to commencement above slab level

5. Prior to the commencement of the extension hereby approved above slab level, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved 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 schedule.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local

Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the storage buildings hereby approved above slab level, a schedule of materials and finishes for the external walls and roof(s) of the development hereby approved 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 schedule.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Prior to erection of compound fence and entrance gates

7. Prior to the erection of the compound fence and entrance gates hereby approved, full design details to include colour and finish, 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 the satisfactory appearance of the completed development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Compliance only

8. The development hereby approved shall be carried out strictly in accordance with the recommendations and details set out in the Primary Ecological Appraisal dated April 2022 and the Biodiversity Plan submitted with the application, which was prepared by The RSPB Ecology & Land Management.

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

9. Where an offence under Regulation 41 of the Habitat and Species Regulations 2010 is likely to occur in respect of the development hereby approved, no works of site clearance, demolition or construction shall take place which are likely to impact on bats until a licence to affect such species has been granted in accordance with the aforementioned Regulations and a copy thereof has been submitted to the Local Planning Authority.

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 Part 1 and Government guidance contained within the National Planning Policy Framework.

10. That the entrance gates hereby approved shall open inwards only.

Reason – In the interests of highway safety and the safety of users of the public right of way in accordance with saved Policies SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

11. This permission shall enure for the benefit of the Royal Society for the Protection of Birds only and for no other persons only and shall not enure for the benefit of the land. Upon the applicant ceasing to occupy the site and/or buildings, the dwelling shall be occupied only by a person solely or mainly employed, or last solely or mainly employed in the locality in agriculture, as defined in Section 336(1) of the Town and Country Planning Act 1990, or in forestry, including any dependants of such a person residing with him or her, or a widow or widower of such a person, and the site and buildings shall be used only for the purpose of agriculture, as defined in Section 336(1) of the Town and Country Planning Act 1990

Reason - This consent is only granted in view of the special circumstances and needs of the applicant, which are sufficient to justify overriding the normal planning policy considerations which would normally lead to a refusal of planning consent, in accordance with Policies SLE1 and ESD14 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy H18 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

39

Land East of Warwick Road Drayton, Warwick Road, Banbury

The Committee considered application 23/00853/OUT, an outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury; All matters reserved except for access at Land East Of Warwick Road Drayton, Warwick Road, Banbury for Vistry Homes.

Chris Brant, on behalf of Keep Hanwell Village Rural Action Group and Hanwell Parish Council, addressed the Committee in objection to the application.

David Murray-Cox, on behalf of the agent for the applicant, Turley, addressed the Committee in support of the application.

In reaching its decision the Committee considered the officers report and presentation addresses from the public speakers and the written updates.

Resolved

That application 23/00853/OUT be refused, in line with the officer's recommendation, as revised in written updates, for the following reasons:

1. Cherwell District Council is able to demonstrate a 5-year housing land supply meaning that the relevant development plan policies are up to date. The application site is located within open countryside and is not allocated for development. The proposed development by virtue of its visually prominent position, is such that it would breach Banbury's contained environmental setting, giving rise to a direct risk of coalescence between Banbury and Hanwell, causing undue visual intrusion into the open countryside, fundamentally changing the undeveloped characteristics of these parcels of open arable land, creating a prominent urban built form, inconsistent with the local character, to the detriment of the rural landscape and the identity and individuality of Hanwell village, contrary to Policies PSD1 and BSC1 of the CLP 2031 Part 1, saved Policies C8 and H18 of the CLP 1996 and Government guidance within the National Planning Policy Framework.
2. The proposed development is considered to erode the open arable landscape which provides clear separation between Banbury and Hanwell and forms part of the surroundings within which the setting of Hanwell Conservation Area, St Peter's Church (Listed Building Grade I) and Hanwell Castle (Listed Building Grade II*) are experienced, to the detriment of and causing harm (less than substantial) to the setting of these designated heritage assets, contrary to policy ESD15 of the CLP 2031 Part 1 and Government guidance within the National Planning Policy Framework.
3. No evidence base has been provided to attempt to demonstrate whether the loss of this 'very good' and 'good' quality parcels of agricultural land could be avoided. The proposals thereby fail to satisfy the prescribed criteria under Policy Villages 2 of the CLP 2031 Part 1 and the requirements of para. 174 of the NPPF.
4. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development, and necessary to make the impacts of the development acceptable in planning terms. As such, the proposal is contrary to Policy INF1 of the Cherwell Local Plan 2011-2031, CDC's Developer Contributions SPD 2018 and Government guidance within the National Planning Policy Framework.

The Committee considered application 23/01265/OUT, an outline planning application for the erection of up to 60 dwellings with public open space, landscaping, sustainable drainage system (SuDS) and vehicular access point and all matters reserved except for means of access at OS Parcel 0078 North West Of Quarry Close, Quarry Close, Bloxham for Gladman Developments Ltd.

David Bunn, Bloxham Parish Councillor, addressed the Committee in objection to the application.

In reaching its decision the Committee considered the officers' report, presentation, the written update, and addresses from the public speaker.

Resolved

That authority be delegated to the Assistant Director of Planning and Development to refuse application 23/01265/OUT, in line with officer recommendation, subject to the reasons below and any modification(s) that the Assistant Director of Planning and Development may deem appropriate:

1. The site is located outside the built form of Bloxham and within an area of open countryside. By reason of its location and the proposed scale of development, the proposal would have a poor and incongruous relationship with the existing settlement appearing prominent in the open countryside. Its development would therefore have an adverse effect on the landscape on the approach to Bloxham to the detriment of the character and appearance of the countryside. In addition, the Council is able to demonstrate a 5.4-year housing land supply, and therefore the housing strategies in the Local Plan are up to date. It is considered that the development of this site would conflict with the adopted policies in the Local Plan to which substantial weight should be attached and result in unsustainable growth. The proposed development would therefore be contrary to Policies PSD1, BSC1, ESD1, ESD13, ESD15, Villages 1 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1, saved Policies C28, C30 and C33 of the Cherwell Local Plan 1996, Policies BL2, BL3 and BL11 of the Bloxham Neighbourhood Plan 2015 - 2031 and Government guidance in the National Planning Policy Framework.
2. By reason of its location more than 800m walking distance from the village centre and any key amenities in the village (e.g., food shop, post office, primary school, GP surgery, public house), the proposal would be poorly connected to existing development, such that future occupiers would not have a realistic choice of means of travel. Therefore, the proposal conflicts with Policies ESD1, ESD15 and Villages 2 of the Cherwell Local Plan 2011-2031, saved Policies C28 and 30 of the Cherwell Local Plan 1996, Policy BL3 of the Bloxham Neighbourhood Plan 2015 - 2031 and Government guidance in the National Planning Policy Framework.
3. By reason of the siting and size of the development and the resulting loss of grade 1 agricultural land, and taking into account the Council's

ability to demonstrate an up-to date 5.4 year housing land supply across the District and having delivered in excess of 750 dwellings at Category A villages under Policy Villages 2, and the lack of evidence to demonstrate that there are no other sites in Category A villages in the District which would be preferable in terms of using areas of poorer quality agricultural land to meet the District's housing needs, the proposal is considered to result in the unnecessary and unjustified loss of best and most versatile agricultural land. Therefore, the proposal conflicts with Policy Villages 2 of the Cherwell Local Plan 2011/2031 and Government guidance in the National Planning Policy Framework.

4. Based on the advice from the Council's Ecologist and the holding objection issued by Natural England, further ecological investigation needs to be carried out before it is known whether the proposed development would be harmful to biodiversity on site. The evidence currently available demonstrates likely detrimental impact to protected species and their habitat and without more detailed investigation the Local Planning Authority cannot be assured that the harmful impacts could be mitigated and/or compensated. Accordingly, and based on precautionary principles, the proposals would be contrary to Policies ESD10, ESD15 and Villages 2 of the Cherwell Local Plan 2011 - 2031 Part 1, Regulation 43 of Conservation of Habitats & Species Regulations 2017 and Government guidance at paragraphs 170, 175 and 180 within the National Planning Policy Framework.
5. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement, the local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development, and necessary to make the impacts of the development acceptable in planning terms. As such, the proposal is contrary to Policy INF1 of the Cherwell Local Plan 2011-2031, CDC's Planning Obligations SPD 2018, Policy BL9 of the Bloxham Neighbourhood Plan 2015 - 2031 and Government guidance within the National Planning Policy Framework.

41 **The Firs Garage, Tadmarton Heath Road, Hook Norton, OX15 5DD**

The Committee considered application 22/02668/F for the erection of a building to be used for storage of vehicles, with associated works at The Firs Garage, Tadmarton Heath Road, Hook Norton, OX15 5DD for Tom Hartley Jnr. Ltd.

In reaching its decision the Committee considered the officers' report and presentation.

Resolved

- (1) That application 22/02668/F, in line with the officer's recommendation, authority be delegated to the Assistant Director for Planning and

Development to grant permission, subject to the conditions set out below
(and any amendments to those conditions as deemed necessary)

Conditions

Time Limit

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

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.

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

Location Plan 18169-L001 dated 07.07.2022

Site Plan 18169-PP1010 dated 07.07.2022

Ground Floor Plan 18169-PP0130 dated 04.07.2022

First Floor Plan 18169-PP0131 dated 04.07.2022

Roof Plan 18169-PP0132 dated 24.05.2022

Sections 18169-PS0110 dated 04.07.2022

Site Sections 18169-PS1010 dated 07.07.2022

Street Elevation 18169-PE1010 dated 07.07.2022

Elevations 18169-PE0111 dated 04.07.2022

Photovoltaic Installation General Arrangement C1181D-DTL-CB-RF-DR-E-7001 Rev T01

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

Grampian Condition

3. The development hereby approved shall not be completed and occupied unless and until the development approved by permission 21/00955/F on 16.07.2021 has been substantially completed.

Reason – In order to ensure completeness of the development scheme as a combined development.

Materials

4. No development shall commence above slab level unless and until a schedule of materials and finishes to be used in the external walls and roof of the building has been submitted to and approved in writing by the

Local Planning Authority. The stone to be used in the development shall be natural ironstone. The development shall thereafter be completed in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure the satisfactory appearance of the completed development and to safeguard the character and appearance of the area in accordance with Policies ESD 1, ESD 3 and ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996, Policies HN – CC 2 and HN – CC 4 of the Hook Norton Neighbourhood Plan and Government guidance contained within the National Planning Policy Framework.

Ecology

5. The development hereby permitted shall be carried out in accordance with the recommendations set out in Preliminary Ecological Appraisal of The Firs Garage, Whichford Road, Hook Norton, Oxfordshire by Windrush Ecology Limited dated September 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats and/or species of importance to nature conservation from significant harm in accordance with Policy ESD10 of the Cherwell Local Plan 2011 – 2031 Part 1 and the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

Landscaping

6. Notwithstanding the details submitted, no development shall commence unless and until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site shall include:-

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
- (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
- (c) details of the hard surface areas, including pavements, pedestrian areas, reduced-dig areas, crossing points and steps. Thereafter, the development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be retained as such thereafter.

The development shall be carried out in strict accordance with the approved landscaping scheme and the hard landscape elements shall be carried out prior to the first use of the development and shall be retained as such thereafter.

Reason: In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or on the completion of the development, whichever is the sooner, and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

8. A schedule of landscape maintenance for a minimum period of 10 years shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development. The schedule shall include details of the arrangements for its implementation. The development shall not be carried out other than in accordance with the approved schedule and shall be retained as such thereafter.

Reason: To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Drainage

9. The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing:
Drawing
Below Ground Drainage GA (sheet 1 of 2)
Drawing No: 13459 - 500 REV P2

Drawing
Below Ground Drainage GA (sheet 2 of 2)

Drawing No: 13459 - 501 REV P2 -

Drawing
Drainage Standard Details (sheet 1 of 3)
Drawing No: 13459 - 503 Rev P1

Drawing
Drainage Standard Details (sheet 2 of 3)
Drawing No: 13459 - 504 Rev P1 -

All relevant Hydraulic calculations produced via Microdrainage
Date 20/02/2023
File 13459 - SW NETWORK ANAL...

Date 20/02/2023
File 13459 - SW NETWORK ANAL...

Date 20/02/2023
File 13459 - SW SOAKAWAY BAS...

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to comply with Policy ESD6 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

10. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
 - (a) As built plans in both .pdf and .shp file format;
 - (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

Reason:

To ensure that the principles of sustainable drainage are incorporated into this proposal.

Highways

11. No development shall commence unless and until full details of the means of access between the land and the highway, including, position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in strict accordance with the approved details and shall be retained as such thereafter. Reason - In the

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

Construction Traffic Management Plan

12. No development shall take place, including any works of demolition until a Construction Traffic Management Plan (CTMP) has been submitted to, and approved in writing by the Local Planning Authority. The statement shall provide for at a minimum:
- a) The parking of vehicles of site operatives and visitors;
 - b) The routing of HGVs to and from the site;
 - c) Loading and unloading of plant and materials;
 - d) Storage of plant and materials used in constructing the development;
 - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - f) Wheel washing facilities including type of operation (automated, water recycling etc) and road sweeping;
 - g) Measures to control the emission of dust and dirt during construction;
 - h) A scheme for recycling/ disposing of waste resulting from demolition and construction works;
 - i) Delivery, demolition and construction working hours;

The approved CTMP shall be adhered to throughout the construction period for the development.

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

42 Appeals Progress Report

The Assistant Director Planning and Development submitted a report which informed Members about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

Resolved

- (1) That the position statement be accepted.

43 Planning Performance Report

The Assistant Director Planning and Development submitted a report that detailed the Council's performance in determining planning applications against the Government's targets on Speed and Quality, as well as general performance figures.

Resolved

- (1) That the report be noted.

The meeting ended at 5.53 pm

Chairman:

Date:

CHERWELL DISTRICT COUNCIL

Planning Committee – 7 September 2023

PLANNING APPLICATIONS INDEX

The Officer's recommendations are given at the end of the report on each application.

Members should get in touch with staff as soon as possible after receiving this agenda if they wish to have any further information on the applications.

Any responses to consultations, or information which has been received after the application report was finalised, will be reported at the meeting.

The individual reports normally only refer to the main topic policies in the Cherwell Local Plan that are appropriate to the proposal. However, there may be other policies in the Development Plan, or the Local Plan, or other national and local planning guidance that are material to the proposal but are not specifically referred to.

The reports also only include a summary of the planning issues received in consultee representations and statements submitted on an application. Full copies of the comments received are available for inspection by Members in advance of the meeting.

Legal, Health and Safety, Crime and Disorder, Sustainability and Equalities Implications

Any relevant matters pertaining to the specific applications are as set out in the individual reports.

Human Rights Implications

The recommendations in the reports may, if accepted, affect the human rights of individuals under Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights. However, in all the circumstances relating to the development proposals, it is concluded that the recommendations are in accordance with the law and are necessary in a democratic society for the protection of the rights and freedom of others and are also necessary to control the use of property in the interest of the public.

Background Papers

For each of the applications listed are: the application form; the accompanying certificates and plans and any other information provided by the applicant/agent; representations made by bodies or persons consulted on the application; any submissions supporting or objecting to the application; any decision notices or letters containing previous planning decisions relating to the application site

Item No.	Site	Application Number	Ward	Recommendation	Contact Officer
8	Land West Adj To Salt Way And West Of Bloxham Road, Banbury	22/03868/OUT	Banbury Calthorpe and Easington	Refusal	Linda Griffiths
9	Apollo Office Park, Ironstone Lane, Wroxton, OX15 6AY	22/03245/F	Cropredy, Sibfords and Wroxton	Refusal	Jeanette Davey

*Subject to conditions

22/03868/OUT

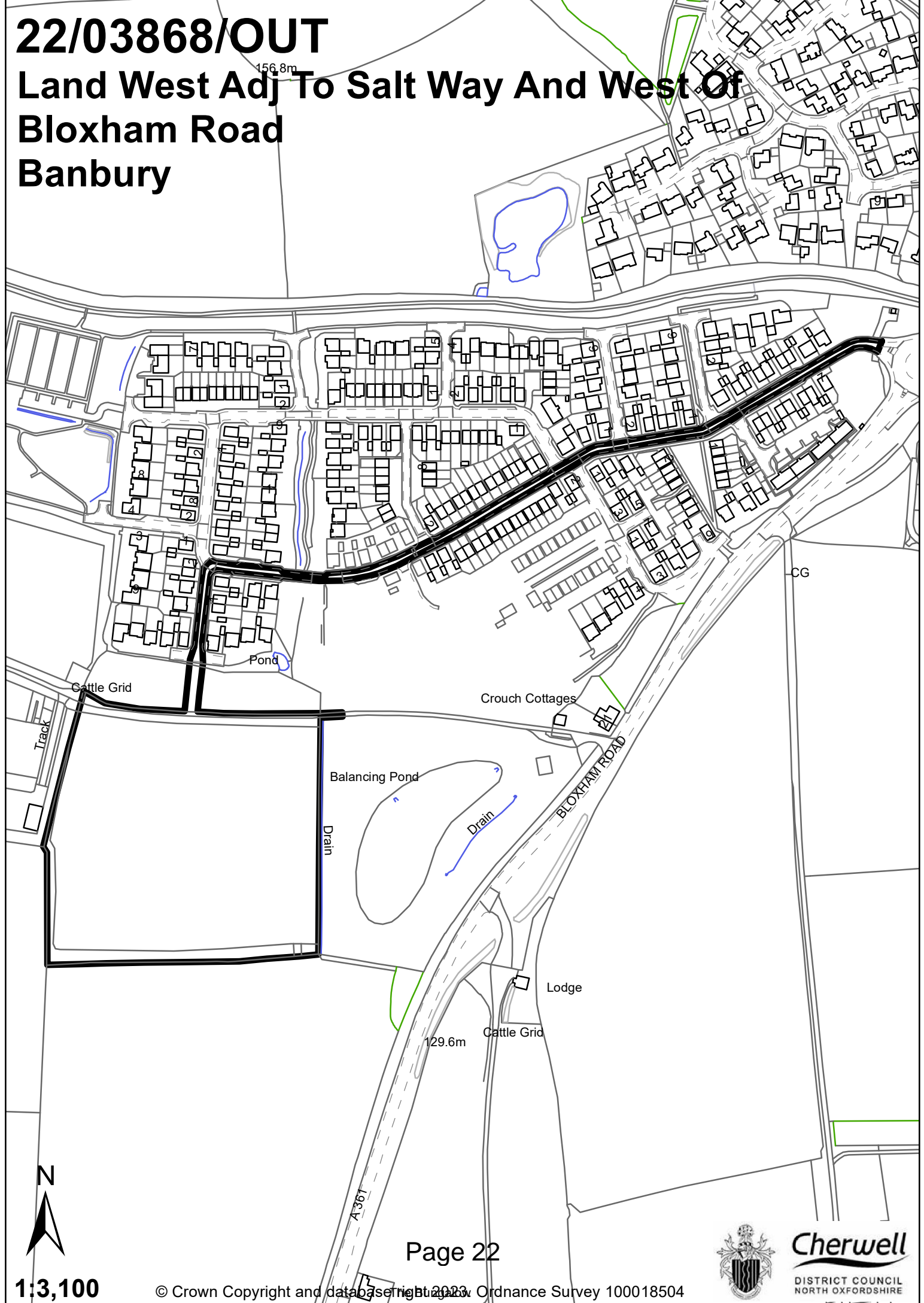
**Land West Adj To Salt Way And West Of
Bloxham Road
Banbury**



1:3,500

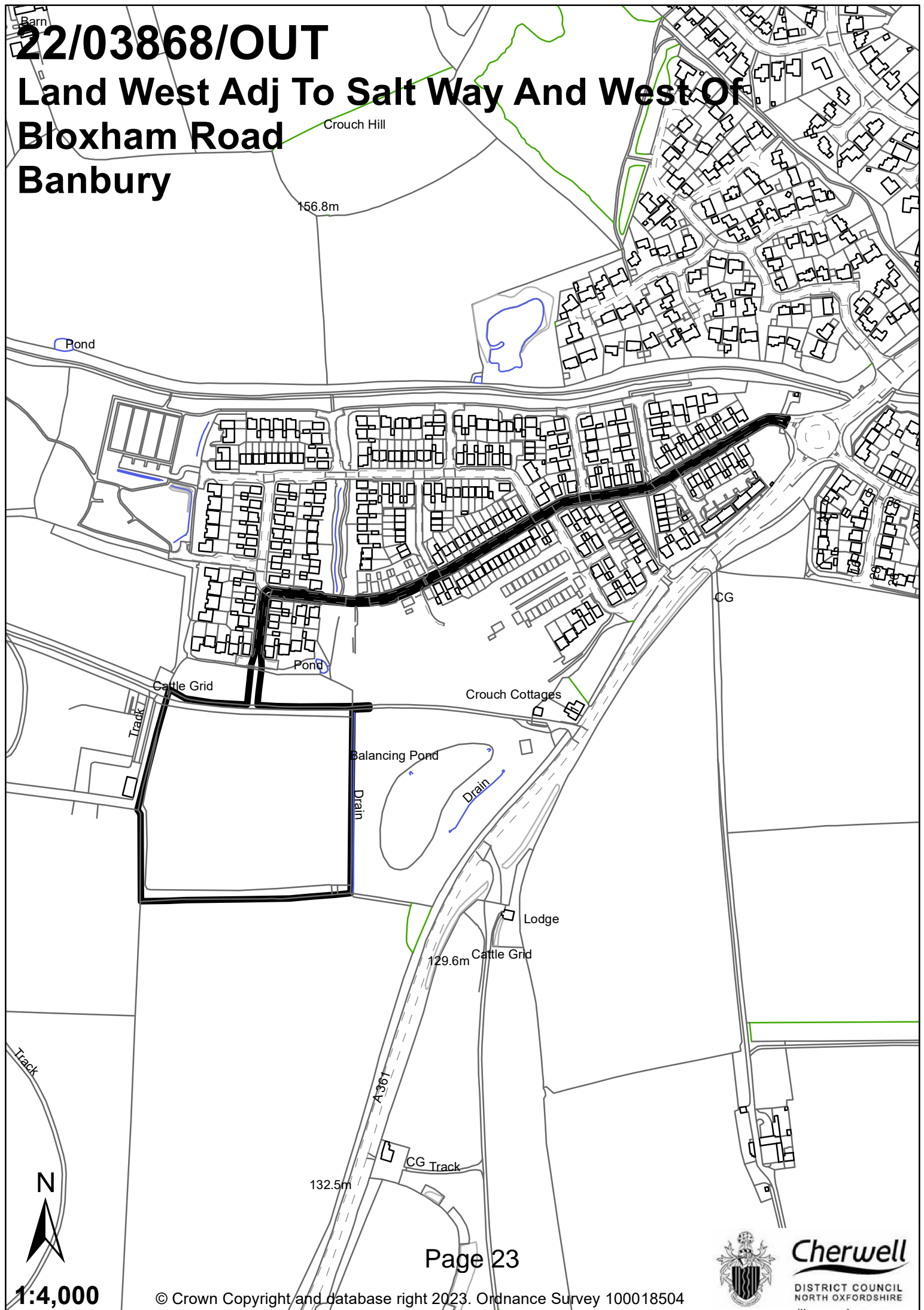
22/03868/OUT

Land West Adj To Salt Way And West Of Bloxham Road Banbury



22/03868/OUT

Land West Adj To Salt Way And West Of Bloxham Road Banbury



1:4,000



Case Officer: Linda Griffiths

Applicant: Barwood Development Securities Ltd/Mark Horgan

Proposal: Development of up to 60 homes including open space provision, parking, landscaping, drainage and associated works, with All Matters Reserved (appearance, landscaping, layout and scale) except for Access

Ward: Banbury Calthorpe & Easington

Councillors: Cllr Harwood, Cllr Mallon, Cllr Parsons

Reason for Referral: Major development and Significant departure from adopted development plan

Expiry Date: 15 September 2023

Committee Date: 7 September 2023

SUMMARY RECOMMENDATION: THAT OUTLINE PLANNING PERMISSION BE REFUSED

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises a square shaped parcel of agricultural land which extends to approximately 3.12 hectares beyond the existing built-up limits of Banbury. It is located to the west of the Bloxham Road and immediately to the south of an access to Crouch Hill Farm. An area of open space with SuDS lies immediately to the east of the site which is provided as part of the Banbury 16 allocation. The western and southern boundaries are defined by mature hedgerows and the northern boundary is separated from the Redrow development by a woodland buffer. The site slopes down gradually from the northwest to the southeast.
- 1.2. The strategic allocation under Policy Banbury 16 which is currently being built out by Redrow lies immediately to the north and east. Vehicular access to the site is proposed via the new roundabout serving the Redrow and Morris Homes sites and through the main access road into the Redrow development. There is an existing footpath along the site's northern boundary which provides access to the Bloxham Road (A361).
- 1.3. Crouch Hill lies to the northwest of the application site and is identified as a key landscape feature of value in the adopted Cherwell Local Plan 2015.
- 1.4. The strategic allocation under Policy Banbury 17 lies on the opposite side of the Bloxham Road and is now accessed via a new roundabout that has recently been constructed.

2. CONSTRAINTS

- 2.1. The application site is within close proximity to the Salt Way District Wildlife Site and the site's key constraints have identified that Great Crested Newt and Badger, which are both protected species might be present on the site. The agricultural land is classified as Grade 3b and a public right of way (PRoW) runs to the west and north of the site. The land is a minor aquifer. Vehicular access to the site is proposed through an existing woodland copse. Crouch Hill Farm, a Grade II listed building lies to the northwest of the application site. The site lies in an area of archaeological interest.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for the erection of up to 60 dwellings (original submission proposed 65 dwellings) and associated infrastructure, with all matters reserved except access. Access to the site is proposed from the Bloxham Road via the approved Redrow development to the north and through an existing copse which is situated between the site and the Banbury 16 Redrow site.
- 3.2. The application proposes pedestrian and cycle links to the adjacent Redrow development (now known as Bloxham Grove). A Local Area of Play is proposed within the landscaped areas and drainage attenuation is proposed in the south-eastern corner of the site.

4. RELEVANT PLANNING HISTORY

- 4.1. There is no planning history directly relevant to the proposal.

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with respect to this proposal.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **07 March 2023**, although comments received after this date and before finalising this report have also been taken into account.

- 6.2. The comments raised by third parties are summarised as follows:

- Object to use of Tyrell Road as access route to the development causing congestion, increased traffic and highway safety issue with more vehicles having to navigate parked cars, roads are already congested;
- More traffic and congestion will become a serious bottleneck for emergency services and potential danger for cyclists, motorists and pedestrians;
- Is there no possibility of incorporating an additional access from Bloxham Road; is the access road wide enough to cater for the additional traffic?;
- Increased HGV along narrow roads during construction through Bloxham Vale;
- Encroachment into open space adjacent;

- Congestion at the roundabout;
- Area has poor drainage due to clay nature of the land and floods;
- Impact on Salt Way and its wildlife;
- Impact on air quality; pollution and climate change; need to preserve agricultural land;
- Noise, dust and disturbance from construction traffic for years to come;
- Local infrastructure and public services such as Horton Hospital, schools, doctors and dentists cannot cope with more housing. Additional surgery at Longford Park has already been scrapped;
- Longford Park still isn't finished and looks like a building site with roads unfinished, the Council should make sure other sites are completed first before starting new ones;
- As Redrow do not protect Bloxham Vale residents, the new development should obtain the consent of ALL Bloxham Vale residents, and this development could set a precedent for further development through Bloxham Vale. At no time have Redrow ever made any suggestion about additional development through Bloxham Vale;
- Bloxham Vale residents pay service charge to maintain open space and play areas, concerns that this would be used by new development also;
- Drainage system must be considered as during periods of heavy rain it can barely cope with the amount of water;
- Access proposed from Selby Close, which will become a through road into the development;
- Environmental impact – at end of Selby Close is a natural woodland copse of trees and bushes which provides a wildlife habitat and sense of community and nature to the development, the proposal means a great hole would be placed through it to provide access – this is not acceptable;
- Not allocated for development in current approved Local Plan and breaches approved development area for Banbury;
- Further moves towards coalescence with Bloxham must be resisted;
- Further speculative development that will impact on Banbury's social, economic, social, health provision and infrastructure. Cannot keep on bolting on more and more development without additional strengthening of facilities.

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BANBURY TOWN COUNCIL: **object** as being premature pending the imminent publication of the consultation draft of the revised Cherwell Local Plan. Whilst we recognise that the Planning Authority cannot demonstrate a five-year housing land supply, we consider that the landscape impact of this proposed development outweighs the presumption in favour of development which the land supply situation promotes.

CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections** subject to standard conditions in respect of access details, CTMP, travel plan and footpath connection to A361 and Section 106 contributions: Cycle and pedestrian infrastructure safety improvements along Bloxham Road £32,500 and public transport £73,645. A Travel Plan statement is required for a development of 65 dwellings, although one has been submitted with the application, it lacks information. A condition is recommended accordingly. Cycle and EV parking is required within residential boundaries.

- 7.4. OCC as LEAD LOCAL FLOOD AUTHORITY: **objection** – require a surface water catchment plan and need to provide consent to discharge to the drainage ditch.

Update: 27.03.2023 – **no objection** subject to a condition requiring the submission and approval of a detailed drainage scheme.

- 7.5. OCC EDUCATION: **no objection** subject to Section 106 contributions. Primary education £377,560; Secondary education £531,792; Secondary Land Contribution £53,328 and Special education needs £35,896.

- 7.6. OCC ARCHAEOLOGY: **no objection** subject to the inclusion of conditions relating to a staged programme of archaeological evaluation and mitigation.

- 7.7. OCC WASTE MANAGEMENT: **no objection** subject to Section 106 contributions of £6,107 towards household waste recycling centres.

- 7.8. CDC PLANNING POLICY: **objection** – the application site, if developed would extend the current built up limits of Banbury into open countryside. The site is not allocated for development in the development plan and is therefore contrary to saved policies C8 and H18. The merits of providing additional homes (including affordable homes) on the site is noted and the proposal would assist in delivering new homes and meeting overall Policy BSC1 housing requirements to 2031. The application site is included within the Council's Housing and Economic Land Availability Assessment (HELAA) dated February 2018 (Site Reference HELAA 028). In assessing the application site in context of the wider site it concludes: *The site is considered to be unsuitable for development given the impact of development upon the high landscape value and visual sensitivity of the site. The site is very poorly related with respects to existing and planned development and would not physically integrate successfully either in urban design terms or landscape terms*'. The Council is currently undertaking a review of the adopted Cherwell Local Plan 2011-2031 (Part 1) which will cover the period to 2040. This plan is the appropriate context for identifying the quantum and location of future residential growth at Banbury. The application site has been submitted for consideration through Cherwell Local Plan Review 'Call for Sites'.

- 7.9. CDC ENVIRONMENTAL PROTECTION: **no objection**: recommend a condition relating to a construction environmental management plan (CEMP). Noise – recommend a condition relating to noise insulation for habitable rooms.

Contaminated land – satisfied with the phase 1 assessment provided and agree that a phase 2 assessment be provided if permission is granted. Air Quality – if permission is granted an air quality impact assessment will be required. Odour – no comments. Light – a condition requiring lighting details for approval is recommended.

- 7.10. CDC LANDSCAPE: **objection:** this is a very poor submission. The design and access statement is bereft of analysis and there is no landscape strategy or explanation to show how the landscape proposals have been designed holistically to help create coherent character. The proposal lacks connectivity, integration and accessibility. In terms of the LVA, this is poor and lacks any real analysis.

Update: 04.08.2023: **objection.** Explanation of the spatial relationship of the site in the context of surrounding development does not adequately address the proposed developments relationship in the text/narrative. The visual mapping should also explain better the relationship with informative text. The Landscape Strategy's rural landscape contextual analysis is acceptable, however, the additional LVIA notes do not confirm how the Landscape Masterplan was informed by the Landscape and Visual Receptor analysis and results. The recent LVA response does not assess the cumulative landscape and visual effects of the proposed and the adjacent Redrow development. The verges are not wide enough to accommodate trees as shown in the cross-sections of the L5 on page 16. Viewpoints are agreed with exception of EDP4 and 5 which require amendment and wire frames to support. The proposed play provision is under the required standard for a development of this size.

- 7.11. CDC ARBORICULTURE: **comment.** There are 3 groups of trees, 2 hedgerows and 1 woodland located along the boundaries of the site but no individual trees. The woodland is located on the northern boundary, and it is proposed that an access road is made through this woodland on to the site which will necessitate the removal of a number of trees. The installation of this access should be done as sensitively as possible. Once the required trees have been removed, I would like to see a no dig roadway installed to minimise the impact on the root balls of the retained trees. This will need to be designed by an engineer to take account of estimated loads. Due to the location of the groups of trees and hedgerows along the periphery of the site, the proposals are unlikely to have an impact on the trees as long as they are protected, and tree protection barriers installed throughout the development. A tree protection plan and arboriculture method statement will be required.

- 7.12. CDC ECOLOGY: no comments received.

- 7.13. CDC CONSERVATION OFFICER: no comments received.

- 7.14. CDC STRATEGIC HOUSING: **supported in principle.** Policy BSC3 requires that 30% of dwellings are affordable with a tenure split of 70% rented and 30% intermediate. 25% must be First Homes and NPPF requires 10% of total number to be Low-Cost Homes. Most pressing need in Cherwell at present is for 4 bed dwellings. The need for 3-bed has also increased recently and the need for 1-beds has lessened due to an increase in supply. The provision must comply with CDC standards and requirements.

- 7.15. CDC RECREATION AND LEISURE: **comment.** Section 106 contributions requested. Community hall facilities £74,311.08; Outdoor sports provision £131,106.95; Indoor sports provision £54,271.54 and public art/public realm £14,560.00

- 7.16. SALT WAY ACTIVITY GROUP: No comments received.

- 7.17. BANBURY ACTIVE TRAVEL SUPPORTERS: no comments received.
- 7.18. BBOWT: no comments received.
- 7.19. OCCG: **comment.** Sec.106 contribution of £56,160.00 necessary towards additional surgery capacity within Banbury to serve the additional population.
- 7.20. ENVIRONMENT AGENCY: **No comment.**
- 7.21. THAMES WATER: Foul Water – **no objection.** Surface Water – no objection provided it is not discharged to the public network. Water – TW have identified an inability of the existing water network infrastructure to accommodate the needs of the proposal. Thames Water have not been able to contact the developer at this time and therefore recommend a condition be included.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council 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. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1):

- PSD1 – Presumption in favour of sustainable development
- SLE4 – Improved transport and connections
- BSC1 – District wide housing distribution
- BSC3 – Affordable housing
- BSC4 – Housing mix
- BSC7 – Meeting education needs
- BSC10 – Open space, outdoor sport and recreation provision
- BSC11 – Local standards of provision – outdoor recreation
- ESD3 – Sustainable construction
- ESD6 – Sustainable flood risk management
- ESD7 – Sustainable drainage systems
- ESD8 – Water resources
- ESD10 – Protection and enhancement of biodiversity and natural environment
- ESD13 – landscape protection and character
- ESD15 – Character of the built and historic environment
- ESD17 – Green infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996):

- H18 – New dwellings in the open countryside
- C8 – Sporadic development in the open countryside
- C28 – Layout, design and external appearance of new development
- C30 – Design control

8.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Residential Design Guide SPD 2018
- Planning Obligations SPD 2018
- Housing and Economic Land Availability Assessment (HELAA) Feb 2018
- Banbury Landscape Sensitivity and Capacity Assessment September 2013
- OCC Street Design Guide 2021
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

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

- Principle of development
- Landscape and Visual Impact
- Site Layout and Design Principles
- Highway Safety and Access
- Flood Risk and Drainage
- Heritage impact
- Housing Mix and Affordable Housing
- Ecology impact
- Sustainability

- Planning Obligation

Principle of Development

- 9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy Framework (NPPF) makes it clear that it does not change the statutory status of the development plan as the starting point for decision making. The Development Plan for Cherwell comprises the adopted Cherwell Local Plan 2011-2031 Part 1 (CLP 2015) and the saved policies of the adopted Cherwell Local Plan 1996. The policies important to determining this application are referenced above.

Policy Context

- 9.3. Policy PSD1 of the CLP 2015 requires a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development and to secure development that improves the economic, social and environmental conditions in the area.
- 9.4. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The overall housing strategy is to focus housing growth at the towns of Bicester and Banbury. Policy BSC1 states that Cherwell will deliver a wide choice of high-quality homes. The merits of providing additional homes (including affordable homes) on this site is noted and the proposal would assist in delivering new homes and meeting overall Policy BSC1 housing requirements to 2031.
- 9.5. Paragraph E.10 of the Plan states, '*Housing delivery will be monitored to ensure that the projected housing delivery is achieved. The District is required by the NPPF and NPPG to maintain a continuous five year supply of deliverable, available, suitable and achievable sites as well as meeting its overall housing requirement*'.
- 9.6. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England and is supported by Planning Practice Guidance (PPG). The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs and advising at paragraph 10 'a presumption in favour of sustainable development'. Paragraph 11 states that applying the presumption to decision making means:
- Approving development proposals that accord with an up-to-date development plan without delay; or
 - Where there is no relevant development plan policies, or policies which are most important for determining the application are out-of-date (this includes for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year housing land supply of deliverable sites), granting permission unless:
 - The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.

- Or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.
- 9.7. Paragraph 12 of the NPPF advises as follows in respect of sustainable development and the status of the Development Plan:
- 'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material consideration in a particular case indicate that the plan should not be followed.'*
- 9.8. Section 5 of the NPPF focuses upon the delivery of a sufficient supply of homes stating:
- 'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.'*
- 9.9. Paragraph 74 highlights the need for local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to promote a minimum of five years supply of housing against their housing requirement set out in the adopted strategic policies, or against their local housing need where strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case). The supply of specific deliverable sites should, in addition, include a buffer which is 5% in Cherwell's current circumstances (moved forward from later in the plan period).
- 9.10. In February 2023 Cherwell District Council (CDC) approved a review of their adopted planning policies carried out under regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC1 are 'out of date'. Paragraph 74 and footnote 39 of the NPPF requires that in such circumstances the 5-year supply of land should be calculated using the Government's standard methodology.
- 9.11. As set out in the Council's Housing Land Supply Statement (February 2023), the use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently CDC is able to demonstrate a 5.4-year supply and paragraph 11d of the NPPF (the tilted balance) is not engaged.
- 9.12. The application must also be assessed against saved policies in the adopted Cherwell Local Plan 1996 which also therefore forms part of the development plan. Saved Policy H18 states that planning permission will only be granted for new residential development beyond the existing built-up limits of a settlement where the development is (i) essential for agriculture or other existing undertakings; (ii) the proposal meets the criteria set out in policy H6; and, (iii) the proposal would not conflict with other policies in the development plan.

- 9.13. The application must also be considered against Saved Policy C8 of the CLP 1996 which seeks to avoid sporadic development in the open countryside and applies to all new development proposals beyond the built-up limits of settlements.

Assessment

- 9.14. The site is not an allocated housing site within the CLP 2015 and is located beyond the built-up limits of Banbury within open countryside.
- 9.15. The starting point for considering applications such as this, is the presumption in favour of sustainable development and consideration must be given to the impacts arising from the development. The application site is situated to the west of Banbury, a major town within the district and one of its most sustainable settlements. As stated above, Policy BSC1 seeks to focus new residential development at Bicester and Banbury on strategic site allocations. This development site lies to the west of the strategic allocation Policy Banbury 16 which is currently being built out by Redrow and Policy Banbury 17 on the opposite side of Bloxham Road is also now under construction.
- 9.16. The Council's housing land supply position of 5.4 there for means that the Development Plan policies are up to date and that proposals must be assessed in accordance with the Development Plan. Whilst the NPPF states that the requirement to have a 5-year supply is not a cap on development, the housing policies of the Development Plan are a starting point for decision taking and afforded full weight. The delivery of homes across the district however remains an important consideration.
- 9.17. This application seeks outline planning permission for the development of agricultural land for a scheme of up to 60 dwellings. The site is not allocated for development in any adopted or emerging policy document forming part of the Development Plan. The site is undeveloped greenfield land that, given its physical and visual relationship with the adjacent and surrounding area, is outside of the existing built form of Banbury and the adjacent Redrow development and is therefore in open countryside.
- 9.18. As the application site is located beyond the existing built-up limits of Banbury, the proposal must also be assessed against saved Policies C8 and H18 of the adopted Cherwell Local Plan 1996. Policy C8 seeks to avoid sporadic development in the open countryside and applies to all new development beyond the built-up limits of settlements. Policy H18 states that planning permission will only be granted for new residential development beyond the existing built-up limits of a settlement where the development is essential for agriculture or other existing undertaking, or where development would not conflict with other saved policies in the Cherwell Local Plan 1996. This proposal is for a development of up to 60 dwellings, none of which would be for essential agricultural need or any identified undertaking in open countryside beyond the existing built-up limits of Banbury. The development is therefore not in accordance with Policies C8 and H18 of the Cherwell Local Plan 1996.

Conclusion

- 9.19. It is acknowledged that the proposed development would assist in meeting the overall housing requirements of the district and contribute to the provision of affordable housing, meeting overall Policy BSC1 housing requirements to 2031.
- 9.20. However, the housing supply figure for Cherwell District is calculated at 5.4 years. Whilst the NPPF states that the requirement to have a 5-year supply is not intended to place a cap on development, the housing policies of the Development Plan are

nevertheless the starting point for decision taking and afforded full weight. Whilst the benefits of additional housing, including the provision of affordable housing are acknowledged, the impact upon the open countryside, the loss of agricultural land and its relationship with existing and planned development must be weighted significantly in the planning balance. The proposal is therefore considered contrary to the Development Plan and Government guidance within the National Planning Policy Framework accordingly.

Landscape and Visual Impact

- 9.21. Policy ESD13 of the adopted Cherwell Local Plan 2011-2031 requires landscape protection and enhancement opportunities to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management and enhancement of existing landscapes, features or habitats or where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows. Development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. Proposals will not be permitted if they would cause visual intrusion into the open countryside; cause undue harm to important natural landscape features and topography; be inconsistent with local character; impact on areas judged to have a high level of tranquility.
- 9.22. Paragraph B.252 of the Cherwell Local Plan 2011-2031 lists key landscape and landform features of value around Banbury which includes ironstone ridges and valleys; the open and agricultural setting and identity of the villages surrounding Banbury and Bicester and the historic villages; Crouch Hill, an important landmark overlooking Banbury and the surrounding area and Salt Way and its setting. The site consists of open agricultural land with field hedges and trees which contribute to its character. The site is visible from the adjacent public right of way network.
- 9.23. The site is included within the Council's Housing and Economic Land Availability Assessment (HELAA) dated February 2018 (Site Reference HELAA 028). In assessing this application site in the context of a wider site, it concludes: '*The site is considered to be unsuitable for development given the impact of the development upon the high landscape value and visual amenity of the site. The site is very poorly related with respects to existing or planned development and would not physically integrate successfully either in urban design terms or landscape terms*'.
- 9.24. The application was accompanied by a Landscape and Visual Appraisal produced by EDP on behalf of the applicant which was assessed by the Landscape Officer who advised that it was a very poor submission having made no analysis of the Redrow development and how this relates to this site or its impact on it. All viewpoints were very close to the site and there was poor or non-existent analysis of the viewpoints, and no analysis of the view from the top of crouch Hill.
- 9.25. Following the above, a revised Landscape Strategy was submitted in May which sought to address the matters raised. This has been assessed by the Landscape Officer who advises that the explanation of the spatial relationship of the site in the context of surrounding development does not adequately address the proposed developments relationship in the text/narrative. The visual mapping should also explain better the relationship with informative text.
- 9.26. Whilst the Landscape Strategy's rural landscape contextual analysis is acceptable, the additional LVIA notes do not confirm how the Landscape masterplan was informed by the Landscape and Visual Receptor analysis and results. The explanation of Landscape masterplan must clarify the additional mitigation planting

on the boundary of the site to justify the reasoning behind the analysis of EDP viewpoints (visual receptor experience). The analysis should include a plan of the site indicating geographically the most visually sensitive area (boundaries) where the most visually sensitive EDP viewpoints apply, and therefore the reasoning (in text) behind the mitigation (of visual impacts) planting.

- 9.27. The revised submission does not assess the cumulative landscape and visual effects of the proposed development and the adjacent Redrow development and this should be addressed in the LVA addendum.
- 9.28. In terms of the viewpoints made, there are no wireframes included to assess the significance of effect in terms of the development from the most sensitive viewpoints. The development will be visible from public rights of way as well as from along Bloxham Road, particularly during the months when trees are not in leaf. This must be addressed.

Site Layout and Design Principles

- 9.29. The NPPF emphasises the need for good design and local distinctiveness, and this is further emphasised by Policy ESD15 which advises that new development should build on the character of Cherwell. It also advises that design standards for new development, whether housing or commercial development are equally important and seeks to provide a framework for considering the quality of the built environment, to ensure we achieve locally distinctive design which reflects and respects the urban or rural context within which it sits. The Cherwell Local Plan 1996 contains saved Policy C28, which states that *'control will be exercised over all new development to ensure the standard of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development'*. Saved Policy C30 states that *'design control will be exercised to ensure...(i) that new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity and (iii) that new housing development or any proposal for the extension (in cases where planning permission is required) or conversion of an existing dwelling provides standards of amenity and privacy acceptable to the Local Planning Authority'*. These are all relevant to the proposals considered here.
- 9.30. The Cherwell Residential Design Guide SPD 2018 seeks to ensure that the quality of design across the district is raised, ensuring a legacy of successful places for future generations to enjoy. Regrettably the submission makes little reference to the Design Guide and therefore how the scheme has been designed having regard to its requirements and advice. It is however considered that the design guide is a material consideration, and the proposal should therefore accord with the requirements and advice of the Design Guide and this submission has therefore been assessed against it accordingly.
- 9.31. Section 12 of the NPPF – Achieving well-designed places advises that the creation of high-quality buildings and places is fundamental to what planning and the development process should achieve.
- 9.32. A well-designed layout will incorporate good design practice and standards. Urban form is also an important element in defining the character of a place. Design is not only about the physical appearance of a development but how it works, function and fits together, ensuring a quality of life for those who live there.
- 9.33. The application is accompanied by a Design and Access Statement (DAS), but whilst it looks at the modern development close to the site, it fails to carry out a contextual analysis of historic Banbury and therefore how a locally distinctive

development will be achieved. It also lacks sufficient details to properly explain and illustrate how the proposed development will sit in the landscape and locality generally. Neither does it clearly set out any proposed vision for the proposed development in terms of design, detailing, materials, quality of the public domain etc.

- 9.34. A parameter plan is included; however, it includes minimal information and provides no commitment to the size of landscape buffers around the development which are proposed to mitigate the visual impact of the development from the surrounding area. It is therefore not clear that the quantum of development can be successfully delivered as set out in the application. This plan also indicates links to the adjacent open space/SUDS provided as part of the Redrow development, however, these are only potential and there is no clear commitment that these can actually be provided.
- 9.35. In terms of the layout, the cross sections included in the landscape strategy indicate verges which are not wide enough to accommodate the trees. There should be a minimum of 2m between the edge/kerb of the pedestrian route and the stem of the tree to ensure that a root deflector can be installed to prevent heave and structural damage caused by spreading tree roots.
- 9.36. The proposed play area indicated is well under the standard required for 60 units and having regard to the proposed masterplan and the proposed additional planting proposed to screen the development, there is insufficient space to accommodate the necessary play space as required by Policy BSC11 of the Cherwell Local Plan 2011-2031 which in this case would be a combined LAP/LEAP.
- 9.37. In terms of the relationship of the site with existing and built development, the development will be separated by planting, open space and the area of woodland through which it is proposed to access the development resulting in an isolated area of built development that is poorly integrated with the existing built development both visually and physically to the detriment of the residential amenities of the occupiers of the new development and the visual amenities of the locality.
- 9.38. Whilst the layout shown is only indicative, it does seek to explain and show how the quantum of development might be accommodated. It does not however consider the appropriate and required width of roads, pavements and shared surfaces and the need to accommodate refuse and emergency vehicles. It is unlikely therefore that, in reality, the site can be designed successfully as illustrated.
- 9.39. Having regard to the above, the proposed development is considered contrary to Policies BSC11 and ESD15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and C30 of the adopted Cherwell Local Plan 1996 and government guidance within the National Planning Policy Framework.

Highways and Vehicular Access

- 9.40. Policy SLE4 of the Cherwell Local Plan 2011-2031 states that all development where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development, and which have severe traffic impact will not be supported.
- 9.41. Saved Policy TR1 of the Cherwell Local Plan 1996 states that before proposals for development are permitted, the council will require to be satisfied that new highway, highway improvement works, traffic management measures that would be required as a consequence allowing the development to proceed will be provided.

- 9.42. The proposed development will be accessed via Tyrell Road (within the Redrow development adjacent) which is 5.5m wide along the majority of its length and is considered to be adequate to cater for the traffic generated by the development. The access roundabout on to Bloxham Road was designed and approved assuming 400 dwellings in the development so also has the capacity for the additional vehicles. Whilst there may occasionally be a slight delay in leaving the development due to the steady flow northbound along Bloxham Road, this cannot be described as a severe impact that would be necessary for an objection according to the NPPF.
- 9.43. The highway authority advise that the construction route must not be via the existing route through the adjacent residential site (Bloxham Vale) and therefore a separate construction access will be required, and this must be demonstrated in a Construction Traffic management Plan, to be conditioned and suggested that this could potentially be via the east-west concrete track out to Bloxham Road which is included in the blue line area. An objection to this construction traffic route has been received by an occupier of Crouch Cottages adjacent on the grounds of whether there is a right of access, disturbance and safety of users of the open space through which it passes. This was discussed at a meeting on site. The applicant does have a right of access over the concrete drive which currently serves Crouch Farm and is owned by the owner of Crouch Farm. The matter of safety of users of this open space by residents of Bloxham Vale is an issue however which requires careful consideration. The agent was asked to re-consider the construction access and look at an alternative. This remains something which must be addressed if consent for the development is forthcoming. A suitable construction traffic route has not yet been agreed.
- 9.44. Oxfordshire County Council is committed to achieving sustainable development and a key component of this is the promotion of alternative travel modes to the private car such as buses as a key travel mode within and between the main centres. Developer funding is therefore sought to support the provision of existing or new bus services and associated infrastructure to achieve a higher and more attractive standard of service. Services 488 and 489 currently operate close to the site and serve the bus stop locations indicated in the Transport Statement. These services are financially supported by OCC under Section 106 contributions. In order to maintain these services, further contributions will be necessary to maximise opportunities for commercial viability in the future. A contribution of £73,645 is therefore requested in this respect.
- 9.45. In terms of sustainable transport connectivity, there is an inconsistency in the documentation regarding the pedestrian and cycle connections to the wider area. The Opportunities and Considerations Plan in the design and Access Statement indicates a proposed footpath link via the existing track to Bloxham Road but this link is not maintained in other documents such as the parameters plan or Transport Statement. It should also be noted that this link is outside the red line area for the site. Given that there will be an opening of some sort in the north-east corner, pedestrians and cyclists will tend to find a route out to the A361 via the open land next to the path. It connects to the pedestrian and cycle facilities adjacent to the new roundabout and is the most direct route to the bus stops. Furthermore, it will link up with Public Rights of Way 120/49 which heads southwards to Wykham Lane.
- 9.46. Route 2 is a Primary cycling route from Parsons Piece to South Bar Street, particularly important for children accessing schools in the area. Several improvements have been identified along this route and, therefore, a contribution towards these works is considered necessary.

- 9.47. In summary, it is agreed by OCC that subject to the improvement to public services and active travel infrastructure identified, the proposed development will not result in a detrimental impact on the highway network.

Flood Risk and Drainage

- 9.48. Section 14 of the NPPF considers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 167 states that when determining any applications, local planning authorities should ensure that '*flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific assessment*'.
- 9.49. Policy ESD6 of the Cherwell Local Plan 2011-2031 essentially replicates national policy contained within the NPPF in this respect to assessing and managing flood risk and resists development where it would increase the risk of flooding and seeks to guide vulnerable development (such as residential) towards areas at lower risk of flooding.
- 9.50. Policy ESD7 of the Cherwell Local Plan relates to sustainable drainage systems and advises that all development will be required to use sustainable drainage systems (SUDs) for the management of surface water run-off. Where site specific Flood Risk Assessments are required in association with the development proposals, they should be used to determine how SUDs can be used on particular sites and to design appropriate systems. In considering SUDs solutions, the need to protect ground water quality must be taken into account, especially where infiltration techniques are proposed. Where possible, SUDs should seek to reduce flood risk, reduce pollution and provide landscape and wildlife benefits. SUDs will require the approval of Oxfordshire County Council as Lead Local Flood Authority. Proposals must include an agreement on the future management, maintenance and replacement of SUDs features.
- 9.51. The Environment Agency online flood mapping shows that the site lies wholly within Flood Zone 1 (low probability) and as such. The development itself is a low (less than 1 in 1000 year) risk of flooding from rivers or the sea but is more than 1 hectare in size and therefore a detailed Flood Risk Assessment is required. The application is therefore accompanied by a Flood Risk Assessment and Drainage Strategy accordingly. The application submission proposes attenuation via the use of a drainage pond at the southeastern corner of the site with swales and street trees incorporated into the detailed design of the development.
- 9.52. The application submission was assessed by OCC as Lead Local Flood Authority (LLFA) who initially raised an objection to the proposal on the ground of insufficient information and requested a surface water catchment plan, demonstrating the breakdown of areas and stating the area and the area after allowing for 10% urban creep. A consent to discharge to the drainage ditch and capacity of the drainage ditch were also requested.
- 9.53. Following the above objection, a Drainage Technical Note was produced on behalf of the applicant in response to the comments made. This technical note is in addition to the Flood Risk assessment and Drainage Strategy and must be read in conjunction with it. This note has been assessed by LLFA whom now raise no objection subject to conditions relating to the submission and approval of a detailed surface water scheme for the site.
- 9.54. Having regard to the above, the submission is in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

Heritage Impact

Legislative and policy context

- 9.55. Grade II Listed Crouch Farm lies to the west of the site and the site is considered to form part of the setting of this asset. The site also lies in an area of archaeological interest, 280m south of an as yet undated D-shaped enclosure which was identified through a geophysical survey of the site.
- 9.56. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*
- 9.57. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.58. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 199 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2031 Part 1 echoes this guidance.
- 9.59. The archaeological background has been detailed in the archaeological and heritage assessment and geophysical survey report submitted with the application. The geophysical survey on the site did not reveal any archaeological remains on the development site, however, these results will have to be investigated in the ground through a staged programme of archaeological evaluation and mitigation, secured through a condition.
- 9.60. The submitted archaeological and heritage assessment has also assessed the potential impact of the development on the setting of the grade II listed crouch Farm. There are limited views of the listed building from the site due to existing hedgerows/trees and the presence of a modern security gate across the access to the farmhouse which currently forms part of the development site.
- 9.61. It is therefore agreed that the proposed development would not result in any significant impact upon the setting of Crouch Farm, including its farmyard, garden and orchard or archaeological assets and is therefore in accordance with Policy ESD15 of the adopted Cherwell Local Plan and Government guidance within the National Planning Policy Framework.

Ecology Impact

Legislative context

- 9.62. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds

Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

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

Policy Context

- 9.67. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.68. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should

be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

- 9.69. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.70. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.71. Policy ESD11 is concerned with Conservation Target Areas (CTAs) and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.72. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.73. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.74. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development.
- It also states that LPA's can also ask for:
- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all;
 - an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey').
- 9.75. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is within 1km of The Saltway, a District Wildlife Site and within a buffer for known protected species. And therefore has some

potential to be a suitable habitat. The site consists of an open agricultural field with fencing and semi-established hedgerow to the boundaries. There are a number of trees close by and in the boundary of the site which would not be affected by proposals, but an access road is proposed through an existing woodland area. There are no buildings to be removed or altered due to the proposed development.

- 9.76. Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative reminding the applicant of their duty to protected species shall be included on the decision notice and is considered sufficient to address the risk of any residual harm.
- 9.77. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.
- 9.78. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.79. The application is supported by an ecological appraisal which advises that a suite of protected species surveys were undertaken in 2021 and 2022. During the Phase 1 survey, a Biodiversity Net Gain Condition Assessment survey was also completed utilising Defra metric 3.1 condition assessment criteria to ensure that sufficient information was collated to inform a Biodiversity Impact Assessment (BIA).
- 9.80. During the field survey, 0.17km of Priority Habitat native hedgerow has been identified on the site. These are ecologically valuable forms due to being species-rich and associated with bank and/or ditch which increases the number of opportunities for wildlife. This hedgerow will be retained and protected by additional landscape planting and open space.
- 9.81. Officers are satisfied, on the basis of the advice given in the submitted ecological appraisal and in the absence of a consultation response from the ecologist, officers are not in a position to disagree with the findings and therefore, subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Housing Mix and Affordable Housing

- 9.82. The proposed development provides for up to 60 new dwellings on the site. No details of housing mix are provided at this stage. It is important to have consideration of the mix of housing when considering urban design as well as responding to identified local housing needs. Policy BSC4 of the adopted Cherwell Local Plan 2011-2031 seeks to encourage a mix of housing on all new

developments that meets the need of the district as identified by the results of the SHMA 2014. This advises that there is a greater need for 3-bedroom properties in Cherwell and the suggested mix is shown on Table 87 of the Local Plan. Consideration of and compliance with Policy BSC4 is relevant in this respect.

- 9.83. Policy BSC3 requires the provision of 30% affordable housing which equates to 18 dwellings. The required tenure split is 70% rented and 30% Intermediate. National policy requires that 10% of the overall scheme is provided as Low-Cost Homes Ownership, and that 25% of the affordable element is provided as First Homes. The proposal does not specify the sizes and types of dwellings proposed. The most pressing need in Cherwell at present, demonstrated by figures and waiting times from the housing register is for 4-bed dwellings. The need for 3-bed has also increased recently, and the need for 1-beds has lessened due to an increase in supply.
- 9.84. The adopted planning obligations SPD sets out the standards required in respect of the affordable housing provision. It is expected that the rented dwellings meet minimum NDSS dimensions for each occupancy size and for plans to clearly state the dimensions. 50% of rented dwellings are also expected to meet the requirements of M4(2) Category 2: Accessible and Adaptable Dwellings. There is also a requirement for 1% to meet Category 3: Wheelchair user dwellings, in this case 1 dwelling. There is a high level of pressing need for this accommodation, especially in Banbury. Any ground level dwellings should have level access showers fitted from the outset and level threshold with adequate parking. The SPD also requires that the affordable housing should not be clustered in any more than 10 units of one tenure and 15 of multiple affordable tenures with no contiguous boundary of the clusters.
- 9.85. It is also expected that all affordable housing units will need to deliver high standards/rates of energy efficiency to ensure household fuel (and water) bills are also affordable for the tenants. This supports the delivery of sustainable development and contributes to the government objective to reach Net Zero Carbon.
- 9.86. Any planning approval will be subject to a Planning Obligation and many of the requirements above will be incorporated into the Section 106 to ensure that the affordable housing delivered accords with CDC standards, tenure mix and housing mix accordingly.

Sustainability

- 9.87. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Policies ESD1-5 of the adopted Cherwell Local Plan 2011-2031 also address this.
- 9.88. Policy ESD1 of the Cherwell Local Plan 2011-2031 deals with the issue of Mitigating and Adapting to Climate Change and includes criteria under which applications for new development will be considered, such as the requirement that development will incorporate suitable adaption measures to ensure that development is more resilient to climate change impacts by proposing sustainable drainage methods and increased green infrastructure provision.
- 9.89. Policy ESD2 considers Energy Hierarchy and Allowable Solutions and seeks to achieve carbon emissions reductions where the council will promote an energy hierarchy as follows: *reducing energy use, in particular by the use of sustainable design and construction measures; supplying energy efficiently and giving priority to decentralised energy supply; making use of renewable energy and making use of*

allowable solutions. Any new development will be expected to consider these and address the energy needs of the development.

- 9.90. Policy ESD3 considers Sustainable Construction and states that '*all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development through a combination of fabric energy efficiency, carbon compliance and allowable solutions in line with government policy*'. Cherwell is also an area of water stress and therefore requires all new development to achieve a limit of 110 litres/person/day.
- 9.91. Policy ESD4 considers the use of decentralised energy systems and requires a feasibility assessment to be submitted with a relevant application which includes developments of 100 dwellings or more.
- 9.92. Policy ESD5 considers renewable energy and requires that all residential developments of 100 dwellings or more are accompanied by a feasibility assessment of the potential for significant on-site renewable energy provision, above that required to meet national building standards.
- 9.93. The application is accompanied by an Energy Statement. This statement provides an overview of the potential energy strategy options which could be implemented for the site. It does not however, make any specific commitments for the development beyond those required by current legislation. This is disappointing and any planning consent would require a condition which requires the submission of a detailed energy strategy to be submitted and agreed prior to the submission of a reserved matters and the commencement of any development on the site.

Planning Obligations

- 9.94. To ensure that development is acceptable in planning terms, several harmful impacts of development would need to be mitigated and/or controlled through covenants in a legal agreement. All Section 106 requirements are subject to statutory tests and 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.
- 9.95. It is considered that should planning consent be forthcoming then the following additional items/contributions ought to be secured as part of any permission relating to new dwellings (and any amendments deemed necessary).
- 9.96. CDC Obligations:
- 30% affordable housing to NDSS and CDC requirements and standards;
 - £74,311.08 community hall facilities;
 - £131,106.95 outdoor sport provision;
 - £54,271.54 indoor sport provision;
 - Onsite play provision of LEAP and LAP with maintenance costs when transferred to CDC;
 - Landscape infrastructure and SUDS provision;
 - SUDS maintenance costs when transferred;

- Landscape maintenance costs if transferred to CDC;
- £14,560 public realm/public art;
- £2,500 monitoring fee; and
- £56,160 health infrastructure.

9.97. OCC Obligations:

- £32,500 highway works contribution;
- £73,645 public transport service contribution;
- £377,560 primary education;
- £531,792 secondary education;
- £53,328 secondary land contribution;
- £35,896 special education;
- £6,107 Household waste recycling centres; and
- £5,554 administration and monitoring.

10. PLANNING BALANCE AND CONCLUSION

10.1. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined against the provisions of the development plan unless material considerations indicate otherwise. The NPPF supports this position and adds that proposals that accord with an up-to-date development plan should be approved and those that do not be normally refused unless outweighed by other material consideration.

10.2. In respect of this application, it is not considered that the principle of development can be supported being an unallocated site beyond the built-up limits of Banbury and in an inappropriate location contrary to Policies PSD1 and BSC1 of the adopted Cherwell Local Plan 2011-2031 and saved Policies C8 and H18 of the adopted Cherwell Local Plan 1996.

10.3. The Council has a demonstrable 5.4-year housing land supply and therefore the relevant policies in the Development Plan are up to date and carry full weight and proposals must therefore be assessed in accordance with the Development Plan.

10.4. The social and economic benefits of additional housing, including affordable housing are acknowledged, however, the environmental impact of the development on the open countryside, together with the isolated nature of the development and its poor relationship with existing and proposed residential and built development are considered to outweigh any such benefits.

10. RECOMMENDATION

REFUSAL FOR THE REASONS SET OUT BELOW

1. Cherwell District Council is able to demonstrate a five-year housing land supply

meaning that relevant Development Plan policies are up to date and carry full weight. The application site is located in open countryside beyond the existing built-up limits of Banbury and is not allocated for development. Due to its location it would appear isolated and divorced. The proposal is therefore contrary to Policies PSD1, BSC1, ESD13 and ESD15 of the adopted Cherwell Local Plan 2011-2031 and saved policies C8 and H18 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.

2. By reason of its location beyond the built-up limits of Banbury and its relationship with existing and proposed built development, the proposal is considered to result in unacceptable, poorly related and isolated development that could not successfully be fully integrated with existing development contrary to Policies ESD13 and ESD15 of the adopted Cherwell Local Plan 2011-2031 and saved Policies C28 and C30 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.
3. The proposal has failed to adequately demonstrate through a full and detailed Landscape and Visual Impact Assessment that the proposal would not cause harm to the landscape and important landscape features such as Crouch Hill, the visual amenities of the locality and users of the Public Right of Way network contrary to Policies ESD13 and ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.
4. The submitted Design and Access Statement and the accompanying parameter, layout and landscape strategy plans fail to successfully demonstrate how development could be successfully accommodated on site and deliver a locally distinctive development with sufficient open space, play space and other infrastructure as required by Policies BSC11 and ESD15 of the adopted Cherwell Local Plan 2011-2031, saved Policies C28 and C30 of the Cherwell Local Plan 1996, guidance within the adopted Residential Design Guide SPD 2018 and Government guidance within the National Planning Policy Framework.
5. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development would provide for appropriate on-site infrastructure or infrastructure contributions required as a result of the development and necessary to make the impacts of development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to Policy INF1 of the adopted Cherwell Local Plan 2011-2031, CDC Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

CASE OFFICER: Linda Griffiths

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22/03245/F

Agenda Item 9

**Apollo Office Park
Ironstone Lane
Wroxtton
OX15 6AY**



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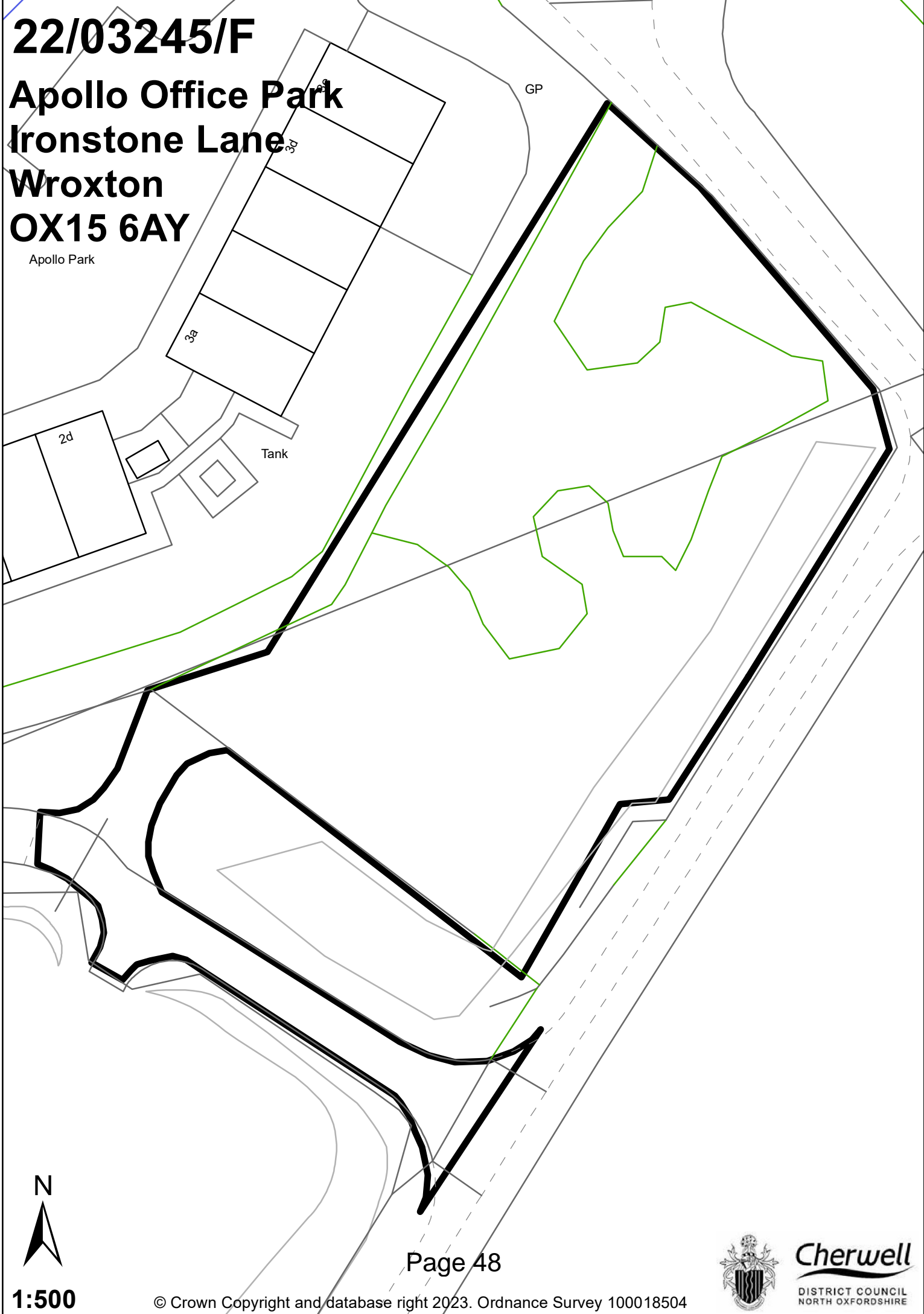


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**Apollo Office Park
Ironstone Lane**

**Wroxton
OX15 6AY**

Apollo Park

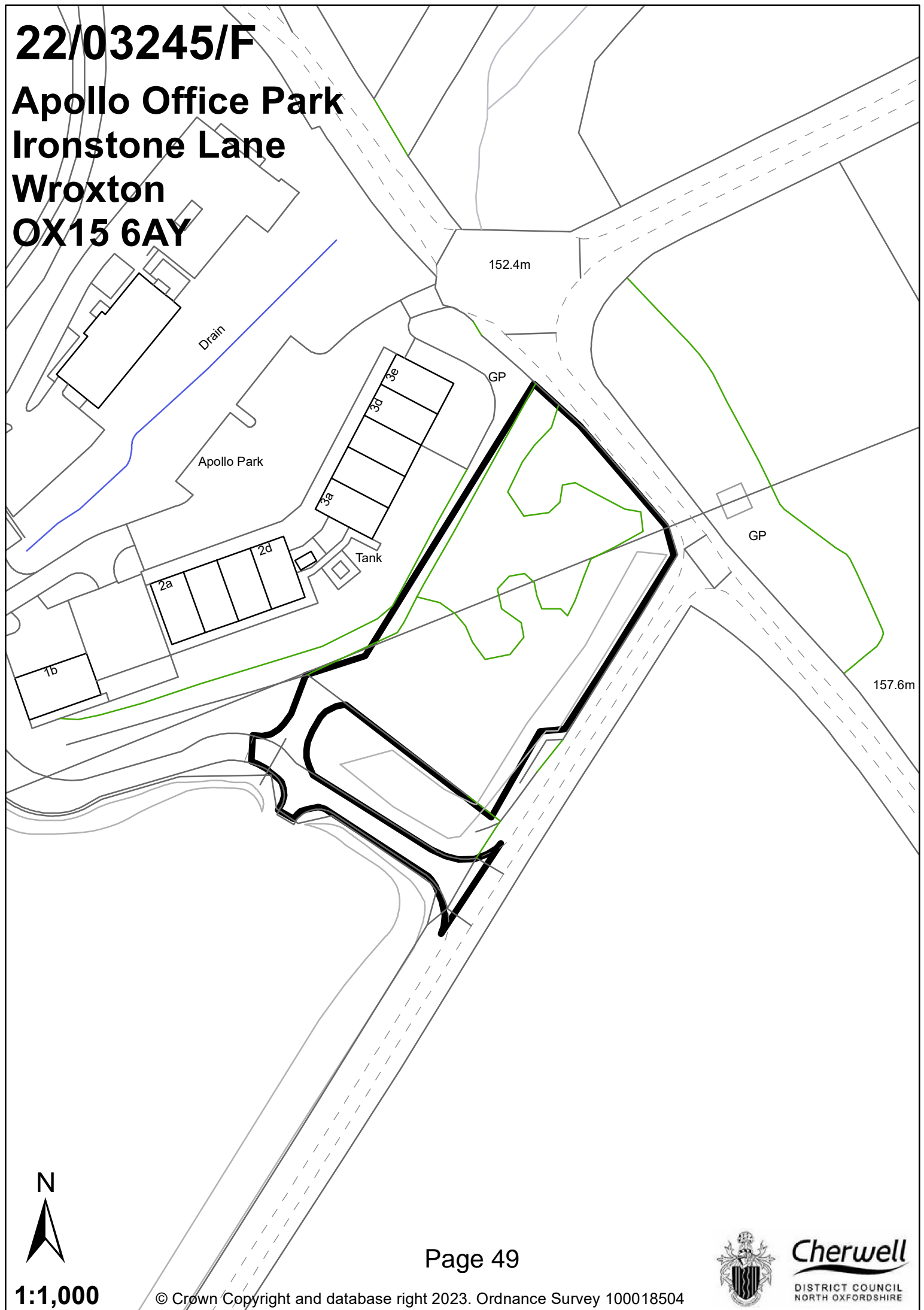


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22/03245/F

**Apollo Office Park
Ironstone Lane
Wroxton
OX15 6AY**



1:1,000



Case Officer: Jeanette Davey

Applicant: Apollo Business Parks LLP

Proposal: Provision of 10 employment units (Office, Research and Development and Light Industry), associated car parking, landscaping/biodiversity enhancements/works and provision of foul water treatment plant - re-submission of 22/00928/F

Ward: Cropredy, Sibfords and Wroxton

Councillors: Cllrs Chapman, Reynolds and Webb

Reason for Referral: Major Application (1,000+ sq m floor space created)

Expiry Date: 27 July 2023

Committee Date: 7 September 2023

SUMMARY RECOMMENDATION: REFUSAL

1. APPLICATION SITE AND LOCALITY

- 1.1. The site lies about 1.5 miles to the north-west of Wroxton, a Category A village, and sits adjoining, but outside of, an existing site known as Apollo Business Park (formerly Wroxton Ironstone Works). Apollo Business Park was allocated for development in Cherwell Local Plan 1996.
- 1.2. The application address is therefore misleading in that it implies that it is part of the adjoining allocated site when it is not: it is a greenfield site outside of the boundaries of the allocation, with only a proposal for an existing access to the adjoining site to be shared.
- 1.3. The site is about 0.4ha in size (1 acre) and lies south-east of the existing business park, divided from it by a mature hedgerow. The existing buildings on the adjoining site are small two-storey commercial units finished in red stock brick with grey metal profile roofs. It would appear that there are 28 units in total. Permission was granted in November 2022 for a further four units, which will bring the total to 32 units on that site. Combined, they are surrounded by farmland in a radius of half a mile, with a handful of farmhouses.
- 1.4. The site has been cleared of former vegetation. Aerial photographs indicate that this was grassland, mature trees and hedgerows. This is confirmed by correspondence received in April 2022, which indicates that the clearance included a hedge of more than 30 years in age and 50 metres in length, other mature trees and shrubs and the stripping back of topsoil, with material being brought onto site from an unknown source, to raise the ground level. A previous Case Officer described the site in 2022 as a small woodland.
- 1.5. Case Officer site visits in April 2022 and June 2023 also confirm that the site levels have been raised and previous mature trees no longer exist. Paragraph 1.2 of Wroxton Ecological Survey of February 2022, submitted with the application, states that the north-east half of the former ironstone quarry has recently been infilled with inert waste, and contains extensive bare ground with developing weed and ruderal

vegetation. Mature scrub and scattered trees are in the southwest half of the site. The Ecological Survey describes the site as having little biodiversity interest. A Phase 1 Geo-Environmental Desk Study (October 2022, with a site inspection date of February 2022) also confirms recent backfilling on the site.

- 1.6. The existing access to the site is via a gate at the junction of Drift Lane with Ironstone Lane.
- 1.7. The former ironworks existed on site from 1917 until 1967: an objector's submission to an application in 2002 (ref 02/00795/F) describes the site as *of note for being both the main stabling point for the locomotives of the former North Oxfordshire Ironstone Company and it was, then, the most complete example of an industrial railway locomotive depot in the English Midlands*. The Wroxton complex was also described as *the most significant surviving monument to the once mighty Oxfordshire ironstone industry itself, with decades of land restoration having removed most traces of the ironstone quarries at both Wroxton and elsewhere*.
- 1.8. An email from the agent dated 06.06.2023 describes the site as Stonepit 5, which he states was subsequently operated by the Council as a source of hard core for road making and then as an approved landfill site. However, plans within a Geo-Environmental Desk Study (October 2022), also submitted by the agent, show the application site to be an 'Old Quarry' in three historical maps of 1882-1922. Oxfordshire County Council does not display any minerals extraction planning history relating to this site. The agent's submission is therefore inconclusive, and it has to be assumed that he is referring to an adjoining site. It can therefore be considered to be an abandoned site for quarrying, as its last use for that purpose appears to be over 140 years ago.

2. CONSTRAINTS

- 2.1. The following constraints apply to the site:
 - Potentially contaminated land
 - Class 6 radon area (greater than 30% of homes at or above the action level)
 - Category 2 best and most versatile land
 - Local wildlife site close to the application site

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application relates to proposed buildings that would form ten employment units, with a new access point on the existing internal access road. Three separate buildings are proposed: one block of four units and two blocks of three units, numbered 26 to 35. For clarity, pre-existing units on the adjoining site have a sub-divided numbering system. The total floorspace for all ten combined is 1,770 sq m. (177sq.m. each (1,905sq.ft.)), with each unit having two floors. They are referred to in the Design and Access Statement as "starter units". The buildings and surfacing would be of the same scale, form and materials to those which already exist on the adjoining site. A landscaping scheme has been submitted as part of this application.

4. RELEVANT PLANNING HISTORY

- 4.1. The following planning history is considered relevant to the current proposal because it relates to the adjoining business park:
- 4.2. 97/00430/CM - Review of Mineral Planning Permissions – Permitted

- 4.3. 00/00074/CLUE – Certificate of Lawfulness (Existing Use) to confirm the current permitted uses for buildings 1 to 11 (nos 1, 8, 9, 10, 11) in connection with the manufacture of farm animal equipment; nos 2, 3, 4, 5, 6, 7 for the manufacture, assembly – Permitted
- 4.4. 00/00311/F - Discharge condition 4 of B.1075/72 relating to restricted use of the buildings - Refused
- 4.5. 01/02534/F - Installation of 1no 20 metre monopole mast, directional and dish antennas, equipment cabinets and ancillary works, as amended by plans received 18.03.02 - Permitted
- 4.6. 02/00795/F - Change of use of former ironstone works to B1 (Business) use – Permitted
Of note, this application's Strategic Landscaping and Parking Plan proposed the consideration of a joint grant-aided planting scheme with Wroxton Parish Council for the application site.
- 4.7. 02/01972/CM - Variation of condition 65 of 97/00430/CM relating to noise levels (County Council ref.: 1899/9/3, 1899/9/9, 1899/4009/11 and 1899/4009/12) - Permitted
- 4.8. 10/00134/F - Proposed erection of 3no B1 units set within and below earth moundings; improvements and enhancements to railway line, car parking and associated landscaping on existing derelict brownfield site to form extension to the existing phase 1 development – Permitted
- 4.9. 16/02113/F - Provision of 10no Employment Units (B1, B2 & B8), together with associated car parking and landscaping provision - Permitted
- 4.10. 17/01690/F - Variation of Condition 2 (plans) of 16/02113/F - Proposed Changes to Elevations – Permitted
- 4.11. 22/02105/F - Erection of 4no employment units (office, research & development and light industry with ancillary storage), associated car parking and vehicle manoeuvring area, landscaping/biodiversity enhancements and drainage works – 22.11.2022 – Permitted

5. PRE-APPLICATION DISCUSSIONS

- 5.1. No pre-application discussions have taken place with regard to this proposal.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **5 April 2023**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. Four comments raised by third parties object or make the following comments, summarised as follows:
 - *Will we be compensated for the disturbance? Will the roads be repaired and made good for access? Can you put in traffic restrictions?*

- *The state of Ironstone Lane is appalling. The further increase in traffic will not improve the situation. A full upgrade of the road is required. The lane is under constant pothole repair and has deep trenches on either side. This infrastructural improvement would support all businesses in the park and must be taken into consideration.*
- *The width of the main access road is no longer fit for purpose. This is a safety concern. The site access road needs to be widened and all overhanging vegetation removed.*

One occupant has submitted the following comments in support, which is a duplicate of a letter of intent from a company referred to in Paragraph 9.7 below:

- *Welcome addition: short of space with nowhere else available to move to in the area.*
- *Need space to expand and employ more staff as we continue to grow.*
- *A good use of otherwise unused space.*

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

7. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

7.2. WROXTON AND BALSCOTE PARISH COUNCIL: **No comment** to make.

OTHER CONSULTEES

7.3. CDC ARBORICULTURE: The proposal is lacking in information in relation to root protection areas. The proposed planting scheme for trees does not specify which trees and to be planted, how big, and post-planting management details.
(Officer Note: An updated Tree Report was subsequently submitted which addressed some issues, but it did not update landscaping details).

7.4. CDC LAND DRAINAGE: **No objection** subject to conditions.

7.5. OCC HIGHWAYS: **No objection** subject to standard conditions in respect of width of the turning areas and car parking, and a framework travel plan.

7.6. OCC LOCAL LEAD FLOOD AUTHORITY: **No objection** subject to conditions.

7.7. ENVIRONMENT AGENCY: Guidance issued relating to foul drainage and other consents.

7.8. THAMES WATER: Wastewater network and sewage treatment works infrastructure capacity: **No objection**. Water network and water treatment infrastructure capacity: **No objection**, subject to an Informative.

7.9. ENVIRONMENTAL HEALTH: **No objection**, subject to conditions.

- 7.10. OCC ARCHAEOLOGY: There are no archaeological constraints to the scheme because it is on the site of a former ironstone quarry, where any potential remains will have been destroyed.
- 7.11. CDC BUILDING CONTROL: A full plans Building Regulations application will be required for the proposals.

8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council 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. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development (site not allocated).
- SLE4: Improved Transport and Connections
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- EMP1: Employment Generating Development (retained with regard to rural sites – site allocated).
- ENV12: Development on contaminated land

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

9. APPRAISAL

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

- Principle of development
- Impact on the character of the area
- Demand for vs Supply of Units
- Arboricultural matters

- Highways
- Other matters

- 9.2. Criteria listed below within Policy SLE1 of the CLP 2015 are relevant to the first four key issues. The site is not allocated, and the criteria therefore need to be met to support new employment proposals within rural areas on non-allocated sites. In order to conduct a proper review of the proposal's policy compliance, these criteria are considered separately, within the sub-sections of this Appraisal.
- 9.3. All other issues, including those relating to drainage, highways and ecology, where not relevant to the considerations below, have been shown to be acceptable, subject to the imposition of conditions.

Principle of Development

Policy Context

- 9.4. The site adjoins but is outside of an allocation referred to within the CLP 1996 as a site proposed for employment generating development. As such, saved Policy EMP1 (retained with regard to rural sites and the allocation of the adjoining site) is of interest but not directly relevant. Policy EMP3 of the CLP 1996 is not a retained policy but Paragraph 3.48 of its explanatory text stated: The site of the former Wroxton Ironworks is considered suitable, in principle, for small scale employment generating development that is compatible with the local road network and would improve the appearance of the site.
- 9.5. Policy SLE1 of the CLP 2015 states that employment development will be focused on existing employment sites and permitted subject to compliance with other policies in the Plan and other material considerations. It continues:
- 9.6. Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A.
- 9.7. It is also appropriate to consider the first relevant criterion, that new employment proposals within rural areas on non-allocated sites will be supported if... sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.
- 9.8. Policy PSD1 of the CLP 2015, relating to a presumption in favour of sustainable development, seeks to secure development that improves the economic, social and environmental conditions in the area.
- 9.9. Paragraph 85 of the NPPF states that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements... The use of sites that are physically well-related to existing settlements should be encouraged where suitable opportunities exist.

Appraisal

- 9.10. Policy SLE1 of the CLP 2015 relates to employment development, defined as B Use Classes, and has a strong urban focus. In the rural areas it states that unless exceptional circumstances are demonstrated, employment development should be located within or on the edge of Category A villages.

- 9.11. The proposal is approximately one mile from Wroxton, with farmland dividing the two. It therefore fails to meet the requirement to be within or on the edge of a Category A village.
- 9.12. In terms of the sustainability of the location, if accessing the site on foot there are no public footpaths for 0.6 miles (1km) and no street lighting for all of the 0.8 mile (1.3km) walk along Drift Lane to the bus stop by The Firs in Wroxton. Walkable / wheeling neighbourhoods are defined within Manual for Streets (MfS) as up to about 800m and bus stops should be within 400m. Buses run five times a day between Stratford-upon-Avon and Banbury, which is insufficient as an adequate means of commuting to and from work. As such, the development would promote a reliance on the car.
- 9.13. Two objections and one comment received are from existing occupiers of units on the adjoining site and one neighbour. They refer to the physical condition of Ironstone Lane, which is the route designated by a past S106 dated 17.06.2003 for access into the site from the A422 Stratford Road. Despite the response of 'no objection' from OCC's Highway Officer, the impact on the condition of existing highways would be exacerbated and, as such, the objections are noted to be in conflict with Policy SLE1 and the NPPF.
- 9.14. Due to the status of the land as abandoned for quarrying for over 140 years as stated in Paragraph 1.8 above, the site does not fit Paragraph 85 of the NPPF's description of being previously developed land.
- 9.15. Notwithstanding the above, it is appropriate to assess compliance with the first relevant criterion. Development of the adjoining site was originally permitted because it was a brownfield site, as described in Paragraph 1.7 above. The application site is not a brownfield site and no exceptional circumstances have been demonstrated to enable the Local Planning Authority to accept this development, other than demand displayed through letters of intent. This is addressed in more detail in the section below on Demand for vs Supply of Units.
- 9.16. Paragraphs 84 and 85 of the NPPF sit alongside the Local Plan policies which allows for such development where it is adequately justified. The NPPF is not considered to be interpreted as unconditional support for the provision and expansion of rural businesses or farm diversification in geographically unsustainable locations and still needs to be balanced against other objectives such as reducing the need to travel, reducing car dependency and associated carbon reductions. Policy SLE1 and ESD1 which sit alongside this are therefore considered to be consistent with the NPPF and given full weight.
- 9.17. In addition to the policy requirement to demonstrate exceptional circumstances, Policy SLE1 goes on to note that new employment proposals within rural areas on non-allocated sites will be considered against a list of criteria. These are also considered to be relevant to the assessment of whether the location has been adequately justified. Below is an assessment of the proposal against the most relevant of these criteria:
- 9.18. *Be outside of the Green Belt* – The proposal meets this criterion
- 9.19. *Sufficient justification has been provided to demonstrate why the development should be located in a rural area on a non-allocated site* – See the section below relating to demand and supply.
- 9.20. *High quality design, appropriate in scale and respect the character of the villages and surroundings* – As noted above there are concerns regarding the scale of the

proposal. The assessment of the impact on the character and appearance is outlined elsewhere.

- 9.21. *No detrimental impact on amenity or highway network* – See below comments
- 9.22. *No suitable available plots or premises within existing nearby employment sites in rural area* – No information has been provided in this regard to justify the rural location. See also the section below relating to demand and supply.
- 9.23. Policy SLE1 goes on to note that the Local Plan has an urban focus, and that justification will be required for new sites in rural areas, and this should include applicants demonstrating a need for and benefits of employment development in a particular location and explaining why the proposed development should not be located at the towns.

Conclusion

- 9.24. The spatial strategy of a Local Plan is to direct growth towards the most suitable locations and to limit growth in rural areas. This proposal fails to comply with that spatial strategy. It has not been demonstrated that exceptional circumstances have been met as required by SLE1 or that sufficient justification has been provided for providing this scale of development in a rural location. Very substantial harm would therefore arise because of the proposed siting of the development, in conflict with the spatial strategy, with Policies SLE1, ESD1 and PSD1 of the CLP 2015 and with the provisions of the NPPF.

Impact on the Character of the Area

Policy context

- 9.25. Policy ESD13 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided. It also states that proposals will not be permitted if they would cause undue visual intrusion into the open countryside, cause undue harm to important natural features, be inconsistent with local character, harm the setting of settlements, or harm the historic value of the landscape. Policy ESD15 states successful design is founded upon an understanding and respect of an area's unique built and natural context and should contribute to an area's character respecting the traditional form, scale and massing of buildings

Appraisal – Impact due to scale of the proposal

- 9.26. The layout on the adjoining allocated site is at capacity for the site's size, with 32 commercial units and approximately 7,167 sq m of floorspace. To add a further 10 units / 31% in size to that which already exists is a significant scaling up of the commercial operation on the combined two sites and, with a total of 42 units / 8,937 sq m of floorspace, it would equate to just under nine major applications. It is considered that the proposal, which exceeds that which can be described as a small-scale development, would have an urbanising impact on the countryside and would have an adverse effect on the character and appearance of the area.

Appraisal – Impact due to visibility of the proposal

- 9.27. The landscape on the site has already been scoured, cleared of native trees and hedgerows and infilled, probably in anticipation of development. The impact on the environment, including on the ecological value of the site, is detrimental to the rural

location, emphasised further when leaves are off the trees. This would be exacerbated by the introduction of built form at a rural staggered crossroads, where currently there is a significant amount of screening of the allocated site from native hedgerows and trees, which visually tucks it out of view until arrival at the junction with Friars Hill. Sites adjoining, but outside of, allocated areas are the most vulnerable to development proposals and therefore warrant a great amount of protection through existing policy, to prevent development creep and resultant harm to the local environment.

- 9.28. One letter of support refers to the land as 'unused'. This is an over-simplification of the definition of land use in the UK and, as such, this statement has to be discounted.

Conclusion

- 9.29. The proposal would constitute a scale of development which would exceed that which can be defined as small scale. Very substantial harm would arise from the visual impact of the proposed development on the rural character of the area. This would conflict with Policies ESD13 and ESD15 of the CLP 2015, and with the provisions of the NPPF.

Demand for vs Supply of Units

Policy context

- 9.30. Policy SLE1 of the CLP 2015 states: *New employment proposals within rural areas on non-allocated sites will be supported if... there are no suitable available plots of premises within existing nearby employment sites in the rural areas.*

Appraisal - Demand for Units

- 9.31. A letter from the agent dated 6 June 2023 advises of the considerable and strong demand and lack of suitable available modern space for smaller enterprises. It continues: The Apollo Office Park has a proven track record for facilitating the successful incubation of new and smaller businesses... There is no doubt that all the units proposed will be either pre-let or pre-sold prior to construction works commencing. That can only be to the benefit of the Banbury economy locally. Interest is from existing operators wishing to facilitate expansion of their existing operations as well as strong interest from potential new occupiers. All existing units at the office park continue to be fully occupied with a waiting list for any vacancies that might arise and there remains considerable pent-up demand for such employment space in the Banbury area. The applicant's commercial agent confirms that they are inundated with enquiries from small and medium business enterprises complaining that there are no small freehold or leasehold units available for the smaller start-up operations, nor for smaller existing businesses needing to expand.
- 9.32. Submitted with the application were six letters of intent dated October and November 2022 from businesses with the following needs and a later email from the agent confirming that there is a clear commitment to purchase nine out of ten of the proposed new units and little doubt that all the units will be pre-let or pre-sold prior to construction:
- Relocation of part of their business from the Buckingham area, to be closer to Banbury and the M40 corridor. Seeking about 2,000sq.ft. Local staff will be hired.

- Two additional units required to enable an EV (Electric Vehicle) business to expand their existing business on site, due to a lack of other suitable units in the Banbury area.
- Two units required to double workspace on site from the existing 1,600sq.ft., to fulfil worldwide orders. A convenient location for existing staff living in Banbury and for the owners, who live close by.
- 60% additional workspace required, equating to an additional 2,400sq.ft., to enable expansion on site. Convenient location for existing staff who all live in and around the local area.
- 100% expansion required of existing space, equating to an additional 2,000sq.ft.
- Intent to purchase Unit 29.

9.33. A submission by a Member of the RICS (Royal Institution of Chartered Surveyors) dated October 2022 has also been made in support of the scheme. He has thirty years of commercial property experience in Banbury and surrounding areas. He refers to a distinct lack of available space in the small unit market, not only in the main centres such as Banbury but also in the outlying local areas. No specific data has been submitted with this statement.

9.34. It is therefore clear that business demand exists.

Appraisal - Supply of Units

9.35. Submissions for this and past applications on the adjoining site refer to the provision of small business units, with most referring to starter units. A permission dated January 2017 (ref 16/02113/F) for an earlier ten units considered that the principle of developing additional small-scale employment starter units on the site would be consistent with both national and local policy guidance. Those units were at approximately 164sq.m. each (c.1765sq.ft.). Similarly, the permission dated November 2022 (22/02105/F) refers to small scale employment development, with its proposal for four units totalling 501sq.m. of floorspace (5,400sq.ft.). The agent's letter of 6 June for the current application refers to the successful incubation of new and starter units.

9.36. It is noted that none of the earlier permissions sought to condition that they remain for that purpose (probably due to the difficulty of enforcement and precision) but condition 13 of the 2017 permission prevented the extension or alteration of the buildings in order to, inter alia, retain planning control over the development of the site and safeguard the amenities of the area. No such condition was imposed on the 2022 permission.

9.37. Each of the letters of intent submitted with this application refers to expansion of existing business units on site, amounting to an approximate total of 4,000sq. ft of need for four of them and 2,000sq.ft. for the fifth. The additional units would therefore not necessarily be for starter units, with an indication that some would be occupying up to four units.

9.38. The latent demand from existing businesses and the absence of planning control has a reverse economic impact of preventing new start-ups in the area, to the disbenefit of smaller businesses and the local economy. In addition, when considering the use of the site again at a pragmatic level, the applicant, agent and local authority have all sought this to be a base for starter units. The proposed

development, accompanied by letters of intent, would appear to incrementally remove the site from that supply for starter users.

- 9.39. The Case Officer undertook an online survey of business unit availability within relevant use classes in August 2023. Whilst Policy SLE1 states that suitable available alternatives should exist in rural areas, it is considered reasonable to extend out by 10 miles, which includes urban areas. This size of radius has been applied because the letters of intent express a desire to stay in the locality, for access to the M40 corridor and for staffing reasons. None of those require a rural location. A 2,000-5,000sq.ft. size has also been applied as a filter. Two units are available for sale within the business park at 2,000sq.ft. each, with one under offer. Nine units are available on Zoopla to rent off-site within the ten-mile radius. Some are stated as brand new or modern and five are in Banbury. The Estates Gazette lists a further two units for rent and twelve for sale within the same radius and same criteria. As such, suitable alternative units exist within the local area and the need for units at this location due to the lack of supply elsewhere has not been proven. It is not known whether any of those who wrote letters of intent in 2022 have purchased the unit which is under offer.
- 9.40. No conditions on past permissions have sought either to control occupation to incubator or starter units only (which would be difficult to enforce) or to prevent the combination of units into larger units of accommodation.

Conclusion

- 9.41. On balance, existing supply in the local area appears to be capable of matching demand. The proposed provision of new units on site is not required to enable existing businesses to expand and the expansion requirements stated by on-site businesses would appear to have a reverse economic effect in that it would not enable the growth of start-up businesses. As such, it is considered that less than substantial harm would occur, and the proposal therefore fails to meet this criteria of Policies PSD1 and SLE1 of the CLP 2015 and the provisions of the NPPF.

Arboricultural Issues

- 9.42. Policy ESD10 of the CLP 2015 seeks a net gain in biodiversity and the protection of trees. Paragraph 131 of the NPPF seeks appropriate measures to secure the long-term maintenance of newly planted trees, and the retention of existing trees wherever possible.
- 9.43. The revised Tree Report dated March 2023 continues to be lacking in information in relation to root protection areas for some of the trees, partly because spoil mounds of up to two metres in height have been put beneath the canopy of one tree and due to the position of a wall close to other trees. This does not allow a satisfactory conclusion on this matter.
- 9.44. The proposed planting scheme for trees does not specify which trees are to be planted, how big, and post-planting management details. No additional information has been submitted. As such, this remains a holding objection, for which a holding reason for refusal is proposed.

Highways

- 9.45. The proposed development would be accessed from the existing access serving the Apollo Business Park, i.e., no new access onto the highway. The Local Highway Authority has no objection to the proposals and based on the LHA's views there is no objection to the scheme on highway safety grounds.

Other matters

9.46. The proposal is located away from residential properties and would not appear to adversely impact on their amenity. There is a local wildlife site adjacent to the site; however, no objections have been received from the Council's ecology officer and it is not considered that the proposals would result in harm in ecological terms. Regarding drainage and flood risk, the site is not in Flood Zones 2 or 3, and the lead local flood authority has no objection; the proposal is thus considered acceptable in this regard.

10. PLANNING BALANCE AND CONCLUSION

10.1. The economic objective of the NPPF would be satisfied because the proposal would allow existing businesses to grow and others to relocate to the area but, conversely, this would prevent new start-ups from relocating to the area, as has clearly been intended with past phases of development on the adjoining site and as is stated in submissions for this application. As such, the scheme carries very little weight on economic grounds.

10.2. The social objective of the NPPF seeks the provision of strong, vibrant and healthy communities. Insufficient evidence has been provided to demonstrate that the existing businesses could not be housed elsewhere, thus still providing local jobs within the locality and enabling new businesses to grow in the area. The proposal cannot be given any weight on social grounds due to the inappropriate location for the development.

10.3. The environmental objective of the NPPF seeks to protect and enhance our natural environment. The proposal fails to do this because it does not respect the Local Plan's spatial strategy, to the detriment of the local rural area. This harm is given very substantial weight.

10.4. On balance, the proposal does not represent sustainable development because it fails to accord with the provisions of the NPPF, the policies of the Local Plan and other policy guidance. As such, it is recommended for refusal.

11. RECOMMENDATION

REFUSAL FOR THE REASONS SET OUT BELOW:

1. The proposal represents unsustainable development because it conflicts with the spatial strategy of Cherwell Local Plan 2011-2031 by proposing development on an unallocated site. Notwithstanding this objection in principle, the site is in a geographically unsustainable location and would result in a significant increase in vehicular journeys. The scale and nature of the use is considered inappropriate in a rural location and the application fails to demonstrate exceptional circumstances or adequate justification for why the development should be located on an unallocated rural site. In addition, the proposal would have an adverse effect on the character and appearance of the area. The proposal therefore conflicts with Policies PSD1, ESD1 and SLE1 of the Cherwell Local Plan 2011-2031 and Government guidance in the National Planning Policy Framework.
2. In the absence of adequate supporting information, the Local Planning Authority is not satisfied that the proposal can be achieved without resulting in harm to existing trees, and that a satisfactory planting scheme has been put forward for the site. The proposal therefore conflicts with Policies PSD1 and ESD10 of the

Local Plan and with the provisions of the NPPF.

CASE OFFICER: Jeanette Davey

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Cherwell District Council

Planning Committee

7 September 2023

Appeal Progress Report

Report of Assistant Director - Planning and Development

This report is public.

Purpose of report

To keep Members informed about planning appeal progress including decisions received and the scheduling of public inquiries and hearings for new and current appeals.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the position on planning appeals contained within the report.

2.0 Introduction

- 2.1 This report provides a monthly update regarding planning appeals, including new appeals, status reports on those in progress, and determined appeals.

3.0 Report Details

New Appeals

- 3.1 **22/02104/F - Land to The Rear of No.12 And South of Dismantled Railway, Heath Close, Milcombe, OX15 4RZ.**

Erection of 35 two storey dwelling houses, construction of access off Rye Hill, together with garaging, parking, open space with LAP, landscaping and all enabling works.

Officers Recommendation: Refusal (Committee)

Method of Determination: Hearing. (1 Day)

Hearing Date: 18/10/2023.

Application Reference: 22/02104/F

Appeal Reference: 23/00088/REF

Start Date: 08.08.2023.

- 3.2 **21/04289/OUT - OS Parcel 1570 Adjoining and West Of Chilgrove Drive And Adjoining And North Of Camp Road, Heyford Park.**

Outline planning application for the erection of up to 230 dwellings, creation of new vehicular access from Camp Road and all associated works with all matters reserved apart from Access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Inquiry (5 Day)
Hearing Date: 05/12/2023.
Application Reference: 21/04289/OUT
Appeal Reference: 23/00089/REF
Start Date: 14.08.2023.

New Enforcement Appeals

3.3 None

Appeals in Progress

3.4 **21/00078/ENF – Cherwell Concrete – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX.**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers, and storage tanks.

Officers Recommendation: Enforcement Notice
Method of Determination: Written Representation
Start Date: 09.02.2023.
Appeal Reference Number: 23/00061/ENF

3.5 **21/00078/ENF – Mr & Mrs Murphy – Bagnalls Haulage Ltd, Bagnalls Coal Yard, Station Road, Enslow, Kidlington, OX5 3AX.**

Without planning permission, the material change of use of the land to a concrete batching plant and the erection of associated apparatus including a conveyor, corrugated enclosure, hoppers and storage tanks.

Officers Recommendation: Enforcement Notice
Method of Determination: Written Representation
Start Date: 09.02.2023.
Appeal Reference Number: 23/00060/ENF

3.6 **21/03066/OUT – Land North of Banbury Road, Finmere, MK18 4BW**

OUTLINE application for up to 30 Dwellings and detailed access from Banbury Road, with all other matters reserved.

Officers Recommendations: Refusal (Committee)
Method of Determination: Hearing.
Start Date: 09/03/2023.
Appeal Reference: 23/00065/REF

3.7 **22/01696/LB – Rectory Farmhouse, Back Lane, Epwell, Banbury, OX15 6LG**

Insertion of a dormer window to roof of existing lean-to extension to rear of listed farmhouse.

Officers Recommendation: Refusal
Method of Determination: Written Representation.
Start Date: 20.04.2023.
Appeal Reference: 23/00070/REF

3.8. **22/02133/F – 18 Fairford Way, Bicester, OX26 4YG**

RETROSPECTIVE – Replacement of 7FT high, 5FT wide conifer hedge with 3 fence panels with concrete posts.

Officers Recommendation: Refusal.
Method of Determination: Written Representation.
Start Date: 26.04.2023.
Appeal Reference: 23/0007/REF

3.9 **22/02403/F – 19 Fairford Way, Bicester, Oxon, OX26 4YG.**

RETROSPECTIVE - Change of Use from amenity land to domestic garden and erection of fence along the boundary line adjacent to footpath.

Officers Recommendation: Refusal.
Method of Determination: Written Representation.
Start Date: 18.05.2023.
Appeal Reference: 23/00073/REF

3.10 **22/02969/F – Attock House, Church Lane, Horton-Cum-Studley, Oxford, OX33 1AW.**

Ground floor extension to the rear with a green roof and roof light.

Officers Recommendation: Refusal.
Method of Determination: Written Representation (Fast Track)
Start Date: 18.05.2023.
Appeal Reference: 23/00074/REF

3.11 **22/02000/TEL56 – Area of Grass Verge, Peregrine Way, Langford Village, Bicester, Oxon, OX26 6XB.**

Proposed 5G telecoms installation: 16m street pole and 3 additional ancillary equipment cabinets and associated ancillary works.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representations
Start Date: 06.06.2023.
Appeal reference: 23/00075/REF

3.12 **22/02773/F – 4 Manor Road, Fringford Bicester, OX27 8DH.**

First floor extension above existing lounge; extension to rear of existing garage to provide utility/workshop space with home-working office above and link to main house. New pedestrian access gate to front. PV panels to new south facing roof. New external boiler, oil tank and rainwater harvesting tank.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Householder Appeal (HAS)

Start Date: 15.06.2023.
Appeal Reference: 23/00076/REF

3.13 22/03716/F – Jackdaw, Horton-Cum-Studley, Oxford, OX33 1AY.

Erection of a close boarded timber fence on western boundary (Retrospective)

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00077/REF

3.14 22/02637/F – Chapel Cottage, Wroxton Lane, Horley, Banbury, OX15 6BD.

Single-storey rear extension, removal of an existing door to create opening and removal of the window, and cut down of wall to FFL. (resubmission of 21/02720/F)

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00078/REF

3.15 23/00519/F – 44 Shearwater Drive, Bicester, OX26 6YS.

Extension to domestic dwelling – extend at the rear and side of property to create open plan kitchen and orangery to the ground floor and additional two bedrooms to the first floor above the garage.

Officers Recommendation: Refused (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00079/REF

3.16 23/00150/CLUE – Unit 22 Beaumont Close, Banbury, Oxon, OX16 1SH.

Certificate of Lawfulness for the Existing Development: Implementation of planning permission 18/01366/F subsequent to 20/00046/DISC. Erection of 10 small commercial units (B2/B8) with associated car parking and landscaping - (resubmission of 22/00193/CLUE)

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 15.06.2023.
Appeal Reference: 23/00080/REF

3.17 22/03215/PIP – Land West of School Lane & Foxden Way, Great Bourton, Bourton.

Application for permission in principle for the proposed development of 4-5 bungalows

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 16.06.2023.
Appeal Reference: 23/00082/REF.

3.18 21/01561/F - Allotment Gardens West Of Roebuck Inn And South East Of The Blinking

Owl Ph, Banbury Road, North Newington, OX15 6AB.

Erection of one detached dwelling and detached garage

Officers Recommendation: Refusal (Committee)
Method of Determination: Written Representation.
Start Date: 19.06.2023.
Appeal Reference: 23/00084/REF

3.19 23/00149/F – 3 Byron Way, Bicester, Oxon, OX26 2YP

Single Storey Detached Garage.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 16.06.2023.
Appeal Reference: 23/00063/REF

3.20 22/02832/TEL56 - Telecommunications Cabinet CWL18723 H3G Network, The Hale Chesterton.

Proposed 15.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.

Officers Recommendation: Refusal (Delegated)
Method of Determination: Written Representation.
Start Date: 22.06.2023.
Appeals Reference: 23/00085/REF.

3.21 22/00998/REF - Land North East Of Fringford Study Centre Adjoining Rectory Lane, Fringford.

Erection of a 4-bedroom detached dwelling with garage and access.

Officers Recommendation: Refusal (Committee)
Method of Determination: Written Representation.
Start Date: 27.06.2023.
Appeal Reference: 23/00086/REF.

3.22 22/01980/F - The Paddock, Main Street, Great Bourton, Oxfordshire, OX17 1QL

Change of Use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding.

Officer recommendation: Refusal.
Method of determination: Hearing.
Hearing Date: 03.10. 2023.
Hearing Venue: Council Chambers, Bodicote House.
Start Date:05.04.2023.
Appeal Reference: 23/00079/REF

3.23 22/03741/F – Land Adj to Wise Crescent, Opposite The Laurels, Fringford, Oxon, OX27 8DZ.

Erection of 6 one and a half and two storey dwellings, with the construction of new access and footpath, together with carports, parking, landscaping and all enabling works

Officers Recommendation: Refusal (Delegated)

Application Reference: 22/03741/F

Appeal Reference: 23/00087/REF

Start Date: 11.07.2023.

3.24 **20/00236/ENF - Ambrosden Post Office and Newsagents, Post Office, Merton Road, Ambrosden, Bicester, OX25 2LX.**

Breach of Condition 8 - 01/00694/F – Parking.

Officers Recommendation: Enforcement Notice.

Method of Determination: Written Representation.

Start Date: 13th September 2022

Appeal Reference: 22/00043ENF

Forthcoming Public Inquiries and Hearings between 7 September 2023 and 5 October 2023.

3.25 **22/01980/F - The Paddock, Main Street, Great Bourton, Oxfordshire, OX17 1QL**

Change of Use of land to mixed use for keeping of horses (existing) and as a residential caravan site for 3 gypsy/traveller families, each with a static caravan/mobile home, together with storage of touring caravan and laying of additional hardstanding.

Officer recommendation: Refusal.

Method of determination: Hearing. (1 Day)

Hearing Date: 03.10. 2023.

Hearing Venue: Council Chambers, Bodicote House.

Start Date: 05.04.2023.

Appeal Reference: 23/00079/REF

Appeal Results

3.26 **22/00173/CLUP – The Planning Inspector DISMISSED the Appeal by Mrs Victoria Richardson for a Certificate of Lawfulness of Proposed Development for the erection of a wooden workshop to be use for dog grooming services at 15 Arncott Road, Piddington, OX25 1PS.**

Officer recommendation: Refused (Delegated)

Method of determination: Written Representations

Start Date: 05.05.2022.

Appeal reference: 22/00023/REF

The Inspector considered that the main issue was whether the Council's decision to refuse to issue an LDC was well-founded. This turns on whether the workshop/log cabin building ("the building") would benefit from the planning permission granted by Article 3(1) and Class

E, Part 1 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (“the GPDO”), referred to as “permitted development”.

The single point of dispute was whether the proposed outbuilding would meet the requirement of E(a); that it would be “*required for a purpose incidental to the enjoyment of the dwellinghouse as such*”.

In this case, if the proposed use of the building was for the sole benefit of a dog belonging to the occupier of the property, only then might it be considered to be an ancillary or incidental use, however, for the property to be used for a dog grooming business, this is not the case.

In such circumstances, the use cannot be said to be ancillary or incidental to the main residential activity since it is not functionally linked to that residential use, nor does it form an ordinary part of it.

For the reasons given above it is concluded that the Council’s refusal to grant a certificate of lawful use or development in respect of the use of the proposed building as a dog grooming service was well-founded.

4.0 Conclusion and Reasons for Recommendations

The report provides the current position on planning appeals which Members are invited to note.

5.0 Consultation

None.

6.0 Alternative Options and Reasons for Rejection

None. The report is presented for information.

7.0 Implications

7.1 Financial and Resource Implications

There are no financial implications arising from this report. The report is for information only. The cost of defending appeals is met from existing budgets other than in extraordinary circumstances.

Comments checked by:

Kelly Wheeler-Finance Business Partner, 01295 221570

Kelly.wheeler@cherwell-dc.go.uk

7.2 Legal Implications

As this report is purely for information there are no legal implications arising from it.

Comments checked by:

Shiraz Sheikh, Assistant Director of Law and Governance and Democratic Services and Monitoring Officer

shiraz.sheikh@cherwell-dc.gov.uk

7.3 Risk Implications

This is an information report where no recommended action is proposed. As such there are no risks arising from accepting the recommendation. Any arising risk will be managed through the service operational risk and escalated to the Leadership Risk Register as and when necessary.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

Celia.Prado-Teeling@Cherwell-dc.gov.uk

7.4 **Equality & Diversity Implications**

This is an information report where no recommended action is proposed. As such there are no equality implications arising from accepting the recommendation.

Comments checked by:

Celia Prado-Teeling, Performance & Insight Team Leader, 01295 221556

Celia.Prado-Teeling@Cherwell-dc.gov.uk

8.0 **Decision Information**

Key Decision:

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

Wards Affected

Various, depending on appeal.

Links to Corporate Plan and Policy Framework

N/A

Lead Councillor

Councillor Daniel Sames, Portfolio Holder for Planning

Document Information

Appendix Number and Title

None

Background papers

None

Report Author and contact details.

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