

Land NE of Crouch Hill Farm adjoining Broughton Road, Banbury

13/01758/OUT

Ward: Banbury Easington

District Councillors: Cllr N Morris, Cllr F Blackwell,
Cllr K Mallon and Cllr S Woodcock

Case Officer: Tracey Morrissey

Recommendation: Refusal

Applicant: Gleeson Developments Ltd

Application Description: Outline – residential development of up to 117 dwellings, with associated gardens, parking, landscaping, services and infrastructure and public open space, with access from Broughton Road.

Committee Referral: Major Application (exceeds 10 dwellings and 1ha) and Departure from Policy

Committee Date: 06.03.14

1. Site Description and Proposed Development

- 1.1 The application site occupies an area of approximately 10.5ha and comprises 2 arable fields that rise up the slope of Crouch Hill from the Broughton Road and includes a hedgerow approximately midway between the foot of the hill and the summit. The site is on the western edge of Banbury bounded to the north by the B4035 Broughton Road and beyond (on the opposite side of the road) is pastureland and housing (to the north east), to the south is open land and Crouch Hill, to the east lies a strong hedgeline with a single field and then housing beyond, and to the west a hedgeline, agricultural land and Banbury Self Pick, which is cultivated mainly for soft and cane fruits. The site rises from north to south with land levels rising from 140m to 169m to the summit of Crouch Hill which is the principal topographical feature and the highest and most prominent landscape feature on the edge of Banbury. The villages of North Newington and Broughton are a short distance to the west.
- 1.2 There are public footpaths running through Crouch Hill to the south (FP120/108, FP120/109 and FP120/110). There are no TPO trees, but it is within a locally designated area of High Landscape Value (ACLV). There are no statutory designated sites of nature conservation interest within or adjoining the site. There are ponds within the site (but none contain Great Crested Newts); a pond on the adjacent land and also close to Salt Way however have Great Crested Newts. Common Starlings are in the area and the site contains Bluebells. Other site constraints include a small area of contaminated land, naturally occurring contaminants, within 250m of a landfill and known records of minerals.
- 1.3 The application has been submitted in outline for the construction of residential development of up to 117 dwellings, together with a new access from Broughton Road. All matters other than access are reserved. A detailed concept plan including landscaping and a master plan has been submitted to support the proposal.
- 1.4 The application is supported by a Design and Access Statement, FRA, Habitat and Protected Species Survey, LVIA, Archaeological Assessment, Transport Assessment Arboricultural Implications Assessment, Geophysical Survey, Sustainability Statement, Planning and Affordable Housing Statement and Statement of Community Involvement.

2. Application Publicity

2.1 The application has been advertised by way of neighbour letters, site notices and a press notice. The final date for comment was 19th December 2013.

33 responses have been received. (see file for full comments) The following issues were raised:

- Site is part of local history, has historical importance and has links back to the Saxon era
- In a Green Belt area – should be kept as such not surrounded by houses
- There must be more suitable areas to build without spoiling countryside
- This is an area for wildlife
- The area is important for Banbury people
- Development passed the natural boundary of the town on green fields
- Thin edge of the wedge, building here will spoil area further
- Highway safety/traffic congestion issues; road is already busy, many accidents and fatalities in recent years, concern regarding junctions, affect on children attending local schools/college, creation of a rat run through the Poets Corner estate, ignoring 30mph speed limit, access close to a bend
- Expectation that individuals would cycle is unrealistic
- Loss of privacy from proposed access road
- Our property would be sandwiched between two roads
- Screening of access road may overshadow garden
- Noise/disturbance from access road
- Area of High Landscape Value and development would ruin visual impact of Crouch Hill and surrounding
- Adjoins Crouch Hill and Saltway which is of historical interest to Banbury
- Banbury is encroaching towards Broughton and Broughton Castle
- Protection of trees, hedgerows, wildlife to be highly considered
- Loss of wildlife habitat
- Reference to future developments that may take place on nearby land
- Are there sufficient facilities for more houses?
- Not designated in the Local Plan for housing
- This is one of the beauty spots of Banbury/ area of natural beauty
- Drainage from the site/flood risk – many springs on the site, the subsoil is clay, hopes that garden won't become saturated as a result of the development, increase run-off and surface water onto Broughton Road, Broughton Road already has flooding problems
- Traffic will increase more rapidly if the Bloxham developments go through
- Many brownfield sites in Banbury that should be redeveloped instead
- Extra burden would be placed upon already overstretched facilities – schools, hospitals etc.
- Precedent may be set
- Pressure on utilities; water, gas, electric, telephone
- Existing sewage pumping station already struggles to cope
- Previous application refused at this site
- Reference to proposed development in the adjacent field
- Site furthest from any major local employment centres, main transport hubs and the M40 motorway
- Would encourage cross town traffic flows
- Crouch Hill should already be designated as a Landscape Protection Area
- Hope that an EIA will be conducted
- Banbury must remain a rural market town
- Close proximity to surrounding villages – Banbury us joining with them
- CDC have already achieved the housing target set by the Government
- Proposed development would not include community facilities like other

developments would

- Development does not follow Council policy which prohibits development along the Broughton Road towards Crouch Hill.
- The development is speculative
- Views would be spoilt by housing development
- No consultation with local residents
- Quality of the homes to be built is questioned

CPRE (Objection):

- Unplanned extension of development beyond the existing built up limits of the town
- The applicant's Landscape and Visual Impact Assessment appears to be dismissive of policies relating to the protection of the landscape yet it is acknowledged that Crouch Hill is an important landscape feature in the Local Plan and as a rural backdrop to the town, affording views over the countryside and contributing to the gateway entrance to the town.
- The assessment also identifies in particular the upper slopes and summit of Crouch Hill, boundary hedges and trees and the entrance to Banbury on the Broughton Road, but it must surely consider constraints not in isolation but in the wider context and setting of Crouch Hill and its surroundings.
- Area is designated a 'Repair Landscape' but feel this should not simply imply that any development can be accommodated however sensitive this may be.
- An element of tranquillity would be lost with the encroachment of a built development with its general urbanising effect coupled with the erosion of a sense of place.
- This would be accentuated by the loss of hedgerow to access the proposed development, which it is considered would be greater than the 10m stated to provide for the sightlines required.
- No mention in the Cultural Heritage Assessment of the importance of Crouch Hill in the civil war.
- Mindful of a previous set of applications on this site which were refused at appeal. – It appears that the principles have not changed materially since that time.

Cllr Morris (Objection):

- Area of the application is outside the proposal local plan
- Broughton Road has a number of road traffic problems and further development and thus increasing development would make this problem worse
- The area has a high landscape value and is close to Crouch Hill and local beauty spot
- The local plan has enough provision for housing numbers without looking at other areas

In support of the application the applicant has provided a rebuttal in response to the concerns and objections raised. This is attached at Appendix A.

3. Consultations

3.1 **Banbury Town Council:** Object as the site is not designated in the submitted Local Plan, the site allocation for 117 dwellings is not required. Concerns regarding safety and access off the Broughton Road.

3.2 **North Newington Parish Council:** Object on the following grounds.

- Not allocated in the local 5 year plan for housing
- Only one access point will cause large traffic problems. The estimated 70-75 car journeys per day is unrealistic, this number is more likely to be triple this.

- No school places in the local area to accommodate the children in this development
- Destruction of further Green Belt, so the brown field sites are less likely to be redeveloped.

3.3 **Bloxham Parish Council:** The development is not identified within the emerging local plan:

- It will add to traffic congestion on rural roads
- It will have an adverse effect on the landscape

Cherwell District Council Consultees

3.4 **Head of Strategic Planning and the Economy:** The site is not allocated for development in the saved policies of the ACLP, NSCLP or PSLP and therefore development would conflict with adopted and emerging local plans. The proposal would also conflict with Policies H18 and C7 of the ACLP which remain valid and relevant. Allowing the application would set an undesirable precedent for speculative housing development ahead of the Local Plan examination. This will pre-empt and undermine the proper and comprehensive planning for housing development in the Authority as a whole, and in Banbury in particular. The Local Plan's overarching housing strategy and the distribution of housing allocations carries weight; objections and representations should be considered at the examination. Allowing applications such as this will result in unplanned development taking place which will in turn lead to unsustainable and uncoordinated patterns of development. A planning policy objection is raised.

3.5 **Housing Delivery Officer:** The 30% affordable housing provision across the site with a 70/30 split of rented and intermediate housing would be required with a mix to be agreed.

3.6 **Environmental Protection Officer:** No comments received

3.7 **Landscape Officer:** Re-evaluated certain aspects of the landscape visual impact assessment and come to the conclusion that application site is not appropriate for residential development.

The existing urban edge to the east of the site influences the landscape character - defined in the National Joint Character Area 95, the OWLS Landscape Character Study, and The Cherwell District Landscape Assessment 1995 - which has landscape and visual effects on the attractive Crouch Hill setting, creating a distinctive sub - landscape character area within the overall defined landscape character. One could argue that the existing landscape, of which the site is a part, provides an attractive setting to the existing residential developments north and south of Broughton Road and Crouch Hill, in fact already a distinctive 'gateway' to Banbury from the Broughton Road approach. Another housing development on the application site will be detrimental to the landscape setting/'gateway', and an imposition on the proposed Banbury Green Buffer policy to prevent further encroachment of Banbury urban edge on the rural landscape.

Another argument against the development is that application site and surrounding landscape is presently designated an Area of High Landscape Value - the submitted local plan seeks to conserve and enhance the landscape character of the whole district when the AHLV is withdrawn - and in my view the distinctive character and attractive landscape of Crouch Hill and its surrounds must be given greater consideration.

Further comments will be incorporated into the Landscape section of the report.

- 3.8 **Ecology Officer:** No objection. The surveys by PJC ecology in 2013 covered a wider area but found no protected species or important habitats within this part of the site. Bats use the site for foraging, birds will nest in the field margins and hedgerows and hares are also likely to be present. Great crested newts (gcn) were found to be breeding in a pond to the south of the site adjacent to the Salt Way, but no significant areas of suitable terrestrial habitat were found within the site. Because the area surveyed also covered land directly adjacent to this pond, it is stated within the report that a great crested newt licence will be required before any development can proceed. Since this application only deals with the northern part of the site furthest away from the gcn breeding pond, it is likely that a licence for this area will not be required, although a precautionary method of working should still be implemented.

Currently the proposal includes the removal of one hedgerow, which is approximately 2,500m² worth of potential gcn habitat. However, the proposed creation of two attenuation ponds and new grassland (as public open space) is considered in the report to provide ample compensation for any habitat loss. If constructed, planted and managed in an appropriate manner, these new features have the potential to increase not only gcn habitat within the site but biodiversity in general. Part of this public open space to be created should consist of wildflower grassland and existing hedgerows to be retained should be enhanced by additional planting where needed.

The tree protection plan in Appendix D of the November 2013 Arboricultural Impact Assessment should be made a condition of any permission, as it sets out protection measures for the remaining hedgerows and rest of the site.

- 3.9 **Biodiversity and Countryside Officer:** No Public Path Order is required to enable the development. However, the PROW Statement refers to possible short term temporary closures of PROW to allow for tree works; and possible surface improvements, upgrading of stiles and improved waymarking. No objection subject to conditions.
- 3.10 **Arboricultural Officer:** Comments awaited
- 3.11 **Arts and Visitor Services Manager:** Public art will be required at a rate of £150 per dwelling. CDC to work with the developer in determining what is to be commissioned.

Oxfordshire County Council Consultees

- 3.12 Overall view: In their assessment of the proposal OCC have raised no objection from a technical perspective subject to conditions and legal agreement to secure developer obligations to highways, transport, education, museums, libraries, waste management and social and health care, but do raise a general concern that the development will conflict with OCC and CDCs aspirations that form part of the strategic approach of both Council's in respect to the Infrastructure Delivery Plan which will inform the emerging local plan.

(Detailed comments available via the Council's website and further expanded within the report at appropriate sections).

Other Consultees

- 3.13 **Environment Agency:** No objection subject to a condition regarding the surface water drainage of the site.

3.14 **Thames Water:** No comments received

3.15 **Thames Valley Police Strategic Planning:** TVP has undertaken an assessment of the implications of growth and the delivery of housing upon the policing of Cherwell District and established that in order to maintain the current level of policing, developer contributions towards the provision of infrastructure will be required. The proposed development will have an impact upon the ability of TVP to police the new development and surrounding area by placing an additional unplanned demand upon the existing police service.

Having undertaken a qualitative examination of the scheme and the impact of the policing the Local Police Area Commander has requested a contribution of **£21,150** towards a **Patrol Car**.

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

3.16 **Thames Valley Police Crime Prevention Design Team:** No objection and commends the applicants for providing a Secured by Design (SBD) section in the D&AS.

3.17 **Natural England:** No objection in respect to nature conservation, advice on protected species can be found at their website. Biodiversity enhancements are welcomed.

The site is approx. 250m from the Broughton Estate (land conditionally exempt from inheritance tax). The proposed development and its change from rural, agricultural to urban character will have an adverse impact on the eastern edge of the exempt land by weakening its rural, agricultural character. The development will also have an adverse impact on specific views from the exempt land where visible from the higher stretches of the public rights of way leading north-east and south-east from the Broughton Road within and adjoining to the exempt land.

Whilst the key landscape characteristics of the exempt land are sufficiently strong, the development has the potential to be an example of incremental urban development of the out edge of Banbury that, should similar future developments occur, is likely cumulatively to have a significant adverse impact, through urbanisation of rural landscape character on the surrounding landscape and the nearby exempt land.

(Detailed comments available via the Council's website)

3.18 **Sport England:** No comments to make on the application

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

H5:	Affordable Housing
H18:	New dwellings in the countryside
R12:	Provision of public open space in association with new residential development
C1:	Protection of sites for nature conservation value
C2:	Development affecting protected species
C4:	Creation of new habitats

- C5: Protection of the ecological value and rural character of local features
- C7: Landscape conservation
- C8: Sporadic development in the open countryside
- C9: Development size, scale and type in a rural location
- C10: Historic landscapes, parks and gardens
- C13: Area of High Landscape Value
- C14: Trees and landscaping
- C15: Coalescence of settlements
- C17: Enhancement of the urban fringe through tree and woodland planting
- C25: Development affecting the setting of Schedule Ancient Monuments and monuments of special local importance
- C28: Layout, design and external appearance of new development
- C30: Design of new residential development
- C31: Compatibility of proposal in residential areas
- ENV1: Development likely to cause detrimental levels of pollution
- ENV12: Contaminated land
- TR1: Transportation funding

Non-Statutory Cherwell Local Plan

- H1a: Availability and suitability of previously developed sites
- H4: Types/variety of housing
- H7: Affordable Housing
- H19: New dwellings in the countryside
- TR2: Traffic generation
- TR4: Transport mitigation measures
- EN1: Impact on natural and built environment
- EN22: Nature conservation and mitigation
- EN25: Development affecting legally protected species
- EN30: Sporadic development in the countryside
- EN31: Development size, scale and type in a rural location
- EN34: Conserve and enhance the character and appearance of the Landscape
- EN48: Historic landscapes, parks and gardens
- D1: Urban design objectives
- D3: Local distinctiveness
- D9: Energy Efficient design
- R6: New or extended sporting and recreation facilities
- R8: Provision of children's play space
- R9: Provision of amenity open space
- R10A: Provision of sport and recreation facilities
- OA1: General Infrastructure policy

Other Material Policy and Guidance

4.2

National Planning Policy Framework

Submission Cherwell Local Plan (January 2014)

The Submission Local Plan has been through public consultation and was submitted for examination in January 2014, although this plan does not have Development Plan status, it is a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan Policies:

Sustainable communities

BSC1: District wide housing distribution
BSC2: Effective and efficient use of land
BSC3: Affordable housing
BSC4: Housing mix
BSC7: Meeting education needs
BSC8: Securing health and well being
BSC9: Public services and utilities
BSC10: Open space, sport and recreation provision
BSC11: Local standards of provision – outdoor recreation
BSC12: Indoor sport, recreation and community facilities

Sustainable development

ESD1: Mitigating and adapting to climate change
ESD2: Energy Hierarchy
ESD3: Sustainable construction
ESD4: Decentralised Energy Systems
ESD5: Renewable Energy
ESD6: Sustainable flood risk management
ESD7: Sustainable drainage systems
ESD8: Water resources
ESD10: Biodiversity and the natural environment
ESD13: Local landscape protection and enhancement
ESD15: Green Boundaries to Growth
ESD16: Character of the built environment and historic environment
ESD17: The Oxford Canal
ESD18: Green Infrastructure

Infrastructure Delivery

INF1: Infrastructure

Other relevant documents

Strategic Housing Land Availability Assessment

Final Report – October 2013- Appendix E – Rejected sites

- The report concludes that the site is considered to be unsuitable for residential development as it would have an unacceptable impact on landscape character.

Planning Obligations Interim Planning Guidance April 2007

Planning Obligations SPD July 2011 (Draft)

Annual Monitoring Report (AMR) December 2013

Sustainability Appraisal Report October 2013

5. Appraisal

5.1 The key issues for consideration in this application are:

- History
- Planning Policy Principle and sustainability
- Five Year Housing Land Supply
- Historic Landscape Impact, setting and value of Crouch Hill
- Indicative Design/Layout/Scale
- Residential Amenity
- Transport Impact
- Flooding and Drainage
- Ecology
- Developer Obligations
- Pre-application community consultation

History

5.2 The site and adjacent site to the east (subject to the application 13/01758/OUT which was approved subject to the completion of a S106 agreement at February 2014 Planning Committee) saw planning permission refused and appeal dismissed under CHN 341/89 and CHN 234/90 for residential development on the grounds that residential development would cause harm to the character and landscape of Crouch Hill.

Planning Policy Principle and Sustainability

5.3 The development plan for Cherwell comprises the saved policies in the adopted Cherwell Local Plan 1996. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning & Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the development plan unless material planning considerations indicate otherwise.

5.4 The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (para' 7). It also provides (para' 17) a set of core planning principles which, amongst other things, require planning to:

- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
- proactively drive and support sustainable economic development
- always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
- support the transition to a low carbon future in a changing climate
- encourage the effective use of land by reusing land that has been previously developed
- promote mixed use developments
- conserve heritage assets in a manner appropriate to their significance
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations

- which are of can be made sustainable; and
 - deliver sufficient community and cultural facilities and services to meet local needs
- 5.5 Local Planning Authorities (LPAs) are expected to set out a clear economic vision and strategy for sustainable economic growth and to identify priority areas for economic regeneration, infrastructure provision and environmental enhancement (para' 21). Local Plans are considered to be the key to delivering sustainable development that reflects the vision, aspirations and agreed priorities of local communities (para's 150 & 155). An adequate, up-to-date and relevant evidence base is required (para' 158).
- 5.6 LPAs are expected to create sustainable, inclusive and mixed communities (para' 50). Paragraph 52 advises, *"The supply of new homes can sometimes be best achieved through planning for larger scale development, such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities. Working with the support of their communities, local planning authorities should consider whether such opportunities provide the best way of achieving sustainable development"*.
- 5.7 As well as allocating sites to promote development and the flexible use of land, LPAs are expected to *"identify land where development would be inappropriate, for instance because of its environmental or historic significance"* (para' 157).
- 5.8 The SLP seeks to meet the NPPF's objectives. A clear development strategy has been set out in the interests of securing growth and achieving sustainable development. Overall housing requirements are in line with those previously set by the South East Plan and the Plan includes proposals for major land releases to meet employment, housing and other needs and to achieve place specific objectives.
- 5.9 In terms of material considerations, the Non Statutory Cherwell Local Plan (NSCLP) 2011 was approved by the Council for development control purposes. The site is not allocated for development within this plan and therefore, is a location where new residential development is restricted to where they are essential for agricultural or other existing undertakings (Policy H19 refers). The development must also therefore be considered a departure from the NSCLP.
- 5.10 The Framework at paragraph 14 states 'At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking...for decision taking this means¹:
- approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted²

¹ Unless material considerations indicate otherwise.

² For example, those policies relating to sites protected under the Birds and Habitats Directives and/or designated as Sites of Specific Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast, or within a National Park; designated heritage assets and locations at risk of flooding or coastal erosion.

- 5.11 The adopted Cherwell Local Plan contains no specific allocation for the application site. It is therefore defined as an existing land use, where there is no specific allocation. Policy H18 of the adopted Local Plan states that new dwellings beyond the built up limits of settlements will only be permitted where they are essential for agricultural or other existing undertakings. The proposal clearly does not comply with this policy criterion and therefore represents a departure from the ACLP.
- 5.12 The application relates to a release of housing land ahead of completion of the Local Plan and ahead of the independent Examination of the Plan's proposals and policies. The SLP was submitted at the end of January 2014.
- 5.13 The SLP allocates five strategic sites for housing to cater for the growth of Banbury during the Plan period. In addition other smaller sites are identified in the SHLAA and in addition there is the site recently granted on appeal for 145 dwellings on land South of Salt Way not far from the application site.
- 5.14 The proposed development conflicts with the emerging Local Plan. The Plan has been through consultation and is now submitted for examination, supported by an extensive evidence base. Paragraph 216 of the Framework indicates that weight may also be given to relevant policies in emerging plans according to:
- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given)
 - The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
 - The degree of consistency of the relevant policies in the emerging plan to policies in the NPPF (the closer the policies in the emerging plan to the policies in the emerging framework, the greater the weight that may be given).
- 5.15 The evidence base for the emerging local plan is now substantially complete and the local plan has reached an advanced stage. The SLP was prepared following the publication of the Framework and the policies are considered to be generally consistent with the Framework.
- 5.16 However the requirements of the second bullet point limits the weight given to the emerging plan policies relating to the site as there are unresolved objections relating to the non-allocation of the site. A balanced judgement is therefore required in the light of other material considerations. The emerging local plan carries limited weight and the housing land supply position carries significant weight and these factors are key material considerations to the determination of this application.
- 5.17 In terms of other relevant policies in the emerging Local Plan, Policies ESD13, ESD15 and ESD16 are particularly relevant to this application as they deal with landscape impact and built development which will be considered later in the report.

Policy ESD13: Local Landscape Protection and Enhancement recognizes Crouch Hill as an important natural landscape feature overlooking Banbury and the surrounding land, which is highly valued by the community and has been protected from development:

Policy ESD15: Green Boundaries to Growth (Green Buffer Policy). As the site does not form part of an allocation in the ACLP, NSCLP or PSLP it is proposed to be included within the Banbury Green Buffer Area 6: Crouch Hill and Salt Way.

Policy ESD16: The Character of the Built and Historic Environment. The site is within the Ironstone Downs landscape character area having its own distinct character,

settlement pattern and historic context and features. The policy seeks to protect, sustain and enhance designated and non-designated heritage assets.

- 5.18 However in respect to the consideration of the emerging policies and the 5 year HLS position, the Council has seen 6 sites being granted planning permission on appeal because the Council could not demonstrate a 5 year supply of housing within the district, notably these are:

APP/C3105/A/13/2192506 (12/00643/OUT) - LAND AT STATION ROAD, ENSLOW, KIDLINGTON OX5 3AX – 10 dwellings, permitted on 18 September 2013

APP/C3105/A/12/2178521 (12/00080/OUT) - LAND EAST OF BLOXHAM ROAD, BANBURY – 145 dwellings, permitted on 23 September 2013

APP/C3105/A/13/2189896 (12/00926/OUT) - LAND OFF BARFORD ROAD, BLOXHAM – 75 dwellings, permitted on 23 September 2013

APP/C3105/A/12/2189191 (12/01139/OUT) - SOUTH OF MILTON ROAD, BLOXHAM – 85 dwellings permitted on 23 September 2013

APP/C3105/A/12/2184094 (11/01755/OUT) - LAND NORTH OF THE BOURNE AND ADJOINING BOURNE LANE, HOOK NORTON – 70 dwellings, permitted on 23 September 2013

APP/C3105/A/132201339 (13/00301/OUT) – LAND NORTH OF GAVESTON GARDENS, DEDDINGTON – 85 dwellings, permitted on 18 December 2013

APP/C3105/A/13/2200827 (13/00456/OUT) – LAND ADJOINING SOUTH OF MILTON ROAD, ADDERBURY – 65 dwellings, permitted on 23 January 2014

The effect of these decisions has added 535 dwellings to the available supply.

- 5.19 Furthermore, there are recent appeal decisions nationally which have given consideration to non-allocated sites in Districts where housing land supply is significantly lower than five years. In these decisions weight was given to the need to meet the five year housing land supply. It is considered that all these recent appeal decisions are material to the consideration of this application, the Council's HLS position is explained further below.
- 5.20 In terms of sustainability, the site is about a 25 minute walk from Banbury town centre, and 17 minute walk to a local shop and primary school and there is a good hourly bus service into Banbury from a stop about 310m east of the site access. In transport terms therefore the site can be defined as sustainable. However, the NPPF also recognises in paragraph 7 that sustainability has several strands other than just the transport aspect. These are economic, social and environmental in its broadest sense.
- 5.21 In terms of the economic impact, the proposed development would create jobs both directly and indirectly. Socially the proposed development would provide both market and 30% Affordable Homes. Environmentally, whilst it would provide new planting designed to enhance the range of habitats available for wildlife and help soften the edge of the development when seen from various viewpoints and would also provide access to Crouch Hill for the public from the north. The development would however form a sporadic, unplanned, urban extension of Banbury, encroaching into the open countryside and within the setting of the historic landscape feature that is Crouch Hill, a non-designated Heritage Asset. It will be seen directly from the summit of the hill

and will change the character and appearance of the landscape considerably and would not protect and enhance the historic environment. This matter is expanded further below in the landscape section of the report. The proposal does not therefore accord with Paragraph 135 of the Framework.

Five Year Housing land Supply

- 5.22 LPAs are required to boost significantly the supply of housing by meeting assessed needs and identifying key sites critical to the delivery of the housing strategy over the plan period (para' 47 of the Framework).
- 5.23 They are expected to *"identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land"* (para' 47).

The Council has acknowledged that it has a deficit of housing supply for the 5 year period and also that it is a 20% authority.

- 5.24 Footnote 11 to paragraph 47 states, *"To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans"*.
- 5.25 Para' 49 states, *"Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."*
- 5.26 The district's housing land supply position was updated in December 2013 in the Annual Monitoring Report 2012/13. The calculation as at 31 March 2013 uses the Sedgfield method for taking into account the shortfall in supply from previous years. The calculation which includes a 20% buffer shows that the Authority has a 4.7 years housing supply. This calculation takes into account the appeals detailed above for housing in the district which have been granted since the 31 March 2013.
- 5.27 Given the shortfall in the five year housing land supply position, Paragraphs 14 and 49 of the NPPF are engaged. The Local Plan is out of date in respect to housing policies and the overarching test for assessing whether to grant planning permission is whether any disadvantages, not just materially but significantly and demonstrably outweigh the benefits. The benefits of the scheme include the provision of affordable and market housing and developer contributions to infrastructure and services in the locality.
- 5.28 Notwithstanding the benefits and the status of the housing policies in the ACLP and emerging Local Plan, the fourth point made at Paragraph 14 of the Framework for decision taking advises that "where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework

taken as a whole;

5.29 As detailed in paragraph 5.2 the site has been subject to an appeal dismissing residential development on the land with the Inspector noting in particular that the landscape significance of Crouch Hill as a landmark is provided by the upper slopes and summit (para. 7). At that time the Inspector did not conclude that there was an exceptional need to make the land available for housing.

5.30 Given the 5yr HLS deficit faced by this Council, it is necessary to consider if the development of the land would give rise to significant harm and adverse impacts that demonstrably outweigh the benefits. The following is an assessment of historic landscape impact and setting and value of Crouch Hill to assist the planning balance.

Historic Landscape Impact, setting and value of Crouch Hill

5.31 Paragraph 9 of the Framework states that pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment. One of the core planning principles enshrined within paragraph 17 requires planning to recognise the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.

5.32 More specifically, paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by, [inter alia] protecting and enhancing valued landscapes, geological conservation interests and soils.

5.33 The following policies of the Adopted Cherwell Local Plan are relevant to the consideration of the landscape impact of the proposal:

C7 – Development will not normally be permitted if it would cause demonstrable harm to the topography and character of the landscape.

C8 – Resists sporadic development in the open countryside

C9 – Beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will normally be resisted.

C10 – Seeks to resist development that would have detrimental effect upon the character an appearance of historic landscapes, parks and gardens and battlefields and their settings.

C28 – Control will be exercised over all new development, including conversions and extensions, to ensure that the standards of layout, design and external appearance, including the choice of external-finish materials, are sympathetic to the character of the urban or rural context of that development.

C31 – In existing and proposed residential areas, any development which is not compatible with the residential character of the area, or would cause an unacceptable level of nuisance or visual intrusion, will not normally be permitted.

5.34 The Non Statutory Local Plan also contains relevant policies as set out below;

Policy EN31 (Countryside Protection) (like its equivalent policy C9 in the Adopted Cherwell Local Plan 1996) states that beyond the existing and planned limits of the towns of Banbury and Bicester, development of a type, size or scale that is incompatible with a rural location will be refused.

Policy EN34 (Landscape Character) sets out criteria that the Council will use to seek to conserve and enhance the character and appearance of the landscape through the control of development. Proposals will not be permitted if they would:

- cause undue visual intrusion into the open countryside
- cause undue harm to important natural landscape features and topography
- be inconsistent with local character
- harm the setting of settlements, buildings, structures or other landmark features
- harm the historic value of the landscape

Policy EN48 (Historic landscapes, parks and gardens) seeks to protect historic landscapes of special historic interest as they contribute significantly towards the special character and identity of the district.

5.35 Given its rural location and the presence of a landmark feature that is Crouch Hill a non-designated Heritage Asset, the proposal has the potential to cause harm and the provisions of these policies need to be carefully considered.

5.36 Policy ESD13 (Local Landscape Protection and Enhancement) of the SLP seeks to avoid damage to local landscape character, and mitigation where damage cannot be avoided.

“Opportunities will be sought to secure the enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats and 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 undue 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 tranquillity*
- *Harm the setting of settlements, buildings, structures or other landmark features, or*
- *Harm the historic value of the landscape.*

Development proposals should have regard to the information and advice contained in the Council's Countryside Design Summary Supplementary Planning Guidance, and the Oxfordshire Wildlife and Landscape Study (OWLS)”.

The supporting text to Policy ESD13 identifies Crouch Hill and its setting as being an important landscape feature of value overlooking Banbury and the surrounding area. The landscape evidence base studies referred to below recognises the value of Crouch Hill.

5.37 Policy ESD15 (Green Boundaries to Growth) of the SLP seeks to address the need for green edges around Banbury and Bicester, through the designation of Green buffers which:

- Maintain Banbury and Bicester’s distinctive identity and setting
- Protect the separate identity and setting of neighbouring settlements which surround

the two towns

- Prevent coalescence and protect the gaps between the existing/planned edge of the towns and surrounding settlements.
- Protect the identity and setting of landscape and historic features of value that are important to the identity and setting of the two towns
- Protect important views

Development proposals within the green buffers will only be permitted if they would not conflict with these objectives. Notwithstanding the potential coalescence and need to separate settlements to retain their identity, the policy seeks to protect Crouch Hill as a non-designated Heritage Asset as identified in Policy ESD16.

5.38 Policy ESD16 (The Character of the Built and Historic Environment) seeks to conserve the historic environment and enhance the character of the district which is composed of four landscape character areas, with distinct, settlement patterns and qualities containing features and heritage assets that contribute to its distinction. The special value of these features and designated and non-designated Heritage Assets should be protected and enhanced, in this case Crouch Hill.

5.39 The landscape and visual impacts of this site and the wider Banbury and Cherwell district have been subject to several reports, the latter being undertaken recently by WYG and LDA as core documents for the evidence base for the local plan, this has built on the previous findings of the Halcrow report dated Sept 2010 (CDC LSCA 2010). These reports include:

- **Banbury Landscape Sensitivity and Capacity Assessment (March 2013) WYG** - This document provides an assessment of the landscape sensitivity and capacity of 10 sites on the periphery and within the town of Banbury. Following this, the sites have then been cross referenced to The Cherwell Local Plan (Local Plan), Proposed Submission, August 2012 to provide further analysis of sensitivity and capacity in relation to the Local Plan. The site areas for each are identified within the CDC LSCA (2010) and have been used as a starting point from which to progress the assessment.
- **Banbury Environmental Baseline Report (March 2013) LDA** - The Banbury Environmental Baseline Study is intended to serve a number of purposes, including:
 - To provide a summary of the character, development and environmental assets of Banbury as a whole, but focussing in detail on its rural setting and the urban-rural fringe.
 - To allow an understanding of the environmental 'baseline' environment around Banbury.
 - To allow an understanding of the 'setting' of Banbury and how the town relates to the countryside in which it lies.
 - To identify and map environmental 'assets' around Banbury and ascertain their function, role and contribution to the sustainability and quality of life of the town's inhabitants.
 - To contribute to the evidence base of the emerging Local Plan.
 - To inform other studies of Banbury used as part of the evidence base of the Local Plan.
 - To act as a stand-alone reference document for CDC, allowing the

Council to make informed decisions about the future growth and development of Banbury.

- To inform the Banbury Masterplan work.

The study does not consider the urban settlement of Banbury in detail but provides a brief overview of relevant aspects to provide context and allow further understanding. Detailed studies concerning the urban area of Banbury are available as part of the evidence base of the Local Plan.

- **Appendix 1 of the Baseline Report: The Historic Landscape Setting of Banbury (March 2013) LDA** – this report is an interim outline study of the heritage aspects of Banbury and its surrounding villages, in the context of assessing options for urban expansion and associated studies. The study commences with consideration of Banbury itself, and advances anticlockwise round Banbury, starting from Hardwick in the north. The purpose of the study is to provide a broad view of the relevance of the historic landscape; it does not assess in detail all the potential historic landscape features and assets that would need to be addressed in any specific site study.
- **Banbury Green Buffer Report (March 2013) LDA** – This study determines clear criteria for inclusion of land within the Green Buffer, review the illustrative Green Buffer against those criteria and recommend revised boundaries to the Green Buffers, ensuring that areas recommended for inclusion meet the requirements of the emerging Green Buffer policy. The study has taken into account the Strategic Sites allocated for development in the Proposed Submission Local Plan but, where appropriate, gives a broad indication as to areas around Banbury could meet the criteria for inclusion in the Green Buffer zones. The following is an assessment made on the application area:

“The Crouch Hill and Salt Way Green Buffer is located on the south western edge of Banbury between the developed edge of the town and the wider countryside, north of Wykham Lane. Forming the boundaries to the Green Buffer are Broughton Road, the developed edge of Banbury and the historic Salt Way to the north; to the west and south field boundaries within the rural landscape; and to the east a well vegetated bridleway abutting the adjacent Bodicote Green Buffer. The Crouch Hill and Salt Way Green Buffer is illustrated on Figure BAN 1.8.

The main purposes of the Crouch Hill and Salt Way Green Buffer are to:

- *Maintain the setting of Banbury ensuring development does not encroach into the adjacent countryside;*
- *Protect the landscape feature of Crouch Hill and its immediate setting;*
- *Protect the approaches to Banbury*
- *Protect the setting of the historic Salt Way; and*
- *Protect existing views into the open countryside from the edge of Banbury.*

Occupying the northern extent of the Green Buffer is Crouch Hill, a distinct topographical landmark on the edge of the town rising to 169m AOD. The hill provides a prominent feature and backdrop to the adjacent residential area, as well as being notable in views from the south and west. It provides a

valued recreational resource with a network of footpaths, as well as a historical resource having links back to the medieval period and beyond. Encompassing the hill and adjacent fields, the Green Buffer will protect the landscape feature and its setting.

Defining the north western boundary to the Green Buffer is Broughton Road. Together with Bloxham Road these two ancient routes provide green approaches to Banbury from the south west. Land to the south of Broughton Road is located within the Green Buffer to ensure that the green rural approach to the town is retained. Together with land to the north of Broughton Road within the adjacent North Newington Green Buffer they provide a well treed rural approach to Banbury. The Green Buffer extends to the point where the Salt Way crosses Broughton Road, including an area of tree planting to the west, not only to ensure the retention of the rural valley landscape along the B4035, but also to protect the wider setting of Crouch Hill when approached from the south west and of Salt Way”.

It concludes by stating that the green buffer “will not only ensure that the setting of Banbury is maintained, but also the setting of Crouch Hill and Salt Way as important historic and landscape features within the landscape. The Green Buffer will also contribute to the retention of rural approaches to Banbury from the south west. Furthermore, important views both from within the Buffer and towards features such as Crouch Hill will be retained, the Green Buffer ensuring that the context of the latter feature remains largely rural in character in an extensive arch from the west through south to the south east”.

- **Banbury: Analysis of Potential for Strategic Development (March 2013)**
LDA – This is an appraisal of the countryside around the margins of Banbury’s fringes to assess the extent to which the town is able to accommodate strategic development whilst retaining its historic market town character and rural landscape setting. The appraisal is based on the findings of the Banbury Environmental Baseline Study and the Banbury Green Buffer Report. Reference should be made to these documents when reading this report.

The analysis of the town and its setting led to a view on the future of Banbury from an environmental perspective, taking account of the natural, historic, biodiversity and landscape assets and character of the town and its setting. These led to conclusion that the future growth of Banbury is constrained by ‘environmental limits’, that is, a combination of landform containment, rural setting and historic character and assets beyond which the town should not grow without significant harm to the town’s special character and identity.

Conclusions from this appraisal are that Banbury does have some capacity for further growth in this plan period, but that it is very constrained beyond this. If Banbury is to retain its special identity as a historic market town, the following two guiding themes should be adopted and followed:

- A compact, sustainable, historic market town contained within its environmental limits.
- A landscape setting which is accessible and rich in environmental assets, which is protected and which contributes positively to quality of life for the town’s inhabitants.

The recommendations made related to strategic development sites have been informed by these environmental themes for the future of Banbury. This strategic development sites appraisal seeks to highlight the constraints to development posed by the countryside around Banbury and identify where there is potential to accommodate strategic development without significant harm to the two environmental themes identified above.

The appraisal follows the same basis as the Banbury Environment Baseline Study, dividing the countryside around Banbury into four quadrants. These are:

- North West
- North East
- South West
- South East

This strategic analysis includes an appraisal of each of the proposed strategic development sites shown in the Cherwell Submission Local Plan (August 2012), in order to advise on their suitability and capacity for development.

The analysis also identified the application site and advised that *“the countryside to the south west of Banbury is an attractive rural landscape of quintessentially English countryside. It contains an abundance of historic assets, providing significant time-depth, and a number of landscape features that contribute to the setting and local distinctiveness of Banbury as an historic market town. Salt Way is of historic value and forms a mature green edge to the town. It also represents the ‘environmental limits’ to the town in the south west. The environmental assets and constraints of the south west of Banbury is illustrated in Figure 1.*

Development in the south west would adversely affect the setting of the Banbury, extending built form beyond the ‘environmental limits’ of the town, which are defined by landform, Salt Way and historic assets in particular, as well as rural views and landscape setting. The abundance of environmental assets within this area is important in defining Banbury and they would be at risk should development encroach upon them. They are important in creating a positive setting to the town, and providing accessible countryside for residents and visitors alike, contributing to quality of life of inhabitants and the sustainability of the town”

- **Banbury: Appendix 1 Peripheral Development Sites Analysis (March 2013) LDA** - As part of the Banbury Analysis for Potential Strategic Development Report, each of the proposed Local Plan allocated development sites around Banbury were reviewed in more detail to test their suitability and capacity for development. Indicative capacity studies for sites are based on policy requirements as set out within the Cherwell Local Plan Proposed Submission Draft (August 2012). Policies include guidance for housing density, employment and infrastructure needs for each site.

5.40 The site has the following constraints, with some linked to policies which are currently judged to be of limited weight:

- Crouch Hill is identified as a non-designated Heritage Asset and the most important and prominent landscape feature within the Character Area of the Ironstone Downs in emerging Local Plan Policy and LDF evidence base studies. It is a rural feature and a local landmark, which can be seen from a considerable distance to the south and west of the town and in particular from the villages and countryside around Bodicote, Broughton and North

Newington. The upper part of the site is seen from these viewpoints in the context of the summit of Crouch Hill and the slopes sweeping down to the side of the Broughton Road and stretch out towards the village of Broughton.

- The site was located within an AHLV in the adopted Local Plan (Policy C13)(as were other greenfield sites proposed for development in the emerging Local Plan), however the policy is now time expired. Policy ESD13 now seeks to replace Policy C13 with four distinct landscape character areas. In respect to this site it is the Ironstone Downlands Character Area
- The site lies within an area identified as a green buffer in the emerging Local Plan; this aims to protect Crouch Hill and the Salt Way as historic landscape features of value and ensure that development does not extend beyond the existing built up limits of the town towards Bloxham and Broughton.
- The more elevated southern part of the site is steeply sloping and more exposed.
- Boundary hedges, hedgerows and trees. There are important hedgerows on the northern, eastern and western site boundaries, a further hedgerow separates the two sites; landscape character guidance recommends the retention and enhancement of existing hedgerows.
- The site lies at one of the entrances to Banbury on Broughton Road, on this approach from the west, the barrier of Crouch Hill to the south and mature tree cover and hedgelines to the north and east of the site, almost completely screens the town. There is an abrupt and clear distinction between open countryside and the urban limit.
- Travelling out of Banbury along the Broughton Road, the Hill marks the start of the rolling Ironstone Downland and the gateway to some of the most attractive landscapes in North Oxfordshire and the Cotswold Area of Outstanding Natural Beauty beyond.
- The site is clearly set within a context of attractive, open countryside. More locally from the east with rural views enjoyed from the properties along Burns Road and Balmoral Avenue.
- There are well trodden public footpaths leading to the summit of Crouch Hill from the adjacent Byron Road housing estate. Evidence that there has been access to Crouch Hill for many years, with magnificent views over open countryside from the summit, particularly to the north and west. This access has historical record in “William Pott’s history of Banbury” describing a tradition dating back to mediaeval times, when the young men of Banbury would ascend Crouch Hill to blow horns and welcome the rising sun on the Summer Solstice. The need to protect this view is essential to the setting, value and significance of Crouch Hill as a non-designated Heritage Asset.

5.41 The proposals set out an urban extension to the south western edge of Banbury. All matters save for the means of access into the site have been reserved for a later stage. In support of the application, an indicative concept and master plan has been submitted to illustrate the potential disposition of land uses with enhancement opportunities and addressing site constraints which include:

- “Public open space to the south of the site indicating that a third of the land would be used as public open space and potential connection to the higher slopes of Crouch Hill
- Provision of integrated SUDs network along the key frontage of the site with development set back from the road. Creation of a swale form a new high quality ‘Park Edge’ setting and opportunity to provide net increase in GCN habitat
- Provision for up to 117 houses at a density of approx. 27 dph. Housing would be 1, 1.5 and 2 storey (5.5-10m in height) to the northern part of the site beyond the existing hedgeline. With landscaping to soften the edge. The upper slopes and summit will be free of development, bungalows constructed to assimilate the development where it interfaces with Crouch Hill.
- Provision of houses constructed using a palette of complementary materials and innovative design reflecting an exciting new development whilst still reinforcing local identity. The scale of development, variety of property typologies and tenures, form and plot sizes, streets and public realm work together to provide a diverse, permeable, legible and attractive community.
- Typical access layout into the site with good access to the countryside and footpaths surrounding the site. Internal road design and layout with short streets and frequent junctions, resulting low vehicle speeds.
- Creation of a village green and green routes and gateway feature on approach into Banbury”

5.42 The key principles of the landscape strategy that have been incorporated into the design concept provided in support of the application are:

- Limit development to the northern and central parts of the site, keeping built development on the lower slopes of the site.
- Retain the upper slopes of Crouch Hill setting, as an area of informal open space/parkland with access to the footpaths at the summit.
- Incorporate open spaces and play area
- Retain and strengthen the western hedgerow and mature treeline to maintain a vegetated edge to the town and enhance biodiversity
- Retain and lay parts of the hedgerow on the northern site boundary to maintain a rural character whilst allowing a frontage to be created on Broughton Road.
- Provision of tree planting within the site set within public realm to soften and filter views.
- Retain local views to Crouch Hill from Broughton Road and wider views of the upper slopes and summit from the countryside to the west.

5.43 The WYG (Banbury Landscape Sensitivity and Capacity Assessment (March 2013)) report considered that the application site and that of the larger site adjacent at Crouch Hill (Site H) has a low capacity for residential development within the site due to the prominence of Crouch Hill and the importance of the Salt Way as a historical route. If the area south of the Salt Way was developed, this would result in fragmentation of development located on the urban fringe and not be in keeping with the existing well defined physical and perceptual boundary along the west edge of the town.

- 5.44 This is the view that the Inspector took in the 1990 appeal for residential development on this site and the adjacent site (see Appendix B for full Decision Notice). In respect to the adjacent site subject to 13/01528/OUT, Members will recall that outline planning consent was granted at the last planning committee meeting for up to 40 dwellings, subject to the completion of a S106 agreement. Your Officers were of the opinion that the two sites are distinctly different in character and appearance and that on balance drew the conclusion that whilst the development would conflict with current development plan policy, the adverse impacts of the development did not significantly and demonstrably outweigh the benefits.
- 5.45 During the consideration of the 1990 appeal the Inspector found that the with the exception of pony paddock site (subject to 13/01528/OUT), "views northward from the Crouch Hill summit of the fields beside the Broughton Road are very prominent and that the character of the Crouch Hill landscape would be significantly harmed by the development proposed" (Paragraph 8).

The following is an extract of the assessment made by the Inspector at that time:

"(4) There would be some change in views from the Broughton Road and from houses in Balmoral Avenue and Burns Road but the significant upper slopes and summit of the hill would not be affected and could indeed be protected by a management agreement to be entered into as a condition of a planning consent..."

...(5) The Council draw distinctions between the Salt Way site and the appeal sites. At Salt Way, development would be relatively inconspicuous because the land is level and well screened from surrounding roads by substantial hedgerows and from the summit of Crouch Hill by the thicket on the southern side of the crown of the hill. The appeal sites however have a much longer road frontage, behind a less substantial and lower hedge, and would appear from the road as "ribbon" development. From the summit of Crouch Hill the development envisaged in both appeals would be very intrusive as a "tongue" of built development extending into views that at present are of very attractive rolling countryside to the west of Banbury..."

...(7) I accept that in more distant views the particular landscape significance of Crouch Hill as a landmark is provided by the upper slopes and summit which you propose should remain free of development. However, I consider that there is a more localised but still significant landscape contribution that is provided by the northern side of the hill as a whole as part of the "gateway" feature to which the Council has referred... Housing within the appeal sites would comprise this landscape character, which is a significant aspect of the landscape setting of Crouch Hill, both by extending the urban area westward and by occupying the lower slopes of the hill with built development..."

...(8) In views northward from the summit of Crouch Hill, the fields beside Broughton Road, other than the Pony Paddock, are very prominent ... But the northward vista of open countryside which the summit provides contributes significantly to the public recognition of Crouch Hill as a valued landmark and consequently protection of this vista is a material consideration in these appeals. The angle of view from the summit is such that no amount of landscaping could screen housing on the area which you propose for development ...

... (9) I conclude on the first issue that the visual effects of built development involved in either of the appeal proposals before me would have substantial and adverse effects on views to and from Crouch Hill and would adversely affect the landscape setting of the hill. This landscape is highly valued by residents of Banbury and by the District Council."

- 5.46 The conclusions drawn at the appeal detailed above are material to the consideration of this application. When viewed from the summit of Crouch Hill the application site appears distinctly different from the adjacent field subject to application 13/01528/OUT, the strong hedge/tree line on the eastern boundary clearly defining this distinction, which over the last 24 years has established into a mature boundary enclosing the adjacent land and views from the summit of Crouch Hill.
- 5.47 As identified by the appeal Inspector and that detailed in paragraph 5.40 above, the site is significantly constrained by the significant identity of Crouch Hill as a rural landscape feature within a context of open and attractive countryside. The proposal would compromise this general aspect and change one's perspective of the hill, as it would then appear to be contained within and enclosed by an urban setting.
- 5.48 The gentle slope of the hill as it sweeps down into the base of the valley would be lost to the development and from the Broughton Road, only the top of the hill would be seen rising above the intrusion of roof tops and lighting columns etc.
- 5.49 In support of the development the applicant has advised that there would be access to Crouch Hill from the site for the public off the Broughton Road. However desirable it would be to have this benefit for public recreation in addition to the existing access to Crouch Hill, the access to it would be through a housing estate and the 'price to be paid' would involve a considerable and unacceptable compromise to the amenity value of Crouch Hill as such an important landscape feature from other local viewpoints. In respect to the 1990 appeal decision, in support of the application the applicant has provided a rebuttal statement, this is attached at Appendix C. The conclusion drawn in the statement is that the two schemes are not directly comparable and that the appeal was decided in materially different circumstances than those that apply to the current application.
- 5.50 The Landscape Officer has fully considered the proposal in light of the previous appeal decision, landscape surveys and reports undertaken by Halcrow, WYG and LDA along with the LVIA provided initially by the applicant in support of their proposal and further statements clarifying certain aspects. The Landscape Officer found it difficult to agree with their position and concludes that the site is not suitable for residential development for the following reasons:

- Landscape Effects

The capacity to accept development is defined as 'Crouch Hill and the area around the Salt Way and Couch Farm and the nursery have a low capacity to accept development, resulting from their prominence and value for recreation, combined with the historic field patterns over parts of the area. This extends to the strip along the edge of Banbury where good hedges and small fields combine with less intensive agricultural use.'

With these assumptions that the area in question is of high sensitivity and capacity for development is low, which along with the LVIA assumption - Annex E Table 1, Landscape Effects, Landscape Character - National Character and Local Designations - that the rural character of the site compromised by the adjacent urban edge and rural fringe uses such that this edge of the character area is not wholly rural. This confirms to me that the site and surrounding area must be protected against development. Even with high quality build and landscape mitigation the urban expansions along the Broughton Road corridor will result in cumulative detrimental landscape impact causing harm to the sensitive setting to Crouch Hill.

- Settlement pattern

Because of the physical settlement pattern is imposed on the existing landscape pattern, it is going to be obvious that the nature of effect is going to

be **High**, and not the **Low** as indicated in the report.

- Table 2, Visual Effects

For view 1 the sensitivity of receptor on this PRoW 108/20; the top of Couch Hill overlooking the application site is deemed to be **medium** in the table. I would prefer to differ on this matter. The path is well-used due the muddy nature of the adjoining routes and people tend to enjoy the experience of views from elevated land. In this instance they are encouraged to look northwest, north and northeast to the wider views because views south are screened by woodland on the southern upper slope of Crouch Hill. It is crucial to recognize the importance of this vantage point for local people to experience the landscape, as defined by the aforementioned landscape studies, in particular, the Cherwell District Landscape Assessment. With the magnitude of effect staying the same for construction and completion, at **major adverse**. The result in the sensitivity of receptor column should therefore be **High**. The significance of effect is therefore **very significant**.

In respect to the comments made by the Landscape Officer, in support of the application the applicant has provided a rebuttal statement, this is attached at Appendix D.

- 5.51 Whilst it is accepted that an assessment of landscape impact is subjective, it is considered that taking into account the previous conclusions drawn at the appeal in 1990 and the view now reached in respect to the proposed development it would be difficult to come to a different conclusion than that now recommended by your Officers. It is acknowledged that the upper aspect of Crouch Hill would be free of development but the lower parts of the site form its setting and it is this very setting that would be compromised by the visual effects of built development.
- 5.52 Furthermore the LVIA Annexe E Table 1 Landscape Effects, provides an assessment of landscape character area or types and its Baseline Description of the Crouch Hill summit, notably these include 'Tranquillity, Remoteness and Sense of Place'. The summit of Crouch Hill is tranquil, remote and has an identifiable sense of place. The description of change and mitigation detailed acknowledges that all these key aspects currently enjoyed by the public will be lost on completion of the development. Instead there will be noise and disruption due to the activities within the site and open space; the increased use of the hill as open space will reduce any remaining sense of remoteness at the summit and the sense of place will be replaced by a new community sense of place which is not the same as being at the top of a hill surrounded by only rolling open countryside to the north. The quality and value of Crouch Hill is significant to its setting as a non-designated Heritage Asset.
- 5.53 Given the above assessment on historic landscape impact and the setting of Crouch Hill and the valuable amenity roll this important landscape feature makes it is concluded that there is significant harm to the environment contrary to Paragraph 135 of the Framework and that the site should remain undeveloped and designated as a proposed Green Buffer as part of the emerging local plan. The Council has evidence to support the Green Buffer Policy as detailed above and through various landscape assessments which conclude that development on the application site would cause harm to the landscape setting of Crouch Hill and Banbury. However the site is in the same Green Buffer Area 6 as Salt Way and the assessments have taken into account the setting and historic landmark that is the Salt Way, consequently both natural and historical assets are worthy of protection and preservation in the Council's view.
- 5.54 Fundamentally however is the status of that Green Buffer Policy and the recent appeal decision for Bloxham Road, Banbury (APP/C3105/A/12/2178521 (12/00080/OUT)) which focused on Salt Way specifically, found the Inspector

acknowledging that there was a “(31) conflict with policy ESD 15 of the SLP which seeks the provision of green buffers that would be kept free of built development. The justification for this policy makes clear that the aim of the policy is to maintain the distinctive identity of settlements and prevent coalescence as well as protecting valuable landscape or historic features. However, I have already found that the actual physical effect of the proposed development on Salt Way would be limited and there is no case to be made that it would promote coalescence as the nearest settlement to the south-west is Bloxham which is a considerable distance away. I have also already indicated that the SLP is an emerging document that can be afforded only limited weight.”

- 5.55 Further at paragraph (36) the Inspector “accepts that Salt Way currently demarcates the south-west extent of Banbury. However the demarcation principle was the same for other transport routes in the past, including the canal and mineral line. These have subsequently been superseded due to the need for housing and other development and I do not consider that Salt Way should necessarily be seen as an obstacle to further development just because of what and where it is”. Concluding (38) “I consider that demonstrable harm would not occur to the topography and character of the landscape and that therefore there is no conflict with policy C7 of the LP. I accept that some harm would occur to the rural character of Salt Way by virtue of having built form to both sides, albeit for a limited distance. Some conflict would therefore exist with policy C5 of the LP”.

It is therefore considered that whilst the Green Buffer Policy seeks to prevent unacceptable encroachment into the countryside, together with the other PSLP policies, it currently carries limited weight as found at the above appeal.

- 5.56 The proposal would give rise to conflict with a number of policies in the ACLP. However, as the Secretary of State concluded at a recent appeal at Bourne Lane, Hook Norton (Ref APP/C3105/A/12/2184094 (11/01755/OUT)) and Land adjoining south of Milton Road, Adderbury (Ref APP/C3105/A/13/2200827 (13/00456/OUT)) these policies do not provide for an up-to date provision of housing land and so full weight can no longer be given to these policies.

- 5.57 The Council cannot demonstrate a five-year supply of deliverable housing land and that the Framework establishes a presumption in favour of sustainable development in this case. Notwithstanding the benefits of the proposed development, *inter alia* contributing the supply of housing and affordable housing and the status of the housing policies in the ACLP and emerging Local Plan, the fourth point made at Paragraph 14 of the Framework for decision taking advises that “where the development plan is absent, silent or relevant policies are out of date, granting permission unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;

- 5.58 In summing up the scheme in terms of its overall acceptability as sustainable development, it is considered that material to the recommendation is the decision made at last Planning Committee regarding the adjacent site (13/01528/OUT), the status of the Green Buffer policy, the out of date housing policies, limited weight of the emerging local plan policies, the Council’s 5 year housing land supply position, the above assessment on historic landscape impact and impact on the setting and value of the historic Crouch Hill as a non-designated Heritage Asset, the previous appeal decision and that this proposal seeks an urban extension of Banbury encroaching into the open countryside which should be weighed against the potential benefits of providing of up to 117 dwellings including 30% affordable housing, in the planning balance.

- 5.59 It is considered that the potential benefits of providing the proposed development do not outweigh the significant harm having regard to what the Framework says about the importance of protecting and enhancing the natural and historic environments and the need to protect valued landscapes and to take account of the characteristics of the local environment. In this regard, therefore, the proposal would not constitute sustainable development and, consequently, the presumption in favour does not apply and that in accordance with Paragraph 14 of the Framework, the proposal would cause significant harm and adverse impacts that demonstrably outweigh the benefits.

Housing Mix

- 5.60 An assessment of the type and size of housing needed in Cherwell informs the SLP Policy BSC4: Housing Mix. Although at this stage the policy carries limited weight, It does identify the size and type of housing is expected to be required to meet the needs of Cherwell's future population.

- 5.61 This application advises that up to 117 residential units could be accommodated on the site which will require 30% affordable housing, which equates to up to 35 affordable units the remaining 82 dwellings will comprise an indicative mix in general accordance with Policy BSC4 as follows:

Market housing = 82

2 bed bungalow x 8
2 bed semi/terrace x 4
3 bed bungalow x 4
3 bed semi/detached x 42
4 bed detached x 24

- 5.62 Affordable Housing = 35

30% affordable housing provision equating to 35 affordable housing dwellings across the site with a 70/30 split of rented and intermediate housing.

2 bed bungalow x 2
2 bed semi/terrace x 18
3 bed semi/detached x 14
4 bed detached x 1

As well as the provisions set out for affordable housing within the proposed terms there is a requirement that the affordable housing is built to the HCA's Design and Quality Standards including the necessary HQI requirements. Up to 50% of the rented housing to be built to Lifetime Homes Standards.

The affordable units must be transferred to a registered provider to be discussed.

Residential Amenity

- 5.63 The illustrative layout for the development demonstrates that the proposed dwellings could be accommodated on the site without causing harm to any neighbouring properties. For these reasons, officers consider that the proposed development would comply with Policy C28 of the adopted Cherwell Local Plan and Government Guidance contained within the core principles of the Framework.

Transport Impact

- 5.64 The proposal will result in the formation of an access off Broughton Road. OCC in their assessment of the proposal and submitted Transport Assessment comment as follows:

- “The proposed development site is not ideal in transport sustainability terms. It is located on the far edge of Banbury’s built up residential area (Poets Corner), and while it benefits from reasonable walking and cycling links on Broughton Road to nearby schools and local amenities, the travel distances involved for journeys to the town centre and train station, coupled with the hilly topography of the area, will make it difficult to promote sustainable travel to these destinations on foot and by bike.
- The development will introduce some additional strain on the town’s road network. The Transport Assessment identifies that the development will generate some 70-75 new vehicular trips during the morning and evening peak periods. While this may appear to be relatively low, it will nevertheless add to the traffic on the Warwick Road corridor and the western corridor, in particular the Banbury Cross junction of West Bar Street (B4035) and Horse Fair. It will also place additional strain on some of the sensitive junctions in the area. This is contrary the county council and district council’s aspirations to reduce traffic along the western corridor so as to preserve and enhance Banbury’s historic town centre, especially around Banbury Cross. For this reason, it is recommended that the developers make a S106 contribution towards the delivery of the emerging Infrastructure Delivery Plan for Banbury, as discussed below.
- The transport assessment identifies that the development site is within access to regular bus services which operate along Broughton Road and Burns Road, however the nearest bus stops are served by the B7 and 50A bus services which do not operate on a regular frequency, hourly and 2-hourly frequencies respectively. The current routeing arrangement for the B7 bus service is quite convoluted, running through the Poets Corner, Bretch Hill and Grimsbury estates, making for a long bus journey which does not provide an attractive sustainable travel option for some routine journeys, such as return journeys from the town centre.
- The small scale nature of the site means that it would not be able to sustain its own commercially viable public transport service. The continuation of the nearby B7 bus service cannot be assumed as it requires on-going subsidy support which is at risk of being reduced or cut as part of any future spending reviews. The nearest alternative bus service is the B5 which operates frequently (every 12 minutes) between Bretch Hill and the town centre. The closest bus stops served by the bus stop are situated in excess of 1km walk from the site on Bretch Hill adjacent to Lennox Gardens.
- The developer is required to undertake the necessary enabling works (i.e. hard stand surfacing and connecting footway links) for the proposed bus stops on Broughton Road as part of the Section 278 works.
- Oxfordshire County Council welcomes the developer’s proposals to improve footway provision along Broughton Road to maximise pedestrian accessibility to and from the site, as detailed in the supporting Transport Assessment.
- Oxfordshire County Council welcomes the developer’s proposal for the provision of new bus stops on Broughton Road, enabling better access to the aforementioned bus services. These should be provided in accordance with the county council’s bus stop design standards.
- The county council also welcomes the proposal for a bus shelter in the vicinity

of the pedestrian/cycle access to the north east of the development site. The developer would be expected to liaise fully with Banbury Town Council on the funding or procurement arrangements for this bus shelter, as well as the specifications.

- Two access points are proposed onto Broughton Road – a main site access (priority junction) and an emergency access (protected by bollard). Access visibility splays of 4.5m x 90m are proposed, which will be appropriate if the 30mph speed limit is extended past the site to the west and traffic speeds along Broughton Road can be ensured to fall within 30mph. A separate consent will be required from the Highway Authority for the proposed accesses and any other works on the public highway including the closure of any existing access points
- New public roads and footpaths are proposed within the site. The estate layout must conform to OCC Residential Road Design Guide and Manual for Streets standards, and full details are expected for consideration and approval at reserved matters stage. Detailed tracking plans for emergency, delivery and refuse vehicles must be submitted. The applicant is encouraged to enter into a S38 Agreement with OCC.
- Surface water is proposed to discharge to SUDS. Proposals include a new attenuation pond in the northwest corner of the site and a swale south of the development. A detailed SUDS drainage strategy will be required for consideration and approval via condition.
- Matters of parking will be dealt with at reserved matters stage. The parking layout will need to meet the standards in OCC's Parking standards for New Residential Developments. For the proposed housing mix (32 x 2-bed, 60 x 3-bed and 25 x 4+ bed) approx. 274 parking spaces will be required if each dwelling is allocated two parking spaces. Please ensure that all garages comply with the required dimensions of 3m x 6m internally.
- Details of cycle parking, to meet OCC Cycle Parking Standards, must be submitted for consideration and approval at reserved matters stage. Please ensure that an appropriate level of visitor cycle parking is provided in addition to residential cycle parking.
- Various highway works are proposed as part of this application. These include speed limit relocation and gateway feature, new footways and crossing points on Broughton Road, a 3m shared cycleway / footway along the site frontage, minor realignment of carriageway and new bus stop locations/ bus stop infrastructure. Full details of these works will be required for consideration and approval, and a separate S278 Agreement with OCC will be required. The new footway link shown on plans on the south side of Broughton Road must link to the existing footway to the east on this side of the road.
- A Transport Assessment (TA) has been submitted and has been reviewed. In general, the content of the TA is considered acceptable. There are a few minor areas that merit comment, as follows:
 - Table 3.3, which indicates the bus services operating in the vicinity, does not support the assertion that "*there are frequent bus services within a short walk from the site*". Only one of the bus services shown can be considered to be frequent.
 - Table 6.12 highlights some future capacity issues at The Fairway,

Orchard Way, Hilton Road, Woodgreen Avenue junction.

- Figure 6.4 re committed development north of Hanwell Fields should realistically consider the higher traffic flows obtained in the sensitivity test for that site.

- In summary, the development will have an impact on Banbury's transport network and is expected to provide an appropriate transport contribution to mitigate its impact.
- An Interim residential travel plan has been submitted. Measures identified at this stage include the provision of sustainable travel information packs, personalised travel planning, sustainable transport vouchers for residents and appointment of a travel plan co-ordinator prior to occupation of the development. A full travel plan must be submitted for consideration and approval prior to occupation of the development.
- Transport contributions are requested to mitigate the impact of this development and the applicant is willing to make a reasonable financial contribution to be secured through a S106 Agreement. See paragraph 5.90 for this detail.
- A construction traffic management plan (CTMP) will be required to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times.

5.65 Whilst they do not object to the proposed development, the sentiments of the County Council are duly noted, the transport infrastructure requirements of Banbury are consistent with the CDC's strategic site allocation approach through the SLP, this emerging local plan however carries limited weight as found in the recent batch of appeals for the district. Furthermore whilst the Council have 5 year HLS deficit, sites such as that proposed, will be considered more preferable to those sites in villages and other more sensitive sites around Banbury. Notwithstanding that, in order to mitigate the transport impact the County are seeking developer contributions towards the emerging Infrastructure Delivery Plan and also towards a direct bus service into Banbury. Therefore on balance it is considered that in terms of transport impact, a development of up to 117 dwellings would not be so significantly and demonstrably harmful to the existing transport network around Banbury to warrant a reason for refusal that could have a reasonable expectation of being sustained. The proposal, from a transport impact and highway safety perspective, therefore accords with the Framework.

Flooding and Drainage

5.66 The Framework states that developers should "seek opportunities to reduce the overall level of flood risk in the area through the layout and form of the development and the appropriate application of sustainable drainage systems". The surface water drainage will be designed in accordance with the Environment Agency's current guidance and utilise Sustainable Drainage Systems (SUDS) so as to satisfy the following design requirements;

- Mitigate the risk of flooding to downstream receptors
- For two credits the development must be situated in a flood zone with a low annual probability of flooding.
- Provide sufficient attenuation to comply with the requirements of NPPF
- Consideration of the risk of solution features

- Provide the most practical and economic scheme, utilizing as much of the existing drainage system as practicable
- Provide a scheme that is compatible with the development phasing and site topography
- Designed in the spirit of SUDS techniques as defined with the CIRIA guidance
- Pollution control

5.67 A Flood Risk Assessment (FRA) has been submitted for the site. The land is within Flood Zone 1 (low probability for flooding) and therefore is suitable for the proposed use. The site is not considered to be at risk from flooding from rivers, the sea, from land, from groundwater or from other sources.

5.68 The FRA concludes that there is no requirement for flood mitigation measures to be considered other than utilising best practice and sustainable drainage techniques to reduce the overall level of flood risk in the area because of the location of the site within flood zone 1.

5.69 The FRA recommends storm water drainage should be designed in accordance with Sewers for Adoption and to prevent uncontrolled flooding for a 100 year return period event, including climate change. In consultation with the drainage authority and the Environment Agency detailed design SUDS techniques should be included as part of the drainage strategy for the site.

5.70 The Environment Agency raises no objections to the application subject to a number of conditions.

Ecology

5.71 NPPF – Conserving and enhancing the natural environment requires that “the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government’s commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures” (para 109)

5.72 Paragraphs 192 and 193 further add that “The right information is crucial to good decision-taking, particularly where formal assessments are required (such as Habitats Regulations Assessment) and that Local Planning Authorities should publish a list of their information requirements for applications, which should be proportionate to the nature and scale of development proposals. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question”. One of these requirements is the submission of appropriate protected species surveys which shall be undertaken prior to determination of a planning application. The presence of a protected species is a material consideration when a planning authority is considering a development proposal. It is essential that the presence or otherwise of a protected species, and the extent to that they may be affected by the proposed development is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. This is a requirement under Policy EN23 of the Non-Statutory Cherwell Local Plan 2011.

5.73 Paragraph 18 states that “When determining planning applications, local planning authorities should aim to conserve and enhance biodiversity by applying the following principle:

- if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately

mitigated, or, as a last resort, compensated for, then planning permission should be refused”

5.74 Paragraph. 98 of Circular 06/05: Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system states that, “local planning authorities should consult Natural England before granting planning permission” and paragraph 99 goes on to advise that “it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”

5.75 Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) states that “every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity” and;

Local planning authorities must also have regards to the requirements of the EC Habitats Directive when determining a planning application where European Protected Species (EPS) are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that “a competent authority, in exercising any of their functions, must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions”.

5.76 The Council’s Ecologist and Natural England are satisfied that the work done to date with regard to ecology is sufficient in scope and depth.

5.77 The site is largely arable however a housing development will constitute a significant loss of open countryside which whilst not of high ecological value itself does offer ecosystem services which will be lost under development. The acceptability of the development rests on their ability to retain those aspects of greatest biodiversity on site and add significant biodiversity gain within the proposals in line with paragraph 118 of the NPPF. The current illustrative layout does allow for retention of some green space and boundary vegetation which could constitute a net gain in biodiversity if appropriately managed and if the needs for recreation are balanced with the need of wildlife for some areas of undisturbed habitat. In particular there may be significant opportunities for biodiversity gain within the proposed SUDS features and these should be fully exploited.

5.78 Consequently it is considered that art.12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development. The proposal therefore accords with the Framework and Policy C2 and C4 of the ACLP.

Archaeology

5.79 The NPPF at paragraph 131 seeks to ensure the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

5.80 The site is located in an area of moderate archaeological potential as highlighted by the desk based assessment submitted with the application. A condition requiring a staged programme of archaeological investigation will need to be attached to the planning permission. This approach is consistent with the Framework.

Trees

- 5.81 The majority of trees on site are located along the northern, western and eastern boundaries of the site. At the time of writing the Arboricultural Officers comments were still to be received. A written update will therefore be provided on this matter.

Footpaths

- 5.82 Footpaths 120/108, 120/109 and 120/110 run along the top of Crouch Hill affording excellent views across Banbury and the rolling countryside beyond. Opportunities to provide additional informal space and link this to the existing open space to the south and to Crouch Hill is mentioned in the Landscape and Visual Appraisal. OCC raise no objection to the proposal and state that the development will affect existing rights of way in the proximity of the site due to the amount and frequency of increased use and that the development should provide the means to improve these rights of way to make them safer, and more convenient for year round commuting and recreational use. Funding to enable OCC to deliver additional path linkages, and path furniture, surfaces and signing to make routes safer, and more convenient for year round commuting and recreational use. This enhancement would comply with government guidance on promoting healthy communities contained within the NPPF.
- 5.83 Whilst there is no objection from OCC regarding the development and the increase in use of the footpaths, it is considered that the proposal would cause harm to the enjoyment of the footpaths as the views afforded from the summit will be diminished significantly. The views northward from the summit of Crouch Hill and the fields beside Broughton Road are very prominent. The proposal represents sporadic development that encroaches into the open countryside appearing "as a "tongue" of built development intruding into the attractive rural landscape ... The northward vista of open countryside which the summit provides contributes significantly to the public recognition of Crouch Hill as a valued landmark and consequently protection of this vista is a material consideration"³. In your Officers opinion the enjoyment by the public using the footpaths is significantly harmed and diminished from this viewpoint.

Pre-application Community Consultation

- 5.84 Under Section 18 of the Planning and Compulsory Purchase Act 2004 Local Planning Authorities (LPAs) are required to produce a Statement of Community Involvement (SCI). As part of the SCI, LPAs are requested to encourage participation from local community groups where development is proposed.
- 5.85 Details of the development were sent to all local residents within a radius of Broughton Road in the form of a leaflet drop in August 2013 to over 200 householders who were invited to reply via the applicants website or freepost 17 responses were received (details of which can be viewed via the Council's website)

Developer Contributions

- 5.86 The draft Supplementary Planning Document (SPD) relating to the requirement for financial contributions towards infrastructure or service requirements was considered by the Council's Executive Committee on 23 May 2011 and was approved as interim guidance for development control purposes. It has not been subject to public consultation.
- 5.87 New development often creates a need for additional infrastructure or improved community services and facilities, without which there could be a detrimental effect on local amenity and the quality of the environment. National planning policy sets out the principle that applicants may reasonably be expected to provide, pay for, or contribute towards the cost, of all or part of the additional infrastructure/service provision that would not have been necessary but for their development. Planning Obligations are

³ Paragraph 8 of appeal decision CHN 234/90 ref:T/APP/C3105/a/89/142363&156748/P5 attached at Appendix B

the mechanism used to secure these measures.

5.88 Listed below are the requirements and financial contributions requested and those currently agreed/resolved. These matters are directly related to the development and the effects that would arise from it and necessary to enable the impact of development to be mitigated. The proposed development, due to its scale and number of dwellings proposed, meet the threshold for a wide range of developer contributions that are normally sought by both the District and County Councils. Further justification and discussions are on-going at the time of writing between officers and the applicant as to the level of contribution that would be acceptable and there is every expectation that an agreement can be reached.

5.89 The full S106 Heads of Terms would be based on the requirements set out below, and with the applicant agreeing to making contributions towards 30% affordable housing, provision of public open space, formal open space and play areas, public art, indoor sports, access, public transport, offsite highway improvements, public transport, education, libraries, adult learning and strategic waste services. It should be noted however in the batch of 6 appeal decisions some requests for financial contributions have not been found to be CIL Reg 122 compliant as they have unconvincing justification and evidence base for their request. Consequently some of the contributions detailed below may not be pursued further.

5.90 Oxfordshire County Council

Transport contribution towards the transport schemes identified in the emerging Infrastructure Delivery Plan through the Non-Statutory Cherwell SPD, see the tariff below (index linked, November 2013):

£442 per 1 bed unit, £638 per 2 bed unit, £994 per 3 bed unit and £1,366 per 4+ bed unit.

Offsite access highway works to be secured via S278 agreement

Public transport enhancement contribution £1000 per dwelling = **£117,000.00**

Public transport infrastructure contribution towards bus stop poles, flags and one inbound bus shelter **£7,000.00**

Travel Plan monitoring fee **£960.00**

Footpath improvements – off-site path measures including path furniture, surfaces and signing to make routes safer, and more convenient for year round commuting and recreational use to public rights of way in vicinity **£15,000.00**

Drainage – SUDS provision will need to be provided and maintained as part of a detailed strategy. Applicant/s will need to provide an indicative SUDS plan and indicative costing for purposes of the Section 106.

Primary Education - financial contribution of **£474,862.00** – Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index)

Secondary Education (including sixth form) – financial contribution of **£509,543.00** – Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index

SEN Special Needs Provision - financial contribution of **£24,525.00** – Index linked from 1st Quarter 2012 using PUBSEC Tender Price Index

General County Council financial contributions Index linked from 1st Quarter 2012

using PUBSEC Tender Price Index

- Libraries - **£25,605.00**
- Adult Learning - **£3,424.00**
- Museum Resource Centre - **£1,565.00**
- Strategic Waste Management - **£20,032.00**
- Adult Day - **£20,000.00**

OCC Admin and Monitoring fee - **£5,503.00**

CHERWELL DISTRICT COUNCIL

Public Art - **£17,550.00**

Refuse bins and recycling banks - **£7,897.50**

Open space, and 3 play areas (2 x LAP & 1 x LEAP)

- public open space maintenance
- hedge maintenance
- mature woodland
- mature tree maintenance
- balancing pond
- ditch/ watercourse

Plus commuted sums for play areas and areas of informal open space

Offsite Outdoor Sports pitches – **£116,440.72**

- There is currently a shortfall of 11 football and 1 cricket pitch in Banbury and to mitigate the increased demand from this development on the existing facilities there will be a requirement for an off-site outdoor sports contribution. This will be used towards the cost of increasing capacity of the community sports pitches at the North Oxfordshire Academy site.

Offsite Indoor Sports - **£84,534.95**

- There is a requirement for an off-site indoor sports contribution towards the planned improvements to Woodgreen Sports Centre. Indoor sports facilities in Banbury are currently operating at capacity at peak times and therefore by increasing capacity at Woodgreen it will mitigate the impact of further demand from the new developments to the North and North West of Banbury.

Community Facilities towards community halls in the vicinity - **£26,108.86**

30% affordable housing

- 12 Affordable units in total, with a 70/30 split of rent and shared ownership

CDC Admin and Monitoring fee – **£4,250.00**

- 5.91 The S106 negotiations are ongoing however the applicant is in principle agreeable to those contributions that are compliant the Community Infrastructure Levy Regulations (CIL) 122 but no S106 agreement is at a completed stage.

Other Matters

- 5.92 It is considered that the majority of the third party representations issues and concerns have been addressed in the preceding report, however in response to the comments made by local residents, such as the views from private properties an

impact on their value; these are not material to the consideration of the application.

Engagement

- 5.93 With regard to the duty set out in paragraphs 186 and 187 of the Framework, there have been a number of meetings and discussions with regard to issues arising from the application and officers have sought to address the problems and issues throughout the application process, by working with the applicants. It is considered that the duty to be positive and proactive has been discharged through consistent negotiation and discussion with the applicants over the course of the application process.

Conclusion

- 5.94 The determination of this application in advance of the local plan being finalised has to be balanced against the advice in paragraph 14 of the NPPF which sets out the presumption in favour of sustainable development, which should be seen as a “golden thread” running through both plan-making and decision taking. It states that for decision taking this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF as a whole, or specific policies in the framework indicate development should be restricted.

- 5.95 The proposed development is not in accordance with the Development Plan. The application site lies in an area of countryside and is not allocated for development by either the saved policies of the adopted Cherwell Local Plan 1996 or those of the Non-Statutory Cherwell Local Plan 2011. Neither is the site identified as a strategic allocation in the SLP, but the weight of the policies contained within this local plan can only be afforded limited weight given that the Council cannot demonstrate 5 year HLS and the consequential engagement of paragraphs 14 and 49 of the Framework. Paragraph 14 makes it clear that permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

- 5.96 In respect to adverse impacts, the site is within the setting of the historic landmark feature that is Crouch Hill as a non-designated Heritage Asset. The consideration of historic landscape impact and the adverse impacts when viewed from the summit of Crouch Hill has been duly undertaken. Material to the consideration of this application is the previous appeal decision which dismissed residential development on the grounds “that the visual effects of built development would have substantial and adverse effects on views to and from Crouch Hill and would adversely affect the landscape setting of the hill”⁴.

- 5.97 The proposal seeks to provide up to 117 dwellings as a sporadic and unplanned urban extension to the South West of Banbury, encroaching into the open rural countryside. In that respect the proposal is no different save for the number of dwellings proposed, to the site adjacent, which gained planning permission at last month’s planning committee. Also the site is close to existing residential development to the east and north and it is considered that in terms of accessibility the site is considered to be sustainable. Accessibility is however only one strand of the economic aspect of sustainability, other impacts which have been considered such as

⁴ Paragraph 9 of appeal decision CHN 234/90 ref:T/APP/C3105/a/89/142363&156748/P5 attached at Appendix B

environmental, being the setting of Crouch Hill as a landmark feature within this part of Banbury need to be taken into account of the planning balance. Crouch Hill is a non-designated heritage asset and as such has local importance and significance as detailed above, and this general aspect of the Hill within open countryside would be changed by the proposal, by placing the Hill within a context of urban development, significantly harming its setting and value as a well-used and viewed from landscape feature within the Ironstone Downs Character Area. From a social aspect the development will provide the benefit of housing to meet the 5 year HLS deficit and an additional 35 affordable homes.

- 5.98 On balance, the comments and concerns made by all interested parties in respect to support of the Council's strategic approach to housing allocations and sites around Banbury have been duly considered. The supporting documents and information submitted by the applicant have also been duly considered, however, it is the opinion of your Officers that, notwithstanding the Council's 5 year housing land supply position, this site is not suitable for residential development. On that basis it is considered that the proposal is not acceptable and in accordance with Paragraph 14 of the Framework, the adverse impacts of the development significantly and demonstrably outweigh the benefits that the housing would bring to the town, having regard to what the Framework says about the importance of conserving and enhancing the natural and historic environment and the need to take account of the character of different areas. In this regard, therefore, the proposal would not constitute sustainable development and, consequently, the presumption in favour does not apply.

6. Recommendation

Refusal for the following reasons:

1. The proposal represents unsustainable development beyond the built up limits of Banbury in an area of attractive, rolling countryside and is not allocated for development by either the saved policies of the adopted Cherwell Local Plan 1996 or those of the Non-Statutory Cherwell Local Plan 2011 nor is the application site proposed for development as a strategic housing allocation in the Submission Local Plan January 2014. The land is included within the Banbury Green Buffer in the Submission Local Plan, the purposes of which are to maintain Banbury's distinctive identity and setting and its neighbouring settlements, prevent coalescence, protect the identity of valued features of landscape and historic value and important views, in this case Crouch Hill, a non-designated heritage asset. Notwithstanding the Council's present inability to demonstrate that it has a 5 year supply of housing land required by Paragraph 47 of the NPPF, the development of this site cannot be justified on the basis the land supply shortfall alone. The proposal represents a sporadic, unplanned, urban extension, encroaching into the open countryside which fails to maintain its rural character and appearance and which fails to conserve and enhance the environment and would adversely affect the significance of Crouch Hill as an important landmark feature of valued amenity and injurious to its rural setting and value and enjoyment by the public, in accordance with Paragraph 135 of the NPPF. The application is, therefore, contrary to Policies H18, C7, C8, C9, C10 and C15 of the adopted Cherwell Local Plan, Policies H19, EN1, EN30, EN31, EN34, EN48 of the Non-Statutory Cherwell Local Plan 2011, Policies ESD13, ESD15, ESD16 of the Submission Local Plan October 2013 and national policy contained in the National Planning Policy Framework.
2. In the absence of a satisfactory planning obligation, the Local Planning Authority is not convinced that the infrastructure directly required to service or

serve the proposed development will be provided. This would be contrary to the Policy R12 of the adopted Cherwell Local Plan, Policies OA1, TR4, R8 and R10A of the Non-Statutory Cherwell Local Plan 2011, Policy INF1 of the Proposed Cherwell Local Plan Proposed Submission Draft March 2013 and national policy contained within the National Planning Policy Framework.

Statement of Engagement

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.