

# Public Document Pack



**Cherwell**

DISTRICT COUNCIL  
NORTH OXFORDSHIRE

**Committee:** Planning Committee  
**Date:** Thursday 26 March 2026  
**Time:** 4.00 pm  
**Venue:** 39 Castle Quay, Banbury, OX16 5FD

## Membership

### Councillor Barry Wood (Chair)

Councillor Chris Brant  
Councillor Phil Chapman  
Councillor Jean Conway  
Councillor Ian Harwood  
Councillor Fiona Mawson  
Councillor Robert Parkinson  
Councillor David Rogers  
Councillor Dr Kerrie Thornhill

### Councillor Amanda Watkins (Vice-Chair)

Councillor John Broad  
Councillor Becky Clarke MBE  
Councillor Dr Isabel Creed  
Councillor David Hingley  
Councillor Lesley McLean  
Councillor Chris Pruden  
Councillor Les Sibley  
Councillor Douglas Webb

## Substitutes

Councillor Rebecca Biegel  
Councillor Andrew Crichton  
Councillor Rob Pattenden  
Councillor Nigel Simpson  
Councillor Linda Ward  
Vacancy (Labour Group)

Councillor Nick Cotter  
Councillor Dr Chukwudi Okeke  
Councillor Edward Fraser Reeves  
Councillor Dorothy Walker  
Councillor John Willett  
Vacancy (Independent Group)

## AGENDA

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

### 2. Declarations of Interest

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

### 3. Requests to Address the Meeting

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

Requests to address the meeting (including the application, whether you will speak in support of or objection to the application, your contact details) should be submitted to [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk)

The deadline for requests to address this meeting is noon on Wednesday 25 March 2026.

Addresses can be made virtually or in person. Full details of public participation at Planning Committee meeting is available in the Constitution, [Planning Committee Procedure Rules](#).

#### **4. Minutes**

The previous meeting of the Committee held on 19 March 2026, 5 days before the publication of the agenda for this meeting. The Minutes of the 19 March 2026 meeting will be submitted to the Planning Committee being held on Thursday 4 June 2026.

#### **5. Chair's Announcements**

To receive communications from the Chair.

#### **6. Urgent Business**

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

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

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

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

### **Review and Monitoring Reports**

#### **8. Planning Enforcement Report (Pages 5 - 16)**

Report of Assistant Director - Planning

##### **Purpose of report**

To update Members on current planning enforcement activity within the last 2 years.

##### **Recommendations**

The Planning Committee Resolves:

1.1 To note the content of the report and current planning enforcement position.

1.2 To endorse the resumption of quarterly enforcement performance reporting.

## **Planning Applications**

9. **Land West of Oxford Road and South of Newton Close, Bicester** (Pages 17 - 52) **25/01444/HYBRID**
10. **Land Adjoining And At 81 North Street, Fritwell, Oxfordshire, OX27 7QR** (Pages 53 - 89) **25/02906/OUT**
11. **Parcel of Land South of Bailey Road Adjacent to Wilson Road, Banbury, OX16 1JE** (Pages 90 - 106) **25/02862/F**
12. **Great Thatch Cottage, Main Street, Hanwell, Oxfordshire, OX17 1HN** (Pages 107 - 113) **26/00196/LB**

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

## **Information about this Agenda**

### **Apologies for Absence**

Apologies for absence should be notified to [democracy@cherwell-dc.gov.uk](mailto:democracy@cherwell-dc.gov.uk) or 01295 221534 prior to the start of the meeting.

### **Declarations of Interest**

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

### **Evacuation Procedure**

If you hear the fire alarm, please leave the building via the nearest available exit. The fire assembly point is outside the Premier Inn, adjacent to the canal.

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

### **Mobile Phones**

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

### **Webcasting and Broadcasting Notice**

The meeting will be recorded by the council for live and/or subsequent broadcast on the council's website. The whole of the meeting will be recorded, except when confidential or exempt items are being considered. The webcast will be retained on the website for 6 months.

If you make a representation to the meeting, you will be deemed by the council to have consented to being recorded. By entering the Council Chamber or joining virtually, you

are consenting to being recorded and to the possible use of those images and sound recordings for webcasting and/or training purposes.

The council is obliged, by law, to allow members of the public to take photographs, film, audio-record, and report on proceedings. The council will only seek to prevent this should it be undertaken in a disruptive or otherwise inappropriate manner.

**Queries Regarding this Agenda**

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

**Shiraz Sheikh**  
**Monitoring Officer**

Published on Wednesday 18 March 2026

<b>This report is public</b>	
<b>Planning Enforcement Report</b>	
<b>Committee</b>	Planning Committee
<b>Date of Committee</b>	26 March 2026
<b>Portfolio Holder presenting the report</b>	Portfolio Holder for Planning and Development Management
<b>Date Portfolio Holder agreed report</b>	16 March 2026
<b>Report of</b>	Assistant Director - Planning

## Purpose of report

To update Members on current planning enforcement activity within the last 2 years.

### 1. Recommendations

The Planning Committee resolves:

- 1.1 To note the content of the report and current planning enforcement position.
- 1.2 To endorse the resumption of quarterly enforcement performance reporting.

### 2. Executive Summary

- 2.1 This report provides an overview of planning enforcement activity over the past two years. Caseloads have remained broadly stable, with 508 new investigations opened in 2025 and 583 cases closed, resulting in a continued reduction of older cases.
- 2.2 The Council has taken formal action where required, issuing twelve notices in 2025 and securing positive outcomes including a successful prosecution for unauthorised tree felling in Adderbury and direct action to address long-standing untidy land issues in Banbury. Five enforcement appeals have been determined since January 2024, all supporting the Council's position.
- 2.3 Quarterly performance reporting will resume following a break since 2021.

## Implications & Impact Assessments

Implications	Commentary
<b>Finance</b>	There are no financial implications arising directly from this report.  Joanne Kaye, Head of Finance, 16 March 2026

<b>Legal</b>	There are no legal implications arising directly from this report, but that legal services provide advice and assistance to enforcement matters as required and will continue to do so.			Denzil Turbervill, Head of Legal Services, 16 March 2026
<b>Risk Management</b>	The service continues to manage increasingly complex cases well, though these pressures do require ongoing resourcing to sustain current performance. While appeal delays can slow compliance, the Council's strong track record helps maintain confidence. Continued focus on older cases will help prevent backlogs from re-emerging and support a resilient enforcement function. These and any other arising related risk are being managed through the service operational risk and escalated to the Leadership Risk Register.			Celia Prado-Teeling, Performance & Insight Team Leader, 16 March 2026
<b>Impact Assessments</b>	Positive	Neutral	Negative	Commentary
<b>Equality Impact</b>		<input checked="" type="checkbox"/>		There are no implications arising from the gathering and publication of this data.
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		<input checked="" type="checkbox"/>		Not applicable
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		<input checked="" type="checkbox"/>		Not applicable
<b>Climate &amp; Environmental Impact</b>		<input checked="" type="checkbox"/>		Not applicable
<b>ICT &amp; Digital Impact</b>		<input checked="" type="checkbox"/>		Not applicable
<b>Data Impact</b>		<input checked="" type="checkbox"/>		Not applicable
<b>Procurement &amp; subsidy</b>		<input checked="" type="checkbox"/>		Not applicable

<b>Council Priorities</b>	Corporate plan priorities for 2025-2026: <ul style="list-style-type: none"> <li>• Economic prosperity</li> <li>• Community leadership</li> <li>• Environmental stewardship</li> <li>• Quality housing and place making</li> </ul>
<b>Human Resources</b>	N/A
<b>Property</b>	N/A
<b>Consultation &amp; Engagement</b>	Cllr J Conway, Portfolio Holder – Planning & Development Management

## Supporting Information

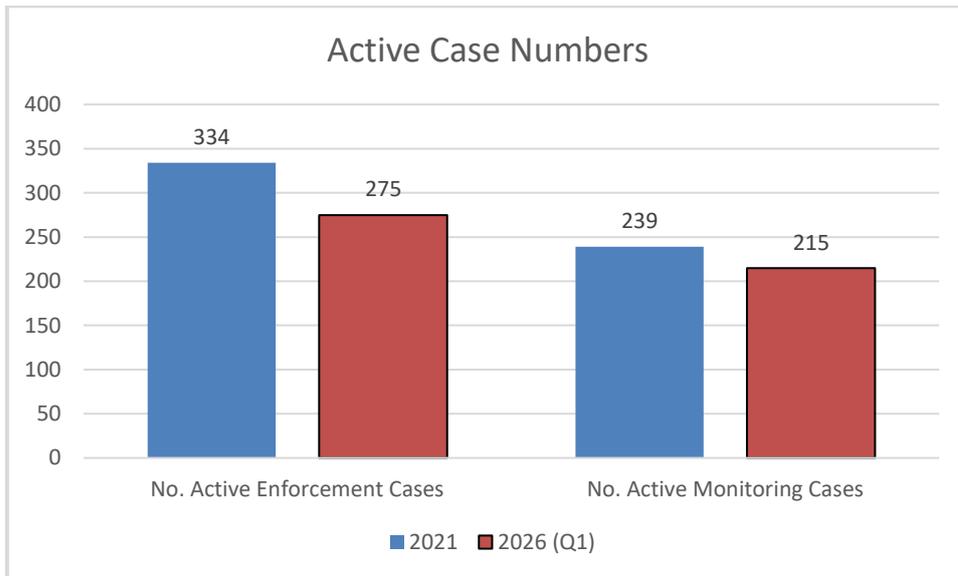
### 3. Background

- 3.1 This report updates Members on planning enforcement activity since 1 January 2024. It covers notices issued, appeal outcomes, prosecutions, direct action, and other key developments.
- 3.2 Enforcement reporting was paused in 2021. Caseloads have since stabilised, and the service has made significant progress in reducing older cases. Regular reporting will resume to ensure Members have clear visibility of trends and performance.
- 3.3 The report focuses on formal enforcement actions. Live investigations without formal notices are not included, as disclosing these could prejudice ongoing work.

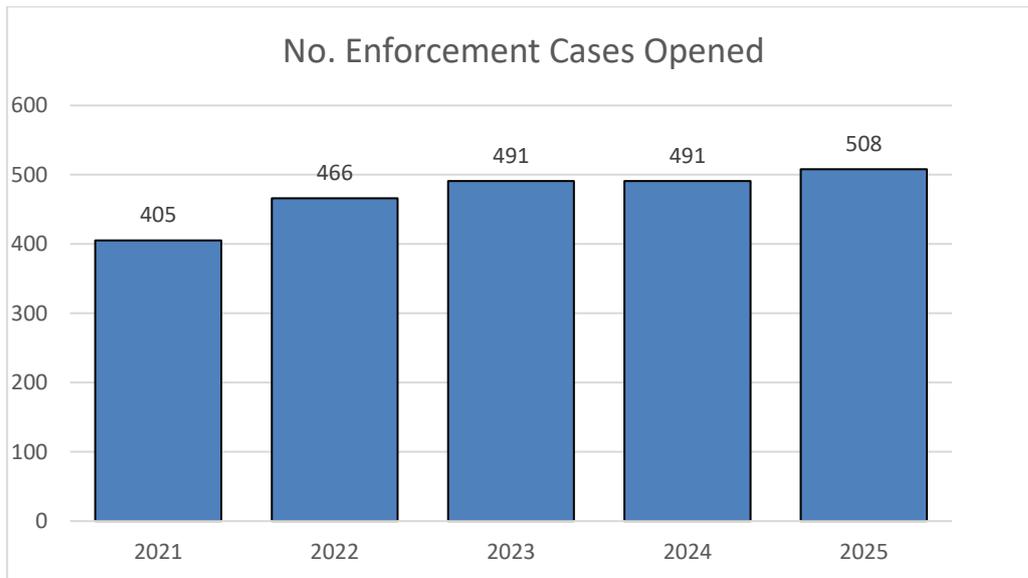
### 4. Details

#### *Caseloads and throughput*

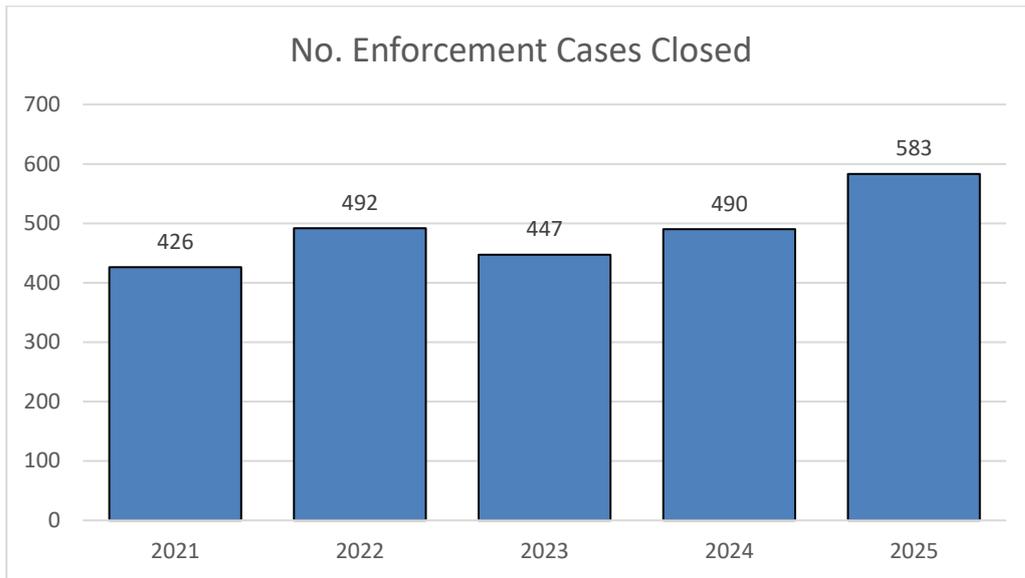
- 4.1 There are currently 275 active enforcement cases and 215 active development monitoring cases (compared to 334 and 239 respectively as last reported in 2021).



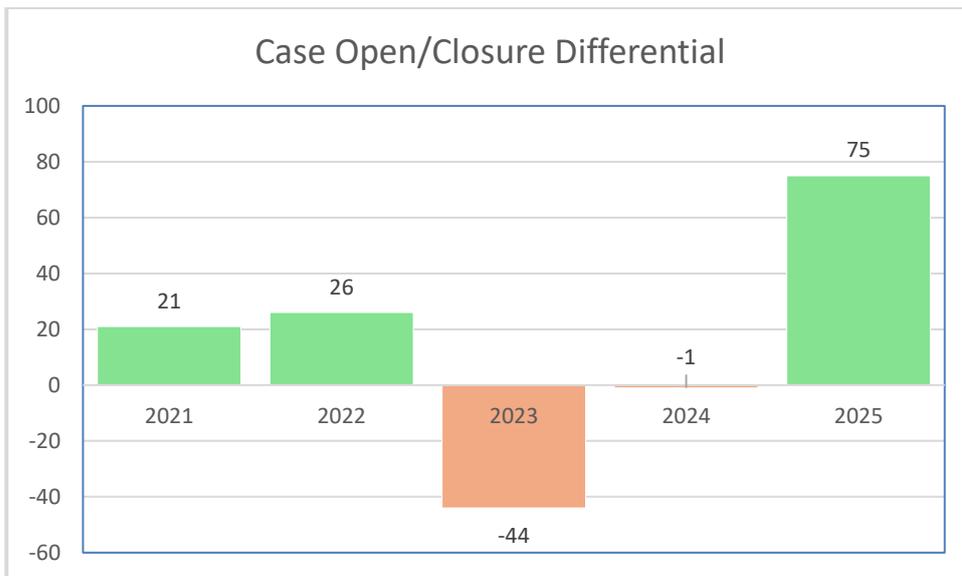
4.2 In 2025, the Council registered a total of 508 new planning enforcement cases, an increase of 17 cases on the previous year. Since 2021, there has been a 25% increase in annual case registration. 43 new monitoring cases were also registered in 2025.



4.3 Since 2023, there has been a year-on-year increase in case closures. 490 enforcement cases were closed in 2024, and 583 cases were closed in 2025, an increase from 447 case closures in 2023.

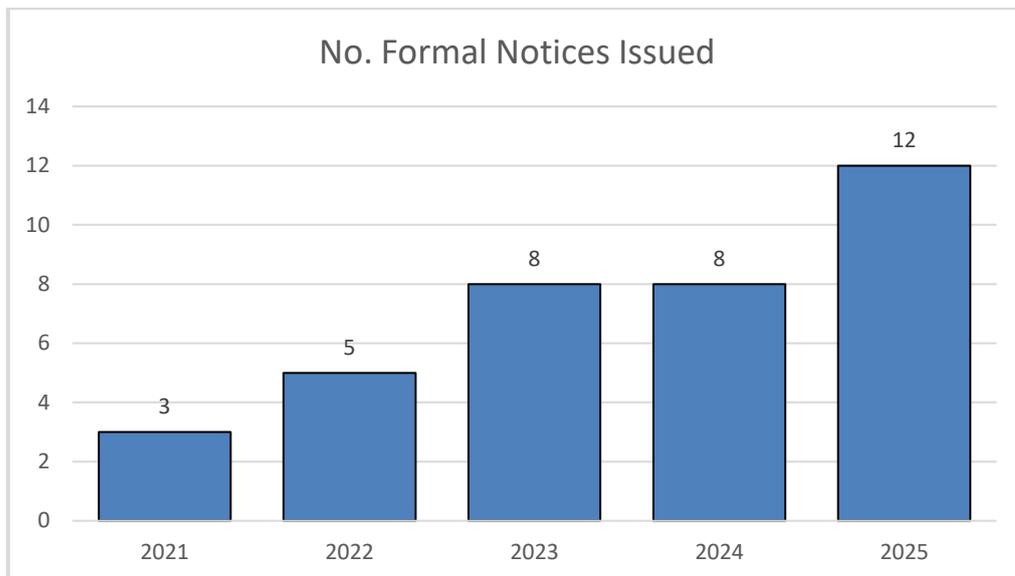


4.4 In 2025, the service closed 75 more cases than were opened, reflecting a programme of work to reduce backlog cases while maintaining progress on new investigations. Although this level of performance may not be sustainable in future years, the Council will continue to prioritise the resolution of older enforcement cases wherever possible.

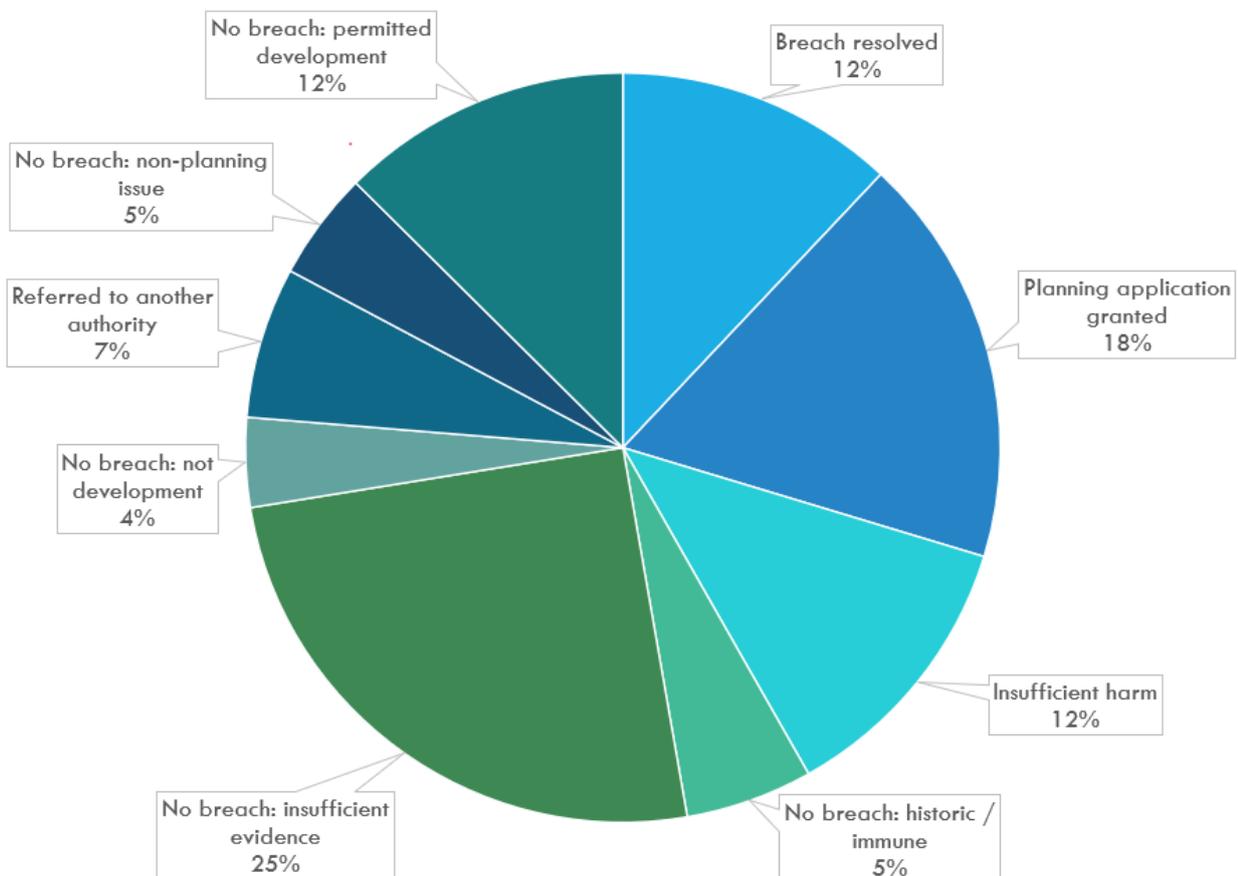


*Notices issued and prosecutions*

4.5 The Council issued 8 formal notices in 2024 and 12 formal notices in 2025. There has been a steady increase in formal notices issued since 2021.



4.6 Between 2024 – 2025, the most common case closure outcome was ‘closed due to no/insufficient evidence’ (25%), followed by ‘planning application granted’ (18%). Cases closed due to permitted development (12%), insufficient harm (12%), and breach resolved (12%) share third place.



4.7 In January 2026, the Council successfully prosecuted a person for illegally felling yew trees without prior notification in the Adderbury Conservation Area.

4.8 In February and March 2026, direct action was taken to tidy up a residential property in a state of disrepair following non-compliance with a Section 215 Notice.

4.9 Detailed information on these cases is presented below.

4.10 Further prosecutions are before the courts, including a hearing scheduled in March 2026. Details will be reported upon conclusion.

#### *Appeals*

4.11 Two notices issued in 2024, and five notices issued in 2025 were defended at appeal. Enforcement appeals via written representations are currently taking over a year to determine; appeal decisions will be published in the Appeals Report upon determination.

4.12 Five appeal decisions have been received since 1 January 2024, all were found to be in the Council's favour; one appeal was partially upheld, and the notice varied by the Inspector.

#### *Enforcement Register*

4.13 The Council has a statutory duty to maintain a public Enforcement Register. The tables below are an extract from this register and provide the position on notices issued in 2024 and 2025. Ward Members are advised when new enforcement notices are issued within their area.

4.14 The tables only show enforcement cases where formal action has been taken; live enforcement investigations (without formal notices) are not reported upon. Where criminal proceedings are ongoing, updates will be provided on conclusion of the case to avoid prejudicing the investigation.

### **Notices Issued in 2024**

Ref Number	Address	Date Served	Breach	Commentary
22/00443/ENF	Jackdaw Horton Hill Horton Cum Studley OX33 1AY	11/01/2024	Erection of a closeboard fence adjacent to a highway.	Compliance due; subject to ongoing investigation.
20/00295/ENF	16 Almond Avenue Kidlington OX5 1EN	25/01/2024	Use of outbuilding in rear garden as a dwellinghouse.	Appeal dismissed and compliance due by May 2026.

21/00326/ENF	Residential property in Banbury	29/08/2024	Untidy and overgrown rear and front gardens and untidy front elevation.	Direct action taken in early 2026 to comply with the notice; breach resolved.
23/00428/ENF	73 High Street Kidlington OX5 2DN	03/10/2024	Non-compliance with the approved plans.	Compliance due; further retrospective planning application will go to Planning Committee.
23/00316/ENF	Land at Land South Of Little Shotover And East Of Cherry Tree Cottage Horn Hill Road Adderbury	18/10/2024	Change of use of agricultural land to use as domestic and agrochemical liquid and machinery storage.	Compliance achieved in August 2025.
24/00181/ENF	133 Warwick Road Banbury OX16 2AR	31/10/2024	Construction of an outbuilding and raised platform.	Partial remedial works undertaken. Compliance due; subject to ongoing investigation.
24/00167/ENF	133 Warwick Road Banbury OX16 2AR	31/10/2024	Construction of a single storey rear extension.	Compliance due; subject to ongoing investigation.
15/00256/COU	Land at field adjacent to Hebborns Yard, Bicester Road, Kidlington, OX5 2PX	20/12/2024	Change of use to a mixed use comprising the siting of caravans for residential use and the storage of showground apparatus/rides, machinery, vehicles, trailers etc.	Ground (a) appeal partially successful for reduced area. Enforcement notice amended and upheld. Compliance due by February 2026; under investigation.

### Notices Issued in 2025

Ref Number	Address	Date Served	Breach	Commentary
22/00026/ENF	The Stables, Main Street, Great Bourton, Banbury, OX17 1QU	01/09/2025	Breach of conditions 2 & 5 relating to an authorised gypsy and traveller site.	This case is part of a wide-ranging and complex investigation involving multiple breaches, being dealt with as a priority.

				A more substantial update is likely to be available for the next report.
22/00401/ENF	Land at Mansmoor Road, Charlton On Otmoor	06/02/2025	Change of use to a mixed-use comprising holiday letting, camping, glamping etc. and the erection of associated structures and engineering works in the green belt.	Compliance achieved in October 2025.
23/00525/ENF	Heathfield Yard, Heathfield	15/04/2025	Erection of a large building for scaffolding and portacabins; associated change of use.	Subject to an ongoing appeal (written representations).
23/00404/ENF	26 Lapwing Close, Bicester, OX26 6XR	15/04/2025	Change of use of amenity land and the erection of a fence over 1m adjacent to a highway.	Compliance achieved in October 2025.
24/00146/ENF	5 Cup and Saucer, Cropredy, Banbury, OX17 1NN	01/05/2025	Unauthorised erection of fence over 1m in height adjacent the highway.	The notice was partially complied with, resolving harm to a sufficient degree for the case to be closed.
25/00012/ENF	Point To Point Farm, Mollington, Banbury, OX17 1QE	26/06/2025	Unauthorised development involving the erection of a concealed dwelling inside a barn, an equestrian riding arena, Pilates studio and chiropractic clinic.	An appeal was lodged which was downgraded from a Public Inquiry to Written Reps due to lack of appellant engagement.  The appeal is ongoing.
21/00443/ENF	113 Danesmoor Banbury OX16 1QE	27/08/2025	Erection of a raised concrete platform and steps to the front elevation of the property.	An appeal against the refusal of retrospective planning application is ongoing.
25/00117/ENF	46 Chaffinch Way Banbury OX15 4GP	01/09/2025	Erection of fence between dwelling and highway.	Compliance achieved in September 2025.
23/00554/ENF	Stone Valley House, Acre Ditch, Sibford Gower, Banbury, OX15 5RW	20/10/2025	Erection of a shed structure forward of the principal elevation.	Compliance due by October 2026.
23/00049/ENF	Tite Lane, Hook Norton	01/12/2025	Unauthorised partial demolition of a wall within a conservation area.	The notice was withdrawn to facilitate negotiations with the landowner about rebuilding the wall. The notice could be reissued if these negotiations

				fail.
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*Case of significant interest: prosecution at Yew Tree House, Adderbury*

- 4.15 In June 2025, the Council received a complaint alleging that yew trees had been felled in the Adderbury Conservation Area without prior notification. The reported fellings were believed to have occurred 2 – 3 weeks prior.
- 4.16 Planning Enforcement Officers attended the address on the same day, finding evidence that yew trees had been felled. Photographic material and other evidence was collected for a potential prosecution.
- 4.17 An Arboriculture Officer concluded that had prior notification been given, the Council would have issued a Tree Preservation Order, prohibiting the felling. In the absence of prior notification, the Council was denied this opportunity.
- 4.18 Following initial inquiries with the landowner who had recently purchased the property, it became clear that the landowner would not be cooperating fully with the investigation. An interview under caution was scheduled in July 2025, but the defendant did not attend.
- 4.19 Upon meeting the evidential threshold, legal action was determined to be in the public interest and court summons were served in January 2026. Officers overcame evidential challenges due to the delay between the felling and it being reported. Furthermore, no direct witnesses came forward to support the investigation.
- 4.20 The defendant attended the hearing at Reading Magistrates’ Court and pleaded guilty to the offence. The Magistrates handed down a fine of £7,200, including the Council’s costs and victim surcharge. During sentencing, the Magistrates considered mitigating factors included it being a first-time offence.
- 4.21 This outcome does not reverse the loss of the tree, however the prosecution illustrates how seriously the Council takes tree offences and how it is prepared to take swift action where contraventions are identified. The court outcome was publicised to dissuade other potential offenders.

*Case of significant interest: direct action at a residential property in Banbury*

- 4.22 In 2021, the Council received an internal referral regarding complaints relating to external appearance of a dwellinghouse in Banbury. It was alleged that the property was not being maintained, particularly the rear garden which was heavily overgrown and allegedly damaging neighbouring property. A Community Protection Warning had already been issued by Environmental Protection.
- 4.23 A site visit occurred following receipt of the complaint and the condition of the property was verified, including an overgrown and inaccessible rear garden. Formal action was not immediately taken as the untidiness predominantly

affected the rear, outside of view from the public domain. The Council sought to negotiate visual improvements, however the landowner did not engage.

- 4.24 After additional complaints were received and further review, the Council issued a warning letter in August 2023, formally requesting remedial work be undertaken. The requested work included clearing the front and rear gardens of overgrown vegetation, repairing the garage door and repairing rotten timber.
- 4.25 Further warning letters were sent in September 2023 and July 2024.
- 4.26 In August 2024, a Section 215 Notice was issued. The notice was not appealed and went into effect on 27 September 2024. Compliance was due within 3 months which expired on 27 December 2024 without any significant remedial work being undertaken. A criminal investigation was launched.
- 4.27 The transgressor was invited to an interview under caution in early 2025 but did not attend.
- 4.28 The Council considered the public interest of prosecution and/or taking direct action, i.e. undertaking the remedial work itself and charging back the costs to the landowner. It was considered expedient to take direct action, as the Council's priority was to resolve the ongoing harm to neighbourhood amenity; a prosecution was unlikely to achieve this.
- 4.29 The Council produced a successful business case for taking direct action; whilst there were budget implications, the debt could eventually be recovered from the landowner. Furthermore, the property condition was continuing to deteriorate, increasing the need for intervention measures.
- 4.30 Following procurement, the Council awarded a company specialising in enforcement services a contract to undertake the remedial work on the Council's behalf. This company had a prior track record, having undertaken similar work for the Council previously with positive outcomes.
- 4.31 Remedial work was undertaken on two dates in February and March 2026. This involved clearing the front and rear gardens of extremely thick and dense overgrown vegetation and disposing of the green waste responsibly. Improvements also included repairing and repainting the frontage and repairing a dwarf boundary wall. The Council's priority was to ensure the land was cleared to a condition which would avoid the problem arising again soon.
- 4.32 The Council is now in the process of pursuing debt recovery to recover the cost of undertaking the work. The Council has the power to place a local land charge, enabling recovery of the debt (with interest) on sale of the property.

## **5. Alternative Options and Reasons for Rejection**

- 5.1 None. The report is presented for information.

## **6 Conclusion and Reasons for Recommendations**

- 6.1 The report provides a summary of the latest planning enforcement position which Members are invited to note.

## Decision Information

<b>Key Decision</b>	No
<b>Subject to Call in</b>	No
<b>If not, why not subject to call in</b>	N/A
<b>Ward(s) Affected</b>	All

## Document Information

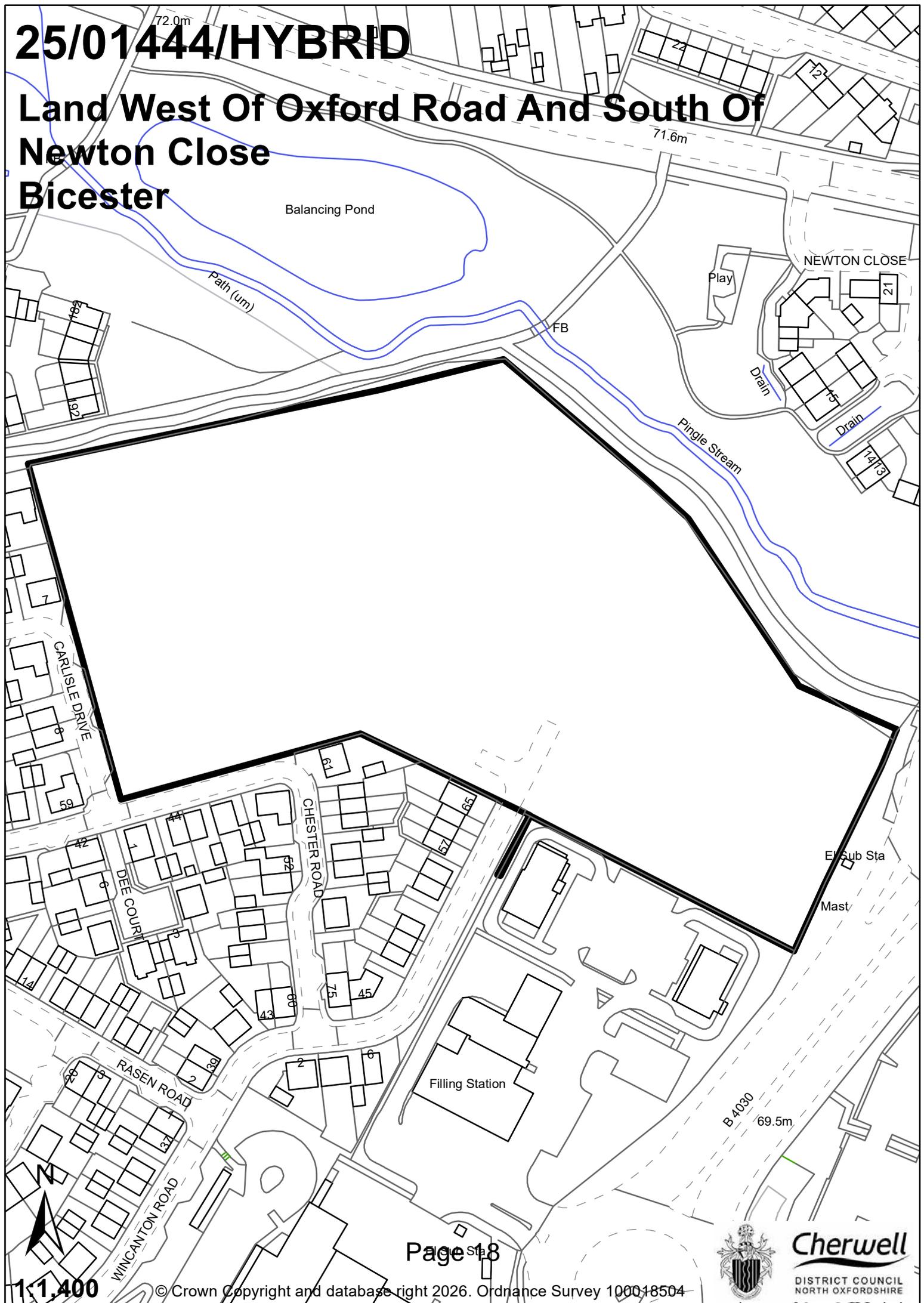
<b>Appendices</b>	None
<b>Background Papers</b>	None
<b>Reference Papers</b>	None
<b>Report Author</b>	Sean Tilbury
<b>Report Author contact details</b>	Sean.tilbury@cherwell-dc.gov.uk, 01295 221503
<b>Corporate Director Approval (unless Corporate Director or Statutory Officer report)</b>	Ian Boll, Corporate Director for Place & Regeneration, 16 March 2026

**Land West Of Oxford Road And South Of  
Newton Close  
Bicester**



# 25/01444/HYBRID

## Land West Of Oxford Road And South Of Newton Close Bicester

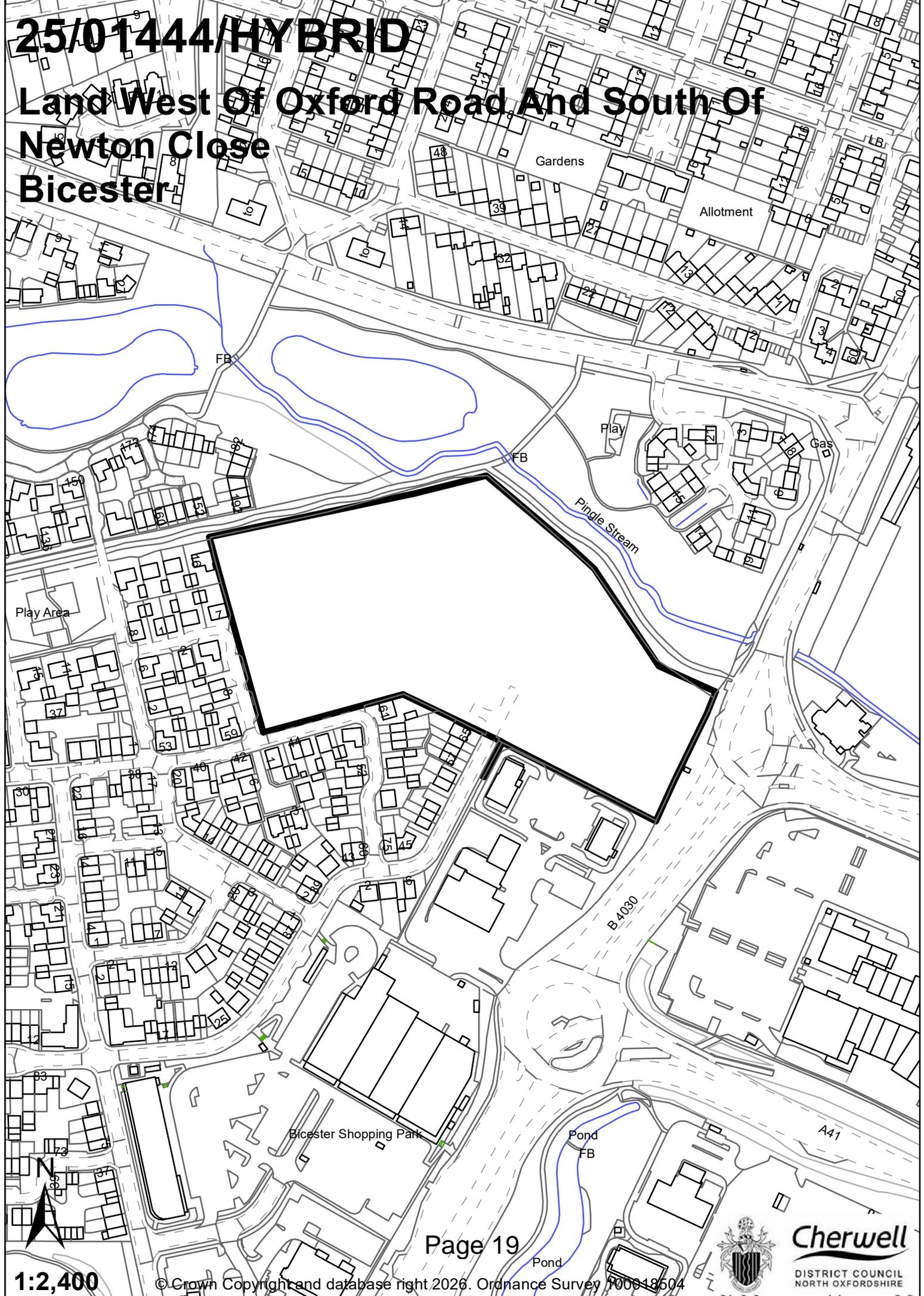


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# 25/01444/HYBRID

## Land West Of Oxford Road And South Of Newton Close Bicester



**Case Officer:** Linda Griffiths

**Applicant:** Countryside Properties (Bicester) Limited

**Proposal:** Hybrid application comprising development of up to 72 dwellings (C3 Use Class) and a care home with up to 75 bedrooms (C2 Use Class) with other related infrastructure and associated works (in outline), and access to Wincanton Road (in full)

**Ward:** Bicester South And Ambrosden

**Councillors:** Councillor Cotter; Councillor Ideh and Councillor Pruden

**Reason for Referral:** Major development

**Expiry Date:** 10 April 2026

**Committee Date:** 26 March 2026

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**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site extends to 2.69 hectares and is part of the development at Southwest Bicester which is situated between the Middleton Stoney and Oxford Roads. The whole site was granted outline planning permission subject to conditions and subject to a Section 106 Agreement for the erection of up to 1585 dwellings, employment, education, health village, local centre and community facilities and supporting infrastructure in June 2008 (06/00967/OUT) refers. The site is known locally as Kingsmere Phase 1. Construction on site began in July 2010 and the development on the site is now complete except for this last remaining parcel.
- 1.2. A land use proposals plan approved as part of the original outline conditions identified this application site as a health village site which was to include land for GP surgery, Community Hospital and other related uses such as elderly care. A further outline consent for an additional 100 dwellings across the wider Kingsmere site was granted in 2016 (13/00433/OUT) refers.
- 1.3. The site which was formally agricultural land has been left fallow during construction of the remainder of the Phase 1 Kingsmere development. The site is essentially flat but drops in the north eastern corner where attenuation is proposed. There are trees around the perimeter of the site, these are both planted trees and self-set trees varying in quality and size. A hedge planted to the Pingle Brook open space boundary as part of the Kingsmere Phase 1 development is now relatively mature.
- 1.4. Adjoining the site to the north is Pingle Brook open space and the Esso petrol filling station together with Burger King and Little Chef food outlets which lie to the south. The A41 is situated directly to the east and the new residential parcels recently

completed by Linden Homes as part of the Kingsmere development lie to the west. Access to the site will be via the new signalised junction from the A41 adjacent to Premier Inn and the new secondary street which runs alongside Bicester Gateway.

## **2. CONSTRAINTS**

- 2.1. The application site is within 250m of a buffer for Protected and Notable Species, notably swifts. A public right of way passes just to the north through the Pingle Brook open space. The site which was previously agricultural land (grades 2 and 3) rises up gently from Pingle Brook open space to a plateau and has no features of note. The site is a minor aquifer.

## **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. This is a hybrid submission which seeks consent for up to 72 dwellings (Class C3) and a 75-bed care home (Class C2) with related infrastructure and works (in outline). Access will be taken from Wincanton Road, the existing road through Kingsmere, and the application seeks consent for the access road in full.
- 3.2. The site will be accessed via the new signalised junction onto the A41 serving the development of Kingsmere and along the secondary street between the Bicester Gateway retail scheme and the Linden homes development, now called Wincanton Road. The proposed care home will front Oxford Road. An attenuation pond is proposed in the north eastern corner of the site, which is slightly lower lying to deal with surface water from the development.

## **4. RELEVANT PLANNING HISTORY**

- 4.1. The following planning history is considered relevant to the current proposal:

06/00967/OUT – Outline permitted for up to 1585 dwellings with associated infrastructure.

13/00433/OUT – Outline consent for an additional 100 residential units across the development permitted above.

18/01721/OUT – outline sought for erection of up to 57 residential dwellings and other related infrastructure and works with land reserved for health hub/GP Practice – resolution to approve but remains undetermined as S106 not completed.

21/02630/PREAPP – Proposed Extra Care comprising 170 units, shared communal facilities incorporating café/restaurant and well-being centre and GP surgery

23/03221/PREAPP – Residential development and erection of 70 bed care home.

13/00847/OUT – outline consent for Phase 2 Kingsmere for up to 709 dwellings including extra care. Subsequent reserved matters have been granted and the residential dwellings are now complete. An application for the extra care units is undetermined but anticipated to be issued shortly (23/03073/HYBRID)

## **5. PRE-APPLICATION DISCUSSIONS**

- 5.1. The following pre-application discussions have taken place with regard to this proposal:

23/03221/PREAPP – Residential development and erection of 70 bed care home.

5.2. In terms of the proposed residential development on the site, the NPPF supports the need to boost significantly the supply of housing. The site is in a highly sustainable location and forms part of an approved strategic allocation. In terms of design and appearance, the proposal to reflect the adjacent Kingsmere development is acceptable. Proposed building heights which are shown on the accompanying parameter plan to be up to 2.5 storeys (maximum height of 9.5m) for the residential dwellings and up to 3 storeys (maximum height 13m) for the care home are also considered to be in principle appropriate for the Kingsmere development. The location of the site offers good potential to make connections to the network of footpaths and cycleways through the remainder of the Kingsmere development and leading to Middleton Stoney Road and the town centre, but it is also considered that additional access points should be made to enable easy access to the Oxford Road frontage to encourage sustainable travel, including walking and cycling as well as access to bus stops. Consideration should also be given to providing a new footpath to the Oxford Road frontage to aid these links. To conclude, there is certainly the potential for the site to be brought forward for residential dwellings and a care home subject to confirmation from the ICB or Alchester Group of GPs that there is no longer an interest in developing the site as a new GP health hub.

## **6. RESPONSE TO PUBLICITY**

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **7 July 2025**, although comments received after this date and before finalising this report have also been taken into account.

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

- Concerned about access via Wincanton Road and negative impact on residents
- Noise and safety concerns for pedestrians and children due to construction traffic and lorries parking in road, road is not suitable for high volumes of construction vehicles or heavy plant equipment, temporary access via Oxford Road for construction would be more appropriate.
- Development could cause severe traffic bottleneck in Wincanton Road once completed. Wincanton Road is not wide enough to serve the development as it is often partially blocked by parked cars. Difficulty for refuse lorries and emergency services.
- Will likely delay the long over-due final surfacing of the roads if used for construction traffic
- On a positive note, it will provide alternative walking route to The Acorn pub rather than through Burger King and Starbucks.
- When purchased house were explicitly informed by the developer that no further houses would be built at the end of the road.
- Lack of privacy, loss of light and overlooking from new development, require screening.
- A health facility should still be the main focus, not a care home

- Schools are already at capacity
- Kingsmere needs better green spaces, too many houses being built but not enough greenery

6.3. Local Councillor: **Objection.** Breach of covenant which stipulates use of land for a health centre for growing population of Bicester and surrounding area. Loss of strategic health infrastructure. Contrary to Policy Bicester 12 and Infrastructure Delivery Plan which require provision of health facilities alongside residential development and NPPF which emphasises the need to plan positively for health and social infrastructure. Impact on community if healthcare not provided increasing travel times and reducing service quality. Application should be refused or alternatively the applicant must provide clear evidence of how equivalent healthcare provision will be secured within the locality, with binding commitments.

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

## 7. RESPONSE TO CONSULTATION

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

7.2. BICESTER TOWN COUNCIL: **raise concerns** due to flood risk associated with the site; access and traffic issues for current residents; infrastructure around medical provision of new residents; contribution towards the cemetery, S106 contributions to new school provision; overdevelopment of the site as there is insufficient green space and not enough play space for children; loss of trees on the site; inclusion of improvements to footpath and cycle network on land adjoining Oxford Road; uncertainty of site with blue boundary on shown maps not being consistent with site plan (red boundary).

7.3. CDC ENVIRONMENTAL PROTECTION: **No Objection** and comment as follows: Conditions recommended in respect of a Construction Environmental Management Plan, Contamination, Lighting and odour impact assessment to ensure that the care home is not affected by odour from the nearby Burger King and Starbucks. Happy with the content and findings of the noise and air quality reports.

7.4. CDC ECOLOGY: **Object** – the proposals do not sufficiently demonstrate that a net gain can be achieved from this site. The target condition of the grassland should be reduced, and the strategy should be amended to reflect a more realistic approach. The baseline of poor condition other neutral grassland should also be reviewed. A HMMP will need to be secured through S106.

**Update 30<sup>th</sup> October:** The Ecology Technical Note has addressed concerns regarding the grassland proposed for off-site BNG delivery. Whilst still uncertain how effective the public information boards will be in deterring people and dogs from entering the 'good condition' grassland, the technical note does include options for remedial measures and outlines how the grassland will be monitored and what actions will be taken if the habitat condition is not being achieved in line with BNG requirements. On that basis, it is considered sufficient information has been provided regarding their BNG strategy. As BNG is being delivered off-site, a Habitat Management and Monitoring Plan (HMMP) and monitoring fees must be secured through a Section 106 Agreement.

- 7.5. CDC URBAN DESIGN: **Comments** that the design code is well considered and user friendly but makes a number of comments to be addressed in terms of layout and design for further consideration.

Update 18<sup>th</sup> February: **Comments** that amended submission addresses comments in relation to heights, density parameters and design code, however, direct link from care home to the bus stop on Oxford Road has not been provided. It is best practice and hardwired into design policy and guidance to support active modes of transport over private vehicles, and in this particular case seems an obvious link and may be relied upon by care workers to access their place of work.

- 7.6. CDC STRATEGIC HOUSING: **Support** this proposal in principle as it has the potential to meet a range of identified affordable housing needs, including larger rented dwellings and a large wheelchair adapted bungalow. Would welcome discussions regarding the affordable housing mix and how the pressing need for larger wheelchair adapted dwellings can be achieved.

- 7.7. CDC LANDSCAPE SERVICES: No comments received

- 7.8. CDC RECREATION AND LEISURE: Contributions are sought through S106 for community hall facilities - £123,428.86; outdoor sport £315,016.00; indoor sport £42,681.00; Community Development Worker £18,724.80; Community Development Fund £6,615.00 and Public Art £36,960.00

**Update 10<sup>th</sup> November 2025:** Following queries from the agent the figures have been updated to account for one occupant per care home room as follows: Community Hall Facilities for Care Home £34,450.16, Residential £79,349.54 = £113,799.70; Outdoor Sport for Care Home £87,699, Residential £202,547 = £290,246; Indoor Sport for Care Home £33,266 and Residential £76,735 = £110,001.

**Update 1<sup>st</sup> December 2025:** Following further correspondence from agent regarding the indoor and outdoor sports provision which they are argued was not CIL compliant in respect of the care home as the residents would not use these facilities due to their age and amount of care needed. Considered that a contribution still required from care home because they will have access to facilities at Bicester Leisure Centre and provision of sports facilities for more elderly residents such as walk football.

**Update 26<sup>th</sup> January 2026:** Following further correspondence and supporting documents from the agent regarding indoor and outdoor sports contributions for the health care facility stating that the development will be largely self-contained and that all facilities will be provided on site and residents are unlikely to use public facilities. It is agreed that if the residents of the care home facility will require full-time care and will not have the ability to leave the care home independently that the contribution towards the C2 facility be omitted, but should the care home come forward with independent accommodation, a contribution will be expected.

- 7.9. CDC BUILDING CONTROL: **Comment** that Building Regulations approval will be required for the development.
- 7.10. CDC ECONOMIC GROWTH: No Comments received
- 7.11. CDC PLANNING POLICY: No comments received
- 7.12. CDC ARBORICULTURE: No comments received

7.13. OCC HIGHWAYS: **Objection**. Access design and connectivity; does not currently demonstrate that it would deliver safe and convenient access for all modes of travel as required by Para 115 of the NPPF; does not give priority to pedestrian and cycle movements as required by Para 117 of NPPF; fails to demonstrate that the development would not result in severe residual cumulative impact on the highway network, contrary to Para 116 of NPPF.

**Update 5<sup>th</sup> November: Objection** maintained as above.

**Update 26<sup>th</sup> February 2026: No objection** following further submitted documents and plans, specifically the *Summary of Highways Position Note dated 6 February 2026 which should be read in conjunction with OCCs previous responses* and subject to S106 contributions, S278 agreement and a number of recommended planning conditions.

7.14. OCC LEAD LOCAL FLOOD AUTHORITY: **No Objection** subject to conditions

7.15. OCC EDUCATION: **Require** S106 contributions of £791,863 for secondary education and £862,686 for Special Education

7.16. OCC ARCHAEOLOGY: **No Objection** subject to conditions regarding a staged programme of archaeological investigation and archaeological evaluation.

7.17. OCC WASTE MANAGEMENT: **No objection** subject to S106 contributions of £7452 towards Household Waste and Recycling Centres.

7.18. OCC FIRE SAFETY OFFICER: **Comment** that these works will be subject to a Building Regulations application and subsequent statutory consultation with the fire service to ensure compliance with the functional requirements of the Building Regulations.

7.19. ENVIRONMENT AGENCY: **No objection**

7.20. BOBICB: Request a contribution of £133,210 based on the additional floorspace necessary at the Montgomery Surgery or other primary care property to serve the additional population.

**Update 12<sup>th</sup> August 2025:** ICB is happy for the developer not to provide any onsite provision at Kingsmere but query whether the developer would be willing to fund new provision elsewhere instead (the cost of which would not be proportionate to the development proposed now).

7.21. THAMES WATER: **No objection** in respect of waste, foul water and surface water. In respect of the existing water network, TW has identified an inability of the existing network infrastructure to accommodate the needs of the proposal and therefore a condition is recommended requesting that no development be occupied until the upgrades required are in place.

7.22. ACTIVE TRAVEL ENGLAND: No comment as the application does not meet the statutory thresholds for its consideration.

7.23. BICESTER BIKE USERS GROUP: There is a very important issue regarding pedestrian and cycle connectivity linked to this development. OCC Local Cycling and Walking Infrastructure Plan for Bicester 2023 specifies segregated, off-road, pedestrian and cycle paths along the north side of Oxford Road. This development could permit the segregated paths to be delivered across the highway, but this may

need the provision of some land from within the application site, but the plans are not clear on this point.

**Update 3<sup>rd</sup> November:** In summary, it is essential for active travel, particularly cycling, that the applicant provide a connection directly from their site to BR10 and also contributes towards the delivery of segregated paths along the frontage of their site and to the stretch to the north to connect with to the remodelled junction with the Middleton Stoney Road.

7.24. THAMES VALLEY POLICE: No Comments received.

7.25. KINGSMERE RESIDENTS' ASSOCIATION: No Comments received.

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

- ESD1 – Mitigating and Adapting to Climate Change
- ESD3 – Sustainable Construction
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – SUDS
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD15 – The Character of the Built Environment
- ESD17 – Green Infrastructure
- BSC3 – Affordable Housing
- BSC4 – Housing Mix
- BSC8 – Securing Health and Well-Being
- BSC10 – Open Space, outdoor Sport and Recreation
- BSC11 – Local Standards of Provision – outdoor recreation
- BSC12 – Indoor Sport, Recreation and Community Facilities
- SLE4 – Improved Transport and Connections
- INF1 - Infrastructure

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design Control Over New Development
- ENV12 – Contaminated Land
- TR1 – Transportation Funding

8.3. The District Council has prepared a 2042 Review Local Plan that has passed through Reg.18 and Reg.19 consultations and has now been submitted for

Examination (31 July 2025). Even though it has not been statutorily adopted, by virtue of its advanced stage of preparation and Council endorsement as adopted emerging strategy worthy of consideration at Examination, some weight must now be afforded to its policies and proposals, with the weight attributable dependent upon the level of objection and/or support offered in representations made in respect to the two rounds of public consultation. Emerging policies of relevance to this proposal are:

- Policy SP1: Settlement Hierarchy
- Policy CSD1: Mitigating and Adapting to Climate Change
- Policy CSD2: Achieving Net Zero Carbon Development – Residential
- Policy CSD5: Embodied Carbon
- Policy CSD6: Renewable Energy
- Policy CSD7: Sustainable Flood Risk Management
- Policy CSD8: Sustainable Drainage Systems
- Policy CSD11: Protection and Enhancement of Biodiversity
- Policy CSD12: Biodiversity Net Gain
- Policy CSD16: Air Quality
- Policy CSD17: Pollution and Noise
- Policy CSD18: Light Pollution
- Policy CSD19: Soils, Contaminated Land and Stability
- Policy CSD21: Waste Collection and Recycling
- Policy CSD22: Sustainable Transport and Connectivity Improvements
- Policy CSD25: The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- Policy COM1: District Wide Housing Distribution
- Policy COM2: Affordable Housing
- Policy COM3: Housing Size/ Type
- Policy COM4: Specialist Housing
- Policy COM5: Residential Space Standards
- Policy COM14: Achieving Well Designed Places
- Policy COM15: Active Travel – Walking and Cycling
- Policy COM17: Health Facilities
- Policy COM21: Meeting Education Needs
- Policy COM22: Public services and Utilities
- Policy COM23: Local Services and Community Facilities
- Policy COM24: Open Space, Sport and Recreation
- Policy BIC1: Bicester Area Strategy

#### 8.4. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide SPD (2018)
- Non-Statutory Cherwell Local Plan 2011
- Kingsmere Design Code Phase 1 2008
- CDC Planning Obligations SPD 2018
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

## 9. APPRAISAL

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

- Principle of development and planning history
- Design, and impact on the character of the area
- Transport Assessment and Highways
- Flood Risk and Drainage
- Residential amenity and Noise Assessment
- Ecology impact
- Sustainability
- Air Quality
- Mitigation of Infrastructure Impacts
- Planning Balance and Conclusion

### Principle of Development and Planning History

- 9.2. The Development Plan for Cherwell District comprises the saved policies in the adopted Cherwell Local Plan 1996 and adopted Cherwell Local Plan 2011-2031. 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 is material to the application, and to any material considerations. Section 38 of the Planning and 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 considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF) at paragraph 12 which makes it clear that the starting point for decision making is an up-to-date development plan.
- 9.3. The adopted Cherwell Local Plan 2011-2031 seeks to allocate sufficient land to meet District-wide housing needs. The overall housing strategy is to focus strategic housing growth in the market towns of Banbury and Bicester, and a small number of strategic sites outside of these towns including an allowance for housing in the rural areas. The delivery strategy for meeting the housing requirements is through existing extant planning permissions, local plan allocations and windfall sites. Whilst Policy BSC1 is now out of date insofar as the number of dwellings required to be delivered, the housing strategy remains relevant. The Cherwell Local Plan Review 2020 is a focussed plan to allocate land to meet Oxford's unmet housing needs.
- 9.4. Policy PSD1 'Presumption in favour of sustainable development' of the adopted Cherwell Local Plan 2011-2031 states that the council will take a proactive approach in seeking to deliver sustainable development across the district without delay. New development across the district is focussed primarily upon the towns of Bicester and Banbury whilst limiting development elsewhere in order to provide for the most sustainable form of growth over the plan period. 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 and built environment.
- 9.5. The site in question is identified as 'health village' land as part of a mixed-use development which was allocated as a strategic urban extension under Policy H13 of the non-statutory Cherwell Local Plan 2011. Planning permission was granted in 2008 and was implemented in 2010. The majority of the site is now built out and occupied. The healthcare site which is the subject of this application is the last

remaining parcel of land to come forward for development. One of the requirements of that policy was to 'provide opportunity for appropriate medical facilities to be provided in accordance with NHS requirements on a commercial basis'. The explanatory text advised that the components listed in the policy were essential to the proper planning of the locality in that they will provide services, employment and facilities for residents living in the new neighbourhood, to ensure new development is integrated into the town in a planned manner. The section 106 agreement accompanying the original outline (06/00967/OUT) requires that for a period of five years from implementation of the development or until first occupation of 1000 dwellings, whichever is the later, that best endeavours are used to market the site identified as the healthcare site for a community hospital, GP surgery and Medical Facility uses, which may include extra care elderly nursing home within Use Class C2.

- 9.6. The s106 accompanying 06/00967/OUT included an 'infrastructure contribution' of £600,000 index linked towards a number of infrastructure matters including 'the provision and/or improvement of social and health care infrastructure and/ or facilities servicing Bicester (including any day care centre for older people) etc (not all of this contribution would have been available for this use). The s106 accompanying Phase 2 of Kingsmere (13/00847/OUT) did not secure a health contribution.
- 9.7. Whilst the timescale for submitting reserved matters under 06/00967/OUT has now lapsed, the permission has been implemented and therefore the obligations within the Section 106 are still relevant. It should be noted that an expression of interest in purchasing and developing the site as a new GP health-hub was made at the end of 2017 by a group of Bicester GPs, prior to 1000 occupations. This interest was driven by the unsuitability of the current premises to cater for current and planned growth in service demand resulting from an aging and increasing population. It should also be noted that following the expression of interest there is no time limit in the Section 106 for seeking to achieve a sale before the land can be disposed of for alternative uses. Countryside is therefore bound by the obligation to secure a sale to the interested party for as long as that interested party (in this case the GPs) continue to hold an interest in the site.
- 9.8. An outline planning application was submitted in 2018 which sought consent for up to 57 dwellings on part of this site with the remainder to be retained for use as a new health hub and GP surgery (18/01721/OUT) refers. Whilst Members resolved to approve the application, a decision has not been issued, and the application remains held in abeyance as no section 106 has yet been agreed.
- 9.9. Further to the submission of the 2018 outline application and the expression of interest from the GPs, a subsequent planning application for a new health hub was submitted for land at Graven Hill as an alternative to the site at Kingsmere. That application was submitted as the GP's who had expressed an interest in the Kingsmere site considered the Graven Hill site to be a better alternative. Whilst it was resolved by the Planning Committee to grant planning permission, that application has now been withdrawn as the S106 had not been progressed.
- 9.10. In considering this application proposal, it should also be noted that the whole of the health village site (this application site) identified in the Kingsmere Phase 1 development extends to 2.69ha, but that the development only required 0.4ha of land to be set aside for a GP surgery. When considering the application above in 2018, the GP's advised that 0.4ha was not sufficient to accommodate their future needs and requested that a larger area of land be set aside for a new GP health hub. The health village land allocated and applied for through the original outline application also included 1.0ha for a new community hospital and the remainder of

the land for health-related uses, including an elderly care home. The new community hospital was provided on its original site off Kings End and therefore this facility is no longer required to be provided on this site.

- 9.11. Whilst North West Bicester includes a site for a GP surgery, this only extends to 0.2ha and has not yet come forward for development. BOBICB in their consultation response have advised that they no longer wish this site to be set aside for GP use and that there are other proposals for meeting the need elsewhere in Bicester. A contribution towards improvement to existing surgeries has been requested and is included in the planning obligation requests outlined below. The GP's who initially expressed an interest in the site for a new GP hub have not pursued their interest any further and have not purchased the site. The care home is an appropriate use for this site and accords with the original allocation, outline planning consent and S106 accordingly.
- 9.12. Policy BSC8 of the adopted Cherwell Local Plan 2011-2031 identifies that there is a need for more GP provision in Bicester and this site is in a highly sustainable location and would, if developed for care and GP purposes, be suitably located to serve both existing and new populations. Paragraph 101 of the NPPF is also relevant in seeking to ensure the delivery of such infrastructure to improve health and social well-being. As advised above however, the GPs have not pursued their interest in the site and therefore the requirements to set aside 0.4ha for a GP surgery under the 2006 S106 have now fallen away. Furthermore, BOBICB have also confirmed that they do not object to the proposals subject to a financial contribution secured through a S106 towards improvements to GP provision elsewhere in Bicester.
- 9.13. In terms of the proposal for up to 72 dwellings on the site, the NPPF supports the need to boost significantly the supply of housing to meet the full, objectively assessed need for housing and consequently requires LPA's to identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against requirements. The Council's current position on housing land supply is published in the December 2025 Annual Monitoring Report (AMR) which involved a comprehensive review of housing land supply within the District and confirms that Cherwell District Council can only demonstrate a housing land supply of 3.1 years.
- 9.14. This figure accounts for the land supply calculations for delivering housing sites measured against an identified need, including that for Oxford's unmet need. The land supply calculations are in light of the revised NPPF (December 2024) and an appeal decision at RAF Upper Heyford and the subsequent High Court decision for the appeal for which the judge ruled that a single housing land supply calculation for the whole district must be used, incorporating both Cherwell's own need and Oxford's unmet need.
- 9.15. Paragraph 11 (d) of the NPPF states that where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, planning permission should be granted unless:
  - i. The application of policies in this framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed;
  - ii. Or 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing

well designed places and providing affordable homes, individually or in combination.

- 9.16. Having regard to the above, the policies relevant to determining the application (in this case housing land supply policies) are out of date because the local planning authority cannot demonstrate a five year supply of deliverable housing sites. As outlined above, the council cannot presently demonstrate a five year housing land supply and therefore paragraph 11(d) of the NPPF which sets out the presumption in favour of sustainable development is engaged which sets out that the development should be approved unless there are strong reasons to refuse the development due to the application of policies from the Framework which protect areas or assets of particular importance or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
- 9.17. In conclusion therefore, having regard to the above, it is considered that the proposal for residential development and a new care home on this highly sustainable site within Bicester on a site that was previously allocated for development accords with the Development Plan and the NPPF. The principle of the development proposed is therefore accepted.

#### Design and Impact on the Character of the Area

- 9.18. Section 12 of the NPPF 'Achieving well designed places' attaches great importance to the design of the built environment and advises at paragraph 131 that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'.
- 9.19. Policy ESD15 of the adopted Cherwell Local Plan Part 1 2011-2031 advises that design standards for new development whether housing or commercial development are equally important and seeks to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The Cherwell Local Plan 1996 contains saved Policy C28 which states that control will be exercised over all new development including conversions and extensions to ensure that the standard of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development.
- 9.20. The application is accompanied by a Design and Access Statement and Design Code. Policy ESD15 advises that the design of all new development will need to be informed by an analysis of the context together with an explanation and justification of the principles that have informed the design rationale which should be demonstrated in the design and access statement that accompanies the application.
- 9.21. The appearance of new development and its relationship with its surroundings and built and natural environment has a significant effect on the character and appearance of the area. Securing new development that can positively contribute to the character of its local environment is therefore of key importance. The built residential development proposed within the submitted design and access statement is not dissimilar to the existing residential development on Kingsmere Phase 1 and is therefore acceptable in principle in this respect.
- 9.22. The submission was assessed by CDC Urban Design Officer who offered comments on the submitted parameter plans and design code. The applicant was advised to ensure the provision and delivery of appropriate pedestrian/cycle links to existing and a pedestrian link from the care home to the bus stop on Oxford Road. It was also advised that buildings up to 4 storeys should be considered to allow some

flexibility to mark the corner of the site/gateway, frame open spaces and provide higher densities where appropriate. It was also suggested that the density be increased to 35-40 dwellings per hectare which would be more consistent with the existing Kingsmere development.

- 9.23. In terms of the submitted design code, it was well-considered and user friendly but a number of matters were raised which required further consideration. It was considered that the main points were that the character area named Pingle Brook Edge should be adequately framed by the built frontage and that rear courtyards should be avoided, but where necessary should be clearly designed as private OR public spaces with good levels of active surveillance. Parking squares might also be an alternative for provision of parking to provide active surveillance. It was also advised that this phase of the Kingsmere development has its own character which takes the best from the adjacent character area to ensure a consistent approach, whilst also responding to the latest design guidance and context. Houses should not be deep plan as they do not reflect the Residential Design Guide or traditional local vernacular. Further information was also requested regarding boundary treatments, and in particular to Oxford Road.
- 9.24. A revised submission was received February 2026 which included a revised Design and Access Statement and Design Code which sought to address the matters raised by the Urban Design Officer and which have been reviewed accordingly. The majority of points raised have been addressed, however, the applicant has pushed back on the request for a direct pedestrian link from the care home to the bus stop on Oxford Road advising that residents are unlikely to use the bus due to the level of care they will need and that staff can use the footpaths nearby. Additionally, the applicant states that the access to the public footpath at the rear of the care home is poorly located, would require a passcode or key and would create security concerns. It is best practice and hardwired into design policy and guidance to support active modes of transport over the private motor vehicle and it is most regrettable that the applicant has declined to provide this link without overriding justification for not doing so.
- 9.25. Having regard to the above, the submission is considered acceptable as the application proposals are in outline only and full details will need to be provided at reserved matters stage. In terms of the footpath links to the surrounding footpath network and development, it is considered that a condition should be included which seeks provision of footpath links from both the residential element and the care home site be included with the reserved matters submissions. The proposals are considered to be in accordance with development plan policies and the NPPF and therefore acceptable in this respect.

#### Flood Risk and Drainage

- 9.26. The original outline consent advises that the surface water drainage system must be independent of the main network and provide surface water alluviation and storage within the plot, suitable for 100 year plus climate change events. The submission proposes an attenuation pond within the northeast corner of the site and is located within an area currently highlighted to be at risk of surface water flooding.
- 9.27. A Flood Risk Assessment has been submitted with the application and has been assessed by OCC drainage engineers who raise no objection to the proposals subject to the imposition of conditions which are included in the list of proposed conditions.
- 9.28. It is ultimately the Developer's responsibility for the provision of the Surface Water attenuation, using SuDS such that flows from the site are restricted prior to

discharge into Pingle Brook at a rate of 3.4 l/s. The exact size and location of the attenuation methods and vortex flow control device will be confirmed by the Developer at detail design stage, with further drainage calculations and any surface water storage to be beyond the fluvial flood line identified.

- 9.29. The Environment Agency have not objected to the application submission and the outfall location has been granted by the EA (Appendix C). The drawings show that the care home will be serviced by below ground storage crates, or similar located within the development land. The Care Home Developer is responsible for the provision of the Surface Water attenuation, using SuDS such that flows from the site are restricted prior to discharge into Pingle Brook. Details of the porous paving and filter trenches will be inspected and maintained by a private management company.
- 9.30. Thames Water have also assessed the submission and advise that as surface water will not be discharged to the public network, no objections are raised. However, should connection be subsequently sought to discharge surface water to the public network in the future, this would be a material change which would require an amended application. In terms of water supply, Thames Water has identified an inability of the existing water network infrastructure to accommodate the needs of this development proposal. A condition is therefore recommended to ensure that the necessary upgrades are provided prior to occupation of the development.
- 9.31. Having regard to the above, the proposals as submitted are acceptable and in accordance with the development plan and NPPF accordingly.

#### Residential Amenity and Noise Assessment

- 9.32. Paragraph 187 of the NPPF advises that '*planning policies and decisions should contribute to and enhance the natural and local environment by .....preventing new and existing development from contributing to, being put at unacceptable risk, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability*'.
- 9.33. Paragraph 198 of the NPPF also advises that '*planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development and in doing so should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life*'.
- 9.34. The amenities of the proposed residents could be affected by noise from the adjacent petrol station site, retail servicing site and the A41. The development will therefore need to be carefully designed having regard for the likely need for noise attenuation and means of attenuation or fencing along the southern and eastern boundaries and how development proposals might respond to this appropriately. This is a very open and visible development parcel and areas of attenuation fencing visible to the public domain are unlikely to be considered acceptable from a visual amenity point of view. Consequently, the application is accompanied by a Noise Impact Assessment produced by Create Consulting Engineers Ltd on behalf of the applicant. The report considers that the most prominent noise sources around the site are vehicular traffic along Oxford Road, servicing of the retail units and the adjacent fast-food outlets.
- 9.35. The report advises that based on the survey data; internal noise levels can be achieved with windows closed using standard techniques and standard glazing. The

entire area of the proposed residential development has been modelled to show that the whole of the residential area should be suitable for natural ventilation. The care home facility would be subjected to increased sound levels from Oxford Road, but this could be suitably mitigated through the implementation of a good acoustic design. The report also recommends that a solid acoustic barrier be installed at the perimeter of the site adjacent to the fast-food outlets.

- 9.36. The Noise Impact Assessment has been reviewed by Environmental Protection who advise that its content and findings are acceptable and would expect to see the detail of the orientation, location and external spaces, ventilation, glazing requirements for the care Home and any other mitigation required at the reserved matters stage.
- 9.37. Having regard to the above and careful positioning and orientation of buildings and dwellings at reserved matters stage, it is considered that with the appropriate mitigation, that development can be accommodated on this site. This will need to be designed as far as practicable, to achieve the desirable noise levels for acceptable residential amenity to avoid noise affecting the development that could give rise to significant adverse impacts upon residential amenities and therefore the health and well-being of future residents. The proposal is therefore considered to be in accordance with the NPPF, relevant legislation and the development plan in this respect.
- 9.38. It is further considered that subject to positioning and orientation of dwellings through the submission of reserved matters that the development proposed can be successfully accommodated on the site having regard to the residential amenities of existing and proposed new residents.

#### Ecology Impact

##### *Legislative context*

- 9.39. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.40. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.41. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.42. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot,

destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.43. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

9.44. A mandatory 10% net gain on-site would be required for this development in accordance with the requirements of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

#### *Policy Context*

9.45. Paragraph 180 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.46. Paragraph 186 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.47. Paragraph 191 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.48. Policy ESD10 of the Cherwell Local Plan 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to

accompany planning applications which may affect a site, habitat or species of known ecological value.

- 9.49. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.50. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.51. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.52. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

- 9.53. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site is close to a stream and there are a number of mature trees and hedgerows within and adjacent to the site, and therefore the site has the potential to be suitable habitat for bats, breeding birds, badgers, reptiles, great crested newts, water voles and invertebrates. In respect of the application site, the constraints have highlighted that swifts are within proximity of the site, and nesting Skylark (a declining farmland species) have been present on the site in the recent past.

- 9.54. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

- 9.55. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.
- 9.56. The application is supported by an Ecological Impact Assessment, Biodiversity Net Gain Assessment, BNG Metric and a Habitat Management and Maintenance Plan.
- 9.57. The above has been assessed by the Ecologist. The on-site BNG strategy includes the creation of modified grassland, urban trees, Sustainable Drainage Systems (SuDS), vegetated gardens and species-rich hedgerows. Additionally there is proposed enhancement of existing neutral grassland to achieve a 'moderate' condition. Subject to the implementation of a robust Habitat Management and Monitoring Plan (HMMP), these outcomes are considered achievable. The HMMP should be secured through a Section 106 Agreement to ensure long-term delivery and monitoring.
- 9.58. The majority of the BNG uplift is proposed to be delivered off-site within the wider Kingsmere development area. The strategy primarily involves enhancing areas of neutral grassland from 'poor' to 'good' condition. While this approach is acceptable in principle, a number of concerns were raised with the proposals. The areas proposed for enhancement will be accessible to the public and are part of a public park and garden. CDC Ecology does not support the creation of other neutral grassland in 'good' condition in areas that are subject to higher levels of disturbance – pedestrians, dog walkers, bikers etc. Even if the grasses are kept longer, if access to these areas is not restricted, the highest condition that we would expect the grassland to achieve is 'moderate'. Additionally, large sections of the grassland proposed for enhancement also appear to fit into the 'moderate' category already. Further justification for assigning a 'poor' condition was requested, including more detailed descriptions addressing each of the condition assessment criteria, supported by photographic evidence to clearly demonstrate the current 'poor' condition of the grassland. In summary the original submission did not sufficiently demonstrate that a net gain can be achieved for this site, the target condition of the grassland should be reduced and the strategy amended to reflect a more realistic approach and the baseline of poor condition other neutral grassland should also be reviewed.
- 9.59. The submitted Ecology Impact Assessment sufficiently covers ecological constraints and provides recommendations for avoiding, mitigating and compensating for impacts. These recommendations will need to be secured through conditions, including a CEMP, Biodiversity Method Statement or Enhancement Plan for species specific enhancements, including bird boxes, bee bricks, bat boxes and hedgehog highways and a Lighting Design for bats ensuring that there are dark corridors along the boundaries and commuting routes.
- 9.60. Following the comments above, an Ecology note dated 18<sup>th</sup> August 2018 was submitted to respond to the matters raised and has been reviewed by the Ecologist. The note explaining the 'poor' condition grassland provides a clearer rationale for the baseline assessment. The grassland has been assessed in poor condition but would be 'moderate' condition with just 1% more bare ground or 1% less of suboptimal species meaning that this is very much on the edge of poor and likely closer to moderate. However, the ecologist on site has assessed the grassland as poor and provided rationale in line with survey guidelines and so this has been accepted.

- 9.61. Concerns remain however around the proposed creation of other neutral grassland in 'good' condition as we need to be confident that the areas proposed in 'good' condition won't be subject to regular disturbance as if they are it is unlikely that the habitat will reach or maintain that condition. The applicant was therefore asked to provide further detail on how the grassland will be managed to meet the 'good' condition criteria for 30 years, as required by BNG particularly how public access will be limited. To meet 'good' condition, the grassland needs varied sward height – with at least 20% under 7cm and 20% over 7cm, so it can't be kept uniformly long. One option suggested is to maintain shorter areas centrally with longer edges. The areas will also need to be kept clear of dogs.
- 9.62. Following the above, an Ecology Technical Note was prepared by the Environmental Dimension Partnership Ltd (EDP) and updated Biodiversity Metric which provides supplementary information to support the application, and the off-site proposed biodiversity enhancement works. This has been reviewed by the Ecologist who advises that the Ecology Technical Note has addressed the concerns regarding the grassland proposed for the off-site BNG delivery. There remains some uncertainty about how effective the public information boards will be in deterring people and dogs from entering the 'good' condition grassland, but the technical note does include options for remedial measures. It outlines how the grassland will be monitored and what actions will be taken if the habitat condition is not being achieved in line with BNG requirements.
- 9.63. On that basis, it is considered that sufficient information has been provided regarding the BNG strategy. As BNG is being delivered off-site, a Habitat Management and Monitoring Plan (HMMP) and monitoring fees must be secured through a Section 106 Agreement.
- 9.64. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### Transport Assessment and Highways

- 9.65. The application as submitted is a hybrid, with the main access into the site to be considered as a detailed proposal, with all other matters, reserved.
- 9.66. Strategic Objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of travel and to increase opportunities for travelling by other modes. Policy ESD1 also aims to mitigate the impact of the development on climate change by delivering development that seeks to reduce the need to travel, and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 also has similar objectives. The transport impacts of the development must be considered against these policies and the requirements of Section 9 of the NPPF.
- 9.67. Paragraph 115 of the NPPF states that: *'In assessing sites that may be allocated for development in plans, or specific applications for development, it should ensure that:*
- *Sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location*

- *Safe and suitable access to the site can be achieved for all users*

9.68. Paragraph 117 of the NPPF goes on to state that applications for development should:

- *Give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use*
- *Create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards.*

9.69. OCC as Local Highway Authority assessed the initial submission and raised a number of objections, and these are discussed in more detail below.

9.70. Off-site improvements were previously requested by OCC in relation to the 2018 submission. In line with this, the applicant now suggests that they would accept the same following requirements with details to be presented at the Reserved Matters stage:

- Proportionate extension to the duration of the contract for the existing Kingsmere bus service (contributions to be sought via the s106)
- Provision of a pedestrian/cycle route along Oxford Road/A41 and pedestrian/cycle crossing on Middleton Stoney Road near Villiers Close and cycle facility between the informal crossing of Middleton Stoney Road near the junction with Oxford Road, linking to Kings End to provide for onward movements northwards from existing shared use cycle facility on Oxford Road.

9.71. OCC's approved Bicester Local Cycling and Walking Infrastructure Plan (LCWIP) identifies a segregated off-road facility along the western side of the Oxford Road and a pedestrian/cycle link from the eastern site boundary should provide a direct connection from the site through to the segregated off-road facility. Service cabinets currently constrain the western footway of Oxford Road and therefore land along the site's eastern boundary may be required for highway dedication. The adjacent development to the south is delivering a link along its frontage to Oxford Road and it is requested by OCC that this development must extend that link northwards to support a continuous off-road network in west Bicester.

9.72. In respect of the pedestrian/cycle link along the frontage and north of the development site, concerns were also raised by Bicester Bike Users Group (Bicester BUG) and they highlighted that if not provided, this would seriously undermine active travel to and from the proposed development and also hinder wider active travel connections in the local area.

9.73. In the interests of securing safe and secure walking and cycling links to facilities, OCC also seek contributions to the sum of £130,000 to widen the bridge to the north of the site, in order to facilitate connectivity to the Middleton Stoney Road scheme. A pedestrian/cycle scheme at the Middleton Stoney Road/Middleton Stoney Road junction has been secured as part of the Bicester Village development, however, this scheme has yet to come forward and therefore OCC request that this

application should also provide a proportionate contribution to the continuation of the segregated link to Middleton Stoney Road.

- 9.74. In terms of the vehicular access, OCC have requested clarification as to whether the proposed turning head for the care home is permanent or temporary and whether it will be altered when the residential phase is delivered. A continuous 2m footway must also be provided along the care home access and into the residential layout. Visibility splays were not indicated, and all junction and forward visibility splays must meet Manual for Streets standards for 20mph design speed and be dedicated to OCC of outside the existing highway boundary. A swept path analysis was also requested demonstrating an 11.6m refuse vehicle passing an oncoming car at the site access. OCC have also advised that a Traffic Regulation Order will also be required for proposed double yellow lines.
- 9.75. In terms of trip generation and impact, trip generation for the residential element references the undetermined 2018 submission, which is not acceptable as a baseline and full TRICS outputs and details of selection parameters have not been provided and must include commentary on selection criteria such as land use and location, accessibility, dwelling size and tenure and car parking provision. No network impact assessment or modelling has been undertaken due to reliance on outdated assumptions and therefore must be revisited with robust justification. The submission had not demonstrated that the proposed development would not result in severe residual cumulative impact on the surrounding road network (referencing NPPF paragraph 117).
- 9.76. Following the above comments and discussions with OCC Transport an addendum to the Transport Statement dated October 2025 provided by SLR Consulting Ltd was received and has been reviewed by OCC Transport who have identified a number of outstanding matters and therefore raised further objections as follows.
- Applicant has not yet confirmed agreement in respect of the bus contribution
  - Transport Statement Addendum (TSA) does not agree to the segregated pedestrian/cycle links as the moving of the utility equipment or incursion of highway land within the site and the latter would not be appropriate as part of the current planning application, contradicting the applicant's initial Transport Statement submission which suggested a willingness to deliver off-site improvements in line with the 2018 submission. OCC further advise that the TSA's reliance on access via Wincanton Road and Pioneer Way is not accepted as this route is circuitous, narrow, lacks dedicated cycle facilities and does not comply with LTN 1/20 guidance for providing appropriate protection from motor traffic suitable for most users.
- 9.77. Having regard to the above, OCC has reiterated that the proposed 3m+2m LTN compliant facility along the Oxford Road frontage is required to ensure compliance with paragraphs 115 and 117 of the NPPF, the Bicester LCWIP and OCC's LTCP. It is OCC's view that in order to provide the link, the application is required to safeguard circa 2m strip of land while the 3m will remain within the highway verge. Failure to deliver this link would result in severance and loss of connectivity, contrary to OCC's adopted policies for active travel.
- 9.78. In terms of the vehicular access, the care home will reportedly be serviced by a private waste contractor using a 7.5t vehicle or similar. Swept path analysis is required to demonstrate safe entry and exit movements and space where a car can safely stop to allow the vehicle through. Tracking for an 11.6m refuse vehicle should be provided if OCC is expected to service the site. Regarding the care home access, if beyond the first 15m is to be a private road, then a width of 4.8m is

satisfactory, however, if the entire access is to be adopted, a 5.5m carriageway is required. A TRO will be necessary and must be secured through a S106 Agreement.

- 9.79. The TSA continues to rely on outdated assumptions which is not acceptable but does acknowledge the need to update trip generation rates using new TRICS data which is supported in principle. While TRICS outputs are provided, compatibility with the selected sample sites has not been demonstrated (e.g. parking provision, accessibility, dwelling size, tenure and scale). For example, the TRICS sample of sites range from 26 to 1146 dwellings, which is not comparable in scale to the 72 dwellings proposed. The trip distribution methodology lacks justification, relying on historic data from another assessment (Vectos 2019), which referenced earlier development proposals and does not appear to represent current site conditions. The 'Traffic Distribution' figures in Appendix G raises queries, including an unrealistic proportion of site trips assigned to Whitelands Way and the B4030/A41 roundabout rather than the more logical Pioneer Way/Oxford Road signal junction as well as a higher overall assignment to the south and away from Bicester central. The applicant was advised to undertake a bespoke trip generation and distribution exercise based on current proposals, data and conditions. As submitted OCC considered that this revised assessment submitted in October 2025 failed to demonstrate that the development would not result in a severe residual cumulative impact on the highway network, contrary to Paragraph 116 of the NPPF.
- 9.80. Further to the above, a Highways Technical note was provided for assessment to OCC on 4<sup>th</sup> February 2026. The amended drawings also show a refinement to the northern site boundary to incorporate the previously indicated pedestrian footpath connections across land owned by the applicant. This facilitates improved pedestrian access to the existing Pingle Brook footpath. In addition, the safeguarded strip identified on the drawings is proposed to be secured through a S106 Agreement and subsequently transferred to OCC. This submission has been reviewed by OCC who now advise that the previous objections have now been addressed and provide further comments below and also addresses the objection raised by Bicester BUG in this regard.
- 9.81. The proposed site access arrangement is via an extension to the stub end of Wincanton Road as set out within Drawing Number PD04 Rev A. In relation to the Care Home access, what is being proposed is that the first 15m is being offered for adoption and beyond this it shall be a private road. The proposed Care Home carriageway width of 4.8m is satisfactory for a private street (this is in comparison to a carriageway width requirement of 5.5m were the road to be adopted). The applicant has also confirmed that the Care Home is to be serviced by a private waste contractor (typically using a 7.5t vehicle or similar) as opposed to using public services (11.6m refuse vehicle) and the layout has been designed accordingly.
- 9.82. The previously requested Road Safety Audit Stage 1 and the Designers Response remain outstanding, however, in this instance, due to no material concerns being raised in relation to the proposed layout it is considered appropriate to defer the RSA to the S278 and S38 stages. A Traffic Regulation Order will be required for the proposed double yellow lines which will be considered through the S106.
- 9.83. Having regard to the above and following negotiation with OCC and the submission of revised documents and plans the application is now considered acceptable in transport terms and is therefore in accordance with the development plan and NPPF in this respect.

Sustainability

- 9.84. Sustainability is one of the key issues at the heart of the NPPF and is also sought by Policies ESD1 to ESD5 of the Cherwell Local Plan 2011-2031. The proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable modes of transport, including walking and cycling along with utilising sustainable construction methods and measures to reduce energy consumption.
- 9.85. The submission references that the residential element will be incorporated within the Travel Plan document for the wider Kingsmere development. However, as this is a separate application, a separate travel plan will be required. A Travel Plan will also be required for the Care Home. These will need to be provided and agreed prior to first occupation but can be dealt with by condition.
- 9.86. In terms of footpath and cycle links, the Design and Access Statement advises that the proposals will place an emphasis on cycle and pedestrian movement and that block structure together with appropriate links to the adjacent residential parcels and existing public rights of way within Pingle Brook open space creates permeability and therefore will encourage walking and cycling.
- 9.87. It is accepted that the site offers good potential to make connections to the network of footpaths through the remainder of the Kingsmere development and leading to Middleton Stoney and Oxford Roads, but it is also considered that an additional access point should be provided from the care home site on the desire line to Oxford Road and the bus stop. Whilst this is not currently proposed it is considered that any subsequent reserved matters application makes appropriate connections to both the existing Kingsmere development and Oxford Road.
- 9.88. An Energy and Sustainability Report has been submitted with the application. In terms of energy, it advises that the proposed development will be designed with the aim to reduce energy demand through passive design measures and a fabric first approach before utilising low carbon energy and the production of on-site renewable energy. In terms of water efficiency, it is suggested that a condition be included to secure the higher level of water efficiency specified in Policy ESD3 of the Cherwell Local Plan 2011-2031.

#### Air Quality

- 9.89. Kings End which is in close proximity to the development site is an Air Quality Management Area which was designated in 2015. In 2024 following discussions with the district council the applicant was advised that any submission must be accompanied by an Air Quality Assessment Report which must include the impact of air quality at receptor locations within the proposed development but must also consider the impact of additional movements associated with the proposed development on levels within the Air Quality Management Area. Any appropriate mitigation measures relating to Air Quality may need to be included within a Section 106 Agreement.
- 9.90. Consequently, the application is accompanied by an Air Quality Assessment Report produced by Create Consulting Engineers on behalf of the applicant. The report concludes that during the construction phase of the development there is the potential for air quality impacts because of fugitive dust emissions from the site. Assuming that good practice dust control measures are implemented, the residual significance of potential air quality impacts from dust generated by construction phase activities was predicted to be negligible. For all pollutants modelled, the development will have negligible impact on the existing receptors within the AQMA and on future users, in line with EPUK-IAQM guidance. The modelled results show predicted annual mean NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations at all receptor

locations were below the relevant AQO in the future year scenario, 2030. The location is therefore considered suitable for the proposed use without the implementation of mitigation techniques for these pollutants.

- 9.91. The report has been assessed by Environmental Protection who advise that the content and findings are acceptable. It is therefore considered that there is unlikely to be any additional adverse impact on air quality as a consequence of the development. The development is therefore in accordance with the NPPF and associated legislation in this respect.

#### Mitigation of Infrastructure Impacts

- 9.92. Due to the scale and residential nature of the proposed development, it is considered that the proposal is likely to place additional demand on existing facilities and services and local infrastructure, including schools, community halls, public transport, play provision, open space and health. Affordable housing will also need to be secured as part of the development. The proposals generate a need for infrastructure contributions to be secured through a planning obligation to mitigate these impacts and enable the development to proceed. In respect of planning obligations, the NPPF advises at paragraph 58 that they should only be sought where they meet the following tests.

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and
- Fairly and reasonably related in scale and kind to the development

- 9.93. Policy INF1 of the adopted Cherwell Local Plan 2011-2031 states that development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, health, social and community facilities. Contributions can be secured via a Section 106 Agreement provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.

- 9.94. Officers are seeking the agreement of Planning Committee to secure the following Heads of Terms in the S106.

#### District Requirements

- 30% affordable housing provision on site
- Maintenance costs of attenuation
- LAP provision on site together with maintenance costs
- Public open space provision on site together with maintenance costs
- Outdoor sport contribution for residential dwellings
- Indoor sport contribution for residential dwellings
- Community facilities contribution
- Public art contribution
- Bins and recycling contribution

- BNG and HMMP
- BOBICB contribution of £133,210 towards the creation of additional clinical capacity at Montgomery House Surgery or an identified primary care estates project in the local area to serve the development.
- Monitoring costs

#### OCC Requirements

- Highway works of £130,000 towards widening bridge to the north of the site along Oxford Road
- Public Transport Services to extend the operation of the bus service of £127,375.60
- Traffic Regulation Order - £4,224 for proposed yellow lines along Wincanton Road
- Travel Plan Monitoring for care home of £3,347
- Safeguarding a strip of 1m wide strip of land to assist in facilitating future active travel infrastructure along Oxford Road (refer to Dwg No TOR-PP002 Rev E)
- Secure and deliver pedestrian/cycle connections to the external network (refer to Dwg No TOR-PP002 Rev E)
- Secondary Education £791,863
- Special Education £70,823
- Household Waster and Recycling Centre £7,452
- Monitoring Costs

9.95. It is considered that the above requirements meet the relevant tests and are necessary to ensure that the development proposed would not have a detrimental effect on local amenity and the quality of the environment and the need to ensure that all new development is sustainable as required by the Development Plan and Government advice in the NPPF.

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the Framework. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm.

10.2. The proposed development is located within the built-up limits of Bicester, close to existing services and is also part of a sustainable urban extension granted consent in 2008 under the Non-Statutory Cherwell Local Plan, with a later extension granted permission in 2017. The development will boost the delivery of housing within the district, including the delivery of affordable housing and elderly care on a highly sustainable site. In the absence of a five year housing land supply, these benefits weigh significantly in favour of the scheme.

10.3. The development would result in the loss of the healthcare site. However the land has been available and no GP practice has pursued opportunities to propose delivery of a health facility on the site. In addition, the ICB have now not objected to the loss of the site for healthcare and have sought a proportionate contribution towards improvements to health facilities elsewhere in Bicester. As such, it is not considered necessary to continue to resist alternative development on the site. Indeed the proposed care home aligns to the opportunity for care on this site.

10.4. The site has been considered acceptable in all other respects subject to planning conditions and a s106 and in the absence of consultee objection, the benefits to deliver the scheme would significantly and demonstrating outweigh any adverse impacts that the scheme would result in.

10.5. Accordingly, having regard to the above, it is considered that the proposals complies with the development plan and NPPF and is considered to be acceptable sustainable development.

## **11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING TO GRANT PERMISSION, SUBJECT TO**

- i. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- ii. THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE MITIGATION SET OUT AT PARAGRAPH 9.94 (AND ANY AMENDMENTS AS DEEMED NECESSARY).**

**FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 10 April 2026 IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

- 1. In the absence of a signed unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure provisions and contributions related to affordable housing, open space, highways, education, health and other social infrastructure, necessary to make the impacts of the development acceptable in planning terms. The proposal therefore runs contrary to Policies, BSC 3, BSC 7, BSC8, BSC 10-12, SLE 4 INF1 of the Cherwell Local Plan (2015) and Policies CSD 22-23, COM 2, COM 15 -17 COM 20-21, COM 23-24 of the Cherwell Local Plan Review (2042), Cherwell District Council's Developer Contributions Supplementary Planning Document (2018) and Government guidance within the National Planning Policy Framework.**

### CONDITIONS

#### **Time Limit**

- 1. The development to which this permission relates in respect of the proposed**

access into the site shall be begun not later than the expiration of three years beginning with the date of this permission.

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

2. Application for the approval of all reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure (England) Order 2025 (as Amended).

3. Details of the layout, scale appearance, access and landscaping (hereafter referred to as the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and Article 6 of the Town and Country Planning (Development Management Procedure (England) Order 2015 (as amended).

#### **Compliance with Plans**

4. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the form and following approved plans and documents: Air Quality Assessment Rev C dated April 2025; Arboricultural development Statement dated May 2025; Habitat Maintenance Management Plan; Biodiversity Net Gain Assessment; Ecological Impact Assessment dated May 2025; Ecology Note dated 15<sup>th</sup> August 2025; Ecology Technical Note produced by EDP dated 2<sup>nd</sup> October 2025; Foul and Surface Water Drainage Strategy Rev D; Energy and Sustainability Statement Noise Impact Assessment Rev E; Transport Statement; Transport Statement Addendum Rev I dated October 2025; Flood Risk Assessment Rev C; Planning Statement; Amended Design and Access Statement; Design Code Version 3; Drawing Numbers: Layout drawing 180601 U19C-SK011; 874/02/709/D; Turning and Swept Path Analysis PD04 Rev A; Red Line boundary PPoo1 Rev A; Site Location Plan; Blue Line boundary; Illustrative Masterplan; Parameter Plans – land use, residential and building heights; swept path analysis refuse PD03 AT01.

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

5. No part of the development hereby permitted shall take place until a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model has been carried out by a competent person and in accordance with DEFRA and the Environment Agency's Land Contamination Risk management (LCRM) and has been submitted to and

approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

Reason; To ensure that risks from land contamination to future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with saved Policy ENV12 of the Cherwell Local Plan 1996 and government guidance within the National Planning Policy Framework.

6. If a potential risk from contamination is identified as a result of the work carried out under condition 5 above, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's Land Contamination Risk Management (LCRM) and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with saved Policy ENV12 of the Cherwell Local Plan 1996 and government guidance within the National Planning Policy Framework.

7. If contamination is found by undertaking the work carried out under condition 6 above, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency/s Land Contamination Risk Management (LCRM) and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with saved Policy ENV12 of the Cherwell Local Plan 1996 and government guidance within the National Planning Policy Framework.

8. If remedial works have been identified in condition 7 above, the development shall not be occupied until the remedial works have been carried out in accordance with the scheme approved under condition 7. A verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with saved Policy ENV12 of the Cherwell Local Plan 1996 and government guidance within the National Planning Policy Framework.

9. Prior to the commencement of the development, an odour impact assessment following the IAQM Guidance on the assessment of odour for planning (latest version) will be required due to the proximity of the proposed development to the nearby commercial food premises and service station. Should mitigation be required the approved system shall be installed and operated in accordance with the approved scheme at all times the building is in use for the purposes hereby permitted.

Reason: To protect the amenities of nearby residents and the character of the area and to comply with saved Policy ENV1 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

10. Prior to the first use of the development hereby approved, details of the external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first use of the development hereby approved the lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason: In the interests of visual amenity and highway safety and to protect the amenities of nearby residents and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C28 and ENV1 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

11. No development shall be occupied until confirmation has been provided that either:
- all water network upgrades required to accommodate the additional demand to serve the development have been completed; or
  - a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied. Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

Reason: The development may lead to no/low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development.

12. Construction shall not begin until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:

- A compliance report to demonstrate how the scheme complies with the 'Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire'
- Full drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change
- A Flood Exceedance Conveyance Plan
- comprehensive infiltration testing across the site to BRE DG 365 (if applicable)
- detailed drainage design layout drawings of the SUDS proposals including cross-section details
- detailed maintenance management plan in accordance with Section 32 of

CIRIA C753 including maintenance schedules for each drainage element, and

- details of how water quality will be managed during construction and post development in perpetuity
- confirmation of any outfall details
- consent for any connection into third party drainage systems

Reason: To ensure development does not increase the risk of flooding elsewhere, in accordance with Paragraph 155 of the National Planning Policy Framework and Local and National Standards.

13. Prior to first occupation, a record of the installed SUDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:

- as built plans in both .pdf and .shp file format
- photographs to document the completed installation of the drainage structure on site
- the name and contact details of any appointed management company information

Reason: In order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

14. Prior to any demolition and the commencement of the development a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority'

Reason: To safeguard the recording of archaeological matters within the site in accordance with the NPPF 2024.

15. Following the approval of the Written Scheme of Investigation referred to in condition 14, and prior to any demolition on the site and the commencement of the development (other than in accordance with the agreed Written Scheme of Investigation), a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the Written Scheme of Investigation. The programme of work shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority within two years of the completion of the archaeological fieldwork.

Reason: to safeguard the identification, recording, analysis and archiving of heritage assets before they are lost and to advance understanding of the heritage assets in their wider context through publication and dissemination of the evidence in accordance with the NPPF 2024.

16. Prior to first occupation a Travel Plan Statement and Residential Travel Information Pack which shall meet the criteria contained within the template in appendix 4 of the OCC guidance document Transport for New Developments – Transport Assessments and Travel Plans March 2024, shall be submitted to and approved in writing by the Local Planning Authority. The Residential Travel

Information Pack shall be distributed to all residents at the point of occupation, the development shall be occupied thereafter in accordance with the approved Travel Plan.

Reason: In the interest of sustainability and to ensure all residents and employees are aware from the outset of the travel choices available to them and in accordance with Government guidance within the National Planning Policy Framework

17. Prior to first occupation a full Travel Plan for the care home shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be updated within 3 months of full occupation once a robust survey opportunity is available and submitted to and agreed in writing by the Local Planning Authority. The content of the travel plan should meet the criteria contained within appendix 5 of the OCC guidance document. The development shall thereafter be occupied in accordance with the approved Travel Plan.

Reason: In the interests of sustainability and to accord with Government guidance within the National Planning Policy Framework.

18. Prior to first occupation, a Service and Delivery Management Plan for the care home shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Service and Delivery management plan.

Reason: In the interest of highway safety and to accord with Government guidance within the National Planning Policy Framework.

19. Prior to the commencement of any development on the site, a Construction Environment and Traffic Management Plan (CETMP) shall be submitted to and approved in writing by the Local Planning Authority. The CETMP shall include the following:

- details of wheel cleaning/wash facilities, to prevent mud from being carried onto the adjacent highway by vehicles
- contact details of the Project Manager and Site supervisor responsible for on-site works
- details of how appropriately trained banksmen will be used for guiding vehicles and unloading
- details of where staff and visitors to the construction site will park
- details of times for deliveries to and the removal of materials from the site
- layout plan of the site that shows haul roads, site storage, compound and pedestrian routes
- Measures to control the emission of dust and dirt during construction;
- Delivery, demolition and construction working hours;

The development shall be undertaken in accordance with the approved CETMP.

Reason: In the interests of highway safety and 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, and in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

20. No development shall commence unless and until full details of the means of

access between the land and the highway, including position, layout, construction, drainage and vision splays have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in strict accordance with the approved details and shall be retained and maintained as such thereafter. Agreed vision splays shall be kept clear of obstructions higher than 0.6m at all times.

Reason: In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

21. The vision splays shall not be obstructed by any object, structure, planting or other material of a height exceeding 0.6m measured from the carriageway level.

Reason: In the interest of highway safety and to comply with government guidance within the National Planning Policy Framework.

22. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details, which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance within the National Planning Policy Framework.

23. Prior to the first occupation of the development, a scheme for the provision of vehicular charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the unit they serve and retained as such thereafter.

Reason: To comply with Policies SLE4, ESD1, ESD3 and ESD5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework.

24. No development shall commence until a Biodiversity Method Statement or Enhancement Plan has been submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancement measures approved shall be carried out prior to first occupation of the development and shall thereafter be retained in full accordance with the approved details.

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

25. No development shall commence (including demolition, ground works, vegetation clearance) unless and until a Construction Environmental Management Plan (CEMP Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP Biodiversity shall include as a minimum

- risk assessment and mitigation of potentially damaging construction activities

- identification of 'Biodiversity Protection Zones'
- practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- the location and timing of sensitive works to avoid harm to biodiversity features
- the times during construction when specialist ecologists need to be present on site to oversee works
- responsible persons and lines of communication
- the role and responsibilities on site of an ecological clerk of works or similarly competent person
- use of protective fences, exclusion barriers and warning signs

The approved CEMP Biodiversity shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

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

26. Prior to the commencement of development a lighting design for bats as detailed in the Ecological Impact Assessment Section 7 shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

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

27. The care home hereby approved shall be a C2 use only in accordance with the application submitted.

Reason: To ensure that the development is carried out in accordance with the submission and ensure the provision of sufficient infrastructure in accordance with government guidance within the NPPF.

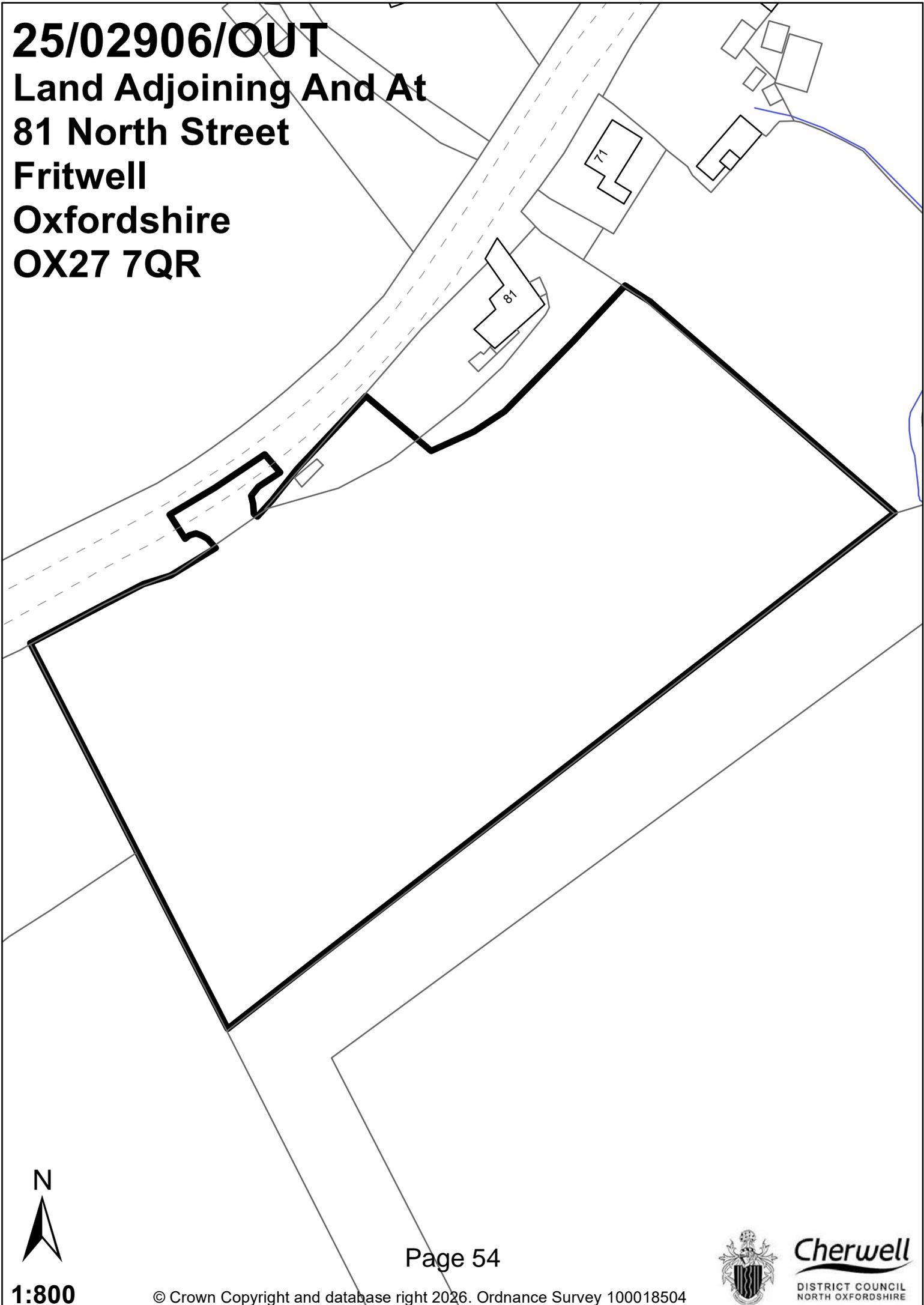
28. The reserved matters applications shall be accompanied by a detailed energy and sustainability report which sets out the energy and water efficiency proposals for the development. The development shall be carried out in accordance with the approved document.

Reason: In the interests of sustainability and to accord with Policy ESD3 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

**25/02906/OUT**  
**Land Adjoining And At**  
**81 North Street**  
**Fritwell**  
**Oxfordshire**  
**OX27 7QR**



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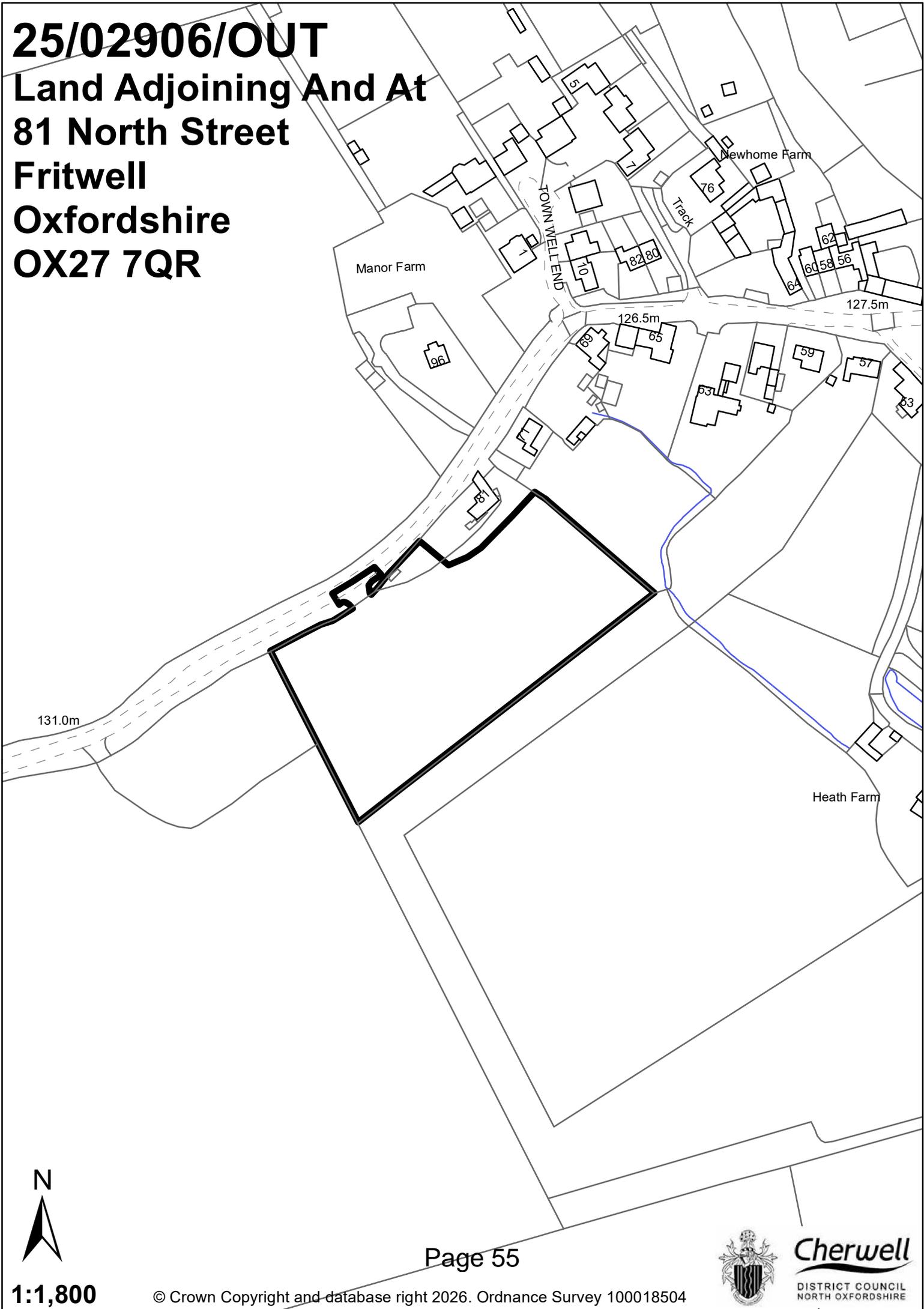


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**25/02906/OUT**

**Land Adjoining And At  
81 North Street  
Fritwell  
Oxfordshire  
OX27 7QR**



**Case Officer:** Michael Sackey

**Applicant:** BHK Preston Ltd

**Proposal:** Outline application for the erection of 12 No dwelling houses with All Matters Reserved except for Access and Layout

**Ward:** Deddington

**Councillors:** Councillor Zoe McLernon, Councillor Edward Fraser Reeves and Councillor David Rogers

**Reason for Referral:** Major development of 10+ dwellings

**Expiry Date:** 30 March 2026                      **Committee Date:** 26 March 2026

**SUMMARY RECOMMENDATION: REFUSE PERMISSION**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application relates to part of a green field located to the rear of 81 North Street at the western edge of the village of Fritwell. The site lies within the Mid-Cherwell Neighbourhood Plan Area. The site falls outside of the settlement area defined by the Mid-Cherwell Neighbourhood Plan Area.

**2. CONSTRAINTS**

2.1. The site is outside the Fritwell Conservation Area which lies immediately to the north and east of the site. The site is within the setting of number of listed buildings namely Wheatcroft, St Olaves Church and Heath Farmhouse. The site is within an area of archaeological interest. A Public Rights of Way (ref. Footpath 219/9/10) traverses south and west of the site. There are records of protected and notable species (including: Badgers) as being present within the vicinity of the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. This application seeks outline planning permission for the erection of 12no dwellings. Approval is sought for access and layout, with scale, appearance and landscaping reserved for future consideration.

3.2. The current application follows the refusal of earlier Permission in Principle (PIP) application (Ref. 24/00698/PIP) and also the previously withdrawn

scheme application (Ref: 22/01807/OUT), which was withdrawn prior to a decision of refusal being issued. The nature of the development proposal is similar to the PIP application as previously considered albeit with a greater quantum of development now being proposed, i.e. 12 units as opposed to up to the 7-9 units previously proposed.

3.3. Drawings numbered V25-125-SLP03 Rev A, V25-125-SBP03 Rev D and V25-125-SBP04 Rev P2 have been submitted in relation to the proposed layout, and drawing no. V25-125-P01 Rev C) provides an indicative street scene view of the development. The indicative details are further expanded upon in the supporting Design and Access Statement (DAS) and planning statement.

3.4. Whilst not for consideration at this stage, DAS and (Drwg. No. V25-125-SBP03 Rev D) and set out that the proposed development would look to provide a mix of 2, 3, 4 and 5-bedroom dwellings.

- Plot 1 - 192m<sup>2</sup> (4 bed)
- Plot 2 - 93m<sup>2</sup> (3 bed)
- Plot 3 - 104m<sup>2</sup> (3 bed)
- Plot 4 - 79m<sup>2</sup> (2 bed)
- Plot 5 - 93m<sup>2</sup> (3 bed)
- Plot 6 - 115m<sup>2</sup> (4 bed)
- Plot 7 - 196m<sup>2</sup> (3 bed)
- Plot 8 - 205m<sup>2</sup> (5 bed)
- Plot 9 - 79m<sup>2</sup> (2 bed)
- Plot 10 - 79m<sup>2</sup> (2 bed)
- Plot 11 - 215m<sup>2</sup> (5 bed)
- Plot 12 - 186m<sup>2</sup> (4 bed)

3.5. *Timescales for Delivery*: The applicant/agent has advised that: "...we are happy to reduce the period from 3 years to 2 years to get this project implemented and built out".

3.6. The application relates to email and amended plans received on (09.02.2026) at 14:52hrs reference "V25-125-SBP03 Rev D" and "V25-125-SBP04 Rev P2". The amended plans were submitted in response to the objection and comments of the Highways Officer.

3.7. The application relates to email and amended plans received on (11.02.2026) at 10:16hrs reference "CHERRYFIELD ECOLOGY - For the Site of: Land Adjoining And At 81 North Street Fritwell Oxfordshire OX27 7Q (Final - 10/02/2026)", "CHERRYFIELD ECOLOGY - For the Site of: Land Adjoining And At 81 North Street Fritwell Oxfordshire OX27 7Q (Final - 09/02/2026)", "Copy of Statutory Biodiversity Metric Condition Assessments - July 2025 - Land Adjoining And At 81 North Street Fritwell Oxfordshire OX27 7QR", "Copy of Statutory Biodiversity Metric Condition Assessments - July 2025 - Land Adjoining And At 81 North Street Fritwell OX27 7QR (AS PROPOSED)" and "Copy of Statutory Biodiversity Metric Condition Assessments - July 2025 - Land Adjoining And At 81 North Street Fritwell Oxfordshire OX27 7QR). The additional information was submitted in response to the objection and comments of the Ecology Officer. The assessment and

determination of this application is based on the amended plans and additional documents and information.

#### 4. RELEVANT PLANNING HISTORY

4.1. The following planning history is considered relevant to the current proposal:

**Application: 19/02162/F** Permitted 13 December 2019

Alterations to 81 North Street and the erection of a linked dwelling (3-bed) & associated works

**Application: 22/01807/OUT** Application Withdrawn 22 August 2022

Outline application with all matters reserved for extension to cottage to form pub & cafe / restaurant and 40 no dwellings

**Application: 23/00803/TCA** Permitted 4 May 2023

Supporting Documentation Attached

**Application: 24/00698/PIP** Appeal Dismissed (Against Refusal) 2 May 2024

Permission in Principle - proposed 7-9 dwellings

**Application: 25/01417/F** Permitted 3 September 2025

Variation of Condition 2 (plans) of 19/02162/F - revision to approved drawings

#### 5. PRE-APPLICATION DISCUSSIONS

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

#### 6. RESPONSE TO PUBLICITY

6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **3 December 2025**, although comments received after this date and before finalising this report have also been taken into account.

6.2. 14 letters of objection and 0 letters of support were received following the publicity of the application. The comments raised by third parties are summarised as follows:

##### *Principle of development*

- Appropriateness of the application in terms of location and the context of the village

- Health and safety hazard and environmental impact of adjacent site
- The village has already provided land for development that exceeds the quota in the regional development plan.
- Sustainability; limited local services and loss of facilities
- Material consideration of emerging evidence for the new local plan and review of the Category A status of the village.
- No justification for development
- The application in Principle raises many of the issues that the previous application for a larger development raised.
- The site is not within the village and is part of the open countryside, lies outside the built-up area of the village, and the defined settlement boundary.
- Contrary to NPPF, the Cherwell Local Plan, Mid Cherwell Neighbourhood Plan and the Fritwell Conservation Area appraisal.

*Impact on visual amenity/landscape/views*

- Impact on rural surroundings
- Light pollution
- Impact on landscape and views
- Scale
- Out of keeping with local area
- Site levels
- Impact on public footpath

*Other impacts*

- Impact on character and appearance of Conservation Area
- Impact on historic setting and Grade II Listed Buildings
- Impact on Greenfield, Wildlife corridor and Ecology
- Archaeological impact
- Impact on neighbouring amenity
- Highway safety
- Impact on sewage system already at capacity

- Lack of streetlights and pavement

*Other matters raised*

- Previous issues raised within the previous appeal dismissal has not been addressed
- Disregard for previous permission.
- Likelihood of compliance with any permission granted.
- Concerns with the practices of the developer

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

## **7. RESPONSE TO CONSULTATION**

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

7.2. FRITWELL PARISH COUNCIL: **Objects** on the grounds of Planning history and precedent, Mid Cherwell Neighbourhood plan, Location of development, Highway safety, appropriateness of land for development, infrastructure issues and rapid growth with declining amenities.

7.3. CDC RIGHTS OF WAY – **No objections**

7.4. CLINICAL COMMISSIONING GROUP – **Objection**, unless developer contributions of £10,874 towards the creation of additional clinical capacity at Deddington HC or an identified primary care estates project in the local area to serve the development is secured through a section 106 agreement.

7.5. OCC ARCHAEOLOGY – Implementation of an archaeological field evaluation required, prior to determination of application

7.6. CDC Drainage – **No objections**

7.7. CPRE – **Objections** on the grounds of dismissed appeal, impact on heritage assets, conflict with Policies ESD15, COM 13 of emerging local plan, light pollution and impact on ecology,

7.8. CDC RECREATION AND LEISURE – **No objections** subject to contributions towards community hall facilities, off-site outdoor sport contributions, off-site indoor sport contributions and public artwork

7.9. CDC BUILDING CONTROL – **No objections**, the proposal is subject to the Building Regulations and will require an application to be submitted to a Building Control body for approval.

- 7.10. CDC ENVIRONMENTAL HEALTH – **No objections** subject to conditions on Construction Environmental Management Plan (CEMP) and contaminated land.
- 7.11. THAMES VALLEY POLICE – **No objections**, recommends
- 7.12. NATURESPACE – Additional information required in relation to mitigation of the proposed development on the Ecology of the site.
- 7.13. OCC HIGHWAYS – **Objections** on the grounds of access, speed limit transition and visibility splays.
- 7.14. OCC LLFA – **Objection**, lack of drainage strategy drawing and report
- 7.15. OCC EDUCATION – **No objection** subject to s106 contributions
- 7.16. OCC ARCHAEOLOGY – Lack of information on Archaeology of the site
- 7.17. OCC MINERAL WASTE – **No objections**
- 7.18. CDC ECOLOGY – **Objections** on the grounds of lack of information on BNG assessment and strategy and mitigation requirements for protected species.
- 7.19. CDC PLANNING POLICY – **Objection** on the grounds of the site not being put forward by the Housing and Economic Land Availability Assessment (HELAA) 2024 and the extension of the village into to the open countryside and have an adverse impact on the setting of the Fritwell Conservation Area. Housing and Economic Land Availability Assessment (HELAA) 2024.
- 7.20. CDC STRATEGIC HOUSING – **No objections** subject to the quantum and mix to be amended and at least one 4-bed houses to be in the rented affordable mix.
- 7.21. CDC CONSERVATION – **Objections** on the grounds of the impact on the setting of the heritage assets
- 7.22. CDC LANDSCAPE SERVICES - Consulted on (12.11.2025); no comments received.
- 7.23. MID CHERWELL HEIGHBOURHOOD FORUM - Consulted on (12.11.2025); no comments received.
- 7.24. OPEN SPACE SOCIETY - Consulted on (12.11.2025); no comments received.
- 7.25. CDC PUBLIC ART - Consulted on (12.11.2025); no comments received.
- 7.26. CDC WASTE AND RECYCLING - Consulted on (12.11.2025); no comments received.

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

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

- PSD1: Presumption in Favour of Sustainable Development
- BSC1: District Wide Housing Distribution
- BSC2: The Effective and Efficient use of Land
- BSC 3: Affordable Housing
- BSC 4: Housing Mix
- BSC 11: Local Standards of Provision – Outdoor Recreation
- ESD1: Mitigating and Adapting to Climate Change
- ESD3: Sustainable Construction
- ESD6: Sustainable Flood Risk Management
- ESD7: Sustainable Drainage Systems
- ESD 8: Water Resources
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 : Local landscape protection and enhancement
- ESD15: The Character of the built and historic environment
- Villages 1: Village Categorisation
- Villages 2: Distributing Growth across the Rural Areas
- Villages 4: Meeting the Need for Open Space, Sport and Recreation

#### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic development in the open countryside
- C23: Retention of features contributing to character or appearance of a conservation area.
- C28: Layout, design and external appearance of new development
- C30: Design control
- C33: Protection of important gaps of undeveloped land
- ENV12: Development on contaminated land
- H18: New dwellings in the open countryside

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- Policy SP 1: Settlement Hierarchy
- Policy CSD 1: Mitigating and Adapting to Climate Change
- Policy CSD 2: Achieving Net Zero Carbon

- Policy CSD 5: Embodied Carbon
- Policy CSD 7: Sustainable Flood Risk Management
- Policy CSD 8: Sustainable Drainage Systems (SuDS)
- Policy CSD 11: Protection and Enhancement of Biodiversity
- Policy CSD 12: Biodiversity Net Gain
- Policy CSD 23: Assessing Transport Impact/ Decide and Provide
- Policy CSD 25: The Effective and Efficient Use of Land- Brownfield Land and Housing Density
- Policy COM 1: District Wide Housing Distribution
- Policy COM 2: Affordable Housing
- Policy COM 3: Housing Size/Type
- Policy COM 10: Protection and Enhancement of the Landscape
- Policy COM 11: Cherwell Local Landscape Designations
- Policy COM 13: Settlement Gaps
- Policy COM 15: Active Travel- Walking and Cycling
- Policy COM 16: Public Rights of Way
- Policy COM 20: Providing Supporting Infrastructure and Services
- Policy COM 24: Open Space, Sport and Recreation
- Policy RUR 1: Rural Areas Housing Strategy

8.3. Under Section 38 of the Planning and Compulsory Purchase Act 2004, a Neighbourhood Plan that has been approved at referendum also forms part of the statutory development plan for the area. In this case, the application site falls within the Mid Cherwell Neighbourhood Plan and the following Policies of the Neighbourhood Plan are considered relevant:

#### MID-CHERWELL NEIGHBOURHOOD PLAN 2018-2031

- PD1: Development at Category A Villages
- PD4: Protection of Important Views and Vistas
- PD5: Building and Site Design
- PD6: Control of Light Pollution
- PH1: Open Market Schemes

8.4. Other Material Planning Considerations

- Cherwell Local Plan Review 2042
- National Planning Policy Framework ('NPPF')
- Planning Practice Guidance (PPG)
- Cherwell Residential Design Guide (2018)
- Cherwell Home Extensions and Alterations Design Guide (2007)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 ("HRA")
- Equalities Act 2010 ("EA")

## 9. APPRAISAL

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

- Principle of development
- Site Layout
- Housing Density and Mix
- Design, and impact on the character of the area
- Heritage impact
- Highways safety
- Residential amenity
- Ecology
- Flood-risk and Drainage
- Archaeology
- Other matters
- Impact on local infrastructure

### Principle of Development

#### *Policy Context*

9.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any application for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the District comprises the adopted Cherwell Local Plan 2011-2031 ('CLP 2015') and the saved policies of the Cherwell Local Plan 1996. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (NPPG) and various Ministerial Statements.

9.3. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (para. 11). Paragraph 11 states that applying the presumption to decision-making means:

- approving development proposals that accord with an up-to-date development plan without delay; or
- where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:
  - I. *the application of policies in this Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed; or*
  - II. *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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.*

- 9.4. Paragraph 12 advises, *'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.'*
- 9.5. Section 5 of the NPPF covers the issue of delivering a sufficient supply of homes and states *"To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community."*
- 9.6. Paragraph 208 states *"Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal."*
- 9.7. The Development Plan for this area comprises the CLP 2015, saved policies of the Cherwell Local Plan 1996 ('CLP 1996') and the Mid-Cherwell Neighbourhood Plan (2019).
- 9.8. Policy BSC1 sets out the Council's housing strategy, focusing development on Banbury, Bicester and Heyford Park.
- 9.9. Policy BSC2 states *"It is also important to make efficient use of land. In general, new housing should be provide data net density of at least 30 dwellings per hectare. However, the density of housing development will be expected to reflect the character and appearance of individual localities and development principles that are appropriate to the individual circumstances of sites."*
- 9.10. The AMR 2025, including a Housing Land Supply Position Statement, was approved by the Executive on 2nd December 2025. Based on the housing site supply shown in the AMR, the updated position demonstrates that the district has a 3.1 year supply of deliverable sites over the next five years. It is noted that 12 dwellings would make a contribution towards the district's housing land supply, including affordable housing provision.

- 9.11. As the Council cannot demonstrate a five-year housing land supply, in accordance with the NPPF, any assessment of the residential proposals will need to apply the 'tilted balance'.
- 9.12. The 'tilted balance' states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 9.13. However, case law has clarified that even where development plan policies are rendered "out of date" by housing land shortfalls, they remain "potentially relevant" to the application of the tilted balance and decision-makers are "not legally bound to disregard them".
- 9.14. Case law has also established that the provisions of the NPPF remain subordinate to the overriding principle established by section 38(6) of the Planning and Compulsory Purchase Act 2004 that decision-makers must have first regard to the terms of development plan policies.
- 9.15. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states, *'The most sustainable locations for growth in the District are considered to be Banbury, Bicester and the larger villages as identified in Policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car'*.
- 9.16. Paragraph C.262 of the CLP 2015 states that in assessing whether proposals constitute acceptable 'minor development', regard will be given to: the size of the village and the level of service provision, the site's context within the existing built environment, whether it is in keeping with the character and form of the village, its local landscape setting and careful consideration of the appropriate scale of development.
- 9.17. Policy Villages 2 states that a total of 750 dwellings will be delivered at the Category A villages on new sites of 10 or more dwellings. The proposal would contribute towards meeting the overall Policy Villages 2 requirement. However, it should be noted that the AMR (2025) states that since 1<sup>st</sup> April 2014, 1049, completions have been recorded at Category A villages and as such the Policy Villages 2 requirement has been met.
- 9.18. Between 2011-2024 there were 37 residential completions in Fritwell, with 18 residential completions between 2023 -2024. There are 12 dwellings in Fritwell with permission that have not been completed.
- 9.19. Fritwell is a Category A Service Village under Policy Villages 1. Category A settlements are considered suitable for minor development, infilling and conversions within the built-up limits of the village.
- 9.20. Saved Policy H18 of the CLP 1996 seeks to restrict new dwellings outside the built-up limits of villages except in a specific number of cases.

*Assessment*

- 9.21. As outlined above the site is located at Fritwell, a Category A Village. Residential development is permissible *within the built limits* of Category A villages if it comprises the conversion of non-residential buildings, infilling or minor development comprising small groups of dwellings.
- 9.22. Given the site's undeveloped nature, its spatial relationship with surrounding built form and the planning history of this site, the site is considered to be located outside the built-up area of the village, outside of the settlement area and - for planning purposes - in the open countryside.
- 9.23. In the assessment of application ref: 19/02162/F the officer confirmed that the site falls outside the settlement area by stating: *"The site lies within the Mid-Cherwell Neighbourhood Plan (MCNP) area which now forms part of the Development Plan for the area. In accordance with the MCNP, Fritwell is identified as a Category A settlement which is amongst the most sustainable rural settlements in the rural area of the district. The MCNP establishes settlement areas for the Category A villages and the extent of Fritwell's settlement area is defined by Figure 9 of the MCNP. This shows the frontage of the site being located within the settlement boundary but the field to the rear being outside of the settlement area."*
- 9.24. Policy PD1 of the MCNP states that the total indicative number of new dwellings permitted during the Plan period (2018-2031), either within the settlement boundary or adjacent to it, will be approximately 25 for Fritwell. Permissions have been granted (19/00616/OUT and 21/02180/REM (28 dwellings)), (19/01402/OUT and 22/02620/REM (1 dwelling)) and (19/02162/F (1 dwelling)). Other developments have been approved at Fritwell though these were granted prior to the MCNP plan period. Nonetheless, with 30 dwellings approved it is considered that Policy PD1 and Policy Villages 2 requirement has already been exceeded when considering all of the planning permissions and in addition to identified sites without planning permission in the Housing Delivery Monitor.
- 9.25. The proposal would therefore not be in accordance with the distribution of housing the Development Plan seeks to achieve under the aforementioned policies and is therefore considered to be contrary to Development Plan.
- 9.26. However, planning law requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. It is therefore necessary to consider whether there are other material considerations of the proposal which outweigh the conflict with the Development Plan.
- 9.27. The sustainability of Fritwell is an important material consideration. Fritwell is classified as a Category A village in the CLP 2015. Category A villages are considered the most sustainable settlements in the District's rural areas and have physical characteristics and a range of services within them to enable them to accommodate some limited extra housing growth although Inspectors have dismissed appeals at some of the less sustainable Category A villages (Finmere, Fringford, Chesterton, Weston on the Green). Fritwell is one of the smaller Category A villages. It does have a village shop and a primary school, and a public house albeit which is not currently open as a

pub. Since the adoption of the CLP 2015 the bus service to Fritwell has substantially diminished with no form of public transport for the Village and the Village has therefore become a less sustainable since the adoption of the CLP 2015. Bicester is also approximately 4.4 miles to the south of the site which has a wider range of services, facilities and employment opportunities and this proximity would not likely reduce the length of car journeys to access services and facilities.

- 9.28. The NPPF states that local planning authorities ('LPAs') may give weight to relevant policies in emerging plans subject to the stage of preparation, the extent of unresolved objections relating to the relevant policies, and the degree of consistency of those policies with the NPPF.
- 9.29. It is considered that some limited weight can be given to the policies in the emerging Cherwell Local Plan Review 2042, which was submitted to the Secretary of State for examination on 31st July 2025.
- 9.30. Policy SP1: Settlement Hierarchy, notes that Fritwell is proposed to be re-designated as a Category C village in the Cherwell Local Plan Review 2042, suitable for infill development, minor development within the built-up limits of the settlement and conversions. (It should be noted that a substantial number of representations, including objections were made on Policy SP1: Settlement Hierarchy and will be considered by the Inspectors during the examination of the Local Plan. However, it should be noted that relatively few representations were received specifically relating to Fritwell's classification in the policy.) In addition, the site was not put forward for assessment in the Housing and Economic Land Availability Assessment (HELAA) 2024.
- 9.31. Policy Villages 3 relates to Rural Exception Sites. It provides support for small scale affordable housing schemes within or immediately adjacent to villages to meet specific, identified local housing needs that cannot be met through allocated sites, subject to several criteria being met.
- 9.32. Overall, it is considered that whilst some limited services would be available to residents on foot, given the distance and nature of routes residents of the site are likely to be highly dependent on private cars to meet their day to day needs. This weighs significantly against the proposal given the strong drive in the NPPF for sustainable patterns of development that aren't reliant on the private car.
- 9.33. In some instances, there are some benefits of allowing growth on a larger site (as opposed to multiple smaller sites) as planning obligations can be provided to mitigate impacts on infrastructure and affordable housing can be secured. The application seeks consent for a residential development of 12 dwellings of which 33% affordable housing and this provision is given moderate weight. However, the identified harm of the proposal is considered not to mitigate this limited benefit of the scheme providing affordable housing.
- 9.34. It is acknowledged that the proposed dwellings would make a small contribution to housing in the district and the construction phase would bring with it modest economic benefits. These points give moderate weight in favour of the application. However, the proposal as submitted does not

provide any substantial material consideration to outweigh the identified harm and non-compliance to local policy identified in the previous applications at the site and the current proposal.

- 9.35. The inspector for appeal reference (APP/C3105/W/24/3344189), also addressed the issue of land supply in his decision letter at paragraph 24 stating that

*“Even if the Council is unable to demonstrate a sufficient housing land supply, paragraph 11 d) (i) of the Framework states that permission should be granted unless policies of the Framework that protect assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 of the Framework states that the policies referred to include those relating to designated heritage assets. Given the harm I have identified to the setting and significance of the CA, this provides clear reason for refusing the proposal as set out in the Framework. As such, the presumption in favour of sustainable development set out at paragraph 11 of the Framework is not applicable in respect of this appeal, irrespective of the housing land supply position.”*

- 9.36. The application site lies outside the built limits of Fritwell and the settlement area as defined by Policy PD1 of the Mid-Cherwell Neighbourhood Plan (MCNP) and therefore development of the site is contrary to Policy PD1. Although the MCNP allows for housing at Fritwell, the number allocated for Fritwell has now been met and exceeded. The site is in an inherently unsustainable location, and future residents would be highly reliant on the private car.

- 9.37. Furthermore, the introduction of significant new residential development on the site would be contrary to the existing character and appearance of the site and its wider setting within the landscape. The Conservation Officer has also confirmed that the proposal would also cause harm to the heritage assets. There is also insufficient information submitted to be able to assess the impact of this development on archaeological deposits of the site.

- 9.38. In terms of safe vehicular and pedestrian access/egress being provided, the LHA has raised and maintain its objections to the proposals and considers the principle of development unacceptable in terms of highway safety.

- 9.39. With regards to potential for flood-risk the site is not within an area considered to be at a high risk of flooding. However, and having regard to the Lead Local Flood Authority’s advice, the application has not been accompanied by information to confirm that an acceptable sustainable drainage strategy can be achieved; in this respect it concluded that the proposals have failed to demonstrate that an acceptable sustainable drainage strategy for the site can be delivered.

### *Conclusion*

- 9.40. The application site lies outside the built limits of Fritwell and the settlement area as defined by Policy PD1 of the MCNP and therefore development of the site is contrary to Policy PD1. Although the MCNP allows for housing at

Fritwell, the number allocated for Fritwell has now been met and exceeded. The site is in an inherently unsustainable location, and future residents would be highly reliant on the private car. Although the scheme would provide for affordable housing, this contribution is given moderate weight, these points are considered to significantly outweigh the benefits of the scheme identified above and therefore the location of the site is considered unsuitable for residential use.

9.41. It is concluded that the principle of the development 12no. dwellings in this location is contrary to Development Plan policies Policy PD1 of the MCNP, Policy Villages 1 and Policy Villages 2 of the CLP 2031 and Saved Policy H18 of the CLP 1996; and as such the proposals would be contrary to the Council's rural housing strategy and associated policies, and are unacceptable in principle.

#### Site layout

9.42. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets. The NPPF is clear that good design is a fundamental to what the planning and development process should achieve and is a key aspect of sustainable development.

9.43. The proposed development lies on the edge of the village but outside of the built-up limits. The site is located at a prominent roadside position at the entrance to the village of Fritwell, which has a strong rural character and relationship with the open countryside. The site relates much more to the open countryside to the west and south of the site than it does to the built form of the village.

9.44. The layout of the proposed development incorporates a primary street or arterial road gained from Somerton Road to the north-west, with two secondary streets and two driveways accessed off the primary street. The two secondary streets end with cul de sacs to the north-east and south-west of the site. The proposed dwellings are positioned to either front the primary street or the secondary street.

9.45. The site bounds the open countryside to the east, south and west and a looser form of development to the western part of the site which is normally expected on this side to enable an appropriate transition from the built form of the development to the open countryside.

9.46. Having regards to the spatial relationship between the proposed dwellings, the proposed dwellings are considered to have acceptable spatial distance between the dwellings and on the whole are considered acceptable.

9.47. It is considered that site layout of the proposal is acceptable and would generally comply with Policy ESD15 of the CLP 2015

Details of appearance of the building would normally be considered under a reserved matters application and are therefore not for consideration in this application.

### Housing Density and Mix

#### *Policy Context*

- 9.48. The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, to reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of CLP 2031 echoes the aims of the NPPF requiring new residential development to provide a mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities.
- 9.49. Policy BSC2 of the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031) reflects the aims of national guidance and requires that new housing should be provided on net developable areas at a density of at least 30 dwellings per hectare (DPH) unless there are justifiable planning reasons for lower density development.
- 9.50. Policy BSC 3 of the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031) states that that sites of 11 or more dwellings will be required to provide affordable housing. Outside of Banbury and Bicester, the policy requires 35% from the developer units to be affordable housing.
- 9.51. Policy BSC4 of the CLP 2031 states that: *'New residential development will be expected to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities'*. Further that: *'The mix of housing will be negotiated having regard to the Council's most up-to-date evidence on housing need and available evidence from developers on local market conditions'*
- 9.52. The proposal is for 12no. dwellings on a site of approximately 0.93Ha resulting in a proposed density of 12.9 DPH; this is significantly below the density required under Policy BSC2. The justification put forward in the submitted planning statement refers to paragraph 9, 11, 12, 13 and 14 of the appeal decision at the site for between 7 and 9 dwelling (Ref: APP/C3105/W/24/3344189), where the inspector considered that the proposal for lower density than currently proposed would not conflict with the purposes of Policy BSC 2 as an increase in density would further increase the identified harm.
- 9.53. The council's Planning Policy also raised concerns with the level of density proposed being lower than required, however advised that Policy BSC 2 does acknowledge that justifiable planning reasons may mean that a lower density development is acceptable.
- 9.54. The Council's Strategic Housing Team comments on the application providing affordable housing in the rural village was generally supportive of subject to amendments to the quantum and mix of the affordable housing, for full support.

#### *Conclusion*

- 9.55. Therefore, although density could be considered acceptable in this instance and had there not been overriding factors, officer would have sought to address the quantum and mix of the proposed affordable housing to be amended as set out in the Strategic Housing Officer's comments, which requires at least one of the 4-bed houses to be in the rented affordable mix based on the identified need.
- 9.56. By virtue of the proposed housing mix, the proposals would not accord with Policy on housing mix, and the current proposal is therefore contrary to Policy BSC3 of the CLP 2031 and Government guidance within the NPPF.

### Design and Impact on the Character of the Area

#### *Policy context*

- 9.57. Policy ESD15 of the CLP 2015 highlights the importance of the character of the built and historic environment. This Policy states, amongst other things, that successful design is founded upon an understanding and respect for an area's unique built, natural and cultural context. New development will be expected to complement and enhance the character of its context through sensitive siting, layout and high-quality design. The Policy states that new development proposals should, amongst other things, contribute positively to an area's character and identity by creating or reinforcing local distinctiveness and respecting local topography and landscape features, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views. Development should also respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly defined active public frontages.
- 9.58. Policy PD4 on the protection of important views and vistas states "Development proposals within the plan area must demonstrate sensitivity to the important views and vistas described in Table 4 and illustrated by photographs in the documents referred to in that Table, by including an assessment of the significance of the views and the effect of the proposed development on them. Proposals which cause significant harm to any of these views will only be acceptable where the benefits of the proposal clearly outweigh any harm" and "Applicants for development in or adjacent to a Conservation Area must demonstrate in a Heritage Impact Assessment that they have taken account of the appropriate Conservation Area Appraisal, and of the Heritage and Character Assessment at Appendix K, and demonstrated that the proposal causes as little harm to an identified view as possible and that any harm is outweighed by the benefits of the proposal. The development should not harm the Conservation Area and its setting, other heritage assets, or historic street and village views and longer distance vistas."
- 9.59. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be

exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.

- 9.60. The Council's Residential Design Guide SPD seeks to ensure that new development responds to the traditional settlement pattern, character and context of a village. This includes the use of continuous building forms along principle routes and adjacent to areas of the public open space, the use of traditional building materials and detailing and form that respond to the local vernacular.
- 9.61. The Government attaches great importance to the design of the built environment within the NPPF. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 9.62. The site is located to the northwest of the village of Fritwell and to the north and east of the site are several dwellings accessed from North Street, and to the south of the site and beyond is the remainder of the existing field parcel, which is not included in the application site.
- 9.63. The Character Appraisal supporting the MCNP identifies the entrance to the village with the views over the chimneys and roof space of the village as a positive view and that the loose knit arrangement of buildings at the entrance to the village significantly contributes to the character and appearance of the area and imparts a spacious rural character. The rural character of the village is further enhanced by views between buildings onto the fields surrounding the village.
- 9.64. The application site is positioned within a rural character of the village, and the LPA considers that this part of the village outside the settlement area as an existing important part of Fritwell. The existing site provides a clear expression of the village being set within a wider rural setting and also a visual break in the built form. Any development in this location would harmfully remove this visual relief, this clear expression of the village from this end of the village and would result in more hard landscaping and building in what is a relatively open undeveloped field.
- 9.65. Given the site is located within the setting of Fritwell Conservation Area and setting of a listed building, it is important to consider the effect of the proposal on the character and appearance of the Conservation Area, as well as the setting of listed buildings, notably Wheatcroft to the north-east of the site and to a lesser extent other listed buildings to the south-east of the site.
- 9.66. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant permission in principle for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

- 9.67. The views gained from the public footpath running along the western and southern part of the application site and glimpses from Somerton Road and North Street and near the site are considered to be positive views into the conservation area, and as such any development on this site would have an impact on this view.
- 9.68. Another notable constraint to this site and the proposed development is the elevated nature of the plot in comparison to properties to the north and east of the site.
- 9.69. It is noted that the proposed scale of the development has been significantly reduced from the previous application ref 22/01807/OUT. Whilst this reduction in the scale of the development is noted, it is considered any development in this location would have a significant impact.
- 9.70. Indicative plans have been submitted for the proposed dwellings: however, in broad terms any residential development of the site along with the necessary access would be visible from Somerton Road and North Street and the public footpath and would inevitably result in urbanisation of the site. Whilst landscaping could reduce this harm, given the undeveloped nature of the site there would remain significant harm to the rural character and appearance of the site. The footpath appears to be well used by locals for recreational walks which heightens its sensitivity, and it is clearly an area that is valued by local people.
- 9.71. Given the prominence of the site in terms of the elevated levels, it is considered that the intensification of the use of the site and the change in character from agricultural would cause harm to the setting of the Fritwell Conservation Area through an increase in built form and housing density of this end of the village diminishing the rural character of this part of Fritwell.

### *Conclusion*

- 9.72. Overall, it is considered that the proposal would result in harm to the rural character and appearance of the area and rural setting of the village and conflicts with Policies PD1 and PD4 of the MCNP and ESD1, ESD13 and ESD15 of the CLP 2015. It is considered to be contrary to Development Plan when considered as a whole.

### Heritage Impact

#### *Legislative and policy context*

- 9.73. The site is within the setting of a Conservation Area and listed buildings and affects these heritage assets.
- 9.74. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

- 9.75. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.76. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.77. Policy ESD15 of the CLP 2015 states that new development proposals should: *"Conserve, sustain and enhance designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."*

#### *Assessment*

- 9.78. The Conservation Officer has responded to the current application stating that,

*"The significance of the site relates to the entrance to the conservation area as the site provides a clear expression of the village being set within a wider rural setting. It is considered that despite the reduction in the number of dwellings the comments provided by the conservation team 18/07/2022 in relation to application 22/01807/OUT are still largely relevant. The reduction in the number of dwellings and the revised layout has addressed the concerns to some extent but development on this land will impact on the heritage assets through development within their setting."*

*The proposal because of the indicative size and nature of the dwellings is considered to result in a change to the rural character of the land which will detrimentally alter this approach to the village and how the entrance to the conservation area is experienced. The development will still have an urban form that will potentially encroach on views across the landscape to the listed buildings and conservation area.*

*The Heritage Statement is agreed with and accepting that this is an outline application, it is considered that there will potentially be less than substantial harm at the lower level to Fritwell conservation area and the listed building known as Wheatcroft. It is suggested that this heritage harm could be reduced or removed by a further reduction in the number of dwellings and a change to the layout so that the built development is contained to the north of the viewing corridor to the church."*

9.79. Officers consider that the dominance of the proposed development would cause harm to the significance of the adjacent Grade II Listed Building Wheatcroft through change to its setting and would detract from the special character of the building. The proposed development would be seen in the context of this building.

9.80. As noted above, the Conservation Officer advises that the proposal would cause *less than substantial* harm to Fritwell Conservation Area and the listed building known as Wheatcroft albeit at the lower level of *less than substantial* harm. This is consistent with the heritage position on the earlier outline application at the site, the CO raising the same concerns in relation to the detrimental impact of development on the rural character and appearance of this key entrance to the village and advising that the proposal would significantly reduce any views out to the open countryside surrounding this part of the village. This identified harm remains in the current proposal due to the location of the development.

### *Conclusion*

9.81. Therefore, and having regard to the comments of the conservation officer, the proposed development would cause harm to the significance of heritage assets through change to their setting. This harm is not considered to be outweighed by any public benefit arising from the scheme. The proposed development is therefore contrary to Policy ESD15 of the CLP 2015, Saved Policy C28 and C30 of the CLP 1996 and advice in the NPPF on design and heritage matters.

### Highway Safety

#### *Policy context*

9.82. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: “*New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions*”; whilst Policy SLE4 states that: “*All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported*”.

#### *Assessment*

9.83. The Local Highway Authority (LHA) initially objected to the application raising *in principle* issues with the proposed access design and connectivity, insufficient demonstration that safe and suitable access can be achieved for all users and potential for unacceptable highway safety impacts.

9.84. Following amended plans that aimed to address the initial objection, the LHA has responded maintaining its objection to the application on the basis that the submission and associated access design fails to demonstrate that the proposed development would provide safe and suitable access for all users

and due to unresolved deficiencies, the application has not demonstrated that the development would avoid unacceptable impacts on highway safety, contrary to Paragraph 116 of the NPPF. There remain issues relating to the proposed access, speed limit transition, vehicular access, and lack of improvements and upgrading of the existing footpath that runs across the site.

### *Conclusion*

- 9.85. The proposed development would result in significant and demonstrable harm to local highway safety and adverse impacts on pedestrian safety within the vicinity of the site. The proposed development is therefore contrary to Policy ESD15, which requires new development proposals to deliver safe high quality spaces, and Paragraphs 115 and 116 of the NPPF.

### Residential Amenity

#### *Policy Context*

- 9.86. Saved Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: *'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'*.

#### *Assessment*

- 9.87. The application is an outline application only. Any detailed proposals would need to have due regard to requirements of the Cherwell Residential Design Guide SPD (CRDG) with regard to appropriate standards of amenity for both existing and future residents. Whilst the indicative layout appears to demonstrate that an acceptable living environment could potentially be developed, appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments could be given due consideration at reserved matters stage.
- 9.88. As noted above the majority of the proposed development would be physically divorced from existing properties and would not likely have a direct impact on existing residential amenity.
- 9.89. The plots considered to have the greatest potential impact on neighbouring properties would be plots 1, 2, 3 and 4 which would be sited in excess of 24m south-west from the rear of 81 North Street (nearest property to the north of the site). This separation distance is considered appropriate having regard to the guidance within the CRDG.
- 9.90. In respect of noise and disruption during construction, it is considered that such impacts are unlikely to be significant and would only likely be short-term in their nature, and not something that would warrant a reason to refuse the application; and should the Council be minded to approve the application that

an appropriate Construction Environment Management Plan, could be secured by way of condition to satisfactorily address such matters.

### *Conclusion*

9.91. Based on the information submitted it is considered that, given the context of the site and its relationship with neighbouring properties, the site could be developed for 12no dwellings without it resulting in any significant impact on neighbour amenity in terms of loss of light, loss of privacy or over domination as a result of the proposed development. Further that the proposed development would likely provide an acceptable standard of living for potential future occupants. However, this would need to be fully assessed during any detailed Reserved Matters application, should Council be minded approving this outline application.

### Ecology

#### *Legislative context*

9.92. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

9.93. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

9.94. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.95. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of

a social or economic nature and beneficial consequences of primary importance for the environment?

(2) That there is no satisfactory alternative.

(3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.96. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

9.97. Paragraph 180 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.98. Paragraph 186 states that when determining planning applications, local planning authorities ('LPAs') should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.99. Paragraph 191 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.100. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.101. Policy ESD11 is concerned with Conservation Target Areas (CTAs) and requires all development proposals within or adjacent CTAs to be

accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.

9.102. These polices are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.103. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that LPAs should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

9.104. The Council's Ecologist (CE) responded to the application advising that in relation to the submitted BNG report an ecologist must visit the site to confirm the details in the BNG assessment which should include confirmation of habitat classifications and the undertaking conditions assessments, and if verified, the baseline presented in their submitted metric could be agreed. The CE advises that the BNG strategy is currently unknown and needs to be clarified on whether the applicants intend to create off-site habitats, or whether they plan to purchase units/credits to deliver 10% gain, which must be confirmed at this stage because if the applicants plan to create-off site habitats, a legal agreement with the council is required. The CE also advised that the proposes the retention of a native hedgerow and if this is deemed acceptable, it must show it will be outside private gardens and managed appropriately.

9.105. The CE confirmed that no Preliminary Ecological Appraisal has been submitted, which is required because the site is a red risk zone for great crested newts and includes commuting and foraging potential for bats, birds and badgers, and that there is also a stream or ditch along the southeast corner of the site which may need to be included in the BNG assessment under metric guidance. The CE also advised that confirmation is required whether this feature is relevant based on the guidance found in the BNG metric user guide.

9.106. NatureSpace has noted that more information is needed on Great Crested Newts and that the applicant must confirm whether they will join the district licensing scheme. With regards to the comments of the CE and NatureSpace all the outstanding information and clarification was required to be provided prior to determination to be inline national and local policies.

9.107. Additional information was submitted in response to CE initial comments; however the CE has responded advising that the Biodiversity Net Gain assessment is still incomplete, the ecological appraisal confirms that "there are unnamed watercourses approximately 7m east of the site, and that the statutory biodiversity metric user guide clearly requires that any watercourse located within 10 metres of the red line boundary must be included within the

baseline BNG calculation. Furthermore, the application continues to lack the necessary confirmation regarding Great Crested Newt mitigation, although the ecological reports indicate an intention to enter the NatureSpace District Licensing Scheme, formal written confirmation of acceptance onto the scheme must be provided prior to determination.

9.108. The CE concluded that without the required information, the application does not provide sufficient information to demonstrate that protected species mitigation requirements will be met or whether further surveys will be required prior to determination.

#### *Conclusion*

9.109. On the basis of the advice from the Council's Ecologist and Naturespace officers conclude that insufficient information has been submitted and that the proposal would fail to protect or enhance the biodiversity and the natural environment of the site. The proposal would therefore be contrary to Policies ESD10 and ESD15 of the CLP 2015 and would not be acceptable in terms of the ecology of the site.

#### Flood Risk and Drainage

##### *Policy Context*

9.110. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding.

9.111. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District.

9.112. The Sustainable Drainage Systems (SuDS) Policy, which came into force on the 6th April 2015 requires the use of sustainable drainage systems to manage runoff on all applications relating to major development. As well as dealing with surface water runoff, they are required to provide water quality, biodiversity and amenity benefits in line with National Guidance. The Sustainable Drainage Systems (SuDS) Policy also implemented changes to the Town and Country Planning (Development Management Procedure) (England) Order 2010 to make the Lead Local Flood Authority (LLFA) a statutory Consultee for Major Applications in relation to surface water drainage. This was implemented in place of the SuDS Approval Bodies (SAB's) proposed in Schedule 3 of the Flood and Water Management Act 2010.

9.113. The NPPF (Dec2024) provides specific principles on flood risk (Section 14, from page 45). The NPPG provides further advice to ensure new development will come forward in line with the NPPF.

9.114. The non-statutory technical standards for sustainable drainage systems were produced to provide initial principles to ensure developments provide

SuDS in line with the NPPF and NPPG. Oxfordshire County Council have published the “Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire” to assist developers in the design of all surface water drainage systems, and to support Local Planning Authorities in considering drainage proposals for new development in Oxfordshire. The guide sets out the standards that we apply in assessing all surface water drainage proposals to ensure they are in line with National legislation and guidance, as well as local requirements.

9.115. The SuDS philosophy and concepts within the Oxfordshire guidance are based upon and derived from the CIRIA SuDS Manual (C753), and we expect all development to come forward in line with these principles.

#### *Assessment*

9.116. The Lead Local Flood Authority (LLFA) raised an objection to the application advising that all full and outline planning applications for Major Development must be submitted with a Surface Water Management Strategy. A site-specific Flood Risk Assessment (FRA) is also required for developments of 1 hectare or greater in Flood Zone 1; all developments in Flood Zones 2 and 3 or in an area within Flood Zone 1 notified as having critical drainage problems; and where development or a change of use to a more vulnerable class may be subject to other sources of flooding.

9.117. The LLFA has further advised that in line with guidance, surface water management must be considered from the beginning of the development planning process and throughout, which influence the site layout and design and that the proposed drainage solution should not be limited by the proposed site layout and design.

#### *Conclusion*

9.118. In light of the LLFA’s objection officers consider that the applicant has failed to demonstrate that appropriate surface water drainage scheme for the site, based on sustainable drainage principles, can be achieved; the proposals are therefore not considered to be in accordance with the Development Plan policies identified above and are not acceptable in terms of flood-risk and drainage.

#### Archaeology

9.119. The County Council Archaeological Officer (AO) informed that the site in an area of archaeological interest and potential on the southwestern edge of the village of Fritwell, an archaeological watching brief was carried out at Heath Farm, 100m southeast of the proposed site, which recorded a Medieval foundation and other Medieval features (PRN17484). Historic OS maps show that the plot has remained undeveloped, and so there is potential for archaeological remains related to the development of the settlement to be impacted by the development.

9.120. The AO advised that the applicant has submitted a heritage assessment in line with paragraph 207 of the NPPF, however this assessment only considers standing buildings and makes no attempt to assess the impact on

archaeological heritage assets and that the NPPF, paragraph 207, states that the Historic Environment Record should be consulted as a minimum, but this data is not considered by the heritage assessment. As such there is insufficient information to be able to assess the impact of this development on archaeological deposits at the site.

9.121. Officers agree with this assessment and the proposal due to the insufficient information is considered unacceptable in terms of the potential archaeological deposits at the site. and would conflict with Policy ESD15 of the CLP and Government guidance in the NPPF.

#### Other matters

#### Contamination

9.122. The Environmental Protection Team notes the potential for noise, dust and other nuisance and for unexpected land contamination during construction. Given this conclusion, planning conditions could be recommended to require a Construction Environmental Management Plan (CEMP) and unexpected land contamination to secure appropriate mitigation if this application were to be recommended for approval and as recommended by the Council's Environmental Protection Team.

#### Rights of Way

9.123. The Rights of Way Officer (ROW) has responded to the application raising no objections and advising that from reviewing the documents submitted, the officer notes that Fritwell Public Footpath 219/9/10 runs diagonally across and through the proposed development site and the council will always expect the developer to design the existing Public Rights of Way within any new development layout. The officer is pleased to see that the developer has fully considered the Public Rights of Way Network within their application and that they have retained the Public footpath on its existing legal alignment. The proposal is therefore considered acceptable in terms of its impact on the Public Rights of Way Network across the site.

#### Impact on Local Infrastructure

#### *Policy Context*

9.124. Policy INF1 of the CLP 2015 states that: *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*

9.125. Policy BSC11 of the CLP 2015 states that: *“Development proposals will be required to contribute to the provision of open space, sport and recreation, together with secure arrangements for its management and maintenance. The amount, type and form of open space will be determined having regard to the nature and size of development proposed and the community needs generated by it. Provision should usually be made on site in accordance with the minimum standards of provision set out in ‘Local Standards of Provision – Outdoor Recreation’.* Where this is not possible or appropriate, a financial

contribution towards suitable new provision or enhancement of existing facilities off site will be sought, secured through a legal agreement.”

9.126. The Council has an adopted Supplementary Planning Document (SPD) setting out its position in respect of requiring financial and on site contributions towards ensuring the necessary infrastructure or service requirements are provided to meet the needs of development, and to ensure the additional pressure placed on existing services and infrastructure is mitigated. This is the starting point for negotiations in respect of completing S106 Agreements.

*Assessment*

9.127. Where on and off site infrastructure/measures need to be secured through a planning obligation (i.e. legal agreement) they must meet statutory tests set out in regulation 122 of the Community Infrastructure Ley (CIL) Regulations 2010 (as amended). These tests are that each obligation must be:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development;
- Fairly and reasonably related in scale and kind to the development

9.128. Where planning obligations do not meet the above statutory tests, they cannot be taken into account in reaching a decision. In short, these tests exist to ensure that local planning authorities do not seek disproportionate and/or unjustified infrastructure or financial contributions as part of deciding to grant planning permission. Officers have had regard to the statutory tests of planning obligations in considering the application and Members must also have regard to them to ensure that any decision reached is lawful.

9.129. Having regard to the above, in the event that Members were to resolve to grant planning permission, the following items would in officers' view need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council in order to secure an appropriate quality of development as well as adequately mitigate its adverse impacts:

Cherwell District Council

- Provision of public open amenity space and future maintenance arrangements;
- Maintenance arrangements for on-site trees, hedgerows, and drainage features;
- Payment of a financial contribution towards the provision of refuse/recycling bins for the development.
- Financial contributions towards improvements to off-site indoor and outdoor sports facilities;
- Financial contribution towards the provision of new community hall facilities.
- Public Art
- Affordable housing

Oxfordshire County Council

- Education - Financial contribution of £190,712.00 toward secondary and special school contribution.
- Transport - To secure entry into a S278 agreement (Highways Act 1980) to secure mitigation/improvement works, including: Formation of a new site access and provision of a footway link on the North Street to the existing footway network within the village (including change to speed limit transition and associated TRO, associated signage and gateway feature and traffic calming measures). Delivered via S278 Agreement.
- Financial contribution as set out above or delivery of a PRow improvement scheme (requiring prior approval).
- There shall be a requirement to enter into a S38 Agreement in relation to the internal site network.

NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board)

- Creation of additional clinical capacity at Deddington HC or an identified primary care estates project in the local area to serve the development to be secured through a Section 106 Agreement.

*Conclusion*

9.130. A number of items would need to be secured via a legal agreement with both Cherwell District Council and Oxfordshire County Council, in order to secure an appropriate quality of development as well as adequately mitigate adverse impacts that would otherwise occur.

Human Rights and Equalities

9.131. The Human Rights Act 1998 (“HRA”) sets out fundamental freedoms which have been laid out by the European Convention on Human Rights (“ECHR”). In making any decisions, Cherwell District Council (“the Council”) should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.

9.132. The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

*Article 6*

9.133. Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of [neighbour letter, site notice and in the local press] giving affected third parties the opportunity to comment on the application and their views taken into account when considering the

application. In this case any comments/concerns raised by third parties are listed above and have been taken into account in assessing the application. [In addition, third parties were invited to the public meeting of the Planning Committee and had the opportunity to speak]. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

*Article 8 and Article 1 of the First Protocol*

9.134. Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

*Duty under The Equalities Act 2010*

9.135. S149 of the Equalities Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, inter alia, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.

9.136. Officers have considered the application and resolved that none of the protected characteristics is affected or potentially affected by the application

## **10. PLANNING BALANCE AND CONCLUSION**

10.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

10.2. Given the above assessment in the light of current guiding national and local policy context, it is considered that the proposals represent an inappropriate form of development beyond the built-up limits of the village, which no essential or identified need has been demonstrated.

10.3. Whilst the proposals could be considered acceptable in terms of residential amenity and in isolation the layout is acceptable in principle, it is considered that the proposal fails to preserve the overriding character and appearance of the area and heritage assets or reflect or reinforce local distinctiveness by introducing residential development which would be contrary to the existing pattern of development within the area, outside the built limits of the village and the settlement area and would visually intrude into the open countryside.

- 10.4. Further that it has not been demonstrated that an appropriate sustainable drainage strategy, housing mix, and highway safety could be achieved at the site. In addition, it has not been demonstrated that the proposal would protect and enhance the Ecology of the site and would not adversely impact the potential archaeology of the site.
- 10.5. The proposals would provide additional and affordable housing (attracting significant weight, very significant weight in the case of affordable housing) and likely to provide some economic benefits to the local construction industry during construction (limited to moderate weight).
- 10.6. However, it is considered that the proposals demonstrate clear conflict with the provisions and aims of the housing policies of the Development Plan, including those of the adopted Mid-Cherwell Neighbourhood Plan (attracting substantial weight), and so the weight to be attributed to the benefit of providing additional and affordable housing is reduced.
- 10.7. In addition to this conflict, it is considered that there would be significant adverse impacts to the natural environment (substantial weight), through intrusive development which fails to reflect or reinforce the local distinctiveness, and lack of appropriate drainage, protection and enhancement of the ecology of the site, highways safety and archaeology, which further conflicts with the environmental and sustainability policies of the Development Plan.
- 10.8. In this instance, it is considered the proposal is at odds with the overall rural housing strategy of the district and the potential harm caused would not significantly and demonstrably outweigh the scheme's benefits; and as such do not represent a sustainable form of development. The proposals are therefore considered contrary to the above-mentioned policies and as such the application is therefore recommended for refusal for the reasons set out below.
- 10.9. Given the above officers consider that the benefit of the proposal such as providing additional housing including affordable housing are considered to be outweighed the policy conflict and identified harm of the scheme identified above.

## **11. RECOMMENDATION**

### **REFUSAL FOR THE REASONS SET OUT BELOW**

1. The proposed development would be an urbanising form of development which by reason of its location and the proposed land use would result in an isolated cluster of dwellings poorly related to the existing village and falling outside the settlement area defined by Policy PD1 of the MCNP. The proposal would adversely impact the rural setting of the village and would result in a harmful visual intrusion of development into the landscape and open countryside and would therefore result in harm to the rural character and appearance and

quality of the area. In addition, it would cause damage to the significance of the adjacent designated heritage asset by irrevocably removing the rural setting of the Conservation Area. The proposal would not provide an appropriate housing mix for the provision of affordable housing of development. This identified harm would significantly and demonstrably outweigh the benefits of the proposal. The proposal is therefore contrary to Policies PD1 and PD4 of the Mid-Cherwell Neighbourhood Plan 2018-2031, Policies BSC2, BSC3, ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, Saved Policies C8 and C28 of the Cherwell Local Plan 1996 and the National Planning Policy Framework.

2. The proposed development would be sited in a geographically unsustainable location with poor access to services and facilities and therefore future residents would be highly reliant on the private car to meet their day to day needs which would not reduce the need to travel and would result in increased car journeys and hence carbon emissions. The proposed development therefore conflicts with Policies ESD1 and SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework. This identified harm would significantly and demonstrably outweigh the benefits associated with the proposed development and therefore the development does not constitute sustainable development when assessed against the National Planning Policy Framework as a whole.
3. By virtue of a lack supporting information the proposals have failed to demonstrate that the proposal would be acceptable in terms of (i) highway safety and pedestrian safety, (ii) biodiversity and the natural environment of the site and (iii) potential archaeological deposits at the site. As such the proposal is contrary to Policies ESD10 and ESD15 of the Cherwell Local Plan 2011 - 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.
4. By virtue of a lack supporting information to enable an appropriate technical assessment the proposals have failed to demonstrate that an appropriate sustainable drainage strategy for the site utilising sustainable drainage systems (SuDS) can be delivered. As such the proposal is contrary to Policy ESD7 of the Cherwell Local Plan 2011 - 2031 Part 1 and Government guidance contained within the National Planning Policy Framework.
5. In the absence of the completion of a satisfactory Section 106 Agreement, the Local Planning Authority is not convinced that the necessary infrastructure directly required as a result of this development, in the interests of supporting the sustainability of the village and the development, and in the interests of safeguarding public infrastructure and securing on site future maintenance arrangements, will be provided. This would be contrary to Policies INF1, PSD1, BSC3, BSC10, BSC11 and BSC12 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

CASE OFFICER: Michael Sackey

Agenda Item 11  
25/02862/F

**Parcel of land south of Bailey Road Adjacent To  
Wilson Road  
Banbury  
OX16 1JE**



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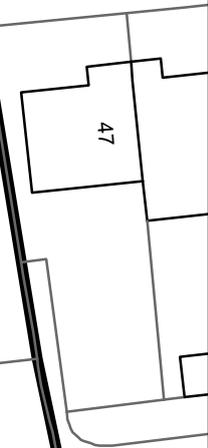
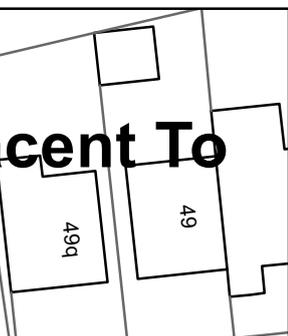
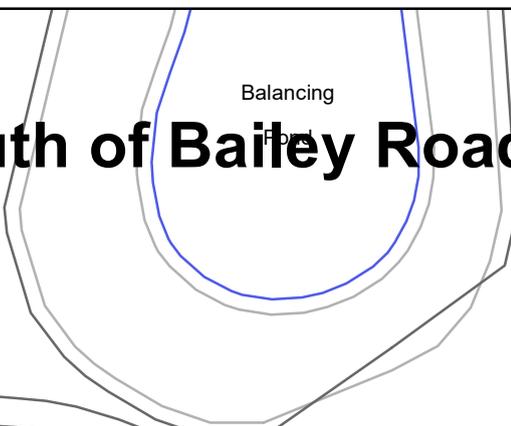


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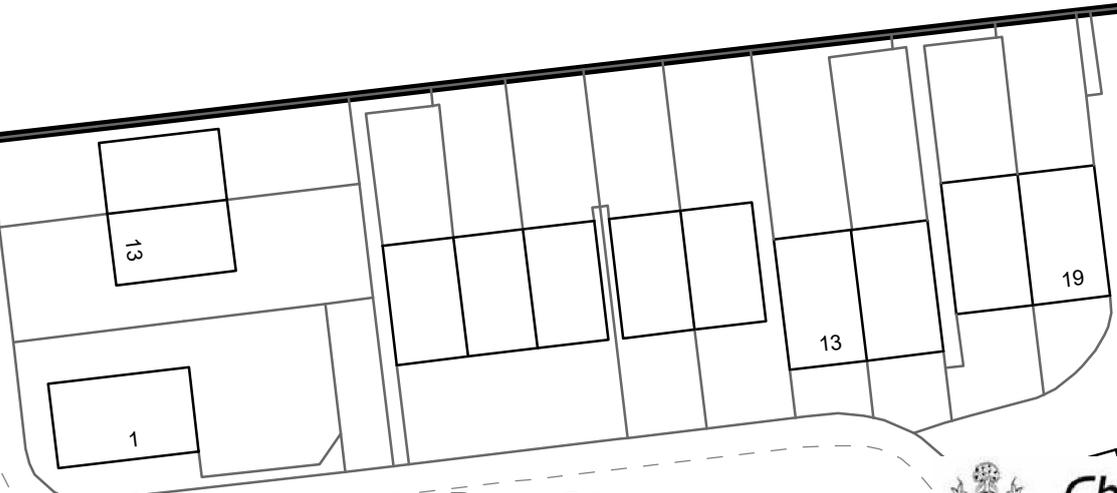
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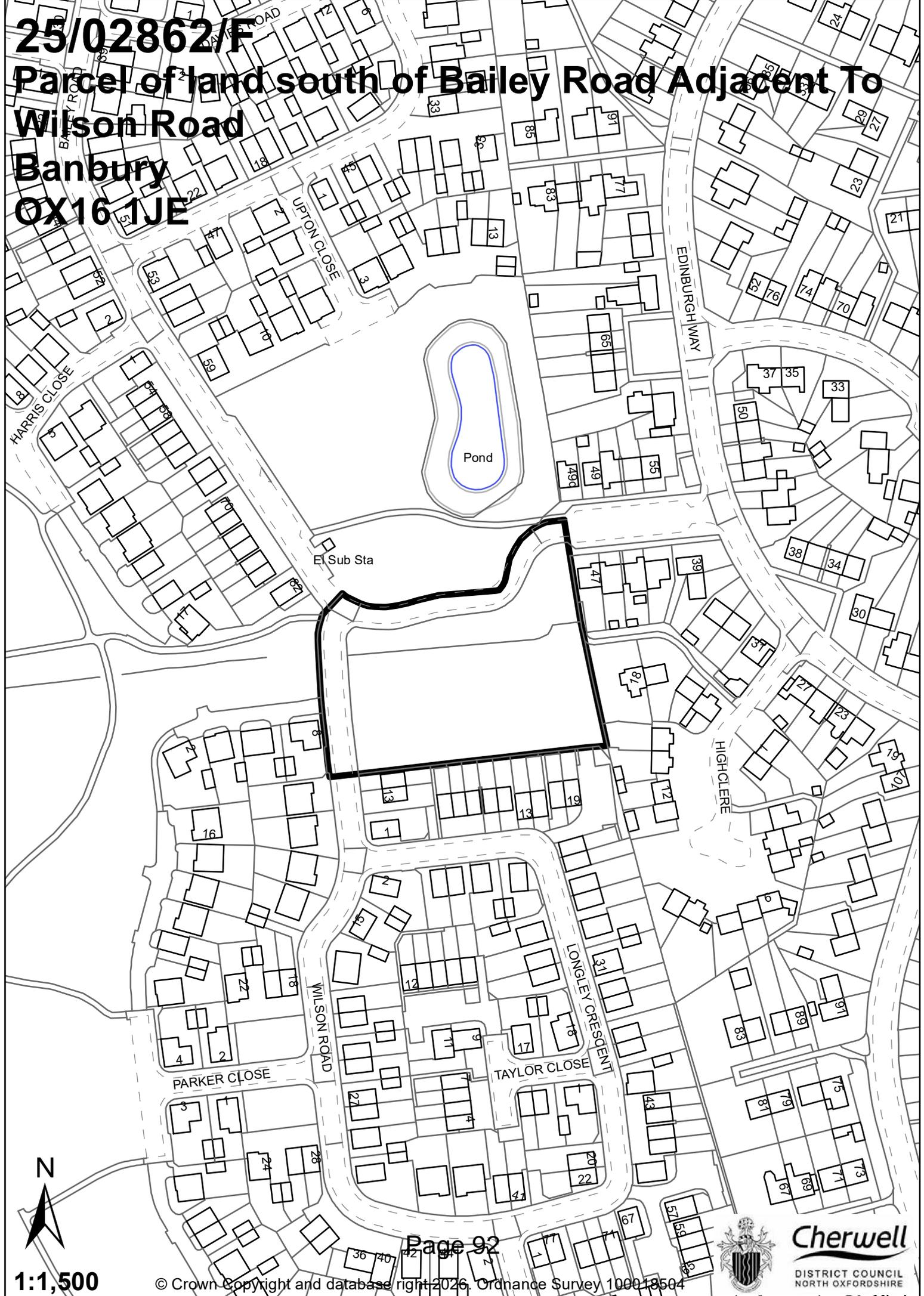


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**25/02862/F**

**Parcel of land south of Bailey Road Adjacent To  
Wilson Road  
Banbury  
OX16 1JE**



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**Case Officer:** Lewis Knox

**Applicant:** Bloor Homes Western

**Proposal:** Full planning application for 9 no. residential dwellings, pedestrian and vehicular access, landscaping and associated infrastructure

**Ward:** Banbury Ruscote

**Councillors:** Councillor Mark Cherry, Councillor Dr Isabel Creed, Councillor Amanda Watkins

**Reason for Referral:** Significant departure from adopted development plan

**Expiry Date:** 31 December 2026

**Committee Date:** 26 March 2026

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**SUMMARY RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site comprises a 0.53ha plot of land within the Banbury Rise residential estate within the western edge of Banbury, at the junctions of Bailey Road (to the north) and Wilson Road (to the west). The site is bound to the east by the Bretch Hill residential estate and is located centrally within the Banbury Rise residential development (Local Plan allocation Banbury 3). The site benefits from established hedgerows surrounding most of the perimeter of the site, with other mature trees in and around the site. It is located within a plateau on the land before the valley descends further to the west.

**2. CONSTRAINTS**

2.1. There are no major constraints existing on the site.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The applicant seeks planning permission for the erection of nine (9 no.) residential dwellings with pedestrian and vehicular access, landscaping and associated infrastructure.

3.2. The development would be positioned on land which is currently reserved for employment use in accordance with the S106 obligations associated with outline consent Ref: 13/00444/OUT).

**4. RELEVANT PLANNING HISTORY**

- 4.1. The following planning history is considered relevant to the current proposal:

**Application: 13/00444/OUT** Permitted: 9 March 2016

OUTLINE - Construction of up to 400 residential dwellings including 60 sheltered housing/extra care accommodation, 500sqm of small-scale employment and training premises, open space, new vehicular junction and accesses and associated infrastructure.

## 5. PRE-APPLICATION DISCUSSIONS

- 5.1. The following pre-application discussions took place with respect to this proposal:

25/00689/PREAPP – 9 no. dwellings

- 5.2. The Council's Development Plan housing policies are out of date by virtue of a lack of a deliverable 5-year supply of housing land to meet identified needs and therefore the NPPF paragraph 11 d) 'tilted balance' applies to proposals with a presumption afforded to sustainable developments. The loss of employment creation would be counteracted in part by temporary construction employment during development and could be further off-set by a S106 financial contribution equivalent to the site's land value to help fund enhanced off-site employment provision elsewhere in Banbury. Therefore, a neutral economic impact was concluded. No significant environmental impacts were identified. Substantial weight would be afforded to the benefit of sustainable residential development. Consideration would be needed in respect to separation distances between proposed and existing properties. The proposals would not result in loss of greenspace due to the site being allocated for employment development. Consideration would be needed regarding the interaction between the adjacent Public Right of Way and the proposed open space. Oxfordshire County Council Highways had no specific comments and the principles set out were considered acceptable in highway safety terms. Cherwell District Council's Economic Officer noted that the existing S106 requirement for employment use on the site had not changed. The Council's Property and Estate division needed to consider if it wished to proactively take on the land. The Planning case officer considered that there were other sites better suited for employment development and acknowledged that there had not been a Deed of Variation application to date at that time in 2025.

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was **26 November 2025**, although any comments received after this date and before finalising this report would have also been taken into account.

- 6.2. No comments have been raised by third parties.

## 7. RESPONSE TO CONSULTATION

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

- 7.2. BANBURY TOWN COUNCIL: **No objection.**
- 7.3. OCC HIGHWAYS: **No objections** subject to standard conditions in respect of Cycle Parking Provision.
- 7.4. CDC BUILDING CONTROL: **No objections.** The proposal is subject to the Building Regulations and will require an application to be submitted to a Building Control body for approval.
- 7.5. CDC STRATEGIC HOUSING: The application is below the threshold of 11 dwellings for comment.
- 7.6. THAMES VALLEY POLICE: Advised that the development be designed in accordance with the 'Secured By Design' (SBD) guidance document
- 7.7. CDC DRAINAGE: **No comments or objections.**
- 7.8. CDC HOUSING STANDARDS: No comments received.
- 7.9. CDC ARBORICULTURE: No comments received.
- 7.10. CDC WASTE AND RECYCLING: No comments received.
- 7.11. CDC ECONOMIC GROWTH: No comments received.
- 7.12. PROPERTY AND ASSETS: No comments received.
- 7.13. *Officer comment:- Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.*
- 7.14. *In this particular instance, the above financial payments are not considered to be material to the decision as they would not make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority and hence the above response from the Council's Finance department is therefore provided on an information basis only.*

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

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

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

- Banbury 3 - West of Bretch Hill
- PSD1 - Presumption in Favour of Sustainable Development
- BSC1 - District Wide Housing Distribution
- BSC2 - The Effective and Efficient Use of Land – Brownfield Land and Housing Density
- BSC3 - Affordable Housing
- BSC4 - Housing Mix
- BSC10 - Open Space, Outdoor Sport and Recreation Provision
- BSC11 - Local Standards of Provision – Outdoor Recreation
- ESD1 - Mitigating and Adapting to Climate Change
- ESD2 - Energy Hierarchy and Allowable Solutions
- ESD3 - Sustainable Construction
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems (SuDS)
- ESD10 - Protection & Enhancement of Biodiversity & Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment

## CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- C30 – Design Control

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- Cherwell Home Extensions and Alterations Design Guide (2007)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

## **9. APPRAISAL**

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

- Principle of development
- Design, and impact on the character of the area
- Residential amenity
- Highways and Access
- Ecology impact

#### Principle of Development

#### *Policy Context*

### 9.2. The application seeks the development of a currently vacant plot within the Banbury Rise Development for a scheme of up to 9 dwellings. The site is not allocated for

residential development in any adopted or emerging policy document forming part of the Development Plan. Policy Banbury 3 was the policy relevant to this initial housing development and within that policy there was a requirement for the “inclusion of some small scale enterprise space”. The land the subject of this application was included in the original outline permission for 400 dwellings (Ref: 13/00444/OUT) and a S106 planning obligation agreement was in place, dated 10th March 2016, for the eventual transfer of the land (referenced the ‘Employment Site’ and comprising 0.24ha) to the District Council for a nominal fee to facilitate the creation of an ‘enterprise space’ for creation of 500sqm of small scale employment and training premises.

- 9.3. Paragraph 14 to the Second Schedule of the S106 specifies that: “*The Owner and the developer covenant with the District Council that they will service the employment Site and make an irrevocable offer to transfer the unencumbered freehold of the completed employment Site to the District Council (or such other person/body as the District Council may direct) in consideration of the sum of £1.00 but otherwise at no cost (including legal costs) to and subject to no other contribution by the District Council (or such other person or body) such transfer to be with full title guarantee and vacant possession on completion prior to the Occupation of 150 Dwellings and on acceptance of that offer by the District Council (or such other person/body) as the District Council may direct) will transfer the serviced and completed Employment Site to the District council or such other person/body as the District Council may direct) within 28 days of the District council’s (or the other person/body’s) acceptance of the offer*”.
- 9.4. Paragraph 15 to the same Second Schedule continues and states: “*The Owner and the Developer covenant with the District Council that they will not cause or permit more than 149 Dwellings to be Occupied until the Owner and the Developer have made an irrevocable offer to transfer the completed serviced Employment Site to the District Council (or such other person/body as the District Council may direct) in accordance with paragraph 14 of this part of this Schedule and if such transfer is not executed as a deed by the owner and the Developer (and anyone else with an interest in the land in question) and delivered to the District Council within 28 days of the District Council’s acceptance of the offer then the Development (including any further occupation of the Development) shall not continue beyond such time until such transfer has been duly executed as a deed and delivered to the District Council*”.
- 9.5. Notwithstanding those obligations, in the intervening period since the granting of outline planning permission and completion of the s106, phased residential development has proceeded in accordance with subsequent reserved matters and full approvals (Refs: 16/00576/REM for the first 110 dwellings; 16/02437/REM for a further 51 specialist housing units; and 17/00189/F for a further 319 dwellings, taking the total number of dwellings approved across the whole site to 480). A substantial proportion of those dwellings (at least 360 on phases 1, 2 and 3) have subsequently been built and occupied, with the remainder in the final phase 4 development currently under construction. The developer Bloor Homes has also secured further consents on adjoining land to the south, which is now begun initial construction, for a further 250 dwellings (Refs: 22/02101/OUT & 23/03139/REM).
- 9.6. Therefore, notwithstanding the obligations in Paragraphs 14 and 15 to the Second Schedule of the March 2016 s106 to outline consent 13/00444/OUT, far more than 149 dwellings have been built and occupied with no transfer of the Employment Site having taken place, and no plans or funds have been put forward by the Council, or any other party. As such no employment scheme has been forthcoming and the land has been left vacant but has been serviced, maintained and secured by Bloor Homes. Past and on-going development at Banbury Rise is clearly in contravention

of these two obligations in the s106 and has not been subsequently altered in this regard by any subsequent Deed of Variation, although various other modifications have been made.

- 9.7. The updated NPPF (December 2024) significantly altered the way in which LPAs must assess their housing land supply (in accordance with a new national standard methodology). For Cherwell District it required a combination of its own housing needs with those of the previously agreed overspill needs from Oxford City into a single housing need supply and required 400+ more dwellings per year to be accommodated in Cherwell. The consequence of these changes has been to dramatically affect Cherwell's housing land supply figure. The latest Annual Monitoring Report (AMR) was published in December 2025 and indicated that the consequence of these changes has been to reduce the land supply to just 3.1-years. Therefore, the housing policies contained in the Council's Local Plan 2011-2031 Part 1 are currently deemed out of date. In accordance with adopted Local Plan policy PSD1 and NPPF paragraph 11 d) guidance, the 'tilted balance' of a presumption in favour of sustainable development now applies.

#### *Assessment*

- 9.8. In terms of the three legs of sustainability as defined in the NPPF, the economic impact of the proposed alternative residential use of the site would be to create some jobs both directly and indirectly and would generate increased local spending from new residents. Conversely, there would be a clear loss of the anticipated employment that would result from the obligated use of the site as a 'small-scale enterprise space'. Overall, it is considered that there would likely be a slight negative economic impact consequent upon this revised development proposal.
- 9.9. Socially, the development would provide much needed housing within a sustainable main settlement and immediately alongside a wide range of local community facilities served by regular public transport services. Conversely, the loss of anticipated employment activity would lessen the mix of development uses across the Banbury Rise development and thereby reduce its sustainability credentials to a degree. Overall, it is considered that the proposed residential use would be a moderate social enhancement.
- 9.10. Environmentally, the proposed residential use could potentially provide new landscape planting and some enhancement for a range of habitats available for wildlife and the setting of the site. It would be a somewhat prominent development adjacent to an access into the Banbury Rise estate but would be seen within the context of established surrounding housing. As such, it is concluded that there would likely be a modest positive environmental impact to the scheme in this respect.

#### *Conclusion*

- 9.11. Where the 'tilted balance' applies, as it does in this instance, any negative impact would need to substantially and demonstrably outweigh any benefit to justify a refusal. Overall, it is considered that an alternative residential development of the site would likely fulfil the requirements of paragraph 8 of the Framework, would not involve any material harm and could therefore be considered sustainable in principle.
- 9.12. The provision of residential development on this site would assist in helping meet the overall housing requirements of the district and would represent a modest contribution to meeting overall Policy BSC1 housing requirements to 2031. Although modest in extent, substantial weight should be afforded to such benefit.

### Loss of Employment Land

- 9.13. Policy Banbury 3 required the “Inclusion of some small scale enterprise space” within the development. Application reference 13/00444/OUT was approved with the provision of 500sqm of small scale employment and training premises and this would have sat within the site subject to this application within an overall area of 0.45 hectares.
- 9.14. As outlined previously, this employment land was subject to Clauses 14 and 15 of the Second Schedule of the agreed Section 106 relating to 13/00444/OUT. These clauses specified that the approved employment land should be transferred to Cherwell District Council for a nominal £1 fee prior to the occupation of the 150<sup>th</sup> dwelling.
- 9.15. Despite numerous attempts for this transfer to take place, it was never agreed. Both Cherwell District Council and Bloor Homes have marketed the site over many years to try and secure an occupation of the employment land prior to its transfer. However, no such occupier has been found.
- 9.16. There has only ever been minimal but unsustainable interest registered in taking the site on. The Job Centre and a College made some enquiries in 2020 and there was also some interest expressed from the NHS in 2022. However, no interest has been registered since 2022, and initial expressions of interest were not pursued. Given the lack of enquires, it is considered likely that even if the land were to be transferred to the Council that it would remain vacant for the foreseeable future. That would then leave an unsightly plot within the completed residential development, which would require on-going maintenance and security, which the Council would be liable for.
- 9.17. Conversely, the erection of 9 dwellings in this location would be an immediately viable option rather than waiting for an employment opportunity that may not come forward. To off-set the loss of employment land that the Council were to have received through the transfer of the land, the applicant is now willing to pay the Council the market value of the land, which the Council could then use for other employment opportunities within Banbury, so that the original anticipated benefit would still be derived, just in a different form.
- 9.18. An independent valuation has been undertaken for the site and a value of **£275,000** has been proposed. This would be secured through a Deed of Variation to the Section 106 agreement and the funds secured for the Council could then be directed towards specific employment projects within Banbury.
- 9.19. Officers consider that the guarantee of a commuted sum at this stage has a greater value than the prospect of an employment site which may or may not come forward.

### Design, and Impact on the Character of the Area

#### *Legislative and policy context*

- 9.20. Policy ESD15 of the CLP 2015 provides guidance as to the assessment of development and its impact upon the character of the built and historic environment. It seeks to secure development that would complement and enhance the character of its context through sensitive siting, layout and high-quality design meeting high design standards and complementing any nearby heritage assets. The NPPF is clear that good design is fundamental to what the planning and development process should achieve.

- 9.21. Policy BSC10 of the CLP 2015 outlines the requirements for open space, outdoor sport and recreation provision. Policy BSC11 sets out the local standards of provision for outdoor recreation including children's play space.

#### *Assessment*

- 9.22. The existing site is currently an open greenspace although is enclosed by hoardings and metal fencing. The site was earmarked for employment development and as such it is considered that the proposed alternative residential development would not result in any loss of open green space within the Banbury Rise development and would not affect the openness of the wider area in this respect.
- 9.23. The site is positioned within the developed Banbury 3 development area, which has in the immediate vicinity been completed for several years. This additional phase of 9 dwellings would round off the residential development on the southern edge of the Phase 1 development. Properties on the neighbouring Balmoral Avenue and wider Bretch Hill estate are generally finished in a mixture of materials with red and buff brick, with hanging tile details, render, stone cladding and concrete roof tiles. They are two stories in height, and most are detached or semi-detached, although some terraces are present.
- 9.24. The previous phases of this development, which this would expand upon, are similar in their scale to the neighbouring Bretch Hill estate, with mainly two-storey detached and semi-detached dwellings.
- 9.25. Materials in this instance would be red brick with some variation in colouring but would match the materials used on the established Banbury Rise estate and as such the character and appearance of the area would be retained through this development in respect of the materials used.
- 9.26. The housing types also match those which have already been constructed within the estate and as such would seamlessly blend into the locality and not appear out of place within the surroundings.
- 9.27. Overall, Officers consider the proposed development responds well to the adjoining residential development and existing Banbury Rise estate. The scale and layout of the proposed homes would be appropriate to the location, and the design is in keeping with the established character of the surrounding residential development. The sensitive approach to the scale and materials of the proposed development should ensure the new homes would appear as a natural extension of earlier development phases.

#### Residential Amenity

- 9.28. In terms of residential amenity, the closest existing dwellings would be those within the established Banbury Rise estate along Longley Crescent. Sufficient separation distances are proposed between the rear of the existing properties and the proposed new dwellings. A separation distance of at least 22m would be maintained between windows on facing elevations. The separation principles established within the existing development would be continued and this would ensure a coherent form of development.
- 9.29. There would also be near neighbours within Highclere Gardens to the east. However, based on the submitted layout plan, it is considered that there would be sufficient distance maintained between proposed dwellings and those existing to ensure that there would not be any harmful overlooking. The established boundary treatments would also be retained, and the proposed dwellings would be set back

behind a specified drainage area. As a result, it is considered unlikely that there would be any loss of light, loss of outlook, loss of privacy or overbearance due to the placement of dwellings in this location.

### Highways and Access

- 9.30. The proposed access would be from the adjacent Wilson Road to the east and would largely mirror the access arrangements to the dwellings on the western side of Wilson Road. The access road would be a private road leading to off-street parking. This form of access is seen repeatedly throughout the Banbury Rise development and as such is considered a continuum that would be appropriate.
- 9.31. The site layout as submitted in this application shows three dwellings which would be accessed directly from Wilson Road, with large tandem parking leading to garages for two of the dwellings, with tandem parking also shown to the southernmost dwelling. Again, this is seen repeatedly throughout the development as a whole and there is no objection to the inclusion of these accesses here. It is welcomed that dropped kerbs would be kept to a minimum, with two dwellings being accessed by the same kerb area.
- 9.32. Oxfordshire County Council Highways were consulted on this application and have raised no objections to the access and parking arrangements as proposed. A condition was suggested for the submission of covered cycle parking details prior to first occupation of the dwellings. This condition is reasonable as the Transport and Highways Technical Note as well as the Planning Statement mention that cycle parking is to be provided with space allocated in garages, or in cycle stores in rear gardens. The plans submitted for the proposed garages demonstrate that the internal dimensions of the garages have adequate space to accommodate the storage of bicycles. On the other hand, there has not been a submission of plans illustrating the storage of bicycles for the properties without garages. While there is ample space within the rear gardens to satisfy this, a planning condition shall be imposed to this effect.

### Ecology Impact

#### *Legislative context*

- 9.33. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.34. Under the Regulations, competent authorities i.e. any Minister, Government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.35. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may

proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.36. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

(1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?

(2) That there is no satisfactory alternative.

(3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.37. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

#### *Policy Context*

9.38. Paragraph 180 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.39. Paragraph 186 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.40. Paragraph 191 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.41. Policy ESD10 of the Cherwell Local Plan 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to

accompany planning applications which may affect a site, habitat or species of known ecological value.

- 9.42. Policy ESD11 is concerned with Conservation Target Areas (CTAs) and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.43. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.44. The Planning Practice Guidance dated 2014 postdates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

#### *Assessment*

- 9.45. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

- 9.46. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site mostly consists of mostly comprised modified grassland which has a limited biodiversity value, however there are pockets of scrub which can provide shelter and sett building habitat for mammals as well as scattered trees which provide good habitat for birds. There are a number of trees close by and in the boundary of the site which would not be affected by proposals. There are no buildings to be removed or altered due to the proposed development.
- 9.47. Having considered Natural England's Standing Advice and having taken account of site constraints, it is considered that the site has limited potential to contain protected species and any species present are unlikely to be adversely affected by the proposed development. As such, no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative reminding the applicant of their duty to safeguard protected species shall be included on the decision notice and is considered sufficient to address the risk of any residual harm.

- 9.48. The submitted Biodiversity Net Gain report and Preliminary Ecological Appraisal concludes that the site can achieve a net gain of habitat biodiversity of +12.78% and a net gain in hedgerow biodiversity of +50.78% and therefore can comfortably achieve the mandatory 10% net gain in biodiversity.
- 9.49. Officers are satisfied; subject to conditions, that the proposals will not cause harm to the biodiversity at the site and that the minimal 10% biodiversity net gain can be comfortably achieved. Officers are also content that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.
- 9.50. The development is therefore considered to be acceptable in respect to ecological impacts.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The overall purpose of the planning system is to seek to achieve sustainable development as set out in the NPPF. The three dimensions of sustainable development must be considered in order to balance the benefits against the harm. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. The Council cannot currently demonstrate a 5-year housing land supply and as such a tilted balance assessment must be applied. It is considered that the proposal would represent a sustainable development with the proposed application site being located adjacent to existing built development and close to local amenities within Bretch Hill and is easily accessible for pedestrians and cyclists. The development would not cause harm to the local highway network or flood risk. Housing developments of this kind should be located close to the most sustainable locations within the district. Banbury is the most sustainable town and as such can accommodate a development of this size thus helping boost the district's overall housing supply.

## **11. RECOMMENDATION**

**DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING TO GRANT PERMISSION, SUBJECT TO**

- i. THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) AND**
- ii. THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):**

**a) The sum of £275,000 for the value of the land towards employment opportunities within Banbury**

**FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 31<sup>st</sup> March 2026. IF THE SECTION 106 AGREEMENT/UNDERTAKING IS NOT COMPLETED AND THE PERMISSION IS**

**NOT ABLE TO BE ISSUED BY THIS DATE AND NO EXTENSION OF TIME HAS BEEN AGREED BETWEEN THE PARTIES, IT IS FURTHER RECOMMENDED THAT THE ASSISTANT DIRECTOR FOR PLANNING IS GIVEN DELEGATED AUTHORITY TO REFUSE THE APPLICATION FOR THE FOLLOWING REASON:**

- 1. In the absence of a satisfactory unilateral undertaking or any other form of Section 106 legal agreement the Local Planning Authority is not satisfied that the proposed development provides for appropriate compensation for the value of the land to the detriment of both existing and proposed residents and contrary to Policy BAN3 of the Cherwell Local Plan (2015)**

**CONDITIONS/REASONS FOR REFUSAL**

**Time Limit**

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

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

**Compliance with Plans**

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

Site Location Plan – WE080-PD-036A  
Site Layout – WE080-SL-3001D  
Presentation Layout – WE080-PD-1021B  
External Works – WE080-SL-3030A  
Material Layout - WE080-SL3020B  
Landscaping Layout - WE080-LS-038C  
Vehicle Tracking - WE080-EMP-EN-101  
Drainage and Levels - WE080-EN-EMP-100  
Housetype Plans and Elevations  
Banbury Rise Design and Access Statement dated August 2025  
Drainage Technical Note  
Energy Statement – Briary Energy August 2025  
Transport/Highways Technical Note – PJA  
Planning Statement October 2025  
Preliminary Ecological Appraisal Version 4 – Nicholsons October 2025  
Biodiversity Net Gain Report Version 1 – Nicholsons October 2025  
Biodiversity Net Gain Metric - Nicholsons

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

3. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason: In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

4. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres person/day and shall continue to accord with such a limit thereafter.

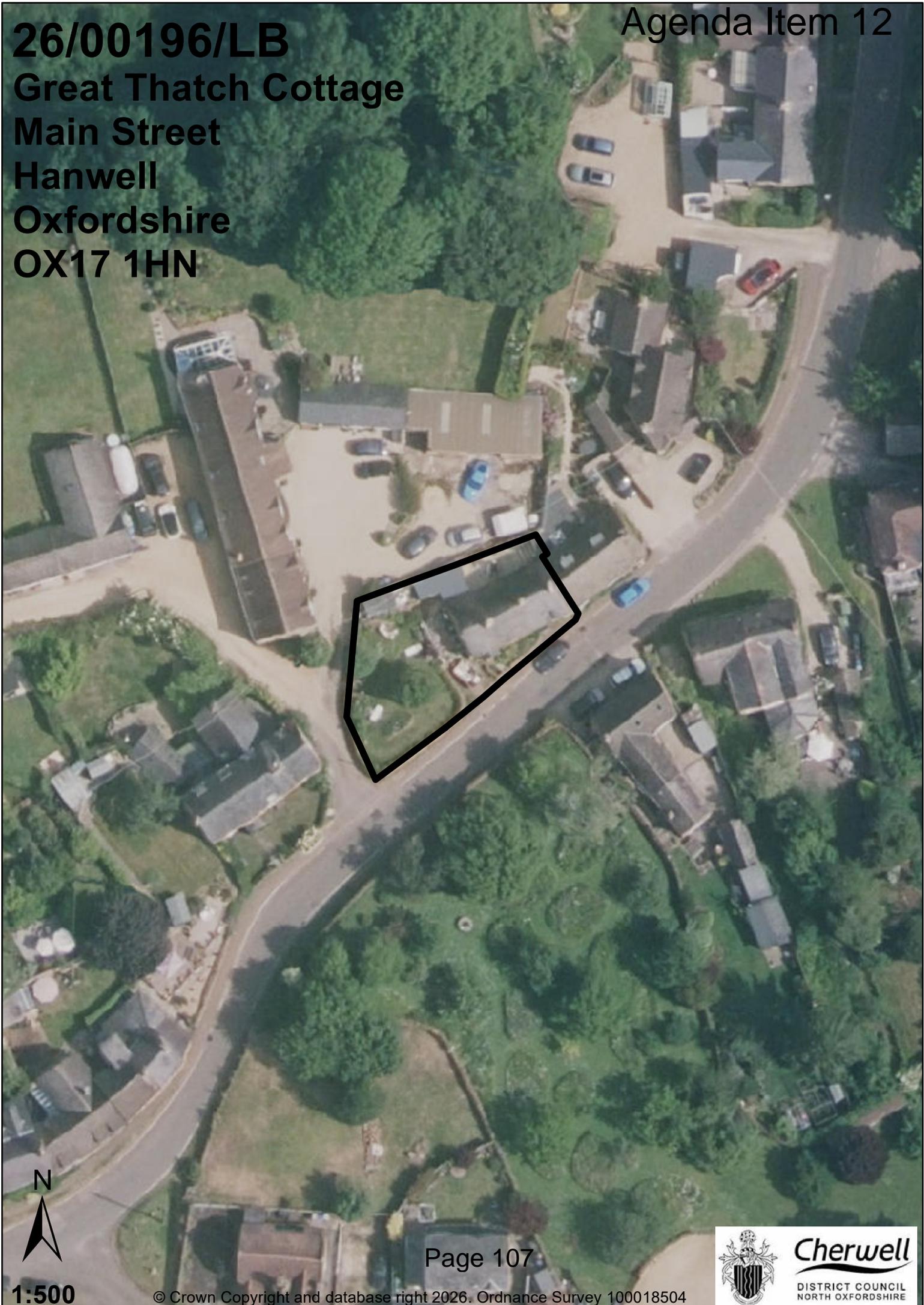
Reason: In the interests of sustainability in accordance with the requirements of Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

5. No development shall commence unless and until a Landscape and Ecology Management Plan (LEMP), which shall also cover the construction phase of the development, has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall not be carried out or managed other than in accordance with the approved LEMP.

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

CASE OFFICER: Lewis Knox

**26/00196/LB**  
**Great Thatch Cottage**  
**Main Street**  
**Hanwell**  
**Oxfordshire**  
**OX17 1HN**



**1:500**



**26/00196/LB**

**Great Thatch Cottage**

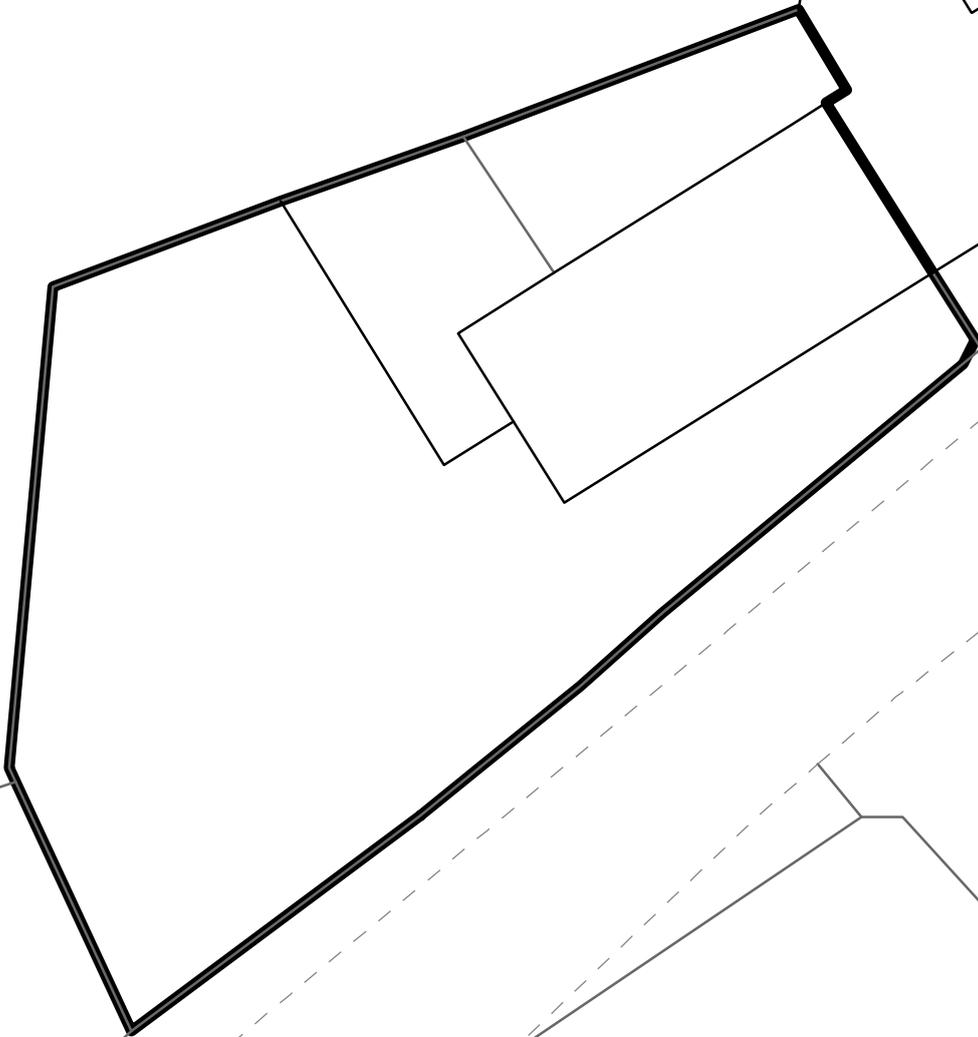
**Main Street**

**Hanwell**

**Oxfordshire**

**OX17 1HN**

137.6m



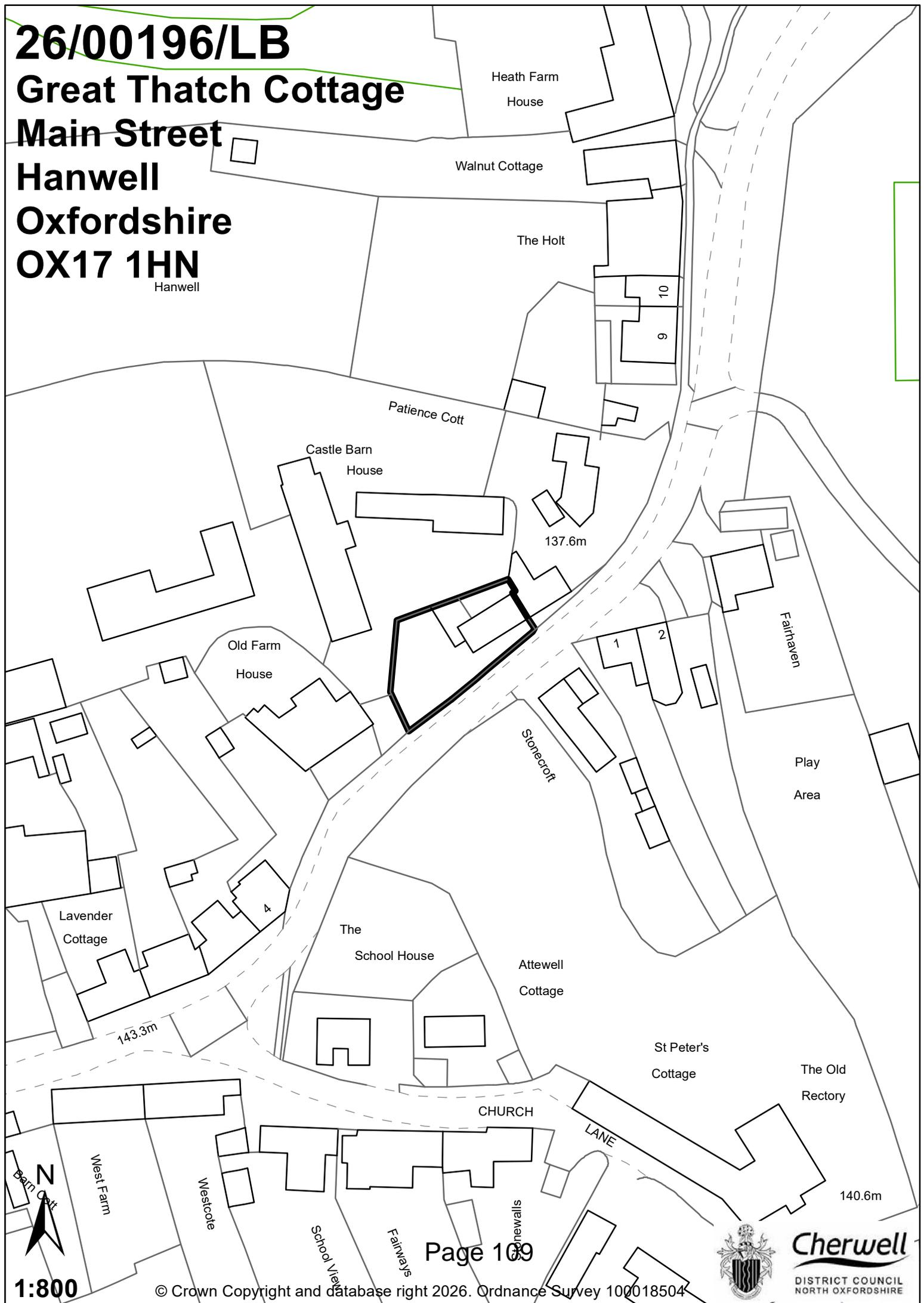
Stoncroft



**1:200**



**26/00196/LB**  
**Great Thatch Cottage**  
**Main Street**  
**Hanwell**  
**Oxfordshire**  
**OX17 1HN**  
Hanwell



**Case Officer:** Astrid Burden

**Applicant:** Chris Brant

**Proposal:** Installation of a domestic electric vehicle charging unit to the front elevation of the existing garage

**Ward:** Cropredy, Sibfords and Wroxton

**Councillors:** Councillor Chris Brant, Councillor Phil Chapman, Councillor Douglas Webb

**Reason for Referral:** Application submitted by a CDC Councillor

**Expiry Date:** 2 April 2026

**Committee Date:** 26 March 2026

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**SUMMARY RECOMMENDATION: GRANT CONSENT SUBJECT TO CONDITIONS**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

1.1. The application site faces onto the Main Street of Hanwell. The site includes the thatched roof cottage, a lean-to roofed garage, one parking space to the front of the garage, a low stone wall on the front of the cottage, and a high stone wall connected to the garage that encloses a garden. The ground levels increase from the main street to the cottage and garage.

**2. CONSTRAINTS**

2.1. The application relates to a listed building and the site is within a conservation area. No other site constraints are relevant to this application.

**3. DESCRIPTION OF PROPOSED DEVELOPMENT**

3.1. The proposal is to install an electric vehicle charging point on the stone pillar of the garage. The unit would be 28.6cm x 17.2cm and mounted on the stone wall.

**4. RELEVANT PLANNING HISTORY**

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

**5. PRE-APPLICATION DISCUSSIONS**

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

**6. RESPONSE TO PUBLICITY**

- 6.1. This application has been publicised by way of a site notice displayed near the site, and by advertisement in the local newspaper. The final date for comments was **24 March 2026**, although comments received after this date and before finalising this report have also been taken into account.

## **7. RESPONSE TO CONSULTATION**

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.
- 7.2. PARISH COUNCIL: No comments received
- 7.3. CONSERVATION: **No objections** subject to a condition

## **8. RELEVANT PLANNING POLICY AND GUIDANCE**

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

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

- ESD15 - The Character of the Built and Historic Environment

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

- 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- The Planning (Listed Buildings and Conservation Areas) Act 1990

## **9. APPRAISAL**

- 9.1. The building subject of this application is Grade II listed and the site is within the setting of a Conservation Area.
- 9.2. The key consideration in this case is the proposal's impact on heritage assets.
- 9.3. ESD15 requires development to "Conserve, sustain and enhance designated and non designated 'heritage assets' (as defined in the NPPF) including buildings, features, archaeology, conservation areas and their settings, and ensure new development is sensitively sited and integrated in accordance with advice in the NPPF and NPPG."
- 9.4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) states that in carrying out its functions as the Local Planning Authority in

respect of development in a conservation area: *special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.*

- 9.5. Likewise, Section 66 of the same Act states that: *In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority...shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Therefore, significant weight must be given to these matters in the assessment of this planning application.
- 9.6. Conservation Areas and Listed Buildings are designated heritage assets, and Paragraph 205 of the NPPF states that: *when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.* Policy ESD15 of the CLP 2015 echoes this guidance.
- 9.7. The Conservation Officer has no objections to the proposal, advising that the proposal would not result in an unacceptable loss of historic fabric and that its location and size would ensure that it is not unduly prominent on the principal elevation of the building or highly visible in the conservation area.
- 9.8. The proposal would be acceptable in heritage terms.

## **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, consent should therefore be granted.

## **11. RECOMMENDATION**

### **GRANT CONSENT, SUBJECT TO THE CONDITIONS SET OUT BELOW (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY)**

#### CONDITIONS

##### **Time Limit**

1. The development and works hereby permitted shall be begun not later than three years from the date of this consent.

Reason: To comply with the provisions of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

##### **Compliance with Plans**

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the Site Location Plan (dated 26 January 2026) and the document titled 'Proposed Front Elevation – Garage Showing EV Charger' (dated 16 January 2026)

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

Framework.

**Informative Note** - The charger should be removed when no longer in use.

CASE OFFICER: Astrid Burden