

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

25/02862/F

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

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 The Council's Development Plan housing policies are out of date by virtue of a lack of a deliverable 5-year supply of housing land to meet identified needs and therefore the NPPF paragraph 11 d) 'tilted balance' applies to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 150th 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 31st 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