

**Case Officer:** Linda Griffiths

**Applicant:** Barwood Development Securities Ltd/Mark Horgan

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

**Ward:** Banbury Calthorpe & Easington

**Councillors:** Cllr Harwood, Cllr Mallon, Cllr Parsons

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

**Expiry Date:** 15 September 2023

**Committee Date:** 7 September 2023

---

**SUMMARY RECOMMENDATION: THAT OUTLINE PLANNING PERMISSION BE REFUSED**

**MAIN REPORT**

**1. APPLICATION SITE AND LOCALITY**

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

**2. CONSTRAINTS**

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

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

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

### **4. RELEVANT PLANNING HISTORY**

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

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

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

### **6. RESPONSE TO PUBLICITY**

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

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

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

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

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

## **7. RESPONSE TO CONSULTATION**

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

## PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

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

### CONSULTEES

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

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

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

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

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

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

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

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

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

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

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

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

- 7.12. CDC ECOLOGY: no comments received.

- 7.13. CDC CONSERVATION OFFICER: no comments received.

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

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

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

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

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

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

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

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

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

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

### 8.3. Other Material Planning Considerations:

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

### 8.4. Council Corporate Priorities

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

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

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

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

## 9. APPRAISAL

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

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

- Planning Obligation

### Principle of Development

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

### *Policy Context*

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

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

9.7. Paragraph 12 of the NPPF advises as follows in respect of sustainable development and the status of the Development Plan:

*'The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material consideration in a particular case indicate that the plan should not be followed.'*

9.8. Section 5 of the NPPF focuses upon the delivery of a sufficient supply of homes stating:

*'To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.'*

9.9. Paragraph 74 highlights the need for local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to promote a minimum of five years supply of housing against their housing requirement set out in the adopted strategic policies, or against their local housing need where strategic policies are more than five years old (unless these strategic policies have been reviewed and found not to require updating as in Cherwell's case). The supply of specific deliverable sites should, in addition, include a buffer which is 5% in Cherwell's current circumstances (moved forward from later in the plan period).

9.10. In February 2023 Cherwell District Council (CDC) approved a review of their adopted planning policies carried out under regulation 10a of the Town and Country Planning (Local Planning) (England) Regulations 2012. This review concluded that, due to the publication of more recent evidence on Housing Needs to support the preparation of the Cherwell Local Plan Review 2040, policies including Policy BSC1 are 'out of date'. Paragraph 74 and footnote 39 of the NPPF requires that in such circumstances the 5-year supply of land should be calculated using the Government's standard methodology.

9.11. As set out in the Council's Housing Land Supply Statement (February 2023), the use of the standard method has the effect of reducing the annualised requirement from 1,142 dpa to 742 dpa for the purposes of calculating the land supply and consequently CDC is able to demonstrate a 5.4-year supply and paragraph 11d of the NPPF (the tilted balance) is not engaged.

9.12. The application must also be assessed against saved policies in the adopted Cherwell Local Plan 1996 which also therefore forms part of the development plan. Saved Policy H18 states that planning permission will only be granted for new residential development beyond the existing built-up limits of a settlement where the development is (i) essential for agriculture or other existing undertakings; (ii) the proposal meets the criteria set out in policy H6; and, (iii) the proposal would not conflict with other policies in the development plan.

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

#### *Assessment*

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

#### *Conclusion*

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

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

#### Landscape and Visual Impact

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

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

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

#### Site Layout and Design Principles

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

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

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

#### Highways and Vehicular Access

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

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

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

#### Flood Risk and Drainage

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

## Heritage Impact

### *Legislative and policy context*

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

## Ecology Impact

### *Legislative context*

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

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

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

#### *Policy Context*

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

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

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

#### *Assessment*

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

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

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

#### Housing Mix and Affordable Housing

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

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

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

#### Sustainability

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

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

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

#### Planning Obligations

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

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

9.97. OCC Obligations:

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

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

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

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

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

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

## **10. RECOMMENDATION**

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

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

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

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

CASE OFFICER: Linda Griffiths

TEL: 01295 227998