

**Part Of Os Parcels 1864 And 3655 South West Of
Milestone Farm Broughton Road Banbury**

25/02863/OUT

Case Officer: Lewis Knox

Applicant: Kler Group

Proposal: Outline application for the development of up to 76 dwellings, green and blue infrastructure, open space and associated works, with All Matters Reserved apart from access

Ward: Banbury Calthorpe And Easington, Banbury Ruscote

Councillors: Councillor John Brown, Councillor Ian Harwood, Councillor Kieron Mallon, (Banbury Calthorpe and Easington)
Councillor Mark Cherry, Councillor Isabel Creed Councillor Mark Gorman (Banbury Ruscote)

Reason for Referral: Major development/Significant departure from adopted development plan or other CDC approved policies/strategies

Expiry Date: 24th July 2026

Committee Date: 23rd July 2026

SUMMARY RECOMMENDATION: GRANT OUTLINE PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO THE COMPLETION OF A S106 LEGAL AGREEMENT

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located on the western edge of Banbury, on the north side of Broughton Road. It lies just outside the current built up limits of the town but adjoins existing planned residential form to both the east and north.
- 1.2. The site comprises just under 6 hectares and is located south of the Withycombe Farm Residential Development known as Banbury Rise (Ref. 22/02101/OUT; 250 dwellings) and is to the west of the previously approved scheme (Ref. 25/02174/OUT; 58 dwellings) which currently has a resolution to grant planning permission after being heard by committee in March 2026.
- 1.3. Broughton Road lies immediately adjacent the southern site boundary.
- 1.4. Open countryside extends beyond the western boundary of the application site and on the opposite (south) side of Broughton Road.

2. CONSTRAINTS

- 2.1. There are no major constraints existing on the site but there are several protected and notable species within the locality. The land is classified as being between Grade 2 and 3 in the agricultural land classification, i.e., not best and most versatile (BMV).
- 2.2. The sloping topography of the site is such that its gradient increases the further north from Broughton Road you travel and as such the proposed built form has been limited

to the flatter and less visually intrusive southern end of the field, behind the mature roadside hedgerow.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application proposes the erection of up to 76 dwellings to the northern side of Broughton Road. This site lies just to the west of an approved development and to the south of the Banbury Rise residential development.
- 3.2. Vehicular access to the site is proposed via a new access from Broughton Road. The parameters plan indicates development in two clusters on the flatter, southern end of the site, closest to Broughton Road. These clusters would be just north of the proposed drainage ponds at the southern end of the field. The development would include public open space and play areas as well as formally and informally landscaped areas.
- 3.3. The development would comprise the following elements:
 - Provision of up to 76 dwellings;
 - At least 30% affordable housing
 - New pedestrian and vehicular access via Broughton Road, to the south of the site;
 - Public open space;
 - A combined Local Equipped Area of Play (LEAP) and Local Area of Play (LAP), which would be accessible to the local community;
 - A biodiversity enhancement area;
 - Sustainable urban Drainage Systems (SuDS); and
 - Other supporting infrastructure.

4. RELEVANT PLANNING HISTORY

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

5. PRE-APPLICATION DISCUSSIONS

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

Application:
25/00771/PREAPP

Guidance Issued: 7 May 2025

Residential development of up to 130 dwellings.

- 5.2. The scheme was considered contrary to current development policy, being a proposal for residential development in open countryside beyond existing developed limits. Such proposals are normally resisted unless supported by adopted policy or emerging policy with some weight, or there are other material circumstances to justify development. At the time of writing the pre-application report, the Council could only demonstrate a 2.3-year housing land supply, so it was concluded that the 'tilted balance' referenced in the NPPF at paragraph 11 d) would apply, with a presumption in favour of sustainable development in sustainable locations. That is a significant material factor as Banbury, which this site abuts, is the District's largest town with an extensive range of service and facilities. On balance and subject to examination of any supporting documentation, the advice given was that it was considered likely that the Council could support a residential scheme in this location however it would have to be significantly less than the proposed 130 dwellings.

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 comments received after this date and before finalising this report have also been taken into account.
- 6.2. The comments raised by four (4) third-parties are summarised as follows:
- Lack of infrastructure to support additional housing
 - Increased Traffic, lack of sustainable travel options
 - Impact on ecology
 - Drainage and sewage issues
 - Impact on character and appearance of locality
 - Unsustainable development
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.
- 7.2. BANBURY TOWN COUNCIL: **Object** on the grounds that the development proposed is in open countryside beyond the built-up limits of Banbury and is therefore contrary to the existing and emerging Local Plan policy. The application is premature to the emerging local plan. If the LPA was to recommend approval, then appropriate pedestrian links to Salt Way Route should be included
- 7.3. BANBURY CIVIC SOCIETY: No comments received .
- 7.4. WARD COUNCILLORS: **No comments received**
- 7.5. CDC PLANNING POLICY: **No objections**.
- 7.6. OCC HIGHWAYS: **No objections** subject to conditions and requirement for S106 contributions towards public transport enhancement.
- 7.7. OCC ARCHAEOLOGY: **No objections**, subject to conditions.
- 7.8. OCC as LEAD LOCAL FLOOD AUTHORITY: **No objections**, subject to conditions.
- 7.9. OCC WASTE MANAGEMENT: **No objections**, subject to S106 contributions.
- 7.10. CDC DRAINAGE: **No objections**
- 7.11. CDC ECOLOGY: **No objections**, subject to conditions.

- 7.12. CDC ENVIRONMENTAL PROTECTION: **No objections**, subject to conditions.
- 7.13. CDC BUILDING CONTROL: **No objections**.
- 7.14. CDC RECREATION AND LEISURE: **No objections**, subject to S106 contributions.
- 7.15. CDC LANDSCAPE OFFICER: **Object**, further information requested. Harm to openness and local landscape when viewed from Crouch Hill.
- 7.16. CDC PUBLIC ART: S106 contributions requested.
- 7.17. CDC URBAN DESIGN: General comments made about site layout and parameters plan, which can be addressed through conditions.
- 7.18. CDC HOUSING STANDARDS: No comments received.
- 7.19. CDC STRATEGIC HOUSING: **No objections in principle**, suitable housing mix to be agreed at reserved matters
- 7.20. CDC WASTE AND RECYCLING: No comments received.
- 7.21. THAMES VALLEY POLICE: Comments made regarding designing out crime, which can also be addressed through conditions.
- 7.22. CPRE: Commented that housing should be delivered through a plan led system but recognise the current housing land supply shortfall in Cherwell. Comments regarding light pollution, ecology, water and wastewater infrastructure. Would welcome an expedited delivery timetable.
- 7.23. NHS CLINICAL COMMISSIONING GROUP: S106 contribution requested
- 7.24. THAMES WATER: Conditions required

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)

- Policy SLE4: Improved Transport and Connections
- Policy PSD1 – Presumption in favour of Sustainable Development
- Policy BSC1: District Wide Housing Distribution
- Policy BSC3: Affordable Housing
- Policy BSC4: Housing mix
- Policy BSC10: Open Space, Outdoor Sport and Recreation Provision

- Policy BSC11: Local Standards of Provision – Outdoor Recreation
- Policy BSC12: Indoor Sport, Recreation and Community Facilities
- Policies ESD1-5: Mitigating and Adapting to Climate Change
- Policy ESD6: Sustainable Flood Risk Management
- Policy ESD7: Sustainable Drainage Systems
- Policy ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD13: Local Landscape Protection and Enhancement
- Policy ESD15: Character of the Built and Historic Environment
- Policy ESD17: Green Infrastructure
- Policy INF1: Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- Policy H18: New dwellings in the open countryside
- Policy C7: Landscape Conservation
- Policy C8: Sporadic development in the open countryside
- Policy C28: Layout, design and external appearance of new development
- Policy C30: Design Control

8.3. The District Council has prepared a 2042 Review Local Plan that has passed through Reg.18 and Reg.19 consultations and has now been submitted for Examination (31 July 2025). Even though it has not been statutorily adopted, by virtue of its advanced stage of preparation and Council endorsement as adopted emerging strategy worthy of consideration at Examination, some weight must now be afforded to its policies and proposals, with the weight attributable dependent upon the level of objection and/or support offered in representations made in respect to the two rounds of public consultation. Emerging policies of relevance to this proposal are:

- COM1: District Wide Housing Distribution
- COM2: Affordable Housing
- COM10: Protection & Enhancement of the Landscape
- COM13: Settlement Gaps – Hanwell Strategic Gap
- COM14: Achieving Well Designed Places
- BAN 1: Banbury Area Strategy

8.4. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Cherwell Design Guide (2018)
- Cherwell Planning Obligations SPD (2018)
- National Design Guide
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

9. APPRAISAL

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

- Principle of development

- Landscape Impact
- Ecology Impact
- Highways and Vehicular Access
- Layout and Design Principles
- Archaeology
- Flood Risk and Drainage
- Obligations

Principle of Development

Policy Context

- 9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise
- 9.3. The Development Plan for this area currently comprises the adopted Cherwell Local Plan 2011-2031 Part 1 (CLP 2015) and saved policies of the Cherwell Local Plan 1996 (CLP 1996). The 2042 Review Local Plan has been submitted for Examination and is due, upon final adoption following Examination, to replace the 1996 and 2015 Local Plans. Whilst some weight may now be afforded to the policies and proposals within the new Review Local Plan, including its maintenance of the general strategy approach to concentrate most District development needs at the two principal towns of Banbury and Bicester and thereafter to accommodate the bulk of remaining needs at Kidlington, Heyford Park and the ten largest villages that act as service centres for their immediate environs, numerous objections have been lodged in respect to its policies and proposals, which reduces the relevant weight that may be attributable.
- 9.4. Policy PSD1 of the adopted CLP 2015 embeds a proactive approach to considering development proposals to reflect the presumption in favour of sustainable development. It states, *'The Council will always work proactively with applicants to jointly find solutions which means that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area'*.
- 9.5. The CLP 2015 seeks to allocate sufficient land to meet district-wide housing needs. The Plan states *'The most sustainable locations for growth in the district are considered to be Banbury, Bicester and the larger villages as identified in policies Villages 1 and Villages 2 as these settlements have a range of services and facilities, reducing the need to travel by car'*.
- 9.6. Policy BSC1 states that Cherwell District will deliver a wide choice of high-quality homes by providing for 22,840 additional dwellings between 1 April 2011 and 31 March 2031. 1,106 completions were recorded between 2011 and 2014 leaving 21,734 homes to be provided between 2014 and 2031.
- 9.7. Saved Policy H18 of the CLP 1996 refers to the development of dwellings beyond the built-up limits of settlements.
- 9.8. A key material consideration is the National Planning Policy Framework (NPPF) which sets out the Government's planning policy for England. The NPPF is supported by Planning Practice Guidance (PPG).
- 9.9. The NPPF explains that the purpose of the planning system is to contribute to the achievement of sustainable development. This is defined as meeting the needs of the present without compromising the ability of future generations to meet their own needs.

9.10. So that sustainable development is pursued in a positive way, the NPPF includes a 'presumption in favour of sustainable development' (Para.10). Paragraph 11 states that *applying the presumption to decision-making means:*

- *approving development proposals that accord with an up-to-date development plan without delay; or*
- *where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), granting permission unless:*
 - i. *The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed;*
 - ii. *or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

9.11. The position in which the most important policies are considered out-of-date because of the absence of a five-year housing land supply is often referred to as the 'tilted balance'.

9.12. The Council's latest published Annual Monitoring Report, (December 2025), confirms that Cherwell District can only demonstrate a housing land supply of 3.1 years.

9.13. This figure accounts for the land supply calculations for deliverable housing sites measured against identified need, including that for the overspill of Oxford's unmet need, as outlined in the Cherwell Partial Review Plan (2020). The land supply calculations reflect the revised NPPF (December 2024) and appeal decision Ref: APP/C3105/W/23/3326761 (March 2024) and the subsequent High Court decision for that appeal, where the judge ruled that a single housing land supply calculation for the whole district must be used, incorporating both Cherwell's own need within the CLP (2015) and Oxford's unmet need (PR Plan 2020).

9.14. Paragraph 11 (d) of the NPPF states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, *planning permission should be granted unless:*

- i. *The application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed;*
- ii. *or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.*

9.15. The policies which are most important for determining this application are out of date, as per footnote 8 of the NPPF. This relates to applications involving the provision of housing in situations where the Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites.

- 9.16. The Council cannot presently demonstrate a 5-year housing land supply. On this basis, Development Plan housing policies BSC1, PV1, PV2 and H18, cannot be deemed up to date and NPPF, paragraph 11d) is engaged, which sets out the presumption in favour of sustainable development.
- 9.17. Policy PSD 1 of the CLP 2015 sets out the Plan's presumption in favour of sustainable development, stating that when considering development proposals, the Council will take a proactive approach to reflect the presumption in favour of sustainable development contained in the National Planning Policy Framework, thereby echoing paragraph 11 (d) of the Framework.
- 9.18. The key consideration pertinent to the principle of development is therefore whether there are any adverse impacts that would significantly and demonstrably outweigh the substantial benefit afforded to the provision of housing at a sustainable settlement.
- 9.19. The NPPF (2024) states that 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 those with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.
- 9.20. The reference to the need to significantly boost the supply of housing aligns with the Government's objective of building 1.5 million new homes over the next 5 years, as set out in the 'Building the Homes we Need' Written Ministerial Statement, dated December 2024. To achieve this objective, it is clear that sites in sustainable locations should be considered favourably for development.
- 9.21. Policy ESD1 of CLP 2015 identifies the measures to be taken to mitigate the impact of development on climate change within the District. This includes distributing growth to the most sustainable locations as defined in the Local Plan.

Assessment

- 9.22. The application seeks outline consent for a scheme of up to 76 dwellings on existing agricultural land. 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 beyond the existing built-up form of Banbury and surrounding Bretch Hill development sites and is therefore in open countryside. It is however noted that the parcel of land adjoining the site to the north has already been granted outline and reserved matters consents for 250 dwellings, with development already being built out at pace. It should also be noted that the land to the east has also received a resolution to grant planning permission by the Planning Committee for 58 dwellings with the Section 106 agreement currently being negotiated before a decision is issued. Given this, it is considered that the site would adjoin the built form of Banbury on two sides (north and east) and would not appear as a standalone or sporadic development within the open countryside.
- 9.23. As the potential application site is located beyond the existing built-up limits of Banbury, any proposal must also be assessed against saved Policies C8 and H18 of the CLP 1996. Policy C8 seeks to avoid sporadic development in the open countryside and applies to all new development proposals 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 undertakings, or where

development would not conflict with other saved policies in the CLP 1996. Whilst the site would not be a sporadic location, this proposal is for a development of up to 76 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 proposed would not therefore accord with Policy H18 of the CLP 1996.

- 9.24. The application site was identified as part of a larger area within the Housing and Economic Land Availability Assessment (HELAA) 2025 and is referenced HELAA033. The HELAA concluded that the plot was a Greenfield site outside the built-up limits of Banbury. The site is located within one of the four areas identified as being the most accessible or capable of being most accessible within the district. The site is considered to be unsuitable for development within the adopted Development Plan. The site has a steep topographic gradient, rising up to the north. Despite the site to the east having recently received planning permission for 58 homes, and the site to the north having submitted a screening opinion application, the topography of this site retains its rural character and sense of separation from Banbury.
- 9.25. It should be noted that this assessment was undertaken prior to the approval of the development immediately to the east of the site (Ref. 25/02174/OUT) and as such its position and appearance as a sense of separation from Banbury has been somewhat diminished as a result.
- 9.26. In terms of the three legs of sustainability as defined in the NPPF, the economic impact of the proposed development would create jobs both directly and indirectly and would generate increased local spending from new residents. Socially, the development would provide much needed market and affordable housing on the edge of a sustainable main settlement, which is close to a wide range of local community facilities and served by regular public transport services. Environmentally, it could potentially provide new planting and some enhancement for a range of habitats available for wildlife and the setting of the site.
- 9.27. Conversely, it would inevitably be a prominent development in the landscape, given the natural slope of the land and the site's prominence when viewed from the south at nearby Crouch Hill. Views from the west, in the approach from Broughton would be less prominent given that development would be restricted to the lower southern portion and would be viewed against the backdrop of existing residential development to the east and north. Such negative environmental impacts would need to be balanced against the positive economic and social benefits and where the 'tilted balance' applies, as it does in this instance, any negative impact would need to be substantially and demonstrably outweigh any benefit in order to justify a refusal. It is considered that the proposed development would likely fulfil the requirements of paragraph 8 of the Framework and could therefore be considered sustainable.

Conclusion

- 9.28. The provision of residential development on this site would assist in meeting the overall housing requirements of the district and would contribute to the provision of affordable housing, meeting Policy BSC1 housing requirements to 2031. Substantial weight would be afforded to such benefits.
- 9.29. The latest housing supply figure for Cherwell District is calculated at significantly less than 5 years at 3.1 years. As such, the 'tilted balance' is engaged triggering a presumption in favour of sustainable development. The site is located on the edge of one of the most sustainable settlements within Cherwell and would benefit from proximity to existing infrastructure and facilities. Whilst there would be some negative impact upon the character and appearance of the open countryside and locality through development of this greenfield site, particularly when viewed from Crouch Hill,

Officers accept that suitable landscape mitigation would, in time, be acceptable and sufficiently reduce any identified landscape harm. It is considered that the harmful impact could be largely mitigated and would be outweighed by the substantial benefits of the additional housing. The provision of affordable housing, the sustainability of the location and the long-term socio-economic benefits which additional housing and population would bring would, on balance, render this proposal acceptable.

- 9.30. Overall, it is considered that the development would boost the local housing supply in a sustainable way and therefore would comply with the goals of both the Local Plan and NPPF.

Landscape Impact

Policy context

- 9.31. Policy ESD13 of the adopted CLP 2015 requires landscape protection and enhancement opportunities to secure enhancement of the character and appearance of the landscape, particularly in urban fringe locations, through the restoration, management or enhancement of existing landscapes, features or habitats or where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.
- 9.32. 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 tranquillity.
- 9.33. Accompanying paragraph B.252 of the CLP 2015 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 outlying villages surrounding Banbury and Bicester and the historic villages and parkland of Hanwell and Wroxton.
- 9.34. The site is located within the proposed Ironstone Downs Local Landscape Designation, albeit on the very edge and viewed against the backdrop of neighbouring residential development on two sides and as such is not as much of a sensitive area within this designation.

Assessment

- 9.35. The site is located on the western edge of Banbury to the northern side of Broughton Road with planned development to the east. Open countryside extends to the west of the parcel.
- 9.36. The site is currently divided into three separate fields with the access road to Milestone Farm separating the southernmost fields and mature trees and hedging dissecting the northern field. The application site is not completely devoid of development with Milestone Farmhouse located centrally within the application site.
- 9.37. The most impactful view of the development site would be from the south of Broughton Road, from Crouch Hill, and given the inconsistent topography of the field, some locations would be more visible than others with the highest ground being set along the northern and eastern edges, though it does fall away to the south and west corner.

- 9.38. The highest areas of land would be seen within context of other residential properties to the north within Banbury Rise, North East along Balmoral Avenue and the new development sites as well as Denbeigh Close and the approved development to the east of the site. These sites are all on a similar or higher topography to the proposed development site and as such given their proximity it is considered that the landscape sensitivity would be greatly reduced and to some extent would form a natural continuation of the existing urban form within the locality.
- 9.39. With development both to the north and east, it is considered that this proposed development would be seen as a natural rounding off of this western edge of Banbury creating a clean and linear distinction between the built form and the open countryside beyond. It would be required at reserved matters stage that a significant landscaping scheme would need to be implemented on the western edge of the site to ensure the distinction between Banbury and the countryside beyond is obvious.
- 9.40. As one travels further west within or along its southern edge, the site has a greater relationship to the open countryside, as it is further away from the built environment to the east and north, but there is still a link to the urban environment through the existence of the metalled footpath which leads some way along Broughton Road stopping at the entrance of Milestone Farm and as such it still retains a connection to the existing urban form and therefore is not a completely rural landscape when viewed from the south.
- 9.41. Much of the view from the west of the site is shielded from view through the mature vegetation which bounds the site to its western and southern edges; though it is noted that this landscaped edge is somewhat more sparse than what exists at the neighbouring site to the east. Nevertheless, the immediate landscape when viewed from neighbouring fields or from Broughton Road would not be significantly impacted by the proposed development. Any views could be further mitigated by an enhancement of the vegetation along this rural edge and thus would further reduce the immediate landscape impacts.
- 9.42. The site is considered unremarkable in terms of its distinctiveness. The main landscape features include hedgerows and mature trees which in combination with sloping topography provide some containment to the Site and contribute to the vegetated appearance of the landscape. There are few features within the main body of the site itself to contribute to the wider landscape structure. From PRow's other than at Crouch Hill and from local road corridors, the site is of limited interest. Where views are possible, it is perceived as open agricultural land adjacent to a suburban settlement edge.
- 9.43. Cherwell District Council's Landscape Officer was consulted on the application and the submitted Landscape Visual Impact Assessment. The assessment provided by the applicants identifies the Site as Medium sensitivity, the Site's immediate landscape setting as Medium / High sensitivity and the wider landscape as High sensitivity. This is welcomed, but the subsequent judgements on magnitude and significance remain optimistic and are not fully supported by the evidence provided.
- 9.44. The LVIA's assessment of the immediate/localised landscape setting depends heavily on containment, retained vegetation and the future urban context. These considerations are relevant, but they do not remove the need to assess changes to openness, the rural approach to Banbury, settlement-edge composition, topography and cross-valley perception.
- 9.45. The LVIA acknowledges that there would be major adverse visual effects when viewed from Crouch Hill at year 1 with this impact only softening slightly to major/moderate effects at year 10. Officers do conclude that it would not be possible

to mitigate the landscape impact of the development when viewed from Crouch Hill and do agree with the findings of the LVIA. Officers also note the request for further information from the comments provided by our Landscape Officer.

- 9.46. It is considered by officers that the information provided by the applicants is sufficient enough to conclude that there would be significant landscape harm caused by the development when viewed from Crouch Hill, and this harm will only be marginally mitigated against even after 10 years. It is unlikely that the submission of further information as requested would change this conclusion.

Conclusion

- 9.47. Officers conclude that the development would undoubtedly have a negative impact on the overall landscape along the western edge of Banbury given its intrusion into the open countryside. It is considered that the views from the west of the site and when travelling east and west along the Broughton Road can be suitably mitigated against through a well thought out and thorough landscape and planting scheme and in this respect, there are no concerns from officers.
- 9.48. Of greater concern is the impact the development will have on the wider views from Crouch Hill to the south of the site. Even with a proposed mitigation scheme the development would still have a major/moderate impact on the landscape and the openness. The fact that the development would be restricted to the lowest parts of the site and the fact the development would be seen within the context of other developments to the north and east would help soften this impact, however the harm is still concluded to be significant and must be afforded suitable weight when balancing the positive and negative impacts of the scheme.

Ecology Impact

Legislative context

- 9.49. 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.
- 9.50. 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.
- 9.51. 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.
- 9.52. 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.

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

Policy Context

9.54. 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.

9.55. 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.

9.56. 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.

9.57. 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.

9.58. 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.

- 9.59. 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.
- 9.60. 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

- 9.61. 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')
- 9.62. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site consists of a well managed, closely mown lawn 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. There are no buildings to be removed or altered due to the proposed development.
- 9.63. The application is supported by an ecological appraisal which concluded that no statutory or non-statutory nature conservation designations are present within or adjacent to the site, and none of the designations within the surrounding area are likely to be adversely affected by the proposals. The site is dominated by habitats which are not considered to be of ecological importance, whilst the proposals have sought to retain those features identified to be of value, namely the network of hedgerows. Where it has not been practicable to avoid loss of hedgerow, new hedgerow creation has been proposed to offset losses, in conjunction with the landscape proposals.
- 9.64. The habitats within the site support several protected species, including species protected under both national and European legislation. Accordingly, a number of mitigation measures have been proposed to minimise the risk of harm to protected species, with compensatory measures proposed, where appropriate, in order to maintain the conservation status of local populations.

- 9.65. The proposals have sought to minimise impacts and subject to the implementation of appropriate avoidance, mitigation and compensation measures, it is considered unlikely that the proposals will result in significant harm to biodiversity. On the contrary, the opportunity exists to provide a number of biodiversity net gains as part of the proposals.
- 9.66. The Council's Ecologist was broadly supportive of the conclusions of the ecological appraisal and the mitigation proposed.
- 9.67. Clarification was provided regarding tree removals. Under the proposals, only tree group G13, hedgerow H10, and limited sections of hedgerows H9 and H11 are anticipated to be lost. All trees within the site, including those proposed for removal, were subject to a ground-level arboricultural assessment. In accordance with Bat Conservation Trust guidelines, the trees identified for removal were assessed as having no or negligible suitability for roosting bats. On this basis, no specific mitigation measures are required in respect of tree removal and bat roosts.
- 9.68. Targeted bat surveys were considered unnecessary by the ecologists because most of the trees and hedgerows are being retained and following ground level arboricultural assessment. and because the boundary habitats benefit from substantial buffers. This is acceptable in principle, but as this is only an outline application, These buffers will be retained through the design process and will be agreed at reserved matters stage.
- 9.69. The eDNA test for the on-site pond returned a negative result. Off-site ponds are separated from the site by Broughton Road, which is likely to act as a barrier, and habitats within the site are largely unsuitable for Great Crested Newts. The species is therefore considered unlikely to be present. Reptile habitat is limited to modified grassland managed for hay or silage. While occasional use may occur, the site is unlikely to support a significant resident population. Precautionary measures will need to be outlined in a Construction Environment Management Plan for biodiversity for both of these species groups.

Conclusion

- 9.70. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Highways and Vehicular Access

- 9.71. The NPPF (Para.105) states that the planning system should actively manage patterns of growth in support of the achievement of promoting sustainable transport. However, it notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
- 9.72. The NPPF (Para.106) advises that in assessing specific applications for development, it should be ensured that: a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in

terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

- 9.73. Policies ESD15 and SLE4 of the CLP 2015 both reflect the provision and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: *“New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions”*; whilst Policy SLE4 states that: *“All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported”*.
- 9.74. Policy TR7 states that: *‘Development that would regularly attract large commercial vehicles or large numbers of cars onto unsuitable minor roads will not normally be permitted.*

Assessment

- 9.75. Vehicular access is proposed from the A035 Broughton Road through a standard priority junction, as detailed in drawing number 3794-ADC-HGN-XX DR-CH-0100 Rev P02. The proposed access will feature a carriageway with a width of 5.5m, kerb radii of 6m, a 2m wide pedestrian footway on the western side, and a 3m wide shared footway/cycleway on the eastern side of the carriageway.
- 9.76. A swept path analysis has been conducted for an 11.6m refuse vehicle entering and leaving the proposed site from both directions. Concerns were raised about the proposed site access design after reviewing the swept path analysis for an 11.6m refuse vehicle. To address these issues, it was recommended that the kerbline radius on both the western and eastern sides be increased to 10m. This change would help prevent the refuse vehicle from overhanging into the opposite lane and would allow a car to pass while the refuse vehicle is entering. These adjustments have now been made and are shown on plan 3794-ADC-HGN-XX-DR-CH-0100-S1-Rev P04. The updated plan has been reviewed and deemed accept
- 9.77. Further amendments were requested, particularly concerning tracking improvements related to right-in and right-out manoeuvres for the refuse vehicle, as both actions appeared to obstruct the entire junction. We also asked for these movements to be illustrated on the plan, showing that a car can safely pass the refuse vehicle during all manoeuvres, or alternatively, indicating where a car could wait to allow the refuse vehicle through and ensure safe passage for all road users.
- 9.78. The applicant has now submitted an updated tracking plan (Drawing no: 3794-ADC-HGN-XX-DR-CH-0101-S1-Rev P03), which has been reviewed. The revised plan identifies the location where a car would wait while the refuse vehicle conducts right-in and right-out movements; however, these manoeuvres have not yet been refined as recommended in the LHA's previous response.
- 9.79. Paragraphs 2.5 and 2.6 of the submitted Technical Note state that these manoeuvres are standard practice and do not pose safety concerns. Furthermore, similar movements have been approved for the neighbouring site comprising 58 dwellings.
- 9.80. The Highways Officer determined that they do not object to this matter. Nevertheless, a condition will be imposed requiring the submission and review of an improved tracking plan prior to the occupation of the first dwelling which adequately demonstrates that the refuse vehicle can comfortably access and egress the site access junction with Broughton Road.

- 9.81. Broughton Road currently has a 50mph speed limit in the vicinity of the proposed site. The applicant has proposed relocating this speed limit approximately 54 meters west of the site access. However, LHA recommends that the speed limit be relocated to the beginning of the kerbline marking the extent of the 160m visibility splay. We strongly consider that the speed limit must encompass the entire 160m visibility splay up to the kerbline to ensure vehicles reduce their speed adequately before approaching the site access.
- 9.82. The requested modifications regarding the visibility splay to the west demonstrating the 160m splay has now been shown on the plan 3794-ADC-HGN-XX-DR-CH-0100-S1-Rev P04 and is acceptable.
- 9.83. The applicant has agreed to reposition the existing 50 mph speed limit to 30 mph at a point 160 meters west of the site access, along with installing a gateway feature at this location. It is noted that this process will require consultation with the OCC TRO and scheme team concerning the terminal points of the current 50 mph/30 mph limits. Where a TRO is necessary on the public highway, the local Councillor must be consulted in advance to provide feedback.
- 9.84. The LHA provided no objections to the proposed pedestrian and cycle access as shown on amended Drawing No. 3794-ADC-HGN-XX-DR-CH-0100-S1 Rev P04.
- 9.85. Details regarding the provision of financial contributions in the absence of dedicated cycle infrastructure along Broughton Road, especially with respect to linking the proposed site to the town centre has been agreed.
- 9.86. The applicant has confirmed to contribute **£120,000** toward the establishment of a cycle connection to the Western Active Travel Corridor (Woodgreen Ave & Queensway), which constitutes part of LCWIP route 3, which is welcomed. This route, together with LCWIP route 6, will link the Queensway roundabout with the town centre—a connection recognised as essential for sustainable transport infrastructure.
- 9.87. The proposed contribution will enhance the sustainability profile of the site and ensure compliance with Local Transport Note (LTN) 1/20 by supporting the provision of safe, direct cycling links between the development and Banbury town centre. These works will be secured through a Section 106 agreement consistent with LCWIP priorities for Banbury and will promote the expansion of an inclusive and robust cycling network.
- 9.88. The applicant has committed to providing bus stops in accordance with OCC criteria within their own application, rather than depending on the adjacent development. Both eastbound and westbound bus stops are depicted on the revised plan (Drawing No 3794-ADC-HGN-XX-DR-CH-0100-S1-Rev P04). The new bus stops will comply with the following requirements.
- A pole, flag, and timetable case meeting OCC specification
 - A shelter (minimum three-bay, required only for the Banbury-bound direction)
 - Waiting areas of at least 12sqm, with a minimum depth of 2.5m where highway boundaries allow; an absolute minimum depth of 2m. For the Banbury direction, this space may incorporate the shelter.
- 9.89. Formal signalised pedestrian crossing will be provided between the two bus stops as covered and stated under the pedestrian sustainability section.
- 9.90. These bus stops must be completed before any work can begin on the site.

- 9.91. The applicant has also agreed to provide the necessary funding to enhance local bus services, to increase service frequency and promote long-term sustainability. At present, Banbury's bus network receives financial support from S106 contributions made by developments that benefit from these services, helping to ensure frequent bus operations and making the developments more viable. For this particular development, the required S106 contribution towards public transport amounts to £103,664 (RPIX index, base October 2024), calculated at a rate of £1,364 per dwelling.
- 9.92. Alongside the aforementioned contribution, the applicant has committed to a Section 106 contribution specifically allocated for public transport infrastructure. The sum of £14,864 (Baxter Index, base October 2024) will allow the Council to acquire equipment required for the installation of real-time information at bus stops, with this funding supporting such provision at one designated bus stop.
- 9.93. The LHA were content with the submitted Traffic Safety Audit and concluded that the site access junction operates efficiently within the required practical capacity. At the Queensway/Broughton Road/Woodgreen Avenue roundabout, current analysis indicates that the Woodgreen Avenue arm is already experiencing congestion, with a ratio of flow to capacity (RFC) of 0.83 during the 2030 AM peak period. The projected increase in RFC resulting from development traffic—from 0.83 to 0.84—is minimal and not considered severe. Therefore, the operational assessment remains acceptable.
- 9.94. The applicant has also carried out a sensitivity assessment with the adjacent site development's traffic forecasting. This assessment has been reviewed and is found to be satisfactory.

Conclusion

- 9.95. OCC Highways have therefore raised no objections to the scheme subject to conditions and appropriate S106 contributions to improve local public transport services and sustainable travel options.

Site Layout and Design Principles

Policy Context

- 9.96. 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.
- 9.97. 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

- 9.98. The application is submitted in outline with an illustrative site plan. Whilst design and materials would be assessed under a reserved matters application it is considered that, given the location of the site on the edge of the town and adjacent to an existing residential area, appropriate levels of control should be secured at any such detailed

application stage, to ensure compliance with design principles reflective of those within the local area and wider district.

- 9.99. The indicative landscaping, with retention of the existing trees and proposals for a green buffer along the western edges allowing for a transition to the rural landscape would be acceptable in principle as well as a green northern edge given the difficulties in the topography of this edge of the site in terms of building in this more prominent location. The effect of the development on the landscape is considered earlier in this appraisal.
- 9.100. That said, whilst every application would need to be assessed on its own planning merits at the time of any such application, Officers are confident of the level of control that could be safeguarded through ensuring broad compliance with any approved plans secured by way of appropriate condition(s) attached to any such permission.

Conclusion

- 9.101. It is considered that the submitted indicative layout is generally acceptable and demonstrates that 76 dwellings could be satisfactorily accommodated on the site and also allows for the provision of a well-designed, safe, accessible and well-connected environment, with an appropriate tenure mix. As such, the proposal accords with Policy BSC10.

Archaeology

- 9.102. The site lies in an area of archaeological interest and potential, immediately west of a site which has recently recorded an Anglo Saxon cemetery during an archaeological investigation (Border Archaeology, forthcoming). The cemetery lies on the plateau at the top of this ridge, and contained over 50 inhumations, with a number of rich burials. To the immediate north of the proposal site, a further archaeological excavation recorded extensive late prehistoric remains with large enclosure ditches, pit alignments and settlement with industrial evidence. It is possible that there are further remains relating to either the prehistoric or Saxon activity from the adjacent land parcels surviving on this proposal site. The submitted Archaeological Desk Based Assessment has explored the available documentation and contains a detailed consideration of the archaeological potential of the site.
- 9.103. The applicant has also submitted a report on the geophysical survey undertaken on the site. This survey did not record any definite archaeological anomalies, however, there are a number of anomalies which are possibly archaeology. These results will be required to be verified via trenched evaluation.
- 9.104. It is recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be secured via conditions and as such there is no objection in principle to the scheme in terms of archaeological constraints.

Flood Risk and drainage

Policy Context

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

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

Assessment

9.107. OCC as LLFA have raised no objections to the proposal, subject to the impositions of appropriate conditions.

Conclusion

9.108. Officers consider that the current proposals can be considered acceptable in terms of flood-risk and drainage, in accord with local and national planning policy in this regard.

Planning Obligations

9.109. In order to ensure that the development would be acceptable in planning terms, several of the impacts of the development 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.

Assessment

9.110. It is considered that should planning permission be forthcoming that the following additional items/contributions should be secured as part of the permission relating to the new dwellings (and any amendments deemed necessary).

9.111. CDC Obligations:

30% affordable housing to NDSS and CDC requirements and standards;
a £83,742.68 contribution to the provision of enhanced facilities at The Hill, Sunshine Centre or community facilities at Woodgreen Leisure Centre;
a £214,237.00 contribution towards outdoor sport provision;
a £81,171.00 contribution towards indoor sport, at Woodgreen Leisure Centre or a new indoor sport facility in the locality;
a £21,280.00 contribution towards public art within the vicinity; and
a £5,000 monitoring fee.

OCC Obligations:

£120,000 – Highway Works
£103,664 – public transport services;
£14,864 – Public transport infrastructure
£40,000 – Public rights of way
£4224 – Traffic Regulation Order
£750,186 – secondary education;
£72,468 – secondary education land contribution;
£70,823 – special education;
£7,866 – household waste and recycling centres.

Other obligations:

Health Care - £68,870

10. PLANNING BALANCE AND CONCLUSION

- 10.1. In determining this application the Council is required by Section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine the application in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Cherwell Local Plan 2011-2031 Part 1 and the saved policies of the Cherwell Local Plan 1996.
- 10.2. The proposed development would not accord fully with the Development Plan. The application site is located beyond the existing built-up limits of Banbury on undeveloped greenfield land and is therefore within the open countryside. The proposal consequently conflicts with saved Policy H18 of the Cherwell Local Plan 1996 and the general spatial strategy of the Development Plan. Moderate weight is afforded to this conflict.
- 10.3. The proposal would also result in the loss of an area of open countryside and would extend built development further westwards beyond the existing urban edge of Banbury. As identified within the Landscape and Visual Impact Assessment and acknowledged within this report, the development would have a significant adverse effect on wider views from Crouch Hill and would result in landscape harm which could only be partially mitigated through landscaping and the passage of time. Significant weight is therefore attributed to the identified landscape harm.
- 10.4. Against this, substantial weight must be given to the benefits arising from the proposal. The development would deliver up to 76 dwellings, including a policy compliant provision of 30% affordable housing, contributing to both market and affordable housing needs within the District. The delivery of new housing attracts significant positive weight and the affordable housing provision attracts very substantial positive weight given the acknowledged need for affordable homes across the District.
- 10.5. The Council's latest published housing land supply position confirms that Cherwell District can currently demonstrate only 3.1 years of deliverable housing land supply. This represents a significant shortfall against national policy requirements and is a matter that attracts substantial weight in favour of proposals capable of delivering housing in sustainable locations. The application site adjoins Banbury, the District's most sustainable settlement, where future residents would have access to a wide range of employment opportunities, education facilities, health services, shops, recreation facilities and public transport connections. The site's location therefore attracts significant positive weight.
- 10.6. The proposal would also generate economic benefits during both the construction and occupation phases of development. Additional benefits would arise through biodiversity enhancement measures, public open space provision, sustainable drainage infrastructure and the delivery of a comprehensive Section 106 package including contributions towards education, healthcare, public transport, highways improvements, recreation facilities and community infrastructure. These benefits attract moderate positive weight in the planning balance.
- 10.7. The Council cannot currently demonstrate a five-year supply of deliverable housing land. Consequently, the most important policies for determining the application are out-of-date and the presumption in favour of sustainable development set out in Policy PSD1 of the Cherwell Local Plan and paragraph 11(d) of the NPPF is engaged. The application must therefore be assessed on the basis of whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

- 10.8. Officers have attached significant weight to the landscape harm arising from development of this site and moderate weight to the conflict with the Development Plan's countryside policies. However, the proposal would not result in unacceptable impacts in respect of highway safety, flood risk, drainage, ecology, archaeology, residential amenity or infrastructure provision. These matters can be appropriately addressed through planning conditions and obligations.
- 10.9. Having regard to the Council's substantial housing land supply shortfall, the sustainable location of the site adjoining Banbury, the delivery of up to 76 dwellings including 30% affordable housing, and the associated economic, social and environmental benefits arising from the proposal, it is concluded that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the development when assessed against the policies of the NPPF taken as a whole.
- 10.10. Accordingly, and applying the presumption in favour of sustainable development, the proposal constitutes sustainable development and planning permission should be granted subject to the completion of a Section 106 Agreement and the conditions set out below.
- 10.11.

11. RECOMMENDATION

DELEGATE TO THE ASSISTANT DIRECTOR - 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) Provision of 30% affordable housing on site**
 - b) contribution to CDC for the provision or enhanced facilities at The Hill, Sunshine Centre or community facilities at Woodgreen Leisure Centre - £83,742.68**
 - c) contribution to CDC towards outdoor sport provision - £214,237.00**
 - d) contribution to CDC towards indoor sport at Woodgreen Leisure Centre or a new indoor sport facility in the locality - £81,171.00**
 - e) contribution to CDC towards public art within the vicinity - £21,280**
 - f) payment of the District Council's monitoring costs of £5,000**
 - g) contribution to OCC of £120,000 for Highway Works**
 - h) contribution to OCC of £103,664 for enhanced public transport services**
 - i) contribution to OCC of £14,864 for enhanced public transport infrastructure**
 - j) contribution to OCC of £4,224 for Traffic Regulation Order**
 - k) contribution to OCC of £750,186 for secondary education provision**
 - l) contribution to OCC of £72,468 for secondary education land**
 - m) contribution to OCC of £70,823 for special education needs**
 - n) contribution to OCC of £7,866 for household waste and recycling centres**
 - o) payment of the County Council's monitoring costs – TBC and**
 - p) contribution to BOBICB for health care enhancements – £68,870**

FURTHER RECOMMENDATION: THE STATUTORY DETERMINATION PERIOD FOR THIS APPLICATION EXPIRES ON 24th July 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 - 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 mitigation required as a result of the development and necessary to make the ecological, landscape and highway impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and contrary to development plan policies SLE4, ESD10, ESD13, INF1, C7, C8 and C28 and national guidance contained in the National Planning Policy Framework.**

CONDITIONS

Time Limit

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

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

2. In the case of the reserved matters, the final application for approval shall be made not later than the expiration of 18 calendar months beginning with the date of this permission.

Reason: This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of 18 months from the date of this permission and the development hereby permitted shall be begun either before the expiration of 40 calendar months from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (General Development Procedure) Order 2015 (as amended). The time period for submission has been reduced from standard period. The application has been submitted to address the Council's 5-year housing land supply position and is in accordance with the applicant's planning statement.

Compliance with Plans

4. Except where otherwise stipulated by conditions attached to this permission,

the development shall be carried out strictly in accordance with the form and following approved plans TBC

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.

Highways

5. The means of access between the land and the highway shall be constructed, laid out, surfaced, lit and drained in accordance with details that have first been submitted to and approved in writing prior to the first trench being dug by the Local Planning Authority including the swept paths of the refuse vehicle covering all manoeuvres and all ancillary works therein specified shall be undertaken in accordance with the said specification before first occupation of the dwellings hereby approved.

Reason: To ensure a safe and adequate access.

6. Visibility splays shall be provided as an integral part of the construction of the accesses and shall not be obstructed at any time by any object, material or structure with a height exceeding 0.6 metres above the level of the access they are provided for.

Reason: In the interests of road safety.

7. Prior to commencement of the development hereby approved, a Construction Traffic Management Plan (CTMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved CTMP shall be implemented and operated in accordance with the approved details. The CTMP will need to incorporate the following in detail:

- Routing of construction traffic and delivery vehicles is required to be shown and signed appropriately to the necessary standards/requirements. This includes means of access into the site.
- Details of and approval of any road closures needed during construction.
- Details of and approval of any traffic management needed during construction.
- Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway.
- Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions.
- The erection and maintenance of security hoarding / scaffolding if required.
- Contact details of the Project Manager and Site Supervisor responsible for on-site works to be provided.
- The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.
- No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers transported to/from site to be submitted for consideration and approval.
- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.

- Contact details for person to whom issues should be raised with in first instance to be provided and a record kept of these and subsequent resolution.
- Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and the residential amenities of neighbouring occupiers.

8. No other part of the development shall be occupied until the offsite highway works have been laid out and constructed in accordance with details to be submitted to and first approved in writing by the Local Planning Authority in consultation with the Highway Authority. The works shall include:

- Proposed site access arrangements, pedestrian infrastructure and new bus stops (eastbound/westbound) as shown in principle on Drawing no. 3794-ADC-HGN-XX-DR-CH-0100-S1-Rev P04 including the provision of signalised pedestrian crossing connecting the two new bus stops (eastbound/westbound) located on Broughton Road.

Reason: To ensure a safe and adequate access to the site for all use

9. Prior to the first use or occupation of the development hereby approved, details including exact locations of the proposed two new bus stops (eastbound and westbound) should be submitted and approved in writing by the Local Planning Authority. Thereafter the bus stop shall be implemented in accordance with the approved details.

Reason: In the interests of safety and convenience of users of the public transport services.

10. Prior to occupation of the development details shall be submitted for the approval of the Local Planning Authority for a scheme for parking, garaging and manoeuvring in accordance with Oxfordshire's "Parking Standards for New Developments". The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway.

11. No part of the development shall be occupied until an area has been laid out within the site for refuse vehicles to turn in accordance with details to be submitted and approved by the Local Planning Authority and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off and turn clear of the highway.

12. Prior to the first occupation of the development hereby approved, a Residential Travel Information Pack shall be prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans", and submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented and operated in accordance with the approved details.

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

13. Full specification details of an all-weather surfaced pedestrian path linking the residential footways within the site to the northeastern boundary via the existing public right of way including the connection point into the adjacent site (located to the east) and the proposed delivery timescales for this pathway, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. All associated works therein specified shall be undertaken in accordance with the approved timeframe before first occupation of the dwellings hereby approved.

Reason: To ensure a safe and adequate pedestrian connectivity to the adjacent site.

Archaeology

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

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

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

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

Drainage

16. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
 - a. As built plans in both .pdf and .shp file format;
 - b. Photographs to document each key stage of the drainage system when installed on site;
 - c. Photographs to document the completed installation of the drainage structures on site;
 - d. The name and contact details of any appointed management company information.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community and to ensure compliance with Policy ESD 6 and 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

Ecology

17. No development shall commence until a wildlife-sensitive lighting scheme, in line with Bat Conservation Trust guidance on bats and artificial lighting at night (GN08/23) has been submitted to and approved in writing by the LPA. Thereafter, the development shall not be carried out other than in accordance with the approved lighting scheme.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance contained within the National Planning Policy Framework.

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

- Risk assessment and mitigation of potentially damaging construction activities
- Identification of 'Biodiversity Protection Zones'
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- The location and timing of sensitive works to avoid harm to biodiversity features
- The times during construction when specialist ecologists need to be present on site to oversee works
- Responsible persons and lines of communication
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person
- Use of protective fences, exclusion barriers and warning signs

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

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

19. Prior to first occupation of the development hereby approved a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in full accordance with the approved LEMP including any/all timescales set out therein.

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.

20. No development shall commence above slab level until a method statement for enhancing ecology including at least one bird/bat box per dwelling and all enhancement measures in the Ecological Appraisal report has been submitted to and approved in writing by the local planning authority. The biodiversity enhancement measures approved shall be carried out prior to occupation and shall thereafter be retained in full accordance with the approved details.

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

21. A revised ecological survey shall be undertaken prior to the submission of any reserved matters application if the baseline data as submitted in this application is out of date. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local planning authority. Thereafter, the development shall be carried out in full accordance with the approved details.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance contained within the National Planning Policy Framework

22. As part of any reserved matters application an LVA shall be submitted, the LVA shall include:

- 3D modelling, wirelines, or rendered photomontages (LI Visualisation Types 2-3) to show how the scheme responds positively to the underlying topography and its landscape context. The visualisations must be supported by narrative that identifies the mitigation measures inherent to the scheme and how these are necessary to protect landscape character.

The LVA must conform to best practice and guidance including demonstration that alternative layouts have been considered and the mitigation hierarchy has been followed as part of an iterative and coordinated design process.

Reason: To ensure that a satisfactory landscape scheme is provided in the interest of visual amenity of the area and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and government guidance contained within the National Planning Policy Framework.

23. 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.

24. No development shall be occupied until confirmation has been provided that either:-

1. Foul water Capacity exists off site to serve the development, or
2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or
3. All Foul water network upgrades required to accommodate the additional flows from the development have been completed.

Reason: Network reinforcement works may be required to accommodate the proposed development.

25. No development shall be occupied until confirmation has been provided that either:-
- all water network upgrades required to accommodate the additional demand to serve the development have been completed; or
 - a development and infrastructure phasing plan has been agreed with Thames Water to allow development to be occupied.

Where a development and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

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

CASE OFFICER: Lewis Knox