

Response to planning application 23/03366/OUT

Application: Outline application for up to 117 dwellings, off Dukes Meadow Drive.

Applicant: Armstrong Rigg Planning (on behalf of Manor Oak Homes).

<https://planningregister.cherwell.gov.uk/Planning/Display/23/03366/OUT#undefined>

I strongly OBJECT to the proposed development.

The applicant's covering letter is false in asserting that changes to the previous "Second Phase Submission" (ref. 22/03064/OUT) "have entirely alleviated any potential harm caused by the proposal." This claim is made in a letter which acknowledges the Planning Department's "very helpful pre-application comments". Considering the conclusions reached by the applicant, it would be in the interests of transparent decision-making for the advice given by CDC to the applicant to be released under Freedom of Information rules.

In summary, the application **23/03366/OUT** should be refused for the following reasons:

1. The proposal is further development into countryside beyond the built limits of Banbury towards neighbouring villages. It does not have the same characteristics as application 21/03426/OUT.
2. Since the approval of 21/03426/OUT in April 2022, the Cherwell draft Local Plan 2040 has been further advanced. This provides updated information on housing supply. Cherwell has demonstrated that it has sufficient housing supply. Development outwith the current plan would also be prejudicial to the plan-making process.
3. The proposed development is contrary to several Local Plan policies the current planning framework.

Further details are provided below:

1. The proposal is further development into countryside beyond the built limits of Banbury towards neighbouring villages. It does not have the same characteristics as application 21/03426/OUT.

- 1.1 The applicant asserts that 21/03426/OUT is an "associated application". However, the application must be considered on its own merits. This consideration must also consider that Cherwell can currently demonstrate that it has sufficient housing land supply, which was not the case when the previous application was determined in April 2022 (which was a key factor resulting in approval, which was contrary to many Local Plan policies that supported refusal).
- 1.2 The site is not allocated for development in the current Local Plan (and in the draft of the next Local Plan), which is clear evidence that the applicant is mistaken to assert that the site represents one of the town's principal locations for residential growth. The site submission was considered by CDC Planning Policy in previous consultation for the draft Local Plan 2040 and has been rejected.
- 1.3 Application **23/03366/OUT** is materially less well contained by natural topography and has far greater landscape impact (than 21/03426/OUT). Whilst not on the most prominent part of HELAA036 (see below), it is still particularly prominent when viewed from the East.

- 1.4 The site was assessed by CDC as clearly “not suitable” for development as recently as the 2018 HELAA. Site HELAA036 was described as: “Greenfield site outside the built-up limits. The site is considered to be unsuitable for development as development in this location would be prominent on the landscape, particularly when viewed from the east, on one of the highest points in the vicinity. It would lead to the loss of greenfield land and informal recreation resource for local people which is in close proximity to the existing Hanwell Fields development.”
- 1.5 After being approved, 21/03426/OUT was cynically re-branded as “Phase 1”, leading to the submission of 22/03064/OUT and **23/03366/OUT** as “Phase 2”. This creates an expectation of “Phase 3” following for the adjacent plot under the same ownership (despite the current application clearly admitting the constraint of topography of the site). CDC must put down a clear marker that Local Plan policies cannot be usurped through piecemeal applications causing housebuilding over the open countryside beyond the built limits of Banbury.
- 1.6 As noted in the Local Plan the rising landform and village conservation areas to the north of Banbury must be taken into account in constraining the extent of Banbury. The proposed site and continuation of northward growth of Banbury will be to the detriment of open countryside and the setting of Hanwell Village conservation area. Given approval of previous housing developments already visible from Hanwell Village conservation area, and details of the current proposal, the assurances of no intervisibility with Hanwell Conservation Area to the north are considered very weak. The applicant is mistaken to assert that the site is not burdened by any known policy constraints.
- 1.7 The applicant views that the northern edge of Banbury as a key direction of growth by referencing development approved at Banbury 2. However, that site beyond the northern edge of Dukes Meadow Drive is no direct precedent, since Banbury 2 (as assessed through the local plan making process) clearly has different characteristics, particularly environmental, that differentiate it in terms of sustainable development.
- 1.8 The previous application for “Phase 2” (22/03064/OUT) was cynically withdrawn by the applicant once the planning officer had recommended refusal. This had 102 public comments objecting the proposal, which will not as a matter of course be considered for the resubmitted application.
- 1.9 The previous application was rightly opposed by planning officers on the basis that the delivery of new homes at this location conflicts with the spatial strategy of the adopted Local Plan. This remains the fundamental reasons that this resubmitted application must be refused.
2. **Since the approval of 21/03426/OUT in April 2022, the Cherwell draft Local Plan 2040 has been further advanced. This provides updated information on housing supply. Cherwell has demonstrated that it has sufficient housing supply. Development outwith the current plan would also be prejudicial to the plan-making process.**
- 2.1 Given the extent of engagement with developers and the people of Cherwell it is inaccurate and extremely churlish for the applicant’s planning statement to say that the Local Plan Review carries minimal weight in decision making.

2.2 Planning Policy Context: Existence of an up-to-date development plan

- 2.2.1 One of the applicant's arguments in favour of development is that Cherwell cannot demonstrate 5-year supply of housing land in line with the requirements of the NPPF. They state "Currently it is our estimate that there is at best a 4.04-year supply in Cherwell" but provide limited evidence for such a claim in the Planning Statement, which has had far less independent scrutiny than housing supply evidence prepared by CDC.
- 2.2.2 Cherwell District Council Executive met on 6 February 2023 and considered the 'Regulation 10A' Planning Policy Review of Local Plan Policies¹ and Housing Land Supply as the Cherwell Local Plan 2011-2031 is over five years old. **This review concluded that nearly all policies are generally consistent with government policy and/or local circumstances do not indicate that the policy needs updating at this time with the exception of Policy BSC1 District-wide Housing Distribution.**
- 2.2.3 The CDC Executive approval of the Land Supply Statement² was based on the following reason: "In accordance with the National Planning Policy Framework and planning guidance a Housing Land Supply Statement has been produced which applies the national defined 'Standard Method' of calculating local housing need for the purposes of land supply monitoring for Cherwell's needs. A comprehensive review of expected housing delivery has also been undertaken. It is shown that **the district now has a 5.4 year housing land supply (for 2022-2027) which will need to be taken into account in decision making.**"
- 2.2.4 The minutes³ of the 6 February 2023 meeting confirm that the Executive approved that the Housing Land Supply Statement be approved for publication. These minutes were agreed at the subsequent meeting of the Executive (on 6 March 2023) and endorsed at the subsequent meeting of the full Council on Monday 27 February 2023. As a result, the published Housing Land Supply Statement is legally binding and must be taken into account in decision making. This has already been reflected in decisions by the CDC Planning Committee, which have assessed the Local Plan as up-to-date due to the Council's ability to demonstrate a 5.4 year housing land supply.
- 2.3 **As the application conflicts with the Cherwell Local Plan, which is an up-to-date development plan, permission should not be granted.** There are no material considerations in this case that indicate that the Cherwell Local Plan should not be followed. This objection to the proposal is based on non-compliance with the current Local Plan.
- 2.4 The next Cherwell Local Plan is in development. Weight must be given to the policies emerging from this consultation. NPPF paragraph 50 confirms that permission can be refused on the grounds of prematurity. Premature applications prejudice the outcome of the plan-making process. To permit this proposal now would prejudice decisions that ought properly to be taken locally as part of the Local Plan process.

¹ <https://www.cherwell.gov.uk/download/downloads/id/11103/2022-regulation-10a-review-of-the-cherwell-local-plan-2011-2031-part-1.pdf>

² <https://modgov.cherwell.gov.uk/documents/s52347/Annex%20to%20Minutes%20-%20Housing%20Land%20Supply%20Statement.pdf>

³ <https://modgov.cherwell.gov.uk/documents/s52339/Minutes%20of%20Previous%20Meeting.pdf>

2.5 NPPF states that a *5-year supply can be demonstrated when a plan that is produced through engagement with developers*. As supply can be demonstrated CDC must resist current speculative housing proposals that ride roughshod over the current Local Plan. The NPPF tilted balance should not be applied to the detriment of a Local Plan prepared with proper consultation and reflecting the wishes of people of Cherwell.

3. The proposed development is contrary to several Local Plan policies the current planning framework.

3.1 CDC must clearly confirm the limits to the northward expansion of Banbury and continued development over open countryside. The withdrawn application (22/03064/OUT) was opposed on the grounds of potential to threaten the coalescence of Banbury and the village of Hanwell to the north. The latest application again represents northward expansion of Banbury into open countryside. The applicant's claim that the "separation distance provided as part of the Phase 1 proposal is maintained – the nearest part of the proposed developable area will be no closer to the southeasternmost dwelling of Hanwell than the first phase of development" is hard to believe when 23/03366/OUT represents development northwards following 21/03426/OUT.

3.2 **Further policies relevant to planning application:** The applicant's Planning Statement omits full consideration of additional policies that are relevant to the consideration of this application. In particular, Cherwell Local Plan 1996 (Saved Policies):

- TR7 Development attracting traffic on minor roads
- R14 Reservation of land for community buildings in association with housing developments at Hanwell Fields, Banbury and Slade Farm, Bicester
- C8 Sporadic development in the open countryside
- C13 Areas of High Landscape Value
- C15 Prevention of coalescence of settlements
- C17 Enhancement of the urban fringe through tree and woodland planting
- C33 Protection of important gaps of undeveloped land

3.3 **Incomplete consideration of policies in the application:** The applicant's Planning Statement lists policies that they identify as relevant but is then very selective in judging that the proposal complies with these policies. For example, although referring to adopted Policy ESD15: The Character of the Built and Historic Environment, the applicant makes no reference to how they "Limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation." This is an important consideration given the close proximity of this further housing development to Hanwell village, as it would have a serious impact on the publicly funded Hanwell Community Observatory located in the Castle grounds.

3.4 **Previous consideration by Planning Inspector relevant to proposed site for development:** The land between Banbury and Hanwell village does not have a statutory landscape designation in the current adopted Cherwell Local Plan. However, it is relevant that comparable protection was proposed in submission of the Cherwell Local Plan (2011-2031) via the submitted Policy ESD 15 Green Boundaries to Growth*. This submission included the concept of "green buffers" to restrict development of the land between Banbury and Hanwell village (land which application 23/03366/OUT proposes to develop). Whilst submitted Policy ESD 15 Green Boundaries to Growth was not adopted, the Planning Inspector did confirm the

relevance of such protection of “green buffers” in citing that protecting local landscape character and vulnerable gaps between settlements to prevent coalescence could be achieved via Policy ESD13 and saved adopted Cherwell Local Plan policy C15. It is these adopted policies that must protect the land north of Dukes Meadow Drive from further development. Greater weight should be given to these material considerations of preventing coalescence between Banbury and surrounding villages.

*(<https://www.cherwell.gov.uk/download/downloads/id/3896/cherwell-submission-local-plan-2006-2031-part-1.pdf>).

4. Conclusion

4.1 The application 23/03366/OUT should be refused because:

- it represents further development into the countryside beyond the built limits of Banbury towards neighbouring villages;
- it rides roughshod over the current Cherwell Local Plan;
- the publication of latest Regulation 19 draft Cherwell Local Plan 2040 must be taken into account;
- the emerging policies from the plan-making process, and evidence that updated information indicates adequate housing supply, must be given appropriate weight. Not refusing this application would itself be prejudicial to the plan-making process; and
- the application is contrary to several Local Plan policies.