

**NOTICE OF DECISION**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**(AS AMENDED)**

**Name and Address of Agent/Applicant:**

Rebecca Bacon  
Savills  
Wytham Court  
11 West Way  
Oxford  
OX2 0QL

**Outline Planning Determination**

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**Date Registered:** 25th October 2021

**Proposal:** Erection of up to 49 dwellings, associated open space, sustainable urban drainage systems, and access from Balmoral Avenue

**Location:** OS Parcel 6372 South East Of Milestone Farm, Broughton Road,  
Banbury

**Parish(es):** Banbury

**OUTLINE PERMISSION FOR DEVELOPMENT SUBJECT TO CONDITIONS**

The Cherwell District Council, as Local Planning Authority, hereby **GRANTS** outline planning permission for the development described in the above-mentioned application, the accompanying plans and drawings and any clarifying or amending information, **SUBJECT TO THE CONDITIONS SET OUT IN THE ATTACHED SCHEDULE.**

The reason for the imposition of each of the conditions is also set out in the schedule.

Cherwell District Council  
Bodicote House  
Bodicote  
BANBURY  
OX15 4AA



David Peckford  
**Assistant Director – Planning and  
Development**

**Date of Decision: 27th June 2022**

**Checked by: Andy Bateson**

## SCHEDULE OF CONDITIONS

1. No development shall commence until details of the layout (including the layout of the internal access roads and footpaths), scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

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.

2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of one year from 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. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last 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).

4. Except where otherwise stipulated by conditions attached to this permission the development shall be carried out strictly in accordance with Drawing Nos:21303 PA02 site location plan, 23158 05 Rev A site access plan.

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

5. No development shall take place until details of all ground levels and finished floor levels in relation to existing and proposed site levels and to adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To secure an acceptable standard of development that safeguards the visual amenities of the area and the living conditions of existing and future occupiers and to ensure compliance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and government guidance within Section 12 of the National Planning Policy Framework.

6. No development shall take place until a desk study, to include a site walk over and to identify all potential contaminative uses on site and to inform the conceptual site model have been carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11', has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved desk study.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

7. If a potential risk from contamination is identified as a result of the work carried out under condition 6, a comprehensive intrusive investigation to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The report shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

8. If contamination is found by undertaking the work carried out under condition 7, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. The scheme shall be submitted to and approved in writing by the Local Planning Authority before development is commenced.

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

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

Reason: To ensure that any ground and water contamination is adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

10. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles including an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a. Discharge Rates;
- b. Discharge Volumes;
- c. SUDS (Permeable Paving, Soakaway Tanks);
- d. Maintenance and management of SUDS features (to include provision of a SUDS Management and Maintenance Plan);
- e. Infiltration in accordance with BRE365;
- f. Detailed drainage layout with pipe numbers;
- g. Network drainage calculations;
- h. Phasing;
- i. Flood Flow Routing in exceedance conditions (to include provision of a flood exceedance route plan).

Development shall be carried out in accordance with the approved surface water drainage scheme.

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 7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance within the National Planning Policy Framework.

11. No development shall take place until full details of the means of access between the planning application site and the highway on the adjoining residential site the subject of an appeal immediately to the east of the site, including, position, layout, construction, drainage and vision splays, have been submitted to and approved in writing by the Local Planning Authority. The means of access shall be constructed in accordance with the approved details before any dwelling is occupied and shall be retained as constructed thereafter.

Reason: In the interests of highway safety and to comply with Government guidance contained within the National Planning Policy Framework.

12. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Local Planning Authority. The CTMP shall incorporate the following:

- a. The CTMP must be appropriately titled, include the site and planning permission number;
- b. 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;
- c. Details of and approval of any road closures needed during construction;
- d. Details of and approval of any traffic management needed during construction;
- e. Details of wheel cleaning/wash facilities – to prevent mud etc, in vehicle tyres/wheels, from migrating onto adjacent highway;
- f. Details of appropriate signing, to accord with the necessary standards/requirements, for pedestrians during construction works, including any footpath diversions;
- g. The erection and maintenance of security hoarding / scaffolding if required;
- h. A regime to inspect and maintain all signing, barriers etc.;
- i. Contact details of the Project Manager and Site Supervisor responsible for onsite works to be provided;
- j. The use of appropriately trained, qualified and certificated banksmen for guiding vehicles/unloading etc.;
- k. 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. Areas to be shown on a plan not less than 1:500;
- l. Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc.;
- m. A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted;
- n. Local residents to be kept informed of significant deliveries and liaised with through the project. 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;
- o. Any temporary access arrangements to be agreed with and approved by Highways Depot;

- p. Details of times for construction traffic and delivery vehicles, which must be outside network peak and school peak hours. Development shall be carried out in accordance with the approved CTMP.

Reason: In the interests of highway safety and to mitigate the impact of construction vehicles on the surrounding highway network, road infrastructure and local residents, particularly at morning and afternoon peak traffic times.

13. Prior to first occupation of the development a Travel Information Pack shall be submitted to and approved in writing by the Local Planning Authority. The first residents of each dwelling shall be provided with a copy of the approved Travel Information Pack.

Reason: To ensure all residents and employees are aware from the outset of the travel choices available to them, and to comply with Government guidance contained within the National Planning Policy Framework.

14. Prior to its first occupation each dwelling shall be provided with ducting to allow for the future installation of electrical vehicle charging infrastructure.

Reason: To maximise opportunities for sustainable transport in accordance with Government guidance contained within the National Planning Policy Framework.

15. No development shall take place until full details of the proposed footpath joining the new development to the highway a continuation Balmoral Avenue (north) to the east of the site, including, position, layout, construction, drainage and a timetable for the delivery of the improvements, have been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the footpath has been constructed in accordance with the approved details.

Reason: In the interests of highway safety and public amenity and sustainable development and to comply with Policies ESD1, ESD15 and Banbury 10 and Government guidance contained within the National Planning Policy Framework.

16. No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved CEMP.

Reason: In the interests of highway safety and the residential amenities of neighbouring occupiers and to comply with Government guidance contained within the National Planning Policy Framework.

17. No development shall take place until details of the means by which all dwellings shall be designed and constructed to achieve an energy performance standard equivalent to a 19% improvement in carbon reductions on 2013 Part L of the Building Regulations (unless a different standard is agreed with the Local Planning Authority) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and no dwelling shall be occupied until it has been constructed in accordance with the approved energy performance measures.

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

18. No dwelling shall be occupied until it has been constructed to ensure that it achieves a water efficiency limit of 110 litres per person per 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.

19. No development shall take place, including any demolition and any works of site clearance, and as part of any reserved matters application for layout and landscaping, until a method statement and scheme for enhancing biodiversity such that an overall net gain for biodiversity is achieved, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of enhancement features and habitats both within green spaces and integrated within the built environment, shall be in general compliance with Ecological Assessment report reference: edp7133\_r002a shall include a biodiversity impact assessment metric, and shall include a timetable for provision of the biodiversity enhancement measures. The biodiversity enhancement measures shall be carried out and shall be retained in accordance with the approved scheme.

Reason: To ensure the development provides a net gain in biodiversity 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 take place until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved LEMP.

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

21. Prior to the installation of any external lighting, a full lighting strategy to include illustration of proposed light spill and which adheres to best practice guidance, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved strategy.

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.

22. The development hereby permitted shall be carried out in accordance with the recommendations set out in sections 5 and 6 Ecological Appraisal, report reference: edp7133\_r002a

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.

23. No dwelling shall be occupied until approval has been given in writing by the Local Planning Authority that either:

- a. Evidence to demonstrate that all water network upgrades required to accommodate the additional flows/demand from the development have been completed; or
- b. A housing and infrastructure phasing plan has been agreed with Thames Water and the Local Planning Authority in writing to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no dwelling shall be occupied other than in accordance with the agreed housing 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.

24. 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 (2021).

25. Following the approval of the Written Scheme of Investigation referred to in condition 1, 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 programme of archaeological 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 (2021).

## DEVELOPMENT MONITORING

The Council has identified the development hereby approved as one that it considers appropriate to monitor during construction. We would therefore be grateful if you could let us know of your intention to start the development at least 14 days prior to the commencement of work on site. You can do this by emailing the Council on: [monitoring@cherwell-dc.gov.uk](mailto:monitoring@cherwell-dc.gov.uk) and providing us with the following information: application number; application address; and the date you intend to start the development. During the monitoring period, we will be assessing the development against the approved plans, and compliance with any conditions imposed on the permission. It is in your interest to comply with this request as it will help to avoid any unnecessary, and possibly expensive, corrective works.

## PLANNING NOTES

1. **Conditions** – the applicant's attention is drawn to the need to comply with all conditions imposed on this permission. Failure to do so could result in the council serving a breach of condition notice against which there is no right of appeal.

Under the Town and Country Planning (Fees for Applications, Deemed Application, Requests and Site Visits) (England) Regulation 2012 there is a fee payable each time you make a request to discharge any of the conditions attached to this permission. You can apply to discharge more than one condition at the same time. At the time of this decision the fee is £34 per request for householder development and £116 per request in all other cases. The fee may be more when you come to apply for the discharge of condition if the Regulations have been amended. The fee is payable when you submit the details to discharge the condition(s). The Council has '1app' forms for such applications, but their use is not mandatory.

There is no fee for the discharge of conditions on listed building consents.

**The Council has eight weeks to respond to applications to discharge conditions, so you will need to make your application in good time before commencing development.**

2. **Material Samples** – please note that where any of the above conditions require the approval of materials, material samples are no longer accepted at the Council offices and should in the first instance be left on the application site for the relevant case officer to view and assess in context with its surroundings. Material samples and sample panels should be placed/erected on the site before an application to discharge that condition(s) is submitted.

Should leaving samples on site be impractical then arrangements should be made with the relevant case officer to view samples on site.

## **STATEMENT OF ENGAGEMENT**

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and paragraph 38 of the National Planning Policy Framework, the Council has worked positively, creatively and proactively to determine this application within the agreed timescales, having worked with the applicant/agent where necessary and possible within the scope of the application (as set on in the case officer's report) to resolve any concerns that have arisen, in the interests of achieving more appropriate and sustainable development proposals. Consent has been granted accordingly.

The case officer's report and recommendation in respect of this application is available to view online at: <http://www.cherwell.gov.uk/viewplanningapp>. The agenda, minutes and webcast recording of the Planning Committee meeting at which this application was determined are also available to view online at: <http://modgov.cherwell.gov.uk/ieListMeetings.aspx?CId=117&Year=0>





## NOTICE OF DECISION

### TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

#### NOTES TO THE APPLICANT

##### TIME LIMITS FOR APPLICATIONS

By virtue of Sections 91-96 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, planning permissions are subject to time limits. If a condition imposing a time limit has been expressly included as part of the permission, then that condition must be observed. Otherwise, one or other of the following time limits will apply:

**Where planning permission is given in outline** subject to a condition reserving certain matters for subsequent approval, application for approval of such matters reserved must be made not later than the expiration of 3 years beginning with the date of the outline planning permission and further the development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

**Where the planning permission is complete and is not in outline**, the development must be begun not later than the expiration of 3 years from the date on which permission was granted.

##### OTHER NECESSARY CONSENTS

This document only conveys permission or approval for the proposed development under Part III of the Town and Country Planning Act 1990 and you must also comply with all the bye-laws, regulations and statutory provisions in force in the District and secure such other approvals and permissions as may be necessary under other parts of the Town and Country Planning Act 1990 or other legislation.

In particular you are reminded of the following matters:

- The need in appropriate cases to obtain approval under the Building Regulations. **The Building Regulations may be applicable to this proposal. You are therefore advised to contact the District Council's Building Control Manager before starting work on site - Telephone: 01295 227006. Email: [Building.Control@Cherwell-dc.gov.uk](mailto:Building.Control@Cherwell-dc.gov.uk)**
- Data supplied by the National Radiological Protection Board (NRPB) and the British Geological Survey (BGS) suggests that the site of this application falls within an area which is potentially at risk from radon. This may require protective measures in order to comply with the Building Regulations if your consent relates to a new dwelling or house extension. Further advice on whether protective measures are required under the Building Regulations can be obtained by contacting the Building Control Manager on 01295 227006 or E-mail at [building.control@cherwell-dc.gov.uk](mailto:building.control@cherwell-dc.gov.uk)
- The need to obtain an appropriate Order if the proposal involves the stopping up or diversion of a public footpath.
- The need to obtain a separate "Listed Building Consent" for the demolition, alteration or extension of any listed building of architectural or historic interest.
- The need to make any appropriate arrangements under the Highways Act in respect of any works within the limits of a public highway. The address of the Highway Authority is Oxfordshire County Council, Speedwell House, Speedwell Street, Oxford, OX1 1NE.

- It is the responsibility of the applicant to ascertain whether his/her development affects any public right of way, highway or listed building.

## APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of the Local Planning Authority to grant permission or approval subject to conditions, you can appeal to the First Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990.

If you wish to appeal, then you must do so within six months of the date of this notice. Forms can be obtained from the **Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Tel 0303 444 5000**. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that permission or approval for the proposed development could not have been so granted otherwise than subject to the conditions imposed by the Local Planning Authority, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

## PURCHASE NOTICES

If either the Local Planning Authority or the First Secretary of State grants permission or approval for the development of land subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## COMPENSATION

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.