

# Planning Statement

Land east of Warwick Road, Banbury

March 2023

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**Client**  
Vistry Homes Limited

**Our reference**  
BOVS3002

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# 1. Introduction

- 1.1 This Planning Statement has been prepared by Turley on behalf of Vistry Group (the 'Applicant') in support of an outline planning application for the following development ('the proposed development') on land east of Warwick Road, Banbury ('the Site'):

*"Outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury. All matters reserved except for access."*

- 1.2 The site is located entirely within the administrative boundary of Cherwell District Council ('CDC') which is the relevant Local Planning Authority ('LPA') for the determination of this application for planning permission.
- 1.3 This Planning Statement is intended to address all relevant planning policies, with consideration given to any material considerations relevant to assessing the acceptability of the proposed development. For completeness, this statement should be read in conjunction with the other documents and drawings submitted in support of this application, which are listed at **Appendix 1**.

## Context

- 1.4 This statement is intended to assist CDC in its determination of the application having regard to the requirements of the Development Plan, the National Planning Policy Framework (the 'Framework') and relevant Planning Practice Guidance ('PPG').
- 1.5 This statement evaluates the proposed development against local and national planning policies and carries out an overall planning balance within the context of relevant material considerations that should be considered in the determination of this planning application.
- 1.6 A location plan is provided at **Appendix 2**.

## Structure of the Planning Statement

- 1.7 The remainder of this statement is as follows:
- **Section 2:** Site and Surrounding area;
  - **Section 3:** The Proposed Development;
  - **Section 4:** Planning Policy Context;
  - **Section 5:** Assessment of Planning Considerations; and
  - **Section 6:** Summary and Conclusions.

## 2. Site and Surrounding Area

### The Application Site

- 2.1 The site is located along the eastern side of Warwick Road (A4100) and to the north of Dukes Meadow Drive, on the northern edge of Banbury. The Site is approximately 2.3km<sup>1</sup> north-west of Banbury town centre, Oxfordshire.
- 2.2 The site is split into two parcels by the old farm track referred to as 'Gullicotte Lane' and comprises two agricultural fields ('Parcel A' and 'Parcel B'). Parcel A is located alongside Warwick Road, with Parcel B located on the eastern side of Gullicotte Lane. It is understood that both parcels are currently in use for arable farming.
- 2.3 The size extends to approximately 12.63ha with boundaries defined by existing hedgerows. Beyond the site boundary to the north and east of the site there is further agricultural land. To the south of the site there is a boundary defined by existing trees with the recent residential Persimmon development (land north of Dukes Meadow Drive) located beyond. The west of the site is bound by Warwick Road, beyond which is agricultural field land and existing residential development. To the south west is the approved residential development 'Drayton Lodge' which has permission for 320 homes and is currently under construction.
- 2.4 There are two public footpaths and one bridleway crossing the site at various points that lead from Banbury to Hanwell village, to the north.
- 2.5 There is currently no vehicular access onto the site.

### The Surrounding Area

- 2.6 Banbury is an accessible location situated alongside the M40 with offering connections to London and Birmingham to the north and south respectively.
- 2.7 Banbury Railway Station is located within a 20-minute cycle of the site. There is bus stop located approximately 0.4miles<sup>2</sup> from the site (circa 7-minute walk) and provides links into Banbury town centre. There is a second bus stop close to the site (approximately 0.2 miles)
- 2.8 There are a number of local amenities close to the site that could serve the residents of the new development. These include a '*Sainsburys Local*' (approximately 0.4 miles) Arden and Hardwick primary school (approximately 1.4 miles), North Oxfordshire Academy (approximately 1.2 miles) and the Barley Mow public house (approximately 1 mile).

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<sup>1</sup> Googlemaps

<sup>2</sup> Googlemaps

## Relevant Planning History

- 2.9 We have reviewed CDC's online planning application records and have not been able to identify any planning history which is likely to inform decisions regarding this current application.

### Nearby planning history

- 2.10 **Application Reference: 12/01789/OUT** (and subsequent Reserved Matters 15/00462/REM) - *Outline application for up to 350 dwellings, together with new vehicular access from Warwick Road and associated open space* Approved: 2<sup>nd</sup> September 2014. The site is allocated as 'North of Hanwell Fields' under Policy Banbury 5 of the adopted Local Plan. Now completed.
- 2.11 **Application Reference: 21/03426/OUT** – *Outline planning application for up to 78 dwellings and associated open space with all matters reserved other than access.* The application had a resolution to grant (subject to S106) at committee in April. The application is pending a decision.
- 2.12 **Application Reference: 18/01882/OUT** - *Residential development, comprising the erection of up to 320 dwellings including affordable housing, together with a local centre of 0.5ha (providing retail and community facilities), landscaping, public open space, playing fields, allotments, access, and associated infrastructure.* Approved 17<sup>th</sup> January 2020.

### Planning Designations

- 2.13 Cherwell District Council's adopted policies map identifies the site as subject to the following designations:
- Countryside location; and
  - Public Right of Way ('PROW').
- 2.14 The image below shows an extract of the current Local Plan proposals map. The site identified with a green dot.
- 2.15 As shown at **Figure 1** below, there are two public footpaths and one bridleway crossing the site at various points that lead from Banbury to Hanwell village, to the north.

### Environmental constraints

- 2.16 The site is not located within a Conservation Area, Hanwell Conservation Area is located c.100m to the north of the site and Drayton Conservation Area is located c.860m to the south of the site.
- 2.17 Following a review of Heritage England's Map of listed heritage assets, it is considered that the site is free from known historical constraints that would preclude the redevelopment of this site.

2.18 Hanwell village to the north of the site contains several listed buildings, the details of these are as follows:

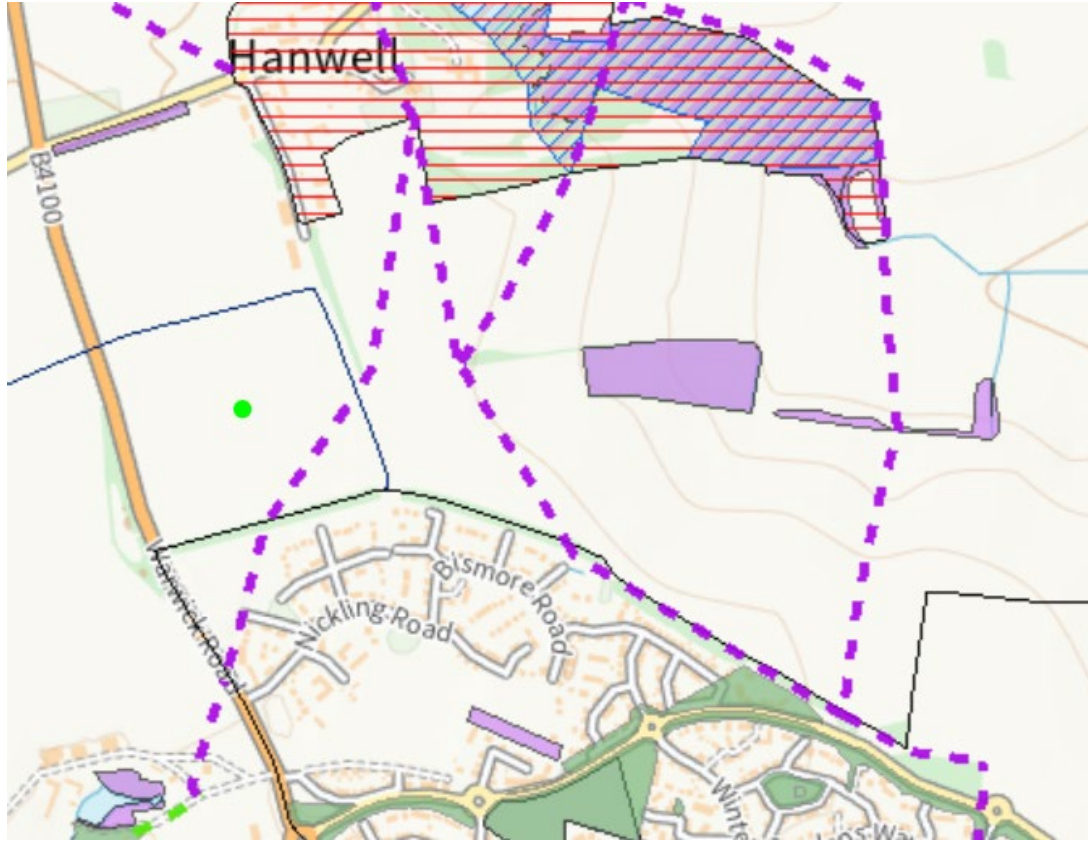
- Grade I Listed Church of St Peter (NHLE ref. 1216364) c.320m to the north-east of the site
- Grade II\* Listed Hanwell Castle (NHLE ref. 1287674) c.380m to the north-east of the site
- Grade II Listed Chest Tomb dated 1676 to Mrs Elizabeth Hidd, approximately 15m south-west of porch of Church of St Peter (NHLE ref. 1216365) c.300m to the north east of the site
- Grade II Listed Group of 5 chest tombs between 10 to 18m south of chancel of Church of St Peter (NHLE ref. 1216366) c.320m to the north-east of the site
- Grade II Listed Group of 4 17th century headstones approximately 10m south-east of the site
- Grade II Listed Right Gatepier approximately 50m west of Hanwell Castle (NHLE ref.1216370) c.360m to the north-east of the site
- Grade II Listed Left Gatepier approximately 50m west of Hanwell Castle (NHLE ref.1216369) c.360m to the north-east of the site
- Grade II Listed 6 Main Street (NHLE ref. 1216368) c.410m to the north-east of the site
- Grade II Listed Heath Farmhouse (NHLE ref. 1287673) c.500m to the north-east of the site
- Grade II Listed Spring Farmhouse (NHLE ref. 1216367) c.550m to the north-east of the site.

2.19 There are no other types of designated heritage assets within the site or the study areas such as registered parks and gardens, battlefields or scheduled monuments.

2.20 A review of the Environment Agency Flood mapping tool identifies the site to be located within Flood Zone 1, the lowest category of flood risk.

2.21 Similarly, the site is not constrained by an ecological or landscape designations that would prohibit development in this location.

Figure 1: Extract from Cherwell District Council's Local Plan policies map



## 3. The Application

### Pre-application Request

- 3.1 Prior to formal submission of this planning application, the Applicant requested pre-application advice from the Council in September 2021. A formal response was received on the 4<sup>th</sup> May 2022 (attached as **Appendix 3**)
- 3.2 Following receipt of the response, the Applicant has sought to address the comments that were raised as part of the pre-application response. This is discussed further in Section 5.

### Environmental Impact Assessment

- 3.3 An EIA Screening Opinion request was submitted to the Council in 9<sup>th</sup> August 2022. A response was received on 23<sup>rd</sup> August 2022 stating the development was considered EIA development.
- 3.4 A Scoping Report was submitted on 2<sup>nd</sup> November 2022 to confirm the topics to be scoped into the EIA. A response was received on 7<sup>th</sup> December 2022.
- 3.5 An EIA accompanies the submission in a separate document. The conclusions from the EIA are that:

#### *Construction Stage*

- 3.6 There will be 'negligible' residual effects in relation to built heritage and archaeology (change to the setting of designated heritage assets and physical impacts on archaeological remains).
- 3.7 There will be 'moderate to major' to 'major adverse' landscape and visual (change to the landscape character, and changes to the visual amenity of visual receptors within 1km of the site).

#### *Operational Stage*

- 3.8 There will be 'minor adverse' residual effect in relation to built heritage and archaeology (changes to the setting of designated heritage assets).
- 3.9 There will 'minor to moderate adverse' to 'moderate adverse' residual effects in relation to landscape and visual (changes to landscape character, changes to the visual amenity of visual receptors within 1km of the site).

#### *Cumulative Effects*

- 3.10 Regarding built heritage and archaeology, no in-combination effects are anticipated. All Approved Projects have been deemed sufficiently detached (geographically) from the Site. The scheme in isolation has negligible effect to archaeological remains and the



setting of the HCA during construction and a minor adverse effect to the setting of the HCA during operation.

- 3.11 Regarding landscape and visual, no in-combination effects are predicted in relation to changes to the character of the site itself. With respect to changes to the landscape character, and visual amenity, the in-combination effects would not result in the exceedance of the levels of effect determined for the scheme in isolation.

### **The Proposed Development**

- 3.12 This application seeks Outline planning permission for the following development ('the proposed development') on land east of Warwick Road, Banbury ('the Site'):

*"Outline application for up to 170 dwellings (Use Class C3) with associated open space and vehicular access off Warwick Road, Banbury. All matters reserved except for access."*

- 3.13 The details of the proposed development are shown on the drawings, plans and throughout the other documents which accompany this application for planning permission.
- 3.14 The development will comprise up to 170 dwellings including a mix of 1, 2, 3 and 4 bed dwellings, however a detailed mix will be set at the Reserved Matters stage but will be in line with current market demand as evidenced in the SHMA, as well as a policy-compliant level of affordable housing. All dwellings will comply with Nationally Described Space Standards.
- 3.15 A newly created access will provide the vehicular and pedestrian entrance to the site from the western boundary from Warwick Road. The supporting transport statement prepared by Jubb sets out further details including details of that the necessary visibility splays can be accommodated and the local road network has capacity for the traffic generation arising from the development.
- 3.16 A 3m footpath and cycleway is proposed along the eastern edge of Warwick Road, to connect the site to the existing footpath in the Persimmon development to the south.
- 3.17 The supporting Design and Access statement ('DAS') submitted in support of this application sets out further details of the proposed development. In summary the following elements are proposed:
- Over 5ha (53%) of the site retained as open space creating new habitats for nature;
  - Biodiversity net gain of 38% for habitats and 10% for hedgerows;
  - Play and recreational provision;
  - Associated highways improvements and sustainable drainage systems.
- 3.18 A development of 170 dwellings (noting the description of development is for 'up to' 170) would result in a net density of 32 dwellings per hectare (dph). Whilst the details

of the scheme are reserved for later approval, there would be a maximum building height of 2.5 storeys, coming down to 1.5 storeys in sensitive parts of the site.

- 3.19 The landscape details associated with the proposed development are to be subject to a future reserved matters application, however an Illustrative Landscape Strategy is provided to demonstrate how the proposals have considered the setting of the site and retain the majority of existing vegetation. The proposals will be well-contained within the site.
- 3.20 A geophysical survey has been undertaken, following which archaeological trial trenching is proposed. This is currently being undertaken and the results will be presented in a report to follow for onward submission to the Council.

#### **Community engagement**

- 3.21 Turley's Strategic Communications team have undertaken a key stakeholder and community consultation to inform relevant stakeholders of the proposals and allow the opportunity to discuss the scheme.
- 3.22 A separate Statement of Community Engagement report has been prepared to detail the consultations undertaken and accompanies the application.

## 4. Planning Policy Context

- 4.1 This section outlines the key planning policy considerations relevant to the proposed development at a national and local level.
- 4.2 It follows Section 54(a) of the Town and Country Planning Act (1990), as amended by Section 38(6) of the Planning and Compulsory Purchase Act 2004, which states that Local Planning Authorities (LPAs) should determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.
- 4.3 At a national level, relevant planning policy and guidance is set out within the National Planning Policy Framework ('the NPPF') published in July 2021 and the Planning Practice Guidance ('the PPG').
- 4.4 The purpose of this section is not to summarise or repeat the wording of each policy, but to identify those which are likely to be relevant to the consideration of this application.

### **The Adopted Development Plan**

- 4.5 For Cherwell District Council, the adopted Development Plan currently consists of:
- Adopted Cherwell Local Plan 2011 - 2031 Part 1 (July 2015)
  - Adopted Cherwell Local Plan 2011-2031 (Part 1) Partial Review – Oxford's Unmet Housing Need (September 2020)
  - Minerals and Waste Core Strategy (September 2017)
  - 'Made' Neighbourhood Plans in Cherwell District
  - Saved, retained policies of the Adopted Cherwell Local Plan 1996
  - Saved policies from Oxfordshire County Council's Minerals and Waste Local Plan 1996.
- 4.6 The following adopted policies are considered to be of relevance to this planning application:

### **Adopted Cherwell Local Plan 2011 - 2031 Part 1 (July 2015)**

- Policy PSD 1: Presumption in Favour of Sustainable Development
- Policy BSC 1: District Wide Housing Distribution
- Policy BSC 3: Affordable Housing
- Policy BSC 4: Housing Mix
- Policy BSC 10: Open Space, Outdoor Sport and Recreation Provision

- Policy BSC 11: Local Standards of Provision - Outdoor Recreation
- Policy BSC 12: Indoor Sport, Recreation and Community Facilities
- Policy ESD 1: Mitigating and Adapting to Climate Change
- Policy ESD 2: Energy Hierarchy and Allowable Solutions
- Policy ESD 3: Sustainable Construction
- Policy ESD 4: Decentralised Energy Systems
- Policy ESD 5: Renewable Energy
- Policy ESD 7: Sustainable Drainage Systems (SuDS)
- Policy ESD 10: Protection and Enhancement of Biodiversity and the Natural Environment
- Policy ESD 15: The Character of the Built and Historic Environment
- Policy ESD 17: Green Infrastructure
- Policy INF1 – Infrastructure

4.7 We note that there are no policies in the Local Plan Part 1 which had the effect of defining settlement boundaries / built-up area limits.

#### **Cherwell Local Plan 1996 Saved Policies (CLP 1996)**

- Policy H5 – Affordable Housing
- Policy H18 – New Dwellings in the 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 of New Residential Development

4.8 We note that the CLP 1996 set a housing requirement to 2001 in light of the Structure Plan. The CLP 1996 also includes policies which restrict development outside of built-up areas, however we note that that policy context could not have been envisaged in the context of the levels of housing now required.

#### **Other Material Considerations**

##### **National Planning Policy Framework**

4.9 The National Planning Policy Framework was revised in July 2021. The Framework covers a range of land issues including, transport, infrastructure, the economy, climate

change and the natural and historic environments. The following paragraphs of the NPPF are considered of particular relevance to the determination of this application.

- 4.10 **Paragraph 7** of the Framework sets out that the purpose of the planning system is to contribute to the achievement of sustainable development.
- 4.11 **Paragraph 8** of the Framework reiterates that the planning system has three overarching objectives:
- **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth
  - **a social objective** – to support strong, vibrant and healthy communities by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities’ health, social and cultural well-being; and
  - **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment, including making effective use of land.
- 4.12 **Paragraph 10** states that at the heart of the framework is a presumption in favour of sustainable development.
- 4.13 **Paragraph 11** sets out that, for decision-taking, this 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, 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; or
    - (ii) 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.
- 4.14 The following sections of the Framework are considered relevant to this application:

#### ***Decision Taking***

- 4.15 **Paragraph 38** states that local planning authorities should “approach decisions on proposed development in a positive and creative way... and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible”.

**4.16 Paragraph 47** of the Framework reiterates that “planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing”.

**4.17 Paragraph 48** states that Local Planning Authorities may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

**4.18 Paragraph 49** deals with prematurity and explains that in the context of the Framework (and in particular the presumption in favour of sustainable development), arguments that an application is premature are unlikely to justify a refusal other than in limited circumstances.

#### ***Delivering a sufficient supply of homes***

- **Paragraph 60** of the Framework emphasises the need to support the “Government’s objective of significantly boosting the supply of homes.” By making sure that “a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”

#### ***Promoting healthy and safe communities***

- **Chapter 8** of the Framework outlines how planning policies and decisions should aim to achieve healthy, inclusive and safe places.
- **Paragraph 92** of the Framework states that planning decisions should aim to achieve healthy, inclusion and safe places which “are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of attractive, well-designed, clear and legible pedestrian and cycle routes, and high-quality public space, which encourage the active and continual use of public areas.”

#### ***Promote Sustainable Transport***

**4.19 Chapter 9** of the Framework guides the important role transport plays in achieving sustainable development, seeking to maximise sustainable transport solutions.

**4.20 Paragraph 105** states that “the planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on

*locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.”*

- 4.21 **Paragraph 111** states *“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”*

#### **Making effective use of land**

- **Paragraph 119** of the Framework states that planning decisions *“should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”*
- **Paragraph 120** of the Framework states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes.
- **Paragraph 124** states that planning decisions should support development that makes efficient use of land taking into account:
  - *The identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;*
  - *Local market conditions and viability;*
  - *The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;*
  - *The desirability of maintaining an area’s prevailing character and setting (including residential gardens), or of promoting regeneration and change; and*
  - *The importance of securing well-designed, attractive and healthy places.*

#### **Achieving Well-Designed Places**

- **Chapter 12** sets out the importance of the design within the built environment.
- **Paragraph 126** state that *“The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”*
- **Paragraph 130** states that planning decisions should ensure developments:
  - *Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
  - *Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*

- *Are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);*
- *Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;*
- *Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and*
- *Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.*

#### ***Meeting the challenge of climate change, flooding and coastal change***

- **Chapter 14** of the NPPF focusses on the delivery of renewable and low carbon energy and associated infrastructure through new development. Opportunities relate to the landform, layout, building orientation, massing and landscaping of proposed development.
- **Paragraph 152** of the Framework sets out that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.

#### ***Conserving and enhancing the natural environment***

- **Paragraph 180** sets out that when determining applications, local planning authorities should apply the following principles:
  - If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; and
  - Development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

#### **Planning Practice Guidance**

- 4.22 The Planning Practice Guidance ('PPG') provides direction on the consideration and determination of planning applications, alongside various other technical and procedural matters, supporting the overall implementation of the policies contained within the Framework.



### Supplementary Planning Documents

4.23 In addition, there are also a number of Supplementary Planning Documents ('SPDs') that are considered to be of relevance to the application. These are listed below:

- Cherwell Residential Design Guide Supplementary Planning Document (SPD) (July 2018);
- Developer Contributions Supplementary Planning Document (SPD) (February 2018); and
- Banbury Vision and Masterplan Supplementary Planning Document (SPD) (December 2016).

### Emerging Local Plan – Cherwell Local Plan Review 2040

4.24 Cherwell District Council are in the process of preparing a new Local Plan. The Council's latest Local Development Scheme ('LDS') was adopted in September 2021 and sets out the following timescales for their Local Plan review:

Plan Stage	Timeframe
District Wide Options Consultation (Regulation 18)	October- November 2021
Consultation on draft Plan	June / July 2022
Consultation on Proposed Submission Plan (Regulation 19)	January – February 2023
Submission	May 2023
Examination	August – September 2023
Adoption	November 2023

4.25 The Regulation 18 consultation of the draft plan has not yet taken place therefore at this stage there are no draft policies in the public domain to review. Cherwell held an Extraordinary Executive – Local Plan meeting on 19<sup>th</sup> January 2023 where the Regulation 18 document was be considered. The outcome of this meeting was deferral in light of the comments of the Overview and Scrutiny Committee, to allow time for consideration of those comments.

4.26 Noting the current status of the emerging Local Plan (Regulation 18), it is considered that should emerging policies being consulted upon during the course of the application, these should not carry weight in the determination of this application.

### Neighbourhood Plans

4.27 The site is not currently subject to an emerging or 'made' neighbourhood plan, nor does it lie within a designated neighbourhood plan area therefore it is unlikely that the site will be covered by a Neighbourhood Plan in the foreseeable future.

## 5. Assessment of Planning Considerations

### Principle of development

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 The site lies in the countryside. The site is not allocated for development in the Local Plan.
- 5.3 However, we note that the LPP1 is based on a spatial strategy which includes *“Focusing the bulk of the proposed growth in and around Bicester and Banbury.”* (Executive Summary). Paragraph A.11 of the LPP1 states that *“Most of the growth in the District will be directed to locations within or immediately adjoining the main towns of Banbury and Bicester ... Banbury will continue to grow, albeit to a lesser extent than Bicester, in accordance with its status as a market town with a rural hinterland.”* In the Applicant’s view, that establishes a context where the LPA sees Banbury as a highly sustainable location for growth.
- 5.4 Furthermore, the current Local Plan period extends to 2031, with a housing requirement (and broader housing considerations associated with the Housing & Growth Deal) as a consequence. In stark contrast, those policies which serve to restrict development outside of built-up areas, are contained in the CLP 1996 which was intended to cover the period to 2001 and which included a housing requirement to that point.

### Design

- 5.5 The Local Plan contains no specific design related policies. The National Design Guide (2021), Building Better, Building Beautiful Commission (2020) and Cherwell Residential Design Guide (2018) have been reviewed for local and national design guidance.
- 5.6 Several Local Plan policies are relevant in design the scheme.
- 5.7 Policy BSC 10 ‘Open Space, Outdoor Sport and Recreation Provision’ states the Council will ensure sufficient quantity and quality of, and convenient access to open space, sport and recreation provision is secured through new development, thought ensuring proposals contribute to open space, sport and recreation commensurate to the needs generated by the proposals.
- 5.8 Policy BSC2 ‘The Effective and Efficient Use of Land’ states new residential development should be provided at a net density of at least 30 dph.
- 5.9 Policy BSC 3 ‘Affordable Housing states that at Banbury, all proposed developments of 11 or more dwellings will be expected to provide at least 30% of new housing as affordable homes. Of this 30%, 70% is expected to be affordable/social rented dwellings, and 30% as other forms of intermediate affordable homes.

- 5.10 Policy BSC 4 'Housing Mix' states new residential development will be expected to provide a mix of homes to meet current and expected future requirements. The mix is to be negotiated with the Council having regard to their most up-to-date evidence on housing need.
- 5.11 The application is made in outline for 'up to' 170 dwellings. This has been determined through the assessment of the on-site constraints and context of the site (edge of Banbury, one of the main settlements in the district).
- 5.12 The site comprises over 5ha of open space. This results in a net density of 35 dph. A Constraints and Opportunities Plan accompanies the submission.
- 5.13 A Design and Access Statement (DAS) accompanies the submission to detail the design process to set the parameters for development and achieve an appropriate density and access positions.
- 5.14 The DAS has received input from technical consultants on matters relating to, landscape, ecology, trees and hedges, flood risk, transport and access. These matters are discussed in detail throughout this chapter.
- 5.15 Whilst layout, scale and appearance are sought for later approval as Reserved Matters, parameter plans demonstrating the access point, land use extent, density, building heights are within the DAS.
- 5.16 Development is focussed on the central part of the western field, to relate built form better to the existing settlement to the south and in order to retain the established vegetation boundaries and provide landscape buffers. Development is not proposed on eastern parcel due to the topography of the land, and the extent of built form this would result in.
- 5.17 Public square is proposed at the entrance of the development to create a sense of place. Play space and an informal kick-about space are proposed on the north western side and south eastern side of the development respectively. Elements of green infrastructure are embedded within the masterplan to ensure a landscape-led scheme, soften the proposed built form and create a visually attractive development.
- 5.18 The site's existing vegetation has been retained where possible, along with the Public Right of Way which has been integrated into the green corridor proposed on the masterplan.
- 5.19 The housing mix will be set at the Reserved Matters stage, however it is envisaged it will comprise a mix of units ranging from 1 to 4 bed flats/dwellings.
- 5.20 The houses are proposed to be predominantly 2 storeys in height, with some instances of 2.5 storeys at key spaces in the centre of the development. A mixture of terrace properties proposed in the central street, along with semi-detached and detached housing.

- 5.21 The proposal will provide affordable housing in line with Policy BSC 3 (30% affordable housing). For a proposal of up to 170 dwellings this would provide 51 affordable homes. Of this, 35 will be affordable/social rent and 16 as intermediate home ownership.
- 5.22 Whilst design details are reserved for later approval, an illustrative masterplan is included within the Design and Access Statement to demonstrate indicatively that the density is achievable. The density accords with Policy BSC2. It is considered that the scheme is based on a sound assessment of constraints and opportunities and will provide a high-quality development.

### **Landscape and Visual Impact**

- 5.23 Policy ESD 13 'Local Landscape Protection and Enhancement' seeks to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.
- 5.24 Policy ESD 17 'Green Infrastructure' states the district's green infrastructure network will be maintained and enhanced through several measures, including protecting and enhancing existing features forming part of the green infrastructure network; and ensuring green infrastructure network considerations are integral to the planning of new development.
- 5.25 EDP Landscape team have prepared an LVIA to accompany the submission. The LVIA considers the application site and surrounding area within a 2km radius, using a desk-based study and field study in February 2022. A request for advice on photo viewpoint locations was submitted to CDC on 4<sup>th</sup> July 2022.
- 5.26 The site adjoins the northern edge of Banbury, one of the main settlements in the district. The site is considered as the western and eastern parcels for the purposes of the LVIA, due to the differing nature of both parcels. The western parcel is generally flat, visually contained by boundary vegetation and has a Public Right of Way crossing the south east corner. The eastern parcel has a sloping topography which means, although boundary vegetation to the south provides some containment, the site is more visually prominent from the north-east and east.
- 5.27 The site is not subject to any national or landscape designations. The site is located within the Farmland Plateau Landscape Type in the Oxfordshire Wildlife and Landscape Study 2004. EDP's assessment considers the site does not represent a landscape of any great importance or distinct character, however, is considered to be of medium-high landscape sensitivity.
- 5.28 The assessment of the site and surrounding landscapes has inputted into the early stages of masterplan design to ensure it is landscape led. The designed and embedded mitigation include:
- Strengthening of vegetation along the northern and western boundaries through new planting.
  - 53% of the site retained as green open space.

- Proposed development kept within the western parcel as far away from the northern boundary as possible in order to retain a feeling of separation between the settlement of Hanwell.
  - Further public open space in the eastern parcel.
  - Retained existing Public Right of Way network through and alongside the site's boundaries.
- 5.29 The development would result in a permanent change of use from agricultural land to built development. The landscape scheme will provide soft landscape elements which will assimilate the proposals into the immediate setting in the longer term, however in the short term it is unlikely there will be notable visual screening.
- 5.30 The change of landscape character is inevitable following a change of use, but should not be seen as a detriment to the enjoyment and appreciation of the wider landscape. The change in the western parcel is considered to incur a low magnitude of physical change, and a high magnitude of visual and sensory change. However, the parcel will continue to be experienced as a contained land parcel with new planting emphasising this.
- 5.31 The effects of development on the site will be localised within a 1km radius of the site, with the highest effects within a 350m radius. There will be some material adverse effect in relation to visual amenity and landscape character. The scheme aims to offset these effects by providing numerous landscape, ecological and recreational benefits through the provision of public open space with natural play facilities and walking routes, and strengthening of the area's green infrastructure network.
- 5.32 The proposals are therefore considered to accord with Policies ESD 13 and ESD 17.

### **Heritage and Archaeology**

- 5.33 Policy ESD 15 'The Character of the Built and Historic Environment' states new development will be expected to complement and enhance the character of its context through sensitive siting, layout and high quality design.
- 5.34 The NPPF paragraph 194 requires the applicant to describe the significance of any heritage assets, including and contribution made by their setting.
- 5.35 EDP Heritage and Archaeology team have prepared an Archaeological and Heritage Assessment which accompanies the application.
- 5.36 A geophysical survey has been undertaken which revealed the presence of some archaeological interest, interpreted as a possible Iron Age to Roman settlement site. It is considered unlikely that these would be of such significance that they would preclude development of the site, however trial trenching is being undertaken to further understand the remains and propose a mitigation plan.

- 5.37 The site does not contain any heritage assets. Hanwell Conservation Area lies to the north east of the site, however does not adjoin the site. Hanwell contains several designated and non-designated heritage assets.
- 5.38 The assessment concludes that the site makes a small positive contribution to the conservation area by being a small part of its historic agricultural setting. However, the experience of the site from the conservation area and vice versa are considered very limited as long distance views heavily screened by vegetation. This change to the small part of the setting of the conservation area is assessed to be less than substantial harm, at the lower end of the scale.
- 5.39 Paragraph 202 of the NPPF states where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
- 5.40 The public benefits of this proposal is that the development of up to 170 dwellings will contribute to the district's supply of housing need in a sustainable location of edge of one of the main settlements in the district.
- 5.41 When considering the change to a small part of the setting of the conservation area, which would be somewhat mitigated by the proposed landscape scheme, it is considered the public benefit detailed above outweigh the lower end of less than substantial harm to the setting of the conservation area.
- 5.42 Regarding the impact of the development on the settings of Grade I listed Church of St Peter and Grade II\* listed Hanwell Castle, the assessment concludes that there will be no adverse impact on, harm to, or loss of significant from any significance from the heritage assets.
- 5.43 It is considered the proposal accords with Policies ESD 10 and ESD 15, and NPPF paragraphs 194 and 202.

### **Ecology**

- 5.44 Policy ESD 10 'Protection and Enhancement of Biodiversity and the Natural Environment' states a number of criteria for development proposals to achieve the protection and enhancement of biodiversity. This includes ways to achieve biodiversity net gain, protecting trees, incorporating features to encourage biodiversity and enhance existing features where possible.
- 5.45 An Ecological Appraisal has been prepared by EDP and accompanies the submission. The baseline ecological investigations included a desk study, Extended Phase 1 survey and detailed (Phase 2) surveys relating to hedgerows, breeding birds, roosting and foraging/commuting bats and badger.
- 5.46 The report confirms the site is subject to no ecological designations, nor are there any within the zone of influence of the site. The on-site habitats are predominantly managed arable fields, locally valuable hedgerows, mature trees and woodland.

- 5.47 These habitats support small populations of a number of protected/priority species: breed bird assemblages, foraging/commuting bat assemblages and badgers.
- 5.48 The ecological mitigation strategy comprises initial avoidance measures that have informed the design of the masterplan; sensitive timing of works (secured through an Ecological Construction Method Statement to be conditioned on the grant of any permission); habitat enhancement and creation measures to be specified in a soft landscape scheme to be submitted in a later Reserved Matters, and also secured in an Ecology Management Plan (also to be conditioned on the grant of any permission).
- 5.49 It is considered the proposal accords with Policy ESD 10 and relevant national planning policy.

### **Transport**

- 5.50 Policy SLE 4 'Improved Transport and Connections states new development will be required to provide financial and/or in-kind contributions to mitigate transport impacts of development. All developments should facilitate the use of sustainable modes of transport where possible.
- 5.51 Policy ESD 1 'Mitigating and Adapting to Climate Change' states growth will be distributed toward the most sustainable location as defined in the Local Plan. This includes development that reduces the need to travel and encourages sustainable travel options.
- 5.52 Jubb have prepared a Transport Assessment (TA) which accompanies the application.
- 5.53 The TA identifies that the site is located within walking and cycling distance from surrounding facilities provided within Banbury. There are good opportunities to encourage high levels of walking, cycling and public transport use.
- 5.54 A new vehicular access is proposed off Warwick Road. In accordance with Oxfordshire County Council guidance the access will be 5.5m wide. The red line boundary for the application contains land sufficient to cover the necessary visibility splays.
- 5.55 It is proposed to extend the 40mph speed limit along Warwick Road to the north past the proposed access point, to be secured through a Traffic Regulation Order (TRO).
- 5.56 A 3m wide shared footpath and cycleway is proposed to connect the site access on the eastern side of Warwick Road to the residential development to the south. It is also proposed to improve connections along the Public Rights of Way across the site and connect to Dukes Meadow Drive.
- 5.57 The calculated trip generation arising from the development and its impact on the local highway network would be below levels which could be described as 'severe'.
- 5.58 The development would therefore have a minimal impact on the local highway network.
- 5.59 A Framework Travel Plan (FTP) is also submitted with the application. A Travel Plan will be submitted with any future reserved matters application. The FTP provides strategic

measures to manage and promote sustainable modes of transport, in accordance with Oxfordshire County Council's guidance.

- 5.60 It is considered the proposal accords with Policies SLE 4 and ESD 1, and relevant national planning policies.

### **Flood Risk and Drainage**

- 5.61 Policy ESD 1 'Mitigating and Adapting to Climate Change' states the incorporation of suitable adaptation measures should include taking into account the known physical and environmental constraints when identifying locations for development, minimising the risk of flooding and consideration of reducing the effects on the microclimate (including provision of green infrastructure such as open space and water).
- 5.62 Policy ESD 6 'Sustainable Flood Risk Management' states the Council will take a sequential approach to development, locating vulnerable development in areas at lower risk of flooding. Site specific flood risk assessments are required for developments of 1ha or more in size located in Flood Zone 1.
- 5.63 Policy ESD 7 'Sustainable Drainage Systems (SuDS)' states all development will be required to use SuDS for the management of surface water run-off.
- 5.64 A Flood Risk and Drainage Strategy has been prepared by Jubb to accompany the application. The report is based off an up-to-date topographical survey, and on-site soakage testing has been undertaken.
- 5.65 No watercourses are identified within the site boundaries. The nearest watercourse to the site is approximately 800m to the west. The site lies fully in Flood Zone 1. A small area of the site on the southern boundary is at low risk of surface water flooding. The local public foul and surface water sewer networks are owned and operated by Thames Water.
- 5.66 A new foul water drainage network is required to serve the development. Thames Water have confirmed the existing sewer network which runs within Warwick Road has sufficient capacity to accommodate the development. The proposed point of connection is 325m to the south of the site. A pump will be required as gravity connection will not be practical.
- 5.67 Surface water drainage was considered in accordance with the drainage hierarchy. On-site infiltration testing demonstrates that infiltration is feasible across the full extent of the site. A positive drainage scheme will be proposed at the detailed design stage to control surface water run-off, with methods such as permeable paving, individual plot soakaways, raingardens, water butts, swales and infiltration basin incorporated throughout the scheme.
- 5.68 The SuDS features have been designed based on the worst rate of infiltration, and to accommodate flows for the 1 in 100-year plus 40% climate change allowance.
- 5.69 Although the risk of surface water flooding is not considered significant, it is suggested mitigation measures of finished floor levels set at a minimum of 150mm above existing



levels, and existing ground profile should be designed to convey potential flows from buildings or vulnerable areas where possible, should be considered.

- 5.70 Based on the above, there is considered to be no adverse impact on flood risk arising from the development. It is considered the proposal accords with Policies ESD 1, ESD 6 and ESD 7.

### **Noise**

- 5.71 The Local Plan contains no relevant policies relating to noise.
- 5.72 A Noise Assessment has been prepared by SLR and accompanies the submission. A baseline sound survey was undertaken in April 2022 at three locations.
- 5.73 The dominant sound source at the site was noted to be from transportation sources, specifically from Warwick Road. The noise was identified as 'medium risk' for future occupants. Based on the survey results, noise modelling was undertaken.
- 5.74 The results demonstrate that sound levels at all external living areas are expected to remain within the recommended values therefore additional mitigation measures will not be required within gardens.
- 5.75 The results demonstrate that mitigation will be required to achieve internal sound level criteria in certain areas of the development, namely the western edge. Glazing and acoustically attenuated ventilation will provide the sufficient mitigation.
- 5.76 The noise assessment therefore confirms that with the inclusion of the recommended mitigation, noise does not pose a constraint to development.

### **Ground contamination**

- 5.77 A Phase 1 Desk Study Report has been prepared by Jubb and accompanies the submission.
- 5.78 The assessment confirms that the site is in a high-risk radon area. The site is currently in use as an agricultural field therefore there is a risk of potential associated contaminants. Heavy metal/semi-metals and organics in any made ground on site are identified as potential contaminants. Based on this, the contamination potential of the site is considered to be low.
- 5.79 The report also identifies that shallow foundations are unlikely to be suitable. Full radon protective measures will be required in any new development.
- 5.80 The report concludes that a further Phase 2 investigation will be required. This can be conditioned as part of any grant of planning permission.

### **Sustainability**

- 5.81 Policy ESD 2 'Energy Hierarchy and Allowable Solutions' states the Council promotes the energy hierarchy to achieve carbon emissions reductions.

- 5.82 Policy ESD 3 'Sustainable Construction' states all new residential development will be expected to incorporate sustainable design and construction technology to achieve zero carbon development.
- 5.83 An Energy and Sustainability Report has been prepared by AES and accompanies the submission.
- 5.84 Through a combination of fabric efficiency measures and renewable energy, the development will achieve site wide CO2 emission reductions of greater than 31% over Part L of Building Regulations standards, exceeding policy requirements.
- 5.85 A fabric first approach to sustainable construction will be taken. Solar PV systems are recommended to be used on site. All buildings will be built to be resilient through construction specification and managing overheating risk in consideration of the longer-term impacts of a changing climate. Measures have been identified to reduce both construction and household waste.
- 5.86 Water usage will be reduced using flow restrictors and low use appliances where applicable, in accordance with Part G of Building Regulations and Policy ESD 3 of the Local Plan.
- 5.87 It is considered the proposal accords with Policies ESD 2 and ESD 3.

#### **Air Quality**

- 5.88 The application is accompanied by an Air Quality Report prepared by SLR. The report follows discussions with Council's Environmental Health Officer, and a formal pre-application enquiry.
- 5.89 The site does not lie in an Air Quality Management Area (AQMA). Cherwell District Council have declared four such areas, the closest to the site being approximately 2.5km away.
- 5.90 The report considers both the construction and operational phase. Given the short-term nature of the construction phase and anticipated low volume of vehicle movements, there is predicted to be an insignificant effect on air quality.
- 5.91 During the operational phase, unmitigated effects associated with NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> concentrations at all assessed receptor locations are therefore considered 'not significant'.
- 5.92 A mitigation assessment has been undertaken in line with local policy and pre-application advice. Mitigation measures are detailed within the report, and include construction dust mitigation measures, a Travel Plan to limit associated air quality effects, and a damage cost calculation required to offset emissions.
- 5.93 It is considered the proposal is in accordance with Policy ESD 10 of the Local Plan and air quality guidance.

## **Lighting**

- 5.94 MEC have prepared a Lighting Assessment, with a site visit undertaken in September 2022. Sensitive residential receptors and ecological receptors have been identified in vicinity to the site. Hanwell Community Observatory is located circa 400m to the north east of the site, at the closest corner of the site.
- 5.95 The Lighting Assessment does not anticipate a detrimental impact on the Hanwell Observatory, and the quality of the dark sky in this area. Lux levels are not anticipated to have a significant impact on any light-sensitive species in the area.
- 5.96 The lighting scheme will not result in an adverse impact on the site and its surroundings.

## **Agricultural Land Quality**

- 5.97 The application is accompanied by an Agricultural Land Quality report, prepared by Reading Agricultural Consultants. The report uses existing provisional ALC mapping and the results are corroborated by extensive detailed surveys in the locality.
- 5.98 The ALC report confirms that the western half of the site is Grade 2 (very good quality agricultural land), and the eastern half is subgrade 3a (good quality land).
- 5.99 The proposals will result in the loss of best and most versatile land, however this amounts to only 12.63ha and is therefore not significant.

## 6. Housing Considerations

### **The Oxfordshire Housing & Growth Deal**

- 6.1 The Oxfordshire Housing & Growth Deal represents a long-term opportunity for investment within Oxfordshire. The Oxfordshire Growth Board has secured £215m of Government investment for new homes and infrastructure across Oxfordshire, which provides £60million for affordable housing and £150million for infrastructure improvements, including road and rail. The pretext of this investment is to support the ambition for 100,000 new homes across Oxfordshire between 2011 and 2031 to address the county's severe housing shortage and expected economic growth.
- 6.2 The Deal commits Oxfordshire's Councils to develop a Joint Statutory Spatial Plan (JSSP) that will set the strategic direction for planning across the county to 2050. The JSSP, which will be in place by 2021, will complement the existing Local Plan process. The delivery of 100,000 homes across Oxfordshire is required in order for trend-based economic and demographic growth to be met over the period to 2031.
- 6.3 The SHMA 2014 was intended to set out an objective assessment of housing need for each of the Oxfordshire authorities over the period 2011 – 2031, with the housing requirement range for Cherwell set at 1,090 – 1,190 dpa, with a 'midpoint' figure of 1,140 dwellings. That midpoint figure then informed the LPP1.
- 6.4 However, in the context of the levels of growth identified in the SHMA and committed to through the Deal, it has long been recognised that Oxford City had a significant unmet housing need and as such CDC adopted its LPP1 'Partial Review – Oxford's Unmet Housing Need'.

### **Housing Land Supply**

- 6.5 The Annual Monitoring Report (AMR) published in December 2021 for the April 2020/21 year claims the district has a 3.8 year supply for the period 2021-2026. Taking account of supply through commitments, small site windfall, remaining allocations in the Local Plan and Neighbourhood Plans, and other allocations, the Council estimates it has a supply of 5826 homes, at 1<sup>st</sup> April 2021. This left an outstanding requirement of 1864 dwellings.
- 6.6 In 2020, Cherwell undertook a Regulation 10A Review of its Local Plan (published in January 2021) that confirmed its policies did not require updating. In January 2023, Cherwell undertook a further Regulation 10A Review which found its housing requirement policy BSC1 is out of date.
- 6.7 The 2022 AMR has been agreed to be published at the Council's Executive meeting of 6<sup>th</sup> February, which does not contain the 5 year housing supply position. Instead, Cherwell will set this in a separate Housing Land Supply Statement which allows flexibility for this to be updated throughout the year as necessary. The February 2023 Housing Land Supply Statement (agreed to be published at the Council's Executive meeting of 6<sup>th</sup> February) states the Standard Method figure will be used as the housing requirement policy is more than 5 years out of date.

- 6.8 This results in a requirement of 3.895.5 dwellings over the 5 year period. The deliverable supply is calculated to be 4,244 dwellings therefore resulting in a 5.4 year supply (amounting to 349 dwellings).
- 6.9 The Applicant believes this supply figure is being overstated and when scrutinised there would be a shortfall. Cherwell relies to a significant degree on the delivery of Category B sites within the NPPF Glossary definition of 'deliverable', where there is less certainty of delivery.

## 7. The Presumption in Favour of Sustainable Development

7.1 The NPPF states the presumption in favour of sustainable development is at the heart of the Framework (para 10). Paragraph 11 states for decision-taking this means:

*“c) approving development proposals that accord with an up-to-date development plan without delay; or*

*a) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of the policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*

*ii. 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.”*

7.2 Footnote 8 of paragraph 11 states that relevant policies can be considered out-of-date when the LPA cannot demonstrate a five year supply of housing. This is reviewed below.

7.3 As the Applicant considers that the recent supply position adopted by Cherwell in February 2023 is being overstated, this Planning Statement proceeds on the basis that the Council cannot demonstrate a 5YHLS, and the site/proposal is not subject to the policies set out in Footnote 7 of paragraph 11d, the policies which are most important for determining the application are out-of-date.

7.4 The presumption in favour of sustainable development therefore applies to this proposal. This means granting permission unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.”* when considered against the policies in the NPPF, taken as a whole.

*Sustainable development*

7.5 Policy PSD 1 states:

*“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. The Council will always work proactively with applicants to jointly find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.*

*Planning applications that accord with the policies in this Local Plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.”*

7.6 The site lies adjacent the settlement boundary of Banbury, the district's largest town with its own sub-region. The foreword of the Local Plan states "*Our strategy is to focus housing growth on Bicester and Banbury*". Banbury is expected to see continued growth over the period of the Local Plan. The Introduction states "*The Plan centres on Bicester and Banbury as the most sustainable locations for growth.*"

7.7 As a large settlement, Banbury offers a range of services and facilities and is stated in the Plan to be an important market town and a primary regional centre. The accompanying Design and Access Statement identifies the following proximity to facilities and services:

- Existing footpaths on site linking to the wider public right of way network;
- Banbury rail station – 20 minute cycle, provides connections to London, Birmingham and Manchester;
- Bus stop on Warwick Road, serving Banbury Town Centre, Leamington Spa and Stratford-upon-Avon;
- Hardwick Primary School – 20 minute walk;
- North Oxfordshire Academy – 20 minute walk or 7 minute cycle;
- Hardwick Surgery General Practice – 20 minute walk;
- Sainsburys Local off Warwick Road – 9 minute walk.

7.8 The site is therefore considered to be in a sustainable location.

7.9 Paragraph 8 of the NPPF sets out the three overarching objectives to achieve sustainable development:

- a) Economic objective
- b) Social objective
- c) Environmental objective

7.10 These objectives are considered further below in relation to the proposal.

*Economic objective*

7.11 The delivery of housing and their related occupiers will provide some investment and expenditure into the local economy, and provide much-needed workforce for nearby employees. In addition, the proposal will also provide jobs during construction. The proposal will contribute towards meeting the needs of the area, which in the case of Oxfordshire are aligned with economic growth and affordability, as demonstrated through the Housing & Growth Deal.

It is considered this should be given **substantial weight**.

*Social objective*

- 7.12 To reiterate the above, the proposal will provide up to 170 much needed houses at a time when the Council are unable to demonstrate a 5 year supply of housing. The proposal would also provide a proportion of affordable housing in accordance with local planning policy, and therefore also provide a mix of house tenures and sizes to meet a local need.
- 7.13 Financial contributions may be agreed to serve the local community where justified based on relevant planning policy and evidence. This might include, for example, the extension of a 3m shared footpath and cycleway on the eastern side of Warwick Road, and a reduction in speed limit along the section of Warwick Road that runs along the site (from national speed limit to 40 mph).
- 7.14 It is considered this should be given **substantial weight**.

*Environmental objective*

- 7.15 The proposals provide genuinely alternative opportunities to the private car to access key facilities and services. Some basic but important facilities are within a short walking or cycling distance, as referred to above.
- 7.16 The site adjoins the largest town in the district therefore is highly sustainable.
- 7.17 The proposal makes effective use of land in providing much needed housing at an appropriate density for its location. The design parameters respect the existing and important site features, including Hanwell Village and the Hanwell Conservation Area to the north, boundary vegetation, on-site species and landform. The proposals include additional planting and habitat creation that will not only mitigate the impact of development, but also enhance the biodiversity credentials of the site.
- 7.18 The development will commit to delivering sustainable development. Electric vehicle charging points and provision for future uptake, as required by Local Plan policies and emerging national guidance. Other, more detailed matters will be considered at the reserved matters stage, such as the use of solar panels, fabric first construction on dwellings and use of water butts.
- 7.19 Flood risk is minimised through a hierarchical approach based on the 100 year +40% climate change allowance.
- 7.20 The proposal can achieve 38% biodiversity net gain.
- 7.21 It is considered this should be given **moderate weight**.
- 7.22 Based on the above, it is considered the proposal does comprise sustainable development.
- 7.23 The NPPF requires an assessment of whether these adverse impacts of the proposal significantly and demonstrably outweigh the benefits set out in this section.



- 7.24 The adverse impacts of the scheme are the permanent change of use in the land resulting in landscape impact and the less than substantial harm on the setting of Hanwell Conservation Area.
- 7.25 The landscape impact is noted to be greater in the short term, as new planting establishes, yet this is still seen as an acceptable level of change as expected with a permanent change of use of the land. The proposed planting scheme and positioning of built form provides assimilation of the proposal into the landscape in the longer term, in addition to the benefits ecologically and recreationally.
- 7.26 The harm to the setting of Hanwell Conservation Area is at the lower end of less than substantial, and affects a only small portion of the setting. This is mitigated somewhat by the proposed landscaping scheme.
- 7.27 It is considered the substantial and moderate weight to be given to the social, economical and environmental benefits significantly and demonstrably outweigh the adverse impacts of the proposal identified. Therefore, the presumption of favour of sustainable development applies.

## 8. Draft Planning Obligations

- 8.1 The National Planning Policy Framework (2021) states that planning obligations or conditions can be used to make otherwise unacceptable development in planning terms. These reflect Regulation 122(2) of the CIL Regulations 2010 (as amended). The NPPF confirms that *“planning obligations should only be used where it is possible to address unacceptable impacts through a planning condition.”*
- 8.2 Paragraph 57 outlines three tests which planning obligations must meet, these include:
- “a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.”*
- 8.3 CDC policy INF 1 ‘Infrastructure’ states the Council will ensure the delivery of infrastructure by *“Development proposals will be required to demonstrate that infrastructure requirements can be met including the provision of transport, education, health, social and community facilities.”*
- 8.4 In view of the relevant planning policy requirement and the findings represented within the technical reports submitted in support of this full planning application, a list of the proposed planning obligations has been prepared. These are set out in Table 8.1 below and provide the basis for the draft Heads of Terms (HoTs) upon which the negotiations relating to the Section 106 agreement can be entered into, subject to the Council resolving to grant planning permission.

**Table 8.1: Proposed Planning Obligations**

Planning Obligation	Proposed Heads of Terms
Open space	Provision of open space. Detail of long-term management in accordance with Policy BSC 11.
Play space	Commuted sum to be agreed for maintenance or details of other management provisions.
Off-site outdoor sports facilities	Contribution to be agreed with the Council toward the provision of a 3G football pitch in Banbury.
Off-site indoor sports facilities	Contribution to be agreed with the Council toward the provision of an Indoor Tennis Centre in Banbury or other

	improvements to other facilities in the locality.
Community hall facilities	Contribution to be agreed with the Council toward improvements/enhancements at Hanwell Fields Community Centre, and toward the cost of employing a community development worker.
Contribution to bin provision	Contribution to provision of bins for each dwelling.
Household Waste Recycling Centre	Contribution to be agreed with the County Council toward the expansion and efficiency of the waste recycling centre, in order to provide additional capacity.
Education	Contribution to be agreed with the Council toward education facilities
Affordable housing	A target of 30% affordable housing will be provided in line with Policy BSC 3. The tenure split will be agreed through the S106 Agreement.
Public art	Contribution to be agreed with the Council toward public artwork to be created in the vicinity of the site.
Travel Plan and monitoring	Travel Plan and monitoring costs to be agreed with the Council
Public transport contribution	Contribution to be agreed with the County Council toward the provision/continued provision of bus service in the area around the site.
Traffic Regulation Order	If not dealt with under S278/S38 agreement.
Biodiversity Net Gain	A Biodiversity Management Plan will be agreed prior to development commencing on site.
S106 Monitoring	Monitoring of the Section 106, to be agreed with Cherwell District Council and Oxfordshire County Council.

8.5 All planning obligations are to be discussed and agreed with Cherwell District Council and relevant third parties.

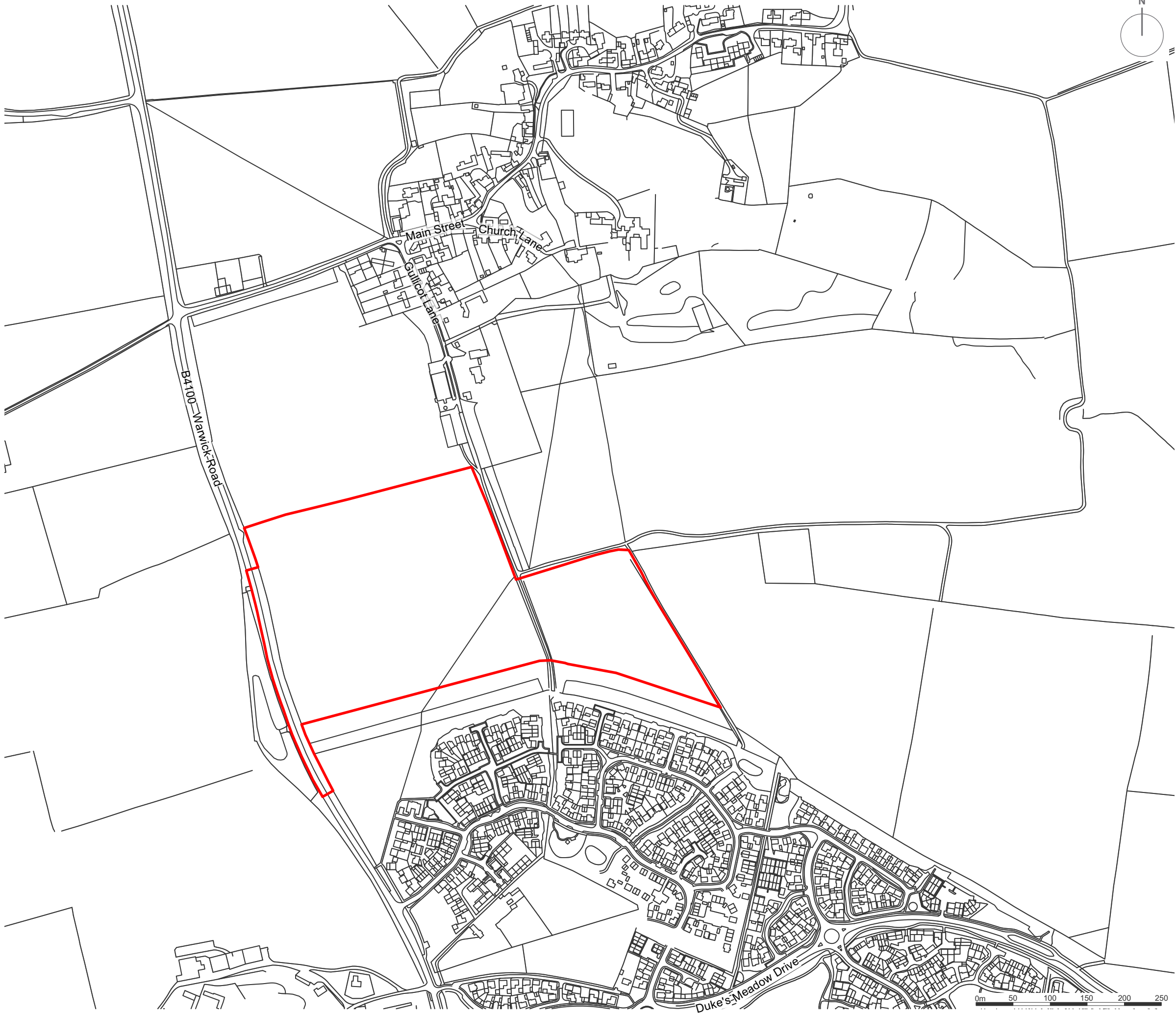
## 9. Summary and Conclusions

- 9.1 The application is submitted on behalf of Vistry Homes Ltd. The planning application is for up to 170 dwellings (Use Class C3), with vehicular access taken off Warwick Road and all other matters reserved for later approval. The site extends to 12.63ha.
- 9.2 The relevant material planning considerations in assessing the application are detailed in Section 5. We consider the Council are unable to demonstrate a 5 year supply of housing. The site is not subject to any of the designations listed with Footnote 7 of paragraph 11 of the NPPF.
- 9.3 As such, the policies for determining the application relating to housing distribution are considered out of date, and there is a presumption in favour of sustainable development. It is considered that the development and site location would accord with the economic, social and environmental limbs of sustainable development contained within paragraph 8 of the NPPF. In particular, the provision of much needed market and affordable homes is considered to be a significant benefit of the proposals.
- 9.4 The Planning Statement goes onto consider other material considerations against relevant development plan policies. The proposals have been carefully developed following a detailed assessment of key constraints and opportunities by relevant specialist consultants. This has ensured that parameters have been established that will minimise any adverse impacts on the wider landscape flood risk, ecological habitats, important trees and woodland, highway safety and capacity. The proposals will ensure a high quality and sustainable development is delivered in a sustainable location on the edge of the largest town in the District.
- 9.5 It is considered that the proposal does not result in any adverse impacts that significantly and demonstrably outweigh the benefits. The proposal therefore comprises sustainable development in accordance with paragraph 11d of the Framework, and provides suitable parameters that address all of the key constraints and opportunities.
- 9.6 As such, the Applicant respectfully requests that planning permission is granted accordingly.

## Appendix 1: Submitted Plans and Documents

Plan / Document	Reference
Application form	As submitted
CIL Form	As submitted
Covering Letter	Prepared by Turley
Planning Statement including Affordable Housing statement; public rights of way statement and draft Heads of Terms	Prepared by Turley
ES and appendices	Prepared by Turley
Location Plan	edp3253_d007e
Concept Plan	edp3253_d038a
Design & Access Statement	Prepared by EDP
Flood risk assessment and Drainage Strategy	Prepared by Jubb
Biodiversity survey and report	Prepared by EDP
Heritage and archaeological statement	Prepared by EDP
Landscape and Visual Impact Assessment	Prepared by EDP
Illustrative Landscape Strategy	(included in LVIA, prepared by EDP)
Statement of community involvement	Prepared by Turley
Transport assessment	Prepared by Jubb
Travel Plan	Prepared by Jubb
Tree survey	Prepared by EDP
Arboricultural Impact Assessment	Prepared by EDP
Phase 1 Geotechnical report	Prepared by SLR
Air Quality Assessment	Prepared by SLR
Noise Assessment	Prepared by SLR
Sustainability Report	Prepared by AES

## **Appendix 2: Location Plan**



Site Boundary

12.63ha

client  
**Vistry Group**

project title  
**Land East of Warwick Road, Banbury**

drawing title  
**Site Location Boundary**

date	<b>10 MAY 2022</b>	drawn by	<b>RA</b>
drawing number	<b>edp3253_d007e</b>	checked	<b>PW</b>
scale	<b>1:5,000 @ A3</b>		<b>QA</b>



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## **Appendix 3: Pre-application Response**

## CHERWELL DISTRICT COUNCIL

### Pre-Application Report

<b>Pre-application Reference No:</b>	21/02776/PREAPP
<b>Proposal:</b>	Pre-Application Enquiry - Residential development of up to 250 dwellings
<b>Site Address:</b>	Land Parcel 1200 Warwick Road Banbury

#### TECHNICAL ASSESSMENT

**Internal Consultations Required:**

- Planning Policy
- Landscape Officer
- Strategic Housing
- Conservation Officer
- Environmental Protection Officer
- Building Control
- Recreation and Leisure

**External Consultations Required:**

- Oxfordshire County Council

**Flood Risk:** The site is within Flood Zone 1 which is the zone of lowest flood risk. The Environment Agency has produced advice for applicants and agents about assessing flood risk in the planning process, and this can be viewed online at: <https://www.gov.uk/flood-risk-assessment-for-planning-applications>. You should have regard to this advice when preparing your application.

The Environment Agency also offers a pre-application service, details about which are available online at: <https://www.gov.uk/government/publications/planning-advice-environment-agency-standard-terms-and-conditions>

**Drainage:** You need to consider foul and surface water drainage when designing your proposals. In respect of foul drainage, you should first seek to connect to the public sewer network. You can contact Thames Water for further advice about this; information about their pre-application service is available online at:

<https://developers.thameswater.co.uk/commercial-building-works/water-supply/disconnections/pre-application-help-and-advice>.

Only if a connection to the public sewer network is not feasible should you then consider other foul drainage options. The Environment Agency would be consulted on any planning application that proposes non-mains foul drainage. If you are proposing non-mains foul drainage, you should submit a completed Foul Drainage Assessment Form with your planning application. This form can be viewed online at:

<https://www.gov.uk/government/publications/foul-drainage-assessment-form-fda1>

In respect of surface water drainage, wherever possible surface water should be drained within the site using Sustainable Drainage Systems (SuDS). Technical Standards for the design, maintenance and operation of SuDS can be viewed online at: <https://www.gov.uk/government/publications/sustainable-drainage-systems-non-statutory-technical-standards>

In some cases the Water Authority may adopt SuDS which meet the legal definition of a sewer. Water UK has published [Design and Construction Guidance](#) which contains details of the water sector's approach to the adoption of SuDS. If you wish to explore the option of the Water Authority adopting SuDS, you will need to ensure the SuDS are designed in accordance with the Guidance.

In addition, you should refer to the guidance published on [Oxfordshire County Council's Flood Toolkit](#) concerning surface water drainage, and in particular the detailed guidance provided in the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire".

**EIA Screening Opinion Required?** All major applications are screened by the Local Planning Authority when an application is submitted.

This pre-application enquiry has not formally considered if the proposal is likely to be EIA development or not. In isolation, it is likely to fall beneath the threshold for EIA requirement although cumulatively it might potentially be considered EIA. A Screening Opinion submission would determine the Council's formal opinion.

**Committee or Delegated Matter?** The application would meet the definition of a major development and therefore would be referred to the Planning Committee for determination.

**Relevant Planning History:**

None in respect to site itself but planning permission previously granted on land immediately to the south (OS parcels 4083 & 6882) for 350 dwellings, with access and open space (Refs: 12/01789/OUT, 15/00462/REM & 20/03123/NMA).

**Policy:** Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in Cherwell comprises the Cherwell Local Plan 2011-2031 Part 1, and the saved policies of the Cherwell Local Plan 1996. The policies considered most relevant to your proposal are:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031)  
PSD1 – Presumption in Favour of Sustainable Development  
BSC1 – District Wide Housing Distribution  
BSC3 – Affordable Housing  
BSC4 – Housing Mix  
BSC10 – Open Space, Outdoor Sport and Recreation Provision  
BSC11 – Local Standards of Provision – Outdoor Recreation  
BSC12 – Indoor Sport, Recreation and Community Facilities  
ESD1 – Mitigating and Adapting to Climate Change  
ESD2 – Energy Hierarchy and Allowable Solutions  
ESD3 – Sustainable Construction  
ESD4 – Decentralised Energy Systems  
ESD5 – Renewable Energy  
ESD7 – Sustainable Drainage Systems (SuDS)  
ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment

ESD15 – The Character of the Built and Historic Environment  
ESD17 – Green Infrastructure  
INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)  
H5 – Affordable Housing  
H18 – New Dwellings in the Countryside  
C7 – Landscape Conservation  
C8 – Sporadic Development in the Open Countryside  
C28 – Layout, design and external appearance of new development  
C30 – Design of New Residential Development

**OTHER MATERIAL CONSIDERATIONS:**

The National Planning Policy Framework (2021) is a material consideration which should be afforded significant weight. Other material considerations include:

Planning Practice Guidance (PPG)

EU Habitats Directive

Natural Environment and Rural Communities Act 2006

Conservation of Habitats and Species Regulations 2017

Circular 06/2005 (Biodiversity and Geological Conservation)

Cherwell Residential Design Guide SPD (2018)

Developer Contributions SPD (2018)

**You should be aware of the following matters/issues/designations:**

- § Within Flood Zone 1 – i.e., the land is the lowest flood risk.
- § Within 2km of a Site of Special Scientific Interest.
- § There are two public footpaths and one bridleway crossing the site at various points that lead from Banbury to Hanwell village, to the north.
- § Much of Hanwell village is designated a Conservation Area and contains numerous Grade II listed buildings.
- § Development of the appraisal site would close the undeveloped gap between the northern built-up limits of Banbury and Hanwell village, threatening coalescence.
- § The western part of OS1200 comprises a flat plateau of arable farmland, which is prominent in views from the B4100 Warwick Road to the east, Hanwell village to the north and the Persimmon Homes development on the edge of Banbury to the south. The eastern part slopes down significantly.
- § The site lies within an area of archaeological interest. An assessment of the significance of the heritage asset and the potential effect of the development upon it should be submitted with any future application. Contact should be made with the County Archaeologist on 01865 328944 or by writing to [Richard.Oram@oxfordshire.gov.uk](mailto:Richard.Oram@oxfordshire.gov.uk) or Historic and Natural Environment Team, Infrastructure Planning, Speedwell House, Speedwell Street, Oxford, OX1 1NE.
- § The Highways Authority will need to be involved in respect to proposed vehicular access to Warwick Road. You should therefore contact [www.highways.gov.uk](http://www.highways.gov.uk). Useful link: <http://www.highways.gov.uk/publications/planning-protocols-for-planning-and-development>
- § You may need to consider the effect on protected species when developing your proposals. Further information may need to accompany your application including a phase 1 survey to identify habitats present and features likely to be used by protected species and any further detailed survey reports for any individual protected species should these be necessary. In order to assist you in this you should refer to the Standing Advice prepared by Natural England (link below). This 'standing advice' will help in assessing if there is a reasonable likelihood of protected species being present and if so the relevant survey and mitigation requirements. This advice will be a material consideration in the determination of your application.  
<http://www.naturalengland.org.uk/ourwork/planningdevelopment/spatialplanning/standingadvice/advice.aspx>

In this case I have considered the standing advice and note that there is a reasonable likelihood of protected species being present within and/or close to the site. I would, therefore, advise you to submit a phase 1 survey with any subsequent application. Failure to do so could result in your application being refused as the Council would not be able to properly assess the impact of the development on protected species.

### **Consultation Responses:**

Oxfordshire County Council: The County Council's single response team were consulted on the pre-application but have not provided any comments. The County Council operates their own pre-application service, and the applicant is encouraged to engage with them on matters relating to highway safety (access details and sustainable travel), drainage and archaeology.

### Planning Policy:

#### **Key observations:**

- This is a large greenfield site on the edge of Banbury, which lies immediately north of Policy Banbury 5: North of Hanwell Fields.
- There is currently a development under construction of over 500 homes immediately to the south, which is part of the North of Hanwell Fields strategic allocation in the 2015 adopted Cherwell Local Plan. To the west is Warwick Road with the open countryside beyond. Park Farm and the village of Hanwell lie to the north of the site. To the east is open countryside. There are Public Rights of Ways crossing through the western part of the site.
- The 2021 Annual Monitoring Report demonstrates that the District presently has a 3.5-year housing land supply for the period 2022-2027, so the NPPF para.11d 'tilted-balance' is engaged.
- The merits of providing additional homes (including affordable homes) on this site is noted and the proposal would assist in delivering sustainable new homes and meeting overall Policy BSC 1 housing requirements to 2031.
- The 'tilted balance' states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- However, recent case law has clarified that even where development plan policies are rendered "out of date" by housing land shortfalls, they remain "potentially relevant" to the application of the tilted balance and decisionmakers are "not legally bound to disregard them".
- Moreover, case law has established that the provisions of the NPPF remain subordinate to the overriding principle established by section 38(6) of the Planning and Compulsory Purchase Act 2004 that decision-makers must have first regard to the terms of development plan policies.
- Policy BSC 3 states that sites of 11 or more dwellings will be required to provide affordable housing. In Banbury the policy requirement is that 30% of the developed units should be for affordable housing. Advice should be sought from the Housing Strategy and Development Team as to the mix of affordable unit types and Policy BSC 4 will apply.
- The pre-application site is included within the Council's Housing and Economic Land Availability Assessment (HELAA) dated February 2018 (Site Reference HELAA 030). In assessing the site, it concluded: *'The site is considered to be unsuitable for development as the land rises from Hanwell Village towards the site and the gradient is steep. Similarly, the land falls steeply away from the site towards the cricket ground off Dukes Meadow Drive. There would be direct risk of coalescence of Banbury and Hanwell village which development would lead to impacts on the Hanwell Conservation Area and the high landscape value and visual sensitivity of the site. The site is in a prominent position therefore unsuitable for development.'*
- The Banbury Landscape Sensitivity and Capacity Assessment (September 2013) had considered the eastern part of the site, which concluded, *'Although the overall rating is considered to be medium-low for the site, the capacity to accommodate residential*

*development is considered to be weighted towards low. The development of residential properties north of Dukes Meadow Drive may result in urban sprawl to the north of Banbury and create poorly defined development limit which currently exist at Dukes Meadow Drive. There would also be indirect effects of residential development affecting the setting of the Hanwell Conservation Area.'*

- The views of the Conservation Team should be sought on the impact of the proposed development on the Hanwell Conservation Area and other heritage assets. It is however noted that the Hanwell Conservation Area (August 2007) recognised the pressure on the village from the urban extension of Banbury that it is a threat to the integrity and independence of Hanwell. It also stated it is important that the setting of the Conservation Area as well as that of the Castle and the Grade I listed Church is protected.
- The proposal exceeds the threshold which requires open space provision to be provided on site and due regard should be given to the requirements of Policy BSC 11.
- Proposals should be considered against and informed by Policy ESD 15 and consider matters such as public access, routes, views, urban spaces, development frontage, and building heights. The relationship of the development to the existing settlement pattern and connectivity to existing services and facilities will also need to be considered.
- Technical matters including access, traffic, biodiversity and ecology will require detailed consideration. Advice should be sought from the County Council and relevant Council departments in this regard.
- The Council is currently working on the review of the adopted Cherwell Local Plan 2011-2031 (Part 1) which will cover the period to 2040. This plan is the more appropriate context for the detailed consideration of this large strategic site for residential development.

#### Conservation:

The proposed site lies adjacent to modern development in Banbury but lies in close proximity to Hanwell Conservation Area. The site could potentially impact on the setting of the grade I listed building of Hanwell Church and the grade II\* listed building of Hanwell Castle.

A site visit was made on foot from public rights of way to assess the impact of the proposed development on the setting of the conservation area and listed buildings of Hanwell Castle and St Peter's Church.

#### **Impact on setting of Hanwell Conservation Area**

The proposed application site is located in close proximity to Hanwell Conservation Area, particularly in relation to Park Farm, which is identified within the Conservation Area Appraisal as being associated with Hanwell Castle and is located within the Village Ends Character Area.

The area is open land between the edge of Banbury and Hanwell village, which have historically had a clear separation between the two settlements. There are concerns with the principle of developing so close to the historic settlement boundary, which would threaten and could lead to coalescence between two distinct settlements and would likely have detrimental impact on the character and appearance of Hanwell Conservation Area and the setting of its listed buildings.

The footpaths between the two settlements are also identified as having significance within the Hanwell Conservation Area Appraisal '*The network of footpaths from the village provide ancient links to neighbouring settlements, including Banbury to the south. These footpath links have been retained in new developments on Banbury's northern fringe.*' Development in this location would undermine the historic significance of these routeways between settlements.

In terms of the visual impact on the setting of the conservation area further information is required in the form of a visual appraisal and drawn sections of the site and the settlement of Hanwell and the edge of Banbury. Your support documentation suggested that there might be

less inter-visibility than might otherwise be expected. This, it was claimed, is due to a combination of the natural topography of the site and the mature trees and hedgerows. This would need to be assessed and confirmed. Hedgerow separation and natural topography are both acknowledged as being characteristics of the village edges within the conservation area appraisal '*The main boundary treatments within this area are stone walls and high hedges. Hedges are used as a means of enclosure to the edges of the character area ....*'

#### **Impact on setting of listed buildings**

The listed buildings of St Peter's church (grade I) and Hanwell Castle (grade II\*) are located on the southern side of Hanwell Conservation Area in the area overlooking the proposed development.

A full landscape / visual appraisal will be required to determine the impact of the proposed development on the setting of these significant listed buildings, particularly during the winter months when tree / hedge coverage is less. The church is visible at varying points along the public rights of way but is less prominent than might be expected due to the natural topography of the area with the church sitting in a bowl with ground levels rising immediately to the south of the churchyard.

There does not appear to be intervisibility between Hanwell Castle and the landscape to the south from public rights of way.

#### Building Control:

No adverse comments or observations to make at this stage.

#### Recreation and Leisure:

See appendix A.

#### Landscape:

It's rather early in the report to conclude that there are no 'principle issues that preclude site allocation'.

The report is poor, lacking in analysis and repetitive. I would have expected to see evidence of a visit to a few key points in Hanwell village to determine if the site was visible from there. Not just photographs of boundary hedges.

The area was in a AHLV which has not been retained in the current Local Plan and we seek to adopt a character based approach. How might this be responded to? How will the proposals conserve and enhance landscape character when the only suggestion is buffer planting?

There is currently clear separation between Hanwell and Banbury. This proposal will encroach on Hanwell village and bring development to within around 100m of the village on a clear and largely unobstructed natural plateau. The new settlement pattern would be totally different.

The proposal to establish dense buffers in 3.11 is not good practice. If you think you need to do this, then that would tend to suggest that development was not suitable.

I am disappointed that the photographs have no analysis, just a plain description.

A full LVIA will be essential to determine impacts. This must contain quality analysis, not just description.

#### Environmental Health:

We would require the following assessments should a planning application be submitted:

**Noise**

A noise impact assessment to assess the impact of noise from road traffic on the B4100 Warwick Road to demonstrate that satisfactory internal levels can be achieved in habitable rooms in accordance with the requirements of BS8233:2014. Guidance on sound insulation and noise reduction for buildings will be required. External levels in garden and communal areas should not exceed the lower level of 50dB.

For the construction phase a CEMP will also be required.

**Air Quality**

There are two Air Quality Management Areas in Banbury. An air quality assessment to include a damage cost calculation will be required. The provision of EV charging points / infrastructure will also need to be considered.

For the construction phase the CEMP will also need to consider dust mitigation.

**Land Contamination**

An assessment for possible land contamination will be required to confirm the ground conditions are suitable for the proposed end use.

Strategic Housing:**Policy position**

The proposed residential development is for up to 250 dwellings. Policy BSC 3 requires 30% affordable housing, and the dwelling mix should be informed by Policy BSC 4: Housing Mix.

Policy BSC 4 requires residential development to provide a mix of homes to meet current and expected future requirements in the interests of meeting housing need and creating socially mixed and inclusive communities. This will be negotiated having regard to up-to-date evidence on housing need and available evidence from developers on local market conditions. All proposals will be expected to comply with Policy BSC 3: Affordable Housing which requires a tenure split of 70% social or affordable rent and 30% intermediate tenures.

30% affordable housing on a development of 250 dwellings equates to 75 dwellings and our requirements are as follows:

**Size, type, layout and design**

Affordable housing need in Cherwell is predominantly for smaller dwelling sizes i.e. up to three bedrooms with a small but pressing need for larger dwellings i.e. four or five bedrooms. Some flatted accommodation will be acceptable in meeting the needs of smaller households. There is also a need for larger sized dwellings, so 2-bed 4-person or 3-bed 5-person etc.

The Strategic Housing Market Assessment 2014 concluded that affordable housing provision should consist of the following:

- 25-30% one bedrooomed dwellings
- 30-35% two bedrooomed dwellings
- 30-35% three bedrooomed dwellings
- 5-10% four bedrooomed dwellings

Up-to-date evidence of need from Cherwell's housing register confirms the need for smaller dwelling sizes, both for immediate and future need.

We expect all of the affordable housing units to be built to Nationally Described Space Standards and this should be clearly demonstrated in the plans. We expect 50% of the rented dwellings to meet the Building Regulations Requirement M4(2) Category 2: Accessible and Adaptable Dwellings requirement.

It would also help meet identified needs of people with physical disabilities to include a small number of bungalows which meet the Building Regulations Requirement M4(2) Category 3: Wheelchair user dwellings and for all bungalows and ground level dwellings to contain a Level



Access Shower.

It is expected that where appropriate affordable housing should not be clustered in any more than 10 units of one tenure and 15 units of multiple affordable tenures with no contiguous boundary of the clusters.

We also expect the affordable housing as far as possible to be indistinguishable from the market dwellings.

### **Tenure**

Affordable rent at 80% of market rent is unaffordable for the majority of households on our housing register. Therefore, we expect the rented dwellings to be delivered as social rented unless it can be clearly demonstrated that this is unviable or where the service charges plus rent would render them unaffordable.

We expect to be informed of a developer's choice of RP at an early stage so that we can engage with them and assist where possible with establishing ways of delivering social rent.

In line with new Government requirements, 25% of affordable housing is required to be delivered as First Homes. This will mean that of the 30% intermediate tenure required under CDC policy, 25% will be First Homes and 5% shared ownership or another intermediate tenure. The Council will apply national policy with regard to First Homes.

### **Parking**

The required number of parking spaces is 1 space for 1 bedroomed dwellings and 2 spaces for 2 bedroomed and above. Where dwellings meet M4(2) or M4(3) standards it is expected that associated parking provision will meet the requirements set out in Building Regulations Approved document M – Access to and use of buildings.

### **Summary**

In addition to the tenure, layout, space, parking and accessibility requirements outlined above, the affordable housing mix should contain:

- A mix of houses, flats and bungalows
- predominantly 1-bed 2-person, 2-bed 4-person and 3-bed 5-person dwellings
- a small number of larger sized (i.e. 7 or 8-person) 4 or 5 bedroomed dwellings

The above details provide specific guidance whilst also offering a degree of flexibility. We will be happy to discuss these details further with the applicant with a view to arriving at a suitable mix nearer the time of the application being submitted.

## **PROFESSIONAL ASSESSMENT BY CASE OFFICER**

It is considered that the main issues relating to your proposal are:

- § Principle of development
- § Landscape impact/Character of the area
- § Heritage Assets (Hanwell Conservation Area and its listed buildings; archaeology)
- § Site layout and design principles
- § Highway safety and vehicular access
- § Rights of Way
- § Residential amenity
- § Affordable housing
- § Ecology impact/Protected species
- § Flood risk and drainage
- § Other matters

### Principle of development

Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. Paragraph 12 of the National Planning Policy Framework (NPPF) makes clear that it does not change the statutory status of the development plan as the starting point for decision making. Proposed development that conflicts with the development plan should be refused unless other material considerations indicate otherwise. Cherwell has an up-to-date Local Plan but cannot demonstrate a deliverable 5-year housing land supply. The current monitoring report shows just a 3.5-year housing land supply (Apr.'22- Mar.'27). The NPPF is a significant material consideration.

Paragraph 11 of the NPPF explains the Government's presumption in favour of sustainable development. For decision-taking this means approving proposals that accord with an up-to-date Development Plan and in cases where there are either no relevant development plan policies or those policies important for determining the application are out of date applying a 'tilted balance' – i.e., placing great weight in the planning balance to granting permission unless the NPPF policies as a whole (and relevant Development plan policies) provide a clear reason for refusal or any adverse impacts would significantly and demonstrably outweigh the benefits of providing housing to meet identified needs.

The Development Plan comprises saved policies in the 1996 adopted Cherwell Local Plan (CLP1996) and the 2015 adopted Cherwell Local Plan (CLP 2015). The policies important for determining this application are referenced above.

Policy PSD1 of the CLP 2015 Part 1 accords with the NPPF's requirement for sustainable development and stipulates that planning applications that accord with policies in the statutory Development Plan will be approved without delay.

The CLP 2015 Part 1 seeks to allocate sufficient land to meet District Wide Housing needs. The overall housing strategy is to focus housing growth at the towns of Bicester and Banbury. However, notwithstanding that CDC has an adopted Development Plan the lack of a five-year housing land supply requires the 'tilted balance' to be engaged in accordance with the NPPF guidance set out above.

The Council's 2021 Annual Monitoring Report (AMR) confirms that the District cannot demonstrate a 5-year housing land supply. In the circumstances that an LPA cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer), there is a presumption in favour of sustainable development and the circumstances at paragraph 11d of the NPPF are engaged. In short, development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of delivering housing when assessed against the policies in the Framework as a whole.

The report below, considers the potential impacts of the development to determine if these would '*significantly and demonstrably outweigh*' the benefit of providing additional housing in view of the Council's housing land supply position.

### Landscape impact/Character of the area

Government guidance contained within the NPPF towards achieving well-designed places states that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. The NPPG goes on to note that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Paragraph 130 of the NPPF states that planning decisions should ensure that developments:

- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- Are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- Are sympathetic to local character and history, including the surrounding built

environment and landscape setting, while not preventing or discouraging appropriate innovation or change;

- Establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- Optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks;
- Create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policy ESD15 of the Adopted Local Plan Part 1 states that 'new development proposals should:

- Contribute positively to an area's character and identity by creating or reinforcing distinctiveness and respecting local topography, including skylines, valley floors, significant trees, historic boundaries, landmarks, features or views;
- Respect the traditional pattern, routes, spaces, blocks, enclosures and (inter alia) create clearly defined active public frontages.

Policy ESD13 of the Cherwell Local Plan Part 1 states that: "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 undue visual intrusion into the open countryside;
- Cause undue harm to important natural landscape features and topography;
- Be consistent with local character; • Harm the setting of settlements, buildings, structures, or other landmark features; • Harm the historic value of the landscape.

The proposed site is situated to the north of Banbury (north of Local Plan allocation Banbury 5) adjacent to existing residential development.

With respect to 'landscape matters', in your submitted report (Representations in respect of ecological, landscape and heritage circumstances) it states:

*'From a landscape perspective, it is EDP's opinion that there are no 'in principle' constraints with regard to future built development of the site. However, in the interests of good masterplanning, the key landscape features (hedgerows and trees) should be retained and enhanced to mitigate landscape and visual effects and help integrate the site into its context.*

*The site has well-established urbanising influences in close proximity to it, and is well contained by existing built form and mature landscape features. Any potential landscape and visual effects resulting from proposed development within the site would be largely limited to receptors in close proximity to the site boundary.*

*Further, landscaping measures included within any promoted development would be able to provide targeted mitigation where necessary, which would be effective at promoting biodiversity gains, particularly within that part of the site'.*

This level of analysis is considered to be wholly inadequate. The site sits in a prominent position between Banbury and Hanwell. A full Landscape and Visual Impact Assessment (LVIA) would be required to properly assess the landscape impact of the development. This should consider immediate views in the locality, longer distance views, and visual impact on both Banbury and Hanwell.

The proposed site is included within the Council's Housing and Economic Land Availability Assessment (HELAA) dated February 2018 (Site reference HELAA 030). The report concluded that the site is considered unsuitable. *'The site is considered to be unsuitable for*

*development as the land rises from Hanwell Village towards the site and the gradient is steep. Similarly, the land falls steeply away from the site towards the cricket ground off Dukes Meadow Drive. There would be a direct risk of coalescence of Banbury and Hanwell village which development would lead to impacts on the Hanwell Conservation Area and the high landscape value and visual sensitivity of the site. The site is in a prominent position therefore unsuitable for development’.*

The Banbury Landscape Sensitivity and Capacity Assessment (September 2013) had considered the eastern part of the site, which concluded, *‘Although the overall rating is considered to be medium–low for the site, the capacity to accommodate residential development is considered to be weighted towards low. The development of residential properties north of Dukes Meadow Drive may result in urban sprawl to the north of Banbury and create poorly defined development limit which currently exist at Dukes Meadow Drive. There would also be indirect effects of residential development affecting the setting of the Hanwell Conservation Area.’*

It is the opinion of the Local Planning Authority that the potential landscape impact is likely to significantly and demonstrably outweigh any benefits offered by the additional housing.

#### Heritage Assets (Hanwell Conservation Area and its listed buildings; archaeology)

The proposed site is located between Banbury and Hanwell and would significantly reduce the existing gap between the two settlements.

The Council’s Conservation Officer has provided detailed comments (see consultation response section above). The comments raise concerns regarding the potential coalescence of the two settlements and highlight the need for a detailed analysis to be undertaken. As with the landscape impact, the submitted report (Representations in respect of ecology, landscape and heritage circumstances) is wholly inadequate in terms of assessing heritage impacts and does not acknowledge the historic assets in the locality.

It is the Local Planning Authorities view that the proposal has the potential to have a detrimental impact on heritage assets and therefore the proposal would not comply with government guidance contained within the NPPF and Policy ESD15 of the Cherwell Local Plan 2015.

#### Site layout and design principles

Limited information has been submitted regarding the proposed site layout. The plan (included in the Initial Civil Constraints Review document) suggests a residential development would be located on the eastern parcel of land, with the remainder dedicated to open space and drainage infrastructure.

This would appear to be a sensible approach when considering the parcels of land that have been included in the proposed site. I cannot provide any further detailed comments as an indicative site layout has not been provided.

#### Highway safety and vehicular access

It is recommended that the applicant engage with Oxfordshire County Council (as the Local Highway Authority) on detailed matters relating to highway safety and access to the site.

It is vital that any future development provides safe access for pedestrians, cyclists and automotive vehicles. Technical details will need to accord with any relevant National Guidance (for example LTN 1/20) and local guidance provided by Oxfordshire County Council.

#### Public Rights of Way (PRoW)

There are Public Rights of Way crossing the site. Any proposals should be designed to

ensure these are integrated and enhanced by the development. It is important to provide attractive walking routes; the enhancement of the PRow has the potential to increase/promote sustainable travel between Banbury and Hanwell.

Oxfordshire County Council must be consulted on any proposals that affect PRow.

#### Residential amenity

Policy C30 of the CLP 1996 requires that a development must provide standards of amenity and privacy acceptable to the Local Planning Authority. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.

Any scheme would need to be designed to ensure there is an acceptable relationship between the proposed dwellings. Any detailed proposals would need to have due regard to requirements of Section 6 of the Residential Design Guide SPD about appropriate standards of amenity for both existing and future residents together with adopted Policies ESD 1 to 3. Appropriate positioning and scale of dwellings, boundary treatments and the nature of such treatments should be given due consideration.

#### Affordable housing

The NPPF advises that in order to create sustainable, inclusive and mixed communities, Local Planning Authorities should plan for a mix of housing, reflect local demand and set policies for meeting affordable housing need. Policy BSC4 of the adopted Cherwell Local Plan part 1 2011-2031 requires new residential development to provide a mix of homes in the interests of meeting housing need and creating socially mixed and inclusive communities. Policy BSC3 requires development such as this are to provide 30% affordable housing on site and provides details on the mix that should be sought between affordable/social rent and shared ownership. Policy BSC2 requires that to make efficient use of land that new residential development should be provided at a net density of at least 30 dwellings per hectare.

Detailed comments provided by the Council's Strategic Housing Team are set in full in the consultation response section of the report (above).

#### Ecology impact/Protected species

Any application would need to be accompanied by a full ecological appraisal of the site and assessment of the potential for any protected species. The Council's constraints information identifies the potential for protected species (Eurasian badger) within the vicinity of the site.

The Council would expect to see 10% biodiversity net gain on all sites, and this must be demonstrated using an agreed biodiversity metric (most likely DEFRA Metric 3.0).

#### Flood risk and drainage

The applicant is advised to seek pre-application advice from the Lead Local Flood Authority (Oxfordshire County Council) with regards to flood risk and drainage. All development needs to be able to demonstrate it would have no adverse impact on flooding and that appropriate sustainable drainage can be designed within the site.

#### Other Matters

Application 21/03426/OUT relates to a parcel on land adjacent to Dukes Meadow Drive to the east of the site. A copy of the submitted documents and committee report can be viewed online via the Council's website. The application has been considered by the Council's planning committee who resolved to approve that application, subject to a Section 106 agreement.

Although within the same locality as this proposal, the two sites do differ in size and nature. The other site is situated on lower ground and your site is considered to have a far greater impact in terms of landscape/visual impact. The proposal (up to 78 dwellings) is significantly smaller than your proposal, although, reducing the size of your proposal would not automatically overcome the concerns.

A key concern with your proposal, is the potential coalescence with Hanwell. The other site is located a greater distance from Hanwell and due to its location, the context and relationship with Hanwell is very different. Therefore, it was not considered to have a detrimental impact on the Conservation Area.

#### Conclusion

I will not be able to support the proposal in its current form because of the following deficiencies/issues:

- § The potential landscape impacts of the proposal are significant and demonstrable; therefore, they do not outweigh the benefits of providing additional residential development to address the Council's 5-year housing land supply position.
- § The proposal would reduce the existing gap between the settlements of Banbury and Hanwell, creating a perception of coalescence between the two settlements and having a detrimental impact on the setting of the Hanwell Conservation Area.
- § The submitted documents have inadequately assessed issues relating to landscape impact, heritage impacts and ecology.
- § The development would likely be detrimental to the rural character and landscape appearance of the countryside on the northern edge of Banbury and would threaten coalescence with nearby Hanwell village

Notwithstanding the officer comments above, a Section 106 Legal Agreement is likely to be required for this type of proposal in the event of permission being granted.

Contributions towards the following items are likely to be required:

#### Cherwell District Council Contributions:

- Provisions of and commuted sum for maintenance of open space (including informal open space, mature trees, hedgerows, woodland. SUDS etc) or details of long-term management provisions in accordance with the Policy BSC11 of the CLP.
- Provision of a play areas (size and number to be determined) and commuted sum for maintenance or details of other management provisions.
- Off-site outdoor sports facilities capital provision
- Off-site indoor sports facilities
- Community hall facilities
- Contribution for the provision of bins (currently £106 per dwelling)
- Affordable housing provision – 30%
- Provision of Public Art in the locality
- CDC monitoring fee

You are advised to read the Council's Supplementary Planning Document for further advice. This is available on the Council's website:

<http://www.cherwell.gov.uk/index.cfm?articleid=3390>

Oxfordshire County Council (Please note, no consultation response was received. The below sets out areas where contributions have been sought on similar proposals within the locality of the site):

- Public transport contribution (for the provision/continued provision of bus services in the area around the site)
- Public transport infrastructure contribution (if not dealt with under S278/S38 agreement)
- Traffic Regulation Order (if not dealt with under S278/S38 agreement)

- Travel Plan Monitoring
- Contribution towards improvements to Public Rights of Way
- Strategic Highway Contribution towards active travel improvements
- Obligation to enter into a S278 agreement to secure any necessary works to the highway
- Secondary education contribution
- Special School contribution to be spent on expansion of SEN school capacity to ensure adequate SEN provision
- Contribution towards expansion and efficiency of Household Waste Recycling Centres as existing facilities at capacity and to provide additional capacity
- OCC monitoring fee

Please note that a Solicitor's undertaking will be required to pay the Council's reasonable legal fees based on the time taken to prepare and negotiate the S106 agreement and to investigate land title/s. It would assist the efficient processing of your application if you provided such an undertaking with any formal application for planning permission.

**Date of Report:** 04 May 2022

**Case Officer:** Rebekah Morgan

#### **DISCLAIMER**

The above advice represents the professional views of Council Officers and although given in good faith, it cannot prejudice any decision with the Council, as Local Planning Authority, may make at either Planning Committee or delegated officer level.

## Appendix A: Recreation and Leisure Comments

CIL Regulation 122 states that the use of planning obligations should only be sought where they meet all the following three tests:

- They are necessary to make the development acceptable in planning terms
- They are directly related to the development
- They are fairly and reasonably related in scale and kind to the development.

Planning Obligation S106	Requested Costs	Justification	Policy Links
Community Hall Facilities	<p>Average occupancy per dwelling = 2.49 residents 0.185m<sup>2</sup> community space required per resident.</p> <p>250 dwellings x 2.49 = 622.50 residents 622.50 x 0.185m<sup>2</sup> = 115.16m<sup>2</sup> 115.16 x £2,482.00 = <b>£285,827.12</b></p>	We would be seeking a contribution towards improvements / enhancements at Hanwell Fields Community Centre and / or other community facility in the locality.	Policy BSC 12 – The council will encourage the provision of community facilities to enhance the sustainability of communities.
Community Development	<p>0.4 FTE for 1 years. Costs calculated at Grade G, £33,608.50 per annum plus 26% oncosts = <b>£16,938.68</b></p>	As the development site is in between 100>250 homes, we would be seeking a contribution towards the costs of employing a community development worker.	<p>Community Development is a key strategic objective of the Cherwell Local Plan, SO10 which seeks to provide sufficient accessible, good quality services, facilities, and infrastructure.</p> <p>Strategic Objective SO14 seeks to create more sustainable communities.</p>
Outdoor Sport Provision	<p>Based on £2,017.03 per dwelling</p> <p>250 x £2,017.03= <b>£504,257.50</b></p> <p>Our preference on this site would be</p>	We would be seeking an off-site contribution towards the provision of a 3G football pitch in Banbury.	Policy BSC 10 Ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals. Policy



	to seek an off-site outdoor sport contribution towards an artificial pitch.		<p>BSC 11 – Local standards of provision – outdoor recreation.</p> <p>CDC Playing Pitch Strategy identified the provision of 3G artificial grass pitch for football as a priority in Banbury.</p> <p>Local Football Facility Plan – identifies Banbury area as a priority for two 3G Football turf pitches.</p>
Indoor Sport Provision	<p>Based on £335.32 per person  <math>250 \times 2.49 = 622.50</math>  <math>622.50 \times £335.32 = \mathbf{£208,736.70}</math></p>	We would be seeking an off-site indoor sport contribution towards the provision of an Indoor Tennis Centre in Banbury or improvements to other indoor sports facilities in the locality.	<p>Policy BSC 10 Addressing existing deficiencies in provision through enhancements of provision, improving access to existing facilities. Ensuring proposals for new development contribute to sport and recreation provision commensurate to the need generated by the proposals.</p> <p>Policy BSC 12 – Indoor Sport, Recreation and community Facilities. The council will encourage the provision of community facilities to enhance the sustainability of communities – enhancing quality of existing facilities and improving access.</p>
Public Art	<p>Based on £200 per dwelling  <math>250 \times £200 = £50,000.00</math>  Plus 5% management and 7% maintenance fees = <b>£56,000.00</b></p>	We would be seeking a contribution towards public artwork to be created in the vicinity of the site.	SPD 4.130 Public Realm, Public Art and Cultural Well-being. Public realm and public art can play an important role in enhancing the character of an

			area, enriching the environment, improving the overall quality of space and therefore peoples' lives.
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The above figures are in line with the Development Contributions Supplementary Planning Document (SPD). These figures will need to be index linked up to 2021.

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