

## Land Adjacent To The M40 South Of Overthorpe Road Banbury

20/00608/F

**Case Officer:** Samantha Taylor

**Applicant:** Tritax Symmetry Ltd

**Proposal:** Full planning permission for 21,839 sq.m / 235,073 sq.ft. of logistics floorspace within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987, with ancillary Class B1(a) offices together with the extension of Chalker Way, access from Chalker Way, associated site infrastructure including lorry parking, fuelling bay and vehicle wash facility (Unit 9 only), landscaping, amenity open space and surface water attenuation works

**Ward:** Banbury Grimsbury and Hightown

**Councillors:** Cllr Andrew Beere; Cllr Shaida Hussain; Cllr Perran Moon

**Reason for Referral:** Major development and departure from policy

**Expiry Date:** 9 July 2020

**Committee Date:** 18 June 2020

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### **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

#### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS AND SUBJECT TO A S106 LEGAL AGREEMENT**

##### **Proposal**

The application seeks full planning permission for the provision of two new logistics warehouses with associated parking, access and extension to Chalker Way. This application is a cross-boundary application with the buildings, car parking and servicing being situated within South Northamptonshire District and the access, part of the front landscaped area and extension to Chalker Way falling within Cherwell District. As such, Cherwell District Council can only consider the proposed works that are to be undertaken within the confines of the District.

The application proposes similar development to an earlier application 19/00771/F, previously considered by the Planning Committee on 12<sup>th</sup> March 2020, where Members resolved to grant planning permission subject to the completion of a s106 agreement. That application is awaiting the completion of the s106 agreement.

##### **Consultations**

The following consultees have raised **no objections** to the application:

- CDC Planning Policy, Thames Valley Police Design Advisor, CDC Environmental Protection, Network Rail, Banbury Town Council, CDC Landscape Officer, OCC Transport and OCC Drainage

##### **Planning Policy and Constraints**

The application site is partially located within Cherwell District, and the part of the site within Cherwell District is allocated for employment purposes (B1, B2 and B8) under the Local Plan Policy Banbury 6. The land that falls within Cherwell District is proposed for the

extension to Chalker Way, access into the site and part of the landscaping associated with the development. The remaining area allocated within Policy Banbury 6 will remain as open space, including reptile mitigation.

The site as a whole falls largely within Flood Zone 2 and partially within Flood Zone 3. The land within South Northamptonshire (the eastern part of the application site) was previously used as an area of ecological mitigation for the translocation of reptiles. These have subsequently been moved, prior to the submission of the application.

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

## **Conclusion**

The key issues arising from the application details are:

- Procedural Matters
- Principle of Development
- Design, Landscaping and Visual Impact
- Highway Safety and Access
- Flood Risk and Drainage
- Ecology
- S106 Obligations and Contributions

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## **MAIN REPORT**

### **1. APPLICATION SITE AND LOCALITY**

- 1.1. The application site is approximately 11.9 hectares in size, with 3.31ha falling within Cherwell District. The site lies to the south of the existing mixed use employment development along Chalker Way known as Central M40, which also forms part of the Policy Banbury 6 allocation. The area of land within the application site is currently open space, and deemed of lesser value.
- 1.2. The site is located on the eastern edge of Banbury, bounded to the east by the M40 and to the south by the main Chiltern railway line. There is a disused railway embankment running along the northern boundary of the site, separating it from the existing Central M40 development. Whilst the buildings and majority of the development fall within South Northamptonshire District, due to the physical characteristics of the site and its relationship to existing development, the proposed development would be read as part of the urban form of Banbury.

### **2. CONSTRAINTS**

- 2.1. The site falls within Flood Zones 2 and 3, with part of the site within the functional floodplain. The River Cherwell Local Wildlife Site (non-statutory designation) is located around 150m to the south of the site.
- 2.2. There are no landscape designations on or around the site, nor is the site within a Conservation Area. There are no designated heritage assets on the site and there are no designated heritage assets with a direct relationship to the site.

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

- 3.1. The application seeks full planning permission for two new units consisting of B2 (general industrial) and/or B8 (distribution and warehousing), with ancillary B1(a) offices, extension of Chalker Way, associated infrastructure, landscaping, amenity space and sustainable drainage system.
- 3.2. The built development and most of the engineering works fall within the administrative boundary of South Northamptonshire Council. The extension to Chalker Way, borrow pit, open space to be used for ecological mitigation and land safeguarded for the Banbury South East Relief Road and potential Western Link are part of the proposal within Cherwell District.
- 3.3. Given that only part of the site falls within the jurisdiction of Cherwell District only the works within the District boundary can be assessed along with the principle of this type of development due to its proximity to the District.
- 3.4. The development proposes an extension to the existing 8-unit commercial scheme of two additional B2/B8 units with ancillary office space and a total internal floor area of 21,233sqm. The application follows an earlier application, 19/0771/F, for a similar development seeking to make amendments to the earlier proposal. The following is summary of the amendments sought:
  - Unit 9 has been re-designed to fulfil an end user's requirements
  - Changes have been made to both units in respect of heights, floorspace, footprint, and parking
  - Revised borrow pit location and new connection to the ditch, with additional bunding
- 3.5. Unit 9 would provide 7,781sqm of internal floorspace with parking for 90 No. cars (incorporating 4 No. disabled spaces and 10 No. electric vehicle charging bays), 20 No. covered bicycle stands and 57 HGV parking bays. In comparison to the earlier scheme, Unit 9 is reduced in size (3701.5sqm less) with 30 fewer parking spaces and increased HGV parking bays. In terms of height, the unit is proposed to be 10m to the eaves, compared to the previous 12 and 15m eaves and ridge height of Unit 9.
- 3.6. Unit 10 would provide 13,452sqm of floorspace with parking for 126 No. cars (incorporating 6 No. disabled spaces and 12 No. electric vehicle charging bays), 40 No. covered bicycle stands and 29 No. HGV parking bays. The two units would also feature service yards and docking bays for HGVs. The building height for Unit 10 is proposed at the highest part at 18.75m, with an eaves height of 15m, compared to the earlier application that had a height of 15.75m and 12m respectively.
- 3.7. Both the proposed units would feature the same barrel vaulted roof design used on the existing units in Chalker Way and the same pallet of materials and colour finishes in dark greys and silver. In addition to the retention of existing tree and hedge planting at the perimeter of this site the proposals include new soft landscaping and tree planting within the site.
- 3.8. Two ponds are proposed within the red line site area. Of these one is a large attenuation pond and the second is a habitat pond. To replace the existing attenuation/wildlife pond that will be lost if the site is developed and to provide continued capacity to deal with surface water from the existing units, a new pond and ecological mitigation area is proposed on land outside of the red line within CDCs boundary, which is also within the applicant's control.

3.9. The dual application being considered by South Northamptonshire District Council is ref: S/2020/0598/MAF.

#### 4. RELEVANT PLANNING HISTORY

4.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
11/01878/OUT	Erection of up to 115,197sqm of floorspace to be occupied for either B2 or B8 use classes or a mixture of both B2 and B8 use classes. Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund	Approved
14/00180/OUT	Erection of up to 115,197sqm of floorspace to be occupied for either B2 or B8 use classes or a mixture of both B2 and B8 use classes. Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (To raise the roof height of unit 1 to 16.75m)	Approved
14/00175/REM	Reserved matters application pursuant to 14/00180/OUT – Condition 5 (Phase 1) approval of appearance, landscaping, layout and scale of 2 no. B2 and B8 (distribution and storage) units.	Approved
15/02206/REM	Reserved matters application pursuant to 14/00180/OUT – Condition 5 (Phase 2) approval of access, appearance, landscaping, layout and scale.	Approved
19/00487/F	Unit 6 – 17,768sqm of logistics floorspace within Class B2 or B8 including ancillary B1(a) offices, service yard and access to Chalker Way	Approved
19/00771/F	Full planning permission for 27,685 sq.m / 298,000 sq.ft. of logistics floorspace within class B2 or B8 of the town and country planning use classes order 1987, with ancillary class b1(a) offices (units 9 and 10), and ancillary retail and trade showroom (unit 10 only), not to exceed 300 sq.m (excluding convenience goods) together with the extension of Chalker Way, access	Resolved to Approve

from Chalker Way, associated site infrastructure including lorry parking, landscaping, amenity open space and sustainable drainage system

## 5. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
18/00230/PREAPP	Erection of two Logistics Buildings with Class B8 including Class B1(A) Offices Phase 4

- 5.2. The principle of locating the employment buildings/uses allocated under Policy Banbury 6 to the land within South Northamptonshire was broadly considered acceptable subject to further works such as design, flood risk mitigation, landscape and visual impact considerations.

## 6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records (amend as appropriate). The final date for comments was **12 May 2020**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

## 7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.
- 7.2. BANBURY TOWN COUNCIL: **no objections**
- 7.3. OCC HIGHWAYS: **no objections** subject to conditions as recommended under application 19/00771/F and the necessary S106 contributions towards public transport improvements and travel plan monitoring.
- 7.4. OCC LOCAL LEAD FLOOD AUTHORITY: **no objections**, subject to the earlier requested conditions under application 19/00771/F.
- 7.5. CDC ENVIRONMENTAL HEALTH: **no objection**.
- 7.6. CDC BUILDING CONTROL: **no objection**, development would require a Full Plans building regulations application. A robust fire strategy will be required with facilities and access for fire fighting vehicles to reflect guidance in Approved Document B5. Access and inclusive design to reflect guidance in Approved Document M.
- 7.7. THAMES VALLEY POLICE: **no objection**, recommends that secure by design accreditation is secured by way of condition.

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

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

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

- PSD1 – Presumption in favour of sustainable development
- SLE1 – Employment development
- SLE4 – Improved transport and connections
- BSC2 – Effective and efficient use of land
- ESD1 – Mitigating and adapting to climate change
- ESD2 – Energy hierarchy and allowable solutions
- ESD3 – Sustainable construction
- ESD4 – Decentralised energy systems
- ESD5 – Renewable energy
- ESD6 – Sustainable flood risk management
- ESD7 – Sustainable drainage systems
- ESD8 – Water resources
- ESD10 – Biodiversity and the natural environment
- ESD13 – Local landscape protection and enhancement
- ESD15 – Character of the built environment
- ESD17 – Green infrastructure
- INF1 – Infrastructure

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

- C28 – Layout, design and external appearance of new development
- C31 – Compatibility of proposals
- TR10 – Heavy goods vehicles
- ENV1 – Development likely to cause detrimental levels of pollution

### 8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)
- Banbury Vision and Masterplan SPD (2016)
- CDC Planning obligations SPD (February 2018)
- Design and Layout of Employment Sites – A Guide SPG 1996

- Cherwell Economic Development Strategy 2011-2016

## **9. APPRAISAL**

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

- Procedural Matters
- Principle of Development
- Design, Landscaping and Visual Impact
- Highway Safety and Access
- Flood Risk and Drainage
- Ecology
- S106 Obligations and Contributions

### Procedural Matters

9.2. The application site for the proposed development crosses the District boundary, with the majority of the site including the buildings located within South Northamptonshire District. Given the location of the development, it is principally the responsibility of South Northamptonshire District Council to consider the planning merits of the buildings and their associated works, including parking, landscaping, vehicle turning, flood risk and drainage.

9.3. That said, as discussed below, the development will be read as an extension to the urban form of Banbury and the principle of development rests on the allocation for employment development under Policy Banbury 6 of the Cherwell Local Plan 2011-2021. It is therefore proper that Cherwell District Council considers the merits of the development as a whole, in terms of the impact on Cherwell District.

### Principle of Development

9.4. As noted above, whilst the proposed built development would be located within South Northamptonshire, the area of the application site that is within Cherwell District Council is part of the wider strategic allocation of Policy Banbury 6 in the adopted Cherwell Local Plan 2011-2031 for a 35ha mixed employment development of B1, B2 and B8 Use Classes. This part of the allocation has been brought forwards separately, following the relatively recent approvals and construction of similar developments within the allocation site to the north.

9.5. Other than the land used for access, the land within Cherwell District will remain as open space, to be used for ecological mitigation and reserved for the potential South East Relief Road and Western Link Road.

9.6. Whilst the buildings are proposed to be located outside the District and therefore outside the allocation, much of the application land located within the Banbury 6 allocation lies within Flood Zone 3a, where there is a higher risk of flooding. Therefore, whilst not in strict accordance with Policy Banbury 6 and the allocation, given the flood risk constraints on the site, positioning the built development outside of the allocation is considered acceptable in order to deliver the development the policy envisaged. In addition, the siting of the employment buildings immediately to the south of the existing buildings would be a logical extension to the Central M40 estate and would be read as part of the existing development.

9.7. This application follows an earlier planning application (ref: 19/00771/F) which was heard by the Committee on 12<sup>th</sup> March 2020. The proposal at that time was for a similar development, albeit with some differences to unit layout, footprint, building height and bore pit/drainage details. The Committee resolved to approve the earlier

application. Given the similarities between the two planning applications and that the changes proposed under the current application 20/00308/F do not materially affect the consideration of the principle of development, Officers consider the principle of this development has been established.

- 9.8. In light of the above Officers considered the principle of the development and the siting of the development is acceptable.

#### Design, Landscaping and Visual Impact

- 9.9. Policy ESD15 of the Local Plan requires development proposals to accord with the character and context in which they are situated. ESD1 requires proposals to pay attention to existing site characteristics, having regard to the neighbouring land and buildings. Development proposals should make a positive contribution to the built and natural environment, incorporating local materials and architectural details, to mitigate any visual harm to the local area.
- 9.10. Whilst the matters of design, landscaping and visual impact are largely for consideration by SNC, this Authority must be satisfied that the proposal would not cause unacceptable harm to the visual amenity of the local area and that the design is compatible with existing development. This is because despite the proposed buildings' location outside of Cherwell District, due to the close proximity to the District and existing development, and with access being taken from Chalker Way within the District, the new buildings would be read as part of the existing Central M40 employment site within Banbury.
- 9.11. The proposed units are large industrial units that would be viewed alongside and in the context of the Central M40 employment site, within the presence of a series of commercial buildings. The buildings have a modern, functional design that accords with the design and general scale of existing development along Chalker Way, and it is considered that the design and scale is acceptable being read as part of the existing development to the north.
- 9.12. The proposal walls and roofing would have a mid-dark grey finish, with silver used at lower levels for the offices. The offices would be sited on the principal elevations of the buildings, facing toward the car parks and Chalker Way. There would be tones of grey used within the elevations to help break-up the bulk of the building and add interest. This approach would help to reduce their visual prominence within the landscape and make them less visually intrusive, whilst providing an appropriate level of visual interest and active frontage to Chalker Way. The buildings would have barrel-vaulted roofs, following the general aesthetic of the buildings to the north and providing the Central M40 development with a sense of cohesion.
- 9.13. Landscaping will also be provided to the front of the site, in a landscape buffer between the units, access road and area of reserved land for the South East Relief Road. This will help soften the impact of the development when viewed along the Chalker Way extension.
- 9.14. Whilst the proposed commercial buildings are large, and positioned on the edge of Banbury outside of the allocated site, the buildings would be viewed as part of the existing industrial estate with appropriate scale, design, materials and landscaping, Therefore, it is considered the proposed development would accord with ESD15 of the Local Plan.



### Highway Safety and Access

- 9.15. The access arrangements are similar to those considered acceptable for the earlier application, with a shared single point of access extending from Chalker Way. The application submission is supported by a Transport Assessment and Framework Travel Plan. Following initial concerns from Oxfordshire County Council (OCC) regarding the safeguarding of the land for the South East Relief Road, amended plans have been received along with an updated Technical Note which have addressed those concerns.
- 9.16. The Transport Assessment demonstrates that the site is accessible by a variety of transports modes and that the traffic generated would not have a detrimental impact on the local or wider highway network. The Technical Note confirms the revised access is safe and will sufficiently meet the needs of the vehicles (including HGVs) using it.
- 9.17. Whilst the technical matters of site and parking layout are for SNC to determine, Oxfordshire County Council Highways have confirmed they have no objection to the proposal provided that suitable planning conditions are imposed and subject to the agreement of S106 contributions towards improvements to public transport services and travel plan monitoring and securing the land reservation for the South East Relief Road.
- 9.18. Overall, it is considered that the access arrangement and development subject to the recommended conditions and S106 contributions would be acceptable in highway safety terms. As such, the proposal would comply with PSD1 and SLE4 of the Local Plan.

### Flood Risk and Drainage

- 9.19. Policies ESD6 and ESD7 of the Local Plan seek to ensure that flood risk and drainage are properly addressed and mitigated by development proposals, having regard to national planning policy and guidance. The application is supported by a Flood Risk Assessment, along with proposals for a Sustainable Drainage System and attenuation pond.
- 9.20. In terms of the proposed use for general industry and storage, these are classified as 'less vulnerable' use in terms of flooding and are thereby acceptable within Flood Zone 2 as outlined within the PPG for Flood Risk and Coastal Change.
- 9.21. In order to justify the areas which fall within Flood Zone 3, the applications are required to demonstrate that the loss of floodplain would not result in additional flooding off site and that the surface water run-off for the proposed development and existing development at the Central M40 area can be satisfactorily attenuated.
- 9.22. The proposed surface water and foul water strategy for Units 9 and 10 closely follows the existing drainage strategy for the existing phases of the Central M40 Industrial development. The proposal seeks to utilise existing drainage infrastructure constructed at the time of the earlier phases while adding additional drainage measures to ensure the Council's requirements are met for the entirety of the site.
- 9.23. With respect to surface water the Surface Water Drainage Team at Northamptonshire County Council (who are Lead Local Flood Authority for the majority of the site) have no objections to the proposals subject to the imposition of conditions. Likewise, Oxfordshire County Council has raised no objections subject to the conditions recommended by Northamptonshire.

- 9.24. Similarly, the Environment Agency have raised no objections, submitting their formal comments to the lead authority, SNC. The EA have accepted that there are no other sequentially preferable sites for the proposed development outside of Flood Zones 2 and 3.
- 9.25. As such, Officers are satisfied that the proposal would not cause additional flooding elsewhere, and that appropriate surface water drainage for the site and surrounding area can be achieved.
- 9.26. Overall, it is considered that that the proposal would be acceptable in terms of flooding and drainage. The proposal therefore would accord with policies ESD6 and ESD7 of the Local Plan, subject to the recommended conditions.

### Ecology Impact

#### *Legislative context*

- 9.27. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.
- 9.28. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.
- 9.29. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.
- 9.30. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:
- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
  - (2) That there is no satisfactory alternative.
  - (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

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

#### *Policy Context*

9.32. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

9.33. Paragraph 175 states that when determining planning applications, local planning authorities should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

9.34. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

9.35. Policy ESD10 of the Cherwell Local Plan 2011-2031 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.

9.36. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.

9.37. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.

9.38. The Planning Practice Guidance dated 2014 post dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

## *Assessment*

9.39. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

9.40. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the area within South Northamptonshire was previously used for reptile mitigation as part of the earlier phases of the Central M40 site. In August 2018, further reptile mitigation was undertaken in advance of the current planning application, to relocate the reptiles immediately to the west within Cherwell District. This land is part of the Banbury 6 allocation and is within the applicant's ownership and annotated by the blue edge on the site location plan. This land will now remain as an area of ecological mitigation to be retained.

9.41. In order for the local planning authority to discharge its legal duty under the Conservation of Habitats and Species Regulations 2017 when considering a planning application where EPS are likely or found to be present at the site or surrounding area, local planning authorities must firstly assess whether an offence under the Regulations is likely to be committed. If so, the local planning authority should then consider whether Natural England would be likely to grant a licence for the development. In so doing the authority has to consider itself whether the development meets the 3 derogation tests listed above.

9.42. In respect of planning applications and the Council discharging of its legal duties, case law has shown that if it is clear/ very likely that Natural England will not grant a licence then the Council should refuse planning permission; if it is likely or unclear whether Natural England will grant the licence then the Council may grant planning permission.

9.43. The application is supported by an Extended Phase 1 Survey and detailed Phase 2 surveys relating to bird, bats, otters, water vole, badgers, Great Crested Newts and reptiles. In addition, a Biodiversity Impact Assessment (BIA) has also been submitted. Overall, these surveys conclude that there is limited nature conservation potential on site and that these do not constitute a significant ecological constraint. The BIA confirms that there would be a net gain for diversity resulting from the proposals through the retention and enhancement of the 10.5ha of habitat and provision of new hedgerow as well as the creation of other new habitats and provision of specific measures such as bird and bat boxes.

9.44. Officers are satisfied, on the basis of the advice from the Council's Ecologist and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected

species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

#### S106 Obligations and Contributions

9.45. As outlined above, the proposal generates a need for infrastructure and other contributions through a planning obligation, to ensure the transport impacts of the development can be adequately mitigated and the development is acceptable in planning terms. Policy INF1 of the Cherwell Local Plan states that 'development proposals will be required to demonstrate that infrastructure requirements can be met, including the provision of transport infrastructure and improvements'. Contributions can be secured via a 106 Agreement, provided they meet the tests of Regulation 122 of the Community Infrastructure Regulations 2010.

9.46. The following obligations have been sought and agreed by the applicant:

Financial contributions:

£187,500 (index linked) towards the provision of a local bus service to make necessary improvements to public transport services

£2,346 (index lined) towards the Travel Plan monitoring

Obligations:

Land reservation for the South East Relief Road as marked on the submitted plans

Land reservation for the Western Relief Road as marked on the submitted plans

#### **PLANNING BALANCE AND CONCLUSION**

10.1. The application site forms part of the Policy Banbury 6 mixed employment allocation within the adopted Cherwell Local Plan 2011-2031. The development is a cross boundary application with the buildings and associated parking, landscaping, drainage situated within the South Northamptonshire District area and within their control as a Planning Authority. Within Cherwell District, the development proposes an extension to Chalker Way and access into the development site with land retained as open space and safeguarded for future road improvements. The consideration of this application must focus on the development which falls within Cherwell District and whether in principle, employment use on the South Northamptonshire site would be acceptable.

10.2. Under Policy Banbury 6, mixed employment development was envisaged which following further investigation is constrained by the flood risk on the allocated site. This application seeks to vary the siting of the employment development outside of Flood Zone 3A on the land within South Northamptonshire. This land is directly adjacent to the site and would deliver the employment development envisaged by Policy Banbury 6. Following the submission of amended plans, the access arrangements are considered acceptable.

10.3. Having regard to the above, the application is considered to contribute to delivering the intention of Policy Banbury 6 and the associated policies within the adopted Cherwell Local Plan 2011-2031, saved policies as above within the Cherwell Local Plan 1996 and Government Guidance within the NPPF and PPG. Approval of the scheme would secure the employment development envisaged as an extension to the Central M40 site as allocated within the Cherwell Local Plan 2011-2031, thereby

enabling the delivery of new employment development to support economic growth and the growth of the District.

## 10. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

S106 Obligations:

- £187,500 (index linked) towards the provision of a local bus service to make necessary improvements to public transport services
- £2,346 (index lined) towards the Travel Plan monitoring
- Land reservation for the South East Relief Road as marked on the submitted plans
- Land reservation for the Western Relief Road as marked on the submitted plans.

Conditions:

### TIME LIMITS AND GENERAL IMPLEMENTATION CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development shall not be carried out otherwise than in complete accordance with the approved plans and details unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The approved plans and details are:

### DRAWINGS:

Site Location Plan (dwg. no. 6422-180 Rev. A) dated 03 April 2020;  
Proposed Site Layout Plan (dwg. no. 6422-181 Rev. A) dated 03 April 2020;  
Proposed Site Plan – External Finishes & Fencing (dwg. no. 6422-182 Rev. A) dated 03 April 2020;  
Proposed Site Plan Illustrating Constraints (dwg. no. 6422-183 Rev A) dated 03 April 2020;  
Unit 9 Proposed Building Plan (dwg. no. 6624-10 Rev. E) dated 03 April 2020;  
Unit 9 Proposed Office Floor Plans (dwg. no. 6624-007 Rev. D) dated 03 April 2020;  
Unit 9 Proposed Elevations (dwg. no. 6624-11 Rev. E) dated 03 April 2020;  
Unit 9 Proposed Roof Plan (dwg. no. 6624-28 Rev. B) dated 03 April 2020;  
Unit 10 Proposed Building Plan (dwg. no. 6422-184) dated 02 April 2020;  
Unit 10 Proposed Ground, First and Second Floor Office Plan (dwg. no. 6422-185)

dated 03 April 2020;  
Unit 10 Proposed Elevations (dwg. no. 6422-186) dated 02 April 2020;  
Unit 10 Proposed Roof Plan (dwg. no. 6422-187) dated 03 April 2020;  
Planting Plan Overview (dwg. no. 6849/ASP.PP.DBS9.1.0 Rev J) dated 08 April 2020;  
Planting Plan 1 of 3 (dwg. no. 6489/ASP. PP.DBS9.1.1 Rev J) dated 08 April 2020;  
Planting Plan 2 of 3 (dwg. no. 6849/ASP. PP.DBS9.1.2 Rev J) dated 08 April 2020;  
Planting Plan 3 of 3 (dwg. no. 6849/ASP. PP.DBS9.1.3 Rev J) dated 08 April 2020;  
Site Wide Drainage Strategy (dwg. no. C14935-C-002 Rev P6) dated 12 December 2014;  
Drainage Layout Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3001 Rev. P2) dated 14 May 2020;  
Drainage Layout Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3002 Rev. P2) dated 14 May 2020;  
Drainage Layout Sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3003 Rev. P2) dated 14 May 2020;  
Drainage Layout Sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3004 Rev. P2) dated 14 May 2020;  
Catchment Plan (dwg. no. C08749-HYD-XX-XX-DR-C-3005 Rev. P2) dated 14 May 2020;  
External Levels Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3101 Rev. P1) dated 03 April 2020;  
External Levels Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3102 Rev. P1) dated 03 April 2020;  
External Levels Sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3103 Rev. P1) dated 03 April 2020;  
External Levels Sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3104 Rev. P1) dated 03 April 2020;  
Standard Details sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3010 Rev. P1) dated 03 April 2020;  
Standard Details sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3011 Rev. P1) dated 03 April 2020;  
Standard Details sheet 3 (dwg. no. C08749-HYD-XX-XX-DR-C-3012 Rev. P1) dated 03 April 2020;  
Standard Details sheet 4 (dwg. no. C08749-HYD-XX-XX-DR-C-3013 Rev. P1) dated 03 April 2020;  
Basin Sections (dwg. no. C08749-HYD-XX-XX-DR-C-3105 Rev. P1) dated 03 April 2020;  
External Works Sheet 1 (dwg. no. C08749-HYD-XX-XX-DR-C-3301 Rev. P1) dated 03 April 2020;  
External Works Sheet 2 (dwg. no. C08749-HYD-XX-XX-DR-C-3302 Rev. P1) dated 03 April 2020;  
Dbs9 External Indicative Electrical Services Layout (dwg. no. 190029-RGL-09-GFDR-E-70-0101 D2 Rev. P02) dated 03 April 2020;  
Dbs10 External Indicative Electrical Services Layout (dwg. no. 190029-RGL-10-GFDR-E-70-0001 D2 Rev. P02) dated 03 April 2020;  
Proposed Cycle Shelter (dwg. no. 6422-035) dated 15 August 2019;  
Area for Ecological Mitigation (dwg. no. 6422-115) dated 02 May 2019.

#### REPORTS:

Design and Access Statement by AJA Architects dated April 2020;  
Planning Statement by Frampton ref: PF/10353 dated April 2020;  
Flood Risk Assessment by Hydrock ref: C08749-HYD-XX-XX-RP-D-5001 Rev P02 dated 08 April 2020;  
Technical Note - Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301 Rev P1 dated 03 April 2020;  
Transport Assessment Addendum by Hydrock ref: C08749-HYD-XX-XX-RP-

TP1002-P07 dated 08 April 2020;  
Framework Travel Plan by Hydrock ref: C08749=HYD-XX-XX-RP-TP-6002 Rev P02 dated 08 April 2020;  
Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020;  
Biodiversity Impact Assessment by The Environmental Dimension Partnership ref: edp1419\_r019e received 09 April 2020;  
Reptile Mitigation Strategy Addendum by The Environmental Dimension Partnership ref: edp1419\_r014e dated April 2020;  
Landscape and Visual Impact Assessment Addendum by Aspect Planning ref: 6489.LVIA Addendum.003\_Phase 4 (9+10) dated April 2020;  
Arboricultural Impact Assessment by Aspect Arboriculture ref: 10057\_AIA.001 Rev F dated 08 April 2020;  
Arboricultural Method Statement by Aspect Arboriculture ref: 10057\_AMS.001 dated May 2020;  
External Lighting Report by Rolton Group ref: 19-0029 Rev P09 dated 07 April 2020;  
Noise Assessment Technical Note by RSK Environment Ltd ref: 297918-RSK-TN 002(02) dated 08 April 2020;  
Construction Environmental Management Plan by The Environmental Dimension Partnership ref: edp1419\_r0020a dated May 2020;  
Construction Method Statement by A&H Construction and Developments PLC Ver 1 dated 12 May 2020;  
Heritage Assessment by Archaeology Collective Ref: AC947A, Issue 2, dated April 2019;  
Archaeological Evaluation by Thames Valley Archaeological Services Ref: ORB 15/150 dated September 2019;  
Archaeological Written Scheme of Investigation (trial trenching) by Thames Valley Archaeological Services Ref: ORB 15/150evph4 dated 13 February 2018;  
Archaeological Written Scheme of Investigation (geophysical survey) by Thames Valley Archaeological Services Ref: ORB 15/150geo dated 13 February 2018;  
Archaeological Written Scheme of Investigation (archaeological excavation) by Thames Valley Archaeological Services Ref: ORB 15/150exc dated 28 October 2019;  
Ecological Appraisal by The Environmental Dimension Partnership ref: edp1419\_r015d dated April 2019;  
Phase 1 Desk Study by Hydrock ref C08779-HYD-XX-XX-RP-GE-1000-P02-S2 dated 29 April 2019;  
Odour Assessment by RSK Environment Ltd Ref: 443276-01(02) dated 08 April 2019;  
Vibro Method Statement by Trittech received 28 May 2020

Reason : To clarify the permission and for the avoidance of doubt.

3. The development shall be implemented in accordance with the approved Construction Method Statement by A&H Construction and Developments PLC Ver 1 dated 12 May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason : To ensure the environment is protected during construction in accordance with Policy G3 of the South Northamptonshire Local Plan, Policy ENV1 of the Cherwell Local Plan 1996, and Government guidance contained within the National Planning Policy Framework.

4. The development shall be implemented in accordance with the approved Construction Environmental Management Plan by The Environmental Dimension Partnership ref: edp1419\_r0020a dated May 2020 unless otherwise agreed in writing by the Local Planning Authority.



Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1, and Government guidance contained within Section 15 of the National Planning Policy Framework.

5. The development shall be carried out in accordance with the approved Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

6. All site clearance (including the removal of any vegetation or works to hedgerows) should be timed so as to avoid the bird nesting season, this being during the months of March until August inclusive unless alternative provisions have been previously agreed in writing by the Local Planning Authority.

Reason: To ensure that the development will conserve and enhance the natural environment and will not cause significant harm to any protected species or its habitat in accordance with the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

7. The development hereby permitted shall be carried out in accordance with the recommendations set out in the Ecological Appraisal dated April 2019, ref. edp1419\_r015d; the Reptile Mitigation Strategy Addendum by The Environmental Dimension Partnership ref: edp1419\_r014e dated April 2020; and the Area for Ecological Mitigation dwg. no. 6422-115 dated 02 May 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason : To protect habitats and/or species of importance to nature conservation from significant harm in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and the Government's aim to achieve sustainable development as set out in Section 15 of the National Planning Policy Framework.

#### PRE-COMMENCEMENT CONDITIONS

8. If the development hereby approved does not commence by April 2021, no development shall take place until a revised ecological appraisal has been undertaken to establish changes in the presence, abundance and impact of protected species. The survey results, together with any necessary changes to the mitigation plan or method statement shall be submitted to and approved in writing the Local Planning Authority prior to any development taking place. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

9. No development shall take place until the existing tree(s) to be retained in accordance with Planting Plan Overview (dwg. no. 6849/ASP.PP.DBS9.1.0 Rev J) dated 08 April 2020 have been protected in accordance with the Arboricultural Impact Assessment by Aspect Arboriculture ref: 10057\_AIA.001 Rev F dated 08 April 2020 and the Arboricultural Method Statement by Aspect Arboriculture ref: 10057\_AMS.001 dated May 2020 unless otherwise agreed in writing by the Local Planning Authority. The barriers shall be erected before any equipment, machinery or materials are brought onto the site for the purposes of development and shall be maintained until all equipment machinery and surplus material has been removed from the site. Nothing shall be stored or placed within the areas protected by the barriers erected in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavations be made, without the written consent of the Local Planning Authority.

Reason : To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policies G3(A) and EV21 of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

10. No development shall take place within the area of archaeological interest (as outlined in orange on the County Archaeologist's plan provided with the consultation response dated 15th October 2019) until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:

- (i) Approval of a Written Scheme of Investigation;
- (ii) Fieldwork in accordance with the agreed Written Scheme of Investigation;
- (iii) Completion of a Post-Excavation Assessment report and approval of an approved Updated Project Design: to be submitted within six months of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority;
- (iv) Completion of analysis, preparation of site archive ready for deposition at a store (Northamptonshire ARC) approved by the Local Planning Authority, production of an archive report, and submission of a publication report: to be completed within two years of the completion of fieldwork, unless otherwise agreed in advance with the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded and the results made available, in accordance with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and the NPPF Paragraph 199. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

11. No development shall take place until details of the surface water attenuation have been submitted to and agreed in writing by the Local Planning Authority. The surface water attenuation shall be implemented in accordance with the agreed scheme unless otherwise agreed in writing by the Local Planning Authority prior to its implementation.

Reason: To protect the adjacent railway from the risk of flooding, pollution and soil instability in accordance with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

12. No development shall take place until full details of ground levels, earthworks and excavations to be carried out near to the railway boundary have been submitted to and approved in writing by the Local Planning Authority. All changes to ground levels, earthworks and excavations close to the railway boundary shall be carried out in accordance with the approved scheme unless otherwise agreed in writing by the Local Planning Authority prior to the commencement of those works.

Reason: To protect the adjacent railway from soil instability, in accordance with Government guidance contained within the National Planning Policy Framework. This information is required prior to commencement of the development as it is fundamental to the acceptability of the scheme.

#### CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE SPECIFIC CONSTRUCTION WORKS TAKE PLACE

13. No development shall take place above slab level until full details of the surface water drainage scheme for the site, based on the approved Technical Note - Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301 Rev P02 dated 14 May 2020 have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

- a) Details (i.e. designs, diameters, invert and cover levels, gradients, dimensions and so on) of all elements of the proposed drainage system, to include pipes, inspection chambers, outfalls/inlets and attenuation basins;
- b) Cross sections of all control chambers (including site specific levels mAOD) and manufacturers' hydraulic curves for all hydrobrakes and any other flow control devices; and
- c) A detailed scheme for the maintenance and upkeep of every element of the surface water drainage system proposed on the site.

Reason: To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy G3(M) of the South Northamptonshire Local Plan, Policy BN7 of the West Northamptonshire Joint Core Strategy, Policies ESD5 and ES7 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in the National Planning Policy Framework.

14. No development shall take place above slab level until a detailed scheme for the ownership and maintenance of every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the Local Planning Authority and the maintenance plan shall be carried out in full thereafter. The scheme shall include:

- a) a maintenance schedule setting out which assets need to be maintained, at what intervals and what method is to be used;
- b) a site plan including access points, maintenance access easements and outfalls;
- c) maintenance operational areas to be identified and shown on the plans, to ensure there is room to gain access to the asset, maintain it with appropriate plant and then handle any arisings generated from the site;
- d) details of expected design life of all assets with a schedule of when

replacement assets may be required; and

- e) details of which organisation or body will be the main maintaining body where the area is multifunctional (e.g. open space play areas containing SuDS), with evidence that the organisation/body has agreed to such adoption.

Reason : To ensure that the development/site is served by sustainable arrangements for the disposal of surface water, to comply with Policy G3(M) of the South Northamptonshire Local Plan, Policy BN7 of the West Northamptonshire Joint Core Strategy, Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in the National Planning Policy Framework.

- 15. No development shall take place above slab level until full details of the fire hydrants and/or sprinklers to be provided on the site have been submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the fire hydrants and sprinklers shall be provided in accordance with the approved details and retained as such thereafter.

Reason : To ensure adequate water infrastructure provision is made on site for the local fire service to tackle any property fire in accordance with Government Guidance contained within the National Planning Policy Framework.

- 16. Details of the proposed construction, materials and surfacing of the access road and its junction with the public highway shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of those works. The development shall be carried out in accordance with the approved details before first occupation of the building(s) and thereafter permanently maintained as such.

Reason : In the interests of highway safety, to comply with Policy G3(B) of the South Northamptonshire Local Plan, Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework

- 17. If, during development, contamination not previously identified is found to be present at the site, no further development shall be carried out until full details of a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. Thereafter the remediation strategy shall be carried out in accordance with the approved details.

Reason: To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Policy G3(E) of the South Northamptonshire Local Plan, Policy BN9 of the West Northamptonshire Joint Core, Policy PSD1 of the Cherwell Local Plan 2011-2031 Part 1, Policy ENV1 of the Cherwell Local Plan 1996, and Section 15 of the National Planning Policy Framework.

- 18. The existing trees and hedge along the northern boundary of the site shall be retained in accordance with the approved landscaping plans: (Planting Plan overview dwg. no. 6849/ASP.PPDBS9.1.0 Rev G dated 23 September 2019; Planting Plan 1 dwg. no. 6849/ASP.PPDBS9.1.1 Rev G dated 23 September 2019; Planting Plan 1 dwg. no. 6849/ASP.PPDBS9.1.3 Rev G dated 23 September 2019; and the approved Landscape Management Plan Ref: 6489.Land.Man.002 dated April 2019 unless otherwise agreed in writing by the Local Planning Authority.

Reason : To provide an effective and attractive screen for the development in the interests of visual amenity and to accord with Policies G3(L) and EV29 of the South

Northamptonshire Local Plan and Policies ESD10 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner, and shall be maintained in accordance with the approved Landscape and Ecology Management Plan by Aspect Landscape Planning ref: 6489.LEMP.003.VF dated May 2020. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

Reason : To ensure that the agreed landscaping scheme is maintained over a reasonable period that will permit its establishment in the interests of visual amenity and to accord with Policies G3(L) and EV29 of the South Northamptonshire Local Plan, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

20. All species used in the planting proposals associated with the ecological mitigation area as identified in the Area for Ecological Mitigation dwg. no. 6422-115 dated 02 May 2019 shall be native species of UK provenance.

Reason: To conserve and enhance biodiversity and prevent the spread of non-native species in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within Section 15 of the National Planning Policy Framework.

21. The development hereby permitted shall be constructed to at least a BREEAM Very Good standard.

Reason : To ensure energy and resource efficiency practices are incorporated into the development in accordance with the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework and Policy ESD3 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the NPPF.

#### CONDITIONS REQUIRING APPROVAL OR COMPLIANCE BEFORE OCCUPATION

22. Prior to the first use or occupation of the development hereby approved, the proposed access, parking, turning, loading and unloading facilities shall be provided in accordance with the approved plans. The access, parking, turning, loading and unloading facilities shall thereafter be retained for use in connection with the development for those purposes only.

Reason : In the interests of highway safety, to ensure the provision of adequate offstreet car parking and turning/loading/unloading to comply with Policy G3(B) of the South Northamptonshire Local Plan, Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework.

23. Prior to the first use or occupation of the development hereby approved, details of a turning area to be provided within the application site so that buses may turn around with the site, shall be submitted to and approved in writing by the Local Planning

Authority. Thereafter, and prior to the first occupation of the development, the turning area shall be provided in accordance with the approved details and shall be retained for the manoeuvring of buses at all times thereafter.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policy SLE4 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in Section 12 of the National Planning Policy Framework.

24. Prior to the first use or occupation of the development hereby approved, the walls and roofs of the buildings hereby approved shall be finished and thereafter maintained in accordance with the colour scheme approved as set out in drawings ref: Unit 9 Proposed Elevations (dwg. no. 6624-11 Rev. E) dated 03 April 2020 and Unit 10 Proposed Elevations (dwg. no. 6422-186) dated 02 April 2020 unless otherwise agreed in writing by the Local Planning Authority.

Reason : In order to safeguard the visual amenities of the area in accordance with Policy G3(A) of the South Northamptonshire Local Plan and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

25. Prior to the first use or occupation of the development hereby approved, the external lighting/security lighting/floodlighting (including the design, position, orientation and any screening of the lighting) shall be implemented in accordance with the approved External Lighting Report by Rolton Group ref: 19-0029 Rev P09 dated 07 April 2020. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason : In the interests of visual amenity and highway safety and to comply with Policy EV35, Appendix A of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government advice in The National Planning Policy Framework.

26. Prior to the first use or occupation of the development hereby approved, a Verification Report for the installed surface water drainage system for the site shall have been submitted in writing by a suitably qualified independent drainage engineer and approved by the Local Planning Authority based on the approved Technical Note Drainage Statement ref Drainage Strategy by Hydrock ref: C08749-HYD-XX-XX-RP-C-301, Issue No. P02 dated 14th May 2020. The report shall include:

- a) Any departure from the agreed design is keeping with the approved principles
- b) Any As-Built Drawings and accompanying photos
- c) Results of any Performance Testing undertaken as a part of the application process (if required / necessary)
- d) Copies of any Statutory Approvals, such as Land Drainage Consent for Discharges etc.
- e) Confirmation that the system is free from defects, damage and foreign objects

Reason: To ensure the installed Surface Water Drainage System is satisfactory and in accordance with the approved reports for the development site, to comply with Policy ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained in the NPPF.

27. Prior to the first use or occupation of the development hereby approved, either:

- a) all water network upgrades required to accommodate the additional flows from

the development shall have been completed; or

- b) an infrastructure phasing plan shall have been agreed with Thames Water to allow additional properties to be occupied. Where an infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed infrastructure phasing plan.

Reason - The development may lead to no / low water pressure and network reinforcement works are anticipated to be necessary to ensure that sufficient capacity is made available to accommodate additional demand anticipated from the new development, in accordance with Policy ESD8 and INF1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the NPPF.

28. Prior to the first use or occupation of the development hereby approved, the development shall be fully implemented and carried out in accordance with the submitted flood risk assessment (FRA) (by Hydrock ref: C08749-HYD-XX-XX-RP-D-5001 Rev P02 dated 08 April 2020), including its timing/phasing arrangements dated 15 April 2019 and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 90.00 metres above Ordnance Datum (AOD)
- Compensatory storage shall be provided to demonstrate no loss of flood plain storage or detrimental impact to third party land as per section 4.2.3 of the FRA.

The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason : To reduce the risk of flooding to the proposed development and future occupants and to prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided in accordance with Policy ESD6 of the Cherwell Local Plan 2011-2031 Part 1 and Section 14 of the NPPF.

#### ONGOING REGULATORY CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

29. No external lighting shall be installed at any time within the ecological mitigation area as identified on plan no. 6422-115 dated 02/05/2019 without the express planning permission of the Local Planning Authority.

Reason: To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy BN2 of the West Northamptonshire Joint Core Strategy, Policy ESD10 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

30. The buildings hereby approved shall be used only for purposes falling within Classes B2 and/or B8 with ancillary office space as specified in the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking, amending or re-enacting that order and for no other purpose(s) whatsoever.

Reason : To ensure that there is adequate on-site parking provision in the interests of highway safety and to protect the vitality and viability of the town centre in accordance with Policies G3(B) and R6 of the South Northamptonshire Local Plan and Policies SLE1, SLE4 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

31. Notwithstanding the provisions of section 55 (2A) of the Town and Country Planning Act 1990 (as amended by Section 49 of the 2004 Act), Part 10 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as

amended) and Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), no internal operations increasing the floor space available within the buildings hereby permitted shall be carried out without the prior planning permission of the Local Planning Authority.

Reason : To enable the Local Planning Authority to retain planning control over the provision of additional floorspace in order to maintain a satisfactory layout and sustain an adequate overall level of parking provision and servicing on the site in accordance with Policy G3 of the South Northamptonshire Local Plan, Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

32. Notwithstanding the provisions of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting or amending that order) the approved buildings shall not be extended without the prior planning permission of the Local Planning Authority.

Reason : To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the area and to sustain a satisfactory overall level of parking provision and servicing on the site in accordance with Policy G3 of the South Northamptonshire Local Plan and Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

33. No goods, materials, plant or machinery shall be stored, repaired, operated or displayed outside the buildings unless otherwise approved in writing by the Local Planning Authority.

Reason : In order to safeguard the visual amenities of the area in accordance with Policy G3(A) of the South Northamptonshire Local Plan and ESD15 of the Cherwell Local Plan 2011-2031 Part 1.

CASE OFFICER: Samantha Taylor

TEL: 01295 221689