

Case Officer: Linda Griffiths

Applicant: Tesco Stores Ltd

Proposal: Removal of existing spoil and erection of two units for non-food retail

Ward: Bicester South and Ambrosden

Councillors: Councillor Cotter, Councillor Sames, Councillor Wing

Reason for Referral: Major development

Referral:

Expiry Date: 9 October 2020

Committee Date: 20 May 2021

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is located to the south of the A41, opposite the Bicester Village shopping outlet and approximately 1km from Bicester town centre. It extends to approximately 0.58ha and is situated to the immediate north of the Tesco superstore. It is part of an approved development site within the recent Tesco superstore, petrol filling station and car park. The main highway works of the consented application, together with the landscaped buffer area separating the Tesco site from the A41 have been completed. The construction of the Tesco store, car park and petrol filling station was completed in early 2016, and is now fully trading.
- 1.2. The land comprises a large spoil heap following land levelling works related to the food superstore's construction. To the west lies Tesco's car park and beyond this, its petrol filling station. To the south are open fields for which there is a permission for offices (Bicester Business Park) and beyond this, a retail park comprising a garden centre and a range of non-food outlets. To the northwest, beyond Oxford Road, is an Esso petrol filling station and related services.
- 1.3. The application site is an out of centre location, although situated alongside other existing food and non-food retail outlets and separated from the town centre by the A41 and the Bicester Village development.

2. CONSTRAINTS

- 2.1. The application site is allocated for development through Policy Bicester 4 of the adopted Cherwell Local Plan 2011-2031. Lapwing, an Oxon Notable and Protected Species may be present within the vicinity of the site. The site is a minor aquifer, is within an archaeological alert area and the land could potentially be contaminated.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The proposed development involves the removal of existing spoil and the erection of two non-food retail units (both with full cover mezzanines), creating a retail development of 3,710m² (gross internal area). The proposed units would sit alongside the Tesco superstore on its northern side, adjacent to the boundary with the A41.

- 3.2. The units will comprise a detached unit adjacent to the Tesco store of similar height and depth. The units will have independent customer entrances from the car park with mezzanines accessed via internal stairs. The design and appearance of the new units will also be similar to the existing Tesco store with projecting front canopy. It is proposed that servicing will take place from the rear of the units. An additional 15 car parking spaces will be provided to the existing parking provision adjacent to the new units.
- 3.3. Access to the new units is proposed off the existing Tesco access road, which leads from the roundabout off Lakeview Drive. A pedestrian path will be provided along the southern boundary of the application site. Several existing Tesco parking spaces would need to be relocated, although the car park will fundamentally remain intact.

4. RELEVANT PLANNING HISTORY

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

12/01193/F Permission for new Tesco store with associated parking and petrol filling station

15/01651/F Minor amendments to above permission granted consent

17/00889/F Permission granted for McDonalds drive-thru on land to south of PFS

20/00108/SO EIA not required

5. PRE-APPLICATION DISCUSSIONS

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

18/00182/PREAPP – Removal of existing spoil and erection of two units for non-food retail with full cover mezzanines.

- 5.2. The principle of the provision of two new retail units on the site will depend on the outcome of the sequential test and retail impact assessment. It is considered that the scope of these matters needs to be considered flexibly given the speculative nature of the proposal. The proposed site is also complex in terms of the highway constraints given the amount of committed and proposed development in the locality. Opportunities should be looked at to improve the pedestrian and cyclist connectivity of the site to the surrounding uses and the town centre. In respect of the design of the proposal it is considered that a strong landscaping scheme will be required to mitigate the visual impacts of the development in accordance with Policy Bicester 4.

6. RESPONSE TO PUBLICITY

- 6.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments on supplementary and amended details and information was **18 March 2021**. Only one email representation was received as a result of this consultation process.
- 6.2. The Regional Director of Motion commented that the application originally lacked a Planning and Retail Statement to assess retail impacts. No further comment was

received following the submission of the necessary Retail Impact Assessment and Addendum report carried out on behalf of Tesco by MRPP.

- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

7. RESPONSE TO CONSULTATION

- 7.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 7.2. BICESTER TOWN COUNCIL: **No comments received**

CONSULTEES

- 7.3. OCC HIGHWAYS: **Objections** - the TA has not been robust in its estimation of trip rate and this has not been satisfactory to lead to an accurate assessment of the impact on the network. This development shall cumulatively exacerbate the situation to a severity that has not been demonstrated to be adequately mitigated. Pedestrian activity must be revised to provide a layout that enables a high degree of integration and connectivity between the site and existing development in accordance with the local plan.

Update 14 August 2020: Following submission of further details **No objection** subject to conditions and S.106 obligations relating to strategic highway infrastructure of £71,738.52, Bus services £43,170 and Travel Plan monitoring £2,040 and conditions relating to construction traffic management plan, electric charging points and travel plan.

- 7.4. OCC LEAD FLOOD AUTHORITY: **Objection** further information required to enable a full technical assessment and audit of the proposed surface water management strategy, flood risk and SuDS usage.

Update 13 August 2020: Objection the drainage strategy is not in line with local and national standards and the FRA and Drainage Strategy do not cover the full application boundary.

Update 3 September 2020: Objection as the proposed design does not offer a sustainable drainage and surface water management system in accordance with OCC local standards.

Update 8 December 2020: Objection the attenuation storage provided is not adequate.

Update 19 January 2021: Objection comments raised previously have not been addressed and the run-off from the site is being discharged unrestricted into the public sewer, this is not in line with local and national standards.

Update 29 March 2021: Following submission of further details **No objection** subject to a drainage condition.

- 7.5. PLANNING POLICY: **No comments received**

- 7.6. CDC RETAIL CONSULTANT DPDS Consulting: The site is an out of centre location and the sequential and impact tests are the main material considerations in terms of

retail planning policy. The sequential test requires consideration to be given to the availability of suitable town centre sites and edge of centre sites. Only if there are no suitable edge of centre sites available should out of centre sites be considered and these should be accessible and well connected to the town centre. There are two aspects to the impact test, the impact on the vitality and viability of the town centre including local consumer choice and trade in the town centre and wider catchment area; and the impact of the proposal on existing, committed and planned public and private investment. Originally an **Objection** was raised on the grounds that the level of detail supplied in relation to the sequential test is very limited and falls far below that generally submitted for sequential site assessments. The sites are not identified on plans and are rejected in single paragraphs. There is a need to assess the M&S unit in Sheep Street. The impact test does not present a reliable assessment of the likely impact. In the absence of further analysis, the proposal is contrary to the development plan and the NPPF on retail planning matters.

Update September 2020: Following revised assessment submission by the applicants, overall it is advised that the application **should not be refused** on retail impact grounds.

Update January 2021: Following further sequential test assessment by the applicant, it is concluded that the vacant M&S unit could not be considered suitable as a sequentially preferable alternative to the application proposal and the **sequential test is now passed**.

- 7.7. CDC ENVIRONMENTAL PROTECTION: **No objection** subject to the imposition of conditions regarding noise levels from plant no greater than tesco adjacent but this condition has not been included as it is imprecise, air quality impact assessment, contamination and electric vehicle charging points.
- 7.8. CDC ARBORICULTURAL OFFICER: **No objection** the tree removals are of smaller trees internal to the site which appear appropriately mitigated with replacement planting forming a new visual barrier from the A41. Boundary vegetation to be retained appears to have been afforded appropriate protection in line with BS5837.
- 7.9. CDC LANDSCAPE OFFICER: **Supports** this application, the landscape visual appraisal and the proposed scheme are acceptable.
- 7.10. CDC ECOLOGY OFFICER: **No objection** subject to a condition requiring the development to accord with the ecological survey.
- 7.11. CDC BUILDING CONTROL: **Comments** that the proposal will require building regulation approval, fire engineers design statement and disabled access statement.
- 7.12. ECONOMIC DEVELOPMENT: **No comments received**
- 7.13. THAMES WATER: **No objection**
- 7.14. THAMES VALLEY POLICE: **No comments received**
- 7.15. BICESTER DELIVERY TEAM: **No comments received**

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)

- ESD15 - The Character of the Built and Historic Environment
- PSD1 – Presumption in favour of sustainable development
- SLE1 – Employment generating development
- SLE2 – Securing dynamic town centres
- SLE4 – Improved transport and connections
- 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
- ESD10 – Protection and enhancement of biodiversity and natural environment
- ESD13 – Local landscape protection and enhancement
- Policy Bicester 5 – Strengthening Bicester Town Centre
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development
- ENV12 – Contaminated land
- TR1 – Transportation Funding

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- 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)
- Human Rights Act 1998 (“HRA”)
- Equalities Act 2010 (“EA”)

8.4. Council Corporate Priorities

Cherwell District Council’s Business Plan for 2019-20 sets out the Council’s three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is “Clean, Green and Safe”, that it supports “Thriving Communities & Wellbeing”, and is a District of “Opportunity & Growth”. All three priorities are of significance to the determination of planning

applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

9. APPRAISAL

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

- Principle of development
- Sequential test and retail impact
- Transport impact
- Flood Risk and Drainage
- Design and Layout
- Sustainability
- Human Rights and Equalities
- Other Matters
- Planning Obligation

Principle of Development

- 9.2. The Development Plan for Cherwell District and this particular site comprises the saved policies in the adopted Cherwell Local Plan 1996 and the adopted Cherwell Local Plan Part 1 2011-2031. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the local planning authority shall have regard to the provisions of the development plan, so far as is material to the application, and to any other material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the planning acts, the determination must be in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF).
- 9.3. Policy Bicester 5 of the adopted Cherwell Local Plan 2011-2031 seeks to strengthen the existing town centre and identifies the extent of the town centre accordingly. The application site is not within Bicester town centre as defined by this policy.
- 9.4. The application site relates to part of the Policy Bicester 4 strategic allocation in the adopted Cherwell Local Plan 2011-2031. In accordance with Policy Bicester 4, outline planning permission was granted for 6,000sqm of business employment development to generate up to 6,000 new jobs, primarily in B1a office use across the entire allocated site (07/01106/OUT) refers. Subsequently planning permission was granted on part of this allocation for the erection of the current Tesco superstore (12/01193/F) refers which was previously situated adjacent to Bicester Village in order to facilitate an expansion of Bicester village whilst retaining an enhanced food superstore sufficient to meet identified retail needs without

substantively compromising the employment aspirations of the remainder of the Policy Bicester 4 employment allocation. This application site relates to an area of land that was not developed by Tesco at that time.

Sequential Test and Retail Impact

- 9.5. The NPPF advises that local planning authorities should plan positively, to support the role that town centres play at the heart of local communities. It also advises that where suitable and viable town centre sites are not available for main town centre uses, local authorities should allocate appropriate edge of centre sites that are well connected to the town centre. The NPPF sets out two key tests that should be applied for town centre uses which are not in an existing town centre and which are not in accordance with an up to date plan – the sequential test and the impact test.
- 9.6. The NPPF requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of centres. The adopted Cherwell Local Plan 2011-2031 is consistent with this approach and aims to support Bicester town centre's vitality and viability, its policies are therefore up to date in this respect. Policy SLE2 directs retail and other town centre uses towards the District's town centres and states that only if suitable sites are not available in edge of centre locations should out of centre locations be considered. Policy SLE2 sets the local threshold for the requirement of an impact assessment in Bicester at 1,500sqm. The proposal as submitted would allow a total net floorspace of 2,598sqm of non-food retail floorspace, which is above the Bicester threshold and triggers a requirement for an impact assessment. An area of search for the expansion of Bicester town centre has been identified but the redefinition of the centre will be considered through Part 2 of the Local Plan. It is a material consideration in considering the sequential test.
- 9.7. The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses. The sequential test will identify development that cannot be located in town centres, and which then would be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres.
- 9.8. The application submission is supported by a Planning and Retail Assessment prepared by Martin Robeson Planning Practice on behalf of the applicant dated June 2020. In considering the sequential test the applicant must demonstrate that there are no sites within the town centre that are suitable and available and upon which the proposed development would be viable. The application proposes the erection of 2 non-food retail units, although there is no known occupier, with a total of 3716sqm net tradable floorspace on two floors.
- 9.9. The sequential test seeks to rely on those also carried out in respect of recent retail applications within the vicinity of the site and sets out in some detail the Council's conclusions on the sequential test in relation to these developments and argues that it cannot come to a different conclusion in relation to this application. There is some force in this argument, however the sequential test is proposal specific and the Council must consider the test in relation to the application proposal and circumstances pertaining now. For example, the Bicester Service Station proposal was for a coffee shop and drive through restaurant and the suitability of available sites was considered for those uses.

- 9.10. In terms of the evidence submitted relating to alternative sites with this application, it is quite brief and only provides minimal information. However, having regard to this and other potential sites such as Claremont and Cattle Market Car parks, these are in active use and unlikely to come forward at this point in time. An assessment of vacant units within the town centre itself was undertaken by the Council's Retail consultant who did not identify any suitable units of sufficient floorspace to accommodate the application proposal or a flexible interpretation of the, with the exception of the M&S Simply Food Unit which has now relocated to the retail units at Kingsmere. The applicant was therefore requested to include this within the sequential test assessment.
- 9.11. A further sequential assessment was submitted in January 2021 and has been assessed by the Council's retail consultant. We are advised that the additional sequential report submitted on behalf of the applicant which sets out the main legislative and policy background, correctly identifies that 'suitable' in this context means suitable for the development proposed by the applicant rather than 'suitable for meeting identified deficiencies in the retail provision in the area'. The judgement also noted the in-built tension in the test between the suitability of sites and the need for flexibility. The applicant argues that disaggregation is not a requirement of the sequential test, however, this is not necessarily the case as a number of appeal decisions have made it clear that if two separate retail units are proposed with no functional link between them, that disaggregation can be relevant. The former M&S unit is now on the market and available, however it only has a floorspace of 603sqm.
- 9.12. Having regard to the above, it is considered that the difference in size establishes that the M&S unit could not be considered suitable as a sequentially preferable alternative to the application proposal and the sequential test is now passed.
- 9.13. Turning to retail impact, the NPPF at paragraph 86 advises that main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available or expected to come available within a reasonable period, should out of centre sites be considered. At paragraph 89 it advises that when assessing applications for retail development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development more than 2,500m² of floorspace (such as the application proposal). This should include assessment of the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area, and, the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment.
- 9.14. Paragraph 90 of the NPPF advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.
- 9.15. The retail impact assessment which has been prepared by Martin Robeson Planning Practice (MRPP) on behalf of Tesco and submitted with the application documentation has been assessed by the Council's retail consultant. It was concluded that it did not present a reliable assessment of the likely impact, raising a number of concerns; these being, the use of housing led population forecasts, likely underestimation of the turnover of the proposal and the existing commitment, the limited information submitted on shopping patterns in the study area and the likely trade draw of the proposal and commitments, together with a failure to set out the calculations in full. It was therefore concluded that the applicant had failed to demonstrate compliance with the impact test and the proposal was therefore not in accordance with the NPPF or the Development Plan in this respect.

- 9.16. Consequently, a further impact assessment report was submitted which sought to address and respond to the above-mentioned issues was received in August 2020. This has also been independently assessed by the Council's retail consultant who agrees that impact on the town centre as a consequence of this proposal would not be significantly adverse on its own. When taking cumulative impact with the Bicester Shopping Park opposite, it is more balanced, however, on balance, he concludes that refusal on significant impact on the town centre cannot be justified and sustained at appeal.
- 9.17. Having regard to the above, it is therefore accepted that it cannot be demonstrated that the development would have a significant adverse impact on the vitality and viability of Bicester town centre and the proposal is therefore in accordance with the adopted Cherwell Local Plan Part 1 2011-2031 and the NPPF in this respect.

Transport Impact

- 9.18. Strategic Objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of transport and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options, including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 also has similar objectives. The transport impacts of the development must be considered against these policies and the requirements in Section 9 'Promoting sustainable transport' of the NPPF.
- 9.19. The application is accompanied by a Transport Assessment (TA) prepared by Waterman Infrastructure and Environmental Ltd on behalf of the applicant. The TA has been assessed by OCC as Highway Authority. In respect of the original submission OCC objected on the grounds that they did not consider that the TA had been robust in its estimation of trip rate and therefore it did not provide an accurate assessment of the impact of the development on the network. The TA forecasts that additional weekday peak hour vehicle movements, particularly in the AM peak are relatively low. Further detailed information in this respect can be read in the OCC consultation response dated 24 February 2020.
- 9.20. An improvement to Monday to Friday bus services in the vicinity of the site has been secured by adjacent developments, however, the TA notes that Saturdays are likely to be a day of high demand, and the previously secured improvement does not cover additional bus services at this time. A contribution is therefore requested for public transport improvements. The contribution has now been agreed.
- 9.21. In terms of the strategic highway infrastructure, the cumulative impact of growth development in Bicester will be severe if appropriate contributions are not secured from all development sites towards the strategic transport infrastructure required to mitigate the increase in transport movements, for example the South East Perimeter Road which will help reduce the ever-increasing traffic congestion along the A41 and it is therefore requested that appropriate contributions are made towards this new link road by this development. The contribution has now been agreed.
- 9.22. Vehicular access to the development will be taken from the existing signalised junction access from A41 which currently serves Tesco and McDonalds. This access will also eventually serve Bicester Business Park which also has access from Lakeview Drive. The submitted layout shows the units will be serviced from the rear access road, will have rear service yards which can accommodate manoeuvring of articulated lorries. Whilst the swept path analysis of a 16.5m articulated truck accessing and egressing the service yard is appended to the TA,

OCC requested tracking to show that the site can also be safely accessed by a 13.3m rigid lorry. This has since been addressed and is now acceptable.

- 9.23. Following the initial objections raised by OCC Transport, additional information was provided and presented by the submission of a Technical Note Ref: WCR10002-105-TN-9-1-3 dated 03/08/2020 which has been assessed by OCC. The Technical Note revised the calculation of trip rates where the TRICS dataset presented now excludes regional site selection. The resultant estimation is now considered acceptable.
- 9.24. Having regard to the above, the proposal is now considered acceptable in highway terms and in respect of pedestrian safety and is therefore in accordance with the development plan policies and advice within the NPPF in this respect.

Flood Risk and Drainage

- 9.25. The application is accompanied by both a Flood Risk Assessment and Drainage Strategy Report which was assessed by OCC who raised objections on the grounds that the drainage strategy was not in line with local and national standards and the FRA and Drainage Strategy did not cover the full application boundary. Neither did the strategy demonstrate how water quality is to be managed during and after construction.
- 9.26. The flood risk to the development site is very low as the site lies within Flood Zone 1. The FRA for the existing wider site dated June 2007 confirms that the site is not suitable for infiltration and there is no watercourse within reasonable proximity to the proposed site. It is therefore proposed to discharge the surface and foul water flows into the existing on-site networks.
- 9.27. The surface water runoff from the proposed development will be collected via rainwater downpipes and drainage channel and conveyed through a gravity pipe network. The surface water run-off from the service yard will be collected via drainage channels and conveyed through a petrol interceptor to capture any hydrocarbons/oil concentration. These flows will then enter the proposed attenuation tank via a porous pipe surrounded by the granular fill before discharging back into the existing private surface water network.
- 9.28. The foul water run-off from the development is proposed to be discharged to the existing private sewer in the south west corner of the proposed development site. Thames Water have confirmed no objections.
- 9.29. Following lengthy discussions between the applicant's drainage consultants and OCC, the final drainage strategy report (Version 6) was submitted for consideration in March 2021 which has been assessed by OCC and the previous objections have now been removed. Drainage conditions which require the development to be carried out in accordance with the surface water drainage report version 6 and details of the SuDS as built together with maintenance details to be submitted and agreed will be included.
- 9.30. Having regard to the above, the application proposal is now considered acceptable in drainage terms and therefore in accordance with the development plan and the NPPF in this respect.

Design and Layout

- 9.31. Section 12 of the NPPF – 'Achieving well designed places' advises that the creation of high quality buildings and places is fundamental to what planning and the

development process should achieve. At paragraph 127 it further advises that planning decisions should ensure that *'developments are visually attractive as a result of good architecture, layout, and appropriate and effective landscaping'*.

- 9.32. Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved Policy C28 which states that 'control will be exercised over all new development to ensure that the standards of design and layout and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development'.
- 9.33. The application is accompanied by a Design and Access Statement (DAS). Policy ESD15 advises that the design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale which should be demonstrated in the design and access statement that accompanies the application.
- 9.34. The DAS has identified the opportunities and constraints relating to the site and proposes that the new development should be a building of its time that positively responds to the quality of the context and creates an interesting and vibrant frontage that is also integrated within its surroundings. The elevational appearance of the proposed units is a continuation of the existing Tesco store design. A projecting canopy is proposed to assist in providing solar protection whilst also providing protection from the elements for customers entering the building. The building has a glazed customer entrance which has been orientated to address the main frontage and car park. The entrances will be clearly defined with signage. Materials such as the powder coated aluminium frame curtain wall glazing, powder coated aluminium double-glazed doors and infill panels and timber canopy support columns have been designed to replicate the existing Tesco store and to create vertical and horizontal emphasis to the building, creating a contemporary, clean front façade. The roof will be Kingspan Topdek in colour light grey.
- 9.35. The mechanical plant required will be located in the rear service yard where it will be screened from public view.
- 9.36. It is considered that the development as proposed in design terms and in respect of its relationship with the existing Tesco building is acceptable and is therefore in accordance with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and advice within the NPPF.

Sustainability

- 9.37. Sustainability is one of the key issues at the heart of the NPPF and the proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable transport bearing in mind that this is an out of centre location. The sequential test however, does demonstrate that there are no sequentially preferable sites for a development of this nature and so access by other means than the private car must be explored. A Framework Travel Plan will therefore be required setting out the overall objectives to the promotion of sustainable travel, and each of the units will need to produce a supplementary plan that is linked to the objectives in the framework travel plan. This requirement can be dealt with by condition.

- 9.38. In terms of sustainable travel, the site benefits from close proximity to a number of attractions within Bicester such as McDonalds restaurant, Bicester Village retail, Bicester Village train station, Bicester Park and Ride and Bicester Avenue garden centre which are all within walking distance from the site. Whilst the original TA stated that the existing pedestrian infrastructure was of an acceptable standard, OCC raised concerns in terms of accessibility of the site on foot, by cycle and public transport.
- 9.39. With a shared pedestrian and cycle path along Middleton Stoney Road currently in the planning stage it is considered that the applicant should contribute towards this sustainable transport facility. It is anticipated that a high proportion of staff and customers of the retail units will travel from the surrounding local area, notably the north-western side of Bicester. The ability for people to walk and cycle to the development will also aid in reducing the reliance on motor vehicle, thereby helping to reduce congestion and air pollution around the site.
- 9.40. There is currently a pedestrian desire line connecting the site from the Esso roundabout on the A41 which has been used previously for people to access the existing services within the site. Via this informal route, pedestrians have found it significantly shorter than using Lakeview Drive. However, this informal route has recently been blocked due to the erection of fencing. The applicants were asked to look at re-opening this access point and formalised as a key pedestrian and cycle connection in line with the provisions of Policy Bicester 4. Whilst desirable, following the submission of the Technical Note OCC have since removed this request as there are a number of issues that make it impossible for this to be provided, notably, the land is not within the applicant's ownership, land gradient and previously pedestrians using this informal link have walked across the petrol forecourt which is considered a danger to pedestrian safety.
- 9.41. Guided by the NPPF, the principles of sustainable development are in three dimensions. The economic role that can be demonstrated by ensuring that the development is of the right type and in the right place, in this case it is a sequentially acceptable site and the proposal will provide jobs during construction and subsequently through the provision of retail jobs. Socially, the development should be of a high quality design and be accessible, reflecting the community's needs. In this case, the development has been designed to reflect the adjacent Tesco Store and is relatively easily accessible from the town centre and adjacent housing development. In terms of the environment, the development should contribute to protecting and enhancing the environment. These aspects are all considered elsewhere in the report.
- 9.42. Policy ESD3 of the adopted Cherwell local Plan 2011-2031 requires that all new non-residential development will be expected to meet at least BREEAM 'very good' and therefore should the application be approved, it is considered that a condition requiring this should be included.

Other Matters

- 9.43. The application is accompanied by an ecological survey which has been assessed by the Ecology Officer. The current ecological status of the site is low and the presence of protected species is also unlikely to be a constraint if recommendations with regard to reptiles and nesting birds are followed. There will be some loss of amenity planting and it states within the ecological report that this will be replaced. There is a strip of new native tree and shrub planting proposed to the north which will help to mitigate this also. There is unlikely to be a significant gain for biodiversity on this site as the area of proposed planting is small and there is little scope on site for wildflower provision, but it may be beneficial to exchange any proposed amenity

grassland areas for more wildlife friendly wildflower mix, this could be dealt with by condition.

9.44. The application is also accompanied by a landscape visual appraisal and landscape scheme which have been assessed by both the Landscape and Arboriculture Officers who raise no objections to the proposals as the tree removals are of smaller trees internal to the site which are appropriately mitigated with replacement planting forming a new visual barrier from the A41 and the existing boundary vegetation is generally to be retained.

9.45. Planning Obligation

9.46. The proposal generates a need for infrastructure contributions to be secured through a planning obligation to mitigate the impacts of the development and to enable the development to proceed. These contributions relate to the provision of:

- Strategic highway infrastructure/offsite highway works – SE Perimeter road - £71,738.52
- Bus services - £43,170
- Travel Plan Monitoring - £2,040

9.47. In respect of the planning obligations, the NPPF advises that they should only be sought where they meet all of the following tests:

- Necessary to make the development acceptable in planning terms
- Directly related to the development, and
- Fairly and reasonably related in kind and scale to the development

9.48. It is considered that without the requirements above that there would be a detrimental effect on local amenity and the quality of the environment and the need to ensure that all new development is sustainable as required by the development Plan and Government guidance within the NPPF.

10. PLANNING BALANCE AND CONCLUSION

10.1. Having regard to the assessment above the proposal will provide for economic growth and jobs in retailing, it satisfies the sequential test and it is accepted that sufficient evidence has been provided to show that the proposal would not adversely affect the vitality and viability of Bicester town centre and is acceptable in terms of its scale and design and relationship with the existing Tesco development.

10.2. The proposal complies with the relevant Development Plan policies and guidance listed at section 8 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

11. 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):

- a. Payment of a financial contribution towards off-site highway works of

£71,738.52

- b. Payment of a financial contribution towards bus services of £43,170
- c. Payment of a financial contribution towards travel plan monitoring of £2,040

CONDITIONS

Time Limit

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

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

Compliance with Plans

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Design and Access Statement ref:163045 dated April 2019; Transport Assessment and Appendices and further Transport Note Document ref: WCR10002-105-TN-9-1-3 dated 3rd August 2020; FRA dated July 2020; Drainage Strategy Report dated 10th March 2021 Version 6; Ecological Survey Report Ref: 1002878 BN 02 UEA Ap dv1; Tree survey by Aspect Arboricultural; Ground Investigation Report; Site Location Plan AP01; Existing Site Layout AP02; Site Layout Plan AP03C; ground Floor Plan AP04B; Proposed Mezzanine AP05B; Existing Elevations AP06; Proposed Elevations AP07A; Sections AA AP08; Sections BB AP09; Drainage Plan SLP1; Tree Constraints Plan 9994 TCP01 and Proposed Tree Protection Plan 9994 TPP 01.

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

3. Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The CTMP shall include the following:
 - The CTMP must be appropriately titled, include the site and planning permission number
 - Routing of construction traffic and delivery vehicles is required to be shown, including means of access to the site
 - Details and approval of any road closures needed during construction
 - Details of and approval of any traffic management needed during construction
 - Details of wheel cleaning/wash facilities to prevent mud etc from migrating onto the highway
 - Details of appropriate signing to accord with the necessary standards/requirements for pedestrians during construction works, including any footpath diversions
 - The erection and maintenance of security hoarding/scaffolding if required
 - A regime to inspect and maintain all lighting and barriers
 - Contact details of the Project Manager and Site Supervisor responsible for on site works to be provided
 - The use of appropriately trained, qualified and certified banksmen for guiding vehicles/unloading etc
 - No unnecessary parking of site related vehicles (worker transport etc) in the vicinity – details of where these will be parked and occupiers

transported to/from site to be submitted for consideration and approval, Areas to be shown on a plan of not less than 1:500

- Layout plan of the site that shows structures, roads, site storage, compound, pedestrian routes etc
- A before-work commencement highway condition survey and agreement with a representative of the Highways Depot – contact 0845 310 1111. Final correspondence is required to be submitted
- Local residents to be kept informed of significant deliveries and liaised with through the project. Contact details for person to whom issues should be raised with in the first instance to be provided and a record kept of these and subsequent resolution
- Any temporary access arrangements to be agreed with and approved by Highways Depot
- Details of times for construction traffic and delivery vehicles, which must be outside network peak hours
- Hours of work on site
- The approved CTMP shall be adhered to throughout the construction.

Reason: in the interests of highway safety and the protection of the environment in accordance with Government guidance within the NPPF.

4. Prior to the building being first brought into use, electric vehicle charging points shall be installed for use by the businesses, staff and customers, the number, location and details of which shall first be agreed in writing by the Local Planning Authority. The electric charging points shall thereafter be retained and maintained in accordance with the approved scheme.

Reason: In the interests of sustainability and to comply with Policy ESD1 of the adopted Cherwell Local Plan 2011-2031 and in accordance with Government guidance within the NPPF

5. Prior to the first occupation of the development hereby approved, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development thereafter shall accord with the approved Travel Plan.

Reason: In the interests of sustainability and to ensure a satisfactory form of development in accordance with Government guidance within the NPPF.

6. The development hereby approved shall be carried out in accordance with the Pinnacle Surface Water Drainage Report Version 6 dated 12 March 2021.

Reason: To ensure satisfactory drainage of the site in the interests of achieving sustainable development and to comply with Policy ESD6 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

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

Reason: To ensure that the development is served by sustainable arrangements for the disposal of surface water and to comply with Policy ESD6 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the NPPF.

8. 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 Saved Policy ENV12 of the adopted Cherwell Local Plan 1996 and Government guidance within the NPPF.

9. The retail units hereby approved shall not be subdivided.

Reason: In order to safeguard the vitality and viability of Bicester Town Centre and to comply with Government guidance within the NPPF.

10. Prior to the commencement of the development hereby approved, a detailed air quality impact assessment to identify the impact of the development on local air quality shall be submitted to and approved in writing by the Local Planning Authority. This shall have regard to the Cherwell District Council Air Quality Action Plan and no development shall take place until the Local Planning Authority has given its written approval that it is satisfied that the impact of the development on air quality has been adequately quantified.

Reason: In the interests of protecting the environment in accordance with Government guidance within the NPPF.

11. Prior to the commencement of the development hereby approved, where an adverse impact has been identified during works in condition 9 above, an air quality mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the measures within this strategy shall be implemented as agreed. No development shall take place until the Local Planning Authority has given its written approval that measures are in place which mitigate the impact of the development on local air quality.

Reason: In the interests of protecting the environment in accordance with Government guidance within the NPPF.

12. 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 units, or on completion of the development, whichever is the sooner and shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of 5 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 variation.

Reason: To ensure 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 Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government guidance in the NPPF.

13. The development hereby permitted shall be carried out in accordance with the recommendations set out in sections 4.23 and 4.26 of the Update Ecological Survey Report by Aspect Ecology dated February 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 Government guidance within the NPPF.

14. The buildings hereby approved shall be constructed to at least BREEAM 'very good' standards

Reason: To ensure sustainable construction and reduce carbon emissions in accordance with Policy ESD3 of the adopted Cherwell Local Plan 2011-2031 and Government guidance contained within the NPPF.

CASE

OFFICER:

Linda

Griffiths