

## Cherwell District Council

### Special Planning Committee

Minutes of a special meeting of the Planning Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 27 March 2014 at 4.00 pm

Present: Councillor Rose Stratford (Chairman)  
Councillor Alastair Milne Home (Vice-Chairman)

Councillor Andrew Beere  
Councillor Fred Blackwell  
Councillor Chris Heath  
Councillor David Hughes  
Councillor Russell Hurle  
Councillor Mike Kerford-Byrnes  
Councillor James Macnamara  
Councillor Gordon Ross  
Councillor Trevor Stevens

Substitute Members: Councillor Nigel Randall (In place of Councillor Ken Atack)

Apologies for absence: Councillor Ken Atack  
Councillor Colin Clarke  
Councillor Tim Emptage  
Councillor Michael Gibbard  
Councillor D M Pickford  
Councillor G A Reynolds  
Councillor Lawrie Stratford

Officers: Bob Duxbury, Development Control Team Leader  
Ross Chambers, Solicitor  
Aaron Hetherington, Team Leader Democratic and Elections

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#### Declarations of Interest

Members declared interests in the following

##### **5. Banbury Gateway, Acorn Way, Banbury, OX16 3JU.**

Councillor Alastair Milne Home, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Andrew Beere, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

Councillor Gordon Ross, Non Statutory Interest, as a member of Banbury Town Council which had been consulted on the application.

248 **Requests to Address the Meeting**

The Chairman advised that requests to address the meeting would be dealt with at the relevant item.

249 **Chairman's Announcements**

There were no Chairman's announcements.

250 **Banbury Gateway, Acorn Way, Banbury, OX16 3JU**

The Committee considered application 13/01948/F for the variation of condition 34 and 39 of the previously approved planning application 13/00227/F (as amended by letter received from agent dated 13.3.14).

Mary Davidson, agent for the applicant, address the Committee in support of the application.

In reaching their decision, the Committee considered the officers' report, written update and presentation and the presentation of the public speaker.

**Resolved**

That application 13/01948/F be approved, subject to:

- i) referral to the Secretary of State (Department for Communities and Local Government) as a departure (out of town as defined with CLG Circular 02/2009).
- ii) completion of a section 106 agreement relating to matters of public art, CCTV, transport infrastructure and highways.
- iii) the following conditions:

**CONDITIONS TO BE DISCHARGED PRIOR TO COMMENCEMENT OF THE DEVELOPMENT AND ANY DEMOLITION**

1. Land Contamination (investigation)

Prior to the commencement of the development hereby permitted and any demolition on the site, comprehensive intrusive investigation in order to characterise the type, nature and extent of the potential risk from contamination present (identified in Campbell Reith Consulting Engineers Geoenvironmental and Geotechnical Desktop Study, dated December 2011 submitted with application 11/01870/F), the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

2. Land Contamination (remediation scheme)

Prior to the commencement of the development hereby permitted and any demolition on the site, if contamination is found by undertaking the work carried out under condition 1, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

3. Archaeology (preparation of WSI)

Prior to the commencement of the development, any demolition on the site, and any archaeological investigation, a professional archaeological organisation acceptable to the Local Planning Authority shall prepare an Archaeological Written Scheme of Investigation, relating to the application site area, which shall be submitted to and approved in writing by the Local Planning Authority.

4. Archaeology (evaluation and mitigation)

Prior to the commencement of the development and any demolition on the site, and following the approval of the Written Scheme of Investigation referred to in condition 3, a staged programme of archaeological evaluation and mitigation shall be carried out by the commissioned archaeological organisation in accordance with the approved Written Scheme of Investigation. The programme of archaeological evaluation and mitigation shall include all processing, research and analysis necessary to produce an accessible and useable archive and a full report for publication which shall be submitted to the Local Planning Authority as soon as practically possible following the completion of the on site investigation. Providing that the timing of the archaeological evaluation and mitigation is carried out in accordance with the wording of this condition, the submission of the full report may follow the commencement of the development on site.

5. Ecological Protection  
Prior to the commencement of the development and any demolition on the site, measures to protect the ecological value of the River Cherwell and the existing pond on the site from the development works shall be installed on site in accordance with full details to be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter the approved protection measures shall remain in place until the completion of the development hereby approved.
  
6. Tree Protection  
Prior to the commencement of the development and any demolition on the site, the trees on the site identified as being retained on the approved plans, shall be protected in accordance with the measures set out in the submitted arboricultural statement prepared by Ecourban Ltd (Ref: 11234-AIA) submitted with application 11/01870/F. The tree protection measures shall remain in place on the site until the completion of the development hereby approved.

#### **CONDITIONS TO BE DISCHARGED PRIOR TO THE COMMENCEMENT OF THE DEVELOPMENT**

7. Materials (schedule/sample)  
Prior to the commencement of the development, a schedule of materials and finishes which shall include the submission of samples of walling and roofing materials, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.
  
8. Landscaping Details  
Prior to the commencement of the development hereby approved, a scheme for landscaping the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include:
  - a) Details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas.
  - b) Detail of tree planting including planting pit dimensions and surfacing treatment.
  - c) Details of the existing trees and hedgerows to be retained together with those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest hedge of any excavation.
  - d) Details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.
  
9. Refuse/Storage Details  
Prior to the commencement of the development hereby approved, full details of all refuse and storage areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the refuse and storage areas shall be constructed in accordance with approved details prior to the first occupation of any of the units hereby approved.

10. Lighting Details  
Prior to the commencement of the development hereby approved, full details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the lighting shall be installed and retained in accordance with the approved details.
11. Enclosure Details  
Prior to the commencement of the development hereby approved, full details of the enclosures along all boundaries and within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter such means of enclosure shall be erected and retained on site in accordance with the approved details prior to the first occupation of the development hereby approved.
12. New Footpath Details  
Prior to the commencement of the development hereby approved, full details of the on site pedestrian and cycle route improvements shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the improved routes, shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and all ancillary works specified therein shall be undertaken prior to the first occupation of the development hereby approved.
13. SUDS  
Prior to the commencement of the development hereby approved, a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the scheme shall be implemented in accordance with the approved details prior to the first occupation of the development hereby approved.
14. Surface Water/Foul Drainage  
Prior to the commencement of the development hereby approved, a detailed scheme for the surface water and foul drainage of the development shall be submitted to and approved in writing by the Local Planning Authority. The approved surface water drainage scheme shall be carried out prior to the first occupation of any building works to which the scheme relates the approved foul sewerage drainage scheme shall be implemented prior to the first occupation of any building to which the scheme relates. All drainage works shall be laid out and constructed in accordance with the current British Standards and Building Regulations.
15. Temporary Cyclist/Pedestrian Route

Prior to the commencement of the development hereby approved, a temporary replacement route for the existing public footpath/cycleway which crosses the site shall be provided, constructed and surfaced in accordance with full details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the temporary replacement route shall remain open throughout the entire construction phase, until such time that the permanent public right of way diversion has been brought into force and its route constructed, surfaced and opened.

16. Air Quality Assessment

Prior to commencement of the development hereby permitted, an Air Quality Assessment shall be undertaken by a competent person and shall be submitted to and approved in writing by the Local Planning Authority.

17. Air Quality Mitigation

Prior to the commencement of the development hereby approved and where required as a result of the Air Quality Assessment approved under condition 16, a scheme for the protection of residents within the nearby Air Quality Management Area shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the measures of the protection scheme shall be implemented prior to the first occupation of the development hereby approved.

18. Construction Traffic Management

Prior to the commencement of the development hereby approved, a Construction Traffic Management Plan providing full details of the phasing of the development shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include wheel washing facilities, a restriction on construction and delivery traffic during the construction works and a route to the development site. The approved Plan shall be implemented in full in accordance with the approved details during the entire construction phase.

19. Advertising Strategy

Prior to the commencement of the development full details of a strategy for signage and advertising for the entire development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the signage for each unit shall be submitted for approval in accordance with the approved strategy.

20. Demolition

Prior to the commencement of the development, the buildings and structures on the site at the date of this permission shall be demolished and the debris and materials removed from the site unless they are to be recycled and used as part of the construction phase.

21. Land Contamination (carrying out remediation)

Prior to the first occupation of the development hereby approved and if remedial works have been identified in condition 2, the remedial works shall be carried out in accordance with the scheme approved under condition 2 and a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority.

22. Waste Bin Details

Prior to the first occupation of the development hereby approved, suitably located waste bins within the external pedestrian circulation areas for use by the public shall be installed and thereafter retained in accordance with full design details to be firstly submitted to and approved in writing by the Local Planning Authority.

23. Access Works

Prior to the first occupation of the development hereby approved the proposed access works between the land and the highway as indicated on drawings numbered 110071\_SK\_23 and 110071-A-01 submitted with application 11/01870/F shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified therein shall be undertaken.

24. Off Site Highway Works

Prior to the first occupation of the development hereby approved the proposed off-site works between the land and the highway as indicated on drawing numbered 110071-A-03 submitted with application 11/01870/F shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified therein shall be undertaken.

25. Vision Splays

Prior to the first occupation of the development hereby approved, full details of the vision splays within the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the vision splays shall be formed, laid out and constructed in accordance with the approved details and the land and vegetation within each vision splay shall not be raised or allowed to grow above a maximum height of 0.9metres above carriageway level.

26. Parking Areas

Prior to the first occupation of the development hereby approved, the parking areas, which shall include 591 car parking spaces, shall be constructed, surfaced, laid and marked out, drained and completed in accordance with specification details to be firstly submitted to and approved in writing by the Local Planning Authority.

27. Cycle Parking

Prior to the first occupation of the development hereby approved, covered cycle parking facilities, which shall include 146 cycle parking spaces (73 Sheffield stands) shall be provided on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities so provided shall be permanently retained and maintained for the parking of cycles in connection with the development.

28. Provision of routes for replacement public rights of way  
Prior to the first occupation of the development hereby approved, the routes for replacement public rights of way shall be formed, laid out, constructed and made fully open for public use in accordance with full details (to include all ancillary works) to be firstly submitted to and approved in writing by the Local Planning Authority.
29. Car Parking Management Plan  
Prior to the first occupation of the development hereby approved a car parking management plan which shall include details of overall management, hours of operation, security and management at peak trading times, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the car parking on the site shall be managed in accordance with the approved details.
30. Shuttle Bus Advertising  
Prior to the first occupation of the development hereby approved a scheme advertising the shuttle bus service to Banbury Town Centre shall be installed on the site in accordance with full details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the advertising scheme shall be retained on site.
31. Bird/Bat Boxes  
Prior to the first occupation of the development hereby approved, bird nesting boxes (including boxes suitable for swifts) and bat boxes shall be installed on the buildings/site in accordance with full details to be first submitted to and approved in writing by the Local Planning Authority.
32. Wildflower Grassland  
Prior to the occupation of the development hereby approved, full details of the creation and management of the wildflower grassland shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the wildflower grassland areas shall be planted in accordance with the approved details during the first planting season following the first occupation of the buildings hereby approved.

#### **COMPLIANCE ONLY CONDIITONS**

33. Time Limit  
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.
34. Plans Condition



Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: application forms, design and access statement (rev B), flood risk assessment and addendum and drawings numbered:

Changed drawings for 13/01948/F

8842-P147 A Site Plan

- 8842-P148 Existing & proposed Overlay
- 8842-P149 Proposed Aerial overlay
- 8842-P150 Block Plan
- 8842-P144 B Ground floor units 1, 2, 14 & 3
- 8842-P145 B First floor units 1, 2, 14 & 3
- 8842-P146 A Roof plan units 1, 2, 14 & 3
- 8842-E110 B Elevations units 1, 2, 14 & 3
- 8842-S108 B Section units 1, 2, 14 & 3
- 8842-P141 B Ground floor units 8-10
- 8842-P142 D First floor units 8-10
- 8842-P143 C Roof plan units 8-10
- 8842-E109 B Elevations units 8-10
- 8842-S107 A Section units 8-10
- 8842-P130 A Ground floor units 4-5
- 8842-P131 Roof plan units 4-5
- 8842-E108 A Elevations units 4-5
- 8842-S106 B Section units 4-5

Drawings numbers unchanged from original approval but revised as part of submission:

- 8842-E100 D Elevations unit 11
- 8842-E105 D Elevations unit 12 & 13
- 8842-L001 F Site location plan
- 8842-L009 D Existing site survey
- 8842-P102 D Ground floor unit 11
- 8842-P103 C First floor unit 11
- 8842-P104 E Roof plan unit 11
- 8842-P111 F Ground floor unit 12 & 13
- 8842-P112 C First floor & Roof plan units 12 & 13
- 8842-S100 F Sections unit 11
- 8842-S104 A Section units 12-13

35. Footpath Hedge Height

The new boundary planting to be provided along the diverted footpath/cycleway between the car park and the footpath shall be made up of plant species which grow no higher than 0.9m in height.

36. BREEAM

The development hereby approved shall be constructed to at least a BREEAM 'Very Good' standard under the appropriate BREEAM scheme as registered by the developer with the BRE.

37. Carrying out of Landscaping Planting

All planting, seeding and turfing comprised in the approved details of landscaping, shall be carried out in the first planting and seeding seasons following the occupation of the buildings or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a periods 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.

## **RESTRICTIVE CONDITIONS**

38. Subdivision  
The retail units hereby approved shall not be subdivided to provide any more than 15 A1 retail units on the site and no A1 retail unit shall be subdivided to less than 465 square meters in ground floor area.
39. Amalgamation  
The A1 retail units hereby approved shall not be amalgamated with the A3 units indicated as Units 3, 4, and 5 on drawing numbered 8842-P-101E and the A1 retail units shall not be amalgamated to provide any more than THREE A1 retail units exceeding 1,800 sqm (GIA at ground floor level).
40. No Convenience Goods  
Other than from unit 11 as indicated on drawing numbered 8842-P-101-E, no more than 5% of the GIA of each A1 retail unit shall be used for the sale of convenience goods.
41. Convenience Goods Restriction Unit 11  
No more than 15% of the total floorspace of Unit 11 (including floorspace at mezzanine level) shall be used for the sale of convenience goods.
42. No COU  
The A3 units hereby approved (Units 4 and 5) shall be used only for the purposes falling within Class A3 specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 together with the sale of ancillary A1 and A5 goods, and for no other purpose(s) whatsoever.
43. No Extensions  
Notwithstanding the provisions of Classes A and B of Part 42, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 and its subsequent amendments, the approved buildings shall not be extended or altered and nor shall any trolley stores, other than those indicated on the approved plans, be erected or constructed within the curtilage of each unit.
44. No Outside Storage

Prior to the occupation of each building hereby approved all goods, materials or plant to be stored or displayed in the open shall be provided in association with each unit in accordance with full details to be submitted to and approved in writing by the Local Planning Authority and other than in accordance with the approved details no other goods, materials or plant shall be stored or displayed in the open.

45. Floorspace

The total floorspace permitted in this development shall not exceed 26,507 sq. metres

The meeting ended at 5.02 pm

Chairman:

Date: