

# Land SW of Bicester Village adjoining 12/01193/F A41, Oxford Road, Bicester

**Ward:** Bicester Town

**District Councillor:** Cllr Mrs D Edwards  
and D M Pickford

**Case Officer:** Rebecca Horley

**Recommendation:** Approval

**Applicant:** Tesco Stores Ltd/Browne Family Trust c/o agent

**Application Description:** Proposed foodstore with associated car parking, petrol filling station with car wash/jet wash, recycling facilities, ancillary plant and equipment, landscaping, access and highway works

**Committee Referral:** Major application

## 1. Site Description and Proposed Development

- 1.1 This 4.2 hectare site is located approximately 1.5km southwest of Bicester town centre on the south east corner of the main A41 roundabout with Oxford Road to the west of the site and Aylesbury Road (Bicester Southern by-pass) to the north. To the south and east of the site is agricultural land. The site is a relatively uniform, rectangular site sloping gently upwards towards the east side with mature high level hedgerows at the boundaries with the main roads.
- 1.2 Aylesbury Road separates the site from Bicester Village and the existing Tesco store to the north both of which are a retail use. Other adjacent land uses include the service area to the west which has a petrol filling station and fast food outlet with associated parking, beyond which is the Kingsmere residential development. Vehicular access to the site can be gained directly off the south bound side of the A41 Oxford Road. There is also a public footpath which skirts the north western corner of the outside of the site and another one which crosses within the corner of the site but which is not used.
- 1.3 The application proposes 8,135 sqm gross internal area (GIA) of retail (convenience and comparison goods) which amounts to 5,151 sqm of net sales area store together with associated service yard and dot com facilities, an 8 pump petrol filling station and 600 car parking spaces. It is proposed that the store is sited towards the eastern side of the site with car parking at the front of the store. The siting of the petrol filling station has recently been amended to be sited at the northwestern side of the site where there is proposed to be a wide strip of landscaping along the west boundary. The site entrance is proposed off the Oxford Road as part of substantial new junction works which are also included in the application. The proposed Tesco at this site will replace the existing Tesco next to Bicester Village.
- 1.4 The site is currently undeveloped being used as arable agricultural land. The site is constrained by its archaeological interest and it has also been determined that the development proposed on this site represents a proposal which requires the submission of an environmental impact assessment (EIA).

- 1.5 This application is inherently connected to the current application by Bicester Village for an extension there onto the existing Tesco site (application 12/01209/F refers). To enable the delivery of the Bicester Village extension, the Tesco application must also be approved. Notwithstanding this, the merits of each application need to be considered separately as both independently promote additional retail on out of centre sites.
- 1.6 This application was deferred at the previous Planning Committee (6 December 2012) to enable an assessment, of the significant amount of additional information received, to be appropriately considered and reported. As a consequence comments were also awaited from CBRE and from OCC Highways and regarding section 106 matters.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of site notices placed at the site entrance and at both ends of the public footpath which crosses within the north western corner of the site on 6th September. A press notice was also published on that date. The final date for comment on this application was 27 September 2012. The applicants also undertook their own publicity through the local press and public exhibitions, the details and comments on which are available online. .
- 2.2 14 individual letters/emails of representation has been received supporting the proposal and some of these are linked to the Bicester Village extension application (12/01209/F). Full details are available electronically via the Council's website but the following is a summary of the relevant material planning considerations that were raised:
- Bicester is a growing town and needs a bigger Tesco than the existing one.
  - This application represents an opportunity to improve the local roads around Bicester Village
  - Tesco's have not been allowed to extend in the past and we need a larger store with more choice
  - More jobs will be available for Bicester
  - There will be less congestion for shoppers and through traffic
  - A better Tesco will cut down on traffic and pollution as people will no longer have to travel to better stores in Banbury, Aylesbury, Buckingham or Kidlington
  - A better Tesco will enable them to compete fairly with the new Sainsbury's
  - A better Tesco will attract more customers to Bicester and in turn boost trade to other shops in Bicester
  - Bicester desperately needs a larger supermarket, especially with the expansion of the south of Bicester and the planned eco village.
  - The existing Tesco has been too small for years.

Amongst the letters of support some 'concerns' have been raised, as follows:

- Uncertain as to how the linked traffic signals will work in practice

- More improvements to the proposed junction are required to allow traffic to flow better.
- Would wish to see a footpath/cycleway from Bicester Town station following the route of the railway line and emerging beyond the A41 bypass linking to Langford Village, the new Tesco and business park.
- A proper link between the new stores should be provided (eg a underpass) for pedestrians

One letter of objection has been received from a local resident stating highways grounds. The additional junction will result in increased traffic conflict, delay and congestion because of its proximity to the Esso and Kingsmere accesses. The site access proposed is essentially the same as the 06/02510/F application but the level of traffic would be far greater than the office/hotel use particularly at weekends which coincide with the Bicester Village traffic. The result will be to reverse any gains from the road improvement proposed. The site access must be re-routed southwards within the overall Business Park site so as to emerge onto the A41 by the Kingsmere access. Otherwise the scheme is acceptable. There comments were made at the exhibition but didn't feature in the Statement of Community Involvement.

- 2.3 A letter of support has also been received from agents acting on behalf of the Brown Family Trust who are owners of the Bicester Business Park site expressing support for their application. Since gaining permission in October 2010 for the business park, market conditions have made it difficult to progress the development due to a lack of bank funding available for vital infrastructure. The Tesco relocation, if approved, would 'pump prime' the site using only 4.17 ha of the whole 15.2 ha site. The Bicester Village proposal would make beneficial use of the vacated site and deliver significant highway improvements. Many hundreds of jobs will be generated and are more likely to be realised. No office floorspace will be lost because there is commercial interest in 3.7ha of land to the south west of the approved business park.
- 2.4 A letter of objection has been received from agents acting on behalf of freehold owners of the Westgate Centre in Oxford city centre. The application site is located within the proposed Bicester Business Park site which is allocated for employment/office use in both adopted and emerging policy documents and has the benefit of an outline planning permission for office-led development. Unlike the Bicester Village proposal (on the site of the existing Tesco store) emerging policy does not support retail use at this location (regardless of the proposed convenience/comparison mix – identified to be 60% 40%). A detailed review of the retail assessment is required. Should the Council be minded to grant planning permission it is requested that the comparison retail goods sold at the store are appropriately restricted on the basis of the application site's out of centre location and the need to enhance the vitality and viability of Bicester town centre.

Comments received since the previous report to last Committee (6 December 2012)

- 2.5 Representation received 26.11.2012 from Turley Associates on behalf of Sainsbury's Supermarkets Ltd objecting to the application. The objection is supported by a report by WSP critiquing the Transport Assessment submitted with the application. The representation is summarised below:

Although 'need' no longer forms a specific policy requirement of the NPPF retail capacity is still a factor when applying the sequential approach and when assessing impact. The applicants have not demonstrated why a store of the scale proposed is required. Cherwell District Council's retail study shows there is no quantitative or qualitative need. The new Sainsbury's will address Tesco's current overtrading problem (if there is one). Furthermore the recently submitted Sainsbury's application for a larger mezzanine in the new store will enable an improvement further addressing any overtrading problem and encouraging more expenditure in the town centre. The significant benefits of Bure Place for the long term vitality and viability of the town will not be realised. *"Whilst it is acknowledged that this [Sainsbury's application] was submitted after the Tesco application, the implications of this additional floorspace needs to be considered fully by the Council in determining the likely effects of the new Tesco store"*. As there is a lack of retail need, the application is premature as trading patterns need to settle down and that will take at least 12 months from the opening of the new Sainsbury's.

The proposal has not satisfied the sequential test. PPS4 guidance states that operators should demonstrate why a smaller store could not meet a similar need.

The investment by Sainsbury's in the town centre will be directly impacted upon alongside other town centre businesses and investment. The findings of the householder survey should be treated with caution as they tend to overstate the role of large stores and underplay the role of smaller stores. The applicant under estimates the proportion of the proposal's turnover being derived from Bicester, the potential turnover of the new Tesco, how much of the new Sainsbury's turnover is derived from the existing Tesco store and the expected turnover of the new Sainsbury's. All this means that the turnover of the existing Tesco post the opening of the new Sainsbury's will be overstated which would suggest a lesser impact on the town centre when the new Tesco opens. The submitted study also incorrectly assumes that none of the turnover will come from Bicester town, except the Sainsbury's and other turnover will come from like for like stores in surrounding towns.

The site is allocated as a strategic employment allocation in the proposed submission local plan and it was previously allocated in the non-stat plan. The proposal does not meet with the criteria of Policy SLE1 of the Cherwell Local Plan Proposed submission so is contrary to that policy. Furthermore the Tesco would prejudice the planning permission for the business park. The Tesco will take up 38% of the site rather than the 18% they quote. You should not refer to the illustrative plans as these are misleading. There will be a loss of employment land and the planning permission for the business park will be prejudiced by the proposed Tesco occupying a large part of the site.

The highway mitigation is not necessary to make the development acceptable in planning terms, directly related to the development or fairly or reasonably

related in scale and kind to the development contrary to the NPPF. The application fails to demonstrate the improvements can be undertaken within the transport network. There are a number of technical issues with the submission, addressed by WSP.

If approved the planning permission should be conditioned to restrict the amount of comparison retail goods and that the existing Tesco should close. The development should also be subject to an agreement to ensure that it is phased so that the rest of the business park will actually come forward.

- 2.6 Representation received 26.11.2012 by WSP objecting to the application in support of the Turley's submission. A report was submitted entitled – Critical Review of Transport and Representation on Behalf of Sainsbury's Supermarkets Ltd. This representation is also summarised below:

It is evident that the proposed BV application proposes a scale of highway mitigation which is not necessary to make the development acceptable in planning terms, directly related to the development or fairly and reasonably related to the development. This is contrary to NPPF which sets out the test to be applied.

The application/s do not assess, identify or secure appropriate mitigation to offset the impact of the proposed development in isolation. The application therefore, does not demonstrate that improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development contrary to the NPPF.

We have identified a number of technical issues namely an increase in delay of the local road network with the proposed development in place, approach to local road network changes, unjustified reduction in background traffic flows, congestion at Middleton Stoney Road/Oxford Rd junction, issues in the detailed Linsig modelling and an inappropriately high base scenario.

The applications as currently submitted propose mitigation which is not necessary to make the development acceptable in planning terms, directly related to the development or fairly and reasonably related in scale and kind to the development, do not secure appropriate highway mitigation and are likely to have underestimated the detrimental impact of the proposed development.

The proposal/s will not be consistent with local policies identified in the draft local plan and Bicester Masterplan. The proposal will not benefit the growth of the town centre by improving connections for pedestrians or cyclists or by providing a link to Bicester Town Railway station. Policy seeks to integrate new retail around the town centre to strengthen the retail environment to provide vibrant and sustainable centres.

WSP provide an alternative scheme that will deliver the general requirements of the developer without the need to include the neighbouring Tesco land. Retail facilities can extend towards the north eastern end of the site. This would be more policy compliant and deliver aspirations and benefits. Four alternative access options are put forward which are likely to provide better traffic conditions than those occurring at present.

- 2.7 Martin Harvey (freeholder of the old Lear building on the corner of Bessemer Close and Launton Road) objection received 30.11.2012 relating to both Tesco and Bicester Village. These proposals will affect my site and others in the town. Both Asda and Waitrose believe that there is available capacity but consider that the Tesco is so large it would dominate the town so both have pulled out of the Bicester market.
- 2.8 Letter received on 30.11.2012 from the agent (Burnett Planning) for Tesco in response to the objections made by Sainsbury's raising the following points:

It is unclear what Turley's means in stating that Sainsbury's will pursue their objection vigorously but this may be intended as a veiled reference to Sainsbury's potentially seeking a judicial review of a decision by the Council to approve this application.

Under Section 38(6) of the Planning and Compulsory Purchase Act 2004 the determination of the application must be made in accordance with the development plan unless material considerations indicate otherwise. Sainsbury's allege conflict with the draft policies SLE1 and SLE2. Full weight cannot be given to these policies and anyway there is no significant conflict. And even if the Planning Committee considers there is conflict other material considerations including the NPPF and the benefits of the proposal outweigh any conflict. There is no conflict with the development plan.

The Sainsbury's 'loss of employment land' objection based on draft policy SLE1 is not well founded as they ignore other material considerations such as the site specific policy Bicester 4 which enables the Council to consider appropriate complementary uses that will help secure B1 office space. The proposed foodstore will facilitate the business park site through provision of site access and internal access road. The extant planning permission includes a hotel so the proposed foodstore is not wholly on B1 land. The proposed foodstore is an employment generating use in its own right and there is no evidence that the proposal will have a significant adverse impact on employment land including land available for B1 use.

Sainsbury's make repeated reference to lack of need and under the NPPF there is no requirement for the applicant to demonstrate need in order for it to be acceptable. The NPPF requires the development plan to allocate sites to meet retail needs in full. The development plan in this case is out of date. The draft local plan policy SLE2 is also inconsistent with the NPPF and can be afforded limited weight as it seeks to impose a need test on proposals for retail uses outside town centres. The application should be considered against para 14 of NPPF. Para 27 of the NPPF identifies the appropriate retail impact and sequential tests.

The draft 2012 retail study identified convenience goods capacity in the district of 4,669sqm net at 2017 and 5,772 sqm at 2022 allowing for commitments (i.e. including Sainsbury's) and identified comparison goods capacity of over 19,000 sqm net by 2022 i.e. there is sufficient capacity for the Tesco and Bicester Village application proposals.

Sainsbury's ignore that the replacement Tesco store will address longstanding qualitative issues arising from overtrading, the ability of the store to stock the range of goods that Tesco customers want access to and the general quality of the shopping environment in the store, which have been raised in the pre-app consultation exercise.

The Sainsbury's 12 November 2012 mezzanine extension application is a material consideration having regard to the NPPF i.e. the impact of the Tesco and Bicester Village application proposals on planned investment in the town centre and the sequential approach.

However, Sainsbury's application does not present a material change in circumstances in respect of the sequential approach and retail impact conclusions in this case because:

- The 2012 Retail Study identifies sufficient capacity for the Tesco and Bicester Village application proposals and the Sainsbury's application proposal.
- There is no evidence that the applications would have a significant adverse impact on or would prejudice the planned investment by Sainsbury's in an extended mezzanine floor.
- The planned investment by Sainsbury's in an extended mezzanine floor is a positive response to competition and will further strengthen the town centre if approved.
- Sainsbury's mezzanine extension does not mean the proposed replacement Tesco store will have to find more of its turnover from elsewhere, it just means that the proposed replacement Tesco store may have a lower turnover. This is a simple matter of competition and has no adverse implications for the town centre.
- The qualitative benefits of the Tesco proposal cannot be met by the Sainsbury's store either as currently permitted or as proposed to be extended. The Sainsbury's mezzanine extension proposal does not therefore alter the robust conclusions already reached in this case i.e. that there are no sequentially preferable sites available in or on the edge of the town centre suitable to accommodate the Tesco proposal (or for that matter the Bicester Village proposal).

There is nothing in Sainsbury's Highway related objections that causes the applicant's transport consultant to amend the conclusions of the TA or to reconsider the need for the proposed highway works. These works have correctly been considered by CDC and OCC to be acceptable and necessary.

There is nothing in Sainsbury's objections that has not been properly addressed by the applicants and by the LPA and the Planning Committee can and should exercise its planning judgment in this case.

- 2.9 The above submission was supported by a technical highway note from Waterman Transport and Development Ltd (WTD) in response to the Sainsbury's objection raising the following points:

WTD produced the TA for Tesco Stores Ltd in support of the application. This is linked to the Bicester Village scheme which cannot expand until the Tesco store is built and business has transferred to the new store. The TA takes this into account. The County agreed all relevant information such as trip rates, traffic distribution, which highway networks to consider, types of improvement required etc. There is traffic congestion at Bicester Village and Tesco particularly at weekends and bank holidays and all parties agree that the existing situation is unacceptable given the importance of the A41 route to Bicester from the south.

With regard to the criticism that the highway proposals are at “a scale not necessary to make the development acceptable in planning terms, directly related to the development or fairly or reasonably related in scale and kind to the development”, it is clear that a comprehensive solution would be required to adequately accommodate both developments and anticipated traffic growth and deal with the unacceptable traffic problems which currently exist.

There is no intention for the Tesco relocation to go ahead in isolation as it is intrinsically linked to the Bicester Village extension so the highway works are combined. The highway works will need to be phased to do the Tesco first so the access to the Business park will operate for a short time alongside the existing situation.

There is also criticism from Sainsbury's traffic consultant that our trip rate data is wrong and that the impact on traffic will be higher than we predict. This conflicts with what they also say in that the works we propose are not necessary, not reasonable, out of scale and not directly related. If anything this latter argument serves to prove the even greater need for the works.

- 2.10 Letter copied to the department from London & Metropolitan jointly for Bicester Village and Tesco received on 3.12.2012 addressed to Members in support of the applications. The proposals will deliver an extended Bicester Village, significant highway improvements and relocation of the Tesco. Although separate, the applications are inextricably linked and dependent upon each other. Neither can proceed without both being approved. This is a vote of confidence in Bicester. There will be highway improvements to alleviate traffic congestion which can only be provided if Tesco relocate. The Tesco is over 20 years old and needs replacing with a larger store. The Tesco will provide the essential infrastructure for the business park leading to 3,000 new office jobs. Tesco will be providing 250 new jobs and the Bicester Village, 500 new jobs helping the local economy. There is overwhelming public support for these proposals. The proposals will allow for the creation of a park and ride further reducing congestion to Bicester and encouraging the establishment of other public services. These proposals are an important part of the town infrastructure necessary to meet the future housing growth.
- 2.11 17 letters of objection mostly from business in the town centre were sent to Councillors and copies were received by the Department on 06.12.2012 (date of previous Committee). There are mostly standardised letters raising the following points:



- the development will have a negative impact on the town centre and the Council has been promoting the town centre development for the past 10 years
- the redevelopment of the town centre has not been completed or given a chance to establish itself
- The proposal/s, with the benefit of free parking, will reduce the attractiveness of the town centre development scheme and the town centre as a whole
- Reduced footfall in the town will harm the centre and affect businesses which are struggling in this difficult economic climate
- Changing the town centre boundary up to Bicester Village (a feature of the strategy for Bicester) would mean that any future retail development would not need to satisfy government tests designed to protect the town centre. This has not been discussed with traders.
- The Council should consider 2 hours free parking
- Other than providing employment for the town Bicester Village does little else
- Traders are already disadvantaged by towns such as Witney, Thame and Kidlington which benefit from free parking.
- Recent trials have shown that free parking has proved to be beneficial to the town
- The proposal/s will make the traffic situation in Bicester worse
- The Council should protect its investment in the town.

2.12 A copy of a letter dated 4.12.2012 and sent to Councillors was received by the Department on 6.12.2012 (date of previous Committee) from Sainsbury's objecting to the proposal/s. The following issues are raised:

- The combined scale of the proposals, lack of retail capacity and issues raised in our objections suggest that the application/s should not be approved.
- The application/s are contrary to planning policies to protect town centres and the Council's longstanding encouragement of the town centre redevelopment.
- The Council's retail studies show insufficient retail capacity to support further retail out of Bicester town centre.
- We have submitted an alternative Masterplan showing how Bicester Village could be extended to improve links to the town using Bicester Village's own land. This is a more sustainable planning option for Bicester and should now be part of the planning policy process.
- Sainsbury's has been in partnership with Cherwell District Council for many years to jointly deliver a complex town centre redevelopment which would be undermined by these approval/s.
- New units may remain vacant for some time.
- There will be a major impact on the commercial viability of the Sainsbury's store such that *"we will not take the decision to commence fit out works and open for trade until the outcome of the planning applications is clear."*

2.13 A letter of support was received from a local resident on 11.12.2012. The objections from Sainsbury's are astounding. Myself and many other residents recognise the terrible traffic jams caused by Bicester Village and we finally have a solution. The developments will provide a pleasant approach to our

town and the infrastructure will be put in place before any of this happens. Bicester Village is doing all it can to ease traffic and provide a more permanent solution as soon as possible. Bicester is more than capable of sustaining another large supermarket or is Sainsbury's frightened of competition? Cherwell must not bow to pressure from Sainsbury's and they should not be allowed to dictate when the infrastructure is put in place.

### 3. Consultations

- 3.1 Bicester Town Council: No objection to the proposal but reservations with regard to traffic issues which should be satisfactorily resolved particularly to the siting of the development; the store should be of iconic design as it forms part of the gateway into Bicester, landscaping between the car park and road should be sufficient to conceal/hide the car parking from the main road and links with other developments and the town should be consistent with the masterplan. Also we would ask that further consideration be given to the size of the store as we believe it exceeds requirements.

#### Cherwell District Council Consultees

- 3.2 **Head of Strategic Planning and the Economy (Planning Policy):**  
Bicester town centre is defined by Policy S12 (Inset Map 5) in the Non Statutory Cherwell Local Plan 2011. The Proposed Submission Local Plan (2012) identifies land for an extended town centre as set out by Policy Bicester 5 which specifies this should be the location for shopping, leisure and town centre uses.

*Paragraph 24 of the National Planning Policy Framework (NPPF) states that 'local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered'.*

*Paragraph 26 of the NPPF states that 'When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m)'.*

In relation to this application the applicant should fulfil these requirements in the NPPF. CBRE have undertaken a Critique of the Planning and Retail Assessment undertaken by the applicant and a further assessment following representations and an application received for a mezzanine extension to the Bure Place Sainsbury's store. CBRE conclude that the requirements of the sequential test have been satisfied and the impact of the application proposals will not be significant.

Given the location of this proposed foodstore towards the southern edge of the town, it is critical that the connectivity of the site through to the town

centre is strengthened for pedestrians and cyclists and proposals meet the accessibility and sustainability requirements of Policy SLE2 in the proposed submission Plan.

Paragraph 23 of the NPPF states *'Local planning authorities should undertake an assessment of the need to expand town centres to ensure a sufficient supply of suitable sites'*

The Council's draft Retail Study (recently published on the Council's website in October 2012) identifies a need for convenience floorspace (allowing for overtrading) and comparison floorspace in the District over the Local Plan period to 2031. It states that Banbury offers the greatest opportunity to accommodate new floorspace but some comparison floor space should be directed to Bicester town centre. It separately suggests that until the Bure Place development is completed, there is no need to bring forward an additional foodstore in Bicester, although this should be reviewed once the Sainsbury's store has opened and trading patterns have settled.

Policy EMP1 in the adopted Cherwell Local Plan states that employment generating development will be permitted on sites shown on the proposals map. The site for the proposed foodstore is not identified in the Cherwell Local Plan and currently is in agricultural use. The foodstore would be on land allocated in the Non-Statutory Cherwell Local Plan 2011 for B1/B2 employment uses and in the Proposed Submission Local Plan (2012) for 'high quality' B1 uses. The application for the proposed foodstore is therefore contrary to Policy EMP1 in the Local Plan and in the Non-Statutory Local Plan and Policy Bicester 4 in the Proposed Submission Local Plan (2012). The jobs that would be created by the foodstore will not be of the type specified in the Local Plans. Policy SLE1 in the Proposed Submission Local Plan (2012) states that sites identified in the Plan will accommodate the type of employment specified and sets out the criteria for changing the use of an employment site.

The NPPF states that *'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities'*.

The viability and deliverability of the existing planning permission should be considered and it is not clear that the need for a foodstore or its benefits in this location are greater than the need for or benefits from high quality B1 jobs, formed by the existing planning permission. Despite this, as highlighted in the applicants Planning and Retail Statement, the foodstore would create new jobs in Bicester and the application area (4 hectares) only covers a small part of the allocation in the Local Plan (29 hectares) and of the total land identified for employment in the Proposed Submission Local Plan (2012).

### **3.3 Head of Strategic Planning and the Economy (Design and Conservation):**

An ongoing discussion has been had with the developer's representatives for this site. This has included the presentation to the South East Design Review Panel which took place on 22<sup>nd</sup> October 2012. This had led to some positive changes in the design approach but it is considered that further changes should be undertaken to improve the design and setting of the building and the long term sustainable growth of Bicester itself.

The development of Tesco is interdependent on the relocation of the existing store from Pringle Drive. This supports the extension of Bicester Village. It is important that the development proposals for both sites consider this interrelationship in terms of pedestrian movements and the provision of high quality safe connections to the Town Centre.

#### Site Character and Context

The site is located in a critical landmark location within Bicester, located on a key junction that links the M40 and the A34 with Bicester Town Centre.

- Development on this site needs to support the objectives as set out in the Local Plan and Bicester Masterplan. No analysis has been set out explaining how the site relates to the town and its future growth which is set out in the local plan and Bicester Masterplan.
- There is limited site analysis set out within the Design and Access Statement. The Council would expect to see information relating: to the site topography, hydrology, ecology and planting, the movement network and local character. Given the scale and form of development it is considered that these issues are important to consider as part of the development proposals.

#### The Brief and Development Approach

The brief and proposals represent a significant challenge to the Council, in terms of the land use and building form.

The brief for a large scale supermarket and associated parking, landscaping and servicing. This brief makes it difficult for the site to have a presence onto Oxford Road or form any kind of gateway feature to the town.

#### Conceptual Approach

- Discussion was had with the representatives of Tesco regarding ways that the site layout could be tweaked. Options such as bringing the building form forward, or bringing other functions onto the site, for instance wrapping the building in part with offices / commercial development were discussed. These options were discounted by Tesco as not being appropriate with their brief.
- One of the issues that is critical to promote in Bicester sustainable modes of transport and making the main store as accessible as possible is therefore seen as being critical. The layout as shown sets the store back 220 meters into the site from the Oxford Road (A41), limiting the pedestrian accessibility of the site.
- The location of the petrol station has been shifted to the north west of the site to reduce its visual impact from the Oxford Road

#### Movement Network

While it is appropriate that a large area of the scheme is given over to vehicular movement, we would expect to see a better approach to pedestrian movement. This applies to those who have arrived by car and those who

have walked to the site from elsewhere. While the amended plans show a footpath running east – west through the car park is appreciated, there are a number of areas where ease of pedestrian movement could be improved. In particular:

- Providing safe and attractive connections to Bicester Town Centre (this would require a coordinated approach with Bicester Village and their planned expansion).
- A safe crossing point between the carpark and main roundabout to support connections to the SW Bicester urban extension.
- Safe crossing points to the proposed business park to the south of the site should be installed. This should include provision for pedestrian movement to move directly south of the store, where landscaping is currently shown.
- Information showing the character, materials and scale of streets should be provided?

### Buildings Design

- While the overall height of the building is limited, the massing and form of the building are, due to the nature of the floor plan are large in scale.
- The building is simply conceived and fenestrated and sits back from view. There is nothing in the building form, fenestration and detail that provide a landmark setting.
- The majority of the building is timber clad. Some discussion was had about the long term durability about timber on a building of this scale. There is some concern about how the building might look in 10 – 15 years time and how different areas of the building will weather.

### Sustainability

The building has been designed with consideration to simple sustainable approaches / mechanisms.

- The use of passive ventilation systems, where air is drawn in at the foot of the building into the roof where stack ventilation panels draw air through the building was discussed. However, within the Design and Access Statement makes reference to an 'air tight' building within the design section, making no reference to passive ventilation.
- The front (west) façade has been designed with curtain wall glazing to support natural light penetration into the store. The side elevations will also utilise clerestory glazing.
- The use of rooflighting was also discussed, allowing light to penetrate deep into the plan. Though details of this are not contained within the Design and Access Statement.
- Also discussed was the use of energy efficient refrigeration units within the store. These will be specified when the store is built, so the latest technology can be utilised.

### Landscape and Public Realm

- There is a clear opportunity to integrate SUDS as part of the proposals and it is disappointing that a standard engineered approach to water management has been taken. Give the surface area of hard standing and built form this would be a positive attribute to the scheme.
- The quality of the public realm is weak, largely due to the car dominated spaces, some opportunities have been taken to improve this through landscape and planting.

- The opportunity to use the water feature as a public art feature was discussed. Further information is required on the public art strategy. To conclude, further consideration should be given to the site brief, design principles and layout.

3.4 **Head of Safer Communities, Urban & Rural Services (Landscape Architect):**  
No comments received.

3.5 **Head of Safer Communities, Urban & Rural Services (Arboriculture):**  
I agree with the arboricultural findings within the submitted arboricultural assessment and the categorisation of the existing trees on site.

Once agreed, the identified trees and hedgerows to be retained can be adequately protected throughout the construction process through a conditioned and agreed arboricultural method statement.

The proposed landscaping scheme identified within drawing 5042/ASP2 is generally acceptable however more detail is required on species, quantities, locations etc and although the boundary to the north of the site has depth and substance the boundaries to the south and east appear narrow in width and more open providing less habitat and screening.

The western boundary of the site contains the attenuation pond however more details regarding water plants is required and the tree planting around the pond area should have an increase in both quantity and species diversity.

The car parking area requires an increase in tree quantity in order to provide an increase in benefits for shade, temperatures, habitat, aesthetics etc. To achieve this, I would advise more linear planting in the remaining car parking bays and the addition of an avenue planting accompanying the pedestrian footpath through the car park.

All trees planted the car parking areas must be planted in either engineered load-bearing 'structured cell' planting pits (e.g. Silva Cell, Greenleaf etc) or in 'end of bay' shrub bed areas which containing the appropriate volume of soil required to assist the tree into achieving full development and maximum benefits.

3.6 **Head of Safer Communities, Urban & Rural Services (Ecology):**  
The proposed development will have minimal impact on wildlife. The surveys found no evidence of rare or protected species using the site. The landscaping plans show that the majority of new planting will consist of native species, so biodiversity may be enhanced on the site. It is proposed to create one or two areas of wildflower grassland. However, I could not find details on the species mix to be sown and how it will be managed to maintain its value. Also, there is no information on what species (if any) are to be planted in and around the new water body. This information could be submitted as part of condition/s.

There is potential for nesting birds to be present in the scrub along the A41 and in other wooded areas that will need to be removed, therefore an Informative regarding nesting birds should also be attached to any permission.

**3.7 Head of Safer Communities, Urban & Rural Services (Biodiversity and Countryside):**

Bicester Footpath No 6 is affected by the proposed development. The application includes a plan showing a proposed diversion of this path which would actually be a stopping up of a right of way as the proposed route already exists.

Policy R4 of the adopted Cherwell Local Plan states that “The Council will safeguard the existing public rights of way network. Development over public footpaths will not normally be permitted.” Policy R4 of the non-statutory Local Plan states “The Council will safeguard and, where possible, enhance the existing public rights of way network. Development over public rights of way will not be permitted unless a suitable diversion can be secured which will not prejudice public rights”.

The line of the existing path should be accommodated through the site and will provide an important pedestrian link, away from the dual carriageway, from the Kingsmere development to the new Tescos and beyond to the Bicester Village extension.

**Oxfordshire County Council Consultees**

**3.8 OCC Highways:**

Introduction

The new Tesco Store is to be located within the site boundary of the permitted Bicester Business Park development (access arrangements previously agreed), on land where an approved hotel site has been allocated and some of the consented office space (planning ref 07/01106/OUT). The existing Tesco Store off Pingle Drive will close once the proposed store is ready for first use. Once the new Tesco Store is open for business the redundant store is proposed to become part of the Bicester Village retail outlet centre, which is subject to a separate planning application ref 12/01209/F.

The proposed store is to have a Gross Floor Area (GFA) of 8,135m<sup>2</sup> with 600 parking spaces, which is a significant increase in floor area (and parking spaces) compared to the store’s existing GFA of 4,229m<sup>2</sup>. While such a development proposal will promote job opportunities for the town of Bicester, which is welcomed due to the current economic climate pressures, this planning application has to be assessed on its merits in terms of transport.

The application site is located on the eastern side of the A41 (Oxford Road) to the south of the A41 Aylesbury Road. The site is around 1.3km from the town centre of Bicester and approximately 300m south of the Bicester Village retail outlet centre and the existing Tesco Store.

Please note this planning application has been assessed along-side planning application 12/01209/F, as both applications are directly linked.

Summary of Transport Assessment (TA)

The proposed Tesco Store will be located within the permitted Bicester Business Park development, and will gain vehicle access to the local highway

network via a signalised junction onto the A41. The signalised junction access arrangement into the Bicester Business Park has already been approved by the Local Highway Authority when planning permission was granted for 07/01106/OUT.

The internal access arrangement proposed to serve the new store (and the business park) is to be in the form of a 4 arm roundabout located approximately 90m from the new traffic signals. The new store is to link up to the existing pedestrian and cycle network with on-site and off-site work improvements.

The submitted TA for this application is confined to the A41 and the application site's signalised junction to assess if the new junction to the new Tesco Store and business park has adequate capacity to serve the site. The TA also assesses the internal layout to ensure there are no tailbacks from the internal roundabout which would be a highway safety issue. The TA that has been submitted for planning application 12/01209/F is expected to pick up the remainder of the highway network and the proposed highway work improvements.

A review of the accident data for the area has been carried out, which found a number of incidents had occurred; looking at the information provided the incidents involved were down to driver error rather than the characteristics of the highway environment in the area.

A review of public transport, pedestrian and cycle accessibility has been undertaken. A Framework Travel Plan for the site is proposed.

#### Transport Assessment (TA) Comments

The Bicester Business Park (07/01106/OUT) currently has outline planning permission for 60,000m<sup>2</sup> GFA incorporating offices (B1 land use), parking for up to 1837 cars, a 150 bed hotel, conference facilities, bars and restaurants. The proposed Tesco Store comprises of a GFA of 8,135m<sup>2</sup> with 600 car parking spaces, as well as an 8 island petrol filling station and Dot Com facilities for 16 delivery vehicles. The 600 parking spaces include 27 disabled and 23 parent and child spaces. This new store will be located on land which has been allocated for a hotel and offices as part of the Bicester Business Park development. If this planning application is successful the overall development site will consist of a Tesco Store of 8,135m<sup>2</sup> and 45,000m<sup>2</sup> of B1 office units.

Vehicle access to the site is to be via a new signalised junction on the A41, which has previously been accepted and approved by the Local Highway Authority. Due to the continued growth of Bicester and the local and national planning policy changes that have happened since the business park's planning permission, a review of the highway arrangements (and surrounding area) for this site has been carried out by the applicant of this planning application (Tesco), the applicant of planning application 12/01209/F (Bicester Village retail outlet centre) and the Local Highway Authority. This review has taken into consideration the recognised transport issues along the A41 corridor and the localised traffic problems the residents of Bicester can suffer from, from these successful commercial sites. The agreed outcome of this review and subsequent pre-application discussions is shown on submitted



drawing AP 02R by Inspire for this application (and the submitted drawings P04 (1, 2 & 3) for planning application 12/01209/F), in the form of a significant highway improvement scheme for Bicester.

The submitted TA for this application is specifically confined to assess if the new junction to the proposed Tesco Store and business park has adequate design capacity to serve the site. The TA for this proposal does not include the significant highway improvements being proposed within planning submission 12/01209/F, which will be formally commented on by the Local Highway Authority separately. However, it is acknowledged there are direct links between both planning applications which requires careful consideration in regards to transport issues.

A review of the accident data for the area has been carried out, and has highlighted a number of incidents that have occurred within the last 5 years. Looking through the information provided it appears the incidents that occurred were down to driver error rather than the characteristics of the local highway network. In light of this data it is considered that the proposed development is unlikely to increase the number of recorded accidents in this area. I have re-checked the accident data since the TA was written and can confirm the submitted data remains satisfactory.

A Construction Traffic Management Plan (CTMP) is required for this development, and must be agreed formally by both the Local Planning Authority and the Local Highway Authority prior to the commencement of this development. This CTMP requirement needs to be imposed as a prior to implementation/commencement of work on site planning condition. There is a guidance note available for a CTMP.

#### Traffic Generation & Modelling

The capacity of the local highway network has been tested and surveyed within the submitted TA.

As previously mentioned the submitted TA is specifically confined to assess if the new signalised junction to the proposed Tesco Store and business park has adequate design capacity to serve the site; therefore the modelling work that has been carried out for this planning application is specific to the access arrangements to the Tesco Store only.

The increase in traffic generated by the proposed Tesco Store when compared to the existing store appears to be a little low. For example, the proposed GFA for the new store is nearly double that of the existing store, but the increase in the number of trips in the evening peak hour is only about 10% in the peak hour. In addition the number of car parking spaces being proposed is approximately 50% more than the existing store's parking levels.

The TRICS data that has been used predicts the trip generation associated with the new store at around 6 arrivals per 100m<sup>2</sup> in the Friday peak hour for retail units ranged from 6,000 to 9,000m<sup>2</sup> of GFA. The existing store generates about 10.5 arrivals per 100m<sup>2</sup> in the Friday peak.

It is acknowledged that the increase in the number of shoppers to an improved supermarket is not linearly proportional to the increase in floor area

and the existing 'over shopping' nature of the current store would suggest a small increase in the number of trips associated with the new Tesco Store. Notwithstanding this there is a risk that trips to the new store may be higher than predicted in the submitted TA. However, it is acknowledged (and accepted) that due to the nature of the A41 corridor serving Bicester in the Friday peak hour, new trips on the public highway, specifically to the proposed Tesco Store are likely to be low.

The greatest impact of the proposal on the local highway network is likely to be on a Saturday and Sunday. The business park would generate a relatively small number of trips at the weekend, but the new Tesco Store will generate about 600 trips in the peak hour (1200 total in and out). The TA does not look into this aspect as it states it will be looked at by the report associated with planning application 12/01209/F for the expansion of the Bicester Village retail outlet centre, which is to take over the vacant retail site left by the Tesco Store relocation.

It is recognised the proposed new Tesco Store will have an impact of the local highway network outside the normal week peak times; therefore the Local Highway Authority is seeking a Transport Contribution via a Section 106 agreement. Such a contribution will be towards sustainable highway infrastructure and services within Bicester, as part of the Transport Strategy for the town; and in line with the extant S106 Agreement (dated 26/10/10) for the Bicester Business Park development.

In regards to the submitted traffic modelling and distribution data, the County Council's Traffic Signals Team and Local Transport Strategy Team have reviewed this data and have confirmed that the proposed signalised junction is considered acceptable to serve the proposed Tesco Store.

#### Access Arrangements

The proposed Tesco Store will gain vehicle access to the local highway network via a signalised junction onto the A41. This signalised junction arrangement into the Bicester Business Park has already been approved by the Local Highway Authority when planning permission was granted for 07/01106/OUT. Such an access arrangement remains acceptable in principle; subject to technical checks, land dedication and a S278 Agreement.

The internal access arrangement proposed to serve the new store (and the business park) is to be in the form of a 4 arm roundabout located approximately 90m from the new traffic signals. The new store is to link up to the existing pedestrian and cycle network with on-site and off-site work improvements including pedestrian signage, and the provision of a controlled crossing across the A41 (Aylesbury Road) – as stated in Paragraph 7.20 in submitted TA.

For any off-site works i.e. new access, footway etc a Section 278 Agreement(s) will be required between the developer/applicant and OCC to work upon the public highway. In addition to this legal agreement(s) a bond will be required to cover the construction costs of the any works as well as there being a supervision fee of 9%. Legal costs for the S278 agreement will be required to be paid by the developer, as well as commuted sums for new

highway infrastructure. This agreement will need to be part of a S106 Agreement for this development.

Land dedication will be required as part of the proposed highway works (i.e. traffic signal loops into site, future pedestrian links, visibility splays etc). For such land dedication the developer must own the required land to ensure the appropriate off-site works and correct land dedication is secured and agreed by legal agreement i.e. not 3rd part land.

#### Layout Comments

The internal access arrangement proposed to serve the new store (and the business park) is to be in the form of a 4 arm roundabout located approximately 90m from the new traffic signals, with two lanes in both directions up to the roundabout. The distance the internal roundabout is away from the signalised junction is considered appropriate.

Single lanes are shown after the internal roundabout to serve the business park and the service area to the rear of the Tesco Store. A second roundabout is shown further into the business park to serve the rest of the development site; such arrangements are considered acceptable.

The proposed access arrangements for the car park to serve the new Tesco Store are acceptable (including the petrol filling station layout). The parking area provided by the recycling area looks tight for 4 formal parking spaces. I would recommend this parking area is provided just as a lay-by with no specific parking bays shown to overcome this minor design issue.

The servicing arrangements proposed to the rear of the new store are acceptable and should be imposed as a condition to ensure future servicing only takes place in this location.

The new store is to link up to the existing pedestrian and cycle network with on-site and off-site work improvements. The proposed site must accord with SUDS.

Please note only a small section of the access road into the Bicester Business Park is to be adopted by the Local Highway Authority (to secure control over traffic signal equipment for future maintenance and improvements) as part of this planning application. The rest of the access road is assumed to be private, be constructed to an adoptable standard and the responsibility of the land owner.

#### Parking levels

The proposed 600 car parking spaces (including 27 disabled and 23 parent and child spaces) are considered appropriate and in line with the County Council's parking standards for a site of this size and in this location (outskirts of town).

Cycle parking is required for both staff and customers. However, there appears to be no information provided stating the number of cycle parking spaces to be provided, or the location(s) of these facilities (paragraph 7.22 in submitted TA). Such facilities must be safe and secure. Changing room and shower facilities should be provided within the new store for staff.

### Financial Contributions & Legal Agreements

It has been recognised the proposed new Tesco Store will have an impact on the local highway network; therefore the Local Highway Authority is seeking a Transport Contribution via a Section 106 agreement. Such a contribution will be towards sustainable highway infrastructure and services within Bicester, as part of the Transport Strategy for the town; and in line with the extant S106 Agreement (dated 26/10/10) for the Bicester Business Park development.

Within the extant S106 Agreement for the Bicester Business Park development there is a contribution portfolio which secures a total transport contribution of £2.406m (at November 2007 price base prices). The GFA for the permitted site is 60,000m<sup>2</sup>. As the new Tesco store (GFA of 8,135m<sup>2</sup>) will be located within the Bicester Business Park site it is appropriate to calculate the S106 Agreement contribution figure by using the existing S106 Agreement contribution portfolio.

$£2,406,000/60,000\text{m}^2 = £40.10$  per square metre;

Using Baxter indices (price base November 2007 to September 2012) is

$£40 \times 248.95/200.85 = £49.57$  per square meter;

$£49.57 \times 8,135\text{m}^2$  (total square meters of new development) = £403,251.95

Amount required = £403,251.95 @ September 2012 prices

A Travel Plan monitoring of £960 is required.

An admin fee of (£3,750) will be required as part of the S106 Agreement.

A Section 278 Agreement(s) will be required between the developer/applicant and Oxfordshire County Council. In addition to this legal agreement(s) a bond will be required to cover the construction costs of the any works as well as there being a supervision fee of 9%. This agreement will be part of a S106 Agreement for this development.

### Summary

Taking the above into account, there are some issues that require further information, amended plans and consideration which need to be resolved. However, it is my opinion these issues can be overcome by imposing pre-commencement planning conditions or Grampian conditions, if the Local Planning Authority considers them appropriate to use for this planning application. As submitted, I have no objection to the proposed new Tesco Store subject to conditions.

### Further comment (received 28.11.2012)

It is confirmed that the 4 No. options put forward by WSP in the Sainsbury's objection have been considered and it is concluded that all have problems particularly with regard to land ownership as all of the options are on third party land so cannot be delivered by the developer or the Local Highway Authority. The option to gain direct access off the A41 has the added problem of being unfeasible or undeliverable due to the physical constraints with the embankment, gradient issues and land take.

The proposed scheme subject of the application has been agreed by the County Council LTS team and has been checked, modelled and re-modelled to ensure that the highway scheme to be constructed will help towards easing the current traffic issues for Bicester around this area, while also providing mitigation/capacity for the proposed planning applications. More importantly, the proposed highway scheme can be delivered without affecting third party

land i.e. works will take place within the public highway or land in the control of Bicester Village or Bicester Business Park.

Further comment (received 12.12.2012)

The Local Highway Authority assessed the mitigation proposals submitted by Royal Haskoning (on behalf of Bicester Village) and Waterman Transport and Development (on behalf of Tesco) and was satisfied that the proposals are adequate to mitigate the impact of the proposed developments. Sainsbury's in their objection state that the highway scheme proposed at Pingle Drive is over and above what is necessary to mitigate the impact of the proposed extension. However, the highway authority recommends that this scale of mitigation is required and feels that the scheme does meet the CIL tests / NPPF guidance in the following way:

(a) "necessary to make the development acceptable in planning terms" – in highway terms the proposed development would be deemed unacceptable if there was no proposal to improve the highway access as the existing businesses attract extraordinary levels of trade at certain times of the year and it would not be acceptable for a further expansion to add to the problems.

(b) "directly related to the development" – as stated in our formal response to the application, the proposed highway scheme would resolve existing problems, however the proposed highway scheme is also necessary to enable access to the proposed development and is therefore directly related to the development. The Local Highway Authority does not have plans to improve the situation, therefore at times of high trading the development simply could not be accessed without a suitable mitigation scheme. There is no guarantee that the alternative mitigation schemes put forward for this access junction can be delivered.

(c) "fairly and reasonably related in scale and kind to the development" – if the problems on the highway network were of a scale expected in a town of Bicester's size then this scale of mitigation scheme would not be expected, but given the severe nature of the problems on specific days in each year a substantial change to the highway network needs to be proposed. Other improvement options were considered in pre-application discussions but did not offer enough of a solution.

Response to issues raised by WSP (received 12.12.2012)

2.1.2 - it was agreed that as the two planning applications were so closely linked that it was important to understand the overall impact of both of them together. It is agreed that the mitigation works should be linked by legal condition for each application and this has been discussed with both developers.

2.2.3 - the phasing of the works would mean the mitigation measures at the ESSO roundabout would be delivered prior to the opening of the new Tesco store.

2.2.5 - clearly the Tesco store has to move first and it was considered unreasonable to expect the store to implement the measures at Pingle Drive.

2.3.3 - as the existing problems relate to the entrance to the proposed development and at times are extremely severe it is vital for them to be

resolved as part of any plans to expand. The development could not be accessed without this highway mitigation.

2.3.6 – contrary to NPPF para 206 – covered in further comment above dated 12.12.2012.

2.10 – queries over the growth assumptions - within the LINSIG model background traffic data and a 2024 sensitivity test (including both committed and proposed development) supplied by the Bicester SATURN model has been incorporated to guarantee robustness of the model and longevity of the mitigation. The Local Highway Authority regards this to be the best possible solution to remedy a known congestion problem due to the overtrading of both Bicester Village and Tesco and to accommodate further growth.

3.3.22 - The proposals also seek to provide and improve walking and cycling infrastructure to enhance the network to/from the development(s) and beyond, with particular emphasis in linkages to Bicester town centre and railway station. New bus stop infrastructure will be provided to serve the existing premium bus corridor on the A41, adequately serving both sites.

Section 4 - alternative access proposals – the Local Highway Authority is satisfied that the proposals put forward at Pingle Drive will deal with current and future traffic flows at the junction. Any alternatives are unnecessary and the model testing of them would need to be run through OCC's signals experts and engineers to establish acceptability if they were to become proposals. However, an initial review of these alternatives suggests that they are not ideal due to: options 1, 2 and 3 relying on land outside the control of Value Retail; options 1, 2 and 3 would draw the traffic problems further north towards Bicester town centre which would not be the desired approach, and option 4 proposes an access onto the A41 Boundary Way which would need to overcome considerable levels differences and would bring further disruption to the running of the A41, a strategic 'A' road.

It is stated that these alternatives are of a lesser scale yet three of them would require land outside the control of the developer and the fourth would require considerable earthworks.

### 3.9 **OCC Travel Choices:**

The submitted Framework Travel Plan dated 15th August 2012 sets out what the travel plan is to contain and provides commitments to promoting sustainable travel once the new Tesco Store is open. However, this document does not appear to have any SMART targets or actions which Tesco will implement, or any modal shift targets the new store is looking to achieve.

The new store is described as a relocation within the Framework Travel Plan, and most of the staff is expected to move over to the new site. Prior to the existing staff moving over to the new site, the Travel Choices Team requires a full travel plan to be in place. Such a Travel Plan is to include a user survey with targeted actions in place before the new store opens, rather than within 3 to 4 months of opening, which is currently being proposed.

A key action that needs to be included within the Travel Plan is information to all new staff on the sustainable travel options available to them as part of their

induction process. In addition to this, the current staff travel awareness board should be in operation on the opening day of the new store, and not 2 weeks later after the store has been opened, as travel patterns will have already been established by then.

### 3.10 **OCC Rights of Way:**

The proposed Tesco Store will affect Bicester footpath number 6 which runs across the corner of the site through the area that the plans show as being landscaped. Constructing such a pond within this landscaped area will obstruct the public footpath and the applicants have therefore proposed that the footpath is diverted to a route around the edge of the site.

However, the path around the edge of the site already exists so in effect an extinguishment of the footpath would be required which is expected to be problematic. The applicants must provide robust information as to why the path cannot be accommodated on its existing definitive route or at least closer to its existing alignment.

This section of footpath could provide/be used as a traffic free, landscaped pedestrian link from the Kingmere development site towards Bicester, which would provide a more favourable and supported route. Such a route would also provide a long term benefit to Bicester Business Park and the residents of Bicester.

An amended plan is required showing the new alignment of the public footpath taking on board the Rights of Way comments, and with a justification. I would recommend this requirement is imposed as a prior to implementation/commencement of work on site planning condition.

It is confirmed that the amended diverted route through the landscaped area to the front of the new Tesco store (and pond) is now considered reasonable (drawing no. 111245) and will no longer raise an objection.

### 3.11 **OCC Drainage:**

The County Council's Drainage Team is aware that there has been extreme flash flooding recently within the village of Wendlebury, which is located down-stream from the development site. It is therefore considered essential that the drainage strategy for this site is robustly designed and subject to a formal approval by the Local Planning Authority (and Oxfordshire County Council as the Local Flood Authority) prior to work commencing on site (to be imposed as a planning condition).

Other comments include surface water discharge from the site is quoted as being greenfield run-off plus climate change at 20%; 30% is required (amendment required). The County's Drainage Team also needs to assess a drainage plan showing all the site's drainage features which can be part of a prior to commencement planning condition.

It is recommended that the drainage design issues of this site are secured and agreed at a later date by imposing pre-commencement planning conditions.

### 3.12 **OCC Arboriculture:**

The County Council's Arboricultural Team have confirmed their acceptance of the submitted landscaping proposals. However, they have requested that any highway trees that are to be removed must be replaced with similar species and in a location near the site on highway land (exact location to be agreed and confirmed with the County Council's Arboriculturist). Please note a commuted sum will be required for each new highway tree (£1,300 per tree to cover 30 year maintenance period), this will need to be secured as part of the legal agreement for the highway works for the proposed development.

All works undertaken to highway trees must be done in accordance with BS 3998:2010. Any damage sustained to highway trees as a result of non-compliance with this British Standard will result in replacement trees being requested by the County Council's Arboriculturist at the applicant's expense.

**3.13 OCC Electrical Services:**

The proposed off-site highway works, including the new landscaping and trees on the public highway must be designed around the street lighting and illuminated signs to ensure highway safety requirements are met, and to reduce future maintenance costs.

**Other Consultees**

**3.14 Government Office (National Planning Casework Unit):**

Acknowledged receipt of the EIA under the regulations.

**3.15 Environment Agency:**

After reviewing the revised Flood Risk Assessment (FRA) the EA has no objection subject to conditions.

We have no major issues with the findings and recommendations of the submitted Environmental Statement and the phase 1 investigation (Delta-Simons, ref 11-0549.01). We did note that the Envirosearch appeared to be for an adjacent plot of land than the application area. It is not clear if other sections of the report refer to this adjacent plot. We do though note that the history of the application area also appears to be Greenfield. We would agree that the risk that previous usage poses an unacceptable risk to controlled water is not significant. We would not as such require, by conditions, any further investigative work.

**3.16 Highways Agency:**

No objection.

**3.17 Natural England:**

The application is upstream from Wendlebury Meads & Mansmoor Closes, Murcott Meadows, and Otmoor Sites of Special Scientific Interest (SSSI). Given the information provided with this application Natural England are satisfied that there is not likely to be an adverse effect on these SSSIs as a result of the proposal being carried out in strict accordance with the details of the application as submitted. This can be conditioned so the SSSIs do not represent a constraint to the development but should the details of the application change then Natural England should be reconsulted in accordance with Section 28(1) of the Wildlife and Countryside Act 1981 (as amended).



We would expect the LPA to assess and consider the other possible impacts resulting from this proposal on the following as we do not hold locally specific information:

- Local sites (biodiversity and geodiversity)
- Local landscape character
- Local or national biodiversity priority habitats and species.

These remain material considerations in the determination of this planning application and we recommend you seek further information from the appropriate bodies.

Also consideration needs to be given to BAP species.

With regard to biodiversity enhancements this application may provide opportunities to incorporate features into the design which are beneficial to wildlife in accordance with para 118 of the NPPF. NB also Section 40 of the Natural Environment and Rural Communities Act (2006).

**3.18 Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT):**

Having looked through the ecological information submitted, and it doesn't raise any concerns from my point of view; the site is under intensive agriculture and no priority habitats or protected/priority species are reported.

In terms of proximity to the Bicester Wetland Reserve LWS – it would seem that there will be measures in place to protect surface water run-off and the site is separated from the LWS by agriculture and a sewage works. I do have a wider concern about the potential cumulative impacts of proposed development to the south of Bicester in terms of disturbance and isolation of this LWS, which I have raised through recent consultation on the Local Plan and possibly best addressed at a strategic level.

**3.19 Thames Water:**

No objections regarding matters of waste, surface water drainage or water infrastructure. The points raised can be dealt with by planning notes detailed in the recommendation.

**3.20 South East Regional Design Panel:**

The Head of Public Protection and Development management chose to submit this application to the South East Regional Panel given the significance of the site at the entrance to the town. They concluded that by the nature of the brief the store is a very substantial building and we endorse its unpretentious form as well as its anticipated energy efficiency. There are 2 key aspects of the scheme that could be strengthened. First, the pedestrian links to Bicester Village and the town centre could be much better and second the quality of the car park and public realm should be improved to bring them up to the standard of the building. There is an opportunity through both of these aspects for the development to be much more imaginative and responsive to its surroundings.

Context

The application represents a departure from the masterplan for a business park which is part of the town's southern expansion. The superstore proposal

is subject to an associated plan for the extension of the Bicester Village retail outlet into the site of the existing Tesco store.

The site is at the entrance to the proposed Bicester Business Park and the store will be prominent within it. Furthermore, the proposals must effectively address the key role of this location as a major entry point to the town.

### Store

The store offers a very large trading floor with a large service area and loading bays to the rear. The design generally is in line with most stores of its type and reflects the operator's experience of providing and managing such buildings. It offers simple materials on a well-insulated frame, good use of natural light through clerestory windows and roof lights. A combined heat and power system and natural ventilation together with deep overhangs to avoid solar gain, add to its green credentials. These measures, whilst welcome, could be extended beyond the building into the car park and the wider site area, to create a more truly sustainable development.

Allowance seems to have been taken of the weathering of the larch panels and of the overall maintenance of the structure. Service arrangements are standard and logical.

### Connections

We acknowledge that the great majority of shoppers will come by car. Nonetheless, the site will soon no longer be edge of town, with large housing and employment growth beyond and we see a unique opportunity to create a clear and strong path across the A41 main road for cyclists and pedestrians lining up north-south with the front of the store. This will have some implications for the design and layout of the forecourt but should be seen as a positive move. This will ensure that the store is an integral part of the larger town's network of pedestrian and cycles routes, on a prime position between the town centre and the housing to the southwest. We would urge Tesco to do everything in its power to help to ensure the delivery of a new north-south route from the town centre, running through Bicester Village and down to the proposed business park.

The crossing can be a simple traffic light controlled 'at grade' crossing with inclined approaches (rather than a bridge or tunnel), given the other signalised crossings on this road, which already limit speed and capacity. We would strongly urge the Council to engage with the Highways Authority to deliver an attractive and useable crossing as a key link in the network of sustainable routes needed for growing Bicester.

The route running diagonally across the western edge of the site between the current crossing points could be integrated into the landscape zone to provide a more pleasant walking/cycling route. This could also improve the visibility of the store.

## **4. Relevant National and Local Policy and Guidance**

### **4.1 Development Plan Policy**

#### Adopted Cherwell Local Plan (Saved Policies)

EMP1: Employment generating development  
S25: Retail development  
TR1: Transportation Funding  
TR8: Commercial facilities for the motorist  
C7: Landscape Conservation  
C9: Development incompatible with a rural location  
C28: Design, layout etc standards

#### South East Plan 2009 Policies

SP2: Regional Hubs  
SP3: Urban Focus and Urban Renaissance  
CC1: Sustainable Development  
CC4: Sustainable Design and Construction  
CC6: Sustainable Communities & Character of the Environment  
CC7: Infrastructure and Implementation  
RE3: Employment and Land Provision  
T1: Manage and Invest  
T4: Parking  
T5: Travel Plans and Advice  
NRM1: Sustainable Water Resources & Groundwater Quality  
NRM2: Water Quality  
NRM4: Sustainable Flood Risk Management  
NRM5: Conservation and Improvement of Biodiversity  
NRM11: Development Design for Energy Efficiency and Renewable Energy  
M1: Sustainable Construction  
C4: Landscape and Countryside Management  
C5: Managing the Rural-Urban Fringe  
C6: Countryside Access and Rights of Way Management  
BE1: Management for an Urban Renaissance  
BE6: Management of the Historic Environment  
TC1: Strategic Network of Town Centres  
TC2: New Development and Redevelopment in Town Centres  
TC3: Out of Centre Regional/Sub-regional Shopping Centres  
S6: Community Infrastructure  
CO1: Core Strategy

#### **4.2 Other Material Policy and Guidance**

National Planning Policy Framework

Practice Guidance PPS4

#### Cherwell Local Plan - Proposed Submission Draft (August 2012)

The consultation to the draft Local Plan is now concluded. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

SLE1: Employment Development  
SLE2: Securing Dynamic Town Centres  
ESD1: Mitigating and Adapting to Climate Change  
ESD3: Sustainable Construction  
ESD6: Sustainable Flood Risk Management

ESD7: Sustainable Drainage Systems (SuDS)  
ESD8: Water Resources  
ESD10: Protection & Enhancement of Biodiversity and the Natural Environment  
ESD13: Local Landscape Protection and Enhancement  
ESD16: The Character of the Built Environment  
Bicester 4: Bicester Business Park  
The site is annotated in the local plan proposals map for 'new employment'.

#### Retail Study by CBRE – Final Draft Report October 2012

This independent study is the evidence required to support the policies in the emerging Local Plan helping to inform the overall strategy for retail and town centre development.

Bicester town centre is identified as being a healthy centre which is well patronised. It has a broad range of convenience and comparison retail floorspace which will be complemented by the Sainsbury's superstore which is under construction and due to open next year. However, some visitors to the centre are disappointed with the range of shops and it is certainly the case that the centre lacks many of the national multiples identified by GOAD albeit overall representation of national multiple retailers is good.

The centre has a good quality environment which many visitors cite as one of the things they like about it. Completion of the Sainsbury's scheme will help to improve the environment.

Notably, though not unexpectedly given its smaller size, many people also shop in other centres, most notably Banbury, Milton Keynes and Oxford. This is to be expected given their wider retail offer.

A quantitative need (or 'capacity') has been identified for additional A1 retail floorspace within the district as a whole and over the plan period. It is anticipated that Banbury offers the greatest opportunity to accommodate new floorspace and that that town would benefit from a town centre foodstore. Some comparison good floorspace should be directed to Bicester town centre but recommend a review once the Sainsbury's store has opened and trading patterns have settled.

With regard to how retail and other town centre uses contribute to the economic growth of the district, there can be new job opportunities and spin-off benefits. New retail floorspace and other town centre uses can offer new job opportunities. However, it should be noted that new floorspace can divert trade from one operator to another which may result in some job losses at the existing operator.

#### Employment Land Study Final Report – February 2012

This independent study is intended to provide the evidence base for the emerging Local Plan and for use in assisting in determining planning applications and appeals.

The site is noted as 'Cluster B9' suitable for B1, B2 and/or B8 as agreed by the Council. The results of the survey indicate a healthy stock of employment land and premises in Cherwell and that little has changed since the survey in

2006. Despite the downturn in the economy in 2008, few businesses have disappeared and most business clusters are well occupied.

The supply of office land and premises in Cherwell is 'relatively healthy' albeit that some of the existing premises have become dated and do not adequately meet the requirements of modern occupiers.

A key finding is that attempts to attract growth sectors to Bicester should consider the fact that there is currently limited market demand and to create such demand is likely to require significant investment infrastructure and a raising of the skill level of the local workforce.

#### Non-Statutory Cherwell Local Plan 2011

In December 2004 the Council resolved that all work to proceed towards the statutory adoption of a draft Cherwell Local Plan 2011 be discontinued. However, on 13 December 2004 the Council approved the Non-Statutory Cherwell Local Plan 2011 as interim planning policy for development control purposes. Therefore this plan does not have Development Plan status, but it can be considered as a material planning consideration. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

EMP1: Proposed site for Employment Generating Development

EMP4: Existing Employment Sites

S1: Town Centres, Urban Renewal & Local Shopping: Sequential Approach

TR1: Transport and Development: Local Transport Plan

TR2: Transport and Development: Accessibility

TR3: Transport Assessments and Travel Plans

TR4: Mitigation Measures

TR5: Road Safety

TR8: Cycling and Walking

TR11: Parking

R4: Rights of Way and Access to the Countryside

EN14: Flood Defence

EN15: Surface Water Run-off and Source Control

EN17: Contaminated Land

EN24: Protection of Sites and Species

EN34: Landscape Character

EN36: Landscape Enhancement

EN47: Archaeology and the Built Heritage

D1: Urban Design Objectives

D3: Local Distinctiveness

D4: The Quality of Architecture

D5: The Design of the Public Realm

#### Bicester Masterplan - Consultation Draft (August 2012)

This document has been produced alongside the Council's Development Plan Documents at the same time as the publication of the Local Plan identifying the future needs of the town over the next 20 to 30 years. It builds on the vision set out in the Eco Bicester One Shared Vision document produced in December 2010.

The site is annotated in the plan as 'Offices (B1)' and known as the Bicester Gateway site, E4. It is noted that there is a critical shortage of employment land to serve the town and one of the key objectives is to address this issue.

Part of the site falls within the Speciality Retail Quarter of the identified Town Centre Action Area. It is an area where change could take place building upon the internationally successful Bicester Village. To be addressed: traffic congestion at peak times, improved traffic management signage and a new park and ride facility with better links to the railway station.

Also beyond the site to the east, an area of green infrastructure and improved north/south links are proposed.

#### Other

The Town & Country Planning (Environmental Impact Assessment) Regulations 2011

## **5. Appraisal**

### **Background**

- 5.1 The existing Tesco store at Pingle Drive opened in 1991 and measures 4,299 sqm gross with a sales area of approximately 1,890 sqm of which 1,606 sqm is convenience goods and 284 sqm comparison goods. The store provides for 370 car parking spaces and a petrol filling station. It is said to be overtrading, resulting in congested conditions both within the store as well as on the highway network so is deficient in qualitative terms.
- 5.2 Whilst acknowledging that the town centre Sainsbury's will relieve some of the overtrading pressure at the Tesco it cannot solve the wider qualitative issues of the traffic and full superstore offer which this application is seeking to address. The proposed store is much larger, providing 1,485 sqm additional convenience goods floorspace and 1,776 sqm additional comparison floorspace. It is proposed to provide dot com deliveries (currently served from the Buckingham store) producing more efficient and sustainable benefits.
- 5.3 It is proposed that the existing Pingle Drive store will cease trading when the replacement store opens. It is at that point that the Bicester Village extension would commence. Around 250 new jobs would be provided (mixture of full and part time) at the new Tesco and in recognising that most of the shoppers will arrive by car 600 parking spaces are provided.
- 5.4 The key drivers behind this application are:
  - the need to address the longstanding difficulties associated with traffic and access
  - the need for a catalyst to unlock the future development of the Bicester Business Park
  - the need to provide additional main food shopping in the area to address the over-trading at the Tesco
  - the planned expansion of Bicester with the provision of nearly 7,000 new homes in Bicester in the period to 2031

- there is little functional relationship between the Tesco and Bicester Village at present

### **Relevant Planning History**

- 5.5 07/01106/OUT – Outline planning permission granted for the construction of a 60000 sqm business park incorporating offices (B1) and hotel (C1), parking for up to 1837 cars, associated highway, infrastructure and earthworks. This is subject to a number of conditions and a section 106 agreement relating to routing agreement and highway/railway contributions.
- 5.6 At the existing Tesco site - 99/02090/F - Refusal of extension to foodstore to provide additional sales area, bulk storage and car parking with ancillary highway works.  
00/02412/F – Appeal allowed for an extension (1895 sqm) to the foodstore.  
08/00950/F – Application refused for an extension to the retail store, erection of decked parking and reconfiguration of the petrol filling station

### **Issues Arising**

- 5.7 The key issues identified for consideration of this application are as follows:

- Policy Context
- Principle
- Sequential Test and Retail Impact
- Loss of Employment land
- Environmental Impact Assessment
- Transport Impact
- Sustainability
- Landscape Impact
- Design, Layout and Landscaping
- Public Footpath Impact
- Flood Risk/Drainage
- Ecology
- Archaeology
- Section 106 requirements

### **Policy Context**

- 5.8 Section 38 of the Planning and Compulsory Purchase Act 2004 states that applications for development must be determined in accordance the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF).
- 5.9 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this application would include building a strong, competitive economy, ensuring the vitality of town centres, promoting sustainable transport, requiring good design, promoting healthy communities, meeting the challenge of flooding and conserving and enhancing the natural environment. To achieve

sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

- 5.10 The NPPF advises that where the development plan is absent, silent or relevant policies are out of date, in order to reflect the thrust of the guidance for a *presumption in favour of sustainable development*, planning permission should be granted unless *significant* harm can be identified.
- 5.11 It is further advised that a sequential test should be applied to planning applications for main town centre uses such as retail. Only if suitable sites are not available should out of centre sites be considered and preference should be given to accessible sites that are well connected to the town centre. Also impact assessments are required for developments over 2,500 sqm. Where an application fails to satisfy the sequential test or is likely to have *significant adverse impact*, then it should be refused.
- 5.12 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development and is *indivisible from good planning*. Whilst no attempt should be made to impose architectural styles or tastes it is proper to seek to promote or reinforce local distinctiveness. In order to ensure high standards, design reviews for major projects are entirely appropriate and local planning authorities should have regard to the recommendations of the panel.
- 5.13 It is also relevant to address the connections between people and places and the integration of new development into the natural, built and historic environment. Rights of way and accesses should be protected and enhanced.
- 5.14 Turning to the South East Plan (SEP), it promotes the concept of regional hubs where components of growth need to be focused and co-ordinated to help deliver more sustainable forms of development. Oxford is identified as our regional hub as it is an historic and cultural city of international status drawing tourists from around the world. Economic activity should be focused close to or accessible by public transport and the prime focus for development in the South East should be urban areas in order to focus the accessibility to retail and to avoid unnecessary travel.
- 5.15 The principles of sustainable growth is the key objective of the SEP and most of the relevant policies seek ways of achieving this through, for example, directing the locations for new development, design and construction methods, quality of design and respect for the character and distinctiveness of settlements and landscapes. Development is encouraged to be located and designed to reduce average journey lengths and it is the aim to improve overall levels of accessibility.
- 5.16 The SEP has identified that there is no need for any further out of centre regional or sub regional shopping centres or large scale extensions to them until 2026. It also states that major retail developments should be located in those centres identified for significant change, i.e. Oxford or Milton Keynes. The SEP states also that Local Planning Authorities should consider whether there is a need to re-balance the network of centres to ensure that it is not overly dominated by the largest centres. Regard should be had to the need to support the function and viability of town centres, the need to support



sustainability objectives and the potential impact on the vitality and viability of town centres.

- 5.17 At a local level, Policy EMP1 of the adopted Cherwell Local Plan states that employment generating development will be permitted on identified sites but this is not one of those. Policy S25 seeks to resist all new proposals for retail development unless they accord with Policies S26 (relating to small scale retail outlets which are generally ancillary); S27 (garden centres) or S28 (local shops) which this application does not. Policy TR8 relates to new sites for petrol filling stations and that they will only be permitted where there is a need. Rural policies C7 and C9 relate to landscape conservation and seek to ensure the topography and character of the landscape are not harmed and seek to resist incompatible development in a rural location respectively. Remaining policies C28 and TR1 seek to promote good design and transportation funding.
- 5.18 The emerging local plan (Proposed Submission Cherwell Local Plan August 2012) shows the site as a proposed strategic allocation, identified under Policy SLE1, for an employment site and Policy Bicester 4 states that it is proposed for employment generating development in the form of a high quality B1 (office/business use) scheme on 17.5 hectares creating at least 3,850 jobs. Development should be imaginative, high quality and locally distinctive in form, materials and architecture. A high degree of integration and connectivity is sought to all surrounding uses. Further detailed requirements are outlined in the policy relating to transport, access, biodiversity, archaeology, public art provision, flood risk etc. It is noted that paragraph C.62 states 'The Council will also consider the potential for appropriate, complementary uses that will help secure B1 office space in this sustainable location.
- 5.19 Policy SLE1 also addresses situations where an application wishes to change the use of an employment site and that this will be considered having had regard to a number of criteria including possible incompatible uses with residential, where it can be demonstrated that employment uses should not be retained, where employment uses can be demonstrated as not being economically viable or where other planning objectives would outweigh the value of retaining the site and where there would be no effect of limiting the level of provision and quality of land for employment. It is noted in the supporting text that support will be given to existing businesses to seek to ensure their operational activity is not compromised. Policy SLE1 does not specifically preclude other uses and a retail use, being commercial in nature, retains a certain level of employment.
- 5.20 With regards retail, Policy SLE2 states that retail will be directed toward Bicester town centre. Where retail is sought outside of Bicester Town Centre there should be a proven need (as identified by the Council's Retail Study), it should be sequentially tested and it should reduce the need to travel by private car and be genuinely accessible and well served by a choice of means of transport especially public transport, walking and cycling as well as by car. It should also be demonstrated that there would not be significant adverse impact on the viability of urban and existing local centres. Remaining policies largely concentrate on seeking a sustainable form of development through

other disciplines including through, for example, drainage systems, flood management and design.

- 5.21 The site is allocated as a proposed site for employment generating development in the Non-statutory local plan with a view to seeking B1 type uses but also an element of B2. No particularly new policy issues arise further to those rehearsed above. The fundamental themes of protecting town centres, promoting sustainable development, good design and transport links are retained.

### **Principle**

- 5.22 The site is currently open countryside beyond the built up limits of the town and not allocated for any proposed use in the development plan. Further Policy EMP1 seeks to direct employment generating development to the sites shown (of which this is not one). It is, therefore, the case that development at this site for the use proposed would be a departure from the development plan. As dictated by statute and further supported by government guidance, planning permission must be determined in accordance with the development plan *unless material considerations indicate otherwise*.
- 5.23 The site is shown as a new employment site in the emerging Proposed Submission Cherwell Local Plan (August 2012). It is also one which has outline consent for employment uses subject to the necessary infrastructure requirements. The site's allocation for employment uses has been an aspiration of the Council since the Non Statutory Local Plan about 10 years ago the main reasons being its good road access to the M40 and the particular suitability of this location for B1 development. It was noted then as being an opportunity for reducing the need for travel as a result of its proximity to the town centre and a premium bus route and its proximity to a site reserved for the College of FE.
- 5.24 In retail policy terms, as the site is not within an established town centre, it would conflict with adopted policy S25 but this states that new proposals for retail development will '*generally be resisted*'. It would seem logical to assess which one's should and should not be resisted by determining the level of harm that would be caused, by for example assessing the level of retail impact on the town centre. Considering also emerging policy SLE2, this carries less weight and states that there should be a '*proven need*'. Such wording and approach to prove need is not wholly consistent with the NPPF so may not survive in its current form. Where retail is proposed on sites that are out of Bicester town centre, policy and guidance at central, regional and local level all state and advise that these should be subject to a sequential test and assessment of the retail impact. Only then can it be acceptable in principle. It should also be noted that the retail study undertaken by CBRE in support of the Proposed Submission of the Cherwell Local Plan recommends that the future needs of the district should best be met in Banbury.
- 5.25 The consent for the business park is on a larger site (07/01106/OUT refers) and is live for an extended period of 10 years from October 2008 so is not due to expire. It is linked to a masterplan which shows a not dissimilar layout in terms of access, internal road arrangement and landscape features particularly towards the north western corner north of the access point. It

shows a hotel and offices in the area proposed for the Tesco but there is now a hotel under construction on the west side of the A41 Oxford Road near opposite this site. Whilst amendments would be required in order to allow the consent to be implemented it would not expire as a result of a consent for the proposed alternative use here. Indeed the applicants argue the catalytic nature of the proposal for the rest of the site for the intended office use due to the extent of the highway works proposed.

- 5.26 There is a specific policy in the adopted local plan relating to facilities for motorist beyond the built up limits of settlements such as petrol filling stations. These will only be permitted where there is a 'need' but such terminology is dated and it is more appropriate to assess whether or not there is any harm. In any event there is likely to be a need because the proposed new facility will be a replacement, albeit larger.
- 5.27 It is considered that the live planning permission for the business park and the sites allocation for development both address the potential issue of development in rural locations covered by policies C7 and C9 but the specific matters and other relevant issues arising from the application are addressed below under separate heading. It should be noted that planning permission should only be refused where adverse impacts are significant.

### **Sequential Test and Retail Impact**

- 5.28 The application is supported by a Retail Impact report which also includes an assessment of how the site has been sequentially tested. This has been independently critiqued by CBRE on the Council's behalf as part of the application process.
- 5.29 In considering first the sequential approach taken by the applicant it needs to be demonstrated that there are no sites in the town centre that are suitable and available and upon which development is viable. Whilst Sainsbury's have been able to further develop a town centre opportunity this would not have been open to Tesco. It should be noted that a planning application has recently been received for a further 1450 sqm sales at Bure Place in Bicester town centre by creating a whole first floor instead of a mezzanine approved within the Sainsbury's store, amounting to a 30% increase in floorspace from 4842 sqm to 6292 sqm (Application 12/01612/F refers). This is due to be reported to Planning Committee at the end of January 2013.
- 5.30 Other sites in the town centre (Tesco Metro, Franklins Yard car park, Crumps Butt and Victoria Road) are all too small and unsuitable (and were also discounted by the Aldi and Lidl as part of their sequential test analysis). Moving further out of the town centre the only realistic sites would be the cattle market site on Victoria Road and the McKay Trading estate which again are considered to be too small and unsuitable.
- 5.31 As a response to the objection received from the owner of the Bessemer Close site off Launton Road, this site would be too small for Tesco and would represent an out of town site with little difference from the proposed site. There would be a strong influence of retail units along the Launton Road with the Aldi and Lidl also represented close by and both choosing not to pursue the Bessemer Close site either.

- 5.32 The only other site not taken further is the existing Tesco site and even if a significantly better and more modern store could be achieved here it would be unlikely to be viable in terms of providing all the highway improvements that would be required and in any event it is still an out of town site which would need to demonstrate lack of harm in a retail impact sense in the same way as the one currently under consideration. It is, therefore, concluded that the proposed development satisfies the sequential approach.
- 5.33 Turning to the matter of impact, there are slight discrepancies over the baseline data, i.e. population forecasts but even very slight differences can have a large impact on the final assessment because expenditure is estimated per capita and then multiplied by the population in order to obtain a figure of total available expenditure. If the population is overestimated then so will with available spend. That said, CBRE are satisfied that there will be an increase in available expenditure particularly in the comparison sector where expenditure growth rates are higher.
- 5.34 The assessment goes on to consider existing trading patterns and it has been noted for some time (and demonstrated by Tesco's previous attempts to improve their existing store) that Tesco is over trading and this too is reflected in CBRE's recent retail study. The new Sainsbury's will rectify some of that but the assessment does not stop there because it is necessary to then go on to consider whether or not there would be a harmful impact on the town centre or a threat to its continued investment as a result of this proposal.
- 5.35 It is considered that due to existing overtrading the impact on the convenience goods market would not be harmed. The greater concern relates to the comparison goods market as the new Tesco will have a much larger comparison goods range than previously. But Bicester town centre is in good health and new and continued investment is underway. The Sainsbury's will be offering much the same opportunity for 'one stop' shopping as the Tesco and the two are a 'like for like' shopping experience so more likely to compete with one another rather than the town centre as such. CBRE conclude that significant adverse impact on Bicester town centre, whether in terms of footfall, vacancy levels or any other factor, is unlikely. This is borne out by very recent evidence that there is already 'serious interest' in 4 out of the 6 units in the Sainsbury's development.
- 5.36 To conclude the retail issue thus far it has been determined that the site is an out of centre site but there are no others that are sequentially preferable. Further, the proposed development would not have a significant adverse impact on a town centre/s.
- 5.37 Since drawing the above conclusions on this issue a further critique has been received from CBRE responding to the criticisms from Turley's on behalf of Sainsbury's and responding to the additional correspondence from the applicant's retail experts. The focus for further consideration is based upon the implications of a proposed mezzanine extension to the Sainsbury's Bure Place store (application 12/01612/F refers) which was unknown at the time and is a material consideration. Much of the commentary reported in the critique relates more directly to this Tesco application because 'like affects

like' but there are elements of interest to both applications because of the interaction between the two proposals.

- 5.38 Various points need reiterating, the first being that there is no requirement by virtue of the NPPF to demonstrate 'need' and the absence of 'need' would not in itself justify a reason for refusal. Also in the absence of any further evidence to the contrary, the applicant's have adopted a reasonable and flexible approach to their sequential analysis.
- 5.39 On impact, Tesco's retail expert, Burnett Planning, correctly assume that the new Sainsbury's will secure much of its convenience turnover from the over trading of the Tesco at Pingle Drive (recognised by Burnett and CBRE to be significantly over trading). It is estimated that the new Tesco store will secure much of its turnover from Bicester but that much of this will be transferred from the existing store which it's replacing. Some diversion of trade will also result from the existing town centre stores notably the new Sainsbury's and as 'like affects like' (para 7.2 of the NPPF) CBRE consider it unlikely that such stores as the Tesco Metro or other smaller convenience stores within the town centre would be significantly affected by the proposed new Tesco.
- 5.40 It is concluded that, as the current Bure Place development is at an advanced stage (scheduled to open in June/July this year), it is unlikely that the scheme's implementation will be put at risk either as a result of consent being granted for this new Tesco store or for the Bicester Village extension (the latter of which represents a substantially different retail offer to that catered for by the Bure Place development, the recent proposed Sainsbury's mezzanine extension or the wider town centre).
- 5.41 It is assumed that the Sainsbury's mezzanine proposal was submitted in full knowledge of the proposals for the new Tesco and the Bicester Village extension and it seeks to create an increased sales area of 1,450 sqm and is intended to provide an increased range of both convenience and comparison goods. This ongoing investment in Bicester town centre is a strong indication of its vitality and viability and it is reasonable to assume that this ongoing investment will enable it to compete with other food stores including the proposed Tesco, and withstand competition. Contrary to Turley's view, therefore, the proposals will not undermine committed or planned investment in the town centre.
- 5.42 With regard to impact of the proposals upon the town centre's vitality and viability, Turley's provide no assessment of the likely impact upon the town centre. Much is made by all parties as to the trading performance of individual stores and the extent to which some are overtrading. CBRE's 2006 and 2012 Retail Studies were informed by bespoke, up-to-date telephone surveys and both concluded that the Tesco at Pingle Drive was over trading. Although the extent of this overtrading varies CBRE remain of the view that following their capacity assessment and on-the-ground observations, the store is trading significantly above company average levels. Overtrading leads to either shoppers going elsewhere or stores seek extensions, both of which lead to a reduction in overtrading.
- 5.43 The issue, therefore, is whether the turnover of the Sainsbury's new extension proposal (which is not a commitment but a material consideration)

will have the affect of significantly increasing the impact of the new Tesco and the Bicester Village extension proposals and result in unacceptable impacts on the town centre. CBRE accept that the turnover of the Sainsbury's is likely to increase as a result of their new proposal but it is not known by how much so reasonable assumptions have been made in the interests of assisting the application process.

- 5.44 Our retail advisors consider therefore that the impact on this planned investment as a result of the new Tesco will not be significant or harm the vitality and viability of Bicester Town Centre causing existing stores in the centre to close. In fact both the applications have demonstrated compliance with the requirements of the NPPF (paras 24-27) through their submission of supporting material, including retail statements, impact assessment and technical notes.
- 5.45 The NPPF is clear that permission should only be refused where adverse impacts are significant. Having considered the implications of the Bure Place current proposal, CBRE consider this shows investor confidence in the centre and does not raise any significant issues which would cause them to change their advice concluding that the impact of the proposals will not be significant. The previous conclusions on this matter addressed under para 5.27 therefore remain.

### **Loss of Employment Land**

- 5.46 Being an allocated site for employment land in the most recent emerging local plan and supported by a consent for a business park there is every expectation that the site should be used for employment purposes and that this is not an unrealistic prospect to achieve. The site is already noted as being well located and cannot be regarded as one which lacks the criteria required to be a successful business park.
- 5.47 The Bicester Masterplan continues to promote new sites stating that 'there is a critical shortage of employment land to serve the town'. However, this is not currently or wholly borne out by the evidence of the Employment Land Study. The proposed submission Local Plan considers it a sustainable opportunity for the provision of a strategic employment space to the south of the town.
- 5.48 Consideration is given to the current employment conditions and the strong message from government that we should be doing all we can to promote jobs in the area. The applicant argues a case for retail and the contribution it makes to the employment needs. 450 people would be employed including around 230 existing employees. The full time equivalent number of jobs created would not be as many as an office could provide, and the nature/quality of the job would be different. However, it is difficult to compare the difference in job numbers between retail and office because quite often retail uses are dependent more on turnover than on floor area which means that a retail unit in a good location with high visibility and a high foot fall is likely to have a higher employment density than a poor location and/or low turnover. On this basis, whilst we can expect that whilst not as many jobs will materialise by a change to retail it will be on the upper end of provision of retail job numbers because of the nature of the site.

- 5.49 Notwithstanding this contribution to the employment needs, it is further argued that, in taking up only 4.2 hectares, the Tesco proposal would not be taking up the whole of the available 19.9 hectares which would still remain available for B1 uses. It would also achieve the appropriate access required to serve the remainder of the site without prejudicing its future as a business park but rather providing the investment to ensure its success. It is considered appropriate to balance the needs of retaining this site wholly for employment/business use against its suitability for retail and this is achieved by taking the steps to assess the level of harm i.e. retail impact on the town centre, assessing the employment land supply data.

### **Environmental Impact Assessment**

- 5.50 This application is supported by an Environmental Impact Assessment (EIA) which not only seeks to examine the environmental aspects of the proposal but also the wider interests such as analysing the alternatives. It is argued that to do nothing would mean that there would be continued access and highway difficulties, Tesco would be unlikely to be able to significantly improve its offer and if it did the highway and access problems may become worse. It is noted that Tesco have tried to improve at the site but refused planning permission on grounds of town centre impact and lack of section 106.
- 5.51 The EIA breaks down the individual issues namely, transportation and access, landscape and visual assessment, ecology and nature conservation, archaeology and built heritage, soil and groundwater contamination, water resources, drainage and flood risk, air quality, noise and vibration, socio-economics and residual impacts. The majority of these are addressed under separate heading but in any event the conclusions are reached by the various experts contributing to the report that impacts on each are negligible.
- 5.52 The EIA concludes that there are notable beneficial impacts such as job creation and improved retail facilities but it is considered that these need to be debated in the wider context before concluded they are a benefit per se. In any event it is concluded also that there would be no significant adverse environmental, traffic/transport or socio-economic impacts.

### **Transport Impact**

- 5.53 The new Tesco is proposed to be located within the permitted Bicester Business Park development, and will gain vehicle access to the local highway network via a signalised junction onto the A41. The signalised junction access arrangement into the Bicester Business Park has already been approved by the Local Highway Authority when planning permission was granted for 07/01106/OUT.
- 5.54 The internal access arrangement proposed to serve the new store (and the business park) is to be in the form of a 4 arm roundabout located approximately 90m from the new traffic signals. The new store is to link up to the existing pedestrian and cycle network with on-site and off-site work improvements. A second roundabout is shown further into the business park

to serve the rest of the development site; such arrangements are considered acceptable.

- 5.55 It is noted that if this planning application is successful the overall development site will consist of a Tesco Store of 8,135m<sup>2</sup> and 45,000m<sup>2</sup> of B1 office units. The agreed outcome of the review of the Transport Assessment (TA) since the previous approval is shown on submitted drawing AP 02R by Inspire for this application (and the submitted drawings P04 (1, 2 & 3) for planning application 12/01209/F), in the form of a highway improvement scheme for Bicester. The proposed signalised junction is considered acceptable to serve the proposed Tesco.
- 5.56 The proposed 600 car parking spaces (including 27 disabled and 23 parent and child spaces) are considered appropriate and in line with the County Council's parking standards for a site of this size and in this location.
- 5.57 Cycle parking is required for both staff and customers. However, there appears to be no information provided stating the number of cycle parking spaces to be provided, or the location(s) of these facilities which should be safe and secure. Changing room and shower facilities should be provided within the new store for staff.
- 5.58 It has been recognised the proposed new Tesco Store will have an impact on the local highway network particularly outside the normal week peak times, hence the contributions being sought via a Section 106 agreement. Such a contribution will be towards sustainable highway infrastructure and services within Bicester, as part of the Transport Strategy for the town; and in line with the extant S106 Agreement (dated 26/10/10) for the Bicester Business Park development.
- 5.59 Taking the above into account, there are some issues that require further information, amended plans and consideration which need to be resolved but these can be dealt with by condition. There is no outstanding objection from the County as Highway Authority.
- 5.60 The EIA goes on to consider the potential significant effects and how they could be mitigated. The trip generation data, when accounting for what was approved for the business park shows negligible or minor impacts on traffic flows and in some instances a minor positive impact. Driver and pedestrian delays are also negligible. Fear and intimidation felt by pedestrians along the main roads are assessed as negligible given future improvements to cut the speed limit to 40mph as part of the Kingsmere development. It is further concluded that the proposed mitigation measures which include a new signalised junction and pedestrian crossing alongside those proposed at Bicester Village will result in reducing the effect on pedestrian delay and the Travel Plan will reduce car born trips associated with employees to the development.

## **Sustainability**

- 5.61 The final point in paragraph 5.60 above, leads onto the sustainability issue which is at the heart of government policy. Despite the fact that the emerging local plan refers to the site as a sustainable opportunity, the proposal needs



to effectively demonstrate how it achieves sustainable objectives. It needs to show how it promotes sustainable transport and by being an out of centre site it is arguably the least sustainable location. However, it has already been demonstrated that there are no sequentially preferable sites and so it is important that we go on to consider how accessible it by alternative means other than motorised vehicles, often the private car.

- 5.62 The proximity of Bicester North station is noted and the site is actually not that far from the town centre and is quite walkable being 15 minutes away using the existing footpath routes north/south across Pingle Fields, the station route through the car park or along Kings End/Queens Avenue. However, it is argued that these routes lack clarity. The submission of an acceptable Travel Plan will assist in ensuring movements by private vehicle are reduced, particularly with regard to employee access.
- 5.63 Guided by the NPPF, the principles of sustainable development are in three dimensions. The economic role can be demonstrated by ensuring that the development is of the right type and in the right place which in a retail sense can be demonstrated by ensuring sequentially preferable site is pursued. Also the application may include the provision of infrastructure as an effective measure. Socially the development should be of a high quality built design and be accessible, reflecting the community's needs. Finally the development should contribute to protecting and enhancing the environment. All these points are addressed throughout the report.
- 5.64 Sustainability also comes in other forms, and measures have been incorporated into the proposed development to maximise its credentials in that regard and this is recognised by the design review panel. A balance has effectively been struck between the needs of sustainable criteria and visual appearance. The materials used lend themselves to being recycled or re-used. The entrance lobby, being fully glazed and automatic, reduces heat loss. The front elevation is a contemporary glazed curtain walling system of a sufficient height to allow natural light into the store. Clerestory glazing to the sides increases natural light and the roof overhangs minimise passive solar gain.

### **Landscape Impact**

- 5.65 The site benefits from a live consent for a business park and is allocated for development in emerging local plan documentation. Notwithstanding this, it is a green field site in agricultural use and part of the wider area of countryside beyond. The northern boundary is defined by a mixed native tree belt on an embankment to the A41 which is located at a higher level than the site which has the effect of preventing views from the public domain of the road over some distance. The eastern boundary is an effective screen at present as it too is formed by a hedgerow but this is to be removed and replaced with the proposed landscaping scheme.
- 5.66 The wider topography of the area is generally flat and low lying but with development further south (Wyevale Garden Centre), an approved business park immediately in the vicinity, development underway to the west at the Kingsmere development and the urban area to the south together with the associated infrastructure the site may be better described as an urban fringe

site as opposed to open countryside. It would, therefore, be difficult to sustain an argument on these grounds as the site is somewhat degraded.

- 5.67 Considering the section drawings in the proposal, the main building is unlikely to be visually prominent in the wider landscape, particularly when compared to the approved scheme. There is no doubt that the environment will change considerably and this is recognised by the EIA which states that the 'magnitude of the change is high', given the relative low landscape quality the significance of the effect is considered to be 'minor' or 'moderate'. The extent of the site allows for quite substantial landscape mitigation which will be expected to mature over time.

### **Design, Layout and Landscaping**

- 5.68 The store itself is largely uniform and rectangular, its critical dimensions being approximately 118m long by 78m wide for the bulk of the store with extended elements for the service area and dot com facilities. The height of the building is approximately 11m at its highest point towards the centre of the building down to 7m. This can be compared to the outline consent for the business park which, whilst having smaller units in terms of mass, show indicative heights of 4.5 storeys or 18m parameters for the hotel and 3 storey or 14m parameters for the office buildings. The front of the proposed Tesco store will be glazed with a timber framed canopy. The other elevations of the store largely feature larch timber panels which will weather to a grey/silver colour. The rear elevation is clad with metal panels.
- 5.69 The proposal has been subject of a design review and the panel's report is outlined in paragraph 3.20 above. The eco credentials of the store have not come into question and nor particularly has the design, being described as 'unpretentious'. But two particularly strong themes did emerge relevant to the layout and design of the proposed store.
- 5.70 The proposed layout reflects many other similar types of superstore offers, i.e. store to the rear of the site with level parking to the front and the petrol filling station at the entrance. Given the slightly raised land levels to the east of the site the store will cut into the ground but this will also assist in keeping the overall height impact lower. The dot com facilities are to the rear with the service yard which is acoustically fenced. In response to the design Panel, the amended plans now show the petrol filling station to be further towards the A41 Aylesbury Road as opposed to be directly in front of the store which was considered too dominant and obscured views across the east.
- 5.71 Also related to the layout was the 'connectivity' point highlighted by the Panel. This point is endorsed by the Council's urban designer and it has been a strong desire to seek to ensure some stronger links between the store, across to Bicester Village and beyond for some years. Notwithstanding the point that people generally food shop by car because of the sheer bulk of goods purchased, access by other means of transport should be promoted and this application (alongside the Bicester Village) represents an opportunity to explore alternatives. The applicants claim to have attempted to tackle the issue but feel that the proposed store already connects well to the rest of the town with new pedestrian and cycle facilities both north and to the new housing to the west.

- 5.72 It has been suggested to the applicant that a direct link from the front of the store northwards across the road and through the middle of Bicester Village should be pursued but they claim it would not be feasible. A tunnel under the A41 would be prohibitively expensive and another at grade crossing over the A41 Aylesbury Road so close to the proposed signalised junction to the west would raise highway safety issues and may affect traffic flow. Crossing the Bicester Village service road also presents a hazard and through Bicester Village itself would be a security concern. The crossing does not feature in any of the emerging policy documents (including the Masterplan) and although there is a condition on the business park permission it is not specific as to how a crossing of the A41 is to be achieved. It is considered that it would be difficult to resist the development on this ground not least because there is an alternative offered and a central boulevard running west/east is shown from the public footpath route from the west towards the store.
- 5.73 Turning to the proposed landscaping within the scheme it was considered that the original proposal could be improved and this is endorsed by the Council's landscape architect and arboriculturalist. In response the scheme has been improved and the revised drawings show additional structured landscaping proposed within the car park and a more stronger and formal avenue of trees along the access road. It is recognised that the quality of the public realm is weak but that is largely due to the car dominated space which can only effectively be broken up by effecting landscaping between the parking spaces.

### **Public Footpath Impact**

- 5.74 The official public footpath as shown on the definitive map crosses the corner of the site. It's not used because the dense landscape boundary to the north is overgrown blocking off the access at that end close to the pedestrian crossing on the A41 Aylesbury Road. Pedestrians continue to access routes south by using the pavement alongside the A41 Oxford Road. The proposal includes a realignment of this footpath in a manner which seeks to respond to the comments from the design review Panel. It is therefore proposed to provide a footpath running along the western edge of the proposed lake and connecting to the pedestrian access at the site access junction in the south west and the pedestrian access at the northwest corner of the site.

### **Flood Risk/Drainage**

- 5.75 The site is not within a flood risk zone area unlike the wider site immediately beyond to the south and east of the site. However, the flood risk is acknowledged and a Flood Risk Assessment (FRA) has been submitted with the application and considered by the Environment Agency. Following amendments to this FRA it is now in an acceptable form and the application has not met with an objection from the Environment Agency who agree that the risk is not significant.
- 5.76 The outstanding issue in this regard relates to the requirement for SUDs from the County Council as highway authority. The revised FRA clarifies that due to unsuitable ground conditions the use of infiltration methods is not considered a viable option for the discharge of surface water runoff and it is

therefore proposed that a lined permeable paving system be used in the car park/s. This would run counter to the County Council's preference for SUDs throughout. It may be appropriate to use SUDs where possible but confirmation from the County is awaited on this potentially conflicting point.

## **Ecology**

- 5.77 Given the characteristics of the site as farmed agricultural land it is not constrained by priority habitats or protected/priority species and any habitats are generally confined to the hedgerows or existing trees. Consideration has been given to European Protected Species eg. bats and those protected by UK law e.g. badgers and no significant harm will be caused as these will be either be retained or replaced for mitigation.
- 5.78 The site is not within influencing distance of any statutory designation such as SSSIs and in terms of effect on the Bicester Wetland Reserve Local Wildlife Site (a non-statutory designation), the site is separated by fields beyond and a sewage works so there is no immediate concern insofar as this application is concerned. It is considered, therefore, that the specific issues that arise can be dealt with by condition ensuring enhancement and mitigation as outlined in the EIA.

## **Archaeology**

- 5.79 Based on current knowledge, the site is noted as being of medium archaeology interest and the issue can be effectively managed by condition/s. The EIA notes that as long as appropriate schemes for archaeological works and mitigation is adopted there should be a beneficial impact arising from the development because that knowledge will be increased and finds can be preserved and results disseminated.

## **Section 106 requirements**

- 5.80 The Local Highway Authority has assessed the mitigation proposals submitted by Royal Haskoning (on behalf of Bicester Village) and Waterman Transport and Development (on behalf of Tesco) and is satisfied that the proposals are adequate to mitigate the impact of the proposed developments. Taking on board their comments it is considered that the scale of mitigation is required and the scheme does meet the CIL tests / NPPF guidance in the following way:
- (a) "necessary to make the development acceptable in planning terms" – in highway terms the proposed development would be deemed unacceptable if there was no proposal to improve the highway access as the existing businesses attract extraordinary levels of trade at certain times of the year and it would not be acceptable for a further expansion to add to the problems.
- (b) "directly related to the development" – the proposed highway scheme would resolve existing problems and is also necessary to enable access to the proposed development and is therefore directly related to the development. The Local Highway Authority does not have plans to improve the situation, therefore at times of high trading the development simply could not be accessed without a suitable mitigation scheme.

(c) “fairly and reasonably related in scale and kind to the development” – if the problems on the highway network were of a scale expected in a town of Bicester’s size then this scale of mitigation scheme would not be expected, but given the severe nature of the problems on specific days in each year a substantial change to the highway network needs to be proposed.

5.81 Highways

Amount required = £403,251.95 @ September 2012 prices

A Travel Plan monitoring of £960 is required.

An admin fee of (£3,750) will be required as part of the S106 Agreement.

A separate Section 278 Agreement(s) will be required between the developer/applicant and Oxfordshire County Council. In addition to this legal agreement(s) a bond will be required to cover the construction costs of the any works as well as there being a supervision fee of 9%. This agreement will be part of a S106 Agreement for this development.

5.82 Public Art

The applicant has agreed an appropriate legal approach to deliver a public art contribution up to a value of £150,000 which is considered appropriate. The gateway nature of the proposed development is considered sufficient in scale and significance to warrant a piece of public art to be provided and it might be appropriate to have a joint commission with the Bicester Village application, if relevant.

## **Conclusion**

5.83 This application for a large out of town retail superstore does not comply with the development plan. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Where the development plan is absent, silent or out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The material considerations have been identified and assessed as far as they are relevant to the site, policy and proposal.

5.84 Emerging policy documentation refers to the site as being sustainable and the retail studies point to it being the most sequentially preferable. Based on the opinion of our advisers, after taking full account of the representations made to us and assessed by them, the proposal is considered unlikely to cause a significant adverse harmful impact on nearby town centre/s and the improvements to the highway infrastructure will not only overcome any impacts but will assist in unlocking the rest of the adjacent site for office development for which there is a live consent. The design, layout and landscaping are acceptable and whilst its connectivity to the town centre is not ideal it is not likely to be sufficient to warrant a refusal on its own. Further detailed matters of archaeology, flood risk and sustainable drainage can be adequately dealt with by condition.

5.85 In taking account also of the Environmental Statement, it is considered that, on balance, the proposal is acceptable as it will not cause any significant adverse impacts and the material considerations would indicate that approval should be granted. This should be subject to the conditions listed below and the satisfactory completion of the section 106 agreement.

## 6. Recommendation

**Approval**, subject to:

- i) referral to the Secretary of State (Department for Communities and Local Government) as a departure;
- ii) completion of a satisfactory section 106 agreement relating to matters of public art and highway contributions,

iii) the following conditions:

1. SC1.4 Time (3 years)
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: Environmental Statement dated 17<sup>th</sup> August 2012, Design and Access Statement (Rev D) by Inspire Design dated 19<sup>th</sup> November 2012, drawing numbers 111245 AP00B, AP01A, AP02S, AP04C, AP05A, AP09C, AP10C, AP15A, AP18B and 5042 ASP2F.

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. That the external walls and roof(s) of the buildings shall be constructed in accordance with a schedule of materials and finishes, samples and details of which shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development.

Reason – To ensure the satisfactory appearance of the completed development and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

4. That a plan showing the details of the finished floor levels of the proposed buildings in relation to existing ground levels on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The development shall be carried out in accordance with the approved details.

Reason – To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with Policy BE1 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

5. The development hereby permitted shall be carried out strictly in accordance with the summary and conclusions drawn in Chapter 11 (Water Resources, drainage and flood risk) pages 158-159 of the Environmental Statement (Waterman Transport and Development Ltd dated August 2012 unless otherwise agreed in writing by the Local Planning Authority.

Reason – To protect the development and its occupants from the increased

risk of flooding and in order to comply with Government guidance contained in the National Planning Policy Framework and Policy NRM4 of the South East Plan 2009.

6. That prior to the commencement of the development, full drainage design details 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.

Reason – To ensure satisfactory drainage of the site and to avoid flooding in accordance with Government guidance contained in the National Planning Policy Framework and Policy NRM4 of the South East Plan 2009.

7. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Tesco's, Oxford Road, 120108 Rev2 unless otherwise agreed in writing by the Local Planning Authority. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to comply with Government guidance in the National Planning Policy Framework, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

8. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason - To ensure that any unexpected contamination encountered during the developments is suitable assessed and dealt with, such that it does not pose an unacceptable risk to ground or surface water and to comply with Government guidance in the National Planning Policy Framework, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

9. The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water and foul has been submitted to, and approved in writing by, the local planning authority. Since run off from areas such as areas associated with vehicle washing and refuelling, lorry and car parking areas could contaminate controlled waters, full details are required of the surface water drainage arrangements, outlining how any contamination risks will be mitigated. Thereafter, the scheme shall be implemented as approved.

Reason – To prevent the deterioration of and/or prevent the recovery of and/or cause deterioration of the underling Cornbrash Aquifer and the Langford

Brook to ensure that any unexpected contamination encountered during the developments is suitably assessed and dealt with, such that it does not pose an unacceptable risk to ground or surface water and to comply with Government guidance in the National Planning Policy Framework, Policy NRM4 of the South East Plan 2009 and Policy ENV1 of the adopted Cherwell Local Plan.

10. That prior to the first occupation of the proposed development the proposed access works between the land and the highway shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken.

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

11. That the proposed vision splays shall be formed, laid out and constructed in accordance with detailed plans which shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the proposed development and that the land and vegetation within the splays shall not be raised or allowed to grow above a maximum height of 0.6 metres above carriageway level.

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

12. That prior to the first occupation of the proposed development all the identified off-site highway and landscaping works shall be formed, laid out and constructed strictly in accordance with the Local Highway Authority's specifications and that all ancillary works specified shall be undertaken.

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

13. The parking, manoeuvring and servicing areas for the development shall be provided in accordance with the submitted plan (AP/02R) hereby approved and shall be constructed, laid out, surfaced, drained and completed, and shall be retained unobstructed except for the parking, manoeuvring and servicing of vehicles at all times.

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

14. No development shall commence on site for the development until the whole of the Sustainable Drainage Systems (SUDS) details are submitted to and approved in writing by the Local Planning Authority in consultation with Oxfordshire County Council.

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

15. Notwithstanding the drawings submitted, no development shall commence on site for the development until details (including design and siting) are



submitted to and approved in writing by the Local Planning Authority in consultation with Oxfordshire County Council for a new alignment for Bicester Footpath number 6.

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

16. No development shall commence on site for the development until a Construction Traffic Management Plan providing full details of the phasing of the development has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority) prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction & delivery traffic during construction and a route to the development site. The approved Plan shall be implemented in full during the entire construction phase and shall reflect the measures included in the Construction Method Statement received.

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

17. Prior to the first occupation of the development covered cycle parking facilities shall be provided on site in accordance with details to be first submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority). The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

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

18. Notwithstanding the details submitted within the Framework Travel Plan dated 15th August 2012, prior to the commencement of the development, an amended Travel Plan 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.

Reason – In the interests of sustainability and to ensure a satisfactory form of development in accordance with Government guidance in the National Planning Policy Framework and Policy T5 of the South East Plan 2009.

19. Notwithstanding the details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which 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) details of the existing trees and hedgerows to be retained as well as 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 edge of any excavation,
  - (c) details of the hard surface areas, pavements, pedestrian areas, crossing

points and steps.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with government guidance in the National Planning Policy Framework, Policies BE1 and C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

20. That 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 that any trees and 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 – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with government guidance in the National Planning Policy Framework, Policies BE1 and C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

21. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason – In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with government guidance in the National Planning Policy Framework, Policies BE1 and C4 of the South East Plan 2009 and Policy C28 of the adopted Cherwell Local Plan.

22. The foodstore element of the development hereby permitted shall only be used for the purposes of providing a foodstore of 8,135 sqm gross internal area (convenience sales floorspace of 3,091 sqm and comparison sales floorspace of 2,060 sqm) only as detailed in the application and for no other purpose within Class A1 of the Town and Country (Use Classes) Order 1987 (as amended).

Reason – To enable the Local Planning Authority to retain planning control over the development of this site (and that of the adjoining land) in order to safeguard the amenities of the area, protect the vitality and viability of the town centre and to sustain a satisfactory overall level of parking provision and servicing on the site in accordance with Policies BE1, TC2 and T4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

23. No development shall take place on the site until the applicant(s), or their agents or successors in title, has arranged an archaeological watching brief to

be maintained during the course of building operations or construction works on the site. The watching brief shall be carried out in accordance with a written specification and by a professional archaeological organisation, details of which 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.

Reason - To safeguard the inspection and recording of matters of archaeological and historic importance on the site, to comply with Government guidance in the National Planning Policy Framework and Policy BE6 of the South East Plan 2009.

24. A scheme of lighting for the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. The scheme shall thereafter be carried out and operated at all times in accordance with the approved details.

Reason - In order to safeguard the visual amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan.

25. That prior to the commencement of the development, the provision of a suitable scheme of public art shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed prior to the occupation of the development and thereafter retained in accordance with the approved details.

Reason – In the interests of public amenity and in accordance with policies CC6 and BE1 of the South East Plan 2009.

26. 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 Government guidance contained in the National Planning Policy Framework and to comply with Policies CC2 and CC4 of the South East Plan 2009.

27. That the proposed superstore hereby permitted shall not commence trading until the operations at the existing superstore at Pingle Drive (adjacent to Bicester Village) has ceased trading.

Reason - In order to protect the vitality and viability of the town centre and in the interests of highway safety in accordance with Policy TC2 and T4 of the South East Plan 2009 and Government guidance contained in the National Planning Policy Framework.

Planning Notes:

1. Q1 Legal Agreement
2. R1 Environmental Statement
3. No development shall take place across any public footpath/right of way

unless and until it has been legally stopped up or diverted.

4. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. This is necessary to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
5. A Trade Effluent Consent will be required for any Effluent discharge other than a 'Domestic Discharge'. Any discharge without this consent is illegal and may result in prosecution. (Domestic usage for example includes - toilets, showers, washbasins, baths and canteens). Typical Trade Effluent processes include: - Laundrette/Laundry, PCB manufacture, photographic/printing, food preparation, abattoir, farm wastes, vehicle washing, metal plating/finishing, cattle market wash down, chemical manufacture, treated cooling water and any other process which produces contaminated water. Pre-treatment, separate metering, sampling access etc, may be required before the Company can give its consent. Applications should be made at <http://www.thameswater.co.uk/business/9993.htm> or alternatively to Waste Water Quality, Crossness STW, Belvedere Road, Abbeywood, London. SE2 9AQ. Telephone: 020 3577 9200.
6. Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.
7. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
8. Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at [www.thameswater.co.uk](http://www.thameswater.co.uk)
9. The Environment Agency note that some contaminants sampling is suggested to take place in conjunction with any Geo-technical survey. It is advised that if any contaminants sampling take place it should be targeted in areas where any potential contamination risk is most likely to exist (e.g. near off site

sources or area of made ground).

10. Static vehicle washing operation must not drain to the surface water system. Mobile washing operation are permitted in area that drain to surface water system, but only under certain circumstances (i.e. if there is no discernable run off etc). More detail can be found on our guidance "Pollution Prevention Guidelines (PPG) 13, Vehicle washing and cleaning". This is available from our web page. We would expect the surface and foul water drainage arrangements to adhere to the requirements of this guidance.
11. High groundwater levels may be present on site (particularly in areas of alluvial deposits). This may restrict the usage of soakaways in certain areas. Any SUDs from car or lorry parking areas would need to incorporate suitable measure for the protection of water quality; this is likely to include measures to mitigate the discharge of hydrocarbons to ground or surface water. Details of treatment techniques are outlined in Ciria Report C609. The Environment Agency would wish to be consulted on any protection measures.
12. At least 1m unsaturated zone should be maintained between the base of any SUDs/soakaway and maximum seasonal groundwater levels.
13. Areas beneath canopies within petrol station forecourts should be connected to the foul sewer subject to the approval of Thames Water Utilities or its sewerage agents. Surface water drainage from uncovered areas may be connected to the surface water system via a suitable petrol/oil separator.
14. Vehicle loading or Unloading bays and storage areas involving chemical, refuse or other polluting matter should not discharge to the surface water system.
15. Nesting birds are fully protected under the Wildlife and Countryside Act 1981 (as amended), which makes it an offence to intentionally or recklessly take, damage or destroy the eggs, young or nest of a wild bird whilst it is being built or in use. Therefore tree and scrub removal should take place outside the bird nesting season, unless it has been checked by a suitably qualified ecologist immediately beforehand and deemed to be free of nesting birds.

#### **SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. The development is considered to be acceptable on its planning merits as the proposal (with the controls exercisable by condition and legal agreement) will not cause harm to the vitality and viability of any nearby town centre. The proposal represents a sustainable development with no demonstrable harm to highway safety, ecology, archaeology, flood risk, drainage or the rural landscape. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework, Policies SP2, SP3, CC1, CC4, CC6, CC7, RE3, T1, T4, T5, NRM1, NRM2, NRM4, NRM5, NRM11, M1, C4, C5, C6, BE1, BE6, TC1, TC2, TC3, S6 and CO1 of the South East Plan 2009 and saved Policies TR1 and C28 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised including third party

representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

**Statement of Engagement**

In accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No 2) Order 2012 and paragraphs 186 and 187 of the National Planning Policy Framework (March 2012), this decision has been taken by the Council having worked with the applicant/agent in a positive and proactive way as set out in the application report.