

Tesco, Pingle Drive, Bicester

12/01209/F

Ward: Bicester Town

District Councillor: Cllr Mrs D Edwards
and D M Pickford

Case Officer: Rebecca Horley

Recommendation: Approval

Applicant: Bicester Nominees Ltd_Bicester II Nominees Ltd c/o agent

Application Description: Demolition of existing Tesco food store, petrol filling station and part of existing Bicester Village retail outlet centre to provide an extension to comprise 5,181sqm (gross internal area) of new Class A floorspace, 372 car parking spaces and associated landscaping and highway works.

Committee Referral: Major application

1. Site Description and Proposed Development

- 1.1 This 6.94 hectare site is located 1.5km southwest of Bicester town centre adjoining the western boundary of the Bicester Village retail outlet centre. The central section of the site currently accommodates a Tesco foodstore, petrol filling station and associated car parking. The site also includes Pingle Drive which runs along the northern boundary of the existing Tesco and Bicester Village sites and part of Oxford Road (A4030) and the A41 which run along the western and southern sides of the existing Tesco site.
- 1.2 Adjacent land uses include an area of recreation land comprising several sports pitches to the north beyond which lies Bicester town centre. Bicester Village lies to the east and agricultural land extends south from the A41. There is a small slither of unused land between the Tesco site and the A41 Aylesbury Road. To the west is a service area which has a petrol filling station and fast food outlet with associated parking, beyond which is the Kingsmere residential development. Vehicular access to the existing Tesco and Bicester Village sites is taken from a roundabout off Pingle Drive into the north western corner of the site. There is also a public footpath which skirts the south, west and northern part of the site.
- 1.3 The application proposes an additional 5,181 sqm gross internal area (GIA) of comparison retail (including up to 550 sqm cafes/restaurants) and 372 car parking spaces forming an extension to the existing outlet centre continuing the same design and general theme of a central walkway with units either side, requiring some demolition and reconstruction of the western end of Bicester Village. 28 No. additional units are proposed of varying sizes generally from 80 to 120 sqm GIA including 3 No. additional flagship stores of up to 740 sqm GIA. To put the scale of the development in context, the existing total provision of Bicester Village is currently 21,755 sqm gross floorspace and the additional floorspace amounts to a 23.8% enlargement to Bicester Village but no increase in the GIA of retail floorspace on the Tesco site.
- 1.4 Given that the site is already developed there are no particular planning constraints save to note the proximity of the public footpath, that the site is of 'medium' interest in terms of archaeology and within flood risk zones 2 and 3.

The boundary to the Conservation Area closest to the site is at the far side of Pingle fields at the cemetery and there are no listed buildings in proximity.

- 1.5 This application is inherently connected to the current application by Tesco Stores/Browne Family Trust for a new store of 8,231 sqm (application 12/01193/F refers) as 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 a site notices placed at the site entrance and on the footpath between the Tesco and Bicester Village on 6 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 Tesco application (12/01193/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

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 (e.g. a underpass) for pedestrians

One letter of objection has been received from a local resident who considers that the application is wholly contrary to the aims of the NPPF which seeks to ensure development is sustainable. There is no environmental assessment of the impact of the proposed development at a local, national and international level. Bicester Village attracts visitors from around the world but fails to address how the impact of this can be mitigated without prejudice to the long term sustainability of the natural environment. It's illogical to expand an operation which supports global travel of goods which then travel back across the world.

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 (where the Tesco is to be located) expressing support for the 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 15.2ha 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. Planning policies seek to ensure that Oxford is the primary centre in Oxfordshire with proportionate growth and development targeted at the lower tier towns such as Bicester. The proposal is contrary to national, regional and local planning policy principles. The site does not necessarily benefit from being an A1 (retail) use as the format of the proposal is totally different to the Tesco and also includes A3 (café/restaurant) uses. Bicester Village is not unique in its offer of being a leisure destination. A 19% increase in retail floorspace is a significant amount; Bicester Village has already doubled in size since 1995. The site is out of centre and the units should be subject to a sequential test and insufficient consideration has been given to the impact of having A3 uses will have on the town centre. A separate independent retail assessment should be undertaken because we do not agree with the approach undertaken by the applicants which is misleading, not robust enough and significantly underestimates the impact on nearby centres including Oxford city centre. The Tesco move will compromise the permitted scheme by developing land earmarked for a hotel and office use. There are no guarantees that the Tesco will be a catalyst. Should approval be granted, conditions are recommended which would restrict the use to factory outlet shopping and unit sizes.

Comments received since the previous report to last Committee (6 December 2012), as follows:

- 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;

The proposal will impact on the vitality and viability of Bicester town centre and future investment contrary to the NPPF, adopted and emerging local plan policy and the aspirations of the Bicester Masterplan. We have concerns about the submitted retail evidence which references old data. Bicester Village does not need to expand and if it did it can be better integrated to the town centre by developing the other way, east and north/east towards the station. Car parking numbers on plans differ and needs clarifying.

The 'fall back' position can only hold very limited weight. The site has established retail use but this should be judged against what could actually be implemented. It is unrealistic to assume the BV outlets would operate from an existing Tesco.

Retail should be directed to town centres. The sequential test needs to be applied alongside assessment of impact. Policy SLE2 requires this and that the need to travel by private car should be reduced. Developments should be genuinely accessible. Retail need is relevant to the application of the sequential approach and impact tests. The applicants have relied on the old 2010 retail study and not the new 2012 one. No need has been identified for comparison floorspace to 2017 so there's no justification for this proposal.

The submitted retail assessment only considers 9% of the turnover which is derived from the 'local catchment' area only. So the rest (amounting to £41million) has simply not been assessed. The figure of 9% is formed by a flawed survey and is likely an underestimate and the sales density figures of £ per sqm are unrealistic. Also the town centre is not trading as strongly as suggested and the impact of the A3 uses has been underestimated.

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. Any solutions to remedy existing problems should be dealt with separately and clearly stated as not being related to the proposed development. Four alternative access options have been suggested that would not require the Tesco land.

There's no evidence to say that the employment site is at risk of not being developed in the future and the proposed Tesco on this strategic employment site will greatly reduce the land available for employment use.

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 into

the town. The significant benefits of Bure Place for the long term vitality and viability of the town will not be realised.

The lack of need for additional floorspace is acknowledged in the 2012 Retail Study. The planned 7,000 new homes does not create a need for the proposed expansion of BV or the Tesco as this is already factored in.

BV argue that they can only expand adjacent to their current site and they have land to the north so it's not dependent on Tesco land. This would also assist in improving links to the town centre and the railway station. Also alternative highway solutions are provided in the WSP report (see below) submitted with this objection letter.

If approved it is essential that a section 106 agreement be entered into requiring the provision of the 700 space park and ride facility prior to the occupation of the proposed floorspace. The need to improve the highway situation should not override the town centre first policy.

- 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 of support from the applicant's agent (GVA) in response to the objections received by Turley Associates on behalf of Sainsbury's received on 30.11.2012. This letter (supported by a technical note below) raises the following general points:

We are disappointed in the behaviour of Sainsbury's and its team in relation to the timing of its objections particularly as the statutory period ended in September. The objections are very late.

Contrary to the views being expressed by Sainsbury's the application accords with the NPPF and emerging Local Plan and Bicester Masterplan.

There is a quantitative and qualitative need and there are no objections from the Council's independent expert (CBRE) with regard to impact on the town centre. The impact will be negligible and more than offset by the wider benefits of the proposal (highway improvements and jobs).

The highway works proposed are necessary to provide sufficient mitigation to make the application acceptable in planning terms. Ignoring existing problems is unrealistic and the County Council has made it clear, as do the TA guidelines, that the existing situation should be determined and then growth and additional development traffic should be added.

Connectivity can be further developed between Bicester Village, the station and the town centre.

The NPPF recognises the contribution retail development makes to employment as does the emerging local plan. The application will create up to 500 retail jobs and enable the relocation of the Tesco to provide yet more. The current application proposals will result in an overall increase in employment on a re-configured Bicester business park site as a result of the replacement of the hotel and some Class B1 office units with the relocated Tesco. Furthermore, the proposal will provide the necessary funding to deliver the infrastructure required to bring forward the development of the Business park.

There are no sequentially preferable sites to the application site and there is no conceivable reason to refuse the application based on a suggestion that the proposal would be better located on an alternative site. The decision of the objector to produce an indicative masterplan is unclear. The location would be unviable in commercial terms, too small, require demolition of an award winning car park, will mean less parking, would be partly in a flood zone and on land needed for station parking.

There is no planning balance in Sainsbury's objections. The proposal accords with the NPPF, development plan and there's a strong presumption in favour of approval. There would be no material adverse impact.

- 2.9 The above applicant's agents letter is supported by a technical note which seeks to clarify queries raised as follows:

Parking numbers - 2,186 spaces exist on the site with a proposed uplift of 330. This is correctly identified in the TA so it is based on correct information. The plans are also correct because the 200 spaces and 20 coach spaces (approved under 12/00292/F) are not yet built but will be as part of this phase 4 extension.

Public exhibition feedback - Most of this has been positive. It was open for Turley's to comment then in a timely manner.

General background – the application is supported by a retail assessment which is up to date and independent and identifies policy issues. Bicester Village is a unique offer and important as a major employer and tourist attraction reflected in emerging policy. These points are recognised by CBRE.

Policy – the NPPF states that where the development plan is absent etc then the Council should grant planning permission unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits. There is a clear presumption in favour of the development as it will create jobs and further investment. The Local plan supports the growth of Bicester Village and the Masterplan identifies it as a 'Speciality Retail Quarter'.

Retail matters – the application is not reliant on any fall back position. We have not suggested that Bicester Village would operate from the Tesco store.

Need for the extension – Need is no longer a specific policy requirement of the NPPF so a lack of need is not a valid reason for refusal. The need for the Bicester Village is site specific to enable growth and success of the business. The application addresses a site specific need for additional floorspace for Bicester Village accommodating retailers that would not go elsewhere.

Impact on Bicester Town Centre – Our assumptions have been criticised but for clarity and information, our in-centre survey was undertaken over several days. It's corroborated by the extensive marketing and sales data and confirms the wide catchment. Most (90%) of the trade will be from outside the local area.

Impact on town centre investment – Bicester Village has not affected any town centre investment. The new Sainsbury's application must be a response to a perceived high level of demand and available spend further indicating that investment is drawn to the town centre. Additional retail development in the town centre will also serve to increase its overall annual turnover further reducing any impact the proposal may have. Bicester Village is unique so there is no trader overlap so highly unlikely to affect the town centre. Being a complementary offer to the town centre, Bicester Village is more likely to draw greater numbers to the area.

Impact of A3 uses – the ratio currently established will not change and is limited to 10%. No A3 operators in the town have objected. We believe there will be benefits and not any harm.

Need for further assessment – All studies required have been submitted and critiqued independently.

Highways – it is suggested that Bicester Village are providing highway mitigation not directly related to the development or fairly and reasonably related in scale and kind to it. This is strongly refuted. A note from Royal Haskoning provides a response to the WSP objection by Sainsbury's (covered below) However, in summary the highway works are appropriate because they have been done in agreement with Oxfordshire CC who do not object and nor do the Council or the Highways Agency. There have been long standing problems on the local highway surrounding Bicester Village and the extent of the works reflects the needs of the particular site and the proposed development. Contrary to what Turley's are saying we believe that the current applications should rectify any existing highways capacity and management issues associated with Bicester Village. The impacts are cumulative because it also involves the Tesco proposal. We would not spend money if it wasn't necessary and the proposal represents what we are willing and able to deliver. It is also appropriate to have the Bicester Village extension and highway works as one application.

Connectivity – The application proposes a new footpath link to the station through Bicester Village car park and onto the town centre. Existing pedestrian and cycle routes will be improved.

Employment and employment land – The proposals are essential in providing the funding needed for the infrastructure that will allow the development of the business park site to proceed. There is a lack of commercial interest at present. The infrastructure works are required for the whole site to be implemented. 500 new retail jobs will be provided at Bicester Village, 600 new jobs at the new Tesco and up to 2,500 new jobs on the re-designed business park.

Alternative expansion site – it is not clear why Turley's have submitted an indicative masterplan using land abutting the existing decked Bicester Village car park to the north. The site we have chosen is entirely suitable. It is not for Turley's to suggest alternatives and in any event the proposed location is also out of centre so isn't sequentially preferable in policy terms. It would be unviable as it would be detached from the rest of the Bicester Village mall so no Bicester Village traders would want to go there. It's too small and would

require the partial demolition and re-configuration of the award winning car park. It doesn't provide any additional parking but rather loses some. Part of the site's within the flood risk area. Part of the site is used for station parking and not in our control. Considerable level differences are ignored and servicing the units would be problematic.

Wider benefits – will be provided through support of local supply chains and service providers. Highway improvements to alleviate traffic congestion at peak trading periods. Additional funding for the County Council's park and ride will be provided.

- 2.10 A note from Royal Haskoning DHV has been provided in support of GVA's response to the Sainsbury's objection relating to matters of highway assessment only.

All adjustments to the traffic flows have been agreed by the County Council. Re-surveying the network, as suggested, would be pointless as it would not include traffic associated with Kingsmere. The level of traffic using the highway has been adjusted to acknowledge that the business park traffic will not be as high during the weekend. Such assumptions are accepted by the County Council. The new route (Vendee Drive) enables traffic to divert away from the Middleton Stoney Road junction.

The 4 alternative access options which would avoid using any of Tesco's land will require someone else's. If options can ignore the crucial matter of land ownership then any option is possible. 3 of the options propose access from the B4030 the same as the application scheme and the other (off A41) ignores ground levels. There are other obstacles such as trees and flood zones to consider.

It is inevitable in developing highway improvements that some wider benefit may be derived. It is confirmed that the car parking numbers in the TA are correct in use as at June 2012 as 2,186.

- 2.11 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.
- 2.12 17 letters of objection mostly from business in the town centre were sent to Councillors and copies were received by the Department on 6.12.2012 (date

of previous Committee). These 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.

2.13 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"*.

2.14 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, the development 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.

Cherwell District Council Consultees

- 3.2 **Head of Strategic Planning and the Economy** (Planning Policy): No comments received.

- 3.3 **Head of Strategic Planning and the Economy** (Design and Conservation Team Leader): Comments have been provided on the layout and design.

Character and Context

The site is located in a strategic location in Bicester. Development on this site needs to support the objectives as set out in the Local Plan and Bicester Masterplan. In particular the Council would expect to see further information relating to the potential connections (especially pedestrian and cycle) that can be established to the Town Centre, Bicester 4 and Bicester Town railway station.

The Council see Bicester Village as an important focus for the Town and are keen to promote visitors to spend more time in the area and explore the Town and its environs.

The connection to the railway station will be particularly important, especially once the upgrades are made to this line, linking Bicester Village to London and Oxford

In the analysis section, where the opportunities and constraints are set out the importance of the connections in to the Town Centre from the Bicester Village site are acknowledged. It is important that this point is translated into the proposals.

The importance of future development to the south of the site should also be considered. The existing relationship between Bicester Village and Tesco's allows customers to walk between the two sites, and it will be important that this relationship continues in the future if Tesco's relocates to the south of Boundary Road.

Information on topography and drainage would be helpful, especially in relation to the SUDS.

The Brief and Conceptual Approach

The development brief proposes the extension of Bicester Village to the west, alongside new roads, parking area and servicing.

The broad conceptual approach of continuing the building form, character and scale is accepted as the correct approach.

While there is an acknowledgement that additional car parking is required with the expansion of the site. It is potentially a lost opportunity to sandwich parking between the western edge of development and the Oxford Road as this is a key gateway into the site and Bicester and there is an opportunity to raise the profile of Bicester Village in this location.

The development of the streets, access routes and parking areas should be strategically considered to encourage pedestrian movement and promote a high quality public realm.

Layout Plan

The Council has discussed a number of layout changes that could take place to the plan to support better integration of the scheme with the strategic objectives and long term growth of the Town. It is disappointing that these issues have not been taken on board. In particular:

The provision of high quality pedestrian routes, connecting Bicester Village to the Town Centre to the south and Bicester 4 / Bicester Business Park to the north.

For this to be successful an improved public realm that encourages movement through the site, especially the car park would be required.

The Bicester Masterplan sets out a strategic vision for the future structure of development and movement in this area.

In addition, potentially turning the western end of the proposals to provide a stronger frontage onto the Oxford Road and encourage pedestrian movement to the north would be helpful. This potentially could mirror the nature and form of development as it currently stands at its western edge.

Movement network

While it is acknowledged that a large area of the scheme is given over to car parking, we would expect to see a stronger public realm to improve the experience and navigation of this area for pedestrians. This applies to those who have arrived by car as much as those who have walked or cycled to the site from elsewhere.

Bicester Village is one of the major attractions of the Town. It would be very helpful if potential connections; to the Town Centre to the north and future commercial development to the north and south are made through changes to the building form and appropriate public realm treatment. Information setting out the character of the streets, alongside their scale and use of materials would be helpful.

Architecture and Form

The Council has little comment on the architecture of the development, bar those comments already made regarding building layout and circulation. The new development continues the architectural style of the existing shopping area and is therefore considered appropriate and in keeping with the surrounding context.

The scale and massing are appropriate and in keeping with the earlier development, though there is the potential to make a stronger land mark statement to the west of the site.

Landscape and Public Realm

The quality of the public realm could be strengthened. Establishing key linear landscaped spaces through car parking areas, to provide strong entrances into the shopping centre and link through to the streets, parking and spaces would be constructive.

A clear landscape strategy would help inform the character of the public realm and support orientation through the site by all users.

More information required on the landscape proposals.

There is currently no information on how site drainage will be managed. The use of SUDS would be appropriate in this area.

Legibility and Signage

A long term strategy should be established for improving connections between Bicester Village and the town centre. This should include thoughts about signage, mapping and general navigation through the Town, alongside improved leaflets about Bicester Town

This should liaise with the work being undertaken by Eco Town on a signage strategy for Bicester.

Conclusion

Further consideration should be given to the design principles and layout.

3.4 Head of Safer Communities, Urban & Rural Services (Landscape Architect):

Proposed Landscaping

Reference is made to Planting Plan drawing no. 102 Revision A

As a prestigious retail 'gateway' development on the edge of Bicester a quality landscape designed scheme is required. The proposed car park scheme replicates the existing car park that does not have the landscape generated spaces with SUDs features that are appropriate to the new phase. An integrated landscape of pedestrian/vehicle circulation, structure planting, large individual specimen trees, with a greater variety of plant form, leaf texture and colour, flower and berry - the proposals are to be improved.

The round-a-bout and central reservation on A41/Oxford including the round-a-bout off the main access to Bicester Village should be a themed landscape of high quality, befitting a prestigious development such as this - the proposals are to be improved.

Service Entrance

There is a concern about the visual impact of service yards elevations and the rather blank wall of the toilet block. A separation of service and visitor traffic with appropriate landscape mitigation measures is required.

Visitor Circulation / Orientation / Site connectivity

Improved landscape/pedestrian links between Pingle Fields, the proposed Tesco site, the peripheral link on the Oxford Road. The user experience on the pedestrians on the edge of the very busy Oxford Road is not very pleasant. The landscape belt here must be widened for the purposes in relocating the path within landscaped corridor. The landscape corridor is to accommodate mown grass verge for vehicle user vis-splay/sightlines, with the *Quercus palustris* trees positioned further back from the roadside than shown on the proposals. The width of the landscape corridor will have to be widened

and parking bays will be relocated. The route can be linked with the pedestrian avenue defined by the hornbeam trees in the western car park.

From the west car park the pedestrian avenue defined by this avenue does not align successfully with the central shopping concourse. This route could be made into a more interesting landscape corridor which is aligned with the shopping concourse for the purposes of legibility, with framed views of the three pedestrian squares (defined by the building extents).

The three pedestrian squares must to be explored in more detail - at 1:100 scale. Three characterful spaces could help to anchor the scheme and provide points of reference and interest for visitors. Large street trees, street furniture, lighting, paving, and street cafes etc are to be considered at these locations.

The three Liquidambar trees immediately east of the disabled parking do not relate successfully with surrounding layout, and their positions appear to conflict with driving in and out of bays. More information on vehicle and pedestrian demarcation and surface materials is required.

Hard Surfaces

There appears to be no scaled drawing showing surfaces, spot heights and kerb edges, and disabled access points etc. This information would help to clarify users circulation, DDA access, drainage/SUDs and landscape structure planting with appropriate planting areas and depths.

SUDs

There is no indication of whether there will be any SUDs features in the Geophysical Assessment Ph 2. This element should be considered, not only to treating storm water runoff, but for the improvement of landscape amenity etc.

Existing Trees

It is essential to ensure that the existing trees on adjoining land on the southern site boundary, with an influencing distance of the groundworks, are protected under *BS 5837:2012 Trees in relation to design, demolition and construction – Recommendations*. This is because they contribute amenity and screening to the proposed western car park development from the A41 road corridor.

The landscape conditions are required. The 1:500 scale on the drawing is far too small to show the necessary detail such as kerbs and pedestrian routes. 1:200 scale drawings are needed to ensure that the appropriate level of detail can be considered by the planning authority.

3.5 **Head of Safer Communities, Urban & Rural Services (Arboriculture):**

Significant comments

Despite there being no arboricultural report accompanying the application my site visit indicated that all the trees within the site boundary should be identified as category 'c' trees in accordance with BS5837:2012 and it is my opinion that none of the trees should be considered a constraint to the proposal which seeks to mitigate the loss of these 160 young and established trees within a submitted landscaping scheme (Planting Plan 1, No 101)

Landscaping

Generally, the overall provisional scheme is acceptable but I would like to make one or two amendments regarding species and I would like to see the landscape design proposals broken down for individual areas such as car park, street scene, boundary verges, roundabouts, central reservations etc in order to form a more considered opinion.

Site boundary

Drawing 101 shows the boundary planting predominantly comprising of *Quercus palustris* (Pin oak) which due to the mature pyramidal form and autumnal colour of the species will not only compliment the architecture of the design and identify the site boundary but will also provide a striking seasonal colour scheme.

Car park & Roundabout

The 5 No *Acer campestre* proposed for verge planting off the access roundabout and entrance into the car parking area should be replaced with a softer, contrasting species such as *Betula albosinensis* 'Fascination'. The initial quantity should be increased to eight planted symmetrically with four trees placed on either of the verges located off the access roundabout as you enter into the actual car parking area.

The access roundabout itself currently has no trees proposed for planting and I would like to see a single planting of 1 No *Acer campestre* 'Elsrijk' which, due to its balanced, rounded form and clear yellow autumn foliage will provide a prominent visual feature after the autumnal red of the *Q. palustris*.

Due to issues with sight lines, it's not possible to plant the verges adjacent to the two service yards and the rear wall of the public toilet area. This elevation and frontage to the entrance of the site will remain stark and quite bland as a result.

The 15 No internal parking bays to the eastern boundary of the site have no tree planting or landscaping proposals suggested within drawing 101. More detail on landscaping is required for this area of car parking.

The parallel parking bays proposed for the northern sector of the car park are enhanced through further shrub bed planting and the linear planting of 19 No *Pyrus calleryana* 'Chanticleer' and 6 No *Carpinus betulus* 'Frans Fontaine' planted in an avenue formation. The mature *Pyrus* will develop pyramidal crowns which should compliment the proposed roof line of the retail outlet. As with all the trees planted in hard surface areas, these trees will need to be planted within pits constructed with interlocking root-cells sufficient in quantity to contain appropriate volume of soil required to support and assist tree development into maturity.

The proposed avenue plantings of *Carpinus betulus* 'Fastigiata' in the car parking areas provide an interesting visual feature however it may be advisable to replace the *Fastigiata* with the variety 'Frans Fontaine' which have a narrower crown and to consider increasing the visual benefits by managing the avenues in a trained format.

To increase species diversity and visual attraction, I am of the opinion that the *Pyrus calleryana* 'Chanticleer' proposed for the western car parking area should be substituted for different species.

Shrub bed areas located to individual corner sections of the car parking areas are of sufficient size and volume to be able to accommodate appropriate ornamental trees which may be used as prominent and distinguishing features within the car parking area.

The 3 No Liquidamber styraciflua noted adjacent to the disabled parking bays currently appear to be out of alignment with the adjacent features and should therefore have their positions re-aligned.

The three locations within the concourse selected for planting are generally welcomed however more detail is required regarding the streetscene appearance, adjacent street furniture and planting area design.

Central Reservations

The 20 No *C.b.* 'Frans Fontaine' selected for the central reservation have a narrow crown which is well-suited for central reservation planting however, in order to compliment the autumn value of the *Q. palustris* and to increase the visual impact of the scheme, I would like to substitute the *C.b.* 'Frans Fontaine' for 20 No *Liquidamber styraciflua* 'Worplesdon' planted in a linear, regular fashion at approximately 10.0m distances.

- 3.6 **Head of Safer Communities, Urban & Rural Services (Ecology):**
No objection or further comment.
- 3.7 **Head of Safer Communities, Urban & Rural Services (Biodiversity and Countryside):**
Bicester Footpath No 6 is affected by the proposed development but it is not appear to have been mentioned in any of the documentation accompanying this planning application. The footpath runs along the southern edge of the proposed car park and then heads south out of the plan area. The plans need to show and state clearly how the existing line is to be accommodated. 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".
- 3.8 **Head of Public Protection & Development Management (Environmental Protection Officer):** No comments recieved.

Oxfordshire County Council Consultees

- 3.9 **OCC Highways:**
Introduction
The development proposal is welcomed with regards to promoting economic growth in Bicester. However, while consideration has to be given to this site

promoting job opportunities for the town of Bicester, this planning application has to be assessed on its merits in terms of transport.

The proposed fourth expansion to the Bicester Village retail outlet centre will consist of a Gross Floor Area (GFA) of 5,735m² with 372 car parking spaces, as well landscaping and off-site and on-site highway improvement works. This development proposal will replace the existing Tesco Store (GFA of 4,229m² with 404 car parking spaces) off Pingle Drive once the proposed new Tesco Store is ready for first use, which is subject to a separate planning submission.

The application site is adjacent the western boundary of the existing Bicester Village retail outlet centre with vehicle access off the A41, the B4030 (Oxford Road) and Pingle Drive (private road). The proposed site is around 500m to the south of the town centre, and located within close walking distance to the Bicester Town Railway Station.

Please note this planning application has been assessed along-side planning application 12/01193/F, as both applications are directly linked.

Summary of Transport Assessment (TA)

The proposed extension to the existing Bicester Village retail outlet centre will be located off the A41 and the Oxford Road (classified roads). Access to the site is to be taken via the existing entrance on Pingle Drive (private road). Significant off-site and on-site highway improvement works are proposed to mitigate/accommodate this planning application as well as the new Tesco Store proposed (12/01193/F). The highway improvement works are also proposed to ease the recognised transport issues along the A41 corridor and the localised traffic problems affecting the residents of Bicester.

Within the submitted TA it has been recognised the proposed fourth expansion to the Bicester Village retail outlet centre and the new Tesco Store is likely to have an impact on the local highway network.

A review of the accident data for the area has been undertaken, which identified a number of incidents; further investigation of the data driver error was the likely cause of most incidents rather than the characteristics of the local highway network.

A review of public transport, pedestrian and cycle accessibility has been undertaken.

Whilst it is acknowledged there is an existing Travel Plan associated with the Bicester Village retail outlet centre, an updated plan will be required to accommodate the proposed development.

Transport Assessment (TA) Comments

While the proposed expansion to the Bicester Village retail outlet centre is welcomed, this successful site continues to generate and attract a high number of visitor traffic movements throughout the year (especially over holiday periods). Such visitor traffic movements are acknowledged to cause congestion along the A41 corridor and localised traffic problems to the residents of Bicester.

With the continued growth of Bicester, and the local and national planning policy changes that have recently happened, a review of the highway arrangements (and surrounding area) for this site has been carried out by the applicant of this planning application, the applicant of planning application 12/01193/F (Tesco) and the Local Highway Authority. This review has taken into consideration the recognised transport issues along the A41 corridor and the traffic problems the residents of Bicester can suffer from, from these successful sites. The agreed outcome of this review and subsequent pre-application discussions is shown on submitted drawings P04 (1, 2 & 3), in the form of a significant highway improvement scheme for Bicester.

The submitted TA for this application is specifically confined to assess the transport implications of the proposed development (and the proposed highway improvements works) to demonstrate the impact upon the local highway network will not be severe in line with the guidance within the National Planning Policy Framework (March 2012). This TA acknowledges there are direct links between the proposed new Tesco Store and the proposed extension to the Bicester Village retail outlet centre.

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 study period. Further consideration of the information provided suggests the incidents occurred as a result of 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 risk of an accident in this area. I have checked accident data, updated 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 it is imperative this is secured by a pre-commencement condition; i.e. the CTMP must be agreed formally by both the Local Planning Authority and the Local Highway Authority prior to the commencement of this development. A CTMP guidance note is attached for your convenience.

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 proposed development and associated highway improvements has adequate design capacity to serve the proposed site, and satisfactory mitigate against the existing and future traffic generated by the proposed extension to the Bicester Village retail outlet centre.

The traffic generation and modelling work that has been carried out in the TA has been considered by the County Council's Local Transport Strategy Team (LTS team) for Bicester, who have provided a number of comments, which have been summarised below:

The approach within the submitted TA is considered to be very thorough in regards to the collection of baseline data (including OD surveys), which are very helpful to understand the current and past travel patterns/trends

associated with the Bicester Village retail outlet centre. It would have been helpful to have seen the mode share of employees as well as visitor movements, but this can be dealt with through updating the current travel plan at a later stage. Table 2.9 shows the high car use but also the high train use of customers.

The SATURN model is used to test the impact of large strategic sites upon the local network. However, for this planning application the model has not been used to test this development proposal due to the following reasons:

- *There was a low level of increased traffic expected from Phase 4 of Bicester Village;*
- *Compared with the existing Tesco Store movements the proposed extension was assessed as reducing flows (slower turnover of cars associated with Bicester Village);*
- *LTS team particularly interested in the weekend movements and there is no Saturday or Sunday SATURN model available, neither are there any weekend assessments of the other proposed developments in the town;*
- *The proposed highway improvement scheme at the Pingle Drive and ESSO junctions is over and above what is needed simply for Phase 4 and the relocation of Tesco's as it looks to remedy existing problems caused by Bicester Village on high trading days. It was considered not appropriate to use the SATURN model to determine their degree of impact. Just needed the applicant to robustly assess for the proposed junctions. ARCADY software was used instead, as this a more appropriate industry based software package to use. ARCADY results have been checked and are deemed acceptable.*
- *LTS team requested the applicant to consider the Banbury Road and Buckingham Road junctions with the northern peripheral road due to known transport issues in this area. An assessment was carried out by the applicant, which demonstrated these routes would not be significantly affected by the proposed development and highway works.*
- *The Highways Agency has confirmed that there is no need for the applicant to specifically model Junction 9.*

The TA has included; a 2024 sensitivity as requested; consideration of weekends; impact of committed and future developments, such as Graven Hill.

The future year of assessment and traffic growth stated in the TA (para 10.2 onwards), is considered acceptable – as this assessment picks up the longevity of the infrastructure improvements proposed.

It is recognised the proposed extension to the Bicester Village retail outlet centre will have an impact upon the local highway network outside the normal week peak times; therefore the Local Highway Authority would normally seek a Transport Contribution via a Section 106 agreement. Such a contribution would be towards sustainable highway infrastructure and services within Bicester, as part of the Transport Strategy for the town. However, as the proposed off site highway works are considered significant and will provide a strategic improvement to the highway network, it is not considered appropriate to request a general transport contribution from this planning application.

The County Council's Traffic Signals Team and LTS team have reviewed the traffic modelling and distribution data provided for the proposed development and highway works; subsequently they have confirmed the proposed highway improvement scheme is considered acceptable to serve the proposed Bicester Village expansion.

Proposed highway (mitigation) works & Access Arrangements

Due to the existing layout of the highway infrastructure serving the area, it is difficult to carry out a right turn manoeuvre into Pingle Drive from the B4030 (Oxford Road) at the roundabout junction. The issue carrying out this right turn movement into Pingle Drive is that a pinch point exists on the exit lane from the roundabout itself by the Acorn Public House, where turning traffic merges into one lane. This merging results in delay on the approach to Pingle Drive from the Pingle Drive roundabout, where from time to time traffic does come to a standstill (especially during holiday periods). This then has a cumulative effect of causing traffic to queue onto the B4030 and further onto the A41, ultimately leading to chronic congestion and exhaustion of highway capacity and highway safety implications.

To alleviate the existing traffic problems associated with the Bicester Village retail outlet centre, and provide mitigation measures to accommodate the fourth expansion to this commercial site a significant highway improvement scheme is being proposed by the applicant. This highway improvement scheme is shown on drawing 3P76040-SK26, and consists of the following works:

i) Pingle Drive/Bicester Village junction – alterations to the existing configuration of the Pingle Drive Roundabout to provide a traffic signal controlled junction. From the south of the roundabout (into the site), drawing 3P76040-SK-26 shows the introduction of two right turn lanes through the existing island of the roundabout, which then lead to two inbound lanes along Pingle Drive. Such improvements are expected to assist local traffic movements heading towards Bicester as well accommodating traffic that would be travelling to the new Tesco Store and the Bicester Business Park. For southbound traffic movements, two ahead lanes are proposed. The provision of these lanes is considered a key element of these works to ensure local traffic can pass through the junction towards the new Tesco Store and onwards. From the North a left turn lane into Pingle Drive is to be provided. Pingle Drive itself is to be modified in order to provide two inbound lanes. With regard to exiting traffic, a right turn lane serving traffic heading to the north towards the town centre is to be provided, as well as two separate left turn lanes for traffic heading south.

Pedestrian and cycle crossing facilities are to be provided over the Pingle Drive arm of the junction to link up to the existing crossing facilities and highway network.

ii) Esso Roundabout – alterations to the existing roundabout are to include the creation of two new east bound lanes through the centre of the roundabout to cater for the A41 (as shown in drawing 3P76040-SK-27). Both the northbound, southbound and westbound arms of the junction are to be signalised with only the access to the petrol station being kept as a give-way arrangement. This element of the highway improvement works will require the removal of the segregated left slip land from the A41 (east).

With regards to the northbound approach to the junction, this is to include two ahead lanes for traffic travelling towards Bicester, with three ahead lanes being provided at the stop line for southbound traffic. Traffic from the east is to be provided with two right turn lanes, together with a dedicated left turn lane. Due to the closeness of the approved Bicester Business Park junction it is not possible to retain the segregated left turn filter lane.

iii) Bicester Business Park Junction – the proposed highway improvement scheme has taken into consideration the approved Bicester Business Park (signal controlled) access arrangements, which is shown in drawing 3P76040-SK-28. The signalled controlled access to the Kingsmere development, which is around 120m to the south of the business park's access has also been considered, especially the provisions for pedestrian and cyclist crossing movements.

Due to the proximity of the approved traffic signal junctions, it is proposed that these are to be linked together, which is accepted as the proposed highway works are considered strategic importantly and will need to be constantly monitored.

iv) Internal highway improvements works – a number of alterations are proposed along Pingle Drive which is shown in drawing 3P76040-SK-29, all of which are expected to provide significant benefits to the surrounding area when combined with the proposed off-site highway works. These internal improvements will include two specific lanes for inbound and outbound traffic from the junction of Oxford Road, as well a new internal three arm roundabout (approx 180m into site) to be located in place of the existing Tesco mini roundabout. This new roundabout will provide access to the western side of the Bicester Village retail outlet centre, where additional car parking (372 spaces) will be located.

The two land inbound traffic lanes continue along Pingle Drive up to the internal junction that serves the existing multi-storey car park. With regards to outbound traffic, it is proposed that the remaining single lane exit lane is retained up to the proposed new roundabout. After the roundabout the outbound traffic lanes increases to two lanes, then to three (2 left turns and one right turn lane) at the proposed traffic signal controlled junction on the Oxford Road.

The existing internal pedestrian and cycle routes are to be retained as part of the proposed works, with a new pedestrian route being provided to the south of Pingle Drive connecting them up to each other. The existing bus turnaround facility is to be retained with some minor alterations.

The access arrangements to serve the proposed extension are considered acceptable.

v) Overview of proposed works – it is considered that the proposed highway improvement scheme will provide a number of highway safety and transport benefits along the A41 and Oxford Road corridor, which will help address the known traffic problems associated with the Bicester Village retail outlet centre and Tesco.

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 is likely to 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 proposed internal access arrangements for the car park to serve the development are considered acceptable.

The servicing arrangements proposed to the rear of the Bicester Village retail outlet centre expansion are also acceptable and should be imposed as a condition to ensure future servicing only takes place in this location.

The development 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 a small section of Pingle Drive will be required for adoption by the Local Highway Authority to secure control over traffic signal equipment for future maintenance and improvements as part of this planning application. The remainder of Pingle Drive is to remain private, be constructed to an adoptable standard and fall under the responsibility of the land owner. An agreed adoption plan with the Local Highway Authority will be required, but this can be agreed as part of the required S278 Agreement for the highway improvements works.

Parking levels

The proposed parking spaces for the Bicester Village retail outlet centre expansion has taken into consideration the existing parking levels currently provided for the Tesco store (404 + 18 disabled), and is reducing this level of parking to 372 with 7 disabled parking spaces. Such a minor reduction is considered acceptable as the proposed parking remain in line with the appropriate parking standards.

In terms of the cycle parking (6 spaces) currently provided at the Tesco store, these are being removed and disappointingly appear not to have been replaced or relocated. Although losing this level of cycle parking is not considered a reason to object to this planning application, not replacing these facilities is contrary to the aspirations of Bicester promoting sustainable travel and transport for the town.

Financial Contributions & Legal Agreements

It is recognised the proposed extension to the Bicester Village retail outlet centre will have an impact of the local highway network outside the normal week peak times; therefore the Local Highway Authority would normally seek 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. However, as the proposed off site highway works are considered significant and will provide a strategic improvement to the highway network, it is not considered appropriate to request a general transport contribution from this planning application.

With regards to providing funding for the construction of the proposed Bicester Park Ride facility (as stated in paragraph 8.15 of the submitted Planning Statement/draft heads of terms and paragraph 1.2.7 of the TA), such a proposal is welcomed by the Local Highway Authority and further discussions and negotiations will be required on this matter.

A Travel Plan monitoring of £960 is required.

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% and potential commuted sums. This agreement will be part of a S106 Agreement for this development.

Summary

Whilst there are some issues that require further information, amended plans and consideration which need to be resolved, 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, but recommend a number of conditions are imposed.

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.

3.10 **OCC Travel Choices:**

It is acknowledged Bicester Village retail out centre currently operates a Travel Plan, which was a requirement of the Phase 3 planning permission. This Travel Plan is focused on staff travel and monitors staff travel patterns since Phase 3 was implemented. Paragraph 3.7 within the submitted TA confirms the current Travel Plan will continue to operate when Phase 4 (if approved) comes on into place.

To secure this commitment the existing Travel Plan which was agreed and secured as part of the S106 under the previous extension of Bicester Village must be updated and amended to take into account this further extension.

It is recommended that early agreement is made between the applicant and the Travel Choices Team on any new/updated Travel Plan targets so they can be included into the S106 Agreement for this planning application. An updated car parking management scheme will be expected to be included. I would recommend this requirement is imposed as a prior to implementation/commencement of work on site planning condition.

3.11 **OCC Rights of Way:**

The existing Bicester Footpath No 6 will be affected by the proposed development, but does not appear to have been shown on any of the submitted plans and it is not mentioned in any of the submitted planning documents.

The Definitive Map showing this footpath can be viewed at www.oxfordshire.gov.uk/definitivemaponline (map sheet number 52SE).

Definitive Footpath No 6 runs around the north and west of the site on a footway and will be affected by the proposed changes to the road layout to the north of the site. The footpath then enters the site at the southwest corner of the car park and runs within the car park for approximately 60m before exiting through the southern boundary. The footpath then continues across a narrow field to meet the A41 at a point close to the pedestrian/cycle crossing. The applicant needs to amend their plans to show the footpath, and will need to provide information on how it will be dealt with – amended plans required.

This footpath links to the crossing of the A41 and the potential new Tesco site which is subject to planning application 12/01193/F. If the Tesco application is successful the proposal includes a pedestrian link from the south side of the A41 to the store. The continuation of footpath 6 in a southerly direction links up with a cycle track down the side of the A41 (Oxford Road) to a crossing which links with new infrastructure within Southwest Bicester. This footpath could provide a pedestrian link into Bicester Village, which is partially away from traffic.

An amended plan and further information is required and I would recommend this requirement is imposed as a prior to implementation/commencement of work on site planning condition.

3.12 **OCC Drainage:**

The submitted drainage strategy is considered to be very sparse in its content. The flood risk assessment that has been provided refers to the proposed development using the existing drainage system of the Bicester Village retail outlet centre. However this document does not appear to confirm the existing drainage system has the capacity to traverse the additional surface water to the pond. If the additional impermeable areas are at ground level, they could be porous paving to help attenuate surface water rather than straight into the system.

The County Council's Drainage Team requires a more detailed drainage plan before a full detailed response for this application can be provided. However, such information can be provided subject a prior to commencement of work on site planning condition being agreed and imposed by the Local Planning Authority.

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

3.13 **OCC Arboriculture:**

The proposed tree species selection for the off-site highway are considered acceptable, however there are a few issues that must be agreed by the County Council's Arboricultural Team before these works can be technically agreed/approved. The issues that require further information is set out below, however it is expect the majority of these can be included within a management plan for the site, which can be imposed as a prior to commencement planning condition by the Local Planning Authority:

- Soil conditions – no planting is to occur during times of snow covered ground or frozen ground (only the trees that will be located adjacent to the public highway).*
- Watering – watering of the trees adjacent to the public highway must be done so that the soil reaches field capacity.*
- Plants/Trees General – trees are to be sourced from a reputable tree nursery such as Barchams, Majestic, Deepdale etc. This will minimise the risk of infection from pests and diseases.*
- Treatment of wounds – all pruning works to trees adjacent to the public highway must be done using sharp handsaws only.*
- Pruning general – all tree pruning operations must be done in accordance with BS 3998:2010. Pruning trees and shrubs to accord with BS 3998 to BS 7370-4; formative pruning – works must be undertaken in accordance with BS 3998:2010. Any equipment used for the pruning of trees that are infected with a bacterial disease must be sterilized before being used on another tree.*
- Cleaning out/dead wooding – fungal growths should not just be removed. A competent arboriculturist should be contacted for further advice. Care should be taken to not undertake pruning operations at times of fungal sporification to avoid infection of other trees.*
- Snow clearance – Snow must not be piled up under trees when it is cleared. No salt may be placed within 100mm of any tree stems.*

A commuted sum (£1,300 per tree to cover 30 year maintenance period) will be required for each new or replacement tree which is part of the proposed highway works. The commuted sum(s) are to be secured as part of the required S278 Agreement for the proposed highway works.

3.14 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

3.15 Environment Agency:

No objection subject to conditions.

3.16 Highways Agency:

No objection.

3.17 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

3.18 Oxford City Council:

Object to the proposal. It is contrary to the NPPF which seeks to promote 'town centres as the heart of their communities'. LPAs need therefore to encourage and support the vitality and viability of their town centres. There is a defined hierarchy of centres such as Bicester and Oxford. Bicester Village is an out of centre location so needs to be sequentially tested and assessed in terms of retail impact on the town centre. The sequential test should

include Oxford City centre and the Westgate shopping centre. The retail assessment is not sufficiently rigorous. The proposal will divert expenditure from the City to Bicester Village. If approved the new Bicester Village will comprise the equivalent of almost 80% of the total planned development for the Westgate Shopping Centre. In retail impact assessment is required. A revised planning application is due to be submitted in Spring 2013 at the Westgate Shopping centre and in the case of St. Aldates/Queen Street the City Council are in early discussions with new prospective purchasers of the site who are also considering making a new application. If approved, there should be conditions restricting the Class A1 retail use to those normally sold in a factory outlet and unit size.

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

C28: Design, layout etc standards

ENV12: Contaminated Land

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

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

NRM11: Development Design for Energy Efficiency and Renewable Energy

M1: Sustainable Construction

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:

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

ESD16: The Character of the Built Environment

The site is annotated as 'Existing retail' in the proposals map for Bicester for which there is no specific policy.

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:

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

EN47: Archaeology and the Built Heritage

D1: Urban Design Objectives

D3: Local Distinctiveness

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 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 at the west side of the site nearest the roundabouts, an area of public open space is proposed to be identified together with tree and landscape planting.

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.

With particular reference to Bicester Village, it is concluded that it is a vital and viable centre which fills a niche in the market for high-end designer clothing and provides Cherwell with a successful tourist attraction. It serves a wide catchment, well beyond Cherwell District.

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 the Bicester town centre's relationship to Bicester Village, it is clear that the two are different shopping destinations serving very different markets. The physical separation between them is such that it is likely to be difficult to encourage shoppers at the outlet centre to visit the town centre as part of linked trips. There is, however, an opportunity for the Council to promote the town centre in marketing material and/or possibly reroute the bus from the railway station so that shoppers can also visit the town centre.

Bicester Village secures only 0.5% of its expenditure on comparison goods from residents in the study area. Even in the zone in which it's located it secures only 0.9% of comparison expenditure available from residents in that zone. This reflects its unique role as a national/international retail destination.

There is little benefit in seeking its expansion to serve Cherwell residents as it clearly serves a very limited role for them at present, although there may be a case for an expansion to serve a wider market.

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.

5. Appraisal

Background

- 5.1 Bicester Village is one of nine 'villages' operated by Value Retail throughout Europe and a leading designer outlet centre in the UK. The first phase of 63 units at Bicester Village opened in 1995. The last significant phase (phase 3) opened in September 2008 and there are now over 130 units with a total of circa 21,755 sqm gross floorspace including a 2,950 sqm allowance for Class A3 café/ restaurant use.
- 5.2 The existing retailers at Bicester Village comprise a mix of world leading international and British brands in high end retail fashion and luxuries (designer brands). There are also three restaurants, two cafes and a number of small kiosks and a Tourist Information Centre. There is parking available for 1,838 cars.
- 5.3 Bicester Village can be accessed by car and there is also a coach service which travels from London twice a day. A bus service runs to and from Oxford and there are three trains an hour from Birmingham to Bicester North with a dedicated shuttle bus financed by Bicester Village meeting all trains. Bicester Town station is a 5 minute walk across the car park.
- 5.4 The applicant states that 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
 - the need and demand to provide a limited expansion of Bicester Village.

Relevant Planning History

- 5.5 Bicester Village site
CHS.305/93 – Approval for the development to form factory outlet shopping centre comprising retail and ancillary floorspace, provision for access, servicing, parking and landscaping.

96/00620/F – Approval for the provision of seven additional shop units, an extension to café and a day care centre with crèche together with relocation

and enlargement of children's play area and provision for access, parking, servicing and landscaping.

98/01201/OUT – Approval for the provision of additional units, bus layover and stopping facilities and children's play area, together with service areas, parking and landscaping.

99/00867/OUT – Approval of toilets, baby change and cleaner room.

99/02249/REM – Approval of reserve matters (98/01201/OUT and 99/00867/OUT) for the provision of additional units, bus layover and stopping facilities and children's play area together with service areas, parking, landscaping and provision of toilets.

05/02131/F – Approval of retail development decked car parking and associated works.

12/00233/F – Approval for the variation of condition 10 of 05/02131/F to allow the Class A3 use of any approved building within Bicester Village to be increased from 2,500 sqm to 2,950 sqm.

12/00292/F – Approval for change of use of land for coach and car parking including alterations to the internal road layout and extension of a single storey storage/staff building to be used for coach drivers.

12/01374/F – Application pending for the erection of a two storey side extension to unit 82/83 (Carluccio's restaurant).

5.6 Application site

CHS.445/85 – Application for the erection of a superstore of about 48,000 sq ft, petrol filling station and three retail warehouses totalling 97,500 sq ft and associated car parking and access was allowed by the Secretary of State in August 1988. The store opened in 1991.

CHS.88/89 – Consent granted for the foodstore.

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 In normal circumstances consideration would be given to the loss of the Tesco foodstore facility but it is noted that this development will not go ahead if the Tesco does not secure a planning permission to relocate (application 12/01193/F refers). The key issues identified for consideration of this application are, therefore, considered to be as follows:

- Policy Context

- Principle
- Sequential Test and Retail Impact
- Transport Impact
- Sustainability
- Layout, Design and Landscaping
- Public Footpath Impact
- Flood Risk/Drainage
- Contaminated Land
- 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. 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.

- 5.13 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.
- 5.14 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.
- 5.15 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.
- 5.16 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. Although intended for more rural locations 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. The only other adopted local plan policies relevant to the site are non-site specific seeking to promote good design, transportation funding and consideration of the contaminated land issue.
- 5.17 The emerging local plan (Proposed Submission Cherwell Local Plan August 2012) shows the site as an existing retail site with no specific policy attached. 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.

- 5.18 There is no specific site allocation in the Non-statutory local plan and no new policy issues further to those rehearsed above. The fundamental themes of protecting town centres, promoting sustainable development, good design and transport links are retained.

Principle

- 5.19 The site is within the built up limits of the town and not allocated for any proposed use in the development plan. Policy EMP1 seeks to direct employment generating development to the sites shown (of which this is not one). In retail policy terms, as the site is not within an established town centre, it would conflict with adopted policy S25 (though this generally relates to rural locations) 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. Nevertheless, it is considered 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*.
- 5.20 The principle of retail floorspace being located at this site has been established since the Tesco, a mainly convenience goods store, was built and opened in 1991, over 20 years ago. Although noted as being a tourist destination and major employer, Bicester Village is a retail use.
- 5.21 The site is shown as an existing retail site in the Proposed Submission draft of the Cherwell Local Plan (PSCLP) and within the Speciality Retail Quarter of the identified Town Centre Action Area in the Bicester Masterplan. In order to encourage significant employment growth, the PSCLP states that we will encourage to promote and expand Bicester Village *where complementary to improving the Town Centre*. This caveat is in place because the site is essentially an out of centre location.
- 5.22 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. However, it does also recognise the unique nature of Bicester Village and that it serves a very different market to that of the town centre.

Sequential Test and Retail Impact

- 5.23 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. It is noted that the 5,347 sqm gross floorspace represents about a 19% increase in the total which is noted as being comparable to the other phased increases. It is estimated that less than 10% of the proposal's turnover will be drawn from the Oxford catchment with the remainder coming from further afield including from overseas. The catchment is agreed to be very wide and this is borne out by Cherwell's own work indicating that Bicester Village has a very low market share from in and around the Cherwell District.

- 5.24 Because the trade is so widely dispersed it makes it very difficult to quantify the likely diversion from other locations in any meaningful way. It is considered that any impacts would be dispersed and where they do fall on higher order centres it would be negligible. It is concluded that impacts in general on the neighbouring centres including Oxford City, Banbury and Bicester town centres would be negligible overall. Bicester town centre is not vulnerable and this is accepted by the retail study. The scheme that is under construction is unlikely to be at risk and in any event it is recognised that Bicester Village has a substantially different retail offer.
- 5.25 In retail impact terms, provided the offer currently being provided by Bicester Village remains the same, then the impact of the new proposal on established centres will not be significant.
- 5.26 With regard to the appropriateness of the site, again, as Bicester Village is a unique brand the need for the development is particularly site specific. Bicester Village is already established so the desire to expand is locationally specific. The type of retailer looking to locate at Bicester Village would not consider taking space in any nearby town centre. This sequential approach is unusual when considering retail applications but it is the view taken by most professionals in this field that Bicester Village is unique so again, provided the application is tied to the particular users characteristic of Bicester Village then it is considered that the sequential test has been satisfactorily applied.
- 5.27 Turley's, whilst clearly recognising the need for Bicester Village to expand at the same site, have suggested that Bicester Village should extend to the north instead as this would improve links to the town centre and the railway station. Notwithstanding the points made by the applicant's agent that the site would not be commercial viable and too small, it would seem to require the loss of much needed parking for Bicester Village and the station.
- 5.28 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 will not have a significant adverse impact on a town centre/s. However, these conclusions cannot be reached without assurance that the proposed retail offer will be the same as that currently provided by Bicester Village. This is accepted by the applicant and can be appropriately conditioned.
- 5.29 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 the Tesco application because 'like affects like' but there are elements of interest to both applications because of the interaction between the two proposals.

- 5.30 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.
- 5.31 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 the new Tesco store or for this 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).
- 5.32 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.
- 5.33 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.
- 5.34 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.

- 5.35 Our retail adviser's consider therefore that the impact on the 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.
- 5.36 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.

Transport Impact

- 5.37 The application site is adjacent the western boundary of the existing Bicester Village retail outlet centre with vehicle access off the A41, the B4030 (Oxford Road) and Pingle Drive (private road). Significant off-site and on-site highway improvement works are proposed to mitigate/accommodate this planning application as well as the new Tesco Store proposed (12/01193/F). The highway improvement works are also proposed to ease the recognised transport issues along the A41 corridor and the localised traffic problems affecting the residents of Bicester. Within the submitted Transport Assessment (TA) it has been recognised that the proposal, together with the new Tesco Store, is likely to have an impact on the local highway network.
- 5.38 The County Council, as highway authority welcome the proposal but recognise that it continues to generate and attract a high number of visitor traffic movements throughout the year (especially over holiday periods). Such visitor traffic movements are acknowledged to cause congestion along the A41 corridor and localised traffic problems to the residents of Bicester.
- 5.39 The submitted TA is confined to assessing if the proposed development and associated highway improvements has adequate design capacity to serve the proposed site, and to satisfactorily mitigate against the existing and future traffic generated by the proposed extension to the Bicester Village retail outlet centre. Not only does the solution achieve this but it is considered that the proposed off site highway works are significant and will provide a strategic improvement to the highway network.
- 5.40 The existing access creates a 'pinch point' at the roundabout where traffic merges into one lane and can lead to a 'stand still'. This then has a cumulative effect of causing traffic to queue onto the B4030 and further onto the A41, ultimately leading to chronic congestion and no remaining highway capacity, leading to highway safety implications. To alleviate the existing traffic problems associated with Bicester Village the proposed highway mitigation works and access arrangements are in four elements. These are explained in the County Council highway comments above in paragraph 3.9 under the heading 'Proposed highway (mitigation) works & Access Arrangements'.

- 5.41 The County Council's overview of the proposed works is that it is considered that the proposed highway improvement scheme will provide a number of highway safety and transport benefits along the A41 and Oxford Road corridor, which will help address the known traffic problems associated with the Bicester Village retail outlet centre and Tesco. These off site works can be effectively provided by legal agreement/s.
- 5.42 So not only is it considered that the highway works will improve the existing situation but the solution being offered by the applicant, alongside the Tesco proposal, would assist in mitigating existing traffic issues which are predominantly caused by these two uses.

Sustainability

- 5.43 Being at the heart of government policy, 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 on the face of it, 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 is by alternative means other than motorised vehicles, often the private car.
- 5.44 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 10 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 so could and should be improved.
- 5.45 In an economic, social and environmental sense, the site can also be described as sustainable because it is an established retail location within the built-up area. Bicester Village is a valued employer in the town and the application is a means to ensuring economic growth in this retail sector. This has a knock on impact on the social aspects and is obviously subject to safeguards with regard to, for example, retail impact on the town centre/s, confirmation that the contamination of the site can be managed, the matter of archaeology are resolved etc. Such detailed matters are addressed elsewhere in this report.
- 5.46 Sustainability also comes in other forms, and measures have been incorporated into the proposed development to maximise its credentials in that regard. The design and materials, some of which are recycled, used in the construction of the proposal aim to achieve a BREEAM 'very good' rating though this cannot be confirmed that this will actually be achieved at this stage as it often relates to the very detailed aspects of the design linked to the Building Regulations.
- 5.47 The global interest of Bicester Village has been raised as an issue with regard to whether or not it should be accompanied by an environmental statement. However, the site and proposed development of the phases of Bicester Village have been screened on two previous occasions and the constraints on the site and the nature of the development are well known. Given the characteristics of the site and that this is a proposed extension to an existing

operation onto a retail site, it has been determined that there would be no significant environmental effects that would constitute the proposal being an EIA development. In any event the issues arising are all addressed under separate disciplines as outlined in the report.

Layout, Design and Landscaping

- 5.48 The layout of the proposed Bicester Village extension follows the existing format established by the previous phases, with the new mall terminating at the A41 end with flagship stores providing a gateway to the development. The continuation of the existing mall design seems quite logical and it appears to be a format which works well and is of an acceptable appearance with a mixture of low level eaves buildings and gable buildings. There is no architectural variety between the phases and once complete Bicester Village would look as one single development.
- 5.49 The flagship units are at the end of the site and these are taller buildings compared to the other units which are generally one or two storeys. That said, at no point are these flagship units taller than any other building at Bicester Village and they will not be taller than the existing Tesco.
- 5.50 The layout of the servicing is also very similar to that of the original. As at present service vehicles are directed along the main Pingle Drive up to the eastern end of the site and then take a westerly path serving the rear of the units on the northern side before then serving the rear of the southern units. The treatment of the service areas at the rear of the units is therefore important as they will have so much public view and presence close to the entrance to the site. The proposal does not show any different design treatment to that of the existing site using landscaped fencing and sectioned brick walls with brick piers and timber gates along the service area boundaries.
- 5.51 The landscaping proposal throughout the site has not met with an objection from the landscape architects though improvements are sought to ensure the effective softening of the more stark boundary treatments such as the service areas and also the expanse of the car park. Being a gateway site there are opportunities to exploit to further improve the appearance of this part of Bicester with soft landscaping. It is recommended that these detailed aspects can be effectively dealt with by condition though revised layouts continue to be considered with regard to the particular treatment of the far west side of the site boundary adjacent to the A41.
- 5.52 Alternative arrangements for pedestrian accessibility have been pursued with the applicant in an attempt to exploit the opportunity this development presents with regard to improving links further south, across the A41 Aylesbury Road and towards the new Tesco proposal. This was a suggestion of the Design Review which was undertaken at the Tesco scheme but would require the Bicester Village proposal to participate in order to deliver an effective solution because the desired route would cut through the Bicester Village layout dividing the established units from those proposed.
- 5.53 The applicants, however, consider that it cannot be delivered because they are not convinced about another at grade crossing on the A41 and a further

potentially hazardous crossing of the service road with a lack of active frontage and natural surveillance. An underpass would be too costly and also they do not consider it is needed because of the unlikely linked trip nature of the Tesco and or Bicester Village to the town centre and that it would not be used to any significant extent particularly as there are adequate alternatives now and in the longer term.

Public Footpath Impact

- 5.54 Whilst not promoted by the submitted literature within the application there is a public footpath which skirts the western boundary of the site (shown as a cycle route in the submission). This is a vital route, not only because it is a formal public footpath route but also because it's the only one that links to development beyond the site to the south. It is for this reason that it is considered that the opportunity presented by this application should be exploited to ensure that what is currently a simple pavement to a feature that would ensure that pedestrians feel safe adjacent to a very busy and noisy road and can also enjoy the walk.

Flood Risk/Drainage

- 5.55 The application is supported by a Flood Risk Assessment which has been supported by additional information. This level of detail, although light for a full planning application, is considered to be acceptable by the Environment Agency who has withdrawn their original objection to the scheme. Provided the conditions as outlined by the Environment Agency are included in any consent granted then the risk of flooding will be at an acceptable level. These recommended conditions have been included in the recommendation.

Contaminated Land

- 5.56 Being an area where contaminated land could potentially be an issue at this site, the application is supported by a contamination assessment which concludes that based on the soil and groundwater surveys completed to date, the risk to the development and the future user would be considered as low. However, further consideration must be given to the raised potential source of contamination near to the petrol filling station. A remedial strategy will be required for the removal of the fuel tanks. Unless contrary to any further requirements which may come forward from the Environmental Protection Officer, it is recommended that this aspect of the development can be dealt with by condition/s. Such conditions are also supported by the Environment Agency.

Archaeology

- 5.57 The site is of medium interest with regards archaeology and the development of this site presents an opportunity to explore the site in more detail and recover finds where appropriate. No work has been undertaken in this regard to date and it is considered that the matter can be dealt with by standard condition/s.

Section 106 requirements

5.58 The application is supported by a draft Heads of Terms for the section 106 which include a list of items that Bicester Village are offering to fund, as follows:

- the design and planning application costs for the Park and Ride
- the construction of the Park and Ride, subject to obtaining planning permission for Bicester Village Phase 4 and the relocated Tesco store and agreeing heads of terms with Oxfordshire CC for the necessary land agreement
- provision of a footpath link from Priory Lane through their car park to Bicester Town station, together with appropriate signage.
- Following the opening of the new town centre scheme BV will:
 - (i) produce and distribute a new Bicester Town destination publication featuring the town's history and culture, independent retail traders, leisure facilities and restaurants
 - (ii) provide £20,000 pa for 3 years to sponsor strategic events in the Town Centre to support Bicester as a destination for shoppers; and
 - (iii) Provide a dedicated area within the BV tourist information centre which will specifically promote Bicester Town Centre.

5.59 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.

5.60 Highways

It is recognised the proposed extension to the Bicester Village retail outlet centre will have an impact upon the local highway network outside the normal week peak times; therefore the Local Highway Authority would normally seek a Transport Contribution via a Section 106 agreement. Such a contribution would be towards sustainable highway infrastructure and services within Bicester, as part of the Transport Strategy for the town. However, as the

proposed off site highway works are considered acceptable and will provide a strategic improvement to the highway network, it is not considered appropriate to request a general transport contribution from this planning application.

5.61 Public Art

The applicant has agreed an appropriate legal approach to deliver a public art contribution up to a value of £95,000, 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 Tesco application, if relevant. It is accepted also that this gateway artwork could be complemented by works to improve the public realm with perhaps some bespoke street furniture or signage to improve legibility of links with the town centre.

Conclusion

5.62 This application for retail development outside of the town centre 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.

5.63 This application represents a 24% increase in gross floorspace additional retail to the existing Bicester Village, a high value factory outlet retail destination. It is to be sited on a site which is currently in retail use but outside the town centre. The retail impact studies, critiques and assessments predict no significant harmful or adverse effects on the town centre/s in proximity and that there is considered to be no sequentially better site. Improvements will be made to the highway network and the scheme aims to improve its connectivity to the town centre. The design, layout and landscaping are acceptable though improvements to the western footpath will continue to be sought to promote the best quality pedestrian experience possible. Further detailed matters of archaeology and land contamination can be adequately dealt with by condition.

5.64 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 a 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 as listed in paragraph 5.57 above, and

(iii) the following conditions:

1. SC1.4 Time (4 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: the application form and submitted reports and documentation and drawing numbers 09/068/P-01B, P-02C, P-03A, P-04.1B, P-04.2A, P-04.3A, P-05A, P-06B, P-07B, P-08B, P-09A, P-10A, P-11A, P-12B, P-13A, P-14A, P-15A, P-16A, P-17A, P-18A, P-19A, HED.979.100(a), 101(B), 102(A), 103(A), 104(A), 105, 107, 601, 602, 603, 604, 3P7640/RH1, RH2, RH3, RH4, RH5, RH6, RH7, RH8, SK-26, SK-27, SK-28, SK-29 and SK30.

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. 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.

6. 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.

7. 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.

8. The parking, manoeuvring and servicing areas for the development shall be provided in accordance with the submitted site layout plan (P-04) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) 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.

9. 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.

10. Notwithstanding the drawings submitted, no development shall commence on site for the development until further details 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.

11. 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.

12. 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 to comply with Government guidance contained within the National Planning Policy Framework.

13. 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.

14. 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.

15. 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.

16. The development hereby permitted shall be carried out in accordance with the recommendations set out in Report No. WB02669/R2 by Clarkebond (UK) Ltd dated June 2012 unless otherwise agreed in writing by the Local Planning Authority.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance in the National Planning Policy Framework.

17. If contamination is found by undertaking the work carried out under condition 16, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance in the National Planning Policy Framework.

18. If remedial works have been identified in condition 17, the remedial works shall be carried out in accordance with the scheme approved under condition 17. the development shall not be occupied until a verification report (or validation report), that demonstrates the effectiveness of the remediation carried out, has been submitted to and approved in writing by the Local Planning Authority.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance in the National Planning Policy Framework.

19. 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.

20. Development shall not begin until a surface water drainage scheme for the site, based on the principles included in the Flood Risk Assessment Ref WB02669 June 2012 has been submitted to and approved in writing by the local planning authority. The scheme shall include upgrading the storage pond, control structure and pipe work and there shall be no increase in discharge rates or volumes of surface water runoff. Thereafter, the scheme shall be implemented in accordance with the approved details before the development is completed.

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

21. No development shall take place until a scheme for the provision and management of an eight metre wide buffer zone alongside the *Pingle Brook* is submitted to and agreed in writing by the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens and formal landscaping; and could form a vital part of green infrastructure provision. The schemes shall include: plans showing the extent and layout of the buffer zone, details of any proposed planting scheme (for example, native species) and details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.

Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

Reason – To prevent the development, which encroaches on watercourses, from having a potentially severe impact on ecological value and to comply with Policy NRM5 of the South East Plan 2009 and Government guidance contained within the National Planning Policy Framework.

22. No infiltration of surface water drainage into the ground in the area of the former petrol filling stations permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained with the National Planning Policy Framework.

23. Except where stated in condition 26, the retailing units shall only be used for the purposes of providing a factory outlet shopping centre for high end designer fashion and homewares only and for no other purpose within Class A1 of the Town and Country (Use Classes) Order 1987 (as amended).

Reason – To ensure that the factory outlet centre remains as such and does not trade as a normal A1 retail destination which would be inappropriate and may have an adverse impact on the vitality and viability of nearby town centres which would be contrary to Government guidance in the National Planning Policy Framework.

24. Except where stated in condition 26, the development shall not be used for the retailing of food or other convenience goods including newspapers, magazines, confectionary nor as a newsagents or chemists selling pharmaceuticals or health products.

Reason – To ensure that the factory outlet centre remains as such and does not trade as a normal A1 retail destination which would be inappropriate and may have an adverse impact on the vitality and viability of nearby town centres which would be contrary to Government guidance in the National Planning Policy Framework.

25. The development hereby permitted shall not be occupied by retailers who predominantly sell any of the following category of goods: furniture hardware, garden products, dispensed optical goods, books, CDs, DVDs, videos, electrical goods, computers and software, mobile phones, toys, pets and pet accessories and arts and crafts products.

Reason – To ensure that the factory outlet centre remains as such and does not trade as a normal A1 retail destination which would be inappropriate and may have an adverse impact on the vitality and viability of nearby town centres which would be contrary to Government guidance in the National Planning Policy Framework.

26. Any class A3 café/restaurant use of the approved buildings shall not at any time cause the overall gross floorspace for such uses within the existing and proposed factory outlet shopping centre as a whole to exceed the maximum of 3,500 sq metres.

Reason – To ensure that the factory outlet centre remains as such and does not trade as a normal A1 retail destination which would be inappropriate and may have an adverse impact on the vitality and viability of nearby town centres contrary to Policy TC2 of the South East Plan 2009 and Government

guidance contained within the National Planning Policy Framework.

27. Except where shown on the submitted drawings, no individual retail unit shall have a gross floor area of in excess of 450 sqm.

Reason – To ensure that the factory outlet centre remains as such and does not trade as a normal A1 retail destination which would be inappropriate and may have an adverse impact on the vitality and viability of nearby town centres which would be contrary Policy TC2 of the South East Plan 2009 and Government guidance contained within the National Planning Policy Framework.

28. 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.

29. 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.

Planning Notes:

1. Q1 Legal Agreement
2. No development shall take place across any public footpath/right of way unless and until it has been legally stopped up or diverted.
3. 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.
4. Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater

permit enquiries should be directed to Thames Water's Risk Management Team on 020 8507 4890 or email wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.

5. 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.
6. 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
7. The groundwater report has assessed groundwater quality from two wells. However it did not measure groundwater quality in the area of the former petrol filling station.
The groundwater beneath the petrol filling station was subject to in situ remedial works for leaks from 2004 to 2010 and the works are summarised in a series of reports by Arcadis. While the Environment Agency accepted the decommissioning of the treatment plant it should be noted that remedial targets were not reached at all the monitoring points. This means that residual contamination is likely to remain in and around the tanks and pipe work.
The Environment Agency will require that tanks are removed and any contamination dealt with now that the tanks are more accessible.

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/s. The proposal represents a sustainable development with no demonstrable harm to highway safety, land contamination, archaeology, flood risk or drainage. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework, Policies SP2, SP3, CC1, CC4, CC6, CC7, T1, T4, T5, NRM1, NRM2, NRM4, NRM11, M1, C6, BE1, BE6, TC1, TC2, TC3, S6 and CO1 of the South East Plan 2009 and saved Policies TR1, C28 and ENV12 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.