

Plot B Part of OS Parcel 0005 North West of 12/01748/OUT Junction 11 M40 off Wildmere Road, Banbury

Ward: Banbury Grimsbury and Castle

District Councillors: Councillor Beere,
Councillor Bonner and Councillor Cullip

Case Officer: Jane Dunkin

Recommendation: Approval

Applicant: A C Lloyd Holdings Ltd

Application Description: OUTLINE: Development of site for up to 10,500sqm (gross) of employment uses comprising a mix of light industrial (Class B1c), general industrial (B2) and storage and distribution (B8) with ancillary office accommodation and associated road, car parking and landscaping works

Committee Referral: Major Development exceeding 1000sqm of new floorspace

1. Site Description and Proposed Development

- 1.1 Situated between the DHL and Lloyds TSB buildings and adjacent to the roundabout, serving junction 11 of the M40, the site is the last remaining parcel of undeveloped land within an area allocated for employment generating development within the adopted Cherwell Local Plan. The land in question is accessed from Brookhill Way (off of Daventry Road), which currently terminates in a turning head. Brookhill Way is not yet adopted Highway. The site is largely flat with some slight undulation across it however the east and west boundaries of the site progress into steep landscaped embankments adjacent to the slip road from the A422 onto the northbound carriageway of the M40. A ditch runs along the bottom of the embankment. There is a line of small trees along another dry ditch running from east to west across the site and some mounds of earth to the eastern side, all of which are overgrown and unkempt.
- 1.2 The application proposes to develop the site for a mix of B1c, B2 and B8 floorspace, up to a maximum of 10,500sqm. The application is submitted in outline with all matters other than access reserved. The indicative plans show three different layout options for the site which show either one, two or three buildings proposed, together with the appropriate level of parking and manoeuvring areas, landscaping and swales.

2. Application Publicity

- 2.1 The application has been advertised as a major development by way of neighbour letter, press notice and site notices. The final date for comment was the 24 January 2013. One letter of representation has been received which is summarised as follows:
 - Additional jobs good for area
 - Concerns re extra traffic/traffic speeds
 - Difficulties getting onto roundabout
 - Feasibility of installing peak time traffic lights
 - Traffic survey would highlight the problem

3. Consultations

Banbury Town Council: raises no objections

Cherwell District Council Consultees

- 3.1 **Planning Policy Officer:** No comments to make
- 3.2 **Urban Design Officer:** The site has a complex geometry, which makes the organisation of large scale rectangular buildings tricky. The layout options do not maximise the opportunities of the site and the Council would like to investigate the design parameters that can improve the setting of the built form and operation of the site. Opportunities to provide high quality landmark on the M40. This might be through innovative construction of warehousing or through configuring the building so that office space is used to provide a landmark that faces out onto the M40 and the internal area of the site. The success of these approached would depend on the final uses for the site and it is very difficult to clearly define parameters and the best approach without establishing a clear brief for the site.
- 3.3 **Environmental Protection Officer:** No records of any former potentially contaminative uses on this land, therefore no objections or recommendations on these grounds. This site is within close proximity to the Hennef Way Air Quality Management Area and traffic associated with this development will need to go through this air quality management area and may affect local air quality. As such, I recommend that the impact of this development on local air quality, particularly along Hennef Way, is undertaken. There is currently no air quality action plan in place for this development to tie into at the moment. This is currently being developed.
- 3.4 I would like to see some commitment from the applicant that measures will be developed to minimise traffic and/or promote lower emission vehicles and sustainable transport relating to this development, particularly for vehicle movements through the Hennef Way air quality management area. These could relate to business and employee-related traffic. The extent of these measures will depend on the level of impact that this development may have on local air quality which result from the air quality assessment. It is noted that the transport assessment and appended travel plan within it propose some measures to ensure these aims are promoted. I would like to see these linked into local air quality.
- 3.5 **Anti Social Behaviour Manager:** Principle is considered acceptable in environmental terms, however there are three potential noise sensitive locations (Lloyds TSB Office, Residential properties to the SW and the hotel to the west). The Lloyds building would be more vulnerable to noise during the day and the other locations more vulnerable to night time noise. Therefore it is appropriate to apply noise conditions to protect these sensitive locations relating to level of noise emitted and time of noise emitted.

- 3.6 **Arboricultural Officer:** Informal hedge to the south and east provides screening and noise attenuation – this should be retained. No objections on arboricultural grounds, but tree protection during construction is recommended.
- 3.7 **Landscape Officer:** It is assumed in the Design and Access Statement that the existing woodland on the boundaries of the site will provide screening from the M40 and adjacent slip road. In reality, if not thinned, the trees will grow into spindly trees. However thinning will open up views of the building. It would therefore be appropriate to interplant close to the edge of the woodland with semi-mature oak trees and Scots pine. The Scots pine will grow to 20+m and so will screen the buildings effectively and provide evergreen cover during the winter months.
- 3.8 **Ecology Officer:** There are few ecological constraints therefore no objections are raised. Tree belt and ditch are being retained under all proposals. The updated ecological report by JJE (19th October 2011) is now a little out of date but it is unlikely that anything significant has changed on site so no update is needed at this point. If works do not proceed on site before mid 2014 then an updated check for badgers would be advisable and an assessment as to whether the site's suitability for reptiles has significantly increased. Conditions relating to the following are recommended: Method statement for the protection of retained habitats during construction, biodiversity enhancements, a management plan for green spaces and the ditch (enhancement of species on site), lighting scheme (maintain some dark vegetated routes for bat commuting and foraging).
- 3.9 **Waste and Recycling Manager:** No comments to make
- 3.10 **Head of Economic Development:** There is strong support for the principle of this commercial/industrial development, as acknowledged through previous planning permissions on this site. Development would serve to implement the planning and economic development policies of the Council. It would also contribute to meeting the objectives of the Cherwell Economic Development Strategy in supporting the development of people/jobs, business/prosperity and place/infrastructure. The detailed design framework is understandably seeking to be flexible in order to accommodate the current and future needs of potential occupiers. Market intelligence will have been gathered from the on-going campaign for 'Banbury Point' and, as acknowledged in the 3 illustrative layout options, a number of units may provide "a sense of place" and differentiate from other nearby sites. Those sales particulars were added to the website of the Cherwell-M40 Investment Partnership (CHIP) in January 2012. The Council's economic development service has received interest in this site from businesses and this has been referred to the agent. With appearance, the applicant's "intent to deliver a high standard of product which would be sympathetic to the industrial typology as well as a coherent approach that will give the site an identifying character and create a scheme that will be both visually striking and distinctive" is welcomed (p17 D&A Statement). Given the local distinctiveness and use elsewhere nearby of Hornton stone, I would suggest that the "limited palette of materials" could be led by muted golden/brown colours, with feature stone walls that reflect the unique landscape and geological heritage of the area without adding undue cost.

- 3.11 **Public Art Officer:** Reiterated pre-application advice: The nature of the new development is significantly different from the initial plans that were submitted, our ambitions to create a piece of public art to aid legibility for an enclosed site or to act as a signpost to the non visible business will not be arguments we could apply. However a smaller more modest functional artwork that conveys a quality of development would be appropriate - railings, seating, lighting or signage could all come under this heading. This need not be a S106 requirement but a condition.

Oxfordshire County Council Consultees

- 3.12 **Highways Liaison Officer:** TRANSPORT STATEMENT: All the required off-site highway mitigation works relating to this site have been completed and approved by the highway authority. Footways and cycle links are in place. The proposed new development is unlikely to increase the number of recorded incidents in the area. S106 contributions have previously been secured, received and delivered. The TS states that the development will generate less traffic movements than the previous approval therefore no further transport contributions are sought. LAYOUT: Parking levels to accord with appropriate adopted standards. HGV tracking plans required. Cycle Parking required. Site to be DDA compliant. Development to accord with SUDS. Conditions are recommended relating to access, vision splays, drainage design, a construction traffic management plan and Travel Plan and a restriction over the gross floor area.
- 3.13 **Strategic Policy Officer:** No comments from a strategic policy perspective on this proposal as the principle of development of this site for employment use has already been established.
- 3.14 **Drainage Officer:** No objections, however a full drainage strategy will be required prior to the commencement of the development.

Other Consultees

- 3.15 **Highways Agency:** No objection
- 3.16 **Police Architectural Liaison Officer:** No comments to date
- 3.17 **Environment Agency:** Provides standard advice as the site lies in Flood Zone 1 and is between 1 and 5 hectares.
- Surface water run off should not increase flood risk to the development. SUDS will be required.
 - Allowance for climate change needs to be incorporated (20% for commercial development)
 - Residual risk of flooding needs to be addressed should any drainage features fail or are subjected to extreme flood event.
- 3.18 **Thames Water:** raises no objections but makes recommendations and provides advice in relation to petrol/oil interceptors, surface water drainage, private sewers, discharge of groundwater, waste water, water pressure and diversion of Thames water main.
- 3.19 **BBOWT:** No comments to date

3.20 **South Northamptonshire Council:** No objections subject to a preference for options 2 or 3 which would be less visually prominent. Building heights should not be significantly higher than existing neighbouring commercial buildings to ensure that they are no visually intrusive. External cladding should be dark, muted colour/toned and non-reflective to prevent the building from being unduly prominent.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

Policy S10	Development in Banbury commercial areas
Policy TR1	Transportation funding
Policy C1	Protection of sites of nature conservation value
Policy C2	Protected species
Policy C4	Creation of new habitats
Policy C28	Standards of layout, design and external appearance
Policy ENV1	Development likely to cause detrimental levels of pollution
Policy ENV12	Land Contamination

South East Plan 2009

Policy SP3	Urban Focus and Urban Renaissance
Policy CC1	Sustainable Development
Policy CC7	Infrastructure and Implementation
Policy RE1	Contributing to the UK's Long Term Competitiveness
Policy RE3	Employment and Land Provision
Policy NRM4	Sustainable Flood Risk Management
Policy NRM5	Conservation and Improvement of Biodiversity
Policy NRM9	Air Quality
Policy NRM10	Noise
Policy BE1	Management for and Urban Renaissance

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Cherwell Local Plan - Proposed Submission Draft (May 2012)

The draft Local Plan has been through public consultation. 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:

Policy SLE1	Employment Development
Policy SLE4	Improved Transport and Connections
Policy ESD6	Sustainable Flood Risk management
Policy ESD7	Sustainable Drainage Systems (SUDS)
Policy ESD10	Protection and Enhancement of Biodiversity and the

Natural Environment
Policy ESD16 The Character of the Built Environment

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Principle
- Transport Impact
- Design
- Landscaping and Trees
- Flood Risk and Drainage
- Land Contamination
- Air Quality
- Noise
- Ecology
- Public Art
- Planning Obligation

Relevant Planning History

- 5.2 98/00160/OUT: Development for employment-generating purposes within classes B1 (business), B2 (general industrial) and B8 (storage and distribution) with associated access, parking, drainage and landscaping. (OUTLINE). PERMITTED.
- 5.3 01/01002/REM: Two storey offices (B1) with associated access, parking and landscaping including alterations to existing vehicular and pedestrian access. PERMITTED.
- 5.4 02/01376/REM: Reserved matters App Ref: OUTLINE 98/00160/OUT for erection of building for purposes within use class B8 (storage and distribution) with associated offices, access, vehicular parking and landscaping. PERMITTED.
- 5.5 03/02118/F: Erection of 2 No. premises for motor dealership and ancillary uses. PERMITTED.
- 5.6 04/02792/F: Erection of 2 No. buildings for motor dealership and ancillary uses. PERMITTED.
- 5.7 09/01859/OUT: OUTLINE. Development of site for one or a combination of B1 (office) B2 (general industrial) B8 (warehousing and distribution) and sui generis (car showroom). PERMITTED.
- 5.8 10/00309/F: Erection of 2 No. buildings for motor dealership and ancillary uses - Extension of time to extant permission 04/02792/F. PERMITTED.

Principle

- 5.9 The main theme of the NPPF is a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out-of-date, granting

planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or where specific policies indicate that development should be restricted.

- 5.10 The NPPF states that the Government is committed to securing economic growth in order to create jobs and prosperity and to ensuring that the planning system does everything that it can to support sustainable economic growth.
- 5.11 Based on the advice within the NPPF, the adopted Cherwell Local Plan is considered to be out of date (adopted pre-2004) however it advises that due weight should be given to relevant policies in existing plans (regardless of their age) according to their degree of consistency with the NPPF (the closer the policies in the plan to the NPPF, the greater the weight that may be given). The site was allocated for employment generating development in the adopted Cherwell Local Plan and as such Policy EMP1 applies which states that 'Employment generating development will be permitted on the sites shown on the proposals map, subject to the other relevant policies in the plan'.
- 5.12 With regard to the draft submission of the Cherwell Local Plan 2012, the NPPF states that decision makers may give weight to relevant policies according to the stage of preparation (the more advanced the greater the weight that may be given). The draft submission has been through public consultation therefore some weight can be given to the plan as a material consideration. Policy SLE 1 of the draft submission refers to new allocated sites within the plan (which does not include this site as it was allocated in the adopted Cherwell Local Plan), however the supporting text states that the Council will continue to protect existing employment land and buildings for employment (B class) uses.
- 5.13 Given the above advice, it is appropriate to give weight to the adopted Cherwell Local Plan, as the support for employment generating development within it is consistent with the NPPF; and the draft submission which, due to its stage of preparation and preference for protecting existing employment land, can be given some weight and is also consistent with the NPPF. The proposed B1, B2 and B8 uses represent employment generating development on a previously allocated site which has a planning history of approvals for employment generating uses, one of which remains extant (although not in the proposed form). For these reasons, the proposal is considered to be appropriate in principle for this site subject to the individual material planning considerations set out below.

Transport Impact

- 5.14 The site lies within an existing industrial area that accommodates a number of employment generating uses. It is supported by a significant road network, including the M40, and is serviced by good walking and cycling links. Given the nature of the proposal, the adopted Cherwell Local Plan allocation for the site and the extant permissions, officers are satisfied that this is a sustainable location, in transport terms for the proposed use. To support sustainability, the Local Highway Authority requires a Travel Plan to be secured via condition which would be monitored by OCC at a cost of £960. The developer is in agreement with this request.

- 5.15 A development of this scale would normally attract developer contributions towards general transport and access in accordance with the Council's Draft Planning Obligations SPD, together with any highway improvements that would be required as a direct result of the impact of the development and associated movements on the local highway network. In this case however, planning permission has previously been granted and implemented in relation to the site and other parcels of land immediately adjacent (including the Lloyds and DHL buildings), in association with which, all of the highway improvements and a contribution towards transport infrastructure was made to mitigate the impact of the development of the site as a whole (including the undeveloped part of the site which is the subject of this application) on the local highway network.
- 5.16 The Local Highway Authority confirms that all of the required off-site highway mitigation works relating to the site in question have been completed and approved by the Highway Authority including footway and cycle links and the S106 contributions have previously been secured, received and delivered. It is also their view that, based on the information supporting the application, the development would generate less traffic movements than the previously approved scheme for this part of the site, therefore no further transport contributions are sought.
- 5.17 With regard to the indicated layout of the site, the proposed parking provision for the development accords with the appropriate adopted standards. At the reserved matters stage, HGV tracking plans and cycle parking provision will need to be indicated and secured and the proposal will need to be DDA compliant and accord with SUDS.
- 5.18 The Highways Agency raises no objections to the scheme in terms of its impact upon the wider highway network.
- 5.19 In light of the above assessment and subject to the recommended conditions, officers are satisfied that the proposed development would be located in a sustainable location, would achieve safe access and would have no greater impact upon the highway network than the previously approved application(s), and as such no further obligations or highway works are required. The advice contained within the NPPF therefore on sustainable transport, regarding sustainability, safety and improvements within the transport network, is therefore satisfied, with which Policy TR1 (Transport Funding) of the adopted Cherwell Local Plan is consistent.

Design

- 5.20 Design is a reserved matter. The application however addresses layout and appearance within the submitted design and access statement. Layout options have been provided which, according to the statement, represent realistic solutions to developing the site within the identified constraints, for a range of employment based uses and allows for flexibility and therefore certainty and deliverability for the future occupier. With regard to appearance, the design and access statement sets out four objectives for the future design for the building(s): to achieve a coherent extension of the surrounding employment uses, to create a consistent identity, to use visual 'signposts' to provide legibility and to create a high quality, well designed working environment. The statement also identifies some parameters for a materials pallet and colour choices.

- 5.21 The Council's Design and Conservation Team Leader feels that the indicated options do not maximise the opportunities for the site and therefore would like to investigate design parameters that can improve the setting of the built form and the operation of the site. She considers that there is an opportunity to provide a high quality landmark onto the M40 either through innovative construction for warehousing or through configuring the building so that the office space is used to provide a landmark that faces onto the M40 and the internal area of the site.
- 5.22 Whilst officers agree that high quality design is important and should be secured, as design is a reserved matter, it is considered that this can be dealt with in detail at the reserved matters stage..

Landscaping and Trees

- 5.23 The site is well contained by the existing landscaped embankment and the backdrop of the existing commercial and industrial buildings, when viewed from junction 11 of the M40 and the A422. The comments of the Council's landscape architect are noted and it would seem that management of the existing trees together with the introduction of a comprehensive landscaping scheme across the site would be the most appropriate way in which to achieve a quality development. I am not convinced by the need to fully screen the buildings from views gained from the east and south, particularly given the aspirations of the developer to create a high quality, well designed working environment. The reserved matters application will give the Council an opportunity to consider the design of the proposed building(s) alongside the proposed landscaping scheme so that a balance can be struck between the two to achieve a high quality development. Conditions requiring a landscaping scheme together with management of the existing and proposed landscaping are recommended below.
- 5.24 The Council's Arboricultural Officer raises no objections to the proposal in terms of its impact upon existing trees on the site. He does however recommend that the existing trees are protected during construction works. A condition is recommended below.

Flood Risk and Drainage

- 5.25 The proposed development lies within Flood Zone 1 and as the site is over 1ha in area, the NPPF advises that a Flood Risk Assessment (FRA) is required. This has been submitted with the application, however, based on current working practices, the Environment Agency has not provided a bespoke response due to the fact that the site area is less than 5ha. Standing advice is provided which sets out that surface water run off should not increase flood risk to the development, SUDS will be required, allowance for climate change needs to be incorporated (20% for commercial development) and residual risk of flooding needs to be addressed should any drainage features fail or are subjected to extreme flood event.
- 5.26 The applicant has addressed each of these matters satisfactorily within the FRA submitted with the application and the County Council as Drainage Authority is satisfied with the proposal in terms of Drainage, SUDs and allowance for climate change. Subject to the recommended conditions below, officers are satisfied that the proposal would not lead to an increased risk of flooding and as such the proposal complies with Policy NRM4 of the South East Plan, Policies

ESD6 and ESD7 of the draft submission of the Cherwell Local Plan and Government guidance on meeting the challenge of climate change, flooding and coastal change.

Land Contamination

- 5.27 The Council's Environmental Protection Officer has confirmed that the Council holds no records of previous contaminative uses on the site and as such no further investigative work or associated mitigation measures are required in relation to land contamination. For this reason, the proposal does not need to be assessed against Policy ENV12 of the adopted Cherwell Local Plan.

Air Quality

- 5.28 The NPPF advises that planning decisions should ensure that any new development in Air Quality Management Areas (AQMA) is consistent with the local air quality action plan. Policy NRM9 of the South East Plan states that proposals should contribute to sustaining the current downward trend in air pollution in the region.
- 5.29 The site lies within close proximity of the Hennef Way AQMA, but not within it. The Council's Environmental Protection Officer has commented that the proposal would generate traffic which would need to travel through the AQMA. For this reason he would like to see some commitment from the applicant that measures will be developed to minimise traffic and/or promote lower emission vehicles and sustainable transport relating to the development, particularly through the AQMA.
- 5.30 This requirement could be covered within the Transport Assessment and the Travel Plan (work on which in part has already been carried out but not directly linked to the AQMA) and in response to the Environmental Protection officers comments, the agent for the application points out that the traffic to be generated from the proposal is less than would arise from the currently permitted schemes for offices and car showrooms. This has been agreed and accepted by County Highways. Furthermore we have already committed to travel reduction measures through the travel plan, including a monitoring fee.
- 5.31 Under the circumstances officers do not consider that the AQMA would be significantly affected by the proposal and as such it would not be reasonable to require any further action to be carried out by the applicant in relation to the AQMA either now or in accordance with a planning condition.

Noise

- 5.32 Policy ENV1 of the adopted Cherwell Local Plan guards against detrimental levels of environmental pollution including noise, which is consistent with advice on conserving and enhancing the natural environment contained within the NPPF. The Council's Anti Social Behaviour Manger recognises three potentially noise sensitive locations within the immediate vicinity of the site, including the Lloyds TSB office building which would be more vulnerable to day time noise, and the residential properties to the south west and the hotel to the west, which would be more vulnerable to night time noise. Consideration must be given to these receptors bearing in mind the current noise levels that they are subjected to, for example traffic noise emanating from the A422 and the motorway. Conditions are therefore recommended to protect these sensitive locations against noise omitted from the site, and time of noise omitted.

- 5.33 Subject to the imposition of these conditions, officers are satisfied that the development would not give rise to detrimental levels of noise pollution in accordance with Policy ENV1 of the adopted Cherwell Local Plan.

Ecology

- 5.34 The Council's Ecology Officer confirms that there are few ecological constraints on the site. Despite the fact that the submitted October 2011 ecological report is a little out of date, she advises that it is unlikely that anything significant would have changed since then on the site so does not require an updated report at this stage. Under these circumstances, it is recommended that an updated report to address badger and reptile activity on the site is carried out if works have not commenced on site by mid 2014. Conditions are also recommended which relate to the protection of the existing habitats on the site, biodiversity enhancements, a management plan for the green spaces and ditch on the site and a lighting scheme to ensure that some darker foraging routes for bats are protected.
- 5.35 Given the existing site circumstances and based on the Council's Ecologist's views, officers are satisfied that early development of the site would not result in causing harm to protected species or their habitats and as such a criminal offence under Regulation 41 of Conservation Regulations 2010 would not be committed. Ecological conditions reasonable to this outline proposal are recommended below. For the reasons given and subject to the recommended conditions (below), the application complies with Government guidance on conserving and enhancing the natural environment contained within the NPPF, Policy NRM5 of the South East Plan and Policies C1, C2 and C4 of the adopted Cherwell Local Plan.

Public Art

- 5.36 The site, due to its scale, triggers a requirement for public art to be secured in relation to the development. In relation to the previously approved application (09/01859/OUT), a contribution towards off site public art of £46,450 was secured via S106 due to the public nature (including car showroom) of the site. This contribution was to be used for a piece of artwork on the A422 roundabout or bespoke entrance features. As the development under this historical application was not implemented, the contribution has not been paid and no work of art has been produced.
- 5.37 In comparison to the development proposed under 09/01259/OUT, the Council's Arts and Visitor Services Manager is satisfied that as the proposal is for an enclosed, non-public commercial site, a more modest and functional piece of art would be more appropriate such as railings, seating, lighting or signage. As this form of artwork would be provided on site, its provision and detailing could be secured via planning condition.
- 5.38 Securing a piece of public art in this way complies with the Council's Public Art Policy and as such this approach is considered to be appropriate.

Planning Obligation

- 5.39 As all the highway works and contributions have previously been carried out and paid for in association with the previous planning applications, and there is no requirement to secure public art via an agreement, this application does not

attract the need for the developer to enter into a S106 agreement associated with the application. The scheme does however attract a monitoring fee of £960 for the Travel Plan which is to be secured via a unilateral undertaking given to the County Council. The developer has agreed to this requirement.

Other Matters

- 5.40 SNC's comments relating to the scale and colour/finish of the development are noted and will inform considerations of the design and appearance of the buildings at the reserved matters stage.
- 5.41 The third party representations are noted, however as the Local Highway Authority has confirmed that all improvements to the highway which are directly required as a result of this development have been carried out, it would be unreasonable to require the developer to enter into further highway network improvement obligations. The Highway Authority has however advised that it is currently working on a Movement Study for Banbury which will help identify the key junctions that require improvement in order to support employment and housing growth in the town and improve traffic flow.
- 5.42 The conditions recommended below are relevant and necessary to impose in relation to this outline application. Whilst others are recommended by consultees, it is not necessary to include them until the reserved matters stage.

Engagement

- 5.43 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application.

Conclusion

- 5.44 The proposed development represents employment generating development which is supported by the NPPF and the development plan. Subject to the design of the buildings to be secured at the reserved matters stage, the proposed development is considered to be sustainable, would be appropriate within its urban context and would have a natural impact upon the existing highway network. The proposal takes into account the existing landscaping and trees, together with the ecological value of the site, and would not result in a flood risk or noise or air pollution. As such the application is recommended for approval subject to the developer entering into a unilateral undertaking to pay the monitoring fee for the required Travel Plan and the conditions set out below.

6. Recommendation

Approval, subject to:

- a) The applicant entering into an appropriate agreement to secure a monitoring fee for the Travel Plan associated with the development.
- b) The following conditions:
 1. Prior to the commencement of the development, a phasing plan to cover the entire site shall be submitted to and approved in writing by the Local

Planning Authority. Thereafter each reserved matters application submitted shall refer to a phase, phases, or part thereof identified in the phasing plan. Any subsequent alteration to the phasing plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason - In order to achieve a satisfactory form of development and to comply with Policy CC1 of the South East Plan and Government guidance contained within the National Planning Policy Framework.

2. No development on any phase, identified on the approved phasing plan, shall be commenced until full details of the layout, scale, appearance and landscaping (hereafter referred to as reserved matters) for that phase have been submitted to and approved in writing by the Local Planning Authority. Thereafter each phase of the development shall be carried out in accordance with the approved reserved matters application relating to it.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

3. In the case of the first reserved matters application, application for approval shall be made not later than the expiration of five years beginning with the date of this permission. All other reserved matters applications shall be submitted before the expiration of seven years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010. (As amended).

4. The development to which this permission relates shall be begun not later than the expiration of five years from the final approval of the last reserved matters application.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

5. Except where otherwise stipulated by condition, the application shall be carried out in general accordance with the following plans and documents: Application Forms, Flood Risk Assessment, Design and Access Statement and drawings numbered: PL001 and PL002.

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

Framework.

6. Prior to the commencement of the development, a strategy setting out the drainage principles for the entire site, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the specific drainage details as required by Condition 7 shall be in accordance with the approved drainage strategy.

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy NRM4 of the South East Plan 2009, Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. Prior to the commencement of any phase of the development identified on the approved phasing plan, foul sewerage and surface water drainage schemes for that phase, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development the drainage scheme shall be implemented on that phase in accordance with the approved details.

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy NRM4 of the South East Plan 2009, Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

8. The existing landscaping belt along the east and south boundaries of the site shall be retained and no retained tree within the landscaping belt shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with an approved landscaping or landscape management scheme for the site.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. Prior to the commencement of any phase of the development identified on the approved phasing plan, the existing trees within that phase, along the east and south boundaries of the site to be retained shall be protected in accordance with full details to be submitted to and approved in writing by the Local Planning Authority. Thereafter the tree protection measures shall remain in place on the site until the completion of that phase of the development.

Reason - To ensure the continued health of the retained trees and in the interests of the visual amenity of the area, to ensure the integration of the

development in to the existing landscape and to comply with Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

10. Each reserved matters application shall be accompanied by a management plan to supplement the existing management plan approved under 98/00160/OUT for the existing and proposed landscaping on the site including one year for maintenance and 15 years management.

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 Policy C4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. The existing ditch running along the length of the east and south boundaries of the site shall be retained and prior to the commencement of any phase of the development hereby approved, a management plan for its maintenance shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the ditch shall be maintained in accordance with the approved details.

Reason – To ensure satisfactory drainage of the site and to protect habitats of importance in accordance with Policy C2 of the adopted Cherwell Local Plan, Policies NRM4 and NRM5 of the South East Plan and Government guidance contained within the National Planning Policy Framework.

12. In the case where development does not commence on any phase before 01 June 2014, an updated ecological survey covering the entirety of the site, which addresses any change in badger and reptile activity on the site, together with any subsequent mitigation measures required as a result of the findings and a timescale for the implementation of the mitigation measures, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the mitigation measures shall be carried out in full in accordance with the approved details.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan, Policy NRM5 of the South East Plan 2009 and Government guidance contained within the National Planning Policy Framework

13. Prior to the first occupation of any building or land, the proposed means of access between that building or land and the public highway shall be formed, laid out and constructed in accordance with full details to be firstly submitted to and approved in writing by the Local Planning Authority.

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

14. Each reserved matters application submitted shall be accompanied by a

Travel Plan for that phase of the development.

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

15. Each reserved matters application submitted shall be accompanied by a plan showing car and lorry parking and manoeuvring provision in accordance with the District Council's parking standards for vehicles to be accommodated within the site, together with layout, surfacing, and drainage to include petrol/oil interceptors.

Reason - In the interests of highway safety and to ensure the provision of adequate off-street car and lorry parking and to comply with Government guidance contained within the National Planning Policy Framework.

16. Prior to the first occupation of the development hereby approved, an element of public art associated with the development, to be commissioned in liaison with the Council's Arts and Visitor Services Manager and an identified local artist, shall be fully provided on site in accordance with full details to be submitted to and approved in writing by the Local Planning Authority.

Reason - To ensure the creation of a pleasant and distinctive environment and to secure community involvement in accordance with the Council's Public Art Policy, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

17. Prior to the commencement of any phase of the development identified on the approved phasing plan, full details of all external lighting for that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the lighting shall be installed and retained in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to protect habitats of importance to nature conservation from any loss or damage in accordance with Policies BE1 and NRM5 of the South East Plan 2009, Policies C2 and C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

18. The rated level of noise emitted from the site shall not exceed background noise levels by more than 5 dB when measured in accordance with British Standard BS 4142:1997 Method for rating industrial noise affecting mixed residential and industrial areas. Measurements shall be made at a height between 1.2 and 1.5 metres above ground level and at least 3.5 metres from the rear elevation of the Lloyds TSB Building, Brookhill Way Banbury.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy NRM10 of the South

East Plan 2009, Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

19. Individual noise events on the development site shall not exceed LA_{max} (fast) 60 dB(A) during the night time period between 23:00 hrs and 07:00 hrs when measured free field to the north elevation of The Holiday Inn, Ermont Way, Banbury.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy NRM10 of the South East Plan 2009, Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

20. Prior to the commencement of any phase of the development identified on the approved phasing plan, a plan showing full details of the finished floor levels in relation to existing ground levels on the site for the proposed building(s) on that phase, 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 finished floor levels plan.

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, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

21. The gross floor area of the building(s) hereby approved shall not exceed 10,500sqm.

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

22. No goods, materials, plant or machinery shall be permanently stored, repaired, operated or displayed in the open without the prior express planning consent of the Local Planning Authority.

Reason - In order to safeguard the visual amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

23. The development hereby permitted shall be used only for the purposes falling within Classes B1(c), B2 and B8 of the Town and Country Planning (Use Classes) Order 2005.

Reason - To enable the Local Planning Authority to retain planning control over the development of this site in order to safeguard the amenities of the area and in the interests of highway safety, to comply with policy C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

24. Notwithstanding the provisions of section 55 (2) (a) (i) of the Town and Country Planning Act 1990 (as amended by Section 49 of the 2004 Act) and Article 2A of the Town and Country Planning (General Development Procedure) Order 1995 and Class A of Part 8, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 and its subsequent amendments, no internal operations increasing the floor space available within the building hereby permitted shall be carried out without the prior express planning consent of the Local Planning Authority.

Reason – To enable the Local Planning Authority to retain planning control over the provision of additional floorspace in order to maintain a satisfactory layout and sustain an adequate overall level of parking provision and servicing on the site in accordance with Policies BE1 and T4 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

25. Notwithstanding the provisions of Class A of Part 8, Schedule 2 of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 1995 and its subsequent amendments, the approved building shall not be extended or altered without the prior express planning consent of the Local Planning Authority.

Reason - To enable the Local Planning Authority to retain planning control over the development of the site in order to safeguard the amenities of the area in accordance with Policy BE1 of the South East Plan 2009, Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. In the submission of reserved matter details for approval, a particularly high standard of architectural design in the external appearance of the buildings is expected in view of the prominence of the site.
2. Planning permission only means that in planning terms a proposal is acceptable to the Local Planning Authority. Just because you have obtained planning permission, this does not mean you always have the right to carry out the development. Planning permission gives no additional rights to carry out the work, where that work is on someone else's land, or the work will affect someone else's rights in respect of the land. For example there may be a leaseholder or tenant, or someone who has a right of way over the land, or another owner. Their rights are still valid and you are therefore advised that you should seek legal advice before carrying out the planning permission where any other person's rights are involved.
3. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control

of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social Behaviour Manager on 01295 221623 for further advice on this matter.

4. Your attention is drawn to the need to have regard to the requirements of UK and European legislation relating to the protection of certain wild plants and animals. Approval under that legislation will be required and a licence may be necessary if protected species or habitats are affected by the development. If protected species are discovered you must be aware that to proceed with the development without seeking advice from Natural England could result in prosecution. For further information or to obtain approval contact Natural England on 01635 268881.

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

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. The application is considered to be acceptable on its planning merits as the proposal represents employment generating development in an accessible location without giving rise to any unacceptable transport or landscape impact. Furthermore the proposal is considered to be acceptable in terms of flood risk, biodiversity, landscaping, residential amenity, noise, land contamination and air quality. As such, the proposal is in accordance with Policies SP3, CC1, CC7, RE1, RE3, BE1, NRM4, NRM5, NRM9 and NRM10 of the South East Plan 2009, Policies S10, TR1, C1, C2, C4, C28, ENV1 and ENV12 of the adopted Cherwell Local Plan 1996, Policies SLE1, SLE4, ESD6, ESD7, ESD10 and ESD16 of the Draft Submission cherwell Local Plan and Government advice contained within the National Planning Policy Framework 2012,. For the reasons given above and having regard to all other matters raised, 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.