

**Land adjacent to Oxford Canal
Spiceball Park
Banbury**

13/01601/OUT

Ward: Banbury Grimsbury and Castle

District Councillor: Cllr. Andrew Beere,
Anne Bonner and Claire Bell

Case Officer: Bob Duxbury

Recommendation: Approve

Applicant: Scottish Widows Group

Application Description: Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and associated canal footbridge and General Foods Sports and Social Club band practice room; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail food store (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, alterations to the rear of the Castle Quay Shopping Centre landscaping, construction of infrastructure, car parking and associated works, including the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road | Land Adjacent To The Oxford Canal Spiceball Park Road

Committee Referral: Major application

Committee Date: Last considered on 5 February 2014

Supplementary Report

1. Introduction and revised description of development

- 1.1 Members will recall that at their meeting held on 6 February 2014 the Committee resolved to approve outline planning permission for a development of a similar description subject to overcoming issues raised by Oxfordshire County Council as local highway authority, resolving car park supply and needs assessment, securing an appropriate legal agreement to secure financial contributions to road junction and towpath improvements and other matters, and referral of the application to the Secretary of State .
- 1.2 A copy of the previous report and the written update submitted to the February meeting are attached as appendices 1 and 2
- 1.3 The previous scheme was described as follows

Outline planning permission for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and the General Foods Sports and Social Club; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail food store (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, landscaping, construction of infrastructure, car parking and associated works, including glazed canopy over the Oxford Canal and

the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road | Land Adjacent To The Oxford Canal Spiceball Park Road Banbury

- 1.4 It will be seen that the current description differs from the above significantly in that it omits reference to the demolition of the General Foods Sports and Social Club, omits reference to the glazed canopy over the Oxford Canal, but includes the undertaking of alterations to the rear of the existing Castle Quay shopping centre. The redline defining the site has been amended to suit these changes.
- 1.5 The applicant's agent has explained that since the resolution to grant planning permission competition for tenants from the developers of the out of town Banbury Gateway scheme has increased. Agreement to purchase and relocate the GF Sports and Social Club has not been reached and the applicants are concerned that recourse to CPO will result in an unacceptable delay to the commencement of the development . In the light of this concern, the scheme has been amended to facilitate the retention and integration of the GF Club into the regeneration of the area. To accommodate the Club the southerly portion of block alongside the canal has been omitted. This building had basement parking and two levels of restaurant units under a pitched roof profile. To accommodate the change a new mezzanine level of car parking over the north side of the remainder of this part of the site has been proposed. Enabling works to allow the integration of the development with the Club are proposed . and access to car parking has been rearranged
- 1.6 The landscaped link between the town centre and Spiceball leisure centre has been repositioned to the north of the Club, and the roof over the canal has been omitted. An ew broader bridge over the canal has been reoriented to serve the new building . The existing bridge to the sports centre will now be retained in it existing position and the north end of the foodstore parking is rearranged to accommodate this.The existing cn al bridge is to be replaced by another adjacent to the Tom Rolt road bridge. The flood water management scheme is retained as previously proposed.
- 1.7 As before the application is submitted in outline form with only access for consideration. All other matters (appearance, landscaping, layout and scale) are reserved for future consideration.
- 1.8 The new proposed minimum and maximum floorspace of the development is indicated in the table below: This can be compared to the similar table in para 1.5 of the original report

| Use (Class) | Minimum Area (GIA) m² | Maximum Area (GIA) M² |
|--------------------|---|---|
| Supermarket (A1) | 3, 150 | 5, 100 |
| Restaurants (A3) | 1,750 | 4,830 |
| Hotel (C1) | 1, 855 | 4,715 |
| Cinema (D2) | 2, 400 | 4, 780 |
| Car Parking | 385 Spaces | 620 Spaces |

- 1.9 The application is supported by an amended indicative master plan indicating the likely disposition of uses and a series of parameters plans indicating the maximum and minimum deviation in the layout and scale of the proposed development.

Parameters Plans

- 1.10 Submitted with the application were is a series of parameter plans as set out in the previous report . These indicated the different types of development, heights, levels etc. proposed to be undertaken to develop site. The parameter plans have been amended and now comprise :-:

- OP-00 P2 Site Location
- OP-01 P1 Site boundary
- OP-02 P2 Demolition
- OP-03 P1 Excavation
- OP-04 P2 Land use (Level 0)
- OP-05 P2 Land use (Level 1)
- OP-06 P2 Land use (Level 2)
- OP-07 P3 Land use (Level 3-6)
- OP-08 P4 Areas schedule
- OP-09 P2 Deviations in plan level 0
- OP-10 P3 Deviations in plan level 1
- OP-11 P4 Deviations in plan level 2
- OP-12 P4 Deviations in plan level 3-6
- OP-13 P2 Canopies
- OP-14 P4 Deviations in height sheet 1
- OP-15 P2 Deviations in height sheet 2
- OP-16 P1 Bridges
- OP-17 P2 Active frontages
- OP-18 P2 Pedestrian site circulation
- OP-20 P2 Landscape
- OP-21 P3 Vehicle access and circulation

- 1.11 As before the final development has yet to be confirmed, and therefore there is a degree of deviation within the plans and heights. These are as indicated on drawings marked as “deviation” above. The application seeks a degree of flexibility and therefore a range of parameters are submitted for consideration which will consequently form the basis of consideration and the reserved matters stage. Matters of detail will also be considered at this stage, although the submitted Design and Access Statement (DAS) provides a clear statement of intent in respect of what will ultimately be delivered at the site.
- 1.10 An Environmental Impact Assessment (EIA) ‘Screening Request’ was submitted to Cherwell District Council on 5 August 2013 and updated 8th November 2013. Following consideration Cherwell District Council determined on 15th November 2013 that the proposed development did not constitute EIA development (application 13/00082/SO refers).

2. Application Publicity

- 2.1 Correspondence has been received from County Councillor Surinder Dhesi who expresses the following views
1. We need to make sure that there are restrictions on the time that the supermarket can take deliveries – no deliveries between 10pm and 7am
 2. There need to be parking restrictions on Spiceball Park Road – no parking at any time
 3. The humps need to be removed to reduce noise levels from vehicles

4. There needs to be less lighting overnight around the supermarket to reduce light pollution
 5. Make sure residents get double glazing to prevent noise pollution
 6. Make sure that the flood prevention measures are adequate because the whole area is prone to flooding
- 2.2 Chamberlain Court residents have specifically asked that their previous representations be taken into account

3. Consultations

- 3.1 **Environment Agency** – In general we are satisfied with the amended plans and request the following conditions which we listed in our letter dated 25 April 2014.

Condition 1

The development permitted by this planning permission shall be carried out in accordance with the flood mitigation principles set out in the Flood Risk Assessment BMW/388/FRA rev A, undertaken by BWB Consulting dated 11th October 2013 and the addendum to the Flood Risk Assessment BMW/388/FRA-Addendum Rev A, dated 28th March 2014. Any subsequent amendments shall be agreed in writing with the local planning authority. Individual phases of the development shall be accompanied by a specific FRA to ensure that the individual elements follow the flood mitigation principles and do not affect flood risk in the wider catchment. Specific design requirements to ensure the safety of the development are:

- The operational areas of the ground floor food store to be set above the 1 in 100 year plus 20% flood level
- Flood resilient construction techniques to be included for all development up to the 1 in 1000 year undefended flood level The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason

To reduce the risk of flooding to the proposed development and future occupants

Condition 2

Prior to approval of Reserved Matters a final flood management scheme for the respective phase of the development shall be submitted to and approved by the Local Authority.

Reason

To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

Condition 3

Prior to construction within the Former Leisure Centre area level for level floodplain compensation shall be implemented in line with the principles proposed on plan 'Floodplain Compensation Analysis at Former Leisure Centre BMW/388/WSK12 P1' for the phase of development.

Reason

To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

Condition 4

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason

This site is located over alluvial deposits (Secondary A Aquifer) that in turn sit over the Charmouth Mudstone (Unproductive Stratum). The site is within a flood plain and therefore groundwater will be present in the alluvium. Construction may mobilise contamination and if hot spots are encountered within the alluvium these should be dealt with in an appropriate manner. The Ridge and Partners LLP, Construction Environmental Management Plan (item 7.4 Water Management and Pollution) states that 'precautions will be taken prior to and during construction to ensure the protection of watercourses and groundwater against pollution'. Therefore we are reassured that there is a strategy in place for protection of controlled waters.

Condition 5

The development phase on the site of the Former Leisure Centre shall only take place once a scheme for the enhancement of the River Cherwell is submitted and agreed to in writing by the local planning authority. Thereafter this phase of 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. Specific design requirements to ensure the safety of the development are:

- The creation of meanders within the channel of the River Cherwell to the North and South of the site
- The removal of young sycamore trees aligning the bank and replace with native shrubs and larger native trees set back from the top of the bank
- The placement of gravel within the channel.
- The creation of small backwaters, joining the River Cherwell

3.2 **Canal and River Trust**

After due consideration of the application details, the Canal & River Trust (the Trust) has the following general **comments to make**.

As you are aware, the Canal & River Trust originally objected to this proposal, but following further negotiations were able to withdraw that objection.

Since the application was considered at committee with a 'resolution not to refuse' the Trust has continued discussions with the applicant and our Urban Design Architect has met with them to discuss our aspirations for the scheme.

We hope to maintain regular dialogue with both the applicants and council to seek improvements to the rear elevation of Castle Quay 1, the circulation space and the public realm along both sides of the canal. Our aim is to ensure that the resultant development fully engages with the canal and its towpath and encourages use of the public realm and active waterspace.

Following that meeting a letter will be sent to the applicant setting out our aspirations and our suggestions as to how they can be achieved to enhance the canal corridor. This will then form the basis for on-going discussions as the proposal moves forward. We fully expect to be included in detailed discussions relating to the layout, materials and design of the public realm and its integration with the canalside area.

We are pleased to note that the applicant has amended the red line of the application plan to improve connectivity and accessibility and that the General Foods Building, a popular local facility, has been retained in the revised plans. While we understand that the submitted drawings are for illustrative purposes only we wish to make the following detailed comments.

Hotel

We note that the hotel will have an active ground floor which will encourage use of the land to its front. The Trust is working with the scheme architects to look at ways of improving access to the waters' edge by removing barriers to both circulation and views.

Bridge and canopy

We note that the canopy over the water space is much reduced. This should help alleviate concerns raised by individual boaters, the IWA and Banbury Canal Society as well as ourselves, regarding the impact on the waterspace. The design of both the new pedestrian bridge near the Tom Rolt bridge, and the canopy are crucial, as there are a number of other crossings nearby. The new bridge should not over clutter' the canal or adversely impact on views of the historic canal environment. Both the bridge and canopy should be designed as a piece of public art due to its location at the heart of the public realm. The Trust will not agree to the new bridge crossing or canopy unless these matters are resolved to our satisfaction. The developer has provided reassurance that these matters will be discussed in more detail prior to the submission of the reserved matters application. It is hoped that the canopy, although reduced in size will be a stunning piece of architecture in its own right, which improves the quality of the canalside environment.

Cinema block

We note that the overall height has been reduced but in our opinion the previous roofline was preferable as it added more interest than the current illustrative plan. We have discussed ways of better integrating the different levels of public space with the applicant as the need for a parking undercroft and drainage channel restricts movement between the built form and canalside area.

We hope to continue to discuss this with the applicant and the architects to achieve better accessibility between the levels and improve the functionality of the area.

Accessibility

We note that the various transport assessments pay little attention to accessibility by sustainable transport. As the canal towpath is recognised as a sustainable transport route and will be the main pedestrian/ cycle route from the train station to the site we re-iterate comments made previously regarding the need for improved accessibility. Previously the Canal & River Trust discussed details of towpath improvements as well as the provision of a properly surfaced and DDA compliant safe link from the canal towpath to the

railway station. At the time of our discussions the project had not been properly costed out and therefore a contribution of 'in the region of £100,000' was agreed, to be provided by means of a unilateral undertaking or S106 agreement. Since that time the Trust has had the opportunity to properly cost out the project, and these detailed costs have been provided to both the applicant and council. The total cost far exceeds the £100,000 originally suggested. The Trust has offered to meet other associated costs if the applicant is willing to provide funding for the actual construction work, a total of £117,000. We would ask that this figure is now formally included rather than 'in the region of £100,000' of figure.

Conditions

We have considered the conditions put forward in the committee report and we are content that they will adequately cover our concerns. However we would ask that an informative be added to the decision notice should the council be minded to grant consent. The informative will require the applicant to enter into our Code of Practice for works affecting the waterway. This will ensure that all necessary safety measures, method statements and licenses are in place to prevent the development having an adverse impact during its construction phase.

Informative

If the Council is minded to grant planning permission, it is requested that the following informative is attached to the decision notice:

"The applicant/developer is advised to contact Osi Ivowi on 01908 302 591 in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust".

3.3 Thames Water

Thames Water would advise that with regard to sewerage infrastructure capacity, we would not have any objection to the above planning application.

There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to those sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building or an extension to a building or underpinning work would be over the line of, or would come within 3 metres of, a public sewer. Thames Water will usually refuse such approval in respect of the construction of new buildings, but approval may be granted in some cases for extensions to existing buildings. The applicant is advised to contact Thames Water Developer Services to discuss the options available at this site.

Thames Water would recommend that petrol / oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol / oil interceptors could result in oil-polluted discharges entering local watercourses.

Thames Water recommend the following informative be attached to any planning permission: There are large water mains adjacent to the proposed

development. Thames Water will not allow any building within 5 metres of them and will require 24 hours access for maintenance purposes

No impact piling shall take place until a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement. Reason: The proposed works will be in close proximity to underground water utility infrastructure. Piling has the potential to impact on local underground water utility infrastructure.

Supplementary Comments

To the north, adjacent to the site sits Spiceball Park Oil Interceptor and within the south east corner of the site is Spiceball (Banbury) SPS. Also running through the centre of the site are easements and wayleaves. These are all Thames Water Assets. The company will seek assurances that they will not be affected by the proposed development.

Cherwell District Council Consultees

- 3.3 **Ecologist.** My comments remain as previously as no ecological receptors will be affected by the amendments
- 3.4 **Urban Design and Conservation** Attached as appendix 3 is the full text of extensive comments received that analyse the variations of the scheme from that previously considered and makes comments on the resulting proposal. In conclusion it is commented that a number of changes have been made to accommodate the General Foods Social Club within the development plan. This has led to small changes in the commercial development brief and more substantial changes to the public realm.

The following issues will need to be considered in further detail at a Reserve Matters Stage:

- Improve the relationship between the proposed development and the public realm area that interfaces with the General Foods Social Club.
- Improvements to the connectivity between the Spiceball Leisure Centre and the Town Centre, ensuring that the pedestrian connections are better than the existing offer.
- Public realm improvements along Spiceball Park Road.
- Establish architectural principles and parameters to provide the starting point for design development.
- Reconfigure the retail elements at the southern end of the canal side block.
- Further consideration of the materials and massing of the architecture, especially the hotel and cinema.

- Consideration as to how the new cinema will be configured to provide activity on the canal, but while integrating with other uses to break down the scale of the building

- 3.5 **Landscape Officer** - I think my previous response to [the previous case officer] is still relevant because there are no landscape related changes, except for the additional proposals regarding the Boardwalk treatment. I am concerned about the viability and large maintenance cost of the green wall as proposed. Substantial soil volumes with irrigation system will have to be designed to establish healthily plant growth (which party is to be responsible for this?). If the scheme fails i.e. the planting dies the climbing wires/frame would have to be removed or it may become a human climbing wall? I need to be convinced that it is going to work, so full construction and planting drawings with supporting specifications, including maintenance are required.
- 3.6 **Tree Officer** – A greater number of B category trees are to now be retained as a result of the revised proposals. Where trees are to be removed they will be replaced. The Arboricultural Impact Assessment Addendum recommends that a site specific method statement is drawn up to ensure adequate and appropriate tree protection measures are implemented. My previous comments are still relevant as are the conditions that were attached. Recommendations: Appropriate conditions should be attached to any permission given. Please see the conditions attached to my previous comments
- 3.7 **Planning Policy** No new comments received

Oxfordshire County Council Consultees

- 3.8 At the time of writing an interim response had just been received and is included as appendix 4. An e-mail accompanies the interim response which states that
- As you will be aware, the transport information was submitted at such late date, we have not had sufficient time to provide a full response. Given the delays in receiving the transport information, will you be reconsidering the August Committee date? As it stands, 8 working days for OCC to evaluate is wholly inadequate and we will not be in a position to complete our assessment even if we were to work up until the day of the committee meeting as you have previously suggested.

Please also see the proposed Heads of Terms for CQ2 as they currently stand below. These will be subject to assessment and approval of the TA.

Transport/ highway financial contribution to be paid prior to the first occupation of the development comprising:

- Contribution to Banbury Area Transport Strategy, to include the following schemes:
 - Contribution towards Bridge Street/ Cherwell Street Improvement Scheme.
 - Contribution towards Hennef Way/ Concorde Avenue and Hennef Way Improvement Scheme.
- Public transport contribution (parking management tbc).
- Improvements identified in the pedestrian/ cycle audit.
- Travel Plan monitoring fee.
- Commitment to opening up pedestrian routes through Castle Quay.
- Commitment to tow path enhancements.
- Submission of detailed Travel Plans prior to occupation, and a commitment for occupiers to implement.
- Off-site mitigation measures to be confirmed which will be secured under S106 and subject to a S278 Agreement.

Obligations to enter into the following legal agreements:

1. Section 278 Agreement for works on the public highway. This will include:
 - Realignment of Spiceball Park Road carriageway.
 - Replacement of the roundabout at the south end of Spiceball Park Road.
 - New pedestrian infrastructure.
 - Traffic calming features.
 - Road markings.
 - Street lighting.
 - Drainage.
 - Highway signage.
 - Bus stops on Cherwell Drive incl. new shelters and bus stop markings.
 - Pedestrian crossing improvements.
 - Installation of SCOOT traffic signal software for Castle Street/ Southam Road corridor
 - Car park signage – including installation of Variable Message Signage for car parking.

2. Section 38 Agreement for the adoption of private land for use as a public highway

4. Relevant National and Local Policy and Guidance Policy Considerations

4.1 Development Plan Policy

Adopted Cherwell Local Plan 1996

Policy C1 Protection of sites of nature conservation value
Policy C2 Development affecting protected species
Policy C4 Creation of new habitats
Policy C23 Conservation areas
Policy C25 Scheduled Ancient Monuments
Policy C28 Development control – Design
Policy C29 Oxford canal design considerations
Policy ENV1 Development likely to cause detrimental levels of pollution
Policy ENV12 Development on Contaminated Land
Policy R7 Protection and enhancement of the recreational roles of the
Oxford
Canal and River Cherwell
Policy T2 New hotels/motels within settlements
Policy TR1 Transportation Funding

Cherwell Local Plan – Submission document Jan 2014

The Proposed Submission Local Plan was published for public consultation in August 2012. A further consultation on Proposed Changes to the draft plan was undertaken from March to May 2013. On 7 October 2013, the draft Submission Plan was approved by the Council's Executive. The Plan was presented to Full Council on 21 October 2013 and Full Council endorsed it as the Submission Local Plan. Submission to the Secretary of State for Communities and Local Government occurred at the end of January 2014. The Submission Plan supersedes previous stages of the emerging Local Plan.

Policy SLE2 Securing dynamic town centres
Policy SLE3 Supporting tourism growth
Policy ESD1 Mitigating and adapting to climate change
Policy ESD2 Energy hierarchy
Policy ESD3 Sustainable construction
Policy ESD4 Decentralised energy systems
Policy ESD5 Renewable energy
Policy ESD6 Sustainable flood risk management
Policy ESD7 Sustainable Drainage Systems (SuDS)
Policy ESD8 Water resources
Policy ESD10 Protection and enhancement of biodiversity and the natural environment
Policy ESD13 Local landscape protection and enhancement
Policy ESD15 Green boundaries to growth
Policy ESD16 The character of the built environment
Policy ESD17 The Oxford canal
Policy ESD18 Green infrastructure
Policy Banbury 9 Spiceball development area

4.2 Other Material Policy and Guidance

National Planning Policy Framework

The Town and Country Planning (Consultation)(England) Direction 2009

Planning for Town Centres: Practical Guidance on Need, Impact and Sequential Approach (DCLG, December 2009)

5. Appraisal

5.1 The issues raised by this development remain:

- Planning Policy
- Sustainable Development
- Prematurity and Need
- Sequential Assessment and Retail Impact
- Impact on Town Centre
- Visual Impact, Design and Layout (outline so all indicative)
- Rights of Way
- Noise
- Trees
- Biodiversity/Ecology
- Flood Risk
- Impact on Heritage Assets
- Archaeology
- Drainage
- Noise
- Highways/Transport
- Heritage
- Contaminated Land
- Air Quality
- Neighbour Amenity
- Comments from the Canal and River Trust (CRT)
- Other Matters
- Sports and Social Club
- Adequacy of car parking
- Planning obligations
- Engagement

Planning Policy

5.2 The comments made in paras 5.1 to 5.9 of the previous report remain current.

Sustainable Development

5.3 The comments contained in paras 5.10-5.15 of the previous report remain valid and it is considered that the proposed development accords with the Frameworks requirement to achieve sustainable development at the site.

Prematurity and Need

- 5.4 This issue arose mainly due to an objector to the inclusion of the Club site and with its omission from the scheme it is of lesser importance, but the comments made in paras 5.16 to 5.20 of the previous report remain valid

Sequential Assessment and Retail Impact

- 5.5 There is no change to the sequential assessment and your officers review of it. The site is therefore considered viable, suitable and available for the development. The site is also promoted as an area that can deliver new uses that would enhance the appeal of Banbury to both residents and visitors. The development therefore passes the sequential assessment.

Impact on the Town Centre

- 5.6 As the minimum area for the proposed development is over the 2, 500 sq. m threshold as defined at paragraph 26 of the Framework, a retail impact assessment is required. Your officers are content that the assessment remains valid.

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- 5.7 It is clear that the leisure offer within Banbury town centre can be expanded which Policy Banbury 9 seeks to redress. With the evidence submitted through the RIA, the HDM is confident that the development proposed would increase leisure development within the town centre without impacting on its ability to draw future investment into it. Moreover, the proposal would offer a unique opportunity to develop an under used part of the town to provide additional leisure uses and an economic benefit to the town.

Visual Impact, Design and Layout

- 5.8 The site is situated on the edge of the town centre which is dominated by the existing development at Castle Quay which backs onto the Oxford Canal. Adjacent to the existing Castle Quay is the "south car park" which provides 530 spaces. The "north car park" lies on the other side of the canal, opposite the "south car park" and is low enough to be discrete in the streetscene. However, it is identified by the applicant's agent as being "a poor use of a site so close to the town centre" (DAS, page 8).
- 5.9 The General Foods Sports and Social Club lies between the "north car park" and Banbury Museum. The DAS identifies this site as being "in an important position and key node in the development of the site..." The museum is set at a higher level with a café at ground floor which overlooks the canal. A bridge links the museum to the shopping centre. Further south adjacent to the museum is Chamberlaine Court which provides sheltered housing along with parking and amenity areas. This building is outside of the application site. Towards the end of the site is the Mill Arts Centre which is also outside of the application site, although its car park is within the red line area.
- 5.10 Spiceball Park Road dissects the site between the river Cherwell and Oxford canal. The area where the old Spiceball building was demolished is now given over to parking and is devoid of planting. Mature trees are located towards the rear of the buildings that face the canal. Landscaping is also provided within the grounds of

Chamberlaine Court and the Sports and Social Club. The site is visible from Cherwell Drive in the west and Concorde Avenue in the east. These are important vistas in establishing the sites presence within the town centre. Any development must take advantage of these view points and provide strong elevations with quality materials.

- 5.11 It is not surprising that the current site is urban in character, is largely uninspiring and does little to enhance the character of the area which includes the Oxford canal Conservation Area and River Cherwell corridors. The site does not offer much in the way of landscaping to soften its urban appearance. However, the development offers an opportunity to provide a scheme that will not only enhance the leisure offer for the town, but also the way the site integrates with new and existing buildings, opportunities to enhance the canal and river and the sites prominent location on the edge of the town centre and its connectivity to the town centre and the new Spiceball centre.
- 5.12 As part of the development proposal, the social club was previously proposed to be removed in favour of a more inclusive contemporary public space with hard/softscape terracing to reflect the level change between the rear entrance of the museum and the finished level of the public space (canal level). This element of the scheme is omitted, and the scheme re-configured to work around the retention of that building. The Design and Conservation Team Leader has carefully reported on and analysed the extent and impact of the changes (see Appendix 3). It is clear that there are reservations about the link through to Spiceball leisure centre and the tight area between the retained Club building and the proposed new canal-side building, but your officers consider that with careful and imaginative design this matter should be able to be dealt with satisfactorily and reserved matters stage
- 5.13 There also remains some concerns that the landing points of the bridge might create areas of separation between the terrace and towpath. Further consideration of these areas will be required at a Reserved Matters stage. The site running north – south between Castle Quay and Spiceball is a critical element of the scheme. This route needs to mitigate a number of level changes and the design needs to be inviting for pedestrians. The latest revisions to the scheme show some improvement in this although again more work will be necessary at the next stage.
- 5.14 There is also some concern about the transition up to and across the food store car park; though it is acknowledged that there have been some amendments to this area. This space needs to be inviting with a substantial area dedicated to the public realm, to draw pedestrians up onto the car parking area. The change of levels at this location and the character of the car park could form barriers to movement that will need to be considered in detail.
- 5.15 Spiceball Park Drive is currently a car dominated environment and a number of changes to this route would improve the way it is used by pedestrians. There is the opportunity for the nature of this route to change once it has passed the shared surface square and the level of vehicular movement has been reduced. Improved paving and landscape treatment would help it become a more pedestrian focused area.
- 5.16 The principle of development along the Oxford Canal and River Cherwell and the form that this is taking is acceptable. This is a complicated site which presents challenges to create a development that enhances the built environment and the impact it has on the public realm. The proposed foodstore will need to be carefully designed in detail to be acceptable. The detail design, level changes and materials

used in the public realm will be critical in pulling together different areas of the site. The development proposals fit into the wider structure of the town centre and it will be important that these proposals fit within the wider strategic plan for the area as emerging in the Banbury Masterplan.

- 5.17 It is finally necessary to comment upon the removal of the canopy over the canal from this proposal. It is fair to say that this was not universally welcomed, but your officers previously considered that it would have provided a distinctive feature that would have been a draw for the public. Based on the previous debate in Committee I think this view was shared by the majority of Members. Its loss is a direct result of the retention of the Club building. The designers are currently considering whether some other attractive and distinctive feature can be provided that would give an alternative 'wow' factor. It is likely that this will be focussed on bridge design, or covered areas on both sides of the canal.

Rights of Way

- 5.19 Banbury Footpath No 103 (Oxford Canal towpath) runs through this application site. The Rights of Way Officer has considered the proposal and comments that no Public Path Order will be required to enable the development.

Noise

- 5.20 The noise assessment previously undertaken is unaffected by the changes now proposed

Trees

- 5.21 It is noted that the previous scheme proposed to remove 60 trees to facilitate the re-development of the site, and the number of trees now proposed to be removed has been reduced.. No objection subject to conditions.

Biodiversity/Ecology

- 5.22 There are no changes in the revised scheme that amend the views previously expressed

Flood Risk

- 5.23 The site lies within Flood Zone 3. As a result, the Environment Agency were consulted. The Environment Agency continue to be satisfied with the flood measures
- 5.24 The conditions requested by the Environment Agency are considered acceptable and are included within the conditions at the end of this report.

Impact on Heritage Assets

- 5.25 Revised Conservation comments are contained in Appendix 1. No objection in principle is raised.

Archaeology

- 5.26 The revised scheme has no fundamentally different impact that that previously assessed
- 5.27 It is therefore recommended that the applicant should be responsible for implementing a staged programme of archaeological work. This can be ensured through the attachment of a suitable negative condition as suggested by the Archaeological Officer at the County Council.

Drainage

- 5.28 The area is known to have flooding issues and the developer has acknowledged that within the Flood Risk Assessment documents. The County Council have suggested that developer should look for improvement on the current flood levels where possible. Conditions are suggested to ensure that drainage details are agreed with the County Council before development commences.

OCC Property

- 5.29 Part of the application site continues to include land (pavements / hard landscaping) owned by Oxfordshire County Council on the northern edge of the Mill Arts Centre. Furthermore the County Council has an agreement with Cherwell District over the use of some of the parking spaces within the application site immediately to the west of the Arts Centre.
- 5.30 The revised proposal has no additional impact upon these arrangements

Highways/Transport

- 5.31 Shortly before the February 2014 Committee consideration of this proposal the County Council as Local Highway Authority stated that "Whilst the county council would support the principle of redevelopment of this site and is committed to finding a planning solution for the proposal, the inaccuracy of much of the transport assessment work and the omission of key elements of the transport agreement has led to an overall objection to the application as it is presented."
- 5.32 Regrettably, the concerns raised by the Local Highway Authority still have not been fully addressed although the deficiencies of the information supplied seem to have been recently corrected
- 5.33 Negotiations are continuing and a tripartite meeting involving OCC, CDC and the applicant was held on the 1st July 2014. Further discussions have been held since that last meeting, and a written update will be made at the Committee .

Contaminated Land

- 5.34 The Environmental Health Officer considered Listers Draft Phase I Desk Study Report (report no.13.03.006, dated April 2013) and the Phase II Ground Investigation Report (report no. 13.003.006a, dated June 2013).
- 5.35 These reports have been undertaken in line with current guidance and the conclusions that no additional investigation or remedial works are required to be protective of human health are accepted. He recommends that an informative be attached to the application regarding unexpected contamination.

Air Quality

- 5.36 The Environmental Health Officer reviewed the WSP Air Quality Assessment, dated October 2013, which was submitted with the original application. This assessment has been undertaken in line with current guidance and in line with the previously agreed approach. Its noted that future predictions in air quality have not assumed a decrease in emissions from vehicles as vehicle technology improves, as these have improvements have not been in line with those predicted to date.
- 5.37 The report concludes there will be a moderate adverse impact on air quality in Castle Street, with the development resulting in the nitrogen dioxide air quality objective being exceeded with the development, but not without. It is shown to be exceeding, or close to the objective, elsewhere, with or without the development. A slight adverse impact on receptors in North Bar is also predicted. Its noted Castle Street is near to the area where detailed assessment works have identified exceedences of the annual mean nitrogen dioxide air quality objective, requiring an air quality management area to be declared. The findings of this assessment indicate that Castle Street will also need to be within an air quality management area as a result of the development.
- 5.38 The previously expressed conclusions and recommendations remain appropriate for this revised scheme

Neighbour Amenity

- 5.39 A number of objections had been received from the residents of Chamberlaine Court which is a sheltered housing. Residents have raised several issues such as noise impact as a result of the development. One has to firstly consider Chamberlain Court's position within the town centre and the noise that is currently generated and whether the proposed development would significantly alter the noise levels experienced at the site. After receipt of these comments the applicants have met with these objectors. The residents have asked that their previous concerns be taken into account when considering the latest proposals
- 5.40 The Anti-Social Behaviour Manager (ASBM) was consulted on this application and no objections are raised to the development. It was agreed with the ASBM and the agent that "environmental noise would be a factor that constrained their clients proposed development and that the impact of noise on existing residential elements of the town within the immediate vicinity of the proposed development." (ASBM's comments). It is recognised that the amenity of the occupants of Chamberlaine

Court in respect of noise required protection and the methodology for carrying out an investigation of the existing noise climate in the area was agreed. These must be conditional if the development progresses and a detailed submission will be required that demonstrates how these noise targets will be achieved for approval prior to the commencement of development. A condition requiring these details to be submitted is attached.

Comments from the Canal and River Trust (CRT)

- 5.41 See para. 3.2 above. It will be seen that whilst the applicants will need to have an extensive dialogue with the CRT in the development of their detailed proposals, the CRT do not raise any insurmountable issues, and it would appear that they prefer this emerging scheme to that previously before this Committee.

Other Matters

- 5.42 The Council had previously received a large number of letters commenting negatively upon the canopy and overall development and its impact on the Oxford Canal. The canopy has now been omitted. Other points raised were addressed in the CRT section of the original report
- 5.43 In response to the comments of the original comments of the Civic Society and others the applicants supplied some illustrative options for upgrading the appearance the canal elevations of the existing Castle Quay development; confirmed that Castle Quay will be open for pedestrians for hours that are commensurate with the trading hours of CQ2 tenants to enable customers of the cinema and A3 uses to pass through to other areas of the town which are part of the night-time economy; ensured the creation of a DDA compliant link between Station Road and the canal towpath ; and confirmed that it will maximise the enhancement of the river corridor. These remain features of the revised application. No further comments have been received from the Civic Society

General Foods Sports and Social Club

- 5.44 This is no longer a feature of the proposals. The applicants report that discussions have been held with officers of the Club and that agreement has been reached with regards to the small adaptations necessary to their building and parking/access arrangements

Parking impact

- 5.45 The wider impact of the apparent shortfall in car parking to be provided on this site remains an issue that at the time of writing has not been resolved. The applicants seem to assume that this shortfall can be met by using allegedly under-utilized space ('free capacity') at Council car parks, especially the Bolton Road multi-storey car park. As Members will be aware the future of this car park is under consideration and future possible scenarios may not re-

produce the same level of car parking. An update on this matter will be given at Committee

Planning Obligations

- 5.46 The applicant has indicated a willingness to provide financial contributions to off-set the impact of the development on local infrastructure and amenities. The amount of contributions required was detailed within the original Single Response from the County Council. This will require updating upon the finalisation of the OCC response

To date a completed agreement to secure the financial contributions has not been received. The completion of the County Council's deliberations upon the most recent submission will enable progress to be made upon finalising the agreement but will include

- i. Appropriate contributions to junction improvements (specific junctions, sums and phasing of any payments to be agreed);
- ii. Commitment to opening up pedestrian routes through CQ1 (routes and timing of opening to be agreed);
- iii. Contribution to towpath enhancements as agreed with the Canal & Rivers Trust (sum and timing of payment to be agreed);
- iv. Provision of new bus stop on Cherwell Drive and associated bus shelter (procurement, costs and timing to be agreed);
- v. Submission of detailed Travel Plans (in accordance with the Framework Travel Plan) prior to occupation, with appropriate monitoring fee; and
- vi. Contribution to footway enhancements and crossing facilities in the vicinity of the site, including tactile paving and additional footways (detail, cost and phasing of any payments to be agreed).

A number of these commitments may be better suited within the associated S278 Agreement, which will capture the modifications to Cherwell Drive and Spiceball Park Road (amongst other works), alongside provisions such as signage improvements.

Engagement

- 5.47 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen regarding the submission 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.

Conclusions

- 5.48 Clearly this is a significant application for the future of the town centre. As would be expected there is a need to for a balance to be struck between the various competing issues and considerations set out above. In your officers opinion the land use elements are correct, and the overall size and disposition of the buildings as described by the parameters plans is acceptable. Negotiations with the Canal and Rivers Trust and the County Council appear to have reached a position where we can confidently predict a suitable outcome. Clearly the scheme will result in significant improvements to the offer of the town centre with a new cinema, A3 units and supermarket, and an improved and unique canal-side environment. Balanced

against this is the perceived harm to the residential amenity of adjacent elderly persons accommodation and the still current concerns about traffic and parking matters .On balance the HDM considers that the scheme should be approved.

6. Recommendation

Approval subject to the following:

- a) The applicant successfully addressing the concerns raised by OCC Highways;
- b) The completion of a legal agreement to secure financial contributions;
- c) Referral to the Secretary of State; and
- d) The following conditions (as necessarily amended to take into account late representations from OCC/CRT/and others).

TIME

1. No development shall commence until full details of the layout, scale, appearance, and landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

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).

2. In the case of the reserved matters, application for approval shall be made not later than the expiration of three 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).

3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

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).

PLANS

4. 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: **To be updated to match para 1.10 of report.**

Reason - For the avoidance of doubt and to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with the National Planning Policy Framework March 2012.

ENVIRONMENT AGENCY

5. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) BMW/388/FRA rev A undertaken by BWB Consulting dated 11th October 2013 and the following mitigation measures detailed within the FRA:
 - The operational areas of the ground floor food store set be set above the 1 in 100 year plus 20% flood level
 - Flood resilient construction techniques to be included for all development up to the 1 in 1000 year undefended flood level
6. The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason - To reduce the risk of flooding to the proposed development and future occupants

7. Prior to approval of Reserved Matters a final flood management and level for level floodplain compensation scheme shall be submitted to and approved by the Local Authority. Level or level floodplain compensation shall be implemented in line with the scheme proposed on plan Floodplain Compensation Analysis at Former Leisure Centre BMW/388/WSK12 P1

Reason – To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

8. No development shall take place until a scheme for the enhancement of the River Cherwell is submitted and agreed to in writing by the local planning authority. 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. The schemes shall include:
 - The creation of meanders within the channel of the River Cherwell to the North and South of the site
 - The removal of young sycamore trees aligning the bank and replace with native shrubs and larger native trees set back from the top of the bank
 - The placement of grave within the channel.
 - The creation of small backwaters, joining the River Cherwell

Reason - To ensure that the proposed development contributes to the *nature conservation and fisheries* value of the site in accordance with the National Planning Policy Framework (NPPF) paragraph 109, which requires the planning system to aim to conserve and enhance the natural and local environment by minimising impacts on biodiversity. Paragraph 118 of the NPPF also states that opportunities to incorporate biodiversity in and around developments should be encouraged..

9. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.

Reason - This site is located over alluvial deposits (Secondary A Aquifer) that in turn sit over the Charmouth Mudstone (Unproductive Stratum). The site is within a flood plain and therefore groundwater will be present in the alluvium. Construction may mobilise contamination and if hot spots are encountered within the alluvium these should be dealt with in an appropriate manner.

ARCHAEOLOGY

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

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2012)

11. Prior to any intrusive works taking place on the site and following the approval of the first stage Written Scheme of Investigation referred to in condition 10, a programme of archaeological evaluation, investigation and recording of the application area shall be carried out by the commissioned archaeological organisation in accordance with the approved first stage Written Scheme of Investigation.

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with NPPF (2012).

12. Prior to any intrusive works taking place on the site and following the completion of the archaeological evaluation, investigation and recording referred to in condition 11, a report of the archaeological evidence found on the application site and full details of a second stage Written Scheme of Investigation based on the findings, including a programme of methodology, site investigation and recording, shall be submitted to and agreed in writing by the Local Planning Authority.

Reason - To safeguard the recording of archaeological matters within the site in accordance with NPPF (2012).

13. Prior to any intrusive works taking place on the site (other than in accordance with the second stage Written Scheme of Investigation) and prior to the commencement of the development the further programme of archaeological investigation shall be carried out and fully completed in accordance with the second stage Written Scheme of Investigation approved under condition 12 All post excavation work including all processing, research and analysis necessary to produce an accessible and useable archive and its deposition, and a full report for publication, shall be submitted to the Local Planning Authority in accordance with the second stage Written Scheme of Investigation approved under condition 12 as soon as practically possible after the completion of the on-site investigation.

Reason - To safeguard the recording of archaeological matters within the site in accordance with the NPPF (2012)

ECOLOGY

14. An avoidance and mitigation scheme for nesting birds and reptiles, based on the measures detailed in the 2013 WSP ecological survey report shall be submitted to and approved by the Local Planning Authority before development commences. All works to proceed in accordance with the approved scheme.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

15. An ecological enhancement scheme, based on the measures detailed in the 2013 WSP ecological survey report and including nesting provision for swifts and enhancement of the river channel shall be submitted to and approved by the Local Planning Authority before development commences. All works to proceed in accordance with the approved scheme.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

ABORICULTURAL

16. Submit Landscaping Scheme

Prior to the commencement of the development hereby approved, a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping the site 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, including pavements, pedestrian areas, reduced-dig 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 Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

17. Retained Tree

- a) No retained tree 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 the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.

- b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority.

In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of this permission.

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

18. Arboricultural Method Statement (AMS)

Prior to the commencement of the development hereby approved, an Arboricultural Method Statement (AMS), undertaken in accordance with BS:5837 shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, all works on site shall be carried out in accordance with the approved AMS.

Reason – To ensure the continued health of retained trees/hedges and to ensure that they are not adversely affected by the construction works, in the interests of the visual amenity of the area, to ensure the integration of the development into the existing landscape and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

19. Planting Pits (hard landscaped areas)

Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all purpose built tree pits and associated above ground features, to include specifications for the installation of below ground, load-bearing ‘cell structured’ root trenches, root barriers, irrigation systems and a stated volume of a suitable growing medium to facilitate and promote the healthy development of the proposed trees, 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 and specifications.

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

20. Planting Pits (soft landscaped areas)

Prior to the commencement of the development hereby approved, and notwithstanding the submitted details, full details, locations, specifications and construction methods for all tree pits located within soft landscaped areas, to include specifications for the dimensions of the pit, suitable irrigation and support systems and an appropriate method of mulching, 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 and specifications.

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

NOISE

21. Prior to the commencement of the development hereby approved, full details of on-site noise measurements and agreed environmental noise limits for the development shall be submitted to and approved by the Local Planning Authority. Thereafter, and prior to the first occupation of the buildings hereby approved, the buildings shall be insulated and maintained in accordance with the approved details.

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

DRAINAGE

22. Prior to the commencement of the development hereby approved, a detailed scheme for the surface water and foul sewage drainage of the development shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter, and prior to the commencement of any building works on the site the approved surface water drainage scheme shall be carried out and prior to the first occupation of any building to which the scheme relates the approved foul sewage drainage scheme shall be implemented. All drainage works shall be laid out and constructed in accordance with the Water Authorities Association's current edition "Sewers for Adoption".

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

USE

23. Where applicable, the premises shall be used only for purposes falling within Class A3 and A4 specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever.

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

PHASING

- 24.

PLANNING NOTES

1. In addition, we recommend that the LPA consider including a condition that the flood management of the site is implemented over the lifetime of the development. One

consideration should be the maintenance of the culverts under Spiceball Park Road. If these culverts were to become blocked this could potentially lead to an overland flood flow route being created across the car park. The Flood Risk Assessment and subsequent discussions with BWB Consultancy have confirmed that further flood risk work will be required as the design of the site progresses. This point could be explored further at that stage.

2. The West Thames Area (Environment Agency South East) is operating a risk based approach to planning consultations. As the site lies between 1 and 5 hectares we do not intend to make a bespoke response on surface water drainage for this proposed development. The following standing advice is provided:

3. In order for the development to be acceptable in pluvial flood risk terms we would advise the following:

Our flood risk standing advice contains guidance (http://www.environment-agency.gov.uk/static/documents/Utility/FRSA_LPA_v_3.1.pdf) on what FRAs need to include. Key points for developments in Flood Zone 1 (cell F5) are:

- Surface water runoff should not increase flood risk to the development or third parties. This should be done by using Sustainable Drainage Systems (SuDS) to attenuate to at least pre-development runoff rates and volumes or where possible achieving betterment in the surface water runoff regime. (The applicant should contact Local Authority Drainage Departments where relevant for information on surface water flooding.)
- An allowance for climate change needs to be incorporated, which means adding an extra amount to peak rainfall (20% for commercial development, 30% for residential). See Table 5 of Technical Guidance for NPPF.
- The residual risk of flooding needs to be addressed should any drainage features fail or if they are subjected to an extreme flood event. Overland flow routes should not put people and property at unacceptable risk. This could include measures to manage residual risk such as raising ground or floor levels where appropriate.

We trust the standing advice in this letter will assist you in reviewing the flood risk matters of the proposed development and in determining the planning application. We recommend that you liaise with your Land Drainage Engineer in consideration of the above.

4. Under the terms of the Water Resources Act 1991, and the Thames Region land Drainage Byelaws, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the River Cherwell, designated a 'main river'.

5. All sewage or trade effluent should be discharged to the foul sewer if available subject to the approval of Thames Water Utilities or its sewerage agent.

6. The car parking area of the development may need to be drained via a Class 1 oil separator to reduce the risk of oil pollution. The developer should consult Agency Pollution Prevention Guidelines No 3 to ascertain the appropriate type. A download can be obtained from www.environment-agency.gov.uk/ppg

7. 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.
8. 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.
17. The applicant shall draw to the attention of the Local Planning Authority the presence of any unsuspected contamination encountered during development. In the event of contamination to land, water or environment being encountered, no development shall continue until a programme for investigation and/or remedial work, to be performed by a competent person, has been submitted in writing and approved by the Local Planning Authority. No part of the development shall be occupied until remedial, monitoring and certification of works have been undertaken and a remediation and validation reports submitted to and approved by the Local Planning Authority. For further information please contact the Council's Environmental Protection Officer.

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.