

Franklins Yard, St Johns Street, Bicester

15/00180/F

Ward: Bicester Town **District Councillor:** Cllr D Pickford and Cllr D Edwards

Case Officer: Laura Bailey **Recommendation:** Approval

Applicant: Morgan Sindall Plc

Application Description: Variation of Conditions 2, 3, 15 and 18 of 14/00403/F

Committee Referral: Major application **Committee Date:** 19 March 2015

1. Site Description, Background and Proposed Development

- 1.1 The site is located within Bicester town centre and forms one of the later phases of the redevelopment scheme. It lies between Manorsfield Road, St. John's Street and Sheep Street. The site was previously used as town centre car parking, but included some buildings at the rear of 81-85 Sheep Street which are already approved for demolition. Vehicular access to the site is currently off Sheep Street between nos. 75 and 81.
- 1.2 Although within the town centre, the northern boundary of the site faces mostly residential properties typically 2-3 storeys in height and are a mix of bungalows, detached and attached properties and residential blocks. The River Bure lies to the west of the site beyond Manorsfield Road. Two storey housing at Hunts Close lie further west with more of a set back from the edge of Manorsfield Road with some intervening landscaping.
- 1.3 Full planning permission was granted in December 2014 for the erection of a five storey building comprising the Council's Bicester Link Point accommodation, Oxfordshire County Council library, two units for occupation within Class A1, A3, A4 and/or A5 retail or food and drink uses, Class A2/B1 financial and professional services/office accommodation, Class B1 offices, hotel and servicing. The footprint of the building occupies a sizable portion of the site as it fronts onto Manorsfield Road and the new Pioneer Square. The existing access is retained for the proposed service yard.
- 1.4 The whole site extends to 0.251ha and a small part of the northern section lies within the Bicester Conservation Area including the outbuildings at the rear of 81-85 Sheep Street, the land included within the service area for the new building and properties within Wesley Lane. The building situated immediately adjacent to the access at 75 Sheep Street is Grade II listed. The site is further constrained by being of medium interest archaeologically and potentially contaminated. The site is not within a flood risk area.
- 1.5 This application seeks consent to vary condition two of the full planning permission, which relates to the approved plans, to enable a revised site location plan to replace the approved site location plan and a revised service yard access plan to replace the approved plan. The revised drawings include proposed changes to the vehicular access to enable the erection of an extension to the neighbouring property at 83 Sheep Street.

- 1.6 The proposal also seeks to vary the wording of conditions 3 (external lighting), 15 (air conditioning, extract ventilation and refrigeration systems) and 18 (Secured by Design). All of these conditions require approval of details prior to the commencement of development, although the Council's contractors (Morgan Sindall Plc) are working to an extremely tight project timetable, which has prevented the details required by these conditions to be prepared. The revised wording for conditions 3, 15 and 18 therefore change the requirement for the submission and approval of details to 'prior to first occupation / use'.
- 1.7 Applications for the remaining pre-commencement conditions have been submitted and are pending consideration.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was 5th March 2015. No comments have been received.

3. Consultations

- 3.1 **Bicester Town Council:** No objection. Comment that the precise nature of the variation was not included in application pack & request that this is provided in future.

Cherwell District Council Consultees

- 3.2 **Anti Social Behaviour Manager:** No comment received.
- 3.3 **Tree Officer:** The amended scheme for the entrance off Sheep Street now provides insufficient space for the tree planting as originally agreed and therefore it will not be possible to undertake the agreed landscaping scheme

Oxfordshire County Council Consultees

- 3.4 Highways: No comment received. Written update to be given at meeting.

Other Consultees

- 3.5 None

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies) (ACLP)
C28: Layout, design and external appearance of new development
ENV1: Environmental protection

4.2 Other Material Considerations - Policy and Guidance

- National Planning Policy Framework
- Planning Practice Guidance

Submission Cherwell Local Plan (October 2014) (SLP)

Submission Local Plan (SLP) has been through public consultation and was submitted to the Secretary of State for examination in October 2014, with the examination beginning in June 2014. The Examination was suspended by the Inspector to allow further work to be undertaken by the Council to propose modifications to the plan in light of the higher level of housing need identified through the Oxfordshire Strategic Housing Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need were subject to public consultation, from 22nd August to 3rd October 2014. Although this plan does not have Development Plan status, it can be considered as a material planning consideration. The examination reconvened and closed in December 2014. The Inspectors report is due Spring 2015.

The plan sets out the Council's strategy for the District to 2031. The policies listed below are considered to be material to this case and are not replicated by saved Development Plan Policies:

ESD16: Character of the Built and Historic Environment

5. Appraisal

- 5.1 The key issue for consideration in this application is the impact upon the variation in the site plan/access yard plan and the variation to the wording of the aforementioned conditions, requiring the submission and approval of details prior to first occupation / use. All other material planning considerations were previously considered under 14/00403/F (available via the Council's website on Public Access).

Relevant Planning History

- 5.2 07/00422/F – Application approved on 3.09.09 for the town centre development with conditions and a legal agreement. This was an EIA development.
- 5.3 09/01686/F – Application approved on 29.01.10 for the variation of conditions 2, 3, 27 & 56 of 07/00422/F with conditions and a legal agreement. This application related to enabling works to alter the position of Town Brook.
- 5.4 11/01178/F – Application approved on 26.10.11 for the variation of condition 34 of 07/00422/F with conditions. This application related to service vehicle access times.
- 5.5 13/00138/F – Application approved on 29.05.13 to vary condition 36 of 11/01178/F to extend the use of Units A1 and A2 from A1 retail to include all A1 to A5 retail uses. Further conditions were attached.
- 5.6 14/00403/F – Full planning permission granted for the erection of a five storey building comprising community and town centre uses together with servicing and alterations to the vehicle access.

- 5.7 15/00016/DISC – This relates to the discharge of conditions 4 (refuse), 5 (hard/soft landscaping), 7 (biodiversity), 13 (Construction Traffic Management Plan) and 16 (Public Art) of 14/00403/F. This application was received on the 16th January. The consultation period ends on the 19th February 2015. This application expires on the 13th March 2015.
- 5.8 15/00028/DISC – This relates to the discharge of conditions 11 and 12 (surface water disposal and drainage strategy, respectively). The consultation period expires on the 9th March 2015. This application expires on the 20th March 2015.
- 5.9 15/00044/DISC – This relates to the discharge of condition 8 (contamination). The application expires on the 26th March 2015.

Appraisal

- 5.10 The principle of the development has already been established as acceptable through the approval of the core application (14/00403/F refers), granted on the 31st December 2014. The application is seeking only minor amendments to the layout around the access onto Sheep Street and the timing for the submission and approval of details for three other aspects, as outlined above. The NPPF directs that planning conditions should only be imposed where they are:
- necessary,
 - relevant to planning and to the development to be permitted,
 - enforceable,
 - precise and
 - reasonable in all other respects.
- 5.11 Dealing with each proposed variation in turn;

Variation to condition 2

- 5.12 The proposed variation to condition 2 seeks to revise the existing site location plan (09/059/P-003B) to 09-059-003C. It also seeks to revise the existing service yard access plan (09-059/P-304B) to 09-059/P-304C. The changes amount to a slight re-configuration vehicular access onto Sheep Street, which results in a slight reduction in width of the access opening into the site. The re-configuration is required as the land adjacent to no. 83 Sheep Street is to be sold on and developed, by virtue of an extension to 83 Sheep Street. Planning permission for this extension is yet to be sought. The boundary adjacent to 83 Sheep Street (denoted as a green line on drawing no. P-304 C) will comprise a 1.8m high, close boarded fence, pending the implementation of an extension to no. 83.
- 5.13 The drawing also shows the loss of two street trees either side of the access point. This loss is unfortunate, but the reduction in the area of paving adjacent to the access has reduced to such a level that the provision of suitable street trees with appropriately sized planting pits is now not possible.
- 5.14 Given the minor change, it is likely that the LHA will confirm they are satisfied with the reconfiguration of the access.

Variation to condition 3

5.15 Condition 3 currently reads as follows:

Prior to the commencement of the development hereby approved, full details of the external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the lighting shall be carried out and retained in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5.16 As noted above, the details required to discharge this condition have not yet been prepared due to time constraints resulting from the demanding project timetable. The applicants therefore intend to submit these details for approval prior to the first occupation of any part of the development. The reason for the imposition of the condition is to ensure the satisfactory appearance of the completed development. In my view, the provision of this information prior to implementation will still give the Local Planning Authority sufficient control over the final appearance of the completed development. The wording will therefore be amended as follows:

Prior to the first occupation of the development hereby approved, full details of the external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the lighting shall be carried out and retained in accordance with the approved details.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Variation to condition 15

5.17 Condition 15 currently reads as follows:

Prior to the commencement of the development hereby approved, full design and operational details of the method of the air conditioning, extract ventilation and refrigeration systems shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the building, the systems shall be installed, brought into use and retained and maintained in accordance with the approved details.

Reason - To ensure and retain the satisfactory appearance of the completed development, in order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Policies C28 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5.18 Again, the variation sought relates to the timing of the submission of details. The reason for the imposition of the condition relates to ensuring the satisfactory appearance of the completed development and to minimise the risk

of nuisance arising from smells. However, in my view, the provision of this information prior to implementation will still give the Local Planning Authority sufficient control over the final appearance of the completed development and will still allow control over emissions, as details must be approved before first use. The wording will therefore be amended as follows:

Prior to the first use of the development hereby approved, full design and operational details of the method of the air conditioning, extract ventilation and refrigeration systems shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the building, the systems shall be installed, brought into use and retained and maintained in accordance with the approved details.

Reason - To ensure and retain the satisfactory appearance of the completed development, in order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Policies C28 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

Variation to condition 18

5.19 Condition 18 currently reads as follows:

No development shall commence until details of the measures to be incorporated into the development to demonstrate how "Secured by Design" (SBD) accreditation will be achieved have been submitted to and approved in writing by the Local Planning Authority, unless agreed otherwise. The development shall be carried out in accordance with the approved details, and shall not be occupied until confirmation has been sent in writing to the Local Planning Authority the SBD accreditation has been received, unless agreed otherwise.

Reason - To reduce crime and to accord with Government guidance contained within the National Planning Policy Framework.

5.20 This condition was imposed at the request of the Police Architectural Liaison Officer, in order to 'design in' security features across the site, such as accepted and tested windows, doors and locks, access control strategies and CCTV.

5.21 Although it is not ideal to delay the submission and approval of these details until occupation as the development will have progressed significantly, it is considered that the principle policy aim of reducing crime can still be achieved by requiring proof of accreditation prior to first occupation. The applicants have already been encouraged to engage with the Police Architectural Liaison Officer, to assist with the preparation of a submission to achieve accreditation as soon as possible. The wording will therefore be amended as follows:

Prior to the first occupation of the development hereby approved, details of the measures to be incorporated into the development to demonstrate how "Secured by Design" (SBD) accreditation will be achieved will be submitted to and approved in writing by the Local Planning Authority, unless otherwise agreed in writing. The development shall be carried out in accordance with the

approved details, and shall not be occupied until confirmation has been sent in writing to the Local Planning Authority the SBD accreditation has been received, unless otherwise agreed in writing.

Reason - To reduce crime and to accord with Government guidance contained within the National Planning Policy Framework.

Other matters

5.22 The original permission was issued alongside a Unilateral Undertaking (UU) between Cherwell District Council and Oxfordshire County Council, concerning a financial contribution of £10,000 towards a central Bicester parking strategy and to investigate and promote on-street parking controls within the area. Oxfordshire County Council has confirmed that the payment has now been received and the undertaking executed. Both Council's Solicitors are happy to agree in writing that the original UU takes effect as if it applied to either the original application (14/00403/F refers) or this subsequent application. A formal linking agreement is therefore not necessary.

5.23 Since the drafting of this report, the contractors have commenced work on site. The site has been cleared and the ground broken. Clearly, these works have been undertaken in breach of the conditions attached to the core planning consent, which require details to be discharged prior to the commencement of development. The applicants and their agents have been made aware that these works are undertaken at their own risk and have been advised to cease activity on site until all of the relevant conditions have been discharged.

Engagement

5.24 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 discussions with the applicant throughout the application process.

Conclusion

5.25 Based on the assessment above, the application is recommended for approval in line with the details below.

6. Recommendation

Approval, subject to the following conditions;

1 That the development to which this permission relates shall be begun not later than 31 December 2017 being the date of the expiration of 14/00403/F.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2 Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the

following plans and documents: Drawing nos. P-001 and P-303A (proposed materials) received with the application and nos. 003C, 100B, 101B, 102B, 103B, 104B, 105B, 200B, 201B, 300B, 301B, 302B and 304C received on 12th November 2014 and the amended Mayer Brown drawings LSHBICESTER.1/05 Rev B & TCRBICESTER2.2/04 Rev M.

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

3 *Prior to the first occupation of the development hereby approved, full details of the external lighting shall be submitted to and approved in writing by the Local planning Authority. Thereafter, the lighting shall be carried out and retained in accordance with the approved details.*

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4 Prior to the commencement of the development hereby approved, full details of the refuse bin storage for the site, including location and compound enclosure details, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the refuse bin storage area shall be provided in accordance with the approved details and retained unobstructed except for the storage of refuse bins.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5 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 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.

6 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and

shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

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.

7 Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a plan for enhancing biodiversity on site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

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.

8 Prior to each phase of development approved by this planning permission no development (or such other date or stage in development as may be agreed in writing with the local planning authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

(1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

(2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

(3) The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

(4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason - To ensure that contamination at the site is remediated, such that the site does not pose a threat to controlled waters in accordance with Policy ENV7 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

9 No occupation of each phase of development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason - To ensure that contamination at the site is remediated, such that the site does not pose a threat to controlled waters in accordance with Policy ENV7 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

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

Reason - To ensure that any unexpected contamination encountered during development is suitably assessed and dealt with, such that it does not pose an unacceptable risk to ground or surface water in accordance with Policy ENV7 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

11 The development hereby permitted shall not be commenced until such time as a scheme to dispose of surface water has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason - To ensure that any unexpected contamination encountered during development is suitably assessed and dealt with, such that it does not pose an unacceptable risk to ground or surface water in accordance with Policy ENV7 of the adopted Cherwell Local Plan and Government guidance contained in the National Planning Policy Framework.

12 Prior to the commencement of the development hereby approved, full details of a drainage strategy for the entire site, detailing all on and off site drainage works required in relation to the development, shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the drainage works shall be carried out and completed in accordance with the approved strategy, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon

the community in accordance with Government guidance contained within the National Planning Policy Framework.

13 Prior to the commencement of the development hereby permitted, a Construction Traffic Management Plan (CTMP) 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 CTMP.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

14 Prior to the first use or occupation of the development hereby permitted, cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Government guidance contained within the National Planning Policy Framework.

15 *Prior to the first use of the development hereby approved, full design and operational details of the method of the air conditioning, extract ventilation and refrigeration systems shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first use of the building, the systems shall be installed, brought into use and retained and maintained in accordance with the approved details.*

Reason - To ensure and retain the satisfactory appearance of the completed development, in order to safeguard the amenities of the area and to minimise the risk of a nuisance arising from smells in accordance with Policies C28 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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

Reason - In the interests of public amenity and in accordance with Government guidance contained within the National Planning Policy Framework.

17 No external lights shall be erected on the land without the prior express consent of the Local Planning Authority.

Reason - In order to safeguard the amenities of the area and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

18 *Prior to the first occupation of the development hereby approved, details of the measures to be incorporated into the development to demonstrate how*

"Secured by Design" (SBD) accreditation will be achieved will be submitted to and approved in writing by the Local Planning Authority, unless otherwise agreed in writing. The development shall be carried out in accordance with the approved details, and shall not be occupied until confirmation has been sent in writing to the Local Planning Authority the SBD accreditation has been received, unless otherwise agreed in writing.

Reason - To reduce crime and to accord with Government guidance contained within the National Planning Policy Framework.

PLANNING NOTES

1. Your attention is drawn to the content of the letter from 2 No. letters from Thames Water both dated 11 April 2013 in respect of the application, a copy of which can be found via the Council's website www.cherwell-dc.gov.uk
2. Your attention is drawn to the content of the letter from Oxfordshire County Council as Highways Authority dated 2nd May 2013 in respect of the original application, a copy of which can be found via the Council's website www.cherwell-dc.gov.uk
3. Thames Water recommended the following informative be attached to the previous planning permission: Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.
4. Legal agreement
5. Archaeology
6. Construction Sites

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 through dialogue with the applicants and their agents during the application process.