

Tesco, Pingle Drive, Bicester

15/00082/F

Ward: Bicester Town

District Councillor: Cllr Mrs D Edwards
and D M Pickford

Case Officer: Roy Hammond

Recommendation: Approval

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

Application Description: Demolition of existing Tesco food store, petrol filling station and part of existing Bicester Village retail outlet centre to provide new Class A floorspace, car parking and associated landscaping and highway works.

Committee Referral: Major application

1. Site Description and Proposed Development

- 1.1 This 10.32 hectare site is located 1.5km southwest of Bicester town centre adjoining the western boundary of the Bicester Village retail outlet centre. The central section of the site currently accommodates a Tesco foodstore, petrol filling station and associated car parking. The site also includes Pingle Drive which runs along the northern boundary of the existing Tesco and Bicester Village sites and part of Oxford Road (A4030) and the A41 which run along the western and southern sides of the existing Tesco site.
- 1.2 Adjacent land uses include a public house and an area of recreation land comprising several sports pitches to the north beyond which lies Bicester town centre. Bicester Village lies to the east and former agricultural land extends south from the A41, although this land is now in the early stage of development for the replacement Tesco superstore. There is a small slither of unused land between the Tesco site and the A41 Aylesbury Road. To the west is a service area which has a petrol filling station and fast food outlet with associated parking, beyond which is the Kingsmere residential development. Vehicular access to the existing Tesco and Bicester Village sites is taken from a roundabout off Pingle Drive into the north western corner of the site. There is also a public footpath which skirts the south, west and northern part of the site.
- 1.3 Planning permission was granted in July 2014 under Council reference 12/01209/F for an extension to Bicester Village of the same floor area as currently proposed and involving the demolition of the existing Tesco food store and petrol filling station. The principal difference between the approved scheme and that currently proposed is the inclusion within the application of an area of land along the southern boundary which will enable an increase in proposed car parking spaces from 372 to 519. Further changes include reconfiguration of the retail units, changes to the elevation treatment and inclusion within the application site area of the attenuation pond works on the south side of the A41 (on the new business park site).
- 1.4 It is important to note that there is no proposed change to the approved increase in comparison retail floor area – this will remain at 5,191 sqm (GIA). (including up to 550 sqm cafes/restaurants) The works would form an extension to the existing outlet centre continuing the same design and general theme of a central walkway with units either side, requiring some demolition and reconstruction of the western end of Bicester Village. 28 No. additional units

are proposed of varying sizes generally from 80 to 120 sq.m. GIA including 3 No. additional flagship stores of up to 740 sqm GIA. To put the scale of the development in context, the existing total provision of Bicester Village is currently 21,755 sqm gross floorspace and the additional floorspace amounts to a 23.8% enlargement to Bicester Village but no increase in the GIA of retail floorspace on the Tesco site.

1.5 This application includes extensive on site and off site highway improvement works consisting of the following:

- Pingle Drive/Bicester Village junction – alterations to the existing configuration of the Pingle Drive Roundabout to provide a traffic signal controlled junction. From the south of the roundabout (into the site), drawing 3P76040-SK-26 shows the introduction of two right turn lanes through the existing island of the roundabout, which then lead to two inbound lanes along Pingle Drive. For southbound traffic movements, two ahead lanes are proposed. From the North a left turn lane into Pingle Drive is to be provided. Pingle Drive itself is to be modified in order to provide two inbound lanes. A right turn lane serving traffic heading to the north towards the town centre is to be provided, as well as two separate left turn lanes for traffic heading south.

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

- Esso Roundabout – alterations to the existing roundabout are to include the creation of two new east bound lanes through the centre of the roundabout to cater for the A41. Both the northbound, southbound and westbound arms of the junction are to be signalised with only the access to the petrol station being kept as a give-way arrangement.

With regards to the northbound approach to the junction, this is to include two ahead lanes for traffic travelling towards Bicester, with three ahead lanes being provided at the stop line for southbound traffic. Traffic from the east is to be provided with two right turn lanes, together with a dedicated left turn lane.

- Bicester Business Park Junction – Due to the proximity of the approved traffic signal junctions, it is proposed that these are to be linked together.
- Internal highway improvements works – include two specific lanes for inbound and outbound traffic from the junction of Oxford Road, as well as a new internal three arm roundabout (approx 180m into site) to be located in place of the existing Tesco mini roundabout. This new roundabout will provide access to the western side of the Bicester Village retail outlet centre, where additional car parking (372 spaces) will be located. The two inbound traffic lanes continue along Pingle Drive up to the internal junction that serves the existing multi-storey car park. With regards to outbound traffic, it is proposed that the remaining single lane exit lane is retained up to the proposed new roundabout. After the roundabout the outbound traffic lanes increase to two lanes, then to three (2 left turns and one right turn lane) at the proposed traffic signal controlled junction on the Oxford Road.

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

- 1.6 Given that the site is already developed there are no particular planning constraints save to note the proximity of the public footpath, that the site is of 'medium' interest in terms of archaeology and within flood risk zones 2 and 3. The boundary to the Conservation Area closest to the site is at the far side of Pingle fields at the cemetery and there are no listed buildings in proximity.
- 1.7 This application is inherently connected to the planning permission for a new store of 8,231 sqm (application 12/01193/F refers) as to enable the delivery of the Bicester Village extension.

2. Application Publicity

- 2.1 The application has been advertised by way of a site notices placed at the site frontage (western) and on the footpath between the Tesco and Bicester Village on 29 January 2015. The final date for comment on this application was 19 February 2015. At the time of the original application, the applicants also undertook their own publicity through the local press and public exhibitions, the details and comments on which are available online.
- 2.2 31 representations have been received objecting to the proposal. Full details are available electronically via the Council's website but the following is a summary of the concerns that were raised:
 - the submitted transport plans are flawed and out of date
 - concerned about the traffic congestion and resulting disruption, inconvenience and danger to public safety
 - there should be no expansion until highway improvements have been undertaken
 - the road changes planned and number of spaces proposed will not be sufficient to handle peak flow, such as Bank Holidays and Black Friday type events
 - no information is included within the application to support the assertion that the development is economically sustainable
 - on-going profit from the development should be returned for the benefit of the local community and environment
 - CO2 emissions generated by vehicles attracted to the site would be inconsistent with the objectives of the NPPF of protecting and enhancing the natural environment and moving toward a low carbon economy

3. Consultations

- 3.1 Bicester Town Council: No objection to this application but would stress that it is important that all the conditions attached to the previous planning application 12/01209/F are still in place for this one.

Cherwell District Council Consultees

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

3.3 **Urban Design Officer:** Comments have been provided on the layout and design as follows:

I have reviewed the current proposal for Bicester Village phase 4 extension. The application forms an amended version of the 12/01209/F permission extending Bicester Village to the west across the existing Tesco site. Comments were provided by the Design and Conservation Team Leader on the previous application and it is considered that these comments still apply to the currently proposed scheme.

There are however a couple of differences with this proposal that I would provide additional comment on. Firstly relates to the additional land shown within the red line to the south of the site, and the potential to utilise this to ensure clear and convenient access to the future Tesco site to the south of Banbury Road. The Design and Access statement makes reference to gradient issues preventing this from being used to allow a much quicker and more convenient pedestrian access reflecting the existing relationship between the two sites. It would be useful to see how this has been explored fully to provide adequate justification for its omission.

Secondly with the reconfiguration of the site, pedestrian routes across the car park have been connected to off-site paths adjacent to the main vehicle routes but it is unclear how these relate to formal crossing opportunities? It is important that this is considered as part of the reconfiguration of the road system in this area so that pedestrian movement is not prejudiced.

Thirdly the form and configuration of the units along the east-west mall presents a much longer stretch of blank-frontage by way of service yard screening to the public realm and car parking than the previous submission. In particular the end unit on the north section has a significantly reduced presence to Oxford Road and the car park area. While it is acknowledged that these units need to be serviced, it is felt that the previous application handled this better by providing visual relief to the expanse of walling/ screening. It is felt that more should be done to explore bringing more active frontage to this area, or following a similar approach to the previous application to break up the blank elevation.

3.4 **Head of Safer Communities, Urban & Rural Services** (Landscape Architect):
As discussed, the proposed highway scheme and associated roundabouts and central reservations provide an opportunity to create a high end landscape scheme befitting the importance of Bicester Village and the 'gateway to Bicester. A scheme with a wow factor for the benefit the 2 million plus visitors to Bicester Village. To this end an improved scheme is required to be presented in a format, either hand drawn eye level and birds eye views or photoshopped images to help us understand clearly the design.

The traffic island/ traffic flow system that will replace the existing A41 traffic island, will benefit from a distinctive landscape that reflects the cultural mix of Bicester Village visitors, and climate change. I am able to discuss the design

proposal with the landscape architect to try to ensure that the appropriate design is achieved.

The trees, the landscape hard and soft element should be reflected in the wide central verge to provide visual continuity and contribute towards local urban highway/landscape/distinctiveness of the 'the gateway' corridor.

Car Park and User Experience

The car park's huge expanse of macadam should be mitigated with the appropriate level of Trees and shrub planting. A diverse range of tree and shrub species is necessary for this high end scheme, reflecting biodiversity, climate change and high amenity. Note the importance of trees that have longevity.

The arrival circulation experience of site users (passengers, drivers and pedestrians) is important. In this regard a wider pedestrian east/west and north/south 'concourses' will be necessary with distinctive hard landscaping, lighting and planting. The concourse width is to be increased to 5 m in accordance with the pedestrian crossing width.

The currently proposed borders on either side of the concourse are too narrow for the anticipated enhanced tree scheme planting scheme. I recommend a minimum width of 3 m.

For the parking area to the north in order to improve diversity and interest the number of ubiquitous *Pyrus calleryana* 'Chanticleer' must be changed by incorporating a diverse range of trees of appropriate to a larger car park. The objective is to mitigate the visually boring expanse of macadam with a range of tree species to make the area extremely attractive. Please note that we are able to converse with the landscape architect to achieve the desired effect.

The trees proposed are semi-mature sizes, at 35 -40 cm and 40 – 45 cm which have very heavy root balls/containers at 400 kg and 800 kg respectively. Because of the combined weight of the rootball/container, the tree stem, the canopy and wind force, the tree will compact soil beneath it, resulting in soil compaction, poor drainage and aeration to the roots. As a result the tree will show signs of stress and eventual death. In order to stabilisation the tree and prevent the aforementioned problems I recommend that the tree is laid on a 200 mm depth of free draining MOT typ2 (20mm, no-fines), with a geotextile membrane between the roots and the free draining material to prevent contamination by topsoil.

The Broxhap tree grill is not appropriate for the eventual size of the tree stems because the hole in the grill is too small. The void below the grill attracts litter and weeds grow the grill, which tend to look unsightly. Continuous application of herbicides through the grill is not good for future tree health. A resin-bonded, free draining aggregate surface is more suitable where this material will can be removed around the stem. A protective raised kerb edge is necessary to ensure that minimal salt deposits harm the roots.

Structural tree pits systems are necessary to ensure the adjacent paving to trees remain supported and secure from structural damage by tree roots. To this effect root deflectors should be incorporated into the design of the tree pits. An accurate tree pit drawing is required where the rootball or container diameter is indicated.

The trees are supplied as semi mature stock which requires the appropriate standard of maintenance to ensure their survival and establishment. These are very expensive trees and replacement planting is going to be costly. Smaller stock would establish more successfully with the appropriate tree pit design and aftercare/maintenance.

It is therefore important to include a landscape management plan for the soft landscape.

On the landscape proposals all proposed species-specific tree canopies are to be drawn at the project size at 25 years in order to enable us to determine if enough space is allocated.

Parking

There does not appear to be adequate provision for family bay with only two bays. I suggest that 11 spaces are made available opposite the disabled bays, and 12 family bays opposite unit 144. However I agree that this must be in accordance with the planning requirements. Where tree pits occur the parking bays should be made wider to avoid damage to trees, if parking bay number thresholds allow this.

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

Access Routes:

The planting of the *Carpinus betulus* 'Frans Fontaine' within the central reservations is welcomed however, rather than planting in groups of four the trees should be evenly spaced along the reservations at approximately 10 - 15.0m. This would provide a more rhythmic, aesthetic feature to compliment the vehicular highway whilst still capable of assisting with traffic calming measures without obscuring vehicular sight-lines.

Perimeter Planting:

The tree species selected for the perimeter planting are acceptable however, it should be noted that any tree planted within 2.0m of an above ground feature such as curbing, footpath or vehicular highway or below ground feature such as services should have root barriers incorporated into each planting pit. Planting pits with root barriers must be shown on all engineering / services drawings as a below ground constraint.

Parking Bays:

To increase biodiversity, biosecurity, age diversification and to assist in reducing the 'urban heat island effect' within the car parking area, I would recommend that the proposed planting percentages of *Pyrus calleryana* 'Chanticleer' are reduced by approximately 50% with a percentage inclusion of tree species such as *Platanus x hispanica*, *Tilia mongolica*, *Acer campestre* 'Queen Elizabeth', *Ginkgo biloba* (male variety). Providing such tree species are installed within planting pits suitable for hard surface areas, they should not only be able to withstand the hard surface environment and achieve the above listed objectives but will also provide long-term valuable shade to shoppers.

The above mix of tree species should be used in group fashion in a formal, uniform style throughout the car parking areas. All trees planted within car park 'hard surface' area must be planted within structured cell planting pits

and in accordance with BS8545:2014 '*Trees: from nursery to Independence in the Landscape*' and '*Trees in Hard Landscapes: A Guide for delivery*'

Car Parking area:

The 30 No *Carpinus betulus fastigiata* proposed for the pedestrian crossing/access points should be substituted for CB Frans Fontaine which have a more narrow crown upon maturity than the 'Fastigiata' which tends to spread into a wide, ascending crown of approximately 7.0 – 10.0m unless regularly pruned.

Pedestrian zone:

The selection of *Sorbus aria lutescens* is acceptable. The three trees will need to be planted within structured cell planting pits (see below).

Planting Pits (Soft Landscape Areas. DN 601):

No further comments.

Planting Pits (Hard Surface Areas. DN 602):

For additional protection from vehicular damage, the planting pits should be constructed with a raised curbed edging. The proposed use of tree grilles can sometimes lead to bark damage if not monitored and maintained and maintenance issues can arise from the use of pea gravel. Therefore I would recommend that the grilles and gravel be substituted for an arboresin surfacing which will have less of an impact on the tree and maintenance requirements but will still accommodate the proposed lighting scheme. Additional protection from vehicle damage may be provided in the form of tree cages.

The proposed use of urban tree soil within the planting pits is more suitable for pedestrian areas rather than vehicular where a greater level of weight distribution and potential compaction is expected. Planting pits within parking bay areas etc should be constructed with a 'structured cell' type approach with the planting pit itself excavated to accommodate a suitable volume of soil capable of supporting the tree into maturity. Irrigation and aeration systems must be incorporated into the design.

All structured cell planting pits must be shown on all engineering/service drawings as a below ground constraint.

3.6 Head of Safer Communities, Urban & Rural Services (Ecology):

Whilst I appreciate this is largely an urbanised development with substantial hard standing and that the buildings to be demolished are less likely to support bats or other wildlife there is a relatively large area of shrubs, rough grassland and trees to the South of the site which is shown as being removed within the plans but has not been accounted for by an ecological assessment.

This area may be valuable for wildlife being relatively undisturbed. There is the possibility of reptiles and nesting birds - protected under Wildlife and Countryside Act 1981, bats using any mature trees etc.. (European Protected Species) even badger setts (licence needed to disturb). It is possible therefore that licences, method statements for avoidance of harm, timing restrictions, lighting restrictions etc.. may be needed to proceed.

It is unlikely that there is anything there that could not be mitigated for with careful planning however currently I could find no plans for mitigation of the loss of any habitat and if we do not know what is present we cannot say if its loss needs mitigation elsewhere on site. This area forms part of a wildlife corridor stretching along the road in the vicinity of several areas of BAP habitat, a stream supporting a European protected species (Otter) and other water bodies.

In my opinion an ecological assessment needs to be carried out as soon as possible to rule out any ecological constraints. Ideally we should have this information up front before plans are approved in case mitigation is needed on site. Any method statements, supervision or mitigation that may be needed should be conditioned which we can't do without the information.

In addition the strip of trees shown as being retained will need sensitive lighting as this is likely to form a foraging and commuting corridor for any bats in the area.

In addition I see there is not yet any proposals for the inclusion of biodiversity enhancements within the plans (these may be to follow later). In line with NPPF recommendations and our obligations under the NERC Act we should be looking for a net gain for biodiversity from developments and certainly no net loss wherever possible. There are planting proposals which will have some biodiversity benefit although these are largely amenity. I would hope for the inclusion of some habitat boxes in new buildings to provide opportunities for bats where appropriate and birds such as swifts which are found nesting locally as well as some areas of green space managed primarily for wildlife.

In the absence of information up front I would suggest the following conditions therefore or similar wording:

Ecological assessment

Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance a Phase 1 ecological survey and any accompanying recommended species surveys shall be carried out on site to best practice guidelines, the results of which along with all plans and details for mitigation requirements, method statements, plan amendments and licence requirements shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development and all associated works shall be carried out in accordance with the approved details.

K17 Biodiversity Enhancement

Prior to the commencement of the development hereby approved, including any demolition, and any works of site clearance, a method statement for enhancing biodiversity on site to include measures within the built environment 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 KR3

K21 Construction Environmental Management Plans (CEMP) for Biodiversity

Prior to the commencement of the development hereby approved, including any demolition and any works of site clearance, a Construction Environmental Management Plan (CEMP), which shall include details of the measures to be taken to ensure that construction works do not adversely affect biodiversity,

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 CEMP.
Reason KR2

K12 Nesting Birds: No Works Between March and August Unless Agreed

No removal of hedgerows, trees or shrubs nor works to, or demolition of buildings or structures that may be used by breeding birds, shall take place between the 1st March and 31st August inclusive, unless the Local Planning Authority has confirmed in writing that such works can proceed, based on health and safety reasons in the case of a dangerous tree, or the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on site, together with details of measures to protect the nesting bird interest on the site.

3.7 **Head of Public Protection & Development Management** (Anti-Social Behaviour Manager): No comments received.

3.8 **Head of Economic Development:** No comments received.

Oxfordshire County Council Consultees

3.9 **OCC Overall View:**

The emerging Cherwell Local Plan broadly supports the expansion of Bicester Village where complementary to improving the town centre (para B.31 bullet 7).

This application is essentially a resubmission of application 12/01209/F (permitted 29/07/14) with a revised layout, additional parking and the inclusion of a strip of land which was previously under third party control.

Should planning permission be granted it is recommended that the conditions and obligations imposed upon planning permission 12/01209/F are applied to any new consent. In addition, OCC would encourage the provision and maintenance of a Changing Places Toilet within the Bicester Village complex to enable severely disabled people to visit the site. It is also recommended that a condition requiring the preparation and implementation of an Employment & Skills Plan is imposed.

3.10 **OCC Highways:**

No objection subject to conditions

Key issues:

Similar to previous application 12/01209/F

Legal Agreement required to secure:

S106 as Application 12/01209/F Agreement BI 82 Signed 28/7/2014

Conditions:

As 12/01209/F

Detailed Comments:

This proposal is considered a resubmission of application 12/01209/F with the inclusion of a strip of land which was previously under third party control. Except for additional parking that has been proposed the scale and type of the proposed development and the design of the agreed highway improvements have been permitted and secured through planning application 12/01209/F. The additional parking has the potential to increase car trip attraction but the County Council accepts this would be acceptable in this case.

Should planning permission be granted the conditions and obligations imposed upon the existing permission (12/01209/F) are recommended.

Please note the following with regard to diversion of the adjacent footpath:

Any diversion of the public footpath onto proposed new public footways will need to take place before the works become publicly maintained highway (as it is not possible to divert a public footpath onto existing highway). Alternatively as the proposed highway works will 'replace' the existing footpath and therefore enable pedestrians to reach the same destinations, the public footpath could be extinguished.

OCC Financial Contributions & Legal Agreements:

OCC Property:

No objection subject to conditions

Changing places Toilet:

If this application is given permission OCC would encourage the provision and maintenance of a Changing Places Toilet within the Bicester Village complex to enable severely disabled people to visit the site.

Justification:

In accordance with Cherwell Local Plan 1996 Saved Policy C32 (improving access to new development for disabled people), a specialist toilet and changing facility will enable people with profound and multiple learning disabilities, their carers, assistants and families to visit Bicester Village.

OCC Economy and Skills:

No objection subject to conditions

Key issues:

The level of employment generated on this strategic development site will require the developers to prepare and implement an Employment & Skills Plan

Conditions:

The developers will be required to prepare and implement, with local agencies and providers, an Employment & Skills Plan (ESP) that will ensure,

as far as possible, that local people have access to training (including apprenticeships) and employment opportunities available at the construction and end user phases of this proposed development.

Detailed Comments:

Recent policy initiatives relating to skills development are contained in:

- The Oxfordshire City Deal
- Oxfordshire European Structural Investment Fund (ESIF) Strategy
- Strategic Economic Plan

The recently launched Oxfordshire Skills Strategy has five strategic priorities:

SP1: To meet the needs of local employers through a more integrated and responsive approach to education and training: developed in partnership with our provider network, to encourage more training provision in priority sectors - both current and projected - to meet the needs of employers or to train future entrepreneurs, particularly in science, technology, engineering and mathematics (STEM).

SP2: Creating the 'skills continuum' to support young people through their learning journey: the ambition is to develop integrated, seamless services that support young people through school and on into training, further education, employment or business, where they understand the full breadth of career options, including local demand, and the training path to succeed in that career.

SP3: Up-skilling and improving the chances of young people and adults marginalised or disadvantaged from work, based on moving them closer to the labour market.

SP4: To increase the number of apprenticeship opportunities, particularly those offered by small to medium sized businesses.

SP5: To explore how we can better retain graduates within Oxfordshire to meet the demand for the higher level skills our businesses need.

Employment and skills planning justification:

A better, appropriately skilled local workforce can provide a pool of talent to both developers and end occupiers. This will reduce the need to import skills, and in doing so reduce congestion and unsustainable travel to work modes, reduce carbon emissions and the pressure on the local housing infrastructure.

Seeking skills and training planning obligations or conditions to maximise the potential of the existing population to compete for the jobs being created, whether during the construction phase or end user phase, through improving their skills levels, is necessary to ensure that future development is economically and socially sustainable, and that barriers to employment for those marginalised from the workforce are removed.

Developers often identify projected training and employment outcomes as part of the justification for development. It is important therefore that the impacts of economic development are mitigated and the economic benefits of

new development in terms of improved local skills and employment outcomes are realised.

Not only is it clear that skills levels are a key determinant of a sustainable local economy, but they also have an impact on employment opportunities and thus an individual's economic prosperity. Up-skilling the area's labour force will be key to maintaining economic competitiveness.. Securing obligations for skills development and employment of local people will be necessary to enhance social inclusion by reducing the potential for economic and social disparity, another key policy driver at the local level.

3.11 OCC Travel Choices:

No comments received.

3.12 OCC Rights of Way:

No comments received.

3.13 OCC Drainage:

No objection subject to conditions

Key issues:

No final surface water drainage design has been submitted.

Conditions:

All surface water drainage design with full calculations needs to be submitted and approved by the Lead Flood Authority (Oxfordshire County Council) prior to the development commencing on site.

3.14 OCC Arboriculture:

No comments received.

3.15 OCC Electrical Services:

No comments received.

Other Consultees

3.16 Environment Agency:

In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission and recommend refusal on the this basis for the following reasons:

The FRA submitted with this application does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework. The submitted FRA does not therefore provide a suitable basis for assessment to be made on the flood risks arising from the proposed development. In particular the FRA fails to provide details of how surface water will be safely managed on site, specifically providing the surface water discharge rate from the proposed development.

You can overcome our objection by submitting an FRA which covers the deficiencies highlighted above and demonstrates that the development will

not increase risk elsewhere and where possible reduces flood risk overall. If this cannot be achieved we are likely to maintain our objection to the application. Production of an FRA will not in itself result in the removal of an objection. The FRA states in section 7 that the Hydrobrake flow control system within the main site outfall will not be altered and discharge rates will be no worse than existing. However, we need details of this previously agreed rate of discharge to be in a position to recommend a condition.

3.17 Highways Agency:

No objection.

3.18 Thames Water:

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

3.19 Oxford City Council:

No comments received.

3.20 Police Architectural Liaison Officer:

No comments received.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

EMP1: Employment generating development

S25: Retail development

TR1: Transportation Funding

C28: Design, layout etc standards

ENV12: Contaminated Land

4.2 Other Material Policy and Guidance

National Planning Policy Framework

National Planning Practice Guidance

Submission Cherwell Local Plan (January 2014)

The Submission Local Plan (January 2014) (SLP) has been through public consultation and was submitted to the Secretary of State for examination in January 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 and the examination reconvened in December 2014 with the Inspector's decision anticipated in spring 2015. Although this plan does not have Development Plan status, it can be considered as a

material planning consideration. The plan sets out the Council's strategy for the District to 2031.

The policies listed below are considered to be material to this case and are not replicated by saved Development Plan policy:

SLE2: Securing Dynamic Town Centres

ESD1: Mitigating and Adapting to Climate Change

ESD3: Sustainable Construction

ESD6: Sustainable Flood Risk Management

ESD7: Sustainable Drainage Systems (SuDS)

ESD8: Water Resources

ESD16: The Character of the Built Environment

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

Bicester Masterplan - Consultation Draft (August 2012)

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

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

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

Retail Study by CBRE – Final Draft Report October 2012

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

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

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

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

With particular reference to Bicester Village, it is concluded that it is a vital and viable centre which fills a niche in the market for high-end designer

clothing and provides Cherwell with a successful tourist attraction. It serves a wide catchment, well beyond Cherwell District.

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

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

Bicester Village secures only 0.5% of its expenditure on comparison goods from residents in the study area. Even in the zone in which it's located it secures only 0.9% of comparison expenditure available from residents in that zone. This reflects its unique role as a national/international retail destination. There is little benefit in seeking its expansion to serve Cherwell residents as it clearly serves a very limited role for them at present, although there may be a case for an expansion to serve a wider market.

With regard to how retail and other town centre uses contribute to the economic growth of the district, there can be new job opportunities and spin-off benefits.

5. Appraisal

Background

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

- 5.4 Planning permission was granted in July 2014 under Council reference 12/01209/F for an extension to Bicester Village of the same floor area as currently proposed and involving the demolition of the existing Tesco food store and petrol filling station. The principal difference between the approved scheme and that currently proposed is the inclusion within the application of an area of land along the southern boundary which will enable an increase in proposed car parking spaces from 372 to 519. Further changes include reconfiguration of the retail units, changes to the elevation treatment and inclusion within the application site area of the attenuation pond works on the south side of the A41 (on the new business park site).

Relevant Planning History

5.5 Bicester Village site

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

96/00620/F – Approval for the provision of seven additional shop units, an extension to café and a day care centre with crèche together with relocation and enlargement of children's play area and provision for access, parking, servicing and landscaping.

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

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

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

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

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

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

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

14/00451/F - Erection of a part two storey and part three storey extension to provide Class B1 offices, together with the enlargement and reconfiguration of Class A1 factory outlet retail floorspace.

5.6 Application site

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

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

99/02090/F- Refusal of extension to foodstore to provide additional sales area, bulk storage and car parking with ancillary highway works.

00/02412/F – Appeal allowed for an extension (1895 sqm) to the foodstore.

08/00950/F – Application refused for an extension to the retail store, erection of decked parking and reconfiguration of the petrol filling station

12/01209/F – Approval for demolition of existing Tesco foodstore, petrol filling station and part of the existing Bicester Village retail outlet centre to provide an extension to comprise 5,181 sqm (gross internal area) of new Class A floorspace, 372 car parking spaces and associated landscaping and highway works. Approved 28 July 2014.

Issues Arising

- 5.7 In normal circumstances consideration would be given to the loss of the Tesco foodstore facility but planning permission has been secured to relocate the Tesco foodstore to the adjacent business park site on the south side of the A41. (application 12/01193/F refers – approved 12th November 2013).
- 5.8 The key issues identified for consideration of this application, consistent with the consideration of the original application are considered to be as follows:
- Policy Context
 - Principle
 - Sequential Test and Retail Impact
 - Transport Impact
 - Sustainability
 - Layout, Design and Landscaping
 - Public Footpath Impact
 - Flood Risk/Drainage
 - Contaminated Land
 - Archaeology
 - Section 106 requirements

Policy Context

- 5.9 Section 38 of the Planning and Compulsory Purchase Act 2004 states that applications for development must be determined in accordance the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF).
- 5.10 The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having 3 dimensions: economic, social and environmental. Also at the heart of the NPPF is a presumption in favour of sustainable development and in the context of this

application would include building a strong, competitive economy, ensuring the vitality of town centres, promoting sustainable transport, requiring good design, promoting healthy communities, meeting the challenge of flooding and conserving and enhancing the natural environment. To achieve sustainable development economic, social and environmental gains should be sought jointly and simultaneously through the planning system.

- 5.11 The NPPF advises that where the development plan is absent, silent or relevant policies are out of date, in order to reflect the thrust of the guidance for a *presumption in favour of sustainable development*, planning permission should be granted unless *significant* harm can be identified.
- 5.12 It is further advised that a sequential test should be applied to planning applications for main town centre uses such as retail. Only if suitable sites are not available should out of centre sites be considered and preference should be given to accessible sites that are well connected to the town centre. Also impact assessments are required for developments over 2,500 sqm. Where an application fails to satisfy the sequential test or is likely to have *significant adverse impact*, then it should be refused.
- 5.13 The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development and is *indivisible from good planning*. Whilst no attempt should be made to impose architectural styles or tastes it is proper to seek to promote or reinforce local distinctiveness. It is also relevant to address the connections between people and places and the integration of new development into the natural, built and historic environment. Rights of way and accesses should be protected and enhanced.
- 5.14 At a local level, Policy EMP1 of the adopted Cherwell Local Plan states that employment generating development will be permitted on identified sites but this is not one of those. Although intended for more rural locations Policy S25 seeks to resist all new proposals for retail development unless they accord with Policies S26 (relating to small scale retail outlets which are generally ancillary); S27 (garden centres) or S28 (local shops) which this application does not. The only other adopted local plan policies relevant to the site are non-site specific seeking to promote good design, transportation funding and consideration of the contaminated land issue.
- 5.15 The emerging local plan (Proposed Submission Cherwell Local Plan August 2012) shows the site as an existing retail site with no specific policy attached. Policy SLE2 states that retail will be directed toward Bicester town centre. Where retail is sought outside of Bicester Town Centre there should be a proven need (as identified by the Council's Retail Study), it should be sequentially tested and it should reduce the need to travel by private car and be genuinely accessible and well served by a choice of means of transport especially public transport, walking and cycling as well as by car. It should also be demonstrated that there would not be significant adverse impact on the viability of urban and existing local centres. Remaining policies largely concentrate on seeking a sustainable form of development through other disciplines including through, for example, drainage systems, flood management and design.

Principle

- 5.16 The site is within the built up limits of the town and not allocated for any proposed use in the development plan. Policy EMP1 seeks to direct employment generating development to the sites shown (of which this is not one). In retail policy terms, as the site is not within an established town centre, it would conflict with adopted policy S25 (though this generally relates to rural locations) but this states that new proposals for retail development will '*generally be resisted*'. It would seem logical to assess which retail developments should and should not be resisted by determining the level of harm that would be caused, by for example assessing the level of retail impact on the town centre. Nevertheless, consistent with the conclusion reach at the time of the previous application, it is considered that development at this site for the use proposed would be a departure from the development plan. Although it is noted that the principle of this development has been established with the extant planning permission, and this proposal simply seeks to include, for the most part, additional car parking. As dictated by statute and further supported by government guidance, planning permission must be determined in accordance with the development plan *unless material considerations indicate otherwise*.
- 5.17 The overall principle of retail floorspace being located at this site has been established since the Tesco, a mainly convenience goods store, was built and opened in 1991. Although noted as being a tourist destination and major employer, Bicester Village is a retail use.
- 5.18 The site is shown as an existing retail site in the Submission draft Cherwell Local Plan (SCLP) and within the Speciality Retail Quarter of the identified Town Centre Action Area in the Bicester Masterplan. In order to encourage significant employment growth, the SCLP states that we will encourage to promote and expand Bicester Village *where complementary to improving the Town Centre*. This caveat is in place because the site is essentially an out of centre location.
- 5.19 Proposed policy SLE2 of the SCLP relates to securing dynamic town centres. The policy advocates the sequential approach to retail development consistent with NPPF. Policy SLE2 provides that when considering out of centre proposals preference should be given to accessible sites that are well connected to the town centre. Applications for out of centre sites should be supported by a retail impact assessment. Whilst policy SLE2 is of limited weight at this time, the objectives and method are consistent with the NPPF. It should also be noted that the retail study undertaken by CBRE in support of the Proposed Submission of the Cherwell Local Plan recommends that the future needs of the district should best be met in Banbury. However, it does also recognise the unique nature of Bicester Village and that it serves a very different market to that of the town centre.

Sequential Test and Retail Impact

- 5.20 It is important to note that the principle of the extension to Bicester Village has been established by the extant planning permission. Retail impact was considered, and independently assessed as part of that process and was found to be acceptable. This application does not propose any increase on the comparison retail floor space (GIA) already consented.
- 5.21 The application is supported by a Retail Impact report which also includes an assessment of how the site has been sequentially tested. The findings of the

Retail Impact assessment do not differ significantly from the findings on the report submitted at the time of the last application. The original report was independently critiqued by planning consultants on the Council's behalf as part of the application process. Given that there is no proposed increase in comparison retail floor area, that planning permission was granted as recently as July 2014, and that there has been little change in retail circumstances (acknowledging that the Bure Place development has now been completed) or policy frameworks in the intervening period, further independent assessment of the retail impact was not considered necessary.

- 5.22 It is estimated that less than 10% of the proposal's turnover will be drawn from the Oxford catchment with the remainder coming from further afield including from overseas. The catchment is agreed to be very wide and this is borne out by Cherwell's own work indicating that Bicester Village has a very low market share from in and around the Cherwell District.
- 5.23 It is concluded that impacts in general on the neighbouring centres including Oxford City, Banbury and Bicester town centres would be negligible overall. Bicester town centre is not vulnerable and this is accepted by the retail study. It is recognised that Bicester Village has a substantially different retail offer.
- 5.24 In retail impact terms, provided the offer currently being provided by Bicester Village remains the same, then the impact of the new proposal on established centres will not be significant.
- 5.25 With regard to the appropriateness of the site, again, as Bicester Village is a unique brand the need for the development is particularly site specific. Bicester Village is already established so the desire to expand is locationally specific. The type of retailer looking to locate at Bicester Village would not consider taking space in any nearby town centre. This sequential approach is unusual when considering retail applications but it is the view taken by most professionals in this field that Bicester Village is unique so again, provided the permission is tied to the particular users characteristic of Bicester Village then it is considered that the sequential test has been satisfactorily applied.
- 5.26 To conclude the principle of the development is established and consistent with the conclusions reached at the time of the original application it has been determined that the site is an out of centre site but there are no others that are sequentially preferable. Further, the proposed development would not have a significant adverse impact on a town centre/s. However, these conclusions cannot be reached without assurance that the proposed retail offer will be the same as that currently provided by Bicester Village. This is accepted by the applicant and can be appropriately conditioned.

Transport Impact

- 5.27 The application site is adjacent the western boundary of the existing Bicester Village retail outlet centre with vehicle access off the A41, the B4030 (Oxford Road) and Pingle Drive (private road).
- 5.28 The concerns raised by a significant number of local residents highlighting the traffic issues and resulting disruption, inconvenience and impact on highway safety are acknowledged.

5.29 Significant off-site and on-site highway improvement works were approved at the time of the original application to mitigate/accommodate this planning application as well as the approved Tesco foodstore (12/01193/F). The highway improvement works are also proposed to ease the recognised transport issues along the A41 corridor and the localised traffic problems affecting the residents of Bicester. The current application proposes identical works which are summarised in Section 1 at the beginning of this report. The works are programmed as follows:

- The works to the Esso roundabout to be completed prior to the opening of the new Tesco store.
- The works on the A41, the new Bicester Village entrance and Pingle Drive to be commenced with four months of the existing Tesco store closing on site and completed within eight months from commencement.
- All highway works to be completed prior to the opening of any units within the proposed Bicester Village Extension.

5.30 It remains the case that the proposed off site and on site highway works are significant and will provide a strategic improvement to the highway network.

5.31 The County Council's overview at the time of the original application was that the proposed highway works would provide a number of highway safety and transport benefits along the A41 and Oxford Road corridor, which would help address the known traffic problems associated with the Bicester Village retail outlet centre and Tesco. The County Council noted that the off-site works can be effectively provided by legal agreement/s. The County Council notes that the additional parking proposed has the potential to increase car trip attraction but Council accepts this would be acceptable in this case.

5.32 Consistent with the conclusion reached at the time of the original application, it is considered that the highway works would improve the existing highway issues, but the solution being offered by the applicant, alongside the Tesco proposal, would assist in mitigating existing traffic issues which are predominantly caused by these two uses.

Sustainability

5.33 The NPPF guides that the purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF identifies three dimensions to sustainable development being economic, social and environmental.

5.34 The proximity of Bicester Town station is noted and the site is actually not that far from the town centre and is quite walkable being 10 minutes away using the existing footpath routes north/south across Pingle Fields, the station route through the car park or along Kings End/Queens Avenue. However, it is argued that these routes lack clarity so could and should be improved. The provided bus connection to Bicester North station also contributes significantly to the increased sustainability of this site.

5.35 In an economic, social and environmental sense, the site can also be described as sustainable because it is an established retail location within the built-up

area. Bicester Village is a valued employer in the town and the application is a means to ensuring economic growth in this retail sector. This has a knock on impact on the social aspects and is obviously subject to safeguards with regard to, for example, retail impact on the town centre/s, confirmation that the contamination of the site can be managed, the matter of archaeology are resolved etc. Such detailed matters are addressed elsewhere in this report.

- 5.36 Sustainability also comes in other forms, and measures have been incorporated into the proposed development to maximise its credentials in that regard. The design and materials, some of which are recycled, used in the construction of the proposal aim to achieve a BREEAM 'very good' rating though this cannot be confirmed that this will actually be achieved at this stage as it often relates to the very detailed aspects of the design linked to the Building Regulations.
- 5.37 Given the characteristics of the site and that this is a proposed extension to an existing operation onto a retail site, it has been determined that there would be no significant environmental effects that would constitute the proposal being an EIA development. In any event the issues arising are all addressed under separate disciplines as outlined in the report.
- 5.38 In conclusion, consistent with the findings of the original appraisal, the proposal is sustainable from a social, environmental and economic perspective.

Layout, Design and Landscaping

- 5.39 The layout of the proposed Bicester Village extension follows the existing format established by the previous phases, with the new mall terminating at the western end with flagship stores providing a gateway to the development. The continuation of the existing mall design seems quite logical and it appears to be a format which works well and is of an acceptable appearance with a mixture of low level eaves buildings and gable buildings. There is no architectural variety between the phases and once complete Bicester Village would look as one single development.
- 5.40 The flagship units are at the end of the site and these are taller buildings compared to the other units which are generally one or two storeys. That said, at no point are these flagship units taller than any other building at Bicester Village and they will not be taller than the existing Tesco.
- 5.41 The layout of the servicing is also very similar to that of the original. As at present service vehicles are directed along the main Pingle Drive up to the eastern end of the site and then take a westerly path serving the rear of the units on the northern side before then serving the rear of the southern units. The treatment of the service areas at the rear of the units is therefore important as they will have so much public view and presence close to the entrance to the site. The proposal does not show any different design treatment to that of the existing site using landscaped fencing and sectioned brick walls with brick piers and timber gates along the service area boundaries.
- 5.42 The Council's Urban Design Officer has raised concerns that the revised proposal presents a significant stretch of blank-frontage by way of service yard screening when view from the public realm to the south. The Urban Design Office comments in particular that the new flag ship unit on the northern section of the building has a significantly reduced presence to the Oxford Road and

parking area. The approved scheme extends a section of the rear aspect of the northern building out to the service yard boundary; this has the effect of breaking up the long run of service yard wall and creates some interest when view from the north. In addition to the comments of the Urban Design Officer, there is also a lost opportunity, with the layout as currently proposed, to create a focal point when approaching from the first (reconfigured) entrance off Pingle Drive. At the time of writing this report, the concerns of the Urban Design Officer have been raised with the applicant and a response is awaited. The outcome can be reported verbally at Committee.

- 5.43 The applicant is encouraged to address the issue, in order to improve sense of place and legibility, but should they choose to continue as proposed, acknowledging the challenge that a change would present to servicing the units, it is considered that it would be difficult to sustain a reason for refusal on these grounds.
- 5.44 The landscaping proposal throughout the site has not met with an objection from the landscape architects though improvements are sought to ensure the effective softening of the more stark boundary treatments such as the service areas and also the expanse of the car park. Being a gateway site there are opportunities to exploit and further improve the appearance of this part of Bicester with soft landscaping. It is recommended that these detailed aspects can be effectively dealt with by condition though revised layouts continue to be considered with regard to the particular treatment of the far west side of the site boundary adjacent to the A41.
- 5.45 It has been the desire of the Council to create a convenient pedestrian link in the interests of permeability between the extended Bicester Village site and the food store site across the A41. The third party land and level changes at the southern boundary have been an obstacle to achieving this link which was not pursued further at the time of the original application. The third party land has now been acquired by the applicant and at the time of writing this report, they have been asked to reconsider the footpath link. It is however acknowledged that the level changes at the southern boundary, as referred to by the applicant, likely present a continued obstacle to achieving a link that does not attract a disproportionate cost.
- 5.46 The Council's Urban Design Officer also raises concerns in respect of permeability across the proposed car park and how pedestrian links relate to off-site pedestrian movement including crossings. Further clarification on the rationale for pedestrian movement has been sought from the applicant and will be reported on at Committee.

Public Footpath Impact

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

Flood Risk/Drainage

5.48 The application is supported by a Flood Risk Assessment (FRA). The Environment Agency has objected and recommends refusal on the grounds that the FRA does not set out how surface water will be safely managed on site, specifically that it does not provide the surface water discharge rate from the proposed development. The applicant is aware of this objection and has lodged revised information, which at the time of writing the report, is being considered by the Environment Agency.

Contaminated Land

5.49 Issues in respect of contaminated land, including potential contamination associated with the petrol filling station can be adequately dealt with by conditions of consent, consistent with the approach taken with the original application.

Archaeology

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

Section 106 requirements

5.51 The NPPF guides that LPA's should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. The NPPF further guides that planning obligations should only be sought where they meet all of the following test:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

5.52 The current planning permission is subject a Section 106 planning obligation. The applicant has confirmed that the agree to enter into a further agreement to fund the following:

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

The matters that the applicant has agreed to fund are consistent with the terms of the existing planning obligation.

- 5.53 The Local Highway Authority has assessed the mitigation proposals submitted by Royal HaskoningDHV (on behalf of Bicester Village) and is satisfied that the proposals are adequate to mitigate the impact of the proposed developments. It is considered that the scale of mitigation is required and the scheme does meet the CIL tests / NPPF guidance in the following way:

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

(b) “directly related to the development” – the proposed highway scheme would resolve existing problems and is also necessary to enable access to the proposed development and is therefore directly related to the development. The Local Highway Authority does not have plans to improve the situation, therefore at times of high trading the development simply could not be accessed without a suitable mitigation scheme.

(c) “fairly and reasonably related in scale and kind to the development” – given the severe nature of the problems on specific days in each year, and resulting impact on amenity and highway safety, a substantial change to the highway network needs to be proposed.

5.54 Highways

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

5.55 Public Art

Officers are awaiting the applicant’s confirmation that they are willing to make an appropriate legal approach to deliver a public art contribution up to a value of £95,000, which is considered appropriate. The gateway nature of the proposed development is considered sufficient in scale and significance to warrant a piece of public art to be provided. It is accepted also that this gateway artwork could be complemented by works to improve the public realm with perhaps some bespoke street furniture or signage to improve legibility of links with the town centre.

Other Matters

- 5.56 The County Council has encouraged the inclusion of a Changing Places Toilet. This facility would enable severely disabled people to visit Bicester Village. At

the time of writing the report, the applicant has been asked to consider the inclusion of such a facility. The outcome of discussions will be reported verbally at Planning Committee.

- 5.57 The County Council has recommended that a condition be imposed should permission be granted requiring the preparation and implementation of an Employment and Skills Plan (the Plan). The purpose of the plan is to ensure that local people have access to training (including apprenticeships) and employment opportunities available at the construction and end user phases of this proposed development. The Plan should be prepared in liaison with local agencies and providers. The justification for the Plan arises out of the recently launched Oxfordshire Skills Strategy.
- 5.58 It is considered that a condition requiring the consent holder to work with other agencies and providers (not known at this stage) and requiring implementation would in all likelihood impose requirements which rely too heavily on the cooperation and agreement of third parties, including potential employers and in this respect such a condition would not meet the reasonableness test. Moreover, it would seem that there is only a tenuous link between the objectives of the Plan and the development applied for and planning generally. A condition may therefore not meet the relevancy tests. The objectives of providing training and employment opportunities would be more effectively achieved through relevant legislation, initiatives and the work of more relevant agencies. It would however be appropriate to include an informative/note on any permission to encourage the consent holder to prepare and implement a Plan.

Conclusion

- 5.59 The principle of the extension to the Bicester Village site is established by the extant planning permission. This is a revised proposal which mainly seeks to include additional to increase parking provision.
- 5.60 This application for retail development outside of the town centre does not comply with the development plan. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Where the development plan is absent, silent or out of date planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The material considerations have been identified and assessed as far as they are relevant to the site, policy and proposal.
- 5.61 This application represents a 24% increase in gross floorspace additional retail to the existing Bicester Village, a high value factory outlet retail destination. It is to be sited on a site which is currently in retail use but outside the town centre. The retail impact studies, critiques and assessments predict no significant harmful or adverse effects on the town centre/s in proximity and that there is considered to be no sequentially better site. Improvements will be made to the highway network and the scheme aims to improve its connectivity to the town centre. The design, layout and landscaping are acceptable though improvements to the western footpath will continue to be sought to promote the best quality pedestrian experience possible. Further detailed matters of archaeology and land contamination can be adequately dealt with by condition.

5.62 It is considered that, given the principle has been established and there are no material change in circumstances, in terms of policy or other considerations, the proposed changes are acceptable and consent should be granted. This should be subject to the conditions listed below and the satisfactory completion of a section 106 agreement.

6. Recommendation

Approval, subject to:

- (i) referral to the Secretary of State (Department for Communities and Local Government) as a departure;
- (ii) completion of a satisfactory section 106 agreement relating to matters of public art and as listed in paragraph 5.57 above, and bringing forward those matters previously agreed re highways/transport matters

(iii) the following conditions:

1. SC1.4 Time (4 years)
2. Except where otherwise stipulated by conditions attached to this permission the development shall be carried out strictly in accordance with the following plans and documents: the application form and submitted reports and documentation and drawing numbers 09/068/P-01B, P-02C, P-03A, P-04.1B, P-04.2A, P-04.3A, P-05A, P-06B, P-07B, P-08B, P-09A, P-10A, P-11A, P-12B, P-13A, P-14A, P-15A, P-16A, P-17A, P-18A, P-19A, HED.979.100(a), 101(B), 102(A), 103(A), 104(A), 105, 107, 601, 602, 603, 604, 3P7640/RH1, RH2, RH3, RH4, RH5, RH6, RH7, RH8, SK-26, SK-27, SK-28, SK-29 and SK30.

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

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

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

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

Reason – To ensure that the proposed development is in scale and harmony with its neighbours and surroundings and to comply with the guidance contained in the National Planning Policy Framework and Policy C28 of the adopted Cherwell Local Plan.

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

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

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

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

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

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

8. The parking, manoeuvring and servicing areas for the development shall be provided in accordance with the submitted site layout plan (P-04) hereby approved and shall be constructed, laid out, surfaced, drained (SUDS) and completed, and shall be retained unobstructed except for the parking, manoeuvring and servicing of vehicles at all times.

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

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

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

10. Notwithstanding the drawings submitted, no development shall commence on site for the development until further details are submitted to and approved in writing by the Local Planning Authority in consultation with Oxfordshire County Council for a new alignment for Bicester Footpath number 6.

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

11. No development shall commence on site for the development until a Construction Traffic Management Plan providing full details of the phasing of

the development has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Local Highway Authority) prior to the commencement of development. This plan is to include wheel washing facilities, a restriction on construction & delivery traffic during construction and a route to the development site. The approved Plan shall be implemented in full during the entire construction phase and shall reflect the measures included in the Construction Method Statement received.

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

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

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

13. Notwithstanding the details submitted, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme for landscaping the site which shall include:-
- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas,
 - (b) details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation,
 - (c) details of the hard surface areas, pavements, pedestrian areas, crossing points and steps.

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

14. That all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner; and that any trees and shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent for any variation.

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

15. No development shall take place until a schedule of landscape maintenance for a minimum period of 5 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the

arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

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

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

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

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

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

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

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

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

be maintained during the course of building operations or construction works on the site. The watching brief shall be carried out in accordance with a written specification and by a professional archaeological organisation, details of which shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

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

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

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

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

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

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

Reason – To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised together with those to controlled waters, property and ecological systems and to ensure that the development

can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

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

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

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

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

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

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

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

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

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

Reason – To ensure that the factory outlet centre remains as such and does not trade as a normal A1 retail destination which would be inappropriate and

may have an adverse impact on the vitality and viability of nearby town centres which would be contrary to guidance contained within the National Planning Policy Framework.

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

Reason – In the interests of public amenity.

29. The development hereby permitted shall be constructed to at least a BREEAM 'very good' standard.

Reason – To ensure energy and resource efficiency practices are incorporated into the development in accordance with Government guidance contained in the National Planning Policy Framework.

Planning Notes:

1. Q1 Legal Agreement
2. No development shall take place across any public footpath/right of way unless and until it has been legally stopped up or diverted.
3. With regard to surface water drainage it is the responsibility of a developer to make proper provision for drainage to ground, water courses or a suitable sewer. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777. This is necessary to ensure that the surface water discharge from the site shall not be detrimental to the existing sewerage system.
4. Where a developer proposes to discharge groundwater into a public sewer, a groundwater discharge permit will be required. Groundwater discharges typically result from construction site dewatering, deep excavations, basement infiltration, borehole installation, testing and site remediation. Groundwater permit enquiries should be directed to Thames Water's Risk Management Team on 020 8507 4890 or email wwriskmanagement@thameswater.co.uk. Application forms should be completed on line via www.thameswater.co.uk/wastewaterquality. Any discharge made without a permit is deemed illegal and may result in prosecution under the provisions of the Water Industry Act 1991.
5. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

6. Legal changes under The Water Industry (Scheme for the Adoption of private sewers) Regulations 2011 mean that the sections of pipes you share with your neighbours, or are situated outside of your property boundary which connect to a public sewer are likely to have transferred to Thames Water's ownership. Should your proposed building work fall within 3 metres of these pipes we recommend you contact Thames Water to discuss their status in more detail and to determine if a building over / near to agreement is required. You can contact Thames Water on 0845 850 2777 or for more information please visit our website at www.thameswater.co.uk
7. The groundwater report has assessed groundwater quality from two wells. However it did not measure groundwater quality in the area of the former petrol filling station.
The groundwater beneath the petrol filling station was subject to in situ remedial works for leaks from 2004 to 2010 and the works are summarised in a series of reports by Arcadis. While the Environment Agency accepted the decommissioning of the treatment plant it should be noted that remedial targets were not reached at all the monitoring points. This means that residual contamination is likely to remain in and around the tanks and pipe work.
The Environment Agency will require that tanks are removed and any contamination dealt with now that the tanks are more accessible.
8. The developer is encouraged to prepare and implement, with local agencies and providers, an Employment & Skills Plan (ESP) that will provide a framework for local people to gain access to training (including apprenticeships) and employment opportunities available at the construction and end user phases of this proposed development.

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

The Council, as the local planning authority, has determined this application in accordance with the development plan, unless material considerations indicate otherwise. The development is considered to be acceptable on its planning merits as the proposal (with the controls exercisable by condition and legal agreement) will not cause harm to the vitality and viability of any nearby town centre/s. The proposal represents a sustainable development with no demonstrable harm to highway safety, land contamination, archaeology, flood risk or drainage. As such the proposal is in accordance with Government guidance contained within the National Planning Policy Framework and saved Policies TR1, C28 and ENV12 of the adopted Cherwell Local Plan. For the reasons given above and having regard to all other matters raised including third party representations, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

Statement of Engagement

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