

**Site Address: Land South of and  
Adjoining Bicester Services, Oxford  
Road, Bicester**

**15/00250/OUT**

**Ward: Bicester Town**

**District Councillor: Councillor Mould, Councillor  
Pickford**

**Case Officer: Linda Griffiths**

**Recommendation: Refusal**

**Applicant: CPG Development Projects Ltd**

**Application Description: OUTLINE: 3 No Class A1 (retail); 3 No Class A3 (café and  
restaurants); 1 No Class D2 (gym); surface level car park, servicing and associated  
works**

## **1. Site Description and Proposed Development**

- 1.1 The application site extends to 2.045 hectares and forms part of the development at South West Bicester which is situated between the Middleton Stoney and Oxford roads. The whole site was granted outline planning permission subject to conditions and a Section 106 Agreement for the erection of up to 1585 dwellings, employment, education, health village, employment and supporting infrastructure in June 2008 (06/00967/OUT refers). A land use proposals plan approved as part of the original outline conditions identified this site as part of the employment zone which was also to include the hotel development.
- 1.2 Adjoining the site to the north is the Bicester Service Station, which comprises a petrol filling station together with a Burger King and Little Chef food outlets. The eastern boundary is bounded by the A41, the southern boundary by the Premier Inn and Brewers Fayre Public House and to the west by the proposed primary school and residential development associated with the approved Kingsmere development.
- 1.3 The site will be accessed via the new signalised junction onto the A41 serving the development and the new access road off the main spine road which currently serves the Premier Inn Hotel and Brewers Fayre Public House. Servicing of the retail units is proposed via the Esso Service Station roundabout and service road.
- 1.4 The application site is roughly rectangular in shape, is relatively flat and has no features of note. The A41 signalised junction is one of the key entrances into the development, and has been designed to form an urban square with buildings to its perimeter framing this space. The application is in outline but only landscaping is reserved, all other matters are to be considered as part of this submission.
- 1.5 The proposal seeks consent for the erection of 3 large retail units which are stated in the application to be occupied by Marks and Spencer, TK Maxx or similar and Next and the erection of 3 number A3 units adjacent to the spine road, one of which it is stated will be occupied by Frankie and Bennys and a gym (D2 Use) above. Both Marks and Spencer and Next will have ancillary café space within them and the M&S Store will include a 'Simply Food'.

## **2. Application Publicity**

- 2.1 The application has been advertised by way of neighbour letter, site notice and notice in the local press.

4 letters have been received from nearby residents. The following comments and issues were raised

- Given that overflow vehicles from Bicester Village have already started to be left in dangerous spots on Whitelands Way and with the continued development of Kingsmere, often without sufficient residential parking, creating an additional retail environment with only 266 parking spaces (creating 300 posts, most of whom will drive) will simply drive shoppers to park in more and more risky places within Kingsmere itself. I have no fundamental issues with retail stores being created at the edge of Kingsmere but they must have sufficient parking to accommodate the development. I am keen to understand how you plan to ensure no increase to traffic flow within residential areas and how you will ensure there are sufficient parking facilities for any retail development. I would also be keen to understand how you plan to ensure there are sufficient parking facilities for any retail development. I would also urge you to seriously consider this not as a single development but as a part of the development of the whole locality. Schools, a further development of Bicester Shopping Village, new residential properties, further superstore developments, The Garden City etc will all drive greater traffic volumes and hence greater associated risks. We already see a high volume of accidents on the A34 and M40 in the locality, please ensure that you do not take action that puts the local community at greater risk.
- Although in support of the development, some further thoughts and minor changes are required to make this a good addition to Bicester. It is recognised that this development sits within the area previously identified as the 'commercial centre' as opposed to the 'village centre', the fact that they are close together means consideration should be given to ensure no design or functional clashes that could result in empty units on either centre. It is not clear where staff should park, as should they use the main car park, they would be subject to the ANPR time limit system. I do not see the number of car park spaces to be a problem as the time of day for visitors is likely to be later in the day when the village is quiet. Care needs to be taken to ensure safety, security of and noise pollution to neighbouring schools and properties on KM10 and KM19 land parcels. The operation of the ANPR system is unclear given their locations. What happens when the car park is full and at peak times such as Christmas. Will the shuttle bus between Bicester railway station and the Bicester Village Park and Ride stop here. It would have been helpful to see more detail on the usage models that would have been used to determine the size of the units and the parking provision. Overall the design is ok, however my preference would be to incorporate some of the character of Bicester Town into the design.
- I do not object to the proposal except to say that the height of the main units may look out of place. However, I am concerned that the Transport Assessment does not take account of the volume of motor traffic this development is likely to generate both from Bicester and the surrounding areas. The impression given is that a lot of people will visit on foot. People buying clothing and food will not be walking, cycling etc. Para 1.7 of the Introduction states 'this report utilises parameters that have been agreed with the highways authority for other proposed developments in the recent past to avoid the introduction of new information, wherever possible' – very convenient. It gives the impression that only people from Kingsmere will need to staff the units, and staff car parking is not mentioned although a staff travel plan is referenced. The vehicle movements appear to be based on the original rather than revised Bicester Master Plan and should be declared void and a new transport assessment made.
- Banbury Gateway and TRICS assessments have no bearing on this proposed development as Banbury town centres retail offering is completely different to Bicester and therefore trips to this type of store will be somewhat greater in

Bicester. The TRICS also appear somewhat out of date. There are too many assumptions in the Transport Assessment and appears to have been constructed to present the proposed development as requiring very little or no additional highway infrastructure. I would think that the number of car parking spaces would need to be doubled as an absolute minimum, otherwise it will eventually lead to parking in nearby streets. In addition the A41 in each direction needs widening to three lanes in each direction to cater for this future traffic (1 bus lane, 2 for other vehicles). This needs part funding by developments of this nature. I trust the appropriate OCC highways authority will duly consider and investigate my concerns and not pass this Transport Assessment at face value.

- I support this application, this will be Bicester's only opportunity for a large Next and Marks and Spencer, and I'm hoping for H and M as well – regardless of any traffic concerns. If these shops do not come to Bicester now, it will be another decade (and thousands more houses) before they do.
- In addition I understand that the site of the former Tesco in Sheep Street was never large enough to accommodate either Next or Marks and Spencer and now has been acquired by another retailer. We will once again have a discount store in Sheep Street, part of the reason, in my view, that Bicester is dying is the type of shops on offer in Sheep Street/Market Square – discount, estate agents, charity shops etc, but where is there a large enough space for a proper shop.
- As for the various arguments regarding 'sequential testing' – I do not see how the Bicester sports Association site would be any less problematic regarding traffic – if not more so when one considers the Middleton Stoney Road roundabouts tight configuration.
- I understand Pioneer Square does not have any facility that is large enough in terms of square footage to accommodate either Next or M and S. In other words, if we don't get them at Bicester Gateway, where will we get them? Not at all! Having lived in Bicester for 35 years and still having to drive 30 minutes or more to a decent shop, makes a mockery of our eco status. I therefore urge you to approve this application and at long last bring Bicester into the 21<sup>st</sup> century.

## 2.2

A letter has been received from the Kingsmere Residents Association on behalf of Kingsmere residents to express the Association's support

- KRA is the officially recognised voice of the residents of the new development and all the feedback we have had regarding the planning application has been incredibly positive
- Having met with Dan Bramwell to be fully briefed on the proposals, we feel the scheme will be of benefit to the whole of Bicester and will enhance the Town's shopping offer, in particular
- Both M&S and Next brands are particularly welcome in Bicester. Failure to deliver these retailers will mean that local residents have to drive further afield to the new Banbury Gateway development, Oxford or even Milton Keynes to visit the stores
- As immediate neighbours, residents in the Kingsmere development will be geographically adjacent to the proposed scheme and will benefit from the additional restaurants and gym. This will prevent residents having to go further afield to find suitable offers
- The shops and restaurants will create additional employment opportunities and these will be of particular interest to local residents due to the accessibility. There will also be opportunities for local employment during the construction phase
- The scheme is highly accessible by all forms of transport thus making it environmentally friendly
- The additional parking spaces are most welcome
- We feel it will be an impressive and welcoming structure

2.3 An objection has been submitted on behalf of Bicester Sports Association as follows:  
Contrary to the council's retail strategy for Bicester  
Fails to comply with the NPPF sequential test  
Insufficient evidence has been provided to demonstrate compliance with the NPPF impact assessment

- The local plan sets out a retail strategy for Bicester at paragraphs C.63-C.71 and Policy Bicester 5: Strengthening Bicester Town Centre which identifies an Area of Search in the centre of Bicester aimed at supporting the vitality and viability of the existing town centre, encouraging economic activity, assisting with the connectivity between the town centre and Bicester village and improving the character and appearance of the centre of Bicester and the public realm. The site falls outside this area of search and the proposal is in direct conflict with the council's strategy for retailing in Bicester.
- The planning and retail statement prepared by Mango Developments acknowledges the site is out-of-centre and therefore needs to demonstrate compliance with the sequential approach.
- The PRS is flawed as MPDL state that for an out-of-centre site it is not necessary to assess other out-of-centre sites in its assessment. This approach is incorrect and in conflict with the NPPF. This is supported in the High Court Judgement (Telford and Wrekin v S of S)
- Whilst MPDL: undertakes a brief assessment of land at Bessemer Close/Launton Road, it fails to assess (or indeed recognise) the area of search and any sites within it.
- It is believed that there are a number of sites within the area of search that warrant detailed assessment and could accommodate the level of development proposed. For example BSA Oxford Road site falls within the area of search, it is accessible and well connected to the town centre.
- Kingsmere is located outside the area of search and is in excess of 1km from the town centre and cannot be considered to be well connected to the centre nor capable of delivering the connectivity improvements and linkages set out in the emerging Local plan. It is therefore inferior to the BSA site in sequential terms.
- The retail impact assessment undertaken cannot be considered robust. The level of detail provided is wholly insufficient for the Council to understand the potential trade diversion and impact effects of the scheme. As it stands the Council cannot robustly assess and determine the application in retail impact terms.
- It does not comply with the requirements for undertaking an impact assessment as set out in the PPG
- No Flood Risk assessment has been submitted
- Very limited public consultation as set out in the Statement of Community Engagement
- Insufficient evidence that the site has been marketed to robustly demonstrate that B class use of the site will not come forward
- The transport assessment is not robust in terms of trip generation given the location of the site
- Parking requirements cannot accurately be assessed until the mode share and trip rates have been more accurately determined
- No screening opinion request has been submitted by the applicant. Due to the size of the site 2.05 ha, the application needs to be screened in order to establish whether an EIA is required.

2.4 An objection has been received on behalf of Sainsburys as follows:

- The application is out of centre and therefore the application must satisfy the sequential and impact tests and demonstrate that they will not have a significant adverse impact on existing centres The impact assessment

prepared by Mango is insufficient to understand the potential trade diversion and impact of the scheme and therefore does not meet the requirements of the NPPG

- The applicant's assessment of convenience trade draw in respect of the proposed M&S at paragraph 6.24-6.27 is also not supported by any evidence. There is no indication as to how the figures have been calculated and the impact assessment has underestimated the level of trade diversion from the town centre.
- The commentary regarding the cumulative impact of the proposed at paragraph 6.29 is insufficient that the '*application when considered alongside committed proposals will not cause any significant adverse impact*'. However, no assessment has been undertaken to support this. The applicant should undertake a full cumulative impact assessment to take into account all committed development within the catchment area including the consented Tesco and proposed M&S store.
- Given the size of the site a Flood Risk assessment is required
- The submitted Transport Assessment is not robust and makes unfounded presumptions. It suggests that the number of shoppers arriving by car (35% weekday and 33% Saturday) will be similar to the number of shoppers arriving by foot (36% weekday and 29% Saturday). This will impact upon the number of car parking spaces required for the development.

2.5 An objection received on behalf of Ziran Land Ltd and Stockdale Land Ltd comments as follows:

- Traffic issues in this area will be unacceptably compounded by a retail and leisure development in this location
- Opportunities in the town centre with a number of vacant units and there are potentially sequentially preferable sites within the designated town centre capable of development
- Restaurants will increase traffic flows and have a damaging effect on the viability of restaurants within the town Centre where there is vacant restaurant space, both available and coming available
- Cumulative effect of retail and restaurant in this location will damage the town centre which has seen substantial investment in recent years
- Bicester Town Centre could suffer lasting damage if this proposal is approved
- This company and its predecessor, Stockdale Land, have offered to purchase the employment land at Bicester Gateway and develop employment space thereon. The report submitted by VSL dated 10<sup>th</sup> June 2014 indicates significant demand at that time and it is clear that there is interest in developing the employment land for those purposes which we would be happy to do so, if not discouraged by the site owners from doing so.

2.6 An objection has been received from the Bicester Traffic Action Group as follows:

- The new proposal will have an entirely different traffic generation and peak hour movements to that previously envisaged as commercial and office. From the documents we have seen no amended Transport Assessment has been submitted and therefore consider the application is seriously flawed
- According to national traffic data bases this development, could generate in excess of 9,000 vehicle movements in the peak, in addition to those generated by Bicester Village. The chaos caused by visitors to the village is well known and although improvement works to ameliorate this are planned this proposal will negate any improvement gained
- The main access to this proposal is off the A41 at a signal controlled junction by the Premier Inn. There is an additional access proposed through the residential area currently under construction and the mix of traffic from this proposal and that of the residents would not be seen as good practice in addition to being a potential road safety hazard, especially considering it

passes a proposed secondary school site

- A new access is at present under construction on the other side of the A41, very close to the traffic signals. Although advertised as office development we understand that a large supermarket is also being constructed. This will only serve to generate more traffic in the morning and evening peaks for the office development and the supermarket itself will generate approximately 120 movements per 100 sqm of floor space at peak times
- Car parking from Bicester Village is already a problem with overflow car parks regularly being used. It is probable that shoppers from here will also use the car park proposed for this development when visiting the Village. The new car park of 266 spaces seems very low for a development of this type especially when the available parking is reduced by staff working at these units. It seems likely that shoppers will park in the surrounding residential streets to the detriment of road safety and the annoyance of residents. Bicester Village shows the result of insufficient parking provision and the chaos caused on surrounding roads
- This proposal, if approved, would undermine the District Council's investment in the Town Centre and would further undermine it as a central business district. The developers have overlooked the recently vacated Tesco store in Sheep Street, the Claremont Car park opportunities and other greenfield sites located elsewhere in Bicester. These sites, particularly to the south of the town where development will take place would, we suggest, be more suitable places to locate this development as the traffic impact would be less.

2.7 An objection on behalf of Bicester Office Park comments as follows:

- TIA is flawed and inadequate when it suggests that traffic generation for the employment site will be the same as the retail scheme. Employment development has an entirely different peak hour traffic profile to that of a retail scheme and this has not been assessed or looked at within these proposals.
- Retail would generate peak flows on a Saturday, Sunday and possibly Friday pm, precisely at the time when the traffic in this immediate vicinity is already at its peak and already suffers from well recorded severe traffic congestion
- No assessment has been provided showing the effect of Saturday and Sunday peak hour flows and how it might further affect the existing congestion on the current highway network during peak hour flows
- The application has assumed that the proposed highway improvement works for the future expansion of Bicester Village have been undertaken, which is not the case when this application is being considered, nor has the Highway Authority suggested any conditions to limit the implementation of this development until such improvements have been completed.
- The assessment by OCC of the TIA is inadequate and does not pick up the discrepancies above
- OCC has not sought any financial contribution towards highway improvements, sustainability, rail infrastructure, public transport etc. Furthermore, no highway improvements have been suggested or offered by the applicants in order to mitigate its traffic impact
- The scheme is wholly reliant on car-borne access and no attempt has been made to provide for sustainable and public transport facilities
- Will encourage 'rat-running' through the Kingsmere residential development to access this new retail development, raising issues of safety for both residents and school children in the vicinity.
- Inadequate marketing effort in respect of the business space, a full and comprehensive marketing effort has not been undertaken in order to implement the approved scheme
- In view of the size of the employment units, it would be normal for a developer to undertake a small starter block as a first phase of the development, and in this manner they would be able to fully test the real market for such

accommodation. This has not occurred and, accordingly the proposed business space has not been marketed to its full potential

- A more appropriate alternative development would be further residential units
- Retail development in this location is piecemeal and purely opportunistic in its location without consideration of a sequential test nor the needs of connecting it with the wider Bicester Community and without giving thought to the wider and future requirements of Bicester as it grows
- The last retail assessment was undertaken in October 2012 by CBRE which is clearly out of date and would not have taken into account the Garden City status
- Is premature, not in accordance with the emerging Local Plan and has considerable highway and traffic deficiencies which have not been adequately assessed by either the applicants or OCC as Highway Authority

2.8

A letter received on behalf of Value Retail comments as follows:

- The emerging Local Plan identifies an area of search, within which retail and other main town centre uses will be supported if they form part of the new schemes which help to deliver the aims of central Bicester. The Inspectors Report, dated 9<sup>th</sup> June concludes at paragraph 77 that identified sites should provide sufficient capacity to deliver all the new retail floor-space deemed necessary in the 2012 Retail study. Paragraph 78 supports the areas of search for additional floor-space, which do not include the application site.
- The application proposals are for mainstream comparison retailers, provisionally expected to comprise M&S, Next and TK Maxx, which is expected to compete directly with the town centre
- Contrary to Policy SLE2 of the emerging Local Plan.
- The proposal fails to satisfy the sequential test and are likely to have a significant adverse impact on nearby centres and should therefore be refused
- The proposal cannot be regarded as an extension to Bicester Village. There are no effective linkages and the proposals involve mainstream high street uses which, in contrast to Bicester Village, will compete directly with the town centre.
- The applicants approach fails to consider alternative options, including sites within the area of search identified in the emerging Local Plan, and in other centres within the likely catchment area of the proposals. The applicant has failed to consider whether there are other, more accessible/better connected out of centre sites, as required by policy.
- Impact assessment is likely to have understated the potential turnover of the proposed development, and materially underestimated the proportion of the proposals turnover likely to be diverted from Bicester town centre
- No cumulative impact assessment has been undertaken. Therefore the assessment is not credible or robust
- Loss of employment and inadequate marketing of the site
- TIA – no details of any scoping discussions with OCC and therefore a risk that an insufficient scope of assessment has been undertaken within the TA
- Applicant has failed to robustly assess the traffic changes arising from the consented employment use
- The application relies heavily upon pedestrian linkages that would be delivered by way of the Bicester Village Phase 4 Highway Works. Without the provision of suitable non-car linkages, the scheme would be reliant upon the private motor car as the principle means of access to the site, the implications of which have not been fully assessed. Given the absence of these linkages, the level of traffic associated has been underestimated
- Unclear what committed developments have been allowed for in the assessment
- Insufficient evidence within the TA to demonstrate that the application is capable of mitigating traffic increases on the highway network during the

weekend periods in isolation. Should the applicant be of the view that development traffic during the weekend assessment period can be accommodated upon the highway network, it should be demonstrated using detailed modelling

- Site access junction from A41 would come under pressure as a consequence of the application traffic being unable to satisfactorily reach the development from this direction
- Close to the new primary school
- Relies on the delivery of the highway works that would be brought forward by the extension to Bicester Village, but there is a risk that this could come forward in advance of the Bicester Village highway works
- Given the absence of a robust TA it cannot be taken at face value that there is sufficient parking provision, resulting in parking in the nearby streets
- Service yard has not been designed to accommodate articulated delivery vehicles, given that such vehicles would not appear to be capable of being accommodated within the site, then it is expected that delivery vehicles would queue back onto the adjacent highway network
- There is no certainty that Bicester Village highway works can accommodate the traffic arising from the proposal
- No contributions offered or requested to Bicester Area Transport Strategy
- Contrary to NPPF paragraph 32.
- Proposal should be refused in line with national and local policy as the applicant has failed to clearly identify capacity to support the scale of retail proposed

All of the comments made above can be read in full on the application file.

### **3. Consultations**

- 3.1 Bicester Town Council: resolved that Bicester Town Council has concerns that whilst we welcome the addition of retail brands being promised it is felt that this development is in the wrong area due to problems with car parking and access on an already very busy A road. It is felt that this development should consider a different location within the town centre.

#### **Cherwell District Council Consultees**

- 3.2 **Planning Policy Officer:** The application site is part of a larger site for which planning permission was granted for circa 1800 homes and other uses. The application site is located on land which is zoned for employment use (B use classes) in this planning application. The larger site is currently under construction and fairly well advanced. There are new homes being constructed in close proximity to the application site and there is a recently completed hotel adjacent to the site. The application site is in an out of centre location but it is acknowledged that new development at Bicester would bring the site within Bicester's urban area.

#### Main Development Plan Policies

The application site is not allocated for development in the Cherwell Local Plan (1996) (saved policies). The main policies relevant to this proposal are as follows:

The adopted Local Plan seeks to maintain a compact shopping centre at Bicester. Policy S25 applies to retail development in the rural areas but this policy should be considered in the context of on-going development of the wider South West Bicester site and development in southern Bicester generally.



## NPPF

The paragraphs of the NPPF most pertinent to this application from a Local Plan perspective are:

Paragraph 14 the 'presumption in favour of sustainable development'

Paragraph 19 relating to encouraging economic growth

Paragraphs 23 to 27 of the NPPF (which relate to ensuring the vitality of town centres). In particular the requirements relating to the production of a sequential test and impact assessment should be observed. Annex 2 provides further information.

The transport and traffic impacts of the development will need to be considered against the requirements in Section 4 the NPPF. Paragraph 32 of the NPPF stated that development should only be prevented or refused on transport ground where the residual cumulative impacts of development are severe.

Paragraphs 56 to 67 on Requiring Good Design are also relevant.

## PPG

PPG should be considered including in relation to guidance on the sequential test and impact assessment.

## Non-Statutory Cherwell Local Plan 2011

Whilst some policies in the Non-Statutory Cherwell Local Plan may remain material, other policies have in effect been superseded by those of the Submission local Plan (January 2014).

The NSCLP seeks to maintain a compact shopping centre at Bicester. Policy S2 applies to retail development in the rural areas. Recognising there may be size constraints, for this application Policies S16, S17 and S17a are of relevance for the sequential test. These are for sites identified in the NSCLP in central Bicester to accommodate development uses including town centre uses.

Policy H1b and H13 identify the land at South West Bicester for 1585 homes and other uses including employment land. Policy H13 states that a comprehensive scheme should be provided for and criterion (xiv) provides for '*an appropriate range of local shopping facilities, including a public house, to be provided on a commercial basis*'. Supporting paragraph 3.113 states that retail, public house, primary education, community and health care facilities will be grouped into a neighbourhood centre and that retail development of a greater scale than that to serve the day to day needs of the neighbourhood will not be acceptable. Policy S18 also makes provision for the local centre (which has yet to be provided).

## Submission Local Plan 2011-2031 (January 2014) As proposed to be modified (as at 6 February 2015)

A new Local Plan was submitted to the Secretary of State in 2014 for Examination. Hearings took place in June and December 2014 and the Inspectors report is expected in spring 2015. (at the time of writing the report, the Inspector's Report has now been received). There are outstanding objections to some policies which have yet to be resolved. A schedule of hearing minor modifications was submitted to the Council on 6<sup>th</sup> February as requested by the Inspector. A number of related documents were also submitted. These are available on the Council's website on the Local Plan examination web page. The main policies relevant to this proposal are as follows:

The application site is on land identified as an approved housing site (South West Bicester development) on Key Policies Map 5.2: Bicester.

Objective SO1 sets out that the objectives for developing a sustainable local economy include; to facilitate economic growth and a more diverse local economy with an emphasis on attracting and developing higher technology uses.

Paragraph B.46 of the Submission Local Plan states that the provision of jobs will be a material consideration for determining planning applications for any use classes.

Paragraph B.48 states that the Council is determined to secure dynamic town centres as the focus for retail development. Paragraph B.53 explains that new retail development will continue to be focused in the town centres and all new development will be required to be built to high design and building standards.

Policy SLE1 sets out the requirements for planning applications for existing employment sites and these should be met by the applicant. Paragraph B.46 explain that Policy SLE1 applies to sites which have planning permission for employment uses. There are other sites allocated in the Local plan to deliver future employment needs.

Policy SLE2 states that retail and other main town centre uses will be directed towards the District's town centres. The policy reflects the NPPF and requires a sequential test and impact assessment for applications for main town centre uses outside the town centre.

The uses proposed in the application are 'main town centre uses' as defined in Annex 2 of the NPPF and paragraph B.54 of the Local Plan.

Policy Bicester 5 states that shopping, leisure and other town centre uses will be supported within Bicester town centre. An 'area of search' is identified in Bicester and shown on Inset map Bicester 5. Paragraph C.66 explains how growth can be achieved at Bicester.

Strategic Objective 13 of the Submission Local Plan aims to reduce the dependency on the private car as a mode of travel and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 will also apply and has similar objectives.

Policy ESD16 will also apply.

#### Policy Observations

The NPPF requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of centres. The Submission Local Plan is consistent with this approach and aims to support Bicester town centre's viability and vitality. In the 'area of search' town centre uses will be supported if they help deliver the aims for central Bicester. The growth of the town centre will be explored further in Local Plan Part 2 including the potential of sites for town centre uses in accordance with the approach in the NPPF and the submission Local Plan. The application proposals are outside the town centre and the 'area of search' in an out of centre location and therefore inconsistent with local planning policy in terms of the strategy for accommodating town centre uses and supporting the growth, viability and vitality of central Bicester.

The proposals are located in an area of Bicester where commercial and residential development already exists in close proximity, is taking place or is planned, providing some opportunities for sustainable modes of travel. This should be a consideration in determining the application, however proposals alternatively located in the town

centre, and potentially in edge of centre or other out of centre locations, would also be in an area of Bicester where new development is taking place and is planned. For example, as demonstrated by proposals set out at Policy Bicester 6: (Bure Place redevelopment) of the Submission Local Plan.

A detailed and comprehensive sequential test and impact assessment should be provided supporting the planning application. The 'area of search' at Policy Bicester 5 of the Submission Local Plan provides an indication of locations that should have been explored for the sequential test. However, the sequential test should include consideration of all potential sites within the urban area of Bicester, including out of centre sites with consideration of accessibility and connections to the town centre.

In terms of land uses in close proximity to the application site, a new large Tesco food store has planning permission on the eastern side of the A41 opposite the site. Land is also allocated to the south of the application site for employment uses (see Policy Bicester 10 in the Submission local Plan) and construction has started opposite the application site to the east of the A41 on land identified in the Submission Local Plan (see Inset Map Bicester 4).

Bicester Village has planning permission to expand on the existing Tesco food store site. The Submission Local Plan identifies the potential for improved connectivity between Bicester Village and the town centre. Planning permissions granted at Bicester Village have associated conditions which restrict the type of retail development. If planning permission is granted for the application site it should be explored as to whether conditions should be applied.

Wyvale Garden centre and the new hotel are located further from Bicester town centre than the application site. However a hotel was required by the Non-Statutory Cherwell Local plan (Policy H13). Conditions are in place for Wyvale Garden Centre.

The proposals would lead to loss of employment land for B use classes. However, the site is not an operational site or allocated for employment uses.

In accordance with Policies ESD1, SLE4 and the NPPF the traffic impacts and potential for sustainable modes should be examined. Sustainable travel patterns may be difficult to achieve and the potential for effective links to the town centre should be considered. It should be recognised that the site is within walking/cycling distance of the town centre and other existing and planned uses.

Any particular circumstances which may apply in relation to the operation and function of the proposal should be considered.

It will be relevant to examine whether the proposals would compromise the delivery of satisfactory proposals for South West Bicester set out in the Non-Statutory Cherwell Local Plan including the provision and operation of the proposed local centre at South West Bicester which will make an important contribution towards sustainability of the new development.

Proposal would increase the retail offer and create jobs in retailing to support the growth of Bicester generally. However, importantly the proposals are inconsistent with local planning policy which directs town centre uses to the town centre and planning policy relating to the growth of the town centre.

Since the above comments were received, the Inspector's Report has been received and the Submission Local Plan is now the adopted Cherwell Local Plan 2001-2013.

**3.3 Design and Conservation Officer:** no comments received

- 3.4 **Ecology Officer:** Included within the documents is an ecological monitoring report for the wider site (which reveals that it is not being managed as per an agreed EMP – with cuttings at the wrong time of year, not removing arisings etc., and that many habitats are degrading). This point aside I could not find anything in this report about the specific area of this application site. I may have missed something but there does not appear to be a survey or comment of this area. I appreciate this is part of a much wider development plan and therefore wondered if this is elsewhere under a different application number.

There does not look to be anything immediately of concern on site, however I don't know if there is any botanical interest or hedgerows which need preserving, badger setts (although unlikely given surrounding developments, we do have records along this road). There are also adjacent records of wintering birds. The design and access statement refers to biodiversity being a key element but does not elaborate on any of their plans in this regard.

Without further information it is difficult to assess the need for mitigation however a full scheme of biodiversity enhancements within the proposed new buildings and surrounding landscaping should be submitted. This should include provisions for birds built into the fabric of the buildings. I see a green wall proposed in one of the design pictures and such features would be a welcome addition throughout the site (although it does not show it fully lit which may limit its value). We should be seeking a net gain for biodiversity on site in line with NPPF recommendations and the current layout leaves little room for this.

- 3.5 **Economic Development Officer:** I have concerns that it has not been presented effectively to the market and should therefore not simply be granted change of use.

For instance, yesterday I was approached by a growing Bicester business that is seeking around 6,000 sq ft. A developer needs to respond to this market interest. All local commercial agents are aware of the shortage of modern and refurbished b-class premises. I have not been contacted by the land owner or agent to indicate a lack of demand or to ask for the help of our services. On the contrary; I am being contacted by Bicester businesses that are struggling to expand locally.

The site is therefore important to retain for b-class employment as an important balance to the residential and retail development that has been completed and continues nearby. This should contribute to the availability of local employment opportunities to reverse out commuting to higher paid employment areas beyond Bicester and therefore serve the needs of Bicester residents and businesses whilst contributing to the sustainable goals of the One Shared Vision.

- 3.6 **Environmental Protection Officer:** No comments received

### **Oxfordshire County Council Consultees**

- 3.7 **Transport:** The Local Planning Authority should consider the sustainability of the development given the loss of employment land and resulting out-commuting.

CDC Local Plan seeks to address the issue of significant out-commuting from Bicester through the provision of employment land. Whilst A1 and A3 land uses will provide some food/non-food retail employment, there is already a range of similar employment opportunities within walking/cycling distance of the site. The loss of the currently approved B1 and B2 employment use could result in an increase in out commuting from Bicester reducing the potential sustainability benefits of the approved site.

The principle of development in this location within the context of a wider development and transport mitigation for the site has been secured through planning application 06/00967/OUT. The traffic generation patterns for retail are different to employment land uses. However, impact upon junctions adjacent to the site would not be significant when considered against the permitted use.

The proposed parking, circulation and manoeuvring arrangements appear appropriate but I do not have a scalable plan to verify this matter. Detailed plans will be required for all access, pedestrian, cycle and vehicular. Cycle and pedestrian provision must link to the existing network. All surface water management on this part of the development will need to adhere to the agreed Kingsmere Design Code Document.

A Framework Travel Plan is required for this development setting out the overall objectives for the promotion of sustainable travel. Each of the proposed units will need to produce a supplementary plan that is linked to objectives in the framework travel plan and pay the required monitoring fee prior within 3 months of the units being occupation. These travel plans should be produced in accordance with the Oxfordshire County Council's Transport for New Developments: Transport assessments and Travel Plan Guidance (March 14) and agreed with Oxfordshire County Council's Travel Plans Team.

To encourage walking and cycling to the site from the wider area, good quality access points need to be provided on direct routes linking in to the walking and cycling networks. The current outline drawings do not show the layout of any walking or cycling routes. Covered secure cycle parking must be provided in permanent locations for each of the units, for staff and customer use.

Oxfordshire County Council maintains the Oxfordshire liftshare portal to match up people who are making similar journeys and would like to liftshare. If the development contributes to the on-going maintenance of this site then they can use this portal to encourage staff and visitor liftshare and reduce the number of single occupancy car trips. All surface water management on this part of the development will need to adhere to the agreed Kingsmere Design Code Document.

A good quality bus service between Oxford and Bicester Town Centre operates along the A41, but there are no stops within convenient walking distance of this development. Convenient access to public transport is essential and this site will require a new pair of bus stops, at the cost of the developer. These bus stops should include lay-bys, hard-standing areas, shelters, Premium Route flag/pole/information case units and electronic real-time information units. Bus stop laybys and hard-standings should be delivered by the developer to an agreed design, with shelters, flag/pole/information case units and real time information displays to be secured through a Section 106 Agreement.

3.8 **Drainage Officer:** No comments received

3.9 **Economy and Skills:** the developers will be required to prepare and implement, with local agencies and providers, an Employment and 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.

#### Loss of Skilled Jobs

Bicester is identified as a key location for employment growth on the Oxfordshire Knowledge Spine through the City Deal and Strategic Economic Plan (SEP). The SEP looks to support significant increases in employment at Bicester through infrastructure improvements and land availability.

If retained for B1 and B2 uses, this site could make a valuable contribution to the generation of quality, high tech employment opportunities and provision of a comprehensive range of employment opportunities in the town. The supporting statement to the existing outline permission (06/00967/OUT) estimates that the current approved use would accommodate 992 jobs, many of which could be highly skilled. The supporting statement to the retail proposal estimates that around 300 jobs would be created, few of which are likely to be highly skilled. Moreover, there are already considerable retail employment opportunities within Bicester with more anticipated from the expansion of Bicester Village. It is important to the success of the employment strategy for Bicester that other employment land, including this site, remains available for B1 development.

#### The impact of the development on the town centre and local centre

This is an out of centre site although potentially with reasonable access to the town centre. A1 Retail and A3 restaurants are town centre uses. It would be better for these uses to be located in Bicester town centre where they can contribute to town centre vitality and viability, help improve the image of Bicester town centre in line with Bicester Master Plan objectives and where there is good access by public transport. Further justification should be provided to explain how the proposals address the strategic objectives for economic growth and for a thriving town centre.

The current proposals for A1 and A3 use are likely to impact on the viability of the retail element of the local centre approved as part of this outline consent.

### 3.10 **Overall view of Oxfordshire County Council:-**

This application is for a 2.045 hectare retail development on part of the South West Bicester Phase 1 (Kingsmere) strategic site allocation in the emerging Cherwell local plan. The site currently has outline planning permission for B1 and B2 employment use as part of the wider Kingsmere development. The County Council has the following concerns:

- The loss of skilled jobs that the current approved use could provide for
- The potential increase in out commuting from Bicester as a result of losing a key employment site
- The impact of the development on the town centre and local centre
- The proposals are contrary to the emerging Cherwell local plan and the Draft Bicester master Plan

In addition to the above points, the County Council's Local Members also have the following concerns:

- Increased traffic along the A41 corridor and the cumulative impact with Bicester Village, Tesco and Bicester Avenue
- Increased traffic on the Middleton Stoney Road
- Inadequate parking provision
- Impact on the health village

#### Loss of Skilled Jobs

Bicester is identified as a key location for employment growth on the Oxfordshire Knowledge Spine through the city Deal and Strategic Economic Plan (SEP). The SEP looks to support significant increases in employment at Bicester through infrastructure improvements and land availability.

If retained for B1 and B2 uses, this site could make a valuable contribution to the generation of quality, high tech employment opportunities and provision of a comprehensive range of employment opportunities in the town. The supporting statement to the existing outline permission (06/00967/OUT) estimates that the current approved use would accommodate 929 jobs, many of which could be highly skilled. The supporting statement to the retail proposal estimates that around 300

jobs would be created, few of which are likely to be highly skilled. Moreover, there are already considerable retail employment opportunities within Bicester with more anticipated from the expansion of Bicester Village. It is important to the success of the employment strategy for Bicester that other employment land, including this site, remains available for b1 development.

#### Potential increase in out commuting from Bicester

The emerging Cherwell Local Plan seeks to address the issue of significant out-commuting from Bicester through the provision of employment land. The loss of the currently approved B1 and B2 employment use could reduce containment and result in an increase in out commuting from Bicester thus reducing the potential sustainability benefits of the approved site.

#### Impact of the development on the town centre and local centre

This is an out of centre site although potentially with reasonable access to the town centre. A1 Retail and A3 Restaurants are town centre uses. It would be better for these uses to be located in Bicester town centre where they can contribute to town centre vitality and viability, help improve the image of Bicester town centre in line with Bicester master Plan objectives and where there is good access by public transport. Further justification should be provided to explain how the proposals address the strategic objectives for economic growth and for a thriving town centre.

The current proposals for A1 and A3 use are also likely to impact on the viability of the retail element of the local centre approved as part of the outline consent.

#### The proposals are contrary to the emerging Cherwell local Plan and the Draft Bicester Master Plan

Paragraph C56 of the emerging Cherwell local plan states that ;South west Bicester will provide 1,742 new homes, new primary and secondary schools, public open space, health and sports facilities, **employment land**, a hotel and other local facilities'. Removal of the employment land is not in accordance with the Local Plan. Further, the current proposals are contrary to paragraph B.53 of the plan which states that 'new retail development will continue to be focused in our town centres'.

The retail proposals are also contrary to the Draft Bicester master Plan (August 2012) which states that

*'Any further retail development and improvements to car parking should take place on the south eastern side of Sheep Street to anchor this end of the main retail street and provide improved facilities closer to the railway station' (Draft Bicester master Plan August 2012 p43)*

### **Other Consultees**

- 3.11 **Environment Agency:** have no objection subject to the inclusion of a condition relating to contamination. Without the condition the development would pose an unacceptable risk to the Environment.

The proposed development is located in Flood Zone 1 (low probability) based on our Flood Zone map. Whilst development may be appropriate in Flood Zone 1, paragraph 103 (footnote 20) of the National Planning Policy Framework sets out a Flood Risk Assessment should be submitted for all developments over one hectare in size. We note that a Flood Statement has been produced, but a comprehensive FRA has not been submitted in support of the proposed development.

The West Thames Area (Environment Agency South East) is operating a risk based approach to planning consultations. As the site lies in Flood Zone 1 and is between 1

and 5 hectares we do not intend to make a bespoke response to the proposed development. The following standing advice is provided as a substantive response.

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

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

SUDS for roads/car parking areas should incorporate appropriate design mechanism to minimise the potential that hydrocarbons or other contaminants may be mobilised into ground water. The base of SUDS should be sufficiently above typical winter groundwater levels to allow the attenuation of any residual contaminant. They should not routinely discharge direct to groundwater (ie above typical winter GW levels).

#### **4. Relevant National and Local Policy and Guidance**

##### **4.1 Development Plan Policy**

Adopted Cherwell Local Plan 1996 (Saved Policies)

- C28: Layout, design and external appearance of new development
- C31: Development in residential areas
- TR1: Transportation funding

Non-Statutory Cherwell Local Plan 2011

Policy H13: Bicester Urban Extension: South West Bicester

##### **4.2 Other Material Policy and Guidance**

National Planning Policy Framework (March 2012)

National Planning policy Guidance

Cherwell Local Plan 2011-2031

The Submission Local Plan has been through public consultation and was submitted to PINS 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 Market Assessment (SHMA), which is an objective assessment of need. Proposed modifications (August 2014) to meet the Objectively Assessed Need were subject to public consultation, from 22<sup>nd</sup> August to 3<sup>rd</sup> October 2014. The examination reconvened and closed in December 2014. The Inspector's Report was published 12<sup>th</sup> June 2015. The report was presented to Members at a meeting of the Full Council on 20 July 2015. Members endorsed the Plan and it is now adopted and forms part of the development Plan. The policies listed below



are considered to be material to this case:

SO1: objectives for a sustainable economy  
SLE1: Employment development  
SLE2: Securing dynamic town centres  
SO13: Reduced dependency on the private car  
ESD1: climate change  
ESD3: sustainable construction  
ESD7: Sustainable drainage systems  
ESD10: Protection and enhancement of biodiversity and the natural environment  
SLE4: improved transport and connections  
ESD16: character of the built and historic environment  
Policy Bicester 5: Strengthening Bicester Town Centre

## **5. Appraisal**

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Policy and the principle of development
- Sequential test and retail impact
- Loss of employment land
- Transport impact
- Sustainability
- Design and layout
- Ecology
- Flood risk assessment
- Planning obligation

### **Relevant Planning History**

5.2 The application site forms part of the wider mixed use development at South West Bicester (now known as Kingsmere). Outline planning permission was granted, subject to conditions and a Section 106 Agreement for up to 1585 dwellings, employment, education, health village, leisure and supporting infrastructure in June 2008 (06/00967/OUT refers). A land use proposals plan approved as part of the outline conditions identified this site as part of the employment zone which was also to include the hotel development.

5.3 The construction of the wider South West Bicester development began in July 2010. The major infrastructure has been provided and a number of residential parcels have either, been completed and occupied or currently under construction following the granting of the relevant reserved matters consents.

5.4 Reserved matters consent was granted for the hotel and Brewers Fayre Public House in May 2012 (12/00063/REM refers). The hotel and pub are now trading well. The developers of the South West Bicester site are required by the terms of the Section 106 to market the application site for employment purposes.

### **Policy and the Principle of Development**

5.5 The development Plan for Cherwell District comprises the saved policies in the Adopted Cherwell local Plan 1996 and the adopted Cherwell local Plan 2011-2031. Section 70(2) of the Town and Country Planning Act 1990 provides that in dealing with applications for planning permission the local planning authority shall have regards to the provisions of the development plan, so far as is material to the

application, and to any other material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF).

### **Non-Statutory Cherwell Local Plan 2011**

- 5.6 The site in question was an allocation within the Non-Statutory Cherwell Local Plan (policy H13), as part of the wider mixed use development of south west Bicester, but is not allocated for development in any adopted plan. As part of the planning permission granted under Policy H13, the site is identified for employment purposes.
- 5.7 The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development: contributing to building a strong, responsive and competitive economy; supporting strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 7). It also provides (paragraph 17) a set of core planning principles which, amongst other things require planning to:
- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
  - Proactively drive and support sustainable economic development
  - Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
  - Support the transition to a low carbon future in a changing climate
  - Encourage the effective use of land by reusing land that has been previously developed
  - Promote mixed use developments
  - Conserve heritage assets in a manner appropriate to their significance
  - Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus significant developments in locations which are, or can be made sustainable
  - Deliver sufficient community and cultural facilities and services to meet local needs
- 5.8 The NPPF at paragraph 14 states 'at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both planning and decision taking.....For decision taking this means
- Approving development proposals that accord with the development plan without delay; and
  - Where the development plan is absent, silent or relevant policies are out of date, granting permission unless;
  - Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - Specific policies in this Framework indicate development should be restricted
- 5.9 The NPPF further advises 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. Impact Assessments are also required for developments over 2,500sqm. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact, then it should be

refused.

5.10

The Planning Practice Guidance advises on the sequential test and impact assessment, but also advises that if a required development cannot be accommodated in the town centre, that the local planning authority should plan positively for such needs having regard to the sequential and impact tests. Policy Bicester 5 of the adopted Cherwell Local Plan 2001-2031 seeks to do this by proposing an 'Area of Search' to ensure that any proposed main town centre uses which are not in the existing town centre are in the best locations to support the vitality and vibrancy of the town centre, and that no likely significant adverse impacts on existing town centres arise as set out in the NPPF.

### **Adopted Cherwell Local Plan 2011-2031**

5.11

The Cherwell Local Plan has been through Examination and has been considered by Full Council. This plan has now been adopted by the Council. The Local Plan is consistent with the NPPF in that it requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of such centres and aims to support Bicester town centre's viability and vitality.

5.12

Policy SLE2 of the adopted Local Plan 2011-2031 'Securing Dynamic Town Centres' seeks to ensure that Bicester's role is strengthened in terms of achieving economic growth, as a destination for visitors and in serving their rural hinterlands. The policy further advises that proposals for retail and other Main Town Centre Uses not in a town centre should be in 'edge of centre' locations, and only if suitable sites are not available in edge of centre locations should out of centre sites be considered; and, when considering edge of centre or out of centre proposals, preference will be given to sites that are well connected to the town centre. An impact assessment will also be required in accordance with requirements in the NPPF. It states that the council will consider if the proposals satisfy the sequential test and if they are likely to have significant adverse impact on one or more factors in the NPPF. This policy also requires that all proposals should comply with Policy SLE 4 which relates to improved transport and connections.

5.13

Policy Bicester 5 'Strengthening Bicester Town Centre' aims to support the viability and vitality of the existing town centre, encourage economic activity, assist with the connectivity between the existing town centre, a new Bicester Town Railway Station; Bicester Village; and adjoining and proposed residential areas; and, improve the character and appearance of the centre of Bicester and the public realm. Partial redevelopment of the town centre has been achieved with the recent Bure Place scheme and a second phase of development is planned through Bicester Policy 6. Work for the emerging Bicester Masterplan has identified how the area to the south of the town centre could be improved to consolidate and expand the town centre to provide space to help accommodate Bicester's growth need, this area is annotated on the plan as 'An Area of Search'. Remaining relevant policies in the plan largely concentrate on seeking a sustainable form of development through other disciplines such as SUDS, flood management and design.

5.14

The application site is not within Bicester Town Centre as defined in Policy Bicester 5 or within the 'Area of Search' identified in that policy, and is not allocated for retail development as part of the Development Plan.

5.15

### **Sequential Test and Retail impact Assessment**

The NPPF advises states that Local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition within and between town centres, and, create attractive, diverse places where people want to live, work and visit. It also states that Local Planning Authorities should

assess and plan to meet the needs of main town centre uses in full, in broadly the same way as for their housing and economic needs, adopting a 'town centre first' approach and taking account of specific town centre policy.

- 5.16 The NPPF sets out two key tests that should be applied when planning for town centre uses which are not in an existing town centre and which are not in accord with an up to date Local Plan – the sequential test and impact test.
- 5.17 The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses. The sequential test will identify development that cannot be located in town centres, and which then would be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres.
- 5.18 The application submission has been supported by a Planning and Retail Statement prepared by Mango Planning and Development Ltd on behalf of the applicants which also includes an assessment of how the site has been sequentially tested, together with an Assessment of its Impact. This submitted planning and retail assessment produced by Mango Planning concludes that the proposed development satisfies the sequential test and will not have a significant adverse impact. This has been independently critiqued by CBRE on the council's behalf as part of the application process.
- 5.19 In considering the sequential test, the applicant must demonstrate that there are no sites within the town centre that are suitable and available and upon which the proposed development would be viable. The application proposes approximately 10,000sqm of floorspace with 266 car parking spaces on a site of 2.045 hectares. The sequential test has assessed the sites as follows:
- 5.20 Land at Crumps Butts, stating that this land is in multiple occupation and too small to accommodate the scale and format of the application proposal and that GVA Grimley in its consideration of the Aldi proposal on behalf of the Council stated in their critique 'that the site is better suited to smaller retailers, given its size, proximity to residential dwellings and the limited scope for comprehensive development to provide a larger format. The applicant's agent therefore concludes that this site is therefore unsuitable.
- 5.21 An assessment of Bicester Town Centre carried out by Mango Planning and Development Ltd in December 2013 identified 22 vacant units, with an update in January 2015 identifying 17 units, the vast majority of which are very small and therefore do not provide sufficient floorspace to accommodate the application proposal or a flexible interpretation of them. Whilst it was acknowledged that the Tesco Metro in Sheep Street was to close, it was also stated that this unit was too small to accommodate the proposal. It is understood that this unit has now been taken by another retailer.
- 5.22 Land at Victoria Road is located to the rear of Sheep Street and extends to approximately 0.8ha. The applicants agent concludes that the site is not only too small but a comprehensive retail proposal in this location would attract the same issues as the dismissed appeal for 36 live work units and the site is therefore unsuitable.
- 5.23 Claremont car park is stated by the applicant's agent to be unavailable and in physical terms too small to accommodate the application proposal and does not offer the frontage or prominence that the development would require and is therefore also considered to be unsuitable and unviable. The sequential test submitted as part of the application therefore concludes that there are no sequentially preferable sites

available within Bicester town centre.

- 5.24 Moving further out of the town centre, the only suitable edge of centre site identified by the sequential test is the Cattle Market car park which is owned and managed by the District Council, concluding that it would create a large and prominent structure incompatible with surrounding buildings and residential properties.
- 5.25 The only out of centre site highlighted is the former Lear Corporation site at Bessemer Close. The site extends to 1.2ha and currently comprises a vacant industrial unit and associated car parking. The applicants state that this site is no longer available and moreover, the application proposal is for a high quality design with modern sustainable credentials. The ability to provide such a modern development is facilitated by the development of a cleared site. The cost of site clearance and remediation of the Bessemer Close site would reduce the amount of finance available for a high quality sustainable development. As such the sequential test considers the site to be unsuitable and unviable for the development proposed. An application is currently with the Council for consideration relating to the redevelopment of this site for residential (15/01043/F refers).
- 5.26 The submitted sequential test concludes that given recent acceptance of compliance with the sequential test for similar out of centre retail proposals and adopting a common sense approach to the sequential test, the application site, located on an established commercial area and accessible by a range of modes of transport is compliant with the sequential test. The sequential test however fails to specifically address and assess the potential availability or appropriateness of sites within Policy Bicester 5 'Area of Search'.
- 5.27 Following an assessment of the above sequential test by the Council's retail consultant, the applicants were requested to clarify matters further in respect of the number of vacant units within the town centre, including the recently vacated Tesco unit and in respect of the site at Bessemer Close, as it was considered that the sequential test had not satisfactorily demonstrated that there were not sequentially preferable sites either within or closer to the town centre.
- 5.28 The subsequent response from the Mango Planning concludes that the available units within Bicester town centre are too small to accommodate the application proposal or even a flexible interpretation of it and that the Bessemer Close site is unsuitable as it is too small for the proposed development and that the site is unavailable and is now the subject of an application for 58 dwellings. Having regard to the above, it is considered that the sequential test has been satisfied. The application must therefore now be considered further in terms of its impact and this is considered in detail below.
- 5.29 The NPPF states at paragraph 24 that only if suitable sites in main town centres or edge of centre locations are not available, should out of centre sites such as the application proposal be considered. The purpose of the impact test is to ensure that the impact over time (up to five years or ten for major schemes) of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse. The impact test only applies to proposals exceeding 2,500 square metres gross of floor space, (such as the application proposal), unless a different locally appropriate threshold is set by the Local Planning Authority, with impact assessed on a like-for-like basis. Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application.
- 5.30 In terms of assessing the impact of the development, the NPPF states at paragraph 27 that an application should only be refused if it is likely to have 'significant adverse

impact' on the vitality and viability, of the town centre.

- 5.31 In 2010 the council commissioned an update to its 2006 PPS6 Retail Study. In 2012 a further study was commissioned which examined the capacity for comparison and convenience floorspace in the District. This study identified no additional capacity for convenience retail floorspace for Bicester on top of the floorspace as part of the Bicester town centre expansion. However, the study does identify more need for comparison retail within the town. The conclusions of that study found that overall, Bicester town centre is a healthy town centre which is well patronised with a good quality environment. Convenience retail floorspace relates to food, and comparison retail relates to non-food retail.
- 5.32 The Impact Assessment which has also been produced by Mango Planning as part of the Sequential Test, seeks to assess the potential impact of the development on Bicester town centre. In terms of the comparison goods assessment, whilst the like-for-like approach taken to the trade draw by the submitted impact assessment may be reasonable, the Council's independent assessor expressed a concern that the trade draw taken from Bicester town centre had been underestimated, as the submitted report anticipates that only 1% of the total turn-over of the new development would be drawn from Bicester town centre. The report also acknowledges that Bicester town centre offers a range of low to mid-range clothing retailers such as Dorothy Perkins, M&Co, New Look and Peacocks and it is unlikely that a TK Maxx store turning over at £4.7m would draw only 1% from the town centre. Further justification and clarification was sought from Mango on this matter. Mango have responded by noting that the number of clothes shops in the town centre is limited, hence trade diversion of £0.2m or 1%. However, Mango then point out that the existing stores trade at £1.81m (assuming they are trading at benchmark level), and that if the diversion was exclusively from these stores that would represent a 'sectoral impact' of 11%. They dismiss those as 'entirely reasonable' before going on to suggest that trade diversion would be 0.15% of total comparison turnover.
- 5.33 Level of trade diversion is not a test in itself, in fact, a quantitative trade diversion assessment simply informs, alongside other information, an assessment of (a) likely impact on investment, and (b) likely impact on town centre vitality and viability. A key consideration in the latter case is the likely impact on vacancies. An 11% impact on these stores could leave one or more of them in danger of closing, particularly if any of these stores are trading below company average. Closure is even more likely under Mango's sensitivity test which implies trade diversion of 22%.
- 5.34 In short, even if the trade draw from Bicester town centre is as low as Mango suggest, there is a potential significant impact on a small number of existing stores. If one of the larger stores, or two or three of the smaller stores were to close, which is a realistic scenario if they face trade diversion of 11 to 22%, that would have a significant impact on town centre viability, particularly in the light of the recent closure of the Tesco Metro store in the centre.
- 5.35 Mango Planning were asked to clarify whether, were the proposed development to be approved, the M&S Simply Food store would remain in the town centre. Mango have advised simply that the applicant has no control over M&S and any decision they may take. This only serves to give further cause for concern, as the loss of M&S from the town centre would have further adverse impact.
- 5.36 Mango Planning were also requested to address the impact of the development on the possible future delivery of the Local Centre on the Kingsmere Estate. Mango Planning have provided information from Countryside which satisfactorily demonstrates that the delivery of the Local Centre is being progressed and will be delivered in any case.

- 5.37 In respect of the various objections received in respect of the sequential test and impact test, it should be noted that whilst the BSA land is within the 'Area of Search' identified in Policy Bicester 5, no planning application relating to the redevelopment of that site for retail purposes is currently with the council for consideration, and furthermore if such a proposal in this location was to be considered acceptable in principle, the loss of these sports pitches within Bicester would need to be suitably replaced.
- 5.38 As a response to the objections received in respect of the sequential test and the impact assessment, the submission has been assessed by CBRE who agree that there are no sequentially preferable sites within the town centre or in edge of centre locations. Further evidence was requested in respect of the former Lear Corporation at Bessemer Close. Clarification from the applicants has confirmed that this site is no longer available and has been removed from the market. It is now considered that the sequential test is satisfied and that there are no suitable alternative sites capable of viable development and out of centre sites must therefore be considered.
- 5.39 In conclusion therefore, it is considered that the sequential test has been met and that there are no sequentially preferable sites within or adjacent to Bicester town centre. The proposal would however, have a significant adverse impact on the vitality and viability of Bicester town centre and as such is contrary to the Development Plan which seeks to direct town centre uses to the town centre and planning policy relating to the growth of the town centre and advice within the NPPF and therefore fails in this respect.

#### **Loss of Employment Land**

- 5.40 The application site is not specifically allocated for employment use within the development plan. It is however, identified for employment purposes as part of the overall mixed use development at South West Bicester allocated as a strategic urban extension under Policy H13 of the Non-Statutory Cherwell Local Plan. Bicester currently suffers from out-commuting and the provision of this land for employment purposes as part of the wider SW Bicester development sought to address this issue.
- 5.41 Bicester is identified as a key location for employment growth on the Oxfordshire Knowledge Spine through the City Deal and Strategic Economic Plan (SEP), which looks to support significant increases in employment at Bicester through infrastructure improvements and land availability. If retained for employment purposes OCC consider the site could make a valuable contribution to the generation of quality, high tech employment opportunities and provision of a comprehensive range of employment opportunities in the town.
- 5.42 The Council's Economic Development Officer raises concerns that this site has not been presented effectively to the market and that there is a shortage of modern and refurbished b-class premises, and that the site is therefore important to retain for b-class employment as an important balance to the residential and retail development that has been completed and continues nearby. He states that this should contribute to the availability of local employment opportunities to reverse out commuting to higher paid employment areas beyond Bicester and therefore serve the needs of Bicester residents and businesses whilst contributing to the sustainable goals of the One Shared Vision for Bicester.
- 5.43 Oxfordshire County Council have also expressed concerns with the proposal in terms of loss of skilled jobs that the current approved use could provide and the potential increase in out commuting from Bicester as a result of losing a key employment site.
- 5.44 Consideration must also be given to the current employment conditions and the strong message from Central government that we should be doing all we can to

promote jobs to the area and boost the local economy. The applicant's agent argues that the job numbers initially envisaged by Countryside on this site (929 jobs) is not actually achievable and that this proposal will generate across the development in excess of 300 positions. There is however no analysis of how many of these will be permanent full time positions and how many will be temporary or on a part-time basis, and how this actually compares with business employment use on the site. There are already a considerable number of retail jobs in Bicester, with more being provided as part of the expansion of Bicester Village.

- 5.45 As stated above, the application site is currently identified as employment land as part of the overall South West Bicester strategic urban extension. The Section 106 Agreement accompanying the outline planning permission (06/00967/OUT refers), requires that this land be set aside for employment purposes until the first occupation of 1,500 dwellings. During that period the site must be marketed to the 'best endeavours' in accordance with the marketing strategy, the details of which is specified in the agreement, and to use all 'reasonable endeavours' to agree the sale of the site for employment purposes. The proposal is contrary to the provisions of the Section 106 Agreement entered into by the developers Countryside Properties (Bicester) Ltd.
- 5.46 As a result of the above, marketing information and statement were submitted as part of the application, but it was considered that these were not sufficient evidence to show that the site was being actively marketed using 'best endeavours'. Indeed the Council's Economic development Officer in his consultation response stated that he had not been contacted by the land owner or the agent to indicate a lack of demand or to request help in marketing the site, and that he is being contacted by Bicester businesses that are struggling to expand locally.
- 5.47 The applicant's agent was therefore requested to justify the above further. A response has been received in the form of a Supplemental Marketing Statement which has been prepared by VSL and Savills on behalf of Countryside Properties (Bicester) Ltd. The report can be viewed in full on the application file and includes a response to the issues raised by the Council's Economic Development Officer and Ziran Land. The report concludes that the evidence set out demonstrates that the Kingsmere Commercial Centre site has been marketed in accordance with the Marketing Strategy as required by the Section 106 Agreement. It should be noted in this respect that If the application is approved, the Section 106 Agreement attached to the outline consent will need to be varied accordingly.
- 5.48 However, notwithstanding the above, the critical shortage of employment land in Bicester is not currently or wholly borne out by the evidence of the Employment land Study and the adopted Cherwell Local Plan 2011-2031 seeks to allocate strategic sites for employment use in Bicester, these being Bicester Business Park, Bicester Gateway, North East Bicester Business Park and South East Bicester. Having regard to the amount of land allocated for employment uses, along with land which already has consent, the level of harm in respect of the loss of this site for employment purposes requires careful assessment. It is considered that having regard to the above and the information submitted as part of the application that a refusal based on the loss of employment land cannot be justified in respect of this site on loss of employment land.
- 5.49 **Transport Impact**  
The application has been submitted with a Transport Assessment produced by Turner Lowe Associates on behalf of the applicant which assesses the traffic and highway issues associated with the proposed development. The report states that it utilises parameters that have been agreed with the Highway Authority for other proposed developments in the recent past to avoid the introduction of new



information wherever possible. Vehicular access to the development will be taken via the new signalised junction on the A41 serving the Kingsmere development and via the new access road which currently serves the Premier Inn and Brewers Fayre Public House. Servicing of the retail units is proposed from a dedicated service area via the Esso Service Station access from the A41 roundabout and the servicing for the A3 uses is proposed from the proposed car park within the development. A total of 266 car parking spaces are indicated within the original submission to be provided as part of the development. It is suggested that there will need to be some control over the use of the car park to avoid abuse of its use by those visiting Bicester Village.

- 5.50 The Transport Assessment concludes that the site is accessible on foot (especially considering the new footway to be provided) and its location in relation to the surrounding areas is likely to encourage trips to be made on foot and therefore a potential reduction in car use. The Assessment also states that the site is well served by public transport.
- 5.51 The proposed submission and the submitted Transport Assessment have been assessed by the highway Authority who advises that whilst the traffic generation patterns for retail are different to employment land uses, the impact upon junctions adjacent to the site would not be significant when considered against the permitted use.
- 5.52 The highway Authority also advise that a Framework Travel Plan would be required for the development setting out the overall objectives for the promotion of sustainable travel and to encourage walking and cycling to the site from the wider area, good quality access points need to be provided on direct routes linking in to the walking and cycling networks. Conditions are recommended in these respects.
- 5.53 In terms of public transport, a good quality bus service between Oxford and Bicester town centre operates along the A41, but there are no stops within convenient walking distance of this development. The highway authority would therefore require through a Section 106 Agreement, the provision of a new pair of bus stops, including lay-bys, hard-standing areas, shelters, premium Route flag/pole/information case units and electronic real-time information units by the developer.
- 5.54 In terms of the proposed layout, the primary vehicular route into the site will be via the A41 signalised junction and the already constructed access road which currently serves the Premier Inn and Brewers Fayre Public House. A second vehicular access however was indicated to the western side of the car park onto the adjacent residential side street. This was not considered appropriate and has since been omitted although a pedestrian/cycle access still remains. It is considered that this is essential in terms of promoting convenient walking and cycling access to the development from adjacent residential areas. The highway authority have not commented on the internal car park layout, however, the car parking spaces appear to be smaller than the councils standard of 2.5m x 5m with 6m manoeuvring between. Whilst a tracking plan for servicing has been submitted, if the parking spaces are short, the tracking will not work. In terms of the council's adopted car parking standards for such a proposal, the number of spaces generated by the retail units is approximately 396, significantly greater than the 266 indicated (a revised landscape plan indicates that this number has now been reduced to below 250).
- 5.55 A number of objections have raised concerns regarding the likely traffic to be generated by the proposal and therefore its impact on the local highway network and the adequacy of the Transport Assessment. A number of concerns have been raised by third parties regarding the adequacy of the submitted TA and the likely traffic that will be generated by the proposal and therefore its impact upon the surrounding road network. The various objections were passed to OCC as highway authority and your

officers therefore requested that the submitted TA was re-assessed in the light of those objections. These objections together with the TA have been re-assessed by OCC as Highway Authority who confirms that the original highway response which did not raise objections to the Transport Assessment remains appropriate. In terms of servicing access to the retail units, they also confirm that tracking has been supplied for the HGV's and is acceptable to the highway authority.

5.56 In response to the specific points raised by Bicester TAG, the highway authority provide the following additional comments:

- They state that no amended transport assessment has been supplied. A TA was provided with this application, specifically assessing the uses proposed. It was carried out by Turner Lowe Associates, Traffic Engineering Consultants dated February 2015.
- They state that the development could generate 9000 movements in the peak. This is way in excess of the stated generation, which is based on accepted TRICS data and assumptions about shared, pass-by and transferred trips which are related to rates accepted at Banbury Gateway. The total weekday pm peak generation is set out in table 6.1 of the TA, page 16
- They state that the development will have entirely different traffic generation and peak hour movements. The TA finds that the impact of the development will not be significant enough to alter the peaks on the adjacent network, which are the usual pm Mon-Fri peak, and a Saturday lunchtime peak. Both peaks have been assessed.
- They express doubt that the highway works designed to address the needs of the Bicester Village extension and the new Tesco development will cope with the traffic generated from this development. The assessment against which the highway works were modelled and predicted to operate with spare capacity, allowed for the traffic from the previously consented employment site. When these flows are subtracted and the flows predicted from the current proposal are added, the highway scheme is still predicted to operate with spare capacity
- They express concern about the car park access being through residential streets and close to a secondary school. Details of the vehicular accesses should be conditioned and the safety of the design of the accesses will be assessed. However, the additional traffic in itself is not necessarily a safety hazard – it is down to the design.
- They express concern about overspill parking. The parking is well below the parking standards for the uses proposed and I would question whether the standards for these uses should be considered maximum standards – perhaps you could check what it says in CDC policy. Although of course, the more parking there is, the more vehicle trips are encouraged. The parking management plan proposes a 2 hour maximum stay to deter Bicester Village customers but does say that this might have to be revised if insufficient for the proposed development. I would suggest that the parking management needs to be strengthened with an alternative proposal – perhaps a ticket system requiring validation from one of the outlets? The developer could be required to provide a sum for the introduction of residents' parking controls in adjacent streets if overspill parking becomes an issue, but this would need further discussion.
- The modal share data is based on Bicester shopping habits as a whole and it will be challenging to achieve this from an edge of town shopping development. Stringent targets should be set as part of the travel plan, based on predicted mode share.

5.57 Having regard to the advice from the County Council as highway authority, it is concluded that the proposal is not detrimental in highway terms and therefore a refusal on highway grounds is not justified.

## **Sustainability**

- 5.58 Sustainability is one of the key issues at the heart of the NPPF and the proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable transport bearing in mind that this is an out of centre location. The sequential test however, does demonstrate that there are no sequentially preferable sites for a development of this nature and so access by other means than the private car must be explored. The submitted transport assessment states that 36% weekday and 29% Saturday of customers will arrive on foot. A Framework Travel Plan is required setting out the overall objectives to the promotion of sustainable travel, and each of the units will need to produce a supplementary plan that is linked to the objectives in the framework travel plan. This requirement can be dealt with by condition. In terms of cycle and footpath links, the Design and Access Statement advises that proposed footpaths to the north of the site will provide accessible pedestrian links to the Kingsmere development which provide connections into Bicester centre. Along the Oxford Road it is proposed that the development will tie into the proposed pedestrian and cycle works as part of the new Tesco Superstore which in turn will provide links to Bicester Village and Bicester town centre. It also states that through the site there are generous footways and areas of public realm.
- 5.59 Guided by the NPPF, the principles of sustainable development are in three dimensions. The economic role can be demonstrated by ensuring that the development is of the right type and in the right place, that is, is it a sequentially acceptable site. Socially, the development should be of a high quality built design and be accessible, reflecting the community's needs. In terms of the environment the development should contribute to protecting and enhancing the environment. These aspects are all considered elsewhere within the report.
- 5.60 Measures have also been taken in terms of the design and method of construction of the buildings and the submitted Design and Access Statement advises that the development is intended to meet the sustainability standards set out in the Kingsmere Design Code. Policy ESD 3 of the Cherwell Local Plan requires that all new non-residential development will be expected to meet at least BREEAM 'very good' and therefore, should the application be approved, it is considered that this condition should be imposed.

## **Design and Layout**

- 5.61 Section 7 of the NPPF – Requiring good design, attaches great importance to the design of the built environment and advises at paragraph 56 that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'
- 5.62 Paragraph 61 states 'although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment'
- 5.63 Paragraph 63 states 'In determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area'
- 5.64 Paragraph 65 states 'Local Planning Authorities should not refuse planning permission for buildings or infrastructures which promote high level of sustainability because of concerns about compatibility with the existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or

its setting which is not outweighed by the proposal's economic, social and environmental benefits)

- 5.65 Policy ESD 15 of the newly adopted Cherwell Local Plan 2011-2031 advises that design standards for new development whether housing or commercial development are equally important, and seeks to provide a framework for considering the quality of built development and to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved Policy C28 which states that 'control will be exercised over all new development, including conversions and extensions to ensure that the standards of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of that development'.
- 5.66 The Design Code which was approved in July 2008 and relates to the development at South West Bicester, sets out the key issues to be addressed by developers and their agents. The Design Code seeks to ensure consistency throughout the development and to ensure that specific requirements are adhered to. Whilst this is a new outline application, it is considered that the principles of the Design Code remain a material consideration in shaping the proposed development on the site, and should be an initial starting point for designing and formulating the proposal and are important in ensuring an appropriate scheme which pays due regard to its location and the adjacent uses within the Kingsmere development. It was understood from Countryside, that previous interest in the land for employment purposes had been rejected on the grounds that a large building was sought rather than a series of smaller units and that this was not what was considered appropriate for the site. The scheme submitted for consideration essentially proposes a single large building, contrary to the aspirations of the Design Code.
- 5.67 The Design Code identifies what from the development on the employment site should take, requiring buildings to front the boundaries of the site and to pay proper regard to the residential properties opposite. A maximum height of 14.5m is also specified, and surveillance of the adjacent streets from the development is also required.
- 5.68 Whilst it is noted that the application is in outline, the only matter being reserved for future consideration is landscaping, and therefore the scale, form and design of the proposal must be considered as part of this submission. As stated above, it is considered that the existing Design Code for this Kingsmere development remains an important consideration, and ought to be the starting point for the design and layout of the development.
- 5.69 The application is accompanied by a Design and Access Statement. Policy ESD 15 of the adopted Cherwell local Plan 2011-2031 advises that the design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale. This should be demonstrated in the Design and Access Statement that accompanies the planning application. The council expects all the issues within this policy to be positively addressed through the explanation and justification in the Design and Access Statement.
- 5.70 The appearance of new development and its relationship with its surroundings and built and natural environment has a significant effect on the character and appearance of an area. Securing new development that can positively contribute to the character of its local environment is therefore of key importance. The Design Code states that the inspiration behind the design approach was a collection of juxtaposed furniture pieces. Each item has a unique identity which relates to the integrity of the whole composition. The forms comprise of a variety of angles and

alternating heights and widths which allow for a rhythm that can be sculpturally translated into a building façade. The Design and Access Statement goes no further however in explaining how this translates into the wider area and why this is an appropriate form of building and development for this site and the town of Bicester generally. The Design and Access Statement also lacks detail and fails to justify why the site has been identified, why it is suitable for the development proposed and how the concept of the proposal has evolved to seek to justify the scale of the buildings, the choice of materials and how the final designs taking into consideration the immediate development together with the site's opportunities and constraints. No specific design principles have been set to guide the design approach and there is very little graphic support to show the development or test the design principles.

- 5.71 The three larger retail units which are located at the north eastern end of the site and serviced via the adjacent Esso Garage and restaurant access are proposed to be constructed of a mix of modern cladding systems, composite metal cladding systems and large areas of glazing to the front elevations which face out into the internal car park. The roofs vary in height to help try to break up the size and scale of the building, indicating a variety of flat roofs and mono-pitch butterfly roofs. Some glazing is also proposed to the A41 Oxford Road to provide some visual relief to the building from this significant frontage. In terms of scale, the buildings are significantly larger than envisaged by the Design Code, being 12.0m high to their flat roof elements and 17.0m at the highest point of the butterfly roofs. The A3 and Gym building which is located adjacent to the Primary Street which serves the Kingsmere development are slightly smaller in scale, having a general flat roof height of 12m and a maximum height of 15m. The proposed materials for this building, are again a mix of modern cladding systems, although the latest set of revised plans now include brick as a material.
- 5.72 The approved Design Code for the Kingsmere development envisages a modern development constructed of modern cladding systems with some brick, render and timber. It is considered that the principles behind the design proposals, seeking to create a clean, modern development are generally what would be expected for such modern retail units, but, there is concern that the scheme is inappropriate for this location having regard to its prominent location and the form and nature of the immediately adjacent development. The Design Code specifically requires the development on this site to create enclosure along the streets and for buildings to provide surveillance to those residential streets adjacent. The initial scheme failed in this respect, providing blank elevations to the main streets and a poor outlook for the occupiers of the proposed residential units. Similarly the A3 units turned their back on the primary street, one of the main access routes into the Kingsmere development, with a delivery layby indicated and servicing of these units from this street. This was not considered acceptable in terms of providing an active frontage to the street, natural surveillance over the street and an appropriate relationship with the adjacent residential development and primary school site. This was also contrary to the aspirations and requirements of the Design Code which states that no external storage, servicing or working areas will be acceptable to these street frontages. The applicants were advised that any development must define the frontages and contribute to the attractiveness, life and security of the adjoining street by incorporating windows and doors into facades where possible to ensure natural surveillance.
- 5.73 Following a meeting and discussions with the agents, revised plans have been received. The main amendments relate to the A3 and gym block to the Primary Street frontage which has been revised to include larger areas of glazing and relocation of the service/bin store areas to ensure a more active frontage to this street with access into the restaurant areas and a narrow seating area along this frontage. Whilst the revised scheme is an improvement and has addressed some of the issues raised in respect of creating a more active frontage, the outdoor seating area is very narrow

and will effectively result in very little interaction with the adjacent primary street frontage. Furthermore, no soft landscaping is provided along this frontage resulting in a very hard and urban form. Any landscaping shown is to such small areas it will likely be impractical to provide and maintain effectively. In terms of the larger retail building to be occupied by M&S, Next and TK Maxx, it is considered that this remains unfortunate in terms of its scale, form, relationship and visual appearance to the adjacent residential street. The building is set back from the back only 7.5m from the back edge of the pavement and whilst it is proposed to landscape this area to provide some soft relief, the space is not sufficient to provide any substantial and meaningful planting.

- 5.74 As previously stated, whilst this application is in outline only, the only matter for future consideration is landscaping, and therefore, access, scale and layout must be considered in respect of this application. Having regard to this, whilst the finer details of the landscaping scheme are reserved for later consideration, the development and the layout must ensure that there will be sufficient space for meaningful landscaping. Due to the form and scale of the buildings proposed and the car parking provision, there is very little scope for any meaningful planting, and Unit 3 is positioned so close to the boundary with the A41 that it is likely that much of the existing hedge would be lost during construction. Furthermore, the servicing area to the rear of these units will be visible from the A41 roundabout, and the proposed scheme proposes to reduce the height of the existing hedge to the A41 boundary to allow clear views to the development from passing traffic. As stated above, the indicative landscaping to the residential street would be wholly inadequate in terms of providing an effective screen to the buildings and the proposed servicing area. Having regard to the shortfall of car parking provision as identified in paragraph 5.54 above, and the lack of space for any meaningful landscaping, together with the scale and form of the development proposed, including the proximity of the buildings to all boundaries of the site, the proposal is considered to be an unacceptable overdevelopment of the site.
- 5.75 Having regard to the above therefore, it is considered that the scheme proposed fails to adequately address the key principles of the Kingsmere Design Code and the NPPF in seeking to ensure that the new development contributes positively to making places better for people, would be contrary to Policy C28 of the adopted Cherwell Local Plan 1996 and Policy ESD15 of the Adopted Cherwell Local Plan 2001-2031 and would result in an overdevelopment of the site and an inappropriate form of development on this prominent A41 frontage which is out of scale and character with the locality and proposed residential properties.

### **Ecology**

- 5.76 The NPPF – Conserving and enhancing the natural environment requires at paragraph 109, that, ‘the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the government’s commitment to halt the overall decline in biodiversity, including establishing coherent ecological works that are more resilient to current and future pressures.
- 5.77 Section 40 of the Natural Environment and Communities Act 2006 (NERC 2006) states that ‘every public authority must in exercising its functions, have regard to the purpose of conserving (including restoring/enhancing) biodiversity’ and;
- 5.78 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining an application where European protected Species are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010, which states that ‘a competent authority, in exercising their functions, must have regard to the requirements of the Habitats Directive as far as they may be affected by the exercise of those functions’

- 5.79 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of the Member States to prohibit the deterioration or destruction of their breeding sites or resting places.
- 5.80 Under Regulation 41 of the Conservation Regulations 2010, it is a criminal offence to damage or destroy a breeding site or resting place, but under Regulation 53 of the Conservation Regulations 2010, licenses from Natural England for certain purposes can be granted to allow otherwise unlawful activities to proceed when offences are likely to be committed, but only if three strict derogation tests are met:-
1. Is the development needed for public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature (development)
  2. Is there a satisfactory alternative
  3. Is there adequate mitigation being provided to maintain the favourable conservation status of the population of the species
- 5.81 Therefore where planning permission is required and protected species are likely to be found present at the site or surrounding area, Regulation 53 of the Conservation Habitats and Species Regulations 2010 provides that a local planning Authority must have regard to the requirements of the Habitats Directive as far as they may be affected by the exercise of those functions and also the derogation requirements might be met.
- 5.82 In respect of this application site, the constraints have highlighted that there are Northern Lapwing and Eurasian Badger within proximity of the site, and whilst these are not specifically protected species as identified by the Regulations, they are Notable, UK BAP Priority and Section 41 Species.
- 5.83 The Council's Ecologist has assessed the ecological information submitted with the application which is a monitoring report for the wider site, which reveals that it is not being managed as per the agreed ecological management plan, which as a result, many habitats are degrading. No survey has been specifically submitted in respect of the application site, and the design and access statement submitted with the application refers to biodiversity being a key element but does not elaborate on any of their plans in this regard. The applicants have been requested to address this issue and an ecological appraisal has since been carried out.
- 5.84 A Phase 1 Habitat Survey was carried out on 17 July 2015 in order to ascertain the general ecological value of the site and to identify the main habitats and features present. The vast majority of the site itself (including all internal areas) was recorded to comprise recolonizing ground/ruderal vegetation with other features limited to the recently constructed access road leading to the site, along with associated pavements, lighting and sub-station. The only habitats present are restricted to the vegetation to the northern and eastern boundaries.
- 5.85 On the basis of the survey work, the report considers that the habitats present within the site offer no more than low ecological value and any opportunities for faunal species (including protected, rare or notable species) are extremely limited and there would appear to be no over-riding ecological constraints on the proposed redevelopment of the site. Accordingly it states that suitable mitigation and compensation measures are largely limited to:
- Minimising any loss of eastern boundary vegetation and installation of protective fencing to safeguard retained boundary vegetation
  - Mitigation measures in regard to nesting birds (suitable timing of vegetation clearance)
  - General construction safeguards

- Although areas are limited, where possible new planting should use native species of wildlife value
- Where possible a variety of bat and bird boxes be incorporated into the development.

5.86 All wild birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended). The appraisal and recommendations above are considered appropriate in this respect. In terms of net gains in biodiversity, it is regrettable that the submission does not provide sufficient space for any significant areas of new planting, however, it is suggested that bird and bat boxes can be incorporated into the building construction. It is suggested that this can be dealt with by condition.

5.87 The Council's ecologist has assessed the report and further comments are awaited.

5.87 Consequently it is considered that article 12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected or other species found to be present on the site will continue, and will be safeguarded notwithstanding the proposed development. The proposal therefore accords with the NPPF and Policies within the adopted Cherwell Local Plan.

#### **Flood Risk Assessment**

5.88 The Environment Agency has not objected to the proposal as the application site is not within a high risk area, being located within Flood Zone 1. However, as the site exceeds 1 hectare in size, the NPPF sets out a Flood Risk Assessment should be submitted for all developments. The application was accompanied by a Flood Statement and Drainage Strategy Statement which are not considered sufficient. A Flood Risk Assessment has been requested and is awaited.

#### **Planning Obligation**

5.89 The proposal generates a need for infrastructure contributions to be secured through a planning obligation, to enable the development to proceed. These contributions relate to the provision of bus stops along the A41 which will be secured through an agreement with OCC.

5.90 In respect of planning obligations, the NPPF advises at paragraph 204 that they should be sought where they meet all of the following tests:

- Necessary to make development acceptable in planning terms
- Directly related to the development, and
- Fairly and reasonably related in kind and scale to the development

5.91 It is considered that without the bus stop provision above there would be a detrimental effect on local amenity and the quality of the environment and the need to ensure that all new development is sustainable.

#### **Engagement**

5.92 With regard to the duty set out in paragraphs 186 and 187 of the Framework, it is considered that the duty to be positive and proactive has been discharged through the efficient and timely determination of the application and through seeking to work with the applicants to enable them to provide sufficient information and revised plans and seek to address issues raised.

#### **Conclusion**

5.93 Having regard to the assessment above, it is considered that the development proposed would have a significantly adverse impact on the vitality and viability of Bicester Town Centre, and furthermore represents an inappropriate form of development and an over-development of the site which would be out of keeping with the character of the locality and detrimental to the residential amenities of the



adjacent residential development. The application is therefore recommended for refusal on the following grounds.

**6. Recommendation**

**Refuse:**

1. The development proposed will have a significant adverse impact upon the vitality and viability of Bicester Town Centre, contrary to Policies SLE2 and Bicester 5 of the adopted Cherwell Local Plan 2011-2013 and Paragraphs 26 and 27 of the National Planning Policy Framework.
2. The development proposed, by virtue of its form, scale and height, and inadequate car parking and landscaping provision, represents an over-development of the site, which would be detrimental to the visual amenities of the street scene, and of the locality and result in a poor relationship with the adjacent residential development, contrary to saved Policy C28 of the adopted Cherwell Local Plan 1996 and Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government advice within the National Planning Policy Framework.
3. In the absence of a satisfactory planning obligation, the Local Planning authority is not convinced that the necessary infrastructure directly required as a result of this scheme will be delivered. This would be contrary to Policy INF1 of the adopted Cherwell Local Plan 2011-2031 and Government guidance within the National Planning Policy Framework.

**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.