

**Site Address: Land North Of Bicester
Avenue Garden Centre Adj To
Oxford Road
Bicester**

15/01736/OUT

Ward: Ambrosden And Chesterton

District Councillor: Councillor Lynn Pratt

Case Officer: James Kirkham

Recommendation: Refusal

Applicant: Blooms Properties Limited Partnership

Application Description: Erection of a building for retail use within Class A1, along with related access, parking, servicing, landscaping and other works

Committee Referral: Major

Committee Date: 17.12.2015

1. Site Description and Proposed Development

- 1.1 The application site is an area of undeveloped land which exists to the east of the A41 at the entrance to Bicester Avenue Garden Centre. This includes a large garden centre and also a number of other concession retail units selling a range of goods including pet items, clothes, shoes, kitchenware and health foods.
- 1.2 The site is approximately 0.6 hectares in size and is relatively flat. It is contained on the northern boundary by a hedgerow and a hedgerow and trees also exists on the western boundary. A cycle path and footpath also are situated on the western boundary. An overflow car park exists to the east of the site and the main car park and retail units exist to the south east of the site. The site is accessed from the A41 dual carriageway and would be shared with the existing retail uses.
- 1.3 To the west of the site on the opposite side of the dual carriageway is the Kingsmere development which will provide new homes, schools, a hotel and other facilities.
- 1.4 The current application seeks outline planning permission for a new A1 retail unit. The matters for consideration in this case are access and layout. Matters of appearance, landscaping and scale would be reserved for future applications.
- 1.5 The new retail unit would have a floor area of 1,394sqm (929sqm at ground floor with 465spm on a mezzanine). It would have a car park with 59 parking spaces to the south and west of the building and a servicing yard to the north. Access would be taken from an existing mini-roundabout at the entrance to the wider garden centre site.
- 1.6 Whilst there is no established occupier for the proposed retail unit the applicant has stated that they would expect the occupier to be a 'bulky goods retailer' and have suggested a planning condition to limit the types of goods that can be sold from the unit.
- 1.7 Indicative plans of the appearance and design of the building have been submitted with the application however these matters would be further considered in future applications.

2. Application Publicity

- 2.1 The application has been advertised by way of neighbour letter, site notice and press notice. The final date for comment was 30 November 2015. No correspondence has been received as a result of this consultation process.

3. Consultations

3.1 Chesterton Parish: No objections

3.2 Bicester Town Council: Object to the application on the grounds of increased traffic on an already busy road and the possible impact upon the vitality and viability of the town centre of having more out of town retail units.

Cherwell District Council Consultees

3.3 Planning Policy Officer: The Planning Policy Team's main observations are:

- The application site is on land allocated for employment use (B1a use class) in the Local Plan 2011-2031 (see policy SLE1, policy Bicester 4 and Inset Map Bicester 4). The proposals are contrary to the Local Plan in this regard. Implementation would lead to a loss of employment land within this allocation to new retail development. Paragraph B.48 of the Local Plan explains that where allocated sites remain undeveloped in the long term and there is no reasonable prospect of them being used for that purpose other uses will be considered. The prospects of the site being used for employment use should be considered but the application site cannot be considered to be undeveloped in the long term in the context of the allocation of this site in a recently adopted Local Plan.
- Local Plan 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. The loss of this land to retail use may prevent the provision of some B use class jobs; however paragraph B.48 of the Local Plan states that the provision of jobs in general terms will be a material consideration for determining planning applications. The proposals would provide jobs in retailing contributing to general Local Plan and NPPF aims for economic growth.
- Paragraph B.55 of the Local Plan explains that new retail development will continue to be focused in our town centres and all new development will be required to be built to high design and building standards.
- The uses proposed in the application are 'main town centre uses' as defined in Annex 2 of the NPPF and paragraph B.56 of the Local Plan. The NPPF requires a town centre first approach that directs retail and town centre uses towards town centres and encourages the growth of centres. The Local Plan is consistent with this approach and aims to support Bicester town centre's vitality and viability. Policy SLE2 directs retail and other main town centre uses 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. Policy Bicester 5 states that shopping, leisure and other main 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. In the 'area of search' town centre uses will be supported if they help deliver the aims for central Bicester and the growth of

the town centre. The proposals are in an out of town location and therefore inconsistent with local planning policy in terms of the strategy for accommodating town centre uses and supporting the growth, vitality and viability of 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 Local Plan 2011 to 2031.

- Given the location of the site it will be essential that a detailed and comprehensive sequential test is produced. The 'area of search' at policy Bicester 5 of the Local Plan provides an indication of locations that should be explored for the sequential test. However the sequential test should include consideration of all potential sites within the urban area of Bicester and accessibility and connections to the town centre should be considered.
- An impact assessment would not appear to be required as the proposals fall below the threshold in policy SLE2 of the Local Plan.
- 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 to the north of the site. Land is also allocated to the south of the site for employment uses (see policy Bicester 10 in the Local Plan). A large part of the site allocated in the Local Plan 2011-2031 at policy Bicester 4 has planning permission (07/01106/OUT) for a business park and construction has started. The application site is outside the area covered by this planning permission.
- Bicester Village has planning permission to expand on the existing Tesco foodstore site. Bicester Village is close to Bicester town centre and the Local Plan identifies the potential for more connections to the town centre. Planning permissions granted at Bicester Village have associated conditions which restrict the type of retail development. Similar conditions are also in place at Bicester Avenue Garden Centre.
- Currently the application site comprises an area of countryside and the planning application should be considered against Local Plan policy ESD13 and the NPPF in relation to the protection of the natural environment. However it is noted that the site is not isolated countryside and that future planned development at Bicester when implemented would effectively bring the site within Bicester's urban area. Part of the site is hard-surfaced (and therefore previously developed) and is used for car-parking. The same main access is used for the existing retail units and the land in the planning application.
- Policy ESD1 sets out an aim to reduce the impact 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 has similar objectives. The traffic impacts of any proposal should be considered and sustainable modes of transport encouraged. Sustainable travel patterns including effective potential links to the town centre may be difficult to achieve.

3.4 Policy recommendation: The application proposals would increase the retail offer and create jobs in retailing to support the growth of Bicester generally. Also, the relatively small scale of the proposals, the small loss of employment land, the characteristics of the application site and its relationship with the existing wider Bicester Avenue site should be considered. However there is a planning policy objection to these proposals. They are in principle inconsistent with local planning policy which directs town centre uses to the town centre, policy SLE2 relating to the growth of the town

centre and contrary to policy SLE1 in terms of this site being an employment allocation. The results of the sequential test and the application of conditions relating to the type of goods sold will also be important.

- 3.5 Councils Ecologist – No objections subject to conditions. The submitted ecological appraisal is acceptable. There are few ecological constraints as the main habitats of value, the hedgerows, are being retained. However the recommendations within the report should be conditioned to minimise the chances of any offences against protected species. The suggestions within the report for biodiversity enhancements (5.9 and 5.14) are all appropriate and a scheme of enhancements with proposed locations and types should be submitted in order to try to achieve a net gain for biodiversity on site in line with NPPF and Local policy.
- 3.6 The landscape plan is ok however the buffers to the retained hedgerows look a little narrow. Buffers of at least 3m to any hedgerow are preferable in order to retain its wildlife value. In addition the plan shows that close boarded fencing is proposed around the service yard which in places seems to encroach into the hedgerow. Where possible the fence should be raised 10cm off the ground to allow wildlife to move freely around the retained vegetation and should not encroach onto the hedgerow itself. The existing trees and hedges should also be protected during construction.
- 3.7 Landscape Officer - No objection. Makes a number of detailed recommendations for a future landscape scheme including the use of root deflectors, alternative tree species, and full landscaping scheme. Also recommends a condition requiring hedgerow retention to a minimum height of 3 metres.

Oxfordshire County Council Consultees

- 3.8 OCC Strategic: This retail proposal is contrary to the Cherwell Local Plan as it falls within land allocated for class B1a (office) employment use (Policy Bicester 4: Bicester Business Park). The Inspector's report on the Local Plan (June 2015) states that "there is no justification for changing the policy to permit further retail and/or leisure uses on the [Bicester 4] site" (para 144). Economy and Skills Officers and Local Members have raised concerns about the loss of land allocated for B1a (office) employment use and the impact of the retail development on the town centre.
- 3.9 Transport: No objections. The A41 from which the site is accessed is heavily trafficked. This was recognised by Bicester Village in their application for Phase 4 of their development, where they have proposed major highway improvements at and between the Esso roundabout and Pingle Drive junctions, as well as the provision of a Bicester Park and Ride facility.
- 3.10 This proposal was the subject of pre-application advice offered by OCC in March 2015 under planning application No.15/00051/PREAPP. This planning application is accompanied by a supporting Transport Statement as suggested by the pre-application advice.
- 3.11 The Transport Statement (TS) determines trip generation estimates for the site using the TRICS database and separates them into linked, pass-by and new/diverted trips. This is an acceptable practice in line with previous Government guidelines. The TS then argues that the resultant trip generation "would not result in any noticeable changes in traffic conditions". The argument is accepted.
- 3.12 The TS presents details of a car park occupation survey together with proposed parking and cycle parking provisions. These provisions are considered acceptable. The TS presents details of the service provisions at the rear of the

building together with a swept path analysis for service vehicles. These service provisions are considered acceptable.

- 3.13 The Cherwell District Planning Obligations SPD suggests £824 per 42m² of A1 floor space towards transport infrastructure requirements. The proposed 1,394m² of floor space equates to £27,348 that could be used to contribute towards transport infrastructure requirements in Bicester. It is suggested that this figure be used to contribute towards cycle improvement schemes on the central corridor between Bicester Town and the site.
- 3.14 A travel plan statement has been submitted with this application. However, a small amount of information must be included or expanded upon before the statement meets the criteria and can be approved which can be secured through a condition.
- 3.15 A surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. However a number of detailed issues need to be addressed which can be secured through a condition.
- 3.15 Economy and Skills - The current retail proposal falls within land allocated for class B1a (office) employment use in the Cherwell Local Plan (Policy Bicester 4: Bicester Business Park). The Inspector's report on the Local Plan (June 2015) states that "there is no justification for changing the policy to permit further retail and/or leisure uses on the [Bicester 4] site" (para 144).
- 3.16 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.
- 3.17 The supporting statement for the current retail proposal estimates that around 16 jobs would be created; few of which are likely to be highly skilled. In contrast, a proposal in accordance with the allocated B1a office use class 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.
- 3.18 The Local Planning Authority must be satisfied that the impact of the development on the town centre has been fully considered and that the sequential test accompanying the application is robust.
- 3.19 Archaeology -The site is located in an area of archaeological interest 650m north of the site of the Roman Small Town of Alchester and the proposed site is located along the line of the Roman Road heading north from this town. Iron Age and Roman settlement evidence has been recorded along the route of this road, immediately south of the proposed site. A further Iron Age and Roman settlement has also been recorded 280m north of the site.
- 3.20 Prehistoric archaeological deposits have been recorded in the area and the proposed site is located immediately to the south west of an area of Bronze Age settlement identified through archaeological evaluation and excavation. This excavation recorded at least seven Bronze Age roundhouses as well as archaeological features dated to the Roman period. Two Bronze Age barrows are recorded 280m north east of the proposed site.
- 3.21 It is therefore likely that this development will encounter further archaeological deposits related to these periods and a programme of archaeological investigation

will be required ahead of any development.

3.22 We would, therefore, recommend that, should planning permission be granted, the applicant should be responsible for ensuring the implementation of a staged programme of archaeological investigation to be maintained during the period of construction. This can be ensured through the attachment of a suitable negative condition.

3.23 Minerals and Waste – No comments

3.24 Ecology – The District Councils ecologist should be consulted.

Other Consultees

3.25 Thames Water – No objection. The waste and water infrastructure have capacity to accommodate the proposed development.

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Cherwell Local Plan 2011 - 2031 Part 1

PSD1 – Presumption in Favour of sustainable development

SLE1 – Employment Development

SLE2 – Securing Dynamic Town Centres

SLE4 – Improved Transport and Connections

ESD1 – Mitigating and Adapting to Climate Change

ESD3 – Sustainable Construction

ESD7 - Sustainable Drainage Systems

ESD10 – Protection and Enhancement of Biodiversity

ESD15 - The Character of the Built and Historic Environment

Policy Bicester 4 – Bicester Business Park

Policy Bicester 5 – Strengthening Bicester Town Centre

Cherwell Local Plan 1996 (Saved Policies)

C28 – Layout, design and external appearance

4.2 Other Material Policy and Guidance

National Planning Policy Framework (The Framework) - National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied.

Planning Practice Guidance (NPPG) – This sets out regularly updated guidance from central Government to provide assistance in interpreting national planning policy and relevant legislation.

5. Appraisal

5.1 The key issues for consideration in this application are:

- Relevant Planning History
- Employment land matters

- Retail development matters
- Design and layout
- Highways matters
- Other matters

5.2 Relevant Planning History

On part of application site:

05/01561/F and 05/02166/F - Erection of temporary retail building – This granted permission for a temporary building for a temporary period whilst the existing site was being redeveloped to allow the aquatic business to remain on site until a new building was constructed. This was subsequently removed upon development of the site.

Wider garden centre site

01/01276/F - Demolition of existing garden centre, aquatics buildings and covered walkways and erection of new garden and aquatics centre, covered walkways, landscaping, ancillary parking and access, as modified by additional access plans rec'd 07.02.02 and amended plans received 03/07/06 with agents letter dated 30 June 2006) – This allowed for the redevelopment of the garden centre and associated retail and was permitted with a number of goods restrictions

05/00875/F - Variation of Condition 16 of permission 01/01276/F governing the range of goods to be sold – This was permitted and restricted the type of goods and amount of floor space for different uses/sale of goods.

12/01597/F and 13/00593/F- Infill extension and elevational changes to include enlargement to the external seating area, mesh fencing and covered walkway – This was permitted and allowed for a new extension to join the existing retail units with the garden centre and restricted the type of goods that could be sold.

Land to the north east of the application site (part of Policy Bicester 4 site):

07/01106/OUT Outline - Construction of a 60000 sqm business park incorporating offices (B1) and hotel (C1), parking for up to 1837 cars, associated highway, infrastructure and earthworks (as amplified by additional information received 15.08.07, addendum to the Flood Risk Assessment received 07.09.07, additional information received 18.10.07 and Archaeological Trench Evaluation received 04.12.07). – Permitted and allows for B1(a) and B1(b) buildings and hotels. This permission remains extant as it has a 10 year implementation condition.

Land on the north east part of Policy Bicester 4 site (site for new Tesco store)

12/01193/F - Proposed foodstore with associated car parking, petrol filling station with car wash/jet wash, recycling facilities, ancillary plant and equipment, landscaping, access and highway works – Permitted and under construction.

15/01651/F - Reduction in footprint of the foodstore component, consequential changes to roof profile and elevations; mezzanine for staff facilities and the customer cafe; alterations to the service yard and back of house; provision of a 'Click and Collect' facility (Proposed Minor Material amendment to 12/01193/F) – Pending consideration.

Part of Kingsmere site to the north west of the application site

15/00250/OUT - OUTLINE - 3 No Class A1 (retail); 3 No Class A3 (cafe and restaurants); 1 No Class D2 (gym); surface level car park, access, servicing and

associated works – This was refused due to the significant adverse impact on the vitality and viability of Bicester Town Centre, overdevelopment of the site, and no planning obligation to off-set the infrastructure impacts. This is now subject to an appeal.

Employment land

- 5.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case the development plan consists of the Cherwell Local Plan Part 1 (2015) and the Saved Policies of the Cherwell Local Plan (1996).
- 5.4 Policy SLE1 of the Cherwell Local Plan Part 1 (2015) outlines the council's approach to employment land in the district. The supporting text to Policy SLE1 states that this policy relates to B use class employment development. Policy SLE1 states that employment development on new allocated sites will be the type of employment development specified in each site specific case. In this case the application site is identified in the Local Plan Part 1 as part of 'Policy Bicester 4: Bicester Business Park'. This policy allocates the site for B1(a) purposes and seeks to deliver up to 6,000 jobs. It is one of the strategic employment sites within Bicester. Part of the site already benefits from planning permission for a 60,000m² business park and hotel use. However the northern part of the site has already been lost for retail purposes with a re-located Tesco supermarket being permitted on the site.
- 5.5 Local Plan Objective S01 sets out the objectives for developing a sustainable local economy with an emphasis on attracting and developing higher technology industries. The aim of the strategic employment sites, of which Policy Bicester 4 is one, is outlined in the introduction to Bicester in Section C of the Local Plan Part 1. This states there is currently significant out-commuting from Bicester. The allocation of significant levels of employment land in the Local Plan seeks to address this (para C.9 and C.25) by making the town significantly more self-sustaining both economically and socially. There is also a need for a greater range of employment space (para C.15) and a requirement for improving access to higher quality local employment opportunities (C.23). The strategy for delivering the vision for Bicester is outlined at paragraph C.32 of the Local Plan and includes ensuring the implementation of the employment land at Bicester 4 and delivering development that will increase the self-containment of Bicester and provide 'higher value' job opportunities and reduce out commuting.
- 5.6 In the Examiners Report to the Local Plan the employment use of the site was considered sound and the inspector concluded that there was no justification for changing the policy to permit further retail and/or leisure uses on the site. However the current application needs to be looked at on its own merits.
- 5.7 The current application seeks to deliver A1 retail on the site and would therefore be contrary to Policy SLE1 and Policy Bicester 4 of the Local Plan Part 1 as the site is allocated for B1(a) purposes.
- 5.8 Policy SLE1 provides a number of criteria for retaining existing employment sites however given that the application site is an allocation site and not an existing employment site these are not considered to be directly relevant in this case. However the supporting text to Policy SLE1 does state where any allocated employment sites remain undeveloped in the long term and there is no reasonable prospect of the site being used for that purpose other uses will be considered and this is therefore considered to be the most relevant consideration in this case. It also states that the provision or loss of jobs in general will be a material consideration in

determining proposals for any use class (para B.48).

- 5.9 In the current case the site is allocated as part of a very recently adopted local plan. There are no obvious reasons why the site would not be suitable for the allocated use as offices as it is well connected to the strategic road network and appears relatively unconstrained. The applicant has stated that it is unlikely that the site would be developed for office purposes in isolation however there is not considered to be strong justification for this statement. The applicant has not provided any evidence that the site has been marketed for its intended use for a sustained period and that there is not reasonable prospect of it coming forward for employment purposes.
- 5.10 The applicant considers that the site is very distinct from the rest of the employment site allocated under Policy Bicester 4 and is only a small area of land which has a strong relationship with the existing retail offer at the garden centre. They argue that the site is previously developed land (PDL) however this is questionable as the site has not been occupied by a permanent building (as noted in the definition of PDL in the NPPF) as the earlier consents for a building on the site have only been granted on a temporary basis.
- 5.11 However none of these constraints are considered to be a reason which would prevent the site being used for employment purposes and it is therefore not considered that it has been demonstrated there is no reasonable prospect of the site being used for employment purposes as allocated in the long plan.
- 5.12 The applicant has indicated that the proposed development would generate around 16 jobs which would be a material consideration and economic benefit stemming from the proposal. However the Economic Development Strategy Officer at OCC has noted that whilst the proposal may generate 16 jobs, few are likely to be highly skilled. In contrast, they suggest a proposal in accordance with the allocated B1a office use class could make a valuable contribution to the generation of quality, high technology opportunities and provision of a comprehensive range of employment opportunities in the town in line with the objectives of the local plan.
- 5.13 Overall it is concluded that the proposed development would be contrary to Local Plan Policy SLE1 and Policy Bicester 4 which seek to provide B1a uses on the site. Given the newly adopted status of the Local Plan these policies and objectives to reduce out commuting and deliver a greater range of high skilled jobs to Bicester to improve the sustainability of the settlement are given significant weight. The proposed development will lead to some economic benefits in terms of new jobs and enhanced retail provision for the residents of Bicester however these issues are not considered to outweigh the conflict with the Development Plan.

Retail

- 5.14 Policy SLE2 of the Cherwell Local Plan Part 1 states retail development will be directed towards Bicester and other town centres. It states the sequential approach will be applied to new retail development in accordance with the NPPF to protect the vitality and viability of town centres. The sequential assessment requires that applications for main town centre uses, such as retail, which are not in accordance with an up to date Development Plan, should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre locations be considered.
- 5.15 When considering edge of centre and out of centre locations, preference should be given to accessible sites that are well connected to the town centre. It advises applicants and local planning authorities should demonstrate flexibility on issues such as format and scale in considering the sequential assessment. The National Planning Policy Guidance (NPPG) advises that it is for the applicant to demonstrate

compliance with the sequential test.

- 5.16 Policy SLE2 also states that the Council will consider if developments are likely to have a significant adverse impact on centres or planned investment. Paragraph 26 of the NPPF states that in assessing main town centre uses in out of centre locations planning authorities should require an impact assessment if the development is over a proportionate locally set floorspace threshold. In this case this is outlined in Policy SLE2 of the Cherwell Local Plan Part 1 and for Bicester is set at 1500sqm. Therefore as the proposed development is below this threshold the applicant is not required to provide an impact assessment.
- 5.17 Paragraph 27 of the NPPF advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts it should be refused.
- 5.18 Considering first the sequential test, Policy Bicester 5 outlines the approach to Bicester Town Centre and states main town centre uses will be supported within Bicester Town Centre. It also identifies an Area of Search for the expansion of the Town Centre. It goes on to state that the Council will review the town centre boundary through the Local Plan Part 2 and prior to this retail will only be supported in the Area of Search if they form part of new schemes which help to deliver the aims for central Bicester. It concludes by stating retail should only be small units and form a small part of wider development.
- 5.19 In the current application the site is located in an 'out of centre' location. It is therefore necessary for the applicant to demonstrate that they have considered sequentially preferable sites for the development. The NPPG advises that the sequential test should recognise that certain town centre uses may have particular locational requirements which mean they may only be accommodated in specific locations and that local planning authorities need to be realistic and flexible in terms of their expectations of the sequential assessment. It also advises that sequentially preferable sites must be 'suitable' and that applicants and local planning authorities need to demonstrate flexibility on issues such as format and scale. The test should be applied in a manner proportionate and appropriate to the given proposal. The other issue to consider in the sequential assessment is the 'availability' of more central sites.
- 5.20 The applicant has submitted a sequential assessment with the application. This is based on the proposed unit being used for bulky goods which means adequate surface level parking and good servicing are essential to their requirements. However the scope of the condition the applicant proposes would allow for the sale of many other goods which could not be considered to be bulky so these constraints need to be treated with caution. To demonstrate flexibility the applicant has looked for units and sites which would be capable of accommodating a 20% reduction in floor space to that proposed. The applicant has only reviewed sites in Bicester which is consistent with other recent retail applications.
- 5.21 In relation to sequential assessment the applicant has reviewed the following:

5.22 'In centre' locations

-Vacant units in Bicester Town Centre – The town centre has a number of vacant units. The applicant has reviewed the vacant units however there are none which are large enough to accommodate the development proposed. The largest unit available in the town centre is approximately 680sqm (Unit A4 Pioneer Square, which includes a mezzanine). Whilst this unit is available the unit is significantly smaller than the size of the unit the applicant seeks consent for. Therefore taking into account the requirement to show flexibility and realism this is not considered to be suitable for the development proposed.

-Development site on Victoria Road – This site is located to the west of Victoria Road however it is no longer available and is being redeveloped for sheltered apartments. It is therefore not available for the proposed development.

-Site at Wesley Lane - This site is currently under development for retail, commercial and residential. The permitted layout would not be able to accommodate the proposed development due to the size of the site, layout of the retail units and other constraints. It is therefore not considered to be suitable for the proposed development.

-Deans Court and Claremont Car Park – This site currently consists of a number of small retail units and also a short stay car park. The site is not currently allocated for redevelopment in the Local Plan and it is unclear whether it would be available or suitable for the proposed development. In the recent Kingsmere retail application the site was concluded to be unavailable and the site is not being actively marketed. The loss of car parking would be a significant consideration in any redevelopment of the site and it may be considered premature to develop the site for a large retail unit at the current time without a wider understanding of the issues regarding the loss of car parking and other opportunities of the site. Furthermore the site may be considered under Part 2 of the Local Plan as it forms part of the Area of Search and may be better suited to a more comprehensive redevelopment. Therefore on balance the site is not considered to be sequentially preferable at the current time given the questionable availability and suitability of the site for the proposed development.

-Land at Crumps Butt – This is a small area of land which is located within the Conservation Area. It is also in multiple ownerships and has limited scope for a comprehensive re-development. There is no Local Plan Policy allocation of this site. It is also considered very unlikely that it could accommodate a development of the level proposed. This was also the conclusion when the sequential test was examined in the planning application for a new Aldi supermarket in 2010 and the recent larger retail development a Kingsmere. Overall it is concluded to be unavailable and unsuitable at the current time.

5.23 Edge of centre sites

-Site at Cattle Market site on Victoria Road – This site is a car park extending to approximately 0.7ha. Policy S19 of the 1996 allocated the site for redevelopment for residential, commercial or parking development however this policy was not saved so no longer forms part of the Development Plan. This site is not being marketed for sale and the site was granted planning permission in 2014 to be used for a car park for a further 5 years (expiring in 2019). This suggests the site is currently in active use and will be for some time and raises questions over its availability for development. Furthermore it has similar considerations to the Claremont Car Park in relation to the impacts over the loss of car parking on the town centre and whether the redevelopment of the site would be premature at the current time. The applicant was requested to explore this site further and has responded stating that the site is poorly connected to the town centre given the intervening residential development and would potentially operate as an out of town shopping area. However, the site is considered to have better links to the town centre than the application site and whilst its links to the town centre could be stronger the use of the site as a car park serving the town centre indicates that linked trips may be made. Furthermore they consider the site is unsuitable for a bulky goods retailer due to the neighbouring land uses and the requirements for servicing. Given that the condition the applicant proposes is not limited to solely bulky goods these reasons are not considered alone a reason for discounting the site. However taking all matters into consideration over the suitability of the site and availability of the site at the current

time the proposed site is not considered to be sequentially preferable.

5.24 Out of centre sites

- Bicester Sports Association playing field. Whilst the applicant has not explored the use of the Bicester Sports Association playing field this site was examined during the course of the recent Kingsmere retail development. In that case the Councils consultant advised that the site was not sequentially preferable given that it was well in excess of 300 metres from the Primary Shopping Areas and it was unlikely that it would offer better links to the town centre than the application site. Furthermore there were concerns regarding the loss of the open space which would have some conflict with BSC10 of the Local Plan Part 1 which seeks to resist the loss of such sites and there is no planning application for any replacement facilities. It was therefore concluded that this site is not a suitable site for the purposes of the sequential test at the current time.

-The Former Lear Corporation site at Bessemer Close (approximately 430m to the north east of the town centre). The applicant was requested to explore this site further. They has stated that the site is located in an out of centre location and is no more sequentially preferable than their site. Furthermore they indicate that the planning history of the site would suggest it is not viable for retail development. It is noted there was a recent application for a housing development on the site and also a further application for housing is awaiting registration. In the Kingsmere retail application it was also noted that the site was under option to a residential developer so is not available for retail development at the current time.

5.25 Overall in relation to the sequential test there is not considered to be any suitable or available sites at the current time within the centre, or edge of centre locations which could accommodate the development proposed.

5.26 The second test for retail development as outlined in the NPPF and Local Plan Policy is the retail impact of the development on the town centre. As noted at paragraph 5.16 of this report, the proposed development is below the threshold in Policy SLE2 for requiring an impact assessment to accompany the application. Nevertheless the retail impact of the development on the town centre needs to be considered..

5.27 Whilst it is acknowledged that the proposed development may have some impact on the town centre the NPPF advises that retail development should be refused when there is a 'significant adverse impact' which is a high test. The applicant has stated that they intend to limited the goods that are sold at the unit with the following condition to limit the impact on the town centre:

The retail unit hereby permitted shall not be used for the sale of the following goods, except where such goods are ancillary to the primary range of products sold:-

-Food other than confectionary or where consumed on the premises;

-Clothing and footwear;

-Jewellery and fashion accessories.

5.28 Whilst this would reduce the impact on the town centre to some degree there are still a wide range of goods which could be sold from the unit which would compete with stores in the town centre. Therefore a more restricted range of goods limited to bulky goods would be more preferable if the development were considered to be acceptable in all other regards. Furthermore it would be important to restrict the future subdivision of the unit as there may be sites within the town centre which would be sequentially preferable to accommodate smaller shops.

5.29 Whilst there are concerns regarding the potential cumulative impact of the proposed development alongside the retail development at the Kingsmere site, given that the

retail development at the Kingsmere site has been refused (and is subsequently at appeal) it is not considered reasonable to take this into account at the current time.

- 5.30 Overall, and on balance having regard to the site's relationship to the existing retail uses at Bicester Garden Centre, in relation to retail policy the proposed development is considered to demonstrate compliance with the sequential test at the current time. In relation to the impact on the town centre, whilst there are concerns over the impact of the development on the town centre, these are not considered to result in significant adverse impact as outlined in the NPPF.

Design and layout

- 5.31 Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 states new development will be expected to complement and enhance the character of its context through sensitive siting and layout and states all development will be required to meet high design standards. It goes on to state development should respect the form, scale and massing of buildings in the surroundings. Development should be designed to integrate with existing streets and buildings clearly configured to create defined active public frontages. Saved Policy C28 of the Local Plan also seeks to ensure high quality development. Paragraph 58 and 60 of the NPPF states development proposals should respond to the local character and surroundings and reinforce local distinctiveness. Paragraph 64 states development should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. Policy ESD10 seeks to enhance the natural environment and states the protection of trees will be encouraged and the Council will aim to increase the number of trees in the district.
- 5.32 The site forms part of Policy Bicester 4 of the Local Plan Part 1. This states that development on the site should provide a distinctive commercial development that provides a gateway into the town. It goes on to state that the building should be high quality design and finish and the layout should enable a high degree of integration and connectivity between new and existing developments including links to the garden centre site.
- 5.33 The current proposal is an outline application where only matters of access and layout are for consideration. The matters of appearance, scale and landscaping would be reserved for future applications.
- 5.34 The proposed development is laid out in a manner that retains the existing hedges on the northern and western boundary of the site. The trees which exist on site are located to the boundaries and would be retained. The position of the building addresses the entrance to the site and is set behind parking areas as would be common for an out of town retail or business park and this is considered acceptable for the site. The service yard exists to the north of the site and care would need to be taken in any future application to ensure that adequate screening was provided to the northern and western boundary.
- 5.35 There are concerns regarding the indicative elevation plans submitted in terms of elevational treatment and scale and whether these would achieve a high quality finish of development as required by Policy Bicester 4. However matters such as scale, detailing and materials of the building would need to be further considered in future reserved matters applications and it is considered that a higher quality development would need to be provided and could be secured.
- 5.36 With regard to connectivity, no connections to the wider Bicester 4 site are proposed and a comprehensive development of the Policy Bicester 4 site would be more desirable. However the current proposal must be assessed on its own merits. The area immediately to the north of the application site does not currently benefit from

any extant planning permission and given that this area remains undeveloped it is impractical to insist that such linkages should occur. Furthermore the development of the application site would not prevent such linkages being provided in the future as opportunities would still exist on the northern boundary of the garden centre site.

- 5.37 Therefore, and notwithstanding the concerns officers hold with regard to the principle of retail development, overall the layout of the site is considered to be acceptable. The concerns relating to the detailed design and scale of the unit and the screening to the site could be addressed during future reserved matters applications.

Highways

- 5.38 Policy SLE4 of the Local Plan states all development should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. It goes on to state that development which is not suitable for the roads that serve the development and which have severe traffic impacts will not be supported.
- 5.39 The proposed development would utilise the existing access to the garden centre from the A41. The road from the existing mini-roundabout serving the existing car park to the south east of the site would be widened to accommodate two-way traffic. A new service yard and a car park with 59 car parking spaces would be provided around the proposed unit.
- 5.40 OCC Highways have been consulted and initially requested further information to demonstrate HGV's could adequately access the site. This has been received and OCC are now satisfied with regards to the access arrangements. The application was submitted with a Transport Statement and OCC consider that the traffic impact of the development would be acceptable and would not result in any noticeable change in traffic conditions given the scale of the development. It is also noted that a number of the trips to the site are likely to be linked with the existing retail offer at the wider site. The levels of parking and servicing arrangements are considered to be adequate to serve the new development.
- 5.41 OCC Transport Strategy have requested a contribution of £27,348 towards the improvement of transport infrastructure in Bicester. This would be used to contribute towards cycle improvement schemes on the central corridor between Bicester Town and the site and would help to improve cycle linkages to the site. This is based on the contribution as outlined in the Planning Obligations SPD for new retail development. The applicant has indicated they are willing to make this contribution which would need to be secured through a legal agreement.
- 5.42 Whilst a Travel Plan has been submitted this requires further information in relation to a number of matters however these are matters of detail which could be controlled through a planning condition.
- 5.43 Subject to a number of conditions and the applicant entering into a legal agreement for the financial contribution the highway related aspects of the development are considered to be acceptable.

Other matters

- 5.44 Policy ESD10 of the Local Plan seeks to protect the natural environment and biodiversity. Paragraph 99 of Circular 06/05 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by a proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. Likewise Section 40 of the Natural Environment and Rural

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.

- 5.45 The application has been accompanied by an Ecological Appraisal. This identifies the existing hedgerows as habitats which should be retained. The remainder of the site is of lower ecological value. The report contains a number of recommendations to protect wildlife and also enhance biodiversity which could be secured by condition. The Councils Ecologist has raised no objection to the application subject to conditions.
- 5.46 Policies ESD6 and ESD7 of the Cherwell Local Plan Part 1 detail the Councils approach to flood risk and also require the use of sustainable urban drainage systems (SUDs). Paragraph 103 of the NPPF states that: *when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere*. The site is in Flood Zone 1, which is the zone of lowest flood risk. A Flood Risk Assessment has been submitted in support of the application, and this concludes that the risk of flooding is low and that the incorporation of SUDs into the development is adequate to mitigate any potential increase in surface water flooding, either on site or elsewhere. OCC have considered the proposed drainage strategy for the site and considered it to be broadly acceptable subject to full details, including maintenance and management, being controlled through a condition.
- 5.47 Policy ESD3 states all new non-residential development will be expected to meet a least BREEAM 'Very Good' with immediate effect. The demonstration of the achievement of this standard should be set out in an Energy Statement. This can be controlled through a planning condition.
- 5.48 The site is located within an area of archaeological interest and there is potential for the site to include archaeological deposits which may be disturbed by the development. The County's Archaeologist has noted a number of archaeological finds within the local area but has raised no objection to the application subject to a staged programme of archaeological investigation.
- 5.49 Given the nature of the surrounding uses there is not considered to be a detrimental impact upon the amenity of any neighbouring property or land.

Engagement

- 5.50 With regard to the duty set out in paragraphs 186 and 187 of the Framework, the applicants' agent was contacted in relation to concerns regarding the sequential assessment and the agent provided additional information. The applicant has also been notified of the concerns relating to the principle of development and the Councils employment strategy. It is considered that the duty to be positive and proactive has been discharged through the engagement with the applicant.

Conclusion

- 5.51 The starting point for determining planning applications is the development plan. The proposed development would be contrary to Policy SLE1 and Policy Bicester 4 of the recently adopted Local Plan Part 1 which allocates the application site as part of a strategic employment site for B1a office purposes in order to help deliver the objectives of the Local Plan to reduce out-commuting and make Bicester a higher skilled self-sufficient settlement.
- 5.52 There is not considered to be any significant reasons why the site would not be appropriate for office development and it is not considered that the applicant has

demonstrated that there is no reasonable prospect of the site being used for its allocated purpose. The proposed development would result in harm by eroding the employment land strategy for Bicester through the loss of allocated employment land.

- 5.53 As outlined above the proposed development is not considered to conflict with retail policy however as outlined in the NPPG compliance with the sequential and impact tests does not guarantee that permission is granted and local planning authorities will have to consider all material considerations in reaching a decision (Paragraph: 010 Reference ID: 2b-010-20140306). The proposed development would result in the provision of a small number of jobs which is a material consideration in favour of the development. However these matters are not considered to outweigh the policy objection to the application and the conflict with the Councils employment strategy for Bicester especially given how recently the local plan has been adopted, the lack of evidence regarding the loss of the employment land and also the view that an office building is likely to accommodate more opportunities for highly skilled jobs than a retail unit. It is therefore recommended that the application be refused.

6. Recommendation

Refusal:

1. The development would result in the loss of land which forms part of an allocated employment site in the recently adopted Cherwell Local Plan 2011-2031 Part 1. It has not been demonstrated that there is no reasonable prospect of the site being used for its allocated purpose in the long term, and so the proposal is considered to be unacceptable in principle and would unnecessarily and unjustifiably erode the Local Plan employment strategy for Bicester. The proposed development would therefore be contrary to Policy SLE1 and Policy Bicester 4 of the Cherwell Local Plan Part 1, and the NPPF in particular paragraph 17 "Core planning principles" and section 1 "Building a strong, competitive economy".