

**Case Officer:** Gemma Magnuson      **Ward(s):** Bicester Town

**Applicant:** Morgan Sindall Plc

**Ward Member(s):** Cllr D M Pickford, Cllr Richard Mould

**Proposal:** Variation of Conditions 2 and 18 of 14/00403/F

**Committee Date:** 21.01.2016      **Recommendation:** Approve

**Committee Referral:** Cherwell District Council interest

## 1. Application Site and Locality

- 1.1 The site is located in Bicester town centre and forms one of the later phases of the redevelopment scheme. It lies between Manorsfield Road, St.John's Street and Sheep Street. The former use of the site was for car parking. Planning permission was granted for the erection of a five storey building comprising community and town centre uses together with servicing and alterations to the vehicle access on 31 December 2014. Development has since commenced on site and the five storey building is currently under construction.
- 1.2 Whilst the site is in the town centre, the northern boundary of the site faces towards mostly residential properties, typically 2 - 3 storeys in height, and are a mix of bungalows, detached and attached properties, and residential blocks. The River Bure lies to the west of the site beyond Manorsfield Road. Two storey housing at Hunts Close lies further west with a further set back from the edge of Manorsfield Road beyond intervening landscaping.
- 1.3 The approved building would comprise the Council's Bicester Link Point accommodation, Oxfordshire County Council library, two units for use as Class A1, A3, A4 and/or A5 retail or food and drink uses, Class A2/B1 financial and professional services/office accommodation, Class B1 offices, hotel and servicing. The footprint of the building occupies a sizable portion of the site as it fronts onto Manorsfield Road and the new Pioneer Square. The existing access is retained for the proposed service yard.
- 1.4 A small part of the northern section of the site lies within the designated Bicester Conservation Area and the building is situated immediately adjacent to the access at 75 Sheep Street is Grade II listed. The site is not in a flood risk area.

## 2. Description of Proposed Development

- 2.1 The application seeks consent to vary Conditions 2 and 18 from the original consent (ref: 14/00403/F). Both conditions have previously been varied by application 15/00180/F that was approved on 20 March 2015, and the current application seeks to vary these again (albeit with different amended plans, see below). The Conditions relate to the approved plans (Condition 2) and the requirement to achieve Secured by Design accreditation (Condition 18).
- 2.2 More specifically, the application seeks to remove/reduce the extent of ventilation louvres, remove cladding, alter configuration of powder coated aluminium panels, subdivide glazed panels above openings and replace glazing with white/grey coloured powder coated aluminium, incorporate louvre panels in glazing frames, subdivide columns, alter service door sizes and positioning fronting onto service yard.

2.3 The explanation for the above changes is as follows:

- The plant to serve the Travelodge Hotel has been relocated to the second floor of the building, allowing the removal of the approved louvre panel and horizontal boarding which stretches over the third and fourth floor levels. The panels are to be replaced with rainscreen cladding to match that previously approved.
- During design development the requirement for ventilation louvres to the second floor plans room has been reduced. The louvres are replaced by polyester powder coated aluminium panels to match the adjacent obscured panels.
- The obscured panels over the ground and first floor windows on the east, north and west elevations have been changed from glass to polyester powder coated aluminium, coloured white. The obscured glazing panels at second floor level have been changed to polyester powder coated aluminium, coloured grey to match the glazing frames. The glass panels within the rainscreen cladding have been changed to polyester powder coated aluminium panels, coloured grey.
- The design of the ground and first floor glazing frames on the east, north and west elevations has been revised through dividing the obscured over panel into three in order to provide a more efficient glazing solution.
- To facilitate the installation of efficient ventilation systems within the building, louvre panels for air supply and extract have been incorporated within the glazing frames in place of the obscured panels in four glazing frames on the east elevation, and in one glazing frame on the west elevation. The louvre panels would be powder coated white to match the adjacent obscured panels.
- The subdivision of the reconstituted stone columns on the south elevation have been reduced in order to reduce their weight and to assist buildability.

2.4 Condition 18, as varied by application 15/00180/F, reads as follows:

*Prior to the first occupation of the development hereby approved, details of the measures to be incorporated into the development to demonstrate how "Secured by Design" (SBD) accreditation will be achieved will be submitted to and approved in writing by the Local Planning Authority, unless otherwise agreed in writing. The development shall be carried out in accordance with the approved details, and shall not be occupied until confirmation has been sent in writing to the Local Planning Authority the SBD accreditation has been received, unless otherwise agreed in writing.*

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

- 2.5 It is understood that application to discharge the first part of the condition relating to the details of the measures to be incorporated into the development to demonstrate how Secured By Design (SBD) accreditation will be achieved will be submitted shortly.
- 2.6 However, given the amount of construction work taking place, and due to take place, in close proximity to the site, and the lack of open space available in the area to accommodate construction site space, it is anticipated that part of the service yard will be required for construction site purposes in the near future.
- 2.7 As a consequence, the completion of the service yard development, including the required SBD measures, will follow occupation of the building. It is anticipated that the building will be occupied by mid-March 2016. A change to the wording of Condition 18 is therefore suggested in order to enable the building to be occupied, with confirmation of achievement of SBD

accreditation to follow once the service yard is no longer required for the purposes of construction site space and can be completed.

### Relevant Planning History

<u>App Ref</u>	<u>Description</u>	<u>Status</u>
09/01686/F	Variation of condition nos. 2, 3, 27 & 57 of permission 07/00422/F to allow phase 1 enabling works to start on site to the west of Manorsfield Road	PER
11/01132/CDC	Demolish sheds and outbuildings to the rear of 81-85 Sheep Street, make good the new boundary wall in brickwork and change of use to public car park.	PER
11/01133/CDC	Demolish sheds and outbuildings to the rear of 81-85 Sheep Street, make good the new boundary wall in brickwork, resurface the land in tarmac for use as public car parking	PER
11/01178/F	Variation of condition no. 34 of 07/00422/F	PER
13/00138/F	Variation of Condition 36 of 11/01178/F - To extend the use of Units A1 and A2 from A1 Retail to include all A1-A5 Retail Uses	PER
13/00854/F	Erection of new 3.1m boundary wall, formation of covered yard and repositioning of existing metal fire escape	PER
14/00403/F	Erection of a five storey building comprising community and town centre uses together with servicing and alterations to the vehicle access	PER
15/00180/F	Variation of Conditions 2, 3, 15 and 18 of 14/00403/F	PER
15/00771/ADV	Installation of 5 No. illuminated fascia signs	PER
15/00124/NMA	Amendments to the elevation treatment (proposed non-material amendments to 14/00403/F as varied by 15/00180/F)	REF
15/02230/F	Variation of Conditions 2 and 18 of 14/00403/F	PDE
15/02245/ADV	Internally halo illuminated and non-illuminated signs of built-up letters and	PCO

symbols

### **3. Response to Publicity**

The application has been publicised via neighbour letter, press notice and site notice. The final date for comment was 14 January 2016. No comments have been received at the time of writing.

### **4. Response to Consultation**

Bicester Town Council: no objection.

Cherwell District Council Conservation Officer: no comments received at time of writing.

Cherwell District Council Anti-Social Behaviour: no comments received at time of writing.

Oxfordshire County Council Highway Authority: no comments received at time of writing.

Oxfordshire County Council Drainage: no comments received at time of writing.

### **5. Relevant National and Local Planning Policy and Guidance**

#### **5.1 Development Plan Policies:**

The Cherwell Local Plan 2011-2031 Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 Part 1 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the Development Plan. Planning legislation requires planning decisions to be made in accordance with the Development Plan unless material planning considerations indicate otherwise. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

#### Cherwell Local Plan 2011 - 2031 Part 1

ESD15 - The Character of the Built and Historic Environment

#### Cherwell Local Plan 1996 (Saved Policies)

C28 - Layout, design and external appearance of new development

C31 – Compatibility of proposals in residential areas

ENV1 - Development likely to cause detrimental levels of pollution

#### **5.2 Other Material Planning Considerations:**

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.

## **6. Appraisal**

6.1 Officers' consider the following matters to be relevant to the determination of this application:

- Principle of Development;
- Design, Layout and Appearance;
- Accessibility, Highway Safety and Parking;
- Effect on Neighbouring Amenity;
- Other matters

### Principle of Development

6.2 The principle of the development has already been established as acceptable through the approval of the core application (ref: 14/00403/F), granted on the 31 December 2014. The current application seeks amendments to the appearance of the exterior of the building, the location of ventilation louvres and the wording of Condition 18 to enable occupation of the building prior to achievement of SBD accreditation.

6.3 The Framework directs that planning conditions should only be imposed where they are:

- necessary,
- relevant to planning and to the development to be permitted
- enforceable,
- precise and
- reasonable in all other respects.

### Design, Layout and Appearance

6.4 The proposed variation to Condition 2 seeks to replace the approved elevation plans (300B, 301B, 302B) with the now proposed elevation plans (P-310, P-311, P-312), to include the proposed changes to the ventilation louvres, panelling, glazing and openings. No changes are proposed to the layout of the building.

6.5 Officers consider that the external changes are minor in nature, and that they would be in keeping with the contemporary design and choice of construction materials for the remainder of the building. The design and appearance would also be in keeping with the contemporary structures in close proximity to the site that form a part of the wider town centre redevelopment scheme. It is considered that the changes would not detract from the visual amenities of the locality, in accordance with Government guidance contained within The Framework that attaches great importance to the design of the built environment.

6.6 Further, the changes are considered to accord with Policy ESD 15 of the Cherwell Local Plan 2011-2031 that requires new development to complement and enhance the character of its context through high quality design, and saved Policy C28 of the Cherwell Local Plan 1996 that seeks to control new development to ensure that it is sympathetic to the character of its context.

### Accessibility, Highway Safety and Parking

6.7 The proposed external changes would not impact upon current access or parking arrangements. Comments are awaited from the Highway Authority with regard to the timing of the completion of the service yard in order to achieve SBD accreditation post-occupation of the building.

### Effect on Neighbouring Amenity

- 6.8 Government guidance contained within the Framework seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings, Policy ESD 15 of the adopted Cherwell Local Plan 2011-2031 states that development should consider the amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation, and indoor and outdoor space. This is reflective of saved Policy C31 of the Cherwell Local Plan 1996. Saved Policy ENV1 of the Cherwell Local Plan 1996 seeks to resist development that would result in materially detrimental levels of noise, vibration, smell, smoke, fumes or other types of environmental pollution.
- 6.9 The proposed changes to the elevations would involve the relocation of ventilation louvres and comments from the Anti-Social Behaviour Team are awaited. The remainder of changes are not considered to result in harm to the amenity or privacy enjoyed by neighbouring properties, in accordance with the above Policies.

### Other Matters

- 6.10 Government guidance contained within the Framework requires planning decisions to aim to ensure that developments create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion. Condition 18 (as amended by 15/00180/F) requires details of the measures to be incorporated into the development to demonstrate how SBD accreditation will be achieved to be submitted prior to the first occupation of the development. Following implementation of the scheme, the development should not be occupied until SBD accreditation has been received.
- 6.11 However, due to the requirement to use the service yard for construction site purposes during the construction of other nearby developments, this element of the proposal will not be completed at the present time and the required accreditation will not, therefore, be achieved. In order to prevent delay in occupation of the building, the application seeks consent to allow the SBD accreditation to be submitted post-occupation of the building.
- 6.12 To clarify, the refuse bin storage area and cycle parking facilities will still need to be provided prior to first occupation, as required by Conditions 4 and 14.
- 6.13 Officers consider it reasonable to allow the building to be occupied prior to completion of all SBD measures, although a time limit of 2 years has been suggested with the opportunity to extend this if required, in order to secure the desired SBD accreditation.
- 6.14 The Framework states that the Government is committed to securing economic growth, and to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth, and significant weight should be placed on the need to support economic growth through the planning system. It is considered that supporting the flexibility of timings for the submission of details accords with the general thrust of Government guidance with regard to economic growth.

## **7. Conclusion**

- 7.1 It is considered that the proposed amendments to the approved elevation plans are acceptable, as they would not detract from the setting of the designated heritage assets, the visual amenities of the locality or residential amenity and privacy. Further, the proposed amendment to the wording of Condition 18 relating to the timing of occupation of the building,

and the requirement for SBD accreditation, would not result in significant or permanent harm to the levels of crime, or fear of crime, in the area, in accordance with Government guidance contained within The Framework, Policy ESD15 of the Cherwell Local Plan 2011-2031 and saved Policies C28, C31 and ENV1 of the Cherwell Local Plan 1996.

## 9. Recommendation

**Approve**, subject to conditions,

Note that the suggested conditions incorporate those from the original consent 14/00403/F, the variation of condition application 15/00180/F and the details submitted in order to discharge relevant conditions from both applications.

1. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents: Drawing nos. P-001, P-303B received 04 January 2016, and nos. 003C, 100B, 101B, 102B, 103B, 104B, 105B, 200B, 201B, P-310, P-311, P-312 and 304C received on 12th November 2014 and the amended Mayer Brown drawings LSHBICESTER.1/05 Rev B & TCRBICESTER2.2/04 Rev M.

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

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

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

3. Prior to the first occupation of the development, the refuse bin storage area shall be provided in accordance with Drg. No. P-501 approved as part of 15/00016/DISC unless otherwise approved in writing by the Local Planning Authority, and retained unobstructed except for the storage of refuse bins at all times thereafter.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policies C28 and ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. The development shall be landscaped fully in accordance with Hyland Edgar Driver letter dated 22 May 2015 and Drawing Number: HED.1087.200 Rev. D received 22 May 2015

approved as part of 15/00016/DISC unless otherwise approved in writing by the Local Planning Authority.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

5 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the building(s) or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6 The development shall be implemented fully in accordance with the approved biodiversity plan for the site, that is the Biodiversity Enhancement Report Ref: RP-HED-004 dated November 2014 approved as part of 15/00016/DISC, unless otherwise approved in writing by the Local Planning Authority. Thereafter, the biodiversity enhancement measures shall be carried out and retained in accordance with the approved details.

Reason -To protect habitats of importance to biodiversity conservation from any loss or damage in accordance with Policy ESD 10 of the Cherwell Local Plan 2011-2031, saved Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7 The development will be conducted fully in accordance with the submitted Site Investigation Report by RSK, February 2015 approved as part of 15/00044/DISC unless otherwise approved in writing by the Local Planning Authority.

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

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

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

9 The development shall be implemented and maintained fully in accordance with the approved Surface Water Disposal scheme that is the Flood Risk and Drainage Statement by Curtins dated 8th October 2014 approved as part of 15/00028/DISC unless otherwise approved in writing by the Local Planning Authority.

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

10 The drainage works for the development shall be carried out and completed in accordance with the Flood Risk and Drainage Statement by Curtins dated 8th October 2014 approved as part of 15/00028/DISC unless otherwise approved in writing by the Local Planning Authority, until which time no discharge of foul or surface water from the site shall be accepted into the public system.

Reason: To ensure that sufficient capacity is made available to accommodate the new development and in order to avoid adverse environmental impact upon the community in accordance with Government guidance contained within the National Planning Policy Framework.

11 The development shall be carried out fully in accordance with the Construction Traffic Management Plan Morgan Sindall report ref: SH PLN1 Rev. 3 dated March 2013 approved as part of 15/00016/DISC unless otherwise approved in writing by the Local Planning Authority.

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

12 Prior to the first use or occupation of the development hereby permitted, cycle parking facilities shall be provided on the site in accordance with drawing number 09059 / P-502 Rev. C approved as part of 15/00281/DISC unless otherwise approved in writing by the Local Planning Authority. Thereafter, the cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

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

and maintained in accordance with the approved details.

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

14 Prior to the first occupation of the development the scheme of public art shall be completed and thereafter retained in accordance with Crows of Bicester Phase II by Philip Bews Diane Gorvin dated February 2014 approved as part of 15/00016/DISC unless otherwise approved in writing by the Local Planning Authority.

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

15 No external lights shall be erected on the land without the grant of further specific planning permission from the Local Planning Authority.

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

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

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

17 No later than two years from the date of this planning permission, unless a different time limit for this condition has been agreed in writing by the Local Planning Authority, confirmation shall be sent in writing to the Local Planning Authority that the "Secured by Design" accreditation has been received.

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

## **PLANNING NOTES**

1. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Waters pipes. The developer should take account of this minimum pressure in the design of the proposed development.

2. Attention is drawn to a Legal Agreement related to this development or land which

has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers.

3. The County Archaeologist has indicated that the proposal does not appear to directly affect any presently known archaeological sites. However, the County Council's records do show the presence of known archaeological finds nearby and this should be borne in mind by the applicant. If archaeological finds do occur during development, the applicant is requested to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary. Please contact : County Archaeologist, Department of Leisure and Arts, Oxfordshire County Council, Central Library, Westgate, Oxford, OX1 1DJ (Telephone 01865 815749).

4. The applicant's and/or the developer's attention is drawn to the requirements of the Control of Pollution Act 1974, the Environmental Protection Act 1990 and the Clean Air Act 1993, which relate to the control of any nuisance arising from construction sites. The applicant/developer is encouraged to undertake the proposed building operations in such a manner as to avoid causing any undue nuisance or disturbance to neighbouring residents. Under Section 61 of the Control of Pollution Act 1974, contractors may apply to the Council for 'prior consent' to carry out works, which would establish hours of operation, noise levels and methods of working. Please contact the Council's Anti-Social Behaviour Manager on 01295 221623 for further advice on this matter.

#### **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 the decision has been made in an efficient and timely way.