

Land Ad to Oxford Canal

16/02366/OUT

Spiceball Park Road Banbury

Ward: Banbury Cross and Neithrop **District Councillor:** Cllrs Banfield, Dhesi and Milne-Home

Case Officer: Bob Duxbury

Recommendation: Approval

Applicant: Scottish Widows plc and Scottish Widows Unit Funds Ltd

Application Description: Removal/ Variation of conditions 4 (list of approved drawings) and 9 (enhancement of River Cherwell) to 13/01601/OUT - Condition 4 to be varied to reflect alterations in the access and servicing strategy for Block C, with variations to maximum deviations in block and Condition 9 to be removed as no longer justified

Committee Referral: Major

Committee Date: 19 January 2017

1. APPLICATION SITE AND LOCALITY

- 1.1 The application site extends to 4.69 hectares and includes the Castle Quay Shopping Centre northern car park and the frontage of the southern car park, General Food Sports and Social Club, and the site of the former Spiceball Sports and Leisure Centre (which was demolished in 2010). The river Cherwell forms the north-eastern boundary and the Oxford canal bisects the south-western part of the site. Following the redevelopment of the Spiceball site in 2010 a large part of the site is now given over to parking. The site is bounded to the east by Concorde Avenue (A4260) which links the town centre to A422 and the M40. To the north of the site linking to Concorde Avenue is Cherwell Drive which runs east/west to the north of the site as it then curves towards Castle Quay. A central spine road then runs into the site (Spiceball Park Road). The site and area is urban in character. The site lies close to the town centre with bridges over the canal connecting the site to Castle Quay and the surrounding town centre uses.
- 1.2 On the eastern side of the canal lies sheltered housing at Chamberlaine Court which sits between the Banbury Museum and The Mill Arts Centre. To the north of the river Cherwell lies the new Spiceball Leisure Centre. To the south and west of the canal is the Castle Quay shopping centre. The site lies close to the town centre and is identified as an edge of centre location within the adopted Cherwell Local Plan 1996 Proposals map. The site is also identified under Policy Banbury 9: Spiceball Development Area, of the Proposed Submission Local Plan as a site suitable to deliver retail and leisure uses and to strengthen the night time economy.

- 1.3 With regard to site constraints, Council records indicate that the site is located within Flood Zone 3 and part of the site (Oxford Canal) is designated a Conservation Area. Adjacent to the site is Tooley's Boatyard which is a Scheduled Ancient Monument and the Mill Arts Centre which is locally listed. Public footpath 120/103 runs along the tow path of the canal. Protected species (water voles) have been recorded at the river and the site is classified as an high area of archaeological interest. Given the previous uses, the land is also likely to be contaminated.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 Outline planning permission has been granted in outline for the redevelopment of land adjacent to the Oxford Canal comprising; the demolition of the Castle Quay Shopping Centre northern car park and associated canal footbridge and General Foods Sports and Social Club band practice room; change of use of part of the ground floor of the Castle Quay Shopping Centre southern car park and associated works; the erection of a retail food store (Use Class A1), hotel (Use Class C3), cinema (Use Class D2), restaurants and cafes (Use Class A3 and A4) and altered vehicular and pedestrian accesses, alterations to the rear of the Castle Quay Shopping Centre landscaping, construction of infrastructure, car parking and associated works, including the construction of pedestrian/cycle bridges over the Oxford Canal and River Cherwell. Details of new vehicular access off Cherwell Drive and alterations to Spiceball Park Road | Land Adjacent To The Oxford Canal Spiceball Park Road (13/01601/OUT)

- 2.2 The proposed minimum and maximum floorspace of the development is indicated in the table below:

Use (Class)	Minimum Area (GIA) m ²	Maximum Area (GIA) M ²
Supermarket (A1)	3, 150	5, 100
Restaurants (A3)	1,750	4,830
Hotel (C1)	1, 855	4,715
Cinema (D2)	2, 400	4, 780
Car Parking	385 Spaces	620 Spaces

- 2.3 The application was supported by an indicative master plan indicating the likely disposition of uses and a series of parameters plans indicating the maximum and minimum deviation in the layout and scale of the proposed development.
- 2.4 Only access was dealt with as part of that application with all other matters (appearance, landscaping, layout and scale) were reserved for future consideration.
- 2.5 This application relates to variations to the approved plans with regards to two aspects only, namely
- Access arrangements for Block C – the food store site
 - Seeking the deletion of condition 9 related to works to the River Cherwell
- 2.6 The proposed changes to access arrangements arise as a result of discussions with prospective operators and seek to modify the approved access, movement and servicing.

The changes affect a number of approved plans set out in the original condition 4. The application is accompanied by revised application plans; a design and access statement; a transport technical note; a flood risk addendum; an ecology technical note; an acoustic technical note and an updated arboricultural impact assessment

- 2.7 A description of the access changes can be found at paragraph 8.7 below

3. RELEVANT PLANNING HISTORY

- 3.1 See above

4 RESPONSE TO PUBLICITY

- 4.1 To date no third party comments have been received

- 4.2 The comments received can be viewed in full on the Council's website, via the online Planning Register.

5. RESPONSE TO CONSULTATION

- 5.1 Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

TOWN COUNCIL

- 5.2 No comments received.

STATUTORY CONSULTEES

- 5.3 Environment Agency: **No comments yet received**

- 5.4 OCC Highways Authority:

No objection subject to conditions and satisfactory legal agreement

Key issues:

- ☐ Clarification needed on pedestrian access to upper deck car park and through car park to store entrance.
- ☐ Further information required on retaining walls and other structures required
- ☐ Additional area of highway requires stopping up
- ☐ Further swept path analysis required
- ☐ Deliveries to store must take place outside store/upper deck car park opening hours

Legal agreement required to secure:

A deed of variation to the agreed S106 and draft S278 agreements will be required, replacing drawings, descriptions of works, and technical information on structures with the same level of detail and the same commitments.

Conditions:

This application reinforces the need for the conditions regarding Car Park Management and Delivery and Servicing Plans, and Construction Traffic Management Plan. Early discussion on these is recommended. I do not recommend any changes to conditions other than those

requested in this application. Highways has no comments regarding the removal of Condition 9.

Informatives:

The plans show a small area of existing adopted highway needing to be stopped up at the southern end of Spiceball Park Road. The applicant is recommended to contact OCC's Highway Records team at the earliest opportunity to discuss this, and it will be subject to a separate process.

OCC require saturated CBR tests (assuming cohesive soils) at the location of all new accesses and adoptable carriageway/footway.

Detailed comments:

This application seeks to vary the approved plans. Principally the Highway Authority is concerned with changes to the Highway Works plan HP010 (Plan C in the S106 agreement), showing the required highway works.

Since we were formally consulted on this application, a further revision of the Transport Technical Note, Doc ref: 5764/UTA/03 dated 12 December 2016 has been submitted to us by the applicant, containing a revised 'Proposed Highway Works' drawing 5764 HP010 Rev N, and it is on this plan that I base my comments. However, we have not been formally consulted by the LPA on this document.

The main changes that the application seeks to make are summarised in the Design and Access Statement and the Transportation Technical Note. In transport terms the main change is that the service access to the retail food store will be taken from a new access point close to the bend in Spiceball Park Road, instead of at the southern end of Spiceball Park Road. This new access will also be the vehicle entrance and exit to the upper deck car park. Whereas previously this car park was not allocated to any particular use, the upper deck car park will be principally for the retail food store, with 1.5 hours free parking for other users. Access to the lower deck car park will be from a re-aligned roundabout at the end of Spiceball Park Road. The exit from this car park will be under the bridge at the northern end and out onto Cherwell Drive at the existing junction west of Spiceball Park Road/Cherwell Drive roundabout junction. There will be a dedicated disabled parking area at the southern end of the lower deck car park, and only users of these spaces will be permitted to exit onto Spiceball Park Road via a dedicated exit south of the roundabout at the southern end.

The latest revision is slight, and has been made as a result of the foodstore building having to move by approx. 2m to avoid an intermediate pressure gas main, which this has had a knock on effect on the location of the exit from the disabled spaces under the foodstore which has moved 2m closer to the existing roundabout. There has also been a minor amendment to the layout in the existing Mill Arts centre car park which results in the car park spaces being reduced from 39 to 31 compared with the previous version (this is still more than originally proposed).

However, I have also noticed that the latest version has reduced visibility splays at the main upper deck car park access compared with the application (see comments below).

The change also results in the loss of most trees on the eastern side of Spiceball Park Road.

Traffic Impact

I consider the overall impact of the change which this application seeks to make, to be positive. HGVs delivering to and servicing the store, as well as cars accessing the upper deck car park, will not pass the residential properties on Spiceball Park Road. Due to the upper deck car park now exiting onto Spiceball Park Road, there will be more traffic on the Spiceball

Park Road arm of the roundabout at the northern end of Spiceball Park Road, and slightly less on the Cherwell Drive west arm.

A revised assessment has been made of this roundabout showing that there is sufficient capacity. The revised Transport Technical note claims that the trip generation in the original Agreed Transportation Assessment was overstated and, based on recent TRICS analysis, proposes significantly lower trip generation for the development. I reserve my opinion on this: there is confusion over which version of the original TA is the agreed version and I have been unable to ascertain the version which the LPA considers the agreed version. Additionally, the number of surveys in the TRICS analysis is small, and could be skewed by the specific circumstances of the developments selected. However, as there is no change to the proposed floor areas, it is reasonable to assume that the trip generation will not be higher than that proposed in the original application. It is also reasonable to assume that the trip distribution will not be significantly different – only the turning movements at Spiceball Park Roundabout will be affected.

In any case, no change is proposed to the highway mitigation contributions and measures previously agreed.

Access

The new access to the upper deck car park (described above) has been designed with the minimum visibility splay to the north in accordance with Manual for Streets for 30mph. Given that the development will result in frontages close to the road, the speed humps on Spiceball Park will be retained, and there will be a raised pedestrian crossing to the north of the access, this is considered acceptable, subject to a safety audit which is part of the S278 technical approval process.

The roundabout at the southern end of Spiceball Park Road is not designed to DMRB standards and has no deflection, but is in a very slow speed environment and similar to the existing one so this is considered acceptable subject to a safety audit that will be required as part of the S278 process. There will be access only to the lower deck car park from this roundabout, with the only exiting vehicles coming from the disabled car park, exiting onto Spiceball Park Road just south of the roundabout. Clarification is needed on how other vehicles will be prevented from using this exit. A car park management plan has been conditioned and we will expect it to include this detail.

Entrance to the car park must be controlled to ensure that vehicles with a height greater than the clearance of the bridge at the northern exit, do not enter.

In terms of pedestrian access, the pedestrian access points to the upper deck car park need clarification and need to be suitable for disabled access, both north and south of the vehicular access. Safe walking routes need to be provided within the car park. The Pedestrian Site Circulation Plan 407-PO-18 shows a primary pedestrian route crossing Spiceball Road at the vehicular entrance, and the primary pedestrian route to the store entering the car park at this point. This is not ideal and should be reconsidered. Pedestrian movement across the access junction should also be discouraged as it is a wide bellmouth with no refuge. There should be a clear pedestrian route through the car park to the store from the raised crossing. Further refinement to the plans is recommended to address this.

I am concerned about the tracking for the HGV within the car park, which shows it having to reverse down the two thirds of the car park into the loading bay. This would not be safe when the car park is in use. A delivery and servicing plan is required by condition and we will expect to see a commitment that deliveries will take place outside of store opening times. Given the relocation of the service bay and delivery route away from residential properties, this should

be acceptable. This would result in deliveries arriving when the car park is closed. We will need to be confident that delivery vehicles would be able to gain access to the car park and not have to wait in the road, causing an obstruction.

Swept path analysis has been provided for the HGVs turning left in and right out of the upper deck car park access. The vehicle crosses the centre line, but this will be acceptable if deliveries are made out of store opening hours.

Also, as the roundabout on Cherwell Drive appears to have been realigned, we will need to see swept path analysis for HGVs at the roundabout, as well as for the entire realigned Spiceball Park Road, since the roundabout at the southern end will still have to cater for turning vehicles including other HGVs.

The proposed widening of Spiceball Park Road will assist with emergency access past any queuing traffic.

Structures

It will be necessary to agree technical information about retaining walls to replace the information in the existing S106 agreement and draft S278 agreement with the same level of detail. Currently there is no information provided regarding retaining walls or development structures supporting the highway along the east side of Spiceball Park Road. Walls G, H and K from the previous application and the S106/S278 agreements are no longer shown, but given the level changes, it is clear that there will be new supporting structures, sufficient detail of which will need to be agreed before a Deed of Variation can be agreed. There appears to be no change to wall J (at the Social Club) but this needs clarification.

The location of the new access is at a high point in Spiceball Park Road – there is a significant level difference between the road and the existing car park. The widening and realignment at this point will involve significant construction and material to be brought in, reinforcing the need for the Construction Traffic Management Plan.

Car park layout

No comments are offered on the layout, other than the need to accommodate safe walking routes and cycle parking, as it will be covered in the reserved matters application

Drainage

No information is provided about drainage – we will expect to see surface water drainage information in the reserved matters application.

- 5.5 The Canal and River Trust have **no objection** to the removal and variation of the conditions mentioned above provided that all other conditions and the S106 agreement remain unchanged.

NON-STATUTORY CONSULTEES

- 5.6 Planning Policy Officer : **Does not wish to comment**
- 5.7 Archaeology Officer: **No objections** as the suggested variations have no impact upon the previous archaeological advice

5.8 Environmental Protection Officer: **No objections** subject to a condition.

5.9 Waste & Recycling: **No comments received.**

6. RELEVANT PLANNING POLICY AND GUIDANCE

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

7.2 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. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2031 Part 1)

- PSD1 - Presumption in Favour of Sustainable Development
- SLE2 – Securing Dynamic Town Centres
- ESD1 - Mitigating and Adapting to Climate Change
- ESD6 - Sustainable Flood Risk Management
- ESD7 - Sustainable Drainage Systems
- ESD10 - Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 - Local Landscape Protection and Enhancement
- ESD15 - The Character of the Built and Historic Environment
- ESD 16- The Oxford Canal
- ESD17 - Green Infrastructure
- BAN 7 – Strengthening Banbury Town Centre
- BAN 9 – Spiceball Development Area
- INF1 - Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- S2 - Maintenance of a compact central shopping area (Banbury)
- C1 – Nature conservation
- C4 – Habitat creation
- C5 – Protect Ecological value of River Cherwell
- C28 - Layout, design and external appearance of new development
- ENV1 - Development likely to cause detrimental levels of pollution

7.3 Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

8 APPRAISAL

8.1 Officers’ consider the following matters to be relevant to the determination of this application:

- Principle of the Development;

- Highways Safety and convenience;
- Ecological Potential;
- Flooding Risk and Drainage;

8.2 The Principle of Development

In Jan2014 when considering the main application I commented as follows

It is important to set the context of the proposed development in relation to national and local plan policy. At the heart of the National Planning Policy Framework (the Framework) is the presumption of sustainable development. The Framework states there are three dimensions to sustainable development: environmental, social and economic.

At paragraph 14 the Framework clarifies the principles of plan-making and decision-taking and states that for decision-taking this means “approving development proposals that accord with the development plan without delay.” The Framework also clarifies the position where development plans are absent or where plans are silent or out of date. In this scenario, planning permission should be granted unless;

“-any adverse impacts 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.”

In seeking to build a strong, competitive economy the government is “committed to securing economic growth in order to create jobs and prosperity...ensuring that the planning system does everything it can to support sustainable economic growth.” (para. 18 – 19 of the Framework). The Framework also recognises the importance of ensuring the vitality of town centres and encourages planning policies to be positive and promote competitive town centre environments which set out policies for the management and growth of centres over the plan period.

Those comments were still pertinent when the application was finally authorised at the meeting in August 2014.

- 8.3 Since that consideration the Cherwell Local Plan 2011-2031 has been adopted in July 2015. That document contains Policy Ban 9 which specifically relates to this site and I quote below in full

Policy Banbury 9: Spiceball Development Area

Development Area: 5 hectares

Development Description: Land between the canal and river Cherwell to the north east of the Castle Quay Shopping Centre will be developed to provide a mixture of town centre uses, comprising new retail and leisure uses associated with strengthening the night economy of the centre of Banbury.

- Use classes - Retail (including small A1, A3), Hotel (C1), Leisure (D2), Car parking.

Infrastructure Needs

- Open Space – to be focused on the canal/river corridor and linking with existing open space to contribute to the objective of creating a linear park and thoroughfare from the north of the town to Bankside in the south
- Access and Movement – access achieved from existing Spiceball park Road
- Utilities – off site improvements to utilities network may be required

Key site specific design and place shaping principles

- Proposals should comply with Policy ESD10 and ESD15
- Well-designed retail premises and leisure services should form a key element of this mixed use development
- A high quality landmark mixed retail and leisure development that supports the growth of the Town Centre to the north of the Oxford Canal and helps integrate and improve access to the existing Spiceball Leisure Centre
- A refurbished Mill Arts Centre
- A new library for Banbury
- A public space focusing on the Oxford Canal and/or river and improved pedestrian access to the new Spiceball Centre from the town centre
Public transport should be provided for, including the provision of new bus stops
- Public transport should be provided for, including the provision of new bus stops
- New footpaths and cycleways should be provided, that link to existing networks
- Additional car parking with opportunities for commercial and residential uses above
- A Transport Assessment and Travel Plan to accompany development proposals
- The creation of a high quality public realm with careful consideration of street frontages and elevation treatment to ensure an active and vibrant public realm
- Architectural innovation is expected with large scale buildings and car parking areas to ensure that these objectives are met
- Height and massing sensitive to the surroundings, ensuring there are no adverse effects on important views/vistas
- A design which respects and enhances the adjoining historical setting, especially the Mill arts centre and other historic canal related heritage
- A design which maximises the opportunity of the Canal, providing active uses and more footfall in this area

- **Pedestrian and cycle linkages that are fully integrated with a new, high quality public realm and enable a high degree of integration between the town and Spiceball Leisure Centre**
- **Provision for public art, relating to the canal to enhance the quality of the place, legibility and identity**
- **The Oxford Canal Towpath should be improved to encourage movement north to Spiceball Country Park and south to the Canalside area and the Bus Station**
- **Sustainable modes of travel should be encouraged**
- **A Flood Risk Assessment will be required for any future planning application**
- **Provision of sustainable drainage including the use of SuDS in accordance with 'Policy ESD 7: Sustainable Drainage Systems (SuDS)' and taking account of the Council's Strategic Flood Risk Assessment (SFRA), and the Level 2 SFRA**
- **Demonstration of climate change mitigation and adaptation measures including exemplary demonstration of compliance with the requirements of policies ESD 1 – 5.**

Additional requirements for this site include:

A comprehensive approach to site planning and delivery is preferred with proposals for the whole site being accompanied by a detailed masterplan. A phased approach may be permitted provided it can be clearly demonstrated that proposals will contribute towards the creation of a single integrated and coherent development. In order to achieve continuity in design and delivery of the vision, a small-scale, piecemeal approach would not be appropriate.

Applications should take into account and plan for the known or anticipated implications of proposals on remaining areas.

- 8.4. Insofar as it is necessary to do so this application does not conflict with that policy
- 8.5 The principle of development for this development was established by the planning permission granted in October 2016 (13/01601/OUT) following the consideration by this Committee in August 2014 and the successful conclusion of negotiations on the Section 106 agreement. The variations proposed by this application do not affect the compliance of the scheme with policy .
- 8.6 A full assessment of the original proposal can be seen on the Council's websites in the reports on the 2013 application presented to Planning Committee on 9th January 2014 and 7th August 2014

Highway safety and convenience

- 8.7 The main thrust of this variation to the existing permission relates to the access arrangements for the food store element of the overall scheme. The main changes can be summarised as

- (i) Repositioning of the access point to the upper level (food store) parking, now located approximately half way down Spiceball Park Road. This also becomes two way ie. providing access to and egress from the food store car park.
- (ii) Relocation of the HGV service yard from within the lower level of Block C (previously facing Spiceball Park Road [Chamberlaine Court and Mill Arts Centre]), to the upper deck of the food store car park (adjoining the north east elevation of the foodstore).
- (iii) Access to the HGV service yard will be via the relocated entrance (see (i) above), actively managed to avoid conflict between customer (car) movements and HGV servicing and manoeuvring. Store servicing is to take place out of core opening hours.
- (iv) Minor revisions to the point of car access to the lower level (all purpose) car park arising from the retaining of the existing turning circle on Spiceball Park Road (between Chamberlain Court and the Mill Arts Centre). Use of this is to be reversed to permit car access only, with egress (accept in times of flood) to be via the route under Cherwell Drive.
- (v) Introduction of an new egress point at the far end of the lower car park deck (close to the terminus of Spiceball Park Road) to provide a dedicated disabled car park (14 spaces). No general car traffic will be able to utilise this egress point.
- (vi) Introduction of new pedestrian/cycle connection between the River Corridor and the lower deck of the food store
- (vii) Alterations to the public car park to the north of the adjoining Mill Arts Centre are now limited to minor 'accommodation' works, with the relocation of two disabled parking spaces (and a net reduction of 8 car parking spaces overall).

The following arise as a consequence of the above changes:

- (i) Improved alignment of pedestrian route between CQ2 (cinema/leisure box) and the connection to the Cherwell Leisure Centre.
- (ii) Replacement of previously approved A1 Use Class (food store) and servicing space at lower deck level with car parking.
- (iii) A marginal increase in the maximum deviation of Block C towards the River Cherwell (by 1.5m) and towards Spiceball Park Road (by 0.5m).
- (iv) Incursion of the HGV service yard deck (columns at ground level) in to the proposed 8m 'stand-off' previously agreed with the Environment Agency (itself representing a significant increase on the current stand-off).
- (v) Marginal realignment of the turning circle on Spiceball Park Road (between Chamberlain Court and Mill Arts Centre).
- (vi) Impact on previously retained trees and revisions to landscape parameters plan.

During the life of this application a further alteration has been made as a result of the foodstore building having to move by approx. 2m to avoid an intermediate pressure gas main. This has had a knock on effect on the location of the exit from the disabled spaces under the foodstore which has moved 2m closer to the existing roundabout. There has also been a minor amendment to the layout in the existing Mill Arts centre car park which results in the car park spaces being reduced from 39 to 31 compared with the previous version (this is still more than originally proposed).

8.8 It will be noted in 5.4 above that the highway authority (OCC) do not object to the proposals but comments are made about pedestrian routes within the upper deck car park, HGV swept paths, and servicing timing. They also comment upon issues of concern to the highways authority re retaining walls and other structures (concerned with the Section 278 agreement that there needs to be between the applicant/OCC) and a small area of additional stopping up that appears to be necessary).

8.9 In response to those comments the applicants agent says

The response raises a number of detailed points which are outside of the scope of the current application, but will be relevant to the Reserved Matters submission. These comments are noted.

Pedestrian routes across the site are shown indicatively on the parameters plans. There is no change to these plans as a result of this application. The precise location of these, including the routes through the car park in the northern part of the site, will be determined in the subsequent reserved matters. Appropriate disabled access will be provided in a manner which is convenient and safe.

Similarly, the precise detail of the retaining structures required across the site will be detailed as part of the reserved matters. The detailed highway plan for approval (HP010 Rev P) seeks only to establish the location of these where adjacent to the highway – as per the previous outline scheme.

We are aware of that the current proposal requires additional land to be stopped up and that process has commenced.

Deliveries to the foodstore car park will necessitate access through the car park. Swept path analysis will be provided as part of the Reserved Matters to illustrate how this arrangement will work satisfactorily, as it does at many other of the operator's sites.

The delivery/servicing requirements are matters of detail to be considered as part of the Reserved Matters submission. We note the request for additional planning conditions regarding car park management and deliveries/servicing, and note that these were not conditions that CDC sought appropriate to apply to the first outline.

OCC has already been provided with swept path analysis of HGVs circulating the realigned roundabout (copy of plans attached for information - though this does not form part of the formal submission for approval) but we will extend this along the length of Spiceball Park Road and provide this detail direct to OCC for further comment as necessary. OCC confirmed back in September that the realigned roundabout was acceptable on this basis.

A Deed of Variation to the S106 Agreement has been sent to OCC for approval.

OCC seeks clarification on how vehicles exiting the lower deck car park to the north will be controlled to prevent vehicles other than disabled users using it. Again, this is a matter of detail which will form part of the Reserved Matters but for the purposes of accessing the acceptability of the access arrangements, we can confirm that the car park will be split at the point of entry (left for main car park, right for blue badge holders) with a designed area for blue badge holders, operating on a one-way circuit, not linked to the main car park. This will significantly reduce the risk of the disabled exit point beyond the roundabout being used by other vehicles. In any event, given the light usage of this part of Spiceball Park Road, the detailed arrangements are entirely acceptable as a means to control access.

Vehicle height restrictions will of course be applied to the car park entrances, though this is a matter of detail, not for approval at this stage.

- 8.10 We are yet to receive further comments from OCC. In their absence it appears to your officers that all these matters are capable of being attended to either by condition or at reserved matters stage. The issue of the timing of servicing is understood to be important to the intended operator, who requires the ability to service at all times. There is undoubtedly a possibility of conflict with the free flow and safety of users of the car park, but these are capable of being overcome by the use of a banksman to oversee the reversing of a servicing vehicle. This arrangement already exists at other food stores in Banbury and Bicester. A further update on these matters will be given at Committee.

Ecological Impact and flooding

- 8.11 Turning to the issue of the removal of condition 9. That condition is set out below

9. The development phase on the site of the Former Leisure Centre shall only take place once a scheme for the enhancement of the River Cherwell (between Cherwell Drive and Concorde Avenue) is submitted and agreed to in writing by the local planning authority.

Thereafter this phase of the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. Specific design requirements to ensure the safety of the development are:

- **The creation of meanders within the channel of the River Cherwell to the North and South of the site**
- **The removal of young sycamore trees aligning the bank and replace with native shrubs and larger native trees set back from the top of the bank**
- **The placement of gravel within the channel.**
- **The creation of small backwaters, joining the River Cherwell**

Reason - To provide enhancement to the river corridor.

- 8.12 The applicant considers the condition to no longer be justified, failing to meet all the tests of reasonableness as set out in paragraph 206 of the NPPF, namely:

(i) necessary;

(ii) relevant to planning and;

(iii) to the development to be permitted;

- (iv) enforceable;
- (v) precise and;
- (vi) reasonable in all other respects.

Specifically it is considered that the condition lacks precision, clarity (by reference to general 'enhancements' but with specific requirements to ensure the 'safety' of development), is no longer desirable (given the baseline condition of this stretch of the River) and has been superseded by improvements are being undertaken north of this stretch of the river

8.13 In support of their case the applicants make the following points

The development provides a riparian corridor for the River Cherwell and has limited impacts on the river habitat.

It is understood through consultation with the Environment Agency and the Wildlife Trust that mitigation for the new leisure centre development on the opposite bank included river enhancements, which were completed adjacent to the proposed development site in the form of a backwater channel. This work is still evident today in periods of high water. It is also their opinion that the habitat here is generally of good quality and is the current location of fish surveys for the Environment Agency, which show 'Good' fish populations according to the Water Framework Directive (WFD). WFD data also shows that invertebrate populations here are 'Good' and that the River Cherwell supports good hydromorphological quality elements.

The enhancements proposed in the condition, with the exception of the removal of young self seeded sycamores aligning the bank (see below) are already being completed on the River Cherwell, upstream of the site at Spiceball Park.

In 2015, the Environment Agency provided funding to support Phase 1 of a river restoration project known as Wild Banbury. The works involved electro-fishing on the River Cherwell, clearing away vegetation and trees overshadowing the river, creating small backwaters and planting up shallow river banks to create meanders.

In May 2016 Berks, Bucks and Oxon Wildlife Trust, the Heritage Lottery Fund, Banbury Town Council, Cherwell District Council and Grundon Waste Management announced that they are working together on Phase 2 of this project. A significant amount of funding has been secured to provide new opportunities for community groups and individuals to get involved in heritage conservation skills such as scything, as well as creating new habitats for wildlife by digging out ponds, clearing scrub and planting wild flowers. As part of this work the River Cherwell will be re-landscaped with new banks planted up with native wild flowers, bridges and benches so that more people can enjoy the amenity provided by the river.

As part of the development there will be the provision of a public footpath promoting access to the river corridor and linking it to Spiceball Park, providing much improved recreational access to the river corridor and enhancing the connectivity of the development. It is the applicants view that Condition 9 should be removed as it will not provide any further betterment to the current situation.

Any in-stream works undertaken adjacent to the site will only provide minimal benefits to the river corridor in this location which, as already stated, is already believed to be of good

quality. In addition, any works are constrained by the concrete embankments and maintenance access, which need to be retained.

With regards the removal of the self seeded sycamore trees referenced in the Condition (second bullet), these have been recommended for removal by the applicants arboriculturalist. A suitable replacement scheme is to be provided as part of the landscaping submission pursuant to the Outline Permission, but specifically responding to Condition 16 (which will be retained in any successor permission) and requires that:

“Prior to the installation of the first and successive phases of the development hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme for landscaping shall include:

Details of the proposed tree and shrub planting including their species, number, size and positions, together with grass seeded/turfed areas,

Details of the existing trees and hedgerows to be retained as well as those to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum excavation distance between the base of the tree and the nearest edge of any excavation,

Details of the hard surface areas, including pavements, pedestrian areas, reduced-dig area, crossing points and steps”.

4.13 Landscaping proposals and enhancement within the River Corridor will be submitted pursuant to Condition 16. In discharge this condition it is anticipated that Cherwell District Council will seek advice from the Environment Agency and other relevant consultees.

- 8.14. We are yet to receive a response to the consultation with the Environment Agency. An update on this will be provided to the Committee.
- 8.15 The submission includes an updated assessment of flood risk. It confirms no material change to previously accepted findings

Other Matters

- 8.16 The relocation of the food store service yard to the north-east of the building will have noticeable acoustic benefits for the residents of Chamberlain Court as the servicing vehicles will turn off Spiceball Park Road before reaching this residential building, and furthermore any noises from the unloading of vehicles will be screened by the building itself.
- 8.17 Both the approved layout scheme and that shown on the revised parameter plans show the loss of many of the trees on the Spiceball Park Road frontage of the foodstore, caused by the change in levels at this point, the change in alignment of the road and the positioning of the building relative to that road. There will be opportunities to introduce new soft landscaping on parts of this frontage.

9. CONCLUSION

- 9.1 The changes to the access arrangements to Spiceball Park Road are considered to be acceptable, and indeed offer some advantages over the approved layout in reducing the potential disturbance to the residents of the nearby properties. Detailed concerns expressed by the highway authority are considered to be capable of being overcome satisfactorily by the use of conditions upon the subsequent reserved matters application that needs to be made.

- 9.2 The removal of condition 9 seems appropriate given the explanation set out by the applicants at paragraph 8.13. Confirmation of this from the Environment Agency is awaited.

10. RECOMMENDATION

That permission is **granted**, subject to:

- a) The final comments of Oxfordshire County Council as highway authority and Environment Agency
- b) The applicants entering into a Deed of Variation to enable the provisions of the existing Section 106 legal agreement and Section 278 agreement with OCC to apply to this new consent
- c) the following conditions:
 - 1. It is recommended that previous condition 4 be amended to allow the substitution of alternative parameter plans to provide for the revised access arrangements
 - 2. That all previous conditions attached to permission 13/01601/OUT , except for condition 9 , shall be applied too this new consent

PLANNING NOTES

All previous planning notes are recommended to be re-applied .