

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

16/02505/OUT

Ward: Bicester South and
Ambrosden

District Councillor: Councillor Anderson, Councillor
Cotter, Councillor Sames

Case Officer: Linda Griffiths

Recommendation: Approval

Committee Date: 13th April 2017

Applicant: CPG Development Projects Ltd

Application Description: Bicester Gateway (Kingsmere – Retail) four Class A1 (retail) units, one Class A3 (Café/restaurants) unit, a Class D2 (gym) unit, surface level car parking, access, servicing and associated works

1. Site Description and Proposed Development

- 1.1 The application site extends to 2.28 hectares and is part of the development at South West Bicester which is situated between the Middleton Stoney and Oxford Roads The whole site was granted outline planning permission subject to conditions and a Section 106 Agreement for the erection of up to 1585 dwellings, employment, education, health village, employment and supporting infrastructure in June 2008 (06/00967/OUT refers). A land use proposals plan approved as part of the original outline conditions identified this site as part of the employment zone which was also to include the hotel development.
- 1.2 Adjoining the site to the north is the Bicester Service Station, which comprises a petrol filling station together with a Burger King and Little Chef food outlets. The eastern boundary is bounded by the A41, the southern boundary by the Premier Inn and Brewers Fayre Public House and to the west by the primary school and residential development associated with South West Bicester development, now known as Kingsmere.
- 1.3 The site will be accessed via the new signalised junction onto the A41 serving the development and the new access road off the main spine road which currently serves the Premier Inn Hotel and Brewers Fayre Public House. Servicing of retail block A is proposed via the Esso Service Station roundabout and service road.

The application site is roughly rectangular in shape, is relatively flat and has no features of note. The A41 signalised junction is one of the key entrances into the development and has been designed to form an urban square with buildings to its perimeter framing this space. The application is in outline, but only landscaping is reserved, all other matters are to be considered as part of this submission.

The application seeks consent for the erection of 3 large retail units in a single block A and a smaller retail unit and A3 unit with gym above in a smaller unit B, totalling 9,244 sqm of floorspace. A central car park indicates the provision of 345 car parking spaces.

2. Application Publicity

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

3 letters of support have been received from local residents as follows.

- Previous plan was refused on appeal because of the scale and look of the buildings, car parking and traffic problems. From what I can see these problems have been addressed
- Delighted that there is an extra shop, as we need more shops in Bicester, retail choice for clothing and footwear is abysmal and has not improved with Bure Place/Pioneer Square redevelopment
- Additional car parking spaces along with improved lay-out and better landscaping
- Widening A41 to 3 lanes is fantastic, having this extra lane from the Park and Ride to the new hamburger roundabout will speed up the flow. Traffic problems will get worse if we don't get these improvements
- Not having adequate mid-range retail facilities in Bicester makes a mockery of Bicester being a 'healthy new town' or 'Eco-Bicester'
- Local plan mentions more future retail sites for Banbury, but Bicester only has 'Bicester Village'
- Please allow the application to go ahead without further delay, it will not have a detrimental effect on Bicester Village nor take business away from the town centre due to the nature of the shops planned
- The proposal addresses a severe shortfall in the type of retail units that Bicester severely lacks and cannot be provided in the Town Centre
- The needs of residents should have a higher priority than objections raised by vested retailers

2 letters of objection from local residents comment as follows:

- This is Bicester south west, Bicester Gateway is Bicester 10 on the opposite side of the road
- If stores of this nature are required they should be grouped together on one site, not scattered piecemeal. The ideal site for a development of this nature is adjacent to Tesco or linked with Bicester Avenue
- Do not believe that Pioneer Way has been constructed to handle the increased traffic, is this the only/best access route? If so junction with Haydock Road and A41 needs to be improved as there have been many near misses at both junctions. Sports Pavilion and Secondary School accessed from Whitelands Way will impact further. Public access should be from the Esso Garage end of the development

Bicester Traffic Action Group (BicesterTAG) comment as follows:

- Welcomes Next and M&S but do not consider the proposed site to be suitable given the existing levels of traffic congestion and high pollution levels in the area
- TA makes several statements that are not backed up by facts. The developer's traffic consultant states that works currently being undertaken at the Esso roundabout in connection with the Bicester Village expansion will be unable to cater for traffic growth by 2024, we cannot find evidence of this. TA states that a small amount of road widening will solve this problem, but cannot find evidence to support this, other than stick diagrams, let alone reduce the traffic flows as the assessment suggests.
- The main thrust of the TA is that the majority of the traffic going to and from the 'Gateway' proposal, 75% will already be on the network and will simply be transferred and diverted trips from Banbury, Aylesbury and Oxford. We find this assertion difficult to justify as stores of this type already exist in these towns and as we assume neither Next or M&S would wish to reduce their footfall to support a new store in Bicester. M&S and Next are traffic generators in their own right and rely on new customers rather than distributing existing. Even when the town's expansion is complete, Bicester will not be large enough to support these stores and custom will have to come from elsewhere.

- TA's are always written in a manner that favours the person commissioning them. Whilst we do not consider that there is any deliberate attempt to mislead, it is often what is not said rather than what is said that is important. OCC have got the last two major assessment (Bicester Village expansion and the previous submission for this application) wrong, and hope that they will act more diligently in reviewing the implications of such a traffic generating development in close proximity to Bicester Village, Tesco Superstore, Bicester Avenue as well as a new business park and hotel.
- Site is also in close proximity to areas of dangerous levels of pollution – Kings End South, Queens Avenue and North Street. Any increase in traffic will have an adverse impact on air quality within the AQMA.
- Assuming that Next and M&S have signed up to this proposal, and we have seen no proof of this, Bicester TAG welcomes the fact that such businesses wish to move to Bicester but feel that this site with its heavy and increasing traffic congestion, is the wrong location and would add to the traffic congestion and traffic related air quality problems of the area.

The comments can be read in full on the application file.

An objection has been received on behalf of Bicester Sports Association and U&I Group PLC who comment as follows:

- The existing BSA Oxford Road site requires refurbishment
- BSA also has a site at Chesterton
- Costs of maintaining these sites has in the past been subsidised by investment income, but due to lower interest rates and investment returns their future is becoming uncertain. BSA has therefore entered into a development agreement with U&I Group to redevelop the Oxford Road site for mixed use retail and leisure development and to relocate the existing sports facilities to Chesterton.
- Application is contrary to the Policy Bicester 5 which seeks to strengthen the town centre and identifies an 'area of search' which should be the first port of call. Unlike BSA's Oxford Road site, the application site falls outside the 'area of search'
- Therefore and in accordance with the NPPF paragraph 27 and Policy SLE2, the application can only be considered acceptable if it complies with the sequential test and does not have a significant adverse impact on Bicester town centre
- Do not consider the sequential test has been met as the Oxford Road site which is preferable is available for development.
- At circa 4.13ha, compared to the application site at 2.28ha, the Oxford Road site can accommodate the development
- Note that Mango has not undertaken a new retail impact assessment but simply appends its February 2015 assessment which accompanied the previous submission. This is out of date and Mango should be required to undertake a full, robust and up to date retail impact assessment. The failure to do constitutes a refusal as set out in the PPG.

The comments can be read in full on the application file.

A holding objection has been submitted on behalf of Value Retail on highway grounds, pending further clarification and analysis as follows:

- The TA has utilised the 2024 assessment year traffic flows from the consented Bicester Village Phase 4 and Tesco Planning applications as the base for the assessment of the highway network which were undertaken in July 2011 and which are therefore in excess of 5 years old
- National Planning Practice Guidance states that a Transport Assessment should include data regarding the '*current traffic flows on links and at*

junctions'. It is generally considered that data in excess of 5 years old would not represent a suitable indication of current traffic conditions, in particular where there have been significant changes to the highway network or developments that would affect traffic patterns.

- Since the 2011 traffic surveys were undertaken, Vendee Drive has been constructed and the Tesco store has opened, both of which would result in significant changes to traffic patterns on the local highway network. The Tesco and Bicester Village Phase 4 Transport Assessments included an assessment of the change in traffic patterns on the network as a result of vendee Drive and the new Tesco store, however, as these are now in place, current traffic surveys would provide a more appropriate and accurate base for the purpose of the assessment
- The Sunday trip rate is based on a sample of only two sites from the TRICS database. Both site surveys date from 2000 and are of retail parks comprising bulky goods retailers such as Homebase, PC World and Currys. These sites are not considered to be comparable to the proposed development. The resultant trip rate based on these sites is some 30% lower than the trip rate used in the assessment for the Saturday peak period. Consideration of the survey data for Bicester Village and Tesco presented in the TAs supporting consented proposals at those sites, indicates that retail traffic attraction during the Sunday peak hour is comparable to Saturday peak hour. Consequently the trip generation for Sunday is likely to be significantly underestimated
- It is further noted that the baseline capacity assessment presented in the Transport Assessment indicates that the highway network in the vicinity of the development operates closer to capacity on a Sunday. On that basis, the traffic generation is underestimated
- The current proposals include a package of mitigation measures on the A41 which predominantly comprise the provision of an additional lane of carriageway northbound past the application site. A review of the capacity modelling within the TA indicates discrepancies in the capacity modelling, including changes to link lengths which may result in the assessment underestimating the impact of the development on the highway network

3. Consultations

- 3.1 **Bicester Town Council:** Welcome the application, however, we believe it is not necessarily in the right location and we have concerns about the volume of traffic and management. There is also a concern regarding the impact this development would have on the town centre and the robustness of the sequential test put forward by CPG developments.

Cherwell District Council Consultees

- 3.2 **Planning Policy Officer:** the application site is greenfield land located in an out of centre location adjacent to the A41.

The application site is part of a larger site for which planning permission was granted in 2008 for circa 1800 homes and other uses. The application site is located on land which is zoned for employment use (B use classes) through that planning application. The larger site is currently under construction and well advanced with new homes being constructed in close proximity to the application site and there is a recently completed hotel adjacent to the application site. The application site is in an out of centre location but is acknowledged that new development at Bicester would bring the site within Bicester's urban area.

It is noted that a recent planning application for a similar proposal was refused planning permission which was then subject of an appeal and dismissed. The current proposals have a slightly reduced floorspace including one less restaurant.

Main Policy Observations are as follows:

- Application site is on land identified as an approved housing site. (SW Bicester development) on Key Policies Map 5.2:Bicester
- Local Plan 2015 Objective SO1 sets out that the objectives for developing a sustainable local economy include; to facilitate economic growth and a more diverse local economy with an emphasis on attracting and developing higher technology uses. Paragraph 19 of the NPPF encourages economic growth.
- Policy SLE1 sets out the requirements for planning applications for existing employment sites. Paragraph B.48 explains that Policy SLE1 applies to sites which have planning permission for employment uses. Paragraph B.48 states that the provision of jobs will be a material consideration for determining planning applications for any use classes. There are other sites allocated in the Local Plan 2015 to deliver future employment needs.
- Paragraph B.50 states that the Council is determined to secure dynamic town centres as the focus for retail development. Paragraph B.55 explains that new retail development will continue to be focussed in the town centres and all new development will be required to be built to high design and building standards.
- Paragraphs 23 to 27 of the NPPF (which relate to ensuring the vitality of town centres) will apply. In particular the requirements relating to the production of a sequential test and impact assessment should be observed. Annex 2 provides further information
- The uses proposed 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 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 SLE2 states that only if suitable sites are not available in edge of centre locations should out of centre locations be considered. The NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to 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 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. Changes to 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 2015.
- 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. Sites should however be suitable and available.
- The proposals are located in an area of Bicester where commercial and residential development already exists in close proximity, is taking place or is planned, providing some opportunities for sustainable modes of travel. This should be a consideration in determining the application, however, proposals

alternatively located in the town centre, and potentially in edge of centre or other out of centre locations, may better achieve this. For example, as demonstrated by proposals set out at Policy Bicester 6: (Bure Place redevelopment) of the Local Plan

- Bicester Village is expanding on the previous Tesco food store site. 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.
- In relation to the appeal (above) the Inspector stated that he was satisfied that the appellant had provided sufficient evidence to show that the proposal would not adversely affect the vitality and viability of Bicester. The Inspector also observed that the information provided by the appellant had demonstrated that the proposal satisfies the sequential test and the council had agreed that this is the case. He stated that he had been given insufficient substantive evidence to convince him that there are more suitable sites in the area for the proposed development.
- The Inspector also noted that the Local Plan has only recently been adopted following an Examination in Public and the Inspector found in his report that it is sound. He stated in this respect he was satisfied that the relevant policies in the Local Plan are not out of date.
- Strategic Objective 13 of the Local Plan aims to reduce the dependency on the private car as a mode of travel and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 will also apply and has similar objectives. The transport and traffic impacts of the development will need to be considered including against requirements in section 4 of the NPPF. Sustainable modes of transport should be provided. Paragraph 32 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- Paragraph 56 to 67 of the NPPF on requiring good design are also relevant

Policy Recommendation – The proposal will provide for economic growth and jobs in retailing. The previous appeal decision (as above) considers that there were no significant retail matters outstanding. Circumstances do not appear to have substantially changed relating to potential impact and alternative available suitable sites since the previous scheme was considered. On this basis there is no planning policy objection. However, the Local Plan is recently adopted and has a clear policy focus in terms of directing retail uses to the town centre to support its vitality and viability and the sequential test and impact assessment must be robust and up to date to inform a decision.

3.3 **Ecology Officer:** Has no overarching concerns with the proposed works, however there are a number of recommendations in the report for appropriate ecological mitigation measures which we recommend should be followed

- Existing scrub/hedgerow removal should be timed to avoid bird nesting season. Given the presence of skylark during the previous survey and suitable habitat on site, ground clearance works should also be undertaken to avoid the nesting bird season
- Since the previous survey, a Schedule 9 invasive non-native species of Cotoneaster has colonised the bund in the north of the site. Appropriate recommendations to remove the species and prevent spread have been included in the report.
- We also recommend that enhancements on site are encouraged, in particular making use of native species planting of shrubs and trees around the

boundary of the site, opposed to non-native ornamental species

- Bat and bird boxes are recommended as part of mitigation loss of nesting bird habitat. Other enhancements could include the consideration of green wall (which we understand was previously proposed under ref 15/00250/OUT) or green roof within the site
- Should permission be granted, we would recommend that a Construction Environmental Management Plan (CEMP) to safeguard protected species, remove invasive species and include protection measures for the existing boundary vegetation is secured via a condition (to follow the recommendations in paragraph 5.2 of the report) and also a combined ecological and landscaping plan is secured via a condition

3.4 **Business Support Unit:** no comments received to date

3.5 **Environmental Protection Officer:** no comments received to date

3.6 **Landscape Officer:** comments as follows:

- West façade of unit C - major visual harm due to scale, height and proximity to highway corridor. Reduce height and set façade 10m from current position. With a signage zone maintained as a viewing corridor, plant semi-mature Corsican pines for mitigating the bulk of the building and reduce early morning glare impact on traffic users. Reinforce tree planting around loading unit area to mitigate HGVs.
- Western site boundary/car park – for benefit of pedestrians, retain the existing hedgerow and maintain at 3m above pavement level to shield car parking
- Large area of visually onerous car parking which has cumulative harmful visual effect due to adjacent hotel and restaurant site car parking. A 3m wide strip of tree planting with understory including 1m mowing strip to parking bays and increase trees in car park generally with the intention of mitigating heat island effect and reducing glare of glazing panels on southern elevation
- Oppressive west-facing elevation of units D and E. Issue of privacy: upper story windows of future residential development being able to be overlooked from adjacent upper levels of units. Oppressive effect created due to scale, height and close proximity of units to future residents. Set back units to allow for intervening trees and visitor parking corridor
- Northern site boundary planting, in order to mitigate the scale of unit A and associated car parking for the benefit of future residents west of the site, there must be substantial tree planting on the north/north-western boundary.

Oxfordshire County Council Consultees

3.7 **Transport:** Initial Objection, the proposals fall short of demonstrating that the development would not have a severe residual impact on the local transport network. The objections are summarised as:

- Increase out commuting from Bicester reducing the potential sustainability benefits of the approved site
- The proposals fall short of demonstrating that the development would not have a severe residual impact on the local transport network
- The information on drainage is insufficient to form an opinion about the sustainability of the surface water drainage SUDS proposals that would ensure flood risk would not be increased
- 2024 base plus committed development scenario turning movements do not reflect current local plan assumptions, meaning that the proposed mitigation scheme may not work as modelled
- Assumptions regarding frequency of pedestrian crossing being called
- Assumptions regarding transferred trips

- Some concerns regarding trip assignment in Bicester
- Car park layout is not efficient and at busy times is likely to result in queues backing up to the junction with Pioneer Way, blocking access to Kingsmere, which could result in queues extending back to the A41. This could in turn lead to overspill parking as customers choose to park elsewhere
- More information required on proposed car park management scheme
- Service yard layout very tight and vehicles waiting to enter could cause a safety hazard for vehicles leaving the roundabout to enter the service station
- Insufficient disabled parking
- Inadequate drainage information

Update

Following the receipt of the consultation response above, the applicant's transport consultant has sought to overcome the objections raised. A revised consultation response dated 24th March has now been received as follows:

This updated transport response addresses the additional information 'Technical Note 4' dated 7th March 2017 and should be read in the context of OCC's original response dated 13th February 2017. All comments in our original response continue to apply other than those addressed in the updated transport response.

As a result of the additional information received, OCC **withdraw the transport objection**. However, it should be noted that OCC still has the following transport concerns:

- Whilst the applicant argues that the mitigation scheme results in betterment compared with the 2024 base scenario, the junction would still operate negative Practical Reserve Capacity in the PM peak and, depending on the number of transferred trips allowed for, it would be slightly worse than the situation without the development or its mitigation scheme
- The scheme would result in no perceptible improvement to the travelling public in 2024, and the situation would only get worse between then and 2031 in the absence of a more significant scheme to relieve this corridor
- Although the car park layout has been revised there is still likely to be some delay at peak shopping times. With space for only 11 cars to queue between the car park entrance and Pioneer Way, there is a risk of traffic blocking Pioneer Way. There is also insufficient space for a right turning lane. However, this is unlikely to coincide with school pick up times.
- Further tracking has been provided showing how trucks could wait in a waiting area within the yard. However, this does not address our concern about obstruction if the gate is closed and a vehicle cannot enter, although this could be dealt with by a condition for a delivery and servicing plan.

Additionally, as raised in our previous response of 13th February 2017, OCC continues to have the following concerns with this application:

- The loss of skilled jobs that the current approved B1 use (permission reference 06/00967/OUT) could provide for
- The potential increase in out commuting from Bicester as a result of losing a key employment site
- The impact of the development on the town centre and local centre
- The proposals are contrary to the Cherwell Local Plan and the Draft Bicester Masterplan

In addition to the above points, the County Council's Local Members continue to have the following concern

- Increased traffic along Middleton Stoney Road, the A41 corridor and the cumulative impact of existing and planned developments such as: Bicester Village, Resco. Biucester Avenue, Bicester 10 (Business Park and Hotel), Bicester 12 (Wretchwick Green), Symmetry Park, Graven Hill, NW Bicester,

Bicester 11 (Skimmingdish Employment site), Kingsmere and the potential housing sites in Kidlington for Oxford's unmet need).

3.8 **Drainage Officer:** Initially commented that the information on drainage is insufficient to form an opinion about the sustainability of the surface water drainage SUDS proposals that would ensure flood risk would not be increased.

- No FRA has been submitted with the application
- No assessment run-off rates (greenfield or developed) – therefore allowable discharge rates not established.
- No assessment of attenuation requirements required to mitigate for increased surface water run-off rates
- No assessment of long term storage requirements to mitigate for increased volume of surface water produced by the development
- No outline drainage plan/sketch submitted with the proposal
- The drainage strategy statement (RVW Consulting Limited) supplied with the application appears confusing with regard to infiltration strategy, stating infiltration is used at the existing site, but later stating that infiltration techniques are not viable because of poor infiltration rates recorded in the site investigation report – please supply the test results and location of tests
- Drainage strategy statement (RVW Consulting Limited) makes reference to underground storage tanks, but this hardly gives confidence that SUDS techniques are proposed to be used in a treatment train approach to achieve SUDS objectives such as improving 'water quality'. A range of SUDS techniques to form a treatment train is not considered.

Update

Following the receipt of updated and additional information from Cameron Rose dated 20th March 2017, the drainage strategy for the site has been clarified and the objection above is now removed.

Strategic Comments:

OCC also has concerns as follows:

- The loss of skilled jobs that the current approved use could provide for
- Potential increase in out commuting from Bicester as a result of losing a key employment site
- Impact of the development on the town centre and local centre
- Proposals are contrary to the Cherwell Local Plan and Draft Bicester Masterplan

OCC's Members also have the following concerns:

- Increased traffic along Middleton Stoney Road, A41 corridor and cumulative impact of existing and planned developments
- Loss of skilled jobs
- Potential increase in out commuting from Bicester as a result of losing a key employment site
- Impact of the development on the town centre and local centre
- The proposals are contrary to the Cherwell Local Plan and Draft Bicester Masterplan

The above mentioned consultation response can be read in full on the application file.

Other Consultees

3.9 **Thames Water:** comment as follows
Surface water drainage – no objection

There are public sewers crossing or close to your development. In order to protect public sewers and to ensure that Thames Water can gain access to the sewers for future repair and maintenance, approval should be sought from Thames Water where the erection of a building would be in the line of or come within 3m of a public sewer. Thames Water will usually refuse such approval in respect of new buildings.

Waste Water – with the information provided TW has been unable to determine the waste water infrastructure needs of the application. A Grampian style condition is therefore recommended.

3.10 Environment Agency: no comments received to date

4. Relevant National and Local Policy and Guidance

4.1 Development Plan Policy

Adopted Cherwell Local Plan (Saved Policies)

- C28: Layout, design and external appearance of new development
- C31: Development in residential areas
- ENV12: Contaminated land
- TR1: Transportation funding

Adopted Cherwell Local Plan Part 1 2011-2031 (July 2015)

- SLE1: Employment generating development
- SLE2: Securing dynamic town centres
- SLE4: Improved transport and connections
- ESD1: Mitigating and adapting to climate change
- ESD2: Energy hierarchy and allowable solutions
- ESD3: Sustainable construction
- ESD5: Renewable energy
- ESD7: Sustainable drainage systems
- ESD10: Protection and enhancement of biodiversity and natural environment
- ESD13: Local landscape protection and enhancement
- ESD15: Character of the built and historic environment
- Bic 5: Strengthening Bicester Town Centre
- INF1: Infrastructure

4.2 Other Material Policy and Guidance

National Planning Policy Framework

Planning Policy Guidance

Relevant Policies of the Non-Statutory Cherwell Local Plan 2011

Recognising there may be size constraints for this application, Policies S16, S17 and S17a are of relevance for the sequential test. There are sites identified in the Non-Statutory Cherwell Local Plan in central Bicester to accommodate development including town centre uses.

Policies H1b and H13 identify land at South West Bicester for 1585 homes and other uses including employment land. Policy H13 states that a comprehensive scheme should be provided for and criterion (xiv) provides for '*an appropriate range of local facilities, including a public house, to be provided on a commercial basis*'. Supporting paragraph 3.113 states that retail, public house, primary education, community and primary health care facilities will be grouped into a

neighbourhood centre and that retail development of a scale greater than that to serve the day to day needs of the neighbourhood will not be acceptable. Policy S18 also makes provision for the local centre.

5. Appraisal

5.1 The key issues for consideration in this application are:

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

Relevant Planning History

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

5.3 The construction of the wider South West Bicester development began in July 2010. The major infrastructure has been provided and a number of residential parcels have either, been completed and occupied or are currently under construction following the granting of the relevant reserved matters consents. The primary school has been constructed and is now occupied. Reserved matters consent has been granted for the Local Centre and Community building, but construction has yet to start on site.

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

5.5 A previous application for the erection of 3 large A1 retail units and 3 A3 units with gym above on the site was refused and dismissed on appeal (15/00250/OUT refers). The appeal was dealt with by public inquiry, the reasons for refusal related to the size and scale of the building and its relationship with adjacent residential properties and traffic impact.

Whilst the current proposal is 1,269 sqm smaller than the previously refused application, the most significant change between the two proposals is the reduction in restaurant space, which has been reduced from 3 units (1,403 sqm) to 1 unit (435 sqm). The proposed A1 (food) floorspace remains unchanged, and the proposed A1 (non-food) floorspace is only marginally reduced.

Policy and the Principle of Development

- 5.6 The Development Plan for Cherwell District comprises the saved policies in the adopted Cherwell Local Plan 1996 and the adopted Cherwell Local Plan 2011-2031. Section 70(2) of the town and Country Planning Act 1990 provides that in dealing with applications for planning permission, the local planning authority shall have regards to the provisions of the development plan, so far as is material to the application, and to any other material considerations. Section 38 of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the development plan unless material considerations indicate otherwise. This is also reflected in the National Planning Policy Framework (NPPF).
- 5.7 The purpose of the planning system is to contribute to the achievement of sustainable development. The NPPF sets out the economic, social and environmental roles of planning in seeking to achieve sustainable development; contributing to building a strong, responsive and competitive economy; supporting a strong, vibrant and healthy communities; and contributing to protecting and enhancing our natural, built and historic environment (paragraph 7). It also provides (paragraph 17) a set of core planning principles which, amongst other things require planning to:
- Be genuinely plan led, empowering local people to shape their surroundings and to provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency
 - Proactively drive and support sustainable economic development
 - Always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings
 - Support the transition to a low carbon future in a changing climate
 - Encourage the effective use of land by reusing land that has been previously developed
 - Promote mixed use developments
 - Conserve heritage assets in a manner appropriate to their significance
 - Actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and to focus significant developments in locations which are, or can be made sustainable
 - Deliver sufficient community and cultural facilities and services to meet local needs
- 5.8 The NPPF at paragraph 14 states that ‘at the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both planning and decision taking....For decision taking this means
- Approving development proposals that accord with the development plan without delay; and
 - Where the development plan is absent, silent or relevant policies are out of date, granting permission unless;
 - Any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - Specific policies in the Framework indicate development should be restricted
- 5.9 The NPPF further advises that a sequential test should be applied to applications for main town centre uses such as retail. Only if suitable sites are not available should out of centre sites be considered, and preference should be given accessible sites that are well connected to the town centre. Impact Assessments are also required for developments over 2,500sqm. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact, then it should be refused.
- 5.10 The Planning Practice Guidance advises on sequential test and impact assessment,

but also advises that if a required development cannot be accommodated in the town centre, that the local planning authority should plan positively for such needs having regard to the sequential test and impact tests. Policy Bicester 5 of the adopted Cherwell Local Plan 2011-2031 seeks to do this by identifying an 'Area of search' to ensure that any proposed main town centre uses which are not in the existing town centre are in the best locations to support the vitality and vibrancy of the town centre, and that no likely significant adverse impacts on existing town centres arise as set out in the NPPF.

Adopted Cherwell Local Plan 2011-2031

- 5.11 The Local Plan is consistent with the NPPF in that it requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of such centres and aims to support Bicester town centre's viability and vitality.
- 5.12 Policy SLE2 of the adopted Cherwell Local Plan 2011-2031 'Securing Dynamic Town centres' seeks to ensure that Bicester's role is strengthened in terms of achieving economic growth as a destination for visitors and serving their rural hinterlands. The policy further advises that proposals for retail and other Main Town Centre Uses not in a town centre should be in 'edge of centre' locations, and only if suitable sites are not available in edge of centre locations, should out of centre sites be considered; and, when considering edge of centre or out of centre proposals, preference will be given to sites that are well connected to the town centre. An impact assessment will also be required in accordance with the requirements of the NPPF. It states that the council will consider if the proposals satisfy the sequential test and if they are likely to have significant adverse impact on one or more factors in the NPPF. This policy also requires that all proposals should comply with Policy SLE4 which relates to improved transport and connections.
- 5.13 Policy Bicester 5 'Strengthening Bicester Town Centre' aims to support the viability and vitality of the existing town centre, encourage economic activity, assist with the connectivity between the existing town centre, a new Bicester Town Railway Station; Bicester Village; and adjoining and proposed residential areas; and, improve the character and appearance of the centre of Bicester and the public realm. Partial redevelopment of the town centre has been achieved by the recent Bure Place scheme and a second phase of development is planned through Bicester Policy 6. Remaining relevant policies in the plan largely concentrate on seeking a sustainable form of development through other disciplines such as SUDS, flood management and design.
- 5.14 The application site is not within Bicester Town Centre as defined by Policy Bicester 5 or within the 'Area of Search' identified in that policy, and is not allocated for retail development as part of the Development Plan.
- 5.15 At the recent inquiry in respect of the previous application (15/00250/OUT), the applicants argued that the relevant retail policies in the Cherwell Local Plan are out of date or that the local plan is silent on future retail provision. The Inspector did not accept this however stating

'The local plan has only recently been adopted following an Examination in Public and the Inspector found in his report that this is sound. In this respect, I am satisfied that the relevant policies in the Local Plan are not out of date. Although the details of the allocation for retail development are left to Part II of the Local Plan, which is at a relatively early stage in its progress towards adoption, Part I makes allocations and sets policy through the inclusion of 'areas of search'. As such, I find that the development plan is not silent on this matter in relation to the provisions of paragraph 14 of the Framework. Therefore, the proposal does not need to be determined in

accordance with the last bullet point in paragraph 14 of the Framework'

Sequential Test

- 5.16 The NPPF advises that local planning authorities should plan positively, to support town centres to generate local employment, promote beneficial competition between town centres and to create attractive, diverse places where people want to live, work and visit. It also states that local planning authorities should assess and plan to meet the needs of main town centre uses in full, in broadly the same way as for their housing and economic needs, adapting a 'town centre first' approach and taking account of specific town centre policy.
- 5.17 The NPPF sets out two key tests that should be applied when planning for town centre uses which are not in an existing town centre and which are not in accordance with an up to date Local Plan – the sequential test and impact test. The NPPF requires a town centre first approach that directs retail and other town centre uses towards town centres and encourages the growth of centres. The adopted Cherwell Local Plan 2011-2031 is consistent with this approach and aims to support Bicester town centre's vitality and viability. Policy SLE2 directs retail and other town centre uses towards the District's town centres. Policy SLE2 states that only if suitable sites are not available in edge of centre locations should out of centre locations be considered.
- 5.18 The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses. The sequential test will identify development that cannot be located in town centres, and which then would be subject to the impact test. The impact test determines whether there would be likely significant adverse impacts of locating main town centre development outside of existing town centres.
- 5.19 The application submission is supported by a Planning and Retail Statement prepared by Mango Planning and Development Ltd on behalf of the applicants dated December 2016. A sequential test has not been submitted as part of this application as the applicant is relying on the sequential test submitted with the previous application which was refused and subsequently dismissed at appeal (15/00250/OUT refers). That concluded that the proposed development satisfied the sequential test and would not have significant adverse impact.
- 5.20 In considering the sequential test the applicant must demonstrate that there are no sites within the town centre that are suitable and available and upon which the proposed development would be viable. The current application proposes 9,244 sqm of floor space with 345 car parking spaces on a site of 2.282 hectares. The floor space is slightly reduced from the previous application, but the site area is slightly increased to enable a larger car park to be accommodated. The previous sequential test assessed the following sites:
- 5.21 Land at Crumps Butts, concluded that this is unsuitable, stating that this land is in multiple occupation and too small to accommodate the scale and format of the application proposal and that GVA Grimley in its consideration of the Aldi proposal on behalf of the Council stated in their critique 'that the site is better suited to smaller retailers, given the size, proximity to residential dwellings and the limited scope for comprehensive development to provide a larger format'.
- 5.22 An assessment of Bicester Town Centre carried out by Mango Planning and Development Ltd in December 2013 identified 22 vacant units, with an update in January 2015 identifying 17 units, the vast majority of which were very small and therefore did not provide sufficient floorspace to accommodate the application proposal or a flexible interpretation of them. No further update has been given by the applicant in respect of the current available units in Bicester Town Centre as part of

this submission.

- 5.23 Land at Victoria Road is located to the rear of Sheep Street and extends to approximately 0.8ha. The applicant's agent concluded that the site is not only too small but a comprehensive retail proposal in this location would attract the same issues as the dismissed appeal for 36 live work units and the site is therefore unsuitable.
- 5.24 Claremont car park was stated by the applicant's agent to be unavailable and in physical terms too small to accommodate the application proposal and does not offer the frontage or prominence that the development would require and is therefore also considered to be unsuitable and unviable.
- 5.25 The sequential test submitted as part of the previous application therefore concluded that there were no sequentially preferable sites available within Bicester town centre.
- 5.26 Moving further out of the town centre, the only suitable edge of centre site identified by the sequential test was the Cattle Market car park which is owned and managed by the District Council, concluding that it would create a large and prominent structure incompatible with surrounding buildings and residential properties.
- 5.27 The only out of centre site highlighted was the former Lear Corporation site at Bessemer Close. The site extends to 1.2ha and is currently occupied by a vacant industrial unit. The sequential test stated that this site was no longer available and that in any event the cost of clearing the site would reduce the amount of finance available for a high quality sustainable development. Members may recall that consent for the re-development of this site for residential was refused (15/02074/OUT refers). An appeal was lodged and a hearing held on 7th February 2017, the decision is currently awaited.
- 5.28 The Planning Inspector stated in respect of the appeal proposal as follows:
- 'I have noted the submissions made by Bicester Sports Association regarding the sequential test. However, the information provided by the appellant has demonstrated that the proposal satisfies the sequential test and the Council has agreed that this is the case. I have been given insufficient substantive evidence to convince me that there are more suitable sites in the area for the proposed development.'*
- 5.29 Although the sequential test submission has not been updated since the above mentioned appeal decision, there have been no significant change in circumstances in terms of any of the above sites becoming available or any other known sites being made available and it is considered therefore that that the sequential test has been satisfied. The application must therefore be considered in terms of its impact on Bicester town centre and other retail outlets and this is considered below.

Retail Impact

- 5.30 The NPPF states at paragraph 24 that only if suitable sites in main town centres or edge of centre locations are not available, should out of centre sites such as the application proposal be considered. The purpose of the impact test is to ensure that the impact over time (up to five years or ten years for major schemes) of certain out of centre and edge of centre proposals on existing town centres is not significantly adverse. The impact test only refers to proposals exceeding 2,500 sqm of gross floorspace, (such as the application proposal), unless a different locally appropriate threshold is set by the Local Planning Authority, with impact assessed on a like-for-like basis. Where evidence shows that there would be no likely significant impact on a town centre from an edge of centre or out of centre proposal, the local planning authority must then consider all other material considerations in determining the application.

- 5.31 In terms of assessing the impact of the development, the NPPF states at paragraph 27 that an application should only be refused if it is likely to have significant adverse impact on the vitality and viability of the town centre.
- 5.32 In 2010 the council commissioned an update to its 2006 PPS6 Retail Study. In 2012 a further study was commissioned which examined the capacity for comparison and convenience floorspace in the District. This study identified no additional capacity for convenience retail floorspace for Bicester on top of the floorspace as part of the Bicester town centre expansion. The study does, however, identify more need for comparison retail within the town. The conclusions of that study found that overall, Bicester town centre is a healthy town centre which is well patronised with a good quality environment. Convenience retail floorspace relates to food and comparison retail relates to non-food retail. A further study is currently being undertaken as part of Local Plan Part 2 but is currently not available.
- 5.33 This application again relies upon the retail impact assessment submitted in respect of the appeal proposal (15/00250/OUT refers) which sought to assess the potential impact of the development on Bicester town centre. This assessment, together with additional information and analysis that was done as part of that application was independently assessed by CBRE on behalf of the council. It was concluded in respect of that application that it had not been demonstrated that the proposal would not have an impact on Bicester town centre and therefore impact on the viability and vitality of Bicester town centre was one of the reasons for refusal.
- 5.34 Following the lodging of the appeal against the council's decision to refuse planning permission for the retail development, the council engaged CBRE to carry out a retail impact assessment in respect of the proposal on Bicester town centre for the appeal. That assessment concluded that 'significant adverse impact' could not be demonstrated and therefore this reason for refusal was withdrawn from consideration at the Inquiry. In this respect the Inspector stated
- 'I am satisfied that the appellant has provided sufficient evidence to show that the proposal would not adversely affect the vitality and viability of Bicester Town Centre and the Council has confirmed that it no longer wishes to defend its first reason for refusal based on this issue'.*
- 5.35 Although the retail impact assessment has not been updated since the above mentioned appeal decision, there have been no significant changes in circumstances or planning policy, and it is therefore accepted that it cannot be demonstrated that the development would have a significant adverse impact upon the vitality and viability of Bicester town centre and the proposal is therefore in accordance with the adopted Cherwell Local Plan Part 1 2011-2031 and the NPPF in this respect.

Loss of Employment Land

- 5.36 The application site is not specifically allocated for employment use within the development plan. It is however, identified for employment purposes as part of the overall mixed use development at South West Bicester allocated as a strategic urban extension under Policy H13 of the Non-Statutory Cherwell Local Plan. Bicester currently suffers from out-commuting and the provision of this land for employment purposes as part of the wider SW Bicester development sought to address this issue.
- 5.37 Bicester is identified as a key location for employment growth on the Oxfordshire Knowledge Spine through the City Deal and Strategic Economic Plan (SEP), which looks to support significant increases in employment at Bicester through infrastructure improvements and land availability. If retained for employment purposes, OCC consider that the site could make a valuable contribution to the generation of high quality, high tech employment opportunities and provision of a comprehensive range

of employment opportunities in the town. Oxfordshire County Council has also expressed concerns with the proposal in terms of the loss of skilled jobs that could be provided if the site was developed for employment purposes in accordance with the Kingsmere development.

- 5.38 Consideration must also be given to the current employment conditions and the strong message from Central Government that we should be doing all we can to promote job creation and boost the local economy. OCC raise further concerns that the supporting statement to the retail proposal estimates that around 300 jobs would be created, few of which are likely to be highly skilled. Moreover, there are already considerable retail employment opportunities within Bicester with more anticipated from the expansion of Bicester Village.
- 5.39 As stated above, the application site is currently identified as employment land as part of the overall South West Bicester strategic urban extension. The Section 106 Agreement accompanying the outline permission (06/00967/OUT refers), requires that this land be set aside for employment purposes until the first occupation of 1,500 dwellings. During that period the site must be marketed by 'Countryside' to their 'best endeavours' in accordance with the marketing strategy, the details of which are specified in the agreement, and to use all 'reasonable endeavours' to agree the sale of the site for employment purposes. The proposal is therefore contrary to the provisions of the Section 106 Agreement entered into by the developers Countryside Properties (Bicester) Ltd.
- 5.40 It should be noted that the time limit for submitting reserved matters applications to the outline consent (06/00967/OUT) has now expired, and therefore a reserve matters application relating to employment use on the application site can no longer be submitted. This site however remains part of the original outline consent and the obligations required under the Section 106 Agreement above remain applicable. If this application therefore is approved, the Section 106 Agreement attached to the outline consent will need to be varied accordingly.
- 5.41 However, notwithstanding the above, the critical shortage of employment land in Bicester is not currently or wholly borne out by the evidence of the Employment Land Study and the adopted Cherwell Local Plan Part 1 2011-2031 seeks to allocate strategic sites for employment use in Bicester, these being Bicester Business Park, Bicester Gateway, North East Business Park and South East Bicester. Having regard to the amount of land allocated for employment uses, along with land which already has consent, the level of harm in respect of the loss of this relatively small site for employment purposes and increased out-commuting requires careful assessment. Furthermore, the proposal will provide jobs within retailing and therefore will replace some of the jobs that would have been provided by B1 uses on the site. It is considered that whilst regrettable, having regard to the above, a refusal based on the loss of employment land cannot be justified in respect of this proposal.

Transport Impact

- 5.42 Strategic Objective 13 of the adopted Cherwell Local Plan 2011-2031 aims to reduce the dependency on the private car as a mode of travel and increase opportunities for travelling by other modes. Policy ESD1 sets out an aim to mitigate the impact of development on climate change by delivering development that seeks to reduce the need to travel and which encourages sustainable travel options including walking, cycling and public transport to reduce the dependence on private cars. Policy SLE4 also has similar objectives. The transport impacts of the development must be considered against these policies and the requirements in Section 4 of the NPPF.
- 5.43 Vehicular access to the development will be taken via the new signalised junction on the A41 serving the Kingsmere development and via the new access road which currently serves the Premier Inn and Brewers Fayre Public House. Servicing of the

retail units in Block A is proposed from a dedicated service area via the Esso Service Station access from the A41 roundabout and the servicing for the A3, smaller A1 unit and gym is proposed from the proposed car park within the development. A total of 345 car parking spaces are proposed.

- 5.44 Whilst OCC did not object to the previous application on highway grounds, Members resolved to also refuse the application on highway grounds as follows:

'It has not been demonstrated to the satisfaction of the Local planning authority that the impact of traffic generated by the proposed development would not be detrimental in terms of traffic congestion on the surrounding network, contrary to government advice contained in the National Planning Policy Framework and contrary to Policy SLE4 of the Cherwell Local Plan 2011-2031'.

- 5.45 There were also objections received from third parties on traffic impact in respect of the previous application which included reports by other Transport Consultants outlining the shortcomings of the February 2015 TA submitted with that application. As a consequence, the appellant submitted an 'Updated TA and Statement of Common Ground' dated June 2016 to the Inquiry. It was on this revised TA that the appeal was considered. At the inquiry the appellant's transport expert accepted that the proposal would have a harmful impact, as it would worsen the situation, which is significantly different from what the highway authority was led to believe.

- 5.46 This application seeks to address the concerns raised by the Inspector in respect of the appeal proposal who found that the development would have severe, residual cumulative transport impacts, he also had concerns that the traffic impact was underestimated and that there were no mitigation proposals. He also raised concerns regarding the adequacy of the proposed 240 car parking spaces to cope with an unproven car parking demand for the development. The Inspector concluded in respect of highway impact as follows:

'In the absence of any mitigation of the residual cumulative transport impacts, I conclude on this main issue that the proposed development would have an unacceptable harmful effect on the flow of traffic, and as a result could harm highway safety, on the surrounding highway network. It would also fail to accord with Policy SLE4 of the Cherwell Local Plan, as it would not provide financial or in-kind contributions to mitigate its transport impacts, would not be suitable for the roads that serve it and would have severe traffic impact; and be contrary to policies in the Framework, as its residual cumulative transport impacts would be severe'.

- 5.47 This application seeks to address the above concerns through a more robust transport assessment methodology, the proposal of a mitigation scheme to increase capacity at the nearest junctions on the A41, and the addition of car parking spaces (345 compared with the 240 previously proposed). The TA produced by Cameron Rose on behalf of the applicant has been assessed by the highway authority.

Proposed Mitigation

- 5.48 The proposed mitigation scheme is shown in Appendix G of the TA to provide additional lane capacity between the northbound approach to the Premier Inn junction on the A41 and the Esso roundabout. The widening is mainly to the northbound carriageway, widening into the central reservation, so not affecting the overall width of the road. It is likely to require the removal of some trees in the central reservation.

- 5.49 The capacity of the proposed amended junction has been modelled using LinSig. The model covers the Pingle Drive junction, Esso roundabout, Tesco signalised junction and Premier Inn signalised junction, and takes into account the Bicester Village mitigation scheme currently being implemented. Although there is no reason to suppose the scheme has any particular safety issues, a Stage 1 Safety Audit has

been requested by the highway authority but none has been provided yet.

- 5.50 Using the flows from the TA, the highway authority advises that the junction appears to perform within capacity, with Degree of Saturation on all arms less than 90% in 2014, even in the sensitivity test. However, they are concerned that some of the queue lengths are flagging up red, particularly the internal lanes, which means some exit blocking is likely.
- 5.51 OCC have raised concerns that the model assumes that one of the pedestrian crossing points across the A41 will only be called every other cycle, and that if it were called more often, the junction would not perform as well as the model shows. OCC consider that this assumption has not been justified, given the likely pedestrian flows between employment and residential, bus stops and residential and retail on each side of the road. Due to parking pressure and traffic congestion, people are very likely to park only once to visit retail on both sides of the road.
- 5.52 In terms of public transport, a good quality bus service between Oxford and Bicester town centre operates along the A41, but there are no stops within convenient walking distance of this development. The application therefore proposes new bus stops on the A41 Oxford Road to the north of the Tesco access on the western carriageway and on the A41 Oxford Road to the south of the Tesco access on the eastern carriageway. OCC advise that the proposed 'new 2m footway to tie in to the new service yard' provision should be extended to 3m in width, including past the bus stop, to provide a pedestrian/cycle shared use facility that would link in with the shared use facility to the south. This also applies behind the bus stop facility proposed on the opposite side of the A41. The proposed bus stops, including lay-bys, hard-standing areas, shelters, premium route flag/pole/information case units and electronic real-time information units will need to be secured through a Section 106 Agreement.

Committed Development

- 5.53 Following the receipt of further information, OCC are now reasonably satisfied that the overall weekday p.m. peak flows into the junctions reflect the quantum of local plan development likely to come forward by 2024. The 'Base plus committed' 2024 turning movements were taken from the TA prepared for the 2015 Bicester Village planning application, which had been factored up by the old version of TEMPro, with committed development added on top. Graven Hill development was already included in the Bicester Village for the Friday peak scenario, and was added for this development for Saturday and Sunday peak, as the Inspector said was necessary. It should also be noted that the TA does not subtract the weekday pm flows associated with the already permitted employment development at the site.
- 5.54 OCC further advise however, that although the overall flows at each junction appear to be robust, for the weekday pm scenario there are significant differences in relative turning movements between this development's TA and the other TA which is based on the Bicester Transport Model and therefore should be more reliable. This may mean that the mitigation scheme may not work as efficiently as modelled. Further sensitivity tests using flows from the Bicester Transport Model have therefore been suggested. The revised submission and Technical Note 4 addresses this issue and is discussed below.

Trip Generation

- 5.55 The TRICS database has been used to estimate trip generation and OCC is satisfied that these are appropriate. However, the TA argues that a significant number of trips (up to 75% of the retail trips at weekends) would replace trips that would have been made to other shops. The reduction in trips to other shops has been deducted from the relevant movements at the junctions being assessed. For example, trips to Oxford and Banbury that are now replaced by trips to the site, are taken off the A41 south.

The transport consultant for the applicant argues that this is based on the Retail Impact Assessment contains monetary figures for trade draw.

- 5.56 OCC however do not consider that translating this into transferred trips is justified as many people will not completely replace one shopping trip with another and will make extra trips as many will still go to other centres for a range of different shops. Furthermore, the trade draw figures in the Retail Impact Assessment are not for specific days of the week and therefore the higher weekend figures are not justified.
- 5.57 Following further discussions with OCC, Technical Note 4 has addressed the above and the concerns about the development of development trips have now been addressed. The applicant's Transport Consultant Cameron Rose have modelled the revised scheme using the PM peak flows and turning movements derived from the recently updated Bicester Transport Model (BTM) taking the 2021 scenario and applying TEMPRO growth to get to 2024 as follows:
- In the 2024 base PM peak, without the development or its mitigation: junction is predicted to operate with a Practical Reserve Capacity overall of -0.6%
 - Adding the development traffic and mitigation scheme, takes this to -0.5%, based on the applicant's assumptions of transferred trips which OCC do not accept
 - If none of the trips associated with the development are considered to have transferred from elsewhere on the network in the study area, the pm peak is slightly worse than without the development or its mitigation scheme, with Practical Reserve Capacity of -1.5%
 - There will be some transferred trips, so the change in Practical Reserve Capacity relative to the 2024 base conditions will be somewhere between +0.1% and -0.9%
 - Saturday and Sunday peaks are shoeing as within capacity with the development and its mitigation scheme in 2024, but these cannot be modelled in the Bicester Transport Model so there is no possible check against the model
 - The impact of running the pedestrian crossing every cycle has a negative impact on the weekend capacity, taking the Sunday Practical Reserve Capacity to -11.2%
- 5.58 OCC advise that the applicant argues that the mitigation scheme results in betterment compared with the 2024 base scenario, but, having regard to the above, the junction would still operate with negative Practical Reserve Capacity in the PM peak and, depending on the number of transferred trips allowed for, it would likely be slightly worse than the situation without the development or its mitigation scheme. OCC is concerned that the scheme would result in no perceptible improvement to the travelling public in 2024, and the situation would only get worse between then and 2031. However, in 2024 the possible slight deterioration in practical reserve Capacity compared with the base situation would not be considered sever. Therefore, OCC consider the proposals could be said to provide adequate mitigation for the development in advance of a more effective future strategy for the corridor or its relief.
- 5.59 In response to the holding objection made on behalf of Value Retail, the highway authority provide the following additional comments:
- At OCC request, a further assessment was carried out using the data from the junctions in the study area from the recently updated Bicester Transport Model 2021 scenario to represent baseline plus committed development traffic. The most recent version of TEMPRO was used to growth this to 2014.
 - The Bicester Transport Model does not have weekend scenarios, however the overall PRC for the junctions without mitigation was worse in the Friday peak with the original base + committed development traffic than using the BTM which suggests that the weekend baseline scenario (which includes Graven Hill traffic) is reasonable

- Satisfied with the use of TRICS data for Sunday trip generation and the comparisons made
- Cameron Rose modelling for the proposed development has been reviewed by OCC's Traffic Signals Team, who confirmed that the parameters in the modelling correctly reflected the design shown in the general arrangement drawing

Car Park Layout

- 5.60 OCC were concerned that the car park has prioritised providing additional parking spaces over efficient flow. The 2-way flow in all parts of the car park result in 12 give way points within the car park, including in positions where they are opposite each other, and immediately adjacent to the entrance, a situation which will lead to hesitation in deciding which way to turn, weighing up which way is likely to be the quickest route to free spaces and looking down aisles for empty spaces. This could very quickly cause blockages within the car park, preventing vehicles from entering. Averaged over the peak hour, the rate of vehicles arriving at peak times and the short length of the access road, could, result in queues very quickly backing up to Pioneer Way, blocking access into Kingsmere. The platooning effect of the traffic signals could aggravate this.
- 5.61 Whilst an accumulation study has been provided in TN01, OCC are concerned that the capacity it demonstrates would not necessarily be achieved at busy times because:
- Measurement in hourly periods, meaning fluctuations within the hour may mean that the number of spaces occupied at the end of the first hour is not accurate, and then as the estimate is cumulative, the results become more and more inaccurate through the day
 - Delay to drivers being able to access spaces due to exit routes becoming blocked
- 5.62 This could then lead to parking on the adjacent residential road network or adjacent hotel/pub car park which would not be acceptable. OCC recommend that a Section 106 contribution should be secured to install waiting/loading restriction on nearby roads to prevent obstructive parking and loading. Given the space constraints OCC further advises that amendments to the parking layout to overcome these concerns be agreed prior to the determination of the application.
- 5.63 In terms of disabled parking provision, OCC advises that the layout submitted provides for less than the recommended 6% of spaces for disabled parking. TN02 confirms that the applicant intends to install an ANPR system preventing long-stay car parking to reduce the likelihood of residential overspill parking into the car park, or commuter parking. However, more detail is needed to show how this would work and how it would be enforced.
- 5.64 Following the above comments, a revised car parking layout drawing submitted by the applicant's traffic consultant shows one-way directional arrows in the car park. OCC believe that this would to some extent remove the risk of delays to vehicles entering the carpark, although there is likely still to be some delay at peak shopping times and it is noted that there is space for only 11 cars to queue at the car park entrance and Pioneer Way, thus there is a risk of traffic blocking Pioneer Way, and there is insufficient space for a right turning lane. OCC advises that this risk cannot be quantified but it is more likely to occur at weekends so would not affect the school traffic. The 'Technical Note 4' provides additional detail on the operation of ANPR in the car park as a means of preventing over-staying. In terms of disabled car parking, additional provision has been made.

Service Yard Layout

- 5.65 The layout of the service yard is very tight and OCC are concerned that vehicles may

not be able to use the loading bays at the same time. Furthermore, if the gate is closed and a lorry cannot enter immediately, it will be waiting in a place where it could cause a safety hazard to vehicles exiting the roundabout. OCC therefore recommend that a delivery and servicing plan should be provided demonstrating how this situation would be avoided, and indicating suitable off-site waiting areas should delivery vehicles arrive early or be unable to enter the yard for any reason. OCC also suggest that the vegetation should be removed from the corner on the roundabout to provide maximum visibility.

- 5.66 Following the above, further tracking has been provided showing how delivery trucks could wait in a waiting area within the yard. However, this does not address OCC's concern about obstruction if the gate is closed and a vehicle cannot enter. As stated above, a delivery and servicing plan should be provided demonstrating how this situation would be avoided, and indicating suitable off site waiting areas should delivery vehicles arrive early or be unable to enter the yard for any reason. This could be required by condition. OCC would also like to see the creation of additional visibility splay at the corner by the roundabout.

Framework Travel Plan

- 5.67 A draft framework travel plan has been provided with the Transport Assessment, however, this will need to be amended in line with the County Council's Guidance on Transport Assessments and Travel Plans. This however, can be conditioned should planning permission be granted and will be required to set out the overall objectives for the promotion of sustainable travel. To encourage walking and cycling to and from the site from the wider area, good quality access points will need to be provided on direct routes linking in to the walking and cycling networks.

Conclusion

- 5.68 The NPPF advises at paragraph 32 that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. Given the conclusions of OCC as Highway Authority, this would not be the case in respect of this proposal and a reason for refusal on highway grounds is therefore not considered to be justified.

Sustainability

- 5.69 Sustainability is one of the key issues at the heart of the NPPF and the proposal must therefore demonstrate how it achieves sustainable objectives, including the need to show how it promotes sustainable transport bearing in mind that this is in an out of centre location. The sequential test however, does demonstrate that there are no sequentially preferable sites for a development of this nature and so access by other means than the private car must be explored. A Framework Travel Plan will therefore be required setting out the overall objectives to the promotion of sustainable travel, and each of the units will need to produce a supplementary plan that is linked to the objectives in the framework travel plan. This requirement can be dealt with by condition.
- 5.70 In terms of cycle and footpath links, the Design and Access Statement advises that the site connects to the existing pedestrian network onwards via a new controlled crossing on the A41. There are also new footpath linkages proposed on the northwest boundary which will link with the future residential development and its footpath and cycle network which then provide connections into Bicester centre. Cycle parking is proposed to be provided on site in the form of 190 covered visitor cycle spaces and 34 covered spaces. As mentioned above, there is a good quality bus service which runs along A41 between Bicester and Oxford, accessibility of which will be improved by the provision of bus stops on the A41 to serve the development.
- 5.71 Guided by the NPPF, the principles of sustainable development are in three dimensions. The economic role can be demonstrated by ensuring that the

development is of the right type and in the right place, in this case it is a sequentially acceptable site and the proposal will provide jobs during construction and subsequently through the provision of retail jobs. Socially, the development should be of a high quality design and be accessible, reflecting the community's needs. In terms of the environment, the development should contribute to protecting and enhancing the environment. These aspects are all considered elsewhere in the report.

- 5.72 Policy ESD3 of the adopted Cherwell Local Plan Part 1 2011-2031 requires that all new non-residential development will be expected to meet at least BREEAM 'very good' and therefore, should the application be approved, it is considered that this condition should be included.

Design and Layout

- 5.73 Section 7 of the NPPF – Requiring good design, attaches great importance to the design of the built environment and advises at paragraph 56 that 'good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people'.
- 5.74 Policy ESD15 of the adopted Cherwell Local Plan Part 1 2011-2031 advises that design standards for new development, whether housing or commercial development are equally important, and seeks to ensure that we achieve locally distinctive design which reflects and respects the urban or rural landscape and built context within which it sits. The adopted Cherwell Local Plan 1996 contains saved policy C28 which states that 'control will be exercised over all new development, including conversions and extensions to ensure that the standards of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of the development'.
- 5.75 Whilst it is noted that the application is in outline, the only matter being reserved for future consideration is landscaping, and therefore the scale, form and design of the proposal must be considered as part of this submission.
- 5.76 The application is accompanied by a design and access statement. Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 advises that the design of all new development will need to be informed by an analysis of the context, together with an explanation and justification of the principles that have informed the design rationale. This should be demonstrated in the design and access statement that accompanies the planning application.
- 5.77 The appearance of new development and its relationship with its surroundings and built and natural environment has a significant effect on the character and appearance of an area. Securing new development that can positively contribute to the character of its local environment is therefore of key importance. The buildings proposed are not dissimilar to the appeal proposal in terms of their size, design, scale and positioning on the site, although the overall height has been reduced. The main retail building, Block A now presents a more simple linear stone clad colonnaded structure, which also helps to break up the façade and visually reduce the height of the building. The main front entrances to the main car park are fully glazed. The site area has been increased to provide a wider buffer between the proposed residential and Block A and glazing introduced to this side elevation. Colonnades at a lower height have also been introduced to the west elevation providing greater three dimensional depth and articulation to this face
- 5.78 In terms of the appeal proposal, the Inspector commented in respect of the development as follows:

'I am satisfied that the proposed development would not have a significant harmful visual impact on the A41, given the type of development that is viewed from that main

route into Bicester and the space that would be available for landscaping. I also consider that the service yard and rear of Block A would be provided at the most appropriate location and, with the use of the proposed finish as shown on the elevations, would appear as an acceptable structure at a gateway into Bicester. The proposed variation in Block A to take it above the recommended maximum heights in the Design Code would help to break up the overall bulk when viewed from the proposed car park and A41'

'I have found that much of the design for retail development on the site would be acceptable, given the type of development that could have been provided under the permitted employment use of the site. However, I have serious concerns that the overall bulk and design of the north west elevation of Block A would result in it having an adverse visual impact on the future street scene.... and would fail to accord with Policy ESD15 of the Cherwell Local Plan, as it would not be a high quality design'

- 5.79 The Kingsmere development is subject to a Design Code which was approved in July 2008 following the issuing of the outline planning permission (06/00967/OUT refers). The design code sets out the key issues to be addressed by developers and their agents to ensure consistency throughout the development and to ensure that specific requirements are adhered to. Whilst this is a new outline application, the principles of the design code remain a material consideration in shaping the proposed development on the site. This view was upheld by the Inspector in respect of the previous appeal who stated as follows:

'A Kingsmere Design Code, dated July 2008, has been prepared on behalf of the lead developer as a manual for the design of the development. It has been the subject of public consultation and is approved by the Council. The Council has not referred to it in its reasons for refusal and I accept it is not part of the development plan or a Supplementary Planning Document. However, in the absence of a more appropriate guide to the design of development on the appeal site, I have taken the Kingsmere Design Code as a material consideration in my determination of the acceptability of the design of the appeal proposal'.

- 5.80 The Design Code identifies what form the development on the employment site should take, requiring buildings to front the boundaries of the site and to pay proper regard to the residential properties opposite. A maximum height of 14.5m is also specified, and surveillance of the adjacent streets from the development is also required. In this respect, whilst the Inspector accepted the constraints of retail development, he was not convinced by the reasons given by the appellants for the failure of the proposal to provide a dual aspect to the proposed adjacent residential streets, commenting as follows:

' My particular concern is with regard to the elevation of Block A that would face the proposed residential development to the north west of the site, which has been accepted by the appellant as being one of the most sensitive interfaces. The details shown by the appellant indicate that the elevation would be a considerable length and height, with stone panel cladding over the whole of the façade nearest to the residential development. I accept that the height of this elevation would be within the maximum given in the Design Code and would also appear lower from the proposed housing as the land rises in that direction. Also the separation distance would be at least 21m, which is greater than that identified in the Design Code. However, it would continue at the same height along the whole of that façade and would appear a substantial, unbroken mass from the street and any future housing. Furthermore, the building would not provide any active frontage or natural surveillance along the proposed street'.

'The landscaping details are not to be determined with this appeal, but details provided show a bund with landscaping on it between Block A and the proposed

street. In my opinion this would add to the sense of poor surveillance on that side of the street and would be insufficient to prevent the building appearing overpowering and dominant in the street scene, which would unacceptably compromise the design of the adjacent residential development. Although the appellant has indicated that the requirements of the retail development restrict the design of the buildings on the site, I am not convinced that this justifies the design of Block A, which should be able to include fenestration and a more varied profile to that side of the building without compromising any future residential amenity’.

- 5.81 This application proposal has sought to address these concerns by increasing the application site by taking additional land along the western boundary, and providing an area of car park between the building and the proposed residential properties which will be screened by a landscape buffer provided at street level. A number of glazed elements are also provided along this side elevation, and colonnades have been introduced providing greater three dimensional depth and articulation to the façade to overcome the Inspector’s concerns as stated above. Whilst these help to break up the façade, it is unlikely that the glazed elements would provide any significant natural surveillance over the adjacent residential street due to the changes in levels, intervening car park and nature of the retail floorspace.
- 5.82 The elevations indicate the use of stone cladding and wood effect cladding panels. These are not considered appropriate on this prominent gateway site, nor is it in keeping with the remainder of the Kingsmere development. During pre-application discussions the applicant stated that natural stone would be used. The applicant has been requested to amend the materials accordingly, a response is awaited.
- 5.83 On balance however, having regard to the amendments that have been made to the design of the building, the setting Block A further away from the proposed residential units opposite, and the Inspector’s comments on the principle of the development on the site, it is considered that the development as proposed in design terms and in respect of its relationship with the proposed residential is now acceptable and therefore in accordance with Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and advice within the NPPF.

Ecology

- 5.84 The NPPF- Conserving and enhancing the natural environment requires at paragraph 109, that, ‘the planning system should contribute to and enhance the natural environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the government’s commitment to halt the overall decline in biodiversity, including establishing coherent ecological works that are more resilient to current and future pressures.
- 5.85 Section 40 of the Natural Environment and Communities Act 2006 (NERC 2006) states that ‘every public authority must in exercising its functions, have regard to the purpose of conserving (including restoring/enhancing) biodiversity’ and;
- 5.86 Local Planning Authorities must also have regards to the requirements of the EC Habitats Directive when determining an application where European Protected Species are affected, as prescribed in Regulation 9(5) of Conservation Regulations 2010 which states that a ‘competent authority, in exercising their functions, must have regard to the requirements of the Habitats Directive as far as they may be affected by those functions’.
- 5.87 Articles 12 and 16 of the EC Habitats Directive are aimed at the establishment and implementation of a strict protection regime for animal species listed in Annex IV(a) of the Habitats Directive within the whole territory of the Member States to prohibit the deterioration or destruction of their breeding sites or resting places.

- 5.88 In respect of this application site, the constraints have highlighted that there are Northern Lapwing and Eurasian Badger within proximity of the site, and whilst these are not specifically protected species as identified by the Regulations, they are Notable, UK BAP Priority and Section 41 Species. Nesting Skylark (a declining farmland species) were present on the adjacent site last summer and on this site in 2015.
- 5.89 Aspect Ecology has submitted an updated Ecological Appraisal on behalf of the applicant following a survey undertaken in November 2016. The survey concluded that the site in its present state offered no more than low ecological value and recommends suitable mitigation and compensation measures, including minimising the loss of eastern boundary vegetation, eradication of the Cotoneaster species, mitigation in respect of nesting birds and storage of materials and chemicals during construction.
- 5.90 The Council's Ecologist has assessed the submitted appraisal and recommends that the mitigation measures proposed are carried out. It is also recommended that enhancements on site are encouraged, in particular planting native shrub and tree species rather than non-native ornamental types. Bat and bird boxes are also recommended as part of the mitigation for loss of nesting bird habitat. Other enhancements could include green walls or green roofs within the development.
- 5.91 Consequently, it is considered that article 12(1) of the EC Habitats Directive has been duly considered in that the welfare of any protected or other species found to be present on the site will continue and will be safeguarded, notwithstanding the proposed development. The proposal therefore accords with the NPPF and Policies within the development Plan.

Flood Risk and Drainage

- 5.92 As the site exceeds 1 hectare in size, although the site lies in Flood Zone 1, a Flood Risk assessment is required to be submitted as part of the application documents. This has been assessed by OCC who now consider that application acceptable subject to the imposition of a condition requiring the submission of a surface water drainage scheme for approval prior to the commencement of any development on the site.

Planning Obligation

- 5.93 The proposal generates a need for infrastructure contributions to be secured through a planning obligation, to enable the development to proceed. These contributions relate to the provision of:
- Highway mitigation scheme works (to be carried out under S278 agreement)
 - A contribution to implement TRO's on neighbouring streets
 - A contribution to provide bus shelters, Premium Route flag/pole/information case units and electronic real-time information units at the bus stops on both sides of the A41
 - Travel plan monitoring fees of £2,040 for the monitoring of the site wide framework travel plan and subsequent additional monitoring fees from occupiers whose businesses are above travel plan trigger thresholds – to cover the costs of monitoring these plans over 5 year period
- 5.94 In respect of planning obligations, the NPPF advises at paragraph 204 that they should be sought where they meet all of the following tests:
- Necessary to make development acceptable in planning terms
 - Directly related to the development, and
 - Fairly and reasonably related in kind and scale to the development

It is considered that without the bus stop provision and requirements above, there would be a detrimental effect on local amenity and the quality of the environment and

the need to ensure that all new development is sustainable as required by the Development Plan and Government advice within the NPPF.

Engagement

- 5.95 With regard to the duty set out in paragraphs 186 and 187 of the Framework, no problems or issues have arisen during the application. It is considered that the duty to be positive and proactive has been discharged through working with the applicant to resolve any issues and the efficient and timely determination of the application.

Conclusion

- 5.96 Having regard to the assessment above the proposal will provide for economic growth and jobs in retailing, it satisfies the sequential test and it is accepted that sufficient evidence has been provided to show that the proposal would not adversely affect the vitality and viability of Bicester town centre and is acceptable in terms of its scale and design and relationship with the proposed residential development to the west.

6. Recommendation

Approval, subject to:

- a) The applicants entering into an appropriate legal agreement to the satisfaction of Oxfordshire County Council to secure financial contributions as outlined above and Countryside and other related parties in varying the pre-existing agreement in respect of 06/00967/OUT
- b) Amendments to the materials proposed requiring the use of natural materials
- c) the following conditions:

- 1. 1. No development shall commence until full details of the landscaping (hereafter referred to as reserved matters) have been submitted to and approved in writing by the Local Planning Authority.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

- 2. In the case of the reserved matters, application for approval shall be made not later than the expiration of three years beginning with the date of this permission.

Reason - This permission is in outline only and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

- 3. The development to which this permission relates shall be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last reserved matters to be approved.

Reason - This permission is in outline only and is granted to comply with the

provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 4 of the Town and Country Planning (General Development Procedure) Order 2010 (as amended).

4. Except where otherwise stipulated by condition, the application shall be carried out strictly in accordance with the following plans and documents: (These need to be inserted)

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

5. Prior to the commencement of the development hereby approved, samples of the materials to be used in the construction of the walls and roofs of the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the samples so approved.

Reason - To ensure that the development is constructed and finished in materials which are in harmony with the building materials used in the locality and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

6. Prior to the commencement of the development, full details of the doors and windows hereby approved, at a scale of 1:20 including a cross section, cill, lintel and recess detail and colour/finish, shall be submitted to an approved in writing by the Local Planning Authority. Thereafter the doors and windows shall be installed within the building in accordance with the approved details.

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

7. Prior to the commencement of the development hereby approved, a natural stone and brick sample panel (minimum 1m² in size) shall be constructed on site, which shall be inspected and approved in writing by the Local Planning Authority. Thereafter, the external walls of the development shall be laid dressed and pointed in strict accordance with the stone and brick sample panels approved.

Reason - To ensure the satisfactory appearance of the completed development and to comply with Policy C28 of the adopted Cherwell Local Plan, Policy ESD15 of the adopted Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

8. Prior to the commencement 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 C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

9. Prior to the commencement of the development hereby approved, a plan showing full details of the finished floor levels in relation to existing ground levels on the site/existing and proposed site levels for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved finished floor levels plan.

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

10. Prior to the commencement of the development full details of the enclosures along all boundaries of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved means of enclosure shall be erected, in accordance with the approved details, prior to the development first being brought into use.

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

11. Prior to the commencement of the development hereby approved, full details of the new boundary wall and gates to be constructed, along the rear Service Yard boundary shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the first occupation of the development, the new boundary treatment shall be erected, in accordance with the approved details, and retained and maintained in situ at all times.

Reason - To ensure the satisfactory appearance of the completed development, to protect vision splays and to comply with Policies C28 and C30 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

12. Prior to the commencement of the development hereby approved, full details of a scheme to acoustically enclose all items of mechanical plant and equipment within the building, including compressor motors and fans. Thereafter, and prior to the first occupation of the building, the development shall be carried out and retained in accordance with the approved details.

Reason - To ensure the creation of a satisfactory environment free from intrusive levels of noise and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the NPPF.

13. All buildings hereby approved shall be constructed to at least a BREEAM 'Very Good' standard.

Reason - To ensure sustainable construction and reduce carbon emissions in accordance with Government guidance contained within the National Planning Policy Framework.

14. If, during development or as part of any further investigation, 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 the development is suitably assessed and dealt with, such that it does not pose an unacceptable risk to ground or surface water.

15. Prior to the commencement of the development hereby approved, full specification details (including construction, layout, surfacing and drainage) of the parking and manoeuvring areas shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, and prior to the first occupation of the development, the parking and manoeuvring areas shall be provided on the site in accordance with the approved details and shall be retained unobstructed except for the parking and manoeuvring of vehicles at all times thereafter.

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

16. Prior to the commencement of the development hereby approved, full details of all of the accesses to the site (including vehicular and pedestrian), including position, layout, construction, drainage, and vision splays shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the accesses shall be constructed and retained in accordance with the approved details.

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

17. Prior to the first use of occupation of the development hereby approved, covered cycle parking facilities shall be provided on site in accordance with the details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered 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.

18. Prior to the first use of occupation of the development hereby approved, a Framework travel plan shall be submitted and approved in writing by the Local Planning Authority. Thereafter, within 3 months of the occupation/use of the units hereby approved, supplementary travel plan(s) linked to the Framework Travel Plan shall be submitted and 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.

19. Development shall not begin until 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 to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details and adhering to the approved Kingsmere Development Design Code before the development is completed. The scheme shall also include:

- Discharge Rates
- Discharge Volumes
- Maintenance and management of SUDS features(this may be secured by a Section 106 Agreement)
- Sizing of features – attenuation volume
- Infiltration in accordance with BRE365
- Detailed drainage layout with pipe numbers
- SUDS (list the SUDS features mentioned within the FRA to ensure they are carried forward into the detailed drainage strategy).
- Network drainage calculations
- Phasing

Reason - To ensure that the development/site is served by proper arrangements for the disposal of surface water/foul sewage, to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

20. Prior to the first use of the business hereby approved, suitably located waste bins shall be provided outside the premises and retained for public use in accordance with details to be firstly submitted to an approved in writing by the Local Planning Authority.

Reason - In order that proper arrangements are made for the disposal of waste, and to ensure the creation of a satisfactory environment free from intrusive levels of odour/flies/vermin/smoke/litter in accordance with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

21. The development hereby approved shall be carried out in accordance with the recommendations set out in of the Ecological Appraisal Document carried out by Aspect Ecology in July 2015.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy C2 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

22. Prior to the commencement of the development hereby approved, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the LEMP shall be carried out in accordance with the approved details.

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

23. Prior to the commencement of the development hereby approved, full details of a scheme for the location of habitat boxes on the development shall be submitted to and approved in writing by the Local Planning Authority. Thereafter and prior to the occupation of any building of the development, the habitat boxes shall be installed on the site in accordance with the approved details and thereafter maintained and retained in situ.

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

24. Within the first available planting season following the occupation of the building, or on the completion of the development, whichever is the sooner, the existing hedgerow along the A41 boundary shall be reinforced by additional planting in accordance with a detailed scheme which shall firstly be submitted to and approved in writing by the Local Planning Authority. Thereafter, any plant/tree within the hedgerow which, within a period of five years from the completion of the development dies, is removed or becomes seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species 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). Thereafter the new planting shall be properly maintained in accordance with this condition.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policy C28 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

25. The retail units hereby approved shall be used for the sale of comparison goods only as specified in the application and shall not be subdivided without the express consent of the Local Planning Authority

Reason – In order to safeguard the vitality and viability of the Town Centre and to comply with Government guidance contained within the National Planning Policy Framework.

26. The A3 and D2 units hereby approved shall be used only for the purpose of a restaurant and Gym as indicated on the approved plans and for no other purpose whatsoever.

Reason – In order to safeguard the vitality and viability of the Town Centre and to comply with Government guidance contained within the National Planning Policy Framework. To protect the character of the area and to safeguard the amenities of the occupants of the adjacent residential properties in accordance with saved Policies C28 and C31 of the Adopted Cherwell Local Plan and Government guidance contained within the NPPF.

27. Prior to the commencement of any development on the site, a Delivery and Servicing Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved plan.
28. Prior to the commencement of the development hereby approved, the ANPR Car Park Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved plan.
29. Prior to the commencement of the development hereby approved, a signage strategy shall be submitted to and approved in writing by the Local Planning Authority. The signage shall thereafter be carried out in accordance with the approved strategy.
30. No works between March and August unless the Local Planning Authority has confirmed in writing that such works can proceed, based on the submission of a recent survey (no older than one month) that has been undertaken by a competent ecologist to assess the nesting bird activity on the site, together with details of measures to protect the nesting bird interest on the site.
31. All species used in the planting proposals associated with the development shall be native species of UK provenance.
32. Planting pit details in hard landscaped areas
33. Planting pit details in soft landscaped areas

Planning Notes

1. PN19 legal agreement
2. PN22 construction sites
3. PN23 disabled people
4. PN 26 nesting birds

STATEMENT OF ENGAGEMENT

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