

**Unit 5  
Chalker Way  
Banbury  
OX16 4XD**

**18/00108/F**

**Applicant:** DB Symmetry Ltd

**Proposal:** Full planning permission for 30,007.5 sqm of logistics floor space, within Class B8 of the Town and Country Planning Use Classes Order 1987, including ancillary Class B1 (a) Offices (929 sqm), service yard and access to Chalker Way.

**Ward:** Banbury Grimsbury And Hightown

**Councillors:** Cllr Andrew Beere  
Cllr Claire Bell  
Cllr Shaida Hussain

**Reason for Referral:** *Major Application*

**Expiry Date:** 26 April 2018                      **Committee Date:** 12 April 2018

**Recommendation:** Approve

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## **1. APPLICATION SITE AND LOCALITY**

- 1.1. This application relates to 5.57 hectares of land to the south of Overthorpe Road on land that forms part of the BAN 6 allocated site. Access to the site is taken from Chalker Way, the new road that runs south from the Overthorpe Road roundabout. The site lies south of the Unit occupied by Prodrive and is between Chalker Way and the M40. Other warehouse units will be built adjacent to this proposed unit further south on Chalker Way.
- 1.2. The site lies centrally within the BAN 6 employment land allocation contained in the adopted Cherwell Local Plan 2011-2031.
- 1.3. The site is predominantly characterised by patch scrub and rough grassland and is part of an area that is divided up into smaller fields by native species hedges and drainage ditches. The site is very visible to motorists on the M40 and there are longer distance views from Overthorpe, the road between Kings Sutton and Overthorpe and the A422 near Middleton Cheney, all of which sit on the higher ridgeline to the east.

## **2. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 2.1. In November 2012 outline planning permission was granted for the erection of large scale B2 and B8 buildings on this land subject to a height restriction of 16 metres. In July 2014 a revised outline planning permission was granted which allowed buildings up to 16.75 metres high, and in March 2016 a reserved matters approval was given for Unit 5 (and Units 6-8) which complied with this parameter.

- 2.2. The purpose of this application for full planning permission is solely to allow the height of building already approved as Unit 5 to be higher, with a maximum height of 18.25 metres rather than the 16.75 metres previously allowed, i.e. an increase of 1.5 metres.
- 2.3. The building is large having a length of 240 metres and a depth of 125 metres .Unit 5 is proposed to be oriented with its long rear elevation parallel to the motorway, and is set some 55-60 metres from the motorway boundary. It would have its service yard on this side of the building with a minimum of 10 metres of landscaping near the motorway boundary. Unit 5 will have its requisite parking on the Chalker Way road frontage of the building, replicating the arrangement seen at Units 1-4 to the north. These servicing and car parking arrangements have been previously approved.
- 2.4. The design of the building is also as previously approved and follows the strong pattern established by Units 3 and 4 to the north, and Units 7-8 which have recently been completed, with low barrel-vaulted roof design of distinctive and not unattractive appearance. The roof colouring is dark grey with matching eaves fascia and soffit. The wall cladding is proposed in a format consistent with that previously agreed, and used adjacent, of Alaska grey (a mid grey colour) at lower and higher level, with a substantial silver mid-section. The office sections are proposed with horizontal spanning composite micro-rib metal panels in silver. The combination of design and materials will give this group of buildings a distinctive characteristic and high quality appearance.

### 3. RELEVANT PLANNING HISTORY

- 3.1. The following planning history is considered relevant to the current proposal:

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
11/01878/OUT	Erection of up to 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (OUTLINE)	Application Permitted
11/00029/SO	Screening Opinion to 11/01878/OUT - Erection of up to 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund	Screening Opinion not requesting EIA
14/00175/REM	Reserved Matters to Outline application (14/00180/OUT) - Approval of appearance, landscaping, layout and scale	Application Permitted

14/00180/OUT	Variation of Condition 29 (Height of building to enable Unit 1 to be constructed to an overall height of 16.75m) of 11/01878/OUT	Application Permitted
14/00407/ADJ	Variation of conditions 25 and 29 on S/20144/1620/MAO - Change of roof colour to Goosewing Grey and alter height of Unit 1 to 16.75m.	No Objections
15/02206/REM	Reserved matters pursuant to Condition 5 (Phase 2) OF 14/00180/OUT	Application Permitted

#### **4. PRE-APPLICATION DISCUSSIONS**

- 4.1. No pre-application discussions have taken place with regard to this proposal

#### **5. RESPONSE TO PUBLICITY**

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 01.03.2018, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. No comments have been raised by third parties

#### **6. RESPONSE TO CONSULTATION**

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

##### PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. **Banbury Town Council** has no objections to this application. The town council would like to highlight the reservation of land for a future highway connection to bypass the Town Centre.

##### STATUTORY CONSULTEES

- 6.3. **Highways England** raise no objections
- 6.4. **Thames Water** has no objection from a sewerage infrastructure capacity point of view. With regards to surface water drainage it is the responsibility of the developer to make proper provision for drainage to ground, water courses or a suitable sewer with appropriate attenuation. With regards to water supply TW recommend the imposition of a condition requiring an impact study.

- 6.5 **South Northamptonshire Council** has no objections subject to:
- A condition to replace condition No. 29 on the outline permission S/2014/302/MAO (CDC ref: 11/01878/OUT) to restrict the height of the buildings to 18.25m and;
  - The re-imposition of the undischarged and ongoing/restrictive conditions attached to the original outline S/2014/302/MAO (CDC ref: 11/01878/OUT) and the reserved matters S/2015/2899/MAR (CDC ref: 15/02206/REM) and;
  - Conditions to require the development to comply with those plans and details already agreed/discharged on the original outline and reserved matters permissions (i.e. outline S/2014/302/MAO (CDC ref: 11/01878/OUT) conditions 1 (phasing plan); 2 (drainage principles); 3 (fluvial flood compensation); 4 (reptile translocation); 6 (land contamination); 7 (archaeology); 8 (landscape management); 9 (drainage strategy); 10 (further ecological survey work); 11 (Construction Traffic Management); 12 (Travel Plan); 14 (landscape buffer); 15 (protection of public footpath); 16 (replacement trees); 17 (ground re-profiling); 19 (footpath construction); AND reserved matters S/2015/2899/MAR (CDC ref: 15/02206/REM) conditions 2 (amended ecological enhancements plan); conditions 3 (ecological enhancements).

- 6.6 **Oxfordshire County Council** raise no objection. They acknowledge that the current development proposals shall not likely create an adverse effect on the local network.
- Legal obligations and conditions relating to the extant outline and reserved matters planning consents must be duly fulfilled/carried over into any new consent.
- OCC continue to seek the safeguarding of land for the South East Relief Road as per the legal agreement associated with the extant permission for this site dated 27th November 2012 and as indicatively shown on page 12 of the adopted Banbury Vision and Masterplan SPD (December 2016)

#### NON-STATUTORY CONSULTTEES

- 6.5. **CDC PRoW team** has no objections as the public footpath numbered 58 which runs across the site of Unit 5 at Chalker Way is currently in the process of being permanently diverted.

I can further advise that the Public Path Diversion Order was made back on 19 December 2016. I am, however, still awaiting confirmation from either the agent (Framptons) or the developer (db Symmetry) that the new diversion route has been fully constructed, and is now accessible for use by members of the public. Once this notification has been received I will be in a position to get the made Order confirmed and certified. The relevant planning officer will be asked to undertake a site visit to inspect the new footpath route once this has been fully constructed and they will be asked to sign a certification of works form to confirm to legal that they are completely satisfied with it. Once all this has been completed I will then be in a position to finalise the Diversion Order process.

(The applicants have responded in reply to say that the diversion route has not yet been fully constructed. The two industrial units (Units 5 and 6) that led to the diversion have not yet been constructed; therefore the diversion cannot yet be fully formed. It is hoped that Units 5 and 6 will be constructed by the end of summer 2018, from which point the footpath will be accessible for the public)

- 6.6 **CDC Environmental Health Officer** has no comments to make on noise, contaminated land, air quality, odour or light.

6.7 **CDC Ecology** comment that **if** this application is just for a change in the height of the agreed units with no further changes to land take, landscaping, lighting etc.. over that previously agreed then I do not think a further ecological appraisal would be required for this specific aspect.

6.8 **CDC Planning Policy** do not wish to comment

## **7. RELEVANT PLANNING POLICY AND GUIDANCE**

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

7.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

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

- ESD15 - The Character of the Built and Historic Environment
- ESD13 – Local Landscape Protection and Enhancement
- BAN 6 - Employment Land West of M40

### CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C28 – Layout, design and external appearance of new development

7.3. Other Material Planning Considerations

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

## **8. APPRAISAL**

8.1. The key issues for consideration in this case are:

- Principle of development
- The increased visual impact of the development due to the increased height
- Impact upon the nearby scheduled ancient monument and heritage asset
- Revised conditions
- The need to vary the existing legal agreement

### Principle of development

8.2. The principle of this land use has been established by the allocation of the land in the Cherwell Local Plan policy BAN 6, and by the granting of outline planning permissions as set out above. Furthermore the Council has already agreed to a building of this footprint in this location, with the identical servicing and parking arrangements, by the approval of a reserved matters consent. The proposal does not change the availability of the possibility of using Chalker Way as part of a southern distributor road. There have been no changes in policy context or local circumstances that would alter that previous consideration and therefore the

principle is considered acceptable and the sole substantive issue is the assessment of impact from the raised height proposed.

### Visual impact

- 8.2 As noted above in para 2.4 above the design of the building is as previously approved and follows the strong pattern established by Units 3 and 4 with low barrel-vaulted roof design of distinctive and not unattractive appearance. Along the motorway frontage this building will continue the trend started by Unit 3 of stepping back into the site from the original positioning on Units 1 and 2. (Unit 4 broke this trend by being oriented East-West rather than North-South and comes closer to the motorway as a result). The obvious quality of the end product and their distance from the motorway will result in an acceptable relationship and appearance from this side. The provision of the 10 metre wide landscaping belt will in time provide adequate screening of the service yards.
- 8.3 Views from the east are obtainable from sporadic locations near Overthorpe and from the Banbury-Middleton Cheney road. Extensive views over Banbury are obtainable from these locations (mainly in South Northamptonshire) and this building will be in the middle foreground with the remainder of the town beyond, as are other units now built on this estate which are set further from the motorway. The use of dark grey for the roofing will help to blend the building into the extensive rural and urban view.
- 8.4 Longer distance views from this district are only really obtainable from the south west off the southern end of Bankside. From here the upper walls and roof of the Prodrive building are just visible, but new buildings recently completed on this estate are now seen in front of that building, and will similarly conceal this building.
- 8.5 The principal issue is whether the increase in height of this one building, albeit a large one, will be harmful to the visual amenities of the short or long range views identified above, or will the height increase even be discernible. From the M40 and from some lower viewpoints it will be possible to discern this increased height by comparison to the buildings which are adjacent. However, this increase of 1.5 metres is relatively minor and will not detract from the composition of the building group, or over-dominate the adjacent buildings or the motorway/Chalker Way routes from which the building is set back from by service yard/ car parking and landscape belts. From longer distance views (which are on higher land) the increased height will be barely distinguishable in your officer's opinion. Overall therefore it is concluded that the increased height will not be harmful and should be agreed.

### Impact upon the scheduled ancient monument and heritage asset

- 8.6 The Council has a duty to consider whether a development affects the significance or setting of a scheduled ancient monument. The monument (which is a former WW1 munitions factory site) is on the eastern side of the motorway. The outline planning permission and reserved matters approval for the first phase were granted in the full knowledge of the SAM and of the non-listed asset on the western side of the motorway. In those cases it was concluded that the development would not be harmful to the setting of the SAM. In this case I see no reason to alter that previously reached conclusion.
- 8.7 When dealing with the earlier reserved matters application for this unit English Heritage withdrew an earlier objection about the possible impact upon a non-listed asset (a further section of the munitions works the remains of which had largely been destroyed by the building of the motorway). As a consequence it is not considered that there is any conflict with Policy Banbury 6 or ESD 15.

### Revised conditions

- 8.8 A number of submissions of details to clear conditions attached to the earlier reserved matters approval for Unit 5 have been made and clearance given. Most of these are equally applicable to this potential consent. Therefore the conditions package set out below is structured to refer back to previous approvals.

### Legal Agreement

- 8.9 The original outline planning permission was the subject of a legal agreement to secure highway contributions and the monitoring and implementation of a travel plan. That agreement was amended with respect to the second outline consent referred to above and will need further amendment if this permission is to be granted. The applicant has provided a draft Unilateral Undertaking to affect this change. An officer view on the acceptability of that document will be reported to Committee.

## **9. PLANNING BALANCE AND CONCLUSION**

- 9.1. The Council is committed through land allocation in the adopted Local Plan (Policy BAN 6), the granting of outline planning permission, and approval of reserved matters, to a warehouse building of this siting and footprint. The consideration of this application should therefore be focussed upon the assessment of the impact of the increased 1.5 metres in maximum height now proposed.
- 9.2. As explained in paras 8.2-8.5 above it is considered that this increased height will be of negligible significance and will not cause harm to the appearance of this group of buildings, short range views or longer range views from the wider countryside.

## 10. RECOMMENDATION

That permission is granted, (i) subject to the land-owners entering into an appropriate legal agreement and (ii) subject to the following conditions

1. The development to which this permission relates shall be begun not later than the expiration of three years beginning with the date of this permission.

Reason - To comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the following plans and documents:

- Site location plan(dwg. No. 6235-001)
- Site layout plan (dwg no 6235-002)
- Proposed elevations (dwg no 6235-004)
- Site layout plan external finishes (dwg no 6235-003)
- Proposed context elevation (dwg no 6235-006)
- Design and access statement (Dec 2011) and addendum document (April 2012)
- Architectural design statement (prepared AJA)
- Landscape and Visual Assessment addendum (prepared by Aspect dated Dec2017, re 6421.LVIA Addendum 004)
- Transport Assessment Technical Note (ref C07009C)
- Flood Risk Assessment Technical Note (ref C07009C)

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

3. The drainage strategy for the site shall be in general accordance with the FRA prepared by Peter Brett Associates dated Dec 2011 and the details approved by the Council under application ref.no. 16/00354/DISC on 6 October 2016 and all works shall be complete prior to the occupation of the building

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

4. The flood storage area and associated landscaping, ground re-profiling, and ecological enhancement shall be undertaken in accordance with the details approved by the Council under application 16/00167/DISC on 27 June 2016 ,and planting plans dwg no 4995/ASPOO1-11Rev C/D referred to in Frampton's letter dated 17 January 2018 with respect to conditions 3 and 8 of the Outline Planning permission 14/00180/OUT, and all relevant works shall be complete prior to the occupation of the building

Reason - To ensure satisfactory drainage of the site in the interests of public health, to avoid flooding of adjacent land and property and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework



5. The strategy for the translocation of reptiles, including the identification of receptor sites, the management scheme, landscaping and the arrangements for implementation. shall be undertaken in accordance with the 'Revised Reptile Mitigation Method Statement (Phase 2 Development) (February 2016 - Ref EDP1419\_07f)' approved under application 15/00512/DISC on 29 February 2016

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

6. The development shall be implemented in accordance with the land contamination strategy set out in the Land Contamination Report, in accordance with the 'Desk Study and Ground Investigation at Overthorpe Road, Banbury - Combined Report (Hydrock Ref: R/11237/003 - March 2013)' submitted in application reference no 15/00062/DISC approved on 23 January 2017

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ENV12 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

7. The development shall be undertaken in accordance with the Archaeological Written Scheme of Investigation, in accordance with the documents titled "Project specification for an archaeological excavation and recording action" - 8th January 2016 (revised 25/5/16) ORB16-150exc; and "Spital Farm, Overthorpe Road, Banbury, Oxfordshire - An Archaeological Evaluation for Kennet Properties" - SFB04-60 (October 2008) submitted in application reference no 15/00062/DISC and approved by the Council on 23 January 2017

Reason - In order to determine the extent, character and significance of the surviving remains of archaeological interest and to safeguard the recording and inspection of matters of archaeological importance on the site in accordance with Government guidance contained within the National Planning Policy Framework.

8. Landscape management and tree planting shall be undertaken in accordance with the Landscape Management Plan Ref No 4995.LMP.005.VF(March 2016) submitted as part of application 16/00167/DISC approved by the Council on 27 June 2016

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

9. No development shall commence until an up to date (no more than one year old) badger, otter, bat roost and reptile survey has been submitted to and approved in writing by the Local Planning Authority. The survey reports shall include full details of the precautionary, mitigation, translocation, and compensation measures that are required to be implemented as a result of the findings.

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

10. Construction Traffic Management shall be undertaken in accordance with the Construction Traffic Management Plan (CTMP) for Phase 2 of the development, including full details of wheel washing facilities, a restriction on construction and delivery traffic during construction and a route to the development site. In accordance with the 'Central M40 (Units 5, 6, 7 and 8) Construction Traffic Management Plan (dated February 2016)' submitted under application ref no 15/00512/DISC and approved by the Council on 29 February 2016.

Reason - In the interests of highway safety and to safeguard the amenities of the occupants of the adjacent dwellings during the construction period and to comply with Policy ENV1 of the adopted Cherwell Local Plan and Government guidance contained within the National Planning Policy Framework.

11. The development hereby approved shall be the subject of the Travel Plan for Phase 2 of the development, in accordance with the 'Travel Plan - Units 5, 6, 7 and 8 (March 2016)' document submitted under application ref.no. 16/00131/DISC and approved by the Council on 29 April 2016.

Reason - In the interests of sustainability, to ensure a satisfactory form of development and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

12. The existing public footpath on the site shall be protected and fenced as set out in the covering letter from Frampton's dated 5th August 2014 and the Heras Fencing details submitted in respect of S/2011/1620/MAO and received 04 February 2014 as submitted under application ref no 14/00035/DISC and approved by the Council on 9<sup>th</sup> December 2014.

Reason - In the interests of highway safety and public amenity and to comply with Government guidance contained within the National Planning Policy Framework

13. The building hereby approved shall be constructed to achieve at least a BREEAM 'Very Good' rating based on the relevant BREEAM standard for that building type applicable at the time of the decision.

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

14. The new public footpath to be provided shall be built in accordance with e details submitted under ref no 14/00259/DISC and approved by the Council on 16 October 2014

Reason - In the interests of highway safety and public amenity and to comply with Government guidance contained within the National Planning Policy Framework

15. The proposed means of access shall be provided prior to the first occupation of the building hereby approved in accordance with the details submitted under application ref no 15/00178/DISC and approved by the Council on 3 August 2015

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

16. The ecological enhancement measures relevant to this site proposed in submitted in application ref.no.16/00505/DISC and approved by the Council on 21 November 2016 shall be implemented prior to its first occupation

Reason - To ensure that the development does not cause harm to any protected species or their habitats in accordance with Policy ESD10 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning Policy Framework.

17. No external lighting shall be installed until details of all external lighting, security lighting and floodlighting including the design, position, orientation and any screening of the lighting has been submitted to and approved in writing by the Local Planning Authority. The lighting shall be installed and operated in accordance with the approved scheme at all times thereafter.

Reason - In order to safeguard the visual amenities of the area in accordance with Policy C28 of the adopted Cherwell Local Plan, ESD 15 of the Cherwell Local Plan 2011-2031 (Part 1) and Government guidance contained within the National Planning Policy Framework.

18. Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with the approved drawings. The covered cycle parking facilities so provided shall thereafter be permanently retained and maintained for the parking of cycles in connection with the development.

Reason : In the interests of promoting sustainable transport modes in accordance with Government advice in the National Planning Policy Framework

19. The existing areas shown for parking, turning and/or loading and unloading on the approved plan(s) shall be permanently set aside and reserved for that purpose unless otherwise agreed in writing by the Local Planning Authority.

Reason - In the interests of highway safety, to ensure the provision of adequate off-street lorry and car parking and turning/loading/unloading and to comply with Government guidance contained within the National Planning Policy Framework.