

Application No: 09/01859/OUT	Ward: Banbury Grimsbury and Castle	Date Valid: 12/01/10
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Applicant:	AXA Reim (UK)
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Site Address:	Land at Brookhill Way, Off Wildmere Road, Banbury
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Proposal: OUTLINE – Development of site for one or a combination of B1 (office) B2 (general industrial) B8 (warehousing and distribution) and sui generis (car showroom).

1. Site Description and Proposal

1.1 Site

The 0.958 hectare site is located adjacent to Junction 11 of the M40 motorway, and comprises an open area with rough grassland, trees and low lying vegetation. The northern boundary of the site is defined by an approximately 2 metre high black fence defining the DHL site. The Alex Lawrie/Lloyds TSB building lies to the south west of the site and is similarly bound by a 2 metre high fence. The site is relatively flat, with the exception of the earth bund and steep banking which is evident along the eastern and southern boundaries to support the adjacent M40 slip road and A422 Hennef Way. Vehicular and pedestrian access to the site is available off the east end of Brookhill Way, which was constructed as part of the original outline permission for the whole site, granted in 1999.

1.2 Proposal

This application seeks outline consent for the development of the site for one or a combination of B1 (Office, Research and Development and Light Industrial), B2 (General Industrial), B8 (Warehousing and Distribution) and sui generis (car showroom). The total maximum internal floor space created is proposed to be 4,645 square metres for B1 (Research and Development and Light Industrial), B2 and B8 uses, 3,438 square meters for B1 (Office) uses and 2,462 square metres for the car showroom use. As this application is in outline only, all details, other than

the access, are reserved. Indicative elevations for the B8 use show a building of a maximum of two storeys (12m in height maximum), and the indicative elevations for the B1 use show a building of a maximum of three storeys (12m in height maximum).

Whilst this application is in outline form, the applicants are nevertheless required to provide indicative layouts. Given that the application could theoretically involve a number of uses, with different floor space configurations, the applicants have produced additional, more comprehensive layout plans to adequately demonstrate a suitable and appropriate combination of uses or single use on the site.

1.3 **Relevant Planning History**

In July 2001, the Council approved (01/01002/REM) a two-storey B1 office development (2046m²), adjacent to the current proposed site.

In December 2002, a further approval was granted (02/01376/REM) for a 7432m² B8 distribution warehouse on this application site, which included 464m² of offices. The warehouse building was some 85 metres by 88 metres in size with an overall height of 12 metres.

Both applications were granted pursuant to the original outline consent granted in September 1999 (98/00160/OUT) for B1, B2 and B8 development on the site, which was also subject to a Section 106 legal agreement for highway contributions and landscape maintenance. Condition No. 22 of the outline consent specified the uses and the maximum amount of floorspace permitted on the site – 6317m² of B1 floorspace; 9476m² of B2 floorspace and 15793m² of B8 floorspace; or equivalent floorspace in B1, B2 or B8 usage which would generate similar peak hour traffic volumes. This was based upon a detailed assessment of the traffic generation from the site and the capacity of Hennef Way and Junction 11 of the M40 to cater for increased traffic flows. The legal agreement secured the improvement of Hennef Way and contributions towards other modes of transport.

In May 2004 planning permission was granted for two car dealerships as Units 1 and 2 on the southern portion of undeveloped land, within the current blue line site

area (03/02118/F). These were 1302m² and 1160m² in size respectively. This permission was released after a further application had been submitted (04/00716/F) to vary Condition No. 22 of the outline permission 98/00160/OUT for the B1, B2 and B8 development of the entire site. This was to reduce the scale of the approved B1/B2/B8 development to ensure no greater traffic impact on Hennef Way and Junction 11 and this allowed the car dealership application (03/02118/F) to be issued. The permission on 04/00716/F was released on 21 May 2004.

In March 2005, the Council approved a full application (04/02792/F) for the development of two buildings for 3 No. car dealerships on around 1 hectare of land (2.44 acres) on the southern portion of the remaining undeveloped plot, within the blue line. The consent involves the construction of one single-storey building (778m² of floorspace) for a single car dealership and one two storey building (1541m² at ground floor and 309m² at first floor) for a dual car dealership. The dealerships were also proposed to have ancillary outbuildings for valet, cleaning and refuse purposes. This permission expires in March 2010.

2. Application Publicity

- 2.1 The application has been advertised by site notice, neighbour letter and press notice. The final date for comment was 18 February 2009. No letters of representation have been received.

3. Consultations

- 3.1 Banbury Town Council raises no objection to the proposal.
- 3.2 Oxfordshire County Council Highway Authority raises no objection to the proposal, subject to a financial contribution towards sustainable transport infrastructure and Banbury ITS and funding improvements to local bus stops, the submission of an appropriate Travel Plan (when a final layout & use is agreed at the Reserved Matters stage) and associated monitoring fee.
- 3.3 The Council's Landscape Architect, raises no objection to the application.

- 3.4 The Council's Head of Building Control and Engineering Services raises no objection to the proposal, stating that the drainage infrastructure has been designed to accommodate development of this site.
- 3.5 The Environment Agency has assessed this application as having a low environmental risk.
- 3.6 The Highways Agency raises no objection to the proposal.
- 3.7 Thames Water raises no objection to the proposal.
- 3.8 The Council's Public Art Advisor confirms that an off site contribution of £10 per square metre of floor space will be sought through a Section 106 legal agreement.

4. Relevant Planning Policies

National Policy Guidance -	Documents	PPS1 – Delivering Sustainable Development PPS4 – Planning for Sustainable Economic Development PPS6 - Practice guidance on need, impact and the sequential approach PPS9 – Biodiversity and Geological Conservation PPG13 - Transport
South East Plan 2009 -	Policies	RE3 – Retention of accessible, well located industrial and commercial sites C02 – Employment generating development should include range of accommodation for small businesses and innovation, skills development, business infrastructure and linkages within the knowledge based economy. T1 – Achieving sustainable pattern of development T2 – Promote sustainable modes of transport T5 – Requirement for travel plans for major travel generating development
Adopted Cherwell Local Plan 1996	Saved Policies	EMP1 – Supports employment generating development on this site C17 – Enhancement of urban fringe
Non-Statutory Cherwell Local Plan 2011	Policies	EMP1 - Supports employment generating development on this site EMP2 - Supports employment generating development on this site
URS Employment Land Review 2006	LDF Evidence base	Site BA1.2 is a large corner site that would offer a high profile location

attractive to a number of different users. The site should be developed for B1 use of a high quality design standard that would complement the surrounding uses and bolster the gateway nature of the site both to the business park and to the town itself.

5. Appraisal

5.1 Given that this application is in outline with all but access reserved, the key issues to consider are:

- Principle of the development
- Impact on neighbouring uses/properties
- Impact on highway safety
- Landscape impact
- Surface water drainage
- Protected Species
- S106 Legal agreement

5.2 **Principle of the development**

The proposal is for the development of the site for B1/B2/B8/sui generis (car showroom) uses in order to provide flexibility for the future tenants of the site. B2 and B8 uses are not normally compatible with other town centre uses and it would therefore not be expected for these units to be accommodated in the town centre. The introduction of trade counter uses would result in an element of retail which, if uncontrolled, has the potential to result in retail dominated units which should be located within the town centre as expressed in PPS4 and the PPS6 practice guidance. For this reason, it is considered necessary to impose a restrictive condition to prohibit the introduction of any trade counter or retail uses on the site.

5.3 PPS4 – Planning for Sustainable Economic Development supports the use of vacant land. It states that, due to the increasing demands on the land available for development, local planning authorities should seek to make the most efficient and effective use of land and buildings, especially vacant or derelict buildings (including historic buildings). They should also take into account changing working patterns, economic data including price signals and the need for policies which reflect local

circumstances.

5.4 The site is shown on the proposals map of the adopted Cherwell Local Plan as a proposed site for employment generating development subject to Policy EMP1 of the Plan. The proposed use includes a car showroom which includes a number of elements such as sales, office and workshops. In considering the previous application (03/02118/F), a car dealership/showroom use was considered to result in employment generating development, and was an acceptable use in this location.

5.5 In the Non-Statutory Cherwell Local Plan 2011, the site remains allocated for employment-generating within Classes B1, B2 and B8 development but the plan states that B1 will be the Council's preferred use. The Plan also states that the site is prominent at the approach to the town from the M40 and that it is important that a high quality development is achieved that gives a positive image for the town to those arriving by the M40. It is considered that the use of the site for the purposes proposed would comply with the allocation contained within the Adopted Cherwell Local Plan and Non Statutory Cherwell Local Plan subject to a suitable mix of uses and design for the prominent site.

5.6 **Impact on neighbouring uses**

The agents for the application have submitted an indicative plans indicating how a development of the scale proposed can be accommodated on the site. The site will be accessed via the existing Brookhill Way. None of the land uses around the site (mixture of B1, B2 and B8) will be adversely affected by the type of development proposed in this application. The existing uses are comparable to the proposal and the development will not result in any adverse impact on residential amenities.

5.7 **Highway Safety**

The County Highway Authority raise no objection to the proposal, subject to the applicants entering into a Section 106 legal agreement to secure a financial contribution towards sustainable transport infrastructure and Banbury ITS. The County have also recommended a contribution towards funding improvements to local bus stops, the submission of an appropriate Travel Plan (when a final layout & use is agreed at the Reserved Matters stage) and associated monitoring fee.

The Highways Agency raises no objection to the application.

5.8 **Landscape Impact**

Policy C17 of the adopted Cherwell Local Plan states that major areas proposed for employment generating development adjacent to the M40 should have a frontage to it to ensure that the appearance of the town from the M40 is enhanced by new development rather than damaged by it and as such no development should be within 20 metres of the boundary between the site and the motorway boundary with the intervening spaces landscaped to a very high standard. It also requires within the explanatory text for the design of new buildings adjacent to the M40 to be of a high standard both in terms of visual appearance and material.

As this application is in outline only, the plans and elevation drawings submitted as part of this application are illustrative, but closely follow the scale of the buildings approved around this site.

The plans as submitted also indicate a 20 metre wide belt between the development and the M40, which will be required for suitable landscaping.

The original outline consent for the development of the entire site (now partly occupied by DHL and Alex Lawrie/Lloyds TSB) was pursuant to a Section 106 legal agreement, which included a requirement to submit a landscaping scheme and 15 year management plan for the entire site, and to implement the approved scheme prior to the implementation of development.

In researching the complex planning history associated with the site, file correspondence confirms that a scheme was submitted and approved, but has only been partially implemented.

- 5.9 The Council's Landscape Officer has provided his comments on the existing landscaping around the site. The roadside woodland planting to the east is substantial and will provide screening to the development from M40 and feeder road. The roadside woodland planting along the A422 provides only partial screening from the A422 and M40 roundabout. He suggests that in order to integrate the site into the surrounding roadside woodland, standard trees, such as Oak, should be included to provide additional screening to the site from the A422. Ornamental planting will also be required adjacent to buildings to soften hard areas within the development. As such, the applicants will be required to submit a suitable landscaping scheme for approval, prior to the commencement of

development and maintain the planting once completed.

5.10 **Surface water drainage**

The site is not located within the flood zone and as such, there is no requirement for the submission of a Flood Risk Assessment. However, a watercourse & reed beds exist along the site boundary that runs parallel to the M40 slip road and A422. The surface water drainage of the entire site was considered as part of the original outline application, which required the submission and approval of a method statement for surface water drainage, its maintenance, implementation and construction. Previous file correspondence indicates that these details have been submitted, approved and implemented. Furthermore, the Head of Building Control and Engineering Services has stated that the drainage infrastructure has been designed to accommodate development of this site.

5.11 **Protected Species**

Two protected species of bird have been identified within the boundary of the site (House Sparrow and Dunnock). In order to safeguard these species, the applicants will provide an appropriate mitigation strategy which will outline an appropriate methodology to safeguard and protect the species from any adverse affects as a result of the development. The mitigation strategy will be appropriately conditioned.

5.12 **Section 106 Legal Agreement**

As mentioned above, the original outline consent granted in September 1999 (98/00160/OUT) for B1, B2 and B8 development on the site was subject to a Section 106 legal agreement for highway contributions and landscape maintenance. The contribution towards improvement of the highway infrastructure was received and the works have been implemented. However, the County Highway Authority are currently reviewing the applicants Transport Assessment to ascertain whether the proposed development would have any additional impact on the surrounding transport infrastructure that would require additional financial contributions over and above that of the original agreement. If additional contributions are considered reasonable and necessary as a direct result of the proposed development, then a new Section 106 legal agreement will be required between the applicants and the County Council. A verbal update on the County Council's position in this respect will be given at the meeting.

5.13 In addition, the Council's Public Art Advisor has stated that the site is over the threshold requiring financial contributions towards the provision of piece of public

art. Given the enclosed nature of the site and limited public access, an off site contribution is sought, which is likely to be used towards an iconic work of art on the A422 roundabout or bespoke entrance features. This is to be secured through a Section 106 legal agreement.

- 5.14 This application was deferred at the 18th February 2010 Committee to enable completion of negotiations between the applicant and the County Council on highway/transport contributions, as outlined in paragraph 5.12 above.

6. Recommendation

Approval subject to:

- I. The completion of a S106 agreement to secure a financial contribution towards the Banbury Integrated Transport Strategy and Public Transport Services, if required by the Local Highway Authority**
- II. The completion of a S106 agreement to secure an off site financial contribution towards the provision of public art**
- III. The following conditions and planning notes:-**

CONDITIONS

- 1. SC 1.0A (RC1) (Time for submission of reserved matters)**
- 2. SC 1.1 (RC1) (Expiry of reserved matters)**
- 3. SC 1.2 (RC1) (Duration limit)**
- 4. SC 3.0 (RC10) (Submission of landscaping scheme)**
- 5. SC 3.1 (RC10) (Implementation of landscaping)**
- 6. SC 6.4AB (RC34AA) (Restriction on extensions)**
- 7. SC 6.4BC (RC65AA) (Restriction on mezzanine floors)**
- 8. That the development hereby permitted shall be used only for purposes falling within Classes B1, B2 and B8 specified in the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for a car show room (sui generis), and for no other purpose whatsoever, including any trade counters. A maximum of 3438 square metres of B1(a) floorspace or as an alternative a maximum of 4645 square meters of B1 (b) , B1 (c) floorspace, B2 floorspace or B8 floorspace or a maximum of 2462 square meters of car show room floor space provided on the site as part of the development hereby permitted or such a mix of the above uses that can be satisfactorily accommodated on the site. .**

Reason: To ensure that inappropriate uses or levels of usage do not take place in this locality as the traffic impact assessment has been assessed at this level of development, in accordance with PPG13: Transport and Policy T1 of the South East Plan 2009.

- 9. Notwithstanding the provisions of Class B of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 and its subsequent amendments there shall be no transfer or change of use between B1, B2 and B8 which exceed these respective maximum floorspace figures without the prior grant of planning permission in that behalf.**

REASON: To ensure that inappropriate uses or levels of usage do not take place in this locality as the traffic impact assessment has been assessed at

this level of development, in accordance with PPG13: Transport and Policy T1 of the South East Plan 2009.

10. Car parking and cycle parking shall be provided in accordance with the Council's car parking standards current at the time of the reserved matter submission.

Reason: In the interests of highway safety, to ensure the provision of off-street car parking and to comply with Government advice in PPG13: Transport and Policy T4 of the South East Plan 2009.

PLANNING INFORMATIVES

1. In the submission of reserved matter details for approval, a particularly high standard of architectural design in the external appearance of the building is expected in view of the prominence of the site.
2. A Trade Effluent Consent will be required for any effluent discharge other than a 'Domestic Discharge'. Any discharge without this consent is illegal and may result in prosecution. (Domestic usage for example includes – toilets, showers, wash basins, baths and canteens). Typical Trade Effluent processes include: - Laundrette/Laundry, PCB manufacture, photographic/printing, food preparation, abattoir, farm wastes, vehicle washing, metal plating/finishing, cattle market wash down, chemical manufacture, treated cooling water and any other process which produces contaminated water. Pre-treatment, separate metering, sampling access etc, may be required before the Company can give its consent. Applications should be made to Waste Water Quality, Crossness STW, Belvedere Road, Abbeywood, London, SE2 9AQ. Telephone 020 8507 4321.
3. With regard 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. In respect of surface water it is recommended that the applicant should ensure that storm flows are attenuated or regulated into the receiving public network through on or off site storage. When it is proposed to connect to a combined public sewer, the site drainage should be separate and combined at the final manhole nearest the boundary. Connections are not permitted for the removal of Ground Water. Where the developer proposes to discharge to a public sewer, prior approval from Thames Water Developer Services will be required. They can be contacted on 0845 850 2777.
4. Thames Water recommends the installation of a properly maintained fat trap on all catering establishments. It is further recommended, in line with best practice for the disposal of fats, oil and grease, the collection of waste oil by a contractor, particularly to recycle for the production of bio diesel. Failure to implement these recommendations may result in this and other properties suffering blocked drains, sewage flooding and pollution to local watercourses. Further information on the above is available in a leaflet, 'Best Management Practices for Catering Establishments' which can be requested by telephoning 020 8507 4321.
5. Thames Water would recommend that petrol/oil interceptors be fitted in all car parking/washing/repair facilities. Failure to enforce the effective use of petrol/oil interceptors could result in oil-polluted discharges entering local watercourses.
6. Thames Water will aim to provide customers with a minimum pressure of 10m head (approx 1 bar) and a flow rate of 9 litres/minute at the point where it leaves Thames Water pipes. The developer should take account of this minimum pressure in the design of the proposed development.

SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES

The Council, as local planning authority, has determined this application in accordance with the development plan unless material considerations indicated otherwise. The development is considered to be acceptable on its planning merits as the proposal pays proper regard to the character and appearance of the site and surrounding area and has no undue adverse impact upon the residential amenities of neighbouring properties, protected species or highway safety. As such the proposal is in accordance with the Practice Guidance contained in PPS9, PPS6, PPG13, PPS4, Policies RE3, C02, T1, T2 and T5 of the South East Plan 2009, Policies EMP1 and C17 of the Adopted Cherwell Local Plan and Policies EMP1 and EMP2 of the Non Statutory Cherwell Local Plan 2011. For the reasons given above and having proper regard to all other matters raised the Council considered that the application should be approved and planning permission granted subject to appropriate conditions as set out above.

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