

Application No: 10/01823/OUT	Ward: Banbury Grimsbury and Castle	Date Valid: 08.12.2010
Applicant:	Kennet Properties Ltd	
Site Address:	Land South of Overthorpe Road and West of M40, Banbury	

Proposal: OUTLINE – For 19,025sqm of employment floor space comprising 10,625sqm B1c/B2 and 8,400sqm B8 with ancillary office accommodation. Primary access to be off Overthorpe Road with appearance, landscaping, layout and scale being reserved matters.

1. Site Description and Proposal

- 1.1 The application site is located on the eastern outskirts of the town, close to Junction 11 of the M40, bounded to the east by the M40 motorway and to the west by an existing warehouse development, currently occupied by 3663 and known as Echo Park. To the north is the application site currently being considered for B1c/B2 and B8 uses under application 10/01816/HYBRID also contained within this agenda and to the south is an area of vacant land allocated in the non-statutory Cherwell Local Plan for B1/B2 development, however this is not the subject of an application. Access to the site is via an existing roundabout on the Overthorpe Road along the previously constructed spine road. The eastern extremity of the site curves inwards which takes account of the district boundary with the South Northamptonshire District and which, on the Cherwell side, is delineated by a row of (relatively unmanaged) mature trees and planting. Public Footpath 60 also follows this line on the eastern side of the planting. The rest of the site is characterised by scrub type vegetation of no significant maturity and is relatively flat. A ditch runs across the site east to west and a further ditch is located amongst the row of trees to the east.
- 1.2 Outline planning permission is sought for the use of the land and the access to it. All other matters are reserved (appearance, landscaping, layout and scale)
- 1.3 The application is accompanied by a Design and Access Statement, Planning Policy Support Statement, Phase 1 Habitat Survey, Reptile Assessment, Bat Assessment, Ecological mitigation/enhancement report, Transport Assessment, Travel Plan, Flood Risk Assessment and Outline Surface Water Drainage Strategy, Archaeological Evaluation, Site Investigation Report and an Arboricultural Assessment.

2. Application Publicity

- 2.1 The application has been advertised by way of site notices, press notice and neighbour notification letters. The final date for comment was 09 February 2011.
- 2.2 One letter of representation has been received from Councillor Smithson which is summarised as follows:
- Overnight HGV parking is currently dominant in this locality, witnessed by the amount of damage to the kerbside in the vicinity of the newly constructed Lombard Way/Overthorpe Road roundabout.

- If planning consent is to be granted S106 money should be used to provide signs/double yellow lines for parking restrictions along the Overthorpe from Thorpe way /Overthorpe Road to Lombard Way.
- This would reduce the HGV overnight parking noise nuisance and also reduce the possibility of vehicle accidents with the current hazardous HGV parking.

3. Consultations

- 3.1 **Banbury Town Council** No objections in principle, however does not support application without formal protection of access strip for SE relief road referred to in OCC Draft Local Transport Plan. Current road is not wide enough. If application is approved this could destroy Banbury's last access point to provide a relief road. Furthermore:
- B8 becoming predominant to the detriment of Banbury's manufacturing heritage and the provision of skilled jobs.
 - Concerns about quality of proposed building and screening.
 - Overnight HGV parking results in nuisance, litter and environmental health issues.
- 3.2 **South Northamptonshire Council** No objections subject to the appearance of the building, materials and colour finish, lighting and landscaping. Furthermore a routeing agreement is required to direct HGVs away from Overthorpe Road.
- 3.3 **Overthorpe Parish Council** raises objections in relation to highway safety.
- Considers that the application will result in an increase in volumes of traffic and that the current road infrastructure is insufficient.
 - Vehicles speeds on Overthorpe Road are excessive and there is no protection for pedestrians or cyclists. Furthermore a school bus routes picks up from Overthorpe Road.
 - Overthorpe Road is an access only village – this status is often abused and likely to be compounded as a result of development.
 - More signage is required directing vehicles to M40 and not through Overthorpe. HGVs park along Overthorpe Road.
- 3.4 **Head of Planning and Affordable Housing Policy** sets out the policy framework relevant to this application, main points include:
- support for planning applications which secure economic development in PPS4
 - allocation of site for B1/B2 although B8 not specifically restricted
 - Employment Land Review 2006 recommends site be allocated for B2/B8
 - Draft Core Strategy supports employment generating development – predominantly a mix of B1 and B2 uses.
- Further comments:
- No objections in principle to the proposal.
 - Attention drawn to NRM11 of SEP re 10% of energy for development to be gained from renewables
 - Attention drawn to Draft Transport Plan and potential requirement for land reservation for relief road.

- 3.5 **Economic Development Officer** This proposal is to be welcomed in its support of the existing and emerging local economic development strategies. The investment would allow both existing and inward investing businesses to create modern facilities and employment on an identified strategic employment site.

In terms of detail, I support a high quality of design and landscaping to minimise the visual impact from afar, and from the motorway. The overall design of neighbouring development should also be carefully considered to maximise the potential positive effect on the image of Banbury in attracting further investment.

- 3.6 **Urban Design Officer** This site differs from that immediately to the north (being assessed under 10/01816/HYBRID) as it is set back from the motorway so visual mitigation through mounding on site would be less effective. Buildings on the site will also be visible from the Cherwell valley, which is a sensitive landscape as well as a transport corridor, and from the Cherwell Heights area which is on rising ground. Care needs to be taken that the scale, massing and bulk, as well as the colour of the proposed building is not dominant in these mid and long distance views and the bulk may need to be broken up and colour varied vertically across the building. A ZVI of the maximum height of the buildings at 13.5m to ridge should be undertaken to assess the most effective opportunities for mitigation, including the possibility of offsite mitigation.

Whilst layout etc is reserved, the illustrative layout 1091-022c is not one that we would wish to see linked to the grant of any outline consent. The location of the servicing on the eastern side of the buildings is not appropriate as it will be too exposed. An alternative layout should be sought that explores the potential for containing servicing between the two buildings on the site, as with the proposal to the north.

The swales offer the opportunity to create an attractive landscape resource. I suggest that, rather than sandwiched between the buildings, a location near the front of the two buildings could assist in creating an attractive setting for them.

Landscape proposals should ensure that the PRW is not enclosed or adversely affected in terms of amenity.

A condition should be applied restricting roof top plant.

- 3.7 **Anti Social Behaviour Manager** The location of the proposed development site is such that it is unlikely to have any significant impact by way of noise on any noise sensitive locations. The hamlet of Overthorpe will already be subject to elevated background noise levels due to the presence of the nearby M40 and whilst this environment should effectively mask any noise generated on the application site it will be important to ensure that the proposed development does not add to the noise burden at these properties.
- 3.8 **Environmental Protection Officer** Records show potentially contaminative land uses adjacent to this site including a World War 1 munitions factory and associated railway and there are also several other potentially contaminative land uses in the nearby area. As such applying the full phased contaminated land conditions is recommended.

3.9 **Landscape Officer** all elevations will require landscape mitigation with broad-leafed trees and native thicket planting

The existing trees/hedgerow will partially mitigate views from the motorway and rights of way users. Improved screening of the site will occur when this vegetation comes into leaf, evergreen Scots Pine tree planting on site would provide enhanced screening during the winter months.

development will be more prominent from vantage points to the east of the motorway.

The finished floor levels (to be confirmed) may be lower than the motorway level which will slightly reduce the impact of the warehousing. This along with the appropriate onsite tree planting will provide mitigation to at least 3/4 of the height of the building elevations over time.

Tree Removals

tree removal to facilitate the formation of the access road and the surface water attenuation area is acceptable providing suitable replacement trees are planted. levels around existing retained trees must not be changed.

Biodiversity

General biodiversity is to be improved by appropriate planting throughout the site.

3.10 **Ecology Officer** The protected species surveys carried out to date are sufficient in scope and depth.

- Tree removal should involve checking for bats prior to felling.
- Proposals will result in significant loss of bat and bird habitat and foraging.
- Mitigation and enhancement plan will go some way to mitigating and suggested methodology to avoid harm to reptiles is appropriate.
- Care should be taken in terms of badgers. No trenches to be left open.
- Are ponds to remain permanently wet?
- Enhancements for bats and bird required
- Lighting scheme to be appropriate
- Management plan for ponds, hedgerows, trees and green spaces required.

3.11 **Right of Way Officer** Should planning consent be granted, no public path order would be required to enable this development, but the applicant should be reminded to ensure that no plant or materials obstruct Banbury FP60 during construction.

3.12 **Head of Building Control and Engineering Services** Cherwell Members have a strong aspiration to ensure that the road leading from the recently formed roundabout on Overthorpe Road should be available to form part of the Banbury South-Eastern Relief Road. The first part of the access road for these 2 application site has already been constructed.

Two issues follow from this aspiration. The first is that the carriageway width continues to the standard at which it has been started. The second is that the junction arrangements from the access road onto the application sites should not compromise the capacity of the access road if used as a relief road. Therefore, ghost islands or similar features need to be considered at this time.

On both these matters you should consult with the Highway Authority making specific reference to each point.

Both sites have been assessed as in line within Flood Zone 1 and therefore not at material risk of fluvial flooding. By following the processes prescribed in PPS25 the

applicant has further concluded that there are no other material sources of flood risk on the sites. I concur with both these assertions and agree that flood risk is minimal.

The applicant has proposed a sustainable form of drainage reliant on attenuation and the efficacy of the receiving ditch systems. I have no concerns with this but at detailed stage a condition should be attached to any consent to the effect that the ditch systems must be restored for effective conveyance of the attenuated flows and maintained accordingly thereafter.

The red line application boundary follows the County Boundary with Northamptonshire. To leave a small tract of undeveloped land between the application site and the M40 would not be logical and could cause future maintenance problems. A means should be found to include the Northamptonshire area within this development proposal.

- 3.13 **Local Highway Authority** raises no objections to the proposals (advising that the site is situated in a sustainable location) subject to a financial contribution towards sustainable highway infrastructure and services, furthermore, a Travel Plan and a fee for monitoring it will be required.
- 3.14 **County Archaeologist** The proposals do not appear directly to affect any presently known archaeological sites. However, records do indicate the presence of known archaeological finds nearby, and this should be borne in mind by the applicant. If archaeological finds do occur during development the applicant is asked to notify the County Archaeologist in order that he may make a site visit or otherwise advise as necessary.
- 3.15 **County Field Officer** Banbury public footpath 60 runs along the eastern boundary of the site. The footpath is shown within the red outline of the site but is shown as being separated from the development via a landscaped strip. I therefore have no objections to the proposals. If permission is granted the developers should ensure that the footpath remains open and safe for people to use while the development takes place.
- 3.16 **County Developer Funding Team** No objections or requirements
- 3.17 **Highways Agency** raises no objections
- 3.18 **Police Architectural Liaison Officer** raises no objections
- 3.19 **Environment Agency** No objections subject to conditions relating to contamination and remediation, flood risk mitigation and surface water drainage. Further advice to the developer is also provided.
- 3.20 **Thames Water** sets out the developers responsibilities in relation to drainage, surface water and minimum pressure.

4. Relevant Planning Policies

- 4.1 Central Government Guidance
 - Planning Policy Statement (PPS) 1: Delivering Sustainable Development
 - Planning Policy Statement (PPS) 4: Planning for Sustainable Economic Growth

Planning Policy Statement (PPS) 9: Biodiversity and Geological Conservation
Planning Policy Guidance (PPG) 13: Transport
Planning Policy Statement (PPS) 23: Planning and Pollution Control
Planning Policy Statement (PPS) 25: Development and Flood Risk

4.2 South East Plan (SEP)

CC1: Sustainable Development
RE3: Employment and Land Provision
T1: Manage and Invest (Transport)
T4: Parking
NRM4: Sustainable Flood Risk Management
NRM5: Sustainable Flood Risk Management

4.3 Draft Core Strategy (February 2010)

4.4 Adopted Cherwell Local Plan (aCLP)

TR1 Transportation Funding
C2 Protected Species
C7 Landscape conservation
C17 The Urban Fringe (enhancement by tree and woodland planting)
C28 Standards of layout, design and external appearance
ENV12 Contaminated Land

4.5 Non Statutory Cherwell Local Plan (nsCLP)

EMP1 Employment Generating Development
EMP2 Land to South of Overthorpe Road
TR1 Traffic Generating Development
TR3 Transport Assessment
TR4 Mitigation Measures
TR5 Road Safety
R4 Rights of Way
EN6 Light Pollution
EN15 Surface Water Run-off and Source Control
EN17 Contaminated Land
EN25 Protected Species
EN34 Landscape Character
EN36 Landscape Enhancement
D1 Urban Design Objectives
D12 Protection of Views

5. Appraisal

5.1 Main Planning Considerations

5.1.1 The main issues to consider in the determination of this application are as follows:

- Planning History
- Principle of Development
- Transport, Highways and Access
- Landscape Impact and Design
- Rights of Way
- Flooding and Drainage
- Contamination
- Archaeology

- Ecology
- Trees
- Planning Obligation

Each of these matters will be considered in turn.

5.2 Planning History

- 5.2.1 None. However in relation to the adjacent site to the north, consent has previously been granted for B1c/B2 and B8 uses under planning applications 04/02688/OUT, 05/02355/OUT, 05/00929/REM and 08/02352/OUT.

5.3 Principle of Development

- 5.3.1 The application seeks outline permission for B1c/B2 and/or B8 uses on the site which is the central section of the area of land allocated for employment use (B1/B2) in the nsCLP (adopted as non-statutory policy in 2004). Although this plan did not proceed to adoption, the principle of employment use in this area has been identified as being acceptable through the evidence base supporting the nsCLP which subsequently lead to its allocation for employment use. Furthermore, the site to the north benefits from outline planning permission which includes B8 uses and which remains live until February 2012.
- 5.3.2 Due to the fact that the land however is not allocated for development in the aCLP 1996, if the application is to be approved, this would be a departure from the development plan and as such departure procedures must be followed. The proposed development has been advertised as such in anticipation of such an outcome. However it is SDPHE's view that the application is unlikely to be called in to be determined by the Secretary of State.
- 5.3.3 With regard to the acceptability of the proposal in principle, national guidance PPS4 states that local planning authorities should adopt a positive and constructive approach towards planning applications for economic development and that planning applications that secure sustainable economic growth should be treated favourably subject to a number of considerations.
- 5.3.4 The Employment Land Review (2006) undertaken to inform new planning policies in the Local Development Framework (LDF) recommends that the site be designated for future B2/B8 employment development 'to supplement the existing employment uses in the area'. This 2006 report is currently being updated.
- 5.3.5 The Draft Core Strategy 2009 (which, when adopted, will form part of the LDF for Cherwell), proposes to allocate the site for employment generating development. The supporting text highlights that development should be predominantly a mix of B1 and B2 uses.
- 5.3.6 The proposal for employment generating development is acceptable in principle therefore when considered against the above policy framework. The site is considered to be in a sustainable location (see Local Highway Authority comments) and would result in significant job creation and the strengthening of the employment sector. In this instance, B8 is proposed, however at a lower ratio than B1c/B2.

- 5.3.7 SDPHE is advised that from a planning policy perspective, there is no objection in principle to the proposed balance of uses given the justification provided regarding the job creation associated with the B8 use. However it should be noted that a condition was attached to the extant consent on the site (08/02352/OUT) to limit the B8 floorspace.
- 5.3.8 In comparison to the proposal under 10/01816/HYBRID, an end user has not yet been identified and as such the Council could not be certain about the number of jobs created by the B8 use. B8 use is not however to be completely excluded based on the policy framework and as the B1c/B2 and B8 ratios are set out in the description of the development, it would be appropriate in this case to condition that no more than 8,400sqm of the total floor area of the buildings to be used for B8 purposes, to ensure that there is a good mix of uses in the locality in accordance with Policy Framework.
- 5.3.9 Subject to the recommended condition relating to use restriction, SDPHE considers the proposal to be acceptable in principle as it complies with the provisions of PPS4, Policies CC1 and RE3 of the South East Plan and Policies EMP1 and EMP2 of the non-statutory Cherwell Local Plan.

5.4 Transport, Highway and Access

- 5.4.1 It is proposed to access the site via the existing roundabout junction on the Overthorpe Road, which was constructed as part of the previously approved planning application. This roundabout has been adopted by the Local Highway Authority and also provides access to the industrial units located off Lombard Way. The roundabout leads to the existing spine road which remains unadopted and which runs up to the north west corner of the site. The plans indicate that the spine road would be extended and three access taken from it into the site. The two key exit routes from the site along the spine road include travelling east along the Overthorpe Road towards the villages of Overthorpe and Warkworth, or west and then to the north along Ermont Way leading to either the M40 or Banbury.
- 5.4.2 The Highways Agency raises no objections to the proposals.
- 5.4.3 The Local Highway Authority raises no objections to the proposal in principle stating that with regards to sustainability, the site is within 1.5km of the town centre and 1.1km from Banbury Railway Station from which there are good footway and cycle links and two bus services from Banbury run within 600m of the site. An appropriate Framework Travel Plan has been submitted however this will need to be tailored to the transport plans of future occupiers and a fee paid for the monitoring of that Travel Plan.
- 5.4.4 The Local Highway Authority also advises that at the reserved matters stage an appropriate level of parking in accordance with local standards; appropriate loading/unloading and manoeuvring areas for goods vehicles including setting down and parking areas for waiting vehicles. With regard to parking/waiting; problems are currently caused by HGVs setting down on the local network and therefore both provision within the site and controls beyond are required. Tracking diagrams should accompany detailed submissions as should visibility splays, footway and crossing provision details. In general, the submitted illustrative

schemes appear to satisfy the aforementioned requirements.

- 5.4.5 The Transport Assessment demonstrates the proposed development would have a relatively small impact upon flows on the local highway network. In addition a financial contribution will be sought towards sustainable highway infrastructure and services and towards a suggested waiting restriction on the public highway.
- 5.4.6 It is also advised by the Local Highway Authority that the development must use SUDS (sustainable urban drainage system) and that the Flood and Water Management Act requires SUDS to be adopted by the lead authority. The Act is programmed to start on 01 April 2011 and would require developers to set fees for SUDS design, supervision of installation and a commuted sum for future maintenance.
- 5.4.7 As this Act is not yet in force, the Council is not in a position to require the developer to enter into such financial commitments and therefore at this stage, the matter can only be for consideration and it is recommended that a planning note be attached to the decision notice which sets out the detail of the Act.
- 5.4.8 In relation to the previously approved application 08/02352/OUT a routeing agreement was entered into to control the passage of heavy goods vehicles leaving the site so as to protect the relatively minor road running east from the adopted roundabout towards Overthorpe (South Northamptonshire). It is SDPHE's view that this routeing agreement should apply to this application which would address Transport impact and highway safety concerns about the proposal together with South Northamptonshire Council's direct concern about this matter.
- 5.4.9 Reference is made by a number of consultees that land must be reserved to form part of the south eastern relief road from the new roundabout on Overthorpe Road, running adjacent to the application site and then around the southern side of Banbury. This is based on significant concerns about congestion within the town centre and inner relief roads together with the Draft Transport Plan which states that *'New road links will be considered where the required capacity cannot be realised and where other alternatives have been investigated and discounted. This could include the South East Relief Road (Bloxham Road to Hennes Way) and the Banbury South West Relief Road (Stratford Road to Bloxham Road)'*.
- 5.4.10 Given the status of the Draft Transport Plan (unadopted), the relatively vague wording of the extract and the fact that there is no other policy background to this aspiration, the Council is not in a position to insist that provisions be made for the relief road in question.
- 5.4.11 In any event, the Council's Head of Building Control and Engineering Services advises that any extension to the spine road should be continued at the same width which suggests that the existing part of the road is acceptable for use as part of the relief road.
- 5.4.12 For these reasons, SDPHE considers that the development of the site would not prejudice the construction of a relief road in the future if such a policy were adopted and the work implemented. A planning note is recommended which sets the aspiration for the road out to the applicant.

5.4.13 Overall, the proposed development would not have a detrimental transport impact, is acceptable in terms of the accommodation and manoeuvring of vehicles within and accessing the site and would not result in unacceptable highway safety issues. For these reasons, and subject to the recommended transport and highway safety conditions below together with the routing agreement, the application complies with PPG13: Transport, Policies T1 and T4 of the South East Plan, Policy TR1 of the adopted Cherwell Local Plan and Policies TR1, TR3, TR4 and TR5 of the non-statutory Cherwell Local Plan.

5.5 Landscape Impact and Design

5.5.1 The site is visible from many vantage points, including the adjacent countryside and rights of way, on approach to Banbury via Overthorpe Road, from the Motorway and from some higher vantage points within Banbury itself including from Bankside to the west.

5.5.2 The area is characterised by industrial development to the north and east, which includes the large 3663 building just beyond the existing spine road serving the application site. This building is approximately 16000sqm and between 12 and 14m in height.

5.5.3 The concept of large industrial units in this location is established and therefore is appropriate, and as such subject to the detail of the scheme it is considered that the buildings could be integrated into the area so as not to cause detriment.

5.5.4 The indicative layout is somewhat unfortunate as the buildings are indicated with their servicing to the rear. Despite the tree belt, it is considered that the buildings should be re-orientated and servicing accommodated between the units to reduce their visual impact.

5.5.5 Subject to detail, SDPHE considers that the proposed buildings would be of appropriate design and could be introduced into the site without having an unacceptable landscape impact. For these reasons, the application is considered to comply with C7 of the adopted Cherwell Local Plan and Policies EN34, EN36, D1 and D12 of the non-statutory Cherwell Local Plan.

5.6 Rights of Way

5.6.1 Public Rights of Way 59 and 60 run to the west of the site and to the north and south of the site respectively. Right of Way 59 is situated adjacent to the east of the existing 3663 building at a distance of over 25m from the boundary of the site. Some informal planting runs along the east edge of this footpath and as such it is SDPHE's view that, whilst the new buildings and associated works would be viewed, the proposal would have little impact upon the amenity of this footpath.

5.6.2 Right of Way 60 runs along the eastern boundary of the site of the eastern side of the existing planting along this edge, which will assist with reducing the visual impact of the buildings when viewed from the footpath. The amenity of this footpath is somewhat reduced by the proximity of the motorway, therefore it is vital that the development does not reduce the amenity of the footpath to an unacceptable level. Layout, design and landscaping are all reserved matters, however each will be expected to be of high quality to ensure that the buildings do not cause

unacceptable harm to the amenity of the footpath.

5.6.3 The District and County Council's Footpath and Right of Way Officer comments that if permission is granted the developers should ensure that the footpath route remains open and safe for people to use while the development takes place, which can be secured via a planning note.

5.6.4 Subject to the detail of the proposal SDPHE considers that the development can be accommodate on site without causing harm to the amenity of the footpath in accordance with Policy R4 of the non-statutory Cherwell Local Plan.

5.7 Flooding and Drainage

5.7.1 The Environment Agency raises no objections to the application in relation to flood risk or land contamination, subject to a number of conditions relating to contamination and remediation, flood risk mitigation and surface water drainage.

5.7.2 Subject to the recommended conditions, SDPHE is satisfied that the proposal accords with PPS25, NRM4 of the South East Plan and Policy EN15 of the non-statutory Cherwell Local Plan.

5.8 Contamination

5.8.1 Given the records on potential contaminative land use on adjacent sites, The Council's Environmental Protection Officer recommends that a full phase land investigation and remediation programme be carried out via condition prior to the commencement of the development.

5.8.2 Subject to the recommended contaminated land conditions, SDPHE is satisfied that the proposal would accord with PPS23.

5.9 Archaeology

5.9.1 An archaeological field evaluation carried out in relation to the site in October 2008 which revealed no deposits of archaeological significance and as such it was concluded that the site has no archaeological potential. The County Archaeologist is satisfied with these conclusions and makes no further recommendations other than making the developer aware of their responsibility should further finds be discovered during the implantation of the development.

5.10 Ecology

5.10.1 An ecological assessment of the site was carried out in November 2010 which concluded that there is no reason to suggest that any ecological designations, habitats of nature conservation interest or any protected species will be significantly harmed by the proposals.

5.10.2 The Council's Ecologist is satisfied that the Ecological Assessment is sufficient in scope and depth and sets out that the mitigation and enhancement measures must be adhered to in relation to procedures to be followed prior to the commencement of the development, mitigation and management plans throughout the construction of the development and enhancement opportunities for ecology together with the

consideration of appropriate lighting schemes all to be secured via conditions.

- 5.10.3 SDPHE is satisfied that the planning outline application has due regard to the current ecological and biodiversity issues on site and that subject to the recommended conditions relating to mitigation and enhancements, the application complies with PPS9 and Policy NRM5 of the South East Plan.

5.11 Planning Obligation

- 5.11.1 Based on the consultation responses to the proposed development, and the planning history of the neighbouring site, it is considered that any permission relating to the proposed development should be the subject of a S106 agreement relating to County Council infrastructure in terms of monetary contributions towards the future highway infrastructure, the implementation and monitoring of the Travel Plan and a routeing agreement to ensure that heavy traffic generated by the development does not pass through Grimsbury, Overthorpe or Warkworth.

5.12 Conclusion

- 5.12.1 The proposed development for B1c/B2 and/or B8 uses is considered to be acceptable in principle when considered against planning policy and guidance. Furthermore, the proposal would secure a considerable number of jobs for Banbury which would assist with complementing the current employment sector.
- 5.12.2 Due to the fact that the site is not allocated in the adopted Cherwell Local Plan however, the proposal must follow departure procedures.
- 5.12.3 Given the preceding assessment of the proposal, SDPHE is satisfied that the proposed development would not cause material harm in terms of Transport/Highway impact, landscape impact or in relation to matters of flood risk, contamination, biodiversity and archaeology. Any approval would be subject to a s106 agreement relating to both County and District infrastructure.

6. Recommendation

Approval, subject to:

- (i) **Applicant entering into Section 106 Agreement with the County Council to secure contributions towards the transport network a routeing agreement and the implementation and monitoring of the Travel Plan**
- (ii) **Departure procedures;**
- (iii) **The following conditions:**

- 1. SC 1.0a Outline: Approval of Reserved Matters Details (RC1).**
- 2. SC 1.1 Outline: Expiry of Application for Reserved Matters (RC1).**
- 3. SC 1.2 Outline duration limit (RC1).**
- 4. SC 3.0a Submit Landscaping Scheme (RC10a).**
- 5. SC 3.1a Carry Out Landscaping Scheme and Replacements (RC10a).**
- 6. That the existing line of trees on the eastern side for the site shall be retained in its entirety apart from any poor tree specimens identified to be removed in accordance with the landscaping scheme to be submitted and approved.**

Furthermore, the existing line of trees shall be reinforced by new tree planting, details of which shall be set out in the landscaping scheme under condition 4 (RC10a).

7. That full details of all service trenches, pipe runs or drains and any other excavation, earth movement, or mounding required in connection with the development hereby permitted shall be submitted to an approved in writing by the Local Planning Authority prior to such works being commenced. The development shall be carried out in accordance with the details so approved (RC59a).
8. Prior to the commencement of the development hereby permitted, a detailed method statement to outline the proposed arrangements to ensure that access is maintained to adjacent industrial developments, farmland to the south and public footpaths during construction, including temporary access arrangements to the site during construction and details of wheel washing or road sweeping arrangements during construction, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and carried out in accordance with the approved method statement. Reason – In the interests of highway safety, convenience and maintaining proper access and to comply with Policies T1 and T4 of the South East Plan.
9. SC 4.21aa Surface Water and Sewerage Disposal (RC19a) delete ‘the surface water and’
10. SC 2.10a Floor Levels (RC7a)
11. Notwithstanding the provisions of Section 55 (2) (a) (i) of the Town and Country Planning Act 1990 and Class A of Part 8, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2010 and its subsequent amendments, no internal operations increasing the floor space available within the buildings hereby permitted beyond their approved floor area shall be carried out without the prior express planning consent of the Local Planning Authority. Reason – To enable the Local Planning Authority to retain planning control over the provision of additional floor space in order to avoid additional congestion on surrounding highways and Junction 11 of the M40, maintain a satisfactory layout and sustain an adequate overall level of parking provision and servicing on the site in accordance with Policies CC1, T1 and T4 of the South East Plan.
12. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) ref: CS/044664/Rev A produced by Capita Symonds, dated 10 November 2010 and the following mitigation measures detailed within the FRA:
 1. Surface water discharge rates shall not exceed greenfield runoff rates, as described in Section 4.2 of the FRA and detailed in Table 3 of the FRA.
 2. The surface water drainage system shall be designed to safely manage storm events up to and including the 1 in 100 year event with an allowance for climate change in accordance with Section 4.2 of the FRA.
 3. The surface water drainage system shall include porous paving, ponds and filter drains as detailed in Section 4.11 of the FRA and in drawing CS/044664/FRA/006 Rev C.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface

water from the site and to ensure that the water drainage scheme offers wider environmental enhancements in accordance with PPS25 and Policy NRM5 of the South East Plan.

13. 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, together with details of how the scheme shall be maintained and managed after completion, 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 before the development is completed.

Reason - To prevent the increased risk of flooding, to improve and protect water quality, to improve habitat and amenity, and to ensure future maintenance of the surface water drainage scheme in accordance with PPS25 and Policy NMR4 of the South East Plan.

14. Prior to the commencement of the development hereby permitted a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model shall be carried out by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall be submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning Authority has given its written approval that it is satisfied that no potential risk from contamination has been identified.

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 CLP and PPS23: Planning and Pollution Control.

15. If a potential risk from contamination is identified as a result of the work carried out under condition 14, prior to the commencement of the development hereby permitted, a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals shall be documented as a report undertaken by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place unless the Local Planning Authority has given its written approval that it is satisfied that the risk from contamination has been adequately characterised as required by this condition.

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 CLP and PPS23: Planning and Pollution Control.

16. If contamination is found by undertaking the work carried out under condition 15, prior to the commencement of the development hereby permitted, a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use shall be prepared by a competent person and in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and submitted to and approved in writing by the Local Planning Authority. No development shall take place until the Local Planning

Authority has given its written approval of the scheme of remediation and/or monitoring required by this condition.

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 CLP and PPS23: Planning and Pollution Control.

17. If remedial works have been identified in condition 16, the remedial works shall be carried out in accordance with the scheme approved under condition 16. The development shall not be occupied until a verification report (referred to in PPS23 as a validation report), that demonstrates the effectiveness of the remediation carried out, has been submitted to and approved in writing by the Local Planning Authority.

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 CLP and PPS23: Planning and Pollution Control.

18. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. Reason – To control the risk of the spread of contamination which could pollute controlled waters and in accordance with PPS23.

19. SC9.12a (RC93aa) 'very good'

20. That the development hereby approved shall be carried out strictly in accordance with the submitted Ecological Mitigation and Enhancement Plan which specifically refers to mitigation in relation to nesting birds, reptiles, water voles and bats, together with habitat enhancement and habitat creation relating to bird, invertebrate, reptile and amphibian habitats, ditches and ponds.

Reason: To ensure that the development will not cause harm to any protected species or their habitats in accordance with PPS9: Biodiversity and Geological Conservation, Policy NRM5 of the South East Plan and Policy C2 of the adopted Cherwell Local Plan.

21. That prior to the commencement of the development and regardless of whether badgers have been recorded on the site or not, a working plan which takes account of movement of, and access by, badgers during the implementation of the development shall be submitted to and approved in writing by the Local Planning Authority, the movement and access plan shall be implemented and maintained on site throughout the whole of the development process.

Reason: To ensure that the development will not cause harm to any protected species or their habitats in accordance with PPS9: Biodiversity and Geological Conservation, Policy NRM5 of the South East Plan and Policy C2 of the adopted Cherwell Local Plan.

22. Prior to the first occupation of any part of the development hereby approved, an access programme for the long term movement of badgers into and through the site (using appropriate corridors and boundary hedging) for foraging shall be submitted to and approved in writing by the Local Planning Authority and the access programme shall be introduced on site in accordance with the approved

details.

Reason: To ensure that the development will not cause harm to any protected species or their habitats in accordance with PPS9: Biodiversity and Geological Conservation, Policy NRM5 of the South East Plan and Policy C2 of the adopted Cherwell Local Plan.

- 23.** Prior to the commencement of development a landscape management plan, including long- term design objectives, management responsibilities and maintenance schedules for all landscaped areas including ponds, hedgerows, trees and green spaces, shall be submitted to and approved in writing by the local planning authority. The landscape management plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

Reason - This condition is necessary to ensure the protection of wildlife and supporting habitat and secure opportunities for the enhancement of the nature conservation value of the site in line with PPS9 and NRM5 of the South East Plan.

- 24.** The existing ditch systems shall be restored for effective conveyance of the attenuated flows and maintained as such thereafter. **Reason -** To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to ensure that the water drainage scheme offers wider environmental enhancements in accordance with PPS25 and Policy NRM5 of the South East Plan.

- 25.** That the premises shall be used only for purposes falling within Class B1c/B2 and B8 specified in the schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 and for no other purpose(s) whatsoever and that no more than 8,500sqm of the buildings shall be used for B8 purposes.

Reason - In order to achieve a satisfactory form of development, to ensure that the site is not overdeveloped and to comply with Policy CC1 of the South East Plan and Policies EMP1 and EMP2 of the non-statutory Cherwell Local Plan.

- 26.** Prior to the installation of any external lighting on the site, full design details, including height of columns/lanterns, luminance levels, lantern geometry and type of lighting unit, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. **Reason –** To ensure the satisfactory appearance of the completed development and to provide the necessary environment for wildlife in accordance with Policies BE1 and NRM5 of the South East Plan.

- 27.** That the height of the buildings hereby approved shall not exceed 14m in height (RC7a)

Suggested planning notes if approved;

- a) **B – [No implied Approval of Sketch Details]** add ‘The applicant is advised to note the Urban Designer’s comments in relation to layout.
- b) **D – [High Standard of Design]**
- c) **F1 – [Public Footpaths: Diversion etc]** add ‘and the public shall not be deterred from using the public footpaths in the area as a result of obstruction over, or development in close proximity to, the public footpath’.
- d) The applicant is advised to have due regard to the advice and recommendations contained within the consultation responses from the Environment Agency and Thames Water.
- e) **Q1 – [Legal agreement]**
- f) **O1 – [Archaeology]**
- g) **U1 – [Construction Sites]**
- h) **X1 – [Biodiversity/Protected Species]** add ‘In relation to any submission for

approval of Reserved Matters, the development shall involve full details of on site enhancements for bats and birds.

- i) V1 – [Disabled People]
- j) The applicant should be aware that the draft Transport Plan makes reference to a South West Banbury Relief Road, part of which could follow the route of the spine road serving this site.
- k) The applicant is advised that the Travel plan submitted with this application will need to be tailored to suit the future end user of the site.
- l) The applicant's attention is drawn to the Flood and Water Management Act which will require developers to enter into an agreement with the Leading Authority in relation to the design, provision and maintenance of a Sustainable Urban Drainage Scheme (SUDS).

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

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. Although a departure from the development plan, it is considered to be acceptable on its planning merits as the proposal would introduce increased employment opportunities in a sustainable location and would not give rise to any unacceptable transport or landscape impact, furthermore the proposal is considered to be acceptable in terms of flood risk, land contamination, biodiversity, archaeology and the adjacent public Right of Way. As such, the proposal is in accordance with government advice contained within PPS1 - Delivering Sustainable Development, PPS4: Planning for Sustainable Economic Growth, PPS9: Biodiversity and Geological Conservation, PPG 13: Transport, Policies CC1, RE3, T1, T4, NRM4 and NRM5 of the South East Plan, Policies TR1, C2, C7, C17, C28 and ENV12 of the adopted Cherwell Local Plan and Policies EMP1, EMP2, TR1, TR3, TR4, TR5, R4, EN6, EN17, EN25, EN34, EN36, D1 and D12 of the non-statutory Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above, and a legal agreement to secure the essential infrastructure requirements.

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