

Application No: 10/01816/HYBRID	Ward: Banbury Grimsbury and Castle	Date Valid: 06.12.2010
Applicant:	Albion Land (High Wycombe) Ltd	
Site Address:	Land east of Dorcas Road adjoining and south of Overthorpe Road, Banbury	

Proposal: Hybrid planning application for 24,005sqm (industrial) and/or B8 warehouse/distribution) uses (and associated infrastructure) with full details provided for Phase 1 comprising 12,574sqm floor space and all details except external appearance for Phase 2 comprising 11,431sqm floor space

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. The site is 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. Access to the site is via an existing roundabout on the Overthorpe Road. The site is relatively flat and characterised by scrub type vegetation of no significant maturity. A public footpath runs immediately adjacent to the north and east boundaries, to the west is an existing unadopted spine road leading from the roundabout on Overthorpe Road, beyond which and parallel to is a further public footpath. To the south, is a second development site, currently being considered for outline B1c/B2/B8 development under application number 10/01823/OUT, also contained within this agenda.
- 1.2 The proposal is a Hybrid application due to the fact that full details are proposed in relation to Phase 1 (Unit 2) and that in relation to Phase 2 (Unit 1) whilst details of access, landscaping, layout and scale have been submitted, external appearance is a reserved matter, making Phase 2 an outline application.
- 1.3 First Line Ltd is the identified end user for Unit 2, suppliers of automotive components internationally, who are currently located in Bicester and needing to vacate their existing premises. The business is seeking to expand and remain in Oxfordshire and the application site offers an opportunity to achieve the required footprint (12,574sqm). First Line would relocate their existing 130 jobs and intend to create a further 80 new jobs.
- 1.4 Unit 1 would be a slightly smaller unit with a footprint of 11,431sqm. Whilst negotiations are taking place with a prospective purchaser, this end user is not yet known. This is the reason for reserving the details of the appearance of the building from this application. Scale and footprint are however detailed.
- 1.5 The application is accompanied by a Planning Supporting Statement, Design and Access Statement, Transport Assessment, Travel Plan Statement, Flood Risk Assessment, an Ecological Assessment and Ground Investigation Report all in support of the application.

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 routing 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:

- The proposals therefore represent significant job creation, despite the B8 use class category which has traditionally been perceived as resulting in poor job/floorspace ratios.
- Principle of employment development has been established on this site
- No objections given justification regarding job creation
- B8 uses restricted on previous applications
- 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** The existing and emerging Economic Development Strategies identify the need for a balanced economy, to be resilient to economic downturn, accounting for the needs of expanding indigenous companies and attraction of new business to the district.

In order to accommodate the expansion needs of First Line of Bicester, the extension of uses to include B8 (warehousing and distribution) would provide considerable support to the growth of an indigenous company that would have difficulty expanding elsewhere in the district, whilst providing a higher level of employment density than typically found with B8.

This density may not, of course, remain in decades to come and therefore some control of phase 2 may be required to ensure ‘balance’ of employment opportunities locally. The restriction of B8 uses adjacent to Overthorpe Road should therefore be considered to ensure a mix of B2 and B1 akin to previous provisions for and rationale of this development site.

- 3.6 **Urban Design Officer** supports arrangement of site with servicing for unit 2 between buildings. Design approach is acceptable from front of building, accenting the entrance, however the rear elevation lacks interest and could be better articulated particularly on upper half of building.

Servicing should be more discretely arranged with more screening or reduced scale. Finished colour of building should be a more muted tone, not white. Opportunity to add visual interest to landscaping bund. Condition no plant on roof.

- 3.7 **Anti Social Behaviour Manager** Due to the location of the site no objections are raised to the principal of the proposed development. The applicants have indicated that the external lighting arrangements will be designed in accordance with the ILE Guidance and it is suggested that a prior approval condition is applied to cover this matter and a further prior approval condition to address any illumination to the proposed signage.

- 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 Manager** comments on the landscaping scheme stating that there is an opportunity to create a more interesting, undulating landform to mitigate the building with sensitively designed broad-leaved woodland, native shrub mixes and meadow grass.
- The northern building elevations will be prominent to users of Overthorpe industrial estate on the north side of Overthorpe Road/roundabout and tree and thicket planting will be required to mitigate this elevation.
 - The existing trees along the eastern side of the motorway will screen the development.
 - The site and proposed buildings will be adequately screened from Overthorpe Industrial Estate on the west by the existing large warehouse and industrial units with associated tree planting.
 - The southern and eastern elevations will be partially mitigated from motorway northbound users by existing trees/hedgerow along the district council boundary with grassland buffer (approx. 47 m at its widest) between the motorway and the site. This vegetation will also provide a permeable screen for walkers on the PRow that follows the district council boundary.
 - A good percentage of broadleaf tree and shrub species and grassland must be planted to satisfy the requirements of Aspect Ecology's Ecological Assessment in that bat/bird habits are enhanced.
 - Amendments required in relation to the landscaping
 - Off site contributions required in relation to off site open space and planting.
- 3.10 **Ecology Officer** Ecological assessment sufficient in scope and depth. Mitigation and enhancement measures must be adhered to together with consideration of appropriate lighting schemes.
- 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.

- 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 northern and eastern perimeter of the site. Although the footpath is shown within the red outline of the site it will be separate from it. On the eastern side there will be a landscaped bund between the development and the footpath. Apart from the visual impact the footpath will not be significantly affected. I therefore have no objections to the proposals. If permission is granted the developers should ensure that the route 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** raises 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
 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
 - Planning Obligation

Each of these matters will be considered in turn.

5.2 Planning History

- 5.2.1 04/02688/OUT: Outline planning permission was granted in August 2005 for the development of the application site for 17,000sqm of B1c and/or B2 uses with ancillary office and storage use taking access from Overthorpe Road
- 5.2.2 05/02355/OUT: Outline consent was granted in March 2006 for variation of conditions imposed in relation to 04/02688/OUT relating to the construction of the access and roundabout.
- 5.2.3 05/00929/REM: Reserved matters for the above application was granted in March 2006.
- 5.2.4 08/02352/OUT: Outline planning permission was granted in February 2009 for 17,000sqm of employment floorspace comprising of 8,500sqm of B1c/B2 and 8,500sqm of B8 uses with primary access off Overthorpe Road with some matters reserved.

5.3 Principle of Development

- 5.3.1 The application seeks permission for B1c/B2 and/or B8 uses on the site which is the northern most part 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 on this site had been identified as being acceptable through the evidence base supporting the nsCLP, which subsequently lead to its allocation for employment use and to the existing 2008 outline planning permission which includes B8 uses and which remains live until February 2012.
- 5.3.2 Due to the fact that the land 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 First Line to occupy Unit 2 represents significant job creation which, despite the B8 use class category traditionally perceived as resulting in poor job/floorspace ratios, puts the application in a strong position to be supported favourably.
- 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 Whilst the extent of B8 uses have previously been restricted in employment areas that are considered to be more appropriate for B1/B2 uses, the Employment Land Review 2006 clearly states that the site should be allocated for B2/B8 uses. Also apparent through the submission of the application, is the demand for B2 and B8 uses acknowledged by the commitment of the business First Line which due to the nature of the business, involving manual picking and packing of automotive parts, is expected to employ 200 on site.
- 5.3.9 In SDPHE's view therefore, the creation of jobs and the subsequent strengthening of the employment sector in this case outweighs the requirement to take a cautious approach to the creation of a significant extent of B8 usage on the site.
- 5.3.10 It is also considered that given the current economic downturn and the more sophisticated B8 uses that are becoming more prevalent, there should be no restriction imposed on the units to restrict their B8 usage in the future. For the reasons given, 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 an existing spine road which remains unadopted and which runs adjacent to the western boundary of the site in question, from which three separate vehicular accesses would be taken to serve the new industrial units. The two routes from the site 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 proposed development following the submission of further information to support the Transport Assessment associated with the proposal.
- 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 run within 600m of the site. A Travel Plan will however be required in relation to the proposed development and a fee paid for the

monitoring of that Travel Plan.

- 5.4.4 The Local Highway Authority advises that there is adequate parking and manoeuvring space for both cars and heavy goods vehicles however a tracking plan will be required for HGVs and that the scheme will not result in any greater impact upon the Highway network than the consented scheme. A financial contribution will be sought towards sustainable highway infrastructure and services and towards a suggested waiting restriction on the public highway.
- 5.4.5 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.
- 5.4.6 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.
- 5.4.7 In relation to the previously approved application 08/02352/OUT a routing 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 routing 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.
- 5.4.8 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 Hennem Way) and the Banbury South West Relief Road (Stratford Road to Bloxham Road)'*.
- 5.4.9 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. Furthermore, the red line site for this application does not include the spine road and does not overlap the land which has been previously identified as needing to be reserved for a future relief road.
- 5.4.10 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.

- 5.4.11 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 out the aspiration for a relief road to the applicant.
- 5.4.12 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, SDPHE considers that 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.
- 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 given their scale, much less than the footprint of the existing adjacent building, and height at 12.2m the buildings would fit comfortably with the surroundings, however it is critical to ensure that the buildings are successfully integrated into the area so as not to cause detriment to the area.
- 5.5.4 With regard to the layout of the buildings, it is considered that the key elevations are those facing east and west; towards Banbury and the approach to the site, and towards the motorway. The Council's Urban Design Officer believes that the servicing for Unit 2 has been appropriately positioned between the units to reduce their visual impact from the main views of the buildings, however it is considered that more could be done in order to reduce their visibility.
- 5.5.5 SDPHE is further advised that the design approach for unit 2 is acceptable as the main entrance to the building will be visible on approach to the building. However concern has been raised in relation to the eastern elevation as this lacks interest. Together with the company logo and signage it would be appropriate to introduce some articulation to this elevation of the building particularly the upper parts as these will be the elements of the building viewed from the motorway. It is also considered that the colour tone of the building should be muted from white so as not to be so prominent.
- 5.5.6 It is considered that these relatively minor issues can be addressed via amended plan prior to the determination of the application or that such details be secured via condition to the application.
- 5.5.7 Paladin fencing at a height of 2m and painted green is proposed to run around the perimeter of Unit 2 which is required in relation to the security of the site. Whilst not

ideal visually, SDPHE considers the design approach and colour scheme to be acceptable subject to the landscaping scheme which includes planting of trees and shrubs in front of the fencing which would assist with softening the visual appearance of the fence. In addition to this there are other examples of similar fencing in the wider locality.

- 5.5.8 Turning to the landscaping proposals for the scheme as a whole, on the eastern side a landscaping strip in excess of 20m is proposed between the buildings and the Right of Way adjacent to the motorway, this would mainly consist of a landscaped bund measuring up to 24m wide and up to 5m in height. Planting on the bund is proposed which would include native species planting.
- 5.5.9 A 12m landscape strip including drainage swale is proposed to the southern side of Unit 2 and a landscape strip up to 13m in width is proposed to the north of Unit 1. To the front of the site a 7m planted area would be achieved, all of which would be planted with native species. Within the site, more formal, ornamental planting is proposed within the parking areas.
- 5.5.10 Comments received from the Council's Landscape Design and Urban Design Officers suggest that more interest could be introduced to the landscape bund. For example, a less formal mound which achieves more undulation, and tree planting that has more of a woodland mix and appearance. More general amendments are also required in relation to the landscaping scheme in relation to species, arrangement and planting (root barriers and root pits). Amended plans are awaited.
- 5.5.11 In relation to the previous applications for this site, landscaping and its maintenance have been secured via a legal agreement. In this case, the landscaping is all proposed to be within the site area and the SDPHE considers that this can be secured via a condition, subject to a management plan to be submitted to and agreed in writing by the Local Planning Authority.
- 5.5.12 The Council's Landscape Architect's aspirations for contributions to off site open space and planting is noted however there is no policy background for such provisions in relation to the proposed development.
- 5.5.13 Subject to the recommended amendments to the scheme, SDPHE considers that the proposed buildings would be of appropriate design and could be introduced into the site without having an unacceptable landscape impact. Furthermore, the proposed landscaping following some amendments to it would appropriately mitigate against overall visual impact of the proposed development. 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 and therefore at a distance of over 30m from the nearest of the proposed buildings, with no changes to the grading of the land between the two. 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 what would be the rear of the buildings between the motorway and the proposed landscaped bund. The amenity of the footpath is somewhat reduced by the proximity of the motorway, therefore it is vital to ensure that the development does not reduce the amenity of the footpath to an unacceptable level as there is the potential for the buildings and bunding to enclose the footpath. The buildings would be positioned between 20 and 30m from the footpath and therefore attention should be paid to the design of the bunding to ensure that this creates as pleasant an environment as possible given the current circumstances. From a landscape point of view it is suggested that more undulation be introduced to the bunding and improved tree planting. SDPHE believes that this can be achieved and is therefore satisfied that the proposal would not cause undue harm to the amenity of the footpaths.
- 5.6.3 The District and County Council's Footpath and Right of Way Officers comment 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 Given the above assessment and subject to the amendments to the landscaping scheme SDPHE considers that the development can be accommodated on the 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. The agent for the application has had detailed discussions with the Environment Agency and submitted further details in relation to surface water drainage and ground investigation in an attempt to address the likely conditions to be attached to the decision notice.
- 5.7.2 A verbal update of the latest position in relation to such conditions will be given at the Committee meeting.
- 5.7.3 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. The ground investigation report submitted to address the Environment Agency's recommended conditions is also likely to address conditions relating to contaminated land and as such the Council's Environmental Protection Officer is reviewing the report to provide further advice.

- 5.8.2 A verbal update of the latest position in relation to such conditions will be given at the Committee meeting.
- 5.8.3 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 together with consideration of appropriate lighting schemes all to be secured via conditions.
- 5.10.3 SDPHE is satisfied that the 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 as although a significant extent of B8 would not normally be supported, there is evidence through the Employment Land Review that B8 uses could be supported. Furthermore, the proposal would secure a considerable number of jobs for Banbury which would assist with complementing the current employment sector. Given the current economic climate it is considered important that we support this existing Cherwell-based company which is being forced to vacate its existing premises and

may otherwise need to re-locate out of the District. There expansion plans will bring further jobs to the District in the near future.

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 submitted to a s106 agreement relating to County 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. That in the case of unit 2 and associated curtilage, development shall be begun not later than the expiration of three years beginning with the date of this permission (RC2).**
- 2. That in the case of unit 1 and associated curtilage no development shall be commenced until full details of the external appearance (hereafter referred to as the reserved matters) have been submitted to and approved in writing by the Local Planning Authority. (RC1).**
- 3. That in the case of the reserved matters for unit 1 and associated curtilage, application for approval shall be made not later than the expiration of three years beginning with the date of this permission (RC1).**
- 4. That in the case of unit 1 and associated curtilage development shall be begun not later than the expiration of two years from the final approval of the reserved matters (RC1).**
- 5. That accept for the external appearance of unit 1 and unless otherwise required via condition, the development hereby approved shall be carried out strictly in accordance with: Application Forms, Design and Access Statement and drawings numbered:
AP(0)010, AP(0)024, AP(0)027, AP(0)028, AP(0)029, AP(0)030, AP(0)031, AP(0)034, AP(0)035, S1154-01B, S1154-06, S1154-07A, S1154-08A, S1154-09A, S1154-10A and 100485E100TDv1 received with the application on 06/12/10 and amended drawings numbered AP(0)011 Rev A, AP(0)012 Rev A, AP(0)013 Rev A, AP(0)014 Rev A, AP(0)015 Rev A, AP(0)016 Rev A, AP(0)020 Rev A, AP(0)021 Rev A, AP(0)022 Rev A, AP(0)023 Rev A, AP(0)025 Rev A, AP(0)026 Rev A, AP(0)032 Rev A received 21/01/11. Reason - For the avoidance of doubt, to ensure that the development is carried out only as approved by the Local Planning Authority and to comply with Policy BE1 of the South East Plan 2009.**
- 6. That prior to the commencement of the development and notwithstanding the submitted landscaping scheme, a revised scheme for landscaping the whole site shall be submitted to and agreed in writing by the Local Planning Authority. (RC10a).**
- 7. That prior to the first occupation of unit 2 a management plan for the landscaping**

scheme for the whole site shall be submitted to and agreed in writing by the Local Planning Authority. The management plan shall be carried out strictly in accordance with the approved details and timescale (RC10a).

8. 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 and 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).
9. That prior to the installation of any part of any enclosure required in relation to unit 1, full details of the proposed enclosures shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be erected on site in accordance with the approved details. (RC4).
10. That prior to the first occupation of the buildings hereby approved car parking provision shall be provided in accordance with the approved plans and shall be retained for the parking of vehicles at all times thereafter. (RC15aa).
11. 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.
12. That notwithstanding the submitted external lighting details in the case of unit 2 and prior to the installation of any external lighting, further lighting details which shall be in accordance with ILE Guidance shall be submitted to and agreed in writing by the Local Planning Authority. 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.
13. SC 4.21aa Surface Water and Sewerage Disposal (RC19a) delete ‘the surface water and’
14. 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.
15. 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.

16. 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.

17. 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.

18. 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.

19. That prior to the first use or occupation of the buildings hereby approved, each building and all items of mechanical plant and equipment including compressor motors and fans, within or associated with that building, shall be acoustically enclosed or insulated in accordance with a scheme to be first submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed and operated at all times in accordance with the approved acoustic enclosure/insulation scheme. Reason – In order to secure a reduction in the level of any noise emanating from the development in accordance with NRM10 of the South East Plan.

20. That in the case of both buildings and other than in the designated areas (pallet and skip storage), no goods, materials, plant or machinery shall be stored, repaired, operated or displayed in the open whatsoever (RC4).

21. 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.

22. SC9.12a (RC93aa) ‘very good’

23. That the development hereby approved shall be carried out strictly in accordance with the mitigation and enhancement measures set out in Chapter 6 of the Aspect Ecology Ecological Assessment dated November 2010 submitted with the application. 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.

Planning Notes

- a) 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’.
- b) 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.
- c) Q1 – [Legal agreement]
- d) O1 – [Archaeology]
- e) U1 – [Construction Sites]
- f) 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.
- g) V1 – [Disabled People]
- h) 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.
- i) 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).
- j) ZZ – [Land Contamination]

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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