

**OS Parcel 8233 South Of Baynards Green Farm
Street To Horwell Farm
Baynards Green**

18/00672/OUT

Applicant: Brunel Securities LLP And The Curtis Family

Proposal: Outline development for up to 7,161 m2 of B2 and/or B8 industrial development with ancillary offices (B1a), access and landscaping.

Ward: Fringford And Heyfords

Councillors: Cllr Ian Corkin
Cllr James Macnamara
Cllr Barry Wood

Reason for Referral: Major application

Expiry Date: 21 September 2018 **Committee Date:** 20 September 2018

Recommendation: Refuse

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

Proposal

The current proposal seeks permission to construct approximately 7,100m2 of B2 and B8 commercial floor space. The application is in outline with matters of access and landscape for consideration. The applicant states that it is intended to construct 4 units ranging from 900m2 to 2300sqm. The buildings are indicated to have a maximum ridge height of 11 metres.

Consultations

The following consultees have raised objections to the application:

- Stoke Lyne Parrish Council, Ardley and Fewcott Parish Council, Mid Cherwell Neighbourhood Plan Forum, OCC Highways and CDC Landscape. The Council's Ecologist originally raised concern regarding the proposal however further information has been submitted in this respect.

The following consultees have comments/raised no objection subject to conditions to the proposal:

- OCC Drainage, Anglian Water, Thames Water, CDC Economic Development, CDC Environmental Protection, CDC Planning Policy

24 letters of objection have been received.

Planning Policy

The site is not allocated in the local plan for any use and lies outside the built limits of any settlement. A listed building exists to the north of the site.

The application has been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The key issues arising from the amended application details are:

- Principle of Development;
- Landscape and visual impacts
- Highways
- Heritage
- Ecology

The report looks into the key planning issues in detail, and officers conclude that the proposal is unacceptable against the relevant policies for the following reasons:

1. Unsustainable location for large employment site
2. Adverse visual impact to locality and wider landscape.
3. Traffic impact

RECOMMENDATION - REFUSE

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site is an agricultural field located to the north west of the roundabout between the A43 and B4100 at Baynards Green approximately 1km north of the M40 junction 10. The site has a gentle fall to the south east and has planting on the boundaries. A large clump of trees exists in the south east corner of the site. A telecoms mast also exists on the site and a bridleway runs along part of the eastern boundary.
- 1.2. Baynards Green Farm exists to the north of the site which contains a number of generally smaller scale commercial uses and also includes a Grade II listed converted barn immediately to the north of the application site. A petrol filling station and new McDonalds drive thru exists to the east of the site. The site is accessed from the B4100 shared with the above developments. This access is restricted with all vehicles having to exit the site in a south eastern direction towards the roundabout with the A43.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The current application seeks outline planning permission for up to 7,161m² of general industrial and distribution (use classes B2 and B8) with ancillary offices. Details of the proposed access and landscaping are provided with the current application however details of the appearance, layout and scale would be reserved for future applications. The Planning Statement notes *'Flexibility is sought within the outline planning permission in order to allow for the development to be marketed and 'tailored' to suit the requirements of potential occupiers through later reserved matters applications'*
- 2.2. The access to the site would be from the existing access serving Baynards Green Farm. The gates and fence across the road that currently restrict access to Baynards Green Farm would be removed to allow a two way carriageway with a new junction into the site. A footpath would be provided into the site from this point

but would not extend down the existing access towards the B4100 or link the development with the PFS or restaurant.

- 2.3. The landscaping plans show the retention of the existing boundary planting and the provision of new further planting on the northern, southwestern and western boundaries to strengthen the visual screening.
- 2.4. The indicative layout plans shows the provision of 4 commercial units situated around the boundaries of the site (ranging from 981m² to 2290m² (gross internal floor area) with a maximum eaves height of 8.5 metres and a maximum ridge height of 11 metres. Parking and servicing areas would be provided to the front of the units. Given that the access into and around the site is for consideration this is likely to be similar to the layout of any future reserved matters.

3. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
02/00878/TEL	Erection of a 15m Monopole mast with sector antenna, transmission dishes, ancillary radio equipment and equipment cabin (as amended plan 020/93189/01D received 23/05/02)	Prior Approval Not Required
18/00036/SO	Screening opinion to 18/00672/OUT - Outline development for up to 7,161 m ² of B2 and/or B8 industrial development with ancillary offices (B1a), access and landscaping.	Screening Opinion not requesting EIA

- 3.2. The site to the north has a very complex planning history and is authorised to be used for a number of commercial uses.
- 3.3. The land to the east of the application site was subject to an allowed appeal for a new McDonalds restaurant and this is now constructed and operational (17/00172/F and 15/00758/F).

4. PRE-APPLICATION DISCUSSIONS

- 4.1. The following pre-application discussions have taken place with regard to this proposal:

<u>Application Ref.</u>	<u>Proposal</u>
17/00184/PREAPP	Development of the site for mixed employment use (B2/B)

- 4.2. It was advised that the officers were not able to support the proposal. The proposal would be in an unsustainable location and conflict with Policy SLE1 and there would be no exceptional circumstances. It was also considered that the proposal would lead to an unjustified visual intrusion in a rural area and have an urbanising impact on the locality. It would also lead to further harm to the setting of the nearby listed barn. It was advised that Transport Assessment, Flood Risk Assessment and Ecological Survey would be required if an application were to be submitted to demonstrate whether these impacts would be acceptable or not.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a site notice displayed near the site, by advertisement in the local newspaper, and by letters sent to all properties immediately adjoining the application site that the Council has been able to identify from its records. The final date for comments was 31.05.2018, although comments received after this date and before finalising this report have also been taken into account.
- 5.2. 24 letters of objection have been received. The comments raised by third parties are summarised as follows:
- Increase in traffic and congestion in area and risk of accidents.
 - Increase in traffic through Stoke Lyne and other rural roads to the detriment of safety and amenity.
 - The TA is out of date as it does not take account of traffic flows or distribution from the new McDonalds. Congestion is much worse as is the risk of accidents. There is no footway linking adjacent uses to the site so pedestrians walk in the road.
 - No public transport.
 - There are other suitable locations/units for such development.
 - Development of green field site. Urbanisation of area. Proposal is out of scale with existing buildings. Visual intrusion of large ugly buildings in open countryside
 - Increase in pollution and light pollution. Noise impact on neighbouring properties from proposals.
 - Insufficient sewage capacity and water supply.
 - Impact on wildlife.
 - No local unemployment issue so claims are spurious.
 - Although the HELAA Assessment for this site (HELAA 213) states that it is "Suitable, Available, Achievable" you do qualify this by also stating that "The site could potentially be suitable for employment as an extension to the existing Baynards Green Trading Estate. Possibility of accommodating small units similar to the surrounding buildings". The proposal does not meet this criteria and so should be deemed "Not Suitable" Furthermore, site HELAA 213 is in very close proximity to sites HELAA 214 and 215 which are stated to be "Not Suitable" as "The Plan does not make provision for new residential or employment development at Junction 10. Development would entail the creation of a new growth location". Given their close proximities to each other, if sites HELAA 214 and 215 are not suitable, so by extension must be site HELAA 213
 - Future precedent for further development in area and it is understood that developers have options on other land in the area.
 - Impact on property values.
- 5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

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

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. STROKE LYNE PARISH COUNCIL: **Objects.** The proposal is contrary to Policy SLE1 and is outside the built limits. It is not adjacent to a category A settlement and is remote for the labour force and would not reduce the need to travel. It is not the type of employment sought in the district. The proposal does not comply with the HEELA which suggests the site could possibly be used for small units. The HEELA suggests other adjacent sites are not appropriate for development as it would result in an unplanned growth point at junction 10. It would also detrimentally impact on the landscape and visual amenity of the area and be alien in the open countryside setting. The proposal would detrimentally impact on traffic and congestion and rat running through the village and does not take account of HS2 and East West Rail project.. The proposal could set a dangerous precedent. The Local Plan inspector considered there was no need for further large scale employment and none strategic sites could be considered under Part 2 of the Local Plan and raised concerns over the visual impact and traffic implications of such development. Existing allocation employment sites already allow of sufficient employment land supply. the current proposals represent unsustainable development, of the wrong type , on the wrong land and in the wrong place.
- 6.3. ARDLEY AND FEWCOTT PARISH COUNCIL: **Objects.** Proposals are visually intrusive and have a total reliance on travel by car. The proposal is remote from settlements. Junction 10 is already congested and the road system cannot cope with further development. They disagree with the TA. Proposal would set a dangerous precedent. The Application is not a small scale trading estate similar to the adjacent site, but is a stand alone, large scale warehouse/office development.
- 6.4. SOULDERN PARISH COUNCIL: **Comment.** The proposal does not adequately address the removal of sewage from the site. There have been problems in the village with McDonalds connecting to the system. Would not wish to see any further development being connect to the system.
- 6.5. MID CHERWELL NEIGHBOURHOOD PLAN FORUM: **Object.** Site is immediately adjacent to the designated NP area. Support Ardley and Fewcott Parish Council objections. Particularly concerned regarding increase in HGV movements in the villages. This is cumulative with other developments such as those at Heyford Park. The proposal will have an unacceptable impact by increasing local traffic.

STATUTORY CONSULTEES

- 6.6. OCC HIGHWAYS: **Object.** The development is not considered to be sustainable in transport terms remote from public transport, walking and cycling opportunities and settlements. The Transport Assessment submitted is not robust to fully assess the transport impacts of the development. The diversion of the bridleway is not within the red line. The Travel Plan and drainage strategy will require additional information which could be conditioned. Comments are awaited on the amended information.
- 6.7. If granted request contribution of £30,000 towards public rights of way improvements and £2,040 to travel plan monitoring
- 6.8. HIGHWAYS ENGLAND: **No objections.**

- 6.9. THAMES WATER: With regard to sewerage and sewage treatment, this comes within the area covered by Anglian Water PLC. Thames Water have identified an inability of the existing water network infrastructure to accommodate the needs of this development proposal and as such details will need to be secured by condition.
- 6.10. ANGLIAN WATER: **No objections.** The applicant has indicated on their application that their method of foul water drainage is not to a public sewer. Therefore, this is outside our jurisdiction for comment and the Planning Authority will need to seek the views of the Environment Agency to gauge whether the solutions identified are acceptable from their perspective. We request that the agreed strategy is reflected in the planning approval. Note that the submitted Flood Risk Assessment, page 9 paragraph 6.1.2 states the following:

“Foul drainage is generally outside the scope of this report which considers surface water only however for completeness the foul drainage solution is briefly outlined as follows: There are no public sewers within a practical distance of the site and therefore an on-site packaged sewage treatment plant is proposed for the site, discharging treated effluent to the central drain.”

Therefore request that the FRA is listed as one of the approved plans/documents if permission were to be granted and therefore the development would not be connecting to the public network.

- 6.11. ENVIRONMENT AGENCY: Comments are awaited regarding use of non mains drainage.

NON-STATUTORY CONSULTEES

- 6.12. CDC ECONOMIC DEVELOPMENT: **Comment.** Share the concern that the market appears not to be naturally providing for the needs of small and medium-sized businesses in the 1,000 and 3,000 sq.m size category, instead favouring larger format units. However, considers more evidence of ‘exceptional circumstances’ and in particular why modern small and medium sized (SME) units are not viable components of the large site allocations on employment land locally, especially in Bicester where key sites are now being developed.
- 6.13. In Bicester, the Council’s economic growth service has worked with a range of local businesses needing to relocate due to planned redevelopment of their sites. Most have been able to expand locally, including into the 1970s units around Launton Rd (many of which have been refurbished to meet the modern needs of SMEs whilst remaining close to residential areas). Some units nevertheless remain empty, including the refurbished former Unipart building and other leasehold buildings. It is unclear from the report if the only reason why such buildings are not in demand is because they are not offered for freehold sale?
- 6.14. In terms of need, the most challenging relocation examples have been those SMEs having to relocate from low-cost yard and dated - but suitable for their needs – industrial premises based around Bicester Village railway station. Rail, retail, office and parking uses have replaced established uses and the businesses have had to relocate outside Bicester, including several to an established yard site on the Aynho Rd near Baynards Green and others outside the district.
- 6.15. Recently, the established industrial area of Bessemer Close has lost a key site to residential use –which would have been ideal to accommodate some of the units now being proposed at Baynards Green. At the Appeal Hearing, the loss of employment land *specifically to meet the needs of small businesses* was not considered by the Inspector (apparently due to lack of evidence) and as a result

residential development will be built alongside established commercial operations at Bessemer Close with the potential for further operational constraints on business occupiers.

- 6.16. In both Bicester and Banbury, the adopted Local Plan has released considerable amounts of land for commercial development but this has tended to be purchased by large-format specialists and is gradually being developed for the needs of regional/national businesses. Link 9 at Bicester is including smaller units which appear to be in demand and the economic growth service has guided SME enquiries to the agents and developers of the larger sites to encourage a wider provision of premises.
- 6.17. Jobs and travel -There could be negative impact upon the adjacent strategic highway network but I would question the overall impact and whether it could be mitigated by capital works which could benefit this junction of the A43. For recruitment and retention of staff, it would be preferable for the businesses, workers and the environment to be closer to residential areas. It is unclear whether the applicant is proposing to enhance public transport services based upon projected needs and to reduce the impact of the development? It would also be helpful to understand the nature of occupiers and where their workers would live and travel to and from?
- 6.18. Conclusion - In principal, commercial investment is to be welcomed alongside the Council's economic growth objectives to enable businesses to flourish, creating job opportunities and prosperity locally. The Local Plan and market has evidently provided for some of those needs - particularly for larger occupiers - but may not have provided for all needs. Anecdotal evidence exists but to demonstrate 'exceptional circumstances' for this site ahead of Part 2 of the Local Plan, it would help to have stronger evidence of urgent need/demand and to demonstrate why the large allocated sites cannot provide for this nearer to residential areas to assist recruitment by future business occupiers and contribute the wider objectives of the Local Plan.
- 6.19. CDC ECOLOGY: **Comment.** Request further details of the ecological broadleaf woodland in the south east corner of the site. A pre-commencement badger check will be required and precautionary working methods for reptiles. The information on Great Crested Newts is noted however if the ponds nearby support populations the likelihood of the being present may be slightly higher. The working methods for amphibians and reptiles are ok but the sting of the hibernacula will be important. Raises queries on relation to whether the proposal will lead to net gain.
- 6.20. CDC ENVIRONMENTAL PROTECTION: **No objections.** Request details that details of noise of plant and equipment be secured by planning condition. Also request conditions for construction environmental management plan, remedial land recommendations and EV charging points.
- 6.21. CDC LANDSCAPE SERVICES: **Object.** The proposed development is dense with the buildings located on the periphery which increases their impact. A building height of 11m is lower than the potential height of some trees. The interior of the proposal is one large car park with little room for landscaping which is very urban in character. Considers the LVIA is appropriate and proportionate for the scale of the development and largely agrees with findings that not likely to be any more than moderately visible in the wider landscape and from some viewpoints will have minor additional effects. Colour of buildings, finish and lighting need to be carefully considered. In conclusion. In landscape and visual terms have no objection to some development on this site but due to its semi-rural nature a more sensitive layout should be proposed. Buildings should be set back from the boundaries, Planting

separating buildings and flowing between them to provide an improved visual appearance both within and close to the site. The current layout looks as though it has been dropped on the site without any sympathy for the semi-rural nature of the location. Would like to see an improved layout, sympathetic buildings and a landscape led design.

6.22. CDC BUILDING CONTROL: **No comments.**

7. RELEVANT PLANNING POLICY AND GUIDANCE

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

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

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

- PSD1: Presumption in Favour of Sustainable Development
- SLE1: Employment Development
- SLE4: Improved Transport and Connections
- ESD1: Climate Change
- ESD6: Flood Risk
- ESD7: Sustainable Drainage Systems
- ESD10: Protection and Enhancement and the Natural Environment
- ESD13: Local Landscape Protection and Enhancement
- ESD15: The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8: Sporadic Development
- C28: New development design
- ENV1: Pollution Control

7.3. Other Material Planning Considerations

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

8. APPRAISAL

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

- Principle of development
- Landscape and visual impacts
- Highways
- Heritage
- Ecology
- Other matters

Principle

- 8.2. Planning law requires that planning decisions are determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF reinforces this and states the planning system should be genuinely plan led in seeking to deliver sustainable development. The Council has an up to date Development Plan consisting of the Cherwell Local Plan Part 1 (CLP) (2011-2031) and the Saved Policies of the Cherwell Local Plan 1996.

Planning Policy and Guidance

- 8.3. The most relevant policy in respect of the principle of new employment development is Policy SLE1 of the CLP Part 1 which seeks to guide new employment development in the most sustainable manner in accordance with Policy ESD1 of the CLP Part 1 and advice in the NPPF which states the economic, social and environmental aspects of sustainable development should be pursued in mutually supportive ways. Policy SLE1 has a strong urban focus for new employment development to reduce the need to travel by placing employment opportunities near the labour force amongst other objectives. It goes onto state that justification will be required for new employment sites in rural areas with applicants required to demonstrate a need for and the benefits of employment and explaining why the development should not be located at towns close to the proposed labour supply. It goes onto state where development is justified in the rural areas it should be located within or on the edge of Category A settlements unless exceptional circumstances are demonstrated. In addition to the above requirement for justification and exceptional circumstances Policy SLE1 also contains a number of criteria proposals in rural areas will be assessed against including:

- Very high design standard
- Small scale unless it can be demonstrated that there would be no significant impact on the surrounding environment.
- There are no other available plots or premises within existing nearby employment areas.

- 8.4. Paragraph 82 of the NPPF notes decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for storage and distribution operations at a variety of scales and in suitably accessible locations. Paragraph 84 notes that sites to meet local business needs in rural areas may need to be found adjacent or beyond settlements in areas not well served by public transport. In these circumstances it is important to ensure development is sensitive to the surroundings and exploit opportunities to make the location more sustainable. It goes on to state that the use of previously developed land and sites that are physically well related to settlements should be encouraged.

Conflict with Policy

- 8.5. The proposed site is located in an isolated rural location away from any towns or settlements (including category A settlements). The scale and nature of employment provision proposed would be more appropriately located in a town near the labour force and where opportunities for sustainable transport solutions exist. It is therefore necessary to consider whether the applicant has justified the proposal and whether they are 'exceptional circumstances' in line with Policy SLE1 which exist to support the development.

- 8.6. The development is being proposed on a speculative and flexible basis although the applicants do state there has been interest in the site. It is in this context the application is assessed. The applicants supporting statement argues that there is a gap in local planning policy at the non-strategic level given that work on Local Plan Part 2 has been delayed however officers consider cases for new employment development can be considered on a case by case basis using Policy SLE1 and this in itself if not a reason to grant new development which conflicts with the approach in Policy SLE1.

Applicant's justification

- 8.7. The applicants have submitted a justification statement for the proposal prepared two local commercial agents, White Commercial and VSL and Partners. This assesses industrial and warehousing land in Cherwell. The document particularly focuses on the demand and availability of sites for buildings in the 1,000m² and 3000m² range as the applicants state that this is the market the current proposal would be targeting and where they consider there is a shortage in supply. However the application is made in outline and a scheme could come forward for different sized units outside of these parameters if outline permission were to be granted without any planning conditions which restricted the size range of the units. It is also interesting to note that the local agents who have provided the justification for the application are also speculatively marketing the site and the marketing information includes an option within their marketing material for one large unit (see appendix 1).
- 8.8. The applicants argue that whilst there is almost 200ha of land allocated in the Local Plan for B1,B2 and B8 purposes these focus on office development and sites for larger scale units in excess of 5,000m² and very few of the allocated sites are delivering the size of unit which meets the needs of small and medium sized businesses which the applicant considers there is considerable unmet demand. They also consider that there is limited availability of this size of unit in existing stock and that no other sites are coming forward or suitable for this type of development. They indicate this is restricting the growth and opportunities for this type of business stifling economic growth in the district.

Response to Applicant's Justification

- 8.9. In terms of supply the Local Plan does allocates large employment sites in Banbury and Bicester and also Upper Heyford. These allocations do not have parameters on size of units and have been broadly market lead where they have been developed. The applicant has concluded on the allocated sites by stating that 'Bicester 11: Land at North East Bicester' is the only site that would provide similar units to that currently being proposed. This site is currently being partially developed for similar sized units and 3 of them are being actively marketed at the current time so are available to businesses.
- 8.10. The applicant has discounted many of the other allocated sites. However this appears to be based on little evidence and many of the sites remain undeveloped with a significant uncertainty on what size of unit or types of employment that will be delivered on sites. Officers consider some of these sites may be suitable for similar development to that proposed and ultimately it would be market forces and the planning constraints to determine what size of unit are delivered on them. For example north-west Bicester (Bicester 1) has outline planning consent (17/01090/OUT) for considerable amount of employment space (B1, B2 and B8). The applicant discounts this as they consider it will be delivered for larger units and it is unclear when it will be brought forward. Officers consider that this site could provide an option for such development if market forces dictated and the

assumptions of the applicant do not appear to be supported by evidence. The applicant also discount Bicester 12: South East Bicester, RAF Upper Heyford, and Banbury 15 however officers consider that all of these may be suitable to accommodate such development and the applicant has not demonstrated with any level of certainty that similar types of employment uses could not be developed on the site with a willing landowner. Some claims such as the viability of some of the sites is not supported by any evidence and it is noted that when the site were allocated in the local plan the viability of the sites would have been considered and deemed deliverable. Overall officers consider that sufficient land remains allocated to provide for such development if there are willing landowners looking to develop sites. The delivery of allocated sites is currently being market lead which the applicant considered is resulting in larger scale employment units. However it is logical to consider that if there is high demand for smaller units this would be likely to result in sites coming forward for smaller units as there are no restrictions in the development plan in regard to the size of units.

- 8.11. The applicant has also discounted other sites considered suitable for employment purposes in the Housing and Economic Land Availability Assessment (HEELA) however again many of these appear to be discounted on the basis of very little evidence.
- 8.12. The availability of existing units on the market within this size range has also been considered. Officers have updated this information using two commercial property websites (White Commercial and Cherwell-M40). This shows a number of units of a similar size range being available (see appendix 2) including a number of new and refurbished units which may serve the needs of this type of business. The applicant discounts these as not being suitable for many businesses due to the age, quality of the stock and the limited eaves heights of some of the buildings. However whilst it is acknowledged that the proposed development would lead to the provision of additional choice and quality of stock in light of the above analysis it is not considered to result in an exceptional circumstance in terms of lack of supply or opportunities. The application is proposed as a speculative development and therefore the requirements of future occupiers are not known and therefore discounting these units using generalised constraints is not considered to carry significant weight particularly as many similar units to those available are occupied by successful businesses demonstrating businesses can operate from them successfully.
- 8.13. In terms of the demand for new units of the size proposed, White Commercial and VSL have stated that 47% of enquiries to them for industrial and warehouse facilities relate to units of 1,000sqm to 3,000sqm. They also state that 50% of enquires require freehold premises. There are not any details on the time period over which this data was collected or how many enquiries in total it relates to. There is also very little details of these enquiries to assess how strong the enquirers intentions to move were, whether they are based in the district and whether there search resulted them in finding suitable premises. There is also very little detail on why other premises were not suitable for businesses or whether, in the absence of finding a suitable premises, the proposed development would have been suitable to serve the business's needs. They state that they have 5 companies with requirements for units 2,500 – 5,000sqm in Oxford, Banbury and Bicester which have been advised by developers of the larger allocated sites that accommodation will not be considered at Central M40, Banbury 40 and Symmetry Park. They also point to a Taiwanese Manufacturer interested in a unit of circa 1,500sqm who had only 1 unit to consider in Bicester which is about to be purchased by another party.
- 8.14. Whilst there has been interest in the speculative marketing of the proposal this is not unexpected. However it is considered that the evidence submitted falls short of

demonstrating an exceptional case in terms of overriding demand. It is considered there needs to be compelling evidence to support an exceptional circumstance argument as to accept a lower degree of evidence could result in sporadic development in unsustainable locations across the district. Furthermore it is also unclear what level of demand the applicants consider there is for such type of development and accepting such generalised arguments could make it hard to resist future applications for similar proposals on the surrounding land leading to an unplanned growth point at junction 10 of the M40.

- 8.15. The applicants also argue that many prospective occupiers for units of this size wish to have freehold of properties and the proposed development would provide this opportunity. Whilst this is noted there would be no way to secure this through the planning system and a future developer or investor may buy the site and only offer the units on leasehold. Furthermore it is noted that the proposed development is being actively marketed for sale or to let. Therefore this only carries limited weight.

Summary

- 8.16. In summary it is considered that whilst the applicants arguments regarding the supply and demand of industrial and storage units in the size range 1,000sqm to 3,000sqm is not without merit, it falls short of being an exceptional circumstance for the reasons on supply and demand outlined above. Officers consider that it would be very difficult for an applicant to demonstrate exceptional circumstances based on a speculative scheme and a generalised need. Therefore it is considered that the proposals conflict with Policy SLE1.

- 8.17. The scale of development proposed would create a new commercial estate in a geographical unsuitable area which is at some distance from the workforce, with very limited opportunity for walking or cycling or any meaningful public transport links resulting in a total reliance on private car, contrary to ESD1 and advice in the NPPF. Based on the information provided it is not considered there is sufficient justification for the development to warrant an exceptional circumstance and that there is no overriding need for the development at the current time. It is considered this type and scale of development should be located on an existing or allocated employment site within an urban area or considered as part of the preparation of Part 2 of the Local Plan. The scale of the proposal would not be appropriate for a rural context in light of the current policy context and would conflict with the environmental objective of sustainable development. It could also set a precedent for the creation of an unplanned growth point for new commercial development at Junction 10 of the M40 which could set a precedent for further incremental growth further undermining the sustainable strategy outlined the Development Plan.

- 8.18. The applicant has noted that the site is noted as being suitable, available and achievable in the Housing and Economic Land Availability Assessment. However it is important to note that this document only forms part of the evidence base for the preparation of the local plan and does not carry the same weight as the Development Plan which has been subject to robust examination and is the starting point for planning decisions. As such it is not considered that its inclusion in this document outweighs the conflict outlined above. It is also interesting to note that whilst the application site has been noted as 'suitable' the sites immediately to the east and the south of the site were considered to be not suitable or achievable with the comments stating: *'The plan does not make provision for new residential or employment development at junction 10. Development would entail the creation of a new growth location. Its future consideration would depend on an examination of need and issues for the next plan review.'*

- 8.19. The applicant has indicated that the proposed development would be likely to directly generate between 102 – 192 jobs (based on the HCA employment densities) and support the wider economy through the multiplier effect. They also state that the proposal would provide opportunities for employing residents who live in the rural areas and support the Council's ambitious growth plans. Whilst these benefits are noted and carry weight in the planning balance, they are not considered to result in the creation of an exceptional circumstance or outweigh the harm resulting in the conflict with the council's employment growth strategy.
- 8.20. Overall it is not considered that the proposal is justified or that the applicant has demonstrated exceptional circumstances in line with Policy SLE1. The provision of additional employment sites will be considered as part Local Plan Part 2 and it is not considered there are ground to permit the scheme ahead of this. The principle of development would conflict with Policy SLE1 and ESD1 of the CLP Part 1 and advice in the NPPF which together seeks to guide new employment development to the most sustainable locations reducing the need to travel.

Landscape and visual impact

Policy and Guidance

- 8.21. Policy ESD13 states proposals will not be permitted if they would cause undue visual intrusion into the open countryside, be inconsistent with local landscape character or harm the setting of listed buildings. Policy ESD15 states that new development will be expected to complement and enhance the character of its context through sensitive design and siting. Saved Policy C8 seeks to resist sporadic new development in the open countryside which is consistent with the NPPF which seeks to ensure that planning decisions recognise the intrinsic character and beauty of the open countryside.

Impact on application site and surroundings

- 8.22. The application site is located in area with relatively strong and defined hedgerows and the localised topography is relatively flat. The immediate locality is characterised by a small grouping of buildings consisting of the petrol station, drive thru restaurants and buildings at Baynards Green Farm in a rural landscape isolated from settlements. The presence of the A43 impacts on the landscape value immediately to the east of the site however to the north and west of the site and further to the east of the site the landscape value of the area is higher given the rural and relatively unspoilt nature of the landscape.
- 8.23. The existing hedgerow and trees around the site would be largely retained. On the northern boundary there is a 4-6m high hedge with interspersed trees of around 14-17 metres high. On the eastern boundary vegetation heights are approximately 4-8m and the south east corner there is a copse of trees estimated to be 17m or greater. The south west boundary planting is approximately 5-10m high. On the western boundary the trees are 5-7m high and part of the southern element of this boundary does not contain significant planting. It is proposed to strengthen the planting on the northern, south western and western boundary with new native shrubs/hedgerow and tree planting.

Impact on character of area and wider views

- 8.24. The proposal is accompanied by a Landscape and Visual Impact Assessment which concludes that the impact on the landscape would be moderate at completion of the development and reduce to moderate/minor after 10 years given the mitigation proposed. This means it would be out of scale with the landscape

and/or result in the partial loss of characteristics of the site. Guidelines for the landscape character area include maintaining the sparsely settled rural character of the landscape by concentrating new development in and around existing settlements and strengthening the field pattern by planting-up gappy hedgerows. The development would strengthen the existing hedgerow however the proposal would be harmful to the landscape character by adding buildings of considerable scale and bulk to the sparsely settled rural landscape albeit in the context of some existing buildings. Overall the urbanisation of the site would change the landscape character of the site and lead to an urbanisation of the area and be harmful to the immediate landscape character of the site.

- 8.25. The visual impacts of the development are likely to be experienced within 2km of the site. The most significant visual impacts would be experienced from users of the public rights of way (367/13/10) which exists to the west and north west of the site and currently has a high level of amenity. Given the relatively open nature of this boundary vegetation at the current time the development would be highly visible to users of this route and the visual impact is likely to be moderate/major on implementation reducing to moderate after the proposed mitigation planting on this boundary has matured (after 10 years). The proposal would also detrimentally impact on the users of the right of way along the proposed access (367/29/10) however the impact on this would be lesser as the amenity of the right of way is already impacted by the existing uses such as the petrol station and drive thru. Views from adjacent to the site would be screened to some extent up the vegetation on the boundary however views are likely to be available of the buildings particularly in the winter months.
- 8.26. The proposal would also be visible from the roads (including the B4100 and minor roads) to the east of the A43 where the landscape is more open. The upper parts of the building would be likely to be visible from numerous points along these routes and significantly contribute to urbanisation of the junction and add to the bulk of built development in this open countryside setting. The scale of the building would be out of scale with the existing buildings which are visible which would add to this visual harm.

Summary

- 8.27. Whilst the layout is reserved for future applications, given that amount of development proposed and taking into account the indicative layout submitted and the statements of the application, it is likely that the building will be located on the periphery of the site which increases the visual impact of the proposal. Furthermore whilst it is noted landscaping would be provided around the boundaries of the site there would be limited scope of plating within the site.
- 8.28. Overall the proposal is therefore considered to result in harmful landscape and visual impacts to the surroundings. This would be contrary to Policy ESD13 and ESD15 of the Cherwell Local Plan and Saved Policy C8 of the 1996 Local Plan.

Highways

Policy and Guidance

- 8.29. Policy SLE4 of the Cherwell Local Plan Part 1 states that development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported. The NPPF has a similar and also requires that safe and suitable access is achieved for all.

Location of site

- 8.30. The poor geographical sustainability credentials of the site, as a result of its location away from any settlement, and the conflict with the employment land strategy in the development plan is outlined above. This concern is further supported by chapter 9 of the NPPF and is a significant short-coming regarding the proposal. The arguments are not repeated here however the County Council have also objected to the application on this basis.

Transport Assessment

- 8.31. The Highways Authority has also objected to the application on the basis that they do not consider that the submitted Transport Assessment is robust to make an informed assessment of the traffic impacts of the development. This originally included the assumptions the applicant had made regarding trip generation and distribution being misrepresentative and the not taking account of committed development meaning that future available capacity at junctions was likely to be overestimated. Further information has been submitted which sought to address the concerns of the highway authority. Whilst they are now satisfied that the trip generation figures are reliable they still remain object to the proposal on other grounds.
- 8.32. The highway authority consider that an up to date traffic and turning count is required for the site to understand the traffic impacts of the development and the trip distribution to and from the site. This also would need to take account of local committed development which the current submission fails to do. Furthermore no detailed assessments of the junctions have been undertaken such as the impact on the junction into the site from the B4100 or the A43/B4100 roundabout. Whilst the number of trips generated by the site may be relatively minor when compared to the flows through the roundabout A43/B41000 roundabout, they will be significant when added to the movements to/from the private road leading to the site from the B4100. Given the proximity of the access from the B4100 to the roundabout it is crucial that westbound B4100 traffic is not impeded by vehicles waiting to turn right into the site and based on the evidence submitted to date it is not possible to reach a robust conclusion on this matter. Whilst it is noted the Highways England who are response for the A43 have raised no objection this does not negate this concern.

Impact on Rights of Way

- 8.33. The proposed development will also impact on the users of the rights of way running adjacent to the access to the site and will increase the level of HGV traffic and other vehicles which conflicts with this bridleway. Originally the applicant had proposed to reroute bridleway and the Counties Rights of Way Officer had raised a number of concerns regarding this. The proposal now proposes to retain the bridleway on its existing alignment with dropped kerbs and warning signs at the access. Subject to detailed approval of surface and with this is considered to be acceptable. Whilst it is noted that the applicant is prepared to investigate the possible alterations and improvements to the local bridleway network in the vicinity of the site, this in itself would not make the site sufficiently sustainable (in transport terms) given the nature and distance of the routes and that fact that no suitable public transport currently exists.

Travel Plan

- 8.34. Concerns have also been raised over the adequacy of the Travel Plan however these matters could be addressed through planning conditions when further details are known regarding the scheme.

Summary

- 8.35. Overall it is therefore considered that the applicant has failed to robustly demonstrate that the traffic impact of the development on local junctions would be acceptable and not lead to highway safety concerns. As such the proposal is contrary to Policy SLE4 of the Cherwell Local Plan and advice in the NPPF in this respect.

Heritage

- 8.36. A Grade II listed converted barn exists to the immediately north of the application site and forms part of the existing commercial uses to the north.

Policy, guidance and legislation

- 8.37. Paragraph 196 of the NPPF states that: when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It also states the more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm loss should require clear and convincing justification. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is have to the desirability of preserving listed building and their setting.

Impact on listed barn and its setting

- 8.38. The listed barn was historically associated with Baynards Green Farm and its setting has significantly altered over the years being situated to the rear of a service station and viewed in the context of a number of commercial uses. The existing site is visually separated from the barn by a mature hedge and tree belt and there is limited inter-visibility between the sites and the contribution the application site currently makes to the setting of the building is neutral.
- 8.39. The alterations to the barn itself (conversion to offices) and the surrounding area (with the provision of additional buildings) have clearly caused some harm and the proposed development will cause some limited additional harm by further eroding the rural setting of the building. The indicated height of the proposed buildings means that they may be visible from the area surrounding the barn. The existing hedge and tree line would be retained and strengthen to help mitigate the impact. Therefore the impact on the setting of the listed building is considered to be in the lower order and whilst not significant does weigh against the development to some extent.

Ecology

Policy, guidance and legislation

- 8.40. The NPPF sets out that planning should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and provide net gains in biodiversity where possible. Policy ESD10 reflects the requirements of the NPPF and seeks to ensure the protection and enhancement of biodiversity. The Council also has a legal duty set out at Section 40 of the Natural Environment and Rural Communities Act 2006 (NERC 2006) which states that "every public authority must in exercising its functions, must have regard ... to the purpose of conserving (including restoring / enhancing) biodiversity".

Impact on wildlife

8.41. The application has been accompanied by an ecological appraisal which includes the results of reptile surveys which found no reptiles. The main habitat that will be impacted upon would be the loss of semi improved grassland and areas of scrub and trees. An area of mixed semi-natural woodland is located on the south eastern corner of the site however this would not be directly impacted upon by the proposal but does form part of the application site. Overall it is concluded that the habitats that would be impacted upon are common to the local area. There is considered to be a low likelihood of Great Crested Newts being present on the site and there is no evidence of badger setts on site. Furthermore the existing areas of bat foraging would be retained.

Biodiversity enhancements

8.42. Biodiversity enhancement are proposed through a native planting scheme, management and enhancement of the mixed semi-natural woodland in the south east corner of the site, provision bat boxes and lighting proposals in accordance with the Bat Conservation Trusts guidance. These would be secured through the provision of a Landscape and Ecological Management Plan secured by way of a planning condition to deliver a net gain in biodiversity. The Councils Ecologists comments on the latest ecological information are awaited and will be reported to committee in an update.

Other matters

Flooding

8.43. Policy ESD6 and ESD7 of the Cherwell Local Plan seeks to manage flood risk and require the use of sustainable urban drainage systems where possible. Infiltration testing has been undertaken on the site which demonstrates that infiltration is likely to be a viable means to dispose of surface water however as the site lies over a primary aquifer they have advised that a 1 metre clearance must be maintained between the base of the infiltration device and the ground water level to protect ground water. Concerns have also be raised over that the drainage strategy as it has not considered a +40% climate change allowance. Further details are also required including consideration of events if the SuDS were to fail and detailed management and maintenance plans. However given that the application is in outline it is considered that these matters could be dealt with through planning conditions.

Impact on residential amenity

8.44. Policy ESD15 of the Cherwell Local Plan Part 1 requires a good standard of amenity for future and proposed residents. Saved Policy ENV1 seeks to restrict development which would be materially harmful by way of noise or air pollution. The existing environment is already has a relatively high background noise level with the presence of the A43 and M40 in the locality. It is considered that given the application is in outline form planning conditions could be imposed on any planning consent to ensure from any plant and equipment would not exceed existing background levels. The proposed development is considered to be a sufficient distance from the neighbouring residential properties not to unacceptably impact on the outlook, privacy or light.

Sustainable construction

8.45. In terms of sustainable construction, Policy BSC3 required all new non-residential development to meet at least BREEAM 'very good' standard and this could be secured through a planning condition. Furthermore the document indicates that

electric vehicle charging points would be provided on site to reduce the impact on air quality and support the national policy to support such provision.

Foul Drainage

- 8.46. Souldern Parish Council has raised concerns regarding the ability of the existing sewerage network to accommodate the proposed development. The applicant has indicated that foul drainage will be disposed of by an on-site packaged sewage treatment plant. Comments from the Environment Agency are awaited in this regard. Thames Water have advised there is an inability of the existing network to accommodate this proposed development and therefore full details of this would need to be secured by planning condition.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. Planning law requires that planning decisions are made in accordance with the Development Plan unless material considerations indicate otherwise. In this case the proposal is considered to conflict with Policies ESD1 and SLE1 of the Cherwell Local Plan as it would result in the creation of a relatively sizable commercial estate in a geographically unsustainable location away from the workforce and public transport where there is a strong reliance on private cars. Whilst the applications arguments regarding the provision of industrial and distribution units may not be without merit it is not considered that the provision of this employment use has been justified or that the weight of the evidence submitted indicates there are exceptional circumstances that warrant granting the proposal. In addition to the environmental harm associated with the poor location of the proposal there would also be environmental harm through the adverse landscape and visual impacts associated with the development and limited further harm to the setting of the listed building. There is also insufficient information to robustly assess the traffic impact of the development particularly in relation to the impact on the junction into the site from the west bound B4100. An update will be provided on the ecological impacts of the development.
- 9.2. The proposed development would lead to some economic benefits in the form of jobs and construction and further employment land stock. However the planning system seeks to deliver the social, environmental and economic benefits of development in mutually supportive ways. In this case the proposed benefits of the scheme are not considered to outweigh the conflict with the development plan or the harm stemming from the proposal as outlined above.

10. RECOMMENDATION

That permission is refused, for the following reason(s):

1. The proposed development would result in the creation of a commercial development, more appropriate in terms of size and scale for a urban location, in a geographically unsustainable location and would not reduce the need to travel or offer a genuine choice of travel modes. The Council do not consider that exceptional circumstances have been demonstrated and as such the proposal is contrary to the Councils employment strategy contained in Policy SLE1 and ESD1 of the Cherwell Local Plan Part 1 and advice in the NPPF.
2. The proposed development would cause unjustified visual intrusion and harm into the open countryside and result in sporadic development in the open countryside to the detriment of the character and appearance of the countryside. The proposal is therefore contrary to Policies SLE1, ESD13 and ESD15 of the Cherwell Local Plan, Saved Policy C8 of the Cherwell Local Plan 1996 and

advice in the NPPF.

3. The proposed development fails to robustly demonstrate that traffic impacts of the development are, or can be made acceptable. As such the proposal is contrary to Policy SLE4 of the Cherwell Local Plan Part 1 and advice in the NPPF.

CASE OFFICER: James Kirkham

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Appendix 1 – Marketing information

CHERWELL 10-40

BICESTER OX27 7SR

EXCITING PROPOSED
COMMERCIAL DEVELOPMENT



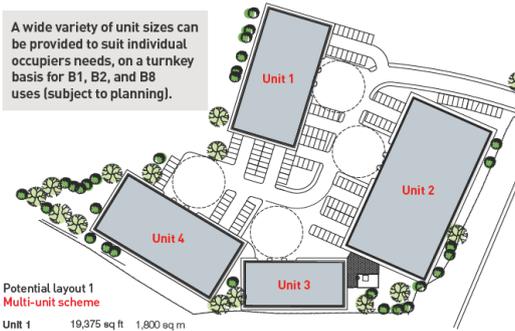
CSI ARTISTS IMPRESSION

TOTAL SPACE AVAILABLE 90,000 SQ FT (8,361 SQ M)

UNITS FROM 10,000 SQ FT (929 SQ M)

SUBJECT TO PLANNING

FOR SALE / TO LET



Potential layout 1

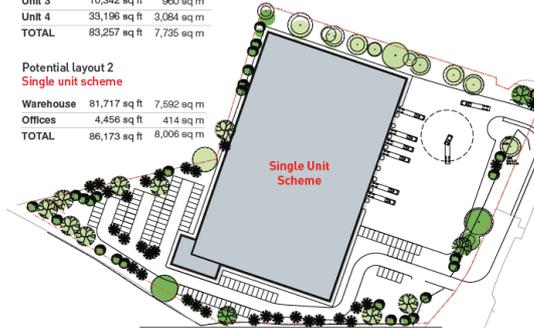
Multi-unit scheme

Unit 1	19,375 sq ft	1,800 sq m
Unit 2	20,344 sq ft	1,890 sq m
Unit 3	10,342 sq ft	960 sq m
Unit 4	33,196 sq ft	3,084 sq m
TOTAL	83,257 sq ft	7,735 sq m

Potential layout 2

Single unit scheme

Warehouse	81,717 sq ft	7,592 sq m
Offices	4,456 sq ft	414 sq m
TOTAL	86,173 sq ft	8,006 sq m



Appendix 2

Appendix 1: Units of similar size being marketed at 17th August 2018

Building	Size	Notes
IO Centre, Unit 1, Jugglers Close, Wildmere Road, Banbury	1136sqm	Under offer
Units 8 and 9-10 Wates Way, Acre Estate, Waters Way, Banbury	612.95 – 1,728 sqm	
E7-E9 Telford Road, Bicester	822sqm	
10 Wildmere Road, Banbury	1,526 sqm	
Link 9 Bicester	Unit 4 – 2,699sqm Unit 5 – 1,578sqm Unit 6 – 1,299m2	
Link 9 Bicester, Unit 3A	3,716sqm	
Unit 1 Tramway Road, Banbury	929 to 1858 sqm	
Thorpe Way Industrial Estate, Unit 1 Mead Court, Banbury	1,027smq	Under offer
1 and 2 Thorpe Drive, Banbury	895sqm	
The Phoenix Centre, Units A1 and A2 Beaumont Road	1,060 and 1,091sqm	Under offer
Chipping Warden Barns	2,879sqm	
30 Murdock Road, Bicester	2,415sqm	
Unit 2, Network 11, Banbury	2,122.95sqm	
31-32 Murdock Road, Bicester	3,275.11 sqm	
3A and 3B Thorpe Way, Bicester	513 – 1029sqm	Under offer
6 and 6A Thorpe Drive, Banbury	5,445sqm	
Unit 1, Compton Park, Banbury	888sqm	
Unit 1 and 2 Compton Park, Wildmere Road, Banbury	1,412sqm	
11 Granville Way, Bicester	1,350sqm	
2 Bessemer Close, Bicester	885.99sqm	
Unit 8, MXL Centre, Lombard Way	2,338sqm	
12a Station Field Industrial Estate, Kidlington	1557sqm	Under offer
11 Haslemere Way, Banbury	885.72m2	

33B – 34B Murdoch Road, Bicester	1353.87m2	
Arrow Park, Brackley	Unit 2 – 926m2 Unit 3 – 2,711m2 Unit 4 – 2,249m2 Unit 5 – 1,824sqm Unit 6 – 1,468sqm Unit 7 – 1,306sqm	
Unit 1 Cherwell Valley Business Park	823sqm	
Vantage Business Park, Unit 1H-1J, Bloxham Road, Banbury	1,461.45sqm	

Source: White Commercial and Cherwell-M40 websites – 17th August 2018