

**Case Officer:** Samantha Taylor

**Applicant:** DB Symmetry Ltd

**Proposal:** Phase 2 Central M40 - Unit 6 - 17,768 sqm of logistics floorspace within Class B2 or B8, including ancillary class B1(a) offices (697 sqm), service yard and access to Chalker Way.

**Ward:** Banbury Grimsbury And Hightown

**Councillors:** Cllr Andrew Beere  
Cllr Shaida Hussain  
Cllr Perran Moon

**Reason for Referral:** Major Development

**Expiry** 10<sup>th</sup> July 2019

**Committee Date**

18<sup>th</sup> July 2019

## **EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION**

### **RECOMMENDATION: GRANT PERMISSION SUBJECT TO THE CONDITIONS OUTLINED WITHIN THE REPORT**

#### **Proposal**

The application seeks full planning permission for the provision of a 17,768 sqm Logistics warehouse, falling within Use Class B8 and will include 697sqm of ancillary B1 floorspace with a service yard.

The application follows the grant of outline planning permission for the provision of a large scale mixed B2 and B8 development on the wider Banbury 16 sites. This development was approved subject to a height restriction of 16.25 metres. In July 2014, a revised outline application was granted, raised the building height on the Banbury 16 parcel to 16.75 metres. The current application seeks to increase the height of Unit 6 to 18.25 metres.

#### **Consultations**

The following consultees have raised **objections** to the application:

- OCC Lead Local Flood Authority

The following consultees have raised **no objections** to the application:

- OCC Highways,

No third party representations have been received.

## **Planning Policy and Constraints**

The application site comprises of 4 hectares on the land to the west of the M1 on land that forms part of the BAN 6 allocated site. To the north of the site lie Units 1-5 and to the west lies Units 7 and 8. To the south lies an area of existing vegetation, before open countryside and the railway line. The M40 lies to the east of the site. The site falls partly within Flood Zones 2 and 3. The site also contains the Locally Listed land to the South East of Spital Farm Sewage Works, although this falls outside of CDC control.

The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance as listed in detail at Section 8 of the report.

## **Conclusion**

The key issues arising from the application details are:

- Principle of Development
- S106 and Planning Obligations

The report looks into the key planning issues in detail, and Officers conclude that the proposal is acceptable subject to conditions.

**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 comprises 4 hectares of largely flat land, within the industrial area of BAN 6 employment land allocation. Access to the site would taken from Chalker Way, that runs south from the Overthorpe Road roundabout. The land is located to the west of the M40 and in close proximity to junction 11.
- 1.2. The site is predominantly characterised by patch scrub and rough grassland. The site is visible to motorists on the M40 and there are longer distance views from Overthorpe, the road between Kings Sutton and Overthorpe and the A422 near Middleton Cheney, which are all set on a higher ridge line.

#### **2.1. CONSTRAINTS** The following are constraints to the application:

- The site falls within an area of potential contamination;
- The site falls partly within Flood Zones 2 and 3;
- The site falls within 250 of the Spital Farm Landfill Site;
- The site falls within an area of Radon Gas;

### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

- 3.1. The applications seeks full planning permission for the erection of a new B8 warehouse with ancillary B1(a) offices, service yard and access to Chalker Way.

The application has been submitted to increase the height of the unit above that restricted by way of planning condition under the earlier outline consent. The height of the unit would now be 18.25m.

- 3.2. The design of the building is also as previously approved and follows the strong pattern established by Units 3 and 4 to the north, and Units 7-8 which have recently been completed, with low barrel-vaulted roof design of distinctive and not unattractive appearance. The roof colouring is dark grey with matching eaves fascia and soffit. The wall cladding is proposed in a format consistent with that previously agreed, and used adjacent, of mid grey, at lower and higher level, with a substantial silver mid-section. The office sections are proposed with horizontal spanning composite micro-rib metal panels in silver. The combination of design and materials will give this group of buildings a distinctive character.

#### 4. RELEVANT PLANNING HISTORY

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

<u>Application Ref.</u>	<u>Proposal</u>	<u>Decision</u>
11/01878/OUT	Erection of upto 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund (OUTLINE)	Application Permitted
11/00029/SO	Screening Opinion to 11/01878/OUT - Erection of upto 115,197 sqm of floorspace to be occupied for either B2 or B8 (use classes) or a mixture of both B2 and B8 (use classes). Internal roads, parking and service areas, landscaping and the provision of a sustainable urban drainage system incorporating landscaped area with balancing pond and bund	Screening Opinion not requesting EIA
14/00175/REM	Reserved Matters to Outline application (14/00180/OUT) - Approval of appearance, landscaping, layout and scale	Application Permitted
14/00180/OUT	Variation of Condition 29 (Height of building to enable Unit 1 to be constructed to an overall height of 16.75m) of 11/01878/OUT	Application Permitted
14/00407/ADJ	Variation of conditions 25 and 29 on S/20144/1620/MAO - Change of roof colour to Goosewing Grey and alter height of Unit 1 to 16.75m.	No Objections

15/02206/REM	Reserved matters pursuant to Condition 5 (Phase 2) OF 14/00180/OUT	Application Permitted
19/00027/SO	Screening opinion to 19/00487/F - Phase 2 Central M40 - Unit 6 - 17,768 sqm of logistics floorspace within Class B2 or B8, including ancillary class B1(a) offices (697 sqm), service yard and access to Chalker Way.	Pending Consideration

## 5. PRE-APPLICATION DISCUSSIONS

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

## 6. RESPONSE TO PUBLICITY

- 6.1. 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 06.06.2019, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. No comments have been raised by third parties.

## 7. RESPONSE TO CONSULTATION

- 7.1. 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

- 7.2. BANBURY TOWN COUNCIL: **No response received**

### CONSULTEES

- 7.3. OCC HIGHWAYS: **no objections** subject to standard conditions in respect of width of the access, surfacing, drainage and visibility splays

## 8. RELEVANT PLANNING POLICY AND GUIDANCE

- 8.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.2. The Cherwell Local Plan 2011-2031 - Part 1 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a

number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

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

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

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

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

### 8.3. Other Material Planning Considerations

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

### 8.4. Council Corporate Priorities

Cherwell District Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is "Clean, Green and Safe", that it supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) deliver the Growth Deal; (9) delivery innovative and effective housing schemes; and (10) deliver affordable housing.

The remaining key actions may also be of significance to the determination of planning applications and appeals depending on the issues raised.

The above corporate priorities are considered to be fully compliant with the policy and guidance contained within the National Planning Policy Framework and National Planning Practice Guidance.

## **9. APPRAISAL**

### 9.1. The key issues for consideration in this case are:

- Principle of development
- Increased visual impact of the development due to the increase in height
- Impact on the nearby scheduled ancient monument and heritage asset
- Revised Conditions
- Legal Agreement

#### Principle of Development

- 9.2. The principle of this land being used for the provision of B8 warehousing has been established through the allocation of the land within the Cherwell Local Plan (Policy BAN 6) and the granting of outline permissions as outlined above. Furthermore, through the granting of the above outlined reserved matters applications, the Council has approved a building with this footprint, servicing and parking arrangements. The proposal seeks to implement the earlier consents and approved discharge of conditions application, but with an additional 1.5m in height, taking the building height to a maximum of 18.25m.
- 9.3. Since the determination of the outline, reserved matters and associated discharge of conditions applications, there have been no changes in policy context or local circumstances that would alter the consideration of this application and therefore the principle of development is considered acceptable, with the sole substantive issue being the assessment of the impact of the raised height.

#### Visual Impact

- 9.4. As noted above, the design of the building follows the strong pattern of established by the development Units 3, 4 and 5 with a low barrel vaulted roof of similar design and functional in design. Along the motorway, this building would continue the trend of stepping in from the positioning of the original buildings 1 and 2. The design quality and the distance from the motorway will result in an acceptable relationship and appearance with the M40. The provision of a 10m wide landscaping buffer along the boundary with the M40 will provide adequate screening of the service yard.
- 9.5. Views from the east near Overthorpe and the Banbury to Middleton Cheney Road are extensive over Banbury. This building would be located within the foreground of these views, but would be framed within the remainder of the town beyond, as are the existing buildings on this industrial estate. The use of a similar design to that of the existing buildings, with dark grey roofing and mixed grey elevations will help to blend the building into its surroundings.
- 9.6. There are some longer distance views from the south west of the southern end of Bankside. From here the building would also be read as part of the industrial area and would be in-keeping in scale, form and design with the surrounding buildings.
- 9.7. The principal issue is whether the increase in height of 1.5m would be harmful to the visual amenity of the area from the short or long range views. From the M40 and some closer viewpoints, it may be possible to identify an increase in height. However, the adjacent building Unit 5, has been granted consent at 18.25m with this proposal being of the same height. The increase in height from the adjacent Units 1-4 would not be unduly prominent in shorter views and would not be discernible from longer distance views. The increase in height would therefore, not detract from the composition of the building or grouping of similar buildings or appear overly dominant from the adjacent buildings or motorway/Chalker Way routes.
- 9.8. Overall, it is concluded that the increase in height would not be harmful and is acceptable.

#### Impact upon the Schedule Ancient Monument and Hertiage Asset

- 9.9. The Council has a duty to consider whether a development affects the significance or setting of a schedule ancient monument. The monument, the former WW1 munitions factory site is located to the east of the M40 motorway. There is also a

non-designated heritage asset, a further section of the munitions works which has largely been destroyed by the construction of the motorway.

- 9.10. The outline planning permission and subsequent reserved matters approvals for the first phase were granted in the full knowledge of the scheduled ancient monument and of the non-designated heritage asset on the western side of the motorway. In those cases, it was concluded that the development would not be harmful to the setting or significance of the scheduled ancient monument or non-designated heritage asset.
- 9.11. There have been no changes in policy context or local circumstances that would alter the previous conclusion in respect of the scheduled ancient monument and non-designated heritage asset. Therefore the proposal is considered acceptable in this respect.

#### Revised Conditions

- 9.12. A number of decisions have been made which discharge the requirements of the conditions imposed on the outline planning permissions. These are applicable to the current application and therefore, the recommended conditions below reflect these previous approvals.

#### Legal Agreement

- 9.13. The original outline planning permission was the subject of a legal agreement to secure highway contributions and the monitoring and implementation of a travel plan. That agreement was amended with respect of the second outline consent granted and will need further amendment if this permission is to be granted. A unilateral undertaking to secure the necessary contributions will be required and update will be provided to Committee on this.

### **10. PLANNING BALANCE AND CONCLUSION**

- 10.1. The Council is committed through the land allocation outlined in Local Plan Policy BAN6 and the granting of outline planning permission. The consideration of this application should therefore be focussed upon the assessment of the impact of the increased 1.5m in height now proposed.
- 10.2. As outlined above, it is considered that the proposed increased height would not cause harm to the amenity of the local or wider area or to the heritage assets. Therefore, the proposed development is considered acceptable.

## 11. RECOMMENDATION

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

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

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

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

- Site location plan(dwg. No. 6235-003)
- Site layout plan (dwg no 5884-060 Rev E)
- Site layout plan external finishes (dwg no 5884-066 Rev A)
- Proposed Elevations (dwg no. 6236-001)
- Proposed context elevation (dwg no 6236-002)
- Building Plan (dwg no. 5884-061 Rev A)
- Roof Plan (dwg no. 5884-062 Rev A)
- Sprinkler Tank and Pump House (dwg no. 5884-067)
- Office Floor Plans (dwg no. 5884-063 Rev A)
- Design and access statement (Dec 2011) and addendum document (April 2012)
- Architectural design statement (prepared AJA)
- Landscape and Visual Assessment addendum (prepared by Aspect dated Dec2019 ref 6870 .LVIA Addendum 002)
- Transport Assessment Technical Note (ref 07010-HYD-XX-XX-TN-TP-101-P.1.2)
- Flood Risk Assessment Technical Note (ref C07010C-Unit 6-TN-001)
- Dry Vibro Displacement Method Statement

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

3. The drainage strategy for the site shall be in general accordance with the FRA prepared by Peter Brett Associates dated Dec 2011 and the details approved by the Council under application ref.no. 16/00354/DISC on 27<sup>th</sup> June 2016 and all works shall be complete prior to the occupation of the building

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. The new public footpath to be provided shall be built in accordance with these details submitted under ref no 14/00259/DISC and approved by the Council on 3<sup>rd</sup> August 2015

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

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

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

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

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

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

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

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

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

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

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

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