

Case Officer: Wayne Campbell

Applicant: Cotefield Holdings Limited

Proposal: Outline application for a food store, including access and scale (resubmission of 20/00123/OUT)

Ward: Adderbury, Bloxham And Bodicote

Councillors: Cllr Mike Bishop
Cllr Chris Heath
Cllr Andrew McHugh

Reason for Referral: Major development

Expiry Date: 19 March 2021

Committee Date: 15 April 2021

1. APPLICATION SITE AND LOCALITY

- 1.1. The application relates to an existing area of hardstanding located on the edge of the village of Bodicote adjacent the main Oxford to Banbury Road (A4260). The site is currently being used as a car park and temporary constructor's compound in association with a residential development currently under construction. To the west of the site are Cotefield Nurseries Garden Centre (approx. 50m) and residential properties (nearest property approx. 70m); the A4260 lies to the east of the site; further residential properties to the north, with a number of other buildings encompassing B Class and Sui generis uses under the name Cotefield Farm to the south.
- 1.2. The site is bounded by hedgerow and tree planting. The site benefits from existing access points on the western and southern boundaries, via an existing access road which also serves units within an adjacent business park. The access road accesses onto the A4260 via an existing junction which also serves the residential properties and Garden Centre to the west of the site.

2. CONSTRAINTS

- 2.1. In terms of site constraints, the site is not within a conservation area and there are no listed buildings within the vicinity of the site. A number of trees on land adjacent and south of the site are covered by a Tree Preservation Order (ref: 012/1994). The site sits within an area where the geology is known to contain natural occurring elevated levels of Arsenic, Nickel and Chromium; as seen across much of the district, and further, an area affected by Radon Gas.

3. DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1. The application seeks outline planning permission for the erection of a new food store with associated parking on the edge of the village of Bodicote. As the application is in outline form the applicant is seeking to establish the principle of the development on the site and the only matters for consideration under this application

are access and scale. Matters of layout, appearance and landscaping are reserved for future consideration.

- 3.2. In terms of submitted details, the proposal would be for a building providing 1235 sq m of gross internal floor space with a maximum building height of 10.5m above the internal finished floor level. The proposal will provide parking for 86no cars (Inc. 4no disability spaces). A vehicular access would be taken from the existing access to Cotefield Business Park, via the existing junction with the A4260 Oxford Road. A separate pedestrian access will be provided onto the A4260 Oxford Road for direct pedestrian access.
- 3.3. An appropriate extension of time to the determination period for the application has been agreed with the applicants, to allow for presentation to planning committee and preparation of any such decision following a resolution by the committee.

4. RELEVANT PLANNING HISTORY

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

- B.362/56 - Site for houses and bungalows with access (Outline). Refused 29.11.1956
- CHN.35/93 - Erection of potato handling building, construction of new access and associated parking. Permitted 26.08.1993.
- 96/00945/F - Reposition proposed processing building. Permitted 23.08.1996.

5. PRE-APPLICATION DISCUSSIONS

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

Application: 17/00017/PREAPP Response sent: **02 March 2017**

732 sq m (gross) convenience store, which would have a net sales area of around 573 sq m and associated access, parking, delivery area and landscaping

Applicant advised of the level of detail that would be required to support an application going forward including a detailed retail sequential test and appropriate retail impact assessment and that the development be fully justified in this location.

The Highways Authority has also raised a number of issues that would need to be addressed before progression to a formal planning application stage.

Applicant also advised that once further work had been undertaken with regard to establishing the need for the proposed retail store and appropriate impact assessments completed and a potential design solution brought forward, that they should consider proceeding to stage 2 of the pre-application advice stage before submitting a formal planning application.

Application: 18/00060/PREAPP Response sent: **16 April 2018**

732 sq m (gross) convenience store, which would have a net sales area of around 573 sq m and associated access, parking, delivery area and landscaping

Follow-up pre-application enquiry, with advice being given on a Retail Impact Assessment (RIA) submitted with the enquiry. Applicant advised that there were significant deficiencies in the information submitted and further work was required, particularly in relation to assessing the impact of the proposal on smaller local convenience stores/smaller retail outlets in surrounding villages; planned development and also that a sequential test needed to be undertaken.

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 (amend as appropriate). The final date for comments was **5 January 2021**, although comments received after this date and before finalising this report have also been taken into account.
- 6.2. One letter of objection has been received from a local resident. The comments raised by third parties are summarised as follows:
- *Highway safety; increased numbers of vehicles will exacerbate existing difficulties getting in and out of the junction that will serve the development.*
 - *Residential amenity; early and late opening hours; timing of deliveries and noise levels created as a result, especially if refrigerated lorries keep engines running.*
 - *There are sufficient large supermarkets nearby, a smaller supermarket would be much more suitable.*
 - *Potential detrimental impacts on existing small Spar within walking distance, which could have an effect on our local post office provision.*
- 6.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

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. BODICOTE PARISH COUNCIL: **Objects** on the following grounds:
- Inappropriate opening hours for a supermarket in a residential area;
 - Noise and light pollution issues;
 - Loss of trees and appropriate replanting;
 - Impact on existing business (local village store which houses a 'much needed' post office);
 - Infrastructure concerns with traffic levels already high in the area;
 - Questions the need for another supermarket in the local area.

OTHER CONSULTEES

- 7.3. ARBORICULTURE: **Objects**. Requested further information (full tree report) during the application and following its submission raised concerns with regard to the significant loss of trees at the site.

- 7.4. **BUILDING CONTROL:** Development would require a building regulations application
- 7.5. **ECOLOGY: Comments.** A Preliminary Ecological dated October 2018 but little appears to have changed on site in the interim so it is still valid. Would recommend however that there is an updated walkover survey carried out (and additional surveys if required with mitigation plans as needed) no more than 6 months before works commence on site. This should be included in a conditioned CEMP.
- The D & A statement states that the majority of hedgerow and trees will be retained and the PEA makes its assumptions on the relative impacts to wildlife (commuting bats, birds etc..) on this basis, however the current layout and arboricultural plan suggests that much of the remaining vegetation on site (except for the small group of trees to the SE) will be removed including all the trees to one side and the majority of the Priority hedgerow except that along the road. As the areas of habitat with wildlife value on site are not large it is important that what is on site is retained where possible and enhanced.
- The enhancements suggested within the PEA, whilst appropriate in terms of planting will, it seems, only be mitigation for habitat lost rather than providing a clear net gain for biodiversity as required by policy. It may be difficult with the current layout for a net gain to be achieved and I would recommend that they look at ways of altering it. Any LEMP would need to show a meaningful net gain is achievable on site and would recommend that even though the site is relatively small, given the projected loss of habitat, they show this with a Biodiversity Impact Assessment calculation using a metric. In addition, enhancements on site for bats and birds in the form of integrated features within the new building should be provided. Swift bricks in particular would be valuable here with some additional bird/bat boxes on retained trees also likely to be beneficial. A sensitive lighting scheme will be essential if the vegetation on site is to retain any value for bat commuting.
- 7.6. **ECONOMIC DEVELOPMNENTS:** No comments received
- 7.7. **ENVIRONMENTAL HEALTH: No objections subject to conditions.** Conditions required in relation to restricting collection and delivery hours at the site and assessment of potential operational noise arising from the development, including operation of plant and machinery and vehicular movements; in the interest of the amenities of residential properties. Further condition regarding securing Electrical Vehicle (EV) charging infrastructure, in the interests of sustainability.
- 7.8. **LEAD LOCAL FLOOD AUTHORITY (LLFA): No objections subject to conditions;** securing specific details of the proposed drainage scheme and confirmation of implementation.
- 7.9. **LOCAL HIGHWAYS AUTHORITY (LHA): No objections** subject to standard conditions in respect of securing: service vehicle turning details, vehicle and cycle parking, Travel Plan (TP) and Construction Traffic Management Plan (CTMP); S106 contributions in relation to highway works (upgrading of the A4260 footway to a cycle link between the site and Broad Gap) and travel plan monitoring and further an obligation to enter into a S278 agreement to secure mitigation/improvement works, including:
- 3.3m deep layby to accommodate a bus stop, located on the A4260 south of the Cotefield Drive junction
 - All associated lining and signing
 - Bus shelter, Premium Route pole and flag, suitable seating and Real Time Information display
 - 3.0m wide footway around layby to be incorporated into future shared-use cycle track
- 7.10. **NATURAL ENGLAND:** No comments to make on the application.

- 7.11. PLANNING POLICY: No comments received
- 7.12. THAMES VALLEY POLICE: **No objections subject to a condition** securing design details in relation to 'Secured by Design' principles and standards.
- 7.13. THAMES WATER: **No objections subject to conditions** in relation to securing appropriate wastewater infrastructure and that no construction shall take place within 5m of the existing water main.

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 2015)

- PSD1: Presumption in Favour of Sustainable Development
- SLE 1: Employment Development
- SLE 2: Securing Dynamic Town Centres
- SLE 4: Improved Transport and Connections
- ESD 1: Mitigating and Adapting to Climate Change
- ESD 2: Energy Hierarchy and Allowable Solutions
- ESD 3: Sustainable Construction
- ESD 5: Renewable Energy
- ESD 7: Sustainable Drainage Systems (SuDS)
- ESD10: Protection and Enhancement of Biodiversity and the Natural Environment
- ESD 13: Local Landscape Protection and Enhancement
- ESD 15: The Character of the built and historic environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- S26: Small scale ancillary retail outlets in rural areas
- S28: Proposals for small shops and extensions to existing shops outside Banbury, Bicester and Kidlington shopping centres
- C28: Layout, design and external appearance of new development
- C31: Compatibility of proposals in residential areas
- ENV1: Development likely to cause detrimental levels of pollution

8.3. Other Material Planning Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- EU Habitats Directive
- Natural Environment and Rural Communities Act 2006
- Conservation of Habitats and Species Regulations 2017
- Circular 06/2005 (Biodiversity and Geological Conservation)

9. APPRAISAL

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

- Principle of development
- Highway safety
- Residential amenity
- Visual amenity
- Drainage and flood-risk
- Ecology and biodiversity
- Sustainable Construction

Principle of Development

Policy Context

National Planning Policy Framework

- 9.2. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Also, of a material consideration is the guidance provided in the National Planning Policy Framework (NPPF) which sets out the Governments planning policy for England and how these should be applied.
- 9.3. The purpose of the planning system is to contribute to the achievement of sustainable development and the NPPF defines this as having three dimensions: economic, social and environmental. Paragraph 10 states that so *sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development***. Paragraph 11 continues by stating that planning decisions should apply a presumption in favour of sustainable development which for decision making means *approving development proposals that accord with up-to-date development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*.
- 9.4. Paragraph 12 also advises, amongst other things that the *presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making* (my emphasis). *Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. The NPPF does accept that a Local Planning Authority may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.*
- 9.5. Under paragraph 80 the NPPF highlights that planning policies and decisions should *help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.*
- 9.6. Paragraph 83 seeks decisions to support a prosperous rural economy and appropriate and sustainable growth of rural businesses. The paragraph continues by stating that policies and decisions should enable *sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings*. The paragraph continues by stating that planning

decisions should enable, amongst other things, *the retention and development of accessible local services and community facilities, such as local shops.*

- 9.7. Paragraph 84 advises of the need to *recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and encourages the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.*
- 9.8. Paragraph 89 advises of a need for an appropriate impact assessment when assessing applications for retail development located outside town centres, which are not in accordance with an up-to-date plan; and that such assessment should consider:
 - a) *the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and*
 - b) *the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).*
- 9.9. Paragraph 90 highlights that *where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.*
- 9.10. Under paragraph 92 the NPPF further advises that in the interests of 'Promoting Healthy and Safe Communities' in order to provide the social, recreational and cultural facilities and services the community needs planning policies and decisions should:
 - a) *plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;*
 - b) *take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;*
 - c) *guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;*
 - d) *ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and*
 - e) *ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.*

Development Plan

- 9.11. Policy SLE 2 of the CLP 2015 reflects the provisions of the NPPF and states that, the Council will require an impact assessment if the proposal is over 2000 sq. metres (gross) in Banbury, 1500 sq. metres (gross) in Bicester and 350 sq. metres (gross) elsewhere.
- 9.12. Whilst not solely an employment related development, Policy SLE 1 of the CLP 2015 is considered relevant to the proposals, in that the proposals will result in job opportunities, and as such the provisions of the policy are considered relevant. Policy SLE 1 seeks to protect existing employment sites whilst supporting sustainable economic growth. It states that: *'Employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas*

employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations’.

- 9.13. In respect of new employment development in rural areas on non-allocated sites SLE 1 further states: *‘Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A’.*
- 9.14. Saved Policy S28 of the CLP 1996 indicates that favourable consideration will be given to proposals for small shops or extensions to existing shops required to serve local needs, subject to the other policies in the plan.
- 9.15. Saved Policy S29 of the CLP 1996 states that: *‘Proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted’.*

Assessment

- 9.16. The proposals are for a development, considered a main town centre use, at an edge of village location which is not an allocated site within the development plan. There are no policies which relate specifically to the site itself.
- 9.17. The proposals are for retail development, with a proposed gross internal floor area of some 1235 sq m and as such the applicant has undertaken a full retail impact assessment and Retail Assessment Report (RAR) prepared by Pegasus Group in support of the application.
- 9.18. The Council instructed an independent external consultant (DPDS) to provide specialist advice to determine whether the key inputs and conclusions are reasonable and robust, having regard to the particular nature of the development and the site.
- 9.19. A full copy of the applicant's viability assessment and DPDS' review of viability on behalf of the Council is available to view on the Council's website.
- 9.20. The RAR is drafted with the support of a household survey carried out by the applicant to assess the shopping trends of the local public which allows the applicant undertakes both a sequential assessment to assess a range of sites located within and on the edge of Banbury town centre. The RAR considers the impact over time of the proposal on the vitality/viability and investment of the town centre and surrounding retail units. DPDS have assessed the detail of the RAR and consider it largely appropriate in terms of its scope and detail. Their conclusions are re-produced below:

The Sequential Test

We conclude that, on balance that there are no suitable sites that could be considered available in, or on the edge of the town centre. The most obvious opportunities are the former M & S and Debenhams units. While we consider, as a matter of planning judgement, that neither is suitable because of parking and trolley arrangements, it would not be unreasonable to require more flexibility from retailers. However, since we consider it unlikely that any potential occupier of the proposal would consider these as alternatives, the objective of the sequential test would not be furthered by a refusal of planning permission. If greater flexibility is sought the weight to be attached to the sequential test in the overall planning balance in this case ought to be reduced.

Retail Impact

We have concluded that there is a significant risk of the closure of the Spar in Bodicote if the proposal goes ahead. The Applicant argues that Local Plan policy S29 applies only to the loss of shops through changes of use or redevelopment and that retailers outside the town centre are not protected by planning policy. Whatever view is taken of the policy, the closure of the local shop is a material

consideration. The existing Spar in Bodicote provides an important service to local people, including a post office, in a convenient location which encourages journeys by foot. We also note that it might well be difficult to find an alternative operator for the post office.

However, it is not the purpose of planning policy to protect private interests; there must be a clear public interest. If the shop did close as a result of the proposal, there would still be a shop for groceries in the village and the proposed food-store could still provide a much greater range and choice of goods than currently available in the village. Although this is not expressed in any policy statement, this is a distinct public benefit which underlies retail planning policy and to which significant weight should be given.

The proposal would also provide economic benefits both through the construction activity and through the retail jobs it would provide. The advantages of job gains in the retail grocery sector should not be overestimated because, in a situation where expenditure is not increasing, they are likely to be largely offset by job losses elsewhere in the sector. There is, however, likely to some overall increase in jobs which should attract moderate weight.

It is ultimately for the Council to decide how to strike the planning balance but in our view, particularly in the current economic conditions as the economy emerges from the effects of the Covid-19 lockdowns, the economic benefits of the proposal would be likely to be considered as overriding the adverse impact on the existing shop at any appeal.

If planning permission is to be granted, we recommend that conditions are imposed to limit the sales floorspace to that assessed in the RS and sales to food with an appropriate allowance for comparison goods.

- 9.21. In considering the impact of the proposed development on other existing retail stores the advice from the Council's retail consultant is that for the larger food stores in Banbury town centre it is clear that the proposal would not have a significant impact on their vitality and viability or investment decisions. There is, however, a risk that the planned development at Longford Park local centre will not go ahead due to potential competition. There is also a significant risk of the closure of the Spar in Bodicote and this would have implications for the availability of services to local residents, including the loss of the post office contained within the Spar store. The impact on this Spar store and post office is a concern and forms the basis of Bodicote Parish Council's objection to the application.
- 9.22. Notwithstanding this point, it is accepted that it is difficult to assess the impacts on small shops because the numbers in the applicant's household surveys are very small and cannot be regarded as statistically robust. Furthermore, little is known about their commercial circumstances (leases/rent, ownership borrowing and even the age of the person running the business etc). The timescale in the event of a store closure is also another complication in that a closure can happen quite quickly, if for instance a break clause in a lease is coming up. However, a store closure could also be slower in the event that it is worthwhile carrying on if you liable for rent for a number of years.
- 9.23. The closure of smaller stores such as the Spar cannot be ruled out and is a risk which should not be ignored but is a matter which should go into the planning balance. Although it is accepted that the provision of a new food store is always likely to result in an impact on exiting retail units in the area this is an issue of competition and it is not the role of the planning system to protect individual retail units from the open market forces and competition unless there are material considerations to do so.
- 9.24. Notwithstanding this point however, local shops and post offices receive some policy protection from NPPF para 92 (c). As highlighted in the paragraphs above under

paragraph 92 it is stated, amongst other things, that *to provide the social, and as such policies and decisions should: c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.* In a similar vein to this paragraph, Saved Policy S29 states that *proposals that will involve the loss of existing village services which serve the basic needs of the local community will not normally be permitted.* Local post offices in particular play an important role in providing services to the community. If a post office closes, it is generally not worthwhile multiple retailers taking post offices into their shops as it requires specialist staff and arrangements and the additional footfall generated is not considered to cover the costs. Where post office closures are planned, they have to be advertised. If the Spar closes there is a likelihood that it will not be replaced along with the post office facility and as such this is a material consideration in the determination of this application, to be weighed in the planning balance. In response to this point the applicant has advised that in their view, the Spar store is located *significantly closer and more conveniently to the residential estate that it serves. As such, for pure convenience in addition to the added attraction of the post office facility, it will continue to be used as a very small convenience store to pick up essentials.*

- 9.25. In considering this impact of the proposal on the Spar store, although it is accepted that the proposed food store is on a larger scale than the Spar. It is suggested by the applicant that the proposed food store market would cater for main food shopping trips in much the same way as the larger food stores do. This, the applicant states would be different to the Spar which mainly provides top up shopping rather than as a main shop destination. However, in considering this analysis it has to be accepted that shops are not one thing or another and while some people would choose to shop in the new store for the main food shopping, others would not. The distinction between main food and top-up shopping is never as clear cut as is often made out when looked at in aggregate because what respondents in the household surveys what is meant by main food shopping varies greatly; a main food shop for a single person without a car is going to be very different from that of family.
- 9.26. The proposed store is, however, significantly smaller than the stores now being built by Aldi and Lidl to accommodate their main food shopping offer which are about 1,800 sq m gross. Furthermore, in the local context, the nearby Sainsbury store is about a 4-minute drive from the site and has a floorspace of 6239 sq m gross. It draws 91% of its turnover from main food shopping trips according to the applicants retail assessment. The Morrisons store, about 2 miles from the site has a floorspace of 6745 sq m and about 92% of its turnover is estimated to come from main food shopping trips. It is accepted that the proposed store is not a convenience store solely for top up shopping and that the majority of the impact is likely to be experienced by the big food stores. However, due to the size of the proposed store it is considered that it would struggle to offer the same range of goods as the large stores and it is unlikely that people would alter their main food shopping patterns to a proportional extent. No details are offered as to the identity of a store operator, and it is the view of the Council's retail consultant that the proposed store is unlikely to be able to attract main food shopping trips on anything like that scale given the nearby competition.
- 9.27. Based on the points above it is considered that the greater competition could be on the smaller stores such as Spar and as outlined above it is the view of the Council's retail consultant that it is almost inevitable that the Spar on Molyneux Drive would lose a significant amount of trade. These smaller stores are not resilient to losses in that they do not have the resources to keep trading or to see out their leases that the larger grocery retailers can draw on. However, as outlined above the role of the planning system is not to stifle competition but to allow the free market to operate.

- 9.28. Notwithstanding this point it is accepted that in this case the Spar store also provides a community facility in the form of the post office and therefore is not the 'run-of-the-mill' retail store. It has been outlined above that there is policy protection for local community facilities which would include a post office and as such the impact of the closure of the post office and whether there is any alternative facilities close by is a material consideration in the assessment of this application.
- 9.29. In this instance there are several other post offices located close to the Spar store with the closest being Chatsworth Drive Post Office to the immediate north and approximately 6 minutes' drive or around 26 minute walk. Further alternative post offices are located at Easington Post Office, Horton View also to the immediate north and also 6 minutes' drive or around 35 minute walk as well as Adderbury post office to the immediate south also 6 minutes' drive and around 38 minute walk followed by the Banbury Post Office to the north of Bodicote and 11 minutes' drive and around 46 minute walk. There are others located further afield but these are the closest existing post offices to the Spar store. It is therefore clear that although not in the immediate location to the Spar store there are alternative post office facilities within a relatively short drive from the Spar post office and therefore the community will still be served one way or another by this community facility.
- 9.30. The Parish Council in its objection to the scheme raises the issue of need for a further food store bearing in mind that the existing Spar in Bodicote provides an important service to local people, in a convenient location which encourages journeys by foot. It is accepted that in the event that the Spar store did close as a result of the proposal, there would still be a shop for groceries in the village, albeit in a less convenient location for walking trips. There is no evidence of a need for the proposal arising from the housing development in the area and no need case is put forward by the applicant. Irrespective of the lack of need, the proposed food store could still provide a much greater range and choice of goods. Although this is not expressed in any policy statement, and to a certain degree it is not the role of planning to assess the market need but to assess potential harm, the provision of further choice is a distinct public benefit which underlies retail planning policy and to which significant weight should be given.
- 9.31. Along with providing additional choice the proposal would also provide economic benefits both through the construction activity and through the retail jobs it would provide. The advantages of job gains in the retail grocery sector should not be overestimated because, in a situation where expenditure is not increasing, they are likely to be largely offset by job losses elsewhere in the sector. There is, however, likely to some overall increase in jobs which should attract moderate weight in the consideration of this application.

Conclusion

- 9.32. The applicant's RAR has highlighted that the development is unlikely to result in any significant vitality / viability issues to the larger food stores located in Banbury town centre. It is almost inevitable that the Spar on Molyneux Drive would lose a significant amount of trade and depending upon the circumstances of the trading of this store it cannot be guaranteed that the store would not close.
- 9.33. The role of the planning system is not to protect individual retail units but to assess the potential harm to local / community facilities which would include the local post office contained in the Spar store. Paragraph 92 of the NPPF highlights this point and to a certain degree Saved Policy S29 of the CLP 1996 does a similar thing.
- 9.34. The loss of the Spar / post office would be a loss to the community facility as well as a convenience store within walking distance of many residents. Many residents would use the new store and with a greater floor area than the Spar would be provided with a greater choice of products and as such the new store would provide a benefit to the local community. The new store would also provide further economic

benefits in the form of new jobs both during construction and in the operation of the store.

- 9.35. The post office is unlikely to be replaced in the new store due to the cost and need to provide specialist facilities. It has been shown in the report above that there are alternative post offices within 6 – 11 minute drive and at the most a 46 minute walk from the existing post office in the Spar. However, it is the amount of weight to be provided in assessing the loss of this facility which needs to be weighed against the benefits of the new store.
- 9.36. In conclusion it is accepted that there is policy protection to small stores but that in this instance the key facility is the Post Office of which alternative facilities are located close by. As such it is considered that the principle of this new retail store is acceptable.

Highway safety

Policy Context

NPPF

- 9.37. The NPPF (Paragraph 108) advises that in assessing specific applications for development, it should be ensured that:
- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
 - *safe and suitable access to the site can be achieved for all users; and*
 - *any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

- 9.38. Paragraph 109: *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe'*.

Development Plan

- 9.39. Both Policies ESD15 and SLE4 of the CLP 2015 reflect the provisions and aims of the NPPF. Policy ESD15 of the CLP 2015 states that: *"New development proposals should be designed to deliver high quality safe, attractive, durable and healthy places to live and work. Development of all scales should be designed to improve the quality and appearance of an area and the way it functions"*; whilst Policy SLE4 states that: *"All development where reasonable to do so, should facilitate the use of sustainable modes of transport (and) development which is not suitable for the roads that serve the development and which have a severe traffic impact will not be supported"*.

Assessment

- 9.40. The Local Highways Authority (LHA) has assessed the application and raises no objections to the principle of the proposed development and that suitable access for pedestrians and vehicles can be achieved, subject to a number of conditions securing specific details and the completion of appropriate legal agreements securing S106 obligations towards highway improvements (£153,780) (including conversion of the existing footway to shared use for pedestrians and cyclists, along the western side of the A4260 between Cotefield Drive and Broad Gap) and Travel Plan monitoring (£1,426).

- 9.41. Further highway improvements to be secured by way of S278 agreement:

- 3.3m deep layby to accommodate a bus stop, located on the A4260 south of the Cotefield Drive junction

- All associated lining and signing
 - Bus shelter, Premium Route pole and flag, suitable seating and Real Time Information display
 - 3.0m wide footway around layby to be incorporated into future shared-use cycle track
- 9.42. Whilst layout is for future consideration a site layout plan (drawing no. 39042-05) has been submitted in support of the application. The development site is located on the edge of a Category A (most sustainable) villages within the district and is conveniently located for residents of the new residential housing estates to the west and the business park, with pedestrian routes providing links through into Bodicote and footpath connection to Adderbury to the south.
- 9.43. Concerns have been raised by third parties and Bodicote Parish Council in relation to potential impacts on highway safety as a result of increased traffic movements.
- 9.44. Access to the site would be taken via the existing junction of Cotefield Drive and the A4260. The LHA Officer notes that the junction is sometimes affected by southbound slow or queuing traffic in the morning peak, and regularly blocked by northbound traffic queuing back from the Weeping Cross signals in the evening. This can make right turns out of Cotefield Drive slightly problematic, although queuing vehicles tend to leave gaps for the exiting vehicles to use. The LHA notes that there is no accident history at this junction, and the LHA Officer did not witness any significant queuing or delay to vehicles leaving Cotefield Drive during his morning and evening visits.
- 9.45. The LHA advises that the development at the site would result in a large increase of vehicles using Cotefield Drive, but there is unlikely to be any noticeable change to flows on the A4260 as the number of peak hour vehicles is limited by the traffic signals at Weeping Cross and Adderbury. The proposed new junction for the Longford Park Phase 2 spine road would introduce another set of traffic signals approximately 430m to the south of Cotefield Drive. This would result in bunches of vehicles passing through northwards, with long gaps caused by the red phases. The presence of these extended gaps should ease the right turn manoeuvre. Further introducing traffic signals at Cotefield Drive is not considered to be reasonable as there is no history of accidents and it would result in four signalised junctions within 780m when Longford Park Phase 2 is built.
- 9.46. The site layout plan shows both pedestrian and vehicular access arrangements and a parking layout that would provide 86 spaces. The level of parking proposed is considered appropriate for the amount of floor space proposed and would meet the LHA's standards. Pedestrian routes show links to the existing footpath network and would allow for appropriate safe pedestrian access to the site. Full details of the site layout and parking arrangements would be considered under future reserved matters applications.
- 9.47. Providing safe access for cyclists is crucial for encouraging this form of transport, which in turn will help to reduce the number of vehicle trips. Whilst not included within the submission it is considered that appropriate levels of cycle parking can be secured going forward either at the detailed application stage or by way of condition attached to such permission.
- 9.48. The LHA highlights that there is great potential for cycling from Bodicote and the existing and future dwellings in the Longford Park development, which may be slightly too far to reach on foot, particularly when carrying shopping. In response to the Longford Park Phase 2 application (19/01047/OUT), OCC has requested that a 3m wide shared use footway/cycleway is provided along the west side of the A4260 from the new signalised junction northwards to Cotefield Drive. It is reasonable to request that this proposed food-store development contributes towards a similar

facility that will link up the cycleways between Cotefield Drive and Broad Gap. A contribution has already been secured for this purpose from the neighbouring housing development. This link would create a safe cycling route from the new properties accessed from Longford Park Road, just north of Weeping Cross.

- 9.49. Paragraph 110(e) of the NPPF states that development should be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations. These aims are echoed within Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the CLP 2015, which look to maximise opportunities for sustainable transport modes. Whilst no consideration appears to have been given with regards to the future need for Electrical Vehicle (EV) charging at the site, it is considered that appropriate infrastructure details could be secured through an appropriate condition; to ensure that potential future needs could be met and to comply with both local and national policy requirements.

Conclusion

- 9.50. In light of the LHA's advice, and subject to conditions and S106 contributions, it is concluded that the proposal would not have a significant adverse impact upon the safe and efficient operation of the highway network, and therefore complies with Policies SLE4, ESD1, ESD3 and ESD 5 of CLP 2015 in this regard and government guidance within the NPPF.

Residential amenity

NPPF

- 9.51. Paragraph 180 of the NPPF advises of the need Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

Development Plan

- 9.52. Saved Policy C31 of the CLP 1996 requires that in existing residential areas any development which is not compatible with the residential character of the area, should not cause an unacceptable level of nuisance or visual intrusion. These provisions are echoed in Policy ESD15 of the CLP 2015 which states that: 'new development proposals should consider amenity of both existing and future development, including matters of privacy, outlook, natural lighting, ventilation and indoor and outdoor space'.
- 9.53. Saved Policy ENV1 of the CLP 1996 seeks to ensure that the amenities of the environment, and in particular the amenities of residential properties, are not unduly affected by development proposals which may cause environmental pollution including noise and light pollution and traffic generation

Assessment

- 9.54. The application site is located at the junction with Cotefield Drive and the Oxford Road (A4260). In terms of residential amenity, the closest residential properties are the new dwellings being built on the Cotefield Drive development approximately 70m to the west / south west of the application site.
- 9.55. This application is in outline form and as such the applicant is seeking to establish the principle of the development along with access and scale and as such the full details of the design / appearance and layout of the development will be the subject of a further application for reserved matters approval. Notwithstanding this point the application is supported by indicative details of the potential location of the building in the site along with potential elevation details. These plans show a single storey building to a maximum height of 10.5m located towards the southern boundary and

the building in a north east – south west orientation with the main customer car park located to the north of the site.

- 9.56. Members will see from the consultee section that an objection to this application has been received from Bodicote Parish Council, which includes concern over inappropriate opening hours for a supermarket in a residential area as well as concern over noise and light pollution issues.
- 9.57. As highlighted above this is an outline application and therefore although indicative plans for position of the building on the site and potential elevation details have been provided these details are just that indicative. Notwithstanding this point it is accepted that the development of a food store on this site would have some impact on the closest residential to the site in Cotefield Drive purely on the basis that this would be a new build on this site. This impact is not necessarily to the detriment of the occupiers of these properties.
- 9.58. On the issue of inappropriate opening hours in a residential area the applicant has stated on the application form that the opening hours are 07:00 – 23:00 Monday – Saturday and 10:00 – 16:00 on Sundays / Bank Holidays. Although these hours are longer than the Garden centre located to the north of the application site the hours are not considered to be out of step with other retail food stores. Furthermore, the position of the store at the main entrance of Cotefield Drive it is not considered that the hours would result in any adverse impact on the neighbouring properties due to shoppers visiting the store.
- 9.59. Of potential concern, however, would be the location of the service yard which in the current indicative details is shown as to the rear of the building along the far southern boundary of the site. The position of the loading bay access is shown on the elevation plans as facing towards the residential properties although again it has to be remembered that the elevation plans are indicative and are not subject to any approval. In considering this particular issue it is accepted that the detail of the access to the loading bays could be designed in a better way to reduce any potential noise disturbance to the residential properties opposite the site. Furthermore, a restriction in terms of deliveries hours would also reduce the potential issue of noise disturbance on the residential properties.
- 9.60. With regards to the issue of lighting again as this is an outline application there is no information on the position / number of lighting columns as part of this development. It is accepted that there would be a need for a certain level of external lighting around the site particularly to the main building, the car park and the loading bay area. This lighting, dependant upon the number and orientation of the lights, could have an adverse impact on the residential properties opposite the site. However, this is a detailed matter which can be covered at the reserved matters stage and with careful positioning of the lighting and angle of light spread the impact of this on the neighbouring properties could be reduced.

Conclusion

- 9.61. The position of the site from the nearest residential properties is in the region of 50m. Notwithstanding the objection raised from the Parish Council it is considered that the development can be made acceptable in residential amenity terms as part of the reserved matters applications. As such it is considered that proposals comply with the Development Plan policies identified and are therefore acceptable in this regard.

Visual amenity

Policy Context

NPPF

- 9.62. The Government attaches great importance to the design of the built environment within the NPPF. Paragraph 124 Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Development Plan

- 9.63. The aims of the NPPF are also echoed within Policy ESD15 of the CLP 2015 which looks to promote and support development of a high standard which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness, stating that: *"New development proposals should respect the traditional pattern of routes, spaces, blocks, plots, enclosures and the form, scale and massing of buildings. Development should be designed to integrate with existing streets and public spaces, and buildings configured to create clearly designed active public frontages"*.
- 9.64. Saved Policy C28 of the CLP 1996 states that control will be exercised over all new development to ensure that standards of layout, design and external appearance are sympathetic to the character of the context of that development. Further, saved Policy C30 of CLP 1996 states control will be exercised to ensure that all new housing development is compatible with the appearance, character, layout, scale and density of existing dwellings in the vicinity.
- 9.65. Policy ESD13 of the CLP 2015 states that development will be expected to respect and enhance local landscape character, securing appropriate mitigation where damage to local landscape character cannot be avoided.

Assessment

- 9.66. The site is currently utilised for car parking for the nearby commercial uses as well, as a developer's compound and is covered by a hard standing with established planting around the boundaries. The location of the site is in a very prominent position at the junction with Cotefield Drive and Oxford Road (A4260) and as such the impact of the development upon the street scene will be high. As highlighted throughout this report this application is in outline form and hence the final details in terms of appearance will be the subject of the reserved matters application. Notwithstanding this point the applicant has however, provided indicative details of a potential design of building on this site. Policy ESD15 of the CLP 2015 highlights the importance of a high-quality design which contributes positively to an area's character and identity by creating or reinforcing local distinctiveness.
- 9.67. The applicant has highlighted that the proposed external materials would be generally derived from the local vernacular. Ironstone, brick and natural slate are all found within the local area, whilst the proposed timber cladding compliments these traditional materials. The indicative plans show the use of ironstone for the walls and slate for the roof all of which would highlight that a high-quality design building on this site would enhance the appearance and character of this part of the street scene. In terms of the position of the building on the site it is accepted that the plans submitted show the main entrance to the building facing into the site rather than addressing the main highway of Oxford Road as would be required by Policy ESD15 would encourage. The suggested orientation would be part of the reserved matters application, however, it is considered that the suggested orientation would make sense in that the entrance positioned where it is would encourage shoppers to drive into the site and park within the car park rather than park along Oxford Road.
- 9.68. In considering the visual impact of the proposed development it is accepted that the current situation is that the site is open space being used as the constructors' compound by the house builders in association with the new build of dwellings. The mature hedgerow along the Oxford Road frontage is set to be retained as part of the development which together with a single storey build height will ensure that a building on this site will not appear to the detriment of the street scene. This is,

however, dependent upon the final design and in the event that a taller building or a different type of material is used this could result in a significant change in character.

Conclusion

- 9.69. The prominent position of this site requires a high quality of design of building to ensure that the development does not result in any adverse impact on the street scene. This is an application which seeks the principle of a development on the site and the final design will form part of the reserved matters applications. The indicative plans submitted with the application demonstrate that a suitable design of building can be provided on the site. As such it is considered that development of the site for a retail unit would comply with Policies C28 of the CLP and ESD15 of the CLP 2015 as well as Government guidance contained in the NPPF.

Drainage and flood-risk

Policy Context

NPPF

- 9.70. In respect of meeting the challenge of climate change and flooding, Paragraph 163 of the NPPF advises that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere by proposed development; and where appropriate, applications should be supported by a site-specific flood-risk assessment. Further at Paragraph 165 Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

Development Plan

- 9.71. Policy ESD6 of the CLP 2015 essentially replicates national policy contained in the NPPF with respect to assessing and managing flood risk. In short, this policy resists development where it would increase the risk of flooding and seeks to guide vulnerable developments (such as residential) towards areas at lower risk of flooding and further, that development should be safe and remain operational in the event of flooding. The provisions of Policy ESD6 require site specific flood risk assessments to accompany development proposals of 1 hectare or more located in flood zone 1.
- 9.72. Policy ESD7 of the CLP 2015 requires the use of Sustainable Drainage Systems (SuDS) to manage surface water drainage systems. This is with the aim to manage and reduce flood risk in the District. Proposals should include a surface water drainage strategy. The County Council as Lead Local Flood Authority (LLFA) would be consulted on application going forward.

Assessment

- 9.73. The applicant highlights the point that the site is less than 1 hectare in size, is located within Flood Zone 1, and as such a detailed FRA is not required for this development. However, in support of the application the applicant has provided a Sustainable Drainage Assessment (SDA) for the site. This SDA reviews the existing surface water and foul water drainage arrangements at the site and presents a strategy for managing surface water and foul water from the proposed site when completed. The details highlight that all surface water will drain from the building roofs via drainage pipes and will discharge to the sub-base of the car park on the site. The permeable surface will remove the soils and provide a water treatment to the surface water.

9.74. In considering the details submitted following an initial query over the quality of the water drainage the comments from the Flood Risk Engineer of Oxfordshire County Council is that the drainage system on the site is acceptable. As such it is considered that subject to the use of conditions, there is no drainage objections to the proposal.

Conclusion

9.75. Officers consider that the current proposals are acceptable in terms of flood-risk and drainage, in accord with local and national planning policy in this regard.

Ecology Impact

Legislative context

9.76. The Conservation of Habitats and Species Regulations 2017 consolidate the Conservation of Habitats and Species Regulations 2010 with subsequent amendments. The Regulations transpose European Council Directive 92/43/EEC, on the conservation of natural habitats and of wild fauna and flora (EC Habitats Directive), into national law. They also transpose elements of the EU Wild Birds Directive in England and Wales. The Regulations provide for the designation and protection of 'European sites', the protection of 'European protected species', and the adaptation of planning and other controls for the protection of European Sites.

9.77. Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.

9.78. The Regulations provide for the control of potentially damaging operations, whereby consent from the country agency may only be granted once it has been shown through appropriate assessment that the proposed operation will not adversely affect the integrity of the site. In instances where damage could occur, the appropriate Minister may, if necessary, make special nature conservation orders, prohibiting any person from carrying out the operation. However, an operation may proceed where it is or forms part of a plan or project with no alternative solutions, which must be carried out for reasons of overriding public interest.

9.79. The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities by meeting the requirements of the 3 strict legal derogation tests:

- (1) Is the development needed to preserve public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment?
- (2) That there is no satisfactory alternative.
- (3) That the action authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

9.80. The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipe-lines, transport and works, and environmental controls (including discharge consents under water pollution legislation).

Policy Context

- 9.81. Paragraph 170 of the NPPF states that Planning policies and decisions should contribute to and enhance the natural and local environment by (amongst others): a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils; and d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 9.82. Paragraph 175 states that when determining planning applications, local planning authorities (LPAs) should apply the following principles: a) if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
- 9.83. Paragraph 180 of the NPPF states that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should (amongst others) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
- 9.84. Policy ESD10 of the CLP 2015 lists measures to ensure the protection and enhancement of biodiversity and the natural environment, including a requirement for relevant habitat and species surveys and associated reports to accompany planning applications which may affect a site, habitat or species of known ecological value.
- 9.85. Policy ESD11 is concerned with Conservation Target Areas (CTAs), and requires all development proposals within or adjacent CTAs to be accompanied by a biodiversity survey and a report identifying constraints and opportunities for biodiversity enhancement.
- 9.86. These policies are both supported by national policy in the NPPF and also, under Regulation 43 of Conservation of Habitats & Species Regulations 2017, it is a criminal offence to damage or destroy a breeding site or resting place, unless a licence is in place.
- 9.87. The Planning Practice Guidance dated 2014 post-dates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Assessment

- 9.88. Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:
- present on or near the proposed site, such as protected bats at a proposed barn conversion affected by the development

It also states that LPAs can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all

- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')
- 9.89. The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site contains hedgerow and semi-mature trees along the main access road are likely to be of good value for foraging and commuting bats and nesting birds. There are a further number of trees close by and in the boundary of the site which would not be affected by proposals. There are no buildings to be removed or altered due to the proposed development.
- 9.90. Formal comments have been received from the Council's Ecologist (CE) and concerns have been raised over the fact that the current layout and arboricultural plan suggests that much of the remaining vegetation on site (except for the small group of trees to the SE) will be removed including all the trees to one side and the majority of the Priority hedgerow except that along the road. This conflicts with the evidence in the D&A statement which suggests that the majority of the existing landscaping is to remain and is the basis of the Preliminary Ecological Appraisal (PEA) makes its assumptions on the relative impacts to wildlife (commuting bats, birds etc..).
- 9.91. The detailed PEA prepared by RPS Consulting Services Ltd submitted in support of the application concludes that the proposals are unlikely to have any significant impacts on any protected species, but recommends appropriate timings for any works to avoid bird nesting season and also recommended enhancements, including bat and bird nesting opportunities, to provide biodiversity enhancements for the site. The submitted PEA is just over two years old, that would be usually be considered limit for appropriate assessments. However, during the registration of the application the CE confirmed that: *"I think given the nature of what was found on site and the likelihood that little has changed in terms of habitats in the interim I would be happy to accept the current submitted PEA even though it is just past the usual two years. If necessary, I will recommend an update walkover check prior to works commencing"*.
- 9.92. Concern has been expressed over the loss of several existing trees on the site which would have a knock-on effect upon the ecology value of the site, which is accepted to be low in its current state. A group tree preservation order (TPO) has been placed across the site to prevent the loss of any trees prior to any permission being granted and any reserved matters application being submitted. With the TPO in place the reserved matters application will need to take this into account as a material consideration in the final design / layout of the food store on the site.
- 9.93. As the areas of habitat with wildlife value on site are not large it is important that what is on site is retained where possible and enhanced. The enhancements suggested within the PEA, whilst appropriate in terms of planting will, it seems, only be mitigation for habitat lost rather than providing a clear net gain for biodiversity as required by policy. Officers are satisfied, on the basis of the findings of the PEA and the absence of any objection from Natural England, and subject to conditions, that the welfare of any European Protected Species found to be present at the site and surrounding land will continue and be safeguarded notwithstanding the proposed development and that the Council's statutory obligations in relation to protected species and habitats under the Conservation of Habitats & Species Regulations 2017, have been met and discharged.

Conclusion

- 9.94. As noted above both national and local policy guidance requires new development to look to provide net gains for biodiversity. Whilst not included within the detail of the current application, officers consider that there is potential for the proposals to include biodiversity enhancements, such as appropriate landscaping, bat and bird nesting opportunities could be appropriately secured at any detailed application

stage; to ensure that that the proposed development would provide a net gain in biodiversity, in accordance with the provisions of Policy ESD10 of the CLP 2015 and Government guidance within the NPPF, regarding the importance of conserving and enhancing the natural environment.

Sustainable Construction

Policy Context

NPPF

- 9.95. Section 14 of the NPPF covers the issue of meeting the challenge of climate change, flooding and coastal change. Paragraph 150 states that new development should be planned for in ways that: a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.* Paragraph 151 continues by stating, amongst other things, that *in order to help increase the use and supply of renewable and low carbon energy and heat, plans should: c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.*

Development Plan

- 9.96. Policy ESD1 in the adopted Cherwell Local Plan covers the issue of Mitigating and Adapting to Climate Change and includes a criteria under which application for new development will be considered. Included in the criteria is the requirement that development will incorporate suitable adaptation measures to ensure that development is more resilient to climate change impacts. These requirements will include the consideration of, *taking into account the known physical and environmental constraints when identifying locations for development. Demonstration of design approaches that are resilient to climate change impacts including the use of passive solar design for heating and cooling. Minimising the risk of flooding and making use of sustainable drainage methods and reducing the effects of development on the microclimate (through the provision of green infrastructure including open space and water, planting, and green roofs).*
- 9.97. With regards to Policy Policy ESD 2, this covers the area of Energy Hierarchy and Allowable Solutions. This policy seeks to achieve carbon emissions reductions, where the Council will promote an 'energy hierarchy' as follows: *Reducing energy use, in particular by the use of sustainable design and construction measures. Supplying energy efficiently and giving priority to decentralised energy supply. Making use of renewable energy Making use of allowable solutions.* Any new development will be expected to take these points into account and address the energy needs of the development.
- 9.98. Policy ESD 3 covers the issue of Sustainable Construction and states amongst other things that *all new non-residential development will be expected to meet at least BREEAM 'Very Good' with immediate effect, subject to review over the plan period to ensure the target remains relevant. The demonstration of the achievement of this standard should be set out in the Energy Statement.* The Policy continues by stating that *all development proposals will be encouraged to reflect high quality design and high environmental standards, demonstrating sustainable construction methods including but not limited to: Minimising both energy demands and energy loss. Maximising passive solar lighting and natural ventilation. Maximising resource efficiency Incorporating the use of recycled and energy efficient materials.*

Incorporating the use of locally sourced building materials. Reducing waste and pollution and making adequate provision for the recycling of waste. Making use of sustainable drainage methods. Reducing the impact on the external environment and maximising opportunities for cooling and shading (by the provision of open space and water, planting, and green roofs, for example); and making use of the embodied energy within buildings wherever possible and re-using materials where proposals involve demolition or redevelopment.

Assessment

- 9.99. This application seeks outline planning permission for a new food store on the site. As such the final design of the building is not provided as this will be the subject of a reserved matters application. At that stage it is considered that the full details of the sustainability measure to be incorporated into the design will be provided and agreed. A condition is attached to this outline permission which highlights the need to ensure that the final design of the building complies with Policies ESD1, ESD2 and ESD3 as well as the requirements of Section 14 of the NPPF. The Agent has agreed to the principle of this matter being dealt with by way of a prior to commencement condition in this way.

Conclusion

- 9.100. Although it is accepted that at this stage no information is provided with regards to the final design and hence sustainability measures to be used on this site. However, it is considered that the imposition of a condition to secure the sustainability credentials of the development would comply with the aspirations of these policies.

10. PLANNING BALANCE AND CONCLUSION

- 10.1. Section 38(6) of the Planning and Compulsory Act 2004 requires planning applications to be determined against the provisions of the development plan unless material considerations indicate otherwise.
- 10.2. This application seeks outline permission for the construction of a new food store on this currently vacant site. The site is a prominent location at the junction of Oxford road and Cotefield Drive. The application is supported by a retail assessment which has been assessed by the Council's retail consultant DPDS who conclude that in terms of the Sequential Test on balance that there are no suitable sites that could be considered available in, or on the edge of the town centre. With regards to the Retail Impact DPDS conclude that although there is no evidence to support the adverse impact on the viability / vitality of the larger food stores in and around the town centre there is a significant risk of the closure of the Spa in Bodicote if the proposal goes ahead. The closure of the local shop is a material consideration. The existing Spar in Bodicote provides an important service to local people, including a post office, in a convenient location which encourages journeys by foot. We also note that it might well be difficult to find an alternative operator for the post office.
- 10.3. However, it is not the purpose of planning policy to protect private interests; there must be a clear public interest. If the shop did close as a result of the proposal, there would still be a shop for groceries in the village and the proposed food-store could provide a much greater range and choice of goods than currently available in the village. Although this is not expressed in any policy statement, this is a distinct public benefit which underlies retail planning policy and to which significant weight should be given. Notwithstanding this point there are other post offices close to the Spar post office with the closest two within 6 minutes' drive followed by a third within 8 minutes' drive. The loss of the Spar post office would make Bodicote a slightly less sustainable location as those wishing to visit a post office could not walk to one and would instead need to cycle or go by public or private transport.

- 10.4. In assessing this aspect, it is important to weigh the benefits of the development against the harm of the proposal and in this instance, it would be the harm in terms of the potential closure of the Spar store and post office. It is clear that there are alternative post offices nearby plus the fact that the provision of the new store would for a greater range of goods to be provide to the customer and hence a wider choice. In addition to this it is also the case the development would have other economic benefits both through the construction activity and through the retail jobs it would provide. The advantages of job gains in the retail grocery sector should not be overestimated because, in a situation where expenditure is not increasing, they are likely to be largely offset by job losses elsewhere in the sector. There is, however, likely to some overall increase in jobs which should attract moderate weight.
- 10.5. The Local Highway Authority has assessed the application and raises no objections to the principle of the proposed development and that suitable access for pedestrians and vehicles can be achieved. This is, however, subject to a number of conditions securing specific details and the completion of appropriate legal agreements securing S106 obligations. The applicant has confirmed that they are prepared to enter into an agreement.
- 10.6. As the application is in outline the final details of design / appearance / layout / landscape are subject to reserved matters. For this reason, no finer details are provided with this application. The applicant has, however, provided indicative elevation details and a layout for a store on the site. These details demonstrate that an acceptable form of building could be provided on the site which would not result in any adverse impact on the street scene nor upon the amenities of the local residents.
- 10.7. On the issue of landscape and ecology there is concern that the proposal would result in a significant loss of trees on the site to the detriment of the ecology and character of the area. A group TPO has been placed on the existing trees on the site which will be a material consideration in the reserved matters application for the layout of the store on the site. Subject to conditions covering the issue of biodiversity enhancements as part of the final design it is considered that the proposal is acceptable from an ecology point of view.
- 10.8. This is a finely balanced application with several benefits to the scheme but also the potential to result in harm to an existing local facility. It is ultimately for the Council to decide how to strike the planning balance but in view of the current economic conditions as the economy emerges from the effects of the Covid-19 lockdowns, the economic benefits of the proposal are considered not to be outweighed by the adverse impact on the existing shop.

11. RECOMMENDATION

RECOMMENDATION – DELEGATE TO THE ASSISTANT DIRECTOR FOR PLANNING AND DEVELOPMENT TO **GRANT PERMISSION, SUBJECT TO THE CONDITIONS SET OUT BELOW** (AND ANY AMENDMENTS TO THOSE CONDITIONS AS DEEMED NECESSARY) **AND THE COMPLETION OF A PLANNING OBLIGATION UNDER SECTION 106** OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS SUBSTITUTED BY THE PLANNING AND COMPENSATION ACT 1991, TO SECURE THE FOLLOWING (AND ANY AMENDMENTS AS DEEMED NECESSARY):

- a) £153,780 - Highway Works Contribution towards conversion of the existing footway to shared use for pedestrians and cyclists, along the western side of the A4260 between Cotefield Drive and Broad Gap.
- b) £1,426 - Travel Plan Monitoring Fee

- c) S278 Agreement will be required to secure mitigation/improvement works.

CONDITIONS

Time Limit

1. Application for approval of all the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission and the development hereby permitted shall be begun either before the expiration of five years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the later.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 5(1) of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

2. Details of the layout, appearance, and landscaping (hereafter referred to as 'the reserved matters') shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.

Reason : To comply with the provisions of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and Article 6 of the Town and Country Planning (Development Management Procedure (England)) Order 2015 (as amended).

Compliance with Plans

3. The development shall not be carried out otherwise than in complete accordance with the approved plans 01 Rev C, 700, and 15 received 24/11/2020 and plan 0001 Rev P02 received 28/11/2020 and other details Tree survey Methodology & TCP Interpretation, Tree Survey Data, Archaeology report, Cotefield Farm Transport Assessment, Cotefield Farm Land Contamination Phase 1 Parts 1, 2, 3. Retail Statement with Appendices, Drainage Strategy, Preliminary Ecology Assessment all received 24/11/2020 unless a non-material or minor material amendment is approved by the Local Planning Authority under the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).

Reason : To clarify the permission and for the avoidance of doubt..

Floor Area

4. The floor area of the proposed store shall not exceed 1235 sq m net as determined by internal measurement.

Reason: In order to avoid overdevelopment, to achieve a satisfactory form development and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Section 12 of the National Planning Policy Framework.

Restrictions on sales

5. No more than 90% of the nett internal area of the retail unit shall be used for the sale of convenience goods.

Reason: In order to safeguard the vitality and viability of the Town Centre and to comply with Government guidance contained within the National Planning Policy Framework.

Transport

6. Prior to the first occupation of the development hereby approved, a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans", shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason: In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Government guidance contained within the National Planning Policy Framework.

7. No development shall take place in respect of the development until a Construction Traffic Management Plan (CTMP) has been submitted to and approved by the Local Planning Authority. The development shall not be carried out other than in accordance with the CTMP.

The CTMP shall provide for:

- i). The routing of construction vehicles and Construction Plan Directional signage (on and off site)
- ii). The parking of vehicles of site operatives and visitors
- iii). Loading and unloading of plant and materials
- iv). Storage of plant and materials used in constructing the development
- v). Operating hours and details of deliveries
- vi). The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- vii). Wheel washing facilities
- viii). Measures to control the emission of dust and dirt during construction
- ix). A scheme for recycling/disposing of waste resulting from demolition and construction works
- x). Overall strategy for managing environmental impacts which arise during construction
- xi). Procedures for maintaining good public relations including complaint management, public consultation and liaison
- xii). Control of noise emanating from the site during the construction period
- xiii). Details of construction access(s)
- xiv). Provision for emergency vehicles

Reason: In the interests of highway safety, convenience of highway users and to protect the amenities of residents and safeguard the visual amenities of the locality and to comply with Government guidance contained within the National Planning Policy Framework.

Drainage

8. Construction shall not begin until a detailed surface water drainage scheme for the site, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall include:
 - A compliance report to demonstrate how the scheme complies with the "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire";

- Full micro-drainage calculations for all events up to and including the 1 in 100 year plus 40% climate change;
- A Flood Exceedance Conveyance Plan;
- Comprehensive infiltration testing across the site to BRE DG 365;
- Detailed design drainage layout drawings of the SuDS proposals including cross-section details;
- Detailed maintenance management plan in accordance with Section 32 of CIRIA C753 including maintenance schedules for each drainage element, and;

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

9. Prior to first occupation, a record of the installed SuDS and site wide drainage scheme shall be submitted to and approved in writing by the Local Planning Authority for deposit with the Lead Local Flood Authority Asset Register. The details shall include:
- a) As built plans in both .pdf and .shp file format;
 - b) Photographs to document each key stage of the drainage system when installed on site;
 - c) Photographs to document the completed installation of the drainage structures on site;
 - d) The name and contact details of any appointed management company information.

Reason: To ensure satisfactory drainage of the site and appropriate flood prevention and to comply Policy ESD 7 of the Cherwell Local Plan 2011-2031 Part 1 and with Government guidance contained within the National Planning Policy Framework.

10. No construction shall take place within 5m of the water main. Information detailing how the developer intends to divert the asset / align the development, so as to prevent the potential for damage to subsurface potable water infrastructure, must be submitted to and approved in writing by the local planning authority in consultation with Thames Water. Any construction must be undertaken in accordance with the terms of the approved information. Unrestricted access must be available at all times for the maintenance and repair of the asset during and after the construction works.

Reason: The proposed works will be in close proximity to underground strategic water main, utility infrastructure. The works has the potential to impact on local underground water utility infrastructure.

11. No development shall be occupied until confirmation has been provided that either:-
 1. Capacity exists off site to serve the development, or 2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or 3. All wastewater network upgrades required to accommodate the additional flows from the development have been completed.

Reason: Network reinforcement works may be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid sewage flooding and/or potential pollution incidents.

Sustainability

- 12.** Prior to the commencement of development above slab level, a design stage BREEAM certificate confirming that the development shall be constructed to at least a BREEAM very good standard or equivalent shall be submitted to and approved in writing by the Local Planning Authority. Within 6 months of the occupation of the development hereby permitted, a final BREEAM certificate shall be submitted confirming that the development has achieved BREEAM very good or equivalent standard.

Reason: To ensure energy and resource efficiency practices are incorporated into the development in accordance with Policy ESD1, ESD2 and ESD3 of the Cherwell Local Plan 2011-2031 Part 1, and the Government's aim to achieve sustainable development as set out in the National Planning Policy Framework.

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