

29th May 2019

Bob Duxbury
Major Projects Manager - Development Management
Place & Growth Directorate
Cherwell District Council
Bodicote House,
Banbury, OX15 4AA

Dear Mr Duxbury

Demolition of existing office and proposed redevelopment of existing car park for a mixed-use scheme including Use Classes B1/B2/B8, A1, A1/A5 drive-thru and surface level car park at Jacobs Douwe Egberts, Ruscote Avenue, Banbury

Request for Screening Opinion in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017

In accordance with Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 2017 (referred to as ‘the Regulations’), JLL write to formally request a Screening Opinion from Cherwell District Council (‘CDC’) on behalf of our client, Paloma I (Industrial I) Unit Trust (hereafter referred to as ‘Paloma Capital’ or ‘the Applicant’).

As required by Regulation 6(2), in addition to the description of the nature and purpose of the development, we enclose a location plan (with the site outlined in red) and an assessment of the impact of the proposals on the environment. It is of note that the area identified on the location plan covers two parcels of land, which will come forward under separate planning applications; the erection of surface level car park providing replacement car parking (Phase 2) and redevelopment of existing car park (Phase 3). The first of these two applications by itself would not meet the thresholds for an EIA, however as the two applications are inherently linked, they are both included within this Screening Opinion request such that their cumulative impact can be assessed.

In accordance with the Regulations, this letter sets out the description of the development(s), including a description of the physical characteristics of the development and demolition works, and a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected.

Where relevant, this letter also identifies mitigation measures envisaged to avoid or prevent what might otherwise be significant effects on the environment.

Site Location and Description of Development

The application sites are located circa 1 mile north east of Banbury Town Centre and together extend to circa 7 acres (just under 3 hectares). They comprise previously developed land and form part of the wider Jacobs Douwe Egberts estate (hereafter referred to as “JDE”). Both sites are currently underutilised with the Phase 2 site comprising a vacant office building with limited car parking for JDE with an area to the front which is laid to grass, and the Phase 3 site comprising an under-utilised employee car park.

Access to both sites is gained along Ruscote Avenue. The main entrance to the JDE premises (and to the Phase 2 site) is located roughly half way between the Lockheed Close/Ruscote Avenue roundabout and the Longelandes Way/Ruscote Avenue roundabout. The car park entrance (Phase 3) is located south of the main entrance, closer to the Longelandes Way / Ruscote Avenue roundabout.

To the east and north of the Phase 2 site is the remainder of the JDE premises, with the main vehicular entrance to the JDE site forming the southern boundary and a former JDE warehouse which has recently been renovated, beyond. The

existing car park (Phase 3 site) is located southwest of the Phase 2 site, with a residential estate directly to the south. North of both sites and beyond Ruscote Avenue, is an established retail park and industrial/warehousing estate.

The site benefits from shrub and tree planting along the Ruscote Avenue boundary and the Phase 3 site has a steep banked culverted stream running through the north east of the site.

The property is not statutory or locally listed, nor is it located within a Conservation Area. This site is designated within the Cherwell Local Plan (2015) as an Existing Strategic Employment Site and it falls within Flood Zone 1 (1 in 1,000 annual probability of river or sea flooding).

The JDE estate was originally occupied by Kraft Foods UK Ltd., which then transferred into Mondelez following the split of Kraft Foods UK Ltd in 2012. Mondelez then announced plans to merge with DE Master Blenders which was approved in May 2015, with the company being rebranded as it is currently known, Jacobs Douwe Egberts (JDE). During the time of the merge, JDE underwent a programme of rationalisation, considering operations and consolidating core activities within existing site buildings. This in turn released unoccupied and redundant space, that served no useful purpose for JDE. Some of this space has since been developed for alternative uses, however, there remain certain areas of the site which remain vacant and/or underutilised and which are proposed for redevelopment.

In light of the above, it is proposed that two planning applications are submitted to Cherwell District Council in due course for the following developments:

Phase 2: *“Demolition of existing office and erection of surface level car park providing 215 replacement car parking spaces”*

Phase 3: *“Comprehensive redevelopment of car park, to provide employment units falling with Use Classes B1/B2/B8; a retail unit within Use Class A1; and a drive-thru café within Use Classes A1/A5; together with associated car parking, servicing and access; landscaping and all associated works.”*

Requirements for an Environmental Impact Assessment

In order to consider whether a project requires an Environmental Impact Assessment (EIA), the regulations require a step-by-step approach to be undertaken having regard to the submitted information (see below).

a) Is the development of a description mentioned in Schedule 1 of the EIA Regulations?

The Proposed Development does not fall within any of the categories of development outlined in Schedule 1.

b) Is the development of a description mentioned in Schedule 2 (Column 1) of the Regulations?

Schedule 2 of the Regulations identifies development types where, if the relevant threshold criteria are exceeded, a formal assessment must be undertaken against Schedule 3 in order to determine whether an EIA is required.

Case Law holds that when questioning the relevance of Schedule 2, it should be interpreted as having a wide scope and broad purpose.

Paragraph 31 of the NPPG goes on to advise that:

“In determining whether a particular proposal for development is included within one of the categories of development listed in Schedule 1 or Schedule 2 of the 2017 Regulations, local planning authorities and developers should have regard to the ruling of the Court of Justice of the European Union that the Directive has a “wide scope and broad purpose” (In the Court of Justice of the European Union case (Kraaijeveld v Holland)). The fact that a particular development is not specifically identified in one of the Schedules does not necessarily mean that it falls outside the scope of the Regulations. For example, the Schedule 2.10(b) category, “urban

development” (which accounts for by far the largest proportion of Environmental Impact Assessment development in England), includes residential and other development of an urban nature. It can also apply to development in non-urban areas which has an urbanising effect on the local environment, for example, an out-of-town shopping complex.”

Having regard to this advice, it is considered that the proposals can be regarded as falling within the Schedule 2 definition of an Infrastructure Project (10) and, within this, an Urban Development Project (b).

c) Are any of the indicative criteria or thresholds (Schedule 2, Column 2) of the EIA Regulations met or exceeded?

Schedule 2 (Column 2) of the Regulations confirms that the basis for inclusion within the scope of the Regulations is that the site area should exceed 1 hectare; include more than 150 dwellings; or, that the overall area of the development exceeds 5 hectares.

Paragraph 17 of the NPPG advises that *“If a proposed project is listed in the first column in Schedule 2 and exceeds the relevant thresholds or criteria set out in the second column (sometimes referred to as ‘exclusion thresholds and criteria’) the proposal needs to be screened by the local planning authority to determine whether significant effects are likely and hence whether an assessment is required. Projects listed in Schedule 2 which is located in, or partly in, a sensitive area also need to be screened, even if they are below the thresholds or do not meet the criteria.”*

In light of this, the question as to whether the proposals require EIA must be considered on a case-by-case basis.

The table at paragraph 58 of the NPPG identifies whether EIA should be considered for schemes falling under Schedule 2 10(b) category. It advises that *“Environmental Impact Assessment is unlikely to be required for the redevelopment of land unless the new development is on a significantly greater scale than the previous use, or the types of impact are of a markedly different nature or there is a high level of contamination.”*

d) Is any part of the development to be carried out in sensitive area?

The site does not fall within any of the sensitive areas as laid out in the Regulations.

No part or area of the site is located within a nationally designated sensitive area as defined by Regulation 2 (i).

The Regulations and the NPPG indicate that the development constitutes Schedule 2 development and therefore may fall within the scope of the Regulations. As such, we formally request a Screening Opinion from Cherwell District Council on behalf of our client.

Schedule 3 and the Potential Impacts of the Development

Schedule 3 of the Regulations provides a selection criteria for screening Schedule 2 developments to consider whether the proposed development is likely to have significant environmental effects by virtue of the:

- 1) Characteristics of development;
- 2) Location of development; and
- 3) Types and characteristics of the potential impact.

Under Schedule 3 (3), the likely significant effects of the development on the environment must be considered in relation to criteria set out in paragraphs (1) and (2) of Schedule 3, which relates to the development’s characteristics and location. Regard must also be had to the impact of the development on the factors specified in regulation 4 (2), taking into account:

- a) The magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
- b) The nature of the impact;
- c) The transboundary nature of the impact;
- d) The intensity and complexity of the impact;

- e) The probability of the impact;
- f) The expected onset, duration, frequency and reversibility of the impact;
- g) The cumulation of the impact with the impact of other existing and/ or approved development;
- h) The possibility of effectively reducing the impact.

The factors specified in Regulation 4(2) are as follows:

- a) Population and human health
- b) Biodiversity, paying particular attention to protected species and habitats
- c) Land, soil, water, air, and climate
- d) Material assets, cultural heritage and the landscape; and
- e) How these factors interact with each other.

Table 1 Schedule 3 (1) Characteristics of Development

1. The characteristics of development must be considered with particular regard to:	The Proposed Development	Likely Significant Effects	Specific Mitigation Measures for Amelioration of Significant Effects
(a) The size and design of the whole development;	<p>The sites cover approximately 7 ha of land.</p> <p>The development proposals will integrate fully with the surrounding land uses, providing replacement parking, employment uses within a designated employment site and complimentary commercial uses, on previously developed land.</p>	<p>The size and design of the proposed developments are considered reasonable given the surrounding context.</p>	<p>No mitigation is considered to be required at this time. Any potential impacts of the proposed developments can be mitigated through planning conditions or through a S106 agreement.</p>
(b) Cumulation with other existing development and/or approved development;	<p>From current knowledge it is not anticipated that any other major construction works will be taking place within close proximity to our site.</p>	<p>There is therefore no significant cumulative effect on the local environment anticipated.</p>	<p>If a situation were to arise where other development came forward, then a detailed Construction Management Plan would ensure that any cumulative impacts are taken into consideration and impacts minimised.</p>
(c) The use of natural resources, in particular land, soil, water and biodiversity;	<p>There will not be any unusual use of natural resources in the construction and future operation of the site that is already associated with standard developments of this nature.</p>	<p>This criterion is considered not applicable to the proposed developments.</p>	<p>Not considered to be required.</p>
(d) The production of waste;	<p>There will not be any unusual production of waste arising from the completed developments.</p>	<p>This proposed developments are not considered to give rise to any adverse effects in relation to waste.</p>	<p>A Waste Management Plan can be covered by planning condition to ensure the appropriate disposal of waste during the demolition and construction phases.</p>

<p>(e) Pollution and nuisance;</p>	<p>The existing roads bordering the site are dominant sources of noise and air quality pollution in the area.</p>	<p>Noise emissions from the proposed developments are not expected to result in adverse effects.</p> <p>The pedestrian environment will be improved, by providing pedestrian links through the site, with enhanced landscaping and public realm.</p>	<p>Detailed and careful design of the schemes, ensures that acceptable air quality and noise levels are maintained, ensuring there are no significant observable impacts on nearby receptors.</p>
<p>(f) The risk of major accidents and/or disasters relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge; and</p>	<p>The risks of accidents in association with the developments is considered to be negligible and to have no significant environmental bearing or effect.</p>	<p>The risk of major accidents and/or disasters in relation to the developments will be considered throughout the design development and construction of the scheme, thereby preventing any likely significant effects.</p>	<p>Mitigation measures and safety features will be incorporated into the design of the schemes to reduce the risk of major accidents or disasters.</p>
<p>(g) The risks to human health (for example due to water contamination or air pollution).</p>	<p>The risks to human health in association with the developments is considered to be negligible and to have no significant environmental bearing or effect.</p>	<p>The proposed developments are not considered to give rise to any adverse effects in relation human health.</p>	<p>Not considered to be required.</p>

Table 2 Schedule 3 (2) Location of Development

<p>2. The environmental sensitivity of geographical areas likely to be affected by development must be considered, with particular regard, to:</p>	<p>Characteristics of Development</p>	<p>Likely Significant Effect</p>	<p>Specific Mitigation Measures for Amelioration of Significant Effects</p>
<p>(a) The existing and approved land use</p>	<p>The sites comprise a vacant office building, with limited car parking and an under-utilised employee car park.</p> <p>The site has limited evidence of contamination in soil, although this is not recorded above the applied human health assessment criteria for commercial land use.</p> <p>The site is located within Flood Zone 1.</p>	<p>The proposals constitute brownfield development and therefore the principle of development on the site has previously been accepted.</p> <p>The proposed development is not considered to adversely affect the existing land use.</p> <p>It is considered that the proposed development would not give rise to any likely significant effects in relation to contamination or flood risk.</p>	<p>A comprehensive contamination assessment will be undertaken as part of the planning application to ensure any significant effects arising from contamination are mitigated.</p> <p>Any potential significant effects can be mitigated through mechanisms such as planning conditions or a S106 agreement.</p>

<p>(b) The relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and underground</p>	<p>The land on which the proposals are to be delivered is brownfield land.</p> <p>There are no natural habitats on site or any other natural resources that would be directly affected by the proposals.</p>	<p>There are not considered to be any natural resources that would be directly affected by the proposal.</p>	<p>No mitigation is considered to be required at this time. Any potential significant effects can be mitigated through mechanisms such as planning conditions or a S106 agreement.</p>
<p>(c) The absorption capacity of the natural environment, paying particular attention to the following areas:</p> <p>(i) wetlands, riparian areas, river mouths;</p> <p>(ii) coastal zones and the marine environment;</p> <p>(iii) mountain and forest areas;</p> <p>(iv) nature reserves and parks;</p> <p>(v) European sites and other areas classified or protected under national legislation;</p> <p>(vi) areas in which there has already been a failure to meet environmental quality standards, laid down in Union legislation and relevant to the project, or in which it is considered there is such a failure;</p> <p>(vii) densely populated areas;</p> <p>(viii) landscapes and sites of historical, cultural or architectural significance.</p>	<p>The site does not form part of any wetland, coastal zone, mountain area or natural reserves and parks.</p> <p>There are no designated heritage assets within the surrounding area.</p>	<p>The site does not form part of any wetland, coastal zone, mountain area or natural reserves and parks.</p>	<p>No mitigation is considered to be required at this time. Any potential significant effects can be mitigated through mechanisms such as planning conditions or a S106 agreement.</p>

Table 3 Schedule 3 (3) Types and Characteristics of the Potential Impact

<p>3. Characteristics of the potential impact: The potential significant effects of development must be considered in relation to criteria set out under paragraphs 1 and 2 above, and having regard in particular to -</p>	<p>Characteristics of Development</p>	<p>Likely Significant Effect</p>	<p>Specific Mitigation Measures for Amelioration of Significant Effects</p>
<p>The magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);</p>	<p>The development impact is considered likely to only affect the local area.</p>	<p>Any impact to the population arising from development would likely occur at the construction phase and as such, any impacts are considered to be temporary.</p>	<p>No mitigation is considered to be required at this time. Any potential significant effects can be mitigated through mechanisms such as planning conditions or a S106 agreement.</p>
<p>The nature of the impact;</p>	<p>The development may impact on noise, air quality and traffic.</p>	<p>Any impact is anticipated to be minor and can be addressed by suitable mitigation measures.</p>	<p>A construction management plan, travel plan and highways improvements can be secured through planning conditions</p>

			or a S106 agreement to manage any potential impact.
The transboundary nature of the impact;	This is not considered relevant to the proposal.	No transboundary impacts are expected to occur.	No transboundary impacts are expected to occur.
The intensity and complexity of the impact;	The impacts of the development are not considered to be of such a magnitude or complexity to warrant an EIA.	This criterion is considered not applicable to the proposed development.	This criterion is considered not applicable to the proposed development.
The probability of the impact;	The proposed development is not considered to cause significant impacts.	Any impact arising from development would likely occur at the construction phase and as such, any impacts are considered to be temporary.	Any potential significant effects can be mitigated through mechanisms such as planning conditions or a S106 agreement.
The expected onset, duration, frequency and reversibility of the impact;	The main impacts of the development are considered to occur during the construction phase.	Any impact arising from development would likely occur at the construction phase and as such, any impacts are considered to be temporary.	Any potential impacts of the development can be mitigated through securing planning conditions or through a S106 agreement.
The cumulation of the impact with the impact of other existing and/or approved development;	From current knowledge it is not anticipated that any other major construction works will be taking place within close proximity to our site.	There is therefore no significant cumulative effect on the local environment anticipated.	If a situation were to arise where other development came forward, then a detailed Construction Management Plan would ensure that any cumulative impacts are taken into consideration and impacts minimised.
The possibility of effectively reducing the impact.	Any potential impacts of the development can be mitigated through securing planning conditions or through a S106 agreement.	Any potential impacts of the development can be mitigated through securing planning conditions or through a S106 agreement.	Any potential impacts of the development can be mitigated through securing planning conditions or through a S106 agreement.

Conclusion

Having considered the scale and nature of the development, the proposed use of the site, and having regard to the EIA Regulations and the NPPG, it is considered that the proposal does not constitute EIA development. Taking each of the selection criteria for screening as set out in Schedule 3, we are of the view that there is sufficient justification that EIA is not required in this case. It is considered unlikely that the proposed development would give rise to any significant environmental effects that would warrant preparation of an Environmental Statement

Whilst there will naturally be some limited impacts, the applications will be accompanied by the following assessments to address these:

- an Air Quality Assessment,
- an Arboricultural Survey, Impact Assessment and Protection Plan,
- a Design and Access Statement,
- an Energy and Sustainability Assessment,
- a Preliminary Ecological Appraisal,
- a Flood Risk Assessment (including drainage proposals),
- a Land Contamination Assessment,
- a Landscaping Scheme,

- a Lighting Assessment,
- a Noise Impact Assessment,
- a Transport Assessment and Travel Plan,
- a Planning Statement (including retail sequential test and economic statement).

Taking the Schedule 3 criteria and these documents into account further demonstrates that EIA is not required.

In conclusion, we do not consider an EIA to be necessary and we request that Cherwell District Council formally agrees this, in accordance with the Regulations.

Yours sincerely,



Jen Sanders
Associate Director

*JLL
Planning, Development and Heritage
30 Warwick Street
London, W1B 5NH*

*T +44 (0)207 318 7862
M + 44 (0)7730 091520
Jen.sanders@eu.jll.com
www.jll.com*