

OXFORDSHIRE COUNTY COUNCIL'S RESPONSE TO CONSULTATION ON THE FOLLOWING DEVELOPMENT PROPOSAL

District: Cherwell

Application no: 21/02467/F

Proposal: Erection of mixed-use development including a 240-bed hotel, 4-storey office building and roadside services including 2 no hot food restaurant drive-throughs, a coffee shop drive-through and a petrol filling station with ancillary retail store

Location: OS Parcel 0005 And Part OS Parcel 1300 0878 And 7566, Banbury

Response date: 4th October 2021

This report sets out the officer views of Oxfordshire County Council (OCC) on the above proposal. These are set out by individual service area/technical discipline and include details of any planning conditions or Informatives that should be attached in the event that permission is granted and any obligations to be secured by way of a S106 agreement. Where considered appropriate, an overarching strategic commentary is also included. If the local County Council member has provided comments on the application these are provided as a separate attachment.

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Strategic Comments

The application is for mixed-use development including a 240-bed hotel, 4 storey office building, and roadside services including 2 no. hot food restaurant drive-throughs, a coffee shop drive-through, and a petrol filling station with ancillary retail store.

The site is located on land identified in the Adopted Cherwell Local Plan (2011-31) as Employment Land North East of Junction 11 (M40) under Policy Banbury 15.

The County Council is raising a Transport, Local Lead Flood Authority and Archaeology objections.

Officer's Name: Jacqui Cox

Officer's Title: Infrastructure Locality Lead Cherwell

Date: 04 October 2021

Application no: 21/02467/F

Location: OS Parcel 0005 And Part OS Parcel 1300 0878 And 7566, Banbury

General Information and Advice

Recommendations for approval contrary to OCC objection:

If within this response an OCC officer has raised an objection but the Local Planning Authority are still minded to recommend approval, OCC would be grateful for notification (via planningconsultations@oxfordshire.gov.uk) as to why material consideration outweighs OCC's objections, and to be given an opportunity to make further representations.

Outline applications and contributions

The anticipated number and type of dwellings and/or the floor space may be set by the developer at the time of application which is used to assess necessary mitigation. If not stated in the application, a policy compliant mix will be used. The number and type of dwellings used when assessing S106 planning obligations is set out on the first page of this response.

In the case of outline applications, once the unit mix/floor space is confirmed by reserved matters approval/discharge of condition a matrix (if appropriate) will be applied to establish any increase in contributions payable. A further increase in contributions may result if there is a reserved matters approval changing the unit mix/floor space.

Where a S106/Planning Obligation is required:

- **Index Linked** – in order to maintain the real value of S106 contributions, contributions will be index linked. Base values and the index to be applied are set out in the Schedules to this response.
- **Administration and Monitoring Fee - TBC**
This is an estimate of the amount required to cover the monitoring and administration associated with the S106 agreement. The final amount will be based on the OCC's scale of fees and will be adjusted to take account of the number of obligations and the complexity of the S106 agreement.
- **OCC Legal Fees** The applicant will be required to pay OCC's legal fees in relation to legal agreements. Please note the fees apply whether a S106 agreement is completed or not.

Security of payment for deferred contributions - Applicants should be aware that an approved bond will be required to secure a payment where a S106 contribution is to be paid post implementation and

- the contribution amounts to 25% or more (including anticipated indexation) of the cost of the project it is towards and that project cost £7.5m or more
- the developer is direct delivering an item of infrastructure costing £7.5m or more
- where aggregate contributions towards bus services exceeds £1m (including anticipated indexation).

A bond will also be required where a developer is direct delivering an item of infrastructure.

The County Infrastructure Funding Team can provide the full policy and advice, on request.

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Transport Schedule

Recommendation:

Objection for the following reasons:

- The Transport Assessment document does not accurately represent the traffic impact of the development.
- The development layout does not maximise opportunities for sustainable travel, contrary to NPPF.
- It is not possible to assess the suitability of the layout because no vehicle swept path analysis has been provided.

If despite OCC's objection permission is proposed to be granted then OCC will require conditions as set out below, and may require additional mitigation or conditions aimed at restricting the traffic impact on the network. A legal agreement may also be required to ensure that the development is bound by the obligations in the S106 legal agreement dated 20 July 2020.

Key points

- The proposal is to substitute alternative uses on part of the consented B2/B8 employment site (reference 19/00128/HYBRID – these uses are petrol filling station (PFS) including EV charging station, coffee and hot food drive-thru restaurants, hotel and office, with associated parking.
- The uses are similar to those proposed on a previous planning application (refused) for a motorway service area (MSA) plus employment. However, the application states that the development would not be signed as an MSA from the M40. (I believe the development would not meet the HE requirements for an MSA in terms of lorry, caravan, and abnormal vehicle parking.)
- The employment site to the north, currently being built out, will make significant improvements to the sustainability of the site, but improvements to the layout would be needed in order to promote these.
- The Transport Assessment (TA) provided with the application underestimates the changes in traffic impact of this development compared with the consented development. This means the development's impact on a critical part of the network cannot be accurately assessed.

Comments:

Vehicular access: Vehicular access is proposed off the consented site's access road onto the A361, via the new junction currently being built for the employment site to the north. It is a ghost island priority junction. Whilst this access has been deemed suitable for the consented uses, the capacity assessment cannot be verified until the issues with the TA have been resolved, as trips may have been underestimated.

The internal junction, from the site onto the employment site access road (which is due to be adopted) has not been assessed for capacity - an assessment should be provided.

The TA says that swept path analysis (SPA) can be provided – this is necessary to demonstrate that the layout allows vehicles to turn in and out of each of the uses without causing an obstruction to the flow of traffic. Flow of traffic within the site is critical, to avoid queues building up and backing up out of the site. SPA must be provided as part of the application.

Pedestrian and cycle access: The only safe access from Banbury, the main source of employees, is via the link under the motorway that the consented development is committed to improving prior to first occupation at the site. This is critical and the proposed development must not be occupied before it is open, due to the safety risk associated with people attempting to walk and cycle across the M40 junction.

The proposed layout requires improvement to create a continuous, safe, obvious and attractive pedestrian and cycle route from this link to the development and within the development, including suitable crossings of the access road, and junctions within the site. This is necessary to promote walking and cycling as a means of access for employees, and to provide safe access for these modes.

Parking and cycle parking:

Cycle parking is either not shown, or inadequate. The number of spaces should be in accordance with OCC guidelines, and it should be covered, secure and convenient to use. Because the site is very compact and this is a full application, I recommend that this is not left to condition but detail required with the application.

Vehicle parking: No HGV parking is proposed. This means HGV's stopping to use the facilities may park in inappropriate places causing obstruction.

Car parking: A fuller explanation/justification of the number of car parking spaces should be provided. Under provision could result in parking on footways and obstruction of traffic movement.

EV charging:

The EV charging points proposed are welcome, but the number of them does not meet with OCC's adopted Oxfordshire Electric Vehicle Charging Strategy – see link in the table below.

Traffic impact

The TA appears to understate the potential impact of the development, compared with the consented use, particularly on the M40 junction 11. I attach below a schedule of comments on the TA, but the key points are:

- The trip generation is divided into either trips new to the network, or 'pass-by/diverted trips'. The impact of the latter category appears only to be considered at the site access on the A361. These are the genuine 'pass by' trips. 'Diverted' trips have been overlooked and need to be considered separately, as they could significantly change the turning movements at the M40 junction. Examples of diverted trips would be drivers on the A422 between Banbury and Northampton/Brackley exiting the roundabout onto the A361 to visit the PFS or drive thrus and then rejoining their route – creating an additional burden on the A361 arm of the junction. Or drivers on the M40 exiting to visit the services and rejoining the M40. Or drivers on the M40 exiting for Banbury. Although the application says the development is not an MSA and won't be signed as such, it would be visible from the motorway and drivers would get to know about it pretty quickly. No allowance appears to be made in the assessment for these trips.
- No evidence is given for the proportion of trips that would be new to the network. New fast food takeaways would be attractive to the existing residential and workplace population of eastern Banbury, who would be likely to drive to the site.
- Reliance is placed on old transport models, which do not reflect current network conditions. Since the previous planning application, a VISSIM microsimulation model has been created for Hennef Way, including junction 11, and use of the model should be arranged with OCC. LinSIG shows mean maximum queues, whereas the VISSIM model would indicate the severity of impact in the peaks.
- There are queries with regard to the estimation of trip generation.
- No weekend assessment has been carried out. Due to the retail park nearby, weekend traffic is significant at the junction and this could coincide with peak time for the fast food drive thrus

Para	Comment
2.3.7 & 2.3.8	Do not recognise these street names – possibly cut and pasted from another TA?
2.4	Accident data – only provided to 2018. Most recent five year data from OCC should be included.
3.2.4	Swept path analysis must be supplied with the

	application.
3.2.5	Internal pedestrian and cycle routes – safe and direct routes should be provided from bus stops, and routes from the ped/cycle access to the north under the M40. The routes should be indicated, showing crossing points.
3.4.2	CA MAR1621R11 Annex 3 - DRAFT Oxfordshire Electric Vehicle Infrastructure Strategy 20210225.pdf - More EV charging spaces required. Should be 25% of spaces. See Policy EVI8
3.4.5	Needs to be better ped/cycle linkage with the route under the motorway to the north.
3.4.6	No cycle parking is shown on the plans except for the hotel – the space indicated is too small. Secure, covered cycle parking is required in accordance with OCC Guidance.
4.2.3	There is no residential within the 1000 m acceptable walking distance. Very unlikely people would choose to walk to use the facilities although a few might walk to work.
4.4.1	Diagram is misleading as it does not take into account bus frequency.
5.2.5	Projection to 2031 using Temprow – 2031 model scenario should be used, as this will be more accurate in taking account of local development.
5.2.6	What committed development is being added? Traffic added for phases 1 and 2 – to create the ‘no development’ scenario, and traffic netted off for consented phase 3, should be shown in a table for clarity, with calculations based on TRICS. The assessment is hard to follow. We need to be able to follow it through to see how net trips are arrived at in order to reconcile them with the relevant network traffic flow figures.
5.3.4 and Appendix D	TRICS output: Drive thru coffee shop – three of the surveys are on Fridays. Most of the pass-by and diverted trips in peak hour will be people on their way to work. Friday is not a neutral day for travel to work. PFS – one third of the surveys was carried out on a Friday, which is not a neutral day. Also one of the surveys was carried out during Covid-19 restrictions. HGV breakdown not shown in TRICS output - calculation of conversion to PCUs should be shown.
5.3.8	20% of linked trips to PFS in peak are assumed to be from other uses at the site – is this phases 1 and 2 or 3?

	<p>If 1 and 2, this is unrealistic – most employees at the site would likely fill up with fuel at a supermarket. Pass by and Diverted trips have been grouped together, with pass by appearing in the network diagram only to be those passing by directly on the A361. Diverted trips do not appear to have been factored in. It is critical to understand diverted trips as they will lead to different movements at J11. Also, where is the evidence that only 10% of the drive thru trips are primary? On the other hand would 100% of the hotel trips really be primary? Many of these I would have thought to be diverted off the M40</p>
5.3.9	<p>Office has 111 parking spaces – is it realistic that only 65 would arrive during peak hour? The TRICS surveys are weighted to very large urban areas with low car ownership.</p>
5.4	<p>Traffic distribution: clarity is needed on what development trips have been assigned to the network, but assuming it is new trips only, this is not appropriate for assessing the impact on the adjacent network. Diverted trips also need to be considered to assess the impact of the changing movements at the junction.</p>
Figs 13 and 14	<p>Pass by trips are only shown to affect the access junction off the A361, yet 80% of trips are claimed to be pass by/diverted. No account is being taken of trips diverted off other routes including the M40 and A422, for fuel or refreshment. These extra movements at M40 J11 appear to be being lost in the assessment.</p>
5.5.2	<p>Traffic flows associated with this development are greater than those of the consented development. A fresh assessment of proportionate impact should be provided, to determine which junctions should be assessed.</p>
5.5.3	<p>This Linsig model is now considered too old to be relied upon, and the network has changed at J11. See above re alternative model.</p>
5.5.6	<p>MOVA technology has been introduced at the M40 junction as part of HS2 mitigation works, together with signalisation of the Hennef Way Arm of the junction. From September 2021, traffic levels are expected to be at or close to pre-Covid levels, particularly given the amount of non-office type employment in this part of Banbury, and further surveys could be carried out.</p>
5.6	<p>Junction modelling results cannot be relied upon due to the above issues resulting in underestimation of turning</p>

	movements.
5.6.1	With and without development scenarios should be tabulated to show the impact of the development.
5.6.3	The Linsig results cannot be relied upon, due to understated traffic movements, but also because of the age of the model, and the fact that the junction has been modified as part of HS2 mitigation works. Moreover, for reasons stated in relation to the previous application, DoS outputs greater than 90% demonstrate a junction that is over capacity. Even small increases in DoS arising from the net traffic increase could lead to exponential increases in delay, as stated in para 5.2.7, therefore the congestion impact would be severe.
5.7.3	The timing of the delivery of scheme(s) to relieve Hennef Way is uncertain. It must be shown that the network can cope with the additional traffic in the intervening years.
5.7.3	Traffic is already close to pre-Covid levels. The network in this area would be relatively less affected by a reduction in office workers.
General	It is not possible to carry out a step by step audit of this TA. There are insufficient tables showing how the development trips in PCUs and their distribution have been arrived at.

Conditions:

No development shall commence unless and until full specification details (including construction, layout, surfacing and drainage) of the turning area and XX parking spaces within the curtilage of the site, arranged so that motor vehicles may enter, turn round and leave in a forward direction and vehicles may park off the highway, have been submitted to and approved in writing by the Local Planning Authority. The turning area and car parking spaces shall be constructed in accordance with the approved details prior to the first occupation of the development shall be retained as such for the parking and manoeuvring of vehicles at all times thereafter.

Reason - In the interests of highway safety and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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 development 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.

Prior to the first use or occupation of the development hereby permitted, covered cycle parking facilities shall be provided on the site in accordance with details which shall be firstly submitted to and approved in writing by the Local Planning Authority. Thereafter, the covered cycle parking facilities shall be permanently retained and maintained for the parking of cycles in connection with the development.

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

Prior to the first occupation of the development, a scheme for the provision of vehicular electric charging points to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The vehicular electric charging points shall be provided in accordance with the approved details prior to the first occupation of the unit they serve, and retained as such thereafter.

Reason - To comply with Policies SLE 4, ESD 1, ESD 3 and ESD 5 of the adopted Cherwell Local Plan 2011-2031 Part 1 and to maximise opportunities for sustainable transport modes in accordance with paragraph 110(e) of the National Planning Policy Framework

Officer's Name: Joy White

Officer's Title: Principal Transport Planner

Date: 6 September 2021

Application no: 21/02467/F

Location: OS Parcel 0005 And Part OS Parcel 1300 0878 And 7566, Banbury

Local Lead Flood Authority

Recommendation:

Objection

Comments

Whilst the principles and strategy used in the proposal seem fine, clarification is needed on the rates proposed.

Section 4.1 states "Phase 3 drainage proposals also limits discharge from the site to 2.0 l/s/ha" but Section 4.2 states "Phase 3 discharge is calculated at 5.5l/s". Please clarify.

Officer's Name: Sujeenthan Jeevarangan

Officer's Title: LLFA Planning Engineer

Date: 26 August 2021

Application no: 21/02467/F

Location: OS Parcel 0005 And Part OS Parcel 1300 0878 And 7566, Banbury

Archaeology

Recommendation:

Objection

Key issues:

An updated archaeological desk-based assessment will need to be submitted along with any planning application for the site in line with the National Planning Policy Framework (NPPF 2021) paragraph 194.

Legal agreement required to secure:

Conditions:

Further information will need to be submitted in line with the NPPF (2021) before we can advise whether or not conditions are appropriate.

Informatives:

Detailed comments:

The site is located in an area of archaeological interest with Neolithic pits and a large Neolithic linear feature recorded 650m to the north along with a Roman settlement. A Bronze Age enclosure has been excavated 800m north west of the site and Bronze Age settlement evidence has been recorded 900m west of the proposed site. Iron Age settlement has also been recorded west of this proposal in the same area. A large enclosure has been identified from aerial photographs 500m north west of the proposed site which is thought to be of later prehistoric date based on its form.

In advance of a previous application for the site (19/00128/HYBRID) an archaeological geophysical survey and trenched evaluation has been undertaken on the site itself which recorded a range of archaeological deposits. These surveys recorded two areas

of Roman activity, to the north and south of the evaluation site. Although the features identified mainly related to ditches for enclosures and field systems the evaluation report consulted that these were 'in relatively proximity to habitation. The evaluation report also highlighted that the levels of made ground on the site had not impacted on archaeological deposits and so there was likely to be more archaeological deposits on the site which had not yet been identified.

The evaluation was undertaken to assess the potential for archaeological features to survive on the site and physical investigation of these features was only undertaken to a sufficient level to characterise any such deposits and did not attempt to fully mitigate them in advance of development. This is a standard approach to such archaeological as has been the case since the introduction of PPG 16 in 1991.

We recommend conditions for a programme of mitigation on this site as part of planning application 19/00128/HYBRID, but the planning officer felt that the evaluation had appropriately mitigated the site and did not attach any conditions. This was not only against our advice but also failed to take into account the details within the evaluation report itself which clearly demonstrated that, due to ground water ingress, the evaluation was unable to investigate any of the features in parts of the site it had identified. This was therefore not in line with national standards or the NPPF.

An archaeological desk-based assessment has been submitted with this application. This is dated 2017 however and as such is based on out-of-date information. In addition, this assessment does not even mention the geophysical survey and trenched evaluation that has been undertaken on the site itself. These surveys form a significant part of the understanding of the archaeological interest on the site as set out in paragraph 194 of the NPPF (2021). As such this is a significant omission from this desk-based assessment.

As such this assessment does not set out, describe, or appropriately assess the impact of this development on the archaeological deposits known to be present within the site.

An updated archaeological desk-based assessment will need to be submitted along with any planning application for the site in line with the National Planning Policy Framework (NPPF 2021) paragraph 194. This assessment will need to include up to date Historic Environment Record information, including the details of the geophysical survey and trenched evaluation undertaken on the site itself. The assessment will also need to fully set out how it is considered that the evaluation work undertaken is considered to have fully mitigated the site, taking into account the very small sampling level of trenching and the evaluation reports statements that there is likely to be further previously unidentified archaeological deposits on the site and that a number of trenches were unable to be investigated due to flooding issues.

This assessment will need to be undertaken in line with the Chartered Institute for Archaeologists standards and guidance for desk-based assessments including the

submission of an appropriate written scheme of investigation to agree the scope of the assessment.

Once this updated report has been submitted we will need to be consulted in order that we can provide further archaeological advice.

Officer's Name: Richard Oram

Officer's Title: Archaeology Lead

Date: 16 August 2021