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Planning and Retail Sequential Approach Statement

**Redevelopment of Part of Surface Level Car Park to
Provide a Drive Thru Café**

Jacobs Douwe Egberts, Ruscote Avenue, Banbury

Paloma Capital

December 2021

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1 Introduction

- 1.1 This Planning and Retail Sequential Approach Statement has been prepared by JLL on behalf of Paloma Capital (hereafter referred to as ‘the Applicant’) to accompany a full planning application for the redevelopment of part of an existing car park at the Jacobs Douwe Egberts site, Ruscote Avenue, Banbury.
- 1.2 The proposed redevelopment of part of the existing car park is for the erection of a drive-thru café with associated parking. The proposed development is directly linked with a further two applications which have been submitted concurrently to Cherwell District Council, one for the redevelopment of the remaining car park for the provision of an electrical van charging/storage area to support a B8 warehouse already based in Banbury (Site 4- Van Storage Facility). In order to facilitate the two development proposals to redevelop the existing car park and to offset the loss of car parking for JDE employees, a new surface level car park is proposed on the main JDE site (Site 2- Replacement Car Park Application) which forms the other application.
- 1.3 The formal description of the development for which planning permission is sought is as follows:

“Redevelopment of part of existing car park, to provide a drive-thru café within Use Class E; together with associated car parking, servicing and access; landscaping and all associated works.”

PURPOSE AND STRUCTURE OF STATEMENT

- 1.4 The purpose of this Planning and Retail Sequential Approach Statement is to provide details of the application proposal and an assessment against relevant national and local planning policies, which form material considerations in its determination.
- 1.5 This Statement is structured as follows:
- Section 1 provides this introduction and sets out the formal description of development that is the subject of this application.
 - Section 2 contains a description of the application site, the surrounding area and relevant planning policy designations.
 - Section 3 explains the background to the proposals, including key drivers behind the proposed development and a summary of the site’s planning history.
 - Section 4 summarises pre-application discussions held between the Applicant and Council Officers, and key stakeholders prior to the submission of this application.
 - Section 5 provides a detailed description of the proposal, including an explanation of the scheme in terms of layout, scale, massing, appearance and accessibility.
 - Section 6 identifies the national and local planning policy framework of relevance to the application.
 - Section 7 provides an assessment of, and justification for, the proposed development in land use terms.
 - Section 8 provides details of the light touch Retail Sequential Assessment that has been undertaken.
 - Section 9 assess the proposals in relation to other relevant planning considerations.
 - Section 10 comprises a summary of the key points raised by this Statement and the overall conclusions.

- 1.7 This Statement and the application are accompanied by a number of other reports. These include:
- Air Quality Assessment;
 - Arboricultural Impact Assessment including Pre-Development Tree Survey;
 - Ecological Assessment;
 - Design and Access Statement;
 - Flood Risk Assessment (including drainage);
 - Landscaping Concept Layout and Cross Sections, Tree Constraints Plan and Tre Protection Plan;
 - Lighting Proposals;
 - Noise Impact Assessment;
 - Transport Statement.
- 1.8 A full set of existing and proposed plans are included as part of the application package.

2 Site Description and its Surroundings

2.1 This section describes the application site and identified site designations of relevance to this application.

APPLICATION SITE DESCRIPTION

2.2 The application site (Site 3) is located 1 mile north east of Banbury Town Centre, extends to 3,215m² and forms part of the wider Jacobs Douwe Egberts site (hereafter referred to as “JDE”). It currently comprises part of the existing employee parking for the JDE premises but is very underutilised. The wider JDE site extends to circa 12ha and comprises a series of warehouses, industrial units and associated facilities, forming the UK production plant for the company.

2.3 A majority of the application site comprises hard surfacing for carparking. Access to the application site is separate to the main JDE premises and is gained directly off Ruscote Avenue, circa 130m north of the Ruscote Avenue / Longelandes Way roundabout and 110m south of the JDE main entrance. The application site forms part of the car park that currently provides 257 car parking spaces of JDE’s total 468 spaces (located across the entire JDE premises).

2.4 Ruscote Avenue forms the north-western boundary of the site, which also benefits from tree and shrub planting. The eastern boundary comprises a former JDE warehouse which has recently been renovated and the southern boundary of the application site is adjacent to a public footpath, with residential units beyond.

SURROUNDING AREA

2.5 The surrounding area is mixed in terms of character and comprises a wide range of ‘out of town’ retail uses typically found in urban ring road locations, as well as industrial, warehousing, storage and distribution, leisure uses and some residential estates. Broadly speaking, the north and east of the site comprise more commercial uses, with the south and southwest comprising residential.

2.6 Directly to the north of the entire JDE premises is a retail park, including out of town retailers such as Home Bargains, Bensons for Beds, Tesco Extra, Currys PC World and Argos. Beyond this to the north and west, is an industrial and warehousing estate (Beaumont Road) which accommodates companies such as Kanneiesser, Graf UK, Encase, Magna. An Aldi has also recently been built at the southernmost part of this retail / industrial area, directly opposite the application site. In light of the above, Ruscote Avenue forms an established industrial, trade and bulky retail area, providing excellent links to the M40.

2.7 Another retail park lies to the east of the application site, beyond Southam Road and accommodates further out of town retailers including Homebase, B&Q, Halfords, Tops Tiles and Dunelm (amongst others). The south and southwest of the site are residential in character, with Banbury Town Centre to the southeast.

DESIGNATIONS

2.8 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).

3 Background and Planning History

- 3.1 This section provides context to the application proposal by briefly summarising the background and the drivers behind the application proposal, which is then described in Section 5. It also provides a summary of the planning history of relevance to this application.

BACKGROUND

- 3.1 The application site was originally occupied by Kraft Foods UK Ltd., which then transferred into Mondelez following the split of Kraft Foods UK Ltd in 2012. Mondelez retained the building and in 2014 the company announced plans to merge the coffee part of their business with DE Master Blenders which was approved in May 2015. The merged business became known as Jacobs Douwe Egberts and the site is now owned by Jacobs Douwe Egberts Ops GB Ltd. (hereafter referred to as “JDE”).
- 3.2 JDE remains in the main building which accommodates their UK production plant and is one of Banbury’s largest employers. Prior to the merger, there had been a consolidation of core activities within the existing site buildings. This rationalisation released unoccupied space that served no useful purpose and resulted in a considerable amount of redundant space on the wider site.
- 3.3 JDE opted to sell much of the redundant land and buildings to the east of the application site to Paloma Capital (the Applicant), so that it could be brought into more meaningful use. As a result, a number of applications have come forward over the last 4 years to bring redundant land and buildings into more meaningful use. The first of these was for a new Waitrose food store which was approved on former JDE land to the east of the site, with a new access from Southam Road (ref: 15/00831/F approved on 27th July 2016).
- 3.4 A further application has been approved more recently for the change of use of a former JDE warehouse immediately to the east of the application site, from B8 use to include B1(c)/B2/B8 uses alongside internal and external alterations (ref: 18/01246/F), approved on 25th July 2018). These two applications represent the first phase of Paloma Capital’s improvement programme.
- 3.5 JDE and Paloma Capital have since been considering other underutilised parts of the JDE premises, which include the vacant office building, the existing employee car park (which the application site forms part of), as well as their overall parking requirements in light of the planning approvals above and resultant reduction in overall floor space.
- 3.6 As such, JDE were originally proposing two further phases of development; an application for the replacement car parking of the main JDE Site, such that the employee car park could then be redeveloped as part of a separate application to provide employment units, a retail unit and a drive thru café. This principle was approved and was accepted by the officers at Cherwell District Council and an application was drawn up ready for submission, however, market conditions meant that the proposed redevelopment scheme was not viable and was reconsidered before it could be submitted.
- 3.7 Paloma Capital has continued to consider a suitable development for the car park site and having been approached by a logistics operator, Paloma Capital has now developed a proposal which includes two

distinct elements on the existing car park. These two elements include the provision of a Starbucks drive thru café (this element is unchanged from the pre-application proposals in 2018) which is the subject of this application and is referred to as Site 3 and the provision of an electrical van charging / storage area on the remaining area of the existing car park to support a B8 warehouse already based in Banbury (Site 4), this forms a separate application which has been submitted concurrently by DWD. Figure 1 below identifies how the proposed applications have been separated into four separate sites.

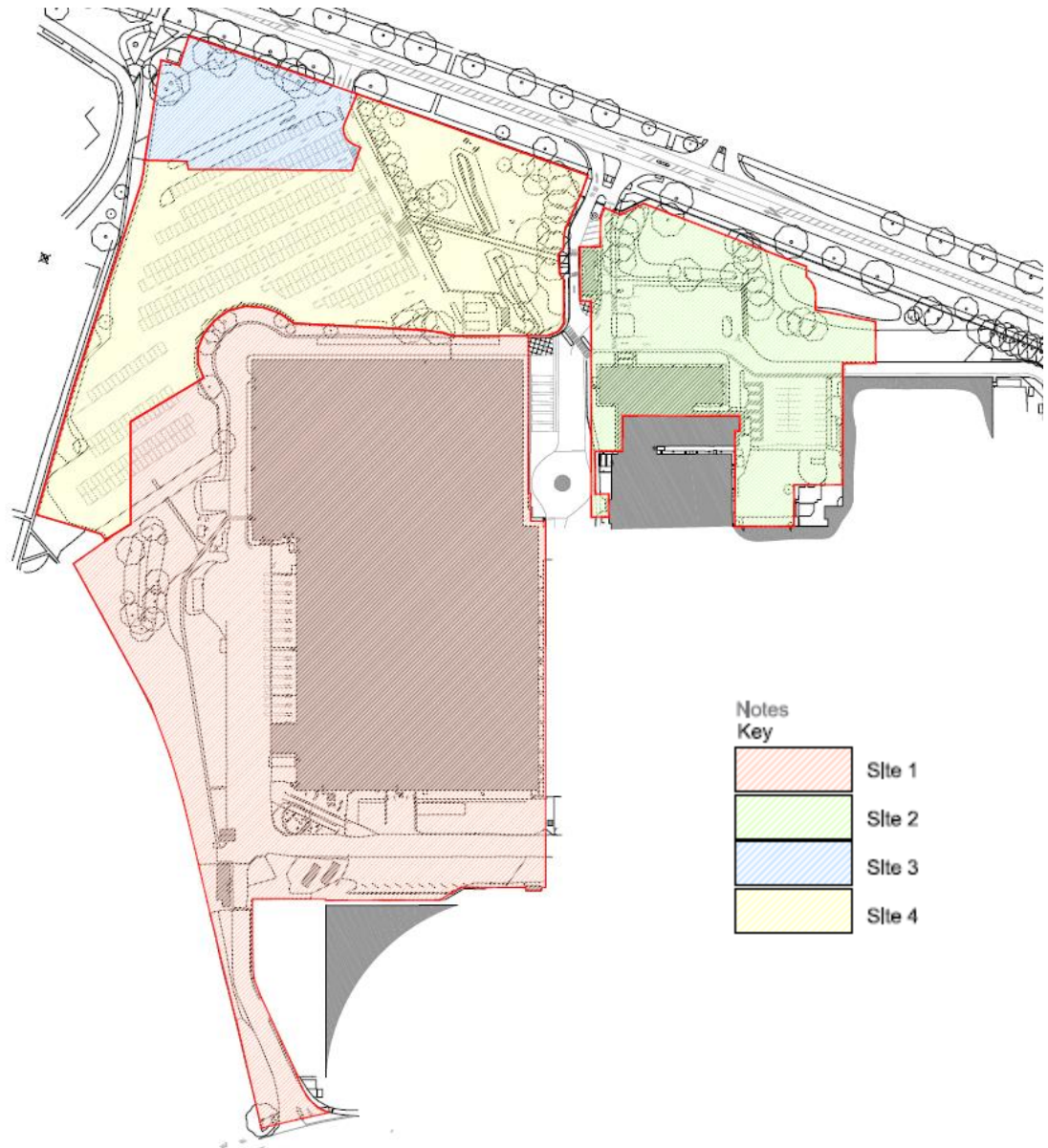


Figure 1: Site Layout for Four Applications

- 3.8 As such, in order to facilitate the two development proposals on the existing car park and to offset the loss of car parking for the JDE employees, the previously proposed new surface level car park on the main JDE site still forms part of this strategy and is the subject of a further application and will be referred to as Site 2.

3.9 Both JDE and Paloma Capital are committed to bringing forward meaningful development on all three sites, to ensure they are utilised more efficiently and make the most of this allocated employment land.

PLANNING HISTORY

3.10 The application site has an extensive planning history, with Council online records dating back to 1995, although it is clear that a number of buildings were in place long before this.

3.11 There is limited history of relevance to this application (except for those mentioned above), with a majority being in relation to the general upgrading of the JDE site, including new roof lights, security fencing, temporary accommodation, and minor extensions to existing buildings.

3.12 The relevant application / permissions are as follows:

- **15/00831/F** – Proposed development of a new Waitrose food store with car parking and access arrangement onto Southam Road. Demolition of existing building, Land at Kraft Foods, Southam Road, Banbury.

Decision: Application Permitted

- **18/01246/F** – Change of use of premises from Class B8 to B1c/B2/B8, including internal and external alterations, demolition of ancillary structures and new access to Southam Road.

Decision: Application Permitted

- 21/00503/F – The use of Banbury 200 for the storage of operational vehicles, together with elevational and site amendments to facilitate the proposed use.

Decision: Application Permitted.

- Demolition of existing office and erection of surface level car park providing 215 replacement car parking spaces including landscaping and other associated works.

Decision: Submitted and under consideration

- The provision of an electrical van charging / storage area to support a B8 warehouse already based in Banbury.

Decision: Submitted and under consideration

4 Pre-Application Consultation

- 4.1 This section of the report provides a summary of the pre-application engagement held with both Cherwell District Council Officers and the local community, and how this has informed the evolution of the proposed development.

ENGAGEMENT WITH CHERWELL DISTRICT COUNCIL

- 4.2 The proposed reconfiguration of JDE land and buildings has been considered by Cherwell District Council Officers via the pre-application process, with an initial meeting and site visit held between the Architects, Development Manager and Planning Officers on 12th June 2018 (ref: 18/00128/PREAPP). The proposals at this stage were somewhat different to the current proposal, with circa 3,500sqm of proposed retail space (Use Classes A1 and A3/A5 drive-thru), alongside 1,800sqm of employment space (within Use Classes B2/B8). As such, this scheme had much more of a retail-focus.
- 4.3 At this stage, several land use concerns were raised by officers; firstly, regarding the proposed retail uses in this out of centre location, which represented the majority use across the development, and secondly due to the employment uses not including any B1 Use Class element.
- 4.4 In terms of transport, concerns were raised regarding the impact of traffic on the Ruscote Avenue / Heneff Way junction, and also along Ruscote Avenue in general. Concerns were also raised regarding the loss of employee car parking for the JDE site. Finally, there were some design considerations raised, such as the impact on residential dwelling bordering the south-western boundary and the public footpath.
- 4.5 In light of the above, the Applicant and design team spent a number of months reconsidering the proposals and incorporating considerable changes to address a number of those concerns raised. The revised scheme was presented to Cherwell District Council officers via a second pre-application meeting held with the Head of Planning, Economic Development Officer and Planning Policy Officers on 9th November 2018.
- 4.6 During the second round of pre-application meetings, the design team explained the JDE rationalisation as the driver behind the overall scheme and the link between the two proposals (the then named Phase 2 and Phase 3 applications). The Phase 2 proposal was to provide replacement car parking for the JDE employees on the main JDE site, which in turn opens the employee car park for a more worthwhile development. This explanation was welcomed by Officers and the principle of redevelopment on the existing car park was accepted.
- 4.7 The Phase 3 proposals were similar to those proposed in the original pre-application however, the proposed retail had been considerably reduced to just 506m² over two units (a reduction of over 85% from the original retail floor area proposed). The proposal was then employment-led, with over 5,000sqm of employment space over 7 units and the employment units were also amended to include B1 Use Class alongside the previously proposed B2 and/or B8.
- 4.8 Whilst the requirement for a retail sequential test was still requested in line with Cherwell's Local Plan, Officers were then supportive of the employment-led scheme, in Land Use terms. In terms of other considerations, with the explanation that Phase 2 and Phase 3 proposals would come forward concurrently,

the highways concerns were alleviated, and in relation to design, consideration for the residential units to the south has been further worked into the proposed scheme.

- 4.9 As mentioned above, unfortunately, despite the previous proposals being progressed to a detailed submission, final reviews undertaken by the applicant determined them unviable and as such they are no longer being progressed. Paloma Capital has since secured interest for the site from a logistics operator, with an existing storage and distribution facility in Banbury. As such, it is proposed that the existing JDE car park, which is too big to JDE's requirements and which is currently underutilised, would be the perfect solution. Part of the site will also house a Starbucks drive-thru, the design and location of which remains unaltered from the previous 2018 scheme (the subject of this application).
- 4.10 A further pre-application meeting has been undertaken with Cherwell District Council on the 28th January 2021 (ref: 20/03544/PREAPP) since the development proposals have been reconsidered and amended to detail the three separate applications proposed.
- 4.11 Officers continued to support the principle of the drive thru facility, however, the Council requested that in order to demonstrate that the proposal would not cause significant harm to the town centre, an application would need to be supported by an assessment of the proposal and the impact upon the town centre. The Council did however recognise that given the proposed floorspace and different offering to a standard town centre coffee shop, a full sequential test is not considered a requirement, but a similar, lighter touch assessment should be provided as part of an application.

5 Application Proposal

5.1 This section provides a summary of the application proposal. Further details of the scheme are contained in the suite of documents that accompanies this application, including the Design and Access Statement. These documents should be read in conjunction with this Statement.

5.2 This application seeks planning permission for the following development:

“Redevelopment of part of existing car park, to provide a drive-thru café within Use Class E; together with associated car parking, servicing and access; landscaping and all associated works.”

5.3 To describe the proposed development in greater detail, the land use, design and associated infrastructure (in terms of public realm, landscaping access and parking etc.) are summarised below in relevant themes.

5.4 As stated previously, this submission is linked to two further applications, one for the redevelopment of the remaining area of the car park for a van storage facility (Site 4) and another for the creation of a new car park on JDE land to the north, which is to provide replacement car parking following the demolition of an existing vacant office building (Site 2). The applications have been submitted concurrently to Cherwell District Council and the resultant car park development will provide a total of 215 replacement parking spaces to offset the loss of parking as a result of this application (Site 3) and the Site 4 application.

LAND USE

5.5 The overall ambition for the site is to provide a more appropriate development on this underutilised and allocated employment site. This application therefore seeks the redevelopment of the part of the car park for a drive thru café (Use Class E), following the relocation of parking spaces to the main JDE site within the Site 2 proposals.

5.6 The Starbucks drive-thru café of 204m² (GIA) falling within Use Class E will be situated adjacent to Ruscote Avenue, on the southern side of the main access to the site.

DESIGN

5.7 The design of the proposed drive thru is addressed, within key design themes of layout and design/appearance.

Layout

5.8 The drive thru unit is located at the front of the site, adjacent to Ruscote Avenue with most visibility and the unit extends to 204m². The drive thru unit has designated parking and a stacking lane that wraps around the southern elevation of the unit.

5.9 The drive thru will be accessed off a T-shaped internal road, which connects directly from the existing Ruscote Avenue access.

Design / Appearance

- 5.10 The drive thru unit has a prominent position on the southern side of the main entrance. The drive thru incorporates metal cladding, albeit horizontal and in a darker colour to accord with tenant specifications, as well as curtain wall glazing and exposed timber boarding.

INFRASTRUCTURE

Landscaping

- 5.11 A Landscaping Scheme has been developed by Barry Chinn Associates, taking into account the existing landscaping on the site and areas of the proposed development which would particularly benefit from enhanced landscaping.
- 5.12 The starting point for the landscaping design was to retain as much vegetation as possible, particularly along the Ruscote Avenue boundary. In order to facilitate the development it is not necessary to remove any trees, in addition, the surrounding offsite trees have been carefully considered and will not suffer any appreciable negative impact.
- 5.13 Two retained London plane trees will require crown lifting and the pruning will not be detrimental to the trees and will be undertaken in accordance with best practice. Poplar tree 7 and, by implication ash tree 8, require crown reduction pruning. These are assessed as low value trees and the need for such pruning is independent of any construction activity. The proposed retaining structure results in a modest incursion within the root protection area for the larger poplar. Given the heavy reduction pruning required and within the context of the trees' value and limited longevity, this is deemed acceptable.

Accessibility

- 5.14 Vehicles access for the site is proposed to remain as existing, off Ruscote Avenue, which takes the form of a right-hand turn lane travelling east-bound and direct access west-bound. The existing access road has an approximate width of 9m and there is a shared footway/cycleway running along its eastern and western side connecting into the site.
- 5.15 The proposed drive thru café will provide 29 car parking spaces (27 Standard and 2 Accessible).
- 5.16 In terms of servicing and deliveries, the drive thru unit will have its own delivery area and the maximum design vehicle for the drive thru is a large 3 axle rigid vehicle.

6 Planning Policy Framework

- 6.1 This section sets out the planning policy framework of relevance to the proposed development. There are a few key themes when considering the planning application against planning policy, including but not limited to Land Use, Ecology, Transport and Design. Where applicable, relevant planning policy will be discussed in these themes.
- 6.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 stipulates that in making any determination under the Planning Acts, regard is to be had to the development plan, and the determination must be made in accordance with that plan unless material considerations indicate otherwise. The statutory Development Plan is identified for this assessment as follows:
- Cherwell Local Plan 2011-2031 Part 1 (2015);
 - Cherwell Local Plan (1996) Saved Policies.
- 6.3 In addition to the Development Plan, the following guidance is material consideration to this assessment:
- National Planning Policy Framework (2019);
 - National Planning Practice Guidance (online);
 - Adopted Banbury Vision and Masterplan Supplementary Planning Document (2016);
 - Connecting Oxfordshire: Local Transport Plan (2015-2031);
 - Transport for New Developments: Transport Assessments and Travel Plans (2014);
 - Cherwell Parking Standards; and
 - Developer Contributions Supplementary Planning Document (2018).

NATIONAL POLICY GUIDANCE

National Planning Policy Framework (2021)

- 6.4 The new NPPF was updated in July 2021, following the adoption of the Cherwell Local Plan Part 1 (2015) and the Cherwell Local Plan (1996) Saved Policies (2007). In such cases, paragraph 219 advises that existing policies should not necessarily be considered out-of-date and that due weight should be given to them, according to their degree of consistency with this Framework; the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
- 6.5 This should be borne in mind when considering the following policy review, with particular reference to the 1996 Cherwell Local Plan, which is considerably dated.

Presumption in Favour of Sustainable Development

- 6.6 The NPPF sets out the Government’s presumption in favour of sustainable development at paragraph 11. The Government’s presumption in favour of sustainable development. For decision taking, this means:
- “c) *approving development proposals that accord with an up-to-date development plan without delay; or*
 - d) *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:*

- i. *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*
- ii. *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.”*

6.7 Paragraph 8 identifies that the ‘economic objective’ of planning in the context of sustainable development is to contribute to building a ‘*strong, responsive and competitive economy*’ and to support growth, innovation and improved productivity.

Economic Growth

6.8 Paragraph 81 identifies the need to support economic growth and productivity, whilst accounting for local business needs, as well as wider opportunities for development.

6.9 Paragraph 82 provides guidance for how local planning authorities should achieve this, including having a clear economic vision and strategy, identifying strategic employment sites, addressing potential barriers to investment and ensuring enough flexibility to accommodate unforeseen needs.

6.10 Finally, paragraph 83 refers to the need for planning decisions and policies to recognise and address specific locational requirements of different sectors, such as accessibility, and clustering.

Town Centre

6.11 Section 7 of the NPPF addresses the vitality of town centres and seeks to promote a positive approach to their growth, management and adaptation. In this regard, Paragraph 86 states a number of requirements of Town Centre planning policies, including (but not limited to):

- Defining a network of hierarchy of centres;
- Define the extent of a town centre and shopping areas;
- Allocate sites to meet scale and type of development needed for at least ten years, including well-connected edge of centre sites where suitable and viable town centre sites are unavailable.

6.12 Paragraph 87 promotes a Town Centre First approach, whereby main town centre uses should be directed to town centres first, then in edge of centre locations only if suitable site are not available, should out of town centres be considered. A sequential test should be applied to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan.

6.13 With reference to edge of centre and out of centre proposals, accessible sites which are well connected to the town centre will be given preference in accordance with Paragraph 88 of the NPPF. In addition, flexibility should be demonstrated on aspects such as format and scale.

Transport

6.14 Section 9 of the NPPF relates to the promotion of sustainable transport and seeks to manage the impacts of development on transport networks. It sets several considerations to facilitate this, including identifying

opportunities from an infrastructure perspective, as well as from sustainable transport initiatives and to ensuring that environmental impacts of transport are fully considered.

- 6.15 Paragraph 110 sets out transport requirements for development proposals, including sustainable transport modes, safe and suitable access, and mitigation for any transport impacts. Paragraph 112 builds on this providing further criteria for developments to adhere to. These include:
- Designing for pedestrian and cycle movements as a first priority with high quality public transport as a second;
 - Catering for reduced mobility and disability in all transport modes;
 - Creating safe places, which are secure and attractive and minimise conflict between differing modes of transport;
 - Consider servicing and emergency access;
 - Integrate electric charging vehicles.

Effective Use of Land

- 6.16 Paragraph 119 promotes the effective use of land and encourages the use of previously developed or brownfield land, as much as possible.
- 6.17 In this regard, substantial weight is given to the value of using suitable brownfield land for development and the development of underutilised buildings, at paragraph 120. In order to support this, paragraph 122 requires policies and decisions to reflect changes in demand, which is to be informed by regular land allocation reviews.

Design

- 6.18 Paragraph 126 emphasises the importance of good quality design in making better places for people, stating that it is a key part of sustainable development and indivisible from good planning.
- 6.19 Paragraph 130 sets out several considerations to incorporate in developments, including the functioning of a site and surrounding area, visual appeal, sympathetic to local character and history, sense of place, inclusive and accessible place, and mixed developments (where appropriate). Paragraph 130 emphasises that developments should create “*attractive, welcoming and distinctive places to live, work and visit.*”

LOCAL PLANNING POLICY

- 6.20 The Cherwell Development Plan comprises the Cherwell Local Plan 2011-2031 Part 1 (2015) and the Saved Policies from the Cherwell Local Plan (1996). These documents are supported by a series of Supplementary Planning Documents (SPDs).
- 6.21 This section does not re-state all policies and text but highlights the main policies of relevance.

Site Allocations / Designations

- 6.22 The application site is an Existing Strategic Employment Site and does not have any further Policy designations.

Cherwell Local Plan 2011-2031 (Part 1) (2015)

- 6.23 The Adopted Cherwell Local Plan 2011-2031 (Part 1) is the strategic development plan for the Borough. It includes planning policies and land use allocations to which regard must be given in the determination of all planning applications. Underpinning the Local Plan is a vision and spatial strategy for how the Council manages the growth of the District. Within the identified vision for the District the council will focus the *“bulk of the proposed growth in and around Bicester and Banbury”*.
- 6.24 The Local Plan has three central themes;
- Theme One: Policies for Developing a Sustainable Local Economy;
 - Theme Two: Policies for Building Sustainable Communities; and
 - Theme Three: Policies for Ensuring Sustainable Development.

Sustainability

- 6.25 Regarding the presumption in favour of sustainable development, Policy PSD1 identifies the Council’s proactive approach to considering development proposals. The policy states *“planning applications that accord with the policies in this local plan (or other part of the statutory Development Plan) will be approved without delay unless material considerations indicate otherwise.”* The Council recognises the need for positive growth to make *“economic, environmental and social progress”* and Cherwell will seek to focus development in sustainable locations, encouraging the efficient and effective use of land in order to achieve this.

Employment

- 6.26 The Local Plan recognises at paragraph B.6 that Banbury has a strong manufacturing base which the plan seeks to strengthen, supporting investment for new technology innovations. Indeed, 41% of employment across the borough is located in Banbury, as per paragraph B.13. As such, the starting point for employment development is on existing employment sites.
- 6.27 Policy SLE 1 ‘Employment Development’ requires existing employment sites to be retained for employment purposes. Employment development should be focused on existing operational or vacant employment sites in Banbury, including their intensification, which will be permitted subject to other policies within the Plan and other material considerations. In particular, Policy SLE 1 emphasises that employment proposals in Banbury will be supported if they make *“efficient use of existing and underused sites and premises increasing the intensity of use on sites,”* amongst other criteria.

Retail

- 6.28 The Council seek to direct retail and other ‘main town centre uses’ towards existing town centres in accordance with Policy SLE 2 ‘Securing Dynamic Town Centres’. Banbury town centre is identified as a town centre within the Local Plan where retail uses should be directed to. The policy states that the Council will apply the sequential test as set out in the NPPF, so that proposals for ‘main town centre uses’ not proposed within the identified town centres, are first located on the edge of centre locations. In the instance that suitable sites are not available in edge of centre locations, out of centre locations can be considered. The relatively small amount of floorspace associated with the proposal means that an impact assessment is not required.

Transport

- 6.29 The Council will encourage proposals that seek to improve walking and cycling as connections to employment areas. As such, policy SLE 4 ‘*Improved Transport Connections*’ encourages development “*to make the fullest possible use of public transport, walking and cycling.*”

Environmental

- 6.30 Policy ESD 1 sets out the measures to mitigate the impact of development within the District on climate change. This includes delivering development that seeks to reduce the need to travel and which encourages sustainable travel options; and incorporating suitable adaptation measures within development to ensure it is more resilient to climate change impacts.
- 6.31 In accordance with Policy ESD 3, all new non-residential development should meet at least BREEAM ‘Very Good’. The policy also states that proposals should “*reflect high quality design and high environmental standards*”.
- 6.32 The Council encourages development to be located in areas at lower risk of flooding in accordance with Policy ESD 6. The Council will require a site specific flood risk assessment to accompany development proposals of 1 hectare or more located within flood zone 1.
- 6.33 Policy ESD 7 requires all new development to use sustainable drainage systems to prevent surface water run-off from increasing flood risk. All proposals should identify an agreement on the long-term management and maintenance of the SUDS.
- 6.34 The Council requires that water quality should be maintained and enhanced by avoiding adverse impacts of development on the water environment in accordance with Policy ESD 8.
- 6.35 The Council will ensure that the protection and enhancement of biodiversity and the natural environment is achieved in accordance with Policy ESD 10. The policy encourages the protection of trees and seeks to increase in the number of trees, habitat and species surveys and associated reports should also be prepared to accompany planning applications which may affect a sites habitat or species.
- 6.36 To support this, the Council will seek opportunities to secure the enhancement of the character and appearance of the landscape within Policy ESD 13 which requires the “*restoration, management or enhancement of existing landscapes, features or habitats and where appropriate the creation of new ones, including the planting of woodlands, trees and hedgerows.*”
- 6.37 Development should seek to retain woodlands, trees and hedges and will be expected to respect and enhance local landscape character.

Design

- 6.38 The Council will encourage proposals to protect and enhance the character of the District to ensure that Cherwell is “*an attractive place to live and work*”. Policy ESD 15 seeks to achieve successful design and

states that new development will be expected to “*complement and enhance the character of its context through sensitive siting, layout and high-quality design.*”

Cherwell Local Plan (1996) Saved Policies

- 6.39 Saved policies of the Adopted Cherwell Local Plan 1996 remain part of the statutory Development Plan to which regard must be given in the determination of planning applications. The saved policies are those that were originally saved on the 27th September 2007 and which have not been replaced by policies within the Adopted Cherwell Local Plan 2011-2031 (Part 1).

Design and Construction

- 6.40 The Council emphasises the importance of new development being sensitive to the particular site and general character of its surroundings. Policy C28 ‘Layout, Design and External Appearance of New Development’ requires new development to be sympathetic to the character of the urban or rural context of that development, ensuring that the standards of layout, design and external appearance are complied with.

Environmental

- 6.41 Policy ENV12 states that development on land which is known to be contaminated will only be permitted if:
- i) “*Adequate measures can be taken to remove any threat of contamination to future occupiers of the site;*
 - ii) *The development is not likely to result in contamination of surface or underground water resources; and*
 - iii) *The proposed use does not conflict with the other policies in the plan.*”

OTHER GUIDANCE

Adopted Banbury Vision and Masterplan Supplementary Planning Document (2016)

- 6.42 The Councils masterplan sets out an economic vision for Banbury and an improvement in economic activity is key to the long-term sustainable development of Banbury. The masterplan highlights that economic growth will be targeted through “*maintaining a strong manufacturing sector*” and that the delivery of economic growth will mainly be accommodated through the improvement and renewal of existing employment areas.
- 6.43 Overall the masterplan seeks to establish a strong economy and create a high-quality environment and distinctive places to work, whilst improving accessibility.

Connecting Oxfordshire: Local Transport Plan (2015-2031)

- 6.44 This document sets out Oxfordshire County Council’s transport vision for the County and details how it will be delivered. The Connecting Oxfordshire: Local Transport Plan forms a key part of the strategic policy framework to support Oxfordshire’s economic development. The document sets out the following overarching transport goals.
- “*To support jobs and housing growth and economic vitality;*

- *To reduce transport emissions and meet our obligations to government;*
- *To protect, and where possible enhance Oxfordshire’s environment and improve quality of life; and*
- *To improve public health, air quality, safety and individual wellbeing.”*

6.45 The Local Transport Plan identifies a strategy focussed on delivering infrastructure improvements and promoting sustainable travel.

Transport for New Developments: Transport Assessments and Travel Plans (2014)

6.46 This document sets out the requirements of Transport Assessments and Travel Plans associated with new developments throughout Oxfordshire.

Cherwell Parking Standards

6.47 Cherwell District Council does not have adopted car parking standards as part of the Local Plan. Instead, the Council relies on standards which were included in the Non-Statutory Cherwell Local Plan 2011. Whilst this document was never formally adopted it was, until recently used for development control purposes. This has now stopped and as such there are no formal standards to consider.

Developer Contributions Supplementary Planning Document (2018)

6.48 Cherwell District adopted the Developer Contributions Supplementary Planning Document (SPD) in February 2018. The document sets out Cherwell’s approach to seeking section 106 planning obligations in the absence of a Community Infrastructure Levy (CIL) Charging Schedule within the District. The Council does have a draft Charging Schedule from 2016 but no further work has been undertaken in relation to the CIL Charging Schedule since then and therefore CIL is still not adopted.

7 Acceptability in Land Use

- 7.1 The remaining sections of this report assess the acceptability of the proposed development in planning terms, having regard to the relevant planning policy framework set out in Section 6. This section provides an assessment of the principle of the development as a whole, and then seeks to address the policies for the specific uses proposed.

PRINCIPLE OF DEVELOPMENT

- 7.2 The businesses operating from the JDE site have undergone a rationalisation of operating systems and manufacturing requirements over the last 7 years. As such, and as identified earlier in Section 3 of this statement, several applications have come forward over the last few years to release and improve under-utilised parts of the site.
- 7.3 Most recently JDE has recognised that with the rationalisation of the company’s operational requirements the existing car park to the southwest of the main JDE site has become underutilised and is regularly seen operating at under half its capacity, and at approximately 60% capacity during peak times. As such, it is the intention that this site be brought forward for more appropriate employment use given the site’s employment allocation and thus the rationale to separate the car park into two sites (Site 3 and Site 4) for redevelopment.
- 7.4 In order to facilitate this, a new 215 space surface level replacement car park is proposed on the main JDE site following the demolition of an existing, vacant office building. This proposal is submitted to Cherwell District Council separately and is also under consideration with officers (Site 2). The resultant level of car parking across the JDE site is more aligned with the amount that JDE now requires, such that the existing employee car park is surplus to requirements and can be brought forward for redevelopment. The existing car park is to be developed under two separate applications. The first is the subject of this planning application for the provision a drive thru café (Site 3) and the second for the provision of an electrical van charging / storage area (Site 4) which has been submitted concurrently to this application.
- 7.5 In light of the above and by way of the principle of development, the proposals therefore represent the redevelopment of part of a major brownfield site in a sustainable, accessible and long-established employment location. It would re-use previously developed land more efficiently and contribute to the economic growth of the borough, in accordance with core policies of the NPPF and Policy SLE 1 of the Cherwell Local Plan.
- 7.6 The proposal is also fully supported at the national and local level, with the NPPF and Cherwell Local Plan promoting investment to ensure a strong, responsive and competitive economy, and seeking to meet the development needs of businesses to support growth, innovation and improved productivity.
- 7.7 In addition to the above, there are dedicated policies at both the national and local level which address specific land uses and direct certain developments to particular areas. As such the drive-thru, will be discussed in the following sub section.

Drive Thru (USE CLASS E)

- 7.8 The proposed Drive-Thru (Use Class E) and Policy SLE 2 of the Local Plan is the starting point for considering retail proposals and seeks to direct such uses to the town centres of Banbury, Bicester and Kidlington, in accordance with the NPPF’s ‘Town Centre First’ approach. However, the NPPG recognises that it may not be possible to accommodate all forecast needs in a town centre and that there may be physical or other constraints which make it inappropriate to do so.
- 7.9 In accordance with the NPPG, however, Policy SLE 2 of the Local Plan does allow for new retail development outside of Town Centres and other identified/allocated sites, but that these proposals will be assessed in accordance with the sequential and impact tests, as defined in the NPPF.
- 7.10 The site is located in an out of centre location, 1 mile north of Banbury Town Centre. As such, the sequential test must be satisfied to support retail provision in this location. In terms of impact, Policy SLE 2 of the Local Plan requires that retail proposals over 2,000sqm in Banbury will require a Retail Impact Assessment. The proposed drive thru unit extends to 204m² and therefore falls below the requirements for an impact assessment.
- 7.11 In light of the above, a light touch sequential assessment has been undertaken and the results are included in Section 8 of this Statement.

SUMMARY

- 7.12 It has been identified earlier in this section that the application site represents part of an underutilised, allocated employment site and the opportunity exists to bring the site forward for more meaningful employment-led use.
- 7.13 Overall, the proposal represents the redevelopment of part of a vacant brownfield site in a sustainable, accessible and established location. Subject to the sequential assessment in the following section for the proposed drive thru, the proposal is wholly in accordance with local and national planning policy.
- 7.14 The proposed drive thru will support economic growth of the borough and is supported at the national level and local level, promoting investment to ensure a strong, responsive and competitive economy, and seeking to meet the development needs of businesses to support growth, innovation and improved productivity.

8 Retail Sequential Assessment

INTRODUCTION

- 1.1 The proposal is for the redevelopment of part of the former JDE car park for the provision of a drive thru café (Use Class E). This Retail Sequential Assessment demonstrates that the proposed Starbucks Drive Thru would result in a different offer to that of a café situated within a town centre. Through undertaking a light touch Sequential Assessment, which identifies a series of alternative sites and considers their suitability for accommodating the proposed development, this assessment considers is able to conclude whether there are suitable and sequentially preferable alternatives for the proposed Drive Thru.
- 1.2 The requirement to undertake this assessment is set out in paragraph 87 of the National Planning Policy Framework and Policy SLE 2 of the Local Development Plan. This section starts by setting out this relevant policy, followed by the case law which has formed the basis of this Sequential Assessment and site identification process.
- 1.3 The NPPG states that the:
- 1.4 *“...sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of centre locations (with preference for accessible sites which are well connected to the town centre). It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking”* (Reference ID: 2b-009-20190722).
- 1.5 The NPPG recognises that it may not be possible to accommodate all forecasted needs in a Town Centre, and there may be physical or other constraints which make it inappropriate to do so. The NPPG advises that in those circumstances, planning authorities should plan positively to identify the most appropriate alternative strategy for meeting the need for these main Town Centre uses, having regard to the sequential and impact tests. This policy direction is designed to ensure that any proposed main Town Centre uses, which are not in an existing Town Centre, are in the best locations to support the vitality and vibrancy of Town Centres, and that no likely significant adverse impacts on existing town centres arise, as set out in Paragraph 85 of the NPPF.
- 1.6 In this regard, the Town Centre use which comprises part of the proposed development at Ruscote Avenue, is the Drive Thru unit (Use Class E).
- 1.7 Paragraph 011 of the NPPG on ‘*How should the sequential test should be used in decision-making*’ (Reference ID: 2b-011-20190722) states that the application of the sequential test *“will need to be proportionate and appropriate for the given proposal”*.
- 1.8 The sequential site assessment has been undertaken in the context of the Tesco Store Limited v Dundee City Council Supreme Court Judgement (21 March 2012) and the appeal decision for Land at Vulcan Road, Sheffield (Appeal Ref: APP/J4423/A/13/2189893) dated 3 July 2013. The Dundee Judgment provides advice on the issue of flexibility, stating that the key consideration is whether *“an alternative site is suitable for the*

proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site” (Para. 29).

- 1.9 This approach is applied by the Inspector in the successful appeal by Next at Vulcan Road in Sheffield (Appeal reference: APP/J4423/A/13/2189893). In considering the issue of suitability, the Planning Inspector had regard to the ruling of the Supreme Court and reinforced this approach. In consideration of the Next’s business model, the Inspector rejected a redevelopment option at Moorfoot as this would require a broader range of goods and a larger store and stated that *“to insist on Next operating from the Moorfoot site would be to push it towards what it clearly sees as an inappropriate business decision”* (paragraph 39). The Inspector went on to conclude that:

“it is my view that the extent to which Next would have to compromise its business model to operate a H&G (Home and Gardens) store from Moorfoot would be both excessive and unreasonable” (Paragraph 53).

- 1.10 In considering a site’s availability, the Inspector highlighted that the question needs to be asked whether the site is available now or is likely to become available for development *“within a reasonable period of time, determined on the merits of the particular case and having regard, amongst other matters, to the urgency of the Site Criteria/Area of Search”*. In this instance, a reasonable period of time was considered as 12 months by the Planning Inspector. In this case, the Inspector afforded significant weight to the business case progressed by Next and their desire for a new store in the immediate term.

- 1.11 However, both cases also need to be considered within the context of the more recent High Court Judgement issued in 2016; Aldergate Properties Ltd. Vs Mansfield District Council (Case No. CO/6256/2015). This Judgement quashed a planning permission for a 1,925sqm food store at Sherwood Oaks Business Park, on the wrongful exclusion of potential Town Centre sites in the sequential test, based on the catchment area of the proposed store having been artificially amended so as to exclude its trading overlap with its existing and proposed stores and as such, its specific commercial requirements.

- 1.12 In this regard and providing some further clarification on the Tesco Store Limited v Dundee City Council Supreme Court Judgement, the Mansfield Judgement advises that:

- 1.13 *“In my judgement, “suitable” and “available” generally mean “suitable” and “available” for the broad type of development which is proposed in the application by approximate size, type, and range of goods. This incorporates the requirement for flexibility in [24] NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content. Nothing in Tesco v Dundee City Council, properly understood, holds that the application of the sequential test depends on the individual corporate personality of the applicant or intended operator”* (Paragraph 35).

- 1.14 In demonstrating this, paragraph 39 of the Judgement states:

- 1.15 “[...] on the proper interpretation of NPPF [24], the identity of the applicant or proposed occupier is generally irrelevant. Even if the applicant had been Aldi, or if the application had been for a store to be occupied by Aldi, with an occupancy condition envisaged from the outset, the town centre would have been wrongly excluded from the search on the basis of Aldi’s particular corporate, commercial position or style” (Paragraph 39).
- 1.1 On this basis, the sequential test is carried out in accordance with the requirements for the Town Centre use, as opposed to a particular occupier. Finally, and whilst we appreciate that the Mansfield Judgement was decided in relation to the 2012 NPPF, paragraph 24 is almost directly comparable to paragraphs 87 and 88 of the 2021 NPPF.
- 1.2 It is also worth noting that there have been recent, successful applications within Cherwell such as the McDonalds drive thru (Ref: 17/00889/F), within the context set out above. It is also recognised that other drive thru facilities are situated in close proximity to the site, such as the Banbury Cross Retail Park, Banbury Gateway and at the roundabout on Ermont Way. In all cases additional floorspace was proposed at out of centre locations and sequential site assessments were completed and approved at officer level and committee.
- 1.3 The NPPG provides guidance on how the sequential test should be used in decision-taking (Reference ID: 2b-011-20190722). It is against these criteria that the parameters of the Sequential Test have been applied. Paragraph 011 of the sub section ‘Town Centres and Retail’ includes a checklist which states, inter alia:
- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre.
 - Is there scope for flexibility in the format and/or scale of the proposal?
 - If there are no suitable sequentially preferable locations, the sequential test is passed.
- 1.4 The specific operational requirements that will determine whether a site or premises is suitable or viable for the proposal in this case, are as follows:
- A unit which can accommodate some 200m² for a freestanding drive-thru café, including sufficient car park circulation space and drive-thru lane.
 - A site located in an area of significant road use. A typical Starbucks drive-thru requires 20,000 passing traffic movements per day for a roadside location and to also be located within close proximity to a number of existing businesses.
 - A site with direct access to dedicated car parking appropriate to a restaurant.
 - A site that has enough room for the safe manoeuvre of customer and delivery vehicles on site.

AREA OF SEARCH

- 1.5 The area of search for the proposed development has been informed by the Cherwell Local Plan 2011-2031 Part 1 (2015) and the Cherwell Local Plan (1996) Saved Policies. Within these documents, Banbury Town Centre is identified as being a centre where retail and other ‘Main Town Centre Uses’ should be directed towards.
- 1.6 Banbury Town Centre is the largest designated Town Centre within Cherwell District Council’s administrative area and is a sequentially preferential location for the proposed retail aspects of the development within Banbury. Banbury is a sub-regional shopping centre which is anchored by Castle Quay Shopping Centre.
- 1.7 The application site is located in an out of centre location, although in an area established for employment and retail uses on previously developed land. The location is sustainable with good transport links to the Town Centre.
- 1.8 Taking the above into consideration, the area of search is focused within the Town Centre boundary of Banbury as defined on the adopted Proposals Map, and those in edge of centre locations (300m from the Town Centre boundary) as agreed with Cherwell District Council.

FLEXIBILITY

- 1.9 The NPPG requires developers and operators to demonstrate flexibility in considering the suitability of more central sites to accommodate the proposal. The NPPG also sets out that proposals should consider whether there is scope for flexibility in the format/scale of the proposal. The NPPG is clear that:
 - 1.10 *“it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal”* (Paragraph 011, Reference ID: 2b-011-20190722).
 - 1.11 The guidance is consistent with the Secretary of State and the Planning Inspector decisions referenced earlier and contrasts strikingly with previous guidance contained in PPS4 Policy EC15.1 at (d) (iv) and 15.2 which contained an explicit requirement for disaggregation. There is no longer any requirement to disaggregate development.
 - 1.12 Regardless of the above, and to demonstrate flexibility, the drive thru is assessed for the purposes of this sequential assessment.
 - 1.13 Regard should be given to an appeal for a drive-thru restaurant at Treloggan Road, Lane, Newquay (APP/Q0830/A/051182303), where the Inspector stated:

“It is difficult to envisage how a developer could be flexible in respect of the format of a drive through restaurant. Unlike a conventional restaurant, which could easily be accommodated on any of the identified sites, a drive-through by definition requires vehicular access and circulation through or around the building.”

1.14 In considering the above, the associated requirements for the drive thru are as follows, for the purposes of this sequential assessment:

- **Drive-Thru** – The requirements for a drive-thru unit fundamentally differ to standard retail units in central locations. Rather than being a destination in their own right, the drive thru business model is based on passing trade and therefore requires good visibility and access to the highway network, as well as certain layout and circulation requirements for the unit in itself. In this instance, a unit area circa 200m² is required to facilitate the unit, the surrounding vehicular circulation and car parking, as well as a servicing area. In addition, good visibility is required, along an established road network for passing trade, within or adjacent to an existing retail and/or employment park.

In this instance the confirmed tenant is Starbucks which anticipates a majority trade draw for the drive-thru element (as opposed to the café element), whereby motorists will consume their purchase off-site, or within their vehicle whilst parked in the small number of bays provided. As such, the site and operational requirements are very much limited to locations where motor vehicle access is unrestricted. This makes many Town Centre locations unviable, which are generally extensively pedestrianised (as in the case of Banbury) or otherwise restrictive to vehicular access.

SUITABILITY AND AVAILABILITY

1.15 In setting the parameters for the sequential site assessment, key elements which JLL has considered to appraise the suitability of the potential sites include:

- An appropriate size of site for the type of development proposed;
- Physical and ownership considerations including ease of site assembly;
- Existing land use;
- Planning History;
- Allocation within the Development Plan;
- Operational requirements/constraints;
- Accessibility (foot/bus/cycle) including suitability of vehicular access; and
- Proximity to car parking.

1.16 In regard to assessing the availability of sites, JLL will consider whether sites are available now or are likely to become available within a reasonable period of time. Any existing legal or ownership issues which may affect the site will also impact upon the availability.

1.17 The development timetable for the proposal is to commence works mid-2022. The sequential site assessment has therefore assessed sites which would become available within the next 12 months, to allow time for the planning timetable, site preparation works and construction timetable.

1.18 Paragraph 013 of the NPPG states that the:

- 1.19 *“The sequential test supports the Government’s ‘town centre first’ policy. However as promoting new development on town centre locations can be more expensive and complicated than building elsewhere, local planning authorities need to be realistic and flexible in applying the test”* (Paragraph 013, Reference ID: 2b-013-20190722).
- 1.20 A consideration in assessing the viability of alternative sites is whether the site will soon be vacant and therefore available immediately on receipt of planning permission. In this case, the site already wholly owned by the Applicant. As such, the process for beginning the works is very straightforward, with no significant barriers to commencement.
- 1.21 In this context, development sites which have complicated ownership considerations, and which could only be brought forward in the longer term, have been rejected as part of the sequential site assessment, as they are not available within a reasonable period of time. This approach is consistent with the Secretary of State’s decision *Rushden vs East Northamptonshire Council* (Ref: APP/G2815/V/12/2190175) which concluded that in terms of availability “the NPPF simply asks whether town centre or edge of centre sites are ‘available’. It does not ask whether such sites are likely to become available during the remainder of the plan period or over a period of some years” (Para 8.55).

SEQUENTIAL SITES

- 1.22 In accordance with the NPPG and the adopted Local Plan, JLL had previously discussed the proposed development with officers at Cherwell District Council at the pre-application stage and the requirement for a sequential test was agreed.
- 1.23 JLL had undertaken a desk top survey to identify possible sites within Banbury Town Centre that could accommodate the proposed drive thru. The latest Experian Goad Town Centre Report for Banbury is based upon a 2020 survey and formed the starting point for the search for alternative sites.
- 1.24 In terms of edge of centre sites, an area 300m around the town centre boundary was plotted on a map and a desktop search was undertaken on CoStar to identify any potentially vacant units for assessment. There were no suitable units within a 300m boundary from the Town Centre that fell within the agreed threshold of around 200m² for the drive thru.
- 1.25 For the avoidance of doubt, an initial filter resulted in 44 potential sites within Banbury town centre. However, a majority of these were discounted as they fell outside the required size threshold. Therefore, and based on the unit area requirement, a total of five sites were assessed further.

Location	Site
Town Centre	11 Horse Fair Road 4 High Street 9 High Street 24-26 Bridge Street 28A Castle Quay (Castle Quay Shopping Centre)

ASSESSMENT

1.26 In assessing the five vacant sites in terms of flexibility and suitability, all sites failed in meeting the requirements of the drive thru as vehicular circulation or parking could not be provided at any site given the Town Centre location and could not meet the drive thru business model. Therefore, all five sites were considered unsuitable, however, further justification is detailed below in the assessment of each of the five sites.

11 Horse Fair Road

1.27 11 Horse Fair Road is located within Banbury’s Town Centre and is a Grade II Listed Building within the Banbury Conservation Area. The site is a former church and has previously been used as a Sui Generis night club. The building is of stone construction and is set back off the highway, with a courtyard and a pedestrian access to the front. The site backs on to a public car park at the rear and has a further pedestrian access at the rear. There are two car parking spaces associated with the property.

1.28 A desk top study identified that planning permission and listed building consent were approved for the “change of use from Sui Generis (Nightclub) to D1 non-residential institution (Nursery)” in October 2015 (Ref: 15/0098/F). A number of subsequent discharge of conditions applications were also approved to enable the occupation of the nursery.

1.29 This planning permission has now been implemented as the building is currently operating as a Nursery and is therefore no longer vacant.

1.30 Furthermore, a review of the supporting plans, forms and statements for the 2015 application identified that the existing floor area of the building is in fact 490m² which is considerably more than double the amount of space required.

1.31 In light of the above, it is considered that the site is both **unsuitable** and **unavailable** for the proposed development.

4 High Street

1.32 This site comprises a ground floor retail unit within a Grade II Listed Building (Entry No: 1046936) located along Banbury High Street and lies within the Town Centre and designated Banbury Conservation Area. The

building is set within a row of five Grade II listed units of a similar style on the southern side of the High Street.

- 1.33 The property comprises a mixed-use building of masonry construction arranged over three floors, with retail on the ground floor and residential on the upper floors. The property provides a regular shaped ground floor retail premises within Use Class E, situated on the pedestrianised High Street. There is a self-contained first and second floor which provides residential accommodation with a separate access from Pepper Alley.
- 1.34 There is no dedicated parking for the subject property and no allocated servicing area or surrounding vehicular circulation, therefore, the site does not meet the requirements of the drive thru business model.
- 1.35 The marketing particulars for the unit indicate that the ground floor retail unit has an area of 131m² which falls below the minimum unit area required, taking into account reasonable flexibility. Therefore, this is unable to accommodate the proposed floorspace required.
- 1.36 In light of the above, it is considered that the site is **unsuitable** for the proposed development.

9 High Street

- 1.37 9 High Street is located on the south side of Banbury High Street, centrally within the designated Town Centre. The site covers approximately 260m² and comprises largely the footprint of the building with a small courtyard area to the rear of approximately 100m². The site lies within the designated Banbury Conservation Area but the building itself is unlisted. The adjoining unit to the south-west of 9 High Street is Grade II listed ('Edinburgh Woollen Mill').
- 1.38 The property was last occupied by Millets but is currently vacant and the ground floor shop unit is currently being marketed for a retail use. The ground floor retail unit is open plan with storage to the rear and basement. The property has a fully glazed shop frontage with retail signage.
- 1.39 An application was approved on the 18th August 2019 for the "Change of use of part of first floor level from shop/retail unit (Class A1) to a single residential flat (Use Class C3) and associated works including insertion of rear access door and reinstatement of internal staircase" (Ref: 19/00810/F) and a certificate of lawfulness to certify the change of use of the residual first floor and second floor was approved on the 20th August 2019 (Ref: 19/00811/CLIP). This has resulted in a loss of retail floorspace.
- 1.40 Marketing particulars for the property indicates that the ground floor retail area only comprises 121m² and therefore the property would be too small to accommodate the proposed unit having demonstrated reasonable flexibility.
- 1.41 Furthermore, surrounding vehicular circulation and car parking is not available at this site and could therefore not accommodate the proposed drive thru unit.
- 1.42 In light of the above, it is considered that the site is **unsuitable** for the proposed development.

24-26 Bridge Street

- 1.43 The property comprises a part two, part three storey terraced building located in the centre of Banbury's Town Centre and is a Grade II Listed Georgian building of traditional masonry construction. The building has a white painted brick and stucco frontage, a central entrance and three window range fenestrations. It is located partly within the Banbury Conservation Area and sits directly opposite the main entrance to the Castle Quays Shopping Cen
- 1.44 The property does not have a traditional shop frontage, with no large shopfront windows and instead has small traditional sash windows. The Historic England Listing 1369527 specifically identifies the features that contribute to the listing status as being the brick with stucco front, central panelled door and iconic fluted columns to the doorcase and sash windows. As these features are identified within the Historic England Listing, it would be difficult to alter these features such that the unit could have an open active frontage.
- 1.45 The property housed a former a KFC restaurant and therefore the existing lawful use is Use Class E. The vacant restaurant comprises a recently refurbished ground floor restaurant area, with first floor kitchen and ancillary areas. The ground floor area measures 272.94m² and the total property measures 403.28m². The property is being marketed as a whole and as such, is more than double the space required. Whilst the ground floor alone is suitable floor area, the lack of surrounding vehicular circulation and car parking means that the site is unsuitable to accommodate a drive thru unit.
- 1.46 In light of the above, the site is **unsuitable** for the proposed development.

28A Castle Quay (Castle Quay Shopping Centre)

- 1.47 Unit 28A is a retail unit located within Castle Quay Shopping Centre within Banbury Town Centre. The shopping centre is Grade II listed and is located within the Banbury Conservation Area. As previously stated, Castle Quay Shopping Centre is Banbury's primary retail destination offering over 80 retail units and restaurants. Unit 28A is located at a main entrance to the shopping centre and has a further frontage onto Market Square. The unit was formerly occupied by Druckers Vienna Patisserie which falls within Use Class E.
- 1.48 The floorspace of 345m² as indicated through Costar highlights that the unit is too large for the proposed development, whilst demonstrating reasonable flexibility.
- 1.49 Furthermore, given the site is located within an existing shopping centre, the required surrounding vehicular circulation and car parking cannot be provided and therefore the site is unsuitable to accommodate a drive thru unit.
- 1.50 Based on the above, as the unit is not being actively marketed and it being larger than that required, the unit is **unsuitable** for the proposed development.

SUMMARY AND CONCLUSIONS

- 1.51 In accordance with paragraph 87 of the National Planning Policy Framework and Policy SLE 2 of the Local Plan, a Sequential Site Assessment has been completed for the proposed drive-thru unit.
- 1.52 The Sequential Site Assessment has demonstrated that none of the five sites/locations are suitable for the proposed Drive Thru unit.
- 1.53 The Sequential Site Assessment has been completed in the context of the Supreme Court decision of Tesco Store Limited v Dundee City Council Supreme Court Judgement (21 March 2012), the appeal decision for Land at Vulcan Road, Sheffield (Appeal Ref: APP/J4423/A/13/2189893) dated 3 July 2013, and the more recent High Court Judgement of Aldergate Properties Vs Mansfield District Council (Case No. CO/6256/2015).

9 Other Considerations

- 9.1 Having considered the land use in the previous section of this Statement, this section comprises a summary of the findings in respect of the other main considerations, all of which have been addressed in the specialist reports that accompany the application.

DESIGN

- 9.2 A full description of the proposed development is included in Section 5 of this statement and the accompanying Design and Access Statement prepared by Darlings Associates assess the design of the proposed development in greater detail. This section, therefore, provides a broad overview of the design in the context of relevant planning policy.
- 9.3 Policy ESD 15 of the Local Plan requires high quality design which has been informed by the surrounding area and which complements and enhances the surrounding character. In this regard, it is of relevance that the site is located in an existing employment area, with commercial character to the North, East and West. It is also of relevance that the south of the site is bounded by residential and the design and layout of the proposed development has been formulated with this in mind.
- 9.4 The drive thru unit has been designed in a pavilion style, with low angled roofs, exposed rafters, metal cladding and areas of curtain wall glazing, typical of a Starbucks drive thru café design. The proposal is modern in design and is not considered to impact upon the surrounding character of the area given the commercial nature of the existing premises.
- 9.5 Overall, the proposed development represents an appropriate and efficient development, which responds well to the surrounding character and sensitive receptors to the south, in accordance with National and Local Planning Policy.

AMENITY AND ENVIRONMENTAL

- 9.6 Planning policy at all levels requires new development to avoid having a detrimental impact on local amenity and the environment. This sub-section demonstrates that both the amenity for the surrounding area and the surrounding environment will not be harmed, having regard to the land uses proposed and those that surround the application site, in terms of noise, air quality, trees, landscaping and ecology.

Noise

- 9.7 In light of the proposed uses on site and the adjacent residential receptors to the south, Vanguardia has prepared a Noise Impact Assessment to accompany the submission. A baseline noise survey was undertaken in the first instance, in order to characterise the existing noise environment which confirms daytime noise dominated by road traffic and night-time noise from the existing commercial premises.
- 9.8 In terms of the proposed development, the Noise Assessment identifies several characteristics/sources which have the potential to cause noise effects, including the construction (albeit temporary), changes in

road traffic, operational activities on site and mechanical services plant. As such, these elements have been assessed in more detail, using robust assumptions where required to consider a worst-case scenario.

- 9.9 In terms of construction, the noise levels at the receptors are not predicted to exceed the SOAEL threshold and therefore no significant adverse effects are expected. Notwithstanding this assessment, Vanguardia propose using best practicable means to mitigate and minimise construction noise, in accordance with guidance in BS 5228.
- 9.10 In relation to road traffic noise, the proposed development is anticipated to lead to a net reduction in traffic on the wider road network and therefore the development will generate a net benefit in terms of development trips and therefore any resulting change in road traffic noise would be a net decrease to the current situation.
- 9.11 The final assessment is anticipated operational noise, sound from vehicles using the drive-thru has been considered. The assessment has shown that the predicted rating level is below the background sound level at all receptors. Consequently, this would equate to a low impact and no adverse effects are anticipated at any of the receptors considered.
- 9.12 In light of the above, the acoustic assessment concludes that the proposed development complies with all relevant national and local planning requirements.

Air Quality

- 9.13 Vanguardia has undertaken an Air Quality Assessment in support of the proposed development. This assessment confirms that whilst the site is not located within an Air Quality Management Area, two are located near to the main road access routes to the site. The assessment has been progressed with reference to European and National legislation as well as National and Local Planning Policies and assess both the construction and operational phases of the proposed development.
- 9.14 In terms of construction, the assessment identifies that the development is considered ‘Medium’ risk for dust soiling and ‘Low’ risk for human health, due to the proximity of residential receptors. However, suitable mitigation measures in relation to earthworks and construction management are set out in the report to manage and reduce this impact, such that the overall impact would be temporary and negligible for the local area.
- 9.15 In terms of operational impact, this largely related to the vehicular trip generation and a comparison of the existing and proposed land uses has been provided by the highways consultant and indicates a net reduction in daily vehicle numbers. The assessment concluded that the proposed development is not considered to be of an order that would adversely impact air quality concentrations.

Arboricultural Implications and Landscaping

- 9.16 A detailed landscaping scheme has been prepared by Barry Chin Associates and is submitted alongside this application. In addition, an Arboricultural Impact Assessment has been prepared by BB Trees Ltd. which assesses the existing trees on site and the implications of the proposed development and associated landscaping scheme.

- 9.17 In terms of the existing situation, the pre-development tree survey identified 7 arboricultural features within the application site (excluding those around the highway and footpath verges which were surveyed as groups). Of the individual trees within the site, three were assessed as the highest Category A value, one as Category B value and three as Category C value. The third party owned groups, growing beyond the perimeter fence, were both assessed as Category C in respect of their cumulative value. All of the frontage highway trees were classified as Category A.
- 9.18 To implement the scheme, it is not necessary to remove any trees within the application area. In addition, the surrounding offsite trees have been carefully considered and will not suffer any appreciable negative impact as a result of the proposal. Two retained London plane trees will require crown lifting. This would have been the case if the extant adjacent section of car parking was still in use, and the pruning will not be detrimental to the trees and may be undertaken in accordance with best practice.
- 9.19 The arboricultural impact assessment also proposes tree protection measures for during the construction phase, to ensure that the remaining trees will not sustain damage as a result of the development.

Ecology

- 9.20 An Ecological Assessment was initially undertaken by RPS Planning and Development in 2019, in support of the proposed development. The Assessment included a desk-based study to identify any notable species records within the last ten years, as well as a review of existing sites of nature conservation interest. Following this, a Phase 1 Habitat Survey including an ecological scoping survey and bat roost assessment was undertaken. Lastly, a specific reptile survey was also completed.
- 9.21 Due a reduction in size of the application site and the length of time elapsed since the original surveys, an additional walkover of the site was undertaken in August 2021 to identify any changes to the ecological features previously identified within the site and in areas that could be affected by the proposals.
- 9.22 The results identified that there was one statutory designated site within 2km of the site, although this was designated for geological value and not nature conservation value. Furthermore, there are no non-statutory sites within 2km of the site.
- 9.23 In terms of species, the initial assessment identified the possibility for reptiles, Great Crested Newts (GCN), breeding / nesting birds, bats and badgers. Of these species evidence was found of a grass snake and a single GCN. The revised Site 3 boundary no longer includes the stream or surrounding amenity grassland; the site itself is dominated by a large area of hardstanding and isolated patches of amenity grassland which were unsuitable terrestrial habitat for GCN, and therefore it is considered highly unlikely that GCN would be using any areas of this site. species.
- 9.24 In light of these occurrences, however, mitigation and enhancement measures are recommended within the Ecological Assessment and are to be included within the proposed development. With regard to enhancement measures, a landscaping proposal has been designed to achieve biodiversity enhancements to increase the ecological value of the site.

- 9.25 In light of the above, it is concluded that the proposed development fully accords with Policies ESD 10 and ESD 13 of the Cherwell Local Plan.

TRANSPORT AND ACCESSIBILITY

- 9.26 Planning policy supports development that encourages credible travel choices by sustainable modes and developments where the impact is not considered to be severe (Policy SLE 4, Local Plan). The accessibility of the application site, parking and access matters, and the impact of the proposed development are discussed in greater detail in the Transport Statement (TS) submitted with this application and prepared by David Tucker Associates.
- 9.27 This subsection sets out how the application proposals accord with relevant transport policy and the impact of the proposed development on the existing transport networks.
- 9.28 With regard to the existing site, the TS confirms that it is well connected in terms of accessibility with reference to pedestrian and cycle connectivity, as well as identifying the opportunities for travel by public transport.
- 9.29 In terms of the proposed development, vehicle access to the site will be taken from the existing access point off Ruscote Avenue, which takes the form of a right hand turn lane travelling east-bound and direct access west-bound. The existing access road has an approximate width of 9m and there is a shared footway/cycleway running along its eastern and western side connecting into the site. In terms of car parking, 29 car parking spaces are to be provided (27 standard and 2 disabled spaces). A small area of cycle parking is also to be provided to accommodate 10 bicycles.
- 9.30 With the above in mind, the Transport Statement provides an assessment on potential traffic generation and impact associated with the proposed development. David Tucker Associates has taken a robust approach, by including the proposed Site 2 surface car park on the JDE main site within the Site 3 assessment. In terms of impact, the traffic generation has been based on the drive thru category which indicated that a significant proportion of trips will be pass by trips and for robustness it is assumed that 5% are new to the wider network. Using TRICS data, the previous and proposed traffic generation has been extracted and the Statement demonstrates that the development proposals would result in a reduction in traffic, when compared to the extant wider use of the site (in combination with Site 2). Even when not allowing for the discounts due to the loss of the office building at Site 2, the level of traffic generated by the development scheme would not be material at between 38 and 41 two-way vehicle trips at peak times. Consequently, the impact of the scheme in terms of the operation of the local highway network would not be significant.
- 9.31 At the request of Cherwell Council, a parking audit is provided within the TS to account for loss of the existing JDE car park. This audit confirms that there is currently a substantial overprovision of parking for JDE and that the existing car parks often operate under capacity. Travel surveys were undertaken with JDE staff which identified demands for 301 spaces across the JDE premises. As a result of the Site 2, Site 3 and Site 4 proposals, the overall parking provision for JDE would be 346, which demonstrates that sufficient parking will remain for JDE.

- 9.32 The Transport Statement concludes that the proposed development would have no materially adverse impact on the safety or operation of the surrounding road network and that there are no reasons to refuse planning permission on highways grounds.

10 Conclusion

- 10.1 This Planning Statement has been prepared by JLL on behalf of Paloma Capital to accompany a full planning application for the redevelopment of part of the existing JDE employee car park located off Ruscott Avenue, Banbury. The car park is regularly seen operating far below capacity and the decision has therefore been taken to provide some replacement car parking on the main JDE site to the north (Site 2), which in turn releases the existing car park for more meaningful development. The existing car park has been separated into two sites (Site 3 and Site 4) where two applications have been submitted concurrently for the redevelopment of the car park. This application forms the redevelopment of Site 3 for a Starbucks Drive Thru.
- 10.2 As a result, and in terms of land use, the proposed development seeks to promote employment within Use The proposed development will therefore strengthen the economic base of the Borough, bringing an employment focus and more jobs to this underutilised, allocated employment site.
- 10.3 A light touch Retail Sequential Assessment has been undertaken for the proposed drive-thru which confirms that there are no suitable and available alternative sites within Banbury town centre or the edge of centre. As such, the proposed development is fully in accordance with Local and National Planning Policy in terms of land use and directly aligns with Policy SLE 1 of the Local Plan by intensifying an underutilised existing employment site.
- 10.4 In terms of design, the architects have worked hard to create a development which responds to the local area. This approach has responded directly to feedback from Cherwell District Council through the pre-application process and creates an appropriate development, whilst respecting the more sensitive residential receptors to the south.
- 10.5 A suite of supporting documentation has been included with this submission which assess the proposed development. These are discussed in detail in Section 9 of this report. In summary, consideration is given to the environmental and amenity impacts of the proposed development, with the reports concluding that the proposals will not have an unacceptable impact in terms of noise, air quality or biodiversity.
- 10.6 Overall, Paloma Capital is committed to delivering a high-quality development which improves its relationship with the surrounding area in terms of land use, design and environment. The proposed development represents the re-use of part of an underutilised, allocated employment site in a sustainable, accessible and established location. The proposals are supported at the national level and local level, promoting investment to ensure a strong, responsive and competitive economy, and seeking to meet the development needs of businesses to support growth, innovation and improved productivity.

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