

Case Officer: Shona King

Recommendation: Approve

Applicant: Paloma I (Industrial I) Unit Trust

Proposal: Re-development of part of existing car park to provide a drive-thru cafe; together with associated car parking, servicing and access; landscaping and all associated works

Expiry Date: 8 July 2022

Extension of Time: 8 July 2022

1. APPLICATION SITE AND LOCALITY

1.1. The site is an existing car park with associated amenity space, which currently serves the Jacobs Douwe Egberts site. The site currently an 'overflow' car park to the factory. The site is bounded by Ruscote Avenue to the north, existing factory buildings to the east, a cemetery to the south and residential properties to the west. Access to the site is taken from a single access point onto Ruscote Avenue.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

2.1. Planning permission is sought for the redevelopment of part of an existing 'overflow' car park with the erection of a single storey drive-thru café. Access to the drive thru would be via the existing access into the site.

2.2. The description of development included the words "within Use Class E" after the words "drive-thru café", but such a use is a sui generis use because by its very nature the business encourages people to order food from their cars and eat it in their car or away from the premises; the wording of E(b) is subtly different from the previous Class A1 in that it refers specifically to "where consumption of that food and drink is mostly undertaken on the premises", which by definition would seem not to be the case with a drive thru.

3. RELEVANT PLANNING HISTORY

3.1. The site as a whole has a long and complex planning history however, the following planning history is considered directly relevant to the current proposal:

21/04144/F - Demolition of existing office block and erection of surface level car park providing 215 replacement car parking spaces, including landscaping and other associated works; new main entrance and reception of the Computer Suite, with external re-cladding - Approved

4. PRE-APPLICATION DISCUSSIONS

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

<u>Application Ref.</u>	<u>Proposal</u>
20/03544/PREAPP	The provision of an electrical van charging / storage area to support a B8 warehouse already based in Banbury and the provision of a Starbucks drive thru café (this element is

unchanged from the pre-application proposals in 2018).

- 4.2. The advice given on the drive thru element was that whilst the proposal would conflict with Local Plan Policy SLE2: Securing Dynamic Town Centre, it was recognised that the 'drive-thru' element would result in a different offer to that of a A3/A5 coffee shop situated within a town centre. In addition, it was recognised that other drive-thru facilities are situated in close proximity to the site. Advice was given that an application would need to be supported by an assessment of the proposal and the impact on town centre facilities, but a full sequential test was not considered a requirement.

5. RESPONSE TO PUBLICITY

- 5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **1 February 2022**, by advertisement in the local newspaper expiring **27 January 2022** and by letters sent to properties adjoining the application site that the Council has been able to identify from its records. The overall final date for comments was **29 June 2022**.

- 5.2. The comments raised by third parties are summarised as follows:

Banbury Active Travel Supporters group have commented raising the following issues:

- Increase in traffic in local area
- Will encourage the use of cars rather than promoting other sustainable means of transport
- Air quality some of the worst in the county – drive thru will exacerbate this further impacting on people's health.
- Goes against public health campaigns to improve diets and reduce obesity
- Welcomes developer encouraging sustainable forms of transport – improvements to the plan would allow safe use of cycling to access the site
- No cycle path or provision for cyclists on Ruscote Avenue. Segregated cycle/pedestrian path needs to be developed and the developer should facilitate this.
- Priority should be given to cyclists and pedestrians crossing the access road and other side streets with raised crossings
- Easily accessible and covered cycle parking required.

- 5.3. The comments received can be viewed in full on the Council's website, via the online Planning Register.

6. RESPONSE TO CONSULTATION

- 6.1. Below is a summary of the consultation responses received at the time of writing this report. Responses are available to view in full on the Council's website, via the online Planning Register.

PARISH/TOWN COUNCIL AND NEIGHBOURHOOD FORUMS

- 6.2. BANBURY TOWN COUNCIL: Banbury Town Council object to the proposal on the grounds that it would be contrary to the NPPF and Cherwell Local Plan policy to direct such uses to the town centre to protect its viability. Further out of town centre development in this area will diminish the attractiveness and viability of the town centre and would be contrary to Policy SLE 2 of the current Cherwell Local Plan. Furthermore, the Town Council is concerned that queuing from the proposal could extend onto Ruscote Avenue to the detriment of the safety and free-flow of traffic

OTHER CONSULTEES

- 6.3. OCC HIGHWAY AUTHORITY: Original comments - Objection for the following reasons:

- Application for the proposed development is reliant upon the success of a separate on-going application
- Trip generation for the proposed drive-thru has been derived from unrelated dataset from TRICS.
- Unacceptable service and delivery arrangements which arrangement may lead to arriving vehicles blocking ahead on flows on Ruscote Avenue.
- Outdated scenario used in junction capacity assessment

S106 agreement required to mitigate the impact of the development - £100,000 towards funding the installation of a segregated cycle path between the Longelandes Way roundabout, site entrance and the Lockheed roundabout

- 6.4. OCC HIGHWAY AUTHORITY: Revised comments - Objection as the Delivery and Service/ Refuse arrangement is not satisfactorily addressed

- 6.5. OCC HIGHWAY AUTHORITY: Final comments – No objection subject to conditions set out below. The changes with the amended layout (Drwg No: (03)-S3-S-002 Rev PL7 address the outstanding concern.

In addition, clarification has been received that OCC Highway Authority is no longer seeking the financial contribution for the cycle path improvement – email from OCC dated 22/06/2022.

- 6.6. OCC DRAINAGE (LLFA): Original comments - Objection for the following reasons:

- Discharge rate not to greenfield run off rate.
- Flood risk has not been investigated from all different sources and how it may affect the site.
- Permission required from third party land owner to have drainage pipes in their land.
- Provide approval to connect surface water to the existing watercourse.
- Maintenance schedule does not cover all proposed SuDS features and does not identify the party what will be conducting the maintenance.
- Impermeable area plan to be provided.
- Surface water exceedance plan to be provided.
- Provide ground investigation report.
- Provide storage volume for the 1:100 year event plus 40% CC on plan drawings.

- 6.7. OCC DRAINAGE (LLFA): Final comments - No objection subject to conditions set out below

- 6.8. ENVIRONMENTAL PROTECTION:

Noise: No comments subject to conditions set out below.

Contaminated Land: No comments subject to condition set out below.

Air Quality: Concern raised - Whilst the report indicates that there will be a net reduction in vehicle movements on the site it is not considered that the context of these movements have been taken into account. The current movements into the site would be for workers coming to the factory and switching their vehicles off, whilst users of the proposed drive through will often be sat in idling vehicles producing far more emissions than the workers coming to and from their jobs. A study by Coventry University in 2020 found that UK/EU standard limits were exceeded 61% of the time over a 2-week survey period (<https://www.coventry.ac.uk/news/2020/coventry-university-research-reveals-high-levels-of-air-pollution-which-could-harm-health-of-drive-thru-staff-and-customers/>) –

In addition some provision for EV charges points for customers and staff is expected and a condition is recommended

Odour: No comments subject to condition set out below

Light: No comments subject to condition set out below

- 6.9. ARBORICULTURAL OFFICER: No objections to the proposal subject to conditions set out below. All the trees on site are to be retained. I concur with the proposed tree works. These should be carried out before the tree protection barriers are installed. As long as the trees are protected as set out in the Tree Retention and Protection Plan and the recommendations set out in the Arboricultural Report are followed then there should be no adverse impact on the trees

7. RELEVANT PLANNING POLICY AND GUIDANCE

- 7.1. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.2. The Cherwell Local Plan 2011-2031 - Part 1 ('CLP 2015') was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The CLP 2015 replaced a number of the 'saved' policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District's statutory Development Plan are set out below:

CHERWELL LOCAL PLAN 2011 - 2031 PART 1 (CLP 2015)

- PSD1 – Presumption in Favour of Sustainable Development
- SLE2 – Employment Development
- SLE3 – Securing a Dynamic Town Centre
- ESD1 – Mitigating and Adapting to Climate Change
- ESD2 – Energy Hierarchy and Allowable Solutions
- ESD3 – Sustainable Construction
- ESD4 – Decentralised Energy Systems
- ESD5 – Renewable Energy
- ESD6 – Sustainable Flood Risk Management
- ESD7 – Sustainable Drainage Systems (SuDS)
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment

- ESD15 – The Character of the Built and Historic Environment

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

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

7.3. Other Material Planning Considerations

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

8. APPRAISAL

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

- Principle of the development
- Design and impact on the character of the area
- Residential amenity
- Highway safety
- Flood risk and drainage

Principle of the development

- 8.2. The site lies to the extreme south western side of the existing wider factory site on a parcel of land used as an overflow car park. The car park is under-used and since the submission of this application consent has been granted under application 21/04144/F to construct a replacement car park immediately adjacent to the existing factory buildings.
- 8.3. The proposal is to erect a single storey building on the site to be used as a drive-thru café. The existing access into the site would be retained and car parking, servicing and access around the building is also proposed. As stated at section 4 above, pre-application advice was given regarding the proposed works and the application has been submitted following this response.
- 8.4. Policy SLE2 of the CLP 2015 states that development for main town centre uses, such as drive thru restaurants, should be directed towards Bicester and other town centres. It states the sequential approach will be applied to new main town centre uses in accordance with the NPPF to protect the vitality and viability of town centres. The sequential assessment requires that applications for main town centre uses, such as drive thru restaurants, which are not in accordance with an up to date Development Plan, should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre locations be considered. When considering edge of centre and out of centre locations, preference should be given to accessible sites that are well connected to the town centre. It advises applicants and local planning authorities should demonstrate flexibility on issues such as format and scale in considering the sequential assessment. The National Planning Policy Guidance (NPPG) advises that it is for the applicant to demonstrate compliance with the sequential test.
- 8.5. Policy SLE2 also states that the Council will consider whether developments are likely to have a significant adverse impact on centres or planned investment. Paragraph 90 of the NPPF states that in assessing main town centre uses in out of centre locations planning authorities should require an impact assessment if the development is over a proportionate locally set floorspace threshold. In this case this is outlined in Policy SLE2 of the CLP 2015 and for Banbury is set at 2000sqm.

Therefore, as the proposed development is below this threshold the applicant is not required to provide an impact assessment.

- 8.6. Paragraph 91 of the NPPF advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impacts it should be refused.
- 8.7. The site is located in an 'out of centre' location. It is therefore necessary for the applicant to demonstrate that they have considered sequentially preferable sites for the development. The NPPG advises that the sequential test should recognise that certain town centre uses may have particular locational requirements which mean they may only be accommodated in specific locations and that local planning authorities need to be realistic and flexible in terms of their expectations of the sequential assessment. It also advises that sequentially preferable sites must be 'suitable' and that applicants and local planning authorities need to demonstrate flexibility on issues such as format and scale. The test should be applied in a manner proportionate and appropriate to the given proposal. The other issue to consider in the sequential assessment is the 'availability' of more central sites.
- 8.8. The applicant has argued that the area of search has been informed by the CLP 2015 and the CLP 1996 where Banbury Town Centre is identified as being a centre where retail and other 'main town centre uses' should be directed. They have advised that a total of five sites were assessed which met their required size thresholds. These were:
 - 11 Horse Fair – unsuitable as it is too large and is unavailable for the proposed development as it is occupied by a Nursery
 - 4 High Street - unsuitable for the proposed development due to size of unit and lack of car parking and circulation
 - 9 High Street - unsuitable for the proposed development due to size of unit and lack of car parking and circulation
 - 24-26 Bridge Street – Unsuitable for the proposed development due to size of building and lack of car parking and circulation
 - 28a Castle Quay - Unsuitable for the proposed development due to size of building and lack of car parking and circulation
- 8.9. The applicant has not mentioned in this list the former Buzz Bingo / Bolton Road site to the south side of Castle Street or the retail site on the eastern side of Calthorpe Street. However, these are larger sites than would be required for the proposed use and so would need to come forward as part of a larger scale / comprehensive development. In addition, neither site is available for the proposed use: The Buzz Bingo / Bolton Road site is subject of Policy Banbury 8, which requires a mix of A1, A3, boutique stores, hotel (C1), leisure (C2) and residential (C3), and the Calthorpe Street site is proposed for a high density, primarily residential, re-development with the result that there would not be sufficient car parking or circulation space for a drive thru café.
- 8.10. Having regard to the above, officers accept that whilst there are a number of empty units within the town centre none of these would be capable of accommodating a drive-thru restaurant. Case law and appeal cases have made it clear that in assessing the suitability of site there is no requirement for applicants to consider disaggregation different components of proposals (i.e. separating the restaurant from the drive thru) and so this is not an option open to explore. It is also recognised

that the 'drive-thru' element of the proposal would result in a different offer to that of a A3/A5 coffee shop situated within a town centre.

- 8.11. The Council is satisfied that there are no sequentially preferable sites for a drive-thru at the current time in Banbury. There are also other drive-thru facilities situated in close proximity to the site, such as at the Banbury Cross Retail Park, Banbury Gateway and at the roundabout on Ermont Way.
- 8.12. Given the nature of the use, its scale, the presence of similar provision in the vicinity of the site and the lack of similar provision in the town centre, it is not considered that the proposal would lead to a 'significant adverse impact' on the town centre which is the test laid out in paragraph 91 of the NPPF.
- 8.13. Overall, for the reasons outlined above, the proposal is considered to accord with the sequential assessment as outlined in the Policy SLE2 and the NPPF. The proposed development is therefore considered to comply with the Development Plan in these respects.

Design and impact on the character of the area

- 8.13. Policy ESD15 of the CLP 2015 states new development will be expected to complement and enhance the character of its context through sensitive siting and layout and states all development will be required to meet high design standards. It goes on to state development should respect the form, scale and massing of buildings in the surroundings. Development should be designed to integrate with existing streets and buildings clearly configured to create defined active public frontages. Saved Policy C28 of the CLP 1996 also seeks to ensure high quality development.
- 8.14. The site forms part of an existing hard-surfaced car park within the extensive grounds associated with the factory buildings to the north. The site is relatively open with some landscaping within the site to the Ruscote Avenue boundary and to the Nursery Drive boundary. In addition, there is some tree planting adjacent to the site along both road frontages. The trees within the site would remain.
- 8.15. The proposed building would be located within the centre of the red line site area, set away from the boundaries, and is to be bounded on all sides by car parking and circulation roads. An outdoor seating area is also proposed adjacent to the entrance to the building on the east elevation. The building would be approximately 204m² and has a mono-pitched roof, it measures approximately 18.5m x 11m with an overall height of 4.5m. A 7.3m high by 2.2m wide projection from the roof is also proposed and this, subject to gaining the appropriate Advertisement Consent, would have signage on it. The scale of the building is considered to be acceptable and not out of keeping with surrounding built form.
- 8.16. The proposed materials are considered to be acceptable and appropriate for the location given the urban context. The walls would be clad with black metal cladding and timber boarding with brick to the roof projection and there are large areas of curtain wall glazing to the east and south elevations. The roof would be covered with a light grey laminate membrane. The separate bin store would be screened by timber fencing.
- 8.17. Overall, the design of the building and the proposed redevelopment of the site is considered acceptable and in accordance with Policy ESD15 of the CLP 2015 and government guidance contained within the NPPF.

Residential amenity

- 8.18. The application site is located adjacent to a residential street. Dwellings face onto the site and the closest dwelling is approximately 19m from the red line area. The existing car park is within the same distance as the proposed development; however, this area of the existing car park does not appear to have been used for some time.
- 8.19. It is recognised that there would be some increase in activity close to the site boundary and potentially some increased disturbance to the residents adjacent to the site. However, the site is currently in employment use and the Council's Environmental Protection Officer has advised that, subject to conditions relating to delivery hours, mechanical plant, and a Construction Environmental Management Plan, they are satisfied with the proposals with regards to noise. Additional conditions are recommended relating to odour from kitchen exhaust and external lighting.

Highway safety

- 8.20. The existing vehicular access from Ruscote Avenue would be retained and the proposals include the provision of car parking (including accessible spaces and EV charging points) and cycle parking. The road layout within the site is designed with a drive-thru lane that wraps around the building to provide room for queuing.
- 8.21. The Local Highway Authority (LHA) objected to the original proposals as they were considered to result in highway safety issues. Additional information and amended plans were submitted seeking to address the issues raised and the LHA has now withdrawn its objection to the proposals subject to conditions set out below.

Drainage

- 8.22. Concerns were expressed by the Lead Local Flood Authority (OCC) regarding the original submissions; these concerns have now been overcome by the applicant and it is considered that the drainage proposals are acceptable.

Other matters

- 8.23. The LHA originally sought a financial contribution towards the funding of the installation of a segregated cycle path between the Longlandes Way roundabout, the site entrance and the Lockheed roundabout. The installation of a segregated cycle path is the subject of some of the comments raised by a third party, Banbury Active Travel Supporters Group. Following consideration of an argument put forward by the applicant the LHA has withdrawn this requirement as they considered that the contribution could not be justified if challenged.

9. PLANNING BALANCE AND CONCLUSION

- 9.1. Given the nature of the proposal (i.e. a drive-thru restaurant) it is considered to comply with the sequential test and there are not considered to be any other more centrally located sites which are suitable and available for the development at the current time. The impact on the character and appearance of the area is also considered to be acceptable, as is the impact on highway safety with the submission of the amended drawings and additional information. Overall, the development is considered to constitute a sustainable form of development and it is therefore recommended that planning permission be granted.

9. RECOMMENDATION

That permission is granted, subject to the following conditions:

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

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

2. Except where otherwise stipulated by conditions attached to this permission, the development shall be carried out strictly in accordance with the application form documents submitted with the application and the following plans:
 - Drawing Nos: 16061 01 S3 S 000 PI1, 16061 01 S3 S 001 PI2, 16061 03 S3 S 002 PI7, 16061 01 P3 S 003 PI1, 16061 03 S3 S 001 PI7, 16061 03 S3 E 001 PI3, 16061 03 S3 P 0g0 PI5, B3428 E 500 A, 63364 101 P3, 02 C, 04 D, 07 K

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

Materials

3. No development shall commence above slab level until specification details/samples of the materials and finishes for the external walls and roof of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall not be carried out other than in accordance with the approved schedule and shall be retained as such thereafter.

Reason - To safeguard the character and appearance of the area and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Highways

4. Before the development is first occupied details of covered cycle parking areas, including dimensions and means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be provided prior to the first occupation of the development and thereafter the areas shall be retained solely for the purpose of the parking of cycles.

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

5. Prior to the first occupation of the development a Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guidance Note "Using the Planning Process to Secure Travel Plans" and its subsequent amendments and a Travel Plan Statement setting out how this phase will contribute to the overall site Travel Plan, shall be submitted to and approved by the Local Planning Authority. Thereafter, the approved Travel Plan shall be implemented and operated in accordance with the approved details.

Reason - In the interests of sustainability, in order to promote sustainable modes of travel and to comply with Policies SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National

Planning Policy Framework.

6. No development shall commence unless and until a Construction Traffic Management Plan prepared in accordance with Oxfordshire County Council's checklist, has been submitted to and approved in writing by the local planning authority. The construction works must be carried out in accordance with the details approved in the Construction Traffic Management Plan.

Reason - In the interests of highway safety and the residential amenities of neighbouring occupiers 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.

Drainage

7. The approved drainage system shall be implemented in accordance with the approved Detailed Design prior to the use of the building commencing:
 - a. Document Foul and surface water drainage strategy Ref: 63364 Issue: 12 November 2021
 - b. Document Maintenance and action schedule for surface water drainage Issue: August 2021
 - c. Drawing Impermeable area and overland flow arrows. Drawing No: 63364-103, P2
 - d. Drawing Drainage Layout Drawing No: 63364-101, P3
 - e. Drawing Drainage Construction Details Drawing No: 63364-101, P1
 - f. All relevant Hydraulic calculations produced via Microdrainage Date 11/04/2022 File 63364 - SW NETWORK REV 2 NO P...

Reason – To ensure that the principles of sustainable drainage are incorporated into this proposal and to accord with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

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

Reason – To ensure that the principles of sustainable drainage are incorporated into this proposal and to accord with Policies ESD6 and ESD7 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance contained within the National Planning Policy Framework.

Environmental Protection

9. No deliveries, loading/unloading or collections (including refuse collections) shall be made to the site outside the hours of 07.00 to 18.00 Monday to Friday or

08.00 to 15.00 on Saturdays or 08.00 to 12:30 on Sundays, Bank and Public Holidays.

Reason: In order to safeguard the amenities of the area and to comply with Policy ESD 15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policies C31 and ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

10. Prior to the installation of any mechanical plant, full details of the same shall be submitted to and approved in writing by the Local Planning Authority. If required by the local planning authority a noise report to BS4142:2014+A1:2019 (or latest update) shall be provided to the local planning authority. Thereafter, and prior to the first occupation of the building, the mechanical plant shall be installed, brought into use in accordance with the approved details and shall be retained as such thereafter.

Reason: To protect the amenity of the area from noise and odour in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

11. No development shall commence unless and until a Construction Environment Management Plan (CEMP), which shall include details of the measures to be taken to ensure construction works do not adversely affect residential properties on, adjacent to or surrounding the site together with details of the consultation and communication to be carried out with local residents has been submitted to and approved in writing by the Local Planning Authority. The development must not be carried out other than in accordance with approved CEMP.

Reason - To ensure the environment is protected during construction in accordance with saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

12. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development [or relevant phase of development] is resumed or continued.

Reason – To ensure that any ground and water contamination is identified and adequately addressed to ensure the safety of the development, the environment and to ensure the site is suitable for the proposed use, to comply with Saved Policy ENV12 of the Cherwell Local Plan 1996 and Section 15 of the National Planning Policy Framework.

13. The development hereby permitted shall not be occupied until it has been provided with EV charge points to 25% of the proposed parking spaces and ducting to the remainder of the parking spaces to allow for the easy expansion of the EV charging system to meet future demand for EV charge points by staff and visitors.

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

14. Prior to the installation of any commercial kitchen exhaust system to be installed to serve hot food takeaway uses within the approved development a noise and odour impact assessment shall be submitted for the prior written approval of the local planning authority. The noise (where appropriate) and odour assessment shall include details of a scheme for minimising emissions of noise and of cooking odour/grease from the proposed kitchen exhaust system. The noise assessment shall be undertaken in accordance with BS 4142:2014:+A1:2019 Method for Rating and Assessing Industrial and Commercial Sound whilst the cooking fume odour/grease assessment will be undertaken in accordance with the EMAQ Update to the 2014 report on Control of Odour and Noise from Commercial Kitchen Exhaust Systems prepared by NETCEN for the Department for Environment Food and Rural Affairs The scheme shall be implemented in strict accordance with the approved details and shall thereafter be retained, serviced and maintained as such.

Reason: To protect the amenity of the area from noise and odour in accordance with Saved Policy ENV1 of the Cherwell Local Plan 1996 and Government guidance in the National Planning Policy Framework.

15. Prior to the first use of the development hereby approved details of the external lighting including the design, position, orientation and any screening of the lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting for the development must be installed in accordance with the approved details prior to the first use of the development hereby approved and shall be operated in accordance with the approved scheme at all times thereafter.

Reason – In the interests of visual amenity, to ensure it has no adverse impact on nearby residential properties and to comply with Policy ESD15 of the Cherwell Local Plan 2011 – 2031 Part 1, Saved Policy C28 of the Cherwell Local Plan 1996 and Government advice in the National Planning Policy Framework.

Arboricultural

16. a) No retained tree shall be cut down, uprooted, damaged or destroyed, nor shall any retained tree be pruned in any manner, be it branches, stems or roots, other than in accordance with the approved plans and particulars, without the prior written approval of the Local Planning Authority. All tree works shall be carried out in accordance with BS3998: Recommendations for Tree Works.
b) If any retained tree is cut down, uprooted, destroyed or dies, another tree shall be planted in the same place in the next planting season following the removal of that tree, full details of which shall be firstly submitted to and approved in writing by the Local Planning Authority. In this condition a “retained tree” is an existing tree which shall be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) shall have effect until the expiration of five years from the date of the permission.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

17. The development hereby approved shall be carried out strictly in accordance

with the recommendations and specifications set out in the Arboricultural Report, Arboricultural Method Statement (AMS) and the Tree Retention and Tree Protection Plan prepared by BB Trees Ltd in July 2021.

Reason - In the interests of the visual amenities of the area, to provide an effective screen to the proposed development and to comply with Policies ESD13 and ESD15 of the Cherwell Local Plan 2011-2031 Part 1, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

Landscaping

18. The soft landscaping for the development shall be carried out in accordance with the approved details as shown on drawing number 07 K. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with BS 4428:1989 Code of Practice for general landscape operations (excluding hard surfaces), or the most up to date and current British Standard, in the first planting and seeding seasons following the occupation of the buildings or on the completion of the development, whichever is the sooner. Any trees, herbaceous planting and shrubs which, within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the current/next planting season with others of similar size and species.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD13 and ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

19. Notwithstanding condition 2 (plans), no development shall take place above slab level until details of the hard landscaping for the development have been submitted to and approved in writing by the local planning authority. The scheme shall include:

- 1) Details of the hard surface areas including vehicular pavements, pedestrian footways and other areas, crossing points and steps;
- 2) Details of position and appearance of litter bins to be provided.

The development shall be carried out in full accordance with the approved details prior to the first occupation of the building and shall be retained as such thereafter.

Reason - In the interests of the visual amenities of the area, to ensure the creation of a pleasant environment for the development and to comply with Policy ESD13 and ESD 15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.

PD restriction

20. The development hereby permitted shall only be used as a drive thru cafe (sui generis use) and no other purpose whatsoever.

Reason: To control the use of the building and protect the viability and vitality of the town centre in accordance with Policy SLE2 of the Cherwell Local Plan 2011-2031 and Government guidance contained within the National Planning

Policy Framework.

PLANNING NOTE

1. The applicant is advised that a separate advertisement consent application will be required to be submitted and approved prior to the installation of any signs or adverts.

Case Officer: Shona King

DATE: 13 07 2022

Checked By: Nathanael Stock

DATE: 15.07.2022
