

Case Officer: Lewis Knox

Recommendation: Approve

Applicant: Eg Group

Proposal: Reserved matters application & condition discharge of Part B of 19/00128/HYBRID - Part B: Outline planning application - the development of up to 2 no. commercial buildings having a maximum floorspace of 16,890m² and having a flexible use [to enable changes in accordance with Part 6 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)] within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and ancillary Class B1 offices, with all other matters reserved for future approval (19/00128/HYBRID)

Expiry Date: 30 May 2023

Extension of Time:

1. APPLICATION SITE AND LOCALITY

- 1.1. The application site comprises 13.2ha of a mainly flat development site located to the east of the M40 and adjacent (NE) to Junction 11, with access gained from the east off the A361 Daventry Road.
- 1.2. The application site is allocated for employment development through Policy Banbury 15 of the Cherwell Local Plan 2011-2031 Part 1 to deliver approximately 1,000 jobs and planning permission has been granted under Ref: 19/00128/HYBRID for commercial development of the site within Classes B2 and B8 with ancillary B1 offices.

2. DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1. The application seeks approval of the reserved matters of layout, scale, appearance and landscaping of the hybrid approval 19/00128/HYBRID and is accompanied by the following submissions:

Planning Statement;

Design & Access Statement

Archaeological Written Scheme of Investigation (WSI);

Archaeological Evaluation Report; and

Supplemental Electric Vehicle (EV) Charging Details.

3. RELEVANT PLANNING HISTORY

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

Application:	Permitted	30 July 2020
19/00128/HYBRID		

Part A: Full planning application - the development of a new priority junction to the A361, internal roads and associated landscaping with 2 no. commercial buildings having a maximum floorspace of 33,110m² and with a flexible use [to enable changes in accordance with Part 6 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)] within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and ancillary Class B1 offices; and Part B: Outline planning application - the development of up to 2 no. commercial buildings having a maximum floorspace of 16,890m² and having a flexible use [to enable changes in accordance with Part 6 Class V of the Town and Country Planning (General Permitted Development) Order 2015 (as amended)] within Class B2 or B8 of the Town and Country Planning (Use Classes) Order 1987 as amended, and ancillary Class B1 offices, with all other matters reserved for future approval.

4. PRE-APPLICATION DISCUSSIONS

4.1. No pre-application discussions have taken place with respect to this proposal.

5. RESPONSE TO PUBLICITY

5.1. This application has been publicised by way of a Site Notice displayed near the site, expiring **28 March 2023**, by advertisement in the local newspaper expiring **30 March 2023** 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 **26 May 2023**.

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

- A substantial number of objections (53) were received from third parties, most of those responses were based around a perceived lack of need for the proposed unit and its detrimental impact on the surrounding rural landscape.

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.

TOWN AND PARISH COUNCIL

6.2. **Banbury Town Council:** Raised no objections but suggested further EV charging points be included.

6.3. **Farthinghoe Parish Council:** Object, no need for further industrial units.

OTHER CONSULTEES

6.4. **OCC Highways:** Removed initial holding objections following provision of further cycle parking and EV charging points.

- 6.5. **CDC Environmental Health:** No comments or objections.
- 6.6. **National Highways:** No objections.
- 6.7. **CDC Ecology:** No comments received.
- 6.8. **CDC Arboriculture:** No comments received.
- 6.9. **CDC Economic Growth:** No comments received.
- 6.10. **HS2 Limited:** No comments received.
- 6.11. **CDC Landscape Services:** No comments received.

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 was formally adopted by Cherwell District Council on 20th July 2015 and provides the strategic planning policy framework for the District to 2031. The Local Plan 2011-2031 – Part 1 replaced a number of the ‘saved’ policies of the adopted Cherwell Local Plan 1996 though many of its policies are retained and remain part of the development plan. The relevant planning policies of Cherwell District’s statutory Development Plan are set out below:

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

- Banbury 15 – Employment Land North East of Junction 11
- SLE1 - Employment Development
- SLE2 – Securing Dynamic Town Centres
- SLE4 – Improved Transport and Connections
- SLE5 – High Speed Rail 2
- BSC8 – Securing Health and Well-Being
- 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
- ESD8 – Water Resources
- ESD10 – Protection and Enhancement of Biodiversity and the Natural Environment
- ESD13 – Local Landscape Protection and Enhancement
- ESD15 – The Character of the Built and Historic Environment
- ESD17 – Green Infrastructure
- INF1 – Infrastructure

CHERWELL LOCAL PLAN 1996 SAVED POLICIES (CLP 1996)

- C8 – Sporadic Development in the Open Countryside
- C28 – Layout, Design and External Appearance of New Development

- ENV1 – Pollution Control
- ENV12 – Land Contamination

7.3. Other Material Planning Considerations:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Banbury Vision and Masterplan SPD (2016)

8. APPRAISAL

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

- Principle of development
- Appearance and Layout
- Landscape Impact
- Scale

Principle of Development

8.2. The principle of the development on this site has previously been deemed to be acceptable and the Planning Practice Guidance advises:

“In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application. A local planning authority decision to refuse an application under section 73 can be appealed to the Secretary of State, who will also only consider the condition/s in question. (Paragraph: 031, Reference ID: 21a-031-20140306).”

8.3. Having previously determined a need for this form of employment development at Banbury, the site was allocated for industrial development in the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1) as part of the Banbury 15 strategic site for commercial development. Approval of development at the site was subsequently granted through 19/00128/HYBRID and development has commenced on the first two of up to four approved units at the site.

8.4. Therefore, the principle of the development remains acceptable and the main issue to consider is whether the alterations now proposed raise any other material considerations which would result in materially unacceptable impacts.

8.5. The application is seeking consent for the reserved matters on layout, appearance, scale and landscaping. HYBRID application 19/00128/HYBRID granted consent for access.

Appearance and Layout

8.6. Section 12 of the NPPF – Achieving well-designed places, advises that the creation of high-quality buildings and places is fundamental to what planning and the development process should achieve. At paragraph 124 it advises that ‘*good design is a key aspect of sustainable development, creates better places to live and work and helps make development acceptable to communities*’ and at paragraph 127 it further advises that planning decisions should ensure that ‘*developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping*’.

- 8.7. In terms of the adopted Cherwell Local Plan 2011-2031, Policy ESD15 advises that design standards for new development, whether housing or commercial development, are equally important and seeks to provide a framework for considering the quality of the built development which reflects and respect the urban or rural context within which it sits. The adopted Cherwell Local Plan 1996 contains saved Policy C28 which states that *'control will be exercised over all new development to ensure that the standard of layout, design and external appearance, including choice of materials are sympathetic to the character of the urban or rural context of that development'*. These are all relevant to the proposals considered here.
- 8.8. Policy Banbury 15 of the CLP 2031 Part 1 requires development to achieve a high-quality, well-designed approach to the urban edge to create a successful transition between town and country environments. The policy also requires a high-quality design and finish with careful consideration given to layout, architecture, materials and colourings to reduce overall visual impact as well as a comprehensive landscaping scheme to enhance the setting of buildings on site and limit visual intrusion into the wider landscape.
- 8.9. Policy ESD15 of the CLP 2031 Part 1 is also material in this respect and requires new development to be designed to improve the quality and appearance of an area so that it contributes positively to an area's character by responding to site constraints and the wider context. Policy ESD 15 also states that proposals should demonstrate a holistic approach to design of the public realm with integrated green infrastructure and a well-designed landscape scheme to provide attractive places to live and work. Policy C28 of the CLP 1996 has broadly similar requirements as does design based policy contained in the NPPF.
- 8.10. In addition to those policies directly applicable to the site, the site also lies close to land allocated under policy Banbury 14 for the Cherwell Country Park. Planning permission was granted (12/00302/CDC) for the change of use of land for the formation of a Country Park including the provision of a small visitor car park prior to the adoption of the CLP 2031 Part 1. At the time the Country Park application was approved, the proposed car park was situated within the northern corner of what is now the Banbury 15 allocation.
- 8.11. This reserved matters application is for the erection of a third unit out of a maximum of four that were originally granted under 19/00128/HYBRID.
- 8.12. The proposed layout takes into account the site constraints and the position and siting of the building would be at 90 degrees to the previously constructed units to the northern end of the site. This is because this southern end of the site is the narrowest part of the plot, with the M40 running immediately to the west side and the A361 Daventry Road wrapping around the east and southern end of the site. It is a welcome detail to see the unit positioned in this manner, allowing it to sit within the plot more comfortably without being cramped or too close to the eastern and western boundaries.
- 8.13. The proposed unit would largely replicate the size and scale of Unit B; already constructed on site to the north, and as such there would be no increase in the scale of units on the site and the new building would not appear any more prominent than the two existing buildings alongside.
- 8.14. The external appearance of the buildings is typical of the existing large warehouse and industrial buildings within the locality either side of the M40 at J11. A modern appearance is proposed and would be achieved through horizontal cladding with graduated colouring (lightening towards the top), which aims to reduce the

perceived height and mass of the building. Large areas of glazing are proposed to the ancillary office element of the building, with large entrance features created that would project from the building and provide further articulation on key elevations.

- 8.15. Given the more prominent positioning of the building with clear views of three of the elevations close to the M40 and Daventry Road, it is considered somewhat unfortunate that there is a slight lack of design variation to create visual interest to the south, east and west elevations. They would largely appear as large blank structures; although it is appreciated that this lack of visual interest is in large part due to the graduated cladding, which serves to reduce the perceived height of the building. On balance, the overall design is deemed appropriate in this instance.
- 8.16. Car parking is situated within the central areas of the site, adjoining the previously approved parking at Unit B, so that it is contained by the buildings and proposed landscaping, thus reducing its visual impact within the wider surroundings. The service yard is proposed to the western side of the building, close to the boundary with the M40. It is considered that this would be the most appropriate location for it and would be similar in its appearance to similar units located on the western side of the M40 within the Chalker Way industrial estate.
- 8.17. This positioning would reduce the visual impact from the Daventry Road, which is closer to the site. Positioning the service yard to the south or eastern elevations would have been far more visible from vehicular traffic moving along this highway and pedestrians using the distant PRowS to the north.
- 8.18. The proposed layout demonstrates a well-designed scheme. The layout and design of the site takes account of key site constraints and opportunities and would result in a development which would support the existing high quality commercial development within this part of the town. Contrary to the views expressed by objectors, the proposal would provide a reasonably successful transition between the town and the wider open countryside within the context of what has previously been agreed for the site. The application is fully in accordance with CLP 2031 Part 1 policies Banbury 15 and ESD 15 in this regard.

Landscape Impact

- 8.19. Policy Banbury 15 of the CLP 2031 Part 1 requires development on the site to respect the landscape setting and demonstrate the enhancement and restoration or creation of wildlife corridors and the creation of a green infrastructure network for Banbury. The policy requires a comprehensive landscaping scheme to enhance the setting of buildings on site and to limit visual intrusion into the wider landscape as far as is practical.
- 8.20. Policy ESD13 of the CLP 2031 Part 1 is also material and seeks to resist new development that would cause undue visual intrusion into the open countryside or be inconsistent with local character. Policy ESD15 of the CLP 2031 Part 1 requires new development to respect local topography and landscape features.
- 8.21. In respect to the landscape impact of the proposals, it must be recognised that the site was allocated for Class B1, B2 and B8 development and building has already commenced on the previously approved Units. As such the principle of continuing to develop the site in the manner previously approved is already established. In this respect it has already been established that there will be loss of greenfield land to significant built development and the subsequent impact this would have on the wider landscape caused by the appearance of buildings in what otherwise previously formed part of the open countryside on the edge of Banbury.

- 8.22. The proposed building has been set back from the boundaries of the site, which has allowed the inclusion of substantial soft landscaping to soften the edges of the development, particularly with those boundaries closest to the Daventry Road, where the building would be more prominent in views. There would be substantial tree and hedge planting to the southern boundary as well as landscaped mounds, which would serve to soften the appearance of the building from the road, as well as the nearest villages of Middleton Cheney, Nethercote and Overthorpe.
- 8.23. This proposed soft landscaping would work hand in hand with the graduated grey cladding which seeks to blend in more readily with the sky and thus reducing the perceived size and scale of the building. This would further reduce the wider landscape impact of the building when viewed from the surrounding area.
- 8.24. Much of the original trees and hedgerows have been previously removed to enable the development of the site in an acceptable manner, the landscaping scheme incorporates the replanting of native hedgerows to the boundaries of the site. Ornamental planting is also proposed within the site, to break up areas of hardstanding and provide for an attractive environment within the site.
- 8.25. It is accepted that there would inevitably be some landscape and visual impact as a result of development on this site and it is noted that the proposed building would be viewed from the north, east and south in the context of the adjacent motorway and existing large warehouse buildings, including the urban area of Banbury.
- 8.26. The proposed development includes a satisfactory comprehensive landscaping scheme which will enhance the development and provide screening and softening at the site edges, which will minimise visual intrusion within the wider landscape.
- 8.27. In this regard, on balance, the development proposals are considered to be acceptable in accordance with policies Banbury 15, ESD 13 and ESD15 of the CLP 2031 Part 1.

Scale

- 8.28. The scale of the proposed Unit is in line with the principle of development which was established under 19/00128/HYBRID and does not appear any greater in terms of its footprint and does not go beyond the 16,890m² floor space threshold for the site.
- 8.29. The dimensions of the building largely match that of Unit B, which has already been constructed within the development site and as such the building would have a size and scale which is appropriate for the existing site and would not appear overly large or out of keeping with the established scale of this plot. Further to this, the scale is similar to that of other commercial and industrial sites which line the M40 to the east of the site.
- 8.30. It is considered that the scale of the development is in line with what was approved under the Hybrid consent and is also appropriate for this positioning within Banbury. It would not be of a scale which appears out of keeping with this locality. In this respect it is considered that the development would be in accordance with policies Banbury 15 and ESD 15 of the CLP 2031 Part 1.

Car Parking and Cycle Provision

- 8.31. By applying the values from the recently adopted Parking Standards for New Developments, the required number of spaces is as follows:
- B8 Storage $15,840 / 300 = 53$ spaces

- E Office 900 / 45 = 20 spaces
 - Total requirement = 73 spaces
- 8.32. Given that 79 spaces are proposed, this can be considered as acceptable. Travel Plan measures should be used to encourage car-sharing (using the 12 spaces allocated for that purpose) and cycling, to ease the overall demand for car parking spaces.
- 8.33. OCC Highways maintained concerns, that any overspill parking could lead to obstruction of the access road which provides a route for a bus service as well as HGV access to all three units. They therefore requested a condition for car parking management, so that levels of parking demand can be monitored and to set out how overflow parking can be managed.
- 8.34. OCC Highways previously raised a holding objection due to insufficient Electric Vehicle (EV) charging points. The submitted site plan initially showed 10 spaces with EV charging and a further 10 allocated for facilities in the future. However, the adopted strategy is clear that a minimum of 25% of spaces must have charging points, so this must be from first occupation, not at some point in the future which may never be implemented.
- 8.35. Following this objection an amended plan was sought and received that showed 20 spaces with EV Charging points. That would be in excess of the 25% required by the OCC Highways adopted strategy and as such the scheme is now considered to be acceptable in this respect.
- 8.36. The proposed cycle parking provision would include 96 spaces, this is considered adequate for a development of this size and will encourage more sustainable methods of accessing the site and as such the development is considered to be acceptable in respect of cycle parking.

Conditions

- 8.37. This application also seeks to discharge two pre-commencement conditions, which were attached to the 19/00128/HYBRID consent.
- 8.38. Condition 35 – This condition required an impact study of the existing water supply infrastructure, which shall determine the magnitude and timing of any new additional capacity required in the system and a suitable connection point, to be submitted to, and approved in writing by the Local Planning Authority.
- 8.39. Appendix 1 of the Planning Statement as provided with this submission shows that Thames Water have confirmed that the connection point to supply the development approved under application ref. 19/00128/HYBRID including Part B. Thames Water's response also confirms that the proposed development would not result in a need to upgrade their supply network.
- 8.40. Given this response and the detail provided in Appendix 1, it is considered that this condition has been suitably satisfied and can be discharged accordingly based on this information.
- 8.41. Condition 36 – This condition required a scheme for the treatment of the strategic water main to be submitted to and approved in writing by the Local Planning Authority. The scheme was required to include details of measures to ensure that the potential for damage to sub-surface potable water infrastructure can be prevented.

8.42. As illustrated in Appendix 2 of the Planning Statement provided in this submission, the location of the strategic water main referred to in condition 36 is not within a proximity to Part 2 for there to be any impact; therefore, a scheme for the treatment of the strategic water main is not considered necessary in this instance.

8.43. Given this location, it is considered that the goals of the imposed condition have been achieved and as such the condition can be discharged on this basis.

Other Matters

8.44. The majority of third-party responses received in association with this application were based on the belief that there was no need for this third unit given that the two which have already been constructed are currently unoccupied. It should be noted that this is a reserved matters application which seeks to approve the details of the unit. Planning permission has already been granted for the erection of this building and it is not within the scope of this application to revisit the principle of the development or for its need.

9. PLANNING BALANCE AND CONCLUSION

9.1. The NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 requires that the three dimensions to sustainable development (economic, social and environmental) are not undertaken in isolation, but are sought jointly and simultaneously.

9.2. For the reasons set out in this report, the proposal complies with the relevant Development Plan policies and guidance listed at section 7 of this report, and so is considered to be sustainable development. In accordance with Paragraph 11 of the NPPF, permission should therefore be granted.

10. 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 forms and the following plans and documents:

Job No. 16_145_03 dwg no. 902 Rev G;

003 Rev B;

903 Rev D;

904 Rev D;

905 Rev B;

Job No. 3568 drawing no. 20;

Design and Access Statement 16.145.03 dated 13/02/2023; and,
Planning Statement.

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.

3. The development shall not be occupied until a car parking management plan has been submitted to and approved in writing by the Local Planning Authority. The plan must include details of how the car-share spaces and EV charging spaces are to be controlled, how car park usage is to be monitored and how overspill parking on the access road is to be prevented. The development shall thereafter be carried out strictly in accordance with the approved car parking management plan.

Reason: In the interests of highway safety and to comply with Government guidance within the National Planning Policy Framework.

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

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

Case Officer: Lewis Knox

DATE: 09.06.2023

Checked By: Andy Bateson

DATE: 9th June 2023
