

NOTICE OF DECISION
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

Name and Address of Agent/Applicant:

Pegasus Group
Philip Smith
Querns Business Centre
Whitworth Road
Cirencester
GL7 1RT

Outline Planning Determination

Date Registered: 5th December 2023

Proposal: Outline planning application for the construction of up to 140,000sqm of employment floorspace (use class B8) with ancillary offices and facilities and servicing and infrastructure including new site accesses. Internal roads and footpaths, landscaping including earthworks to create development platforms and bunds, drainage features and other associated works including demolition of the existing farmhouse.

Location: OS Parcel 7921 South of Huscote Farm & Northwest of County Boundary, Daventry Road, Banbury

Parish(es): Banbury

REFUSAL OF PERMISSION FOR DEVELOPMENT

The Cherwell District Council, as Local Planning Authority, hereby **REFUSES** to grant planning permission for the development described in the above-mentioned application, the accompanying plans and drawings and any clarifying or amending information. **THE REASONS FOR REFUSAL ARE SET OUT IN THE ATTACHED SCHEDULE.**

Cherwell District Council
Bodicote House
Bodicote
BANBURY
OX15 4AA



David Peckford
**Assistant Director – Planning and
Development**

Date of Decision: 26th March 2024

Checked by: Andy Bateson

REASONS FOR REFUSAL

1. The proposal is located on an unallocated site and development would represent an urbanising form of development which by reason of its location and proposed land use would result in a cluster of large warehouse buildings poorly related to Banbury that would result in a harmful visual intrusion of development into the landscape and open countryside and would therefore result in harm to the rural character, appearance and quality of the area. This identified harm would significantly and demonstrably outweigh the benefits of the proposal. Development would therefore fail to accord with Cherwell Local Plan 2011-2031 Part 1 policies ESD10, ESD13 and ESD15 and Cherwell Local Plan 1996 saved policies C7, C8 and EMP4, and with national policy guidance given in the National Planning Policy Framework.
2. The proposed development would be sited in a geographically unsustainable location with poor access to services and facilities and therefore future employees would be highly reliant on the private car to access their workplace, which would not reduce the need to travel and would result in increased car journeys and hence carbon emissions. The proposed development would therefore conflict with policies PSD1, SLE4 and ESD1 of the Cherwell Local Plan 2011-2031 Part 1 and Government guidance in the National Planning Policy Framework. This identified harm would significantly and demonstrably outweigh the benefits associated with the proposed development and therefore the development does not constitute sustainable development when assessed against the National Planning Policy Framework as a whole.
3. The application site is located in an unsustainable location for cycling and walking. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
4. The proximity of the access roundabout to M40 Junction 11 is likely to lead to severe congestion and potential safety issues arising from queuing on the M40 off slip. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
5. Any further development around Junction 11 of the M40 would add to the severe congestion and air quality problems on the A422, particularly along Hennef Way. This development does not demonstrate how it would mitigate its impact on these issues through adequate sustainable travel connections or by highway improvements. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policies TR1 and ENV7 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
6. Safe and suitable operation of affected highway junctions has not been demonstrated by use of a suitable analysis tool. It has been agreed with the Applicant's transport consultant and National Highways that microsimulation modelling (such as VISSIM) is required to accurately represent the flow of vehicles at all primary local junctions and the interaction between them. Without agreed results of such analysis and resultant appropriate mitigation, the proposal is contrary to policies SLE1, SLE4 and INF1 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
7. It has not been demonstrated that a signalised crossing of the A361 Daventry Road for pedestrians and cyclists may be incorporated at a safe and suitable location, and the associated access into the site has not been indicated. The proposal is therefore contrary to policies SLE1 and SLE4 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.

8. The site is located close to and west of an existing Air Quality Management Zone and the proposal fails to adequately assess or mitigate against air quality matters as a result of increased vehicle movements associated with the development. The proposal is therefore contrary to policies SLE1, SLE4 and ESD1 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policies TR1 and ENV7 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
9. The proposal fails to assess the potential economic impact upon Banbury, specifically the attractiveness of Banbury town centre and the edge of town retail and employment centres as a result of additional traffic and congestion on the local highway network rendering Banbury a less sustainable location. The proposal is therefore contrary to policies SLE1 and SLE2 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1), saved policy TR1 contained within the Cherwell Local Plan 1996 (CLP 1996) and Government guidance within the National Planning Policy Framework.
10. The proposal lacks detail and information relating to the drainage of the site and is therefore contrary to Oxfordshire County Council's published guidance "Local Standards and Guidance for Surface Water Drainage on Major Development in Oxfordshire", policies ESD6 and ESD7 of the adopted Cherwell Local Plan 2015 and Government guidance within the National Planning Policy Framework.
11. The application has failed to demonstrate through the submission of a robust Landscape and Visual Impact Assessment that the proposals on this prominent site would not cause substantial landscape harm to the undeveloped rural character and appearance of the site and its surroundings when viewed from Public Rights of Way in the surrounding countryside. As such, the proposal is contrary to policies ESD10, ESD13 and ESD15 contained within the Cherwell Local Plan 2011-2031 Part 1 (CLP 2031 Part 1) and Government guidance within the National Planning Policy Framework.
12. The application has demonstrated, through its submission of an Agricultural Land Classification (ALC) Assessment, that the impacts of the proposal would result in loss of best and most versatile (Grade 3a) agricultural land. As such, the proposal is considered contrary to Government guidance outlined in paragraph 180 b) of the NPPF.
13. The application has failed to adequately demonstrate that development would not harm existing flora and fauna and that ecological mitigation would successfully deliver a 10% net gain in biodiversity or protection, enhancement and connectivity with the local green infrastructure network. As such the proposal fails to accord with policies ESD10 and ESD17 of the Cherwell Local Plan 2011-2031, saved policies C1 and C2 within the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
14. In the absence of an appropriate protected species survey covering all protected species on site, the welfare of protected species has not been adequately addressed in accordance with article 12(1) of the EC Habitats Directive. The Local Planning Authority cannot therefore be satisfied that protected species will not be harmed by the development and as such the proposal does not accord with policy ESD10 of the Cherwell Local Plan 2011-2031, saved policies C1 and C2 within the Cherwell Local Plan 1996 and Government guidance contained within the National Planning Policy Framework.
15. In the absence of a satisfactory Section 106 legal agreement, the Local Planning Authority is not satisfied that the proposed development provides for appropriate infrastructure contributions required as a result of the development and necessary to make the impacts of the development acceptable in planning terms, to the detriment of both existing and proposed residents and workers and contrary to policy INF 1 of the Cherwell Local Plan 2015, CDC's Planning Obligations SPD 2018 and Government guidance within the National Planning Policy Framework.

STATEMENT OF ENGAGEMENT

In accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) and paragraph 38 of the National Planning Policy Framework, Cherwell Council has given consideration to whether amendments or additional information would overcome its concerns with the application, but unfortunately it has concluded that it would not be possible to resolve those concerns within the scope and timescales of this application. Cherwell Council has resolved that the application proposals do not amount to sustainable development and consent must accordingly be refused.

The case officer's report and recommendation in respect of this application is available to view online at: <http://www.cherwell.gov.uk/viewplanningapp>. The agenda, minutes and webcast recording of the Planning Committee meeting at which this application was determined are also available to view online at: <http://modgov.cherwell.gov.uk/ieListMeetings.aspx?CId=117&Year=0>



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NOTES TO THE APPLICANT

REFUSAL OF PERMISSION

The Local Planning Authority has refused consent for the reasons set out in the schedule forming part of this notice of refusal. A further explanation of the reasons for the decision can be found in the planning officer's report, which can be viewed in Public Access via the council's web site.

If you wish to examine any of the development plans which set out the Local Planning Authority's policies and proposals for the development and use of land in its area, these are available for inspection on our website, or at the District Council offices, Bodicote House, Bodicote, during normal office hours.

APPEALS TO THE SECRETARY OF STATE

If you are aggrieved by the decision of the Local Planning Authority to refuse the application, you can appeal to the First Secretary of State in accordance with Section 78(1) of the Town and Country Planning Act 1990.

If you wish to appeal, then you must do so within six months of the date of this notice. Forms can be obtained from the **Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Tel 0303 444 5000.**

The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted permission or approval for the proposed development, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.

In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

PURCHASE NOTICES

If either the Local Planning Authority or the First Secretary of State refuses planning permission or approval for the development of land, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the District Council. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

COMPENSATION

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.