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

District: Cherwell
Application no: 16/00845/F
Proposal: Variation of condition 2 of 15/00082/F - Changes to vehicular access into the existing / proposed car park and associated changes to the landscaping and car park areas
Location: Tesco Pingle Drive Bicester OX26 6WA

Purpose of document

This report sets out Oxfordshire County Council's view on the proposal.

This report contains officer advice in the form of a strategic localities response and technical team response(s). Where local member have responded these have been attached by OCCs Major Planning Applications Team (planningconsultations@oxfordshire.gov.uk).

Officer's Name: David Flavin
Officer's Title: **Senior Planning Officer**
Date: 02 June 2016

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Transport Development Control

Recommendation

No objection subject to conditions

Legal agreement required to secure

Should planning permission be granted the conditions and obligations imposed upon the existing permission are recommended.

Conditions

Should planning permission be granted the conditions and obligations imposed upon the existing permission are recommended.

A full surface water drainage design with full calculations needs to be submitted and approved by Oxfordshire County Council as the Lead Flood Authority prior to the development commencing on site.

Detailed comments

Transport Development Control
The proposed amendments are unlikely to have a detrimental effect on the operation of the intersection of Oxford Road and Pingle Drive, and are therefore acceptable.

Two issues are worthy of note.

1. The two northbound lanes on Oxford Road which access the right turn on to Pingle Drive have right turn arrows on the consented scheme, are shown with straight on arrows on the proposed scheme. This would require amendment at the S278 stage.

2. The new arrangement could lead to significant queues at the eastern end of Pingle Drive as it is now the only entrance point to a significant sized parking facility. The developer should consider what demand management measures should be put in place at peak times.

Drainage
A full surface water drainage design with full calculations needs to be submitted and approved by Oxfordshire County Council as the Lead Flood Authority prior to the development commencing on site.

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Infrastructure Funding Comments

Planning permission (**12/01209/F**) was granted by Cherwell District Council on 28 July 2014 for "Demolition of existing Tesco food store, petrol filling station and part of the existing Bicester Village retail outlet centre to provide an extension to comprise 5,181sqm (gross internal area) of new Class A floorspace, 372 car parking spaces and associated landscaping and highway works".

An agreement, pursuant to section 106 of the Town and Country Planning Act, was also completed on 28 July 2014. The agreement created planning obligations binding on the owner of the land.

In January 2015, an application (**15/00082/F**) for planning permission was made to Cherwell District Council for a revised proposal with a similar description. That is to say, "Demolition of existing Tesco food store, petrol, filling station and part of the existing Bicester Village retail outlet centre, to provide an extension to provide new A class floor space, car parking and associated landscaping and highway works". Planning permission was granted for this proposal on 11 March 2016, subject to twenty eight conditions. Condition 2 begins

> "Except where otherwise stipulated by conditions attached to this permission the development shall be carried out strictly in accordance with the following… "

It then lists the approved plans, drawings and documents.

The permission also contains ten notes, one of which reads

> "Attention is drawn to a Legal Agreement related to this development or land which has been made pursuant to Section 106 of the Town and Country Planning Act 1990, Sections 111 and 139 of the Local Government Act 1972 and/or other enabling powers".

Specifically, there is a Deed of Variation dated 26 February 2016 that applies the obligations contained in the original section 106 agreement to both of the above planning permissions (12/01209/F and 15/00082/F).

The latest application (**16/00845/F**) is understood to have been made under section 73 of the Town and Country Planning Act 1990. It seeks approval to vary condition 2 of the second permission (15/00082/F) updating the list of approved plans, drawings and documents, as appropriate, to enable minor amendments to be made to the highways layout, car parking arrangement and landscape works.

The County Council has no objection to the proposed variation subject to repeating the other twenty seven conditions too.

However, the Government's Planning Practice Guidance (http://planningguidance.communities.gov.uk/blog/guidance/flexible-options/amending-the-conditions-attached-to-a-permission-including-seeking-minor-material-amendments-application-under-section-73-tcpa-1990/) makes it clear that "where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and unamended." It adds that "if the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation".

In this instance, the original permission (15/00082/F) was subject to planning obligations contained in a section 106 agreement (dated 28 July 2014 and varied on 26 February 2016). Given the contents of the agreement and the variation, which include precise definitions of "the Planning Application", "the Planning Permission" and "the Site Plan", it is the County Council's view that **an approval of the current application will first need to be the subject of another formal deed of variation**.

Officer's Name: Raymond Cole
Officer's Title: Developer Funding Negotiator
Date: 01 June 2016