

## WEST AREA PLANNING COMMITTEE

7<sup>th</sup> May 2014

**Application Number:** 14/00067/FUL

**Decision Due by:** 15th April 2014

**Proposal:** Demolition of existing retail store. Redevelopment of site with replacement retail store, together with 148 car parking spaces, remodelled access arrangements, cycle parking, landscaping and boundary treatment. (Revised vehicular access arrangements including re-modelling of cycle/pedestrian paths) (Amended Description) (Amended Plans: relocated bus shelter)

**Site Address:** 110 - 120 Botley Road Oxford Oxfordshire OX2 0HH

**Ward:** Jericho and Osney

**Agent:** Colliers International

**Applicant:** Cheshire West & Chester Council

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### Recommendation:

APPLICATION BE APPROVED

### Reasons for Approval

- 1 The proposed development is not considered to adversely affect the vitality or viability of existing town centres given the fallback position provided by the established lawful food retail use of the existing building. Whilst the proposals are likely to worsen existing severe traffic congestion along Botley Road as well as have implications for highway safety, in the context of the significant weight afforded to the fallback position it is not considered to be reasonable to find the development unacceptable in this respect. The proposed development would significantly enhance the appearance of the site and provide a convenient and much needed local amenity to residents of Botley Road and its surrounding residential roads. The development would not have a materially adverse impact on the living conditions enjoyed by occupiers of nearby dwellings and will provide biodiversity enhancement to Bulstake Stream and reduce flood risk locally as well as elsewhere. All trees and soft landscaping features of public amenity value will be retained and protected. Consequently, and on balance, the development is found to accord with all relevant policies of the development plan subject to conditions.
- 2 The Council considers that the proposal accords with the policies of the development plan as summarised below. It has taken into consideration all other material matters, including matters raised in response to consultation

and publicity. Any material harm that the development would otherwise give rise to can be offset by the conditions imposed.

### **Conditions**

- 1 Development begun within time limit
- 2 Develop in accordance with approved plans
- 3 Materials
- 4 Archaeology - evaluation
- 5 Method statement for demolition
- 6 Landscape plan required
- 7 Landscaping to be carried out by completion
- 8 Landscape hard surface design - tree roots
- 9 Landscape underground services - tree roots
- 10 Tree Protection Plan (TPP) 1
- 11 Arboricultural Method Statement (AMS) 1
- 12 Flood mitigation measures
- 13 Maintenance of Bulstake Stream banks
- 14 Access to Bulstake Stream
- 15 Further Site Contamination Assessment required
- 16 Remediation Strategy
- 17 Unexpected contamination
- 18 Scheme to dispose of surface water
- 19 Noise limit of plant
- 20 SuDS compliant hardsurfacing
- 21 Construction Environmental Management Plan required
- 22 Construction Traffic Management Plan required
- 23 Sustainability measures to be incorporated as set out in Energy Statement

- 24 Boundary treatments in accordance with details submitted
- 25 Works to highway/verge outside ownership required prior to occupation
- 26 Cycle parking required
- 27 Parking laid out prior to occupation
- 28 Hours of opening (7.30 – 10pm Mon – Sat, 10am – 6pm Sun)
- 29 Delivery and servicing plan required
- 30 External Lighting only as agreed
- 31 Ecological recommendations to be carried out as set out in Ecological Survey
- 32 Travel Plan required
- 33 No retail use of storage/office/warehouse elements
- 34 Removal of A1 PD rights and no additional mezzanine floors
- 35 Landscape management plan required
- 36 Public Art

**Legal Agreement/CIL Requirements:**

No CIL contributions will be required due to the net reduction in building floorspace on the site. A legal agreement between the developer and the County Council under section 278 of the Highways Act 1980 will be required to either pay for or carry out works to the public highway to facilitate the development. A condition is recommended that the development cannot be brought into use and these highway works are carried out.

**Principal Planning Policies:**

Oxford Local Plan 2001-2016

- CP1 - Development Proposals
- CP1 - Development Proposals
- CP8 - Design Development to Relate to its Context
- CP9 - Creating Successful New Places
- CP10 - Siting Development to Meet Functional Needs
- CP11 - Landscape Design
- CP13 - Accessibility
- CP14 - Public Art
- CP17 - Recycled Materials

**CP18** - Natural Resource Impact Analysis  
**CP19** - Nuisance  
**CP20** - Lighting  
**CP22** - Contaminated Land  
**CP21** - Noise  
**CP23** - Air Quality Management Areas  
**TR1** - Transport Assessment  
**TR2** - Travel Plans  
**TR3** - Car Parking Standards  
**TR4** - Pedestrian & Cycle Facilities  
**TR4** - Pedestrian & Cycle Facilities  
**NE6** - Oxford's Watercourses  
**NE11** - Land Drainage & River Engineering Works  
**NE15** - Loss of Trees and Hedgerows  
**NE16** - Protected Trees  
**NE21** - Species Protection  
**NE23** - Habitat Creation in New Developments  
**HE2** - Archaeology  
**EC1** - Sustainable Employment  
**SR11** - Recreational Cycling

#### Core Strategy

**CS1\_** - Hierarchy of centres  
**CS2\_** - Previously developed and greenfield land  
**CS9\_** - Energy and natural resources  
**CS11\_** - Flooding  
**CS12\_** - Biodiversity  
**CS13\_** - Supporting access to new development  
**CS17\_** - Infrastructure and developer contributions  
**CS18\_** - Urban design, town character, historic environment  
**CS19\_** - Community safety  
**CS31\_** - Retail

#### **Other Material Considerations:**

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

#### **Public Consultation:**

#### **Statutory Consultees:**

##### Environment Agency (EA) (Thames Region)

No objection. The proposals are likely to reduce the risk of flooding by providing fewer impermeable surfaces on the site as a result of the reduced footprint of the proposed building in comparison to the existing building as well as the introduction of sustainable drainage system compliant hardsurfacing. Whilst concern has been raised about the close proximity of the proposed building to Bulstake Stream, subject

to the imposition of a number of conditions, the Environment Agency are satisfied that the proposals will not restrict their ability to carry out maintenance and improvement works in the future. The ground investigation works already carried out have not fully addressed the potential for ground water contamination and further work is required on this prior to commencement of development. A condition covering this matter is also recommended.

Local Highway Authority (LHA) (Oxfordshire County Council)

Despite concerns about highway safety, given the existing lawful use of the building/site, no objection is raised subject to the imposition of conditions and the completion of a legal agreement requiring off-site public highway improvements/alterations to be carried out prior to the development being brought into use.

Botley Road is a heavily trafficked arterial route into the city which remains busy for lengthy periods of the day and experiences substantial congestion during peak periods. For this reason the highway authority would have preferred to see an alternative use of the site, such as housing or car-free offices, which could have significantly reduced the turning movements into and out of the site. The footway, cycle way and bus lane along the northern side of the road all run between the general traffic lanes and the site access and therefore all have to be crossed by site generated traffic. Under heavy and congested traffic conditions the traffic movements along Botley Road and into and from the site would therefore cause there to be substantial areas of potential conflict at the site access points which would be likely to have a detrimental impact on the functioning of the highway network and highway safety.

The proposed store is located on one of Oxford's main bus arteries, with around 17 buses per off-peak hour stopping at the Binsey Lane pair of bus stops adjacent to the store, with direct and frequent services to Headington, Wood Farm, Botley, Cumnor, Eynsham and many other places in West Oxfordshire and the Vale of White Horse. This means that travel by bus would be a practical proposition for store employees and for customers. Encouraging staff and customers to use the bus would reduce the traffic impact of this development on this critical section of the highway network, and certain practical measures should be implemented to support a relatively high level of bus use.

The current arrangement of the cycleway between the bus shelter and the bus boarding point is considered to be unsafe and causes anxiety to waiting and alighting bus passengers. Current best practice is to route cycle lanes and routes behind bus shelters, to ensure there is a safe zone for bus passengers. Sufficient land exists in this location to accommodate such a design solution and this has now been proposed as part of amended plans which the LHA is satisfied with.

It is intended that the existing point of egress from the site would be used for the main access and egress to the proposed development for customers thus substantially increasing the use of the access point above its previous level of use. The proposed two-way use of the access point would further add to potential conflict with other highway users. It is further proposed that a separate access into the site for servicing vehicles would be provided. It is understood that the operations of the

store would include modern retailing techniques (such as the use of 'click and collect', home deliveries, etc) and this access point would be used not only by a small daily number of HGV servicing vehicles but also vans deployed for delivery purposes, which would be expected to result in a higher level of usage of the access than suggested. However the access point is considered to be acceptable in terms of layout and visibility requirements. The submitted documents have demonstrated that the service yard would provide sufficient space to enable HGV servicing vehicles to enter and leave the site in a forward gear. Given the site's location on a highly congested route, a particularly 'stretching' travel plan should be developed to minimise car trip generation.

If approved, prior to first occupation of the development works to the highway including alterations to the footway and cycle ways must be carried out as shown the proposed plans following the completion of a legal agreement between the applicant and the County Council. The LHA recommends that the City Council imposes a condition preventing operation of the proposed new store until all such highway works are completed.

#### City Council Environmental Development

A desk study and ground investigation has been carried out which do not reveal levels of contaminants in soil above accepted generic assessment criteria for a commercial end use and conclude that the risks to human health are low. However, there is a lack of sufficient assessment of the potential risk to groundwater and controlled waters as noted by the Environment Agency. A condition should be imposed requiring further site investigation and, where necessary, remediation.

Noise from any proposed air conditioning, mechanical ventilation or associated plant should ensure that existing noise levels are not increased when measured one metre from the nearest noise sensitive elevation. In order to achieve this the plant should be designed / selected or the noise attenuated so that it is 10dB below the existing background level. This will maintain the existing noise climate and prevent 'ambient noise creep' to the detriment of occupiers of neighbouring dwellings.

The Local Planning Authority should give consideration to opening hours and delivery times to ensure that noise from customers, deliveries and ancillary operations do not cause disturbance to local residents. Details of an artificial lighting scheme should be submitted to ensure it does not impact adversely on local or residential amenity.

Concerns expressed about the potential risk to pedestrians, cyclists and others that could be harmed by vehicular access and egress to the site and by vehicle movement on site. It is foreseeable that there will be a significant increase in vehicle access and egress upon operation of the proposed supermarket as well as increased pedestrian access to the site. There is likely to be congestion at the site entrance and suitable measures should be put in place to protect people, as far as possible, from the risk of being struck by vehicles. Oxford City Council is not the health and safety enforcing authority on the highway however safety at site access/egress is an important consideration. In addition, it is not clear whether HGVs will be able to drive directly onto the site or would have to drive into a holding area. Delivery vehicles waiting on the street would have the potential to increase safety concerns.

Thames Valley Police

Advised that Secure by Design principles should be incorporated into the scheme but, due to workload constraints, no specific comments were made on the proposals.

Thames Water Utilities Limited

No objection as there are no concerns about sewerage capacity in the area.

**Third Parties and Non-Statutory Consultees:**

Vale of White Horse District Council (VOWHDC)

Object. The application site lies within close proximity of Botley centre which is proposed for significant redevelopment. The applicant has not sufficiently demonstrated that the existing building could reasonably be re-used to provide a supermarket and, as such, the City Council should afford this fallback position limited weight. The site is not located within a town centre and, before granting planning permission for main town centres uses (larger retail, leisure and office developments) the applicant must robustly demonstrate that it has considered other suitable and available sites first in nearby town centres and then, if none are reasonably available, an edge of centre location before an out-of-centre location can be found acceptable.

Botley is a town centre and is allocated as such within VOWHDC's Local Plan. Botley is the town centre that is most likely to be affected by the proposed development and the applicant has not considered the potential for the proposed store to be located within the proposed new West Way development which is a more sustainable location. As a result the applicant has failed to carry out a sufficiently robust sequential test retail assessment. Furthermore, the retail impact assessment submitted by the applicant is inadequate and contains a number of flaws. In particular it fails to assess the impact on the existing food retail stores in Botley and secondly it does not assess the impact over a sufficient time period which government guidance suggests should be over five or ten years. In addition the applicant's retail assessment is based on retail trading patterns from a survey taken in 2004 and is therefore not sufficiently up-to-date to be considered robust.

Consequently VOWHDC recommend that the application be refused unless the applicant undertakes a robust sequential test fully considering all other suitable, available and viable sites and an adequate retail impact assessment has been submitted demonstrating that the proposals will not have a significant impact on the viability and vitality of existing town centres including Botley.

Doric Properties Ltd

There is a distinct qualitative deficiency in main food shopping provision to the north and west of Oxford city centre. However it is clear that the NPPF requires such a need to be met in the most sequentially preferable location, which in this instance is clearly Botley. The food store is fundamental to the success of the Botley regeneration scheme and any proposal which threatens planned investment in town centres as defined by the NPPF should be resisted.

The fallback position, based on the ability to operate a food store from the existing site, is not credible and there is no evidence to demonstrate how it could operate.

The suitability of the building, access, servicing and parking arrangements are incompatible with a food store. It should not be afforded any material weight in the local planning authority's decision making.

The submitted Planning and Retail Statement is based upon a ten-year old survey and is simply not fit for purpose. The Assessment is contrary to the NPPF as it fails to adequately demonstrate that the sequential test has been satisfied and fails to provide an adequate impact assessment on all of the centres which are likely to be occupied, particularly Botley.

The Transport Assessment (TA) is fundamentally flawed as it takes its baseline as a food store which has been shown to be an unrealistic fallback position. The TA and Travel Plan do not comply with Department for Transport guidelines and fail to provide adequate information to assess the impacts of the scheme. The safety issues that have been raised have not been mitigated and the funding of the Travel Plan has not been confirmed, contrary to the NPPF.

The Flood Risk Assessment does not demonstrate compliance with the sequential test as required by the NPPF. No allowance has been made for climate change in the proposed floor levels.

### Third Parties

36 other third party representations have been received with the majority in support of the proposals. The comments raised are summarised as follows:

- The area is in need of a good quality supermarket though it is disappointing more could not have been made of the riverside location;
- This proposal will help regenerate Botley Road and will provide an important amenity as well as jobs;
- Whilst there are benefits to the proposals there will be significant traffic congestion and the approach to managing traffic associated with the store is inadequate;
- The existing building is an eyesore and the proposed development will dramatically improve the appearance of the site from the street;
- The proposals include sensitive and attractive landscaping which will enhance Botley Road;
- Any concerns about extra traffic should be offset by the reduction in journeys made by local residents to other supermarkets further away such as at Kidlington and Heyford Hill;
- The design of the proposed building is unadventurous and misses a green roof. The planting proposed does not do enough to encourage biodiversity;
- The cycle parking is at the furthest point from the shop entrance. Cyclists should be rewarded for not clogging up the roads and given parking beside the entrance. There is a pavement cycle lane which does not give exiting drivers sufficient space to be able to see the traffic without blocking the cycle lane nor are entering drivers likely to give way to the cycle lane. This was the case with the previous use of the site and there is likely to be much more use with Waitrose. One solution is to move the cycle lane further from the carriageway, sufficient for a car length between the carriageway and the cycle lane, with very clear signage for drivers to give way;
- The in-carriageway pedestrian route to the main doorway and far-away



location of bicycle racks would put both groups in direct conflict with vehicle movements in the car park; especially as the traffic layout mandates all cars use that section. Oxford attracts more users of alternative transport than most towns yet this seems to be a standard car park layout;

- Whilst generally supportive of the arrival of a quality supermarket there are serious concerns about adding traffic to an already overburdened Botley Road. Add to this a redeveloped Elms Parade in Botley and the future for local people is abysmally worse traffic and rising air pollution with consequent health problems;
- There is no 3D visualisation provided looking from the west and this is the most important view of all as the building will be clearly visible by all approaching the city along the Botley Road;
- Whilst accepting that Waitrose will wish to maximise car parking space for customers, some help with parking for local residents would be welcome. The spaces close to the site exit have been used by local residents to park. This is due to problems with the amount of parking spaces in the surrounding roads. Allocating just 10 spaces for local residents would help relieve the problem;
- This development will add to pressure on parking spaces in local residential streets, particularly on Harley Road and Riverside Road. This is likely if the car park becomes full;
- There is inadequate explanation of how the additional egress and ingress motor vehicle movements will be moderated. The number of lanes and width increases for motorists have a reflection in greater threat for cycling;
- The existing cycling facilities here are barely adequate particularly in width and smoothness, and the increased use of the food store is likely to impact negatively on cycling. There is an absence of detail on how any cyclists will enter and exit, especially if they use the hire-trailers. The existing path is not adequate for wider bikes and trailers;
- There is a lost opportunity to provide a number of one-bedroom dwellings above the store that could help to meet the demand for such accommodation in Oxford;
- This development is on an already extremely busy road and this will cause an increase in congestion at the busiest times. Most customers driving to the store will have to cross on-going traffic when entering or leaving the store. During peak times, it can currently take over 5 minutes for one car to exit local side-roads onto Botley Road and longer if crossing a lane of traffic. This is because the traffic is often bumper to bumper and can only be broken into if a driver chooses to allow entry. If 80 additional cars have to cross the lane of traffic to access and exit the store at peak times the queues will be extensive and will result in congestion which will have an impact across the city. Future developments in Westgate and Botley will both also cause an increase in traffic on the Botley Road;
- The proposed plans will have a detrimental effect on access to our property in light of the change in traffic flow, footpath and cycling path. Access in and out of properties from 94 to 108 Botley road are already inhibited by the bus lane. The peaceful enjoyment of nearby properties will be lost given the extended hours that the retail outlet will be open. The flow of traffic on this part of Botley Road will no longer quieten down in the early evening as it does do now.

### **Pre-application Consultation:**

The applicant additionally carried out a significant level of pre-application consultation with local stakeholders. Newsletters were distributed, a public exhibition was held, on site briefings were held with ward councillors as well as press releases in local newspapers. A project website was also set up giving details of the scheme and allowed comments to be submitted. The majority of the comments received were generally supportive of the proposed development though others raised concerns about traffic impact. Suggestions were made to improve the proposed store's accessibility by bike and others suggested making more of the riverside location.

### **Relevant Planning History:**

84/00003/NF - Demolition of existing building and development of new single and two storey buildings for Class 1 retail purposes. **Refused 5th March 1984.**

84/00506/NF - Demolition of existing buildings and development of part single and part two storey building for retail purposes. **Refused and Dismissed at Appeal 29th July 1985.**

84/01048/NF - The demolition of existing buildings and redevelopment of the site by the erection of a part single and part two-storey building to be used for limited class one retail purposes. **Refused but Allowed at Appeal 29th July 1985.**

87/00490/V - Retention of use of land without compliance with condition (b) of NF-/1048/84 & the substitution of new condition which would include reference to the sale of ready assembled furniture in the list of ancillary goods which can be sold. **Permitted 25th June 1987.**

88/00849/V - Variation of condition 3 of planning permission reference V--/0490/87 to include bathroom fittings in the list of ancillary goods which can be sold. **Permitted 29th September 1988.**

94/01786/VF - Variation of condition B of permission NF/1048/84; condition 3 of V/490/87; and of permission V/849/88 to permit any non-food sales, excluding footwear, clothing, fashion goods, toys and games. **Permitted 14th March 1995.**

09/00266/CEU - Application for a Certificate of Lawfulness for Existing Development comprising the use of the entire building for unrestricted A1 use.(Former MFI Unit 110-120 Botley Road). **Appeal lodged against non-determination and allowed at appeal 27<sup>th</sup> May 2010.**

### **Officers' Assessment:**

#### Application Site and Locality

1. The application site consists of the former MFI/Halfords building and its curtilage on Botley Road, a main arterial route into the city centre from the west. Botley Road has, since the 1980s, featured an increasing number of out-of-centre retail premises in addition to its more established residential properties. The side roads in the immediate vicinity of the site are overwhelmingly residential in nature, typified by terraces of more traditional two storey town houses. The existing building itself is set

over two floors and is surrounded on all sides by car parking which also provide an internal vehicular route linking up the site's two access/egress points from Botley Road. To the front of the site lies a grassed tree-lined verge owned and maintained by the County Council. A combined cycle lane and footway linking the city centre with Botley runs across the verge and also through the two existing access/egress points. Bulstake Stream, a tributary of the Thames, lies adjacent to the northern and western boundaries of the site. Beyond the stream to the west lies the houses of Prestwich Place which have rear gardens backing on to the stream. Beyond the stream to the north lies predominantly open countryside within the Green Belt. East of the site sits a line of traditionally styled detached and semi-detached houses.

2. The building was constructed in the mid-1980s following approval at appeal. It was then vacated by MFI in 2008 when the furniture business went into administration and then later by Halfords when the retailer moved into new premises off Lamarsh Road. At present part of the building is occupied by a charity retailer on a short-term lease with the remainder vacant. Concrete blocks placed at each side of the building currently prevent access to the majority of the car park presumably in an effort to avoid indiscriminate parking.

#### Description of Proposed Development

3. The application seeks consent for the demolition of the existing building and the erection of a new food retail store within A1 use class, provision of car and cycle parking facilities as well as alterations to one of the existing vehicular access points from Botley Road, remodelling of the cycle and pedestrian lanes to the front of the site and re-location of the existing bus shelter.

4. As part of the development, new boundary fencing is also proposed along Bulstake Stream in addition to soft landscaping within the car park.

5. Following the submission of the application, a number of relatively minor amendments to the scheme were submitted which included a further re-modelling of the cycle and footways that run along the site frontage with Botley Road so that they separate around a re-located bus shelter and divert back into the site to try to provide a safer and more navigable route for cycles and pedestrians behind cars attempting to egress the site out onto Botley Road. Re-consultation was carried out on these amended proposals and they now form the proposals that are for consideration by Members at Committee. This report has therefore assessed the planning merits of these amended proposals.

6. Waitrose has been named as the proposed operator of the new store. However, the application is for a generic Class A1 retail store which could be used by any retailer in the future including other supermarket chains. For the purposes of considering this application Members should therefore disregard the name of the proposed retailer and determine the application solely on its merits as a Class A1 retail store which would be unrestricted in terms of the operator and the products that could be sold.

7. Officers' consider the principal determining issues in this case to be:

- Principle of Food Retail on the Site;

- Design, Appearance and Layout;
- Traffic and Highway Implications;
- Impact on Neighbouring Properties;
- Trees and Landscaping;
- Flood Risk;
- Ecology;
- Energy Efficiency;
- Archaeology; and
- Public Art.

#### Principle of Food Retail on the Site

8. The existing building on the site benefits from a lawful retail use within Use Class A1. Class A1 includes most forms of retail ranging from a small local shop to a furniture store (such as MFI) up to large superstores. Changes of use within a use class do not amount to development hence the existing building could, theoretically, potentially be used as one supermarket or even a range of smaller shops. Given the types of retail uses included within Class A1 are so broad, the impacts of these uses can vary dramatically so typically the Council would look to apply conditions limiting uses of retail buildings when granting new planning permissions. In particular, the impacts of supermarkets on town centres and the highway network can be significant in comparison to, for example, homeware and DIY stores.

9. At appeal in 2010, the Secretary of State granted a Certificate (CLOPUD) which confirmed that the majority of the floorspace of the existing building could be used for any retail use falling within Class A1. As a result, the current building could be used as a supermarket at any time though this would likely require internal and external alterations to facilitate it.

10. The applicant has put forward this potential “fallback” use of the building and made a case that, rather than re-use the existing building, it is in the interests of both the future supermarket operator as well as public amenity to develop an entirely new building.

11. In order for significant weight to be afforded to a fallback position, there must be a reasonable prospect of it being carried out in the event that planning permission was refused and for this fallback situation to be equally or more harmful than the alternative scheme put forward. Such an approach was established in the case of *PF Ahern (London) Ltd v Secretary of State for the Environment* [1998]. A particularly pertinent quote from this judgement reads: *“In the context of fallback cases, this all reduces to the need to ask and answer the question: is the proposed development in its implications for impact on the environment, or other relevant planning factors, likely to have implications worse than, or broadly similar to, any use to which the site would or might be put if the proposed development were refused? By “might” I do not mean a mere theoretical possibility which could hardly feature in the balance. For a fall-back suggestion to be relevant there must be a finding of an actually intended use as opposed to a mere legal or theoretical entitlement”*.

12. In *South Buckinghamshire District Council v Secretary of State for the Environment, Transport and the Regions* [1999] P.L.C.R. 72 the court said that where a decision maker is deciding whether planning permission for the

development applied for should be granted in order to avoid the greater harm that would result from the resumption of some particular lawful use of the application site, it is inescapably necessary that it should consider the likelihood of such resumption taking place. This is for two reasons. First, unless the resumption of the use is a realistic possibility, it would be Wednesbury unreasonable to treat the harm that would result from such resumption as a reason for granting permission for the new development. Second, the degree of probability of the use being resumed will, or at least may, be a material consideration, to be weighed by the decision-maker along with the harm that the use would cause and the other pros and cons of the new development proposed. If the harm that would arise from the resumed use would be very serious, it may well be that a lower degree of probability of its resumption would be sufficient to justify the grant of permission than in a case of less serious harm. The assessment of the probability and the weight to be attached to it in the overall planning judgment are, however, matters for the decision maker.

13. In the case of the development proposed, officers are confident that the re-use of the existing building would be likely to give rise to greater adverse impact on the local environment than the new proposed development. This is as a result of the benefits of a new scheme (which will be discussed in more detail later in this report) including the ability to reduce flood risk, carry out highway improvements to mitigate some of the additional traffic impact, provide ecological enhancements as well as take the opportunity to greatly improve upon the appearance of the site. The new building proposed is also significantly smaller in total floorspace than the existing building which means that it provides a store that could, in theory, attract fewer customers than a conversion of the existing building such that the supermarket's impact on the vitality of existing town centres could be less. However, whilst re-use of the existing building might present a materially worse proposition in planning terms than that proposed, there must be a reasonable prospect of it taking place to be afforded significant weight in the decision making process.

14. The applicant initially entered into pre-application discussions with officers approximately two years ago and at this stage they were looking to re-use the existing building albeit with some internal and external alterations. The applicant had therefore spent considerable time designing a scheme around the existing building much of which was outside planning control. Taking account of the rather oppressive appearance of the existing building and the awkward access arrangements, officers encouraged the applicant to consider a more comprehensive redevelopment of the site which would provide opportunities for substantial public amenity benefits as well as a better and more practicable operational layout. With informal officer support the applicant set about designing a new development on the site with a floorspace limit of the current retail floorspace of the existing building as set out in the CLOPUD granted at appeal.

15. Consequently, and having considered this matter in some detail, officers are of the view that the applicant has demonstrated reasonable intent to make use of the fallback position which would have been likely to have been progressed further in the absence of officer encouragement for a redevelopment of the site. Furthermore, officers need to consider not just the potential for the current applicant to re-use the building but also another similar retailer. The building is proposed to have a total floorspace of approximately 3,500 sq m with about 2,400 sq m of actual sales floor.

This would make the proposed new store equivalent to a medium sized supermarket. Whilst this type, size and location of store (neither in the town centre nor completely out-of-town) does not typically fit that within the present models operated by larger retailers such as Tesco, Sainsbury or Asda it could quite conceivably be of interest to the growing budget supermarket operators such as Lidl as evidenced by the opening of the Aldi store elsewhere on Botley Road. For this reason officers have come to the view that, on balance, there is a reasonable prospect of the existing building being re-used to provide a food retail store and that, for reasons set out later in this report, the potential impacts of such a re-use would be likely to be more harmful than the development now proposed.

16. The NPPF sets out government guidance with respect to, inter alia, planning for and strengthening town centres. The Council also has its own policy, CS31 of the Core Strategy, that seeks to guide town centre uses (larger retail, leisure and office developments), through a sequential test approach, towards the largest centres first (i.e the city centre) before considering other centres such as Cowley, Summertown and Headington and then finally moving on to edge-of-centre locations and then out-of-centre locations. Policy CS31 of the Core Strategy was adopted in 2011 prior to the publication of the NPPF and some of its requirements are no longer considered to be completely up-to-date as there is a degree of conflict with NPPF guidance.

17. The NPPF is far less specific in guidance and refers merely to town centres rather than a hierarchy of centres and the definition of town centres is rather generous in that it could conceivably encompass anything designated as such over and above a parade of neighbourhood shops. The NPPF sets out that town centre uses (such as that proposed) should be located within a town centre unless there are no suitable and available sites before considering edge-of-centre locations (within 300m of the primary shopping area) and then lastly out-of-centre locations with a preference towards those that are most sustainably located. Where developments are not within town centres, a retail impact assessment is also required so that the implications for the vitality and viability of town centres can be assessed. Town centres can include those both within the local planning authority's area as well as those within other authorities' land that could reasonably be affected.

18. The site is not located within either a town centre and neither meets the NPPF definition of an edge-of-centre location. However, it has an existing retail use which, as officers have already set out in this report, should be afforded significant weight given that there is a reasonable prospect of the existing building being re-used for a range of retail purposes including food retail with relevant consequences in excess of those that might flow from the proposed development. For this reason, and despite the representations made by Vale of White Horse District Council as well as the proposed developers of the West Way scheme, officers do not consider it reasonable to apply the sequential test to the development or give particular consideration to the retail impact assessment. Consequently, officers are not of the view that the proposals fail the sequential test or that they would cause significant harm to existing town centres over and above that which could occur as a result of the re-use of the existing building. Therefore, whilst officers recognise that a food retail store on the site might result in a degree of adverse impact on nearby town centres, officers are not of the view that it would be reasonable to raise objection to the principle of a supermarket on site provided that, as in this case, its floorspace is

no greater than that contained within the existing building. To prevent any additional increase in floorspace without the consent of the local planning authority, a condition is recommended removing permitted development rights to carry out extensions to the building or insert additional mezzanine floorspace.

#### Design, Appearance and Layout

19. Policies CP1 and CP8 of the Local Plan require new development to strengthen and enhance local character with respect to form, scale, layout and design detailing. Policy CS18 of the Core Strategy broadly reflects these requirements.

20. The existing building has a rather oppressive and monolithic appearance with a bland uninspiring frontage with the street. In this respect, its demolition is welcomed. The remainder of the site is covered by car parking which is also rather unsightly particularly given that there is little soft landscaping within the site to break up its visual impact. Botley Road features a mix of building types which reflects its varying use types and this gives it a varied architectural style though, certainly towards its western end, it does not contain buildings of any architectural or historical merit.

21. The proposed new building is, overall, smaller than the current building and situated slightly further back into the site closer to its north-western boundary with Bulstake Stream. The building is proposed to be predominantly single storey though extending to two storey towards the rear of the site to provide space for ancillary storage, unloading areas and offices. Consequently the building would have far less of a direct visual impact and therefore sit more comfortably within the Botley Road streetscene. This would allow greater views through to the site and beyond underneath the tree canopies along the site frontage. To either side of the site are residential properties though the width of the site is significant allowing generous separation distances with adjacent dwellings so that the form and massing of the building should not be expected to directly respond to this existing development.

22. The building appears fairly typical of a modern supermarket being clad mainly with grey coloured aluminium panelling whilst featuring glazing to the ground floor along its south and east elevations. The store entrance is towards the rear of the site which is not considered to be ideal from officers' perspective given that it would have less of an active street frontage but it is nonetheless considered to be acceptable.

23. The separation of the customer and service vehicles is welcomed and sufficient space to the western side of the building allows delivery vehicles to be adequately screened from main public views when travelling towards the city centre. Officers consider that it would have been preferable to have had this servicing/delivery area to the rear of the building where it would have been completely screened from the streetscene however the limited size of the site prevents this from being feasible whilst continuing to provide adequate customer parking and circulation space.

24. Overall however, whilst the design of the building is not considered to be necessarily ground-breaking, it is nevertheless a building and site layout far more visually appropriate than the existing development such that officers conclude that the proposals accord with the requirements of policies CP1 and CP8 of the Local Plan as well as policy CS18 of the Core Strategy.

### Traffic and Highway Implications

25. Policy CP1 of the Local Plan requires new development to be acceptable with respect to access, parking, highway safety, traffic generation and pedestrian and cycle movements. Policy CS13 of the Core Strategy further adds that planning permission will only be granted for development that prioritises access by walking, cycling and public transport.

26. Botley Road, as Members will know, is regularly subject to severe traffic congestion. Inbound traffic to the city centre during weekday mornings is particularly severe though traffic in the early evening is also regularly problematic. During daytime hours there is also typically a consistent flow of cars, buses, pedestrians and cyclists.

27. When previously occupied by MFI and Halfords (i.e. non-food retailers) the site generated a level of traffic movements that initially concerned the City Council and Highway Authority such that it refused planning permission for the development back in 1984. Permission was then granted at appeal though only on the basis that the sale of goods from the premises was restricted to furniture as the Inspector considered that the traffic movements associated with such a retail type was less likely to interfere with weekday traffic patterns. Since the mid-1980s, conditions restricting the goods that could be sold from the premises changed to the extent that there is now no longer any restriction on the A1 use of the building. This position, whilst disappointing, was established at appeal in 2010.

28. As a result, and as already set out in preceding sections of this report, the current building could be occupied as a supermarket at any time and be lawful in planning terms. For reasons already discussed, officers have come to the conclusion that significant weight should be afforded to this fallback position such that the scheme now proposed should be considered on the basis of its impacts relative to the fallback position.

29. The existing building has a floorspace approximately 25% greater than that of the building now proposed. In theory, and based on generic traffic modelling data, the current building therefore has the potential to generate greater traffic movements than that proposed as result of its greater available trading floorspace. Officers however consider this unlikely in reality given that customer numbers are also governed by a range of more complicated factors including the available population in the catchment area as well as other site constraints such as parking. Nevertheless, officers as well as Highway Officers, are of the view that the likely traffic generation from the proposed new store would be similar to that which would occur if the existing building were re-used as a supermarket.

30. The level of traffic movements into and out of the store will considerably increase in comparison to its previous use. To compound matters, this increase will principally occur during weekday early evening hours which has the greater potential to interfere with traffic movements predominantly exiting the city west along Botley Road. The previous use of the building for non-food retail purposes would however have principally generated customer movements at weekends when Botley Road would have been less busy with commuters. Such a view is consistent with that expressed by the Inspector when he considered the planning application for the existing building



back in the mid-1980s. Whilst some traffic movements will come from diversions taken by those already travelling along Botley Road and some existing car trips by local residents to supermarkets further out of town will be reduced, there will be a significant intensification of traffic movements into and out of the site.

31. In addition to the Council's planning policies, the NPPF states that "*all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure; safe and suitable access to the site can be achieved for all people; and improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development*". The NPPF further adds that "*development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe*".

32. Botley Road is already considered to be subject to severe traffic problems which, in officers' view, the development will only worsen by not only increasing the number of journeys along the road itself but also by causing congestion in the area immediately around the site access/egress points. Cars entering into the site will have to cross the eastbound car and bus lanes into the city centre as well as the cycle and pedestrian lanes. The right turn lane allowing entry into the site from the west bound lane is not significant in length and could, at busier times, become congested such that it overflows preventing the flow of traffic moving out of the city centre. Of greater concern however, is customer egress from the site. A signal based system has been explored between the applicant and Highway Authority and found not likely to be effective in this case due to other off-site constraints. This will leave cars attempting to exit the site and turn right out towards Botley having to cut across four lanes of traffic including the eastbound road and bus lane as well as the right turn-in lane which will regularly be blocked by cars attempting to turn into the site. Even then it will be difficult to join westbound moving traffic due to its congestion.

33. The immediate area would therefore have the potential for a number of conflicts between highway users which would not only be to the detriment of the flow of traffic along Botley Road but also highway safety where it is quite conceivable that drivers would be tempted to undertake rash and ultimately more dangerous manoeuvres when attempting to leave the site to avoid having to wait in traffic for prolonged periods of time.

34. However, despite these significant concerns about the impacts on the highway network, similar traffic movements and conflicts would occur if the existing building was re-used. In fact, such movements would be likely to be even more hazardous with narrower access and egress points and a materially worse parking layout within the site that would be likely to give rise to additional conflict within the site.

35. Furthermore, the proposed development includes the ability to have a separate access and circulation area for delivery and servicing vehicles which would prevent unnecessary conflict between customers and operational traffic in the interests of highway safety. Recognising that the proposals are likely to result in increased vehicular activity including that associated with cyclists and pedestrians, the

application proposes alterations to the public highway (outside their land ownership) involving the re-routing of part of the existing cycle lane and footpath so that they diverge at the point of the existing bus shelter. This allows the bus shelter to be moved forward towards the road frontage separating faster moving cyclists from pedestrians waiting to board or alight buses. The paths then join again beyond the re-located bus shelter where they deviate further back into the highway verge so that pedestrians and cyclists can cross the widened customer access point. This allows space for a car to wait whilst it attempts to join the traffic on Botley Road whilst leaving a designated raised strip marked "give way" for pedestrians and cyclists to cross over the access. A raised relief island containing one of the proposed protected trees would provide a place to wait safely before continuing across the access in the event that it is busy with moving traffic. This arrangement has been endorsed by the LHA and, since this work would take place entirely on land within the County Council's ownership, a legal agreement would be required to ensure the works are carried out as shown and to the County Council's standards and specifications. In the event that the application is approved, it is therefore essential that a condition is imposed as recommended requiring these works to be undertaken prior to the supermarket being brought into use.

36. Accepting the fallback position provided by the existing building, officers recognise that the site access arrangements are far from ideal. However, it is worthy of note that, despite its out-of-centre location, the site is easily accessible by a large local population that are within easy walking and cycling distance of the store as well as the site being well served by regular and convenient bus links. Consequently officers consider it likely that the proposed supermarket would receive lower customer car journeys than in comparison to a typical out-of-centre supermarket. For this reason, and as suggested by the LHA, a particularly stretching travel plan should be produced by the applicant setting out all measures to be employed to encourage staff and customers to use transport modes other than private car. Such a travel plan should include a system of regular monitoring and reporting to the local planning authority. A condition is recommended requiring this to be submitted prior to commencement of development and subsequently complied with.

37. The scheme also makes provision for generous levels of cycle parking near to the store entrance and it is proposed to make use of an extensive home delivery system which has been shown to reduce overall travel to retail stores by car. Policy TR3 of the Local Plan sets out maximum car parking standards for, amongst other things, retail developments. The level of parking provision falls approximately 15% below the maximum standards and that which the Council might typically expect to serve a store of this size. However, as already discussed, the site is particularly well located close to a large local population that could easily reach the store by means other than the private car. For this reason officers are satisfied that the level of car and cycle parking facilities are adequate and that, as result of proposed changes to the cycle and pedestrian lanes, pedestrians and cyclists are prioritised above the private car as part of this proposed development in accordance with the requirements of policy CS13 of the Core Strategy.

38. Whilst officers support the separation between operational and customer traffic, the level of comings and goings from the proposed service access would be significant (particularly as it would include home deliveries) and only exacerbate

highway conflict within this section of Botley Road. In order to ensure that the conflict between servicing/deliveries vehicles, customer traffic and other users of Botley Road is kept to a minimum, officers recommend a condition is imposed requiring prior agreement of a servicing and delivery plan. This would allow the Council to impose limits on delivery times not only in the interests of traffic management but also to prevent undue harm to the living conditions of occupiers of nearby properties.

39. Therefore, in conclusion, officers have significant concerns about the likely adverse impact of the proposed development on traffic through-flow within Botley Road which is already often severely congested. As a consequence of this, there is also likely to be additional conflict between highway users including between drivers attempting to access and leave the store as well as cyclists and pedestrians crossing over the access points when travelling between the city centre and Botley. However, despite these significant concerns, officers are of the view that the harm to the functioning of the highway network and highway safety would be similar to that which would occur if the existing building were to be re-used as a supermarket. For this reason officers have concluded that, on balance, it is not reasonable to object to the development in this respect subject to the imposition of a number of conditions.

#### Impact on Neighbouring Properties

40. Policies CP1 and CP10 of the Local Plan require development proposals to adequately safeguard the amenity of occupiers of nearby properties. It is against this development plan policy context that the proposals should be considered in this regard.

41. The proposed building is significantly smaller than the existing building both in footprint as well as overall mass. It is also sited further away from the site's eastern boundary with the adjacent dwellings. Residential properties to the west are separated from the site by Bulstake Stream such that, even though the building is proposed to be sited closer to the site's western boundary, there would still be a generous distance between it and these existing dwellings. For these reasons officers have no concerns about the proposals having an undue impact on either the light or outlook enjoyed by occupiers of any nearby dwelling either from the houses themselves or from their gardens. The proposed building also does not feature any notable windows at upper floor level that could allow overlooking of neighbouring properties and so officers are not concerned about any potential loss of privacy for neighbouring dwellings.

42. The level of activity associated with the site would be likely to significantly increase in comparison to its previous use. This activity would be expected to generate noise and disturbance principally from motor vehicles movements as well as deliveries. However, the servicing/delivery area is proposed to be sited a generous distance away from the nearest dwellings and, subject to conditions controlling delivery times (via a pre-agreed servicing and delivery plan) as well as opening hours (7.30am – 10pm), the disturbance associated with the site should not be significant in the context of the traffic noise expected on an arterial route into the city centre.

43. The alterations proposed to the cycle and pedestrian lanes will result in their diversion closer towards the driveways serving the houses of 106 and 108 Botley Road. Whilst this could make access to these driveways a little more problematic for occupiers of these two dwellings and reduce the vision splays available when exiting the houses, any additional conflict is not considered to be material in comparison to the existing situation which already involves vehicles having to cut across these lanes to access the houses. In any event, any additional harm in this respect is considered to be more than outweighed by the safety improvements proposed to the overall cycle/pedestrian links as part of the scheme.

44. Consequently officers are satisfied that, subject to conditions, the proposals will not have a significant adverse effect on the amenity enjoyed by occupiers of any neighbouring property in accordance with the requirements of development plan policy.

#### Trees and Landscaping

45. Policies CP11 and NE15 of the Local Plan require trees and landscaping features of public amenity value to be retained as part of developments and for opportunities to be taken to provide new appropriate soft landscaping. Policy NE16 requires protected trees to be retained as part of developments unless there is strong justification for their loss and only where this loss can be adequately compensated for.

46. To the front of the site lies the highway verge which is owned by the County Council. This verge features a number of significant sized Lime trees which together give this part of the road more of a boulevard feel and provide a pleasant screening of the site. These Lime trees are all covered by TPOs and officers are of the view that it is important that these are retained in the interests of visual amenity.

47. The erection of the proposed new building itself would not involve the removal of any of these trees or any development within the root protection areas of the protected trees. Similarly, works to re-surface and re-level the car parking areas will not be likely to affect trees of any significance subject to a condition requiring sectional details of the hardsurfacing to be submitted and approved. No new works, other than re-surfacing, are proposed to take place as part of creating the proposed service vehicle access as this will simply involve re-use of the existing vehicular access.

48. However, the widening of the eastern access (to create the new customer entrance/exit) as well as the re-modelling of the cycle and pedestrian lanes would involve development in the notional root protection areas of the protected Lime trees. Any material harm to the roots of these trees could prejudice their long term health and survival to the detriment of public amenity.

49. The applicant and their consultant arboriculturalist have worked closely with the Council's tree officers during the application process in order to develop a scheme that would prevent material harm to the trees. This involved on-site ground investigations to ascertain the root spread of the potentially affected trees. A "root bridge" structure has been developed which involves the raising of the widened section of the customer access so that it builds above existing tree roots.

Furthermore, the alterations proposed to the cycle and pedestrian lanes would involve raising ground levels so that new hardsurfacing does not involve the removal of any of the existing soil structure and therefore potential root damage. Consequently, in principle, officers are of the view that the proposals would not have a materially adverse impact on important existing trees and soft landscape features subject to a number of conditions including the prior agreement of tree protection measures that would be used during construction, a detailed method statement for the works as well as the location of underground services so that the laying of pipes or cables within root protection areas of retained trees is avoided.

50. A scheme of landscaping is also proposed within the new car park area though this will be limited given the relatively contained nature of the site. Officers have yet to see final details of a landscape or planting plan though this would normally be agreed by condition and, as such, one is recommended. A number of native plant species have been recommended by the Council's ecologist to encourage biodiversity along the river corridor and officers would expect to see all of these included before approving a final landscape plan.

51. Consequently, officers find that the proposals retain existing trees and soft landscaping features of importance whilst also providing the opportunity to improve soft landscaping within the site to the benefit of public amenity as well as local ecology. For these reasons the proposals are considered to accord with the requirements of policies CP11, NE15 and NE16 of the Local Plan.

#### Flood Risk

52. The application site lies within flood zone 3a as defined through modelling by the Environment Agency. This means that it is projected to flood at a rate greater than 1 in 100 years. Irrespective of flood projections, Botley Road is anecdotally well known to suffer from fluvial flooding causing inconvenience and distress to its residents as well as commuters. The site itself has however not flooded in the recent past.

53. Retail developments are classified in government guidance as being of a 'less vulnerable' use given that, in the event of a flood, the immediate impact on the local population and essential services/infrastructure is not significant. There is an existing retail building on the site which is larger than that proposed and equally at risk of flooding. Given this existing use, which has established the principle of retail development on the site (and provides a fallback position), there is no purposes to be served by the Council applying a flood risk sequential test as set out in the NPPF which would ordinarily seek to guide development to other suitable sites that are at less risk of flooding. As the proposed use is a 'less vulnerable' one, there is no requirement for the Council to carry out an exception test as set out in the NPPF. In addition officers note that the EA raises no objection specifically stating that the proposals are likely to reduce the risk of flooding.

54. Consequently, officers have no concerns about the principle of a replacement retail building on the site with respect to flood risk subject to the proposals not increasing the risk of flooding either locally or elsewhere in accordance with the requirements of policy CS11 of the Core Strategy.

55. The building proposed has, as already mentioned, a materially reduced footprint in comparison to the existing building. This means that there is less impermeable building coverage on the site thus providing a larger area for rainwater to permeate through to the ground beneath both reducing surface water run-off as well as providing greater flood water storage capacity. All hardsurfacing is proposed to be developed to be sustainable drainage system compliant in contrast the existing car park and towards the rear of the site it is proposed to increase some of the site levels adjacent to Bulstake Stream. The Environment Agency has reviewed the proposals as well as the submitted flood risk assessment and concluded that, for the above reasons, the proposals are likely to reduce the risk of flooding locally even when taking account of projected climate change. The Environment Agency has however recommended a number of conditions which have been replicated as part of the officer recommendation which includes requirements for the development to be carried out in accordance with the measures set out in the submitted flood risk assessment.

56. The Environment Agency did initially have some concerns about the close proximity of the proposed building to the river bank of Bulstake Stream which could have affected their ability to carry out future river maintenance and flood improvement works. However, following a number of discussions between the applicant, EA and officers, the EA are not raising an objection to the scheme on these grounds subject to the imposition of a number of conditions. These suggested conditions have been included as part of the officer recommendation.

#### Ecology

57. Policy CS12 of the Core Strategy states that development will not be permitted where it results in the net loss of sites and species of ecological value Furthermore, it adds that where there is opportunity, development will be expected to enhance Oxford's biodiversity.

58. The application site itself does not contain any habitats of ecological importance however, to the north and west of the site, lies Bulstake Stream. This provides a likely foraging and commuting area for otters as well as Daubenton and Pipestrelle bats. Whilst no evidence was found during surveys, it is also possible that the area provides a habitat for water voles. Consequently the development has the potential to affect land of biodiversity value including that providing a habitat for statutorily protected species.

59. However, no works are proposed along the river bank and all existing vegetation is proposed to be retained which will act as a screen and buffer between the activity on the site and the river habitat just beyond. The Council's ecologist has worked with the applicant to strengthen the recommendations of the submitted ecological assessment and officers are now satisfied that no existing soft landscaping of value will be removed and that a variety of enhancement measures including bat and bird boxes will be installed along the river corridor. Officers have also reviewed details of all external lighting as part of the application to ensure that it will not result in harmful light spillage onto the river corridor and officers are satisfied with the scheme provided. A condition is recommended requiring the development to be carried out in accordance with this lighting scheme and for no other external lighting to be erected without the prior consent of the Council.

60. Whilst final details of a proposed landscape plan have not been provided at this stage, the Council's ecologist will work with tree officers to ensure that all planting is of native varieties that will encourage and enhance local biodiversity. A condition is recommended requiring submission and approval of a landscape plan prior to commencement of development.

61. During pre-application consultation by the applicant, members of the public made representations indicating that they were keen to have the river bank opened up to provide views to the countryside beyond and make use of this pleasant setting for a café. Officers however would not support this approach as it would be likely to adversely affect a site and a number of species of ecological importance which, in officers' view, would make the development unsustainable when considered against government guidance and contrary to the requirements of policy CS12 of the Core Strategy.

### Energy Efficiency

62. Policy CS9 requires all developments to seek to minimise their carbon emissions. As a result of the size of the development a Natural Resource Impact Analysis (NRIA) was required to be carried out by the applicant and, as policy CS9 states, this should show how the use of energy would be minimised as well as how renewable or low-carbon technologies would be incorporated on site.

63. A supermarket typically uses a significant amount of energy once operational. Through the use of a substantial number of photovoltaics on the roof of the proposed building it is expected to generate 23% of its regulated energy emissions via on-site renewable energy technology. Officers are satisfied that other technologies are not appropriate on this site due to a variety of reasons including the potential to cause disturbance for neighbours, the limited space available as well as the fact that the building is not operational for 24 hours a day which would make technologies such as combined heat and power (CHP) unviable. Regulated emissions include only that related to energy use for heating, hot water and internal lighting. It does not include all other energy use such as electrical appliances, cooking and cooling (including fridges/freezers).

64. A typical supermarket's total energy use would be expected to be 8 to 10 times that covered by regulated emissions such that the actual proportion of renewable energy generated on site is only likely to be approximately 3-4% of the total energy used by the development. However, in comparison with other supermarkets officers consider this to be a reasonable and acceptable proportion given that the applicant has satisfactorily demonstrated that there are no other viable renewable energy technologies that could be incorporated within the scheme.

65. The development has achieved a score of 6/11 when considered against the Council's NRIA checklist which is considered to be meet the requirements of NRIA policy CP18 of the Local Plan. The building would benefit from significant levels of natural daylight as a result of the glazing of large elements of the ground floor and all lighting (both internal and external) is proposed to be high-efficiency. The store is also proposed to be provided with lobbies both to the main entrance and to the doors between the warehouse and the store to minimise heat loss. The internal faces of

the external walls (which are highly insulated) would be lined with dense concrete blockwork to provide significant thermal mass to assist both heating and cooling loads. The boilers to be used in the heating system would meet the specifications of Building Regulations Part L2A and all windows would be designed to be of high thermal efficiency.

66. Therefore, officers are satisfied that the development has taken all reasonable steps to minimise carbon emissions and generate a proportion of its energy via renewable technology on-site. The building proposed is also likely to be far more energy efficient than that of the existing building if it were to be re-used. Consequently officers are of the view that the proposals accord with the requirements of policy CS9 of the Core Strategy as well as policy CP18 of the Local Plan in this respect.

#### Archaeology

67. This site is of interest because of the potential for evidence of prehistoric activity in the location of the Thames floodplain. The former gravels islands formed between the braided channels of the Thames 1st gravel terrace are known to have attracted Neolithic, Bronze Age and Iron Age activity. This site also lies within an oval arrangement of channels known as Osney Island. The origins and managed evolution of these channels is not well understood. Undated parchmarks have also been identified from aerial photographic evidence 80m to the north of this site (County HER No 15081). A detailed archaeological desk based assessment has been produced for this site by Wessex Archaeology (2013). The assessment notes the potential for prehistoric settlement, evidence, Late Saxon or medieval channel management activity along the Bulstake Stream and medieval agricultural activity in this location.

68. Guidance in the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Where appropriate local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible.

69. In this case, bearing in mind the current site constraints and the results of the submitted desk based assessment and geotechnical survey, a condition is recommended requiring post demolition (to ground level only) archaeological investigation by a professionally qualified archaeologist working to a brief agreed by the Council. Appropriate mitigation will be required if necessary depending on the results of the investigation

#### Public Art

70. Policy CP14 of the Local Plan states that the Council will seek the provision of public art in association with developments of more than 2,000 sq m. It further adds that public art must be incorporated within the development site or nearby. No details have been provided of public art at this stage however officers recommend that a



condition be imposed requiring details of a scheme of public art to be provided prior to commencement of the development which should also include a timetable for its implementation. Officers would expect the public art to be provided in a visible location where it would make a contribution not only to the site itself but also the wider public realm.

#### Other Matters

71. It is notable from third party representations that there is general support for an 'amenity' for residents of Botley Road and its adjoining residential side roads. Whilst the Council does not have a specific planning policy of direct relevance to this matter, it does have policies that seek to guide town centre uses towards town centres first similar to the policies contained within government guidance. Botley Road is not a town centre though it has been subject to significant out-of-centre retail developments over the past 30 years. The Council as local planning authority originally objected to much of this development though was generally unsuccessful in preventing it when applications were taken to appeal.

72. Officers have a degree of sympathy with local residents in that Botley Road's retail parks have generally detracted from the character of Botley Road leaving it with little to serve local residents. Whilst these 'retail sheds' replaced garages, car show rooms, builders yards and factory premises, officers are mindful that a supermarket in this location would be a much needed amenity asset to local residents which would be likely to contribute positively to the feel and character of the area. This is perhaps in contrast to other developments in recent years which mainly serve those living outside the immediate area such as the large homeware and DIY stores which do not provide everyday amenity value.

73. Consequently, whilst the Council does not specifically have a development plan policy of direct relevance to this matter of local amenity, officers consider it reasonable for this issue to be afforded some weight in the decision making process which adds some support to officers' overall recommendation to approve the application.

#### **Conclusion:**

74. As a result of the significant weight afforded to the fallback position provided by the reasonable prospect of the existing retail building being re-used as a supermarket, officers are satisfied that the proposals will not give rise to a net adverse effect upon the vitality and viability of any nearby town centre. Whilst officers have genuine concerns about the impact on traffic congestion and highway safety, given the weight afforded to the fallback position officers do not consider it reasonable to object to the scheme in this respect. The proposals do however provide a number of benefits including to the appearance of the site, as an amenity to local residents and due to enhancements to the ecological value of Bulstake Stream. No adverse impact on flood risk is anticipated due to the reduced footprint of the building and the incorporation of sustainable drainage methods into the development and all trees and landscaping features of public amenity value are proposed to be retained. Consequently, and on balance, officers recommend that Members approve the application subject to the conditions listed at the beginning of this report.

## **Human Rights Act 1998**

Officers have considered the Human Rights Act 1998 in reaching a recommendation to grant planning permission, subject to conditions. Officers have considered the potential interference with the rights of the owners/occupiers of surrounding properties under Article 8 and/or Article 1 of the First Protocol of the Act and consider that it is proportionate.

Officers have also considered the interference with the human rights of the applicant under Article 8 and/or Article 1 of the First Protocol caused by imposing conditions. Officers consider that the conditions are necessary to protect the rights and freedoms of others and to control the use of property in accordance with the general interest. The interference is therefore justifiable and proportionate.

## **Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to approve, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

### **Background Papers:**

84/00003/NF  
84/00506/NF  
84/01048/NF  
87/00490/V  
88/00849/V  
94/01786/VF  
09/00266/CEU  
14/00067/FUL

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**Date:** 28<sup>th</sup> April 2014