

# Tusmore Park

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## **Response/Objection to Application 22/01340/OUT**

### Background

We, the Tusmore Park Estate, object to the proposed development by Tritax Symmetry Ardley Ltd set out in the following outline planning application that was registered by Cherwell District Council (CDC) on 6<sup>th</sup> May 2022 and recent June 2024 amendments submitted under the currently undetermined application:

- Reference No. 22/01340/OUT – Description of development: “Application for outline planning permission (all matters reserved except means of access (not internal roads) from B4100) for the erection of buildings comprising logistics (Use Class B8) and ancillary offices (Use Class e(g)(i)) floorspace; energy centre, HGV parking, construction of new site access from the B4100; creation of internal roads and access routes; hard and soft landscaping; the construction of parking and servicing areas; substations and other associated infrastructure.”

The application site for the proposed development is located to the north-east of Junction 10 of the M40 Motorway, with a smaller proportion of the site located to the south of the B4100 and a larger proportion of the site located to the north of the B4100 and adjoining the eastern side of the A43.

To the west and south-west of the site are the outline planning applications that were submitted by Albion Land (Reference No. 21/03267/OUT and 21/03268/OUT) in September 2021 also for logistics development with ancillary offices and these applications are undetermined by CDC. We, the Tusmore Park Estates, issued a response dated 21<sup>st</sup> February 2022 objecting to these applications.

We submitted an initial representation in June 2022 when the application was initially consulted on which set out our objection to proposals. We write to maintain our objection, the proposed development under the planning application does not accord with up-to-date adopted Local Plan policies and we object to any current or future planning applications on the following grounds of:



1. Design;
2. Impact on Highways;
3. Built Heritage;
4. Biodiversity;
5. Cumulative Impacts.

It is noted that additional information has been submitted by the Applicant, following discussions which have taken place between the Applicant, Council and consultees regarding the proposals. These include:

- Amended Parameters Plan;
- Amended Access Plan;
- Amended Illustrative Masterplan;
- Environmental Statement;
- Addendum to the Planning Statement;
- Market Report Update;
- Addendum Design and Access Statement;
- Sustainability Statement;
- Transport Topic Paper.

#### Principle of Development

Section 70(2) of the Town and Country Planning Act (1990), as amended by section 143 of the Localism Act 2011 states that:

- “(2) In dealing with such an application the authority shall have regard to:
- (a) the provisions of the development plan, so far as material to the application;
  - (b) any local finance considerations, so far as material to the application;
- and
- (c) any other material considerations.”

Section 38(6) of the Planning and Compulsory Purchase Act (‘PCPA’), 2004 states that: “if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

The adopted Development Plan comprises the following documents:

- The Cherwell Local Plan 2011–2031, Part 1 Adopted 20<sup>th</sup> July 2015 (incorporating Policy Bicester 13 re-adopted on 19<sup>th</sup> December 2016).
- ‘Saved’ policies of the Adopted Cherwell Local Plan 1996.
- Adopted Cherwell Local 2011 – 2031 (Part 1) Partial Review – Oxford’s Unmet Housing Need.



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The emerging Development Plan comprises the Cherwell Local Plan Review 2040 that will replace adopted Local Plan policies and look to address the housing and employment needs of Cherwell up to 2040. A Regulation 18 consultation took place from 22<sup>nd</sup> September 2023 to 3<sup>rd</sup> November 2023. CDC published its most recent Local Development Scheme (LDS) in September 2023 which sets out the aims to adopt the Cherwell Local Plan Review 2040 by December 2025.

The adopted 'Interactive' Policies Map, which incorporates the relevant adopted Local Plan policies, shows the application site for the proposed development by Tritax Symmetry Ardley Ltd is not allocated for development. In planning policy terms, the application site is located within open countryside and not within or adjoining any built settlement.

Policy SLE1 'Employment Development' of the Cherwell Local Plan 2011–2031 sets out the policy for the types and distribution of employment development across Cherwell District. The policy states that employment development will be focused on existing employment sites. On existing operational or vacant employment sites at Banbury, Bicester, Kidlington and in the rural areas, employment development, including intensification, will be permitted subject to compliance with other policies in the Plan and other material considerations. Unless exceptional circumstances are demonstrated, employment development in the rural areas should be located within or on the edge of those villages in Category A.

The supporting text to policy SLE 1 (paragraphs B.44 to B.47) makes it clear that any development in rural areas is to be limited as it is generally unsustainable. The strategy is to locate employment and housing in the 'same place' so as to avoid issues such as additional traffic of rural roads and unsustainable commuting patterns.

The proposed development site is not located on an existing development site and is situated in an isolated location away from the main settlements of Banbury, Bicester and Kidlington where Policy SLE1 states that employment development should be focused. There are three small villages/hamlets of Ardley, Stoke Lyne and Fritwell located some 1-2km from the proposed development site; however, as explained further below, these settlements fall under Category C 'All other villages' and not Category A 'Service Villages' under Policy Villages 1 – and in any case, as set out above, in our view the policy relates to small scale growth in rural locations, not strategic logistics of the nature proposed. Notwithstanding this position, Policy SLE1 continues on to say that new employment proposals within rural areas on non-allocated sites will be supported if they meet the following criteria:

- They will be outside of the Green Belt, unless very special circumstances can be demonstrated (Bullet Point 1).



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- Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site (Bullet Point 2).
  - They will be designed to very high standards using sustainable construction, be of an appropriate scale and respect the character of villages and the surroundings (Bullet Point 3).
  - They will be small scale unless it can be demonstrated that there will be no significant adverse impacts on the character of a village or surrounding environment (Bullet Point 4).
  - The proposal and any associated employment activities can be carried out without undue detriment to residential amenity, the highway network, village character and its setting, the appearance and character of the landscape and the environment generally including on any designated buildings or features (or on any non-designated buildings or features of local importance) (Bullet Point 5).
  - The proposal will not give rise to excessive or inappropriate traffic and will wherever possible contribute to the general aim of reducing the need to travel by private car (Bullet Point 6).
  - There are no suitable available plots or premises within existing nearby employment sites in the rural areas (Bullet Point 7).

At Paragraph 5.5 of the Planning Statement Addendum (dated May 2024) submitted with the application amendments, the Applicant accepts that Policy SLE1 is considered to be the most important policy provision for the determination of the application.

As outlined previously, the application site is located outside of the Green Belt and, therefore, meets Bullet Point 1 of Policy SLE1 as set out above. Policy SLE1 requires new employment proposals within rural areas on non-allocated sites to meet all of the criteria as listed in the policy. For reasons discussed below, we consider that the proposed development fails to accord with Bullet Points 2, 3, 4, 5, 6 and 7 of Policy SLE1 in this regard.

Paragraph 6.20 of the Planning Statement refers incorrectly that the Local Plan Review is not anticipated to be adopted until November 2023. This should refer to December 2025 in line with updated Local Plan timescales.

We strongly disagree that the nature and scale of proposals for logistic development is suitable in this location. We acknowledge that significant weight should be placed on supporting economic growth in the logistics sectors as outlined with the NPPF (2023). However, a logistics development of this nature and scale would be far more suitable and sustainably located adjacent or in close proximity to Banbury, Bicester or Kidlington. At Paragraph 6.72 of the Planning Statement Addendum the Applicant asserts that the highly accessible location to the strategic road network and the buildings serving as national, regional and local need as sufficient justification for the proposal. However, we do not believe that this is a sufficient justification for the development in the rural area



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on what is a strategic scale, non-allocated site. The proposal for large-scale logistics building, are unsuitable for the rural area (regardless of accessibility to the M40) due to its nature and scale. Furthermore, it is claimed by the Applicant there are very few sites nationally that have such favourable road links. We reject this claim as the Applicant has not provided sufficient evidence to prove that this is the case.

In view of the above, the proposed development still fails to accord with Bullet Points 2 and 7 of Policy SLE1.

Paragraphs 6.74 to 6.81 of the Planning Statement sets out the Applicant's justification for the proposed development in respect of Bullet Point 3 of Policy SLE1. At this stage, we have not provided comments with regards to design standards using sustainable construction. Paragraph 6.79, however, refers to the submitted Framework Travel Plan which contains details of measures to try to reduce the impact of transport associated with the development. We consider that these measures, including cycle parking and shared pedestrian/cycle routes, are likely to be wholly ineffective due to the isolated location of the development in the rural area and limited access to sustainable public transport options, with employees or visitors accessing the site being very likely to be reliant on the use of the private car.

At paragraph 6.81 of the Planning Statement Addendum, the Applicant then tries to justify the proposed development as being an appropriate scale and respects the character of the villages and the surroundings in accordance with Bullet Point 3. Following on from this, paragraphs 6.82 to 6.84 try to justify the proposal in respect of Bullet Point 4. Furthermore, paragraphs 6.85 to 6.106 attempt to address the matter relating to appearance and character of the landscape and the environment generally. There has been no substantial change set out within these paragraph numbers to what was submitted initially under the accompanying Planning Statement for the application. Therefore, our concerns remain that the proposed development fails to accord with Policy SLE1.

The proposed site area for the application by Tritax Symmetry Ardley Ltd covers an area of 83.279ha. The proposed site area for application 21/03268/OUT by Albion Land on the western side of the A43 covers an area of 43.9 hectares and the application 21/03267/OUT also by Albion Land on the eastern side of the A43 extends over an area of 23.18 hectares. Our position remains that the cumulative impact of the proposed development under these three planning applications would be an area of 150.36 hectares which will dwarf the nearby villages of Ardley, Stoke Lyne and Fritwell. This size of development is not 'small scale' and the applications, either taken in isolation or alongside each other.

In view of the above, the proposed development fails to accord with Bullet Points 3, 4 and 5 of Policy SLE1.



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As is envisaged by the adopted policies of the Council, a development of this kind is much better suited on the edge of main settlements such as Banbury and Bicester which also have strong links to the M40 and would be located closer to existing workforce with opportunities the use public transport without dependency on the private car.

Policy SLE1 highlights that the Local Plan has an ‘urban focus’. With the potential for increased travel by private car by workers and other environmental impacts, justification for employment development on new sites in the rural areas will need to be provided. This should include an applicant demonstrating a need for and benefits of employment in the particular location proposed and explaining why the proposed development should not be located at the towns, close to the proposed labour supply.

Employees or visitors accessing the site are very likely to be reliant on the use of the private car. The application does not sufficiently explain why the proposals should not be located at the towns, close to existing labour supply. In view of this, the proposed development fails to comply with Bullet Point 6 of Policy SLE1 and the general aim of the policy which seeks to direct growth toward urban locations.

The proposed development also fails to accord with Policy BSC2 ‘The Effective and Efficient Use of Land – Brownfield land and Housing Density’ which states that the Council will encourage the re-use of previously developed land in sustainable locations, of which these proposals on greenfield sites in unsustainable rural locations do not.

Policy Villages 1 ‘Village Categorisation’ sets out a settlement hierarchy for the District, with only infilling and conversions identified as suitable types of development at “All other villages”. The policy is directed towards proposals for residential development but is useful in understanding the wider context of categorisation of villages and the type of development that may be suitable in these locations.

The proposed development site is located in an isolated rural area, with the nearest villages/hamlets being Ardley, Stoke Lyne and Fritwell. All three of these villages/hamlets are classified as “All other villages” (Category C) in the settlement hierarchy and are only likely to ever take very limited growth in the form of infilling or conversions. The proposed development site is, therefore, geographically unsuitable in the context of the nearby settlements relative to the District’s settlement hierarchy.

With the Cherwell Local Plan Review 2040 anticipated to come forward for adoption by December 2025, the current proposals by Tritax Symmetry Ardley Ltd under this planning application and the adjacent proposals by Albion Land under the other two planning applications are considered to be premature when viewed alongside the adopted Cherwell Local Plan 2011–2031 which does not allocate the site for development. As timescales for the emerging Local Plan have slipped, until the Cherwell Local Plan is



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adopted the emerging policies set out within the Planning Statement Addendum hold little weight.

The Cherwell Local Plan 2011–2031 runs to a period up to 2031 and is the most current and up-to-date Development Plan policy that the proposed development should accord with. The proposals will significantly undermine both the existing and the emerging strategy, and will compromise the emerging Cherwell Local Plan 2040 and allocated employment development sites in suitable locations for growth.

### Design Considerations

The amendments set out in the Addendum Planning Statement at paragraph 1.5 identifies changes to buildings heights, introduction of a strategic landscape bund and enhanced landscaping proposals. These changes have been reflected accordingly in updates to the Illustrative Masterplan and Parameter Plan.

The changes to the Parameters Plan (ref: 14-019-SGP-XX-XX-DR-A-131003 P6) and Illustrative Masterplan (ref: 14-019-SGP-XX-XX-DR-A-001010 P8) have also been to include the alignment of the estate road, the location of the energy centre and attenuation basins.

The proposals to move the developable area away from the boundary and increasing the buffer distance are not sufficient to make a substantial difference on a design basis to make proposals visually acceptable. The changes in maximum building heights would not significantly alter the impact of the site proposals on the wider area. The increase in the width of the landscaping is not sufficient to address comments and concerns expressed on the application to date. Whilst further details of the earth bund proposed along the eastern boundary has been provided, in our view the proposals will cause significant visual intrusion to rural views along this PRoW, existing landscape and into the surrounding countryside. The proposals would also impact on the setting of the Grade II Listed building “Barn at SP 5487 2940” to the north-west of the A43/B4100 roundabout.

The proposals by Tritax Symmetry Ardley Ltd alone and when considered cumulatively with the proposals by Albion Land would not be of an appropriate scale for the area and severely damage the character of the nearby villages and the surrounding countryside.

### Impact on Highways

It is noted that an Addendum Transport Assessment (TA) has been submitted, which includes the results of additional modelling undertaken for the site. Our concerns on the cumulative impact on highways and the impact on the transport network in terms of capacity, congestion and highway safety still however remain.





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Policy SLE4 'Improved Transport and Connections' states the Council will support the implementation of the proposals in the Movement Strategies and the Local Transport Plan to deliver key connections, to support modal shift and to support more sustainable locations for employment and housing growth.

The policy sets out that how and where the Council will support key transport proposals. Fundamentally, Policy SLE4 states that all development, where reasonable to do so, should facilitate the use of sustainable modes of transport to make the fullest possible use of public transport, walking and cycling. Encouragement will be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Development which is not suitable for the roads that serve the development, and which have a severe traffic impact, will not be supported.

As discussed above, the proposals by Tritax Symmetry Ardley Ltd under this planning application and the proposals by Albion Land under the two adjacent planning applications are located in unsustainable locations within the rural area that has poor access to sustainable means of transport including train and walking/cycling. The proposal and its employees/visitors will have high dependency on the private car that will not support a modal shift towards more sustainable means of transport. The increased use of the private car to access the development will result an increase in outward commuting from the main settlements (such as Banbury, Bicester and Brackley in Northamptonshire) resulting in increased traffic movements between these settlements along the M40 and around Junction 10.

As set out previously, our view is that the proposal is likely to generate increased traffic movements between the settlements such as Banbury, Bicester and Brackley and Junction 10 of the M40. The A43 already serves as an important strategic road network between the M40 and the M1 on the edge of Northampton. The creation of more local traffic movements from the proposed development will cause congestion to this road link of regional importance between the two motorways.

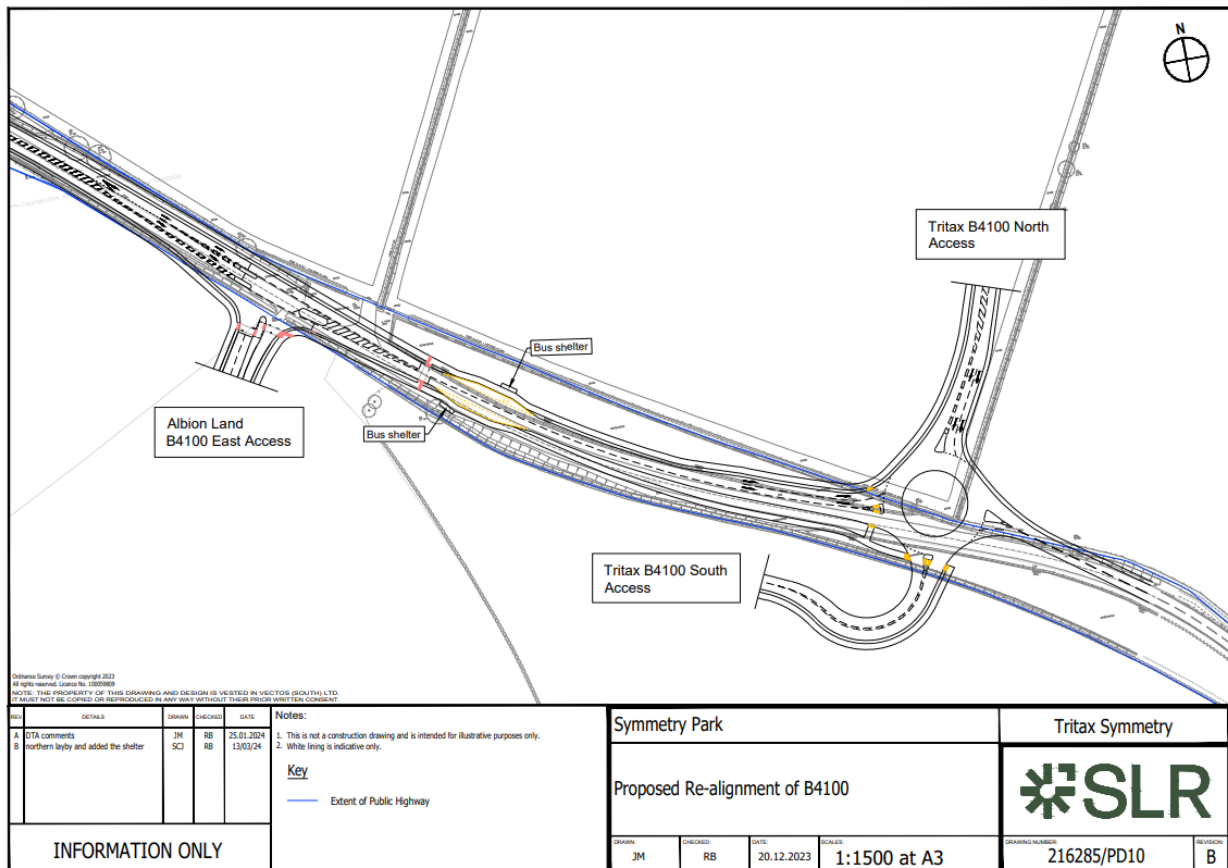
We do not believe that the existing Junction 10 of the M40 has sufficient capacity to take additional traffic from the proposed development sites. The junction has already been upgraded within the last 8-9 years and there would be limited opportunity to provide any further mitigation to accommodate the development proposals by Tritax Symmetry Ardley Ltd and Albion Land. Both the Ardley Roundabout (off the B430) which serves traffic to and from the northbound carriageway of the M40, and the A43 Roundabout serving southbound traffic, are barely suitable in dimension to accommodate HGV traffic at the current time and additional HGV traffic accessing logistic buildings without the proposed highways improvements work for the SRFI will further exacerbate the problem. We note that a revised mitigation strategy has been developed in conjunction with National Highways and Oxford City Council. This is reflected within the submitted Transport Assessment addendum setting out enhancements to promote sustainable





transport and safe site access. The updates to the access and other transport elements set out, foresee improvements to the Baynards Green roundabout. However, the impacts of the development on the transport network in terms of capacity, congestion and highway safety still remain.

The site access and proposed re-alignment of the B4100 is shown below.



Our concerns remain with the impact of the combined developments and proposed improvements at Junction 10 of the M40 in particular. In our view, the proposed development would still exceed the assessment threshold outlined in NPPF paragraph 114 (d) and be unacceptable from a highways impact perspective.

### Built Heritage and Below Ground Archaeology

As discussed above, the proposed development site is located in close proximity to a Grade II Listed building. Policy ESD15 'The Character of the Built and Historic Environment' seeks to conserve, sustain and enhance designated heritage assets including buildings, features, archaeology and their setting. Due to its impact on the nearby Listed Building, the proposals fail to accord with Policy ESD15 in the context of the surrounding built heritage environment.



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It is also relevant to note that the Council's Archaeological Officer issued a response to the Tritax Symmetry application that the site is located in an area of archaeological interest. It was requested at the time that an archaeological field evaluation be carried out pre-determination. The Environmental Statement (2024 update) now confirms that based on the results of the initial trial trenching, the requirement and scope of further archaeological mitigation has been agreed. This is to be secured by an appropriately worded condition.

### Biodiversity

Whilst the site is not designated under any landscape or environmental planning destinations, according to the Policies Map, the proposed development sites are located within close proximity to Conservation Target Areas. Policy ESD11 'Conservation Target Areas' of the adopted Cherwell Local Plan 2011–2031 states that, where development is proposed within or adjacent to a Conservation Target Area, biodiversity surveys and a report will be required to identify constraints and opportunities for biodiversity enhancements. Development which would prevent the aims of a Conservation Target Area being achieved will not be permitted.

Policy ESD10 'Protection and Enhancement of Biodiversity and the Natural Environment' states that, in considering proposals for development, a net gain in biodiversity will be sought by protecting, managing, enhancing and extending existing resources, and by creating new resources. Furthermore, development proposals will be expected to incorporate features to encourage biodiversity, and retain and where possible, enhance existing features of nature conservation value within the site.

Since the application was submitted initially, 10% biodiversity net gain is now mandatory in line with the Environment Act 2021. Despite the application being submitted prior to this time, it is a key consideration to encourage and ensure net gain within proposals. Issues were raised by CDC Ecology and The Wildlife Trust regarding net gain calculations and the impact of proposals on local wildlife sites and landscape considerations.

The updated ecological surveys including breeding bird surveys and bat activity surveys and a revision of the biodiversity calculations has been provided and the ecology chapter of the Environmental Statement updated. Paragraph 3.48 of the Planning Statement Addendum sets out the parameters plan will ensure a minimum of 17.24ha, 20.70% of the site area, will be devoted to open space and managed for biodiversity purposes. This statement does not provide a level of certainty to ensure the site is capable of delivering a biodiversity net gain and how this will be secured through the creation of habitats.

Paragraph 3.49 of the report recognises, that the proposed development cannot achieve a net gain for Habitat and Hedgerow Units within the Site. It is not sufficient to outline that biodiversity net gain can be secured at reserved matters stage.



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The report attempts to outline offsite measures for improving the units available on site. However, none of these measures are forthcoming in terms of guaranteeing that any mitigation measures will provide an appropriate solution. It is clear that it is highly unlikely that a biodiversity net gain of any percentage amount can be achieved, and the proposed development will result in an overall loss in biodiversity value including a loss of Area Habitat Units and Hedgerow Units.

In view of the above, the proposals are not in accordance with Policies ESD10 and ESD11 of the Local Plan.

#### Cumulative Impacts

We previously noted the relationship of the application site by Tritax Symmetry Ardley Ltd to the two applications by Albion Land, which we consider should be factored into the consideration of all three planning applications as they are still undetermined. Whilst each application needs to be considered on its merits, in determining the current three live planning applications, the Council need to be aware of the wider planning context and factor in the wider cumulative impacts of the various proposals. Whether this necessitates delaying the determination of the current applications until the other schemes have progressed is a matter for the Council to considered, but we would expect to see consideration given to the wider planning context in determining the live applications, not least for the reasons set out above.

#### Summary

In line with the recent consultation on proposals on ‘an accelerated planning system’, Government proposals are seeking to increase timely decision making of planning applications within the statutory determination periods. Given the application was validated on 6<sup>th</sup> May 2022, there has been sufficient time allowed to determine the application and it is strongly recommended that the Council progress the application to refusal as further extension of times and subsequent amendments are not acceptable in view of this consultation. Therefore, the application should be progressed to refusal forthwith.

In summary, the proposed developments by Tritax Symmetry Ardley Ltd under this planning application and the adjacent proposals by Albion Land under the other two planning applications, taking into account the amendments submitted, still do not accord with up-to-date adopted Local Plan policies and we object to any current or future planning applications.

No material considerations have been presented which outweigh the clear conflicts with the Development Plan. Therefore, in the overall planning balance, the applications should be refused.



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Kind regards

William Jones MRICS

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