

From: Richard Cutler
Sent: 15 May 2020 11:54
To: Bernadette Owens Democracy
Cc: Caroline Ford Bruce Usher Tom Darwall-Smith Gary Jackson Chate, Francois
Subject: Re: Bicester 10 - Applications 19/01740/HYBRID & 19/01746/OUT

Dear Bernadette,

Following up my email below, I have now been through the Committee Report for the Phase 2 applications, published on Wednesday. As you know, we are generally supportive of Albion's proposals, but we do have very serious unaddressed objections relating to traffic impact, sustainable accessibility and place-making.

The **big issue** for us is that the list of planning obligations for Phase 2 at your paragraph 9.113 does not mirror and transpose the Schedule 1(B) A41 roundabout slip works from our Phase 1B s106. This is mentioned as one of our reasons for objection at paragraph 6.3 of your report. These works were considered vital as a *pre-occupation* matter for Phase 1 (to address traffic impact concerns) and so, logically, Phase 2 also needs to be subject to the implementation of these works (the David Tucker TA relies on them) on a *pre-occupation* basis. I cannot see anyway around this. Phase 1 and Phase 2 are now distinct entities. Either may be on site first; and, in fact, Albion's pre-let to DLL puts Phase 2 ahead of us.

In addition to this issue with the Phase 2 s106, which might be described as the 'sharp end' of our concerns, I would say that your Committee Report leaves me with four questions:

1. **What is the rationale for a maximum of 35% B1(a)?**

Your Committee Report suggests that this is a knowledge economy mix, but the original application for Phase 2 was for open-ended B1 and it is, in fact, only traffic impact and Albion's unwillingness to address the roundabout slips and the widening of Vendee Drive (Shouler Way) that is constraining the mix of B1(a) development. B1(a), of course, is the use that creates the highest job generation (at 1:12 sq m). By not fully assessing the traffic impact and, instead, relying on a maximum limit for B1(a), it is inevitable that Phase 2 will slide to an industrial park, which is not desirable, yet there is nothing currently in the structure of the conditions that Cherwell can apply to prevent this; we note that the original scheme proposed by Albion was for "light and general industrial warehouse units" (your paragraph 5.2) so there is a definite risk of ambition creep here; and it also seems that the 'Science Park' scenario in the David Tucker TA (with 50% B1(a) and 50% B1 (b)) has now been abandoned, again on traffic impact grounds. We have suggested (via PBA/Stantec) that Phase 2 should address its full traffic impact as Albion would then have the flexibility to deliver whatever mix of B1 is expressed by knowledge economy occupier requirements. Why limit the original ambitions of Policy Bicester 10? In addition, it would be helpful if the 'Development Framework Plan' (see Point 4 below) identifies a form of development on Phase 2 that includes a minimum of 35% B1(a), and this could then be used with conditions to regulate the planning permission and keep the focus on the knowledge economy.

2. **What precisely are the obligations that Albion are seeking to defer back on to Phase 1B?**

The Committee Report is slightly unclear, but paragraph 9.33 on the hybrid application suggests that Phase 2/Albion will provide a “southbound bus stop only” and then apparently rely on a financial contribution to provide bus services for employees coming from elsewhere. I am very concerned that this is just another deferment of an obligation on to Phase 1B given that the County has raised with us the prospect of an online bus stop on the south side of Vendee Drive (Shouler Way) as now being necessary as part of our application (it is also referred to at paragraph 5.2.2 of the David Tucker TA). We will not countenance this. The original strategy aimed to reserve land for bus stops either side of Shouler Way to serve Phase 2; given the greater/unacceptable distance of this phase from the Park & Ride, and the fact that our s106 is already funding the bus stops on the A41, which are c200m max from Phase 1. Phase 1 has excellent accessibility to bus services in all directions. We therefore do not accept the point you make at paragraph 9.36:

“9.36 The provision of the roundabout and the pedestrian and cycle infrastructure proposed as part of this application will make a significant contribution towards access arrangements for the benefit of the whole of the Bicester 10 allocation and any further links between the application site to the Phase 1 development and to the west will need to be considered through the development of Phase 1.

The roundabout is required to access Phase 2 only and provides no other benefit to anyone else. The further links are necessary for Phase 2 only, not Phase 1. We have an extant consent and our current application generates 40% less traffic impact. There is no case for us to provide more infrastructure. We will not therefore accept the onus being put on us to resolve a problem relating to Phase 2, that was created by Albion, and is as yet unresolved. That is not how planning or business works. Nor is such an approach fair or equitable.

As set out in my introductory comments, there is also an important omission in the proposed Phase 2 s106. The list of planning obligations for Phase 2 at 9.113 does not include the Schedule 1(B) A41 roundabout slip works from our Phase 1B s106; mentioned as one of our objections at paragraph 6.3 of your report. These works were considered vital as a pre-occupation matter for Phase 1 and so, logically, Phase 2 also needs to be subject to these works on an either/or basis. The development programme for Phase 2 is now ahead of Phase 1B, for example.

The residual question here is: why aren't Albion properly engaging with the traffic impact and sustainable accessibility opportunities offered by Vendee Drive (Shouler Way)? It is part of the fundamental case for a high quality business park, at this gateway location, next to the Park & Ride. It is illogical and unsatisfactory for Phase 2 not to make Vendee Drive (Shouler Way) a 'showcase' access to this knowledge economy site. This lack of engagement also explains why Albion are proposing a financial contribution of £375,000 towards public transport when there is no suitable second bus stop scheme drawn up to adequately serve Phase 2; so the only possibility is to put the second bus stop (or both) on Vendee Drive (Shouler Way). The legality of such a contribution is therefore highly questionable and, particularly without an identified scheme, it is not reasonable to put the delivery risk for this bus service onto the Local Highway Authority. Money alone does not address the need to make the “fullest possible use” and provide “good accessibility to public transport” required by Policies SLE4 and Bicester 10 (pages 55 and 164 of LPP1).

- 3. Can you honestly say that the Phase 2 proposals make the “fullest possible use” of public transport, walking and cycling?**

This is what Policy SLE4 demands, and there is also a list of similar criteria in Policy Bicester 10 (paragraph 9.5 et seq of your report refers). As you know, as requested by Cherwell, we have reserved land for the necessary widening of Vendee Drive (Shouler Way) but we have had no contact from Albion to request collaboration in the delivery of the related improvements linked to the development of Phase 2. I have sent you the extracts from the Committee Report (April 2017), and the plan in our s106, that confirm the surface access strategy and, given the thresholds established by our extant permission (and the costs we have already incurred relating to the delivery of Phase 1A – eg new bus stops, a crossing of the A41 and a new cycleway along the A41) we are not going to have additional costs imposed upon us. There is no justification. Phase 2 is three times the size of Phase 1. Albion were aware of the strategy for Vendee Drive when they purchased Phase 2 last year so the obligation needs to remain with them to produce an access strategy (for cars, buses, pedestrians and cyclists) that matches the agreed strategy and which makes the “fullest possible use” of sustainable modes of travel. They cannot circumvent Policy SLE4 and Bicester 10 by deferring obligations back on to us. Nor can Albion lawfully rely on a financial contribution when the required works are not on land in the control of the Local Highway Authority and they are not necessary for the implementation of Phase 1B. I see no reason why Cherwell or the County should accept these risks on behalf of Albion.

4. Place-making

Paragraphs 9.53 and 9.63 suggest that Albion can produce a ‘Development Framework Plan’ pre-reserved matters, controlled by Condition 27 (which, as an aside, should reference Policy SLE4 in its justification). In light of the issues we have raised with you, I think it would be sensible to have this ‘Development Framework Plan’ available for Councillors to view prior to making any determination on Phase 2. This is the only reliable way to see what Phase 2 is proposing and how this links in place-making and sustainable accessibility terms to Phase 1. We have offered to attend a co-ordinating meeting with Albion on numerous occasions but have had no response. The theme remains the same. We see no reason why Albion’s singular approach to date should defer costs, risks and place-making opportunities to Bloombridge, Cherwell and the County to resolve.

I would add that the ‘Development Framework’, if available prior to a decision being made, could be used to test whether Albion has maximised the site coverage and job yield. For example, it is normally possible to locate car parking for offices on a floodplain. Has this been explored?

I hope you will appreciate that I am not meaning to be critical of Cherwell. In many ways, you are caught in the middle. But if the failings with Albion’s applications are solely of their making, and readily resolvable, then a much better, policy compliant planning resolution is within grasp. Moreover, and in any event, a consent that does not address Point 2 above is not lawful.

As per my email below, we remain very happy to discuss these matters with Albion by way of an ‘all parties’ meeting, perhaps chaired by Cherwell?

I have copied in the Committee Clerk and hereby request a slot to speak in order to make the above four points. For the avoidance of doubt, I am happy for these comments to be uploaded on to the Phase 2 application websites.

Best wishes,

Richard Cutler
Partner

