



Tusmore Park

The Estate Office, Tusmore Park, Bicester, Oxfordshire OX27 7SP

21 February 2022

By E-mail only

Cherwell District Council
Bodicote House
Bodicote
Banbury
OX15 4AA

Dear Sirs

Response/Objection to J10 of M40 Proposals, Oxfordshire

Background Introduction and Site Context

We, the Tusmore Park Estate, object to the proposed development by Albion Land set out in the following outline planning applications that were registered by Cherwell District Council (CDC) on 23rd September 2021 and are currently undetermined:

Reference No. 21/03267/OUT – Description of development: *“Outline planning permission (all matters reserved except for access) for the erection of buildings comprising logistics (Use Class B8) and ancillary Office (Use Class E(g)(i)) floorspace and associated infrastructure; construction of new site access from the B4100; creation of internal roads and access routes; and hard and soft landscaping.”*

Reference No. 21/03268/OUT – Description of development: *“Outline planning permission (all matters reserved except for access) for the erection of buildings comprising logistics (Use Class B8) and ancillary Office (Use Class E(g)(i)) floorspace; construction of new site access from the B4100; creation of internal roads and access routes; hard and soft landscaping including noise attenuation measures; and other associated infrastructure.”*

The sites that are subject of the above applications are located to the north of Junction 10 of the M40 Motorway and south of the B4100, straddling the A43 with application 21/03267/OUT located to the east of the A43 and application 21/03268/OUT located to the west of the A43.

We understand that Tritax Symmerty are also proposing development at ‘Symmetry Park’ which is located on land adjoining the above outline planning applications submitted by Albion Land. ‘Symmetry Park’ is described as an area covering a total of 198 acres which *“has the capacity to deliver up to 3,200,000 sq ft of logistics floor space.”*

Part of that site is located directly to the east of application 21/03267/OUT to the south of the B4100, with the remainder of the site located to the north of the B4100 and east of the A43. We will also object to that application given a number of the same issues general issues, covered below, will apply.



We note from a review on the CBC website that no such planning application(s) has yet been registered by CDC in respect of the proposals at 'Symmetry Park'. Should a planning application(s) as such be received, we request notification from CDC.

We are also aware of the proposal for the Oxford Strategic Rail Freight Interchange, which was submitted to the Planning Inspectorate (PINS) last year for Environmental Impact Assessment Screening. Whilst no planning application has been submitted to PINS yet for what would be a Nationally Significant Infrastructure Project (NSIP), we raise it in this objection as it is material to the consideration on the current applications.

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 20th July 2015 (incorporating Policy Bicester 13 re-adopted on 19th 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.

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. An initial stage 'Community Involvement Paper Consultation' was undertaken by CDC between 31st July 2020 – 14th September 2020. A further 'Community Involvement Paper 2: Developing our Options Consultation' took place between 29th September 2021 – 10th November 2021. CDC published its most recent Local Development Scheme (LDS) in September 2021 which aims to adopt the Cherwell Local Plan Review 2040 by November 2023.

Running also alongside is the emerging Oxfordshire Spatial Plan 2050, which will provide the overall framework for future growth, identifying the key sites/areas for strategic scale development across Oxfordshire. Subject to the examination process, the latest CDC LDS anticipates adoption of the Spatial Plan by May 2023. However, the timetable expects a draft of the Strategic Plan to be published this summer, which will indicate, based on a proper assessment of all options, where major housing and employment growth across Oxfordshire should be located.



The adopted 'Interactive' Policies Map, which incorporates the relevant adopted Local Plan policies, shows the proposed development sites by Albion Land and Tritax Symmetry are not allocated for development. In planning policy terms, they are 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.
- Sufficient justification is provided to demonstrate why the development should be located in the rural area on a non-allocated site.
- They will be designed to very high standards using sustainable construction and be of an appropriate scale and respect the character of villages and the surroundings.
- 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.
- 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).

- 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.
- There are no suitable available plots or premises within existing nearby employment sites in the rural areas.

In terms of their response to policy SLE1, we note Albion Land's justification for their proposal in terms of the site's accessibility to the M40 and demand for logistics buildings. However, we do not believe that this is a sufficient justification for the development in the rural area 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 its nature and scale. 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.

The proposed site area for application 21/03268/OUT on the western side of the A43 covers an area of 43.9 hectares and the application 21/03267/OUT on the eastern side of the A43 extends over an area of 23.18 hectares. The cumulative impact of both of the proposed development under these applications alone will dwarf the nearby villages of Ardley, Stoke Lyne and Fritwell. The emerging proposals to the north by Tritax Symmetry cover an area of approximately 80 hectares, which, if were to also come forward, would more than double this figure. As already noted, this is not 'small scale' and the applications, either taken in isolation or alongside Tritax Symmetry's proposals.

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

It has been proposed by Albion Land that a Public Right of Way (PRoW) is diverted in order to accommodate the development; however, our view is that the proposals will cause significant visual intrusion to rural views along this PRoW 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 proposed developments, therefore, fails to accord with the third, fourth and fifth bullet points of Policy SLE1.

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.

The proposed development will result in excessive and inappropriate traffic and this matter is discussed further below in our response. The site is situated in an isolated location in the



rural area with no opportunities for employees or visitors to the proposed logistics buildings having access to sustainable means of transport including bus, train or walking/cycling.

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 these matters, the proposed development fails to comply with the sixth bullet point of Policy SLE1 and the 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 November 2023, the current proposals by Albion Land and Tritax Symmetry are considered to be premature when viewed alongside the adopted Cherwell Local Plan 2011–2031 which does not allocate the site for development.

The Cherwell Local Plan 2011–2031 runs to a period up to 2031 and is not out of date as suggested by Albion Land in their submitted Planning Statement. The proposals will significantly undermine both the existing and the emerging strategy and will compromise the associated evidence base that is being prepared by the Council as part of its work to bring forward the new Cherwell Local Plan Review 2040 and identify any need for additional employment development sites in suitable locations for growth.

Impact on Highways

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 proposed developments by Albion Land and Tritax Symmetry are located in unsustainable locations within the rural area that has poor access to sustainable means of transport including bus, 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.

It's also relevant to note that the National Highways (formerly known as Highways England) issued a response to Albion Land's proposals recommending that planning permission is not granted for a specified period. This is because the Applicant has provided inconsistencies with the proposed quantum of development in the context of the transport assessment and insufficient information with regards to junction capacity assessments at Junction 10 of the M40.

Oxfordshire County Council (OCC) as Highways Authority have also objected to the proposed development on the basis that the transport assessment provided does not demonstrate that the development would not have a severe impact on the operation of the highways network. They have requested further information to demonstrate that safe and suitable pedestrian and cycle access can be provided to the development, which given the location of the site we suggest will have no impact on the sustainability of the site. They have also raised concerns with the geometry of the access junction has associated safety risks for all users and could affect its potential for signalisation.

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 7-8 years and there would be limited opportunity to provide any further mitigation to accommodate the development proposals. 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 and additional HGV traffic accessing logistic buildings will further exacerbate the problem.



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. It is also relevant to note that the Council's Archaeological Officer issued a response to the applications stating that the site is located in an area of archaeological interest. The area of the green has been suggested to be either the site of medieval jousting or a camp site for these jousts, horse racing and a rendezvous site during the C17th civil war. A number of possible Bronze or Iron Age banjo enclosures have been recorded in the vicinity of the site from aerial photographs and a ring ditch has been recorded 500m northeast of the site. As such, an archaeological assessment setting out a written scheme of investigation is required, and the Officer has advised that the current information provided is insufficient. A programme of archaeological evaluation would also need to be undertaken on the site ahead of any determination of a planning application. In view of the above, the proposals fail to accord with Policy ESD15 in the context of below ground archaeology.

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.

We note that as part of its planning applications, Albion Land have proposed details of Biodiversity Net Gain (BNG) and, in order to accommodate a BNG, an area of off-site habitat compensation will be created, comprising approximately 20ha of arable land located in Piddington, south east of Bicester.

We object to these proposals on the basis that the area of land proposed for BNG is approximately 13km from the proposed development sites and is, therefore, in no way functionally related in biodiversity terms to the development site. The surrounding land to the north and east of the proposed development sites are designated as 'Conservation Target Areas' in the Local Plan. Our view is that the documentation submitted with the planning application does not sufficiently address suitable ecological mitigation and biodiversity net gain that would help towards preserve the surrounding area and ecological designations. The proposals, therefore, are not in accordance with Policies ESD10 and ESD11 of the Local Plan. It is also noteworthy that the Environment Agency has responded to Albion Land's proposals stating that the proposed off-site compensation area lies within an area at risk of flooding,



and therefore the Applicant should provide additional flood risk assessment work. As such, the proposals fail to comply with Policy ESD6 'Sustainable Flood Risk Management' of the Cherwell Local Plan 2011–2031 which aims to protect areas of flood risk.

Cumulative Impacts

We have already noted the relationship of the site to the Tritax Symmetry proposal, which we consider should be factored in to the consideration of the current application. However, it also needs to be noted that there is a NSIP proposed to the west of the M40 which will potentially have an even greater impact on the area and will undoubtedly have a potentially cumulative impacts alongside the current proposals. Whilst each application needs to be considered on its merits, in determining the current 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 schism have progressed is a matter for the Council to consider, but we would expect to see consideration given to the wider planning context in determining the live applications.

Summary

In summary, the proposed developments by Albion Land and the emerging proposal by Tritax Symmetry 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.

Yours sincerely,


J D C Perks MRICS CEnv
Estate Manager