

**Our ref:** Q210254  
**Your ref:** 21/03267/OUT; 21/03268/OUT; 21/03266/F  
**Email:** emma.lancaster@quod.com  
**Date:** 21 March 2022



David Lowin  
Principal Planning Officer - Major Projects Planning Team  
Environment and Place Directorate  
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By email

Dear David

## LAND ADJACENT TO JUNCTION 10 OF THE M40

On behalf of Albion Land, I am pleased to provide you with an update in relation to their three planning applications for logistics development at Land adjacent to Junction 10 of the M40. I trust you will share this with Robin Forrester ahead of the applications being reassigned at the end of this month.

This letter provides further information regarding the future occupiers of the Site and the urgent and growing requirement for logistics floorspace in this location. It also acknowledges comments issued by statutory consultees and either responds to these or explains work that is being undertaken by the Applicant to address the feedback received. A summary of the outcomes of consultation recently undertaken and proposed with local parish councils is also provided.

### Confirmed Occupiers

Albion Land has secured a pre-sale agreement with DHL Real Estate Solutions (RES) for approximately half of the proposed Western Site development.

Pre-sale agreements are also soon to be in place with multi-national logistics operators for the entirety of development on the Eastern Site and the remainder of the Western Site. We expect to be able to name the occupiers for the Eastern Site and confirm their support imminently, with the final occupier for the Western Site confirmed over the course of Spring once terms are fully agreed. This will mean the whole of the Proposed Development has pre-sales agreed prior to the applications being determined.

### Western Site

Albion Land are pleased to confirm that, should planning permission be granted, DHL RES will occupy up to 83, 610 sq.m of floorspace within the Western Site. It is anticipated that this floorspace will form the first phase (excluding the enabling works) of built development.

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DHL RES is the supply chain arm of DHL. It manages logistics and the complexities of the global supply chain on behalf of its customers and is a distinct and standalone division of DHL.

DHL RES plays an essential role supporting the UK economy, ensuring (inter alia) convenience stores and supermarkets remain stocked, the hospitality industry is supplied with food and drink, and the healthcare sector has the supplies it needs when and where it needs them.

For the avoidance of doubt, DHL RES is entirely separate to DHL Express, which specialises in international shipping and courier services.

DHL RES require a new distribution facility within Cherwell to support their future business operations within Oxfordshire and the wider South East and Midlands regions. It is imperative that DHL RES secures a major site with immediate access to this section of the M40 motorway without further delay.

Further details of DHL RES' operations are set out in the DHL Letter of Support (received by CDC November 2021) that has previously been submitted to CDC.

The Applicant is also finalising terms with a well renowned multi-national logistics operator for the remaining floorspace in the Western site. Further details will be provided to CDC once the pre-sales agreement has been secured.

### Eastern Site Occupier

Albion Land have also secured an agreement in principle for the occupation of all future buildings on the Eastern Site. The buildings will be occupied by a multi-national logistics operator. Albion Land expect to be able to name the occupier of the Eastern Site floorspace imminently.

### Demand for Logistics Floorspace

As well as there being pre-sale agreement(s) for the Site, the Applications are accompanied by a suite of reports that demonstrate that the proposed development will help address a substantial and growing demand for logistics floorspace at a local, regional and national level. These reinforce the widely understood message that the current level of demand is unprecedented and has been exacerbated by the Covid-19 pandemic and Brexit; meanwhile, the availability of logistics floorspace is at a record low. This has resulted in a 'tipping point' where demand significantly outweighs supply.

The demand for, and severe shortage of, logistics floorspace is well documented. By way of update, recent media articles are enclosed in **Appendix 1**. These articles cite research undertaken by property market experts Cushman & Wakefield and Savills and highlight that "**the UK could run out of warehouse space within a year**, as supply chain disruption and a boom in online shopping propel demand to record levels".



It is imperative that planning decisions are cognisant of this urgent requirement for logistics floorspace and the need to facilitate economic recovery at a local, regional and national level. Albion Land's sites are ideally placed to address the substantial and growing demand for logistics floorspace. Critically, these sites are available for development now and can accommodate a range of unit sizes (including a distribution facility of the nature required by DHL RES and similar operators). This means that they are extremely well placed to address the urgent requirement for logistics floorspace.

Notwithstanding this, the Applicant is willing to fund or partly fund an appropriate and proportionate independent review of their market assessment on behalf of the Council. This will ensure that the application is determined in the context of up-to-date evidence that fully recognises the existing (and growing) requirement for logistics floorspace, which has been driven by recent events including Brexit and the Covid-19 pandemic.

Given the current shortage of, and significant and continuing demand for, logistics floorspace it is imperative that further sites to enable this type of development to be delivered is secured now. The nature of the need is such that the local planning authority cannot rely upon consideration of the issue via the Local Plan Review process, which is not anticipated to be adopted until the end of 2023 at the very earliest.

## **Consultee Feedback – Applicant's Response**

Detailed responses to comments received from statutory consultees are included in **Appendix 2**. The remainder of this letter provides further information regarding the additional work being undertaken in relation to biodiversity, landscape and visual impact and transport.

This letter also reaffirms the Applicant's position in relation to the assessment of cumulative impacts for the Oxfordshire Strategic Rail Freight Infrastructure scheme and summarises the consultation undertaken or proposed with local parish councils.

### *Biodiversity*

Albion Land have committed to achieving a minimum Biodiversity Net Gain of at least 10% in connection with the development.

The Biodiversity Net Gain assessment appended to the Environmental Statement indicatively shows that the proposed development will achieve a net gain of 11.96% in habitat units (in addition to an 11.17% gain in hedgerow units). This will be achieved through the provision of neutral grassland, street trees, mixed scrub, hedgerows and broadleaved woodland habitats on site as well as off-site biodiversity enhancement.

Following the submission of the applications, the Applicant has developed detailed proposals for the off-site mitigation. The proposed off-site biodiversity enhancement will be provided at a site in



Piddington, which is also under the Applicant's control. Details<sup>1</sup> of the proposed off-site enhancement will be provided under separate cover in due course, along with an updated version of the biodiversity net gain metric and a supporting technical note. These demonstrate that a biodiversity net gain of 11.6% habitat units and 12% hedgerow units will be achieved – providing substantial biodiversity benefits within the district.

### *Approach to Cumulative Impact Assessment*

The Environmental Statement submitted with applications 21/03267/OUT; 21/03268/OUT; and 21/03266/FL assesses the cumulative impact of the proposals and other 'committed' development schemes in the vicinity of the Site.

Following a meeting with Oxfordshire County Council (OCC) and National Highways (NH) on 05 November 2021, Albion Land have agreed to update this assessment to include the development proposed adjacent to Junction 9 of the M40 ('Oxford North') as well as the development proposed by Tritax Symmetry immediately east and north of the Eastern Site (once submitted and the detail is made publicly available)<sup>2</sup>.

The Applicant's position in relation to the assessment of the cumulative impacts of the Oxfordshire Strategic Rail Freight Interchange (SRFI) was set out in a letter issued to CDC on 06/12/2021. For the avoidance of doubt, Albion Land's position is unchanged. Albion Land consider that it is **neither appropriate nor necessary to include the Oxfordshire Strategic Rail Freight Interchange (SRFI) within the cumulative impact assessment**. This is because:

- 1) The SRFI remains at a very early stage of development (a Scoping Report Request has been submitted but a formal Development Consent Order application has not been made). It therefore cannot reasonably be considered a 'committed development' for the purposes of Environmental Impact Assessment. This view is supported by the Applicant's legal advisors (Pinsent and Masons) as set out within the letter submitted to CDC on 06/12/2021.
- 2) The recognition of the SRFI within the cumulative impact assessment before there is any certainty on the scheme and well in advance of the Applicant's proposals being determined will make the application decision making process unclear and weighted heavily against the Applicant. It is imperative that CDC planning committee members have absolute clarity on what they are being asked to determine and that the SRFI and any other schemes for which

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<sup>1</sup> For the avoidance of doubt, the proposed works at the Applicant's Piddington site do not comprise development and therefore do not require planning permission.

<sup>2</sup> It is understood that Tritax Symmetry's proposals for land east of Baynard's Green will be formally submitted to CDC in March 2022



there is no guarantee of delivery do not prejudice the determination of the Applicant's proposals. Recent updates from the local Member of Parliament for North Oxfordshire (Victoria Prentis) suggest that the SRFI's own work has been delayed and that there may be difficulties proving viability. This brings into further doubt the certainty of the SRFI proposals and supports the Applicant's position as set out in the letter issued on 6<sup>th</sup> December 2021

- 3) Contrary to the assertions made by OCC and the promoters of the SRFI, there is currently insufficient detail regarding the SRFI proposals to enable a meaningful assessment to be undertaken. The lack of details regarding the final proposals, the resulting traffic patterns and the proposed mitigation strategy associated with the SRFI, make the practicalities of accurately assessing the cumulative impact of the scheme very difficult. The submitted SRFI Scoping Report does not include any definitive details of the content of the proposals (particularly in relation to the design of the roads in the vicinity of Albion Land's proposals) and only schematic mitigation options have currently been identified. There is also no robust indication as to the traffic impacts of the SRFI, including in the vicinity of the proposed development. The cumulative impact of the SRFI and the proposed development can therefore not be accurately assessed and it is unclear what the purpose of including the SRFI within the assessment would be.

The Environmental Impact Assessment Regulations make clear that an Environmental Statement (ES) can only be based on the information available at the time of its compilation. The regulations expressly recognise that there will be difficulties in making forward forecasts; and that this is acceptable in compiling the finished product. This is what has occurred in respect of the consideration of the SRFI as there was, and remains, very little relevant information in respect of the SRFI.

Case Law has also established the principle that a decision maker is not required to speculate about proposals which may be brought forward in the future nor engage in conjecture about future development on other sites that might or might not act with the development in question to produce cumulative effects. Any assessment of the SRFI cumulatively with Albion Land's proposals would be conjecture and would not be based on any realistic sense of what the SRFI project may include. It is therefore not incumbent on either Albion Land, or the Council, to take more account of the SRFI than what has already been included in the ES.

Additionally, any potential cumulative assessment of the SRFI would primarily focus on traffic related aspects, which means that the WebTAG guidance on what development should be included in a traffic model needs to be taken into account. In respect of that guidance it is considered that the SRFI is at best 'Reasonably foreseeable' (outcome may happen but there is significant uncertainty) and can, according to that guidance, therefore be excluded from the model core scenario.

As a later development in the planning cycle, it will be for the SRFI to demonstrate that it, alongside Albion Land's proposed development, will not cause unacceptable impact, as it will have the 'current



knowledge' of all the information that has been provided as part of the application for Albion Land's proposed development.

Albion Land also strongly disagree with the assertion made on behalf of the promoters of the SRFI that their proposals should demonstrate how a development scheme might be delivered which does not conflict with the SRFI and that potential alternative forms of development which could be compatible with the indicative SRFI highway works should be considered.

Given that the SRFI is not a committed development; is not allocated for development within the development plan or national planning policy; and that there remains significant uncertainty regarding its future delivery, as well as the form it may take (only 'indicative' options for highway improvements to Junction 10 are identified in the Scoping Report), this is not necessary and is overly onerous.

Notwithstanding the above, Albion Land will continue to engage with Oxfordshire County Council and National Highways regarding the SRFI.

The promoters of the SRFI have indicated (via their objection to the Albion Land applications) that they would be willing to share further information regarding the proposed SRFI to enable cumulative assessment. Albion Land would welcome the receipt of this and a request for information (all of which ought to be available if the proposals for the SRFI are sufficiently advanced to enable them to be properly considered via the cumulative assessment process) was issued via CDC on 11<sup>th</sup> February 2022.

A comprehensive response to the request is still awaited, over a month later, reinforcing Albion Land's position that there is insufficient information about the project to enable it to be considered via cumulative assessment.

### *Landscape and Visual Impact*

The Council's independently appointed landscape consultants issued comments on Albion Land's proposals on 01/02/2022. The consultants are generally supportive of the approach, structure and methodology of the submitted Landscape and Visual Impact Assessment (LVIA) and consider the approach, criteria and visual material to be in accordance with the relevant guidance.

The Applicant will provide a detailed response to the other comments raised and/or updates to their LVIA in due course.

As set out above, the Applicant's assessment of cumulative landscape and visual impacts will be updated to include Tritax Symmetry's proposal for the land located to the north and east of the Eastern Site (to be submitted as part of an environmental statement addendum) once Tritax Symmetry's application has been submitted to CDC and the relevant details are made publicly available. The environmental statement addendum will include also include winter photography.



## *Transport*

The Applicant understands that improvement works to the Baynard's Green roundabout are planned to be delivered by Oxfordshire County Council's Growth Fund to accommodate growth in the surrounding area. It is understood that the design of the Growth Fund scheme is yet to be finalised but that any works will be limited to highway land only.

Albion Land have been trying to engage with National Highways and Oxfordshire County Council regarding the proposed improvements to the roundabout since December 2021, with a further request for a meeting with relevant officers made again in recent weeks.

Once the proposed design of the roundabout is fully understood the capacity of the roundabout will be assessed to determine whether it can accommodate Albion Land's proposed development or whether further enhancements are required to support the proposals. Albion Land's preference is to establish this as soon as possible so to minimise any potential disruption to the highway network.

The Applicant is also continuing to discuss the requirement for additional traffic modelling of the wider highway network with Oxfordshire County Council and National Highways.

Although the development demand is a small component of the overall demand, the Applicant is undertaking additional operational appraisal with Oxfordshire County Council and National Highways within their traffic models (Bicester Transport Model and VISSIM model). This additional appraisal work will be published in a Transport Assessment Addendum in due course. The results of this modelling and subsequent workstreams will also address other comments raised during the consultation period.

Additional plans (enclosed in **Appendix 3**) have also been prepared to demonstrate that the earthworks required to facilitate the development will not encroach into the national highway boundary.

National Highways have also previously queried a discrepancy between the floorspace figures utilised in the Transport Assessment and those stated on the planning application forms. For the avoidance of doubt, the maximum proposed floorspace for the eastern site is 100,000 sq.m GIA and the maximum proposed floorspace for the western site is 170,000 sq.m GIA. The assessment of transport impacts is based on these maximum floorspace figures.

Different figures (107,000 sq.m for the eastern site and 180,000 sq.m for the western site) are set out on the application forms. This is because up to 7,000 sq.m GIA in the eastern site and up to 10,000 sq.m GIA in the western site could come forward as ancillary office floorspace. Alternatively, all the proposed floorspace within each site could come forward as just use class B8 floorspace. These scenarios cannot be accurately recorded on the application forms, which were completed to show the maximum proposed floorspace that could come forward within each use class rather than the



maximum total permitted floorspace cap for each site. This is clearly explained in the submitted Planning Statements and Development Specification.

### *Water Infrastructure*

A water supply statement has been prepared by ESC UK and is included in **Appendix 4**. The statement responds to comments received from Thames Water and the Fire and Rescue Service and explains that there will be sufficient water supply to service the development and for fire fighting purposes.

### *Consultation*

Albion Land presented details of the proposed development to members of Ardley with Fewcott Parish Council on 27<sup>th</sup> January 2022. The discussions primarily focussed on the quantum of development and the impact of the proposals on the local highway network.

Albion Land have agreed to continue dialogue with Ardley with Fewcott Parish Council and have offered similar meetings with Stoke Lyne, Fritwell and Bucknell parish councils and the Mid-Cherwell Neighbourhood Plan Forum.

Comments from these discussions will be reviewed by the Applicant team as appropriate and we will endeavour to keep CDC up to date in this regard.

### *Additional information requirements*

To progress the additional transport modelling (and determine whether any further highway improvements are required) and the landscape and visual impact assessment detailed above, further information is required regarding the emerging SRFI scheme; the final design of the A43 Baynards Green Roundabout Growth Fund scheme; and Tritax's proposals for the land to the east and north of Albion Land's Eastern Site.

These information requirements have been relayed in detail to CDC and other third parties but remain outstanding.

The timely receipt of this information is imperative to the progress off Albion Land's applications.

## **Summary**

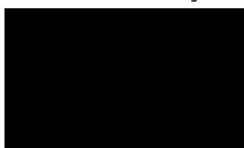
This letter provides an update regarding Albion Land's proposals for Land adjacent to Junction 10 of the M40. Detailed responses to the comments received as well as other further information relevant to the determination of Albion Land's applications are appended.





I trust that the information above and enclosed is clear but please do not hesitate to contact me if you require any further information.

Yours sincerely



Emma Lancaster  
Director

cc. Kelvin Pearce – Albion Land  
Appendix 1 – Relevant Media Articles  
Appendix 2 – Response schedules to consultee comments  
Appendix 3 – Highways sections  
Appendix 4 – Water Supply Statement