

PROJECT NAME: M40 J10

STATUTORY CONSULTATION PROCESS – SCHEDULE OF APPLICANT’S RESPONSES TO COMMENTS RECEIVED

DATE ISSUED: 21 MARCH 2022

COMMENTS RECEIVED FROM: Tusmore Park Estate	FORMAT: Email	DATE RECEIVED:
SUBJECT: Various		

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1.	General	We object to the proposed development set out in applications 21/03267/OUT and 21/03268/OUT	Noted. Please the Applicant’s responses to the comments issued below.
2.	Policy SLE 1	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 SLE 1 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 in any case the policy relates to small scale growth in rural locations, not strategic logistics of the nature proposed	<p>The proposed development is located immediately adjacent to the strategic highway network, which is a fundamental requirement of logistics operators. The proposed development will provide direct access to the M40 motorway, A43 dual carriageway and the B4100 and is within easy reach of other important strategic roads, including the M25. Accordingly, the proposed development is ideally placed to serve the south east and midlands regions and will address an urgent need for logistics floorspace in both areas.</p> <p>Development has commenced or been completed on most of the sites allocated within the Cherwell Local Plan (2015) and there are no other suitable sites capable of accommodating the scale of development required and proposed.</p> <p>Policy SLE1 is not consistent with national planning policy (set out in the National Planning Policy Framework (NPPF)) and is based upon an evidence base which is seven years old. Critically, this evidence base (and therefore the policies that are based upon it) fails to understand the substantial and growing need for logistics floorspace, which has been exacerbated by more recent events including Brexit and the covid-19 pandemic. Policy SLE1 is therefore out of date and very little weight should be applied to it by decision takers.</p> <p>Notwithstanding the above, it is important to note that Policy SLE1 does not preclude development outside the urban areas, particularly where exceptional circumstances are demonstrated. The application submission documents explain that exceptional circumstances exist in this instance and the proposals are in</p>

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			accordance with the spirit of the Local Plan as well as national planning policy.
3	Policy SLE 1	<p>We note Albion Land's justification for their proposal in terms of site's accessibility to the M40 and demand for logistics buildings. However, we do not believe that this is 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 to 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 to use public transport without dependence on the private car.</p>	<p>The application submission documents demonstrate that there are no sites within the urban area that are capable of accommodating the scale of development required and proposed.</p> <p>The NPPF (para 81) states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. Paragraph 83 also states that decisions should recognise the specific locational requirements of different sectors, which includes making provision for storage and distribution operations at a variety of scales and in suitably accessible location.</p> <p>The proposed development will address an urgent and growing need for logistics floorspace in a highly accessible location.</p> <p>These are significant material considerations that weigh heavily in favour of the proposed development.</p>
4	Scale of development	<p>The cumulative impact of both of the proposed development under these applications 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. This is not 'small scale', either taken in isolation or alongside Tritax Symmetry's proposals.</p> <p>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.</p>	<p>The Proposed Development will address a significant demand for logistics floorspace along the M40 corridor, including for large buildings. There are no other sites capable of accommodating buildings of the scale required and proposed within the urban area.</p> <p>A masterplan approach has been adopted and a suite of 'key design principles' and landscaping measures proposed to minimize the impact of the development on the surrounding area as far as possible.</p> <p>The cumulative impact of the proposed development, including its landscape and visual impacts, have been assessed as part of the Environmental Statement. This will be updated in due course to consider the additional impacts of Tritax Symmetry's proposals. The results of this assessment will be set out in an Environmental Statement and determine the extent of any further mitigation required.</p>
5		<p>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 on rural views along this</p>	<p>A landscape and visual impact assessment has been prepared and assesses the impact of the proposed development on various viewpoints. Significant landscaping and other key design principles are proposed to minimize the impact of the development on views as far as possible. However, it is</p>

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		<p>PROW and into the surrounding countryside.</p> <p>The proposals would also impact on the setting of the Grade II Listed Barn to the north west of the A43/B4100. The proposed developments therefore fail to accord with the third, fourth and fifth bullet points of Policy SLE1</p>	<p>acknowledged that there will be significant cumulative visual effects for users of the PROW to the south of the Site.</p> <p>The impact of the proposed development on the setting of the barn has been assessed within the submitted Environmental Statement. This concludes that the development will not have a material impact on the heritage asset and no significant effects are expected from the completed development.</p> <p>As set out above and within the Applicant's Planning Statement, Policy SLE1 is not consistent with national planning policy and is therefore out of date. Very limited weight should therefore be applied to it by decision takers.</p> <p>Notwithstanding this, the Proposed Development satisfies the exceptional circumstances requirement and is broadly consistent with the other requirements of Policy SLE1.+</p>
6.	Policy SLE1	<p>Policy SLE 1 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</p>	<p>The logistics market assessment and land availability assessment submitted with Albion Land's planning applications demonstrates that there are not any suitable sites within the urban area that are capable of accommodating the scale of development required and proposed.</p> <p>The site is located immediately adjacent to the strategic highway network, which is a fundamental requirement of logistics operators. The site will provide fast and direct access to the M40 (and other key strategic roads) and is ideally placed to serve the south east and midlands regions, which have both reached a tipping point where demand for logistics floorspace significantly outweighs supply.</p> <p>The site is also well configured, flat and provides flexibility over unit size, layout and specification. This is critical given that there is an unprecedented demand for logistics buildings of a range of sizes, including larger units.</p> <p>The requirement for the proposed development is clearly evidenced within the submission documents, which identify a growing and substantial demand for logistics floorspace at a local, regional and national level (including along the M40 corridor).</p> <p>This is further demonstrated by a pre-sale agreement already being secured for a significant quantum of floorspace on the western site. The Applicant is also very close to securing pre-sale agreements for all remaining floorspace on the</p>

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			site.
7.	Traffic	The proposed development will result in excessive and inappropriate traffic. 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	<p>The Site is located immediately adjacent to junction 10 of the M40 and has excellent links to the strategic highway network.</p> <p>The Applicant has submitted a Transport Assessment and is undertaking further modelling in consultation with Oxfordshire County Council and National Highways. The results of this modelling will be reported in due course and will inform any mitigation measures proposed (if required).</p> <p>The proposed development includes a suite of sustainable transport measures. New cycle paths linking the proposed development to Bicester will be provided along the B4100 and secured through a S278 Agreement. The proposals also include bus infrastructure within the site and the Applicant will provide a fair and proportionate financial contribution towards a new bus service connecting the site to Bicester.</p> <p>A travel plan will also be prepared and implemented to encourage staff to use sustainable and active modes of transport to and from the site.</p> <p>A significant proportion of parking on site will incorporate electric vehicle charging points. The exact provision will be determined at reserved matters stage.</p>
8.	Policy SLE1	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	<p>A suite of sustainable transport measures are proposed to encourage staff and visitors to access the site via active and public transport.</p> <p>As stated above, the proposed development will provide direct and fast access to the strategic highway network, which is a fundamental requirement of logistics operators. There are no suitable sites within the urban area that are capable of accommodating the scale of development required or proposed.</p> <p>Policy SLE1 is not consistent with national planning policy and very little weight should therefore be applied to it by decision takers. Notwithstanding this, the proposals satisfy the exceptional circumstances test set out in Policy SLE1 and are broadly consistent with its other criteria.</p>

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9.	Policy BSC2	The proposed development also fails to accord with Policy BSC2, 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.	<p>Policy BSC2 relates to residential development and is not relevant to the proposals.</p> <p>Notwithstanding this, the Applicant notes that policy BSC2 does not preclude residential development on greenfield sites.</p> <p>The proposed development will provide fast and direct access to the strategic highway network, which is a fundamental requirement of logistics operators.</p>
10	Location	The proposed development is geographically unsuitable in the context of the nearby settlements relative to the district's settlement hierarchy	<p>The proposed development will provide fast and direct access to the strategic highway network, which is a fundamental requirement of logistics operators. It is also ideally located to serve the urgent demand for logistics floorspace in the south east and east midlands areas.</p> <p>Paragraph 83 of the NPPF states that planning decisions should address the specific locational requirements of different sectors. This includes making provision for storage and distribution operations at a variety of scales and in suitably accessible location.</p> <p>The proposed development is highly accessible to the strategic road network.</p> <p>It is also important to note that there are no suitable sites within the urban area that are capable of accommodating development of the scale that is required and proposed.</p>
11	Prematurity	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 Cherwell Local Plan 2011 – 2031 which does not allocate the site for development.	<p>Paragraph 49 of the NPPF states that “<i>arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:</i></p> <ul style="list-style-type: none"> a) <i>The development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and</i> b) <i>The emerging plan is at an advanced stage but is not yet formally part of the development plan for the area”.</i> <p>The development is not so substantial, or its cumulative effects (which have</p>

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			<p>been assessed in the environmental statement) so significant that to grant planning permission would undermine the plan-making process. Additionally, the preparation of the emerging Local Plan is at a very early stage (a draft Local Plan has yet to be published for consultation) and is not expected to be adopted until November 2023 at the earliest.</p> <p>Accordingly, the proposed development is not premature and there are no reasons for refusal on such grounds.</p> <p>It is also important to note that the development will help address an urgent requirement for logistics floorspace. It is critical that this demand (which is expected to increase further) is addressed now.</p>
12	Cherwell Local Plan	The Cherwell Local Plan 2011 – 2031 runs to a period up to 2031 and is not out of date as suggested by Albion Land. 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	<p>The Cherwell Local Plan and the evidence base underpinning it are now over seven years old. Several policies within the plan are not consistent with national planning policy (the NPPF, 2021) and are based on evidence that fails to understand the significant and growing demand for logistics floorspace (which has been exacerbated by more recent events including Brexit and Covid). These policies (including Policy SLE 1) are therefore out-of-date and very limited weight should be applied to them by decision takers.</p> <p>An emerging strategy for Cherwell has not been determined and it is therefore unclear how the proposals would undermine it or any future evidence base.</p>
13	Sustainable transport	The proposed developments by Albion Land and Tritax Symmetry located in unsustainable locations within the rural area that has poor access to sustainable means of transport including bus, train and walking and 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 in outward commuting from the main settlements (such as Banbury, Bicester and Brackley) resulting in increased traffic movements between these settlements along the M40 and around Junction 10.	<p>The Site is located immediately adjacent to junction 10 of the M40 and has excellent links to the strategic highway network.</p> <p>The proposed development includes a suite of sustainable transport measures. New cycle paths linking the proposed development to Bicester will be provided along the B4100 and secured through a S278 Agreement. The proposals also include bus infrastructure within the site and the Applicant will provide a fair and proportionate financial contribution towards a new bus service connecting the site to Bicester.</p> <p>A travel plan will also be prepared and implemented to encourage staff to use sustainable and active modes of transport to and from the site.</p> <p>A significant proportion of parking on site will incorporate electric vehicle charging points. The exact provision will be determined at reserved matters</p>

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			<p>stage.</p> <p>The Applicant has submitted a Transport Assessment and is undertaking further modelling in consultation with Oxfordshire County Council and National Highways. The results of this modelling will be reported in due course and will inform any mitigation measures proposed (if required).</p>
14	Highways	<p>National Highways have recommended 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.</p> <p>OCC have also objected 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, 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.</p> <p>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.</p> <p>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</p>	<p>A transport assessment has been prepared and submitted as part of Albion Land's planning applications. The document assesses the impact of the development on the local highway network. Additional modelling is also being undertaken in consultation with National Highways and Oxfordshire County Council. The results of this modelling will be reported in due course and will inform any mitigation measures (if required).</p> <p>There are not any inconsistencies regarding the proposed quantum of development. Appropriate clarification has been provided to National Highways on this matter.</p>

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		<p>the development proposals. Both the Ardley Roundabout 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 the HGV traffic and additional HGV traffic accessing logistics buildings will further exacerbate the problem.</p>	
15	Heritage impact	<p>Due to its impact on the nearby Listed Building the proposals fail to accord with Policy ESD15 in the context of the nearby Listed Building</p>	<p>The impact of the proposed development on the setting of the barn has been assessed within the submitted Environmental Statement. This concludes that the development will not have a material impact on the heritage asset and no significant effects are expected from the completed development.</p>
16	Archaeology	<p>The proposals fail to accord with Policy ESD15 in the context of off below ground archaeology</p>	<p>A programme of mitigation measures for archaeology will be agreed with Cherwell District Council and Oxfordshire County Council to ensure that any archaeological remains (if present) within the Site are appropriately preserved by record prior to any construction activities where appropriate. This would be considered a beneficial effect and the proposed development will therefore comply with Policy RESD15 insofar as it relates to below ground archaeology.</p>
17	Biodiversity	<p>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 preserving the surrounding area and ecological designations. The proposals are therefore not in accordance with Policies ESD10 and ESD11 of the Local Plan.</p>	<p>The proposed development seeks to maximise the net gain in biodiversity units within the site as far as possible whilst ensuring the viability of the Development. Landscaping has been proposed within the site which includes the creation of habitats of ecological value such as neutral grassland, woodland and scrub habitats in addition to tree planting. The provision of off-site compensation measures at another location within Cherwell District was verbally confirmed as acceptable with CDC prior to submission. Off-site habitat creation and enhancement is an accepted method of securing biodiversity net gain as set out within Defra's biodiversity net gain guidance and described within Schedule 14 of the Environment Act 2021.</p> <p>A draft biodiversity net gain assessment is presented within the Biodiversity Environmental Statement Chapter which demonstrates a 11.96% net gain in habitat units. The initial draft biodiversity metric showed that 88.66 of the habitat units post-development would be obtained on-site while 124.03 would be from off-site intervention.</p> <p>An updated version of the metric has subsequently been prepared (to be issued</p>

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			<p>separately in due course) based on detailed proposals for the off-site provision. This demonstrates a biodiversity net gain of 11.6% habitat units and 12% hedgerow units. A large proportion of the total post-development habitat units are obtained from within the site along with the proposed off-site mitigation at the Applicant's Piddington site.</p> <p>The proposed off-site habitat enhancement includes the creation of neutral grassland (comprising grassland with a high proportion of flowering grasses) and hedgerows. For the avoidance of doubt, the proposed works do not comprise development and therefore do not require planning permission.</p>
18	Flood Risk	The Environment Agency has responded to Albion Land's proposals stating that the proposed off-site compensation area lies within an area at risk off flooding and therefore the Applicant should provide additional flood risk assessment work. As such, the proposals fail to comply with Policy ESD6 of the Cherwell Local Plan	<p>The proposed off-site habitat enhancement includes the creation of neutral grassland (comprising grassland with a high proportion of flowering grasses). A plan of the proposed off-site enhancement has been prepared and is enclosed to demonstrate how the Biodiversity Net Gain will be achieved.</p> <p>For the avoidance of doubt, the proposed works do not comprise development and therefore do not require planning permission.</p> <p>The Piddington site is at low and medium risk of flooding from rivers and sea and surface water. However, any flooding of the Site is likely to be beneficial to local biodiversity and will not hinder the proposed Biodiversity Net Gain target from being met. As set out above, the proposed off-site habitat enhancement does not require planning permission and will not increase the extent of any hard or impermeable surfaces. The Flood Risk Assessment therefore does not include these works and does not need to be updated.</p> <p>The proposed development will not increase flood risk on site or elsewhere and is fully consistent with policy ESD.</p>
19	Material considerations	No material considerations have been presented which outweigh the clear conflicts with the development plan	<p>The Proposed Development will support economic growth, represents an effective and efficient use of land, and will address a substantial and growing demand for high quality logistics floorspace, which is a significant material consideration that weighs heavily in favour of the proposals.</p> <p>Overall, the Proposed Development is acceptable in principle, accords with the key principles of the NPPF and will provide wide ranging benefits including addressing a growing and substantial need for logistics floorspace. There are no</p>

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			adverse impacts that would significantly and demonstrably outweigh these benefits or other material considerations.