

To:
Planning Department,
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Development Services,
South Northamptonshire Council,
Moat Lane,
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Paul Mobbs,
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Planning register reference:
22/00385/SO
Os Parcel 7921 South Of
Huscote Farm And North West
Of County Boundary Daventry
Road Banbury

WNS/2022/0271/SCR
Junction 11 M40, Banbury, OX17 2BH

Monday 28th February 2022.

Submitted by email to:
planning@cherwell-dc.gov.uk

development.management@southnorthants.gov.uk

Re: Screening opinion application for proposed 1.2 million to 1.5 million square feet of logistics/warehousing and associated infrastructure, Huscote Farm, Nethercote

I am writing to make observations on the application for a screening opinion for the proposed warehousing development at Huscote Farm, Banbury. Note that I am copying this to both Cherwell and South Northamptonshire planning authorities as the application to each authority is identical, and my objections raise the same issues for each authority.

To summarise my objections:

1. Any development east of the M40 is premature since it relates to land not allocated in the adopted development plan of either authority – and to allow it to precede denies local people their legitimate expectations of full consultation, and the assessment of impacts, under the local development framework process;
2. This application for a screening opinion for a large-scale development, on land unallocated in a development plan, is not appropriate since it creates impacts of a scale which can only be considered as part of the strategic environmental and policy appraisals under the local plan process;
3. Irrespective of this specific development, this application raises issues regarding the cumulative impacts of the release of land east of the M40, which this application alone cannot assess, and which cannot be assessed as part of this single application; and
4. Given the current uncertainty regarding the economic and spatial development impacts of meeting Britain's climate change obligations, allowing this development would represent a high risk for the future economic strategy of Banbury since it commits a large area of development land to traffic-generating development.

Briefly detailing each of these points:

1. Prematurity

At present this land is unallocated for development under the local planning framework. Therefore policies on rural land development and the protection of the open countryside apply. No part of the development framework at county/unitary or local level currently permits this scale of development.

As paragraph 49 of the National Planning Policy Framework states:

“...arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both: (a) 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 (b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.”

In my view both planning authorities could legitimately dismiss any subsequent planning application on the grounds of prematurity. The applicant is perfectly at liberty to pursue this site through the normal development plan revision process. However, if the authorities permit such an application to proceed, it would deny local people their legitimate expectations of full consultation, and the assessment of impacts, that the local plan process provides for.

2. Strategic impact

This development would significantly change historic local plan policies relating to development in the open countryside: For Cherwell, development east of the M40; and for South Northamptonshire (inheriting the planning framework of previous authorities) the protection of open countryside on the western fringe of the ‘ceremonial county’. From my experience of working with the current and previous local plans in the past, there is no strategic basis to support any large-scale development in this location.

The M40 represents a hard barrier to movement eastward from the town. Any plans to open-up the corridor east of the town must include plans to create new transport capacity – such as the possibility of the link road to the east of M40 mentioned in the *Cherwell Local Plan* (para. B73). Without an appropriate strategic assessment of the options for development to the east of the M40 – incorporating national agencies as well as the local authorities – then committing to any development today may actually hinder the implementation of future strategies by obstructing the corridors required for that development.

Without a thorough strategic examination, any development to the east of the M40 now may jeopardise a future strategy for a managed release of land to the east of the M40. In particular, the need to fund transport, drainage, and associated infrastructure demands an examination of the impacts of development across the whole area east of the M40. It is not possible for a limited, single environmental assessment to consider this, and therefore it is not appropriate to consider this application at this time.

3. Cumulative impact

There has been a problem with overloading of Junction 11 of the M40 for some considerable time. Recently the junction has required work to accommodate the increased traffic due to construction of HS2. Clearly any development east of the M40 will exacerbate this situation, and so it must naturally be a key consideration as part of any EIA.

However, over and above this, in my view this proposal is a speculative ‘Trojan horse’ – and it should be treated as such by the planning authorities. It is the first phase of a series of proposals running to the east of the M40:

- The Huscote Farm application is necessary to establish the principle of development to the east of the M40;
- The second phase, already publicised, that would extinguish the ancient hamlet of Nethercote from the A422 to Overthorpe Road; and
- The third phase, clearly planned for by the publicised design of the road interchange on Overthorpe Road as part of phase 2, would open-up the land to the south of Overthorpe Road.

Clearly then, the Huscote farm application represents, in terms of what it enables, a problem of **cumulative impacts** – and once again, the cumulative impacts are of a scale that cannot be adequately characterised within any single EIA for this site.

As previous High Court decisions have held, the decision on what are necessary issues for screening must be based upon an assessment of 'significance' alone, and not whether those effects are necessarily 'negative' as such. The significance of cumulative effects in this case is a factor determined by the lack of a strategic framework for the release of this land – and therefore the need to consider the totality of the effects that release of land to the east of the M40 in the future would entail. Those cumulative effects are not only related to Junction 11, but also to the impacts of the scenic and landscape character of this area, as well as the wider economic and sustainability strategy for Banbury as a whole.

Outside of the processes of a development plan review, any conventional EIA screening process cannot encompass the cumulative effects of establishing the principle of development east of the M40 – which is what this site would lay the foundation for. This creates a regulatory paradox, since the assessment process under the EIA Regulations cannot satisfy the need to protect the future sustainable release of land in the future.

4. Climate change & uncertainty regarding future transport and economic strategy

This development is intended as a retail and logistics site. At present the UK has no fixed or certain strategy to mandate how the emissions from the freight and logistics sector will be managed under the the legal targets set in the *Climate Change Act 2008*.

A significant factor here is the Climate Change Committee's June 2021 report to Parliament, '*Progress in Reducing Emissions*'. It outlined the need for a completely new assessment procedure to internalise the climate impacts of new development. In their response, the Government noted that: Trials of alternative 'zero emission' freight vehicles, as part of their '*Transport Decarbonisation Plan*', have yet to take place; and that, new strategies to assess the climate impacts of new development that internalising climate impacts, which should be complete in early 2023, are likely to be implemented around 2025.

It should also be noted that road schemes under the current national roads strategy have been the subject of legal challenges due to the current uncertainty over how climate change obligations will be enacted. Also, that the current national roads programme (in part, due to those legal challenges) is currently under review as a requirement of the '*Transport Decarbonisation Plan*' – and existing road schemes may be terminated as a result of this review.

For these reasons it is not possible to assume that any additional transport infrastructure to support new development in the Banbury area, which might have reasonably been expected under the past national strategies (such as the speculative relief road to the east of the M40), would be acceptable under the new framework for transport planning that emerges in the next two or three years. Again, the current changes to national strategy create a major uncertainty for the local development framework, since any decisions taken on the release of land to the east of the M40 now may prejudice enacting these future strategies.

In conclusion

The planning authority cannot reasonably define a screening opinion to assess the impacts of a development which, by any measure, it would be unreasonable (and possibly unlawful) to approve. Establishing the principle of development at this site is premature both within the local planning framework, and within the current state of flux of national policy; and the 'significance' of that change in local development policy cannot be assessed under an EIA for a single site within that area.

Local people have a legitimate expectation that, ordinarily, any application for large-scale development would be refused in this location. And even despite the specifics of the site, the release of any large site east of the M40/A361 cannot reasonably take place because of the many, interconnected matters which are raised by the release of land outside of the local development framework. Arguably local people would have grounds to seek a review of any such decision since no authority could reasonably grant it under the current *National Planning Policy Framework*.

The problem is that a request for a screening opinion does not allow the local planning authority an option for refusal – *only for the request of further information*.

Therefore, in my view, the local planning authorities should request an assessment of:

- The impact for the release of the entire corridor east of the M40, from Huscote Farm in the north to Canal Lane in the south, since that is what is required to adequately assess the cumulative impact of what this single development would subsequently enable;
- An assessment of how any logistics development would be able to meet any future development framework recommended by the Committee on Climate Change, and the government's '*Transport Decarbonisation Plan*', so as not to prejudice any future local development framework should national policy significantly change in the next few years; and
- Given (we must presume) the applicant deems this location to be 'necessary', the EIA must demonstrate that no alternative development locations, identified within a local planning framework for such a use, exist within the M40/A43/A422 corridors to which it connects.

Irrespective of any evidence that the applicant might submit as part of a future planning application, currently it would be unreasonable for either Cherwell or South Northamptonshire to permit any development east of the M40 because of the strategic planning issues it raises. Without a clear development framework in place, any such application should be dismissed as premature – and the applicant must be informed of this fact at the earliest opportunity in order to relieve the concerns and anxieties of local people about development in this area.

Finally, I would appreciate it if I could be informed of any future matters arising in relation to this screening application, or of any subsequent application for planning consent on this site.

Yours sincerely,

Paul Mobbs.