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| <b>Application No:</b><br>10/01816/HYBRID | <b>Ward: Banbury Grimsbury<br/>and Castle</b>                               | <b>Date Valid: 06.12.2010</b> |
| <b>Applicant:</b>                         | Albion Land (High Wycombe) Ltd  |                               |
| <b>Site Address:</b>                      | Land east of Dorcas Road adjoining and south of Overthorpe Road,<br>Banbury |                               |

**Proposal:** Hybrid planning application for 24,005sqm B2 (industrial) and/or B8 warehouse/distribution) uses (and associated infrastructure) with full details provided for Phase 1 comprising 12,574sqm floor space and all details except external appearance for Phase 2 comprising 11,431sqm floor space

## 1. Proposal

- 1.1 Members will recall giving consideration to this application at the last committee meeting on 24 February and resolved to approve it subject to:
- (i) Applicant entering into Section 106 Agreement with the County Council to secure contributions towards the transport network and the implementation and monitoring of the Travel Plan
  - (ii) Departure procedures;
  - (iii) 14 Conditions:
- 1.2 Since this resolution, the agent for the application has contacted the Council voicing his concern at the lack of urgency displayed by the County Council to secure the Legal Agreement quickly in order for a decision to be released, notwithstanding the fact that the exact figure for the contribution required towards the transport infrastructure has not, to date, been determined. As the District Council is not required to be party to the agreement, it has little control over the time in which the Agreement is prepared and completed and to date little progress has been made.
- 1.3 First Line Ltd intend to build and occupy Unit 2 by October this year and if they are not in a position to keep to this timescale due to the delayed completion of the Legal Agreement, they may well pull out of developing the site at all, which would jeopardise economic development and job creation in Banbury.
- 1.4 The agent for the application has made three suggestions to overcome this predicament, one of which is to enter into a unilateral undertaking with the District Council to make the required financial contributions available to them. The District Council would then be in a position to pay the County Council the monies required towards the transport infrastructure.
- 1.5 Given the wording of the resolution for the application as a result of the previous committee meeting, the above process would not result in a lawful decision unless the application was again presented to Members of the committee with a recommendation to vary the wording of the resolution as set out below at Para 4.1. The type of agreement and the parties involved are not directly referred to which allows the applicant to enter into either form of agreement with either party, without

being restricted to one route or another.

- 1.6 During the process of this application, although a specific figure has not been provided, the County Council has indicated that the financial contribution required towards the transport infrastructure in association with the application would be similar to the previous application for this site, which was £235,000 (secured in relation to outline planning application 08/02352/OUT). A draft agreement submitted with the current application, set out that First Line Ltd would be prepared to pay this amount.
- 1.7 In addition to the above, an extra condition is proposed which would secure the detail of the required Travel Plan (previously to be secured via the S106 Agreement) and the monies required to monitor that Travel Plan (£500) would be secured via the unilateral undertaking.
- 1.8 The applicant's solicitor is currently giving consideration to the District Council's standard format for a unilateral undertaking with the view to completing and returning it for the Head of Legal and Democratic Services to examine and approve. It is expected that this process will be complete by the date of the Committee and as such together with approval from Members to revise the wording of the resolution, the Council would be in a position to release a decision notice of approval for the scheme immediately after.
- 1.9 It should be noted that a decision from the Secretary of State is expected by 18 March and it is not envisaged that the application will be called in.

## **2. Application Publicity, Consultations and Relevant Planning Policies**

- 2.1 All as previously reported.

## **3. Conclusion**

- 3.1 SDPHE is satisfied with the approach described above as it would result in securing the required contributions towards the transport infrastructure in the shortest time, thus ensuring that the applicant invests in the site and works begin to develop it.

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| <b>4. Recommendation</b>   |   |
| <b>4.1 Approval, subject to:</b>   |   |
| (i)  | <b>Applicant entering into a planning obligation to secure contributions towards the transport network and the monitoring of the Travel Plan the subject of condition</b> |
| (ii)   | <b>Departure procedures (SOS already informed of application);</b>  |
| (iii)  | <b>The following conditions,</b>  |
| Conditions 1 – 14 (previously considered by Members see minutes of previous meeting)<br>And the following extra condition: |   |
| 15.  | Prior to the first use or occupation of the development hereby permitted a Green  |

Travel Plan, prepared in accordance with the Department of Transport's Best Practice Guide Note 'Using the planning process to secure travel plans', shall be submitted to and approved in writing by the Local Planning Authority. The approved Green travel Plan shall thereafter be implemented and operated in accordance with the approved details.

Reason – In the interests of sustainability and to ensure a satisfactory form of development, in accordance with Policy T5 of the South East Plan 2009.

**Planning Notes**

As previously reported

**SUMMARY OF REASONS FOR THE GRANT OF PLANNING PERMISSION AND RELEVANT DEVELOPMENT PLAN POLICIES**

The Council, as local planning authority, has determined this application with primary regard to the development plan and other material considerations. Although a departure from the development plan, it is considered to be acceptable on its planning merits as the proposal would introduce increased employment opportunities in a sustainable location and would not give rise to any unacceptable transport or landscape impact, furthermore the proposal is considered to be acceptable in terms of flood risk, land contamination, biodiversity, archaeology and the adjacent public Right of Way. As such, the proposal is in accordance with government advice contained within PPS1 - Delivering Sustainable Development, PPS4: Planning for Sustainable Economic Growth, PPS9: Biodiversity and Geological Conservation, PPG 13: Transport, Policies CC1, RE3, T1, T4, NRM4 and NRM5 of the South East Plan, Policies TR1, C2, C7, C17, C28 and ENV12 of the adopted Cherwell Local Plan and Policies EMP1, EMP2, TR1, TR3, TR4, TR5, R4, EN6, EN17, EN25, EN34, EN36, D1 and D12 of the non-statutory Cherwell Local Plan. For the reasons given above and having regard to all other matters raised, the Council considers that the application should be approved and planning permission granted subject to appropriate conditions, as set out above, and a legal agreement to secure the essential infrastructure requirements.

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