

Mr Jon Palmer, MRTPI
Head of Planning
Milton Keynes Council
Civic Offices
1 Saxon Gate East
Milton Keynes
MK9 3EJ



24 October 2019

Dear Mr Palmer,

Application 19/01818/OUT
Land at South Caldecotte
Adopted Plan:MK (Milton Keynes Local Plan) Site Allocation SD14

Further to our meeting on the 3rd October we thought it would be helpful in summarising the matters of discussion and our position in respect of a number of the prevailing issues to be addressed.

Environmental Impact Assessment (EIA)

Following the Secretary of State's decision on 27th September that the development is EIA Development our Planning consultants DLP have advised you in writing of 2nd October that Hampton Brook will prepare an Environmental Statement.

The matters which have been 'screened in' are in regard to archaeology and cumulative effects. The resultant Environmental Statement (ES) will be prepared in accord with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and with regard to best practice as outlined by the Institute of Environmental Management and Assessment (Delivering Quality Development, July 2016). You may wish to note that DLP Planning Ltd is a Member of the IEMA.

The advice issued by the IEMA indicates that the scope of an ES may be an iterative process. National Planning Practice Guidance notes that an applicant is not required to consult anyone about the information to be included in an Environmental Statement but also that there is no right to seek a formal scoping opinion once a planning application has been submitted.

We consider that where the application has been considered, where the Local Planning Authority has received consultations with respect to heritage matters and where the Secretary of State has determined subsequently that significant impacts may arise, no formal scoping is necessary or appropriate in the preparation of an ES in respect of heritage matters.

We will endeavour to submit the ES by the end of October 2019.

Development in Principle

MKC have a statutory duty to deliver Plan:MK and consequently Policy SD14. Specifically, the Inspector noted at paragraphs 83 and 126 of his Report that the site "*would be the most appropriate option for meeting the identified need for additional employment land in the short term*" (our emphasis) extending into the medium terms given the scale of the site and the potential rate of development.

It is therefore in the public interest that the application is expedited. The NPPF indicates that there is a presumption in favour of sustainable development and that development which is in accord with the development plan should be approved without delay.

HB have accepted that it is not possible for the Local Planning Authority to determine the application within the statutory period and have agreed an extension until 12th December 2019.

Policy SD14 is specific in establishing the core principles of the development and the application is wholly compliant with the allocation to deliver "A minimum of 195,000m² of Class B2/B8 and ancillary B1 employment floorspace"

The Screening Request sent to the Secretary of State dated 15th July and as described in the Planning Statement paragraph 1.2 is described specifically in the following terms:

The development of the site for up to 241,548 m2 (2,600,000 sq ft) employment use, comprising of up to; 192,159 m2 of warehousing and distribution (Class B8) floorspace with ancillary B1a office space, up to 48,040 m2 of general industrial (Class B2) floorspace with ancillary B1a office space, 999 m2 of a small standalone office (Class B1) and 350 m2 small café (Class A3) to serve the development.

This is as illustrated on the parameters plan DWG DR-A-1004-P5 accompanying the application and in the DAS (paragraph 1.3) on which the application documents are predicated. Necessarily, the parameters plan contains no detail and identifies only the broad areas within the site on which development could be accommodated. For the purposes of robustness, the total potential capacity of the site is the appropriate measure against which the parameters of the development should be tested.

Following from this the Masterplan submitted with the application DWG DR-A-1006-P5 describes a development comprising a maximum of 216,567m² GIA (Gross Internal Area) (2,331,106ft²). This Masterplan takes into account the functional space within the development areas provided by the parameters plan and is therefore a more accurate reflection of the likely development that is capable of being delivered.

The extent of development shown on the masterplan equates to a 10% addition over the minimum provision required by policy. It is in conformity with the policy, in conformity with and the minimum scope of development identified for the purposes of EIA Screening.

It is also reflective of the draft SPD which has been subject to two rounds of public consultation and which refers to the minimum requirement for floorspace but does not seek to indicate any maximum or limits save that a mix of employment uses shall be included.

Accordingly, the provisions of the submitted application are fully in conformity with Policy SD14 and the Draft SPD as published for consultation.

Overall, the increase over the minimum policy requirement is not substantial or significant and is in accordance with the Policy SD14. The scheme has previously been the subject of discussions with MKC for over 2 years and is appropriate to securing delivery of the site having regard to the other criteria which provide the basis for Policy SD14.

Matters Identified to be Addressed

Overall, the following matters have been raised by MKC and our comments in respect of each are as follows:

- **Expressway**

It has been argued by third parties that no planning decision should be taken prior to the Government's publication of its preferred options for the Expressway.

MKC cannot at present provide comment on route options within the Highways England (HE) preferred corridor either to HB or to any third party. The programme remains as set out on the HE website however there can be no assurance that consultation on route options will take place in accordance with the published intention.

Notwithstanding this the following are material considerations. The Local Plan Inspector was significantly appraised of the potential for the Expressway and specifically that a final route option would not be made before 2020. In light of the evidence submitted to him he concluded at paragraph 89 that

There is very little in the available preliminary technical evidence or within the signed MoU with Highways England that Plan:MK should preclude land from being allocated within the broad route corridors.

No evidence was put to him that the allocation of Policy SD14 would be prejudiced by or would prejudice the Expressway scheme. It is a specific duty of the Local Plan Inspector to ensure that a Local Plan is sound by virtue that its provisions are *justified* and *effective* (NPPF paragraph 182)

That remains the situation where the more detailed assessment of constraints underpinning the application identifies the presence of the *Magiovinium* Scheduled Monument to the west of the A5 amongst a number of constraints that would be likely to militate against the selection of any route which would then consequently affect site SD14.

I believe therefore you acknowledged and accepted that there no reasonable justifications to withhold the granting of planning permission on the grounds that the allocated site may be affected by a highway proposal for which detailed alternative route options have yet to be consulted on and where such potential has already been considered and discounted in the adoption of the Local Plan.

- **Framework SPD document delay which could be used as a reason to defer or object.**

It has also been acknowledged and accepted by senior officers that the determination of the application should not be delayed as a result of the failure of the Council to progress the adoption of an SPD.

Whilst Policy SD14 indicates that the granting of permission should be subject to the adoption of SPD, the following are material to the weight that should be attached to the policy in this respect.

National policy guidance on prematurity cannot be applied to the preparation of supplementary planning guidance. NPPF paragraph 50 refers to circumstances where prematurity may apply in relation to the submission of a draft plan that has yet to be submitted for examination. It makes no other reference to circumstances where prematurity may be an acceptable consideration. The adoption of SPD is specifically not subject to examination, and simply requires the council to consider the outcomes of a public consultation.

In this instance the Draft SPD has been subject to two rounds of public consultation in which HB has participated and its contents have been both agreed with and supported by HB and are reflected in the application submitted.

There is therefore no prejudice to the development plan from the grant of permission without previously adopting the SPD in the form in which it has been subject to consultation in excess of that which is the minimum prescribed for supplementary planning documents. Moreover, no other party is prejudiced in respect of the opportunity which the submission of the application has afforded them to comment on the application.

- **Highways Matters**

You will be aware that we have been in extensive consultation with MKC Highway officers regarding the Transport Assessment that has been submitted. We have been seeking to meet with the case officer and Highways team to discuss the matters raised in their consultation response. This has now been arranged for 31st October 2019.

- **Ecology/ lowland meadow mitigation**

We have received a response from the Council's Countryside Officer in relation to ecology issues, which appears to incorrectly state that the site is not allocated for development. We trust that the Countryside Officer will re-issue their comments to correctly reference the allocation of the site and giving this appropriate consideration.

A detailed Ecological Appraisal has been undertaken and submitted with the application. This has established that the habitats within the site are considered to be of low ecological importance.

Our proposals have sought to minimise the impacts and subject to appropriate mitigation and compensation measures it is considered unlikely that the proposals will result in significant harm to biodiversity.

The lowland meadow is considered to represent a fairly poor low quality example given the dominance of Perennial Rye-grass and areas of disturbance caused by cattle reduce the value of the habitat further. The loss of the existing poor quality meadow is considered to be of minor to moderate ecological significance. Our mitigation proposals with the creation of a new meadow and management would create an enhanced habitat in the long term.

- **Archaeology mitigation**

We have submitted a Written Scheme of Investigation with the application and a Supplementary Heritage Assessment (SHA) to MKC and Historic England on 24 September. Formal acknowledgement and comment is awaited. We are also preparing a chapter on heritage matters in the Environmental Statement.

- **Summary of objections**

We acknowledge that there have been 158 objections raised at a local level and we are aware of a well organised group which has been provided an "Objection stencil" which has been filled out accordingly. We have consulted and engaged widely with the Parish Council through public exhibitions and the public consultation of the development Framework.

HB have produced a Statement of Community Involvement which details engagement with local stakeholders and how we have sought to understand any comments they may have.

We would be happy to prepare and issue members briefing notes to DCC members in advance of committees.

Next Steps

MKC have received objections from consultees in respect of heritage, highways and ecology issues. We are committed to resolving these objections and we welcome the opportunity to work with MKC constructively to address these matters.

Specifically

1. HB has submitted a Supplementary Heritage Assessment (SHA) to MKC and HE Historic England on 24th September. Formal acknowledgement and comment is awaited
2. Highways – A meeting has now been arranged with the case officer and MKC Highways for the 31st October in order to address those concerns raised by the consultation response.
3. Ecology – The response from the Countryside Officer is incomplete and needs further explanation before HB are able to respond.
4. Arrange a meeting to finalise the S106 Agreement to enable a completed document to be available prior to determination.

We note the comment made at the 3rd October meeting that the decision to grant approval of the application will be taken by Development Control Committee, and it would not be necessary for it to be further delayed for consideration at Full Council.

We have an excellent track record of delivering commercial developments in Milton Keynes, working in partnership with MKC to generate Economic growth and employment. Hopefully this note is of assistance and we look forward to meeting your shortly to follow up matters.

Yours sincerely,



Ian W Jackson BSc MRICS
Director

cc. Tracey Darke - Director of Place MKC
David Buckley - Planning officer MKC
Graham Stanton - Hampton Brook
Colin Armstrong - Hampton Brook