

### **Note on form of appeal – Why a Public Inquiry is needed.**

It is the Appellant's robust view that a public inquiry is necessary to determine the appeal at South Caldecotte. This note below sets out the Appellant's reasoning for this, and has been prepared taking into account the advice of Queen's Counsel.

Section 319A of the Town and Country Planning Act sets out the Secretary of State's duty for determining the procedure for dealing with appeals. The Planning Inspectorate's document 'Procedural Guidance March 2020' describes criteria within Annexe K that it will use to determine the appropriate procedure.

Annexe K sets out that the inquiry process is appropriate where:

- there is a clearly explained need for the evidence to be tested through formal questioning by an advocate; or
- the issues are complex; or
- the appeal has generated substantial local interest to warrant an inquiry as opposed to dealing with the case by a hearing

Running through these elements in turn:

#### **The need for evidence to be tested through formal questioning by an advocate**

In this case, the nature of the evidence to be presented dictates that formal cross examination would be necessary in order properly to test the differences in critical opinions between the parties and on matters of fact. Namely:

- The significance of the archaeology that may be impacted by the proposed development and the impact of the proposed development on that significance are matters of professional judgement by appropriate experts which can only reasonably be tested by cross examination rather than simply clarified by questions from the Inspector;
- The impact on biodiversity and assessment of habitats and compliance with the relevant policies in this regard are matters which need to be tested by cross examination rather than simply clarified by questions from the Inspector;
- An analysis of the economic impacts with regard to local and regional economic policy aspirations, and the impact of the development on the growth of the Milton Keynes economy and employment opportunities provided are matters of professional judgement by appropriate experts which can only reasonably be tested by cross examination rather than simply clarified by questions from the Inspector;
- The interpretation of transport modelling and the impacts of the scheme are matters of professional judgement by appropriate experts which can only reasonably be tested by cross examination rather than simply clarified by questions from the Inspector;
- The planning policy implications of refusing permission for a major allocated employment site are matters which need to be tested by cross examination rather than simply clarified by questions from the Inspector
- The assessment of the weight that should be attributed to the material planning considerations within the planning balance and the exercise of that planning matters are matters of professional judgement which need to be fully tested in front of an Inspector to enable him to make his properly informed judgement on the merits of the case.

These matters alone dictate that a public inquiry is required and that an advocate is required to represent the parties. However, the appeal also raises complex matters of detail and fact which are unsuitable for a public hearing or written representations

### **The complexity of the issues**

In the case of this appeal, there will be a need to refer to the following technical information:

- Consideration of the archaeological impacts necessitates an understanding of a large volume of technical reports including archaeological fieldwork assessments
- Consideration of the biodiversity impact requires an understanding of biodiversity and ecological appraisals along with the application of biodiversity metrics;
- Consideration of the economic impacts necessitates an understanding of the overall supply of employment land for large scale industrial and warehousing uses within the area along with the relevant economic policies;
- Consideration of the transport impacts of the development necessitates an understanding of technical highways modelling and the impact of the development on the highway network;
- As the site is allocated in Plan:MK it is also necessary fully to consider, analyse and to apply appropriate weight to the evidence base accompanying Plan:MK

The issues, as evidenced by the documents submitted with this appeal, are clearly of significant complexity that in absence of the proper opportunity to cross examine on the key matters, there would be a significant risk that the issues arising will not be comprehensively understood and thus some or all of the parties to the appeal will be prejudiced.

### **The Local Interest Generated**

It is also the case that there has been a substantial amount of local interest.

The appeal scheme is on land allocated as part of the principal employment allocation within the adopted Local Plan that was recently adopted in March 2019. It is therefore of great significance to the local economy, the local community and is a vital component needed to deliver Plan:MK. The planning application attracted comments from over 80 residents, including local Parish Councils, and was determined by the Development Control Committee.

The decision of the Council to refuse planning permission for an allocated employment that is designated employment site in its recently adopted Local Plan is a matter of considerable public importance.

On the above basis, the appeal scheme is of sufficient public interest that it should be heard by way of public inquiry.

### **Summary**

The circumstances of this appeal and the matters which it raises must be considered against the requirements of Annex K of the Planning Inspectorate Procedural Guidance. In accordance with that Guidance it is demonstrably the case that the appeal should be considered by way of public inquiry.