For and on behalf of

**HB (South Caldecotte) Ltd**

 **STATEMENT OF COMMON GROUND**

An Appeal Against the refusal of planning permission by Milton Keynes Council of an Outline Planning Application for:

 The development of the site for employment uses, comprising of warehousing and distribution (Class B8) floorspace (Including mezzanine floors) with ancillary

B1a office space, general industrial (Class B2) floorspace (Including mezzanine floors) with ancillary B1a office space, a small standalone office (Class B1) and small café ( Class A3) to serve the development; car and HGV parking areas, with earthworks, drainage and attenuation features and other associated infrastructure, a new primary access off Brickhill Street, alterations to Brickhill Street and provision of Grid Road reserve to Brickhill Street.

**Appeal Reference: APP/Y0435/W/20/3251121**

**Prepared by**

**DLP Planning Ltd**

**Bedford**

July 2020

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1. Introduction
2. This draft statement of Common Ground (SoCG) has been prepared between DLP Planning on behalf of HB (South Caldecotte) Ltd ‘the Applicant’ and Milton Keynes Council, ‘the Local Planning Authority’.
3. The appeal follows the refusal of the LPA to grant planning permission pursuant to a planning application for development at South Caldecotte, Milton Keynes. This SoCG has been prepared taking into account the Procedural Guidance issued by the Planning Inspectorate in August 2019.
4. The planning application (LPA reference 19/01818/OUT) was made on 17th July 2019 and validated on the same date (the Scheme). The planning application was presented to the LPA’s Development Control Committee on 6th February 2020 with an officers’ recommendation for refusal. At the meeting, the Committee resolved to refuse planning permission with three reasons for refusal. The decision notice was issued on 26th February 2020 and the appeal was lodged on 17th April 2020.
5. The decision letter is included within D.1 of the Appeal Core Documents.

*Note Regarding Description of Development*

1. The application form accompanying the planning application set out the development description as:

‘The development of the site for employment uses, comprising of warehousing and distribution (Class B8) floorspace (Including mezzanine floors) with ancillary B1a office space, general industrial (Class B2) floorspace (Including mezzanine floors) with ancillary B1a office space, a small standalone office (Class B1) and small café ( Class A3) to serve the development; car and HGV parking areas, with earthworks, drainage and attenuation features and other associated infrastructure, a new primary access off Brickhill Street, alterations to Brickhill Street and provision of Grid Road reserve to Brickhill Street.’

1. The application has been made in outline form with all matters apart from access reserved.
2. The Council adopted its own description of development, as follows:

‘Outline application including access for the development of the site for employment uses, comprising of warehousing and distribution (Use Class B8) floorspace (including mezzanine floors) with ancillary B1a office space, general industrial (Use Class B2) floorspace (including mezzanine floors) with ancillary B1a office space, a small standalone office (Use Class B1) and small café (Use Class A3) to serve the development; car and HGV parking areas, with earthworks, drainage and attenuation features and other associated infrastructure, a new primary access off Brickhill Street, alterations to Brickhill Street and provision of Grid Road reserve to Brickhill Street with appearance, landscaping, layout and scale to be determined as reserved matters’

*Core Documents*

1. An agreed list of Core Documents is provided as part of the final Statement of Common Ground.
2. The following matters are agreed, except where specified to the contrary.
3. The Development
4. Planning application (LPA reference 19/01818/OUT) was made on 17th July 2019 and validated on the same date.
5. The Site is allocated for the form of development proposed by Policy SD14 of the adopted development plan which is Plan:MK (the area indicated within the submitted site location plan with the planning application will be referred to as the Site).
6. Policy SD14 requires provision of a minimum of 195,000m2 of floorspace for a mix of Class B2 and Class B8 uses.
7. As part of the examination process Milton Keynes Council undertook a Sustainability Appraisal. A Statement of Common Ground was agreed as part of the examination between Milton Keynes Council and the Appellant, which was dated 6th July 2018.
8. Plan:MK was adopted in March 2019 following an Examination in Public.
9. Examination in Public Core Document E.2 ‘Inspectors Comments on Plan:MK’ sets out the comments made in relation to the allocation of the site.
10. Application 19/01818/OUT was supported by the following drawings and documents submitted with the application or subsequent to submission. They are therefore the documents on the basis of which the application was determined (leaving aside aspects of the details of these documents which relate specifically to the reserved matters, which were not determined in this application)

***Drawings***

|  |  |
| --- | --- |
| **Drawing Number** | **Description** |
| 16-048- SGP- ZZ- 00-DR-A-1000-P3 | Site Location Plan  |
| 16-048-01-SGP-XX-00-DR-A-1005-P1 | Constraints/Concept Overlay Plan |
| 16-048-01-SGP-XX-00-DR-A-1002-P4 | Constraints Plan |

|  |  |
| --- | --- |
| 16-048-01 SGP XX 00 DR A 1003 | Development Framework Plan |
| 16-048-01-SGP-XX-00-DR-A-1006-P5 | Indicative Masterplan |
| 16-048-01-SGP-XX-00-DR-A-1008-P4 | Land Use Areas Plan |
| 16-048-01-SGP-XX-00-DR-A-1004-P5 | Parameters Plan  |
| SCD-BWB-DGT-XX-DR-D-631-S1-P3 | Cut Fill Isopachytes |

Reports

1. Planning Statement (dated July 2019)
2. Design and Access Statement (dated July 2019);
3. Landscape and Visual Impact Assessment (dated July 2019);
4. Arboricultural Impact Assessment (dated July 2019);
5. Tree Survey (dated May 2018);
6. Flood Risk Assessment (dated July 2019);
7. Sustainable Drainage Statement (dated July 2019);
8. Noise Assessment (dated June 2019);
9. Air Quality Assessment (dated June 2019);
10. Lighting Assessment (dated July 2019);
11. Transport Assessment (dated June 2019).
12. Framework Travel Plan (dated July 2019);
13. Phase 1 Geo-Environmental Assessment (dated April 2018);
14. Energy and Sustainability Statement (dated July 2019);
15. Statement of Community Involvement (dated July 2019);
16. Archaeological Desk Based Assessment (dated October 2015);
17. Archaeological Geo-physical Survey (dated March 2018);
18. Archaeological Written Scheme of Investigation – Trial Trench Investigation (dated September 2018);
19. Trial Trench Investigation Report – Issue 3 (dated October 2018)
20. Archaeological Written Scheme of Investigation – Earthwork Recording (dated June 2019);
21. Ecological Appraisal (dated June 2019);

***Submitted Post Submission of planning application***

1. Supplementary Heritage Assessment (dated September 2019);
2. Biodiversity Impact Assessment (dated January 2020)
3. Environmental Statement (October 2020)
4. Trial Trench Investigation Report – Issue 5 (dated May 2019)
5. A Planning Performance Agreement was entered into between the LPA and Appellant on June 18th, 2018. (Core Document M.8)
6. The application was screened for EIA development prior to submission of the application under reference 18/01760/EIASCR on 11th September 2018. The LPA determined that an Environmental Impact Assessment was not required.
7. The table below shows events in relation to EIA Screening in relation to the project.

|  |  |
| --- | --- |
| **Event** | **Date** |
| Applicant Screening Request Made to LPA | 14/06/2018 |
| LPA Screening Opinion Decision – Not EIA Development | 11/08/2018 |
| Applicant Requests Screening Direction from Secretary of State (SoS) | 16/07/2019 |
| LPA Screening Opinion Decision – Is EIA Development | 30/07/2019 |
| SoS Screening Direction – Not EIA Development | 07/08/2019 |
| SoS Re-Issued Screening Direction – Not EIA Development | 13/08/2019 |
| LPA Queried SoS Screening Direction | 21/08/2019 |
| SoS Screening Direction – Is EIA Development | 27/09/2019 |

1. The Secretary of State Screening Direction determined that the matters ‘screened in’ comprised matters pertaining to archaeology and cumulative impacts based on the Secretary of State’s view.
2. The Appellant submitted an Environmental Statement on 12th November 2019.

*The Proposal*

1. The Scheme proposes: -

*“The development of the site for employment uses, comprising of warehousing and distribution (Class B8) floorspace (Including mezzanine floors) with ancillary B1a office space, general industrial (Class B2) floorspace (Including mezzanine floors) with ancillary B1a office space, a small standalone office (Class B1) and small café ( Class A3) to serve the development; car and HGV parking areas, with earthworks, drainage and attenuation features and other associated infrastructure, a new primary access off Brickhill Street, alterations to Brickhill Street and provision of Grid Road reserve to Brickhill Street. “*

1. The Scheme proposes total gross new internal floorspace:

|  |  |
| --- | --- |
| **Use Type** | **Total Gross New Internal Floorspace** |
| B8 Use Class warehousing and distribution with ancillary B1a office space  | 192,159 m2  |
| B2 Use Class general industrial  | 48,040 m2  |
| B1 Office  | 999 m2  |
| A3 Use Class Café  | 350 m2  |
|  |  |
| **Total** | **241,548 m2**  |

1. The Parameters Plan proposes the floorspace within the Scheme to be developed in 4 Zones;

|  |  |
| --- | --- |
| **Zone** | **Maximum** **Floorspace** |
| Zone 1 | 48,895 m2  |
| Zone 2 | 127,626 m2  |
| Zone 3 | 51,274 m2  |
| Zone 4 | 13,753 m2  |
|  |  |
| **Total** | **241,548 m2**  |

1. The Indicative Masterplan shows how buildings could be arranged within the Scheme to provide 216,567 m2 (2,331,108 sq ft) floorspace.
2. The difference in floorspace area between the Parameters Plan and the Indicative Masterplan is 24,684 m2.
3. The application form accompanying the planning application indicates that 2,557 parking spaces can be accommodated within the scheme. This level of provision is compliant with the Council’s Car Park Standards, set out within the Parking Standards SPD (January 2016) and policy CT10.
4. The Scheme layout provides for earthworks, drainage and attenuation features and other associated infrastructure, a new primary access of Brickhill Street, alterations to Brickhill Street and provision of a Grid Road reserve along Brickhill Street.

Parameters

1. The Parameters Plan (CD A.8) proposes the following;
2. The development to be laid out in 4 zones with the following parameters:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|                 Zone | Number of units | Floorspace (GIA sqm) | Roof Height (Highest Point) | Unit Floor Levels (AOD) |
| 1 | 1 to 2 | 48,895 | 21m min to 24m max | Lowest FFL +70.45mHighest FFL +70.85m |
| 2 | 1 to 5 | 127,626 | 15m min to 24m max | Lowest FFL +69.4mHighest FFL +72.35m |
| 3 | 2 to 3 | 51,274 | 18m min to 21m max | Lowest FFL +71.5mHighest FFL +75.5m |
| 4 | 3 to 5 | 13,753 | 9m min to 11m max | Lowest FFL +73.2mHighest FFL +74.65m |

1. Appearance, landscaping, layout and scale are reserved matters. The maximum height of the buildings is shown on the parameters plan.

Access

1. The site will be accessed from Brickhill Street via a new entrance roundabout as shown on Proposed Site Access Roundabout drawing CD A.27.
2. Brickhill Street is proposed to be upgraded to a dual carriageway between the A5 and the entrance roundabout, a distance of approximately 400m.
3. A Grid Road reserve is to be provided adjacent to Brickhill Street between the A5 roundabout and the railway line to the north – to facilitate the future improvement of the road to Grid Road standards.

*Redways and Pedestrian Access*

1. The site will be linked into the Milton Keynes Redways network~~.~~
2. The Redways provide connections to the north to the railway station and the Caldecotte residential district, and south to Watling Street. The existing Public Rights of Way (PROW) through the site will be retained and diverted as necessary.
3. Description of Appeal Site

Site Location

1. The site is in the parish of Bow Brickhill.
2. The site is located approximately 6.2km from Central Milton Keynes.
3. The site is located adjacent to Bow Brickhill railway station to the north of the site.
4. The site is located northwest of V10 Brickhill Street. The western boundary is defined by the A5 dual carriageway to which the site has access via the Kelly’s Kitchen roundabout.
5. Whilst the south of Milton Keynes is generally served by Junction 13 of the M1, the majority of HGV traffic arising from the site is expected to connect to the M1 via the newly constructed Junction 11A. The drive time to Junction 11A is approximately 20 minutes.
6. To the north east, land is allocated for the South East Milton Keynes strategic urban extension (Policy SD11) for approximately 3000 dwellings.
7. To the south east lies farmland which generally slopes upwards towards an area of woodland known as The Brickhills.
8. South of the site lies land at Eaton Leys (Policy SD13) where the LPA has granted outline permission for up to 600 residential units. Reserved matters permission for up to 450 residential units was granted by the LPA in January 2020.
9. To the west of the A5 lies the River Ouzel. Beyond this are the urban areas of Bletchley and Fenny Stratford.

The Appeal Site

1. The Site comprises 58.13 hectares. It forms the whole of the South Caldecotte site allocation within Policy SD14 in Plan: MK.
2. The boundaries of the Site are clearly defined by the local and strategic highway network and by the Bletchley-Bedford railway.
3. There are two watercourses running across the Site. The first flows north-west from a culvert under Brickhill Street to the A5 and outfalls into the River Ouzel beyond. The second enters via another culvert to the very north of the site and flows in a south-westerly direction through the Site and into the railway land where it continues and passes under the A5 and outfalls into the river Ouzel.
4. The northern half of the Site is in arable cultivation, formed of two fields separated by a hedgerow. The southern half of the Site is used for pasture and is made up of smaller fields again separated by hedgerows.
5. A farm complex, comprising a farmhouse and several small associated barns and sheds, is located in the southern portion of the Site with access to V10 Brickhill Street.
6. The Site is relatively flat, with a slight incline from south to north-west.
7. The Site is not located within the bounds of either a green belt or any Area of Outstanding Natural Beauty (AONB).
8. There are no listed buildings within vicinity of the Site.
9. A Scheduled Monument, the site of the Roman town of Magiovinium and Roman fort (list entry number: 1006943) is located south-west of the Site, this is separated from the Site by the A5. No part of the SM lies within or directly adjacent to the Site.
10. The northern and western boundaries of the Site, following the A5 and railway line respectively, are defined as Wildlife Corridors on the Plan:MK Proposals Map.
11. A part of the Site, comprising 4.8 hectares, is classified as a Priority Habitat, comprising lowland meadow. The submitted Ecological Appraisal has acknowledged other areas of Priority Habitat within the Site including some hedgerows and two woodland patches.
12. The classification of the lowland meadow Priority Habitat predates the allocation of the Site and Adoption of Plan:MK, having been taken into account in allocating the Site.
13. Planning Policy
14. For the purposes of this appeal the development plan comprises the policies contained in Plan:MK (adopted March 2019).
15. The following policies are those that are relevant to the consideration of this appeal.

Plan: MK (March 2019)

* **Policy SD1** – Place-Making Principles for Development
* **Policy SD9** – General Principles for Strategic Urban Extensions
* **Policy SD10** – Delivery of Strategic Urban Extensions
* **Policy SD11** – South East Milton Keynes Strategic Urban Extension
* **Policy SD12** – Milton Keynes East Strategic Urban Extension
* **Policy SD14** – Strategic Employment, Land South of Milton Keynes, South Caldecotte
* **Policy DS3** – Employment Development Strategy
* **Policy ER1** – Employment Sites within the Borough of Milton Keynes
* **Policy CT1** – Sustainable Transport Network
* **Policy CT2** – Movement and Access
* **Policy CT3** – Walking and Cycling
* **Policy CT4** –Crossover on Redways
* **Policy CT5** – Public Transport
* **Policy CT7** – Freight
* **Policy CT8** – Grid Road Network
* **Policy CT9** – Digital Communications
* **Policy CT10** – Parking Provision
* **Policy NE1** – Protection of Sites
* **Policy NE2** – Protected Species and Priority Species and Habitats
* **Policy NE3** – Biodiversity and Ecological Enhancement
* **Policy NE4** – Green Infrastructure
* **Policy NE5** – Conserving and Enhancing Landscape Character
* **Policy NE6** – Environmental Pollution
* **Policy HE1** – Heritage and Development
* **Policy CC1** – Public Art
* **Policy D1** – Designing a High-Quality Place
* **Policy D2 –** Creating a Positive Character
* **Policy D3** – Design of Buildings
* **Policy SC1** – Sustainable Construction
* **Policy INF1** – Delivering Infrastructure

National Planning Policy Framework (2019)

1. The following sections of the National Planning Policy Framework should be considered with regards to the assessment of the appeal.
* Section 2: Achieving sustainable development
* Section 3: Plan making
* Section 4: Decision-making
* Section 6: Building a strong, competitive economy
* Section 8: Promoting healthy and safe communities
* Section 9: Promoting sustainable transport
* Section 11: Making effective use of land
* Section 12: Achieving well-designed places
* Section 15: Conserving and enhancing the natural environment
* Section 16: Conserving and enhancing the historic environment

*Supplementary Planning Documents/Guidance*

1. The following documents should be considered with regards to the assessment of the appeal.
* Draft South Caldecotte Development Framework (June 2019 consultation not adopted)
* Parking Standards SPD (January 2016)
* Sustainable Construction Guide SPD (April 2007)
* Milton Keynes Drainage Strategy – Development and Flood Risk SPG (May 2004)
* Planning Practice Guidance, including: Natural Environment Guidance
1. The following policies are cited as forming the reasons for refusal:

**NPPF: Paragraphs 170 (d), 174 (b), 175, 197**

**Plan:MK policies: HE1 (F), SD1 (A19), SD14 (C3 & C9), NE2, NE3, INF1, CT1, CT2, CT3** and **CT5.**

1. It is agreed that policy SD14 does not exclude the development of Priority Habitat areas. Policy SD14 criterion B. states that a comprehensive Development Framework will be brought forward in line with all relevant policies in Plan:MK, particularly Policy SD1, SD9, SD10, NE1-6 and INF1 prior to planning applications being approved.
2. It is common ground that a comprehensive Development Framework has not been adopted, but a draft Development Framework has been subject to public consultation on two occasions in March 2018 and May 2019. Both parties reserve the right, where appropriate and relevant, to refer to other policy and guidance and also decisions on applications and appeals where they assist in this process.
3. Further Areas of Agreement

Economic Impacts

1. The development of the site for employment purposes will allow for very significant job creation, inward investment and economic benefits and is supported by policy DS3, SD14 and paragraph 80 of the NPPF.
2. The economic impacts are set out in detail within the Economics Statement of Common Ground.
3. The development would generate the following economic benefits, namely: -
	1. Inward investment in delivery and construction of the site
	2. A minimum of 2,050 jobs which provide a range of occupational skills
	3. Creation of further jobs during the construction period.
4. It is common ground that the economic benefits of the development are a material consideration.

Flood Risk and Drainage

1. Increased risk of flooding from the development can be mitigated to an acceptable degree subject to planning conditions and based on this there has been no objection from the Lead Local Flood Authority.
2. There has been no objection from the Environment Agency.
3. Anglian Water and the Bedford Internal Drainage Board have raised no objections subject to details at reserved matters stage.

Access and Parking

1. The transport impacts are set out within the Highways Statement of Common Ground.
2. The illustrative masterplan shows how 2557 parking spaces could be accommodated – this would be sufficient to meet the standards of requirement for the indicative floorspace in terms of number of spaces. The details of the parking have not been assessed and this would be done under a reserved matters application.
3. The Scheme provides for the upgrade of the southern part of Brickhill Street to Grid Road standard.
4. It is agreed that site allocation policy SD14 criteria 2 requires an upgrade of Brickhill Street to grid road standard. The LPA agree that the upgrade of Brickhill Street north of the proposed site access is not necessary to make the development acceptable as set out in paragraph 7.23 of Officer’s report to Committee. The Scheme proposes land to be reserved for future upgrading to a grid road north of the proposed site access.
5. A Framework Travel Plan has been provided as part of the Scheme and can be secured through planning conditions or a section 106 agreement.
6. Highways England have placed a holding response on the application, recommending that planning permission not be granted until June 26th, 2020 to allow sufficient time for Highways England to address highways impacts in relation to strategic road network.

Landscape

1. A Landscape & Visual Impact Assessment has been submitted and whilst matters of layout, scale and external appearance are reserved, there is sufficient information to conclude that acceptable reserved matters submissions can be made in relation to matters of landscaping and there is no reason to resist the current appeal scheme on the basis of these matters.

Biodiversity

1. The biodiversity impacts are set out within the Ecology Statement of Common Ground.

Design

1. A Design and Access Statement has been submitted and whilst matters of layout, scale and external appearance are reserved, there is sufficient information to conclude that acceptable reserved matters submissions can be made in relation to matters of urban design and there is no reason to resist the current appeal scheme on the basis of these matters.

Sustainability

1. The form of development would be sustainable and would therefore comply with Policy SC1 in respect of the reduction of carbon dioxide emissions, provision of renewable energy, and water usage subject to any necessary contribution to offset the residual carbon emissions of the development.
2. These measures can be secured through the use of planning conditions and /or obligations within a s.106 or other legal agreement.

Heritage

1. The heritage impacts are set out within the Archaeology Statement of Common Ground.

Noise

1. The development would not result in unacceptable impacts in respect of noise and would comply with Policy ENV6.

Air Quality

1. The development would not result in unacceptable impacts in respect of its impact on air quality and would comply with Policy ENV6.

***Other Planning Matters***

1. The Inspector examining Plan:MK noted that the impact on the level crossing from the scheme would be moderate and localised (Para 121)

Section 106 Issues

It is agreed that the parties will seek to agree the provisions of a legal agreement under section 106 of the Town and Country Planning Act to provide necessary planning obligations to support the development, providing these meet the tests of CIL Regulation 122 and the relevant legal tests.

1. AREAS of Disagreement
	1. The parties disagree in relation to the following matters:
	2. Archaeology - The significance of the below ground evidence of non-designated heritage assets of Roman archaeology within ‘Unwin’s land’ (Fig.1 Area 2)
	3. Ecology - The impact that the development has to protected habitats and whether that impact could be adequately mitigated.
	4. Transport - Whether the transport impacts of the proposal would be acceptable, in respect of:
* Public Transport Strategy
* Redway Infrastructure Provision
* Impact on strategic road network, in particular A5 Kelly’s Kitchen Roundabout
* Safeguarded Land to allow upgrade of Brickhill Street to grid road reserve
	1. Economic Impacts - The weight to be given to the relevant planning considerations in the planning balance.
	2. Masterplanning – The Appellant submits that the Indicative Masterplan (CD A.7) demonstrates how the development can be laid out in order to meet the requirements of policy SD14. The Indicative Masterplan shows buildings with a footprint of 216,567 sqm. This is 24,684 sqm less than the application floor space. The Appellant has made allowance in the Parameters for the development to accommodate internal mezzanine floors. The maximum floorspace of 241,548 sqm has been tested within the Transport Assessment.
	3. The LPA position acknowledges that the layout, scale, appearance and landscaping, including parameter plans showing heights of buildings, are something that an applicant can indicate at outline stage. However, as these are reserved matters the LPA cannot bind itself, or the applicant on these details at this stage. As such, they are potentially subject to change. The Appellant’s position is that the parameters plan (CD A.8) provides a framework for the future reserved matters for the number of units, floorspace, height, and floor levels for each zone. It is good planning practice for a parameters plan accompanying an outline planning application to include details of maximum building heights. In the Appellant’s view, there is sufficient information to conclude that acceptable reserved matters submissions can be made.
	4. Planning – Whether the development is consistent with the guidance contained within the Draft South Caldecotte Development Framework.
	5. Planning – It is the appellant’s view that the appeal inspector examining Plan:MK set out that Plan:MK was to be brought forward in the early-middle stages of the plan period from 2016-2031.
	6. Planning – Whether the proposals would comply with the Adopted Local Plan when viewed as a whole. It is the Appellant’s view that even if the proposals were considered not to comply with the development plan as a whole, the benefits of the scheme would justify allowing the appeal.
	7. The Appellant and LPA will look to agree topic-based statements of Common Ground on the issues of Archaeology, Ecology, Transport and Economic impacts, in order to further reduce the areas of dispute.

Agreed on behalf of the Council by



David Buckley

Milton Keynes Council

Date 03/07/20

Agreed on behalf of the Appellant by



Graham Robinson

DLP Planning Ltd

Date 01/07/20

