

## **APP/W0530/W/23/3315611: Brookgate Ltd on behalf of the Chesterton Partnership**

### **Comments on draft Heads of Terms for s.106**

#### **Introduction**

- I am grateful to the Inspector for the opportunity to provide comments on the draft Heads of Terms for the s.106 agreement between the appellant, the Local Planning Authority and Cambridgeshire County Council.
- As with my representation to the Inquiry, these comments are made on behalf of LandsecU+I and TOWN as promoter and master developer of the Core Site, North East Cambridge, appointed by the landowners Anglian Water and Cambridge City Council.
- These comments will focus on the disparity between the items covered in the draft Heads of Terms (HoTs) for the s.106 agreement in comparison with the draft Infrastructure Delivery Plan (IDP) published in December 2021 by Greater Cambridgeshire Shared Planning Services on behalf of the two Local Planning Authorities, as part of the evidence base for the R.19 draft NEC Area Action Plan (NEC AAP).

#### **The draft Infrastructure Delivery Plan**

- The R.19 draft NEC AAP sets out the level of residential and commercial development proposed in the area by the two Local Planning Authorities, Cambridge City Council and South Cambridgeshire District Council.
- The draft IDP provides an analysis of the infrastructure required to support the level of growth proposed across a number of domains:
  - community facilities (including at least two new primary schools to be provided on the Core Site);
  - open space and green infrastructure;
  - sport and leisure (including a five court sports hall);
  - transport and connectivity (a major theme which seeks to secure pedestrian and cycle routes across the wider AAP, including safe and convenient crossing point(s) for Milton Road to link the Science Park, St Johns Innovation Park, the Core Site, Cambridge Business Park, Chesterton Sidings and Cambridge North Station; a pedestrian/cycle bridge crossing for the railway line to link the AAP with the river corridor); and
  - utilities.
- The draft IDP identifies a funding gap between levels of public sector funding identified towards the infrastructure. As required by Planning Policy Guidance, the IDP is supported by a parallel generic viability appraisal which demonstrates that the levels of contribution sought can be provided without threatening the viability of development at NEC.
- The draft IDP states as follows (para 13.5):  
*“On a per dwelling basis the full build-out contribution is £28,868, and for the commercial element £201/sq m.”*

- Applying those rates to the levels of development proposed in the appeal would yield the following levels of contribution:
  - £28,868 x 425 units = £12,268,900 or c£12.3m;
  - £201 x 53,700 sqm = £10,893,700 or c£10.9m.
 Thus applying the rates set out in the draft NEC IDP would yield a total contribution of c£23.2m for the quanta of development in the appeal proposal.

### **Note on weight to be carried by the NEC AAP and the IDP**

- The appellants have correctly noted that the AAP carries limited weight in decision making terms due to its progress towards adoption and the extent of unresolved objections.
- The IDP itself has not been subject to consultation. As master developers of the Core Site, LandsecU+I and TOWN have reservations as to whether some of the items of infrastructure identified would meet the tests for development contributions set out in CIL R122. We also have considerable concerns about the apportionment between commercial and residential development proposed in the draft IDP.
- Nonetheless, we recognise that the IDP sets out the best assessment of the LPAs of the infrastructure needed to support growth at the time of publication and we wish to contribute to an ongoing dialogue with the LPAs and other NEC developers towards a shared approach which does not penalise some developments which come later in the process of regenerating NEC.

### **The draft s.106 HoTs**

- The draft HoTs for the s.106 agreement set out the following contributions:
  - £299,762 - off-site sports
  - £298,003 – off-site primary healthcare
  - £68,000 – assuming 425 units and a per dwelling contribution of £160/unit towards household waste receptacles
  - Monitoring cost of £25,000
  - £37,642 to off-site library provision
  - £13,698 towards recycling centre
  - £150 monitoring cost
  - £261,615 early years/ nursery contribution
  - £118,864.35 secondary school places
  - £95,932 Martin Bacon Academy
  - £1.62m for strategic transport infrastructure (should the agreed trip budget be breached)
  - £100,000 busway contribution
  - £100,000 to Cowley Road improvement works
  - £75,000 parking survey interventions
  - £35,000 public transport information
- This totals £3.15m towards development contributions. However, of this £1.62m (equating to 52% of the total) is only payable towards strategic transport infrastructure should the trip budget be exceeded.
- Thus the **maximum** level of contributions to be provided by the appellant is some £3.15m compared to £23.2m which would have been sought were the AAP and IDP

adopted, or equivalent to 13.6% of the latter sum. The guaranteed sum of £1.53m represents just 7% of the level of contributions sought by the draft IDP.

- By any measure this has to raise concerns that:
  - i. Later developments across NEC will have to contribute a greater sum proportionately thereby threatening their viability; and
  - ii. In any event this level fails to make adequate contribution to provide for infrastructure to support the growth.
- On the first point, it is worth noting that we cannot advance an early scheme in the same way as the appeal site and other commercial-led developers due to the extant odour constraints. These do apply to the same extent for commercial schemes, nor to residential proposals outside the relevant odour zone contour restriction, such as for the appeal proposal.
- On the latter point above, it is notable that very limited contributions have been sought towards the range of infrastructure items falling within the utilities theme in the draft IDP.
- To take one issue in particular, no sum has been sought towards the upgrade of power supplies to NEC via the Milton Road Primary Substation. A sum of £3.5m is identified in the draft IDP and the lack of power supplies is an absolute constraint to development which will fall disproportionately on developments which come later as a result of the lack of a common arrangement to fund infrastructure to support growth across NEC in a sustainable way.
- If the IDP costs are subsequently intended to be simply re-distributed at higher levels to schemes that are consented in a 'post-AAP-adopted' world, such as the Core Site, it would be an inequitable, unviable, and therefore flawed approach that will not deliver the comprehensive, residential-led mixed use district that the Local Planning Authorities and other stakeholders are envisaging.
- From the perspective of the Core Site promoters / master developers, the contributions sought by the Local Planning Authority for the appeal site therefore establish a clear baseline for schemes coming forward in the future, including the Core Site.

#### **Note on approach to provision of affordable housing under s.106**

- It is notable that the draft HoTs set out that 40% of the market sale units will be affordable together with 20% of the BTR units.
- As set out in the Statement of Common Ground between the appellants and the LPA:
  - i. Some 155 units will be open market and affordable units;
  - ii. The remaining 270 units will be Build To Rent.
- Taking i above, 155 units at 40% affordable will provide 62 affordable homes.
- Taking ii above, 270 BTR units at 20% affordable will provide 54 affordable units.
- Therefore a total of 116 units out of 425 will be affordable, or 27%.
- Notwithstanding that the HoTs have been agreed between the LPA and the appellants, a total provision of 27% is well under the requirement for affordable housing set out in Policy H/10 of the Adopted South Cambridgeshire Local Plan 2018 (SCLP) which seeks to “...provide that 40% of the homes on site will be affordable.”
- Furthermore, Policy 13b of the emerging NEC AAP seeks the provision of 40% of all new homes within the area to be delivered as affordable housing. The corollary of under

provision of affordable housing on sites such as the appeal site would be that additional would be sought on sites coming later, such as the Core Site.

### **Summary comments on the draft s.106 HoTs**

- This brief analysis has identified a considerable gap between:
  - i. The level of development contributions outlined in the draft s.106 HoTs and the emerging NEC AAP is significant; and
  - ii. The provision of affordable housing which is below policy H/10 of the adopted South Cambridgeshire Local Plan 2018.
- The corollary of i and ii above is that later developments would be looked upon to provide significantly greater contributions to both infrastructure and provision of affordable housing. This would simultaneously both threaten viability of those later developments and be in contravention of Policy SS/4 of the SCLP which seeks to:

*“Ensure that the development would not compromise opportunities for the redevelopment of the wider area.”*

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