

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
Town and Country Planning (Inquiry Procedure) (England) Rules 2000

STATEMENT OF CASE OF
SOUTH CAMBRIDGESHIRE DISTRICT
COUNCIL

APPEAL BY BROOKGATE LAND LTD

ADDRESS: LAND NORTH OF CAMBRIDGE NORTH STATION, MILTON
AVENUE, CAMBRIDGE, CAMBRIDGESHIRE

MARCH 2023

LPA REFERENCE: 22/02771/OUT

APPEAL REFERENCE: APP/W0530/W/23/3315611

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1.0 Introduction

- 1.1 This Statement of Case ('SoC') is submitted on behalf of the Local Planning Authority (the 'LPA') to set out the particulars of South Cambridgeshire District Council's (the 'Council') case in respect of the planning appeal, reference APP/W0530/W/23/3315611, lodged by Brookgate Land Ltd (the 'Appellant').
- 1.2 The relevant planning history is set out in section 4 of the Officer's report (the 'OR') to the Joint Development Control Committee. A summary of consultation responses is provided in section 6 and Appendix 5 of the OR. A summary of third party responses received is provided in section 7 of the OR.
- 1.3 The application was considered at the Councils' Joint Development Control Committee on 22 March 2023 where Members unanimously endorsed the 'minded to' refuse recommendation for the eight reasons included in the OR. Section 2.0 of this Statement of Case sets out the eight reasons.
- 1.4 A number of the reasons for refusal relate to insufficient information being provided by the applicant. The procedural guidance on planning appeals is clear that ongoing discussion between the applicant and the LPA should ensure that the applicant has the opportunity to respond to any issues/concerns before the LPA's decision is made. This will mean that there should be no unexpected issues raised by that decision.
- 1.5 In this case, the applicant chose submit their intention to appeal against non-determination only two days after the consultation period ended on a large amount of new information. The Appellant has therefore lost the opportunity to work constructively with the local planning authority on addressing the matters raised in the consultation responses.
- 1.6 The procedural guidance is clear that new evidence will only be exceptionally accepted where it is clear that it would not have been possible for the party to have provided the evidence when they sent their full statement of case.
- 1.7 If the Appellant does intend to submit new information to address any of the reasons for refusal, contrary to the procedural guidance, the LPA would expect that to be submitted forthwith.
- 1.8 As stated in para. 8.5 of the Appellant's SoC, a list of planning conditions will be discussed and agreed between the main parties and included in the final Statement of Common Ground.

2.0 Background to the appeal and reasons for refusal

- 2.1 The proposals were subject to lengthy pre-application discussions with officers of the shared planning service and the County Council. Formal pre-application discussions commenced in October 2020. Between then, and the submission of the application in June 2022, a number of significant changes were made by the applicant. These changes were often based on decisions made by the applicant for commercial / other reasons and were not based on planning advice provided by the LPA.
- 2.2 The application was received on 15 June 2022 and was valid on receipt. The application was accompanied by an Environmental Assessment and is EIA development, as detailed in the OR.
- 2.3 The first statutory consultation period expired in August 2022. A number of consultation responses were received after this period. Due to the summer holidays and delayed consultee responses an extension of time was agreed with the applicant until 23 November 2022.
- 2.4 The applicant submitted an amendment pack comprising 100 documents at the end of October 2022. The amendment pack comprised responses to consultees, updated or new reports/strategies/statements, a suite of revised/new drawings and a Statement of ES Conformity. Despite requests, no further extension of time was agreed.
- 2.5 A second statutory consultation was carried out on the additional information which expired on 17 December 2022.
- 2.6 The applicant served the Notice of Intention to Submit an Appeal on 19 December 2022. The appeal for non-determination was submitted on 27 January 2023.
- 2.7 The Start Letter for the appeal was issued on 16 February 2023.
- 2.8 The application was considered at the Councils' Joint Development Control Committee on 22 March 2023 where Members considered a 'minded to' refuse recommendation. The recommendation and eight reasons for refusal in the OR were endorsed unanimously by JDCC on 22 March 2023 (printed minutes not yet available). The reasons for refusal are as follows:

2.9 Reason for refusal 1 - Impact on the landscape character and visual amenity of the area

Policy HQ/1 of the South Cambridgeshire Local Plan provides that all new development must be of high-quality design, with a clear vision as to the positive contribution the development will make to its local and wider context. Sub-paragraph (a) provides that proposals must preserve or enhance the character of the local urban and rural area and respond to its context in the wider landscape. Sub-paragraph (b) provides that proposals must conserve or enhance important natural and historic assets and their setting. Sub-paragraph (d) provides that proposals must be compatible with their location and appropriate in terms of scale, density, mass, form, siting, design, proportion and other matters in relation to the surrounding area.

Policy NH/2 provides that development will only be permitted where it respects and retains or enhances the local character and distinctiveness of the local landscape and of the individual National Character Area in which is it located.

Policy NH/6 provides that the Council will aim to conserve and enhance green infrastructure within the district. Proposals that cause loss or harm to this network will not be permitted unless the need for and benefits of the development demonstrably and substantially outweigh any adverse impacts on the district's green infrastructure network.

Policy NH/8 provides that development on edges of settlements which are surrounded by Green Belts must include careful landscaping and design measures of a high quality.

Policy SS/4 sub-paragraph 4a provides that all proposals should take into account existing site conditions and environmental and safety constraints.

Policy 60 of the Cambridge Local Plan (2018) provides a framework for assessing any proposal for a structure that breaks the existing skyline and/or is significantly taller than the surrounding built form and requires proposals to demonstrate how they fit within the existing landscape, townscape and historic environment.

The NPPF, at Paragraph 130(c), seeks to ensure developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.

The eastern edge of the site is particularly sensitive due to its long views over the River Cam across the Green Belt towards the City. It is considered that the proposals, due to their height and massing, create an abrupt, hard edge that fails to enhance or preserve the character of the area and is not sympathetic to or in keeping with the site's context in the wider landscape including the setting of the City.

The height and massing of the proposed development is not sympathetic to the scale, density and massing of the surrounding areas which comprise primarily low level and low-density development. Accordingly, the development will not result in a well designed place that responds positively to the surrounding context and is considered to have an overbearing presence on the existing development to the east of the development on Fen Road and to the west of the development particularly on Discovery Way.

Overall, the proposed development is not considered to result in high quality development that delivers a well designed place contributing positively to its surroundings. Instead, the proposals result in harm to the surrounding landscape and Green Belt, particularly on the eastern edge of the site, and to the urban area and its relationship with the wider North East Cambridge Area, the City skyline and the landscape beyond. The proposal is therefore not in accordance with South Cambridgeshire Local Plan policies HQ/1, NH/2, NH/6, NH/8 and SS/4 and Policy 60 of the Cambridge Local Plan and the NPPF.

2.10 Reason for refusal 2 – Impact on heritage assets

Policy HQ/1 of the South Cambridgeshire Local Plan provides that all new development must conserve or enhance historic assets and their settings.

Policy NH/14 provides that development proposals will be supported when they sustain and enhance the special character and distinctiveness of the district's historic environment including its countryside and create new high quality environments with a strong sense of place by responding to local heritage character. It continues that development proposals will be supported when they sustain and enhance the significance of heritage assets, including their settings, as appropriate to their significance and in accordance with the National Planning Policy Framework. The proposed development fails to accord with these objectives.

It is considered the proposed buildings, due to their height and massing, together with their siting in a row along the eastern edge with minimal gaps

between the buildings, would constitute a permanent change to the visual quality of the Fen Ditton and Riverside & Stourbridge Common Conservation Areas and would have a negative effect on the way in which they are experienced and appreciated. The proposals would generate increased visibility and presence of urbanising elements of development within the conservation areas and would affect the experience of their rural character. The intensification of development would affect the riverside setting which is a fundamental characteristic of the conservation areas and is sensitive to change. The development proposals would result in a less than substantial harm to the significance of these heritage assets at a moderate level. The public benefits of the proposal do not outweigh this harm.

In addition, there is insufficient information to demonstrate that the proposals do not harm the setting of Anglesey Abbey registered park and garden. Accordingly, the proposals are contrary to South Cambridgeshire Local Plan policies NH/14 and HQ/1 of the local plan and is not in accordance with the NPPF.

2.11 Reason for refusal 3 - Design

Policy HQ/1 of the South Cambridgeshire Local Plan provides that all new development must be of high quality design, with a clear vision as to the positive contribution the development will make to its local and wider context. Sub-paragraph c provides that proposals must include variety and interest within a coherent, place-responsive design, which is legible and creates a positive sense of place and identity whilst also responding to the local context and respecting local distinctiveness. Sub-paragraph e provides that proposals must deliver a strong visual relationship between buildings that comfortably define and enclose streets, squares and public places, creating interesting vistas, skylines, focal points and appropriately scaled landmarks along routes and around spaces. Sub-paragraph i provides for safe, secure, convenient and accessible provision for cycle parking and storage within the development. Sub-paragraph l provides that proposals mitigate and adapt to the impacts of climate change on development through location, form, orientation, materials and design of buildings and spaces. Sub-paragraph m provides that proposals include high quality landscaping and public spaces that integrate the development with its surroundings, having a clear definition between public and private space which provide opportunities for recreation, social interaction as well as support healthy lifestyles, biodiversity, sustainable drainage and climate change mitigation.

Policy SC/7 provides that all housing developments will contribute towards Outdoor Playing Space and Informal Open Space to meet the need generated by the development in accordance with minimum standards including 0.4ha. per 1,000 people.

The NPPF, at Paragraph 130(d) seeks to ensure that developments establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.

The planning application fails to provide high quality public open space or a public realm which would result in a well-designed coherent sense of place that contributes to local distinctiveness. The proposals fail to provide sufficient formal children's play space which is convenient for residents to use, clearly distinguished from the public realm and not bisected by vehicular routes.

The shape and form of buildings within the outline application are not considered to appropriately respond to their locations, resulting in potential incompatible building designs fronting streets and open spaces. The lack of flexibility in the parameter plans potentially precludes, or at least limits, this incompatibility being resolved at Reserved Matters stage.

Building S4 (One Milton Avenue) is overly large and bulky for its location, which its architectural detailing and articulation fails to overcome.

The proposed development, through its over reliance on two tier cycle parking together with the poor relationship of some cycle access points in relation to cycle ways, fails to provide convenient and accessible provision for cycle parking and does not sufficiently promote active travel.

As such the proposal is considered to be contrary to South Cambridgeshire Local Plan policies HQ/1 and SC/7 and the NPPF.

Furthermore, without the applicant demonstrating that development can come forward with no single aspect north-facing apartments there is conflict with Policy HQ1 (I) and paragraph 153 of the NPPF.

2.12 Reason for refusal 4 – Comprehensive development

Policy SS/4 of the South Cambridgeshire Local Plan allocates an area, including the application site, for high-quality mixed-use development primarily for employment uses as well as a range of supporting uses,

commercial, retail, leisure, and residential uses (subject to acceptable environmental conditions). The amount of development, site capacity, viability, time scales and phasing of development is to be established through the preparation of an Area Action Plan ('AAP'). The policy provides at criterion 4c that proposals should ensure that appropriate access and linkages, including for pedestrians and cyclists, are planned in a high quality and comprehensive manner. Criterion 4e of policy SS/4 requires that proposals should ensure that the development would not compromise opportunities for the redevelopment of the wider area. The supporting text to the policy at 3.31 provides that planning applications submitted before the adoption of the AAP will be considered on their own merits and subject to ensuring that they would not prejudice the outcome of the AAP process and the achievement of the comprehensive vision for the area as a whole that will be established by the AAP.

The application does not explain, in the absence of a comprehensive and appropriate S106 agreement, how the requirements of the development plan for comprehensive development of the areas would be achieved, and the proposal is accordingly considered to be contrary to the objectives of policies SS/4, TI/2 and TI/8 of the Local Plan.

2.13 Reason for refusal 5 – s106

Mitigation in the form of financial contributions and obligations are required to mitigate the impacts of the proposed development. Alongside the use of planning conditions, the development generates a requirement for a range of community infrastructure on the site or in the locality. This would be secured by way of a legal agreement. In the absence of an agreed S106 agreement the necessary mitigation to make the proposals acceptable cannot be secured in accordance with policies SC/4, SC/6 and TI/8 of the South Cambridgeshire Local Plan.

2.14 Reason for refusal 6 - Flood risk

Policy CC/7 provides that all development proposals must demonstrate that there are adequate land drainage systems to serve the whole development. Policy CC/8 provides that development proposals must incorporate appropriate sustainable surface water drainage systems appropriate to the nature of the site. Policy CC/9 sub-paragraph b provides for an allowance for climate change where appropriate.

The application provides insufficient clarity on the climate change allowances utilised. In particular, the commercial, retail and laboratory buildings have been accounted for a shorter lifetime than the surrounding residential areas, utilising a 20% climate change allowance on the 100 year storm. However, it is likely that these structures will be contributing to the impermeable areas for the lifetime of the development. Whilst it is acknowledged that the proposals include a sunken area for informal flooding, the LLFA has advised that the proposed SuDS system on site should be designed to accommodate the lifetime that these areas will be impermeable and therefore contributing to the drained area.

As such the proposal is considered to be contrary to South Cambridgeshire Local Plan policies CC/7, CC/8 and CC/9 and the NPPF.

2.15 Reason for refusal 7 - Ecology

Policy NH/4 provides that new development must aim to maintain, enhance, restore or add to biodiversity. Where there are grounds to believe that a proposal may affect a Protected Species, Priority Species or Priority Habitat, applicants will be expected to provide an adequate level of survey information and site assessment to establish the extent of a potential impact. This survey information and site assessment shall be provided prior to the determination of an application.

The application provides insufficient information to adequately assess the ecological impact of the proposals. In particular, the bat surveys must be completed as the building/structure B1 is within the landscape drawings submitted for full consideration under the outline planning permission. In addition, the impact of the additional bird species identified has not been assessed. On the basis of the information submitted, the application is contrary to South Cambridgeshire Local Plan policy NH/4, the Biodiversity SPD 2022, the requirements of the Environment Act 2021 and 06/2005 Circular advice.

2.16 Reason for refusal 8 – Safeguarded sites

Policy SS/4 of the South Cambridgeshire Local Plan criterion (a) provides that proposals should take into account existing site conditions and environmental and safety constraints. Policy 16 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan 2021 requires applications to demonstrate they will be compatible with the safeguarded sites identified in the Plan.

Insufficient information has been submitted in the noise report to demonstrate that the interaction between the proposed commercial use and the Aggregates Railhead (a Transport Infrastructure Area) will not prejudice the existing or future uses of the Transport Infrastructure Area as required in Policy 16: Consultation Areas of the Cambridgeshire and Peterborough Minerals and Waste Local Plan 2021 and the 'agent of change' as set out in para. 187 of the NPPF and contrary to criterion 4a of policy SS/4 of the South Cambridgeshire Local Plan.

3.0 The site and its surroundings

- 3.1 The Site is previously developed land that comprises the existing surface level Cambridge North railway station car park of 428 spaces, areas of hardstanding and areas of scrubland.
- 3.2 The Site is bound to the north by the remainder of the former Chesterton Sidings site, to the east by the railway line, to the south by the recently constructed 'One Cambridge Square' office building and 'Two Cambridge Square' Novotel hotel building, and to the west and north-west by the Cambridgeshire Guided Busway ("CGB") and Cambridge Business Park. Further south of the Site lies Cambridge North railway station, which opened in 2017.
- 3.3 The existing vehicular access to the Site is from Cowley Road which links Milton Road in the north down to Cambridge North station in the south. Upon entering the Site the road name changes to Milton Avenue. Cowley Road itself is single carriageway without footways. A shared path is located to the south of the road, segregated from the carriageway by an area of vegetation and the First Public Drain. Within the Site, Milton Avenue has footways on both sides of the road and a segregated cycleway to the west.
- 3.4 There is also pedestrian and cycle access to the Site from the CGB to the west and from Moss Bank to the south.
- 3.5 The Site is not located within the Cambridge Green Belt. However, the Cambridge Green Belt lies to the east of the Site, to the east of the railway line, and further south and south-east of the Site.
- 3.6 To the east of the Site, the land between the railway lines and the River Cam is occupied by a low-density, low-rise development of caravan parks and low-grade industrial units accessed from Fen Road.
- 3.7 To the west of the Site is the Bramblefields Local Nature Reserve and Discovery Way which comprises low density residential development.
- 3.8 The Site does not contain any heritage assets and no non-designated heritage assets are affected by the proposed development.
- 3.9 Fen Ditton Conservation Area and the Riverside and Stourbridge Common Conservation Area are the closest heritage assets to the Site, with parts of

their boundaries lying approximately 500m from the Site. Baits Bite Lock is located to the north east of the Site.

- 3.10 Anglesey Abbey registered park and garden lies to the northeast of the Site, approximately 5 kilometres from the site.
- 3.11 The Site is located on the north-east edge of Cambridge and immediately adjoins the administrative boundary of Cambridge City Council to the south-west. It is approximately 3km from the city centre. The Site benefits from access to a range of public transport services which connect the Site with Cambridge City Centre, local regional destinations and national destinations via the rail and bus network.
- 3.12 A full description of the Site and its context is set out within the application documentation and officer report (the 'OR') to the 22 March 2023 meeting of the Councils' Joint Development Control Committee.

4.0 Planning policy context

- 4.1 Appendix 5 of the OR sets out planning policy context in terms of national policy and guidance, the development plan and other relevant guidance. Sections 5.2 – 5.15 of the OR set out the background, status and evidence base of the Area Action Plan (AAP) for North East Cambridge (NEC).

5.0 The Council's Case

- 5.1 The OR provides the detailed assessment of the proposals and should be referred to in combination with this Statement of Case. However, the sections below set reasons for refusal and the Council will focus its evidence on the reasons for refusing planning permission having regard also to the weight to be afforded to other material planning considerations. The Council's evidence will demonstrate that the appeal proposal would not deliver sustainable development in that there is no justification, including within Development Plan policies, or any other material considerations that would outweigh the adverse impacts of the appeal scheme.

Reason for Refusal 1 – Impact on the landscape character and visual amenity of the area

- 5.2 The first reason for refusal addresses the impact of the development on the landscape character and visual amenity of the area, in particular when viewed from the east of the site.
- 5.3 The Council will refer to the relevant evidence base prepared in association with the emerging North East Cambridge AAP. This will include the NEC Townscape Strategy which was prepared alongside the NEC Landscape Character and Visual Impact Appraisal (LCVIA) and NEC Heritage Impact Assessment and incorporates the recommendations from both these documents. Reference will also be made to Cambridge Local Plan Policy 60 which provides a framework for assessing any proposal for a structure that breaks the existing skyline and/or is significantly taller than the surrounding built form and requires proposals to demonstrate how they fit within the existing landscape, townscape and historic environment.
- 5.4 The Council will refer to the NPPF, notably chapter 12 and Paragraph 130, which seeks to ensure developments add to the overall quality of an area, are visually attractive and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change. The Council will also refer to the principles within the National Design Guide concerning context, identity and built form.
- 5.5 The submitted LVIA concludes by acknowledging a noticeable change in the study area and finds that a successful landscape scheme is crucial to mitigating the impacts. However, the Council will demonstrate that the attempts to mitigate the proposals through landscaping are ineffective due

to the layout of the urban plan and the mass, scale and height of the buildings.

- 5.6 The LVIA concludes that *“the Proposed Development does not result in any significant effects”* and that it is *“a proposal that appropriately responds to its context”*. The Council will demonstrate that this assessment is wrong. Whilst the development benefits from existing vegetative screening from several receptor sites and views, the views which result in moderate-adverse to high-adverse effects are incredibly significant and sensitive. Primarily these are related to the eastern edge and impacts on Fen Ditton, Fen Ditton Conservation Area, Ditton Meadows, Cambridge Green Belt and users of footpath, cycle path and vehicular routes in these areas. The Council will refer to the evidence base for the NEC AAP, in particular the Landscape Character and Visual Impact Appraisal (LCVIA), and will demonstrate that the LVIA has not applied the recommendations of the LCVIA findings to the proposals. This is because all buildings are ‘tall’ when reviewed against the recommended heights strategy produced as a result of the NECAAP LCVIA findings.
- 5.7 The eastern edge of the site is particularly sensitive due to its long views over the River Cam towards the City and its location within the Cambridge Green Belt. The proposals, due to their height, massing and layout, create an abrupt, hard edge that leads to an inappropriate transition in scale on the City edge that fails to enhance or preserve the character of the area and is not in keeping with the site’s sensitive context in the wider landscape. The Council will demonstrate that the proposals result in harm to the surrounding landscape, particularly on the eastern edge, and to the urban area and its relationship with the wider NEC area, the City skyline and the landscape beyond.
- 5.8 The Council will demonstrate that the sensitivity to change is high despite the presence of the new hotel and office building. The River Cam’s green corridor, part of the defining character of Cambridge, which links farmlands in the south west of Cambridge to the fens in the north east is considered to be highly susceptible to harmful impacts as a result of change. The Council will demonstrate that the existing hotel and office building do not and should not set a precedent for development in the area but form the focus of a tall development cluster at the Cambridge North Station, while the areas within the appeal site must be seen to be subservient and respectful to the existing development around it and the sensitive receptors.

- 5.9 The Council will refer to Cambridge City Council Policy 60 as a material planning consideration due to the close adjacency of Cambridge City and the relationship between this site and the rest of Cambridge. Policy 60 requires new development that breaks the existing skyline and/or is significantly taller than the surrounding built form to be considered against certain criteria. The criteria apply to not only landscape, but townscape and heritage impacts. Applying the requirements of the criteria against the viewpoints selected for LVIA/TVIA, Heritage and Policy 60 viewpoint, it is considered that the development has been unable to demonstrate that the proposals are a high-quality addition to the Cambridge skyline. The Council will demonstrate the proposals do not result in a high quality addition to the City skyline and that this results in adverse impacts.
- 5.10 The design of Buildings S6 and S7 introduces stepping in both height and building line in an effort to visually reduce the overall massing of the buildings and create the impression of a series of smaller-grained linked / terraced blocks; this is further emphasised by changes in materiality. However, the success of the stepping in reducing the overall massing is limited as the stepping occurs along the edges of the building only, with the bulk of the buildings remaining at 4 floors plus plant. The stepping is not effective when seen from a distance as the full silhouette of the building is visible. In addition, the proposed buildings to the rear rise up behind buildings S6 and S7, further negating any articulation. Due to the buildings to the rear appearing relatively indistinct from S6 and S7 when viewed from a distance, this adds to the impression of an “urbanised wall effect” and results in a large and solid mass when viewed from the east and northeast.
- 5.11 The landscaping provided to mitigate against the harm is ineffective due to the mass, scale and height of the buildings together with the limited space to provide more significant landscaping along the eastern edge of the site.
- 5.12 The Council will also demonstrate that the height, massing and layout of the proposed development is not sympathetic or responsive to the site’s context and the scale, density and massing of the surrounding areas which comprise primarily low level and low-density development. The development will not result in a well designed place that responds positively to the surrounding context and instead is considered to have an overbearing presence on the existing development to the east of the development on Fen Road and to the west of the development particularly on Discovery Way

- 5.13 The Council will demonstrate that the impact on the existing residential development at Discovery Way is underplayed in the proposals by virtue of most of the impact being formed by design work in outline form only (comprising the residential buildings). The outline application seeks to set height parameters which exceed those identified in the emerging AAP, which are informed by the aforementioned evidence base, and therefore the Council will demonstrate these constitute 'significant effects' rather than a 'lack of a significant effects'.
- 5.14 Accordingly, the development will not result in a well-designed place that responds positively to the surrounding context and is considered to have an overbearing presence on the existing development to the east of the development on Fen Road and to the west of the development, particularly on Discovery Way.
- 5.15 On the evidence provided the Council will demonstrate that the appeal scheme is contrary to South Cambridgeshire Local Plan policies HQ/1, NH/2, NH/6, NH/8 and SS/4, Policy 60 of the Cambridge Local Plan and the NPPF.

Reason for Refusal 2 – Impact on heritage assets

- 5.16 The second reason for refusal addresses the harm to designated heritage assets, specifically the Fen Ditton and Riverside and Stourbridge Common Conservation Areas. The Council will refer to the relevant conservation area appraisals in its evidence. Reference will also be made to the AAP evidence base including the NEC Landscape Character and Visual Impact Appraisal (LCVIA) and NEC Heritage Impact Assessment. Reference will be made to Cambridge Local Plan Policy 60 which provides a framework for assessing any proposal for a structure that breaks the existing skyline and/or is significantly taller than the surrounding built form and requires proposals to demonstrate how they fit within the existing landscape, townscape and historic environment.
- 5.17 The abovementioned conservation areas, together with Baits Bite Lock Conservation Area, form a continuous chain from just south of Milton to the City centre. The river, public footpaths, towpaths and fields are very well used by runners, rowers, cyclists and walkers alike and the designation is recognition that the riverside meadowland spaces are an important component of the historic character of the city and its environs. This has been recognised through the work undertaken on the NEC AAP, the evidence base.

- 5.18 The Council will demonstrate the importance of the relationship between the river corridor, open space and views of meadows and fenland and views across these as components of the significance of the conservation areas and their settings in the landscape. Although the impacts affect a limited number of views or vistas from or around these assets, the components affected are of fundamental importance to their character. For this reason, the degree of change involved, even if limited, has the potential to be of significant impact on the perception of these heritage assets as sitting within a non-urban landscape.
- 5.19 The Council will demonstrate, drawing on the existing hotel and office building under construction together with the views provided in the LVIA, how the proposed development, due to its scale, layout and massing, would form a further urbanising element via the intensification of the urban backdrop.
- 5.20 The proposals seek to mitigate the impact of the buildings along the eastern edge of the site (S6 and S7) through vertical and horizontal articulation, however the Council will demonstrate this is not successful due to the limited articulation and the proposed buildings to the rear, where heights of 30m are proposed, which loom up behind buildings S6 and S7. The Council will demonstrate that the mitigation proposed through landscaping on the buildings themselves and planting to the east of the buildings is also unsuccessful as it is not effective in longer views from the conservation areas given the scale of the buildings.
- 5.21 The Council will demonstrate that the proposals would constitute a permanent change to the visual quality of the heritage assets and would have a negative effect on the way in which they are experienced and appreciated. The proposals would generate increased visibility and presence of urbanising elements of development within the conservation areas and would affect the experience of their rural character. The intensification of development would affect the riverside setting which is a fundamental characteristic of the conservation areas and is sensitive to change. Therefore, additional negative impact ought to be assigned considerable weight.
- 5.22 The Council considers the harm identified to be at the moderate level of less than substantial harm. On the evidence provided the Council will demonstrate the appeal scheme is contrary to South Cambridgeshire Local Plan policies NH/14 and HQ/1, the NPPF and principle C2 'Value heritage, local history and culture' of the National Design Guide.

Consideration of public benefits

- 5.23 As set out above, paragraph 202 of the NPPF is engaged therefore the less than substantial harm to the significance of the heritage assets must be weighed against the public benefits of the proposal. The appeal scheme would result in a number of public benefits, however the Council will demonstrate that they do not outweigh the less than substantial harm to the heritage assets.

Reason for refusal 3 - Design

- 5.24 The third reason for refusal relates to design issues.
- 5.25 The Council will refer to the Local Plan, District Design Guide SPD (2010) and Landscape in New Developments SPD (2010), the NPPF and the National Design Guide. In addition, the technical studies undertaken to inform the content of the AAP, including the NEC Landscape Character and Visual Impact Appraisal, NEC Strategic Heritage Impact Assessment and NEC Townscape Strategy, will also be referred to.
- 5.26 The Council will demonstrate that the proposals lack sufficient thought and detail to make the place a high quality environment that is welcoming to people to live, work and visit. This is due to a combination of factors relating to urban grain, building scale, massing and design, and the design of the public realm.
- 5.27 The scale and massing of Blocks S4 to S9 is large, making the creation of welcoming places challenging. The Council will argue that this challenge has not been successfully realised.
- 5.28 Building S4 incorporates setbacks, cutbacks and cut throughs to provide articulation and reduce the apparent massing of the building yet the proportions of the resulting (visually) separate elements feel unbalanced. For example, the visualisation on page 232 of the DAS helps to demonstrate this, as the colonnaded element appears too small and feeble in relation to the bulkiness of the south-eastern portion of the building. The terraces provided at different levels creates a pyramid-shaped development that appears to be an attempt to overcome issues of a bulk and massing that is just too much for its location, rather than an elegant and considered context-led response. This has resulted in a rather awkward built form.
- 5.29 The proposals for Blocks S8 and S9 are provided in outline only, yet the illustrative drawings suggest these will be monolithic structures with relative uniform height, massing and elevation design. Furthermore, the

form and shape of Buildings S8, S9 and S19-20 are not considered to appropriately respond to their locations and fail to appropriately define the hierarchy of routes and spaces. As the parameter plans are drawn to tightly reflect the illustrative floor plans, there is a lack of flexibility to address these matters at Reserved Matters stage.

- 5.30 The residential blocks S11-S21 include a high number of fully (24%) or practically single aspect units. The health and well-being of residents is a concern in particular for north facing units with poor daylight and sunlight levels, and west facing units that may suffer from overheating (or requiring mechanical ventilation). The units within the internal corner of block S17-S21 look particularly problematic in terms of daylight, sunlight, privacy and general amenity. The tightly drawn parameter plans that reflect the illustrative floor plans limit the flexibility to address these matters at Reserved Matters stage.
- 5.31 The public realm is not considered to provide a coherent, legible and distinctive sequence of spaces and routes, that fully consider human scale, micro-climate, movement patterns and likely activity generated by the proposed land uses.
- 5.32 Station Row potentially competes with the primary street Milton Avenue in terms of scale, linearity and proportion of hard versus soft landscaping. This compromises the hierarchy and legibility of the key routes and impacts on its sense of place.
- 5.33 The Council will demonstrate that Chesterton Square does not provide a well designed space, both in its relationship with surrounding built form and the potential lack of comfort it provides. There is a concern that the buildings and the landscape elements appear as a random collection of elements rather than create a distinct sense of place.
- 5.34 The Piazza is an important 'moment' within the site as it is located at the conversion point of Milton Avenue and Station Row and also connects to Chesterton Gardens via the raised table crossing on Milton Avenue. Thus, the space is likely to see some of the highest levels of footfall in the Site. With no large development to the south, the space is also well placed to catch the sun for a large proportion of the day. The current design envisages this space as a continuation of the layout of Station Row, with a focus of its role as a place for movement and "front door address" for the office block. There is a sense that the proposals do not realise the space's potential an attractive dwell space which should make the most of the high footfall and sunny orientation.

- 5.35 The use and function of Wild Park has not been well considered and it is unclear what purpose the park provides to the overall development. As a provision of residential amenity, the location of the wild park it is considered poor as it is somewhat remote from the residential quarter and requires users to cross both Milton Avenue, the main vehicular street within the site, and Cowley Road North. The lack of overlooking of the area is also of concern. Furthermore, the appropriateness of layering children's play into the area at this point is questionable and in conflict with the use of the area as a mitigation for lost habitat and biodiversity. The proposals fail to provide sufficient formal children's play space which is convenient for residents to use
- 5.36 The mobility hub and buildings S6 and S7 are separated by relatively narrow gaps of 10m and 13m, referred to in the application documents as 'pocket parks'. Due to their orientation, width and the heights of the buildings they lack any real public function, nor do they assist with visual mitigation of the buildings from the east.
- 5.37 The Council will demonstrate that the proposals, through over reliance on two tier cycle parking together with the poor relationship of some cycle access points in relation to cycle ways, fail to provide convenient and accessible provision for cycle parking and do not sufficiently promote active travel.
- 5.38 The Council will demonstrate the appeal scheme is contrary to South Cambridgeshire Local Plan policies HQ/1 and SC/7, District Design Guide SPD (2010), Landscape in New Developments SPD (2010), the NPPF and Principles P1, P2 and P3 (public spaces) of the National Design Guide.

Reason for refusal 4 – Comprehensive development

- 5.39 The Council will refer to the Development Management guidance 'Evidence required to support Planning Applications ahead of the North East Cambridge (NEC) Area Action Plan (AAP)' prepared by the Councils which sets out requirements for planning applications submitted ahead of the AAP.
- 5.40 The Council will refer to Policy SS/4 of the Local Plan, specifically subparagraph 4e. Para. 3.31 of the supporting text for policy SS/4 of the local plan, planning applications submitted in advance of the AAP being adopted are to be considered on their own merit "*subject to ensuring that they would not prejudice the outcome of the AAP process and the achievement of the comprehensive vision for the area as a whole that will be established by the AAP*". This is written into policy SS/4 4e which

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

- 5.41 This criterion is key to the development of the wider area as it recognises and seeks to avoid the harm of piecemeal development within the NEC area to the realisation of the redevelopment potential of the wider area. The policy recognises that an AAP is the appropriate mechanism by which to secure co-ordinated development over the wider area. The policy does not offer an alternative or in any way suggest that the planning application process is capable of providing that mechanism. As such, the policy states that planning applications are to be determined on their merits but establishes a further the test of a proposal’s acceptability in Part e that the development ‘*would not compromise opportunities for the redevelopment of the wider area*’. When read as a whole, Policy SS/4 is requiring an individual development to demonstrate that it would not result in harm that would require a co-ordinated development approach to satisfactorily mitigate.
- 5.42 The development must provide for the infrastructure etc which is necessary to make the development acceptable by itself (i.e. regardless of whether the rest of the area covered by policy SS/4 is developed). The development must also make a contribution towards infrastructure which is necessary for the overall development of the area covered by policy SS/4. Failure to do this risks undermining the comprehensive development of the area covered by policy SS/4. For example, works to the primary substation have been identified as necessary to meet the load demand for the NEC development. The applicant has advised that UKPN can provide electricity to the site (therefore being acceptable on its own merit). The Council will demonstrate that if this continues with other developments coming forward ahead of the AAP the lack of contribution towards the upgrade would shift the cost onto other developers in the NEC area and, at some point, impact the viability of the later stages of development thus frustrate the opportunities for redevelopment of the wider area – or for the necessary contributions to other community and related infrastructure to come forward to serve this and other proposed development within the area covered by policy SS/4 (or the emerging AAP).
- 5.43 A suitable and comprehensive S106 agreement is accordingly required, providing sufficient funding to ensure that the comprehensive development of the area covered by policy SS/4 is not undermined by the development on this site. At the present time, there is no finalised/agreed S106 agreement and for that reason, as long as the matter remains unresolved, the failure to agree a comprehensive S106 agreement must remain a reason for refusal.

- 5.44 The Council will demonstrate the appeal scheme is contrary to the objectives of policies SS/4, TI/2 and TI/8 of the Local Plan and the NPPF.

Reason for refusal 5 – s106

- 5.45 Mitigation in the form of financial contributions and obligations are required to mitigate the impacts of the proposed development. Alongside the use of planning conditions, the development generates a requirement for affordable housing and a range of community infrastructure on the site or in the locality. Tables 12 and 13 in the OR set out the contributions sought which would need to be secured by way of a legal agreement.
- 5.46 In the absence of an agreed S106 agreement the necessary mitigation to make the proposals acceptable cannot be secured in accordance with policies H/10, SC/4, SC/6 and TI/8 of the South Cambridgeshire Local Plan and the NPPF.

Reason for refusal 6 – Flood risk

- 5.47 The application provides insufficient clarity on the climate change allowances utilised. In particular, the commercial, retail and laboratory buildings have been accounted for a shorter lifetime than the surrounding residential areas, utilising a 20% climate change allowance on the 100 year storm. However, it is likely that these structures will be contributing to the impermeable areas for the lifetime of the development. Whilst it is acknowledged that the proposals include a sunken area for informal flooding, the LLFA has advised that the proposed SuDS system on site should be designed to accommodate the lifetime that these areas will be impermeable and therefore contributing to the drained area.
- 5.48 The Council contends that the appeal scheme is contrary to South Cambridgeshire Local Plan policies CC/7, CC/8 and CC/9 and the NPPF.

Reason for refusal 7 - Ecology

- 5.49 The Council will demonstrate that insufficient information has been submitted to fully assess the impacts of the proposals on bat species.
- 5.50 All bat species are protected under schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended) and therefore the LPA must engage fully with them. The Council will refer to the Regulations and to Natural England guidance which requires that LPAs should:

- make sure developers use a suitably qualified and licensed ecologist to carry out surveys at the right time of year using appropriate methods
- not decide on planning applications until you have received all the necessary surveys.

- 5.51 The Council will also refer to Policy NH/14 of the Local Plan which outlines a primary objective for biodiversity to be conserved or enhanced and provides for the protection of Protected Species, Priority Species and Priority Habitat.
- 5.52 The Ecology Survey Report Update 2022 (the 'Report Update'), submitted in October 2022, included updated survey information for reptiles, breeding birds and bats.
- 5.53 The Report Update provided evidence that emergence surveys for bats are required on the structure identified as B1 within the report as it has medium suitability for bat roosting, with hibernation surveys set to take place over the winter period, and emergence surveys in early summer. In general, the site was shown to have low numbers of commuting and foraging bats and concludes that with the additional semi-natural habitat to be created there should be no overall impact to foraging and commuting bats. However, this will depend on what the lighting strategy is in these areas, which has not been provided. If there is to be additional artificial light at night included within the site it could have a measurable impact to bats, including western barbastelle which was recorded by a static detector on a single occasion.
- 5.54 The building B1 appears to be within the proposed Wild Park area which is included as part of the details for approval submitted with the outline planning application. No plan of the surveyed buildings has been included within the Report Update to confirm this therefore, the report should be amended to include the locations of the surveyed buildings.
- 5.55 The Report Update states that two emergence surveys must be undertaken between May and August, and that hibernation surveys should be undertaken between December and February however no such surveys have been submitted in support of the application. All bat species are protected under schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended) and therefore the LPA must engage fully with them. The application provides insufficient information to adequately assess the ecological impact of the proposals.
- 5.56 In addition, in terms of breeding birds, the survey work found similar results to previous surveys although some additional species were

recorded the impact of the additional bird species identified has not been assessed within the Environmental Statement.

- 5.57 The Council will demonstrate that in the absence of the necessary surveys, as identified in the Report Update, the impact on bats cannot be fully assessed.

Reason for refusal 8 – Safeguarded sites

- 5.58 The application site is in close proximity to the aggregates railhead, Transport Infrastructure Area (TIA) to the north of the appeal site. The County Council as Minerals and Waste Planning Authority (MWPA) has objected to the application as the submitted noise report does not appear to assess the interactions between the proposed commercial uses and the aggregates railhead. In particular, the information required comprises:

- Are any of the activities that may be undertaken within Use Class E located close to the TIA considered to be sensitive to noise? If yes, what are these activities?
- The noise report assumed the existing level of deliveries at the aggregates railhead would be maintained. As there are no restrictions to deliveries at the railhead, would the noise assessment reach the same conclusions if the number of deliveries were to increase?

- 5.59 The Appellant has not submitted sufficient information in the noise report to demonstrate that the interaction between the proposed commercial uses and the aggregates railhead will not prejudice the existing or future uses of the TIA as required in Policy 16: Consultation Areas of the Cambridgeshire and Peterborough Minerals and Waste Local Plan 2021 and the 'agent of change' as set out in para. 187 of the NPPF and contrary to sub-paragraph 4a of policy SS/4 of the Local Plan.

6.0 The Planning Balance

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that ‘where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise’.
- 6.2 The Appellant’s SoC summarises the benefits attributable to the appeal scheme using a scale for weight (in ascending level of benefit) has been used of: Slight, Limited, Moderate, Considerable, and Great. These include:
- Economic benefits:
 - Need for offices, labs and R&D space
 - The ‘cluster’ effect; and
 - Additional employment through construction jobs and when the development is operational;
 - Social benefits:
 - Addressing housing need;
 - the provision of public realm and open spaces;
 - Amenity and Meanwhile Uses;
 - Wellbeing and social inclusion; and
 - High quality architecture;
 - Environmental benefits:
 - Making effective use of land;
 - Accessible and sustainable location;
 - Response to the climate emergency; and
 - Response to the biodiversity emergency.
- 6.3 The Council acknowledges that there are significant benefits to be weighed in the balance. However, the Council disagrees with the weight which the Appellant has attributed to the various benefits and the “very great weight” which the Appellant contends should be given to the cumulative total of benefits.
- 6.4 In addition, the Council has identified significant harms attributable to the appeal scheme, reflected in the reasons for refusal, which need to be balanced against the benefits and which the Appellant’s SoC does not recognise. In addition, the Environment Agency (the ‘EA’) objects to the scheme and has identified potential for adverse effects from the development associated with water demand. The EA has indicated it will maintain its objection until there is sufficient confidence in the ability to

sustainably supply growth and prevent deterioration of water bodies, or the appellant demonstrates that the risks can be mitigated or removed, in the context of the evidence.

- 6.5 In its evidence, the Council will assess the weight to be attributed to both the benefits and the harm resulting from the appeal scheme.
- 6.6 Considered as a whole, the evidence will demonstrate that the proposal would conflict with the Development Plan and that there are no other material considerations which would outweigh the conflict. For this reason, the Council maintains that, on balance, the appeal should be dismissed.

7.0 Conclusions

- 7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
- 7.2 It is the Council's position that the appeal scheme would result in landscape and visual harm through the creation of an abrupt, hard edge that fails to enhance or preserve the character of the area and is not sympathetic to or in keeping with the site's context in the wider landscape including the setting of the City. It would result in an overbearing impact on existing development due to its height and massing.
- 7.3 It is also the Council's position that the appeal scheme would result in less than substantial harm of a moderate level to designated heritage assets.
- 7.4 The proposal is not considered to result in a well-designed coherent sense of place that contributes to local distinctiveness.
- 7.5 The appeal scheme contains insufficient information to allow adequate assessments regarding protected species (bats), flood risk and the safeguarded TIA. Furthermore, the lack of a suitable and comprehensive s106 agreement results in a lack of comprehensive development and the proposal failing to comply with the Development Plan and the NPPF.
- 7.6 In addition to the harm identified, the Council will argue that the proposal fails to comply with the requirements of the Development Plan and of the NPPF and National Design Guide. The Council will contend that there is no other justification or material considerations of sufficient weight to otherwise find the appeal scheme acceptable.