

HEARING STATEMENT

EXAMINATION OF KING’S LYNN AND WEST NORFOLK BOROUGH COUNCIL LOCAL PLAN REVIEW 2016-2036 (THE PLAN)

MATTER 1 - DUTY TO CO-OPERATE AND LEGAL COMPLIANCE

ISSUE 1a: HAS THE COUNCIL COMPLIED WITH THE DUTY TO CO-OPERATE IN PREPARING THE PLAN

RICHARD BROWN PLANNING LIMITED ON BEHALF OF

KOTO LIMITED OR THEIR GROUP OR RELATED COMPANIES

18th NOVEMBER 2022

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1. Introduction

- 1.1 This Hearing Statement has been prepared by Richard Brown Planning Limited, on behalf of Koto Limited or their Group or related companies, who submitted representations to King's Lynn and West Norfolk Borough Council Local Plan review.
- 1.2 This Hearing Statement responds to the following matter:

Matter 1 – Duty to co-operate and legal compliance

1. *Does the Plan give rise to any strategic cross-boundary issues for which there is a duty to co-operate?*
2. *If so, has the Council engaged constructively, actively and on an ongoing basis with all of the relevant authorities and prescribed bodies on the 'strategic matters' applicable to the Plan and have they been resolved?*
4. *Does the evidence contained in the DtC Statement and in the Council's Position Statement on Wisbech Fringe adequately demonstrate that the Council has met the duty to co-operate in respect of Policy F3.1 for the cross-boundary strategic site allocation at land east of Wisbech?*

2. Matter 1: Duty to co-operate and legal compliance

- 1. Does the Plan give rise to any strategic cross-boundary issues for which there is a duty to co-operate?*

Response

- 2.1 The Plan does give rise to strategic cross-boundary issues on the eastern edge of Wisbech, including at Elm High Road in the (south) east sector.

Attached at Appendix 3 is the Elm High Road Wisbech site location plan.

Attached at Appendix 4 is the Elm High Road Wisbech illustrative masterplan.

Attached at Appendix 5 is the Elm High Road Wisbech planning permission 14/01714/OM.

Attached at Appendix 6 is the Land Registry filed plan defining the balance of the site area that, it is submitted, should be the subject of the duty to co-operate.

- 2. If so, has the Council engaged constructively, actively and on an ongoing basis with all of the relevant authorities and prescribed bodies on the 'strategic matters' applicable to the Plan and have they been resolved?*

Response

- 2.2 With regard to this partly consented site at Elm High Road Wisbech, which is within the administrative area of King's Lynn and West Norfolk Borough Council, but as can be seen abuts the urban area of Wisbech within Fenland District Council administrative area. It is considered that the Borough Council have not engaged constructively or actively with Fenland District Council, for which they are under a duty to do so to enable this sustainable site (which is outside the flood plain) to come forward for development. For the avoidance of doubt, Appendix 6 defines the balance of the site area that, it is considered, should be the subject of the duty to co-operate between the Councils.

4. *Does the evidence contained in the DtC Statement and in the Council's Position Statement on Wisbech Fringe adequately demonstrate that the Council has met the duty to co-operate in respect of Policy F3.1 for the cross-boundary strategic site allocation at land east of Wisbech?*

Response

- 2.3 The majority of the cross-boundary strategic site allocation at land east of Wisbech lies partly within Fenland District Council administrative area and partly within Kings Lynn and West Norfolk Borough Council identified at F3 Wisbech Fringe (Appendix 2). The adopted Local Plan for Fenland District Council comprises the Fenland Local Plan (adopted 2014). The Fenland Local Plan 2014 Policies Map confirms the land to the east of Wisbech is identified as forming part of a strategic urban extension (Policy LP8). The supporting text to Local Plan Policy LP8 confirms (with relevance to the duty to co-operate) (with our emphasis added).

The two Councils are working towards agreeing a single development allocation which straddles the administrative boundary. The allocation will comprise the whole of the land to the east of Wisbech as identified on the Key Diagram and the Policies Map, plus additional adjoining land to the east and/or south of that land as falling in the KLWNBC administrative area.

- 2.4 Identified in the Fenland Local Plan (2014) as part of the East Wisbech (strategic allocation) provided by Policy LP8 – Wisbech confirms (with our emphasis added):

this area is identified on the Policies Map and is proposed to be of a predominantly residential nature. Prior to the consideration of detailed planning applications, a broad concept plan for the area will need to be agreed jointly by both Fenland District Council and Kings Lynn and West Norfolk Borough Council (KLWNBC).

Indicatively, around 900 dwellings should come forward in the Fenland area and 550 dwellings in the KLWNBC area (with the final latter figure to be determined via the KLWNBC Site Specific Key Site Boundary Allocations and Policies Local Plan). The proposed access(es) to serve the development must ensure that there is no unacceptably net adverse impact on the local and strategic highway network and on existing residential amenity. This will require a significant upgrade to the junction of the A47 with Broad End Road (within the KLWNBC area), probably in the form of a new roundabout, with the arrangements for delivering such upgrade being agreed as part of the broad concept plan for the allocation. Existing areas of high quality woodland, including some mature orchards, and the disused railway should be retained and enhanced to serve as multifunctional public open space areas with amenity, biodiversity and community food value."

- 2.5 In the King's Lynn and West Norfolk Borough Council Site Allocations and Development Management Policies Plan (adopted 2016) Policy F3.1 is the policy for the Wisbech Fringe - Land east of Wisbech (west of Burrowgate Road) states (in which the site is located):

'Land to the east of Wisbech (approximately 25.3 hectares), as shown on the Policies Map, is allocated for 550 dwellings,'

- 2.6 The Fenland Local Plan (adopted 2014) contains the policies and locations for the growth and regeneration of Fenland over the plan period of 20 years. Wisbech is the largest settlement in Fenland and as confirmed in Policy LP8 is the

main focus for housing, employment and retail growth.

Local Plan Policy LP8 confirms that growth will be supported through the provision of new urban extensions to Wisbech and provides for a strategic allocation at East Wisbech and broad locations for growth to the south and west of Wisbech and the Nene Waterfront and Port. The Settlement Hierarchy confirmed in the Fenland draft Local Plan (LP1) that Wisbech is a top tier settlement confirmed at:

7.3 As the main population centres, the market towns provide opportunities for new development in locations with good access to employment, retail, education, transport, leisure and community facilities.

It is also confirmed at paragraph 7.14 that

7.14 Wisbech, the district's largest population centre, provides a range of employment opportunities, notably in food processing industries, manufacturing, logistics and storage, with good access to the A47. The town has an inland port which provides economic opportunity and is already identified as an area for regeneration.

2.7 The strategic allocation at land east of Wisbech by both Councils will provide housing at a highly sustainable location including important infrastructure and the provision of a new primary school and a community hub/local centre. It appears from the Site Evidence Report contained in the Fenland draft Local Plan evidence that a decision was made by Fenland District Council to exclude the proposed allocations on the eastern edge of Wisbech on the basis of the absence of evidence of progress made.

2.8 It is not unusual for lead in times in the development of urban extensions to be extended due to a complex of issues in resolving technical constraints, resolving contractual issues and in securing Officer engagement to secure all necessary consents. In this case, the majority of the potential technical constraints and attendant contractual issues have been resolved and the only obstacle to delivery is in the provision of all necessary consents.

- 2.9 In this regard, Seagate Homes have submitted a planning application to Fenland District Council relating to:

Land to the East of Stow Lane. Hybrid Application: Outline application with matters committed in respect of access to erect of up to 224 x dwellings, and Full application to erect 101 x 2-storey dwellings (7 x 1-bed, 24 x 2-bed, 45 x 3-bed and 25 x 4-bed) with associated parking, landscaping, public open space, and a new access off Sandy Lane. Planning reference F/YR22/0844/O,

and Prosperity Wealth and Developments Limited have also submitted a planning application to both Councils for

Full planning permission for the erection of 325 dwellings with access off Sandy Lane, highways layout, public open space, landscaping and associated infrastructure. Outline planning application for a Community Hub/local centre comprising convenience store 300m², other retail/services/health 200m², parking/servicing, play areas/open space, 60-bedroom care home/extra care accommodation and C3 residential development with all matters reserved apart from access.

Other adjoining land owners/promoters are engaged in pre-application discussions with the Councils and/or are submitting planning applications.

Site Allocations/NPPF

- 2.10 Sustainable urban extensions present an opportunity to deliver sustainable development whereby residential development is served by the necessary services, facilities, infrastructure, and employment opportunities to sustain a community. This approach is endorsed by national policy that

73. *The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes).*

2.11 Fenland District Council Local Plan Policy LP8 – Wisbech (2.4) refers to a Broad Concept Plan needing to be agreed jointly. The area has an adopted Broad Concept Plan (East Wisbech) (May 2018) and development is now being delivered in this area in accordance with this Broad Concept Plan. Both Councils indicate rightly that the urban extension be phased rather than, as was previously considered, the requirement for a single application for the whole of this significant application. That the requirement for a single planning application was acting as an impediment to delivery rather than the (now) phased approach which is acting as a catalyst for delivery.

2.12 Delivery will therefore now be achieved in the early plan period as a result of the current and other applications for the majority of the area which will be determined under the current Local Plan policies. The point is made that by the two Councils complying with their duty to co-operate, the outcome is a highly sustainable urban extension developed at cross-border administrative areas.

Flood Plain/Sequential Test

2.13 The Environment Agency's Flood Map for Planning (attached as Appendix 1) indicates the allocation(s) to the east of Wisbech to be located almost entirely within Flood Zone 1. It is important that it is only the eastern edge of Wisbech that is not constrained by flood risk "issues" and therefore development should be allocated accordingly.

Duty to co-operate

2.14 The duty to co-operate is important and is set out in the National Planning Policy Framework.

24. Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.

25. Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans.

26. Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.

2.15 It is submitted that the Borough Council by not continuing the allocation on the eastern edge is contrary to the duty to co-operate with Fenland District Council, and is also contrary to the principles of sustainable development that Wisbech, being a top tier settlement, should be allocated significant planned growth and particularly that the allocation policies provide for infrastructure and community facilities, such as a primary school, a local centre and also the provision of a Care Home and accommodation for the elderly.

With two planning applications submitted by Seagate Homes and Prosperity Wealth and Developments Limited, there is clearly now a firm intention by developers to deliver the development proposals for housing and community facilities located on the eastern edge of Wisbech.

The submitted planning applications which comprise essentially phase 1 of the wider development, it is submitted, should be granted planning permission(s) in accordance with the Development Plan. The Borough Council should, therefore, continue with the duty to co-operate with Fenland District Council by seeking to continue with their allocation.

- 2.16 The duty to co-operate must be fulfilled when preparing the plan and any failure in this regard cannot be rectified after the plan has been submitted for examination.