Statement of Common Ground

Town & Country Planning Act 1990
Site off London Road, Markfield

Appeal Reference: APP/K240/A/10/2125649/NWF

Jointly prepared by

GVA Grimley Ltd
Planning, Development and Regeneration

&
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Appendices

1 Introduction

1.1 This Statement of Common Ground (SCG) has been prepared jointly between Jelson Ltd (the appellant) and Hinckley and Bosworth Borough Council.

1.2 The SCG sets out the agreed factual information regarding the proposal and confirms the areas of common agreement between the parties.

1.3 The SCG has been prepared taking into account the guidance given in annex 3 (ii) of Circular 05/2000 'Planning Appeals: Procedures (Including Inquiries into Called-in Planning Applications)'.

2. The Appeal Proposals and Reasons for Refusal

2.6 The planning application seeks outline planning permission for residential development with associated infrastructure, including highways, landscaping and open space. All matters are reserved for future approval save for access. Vehicular access would be provided from a single point located off London Road.

2.6 The planning application was submitted on 23 December 2009 and was accepted as valid on 5 January 2010. The planning application was accompanied by a Planning Statement and Design and Access Statement (prepared by GVA Grimley), a Transport Assessment and Travel Plan (prepared by Waterman Boreham), a Flood Risk Assessment (prepared by BWB) and an Ecological Survey (prepared by Lapwings).

2.6 The illustrative master plan in the Design and Access Statement indicates around 112 dwellings on a site area (excluding the retained farmhouse) of 4.26ha giving a development density of 30 per ha. This allows for the provision of green infrastructure and open space within the site.

2.4 The application was presented to the Council's Planning Committee on 16 March the application was recommended by Officers for refusal for the following reasons:

1 *The applicant has failed to demonstrate that there is a need within Markfield that justifies the development of this Greenfield site. In addition to this the site is visually prominent, outside the adopted village settlement boundary and its development for housing will harm the character of the area and the village. The proposal is therefore contrary to advice within PPS3, the East Midlands Regional Plan, Core Strategy Policy 8 and policies NE5 and RES5 of the Local Plan.*

2 *In the opinion of the Local Planning Authority, the lack of any definitive measures to address the increase in pressure placed on the play and open space facilities, library facilities, health care facilities, highways and civic amenity of the local area by the proposed development, and provision of affordable housing, would not accord with Government Guidance Circular 5/05, Policies REC2, REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and Supplementary Planning Document on Play and Open Space 2008.*

2.5 At the committee meeting Officers recommended the addition of the following two additional reasons for refusal to reflect responses received from consultees;

3 In the opinion of the Local Planning Authority, the Flood Risk Assessment (FRA) submitted with the application does not comply with the requirements set out in Annex E, paragraph E3 of Planning Policy Statement 25 (PPS25). The submitted FRA does not therefore provide a suitable basis for assessment to be made of the flood risks arising from the proposed development and is therefore contrary to PPS25.

4 In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed development would not detrimentally affect Archaeological remains likely to be within the site, contrary to policies BE13, BE14, BE15 and BE16.

2.6 The committee resolved to refuse the application in line with the Officer recommendation.

2.7 Following the decision, the appellant has been in discussion with the Local Planning Authority and relevant consultees regarding refusal reasons 2, 3, and 4.

3. The Site and Its Surroundings

Site Description

3.1 Markfield is a large village located 4 miles from the edge of Leicester and the Principal Urban Area, sandwiched between the M1 (Junction 22) and the A50. The site is situated to the south of Markfield village and immediately adjoining the existing urban area.

3.2 The site includes the farmstead and buildings that make up Lower Grange Farm. The buildings are in varying states of decay and disrepair and are either empty or are used to a limited extent for the storage of equipment and machinery or for housing livestock. On the Eastern side of the farm, corrugated roofs with wooden and brick walls are old, structurally unstable and unsightly. Otherwise the site comprises arable farmland and open pasture extending to 4.26ha (10.5acres) in area. The site slopes to a valley which is orientated north south and is located on the eastern boundary of the site. At the bottom is a culverted watercourse which flows southwards from the existing development north of the proposal site.

3.3 The landscape contains mature hedgerows and occasional mature trees and is designated within the Hinckley and Bosworth Local Plan 2002 as Open Countryside. Mature hedgerows form the northern site boundary adjacent to London Road and the western site boundary adjacent to the existing settlement. Existing urban development borders the western side of the site and occupies the opposite side of London Road. The southern boundary of the site, north of and adjacent to the farm is characterised by a mature hedge. A watercourse forms the eastern boundary and the site which is more open, offering views up the slope east towards Ratby Lane and south along the valley to the M1 motorway.

Site Context

3.4 The site is bordered to the north by established development including Mercenfield Primary School and a modern suburban estate leading from Chitterman Way. Existing development to the east of the site is more varied in style and age and the urban form and character of the village changes as you move from the site towards the village green and historic village centre.

3.5 In the Borough Council's Core Strategy Markfield is identified as a Key Rural Centre. Located on the edge of Markfield, the site is within a 5 minute walk of the village centre which contains a convenience shop, bakers, a public house and a primary school, and services such as a community and sports centre, post office and library. Leicester provides a full range of

facilities and amenities, employment and social opportunities. Access to the city is by a regular bus services that runs along London Road.

3.6 South Charnwood High School is located 1 mile from the centre of Markfield. The School is situated in twenty acres of open countryside and serves the nearby villages of Markfield, Thornton and Stanton-under-Bardon, as well as Leicester Forest East. Markfield is the closest rural settlement to feed into this school.

4. Relevant Planning Policies and Guidance and Other Material Considerations

The Development Plan

4.1 Section 38 of the Planning and Compulsory Purchase Act 2004 provides that planning applications must be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. In this instance the Development Plan comprises the East Midlands Regional Plan (March 2009), the recently adopted Core Strategy and saved / non-replaced elements of the Hinckley and Bosworth Local Plan (2002).

4.2 The following Development Plan policies are those that are agreed by both parties to be relevant to the consideration of the appeal proposals.

Regional Spatial Strategy for the East Midlands

- Policy 1 – Regional Core Objectives
- Policy 2 – Promoting Better Design
- Policy 3 – Concentrating Development in Urban Areas.
- Policy 12 - Development in the Three Cities Sub-area.
- Policy 13a– Regional Housing Provision.
- Policy 14 – Regional Priorties for Affordable Housing
- Policy 15 – Regional Priorities for Affordable Housing in Rural Areas
- Policy Three Cities SRS3 – Housing Provision.
- Policy 44 – Sub Area Transport Objectives

Hinckley and Bosworth Core Strategy

- Spatial Objective 5: Housing for Everyone
- Spatial Objective 13: Transportation and Need to Travel
- Policy 7 – Key Rural Centres
- Policy 8 – Key Rural Centre – Markfield
- Policy 15 – Affordable Housing
- Policy 16 - Housing Mix and Design
- Policy 19 - Green Space and Play

Hinckley an Bosworth Borough Council Local Plan

- BE1 – Design and Siting of Development;
- BE13 – Initial Assessment of Sites of Archaeological Interest;
- BE14 – Archaeological Field Evaluation of Sites;
- BE15 – Preservation of Archaeological Remains in Situ;
- BE16 – Archaeological Investigation and Recording;
- NE2 - Pollution
- NE5 – Development in the Countryside;
- NE12 – Landscaping Schemes
- NE13 – The effects of Development on Natural Watercourses;
- T5 – Highways Design and Vehicle Parking Standards;
- T9 – Facilities for Cyclists and Pedestrians
- REC2 – New Residential Development – Outdoor Open Space Provision for Formal Recreation;
- REC3 – New residential development – outdoor space for children;
- RES5 – Residential Proposals on Unallocated Sites;
- IMP1 – Contribution towards the provision of infrastructure and facilities.

National Planning Policy Statements/Guidance

4.3 It is agreed that the following national policy and guidance will be material considerations at the Inquiry:

- PPS1 'Delivering Sustainable Development' (2005)
- PPS1 'Planning and Climate Change' (December 2007)
- PPS3 'Housing' (December 2006)
- PPS5 'Planning for the Historic Environment' (April 2010)
- PPS25 'Development and Flood Risk' (Revised March 2010)
- 'Advice Produced by the DCLG : Demonstrating a 5 year Supply of Deliverable Sites (Revised march 2010)
- Strategic Housing Land Assessments : Practice Guidance (DCLG – July 2007).

Supplementary Planning Documents

4.4 The following SPDs produced by Hinckley and Bosworth Borough Council will also be material considerations;

- Play and Open Spaces Developer Contributions SPD (September 2008)

- Affordable Housing SPD (April 2008)
- Sustainable Design SPD (April 2008)
- New Residential Development Design Guidance SPG (2000)

Emerging Policy

LDF - Site Allocations and Generic Development Control Policies – Consultation Draft Preferred Options Report (February 2009)

4.5 This document sets out the Councils preferred site allocations for meeting the development requirements set out in the Core Strategy. It was subject to public consultation commencing on 9 February and concluding on 6 April 2009.

4.6 Part of the appeal site was identified as a preferred allocation for new housing development in the consultation document.

5 Key Areas of Agreement

Housing Land Supply

5.1 It is agreed that housing land supply is a significant material consideration in the determination of the appeal.

Sustainability

5.2 It is agreed that Markfield is a Key Rural Centre with a good range of local services and facilities and is well served by public transport. It is therefore agreed that the appeal site does not represent an unsustainable location for development of the size proposed.

Highways and Transportation

5.3 It is agreed that the highway and transportation impacts of the development are acceptable, subject to appropriate conditions and the inclusion within the legal agreement of contributions towards bus stop enhancements and sustainable transport initiatives. The appellant has agreed in principle to these contributions.

Ecology

5.4 The site has been the subject of ecological surveys and no potential threat to protected species or otherwise important ecological features has been identified. Conditions are suggested to ensure appropriate mitigation is provided.

Design

5.5 The application was accompanied by a design and access statement including an illustrative master plan demonstrating the principle of how the site could be developed. The Council is satisfied that, should its in principle concerns regarding the overall scale and impact of the development not be supported, a satisfactory design solution could be provided.

Flood Risk

5.6 The original application was accompanied by a flood risk assessment but its scope and conclusions have been queried by the Environment Agency. Further work has now been

completed by the appellants consultants (BWB) and an amended and updated FRA was submitted to the Environment Agency on ?? May.

Archaeology

5.7 Representations to the original application were received late in the day from the County Archaeologist requiring an archaeological assessment to be undertaken on the site. The appellant has since commissioned the University of Leicester Archaeological Services (ULAS) to undertake an archaeological desk top and geophysical surveys of the site. The desk top study has been completed and has been forwarded to the County Archaeologist for comment. The results of the geophysical survey are expected in the next couple of weeks.

Deliverability

5.8 With the exception of Lower Grange Farm, the whole site, including land required for access and visibility splays is in the freehold ownership of Jelson. Lower Grange Farm remains owned and occupied by Mr Spibey however, Jelson have an option agreement over the farm and negotiations to purchases are well advanced.

6. Section 106 Legal Obligations

6.1 Reason for refusal 2 relates to the failure of the appellant to provide definitive measures to address the pressures generated on a range local services and facilities.

6.2 Both parties agree that the introduction of the CIL regulations on 6 April 2010 represents a significant change in the way that planning obligations should be assessed. The Council agrees that requested contributions must now meet all of the three statutory tests set out in the regulations.

6.3 Discussions regarding the obligations package are ongoing and will be updated through proofs of evidence and at the Inquiry.

7 Principal Areas of Disagreement

7.1 The principle areas of disagreement are likely to revolve around (but may not be exclusively limited to) the issues identified in reason for refusal 1. These can be summarised as follows;

- Whether there is a need or justification for development of green field land over and above that envisaged for Markfield in the Core Strategy and emerging preferred options allocation document.
- Whether the scale of the development is acceptable in terms of its visual impact.

8 Conditions

8.1 The conditions set out below have been suggested by the Council. Where these conditions have not been agreed by the appellant this is indicated under the condition concerned and an explanation is provided.

8.2 Additional conditions are likely to be required to address issues relating to surface water drainage and archaeology as a consequence of the further work currently being undertaken. Other matters may also arise during the preparation and exchange of evidence that may require additional conditions.

1. Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:

i) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development.
ii) The scale of each building proposed in relation to its surroundings.
iii) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
iv) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: This is a planning permission in outline only and the information is required is necessary for the consideration of the ultimate detailed proposal.

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
Location Plan 1:1250 received 24.12.10
Drawing no. 218070-Q-008 received 11.01.10

Reason: For the avoidance of doubt and in the interests of proper planning.

GVA comment – is this really required? – the location plan does not propose anything that you need to control and the implementation of the access in accordance with 21807-Q-008 is controlled by your suggested condition 8 below?

4. Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

5. Prior to the commencement of development, car parking and turning provision within the application site shall be submitted to and approved in writing by the Local Planning Authority. The areas shall be laid out in accordance with the approved details and surfaced with a hard bound material, no loose aggregate, for a distance of at least 5 metres behind the highway boundary prior to the first occupation.

Reason: To ensure that adequate off-street parking and turning provision is provided within the site and bound with an appropriate material in the interests of highway safety within the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

GVA comment – not strictly required at outline stage. Details will be provided of all car parking and turning as part of the reserved matters application. Any conditions arising as a consequence of the details shown can be conditioned at that stage.

6. Before first use of the development hereby permitted, a visibility splay of 4.5 metres by 120 metres shall be provided across the land under the control of the Applicant on Ratby Lane for the right hand view from the junction with London Road. This shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.

Reason: To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

GVA comment – Jelson do not accept the need for this visibilty splay. This is a matter that we will take up with LCC and advise you of the outcome.

7. Prior to commencement of the development hereby permitted, the Applicant shall submit for approval in writing from the LPA details for the design of pedestrian crossing facilities on London Road in proximity to the proposed main access to the site and at the proposed pedestrian/cycleway accesses at the eastern and western extents of the site frontage. Prior to the occupation of the 26th dwelling the highway works shall be completed to the satisfaction of the Local Planning Authority.

Reason: To ensure a satisfactory form of development, in the interests of pedestrian and cyclist safety and to encourage alternative modes of transport to the private car in accordance with Planning Policy Guidance 13: Transport and Policy T5 of the adopted Hinckley and Bosworth Local Plan.

8. Prior to commencement of the development hereby approved, details of the design for the off-site highway works on London Road as shown on drawing No. 218070-Q-008 shall be submitted to and approved in writing by the Local Planning Authority. The approved off-site highway works shall be completed prior to the first occupation of any dwelling hereby permitted.

Reason: To ensure a satisfactory form of access and in the interests of pedestrian safety in accordance with Policy T5 of the adopted Hinckley and Bosoworth Local Plan.

9. For the period of construction of the development, vehicle parking facilities shall be provied within the site for all vehicles associated with the development and vehcile wheel cleansing facilites shall be provided within the site and all vehicles exiting the site shall have their tyres and wheels cleanded before entering the highway.

Reason: In the interests of highway safety in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

10. No development approved by this permisison shall be commenced until and scheme for the investigation of the potential land contamination of the site has been submitted to and agreed

in writing by the Local Planning Authority which shall include how any contaminination shall be dealt with. The approved scheme shall be implemented n accrodance with the agreed details and any remediations works so approved shall be carried out prior to the site first being occupied.

Reason: To protect the amenities and health of future residents in accordance with Policy BE1 of the adopted Hinckley and Bosworth Lcoal Plan.

11. If during development, contamination not previousley identified is found to be present at the site, no further development shall take place until an adendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To protect the amenities and health of furture residents in accordance with Policy BE1 of the adopted Hinckley and Bosworth Lcoal Plan.

12. No development shall take place until a sheme for surface water drainage including drainage plans has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that suraface water drainage of the site would not result in flooding problems in the future in accordance with Planning Policy Statement 25.

13. All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planing season following the occupation of the dwellings or the completion of the development, whichever is the sooner. Any tress or plants which within a period of 5 years from the completion of the development die, are removedor become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure a reasonable standard of development and visual amenity to the area in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan and Policy 21 of the adopted Core Strategy.

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Rob Thorley	
Principal Planner	
GVA Grimley on behalf of Jelson Ltd	**Hinckley and Bosworth Borough Council**

May 2010