



## **APPEALS AGAINST JDCC PLANNING DECISIONS – JUNE 2024 UPDATE**

**Planning Committee Date:** 19 June 2024

**Report to:** Joint Development Control Committee

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**Ward/parishes affected:** All

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### **1. Executive summary**

- 1.1 This report informs Members of decided/live appeals against planning decisions of the Joint Development Control Committee (JDCC), as of 01 June 2024.

### **2. Recommendation**

- 2.1 Officers recommend that the JDCC notes the appeals update as outlined in this report.

### **3. Considerations**

- **Planning Appeals Decided:**

**Land to the North of Cambridge North Station ('Brookgate')**

## Background

- 3.1 A planning appeal for the non-determination of planning application reference 22/02881/OUT relating to Land to the North of Cambridge North Station was submitted to the Planning Inspectorate in January 2023. The appeal was subsequently recovered ('called in') by the Secretary of State (SofS) on 24 March 2023. This means that the Inspector makes a recommendation to the SofS, who will then decide whether or not to allow the appeal.
- 3.2 The development proposed is a hybrid application for:
- (a) *An outline application (all matters reserved apart from access and landscaping) for the construction of: three new residential blocks providing for up to 425 residential units and providing flexible Class E and Class F uses on the ground floor (excluding Class E (g) (iii)); and two commercial buildings for Use Classes E(g) i(offices), ii (research and development) providing flexible Class E and Class F uses on the ground floor (excluding Class E (g) (iii)), together with the construction of basements for parking and building services, car and cycle parking and infrastructure works.*
  - (b) *A full application for the construction of three commercial buildings for Use Classes E(g) i (offices) ii (research and development), providing flexible Class E and Class F uses on the ground floor (excluding Class E (g) (iii)) with associated car and cycle parking, the construction of a multi storey car and cycle park building, together with the construction of basements for parking and building services, car and cycle parking and associated landscaping, infrastructure works and demolition of existing structures.*
- 3.3 The application was considered at JDCC on 22 March 2023 where Members considered a 'minded to' refuse Officer's recommendation. The recommendation and eight reasons for refusal in the Officer Report were endorsed unanimously by JDCC.
- 3.4 The Officer Report to JDCC can be found here: [Public Pack\)Agenda Document for Joint Development Control Committee, 22/03/2023 10:00 \(cambridge.gov.uk\)](https://www.cambridge.gov.uk/Document-for-Joint-Development-Control-Committee-22/03/2023-10:00)
- 3.5 The Appellant subsequently submitted technical information in relation to three reasons for refusal (flood risk, ecology and safeguarded sites). The Council concluded that the submitted information satisfactorily addressed these reasons for refusal, and on that basis did not defend those reasons.
- 3.6 Prior to the opening of the Inquiry, the Appellant and the County Council agreed a package of measures including strategic highway contributions, which addressed the reason for refusal relating to the achievement of

comprehensive development of the area through an appropriate S106 Agreement.

- 3.7 The Inquiry opened on 06 June 2023 and sat for twelve days, during which the Council defended its position regarding the remaining reasons for refusal, as summarised below:
- (1) The proposed development would not result in high quality development that delivers a well-designed place contributing positively to its surroundings. It would harm the surrounding landscape and Green Belt, particularly to the eastern edge of the site, and the adjacent urban areas and its relationship with the wider North East Cambridge Area, the City skyline and the landscape beyond. It would also have an overbearing presence on the existing development to the east of the development on Fen Road and to the west of the development.
  - (2) The effect on heritage assets, in particular the Fen Ditton and the Riverside and Stourbridge Common Conservation Areas, due to the height and massing, and siting of the buildings along the eastern edge.
  - (3) The proposal 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.
- 3.8 Cambridge Party Present and Future (CPPF) appeared at the Inquiry as a Rule 6 party. Rule 6 status refers to Rule 6 (6) of the Inquiries Procedure Rules, which means that such parties can take a very active part in a public inquiry. The CPPF case against the development centred on design, and specifically the design of the building on the new urban edge on the eastern side.
- 3.9 The Environment Agency (EA) objected to the proposed development and appeared at the Inquiry as an interested party, participating in a roundtable session on water, but were *not* a Rule 6 party. The EA's objections centred on the availability of a sustainable water supply to support existing and proposed development within the Greater Cambridge area.
- 3.10 The Inquiry was adjourned on 23 June 2023 to enable modelling and associated work in relation to water resources to be considered and commented upon by all parties. The parties made their respective observations in writing to the Inspector. The Inquiry ultimately closed on 19 October 2023.

### Decision

- 3.11 The Decision Letter was issued on 23 April 2024 ('the Brookgate Decision') by the Department for Levelling Up, Housing and Communities

(DLUHC). The decision was made by Lee Rowley, the Minister for Housing, Planning and Building Safety, on behalf of the SofS. The SofS allowed the appeal.

- 3.12 The Planning Inspector's comprehensive two-hundred page report made a recommendation to the SofS that planning permission should be granted subject to (a) the planning conditions (in the Decision Letter) and (b) the planning obligations contained in the S106 Agreement which was negotiated and completed by the parties during the appeal process.
- 3.13 The Inspector recommended that should the SofS take the view that water supply and quality issues are an over-riding consideration and unlikely to be resolved by the existing statutory processes, he may consider imposing a planning condition that would have the effect of delaying the occupation of the proposed buildings until the draft Water Resources Management Plan (WRMP) has been approved, and measures put in place to resolve water supply requirements.
- 3.14 The SofS agreed with the Inspector's conclusions and recommendations, that the appeal should be allowed, and that planning permission be granted, subject to planning conditions and the S106 Agreement. The SofS did not consider that the Inspector's proposed optional planning condition in respect of delaying building occupation until the WRMP was approved was necessary, finding that matters relating to water supply and quality to be neutral in the planning balance.
- 3.15 The Brookgate Decision Letter (including the Inspector's Report) can be found here: [Recovered appeal: land to the north of Cambridge North Station, Cambridge \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) A summary of the main points of the decision is set out below.
- Policy and statutory considerations
- 3.16 The SofS agreed with the Inspector that both the emerging North East Cambridge Area Action Plan (NECAAP) and Greater Cambridge Local Plan should attract very limited weight.
- Policy Design and Layout
- 3.17 The SofS agreed with the Inspector's conclusion that the proposal would deliver a high-quality design and a distinctive sense of place. He also agreed with the Inspector that the proposal taken as a whole would respect and retain the character and distinctiveness of the local landscape, including the River Cam corridor.
- Landscape and Visual Effects
- 3.18 The SofS agreed with the Inspector's overall conclusions, that the proposal would harm the character and appearance of the surrounding

landscape, but such harm would be limited and generally localised, and is mainly due to the change in the character of the site from a largely brownfield site to a new urban quarter. The SofS agreed that considered in the context of the allocation of the site within the development plan, the proposal taken as a whole would respect and retain the character and distinctiveness of the local landscape, including the River Cam corridor.

- Heritage Assets

3.19 The SofS agreed with the Inspector that the proposal would result in less than substantial harm to the significance of the Riverside and Stourbridge Conservation Area and the Fen Ditton Conservation Area. The SoS also agreed with the Inspector's conclusion that the appeal proposal would slightly impact onto the significance of the Fen Ditton Conservation Area (as more buildings would be noticeable in views out from the area into its wider setting), although in this regard there was considered very limited policy conflict.

- Water Supply and Quality

3.20 The SofS noted the Inspector's judgement that whilst water quality and supply is a material consideration, the proposal would not in itself harm water quality or water resources, but the cumulative impacts of the appeal proposal with other development would add to demand for water.

3.21 The Inspector acknowledged that a sustainable supply of water for the Cambridge Water area may not be available for several years yet (until after the Grafham Transfer is operational). The Inspector left for the SofS the decision as to whether the statutory process and other measures in place in respect of water supply are sufficiently robust to ensure that the appeal proposal, together with other development, would avoid placing an unacceptable demand on water resources and potentially harm ecological interests.

3.22 The Inspector proposed an optional condition be placed on an approval which would delay the occupation of development until either the Grafham Transfer Water supply option is operational or the WRMP for the Cambridge Water operating area is approved.

3.23 Since the conclusion of the Inquiry and the SofS's decision to allow the appeal, the March 2024 Joint Statement on addressing water scarcity in Cambridge was published by DLUHC, Department for Environment Food and Rural Affairs (Defra), the EA and Greater Cambridge Shared Planning Service (GCSPS). [Joint statement on addressing water scarcity in Greater Cambridge - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/124444/joint-statement-on-addressing-water-scarcity-in-greater-cambridge-2024.pdf) ('The March 2024 Joint Statement').

3.24 The March 2024 Joint Statement announced the development of a water credits market to supplement and potentially accelerate delivery of the water management measures to meet all of the areas future water needs

being promoted by Cambridge Water through the WRMP, alongside wider communications to reduce water use in the area. Paragraph 9 of the Joint Statement states that modelling demonstrates that the scheme should deliver water savings that are sufficient to address concerns raised around sustainable water supply to the Cambridge area.

- 3.25 In the context of the publication of the Joint Statement, the SofS considered that the proposal accords with the development plan, with national policy on water use and supply, and would not have an unacceptable consequence on water supply or quality. As a result, the SoS considered the proposed optional condition not necessary and that matters relating to water supply and quality are neutral in the planning balance.
- Occupant Amenity
- 3.26 The SofS agreed with the Inspector that the proposed dwellings would provide suitable living conditions for future residents within the constraints of the parameter plans.
- Comprehensive Vision
- 3.27 The SofS agreed with the Inspector that the development plan for the appeal site identifies the site for employment focussed development. He also agreed that the failure to comply with the Development Capacity Assessment, which has not been subject to consultation and is not part of the development plan, does not add weight against the proposal.
- 3.28 The SofS agreed that the appeal proposal needs to mitigate its impact on the services and infrastructure. He also agreed with the Inspector that there is no substantive contrary evidence to support reaching a different conclusion to the Council and Local Highway Authority, who are satisfied that subject to the S106 planning obligations, the proposal would not prejudice the future development of the wider area.
- Other Matters
- 3.29 The SofS agreed with the Inspector's conclusion that the proposal would be acceptable in terms of its impact on the highway network and would make appropriate provision for sustainable travel.
- Planning Balance and Overall Conclusion
- 3.30 The SofS concluded that the appeal scheme proposal was compliant with the development plan when taken as a whole. He went on to consider whether there were material considerations which indicated it should be determined other than in line with the development plan.

- 3.31 Weighing in favour of the appeal proposal, the SoS considered the design would deliver a high quality sense of place which carried moderate weight; the need for office and laboratory space which carried great weight; other economic benefits which carried significant weight; the delivery of housing and affordable housing which carried considerable weight; environmental measures (including the reuse of the brownfield site), its sustainable location, BREEAM 2018 Excellent certification, water efficiency and Biodiversity Net Gain, all of which were considered to carry substantial weight and the provision of public realm and open space, which carried moderate weight and its benefits via well-being and social inclusion, which also carried moderate weight.
- 3.32 Weighing against the appeal proposal, the SofS considered the less than substantial harm to Riverside and Stourbridge and Fen Ditton Conservation Areas carried great weight. The SofS considered whether the identified harm to these Conservation Areas was outweighed by the public benefits of the proposal. Taking into the account such benefits, the SofS concluded that the benefits of the appeal proposal were collectively sufficient to outbalance the identified less than substantial harm to the significance of the designated heritage assets. He considered that the balancing exercise was therefore favourable to the appeal proposal.
- 3.33 The SofS considered that there was overall compliance with the development plan, and that material considerations indicated that permission should be granted.

Officer Comment

- 3.34 The Brookgate Decision deals with a number of matters relating to water capacity and quality in Greater Cambridge.
- 3.35 Officers consider that the Brookgate Decision is a material consideration in future planning decision making, which should be given significant material weight at the present time, at least until such time as the adoption of the WRMP. This is because it provides an up-to-date assessment of how to approach the issues of water capacity and quality and is a decision of the planning process which resulted in a SofS decision (which of itself carries weight), and which deals with current government policy statements (including the March 2024 Joint Statement).
- 3.36 Counsel has confirmed this position, offering further advice to the local planning authority regarding the precise extent of the weight to be given to the Brookgate DL and the March 2024 Joint Statement, noting that this weight may change with the passage of time and should be kept under review.
- 3.37 Officers acknowledge that going forward, the March 2024 Joint Statement will need to be considered against progress of the proposed water saving initiatives and water credit scheme, together with other considerations.

3.38 An all-Member briefing is being arranged for July 2024, to give an opportunity for Officers to provide an update on the water planning and development management processes. As part of that briefing, an update will also be provided in respect of the advice given by Counsel on water capacity and quality.

- **Planning Appeals Awaiting Decision:**

**Darwin Green Phases Two and Three Development Site, Cambridge Road, Impington**

3.39 A planning appeal for the non-determination of application reference 22/02528/OUT ('Darwin Green 2/3') was submitted to the Planning Inspectorate in July 2023. The application was considered at JDCC on 30 October 2023 where Members considered a 'minded to' refuse officer's recommendation. The recommendation and reasons for refusal in the Officer Report were endorsed unanimously by JDCC. The determination of this appeal has been called in by the SofS.

3.40 The development is an outline application for:

*Outline planning permission (all matters reserved except for means of access) for up to 1,000 residential dwellings, secondary school, primary school, community facilities, retail uses, open space and landscaped areas, associated engineering, demolition and infrastructure works.*

3.41 The Officer report to JDCC can be found here: [\(Public Pack\)Agenda Document for Joint Development Control Committee, 30/10/2023 10:00 \(cambridge.gov.uk\)](#)

3.42 A twelve-day Inquiry was held during January 2024, during which the Council defended its position regarding water resources.

3.43 Following the submission of the appeal, the EA objected to the appeal proposal and appeared at the Inquiry as an interested party; it chose not to seek Rule 6 status. The EA's position remains that the appeal proposal is unacceptable until such time as (i) a sustainable water supply is proved to be available (ii) the supply can meet the planned phasing of growth of this proposal in combination with wider planned growth in the Cambridge Water supply zone, and/or (iii) once assessed, the risk of deterioration to water bodies can be prevented or effectively managed through site specific mitigation measures.

3.44 The Inquiry was closed on 25 January 2024. Following the close of the Inquiry, the Inspector asked for the parties to the appeal to comment on the following:



- (i) The March 2024 Joint Statement.
- (ii) The March 2024 Ministerial Statement on addressing Water Scarcity in Greater Cambridge: update on government measures ('The March 2024 Ministerial Statement').
- (iii) The Brookgate Decision.
- (iv) The revised draft Water Resources Management Plan (WRMP) (published 29 February 2024).

3.45 Officers commented on behalf of the Council that the measures announced in the two March 2024 Statements (i) and (ii) above could affect the sustainable supply of water and represent a material change in circumstances with respect to both water supply and quality, which the Inspector could take into account in her assessment of the appeal.

3.46 With regard to the Brookgate Decision, Officers commented that they acknowledged the SofS view that in light of the measures set out in the March 2024 Joint Statement, that matters relating to water supply and quality were neutral in the planning balance with respect to the Land North of Cambridge North Station appeal proposal. Officers noted and accepted the position that the SofS did not consider a planning condition restricting occupation until either approval of the draft WRMP or operation of the Grafham Water Transfer coming into operation would be necessary.

3.47 With respect to the February 2024 draft WRMP, Officers commented that in light of the measures laid out in the March 2024 Joint Statement, there can be greater confidence in the adequacy of the WRMP process to ensuring the sustainable supply of water.

3.48 At the end of the Inquiry, the appellant submitted a cost claim against the Council and the EA for a full award of costs. The Council responded orally to the claim at the close of the inquiry. The Appellant subsequently withdrew the application for costs against the Council, on May 22 2024, following the Council's acknowledgement of the Land North of Cambridge North Station appeal decision. The Appellant maintains its claim for costs against the EA.

## **4. Implications**

### **Financial Implications**

4.1 There are no additional financial implications arising from this report.

### **Staffing Implications**

4.2 There are direct staffing implications arising from this report. Officers from across the Shared Planning Service are involved with work arising from

appeals and their decisions. This resource has been considered in the programming of other work across the Shared Planning Service and is monitored on a regular basis.

### **Equality and Poverty Implications**

4.3 None.

### **Environmental Implications**

4.4 None.

### **Procurement Implications**

4.5 None.

### **Community Safety Implications**

4.6 None.

### **Consultation and Communication Considerations**

4.7 No formal consultation has been undertaken in the preparation of this report. The Planning Appeals process provides for interested parties to be notified by the Local Planning Authority that an appeal is taking place.

## **5. Background Papers**

Brookgate Planning Appeal – Appeal Documents:  
[Land North of Cambridge North Station Public Inquiry - South Cambs District Council \(scams.gov.uk\)](http://scams.gov.uk)

[Darwin Green 2 & 3 Appeal – Appeal Documents:  
Darwin Green Public Inquiry \(greatercambridgeplanning.org\)](http://greatercambridgeplanning.org)

## **6. Inspection of Papers**

If you have a query on the report please contact Philippa Kelly  
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