



APPEALS AGAINST JDCC PLANNING DECISIONS – OCTOBER 2024 UPDATE

Planning Committee Date: 16 October 2024

Report to: Joint Development Control Committee

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Ward/parishes affected: All

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 October 2024.

2. Recommendation

- 2.1 That the JDCC notes this report.

3. Considerations

- **Planning Appeals Decided:**

Phases Two and Three Development Site, Cambridge Road, Impington

Background

- 3.1 A planning appeal for the non-determination of planning 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 reason for refusal in the Officer Report were endorsed unanimously by JDCC. Officers subsequently defended the appeal in line with the Committee's minded to refuse resolution and the reason given.
- 3.2 The determination of this appeal was subsequently recovered ('Called in') by the Secretary of State (SofS) on 12 January 2024. This means that the Inspector makes a recommendation to the SofS, who then decides whether or not to follow the Inspector's recommendation.
- 3.3 The outline application, which is within the administrative boundary of South Cambridgeshire District Council, and is a site which is allocated in the Local Plan, is 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.*
- 3.4 The Officer report to the 30 October 2023 meeting of JDCC can be found here: [\(Public Pack\)Agenda Document for Joint Development Control Committee, 30/10/2023 10:00 \(cambridge.gov.uk\)](#)
- 3.5 The Committee resolved that had the appeal against non-determination not been made, the Council would have refused planning application 22/02528/OUT for the following reason:
- The application has failed to demonstrate that the water to the development site can be supplied sustainably and would not cause harm to the environment by reason of impact on ground water bodies including chalk aquifers. In the absence of adequate mitigation measures and site wide water efficiency measures, the development is considered to be unacceptable. The proposals are therefore contrary to Policy CC/7 Water Quality of the South Cambridgeshire Local Plan 2018 which requires all development proposals to demonstrate that the quality of ground, surface or water bodies will not be harmed. It also conflicts with Paragraphs 174, 175, 179, and 180 of the NPPF which seeks to ensure new development proposals help or improve local environmental conditions including in relation to water and should protect biodiversity and ecological networks.*
- 3.6 The Inquiry opened in January 2024 and sat for twelve days, during which the Council set out its position with regard to potable `water resources.

The Council considered that once it has been satisfactorily demonstrated that the demand for potable water to which the development will give rise can be supplied without causing harm to ground water bodies, then permission should be granted.

- 3.7 The Environment Agency (EA) 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 EA's case against the development centred on the availability of a sustainable potable water supply to support existing and proposed development within the Greater Cambridge area.
- 3.8 The EA's position was that the appeal proposal was unacceptable until such time as (i) a sustainable potable water supply is proven to be available (ii) the supply can meet the planned phasing of growth of the 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.
- 3.9 The Inquiry 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 on addressing Water Scarcity in Greater Cambridge.
 - (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 appeal decision by the Secretary of State (23 April 2024).
 - (iv) the revised draft Water Resources Management Plan (WRMP) (published 29 February 2024).
- 3.10 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 potable 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.
- 3.11 With regard to the Brookgate Decision, Officers commented that they acknowledged the SofS's view that in light of the measures set out in the March 2024 Joint Statement, that matters relating to potable 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 Cambridge Water's draft

Water Resources Management Plan (WRMP) or the operation of the Grafham Water Transfer coming into operation would be necessary.

- 3.12 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 potable water.
- 3.13 At the end of the Inquiry, the appellant submitted a cost claim against the Council and the EA seeking 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, following the Council's acknowledgement of the Land North of Cambridge North Station appeal decision. The Appellant maintained its claim for costs against the EA.

Decision

- 3.14 The Decision Letter was issued on 25 September 2024 ('the DG2/3 Decision') by the Ministry of Housing, Communities and Local Government (MHCLG). The decision was made by Rushanara Ali MP, Parliamentary Under Secretary of State for Building Safety and Homelessness, on behalf of the SofS.
- 3.15 The Inspector's comprehensive report made a recommendation to the SofS that planning permission should be granted subject to (a) the planning conditions (as set out 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.
- 3.16 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.
- 3.17 The Darwin Green 2/3 Decision Letter (including the Inspector's Report) can be found here: [Recovered appeal: land between Huntingdon Road and Histon Road, Cambridge \(ref: 3328390 - 25 September 2024\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/recovered-appeal-land-between-huntingdon-road-and-histon-road-cambridge-ref-3328390-25-september-2024)
- 3.18 A summary of the main points of the decision is set out below.
- **Water Supply**
- 3.19 The SofS agreed with the Inspector that water supply is a material consideration. She also agreed with the Inspector's judgement that while the weight of evidence presented at the Inquiry suggested that water abstraction pressure is contributing to ecological deterioration, there is insufficient evidence to fully understand the potential impact of the appeal

development. She also agreed with the Inspector's judgement that the proposal would add to pressure on existing waterbodies and cumulatively add to any existing pressure on the ecology of Surface Water Bodies.

3.20 The SoS agreed with the Inspector's judgement that a published WRMP agreed by Defra, with input from the EA, is most likely to be in place prior to development commencing on site. She further agreed that the appeal development would not have an adverse impact on the demand for potable water use and the associated abstraction and therefore it would not result in risk of deterioration to waterbodies in the Greater Cambridge area and would accord with Policy CC/7 (Water Quality) of the 2018 South Cambridgeshire Local Plan.

3.21 The SofS agreed with the Inspector that the appeal development would not result in an adverse impact on any protected habitats (including Sites of Special Scientific Interest) (SSSIs). She further agreed with the Inspector that the appeal scheme would support the achievement of the environmental objectives in the Water Framework Directive (WFD) and secure compliance with the requirements of the WFD Regulations. Further, the development would not harm the conservation and enhancement of biodiversity in this regard, and the conservation and enhancement of features of SSSIs.

3.22 The SoS considered that a suggested optional condition intended to delay the occupation of the development until such time as the Grafham Transfer scheme is operational, or prevent occupation of the appeal development until Cambridge Water has published a Defra agreed WRMP24, was not necessary.

○ **Other Matters**

3.23 The SofS State agreed with the Inspector that the development would accord with the requirements of SCLP policy SS/2 which allocates the site. She also agreed that the development proposed in the Green Belt does not represent inappropriate development.

3.24 The SofS also agreed that the proposed access arrangements are acceptable; that the proposed development would link well to the surrounding areas and prioritise active forms of transport; and that the proposal would result in a modal shift away from the private car resulting in an overall neutral impact on surrounding traffic flows.

3.25 The SofS noted that the site is located within a landscape of high archaeological significance with no designated heritage assets affected by the proposals. She agreed with the Inspector that whilst the appeal scheme has the potential to result in extensive impacts to surviving archaeological remains, a programme of archaeological recording, along with further work at the detailed design stage (including preservation in-situ and retention of some existing buildings) would help mitigate the

impact of the proposals. The SofS considered that the harm to the non-designated heritage assets would be limited in scale and assigned limited weight to it.

- 3.26 The SofS agreed with the Inspector's statement that the development would provide substantial public benefits and considered that the proposal would generate significant positive economic impacts during the construction and operational phases of the development leading to job creation. She also considered that the proposal would support the delivery of a significant number of new homes, including 40% affordable housing, a new primary and secondary school, community centre and retail facilities and provision for sports and open space and a Country Park. She further considered the proposal would make effective use of land, deliver a Biodiversity Net Gain, make provision for open space and support public transport use and active travel. Taken together, the SofS gave substantial weight to these benefits.

Planning Balance and Overall Conclusion

- 3.27 The SofS considered that the appeal scheme was not in conflict with any development plan policies and is in accordance with the development plan overall. She went on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
- 3.28 Weighing in favour of the proposal are a positive economic impact, job creation, provision of housing (including 40% affordable housing), provision of community facilities, provision for sports and open space and a Country Park, effective use of land, BNG, provision of open space, and support for public transport use and active travel, which taken collectively carry substantial weight.
- 3.29 Weighing against the proposal is the harm to non-designated heritage assets, which were considered to carry limited weight. Overall, the SofS considered that the accordance with the development plan and the material considerations in this case indicated that planning permission should be granted.

Officer Comment

- 3.30 The Darwin Green 2/3 Decision deals with a number of matters relating to potable water supply in Greater Cambridge, on a site allocated in the 2018 Local Plan.
- 3.31 Advice to the relevant local planning authorities (Cambridge City Council and South Cambridgeshire District Council) regarding the precise extent of the weight to be given to the March 2024 Joint Statement on Water Scarcity in Greater Cambridge, and planning appeal decisions which raise the issue of water supply was sought from Counsel earlier in the year. The

received advice is that such weight may change with the passage of time and should be kept under review.

3.32 The Darwin Green 2/3 Decision provides an up-to-date assessment of how to approach the issue of water supply and is a decision of the planning process which resulted in a SofS decision, which deals with current government policy statements (including the March 2024 Joint Statement).

3.33 Officers consider that the Darwin Green 2/3 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 publication of a Defra approved WRMP (indicated to be by the end of this year).

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.

5. Background Papers

[Darwin Green 2 & 3 Appeal – Appeal Documents:](#)
[Darwin Green Public Inquiry \(greatercambridgeplanning.org\)](#)
[Recovered appeal: land between Huntingdon Road and Histon Road, Cambridge \(ref: 3328390 – 25 September 2024\) \(publishing.service.gov.uk\)](#)

6. Inspection of Papers

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