

13 February 2014

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Attention: Andrew Emerton

By email and post

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Our ref C2/CD/4014250
Matter ref 52881/00019

Dear Sirs

**EAST OF LEIGHTON LINSLADE - URBAN EXTENSION
PLANNING APPLICATIONS CB/11/02827/OUT, CB/11/01937/OUT AND CB/11/01940/OUT
(SUBMITTED BY WILLIS DAWSON HOLDINGS AND ARNOLD WHITE ESTATES)**

We refer to our letter of 23 January. We have now had the opportunity to meet with our client's property agents, DTZ, and we are in a position to set out our client's concerns in more detail.

Our client has serious concerns about the imminent grant of planning permission in relation to the three planning applications that have been submitted for the urban extension to the east of Leighton Linlade. For the sake of brevity, we refer in this letter to application CB/11/01940/OUT and application CB/11/01937/OUT submitted by Arnold White Estates as the "Arnold White Applications" and application CB/11/02827/OUT submitted by Willis Dawson Holdings as the "Willis Dawson Application" (collectively referred to in this letter as "the Applications").

In short, the Applications do not conform with the current and emerging policy framework in place for the urban extension.

ADOPTED LOCAL PLAN

The Council does not have an up to date Development Plan. It's adopted Development Plan (South Bedfordshire Local Plan Review 2004) is now 10 years old and makes no provision for the urban extension.

The Joint Core Strategy for Luton and Southern Central Bedfordshire was withdrawn at the advice of the Examining Inspector but relevant policies have been endorsed by your council for development management purposes as an interim measure until such time as the Council's Development Strategy is in place. Policy CS16 supports the allocation of the Strategic Site Specific Allocation ("SSSA") and provides for a masterplan to be prepared to take forward the vision of the SSSA that:

- "1. *identifies sufficient land to provide a mix of uses that delivers about 2,500 dwellings, approximately 16 hectares of employment land ...*
3. *.... provides new employment land in locations that are attractive to employees, giving good access to the primary route network and will provide good quality, local job opportunities" (our emphasis).*

EMERGING DEVELOPMENT STRATEGY

Policy 62 of the Draft Development Strategy supports the SSSA to the East of Leighton Linlade. It states that the development will provide a mix of uses to achieve a sustainable community comprising (inter alia) "*approximately 16 hectares of employment land creating up to 2,500 new jobs*". It goes on to state that the development will provide "*new employment land in locations that are attractive to employers, give good access to the primary route network and provide good quality, local job opportunities*". We understand that the Council is presently considering responses to the consultation on the Draft Development Strategy before it is to be submitted to the Secretary of State for examination.

THE FRAMEWORK PLAN

The East of Leighton Linlade Framework Plan ("Framework Plan") was adopted by the Council in June 2013 to provide technical guidance in relation to the determination of applications (that were already before the Council at the time of the Framework Plan's adoption) for the development of the urban extension.

This Framework Plan was adopted "to remedy the deficiency" in that the masterplan prepared by the Council and the Developers in 2010 had not been subject to public consultation. However, in that regard, it is surprising that neither our client nor our client's agents were consulted in relation to the preparation of the Framework Plan.

The legal status of the Framework Plan is not clear. The council is treating the document as a material consideration in relation to the determination of the Applications, although it could be argued that, given the nature of its land use policies, it is actually a Development Plan Document. However, we note that the necessary legal procedures have not been followed to give the document Development Plan Document status.

The Framework Plan is, therefore, at the very least, a material consideration in the determination of the Applications and, in the absence of an up to date Development Plan, should be given significant weight by the Council.

The Framework Plan sets out a vision for the SSSA to be a sustainable and new community with the aim of encouraging inward investment and strengthening the local economy by establishing new jobs in order to reduce the prospects of a dormitory community with predominantly outward commuting. A key part of the vision is, therefore, improving local employment opportunities.

The Framework Plan (at 3.1) states that planning applications will "*also need to demonstrate how the following aims can be delivered to comply with the Development Strategy ... to secure a much better range of serviced employment sites within the town, this will assist with growth within the local economy (in accordance with the National Planning Policy Framework) and improve levels of self-containment thereby reducing outward commuting from the town*" (our emphasis).

At 4.5 (planning and design principles) the development must ensure "*that local employment opportunities are located in areas which are well-connected to the existing and new primary route network but at the same time are not located in areas which are likely to cause a nuisance to existing or new residents*".

At 4.10, the Framework Plan refers to the provision of two main employment areas and refers specifically, by reference to the Concept Plan, to our client's site as the area of employment land immediately to the north of Vandyke Road. It refers to the site's ability to offer the potential to deliver a wide range of employment-generating uses owing to its sustainable location in close proximity to the neighbourhood centre. This land is described as being "*ideally located to provide for slightly smaller-scale employment uses such as serviced activities having a local base and serving the town of Leighton Linlade*".

Section 5 of the Framework Plan sets out the "essential infrastructure that must be provided for growth to be integrated and sustainable". Certain facilities are deemed to be necessary to allow development to progress. One of those facilities is employment provision of approximately 16 hectares of employment land. That employment land "*will need to be serviced and brought forward as part of a programme to assist in the creation of local jobs concurrently with new housing*" (our emphasis).

It is, therefore, abundantly clear from the Framework Plan that the policy intention is to provide serviced employment sites of approximately 16 hectares. From what we have seen from the information publically available, the Applications do not provide the level of serviced employment land which is deemed to be "necessary" and "essential" under the Framework Plan. Rather, the Applications combined provide only 11.43 hectares of employment land. We also note that the Willis Dawson Application relies on jobs created generally within the development (such as the local centre and schools) to meet the required employment provisions. It is clear from the Council's Framework Plan which should be given significant weight in the determination of applications coming forward, that the Council's vision for a genuinely sustainable new community cannot be realised without essential provision of a sufficient quantum of serviced employment land and that provision must include our client's land. Further, the Applications do not conform with the emerging Policy Framework, which is also a material consideration in the determination process.

The Applications do not include our client's land and, as far as we are aware, the developers are not being required to procure the provision of off-site employment land to remedy any shortfall.

CURRENT POSITION

We understand that DTZ have been informed by the Council's officers that the Section 106 Agreement for the Willis Dawson Application is largely settled. We note that a draft of the Section 106 Agreement has not been made available on the Council's website or the Planning Register. The Council has, therefore, not complied with its statutory duty under 36 of the Town & Country Planning (Development Management Procedure) Order 2010 which requires draft Section 106 Agreements to be entered onto Part 1 of the Planning Register. Please therefore rectify this error as soon as possible. We should also be grateful if you would forward to us direct a copy of the draft Section 106 Agreement for the Willis Dawson Application and any other Section 106 Agreement currently being negotiated in relation to the Applications.

Officers have relayed to DTZ that it is likely the Willis Dawson Application will be determined within the next month. We find this surprising as it appears to us that none of the Applications have yet to be referred to committee.

In the absence of any publically available information (eg committee reports, draft/completed Section 106 Agreements), it appears to us and to DTZ that the Council is prepared to determine applications for this important area in an ad hoc and piecemeal manner which runs contrary to the vision and objectives of the Framework Plan and emerging Development Strategy.

Further, we understand that, rather unusually, the Council has not required a single comprehensive Section 106 Agreement providing for the delivery of essential infrastructure (including employment land) for the whole of the urban extension. Rather, separate Section 106 Agreements in relation to the Arnold White Applications and the Willis Dawson Application are to be entered into. This, therefore, raises the question of how critical infrastructure is to be guaranteed and delivered, for example the Eastern Link Road straddles the redline boundaries of the Applications and is not self-contained within a single application. In the event that the Council proceeds to grant planning permission for one of the applications ahead of the others, the delivery of an essential piece of infrastructure in its entirety is not guaranteed.

Please could you provide the following as soon as possible:

1. A full explanation of the basis on which the Council considers that the employment provision to be delivered by the Applications is adequate and conforms with the Council's Framework Plan, the Joint Core Strategy endorsed for development management purposes and the Council's emerging Policy Framework.
2. Confirmation that the Council will treat the development of this area in a holistic and cohesive manner to ensure that the vision of the Framework Plan and emerging Development Strategy can be realised and delivered. In that regard, please confirm that the Council will not determine planning applications for this area in a piecemeal way and will ensure that all Applications are considered and determined at the same time.
3. As stated above, please confirm that you will place any draft Section 106 Agreement(s) on the Planning Register and send copies to us.
4. Please confirm that the Section 106 Agreement(s) will also provide legally enforceable mechanism for the delivery of infrastructure to support the whole of the SSSA including the provision of the full quota of employment land, deemed to be essential to the SSSA.
5. Please send to us copies of any officer's reports to Committee in relation to the Applications.
6. Finally, the Applications were submitted three years ago, in 2011. The base data on which the Environmental Statements supporting the Applications are based are now significantly out of date. Although we note that an Addendum to the Environmental Statement has been submitted in relation to the Arnold White Applications, we cannot find on the Council's website any similar updating information in relation to the Willis Dawson Application. Please confirm that the applicant has been requested to submit this information. Please provide a copy.

Please note that, as stated in our earlier letter, in the event that any or all of the Applications are granted without our client being satisfied in relation to the matters set out in this letter, we are instructed to advise our client on the legal options available to it.

We look forward to hearing from you as soon as possible.

Yours faithfully

