



Brookgate Land Limited

Statement of Common Ground

APPEAL REF: APP/W0530/W/23/3315611


January 2022

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Authorised Signatures to Agree the Statement of Common Ground

Signed on behalf of Environment Agency



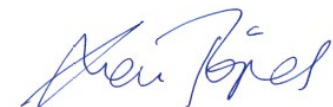
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Environment Agency

Date:....22/05/2023...

Signed on behalf of the Appellant



.....
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Chief Executive

Brookgate Land Limited on behalf of The Chesterton Partnership

Date:.....23/05/2023.....



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I Introduction

- 1.1.1 This is the Statement of Common Ground in respect of water resources agreed between Brookgate Land Limited on behalf of The Chesterton Partnership [“the Appellant”] and the Environment Agency [“the Agency”].
- 1.1.2 It refers to an appeal lodged on 27 January 2023 in respect of the failure of the Local Planning Authority to determine a hybrid planning application for planning permission with reference 22/02771/OUT at Land to the north of Cambridge North Station [“the Site”], and associated objection from the Agency (Ref. AC/2022/131348/02-L01, dated 27 February 2023).
- 1.1.3 The description of development is;
- “A hybrid planning 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”*
- 1.1.4 This Statement of Common Ground sets out all matters of agreement and disagreement between the Appellant and the Agency.



2 The Site

2.1 Existing Site

- 2.1.1 The Site lies within the jurisdiction of South Cambridgeshire District Council [“SCDC”] and extends to approximately 9.9 hectares (ha).
- 2.1.2 The Site is for all intents and purposes previously developed land that comprises the existing surface level Cambridge North railway station car park of 428 spaces, areas of hardstanding and areas of scrubland.
- 2.1.3 The Site is bound to the north by the remainder of the former Chesterton Sidings site, to the east by the railway line, to the south by the recently constructed ‘One Cambridge Square’ office building and ‘Two Cambridge Square’ Novotel hotel building, and to the west and north-west by the Cambridgeshire Guided Busway [“CGB”] and Cambridge Business Park.

2.2 Proposed Development

- 2.2.1 The proposals are intended to form the next phase of the Cambridge North redevelopment further to that created by the Cambridge North Station development and the adjoining hotel development constructed under planning permissions S/3102/15/FL, 15/2317/FUL and S/2372/17/FL and office development which is currently under construction pursuant to planning permission S/4824/18/VC.
- 2.2.2 A hybrid planning application was submitted to the local planning authority (LPA) South Cambridgeshire District Council (SCDC) on 15 June 2022 and was valid on receipt, with some elements in outline and some in full.
- 2.2.3 The hybrid application includes an outline application for:
- The Residential Quarter (S11-S12), (S13-S16), (S17-S21)
 - The Triangle Site, comprising One Chesterton Square (S09) and Two Milton Avenue (S08)
- 2.2.4 The hybrid application includes a full application for:
- One Milton Avenue (building S04);
 - Mobility Hub (building S05); and
 - One and Three Station Row (buildings S06 and S07).

3 Water Resources

3.1.1 The issues between the appellant and the Environment Agency centre on the availability of sustainable water resources (i.e. water supply) to support existing and proposed development within the Greater Cambridge (GC) Area. This is a highly complex, strategic matter encompassing many parties and associated regulatory and legislative processes; namely:

<u>Parties</u>	<u>Regulatory, Planning and Legislative Processes</u>
<ul style="list-style-type: none"> • The Water Services Authority (Ofwat) • Environment Agency (the Agency) • Cambridge Water (CW) • Local Planning Authority (LPA) 	<ul style="list-style-type: none"> • Water Resource Management Plan (WRMP) • Local Plan (LP) • River Basin Management Plan (RBMP)

3.1.2 CW currently supplies over 350,000 customers from the Cambridge Water Resource Zone (WRZ) which extends to Ramsey in the north, Gamlingay in the west, Balsham in the east and Melbourn in the south.

3.1.3 Each of the parties noted above have a number of statutory duties and responsibilities which most specifically comprise the following in relation to water resources:

- Ofwat regulates the water industry on behalf of the Secretary of State and grants licences for water supply to water companies, including CW.
- The Agency regulates the abstraction and impoundment of water, working with water companies, farmers, industry, businesses, and others to secure the proper use of water resources including protecting access to water and ensure that the water in England is abstracted sustainably

The Agency must exercise its functions so as to secure compliance with the requirements of the Water Framework Directive including taking action to prevent deterioration of status of water bodies under Regulation 3 of the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017. The Agency must have regard to River Basin Management Plans (RBMP) in exercising their functions so far as affecting a River Basin District under Regulation 33 of the Water Environment (Water Framework Directive) Regulations 2017.

The Agency is listed as a consultation body for developments requiring Environmental Impact Assessment in accordance with Regulation 2 (1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and is listed as a specific consultation body in Part 1, Regulation 2 of the Town and Country Planning (Local Planning) (England) Regulations 2012 and provides advice to the Local Planning Authority on Local Plans consultations. The Agency provide advice on specific planning applications in accordance with



the Agency's External Consultation Checklist Version 3.3 (August 2017) and Schedule 4 of the Development Management Procedure Order 2015.

- CW is responsible for developing and maintaining an efficient and economic system for providing secure and sustainable water supplies to consumers. They are required by statute to set out how they intend to balance supply and demand over a 25 year planning period through a water resource management plan (WRMP), updated every 5 years.
- The LPA in exercising their plan-making functions have a legal requirement to prepare plans with the objective of contributing to the objective of achieving sustainable development (Section 39 (2) of the Planning and Compulsory Purchase Act 2004) as referenced paragraph 16 part (a) of National Planning Policy Framework.

The LPA should ensure planning policies and associated decisions should contribute to and enhance the natural and local environment by '*preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.*'¹

The LPA must have regard to RBMPs in exercising their functions so far as affecting a River Basin District under Regulation 33 of the Water Environment (Water Framework Directive) Regulations 2017.

Water Resource Management Plan (WRMP)

- 3.1.4 Water companies in England are required by law to prepare, publish and maintain Water Resources Management Plans (WRMP) as set out in sections 37A to 37D Water Industry Act 1991. WRMPs are produced every 5 years and set out the companies' assessment of customer demands and available supplies over a 25-year planning period. The WRMP process is set out within the Water Resources Planning Guideline² and is linear in nature, following a standard consultation and response approach.
- 3.1.5 CW's existing WRMP was published in 2019 (WRMP19), with the draft version of its 2024 plan (dWRMP24) published for consultation on 24 February 2023. This consultation will close on 19 May 2023. Following consultation, CW will produce and publish a statement of response, within 26 weeks from the commencement of consultation (24 February 2023), then CW will publish the final draft WRMP for review and approval by the Secretary of State, prior to publishing the final WRMP.
- 3.1.6 The Water Resources Planning Guideline sets out the requirements of a WRMP which should set out how the Water Company, in this instance CW, '*intend to achieve a secure supply of water for your customers and a protected and enhanced environment.*'

¹ National Planning Policy Framework (NPPF) Paragraph 174 (e)

² [Water resources planning guideline - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/water-resources-planning-guideline)



3.1.7 Each WRMP is supported by a Strategic Environmental Assessment (SEA). The SEA is a process that aims to integrate environment and sustainability considerations into strategic decision-making and the requirements for SEA are set out in the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA regulations). The SEA process includes the assessment of the likely significant effects of the WRMP and its reasonable alternatives. It assesses the likely significant environmental effects (including inter and intra cumulative effects) of the options in the dWRMP with other relevant programmes, plans and projects and identifies ways in which adverse effects can be avoided, minimised or mitigated and how any positive effects can be enhanced. It does so by including such information as may reasonably be required, taking into account current knowledge and methods of assessment, the contents and level of detail in the plan, its stage in the decision making process and the extent to which certain matters are more appropriately assessed at different levels in the process to avoid duplication. This is used to inform the development and selection of the demand management and supply side options proposed within the WRMP. A monitoring plan is outlined to allow for the identification of any unforeseen environmental effects and implementation of remedial action where necessary.

NPPF and Local Plan (LP)

3.1.8 The South Cambridgeshire Local Plan (SCLP) was adopted in September 2018.

3.1.9 The development proposals are allocated in the SCLP within Policy SS/4 'Cambridge Northern Fringe East and Cambridge North railway station.' The SCLP has been subject to an integrated Sustainability Appraisal and Strategic Environmental Assessment (SEA), which was informed by evidence available at the time of scoping, appraisal of options and final publication, e.g., current Water Resources Management Plan 2019, Anglian RBMP 2015.

- Paragraph 20(b) of the NPPF confirms that water supply is a strategic matter to be addressed through development plans and that strategic policies should set out an overall strategy for the pattern, scale and design quality of places, and make sufficient provision for infrastructure for water supply.
- Paragraph 174 (e) of the NPPF prevents new and existing development from contributing to, being put at an unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land stability. Development should where possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as RBMPs.
- SCLP Local Policy CC/4 – Water Efficiency states:
 - *'All new residential developments must achieve as a minimum water efficiency equivalent to 110 litres per person per day.'*



- *Proposals for non-residential development must be accompanied by a water conservation strategy, which demonstrates a minimum water efficiency standard equivalent to the BREEAM standard of 2 credits for water use levels unless demonstrated not practicable.'*

It should be noted that only 2 credits in the WAT01 (water efficiency) category need to be achieved to attain a BREEAM certification level of 'Excellent'.

- SCLP Local Policy CC/7 – Water Quality sets out the following requirements for all development proposals:
 - *'There is adequate water supply, sewerage and land drainage systems (including water sources, water and waste water infrastructure) to serve the whole development, or an agreement with the relevant service provider to ensure the provision of the necessary infrastructure prior to the occupation of the development. Where development is being phased, each phase must demonstrate sufficient water supply and waste water conveyance, treatment and discharge capacity;*
 - *The quality of ground, surface or water bodies will not be harmed, and opportunities have been explored and taken for improvements to water quality, including renaturalisation of river morphology, and ecology;*
 - *Appropriate consideration is given to sources of pollution, and appropriate Sustainable Drainage Systems (SuDS) measures incorporated to protect water quality from polluted surface water runoff.'*

Greater Cambridge Local Plan – First Proposals (draft consultation version 2021)

- 3.1.10 The draft policy CC/WE 'Water efficiency in new developments' sets out a policy direction for residential developments to achieve a standard of 80 litres per head per day unless demonstrated impracticable and non-residential development required to achieve full credits for category WAT01 for BREEAM unless demonstrated impracticable. However, the LPA accepts that it is not currently able to require this standard.

River Basin Management Plan (RBMP)

- 3.1.11 A River Basin Management Plan (RBMP) provides a framework for protecting and enhancing the benefits provided by the water environment, setting out the baseline classification and statutory objectives for water bodies. The Anglian RBMP was updated in 2022, with a supporting Habitats Regulations Assessment.
- 3.1.12 The environmental objectives set out in the plans are used by government, the Agency and other public bodies to make planning decisions, amongst other actions. The environmental objectives include preventing deterioration of the status of surface waters and groundwater and aiming to achieve good status for all water bodies.



3.1.13 In preparation of the current Anglian RBMP (2022), the Agency concluded that the requirement for a strategic environmental assessment (SEA) was to be screened out, under the justification of minor modifications to existing plans (which in this instance comprises Anglian River Basin District RBMP Updated December 2015).

Environment Agency's Position

3.1.14 The Agency has objected to the proposed development. In doing so, the Agency has raised the following:

- The primary source of water supply within GC is provided through abstraction of groundwater. The Agency is of the view that water bodies in the Greater Cambridge area are being adversely affected by ground water abstraction and there is a risk of deterioration if groundwater abstraction increases.
- As a result of the above, through their regulatory powers, the Agency has issued details of licenced reductions associated with groundwater abstraction (i.e. licence caps) to CW. The caps to permanent licences are in CW's Water Industry National Environment Programme (WINEP) for delivery in 2030. Caps to licences that have a time limited element will be applied at the point of any application to renew those licence conditions, which may be before 2030.
- In the Agency's view, there is a material difference in the availability of licensed water supply between that available under the licence cap when it comes into effect and that set out in CW's existing Water Resources Management Plan, published in 2019 (WRMP19).
- The Agency accepts, in any event, that a proportion of CW's ground water sources will not be subject to licence caps and/or have sustainable headroom. However, in the Agency's view, any sustainable headroom associated with these licences is not automatically available to meet growth in demands.
- CW recently published the draft version of its 2024 plan (dWRMP24) aims to provide an updated, current assessment of customer demands and available supplies, setting out how they intend to balance these, over the next 25 years (up to 2050). This assessment includes delivering the licence caps as set out in the WINEP.
- The Agency has concerns that the dWRMP24 sets out proposed supply options that are not well developed and that those options have risks that may not be deliverable. The Agency also has concerns about the deliverability of CW's demand management programme. The Agency's view is that it is yet to receive assurances from CW that there are sustainable water supplies that can support new developments (including this site) The Agency considers that further demonstration is required from CW in its dWRMP24 that it can meet the demand of existing and future customers without needing to increase abstraction from groundwater sources that have been identified as requiring licence caps to meet environmental objectives. If additional abstraction is required, this poses a risk of deterioration of water bodies.



- 3.1.15 Turning to the appeal proposal, the Agency recognised that the appeal proposal has demonstrated attempts to reduce water use by proposing water efficiency measures in line with current planning policies of 110 litres per person per day.
- 3.1.16 Since the Agency's objection, the Appellant has produced a quantitative assessment (Ref. Cambridge North Quantitative Assessment (PJA, April 2023)) which demonstrates that through further mitigation, the proposed development can achieve water efficiency measures which exceeds those set out in current planning policies, to achieve 90 litres per person per day for residential dwellings and a BREEAM Excellent standard for non-residential development.
- 3.1.17 The Agency is currently in the process of considering the Cambridge North Quantitative Assessment (PJA, April 2023).
- 3.1.18 The Agency highlighted in their objection letter dated 23 February 2023 that the Appellant needs to assess the potential risk to water bodies from potable water demand both individually and in combination with other developments requiring water in the Cambridge Water resource zone, then identify mitigation measures to prevent the risk of deterioration, considering water efficiency, re-use and offsetting.
- 3.1.19 The Agency set out in their draft Greater Cambridge external guidance note for planning applications (March 2023) that planning applications accompanied by Environmental Statement, will be expected to include an assessment of the proposed development's potential impact on water bodies under the Water Framework Directive (WFD), because of the potable water demands. The status of this document is a working draft, and although the Agency has shared it with the appellant and other applicants, it has not been formally published and the Agency are of the view that it would need to be revised following the conclusion of further evidence provided by CW and the cumulative assessment by the LPA. The note refers to Paragraph 5 of Schedule 4 of the EIA regulations (part e) that 'the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources.'
- 3.1.20 Following further discussion between the Agency, CW and the LPA, the Agency's position is that CW (not the Appellant) is best placed to develop scenarios for water availability for sustainable growth and following this the LPA (not the Appellant) is best placed to undertake an associated cumulative assessment for water availability and growth demands, to determine what water management measures, as mitigation, are required in new developments to prevent deterioration. The Agency's understanding is that this work is in the early stages of planning and the outcomes are unlikely to be available for the Planning Inquiry.
- 3.1.21 The Agency's current position is that the development, through additional demand for water, is likely to increase abstraction which, in the Agency's view, presents a risk of deterioration to WFD



water bodies both individually and cumulatively with other development. It is the Agency's view that increased abstraction also increases the existing pressure on the wider water related environment such as chalk streams, river headwaters and spring flows and groundwater dependent wetlands. Even with the proposed water efficiency measures, the development still results in an overall increase in demand, that the Agency has concerns about CW being able to supply without posing risk to the environment.



4 Development Specifics

- 4.1.1 The development proposes a water efficient strategy with resilient water conservation measures to ensure that the development's water footprint is minimised and any potential impact on sensitive water bodies within the GC area (where identified) is reduced, and in the view of the appellant, gone as far as practicable.
- 4.1.2 Site specific measures identified in Flood Risk Assessment and associated Addendum (PJA, June 2022 and October 2022 respectively) and further expanded within the Cambridge North Quantitative Assessment (PJA, April 2023) will include:
- Water efficient fittings, fixings and appliances in every building of the development
 - Grey water recycling units fitted to each building
 - Rainwater harvesting facility to irrigate communal landscaped areas
- 4.1.3 The Cambridge North Quantitative Assessment (PJA, April 2023) demonstrates that by introducing these measures the average consumption rate for the residential and commercial buildings are significantly reduced where:
- Residential development will achieve a typical consumption rate of 90l/h/d
 - Commercial development will achieve a BREEAM certification level of 'Excellent'
- 4.1.4 It should be noted that to achieve a BREEAM level of 'Excellent' only requires 2 credits to be achieved in the category of water efficiency (WAT01). However, the development has demonstrated that with the instalment of greywater recycling (repurposing over 75% of the water used for toilet flushing) the development achieves the full 5 BREEAM credits in the water efficiency category, which is beyond the requirements of local policy. Furthermore, the reduce water usage rate of the residential development of 90l/h/d also exceeds the local policy requirement of 110l/h/d.
- 4.1.5 As the proposed development (Cambridge North) is allocated under local policy SS/4 within the South Cambridgeshire Local Plan, the potential water demand of the development has been accounted for as part of the supply/demand assessment undertaken within WRMP19 and dWRMP24. However, the Agency currently has concerns with the dWRMP24 and the ability of the plan to supply water sustainably without risking deterioration to water bodies, and further to this, the Agency does not consider WRMP19 to be reflective of the changed situation regarding required abstraction licence reductions and therefore consider it unsuitable to be relied upon for the purposes of future planned development.
- 4.1.6 As CW operates a complex network which balances abstraction, from all abstraction points, within the network itself, it is not possible to determine the exact location of abstraction for a specific



development. It would be for CW to provide information as to the most likely sources that would supply this development.

- 4.1.7 The overall supply and demand requirements of CW are however assessed in the WRMP process. The WRMP SEA should consider the environmental effects of any options put forward in the WRMP to maintain a positive supply demand balance. As noted above, the Agency has raised concerns with the dWRMP24, including the adequacy of its current SEA. CW has the opportunity to address and respond to those concerns but until then, the Agency has low confidence in the overall assessment and delivery of the dWRMP24.



5 Matters Agreed

- 5.1.1 Both the Agency and the Appellant consider that CW is best placed to develop scenarios for the water availability for growth.
- 5.1.2 The standard of mitigation measures required for this planning application is a matter for the decision maker.
- 5.1.3 The Agency recognises that the Appellant, through the quantitative assessment, has demonstrated attempts to further reduce water use by proposing water efficiency and reuse measures exceeding current planning policy requirements of 110 litres per person per day.



6 Matter Not Agreed

- 6.1.1 While the Agency supports the efforts made by the Appellant to integrate mitigation measures set out within the development proposals, and consider these to be a further improvement on those previously set out within the planning application; the Agency considers that there is insufficient evidence available until the LPA has undertaken the cumulative assessment to determine whether the mitigation measures proposed would adequately and reasonably mitigate the potential risk of deterioration to water bodies, in the context of the evidence and the Agency representation to the draft WRMP24.