

1. Background

- 1.1. This hearing statement has been prepared on behalf of Taylor Wimpey UK Limited and BDW Trading Limited (“TW and BDW”).
- 1.2. TW and BDW control the majority of the land which is covered by Policy EN33 Rushden East Sustainable Urban Extension (“the SUE”), in the East Northamptonshire Local Plan Part 2 (“the Local Plan”).
- 1.3. BDW and TW have been involved in the planning for development at the SUE for some 8 years.
- 1.4. BDW and TW have fundamental concerns about the Masterplan Framework Document (“the MFD”) for Rushden East SUE which is Appendix 6 of the Local Plan. If the MFD were to remain in the Local Plan as drafted it will hinder delivery of the SUE. This is because the MFD is inflexible and it sets new policy for which there is no evidential basis. The MFD has the potential to adversely affect the positive determination of planning applications at the SUE thereby hindering delivery.
- 1.5. The MFD is not positively prepared because it will hinder delivering of the development strategy in North Northamptonshire through delay to the SUE.
- 1.6. The MFD is not justified in that it seeks to restrict the floor area of B8 development without evidence, contrary to current development plan policy and this is not an appropriate strategy to take forward.
- 1.7. The MFD is not effective because it will hinder delivery over the plan period and it is not based on effective joint working with TW and BDW who control the majority of the land within the SUE.
- 1.8. The approach of setting a new policy on restricting the floor area of B8 development is not consistent with national policy which seeks delivery of sustainable development.
- 1.9. For these reasons the MFD fails the tests of soundness. Our request is for the MFD to be taken out of the Local Plan.

2. Delivering the Sustainable Urban Extension (SUE) at Rushden East

Question 1. Is the Plan's approach to the MFD and Policy EN33 justified and effective and consistent with the JCS and the Framework? (see Initial Question 4 and the Council's response)

- 2.1. We consider the MFD should not form part of the Local Plan, that it should be taken out of the Local Plan and that if included, at the very least it should be reviewed and changes made. The MFD was not prepared with the aim of it being within a local plan. Inclusion of a masterplan framework document is not a requirement of Policy 33 in the North Northamptonshire Joint Core Strategy. The policy simply requires preparation and agreement of a masterplan before any planning applications are granted planning permission at the SUE. The MFD includes a development framework plan which has been prepared and agreed and hence we consider that Policy 33 has been satisfied.
- 2.2. The MFD is too prescriptive in parts for example the text within the blue boxes state that planning applications must [our emphasis] comply with various requirements. Whilst the introduction to the MFD recognises that not all of the planning application requirements will be relevant to all planning applications; for example, due to the strategic nature of the masterplan, not all of the planning requirements will apply to a detailed application for a single plot, but they will for an outline planning application for the development of the majority of the SUE. This does not give any flexibility, it is overly prescriptive and will hinder delivery. Under the tests of soundness we consider the approach to the MFD is not justified or effective.
- 2.3. In our response to the regulation 19 version of the Local Plan we identified changes that we consider are necessary to the MFD covering the following aspects: Paragraph 1.1.7 avoiding ransom situations, Paragraph 1.2.2 trajectory, Section 2.3 super-crossings and Paragraph 2.5.7 B8 floor area restriction. These matters have not been addressed through the proposed main modifications from the Council (reference: EXAM 17). We would draw attention in particular to our strongly held concerns in respect of the proposed B8 floor area restriction. Our hearing statement in respect of matter 8 employment should also be referred to.
- 2.4. Document EXAM 19 is a letter dated 23 March 2020 to the Council on behalf of TW and BDW in response to the consultation draft of the MFD. This response was prepared and submitted at a point in time ahead of the Council deciding to include the MFD within the Local Plan. This explains why the response does not comment on the proposed inclusion of the MFD within the Local Plan. The decision on inclusion by the Council was not taken until following receipt of legal advice in August 2020 (see EXAM 11).
- 2.5. We stated in the 23 March 2020 letter that, whilst broadly speaking the masterplan in the draft MFD and the masterplan being prepared for High Hayden Garden Community accord, there are some aspects of the draft MFD that we consider need to be amended.
- 2.6. We accept that Policy EN33 and Figure 18 define development boundaries as envisaged under Policy 33 of the JCS.
- 2.7. We note paragraph 4.15 in the Council's response to IQ4 (reference: EXAM 9) that Policy 33 of the JCS provides strategic guidance which is not proposed to be superseded through Policy EN33 of the Local Plan Part 2.

- 2.8. Policy 33 states that a masterplan will be prepared in consultation with the local community and stakeholders and agreed by the local planning authority. JCS Policy 33 does not prescribe the nature or status of the masterplan and in particular it is not a policy requirement of the JCS for the masterplan for the SUE to be within a development plan. The MFD goes beyond the requirement of JCS Policy 33.
- 2.9. Policy 33 states that in order to avoid piece-meal development, the preparation and agreement of the masterplan is a prerequisite before any planning applications are granted planning permission. The MFD includes a plan of a masterplan framework which has been agreed by the Council and hence should be sufficient to satisfy this part of Policy 33 without being within a development plan.
- 2.10. There is consensus between the Council and TW and BDW that the masterplanning for High Hayden Garden Community, being part of the SUE under the planning application reference: 20/01453/OUT, is consistent with the masterplan framework. In summary we consider the Plan's approach to the MFD and Policy EN33 is not justified and effective and is not consistent with the JCS and the Framework.

Question 2. Does the approach allow sufficient flexibility for the delivery of the SUE and would it be effective? (see Initial Question 4 c and the Council's response)

- 2.11. IQ4.c. (reference: EXAM 5) set the question "Would the adoption of the MFD as part of the development plan afford sufficient flexibility for the delivery of the SUE and would it be effective? Would it be able to adapt to changing future circumstances without requiring a review of the Plan?"
- 2.12. We consider the emphasis here is on the status of the MFD being part of the development plan. The MFD was not prepared to be part of the development plan but rather to satisfy the Policy 33 requirements stated above in terms of masterplan preparation, which it has exceeded.
- 2.13. The Council's response to IQ4 (reference: EXAM 9) does not address the most relevant part of the initial question as we see it which is about the MFD being part of the development plan. This is a matter we ask to be explored further at the examination hearing.

Question 3. What does Policy EN33 add at a local level to JCS Policy 33, and does it duplicate any of its requirements?

- 2.14. We consider as drafted that Policy EN33 adds the following at a local level to Policy 33:
- Up to 2,700 dwellings rather than around 2,000 – 2,500 dwellings.
 - Definition of the development boundaries, including Figure 18, rather than a broad location.
 - Stated intention by the Council to bring forward detailed design guidance through a Supplementary Planning Document for the 'grey land'. This land is not the subject of either of the current planning applications for the SUE (references: 20/01453/OUT and 21/01124/OUT).
- 2.15. We consider Policy EN33 does duplicate requirements of Policy 33 but this is largely inevitable as a consequence of seeking to explain the more strategic policy.

Question 4. How have the policies and proposals in the Higham Ferrers and Rushden East Neighbourhood Plans been taken into account in preparing the MFD? (see Initial Question 4 f and the Council's response)

- 2.16. We consider that the Council has adequately explained the position within their response to IQ4 f (EXAM 9).

Question 5. With paragraph 16d of the Framework in mind, is it evident from Policy EN33 how a decision maker should react to development proposals? Should the development requirements in the MFD be included in the policy?

- 2.17. Paragraph 16.d) of the Framework states that plans should contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals.
- 2.18. We consider it is evident from the content of Policy EN33 how a decision maker should react to development proposals. As stated in response to question 3, Policy EN33 adds a level of detail at the local level to JCS Policy 33.
- 2.19. We do not consider that the development requirements in the MFD should be included in the policy and we consider the MFD should not be included within the Local Plan.
- 2.20. In our response to question 1 we explain that the MFD was not prepared with the intention of being in a development plan. It was only decided to include it within the Local Plan following legal advice in August 2020.
- 2.21. The MFD contains aspects we object to on the grounds of not providing any flexibility, being overly prescriptive and hence it is not justified or effective.
- 2.22. We consider the MFD should not form part of the Local Plan, that it should be taken out of the Local Plan and that if included at the very least, it should be reviewed and changes made. We consider this can be achieved with only minimal changes to Policy EN33 and in particular the local level additions to Policy 33 listed above to question 3 will remain.
- 2.23. Policy EN33 can still comply with Policy 33 once the MFD is taken out of the Local Plan for the reason explained in our response to question 1.

Question 6. Is the approach in Policy EN33 and Appendix 6 consistent with paragraph 127 of the Framework which indicates that plans should, at the most appropriate level, set out a clear vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable?

- 2.24. Paragraph 127 of the Framework states among other matters that Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable.
- 2.25. We consider it is relevant to note our earlier response on the approach to the MFD and how we consider it was not prepared to be part of the Local Plan and that we object to inclusion of the MFD in the Local Plan on the grounds of not providing any flexibility, being overly prescriptive and hence it is not justified or effective.

3. Conclusion

- 3.1. BDW and TW have fundamental concerns about the Masterplan Framework Document for Rushden East SUE which is Appendix 6 of the Local Plan. If the MFD were to remain in the Local Plan as drafted it will hinder delivery of the SUE. This is because the MFD is inflexible and it sets new policy for which there is no evidential basis. The MFD has the potential to adversely affect the positive determination of planning applications at the SUE thereby hindering delivery.
- 3.2. For these reasons the MFD fails the tests of soundness. Our request is for the MFD to be taken out of the Local Plan. If the MFD were to be retained within the Local Plan it needs to be revised into an acceptable form.
- 3.3. We consider this statement should be read alongside the statement for Matter 8 Employment.