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Hearing Statement on behalf of Jelson Ltd

Melton Borough Local Plan Examination

Matter 5: Other Site Allocations and Reserve Sites

January 2018

Matter 5: Other Site Allocations and Reserve Sites

5.1 Overall, has the allocation of the sites in Policy C1(A) been based on a clear, robust process of site assessment and informed by sustainability appraisal? In particular:

i) has an appropriate selection of potential sites been assessed?

It is impossible to say as the Council has not explained, in either the Local Plan or any other document submitted to the Secretary of State, the approach that it has taken to site selection, including how it defined the initial pool of sites that it assessed and how and why other sites were added in during the plan preparation process.

Insofar as Asfordby is concerned, the Council appears, ultimately, to have assessed a total of 7 sites, including both of those controlled by Jelson (MBC/106/13 and MBC/040/16). These 7 sites appear to have been identified through the SHLAA, which Jelson would agree is an appropriate starting point. The Council does not, however, appear to have undertaken an analysis / assessment of all land within and adjacent to Asfordby, enabling it to form a comprehensive view of the development capacity of the settlement. Given the sustainability credentials of the settlement and the fact that it should be a key focus for growth outside of Melton Mowbray, this is a weakness in its approach.

Insofar as Thorpe Arnold is concerned, Jelson drew to the Council's attention the availability of land for development to the north of the settlement (west of Melton Spinney Road) in May 2016 in response to a SHLAA call for sites. We can find no record of that site having been assessed as part of the Local Plan preparation process.

ii) has an appropriate methodology been used and has it been applied consistently?

It is impossible to say as the methodology has not been described by the Council either in the Local Plan or any other document submitted to the Secretary of State. This is a serious failing because without a clear methodology it is impossible for the site selection process to be properly tested and impossible for the Council to demonstrate that the conclusions that it has reached (its decisions in respect of the allocation and rejection of sites) is sound. In the absence of a document which describes the approach that the Council has taken to the site selection process (and maps the sites assessed in accordance with the NPPG), we must reserve our right to comment further on this matter in the event that additional evidence is produced by the Council in due course.

That said, so far as we can tell, the Council appears to have approached the site selection process as follows:

- a) establish settlement housing requirements (see our submissions on Matter 2);
- b) identify an initial pool of potential sites for each settlement with a housing requirement (probably from the SHLAA although the submitted Local Plan suggests that sites were also identified by other means (see paragraph 5.4.2) and subject these to SA (a total of 39 small sites were subjected to SA for the purposes of defining the Council's 'Emerging Options' in 2016). This

initial pool may also have been the subject of other forms of assessment but we have not been able to find any documentary evidence of this having been undertaken;

- c) on the back of the findings of the SA (or the SA and other forms of non-disclosed assessment), identify sites that are to be preferred for allocation and include these in the Emerging Options (Draft Plan);
- d) in response to representations made on the Emerging Options, a refresh of the SHLAA and reconsideration of the development strategy (resulting in the specification of amended settlement by settlement housing requirements), assess a wider pool of sites and subject these to SA (a total of 128 small sites appear to have been subjected to SA between the Emerging Options stage and the preparation of the Pre-Submission Local Plan). Again, this pool may have been subjected to some other form of assessment but, if it was, this has not been submitted to the Secretary of State;
- e) on the back of the SA and in the light of the revised development strategy, define a modified list of proposed allocations;
- f) carry out more detailed, site specific assessment of proposed allocations looking at availability, suitability, constraints, SA findings and viability (MBC/HA1a, MBC/HA1b and MBC/HA1c);
- g) carry out additional site specific assessments looking at criteria such as: meeting housing need; relationship with host settlement; access to services; proximity to employment; availability of public transport; major infrastructure requirements; infrastructure capacity; flooding; biodiversity; landscape designation; visual impact; agricultural land classification, noise and other pollution, the market and viability, and land ownerships (MBC/HA4a, MBC/HA4b, and MBC/HA4c);
- h) determine whether, in the light of (f) and (g) changes need to be made to the proposed allocations (MBC/HA2); and
- i) promote Focussed Changes (MBC/G4e)

If this is how the Council has gone about assessing sites for allocation in the plan, then (i) it has failed to employ a robust (sound) methodology that appropriately and adequately assesses site suitability, availability and achievability and (ii) has failed to employ a consistent methodology throughout the plan-making process (by, apparently, relying exclusively on the SA process in the early stages and then conducting more detailed (more sound) assessments in the latter stages (just prior to submission) after a significant number of sites had been rejected).

If, as we suspect, the Council has indeed relied exclusively (or almost exclusively) on the SA during the early plan-making stages, its approach has been fundamentally flawed. This is because the SA:

- a) is a crude rather than a sophisticated tool that gives only an indication of the sustainability credentials of sites and, in the case of the SAs produced for Melton Borough, does not allow for the sustainability criteria to be weighted, either relative to their significance (one might reasonably argue for example that allocating a site that has good public transport links to Melton Mowbray or higher order centres elsewhere in the HMA, is within walking distance of a

Primary School and a good range of shops and services, is more important than allocating a site that has little or no adverse impacts in respect of landscape, biodiversity and heritage assets) or by settlement (which fails to recognise that a site which gives rise to certain adverse effects but would be in a higher order centre would make for an inherently more sustainable allocation than a site that might give rise to slightly fewer adverse effects but would be in a far more remote and disconnected location);

- b) it contains no overall measure of site suitability. In other words, it does not give an overall sustainability score for each site and, therefore, enable the plan-maker to see how the sites compare on a 'rolled up' basis;
- c) it makes no allowance for the extent to which predicted adverse effects might be mitigated (which will vary from issue to issue and site to site but can make a significant difference to site suitability and achievability); and
- d) it is not underpinned by a detailed site by site assessment and so is very much a basic / broad brush analysis and contains scoring that is irrational. By way of example, the Jelson site in Asfordby that has not been allocated for development (MBC/040/16) is scored 'negative' or 'significant negative' against landscape, biodiversity, historic environment and flood risk when detailed technical assessments undertaken by Jelson prove that the development of this land would not give rise to adverse or unacceptable adverse impacts in these respects. Insofar as flood risk is concerned, the SA scores the land 'significant negative' because 5% of the site may be within Flood Zone 3b. This is wholly inappropriate. Those parts of the site that are at risk of flooding have been designed around. Indeed, it is important to note that the Council has itself agreed in response to the planning applications made on the site (see detail later) that biodiversity, connectivity, historic environment and flood risk are not barriers to the development of the site and that the conclusions of the SA in respect of this site were therefore fundamentally flawed.

The upshot of the SA process is that, in Jelson's case, a perfectly good housing site in one of the most sustainable settlements in the Borough, was rejected before it was properly assessed. Had the Council adopted a thorough and consistent methodology for site assessment from the outset (assessing sites as it did in the Spring / Summer of 2017), it would have been compelled to reach different conclusions and would have promoted a more sustainable Plan as a consequence. The fact that it did not, renders the Plan unsound.

iii) are the reasons for selecting the preferred sites and rejecting the others clear and sufficient? Would any inaccuracies in the assessments significantly undermine the overall conclusions?

The reasons for selecting and rejecting sites are not clear, sufficient and robust and inaccuracies in the assessment of Jelson's site at Asfordby has resulted in the Council (i) reaching an inappropriate conclusion in respect of this site specifically and (i) concluding that Asfordby cannot accommodate the housing requirement that is specified in Table 4. This has distorted the pattern of development promoted in the Plan, resulting in settlements that are far smaller than Asfordby and have far fewer services and facilities, receiving more development than the Council has calculated they should accommodate.

Jelson has one site in Asfordby that has been promoted in two stages. The eastern half of the site (Allocated Site ASF1) benefits from outline planning permission, reserved matters, approvals and development on it has now commenced. The first dwelling completion is expected to be achieved in the second half of this year.

The western half of the site (MBC/0409/16) extends to 3.2ha and is capable of accommodating approximately 70 dwellings. A development here would comprise a natural extension to Jelson’s consented scheme and a road and footways / cycle ways would be provided connecting the two halves of the site (enabling residents of the western half to drive, cycle or walk east onto Station Lane and then onward to the centre of the village). This half of the site would also be accessed off Hoby Road to the west (see Illustrative Masterplan at Appendix 1).

The SA scores for the two halves of the site were recorded as follows in MBC/WP2e:

	SA1: Housing	SA2: Education	SA3: Sustainable transport	SA4: Employment	SA5: Landscape	SA6: Biodiversity and Geodiversity	SA7: Historic environment	SA8: Efficient use of land and resources	SA9: Social cohesion	SA10: Social deprivation	SA11: Crime and safety	SA12: Waste	SA13: Local economy	SA14: Health	SA15: Greenhouse gases	SA16: Flood risk	SA17: Water
MBC/106/13: Land East of Station Lane and South of Klondyke Way, Asfordby	++	++?	0	+	--?	--?	0	--	++	++	0	-	0	+	++	-	0
MBC/040/16: Land Between Station Road and Hoby Road	+	++?	++	+	--?	--?	-?	--	++	++	0	-	0	+	++	--?	0

The SA3 score for ASF1 is plainly an error and for reasons explained below, the scores given to the western half of the site for SA7 and SA16 were inappropriate / unjustified and borne out of the fact that the SA was based upon only a high level assessment of the various sites that it looked at.

The western half of the site was not subjected to detailed assessment in the Spring / Summer of last year (as ASF1 was) but, if had it been, it would have scored as follows in accordance with MBC/HA4b:

Site	ADDRESS	Capacity	Meeting identified needs	Relationship / connectivity with host settlement	Access to services and facilities-by foot	Proximity to employment	Availability of public transport	Brownfield (Previously Developed) Land	Loss of employment or other beneficial use	Access / including public footpath access	Major infrastructure requirements	Infrastructure capacity (schools / GPs / etc)	Heritage Assets	Flooding	Biodiversity	TPO / Ancient woodland (AW)	Historic Park (HP)	Technical constraints	Landscape designation	Visual impact	Agricultural Land classification	Noise or other pollutants	Viability	Known market constraints	Land ownership constraints	Total
ASF1	Land east of Station Lane & south of Klondyke Way	100	2	1	2	1	2	-2	0	2	2	1	2	2	2	2	2	2	0	2	-1	2	0	2	2	30
MBC /040 /16	Land Between Station Road and Hoby Road	70	2	1	1	1	2	-2	0	2	2	1	2	2	2	2	2	2	0	2	-1	2	2	2	2	31

The western half of the site scores slightly better than ASF1 because, for some reason, the Council scored ASF1 '0' against viability, whereas, Jelson can confirm that there are no viability issues in respect of MBC/040/16.

As the Inspector will note, there is almost nothing between the two halves of the site, as one might expect. Certainly, there is insufficient between the two to justify the western half being omitted from the Local Plan.

According to the SA, the western half of the site was rejected by the council for the following reason:

"The site is poorly connected to the village and would depend upon the site to the east of it being developed in accordance with the planning permission 14/00480/OUT to provide some connectivity to the built form of the village. There is a footpath from the site to the rear of the properties to the north east on Klondyke Way which would however provide some limited form of connectivity. The site is fully constrained by buffers for the overhead power lines, an authorised landfill, and to the south the flood zones associated with the river. These constraints rule out all parts of the site for development, in addition to the setting of the Grade II listed building to the north of the site."

We return to this below.

The western half of the site has been the subject of two applications for planning permission. The first was submitted in August 2016 and was refused by in December of that year because the Council considered that the site was poorly connected and poorly related to the village and that the development would have an adverse impact on the character and appearance of the countryside which contributes to the setting of the settlement. The Council also had concerns about archaeology which hadn't been resolved by the time the application was determined.

Jelson was subsequently invited by Senior Officers to re-apply for planning permission and it did so, with a slightly modified scheme, in May 2017. However, that application was also refused (for the same reason as previously, minus archaeology).

The first refusal was appealed and that appeal is yet to be determined. A Public Inquiry was held in August 2017 but before the Inspector issued his Report, the Asfordby Neighbourhood Development Plan was adopted (the NDP does not allocate the site for housing) and the parties were invited to comment on the implications of this for the proposals. This and related matters are to be the subject of a re-convened Inquiry which is due to be held in May 2018.

When the above mentioned Inquiry opened, the Council withdrew its objection in respect of connectivity, leaving the parties to focus solely on the impact of the development on the countryside and the setting of the village.

As a consequence of the planning applications and the appeal, a significant amount of technical work has been undertaken in respect of this site and, in the light of all of this, Jelson is absolutely satisfied that the development of the site would be sustainable and appropriate.

Contrary to the SA, the site is well connected to the village and the overhead powerlines, flood zone, landfill and nearby heritage asset do not pose constraints that prevent development in this location (all points now accepted by the Council). Indeed, as the enclosed Illustrative Masterplan indicates, the site is capable of accommodating a not insubstantial development of around 70 dwellings. Moreover, the site is available now and is achievable now. Importantly (particularly so in the light of our submissions in respect of Matter 3), Jelson has committed to delivering 40% affordable housing on this scheme (significantly above the 25% required by modified Policy C4 in the submitted Local Plan), as well as a significant area of public open space, and financial contributions towards educational infrastructure and modest highway improvements. A contribution to health infrastructure will also be made if appropriate justification for such is provided by NHS England.

The Council's objection to the development of this site on 'countryside' grounds did not, according to the SA, figure in its reason for rejecting the site for plan-making purposes in 2016. This is hardly surprising given that the Council's own evidence base on landscape matters (Melton Borough Areas of Separation Settlement Fringe Sensitivity and Local Green Space Study), undertaken by Influence in September 2015, concluded in respect of LCZ3 (in which the site lies) that: ***"There is opportunity to accommodate some sensitively designed development in proximity to the existing settlement edge on the southwest of Asfordby, and considering landscape boundaries such as the river and associated vegetation, which would contribute to the softening of the settlement edge (para 4.61)"***

The purpose of that report which is claimed to be ***"one of the central strands of the spatial planning evidence base for the emerging Local Plan"*** is stated to be to ***"inform the direction of growth and landscape and open space protection within the borough"***

It is clear from the above that the reasons for initially discounting the site in the SA were fundamentally wrong and that in respect of landscape impact the Council has simply chosen to ignore its own evidence base.

We note also that the Council's approach to assessing / allocating sites has been inconsistent. MBC/HA1 (a – c) indicates that 20 of the sites that the Council proposes to allocate are in landscape character zones that have a medium to high sensitivity to development and that 4 are within zones with high sensitivity. In addition, 5 of these other sites are either wholly or partly within Flood Zones 2, 3 or 3b and we have seen no evidence of these having been the subject of sequential testing in accordance with the provisions of the NPPF and NPPG. Finally, 5 of the proposed allocations appear to present serious issues in respect of heritage assets – issues that have not been resolved to the point where one could be satisfied that development would not cause substantial harm.

Assuming the Inspector agrees, site MBC/040/16 must be allocated for development. Indeed, for the site not to be allocated (bearing in mind the fact that it sits immediately adjacent to one of the most sustainable settlements in the Borough and the Council is having to accommodate unmet Asfordby needs in less sustainable locations because it considers the settlement has capacity for only an additional 160 dwellings), the Inspector would need to conclude that the development of the site would give rise to unacceptable adverse impacts (which cannot be mitigated) or be otherwise unsustainable (neither of which can be correct on any analysis). Even if the Inspector were to take issue with elements of the Jelson proposals for site MBC/040/16, its development would, we submit, be more sustainable than almost every other non-MM site proposed for allocation in the Plan.

iv) has a reasonable balance been struck between the residual requirement figure for each of the settlements in Table 4 and the allocation of sites to meet the residual requirement as closely as possible?

No. The residual requirement for Asfordby can and should be met in order to ensure that development is focussed in the most sustainable locations. It is incumbent on the Council (and all other stakeholders, including the Parish Council) to ensure that Asfordby makes a contribution to the growth of the Borough that is consistent with the Council's vision, its strategic objectives, its development strategy (amended or not) and the NPPF. This means they must do all they can to ensure that Asfordby accommodates at least the residual requirement specified in Table 4 of the Local Plan (and we say more than this). This means being proactive and supportive of development, rather than unnecessarily and unreasonably restrictive. The Jelson site is capable of meeting the residual requirement for Asfordby and as detailed above the Council's reasons for rejecting the site do not stand up to any level of scrutiny.

5.2 Overall, will the allocations provide sufficient flexibility to help deliver the spatial strategy?

No. Because the Plan's strategy is founded on an inappropriate housing requirement and the apportionment of growth as currently contemplated is unsustainable (see our submission in respect of Matters 2 and 3). The Plan's allocations are not even capable of satisfying the Council's development strategy as currently cast and are wholly incapable of satisfying a properly sustainable strategy.

5.3 Are the specific policy requirements for the site allocations in Appendix 1 justified and effective? Together with the Plan policies as a whole, is there reasonable assurance that the development of the allocations will be sustainable and in accordance with national planning policy?

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5.4 Is the identification of 'reserve sites' in Policy C1(B) appropriate in principle?

Jelson has no objection to the identification of reserve sites in principle. However, if reserve sites are to be identified, these should be (i) capable of providing 20% flexibility to the Plan in accordance with the recommendations of the LPEG and (ii) the sites that are allocated must be demonstrable the most suitable.

5.5 Has the basis for their identification been robust? Is there clear justification for the identification of the individual sites as reserve sites?

It is impossible to say in the light of the fact that the Council has not provided evidence which details how the reserve sites have been compared with all other sites assessed during the Plan-making process. However, we are satisfied that none of the reserve sites are as suitable, available or achievable as Jelson's site at Asfordby.

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-  Application Boundary 3.22 ha
-  Existing Settlement
-  Adjacent Consented Scheme
-  Proposed Residential Area 2.37 ha (up to 70 dwellings at 30 dph)
-  Overhead Electric Cable
-  Public Rights of Way
-  Permissive Path
-  Existing Bridleway
-  1 Proposed Vehicular Access
-  2 Road and Pedestrian Link
-  3 Public Open Space
-  4 Indicative SUDs Basin
-  5 Existing Hedgerows and Trees
-  6 Footpath route to Frisby on the Wreake
-  7 Principal Pedestrian/ Cycle Route
-  8 Other Pedestrian Routes

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Jelson Homes
Land off Hoby Road
Asfordby Leicestershire

ILLUSTRATIVE MASTERPLAN

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21 June 2017 RGL/ MGH
7177-04 rev K

masterplanning
 environmental assessment
 landscape design
 urban design
 ecology
 architecture
 arboriculture

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