



Post-Hearing Statement on behalf of Jelson Ltd
Melton Borough Local Plan Examination
Comments on Post-Hearing Documents M1-1, M1-2 and M1-3.

March 2018

1. Introduction

- 1.1 As a participant in the hearing sessions that dealt with Matter 5, Jelson has been invited to comment on the content of documents M1-1, M1-2 and M1-3 which the Council has produced to further assist the Inspector. Documents M1-1, M1-2 and M1-3 deal with neighbourhood planning and, more specifically, how the Council believes it should deal with any conflicts that exist between recently adopted (or well advanced) Neighbourhood Plans and the submitted version of the Local Plan.
- 1.2 GVA has been instructed to comment on these documents on Jelson's behalf.

2. Context

- 2.1 In that section of M1-2 headed 'Context', the Council notes that there are fourteen Neighbourhood Plan Areas designated in the Borough and, for each of these, describes the position reached in respect of neighbourhood plan-making. The text included for Asfordby reads "*Examination (subject to MPC and MBC consideration of next steps)*".
- 2.2 As explained during the Hearing Sessions, my Clients made a claim for the Judicial Review of the Asfordby Neighbourhood Plan in October 2017 (Appendix 1). The Borough Council consented to judgement in that matter and so the Claim was allowed. The effect of the associated Order (Appendix 2), issued by the High Court on 5 February 2018, is that:
- a) the decision of the Council, made on 12 July 2017, to refer the Plan to referendum has been quashed;
 - b) the result of the subsequent referendum, held on 28 September 2017, has also been quashed; and,
 - c) the Plan no longer forms part of the development plan.
- 2.3 It is understood that the Borough and Parish Councils are now considering how to proceed. However, my Client has taken Leading Counsel's opinion on that matter and, as a consequence, Jelson's lawyers have written to the Council confirming that, so far as well can tell, the only practical and lawful course of action now available to the Council is to withdraw the plan (Appendix 3).

3. Approach to Conflicts

- 3.1 The Council has noted that some of the Neighbourhood Plans in the Borough have good alignment with the Local Plan (e.g. Wymondham) whilst others do not (e.g. Clawson, Hose & Harby). It says that it has considered a number of different ways of dealing with the issue of alignment and describes four of these in document M1-2. The document goes on to say that, of the four, the Council prefers Approach 3 (save in respect of Hose). Approach 3 would involve modifying the Local Plan, to bring it into line with Neighbourhood Plans that reach examination prior to the Local Plan being adopted. In respect of all other Neighbourhood Plans (ie those progressed to examination after the Local Plan is adopted) the reverse will apply – in other words they will have to be in general conformity with the strategic policies of the Local Plan.

- 3.2 Jelson has two principal concerns with Approach 3:
- a) first, it is absolutely clear from the law (schedule 4b to the Town & Country Planning Act 1990), policy NPPF paragraph 184) and guidance (NPPG paragraph 065) that the policies in Neighbourhood Plans must be in general conformity with the strategic policies in the Local Plan, not the other way around. For it to be appropriate to modify the local plan at this stage, it must be necessary to do so in order to make it sound. Modifying it to simply bring it into line with certain Neighbourhood Plans (to save the Neighbourhood Planning Bodies the hassle of having to update their Plans in the near future to avoid them being out of date) does not seem to us to be necessary for soundness or, indeed, appropriate; and
 - b) it is not at all clear what Approach 3 would mean for Asfordby, given that the Council seems to think that the Neighbourhood Plan can revert to Examination, whereas it is our view that the Plan must be withdrawn and reconsidered.
- 3.3 In our view, the only lawful and appropriate course of action is Approach 1 and that is how the Council should proceed.
- 3.4 In the event that Approach 3 is pursued by the council, it will be necessary to ensure that any consequential amendments are (i) supported by appropriate evidence, (ii) consulted upon and, (iii) satisfy the soundness tests.

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