

MELTON BOROUGH COUNCIL PRE-SUBMISSION LOCAL PLAN

REPRESENTATIONS BY FREETHS LLP ON BEHALF OF MR P BAIGENT

INTRODUCTION

1. These representations have been made by Freeths LLP on behalf of Mr P Baigent, and focus specifically on:
 - a. the proposed housing allocation of GADD2 (land north of Ashby Road/east of Church Lane, Gaddesby); and
 - b. the re-classification of Gaddesby as a Rural Hub rather than a Rural Settlement.

GADD2

2. Local Plans must be prepared with the objective of contributing to the achievement of sustainable development (Planning and Compulsory Purchase Act 2004, section 39(2)). The National Planning Policy Framework (the **Framework**) provides that Local Plans should be consistent with the principles and policies set out in the Framework, including the presumption in favour of sustainable development (paragraph 151). The presumption requires plan makers to have regard to whether any adverse impacts of meeting objectively assessed needs would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole (paragraph 14).
3. Our client contends that, in light of the above, the allocation of GADD2 would not contribute towards sustainable development, for the reasons set out below.
4. GADD2 is located to the north of Ashby Road, Gaddesby and forms part of a much wider site (8.6 hectares) which was submitted to the Council's SHLAA. Despite the Council proposing that approximately 2.2 hectares of this wider site is allocated for 30 dwellings, the Council has not yet conducted a site assessment of the allocation site (the accompanying site assessment has assessed the 8.6ha site). The failure to properly assess the site demonstrates that the proposed allocation of this site has not been based on strong evidence or been appropriately considered against alternative sites within the village or elsewhere in the Borough. This is a fundamental shortcoming in the preparation of the Local Plan which as a result means the allocation of the site is not 'justified' or consistent with national policy, as required by the Framework.

Heritage Impact

5. The proposed allocation of GADD2 will be harmful to the historical significance of the Grade I Listed Church of St Luke. The Church sits within an historic landscape and gains historical significance as a consequence of this setting (particularly in relation to the earthwork remains of medieval cultivation of ridge and furrow). There is no evidence that the impact of the proposed development on the Church's setting has been properly assessed in the accompanying assessment for the wider site. We understand that Historic England have raised objections in relation to the impact on this heritage asset. Without having regard to the potential impact of the proposed development of GADD2 on the Church and its surrounding landscape, the Plan has the potential to conflict with national policy. Paragraph 133 of the Framework states that where a proposed development will lead to substantial harm to a designated heritage asset it should be refused consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss. Paragraph 134 of the Framework states that where a development will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal. Without a robust heritage assessment, the public benefits balancing exercise cannot be undertaken and the presumption in favour of sustainable test cannot be properly applied.

Visual Impact

6. The proposed GADD2 site appears to have been given arbitrary site boundaries by the Council without any justification; the boundaries are not defined or contained by physical features, for example by a hedgerow or surrounding development. The site's northern and eastern boundaries are exposed, meaning any proposed housing development on the GADD2 site is likely to have an adverse visual impact on the wider countryside, therefore, failing to meet the 'environmental' element of sustainable development set out in the Framework. Our client disagrees fundamentally with the Council's assertion in the accompanying wider site assessment that the site is "well hidden". The site is considered to be out of character with the surrounding development which extends along Ashby Road and Church Lane and is linear in nature. The likely adverse impact of the proposed allocation upon the character of the settlement and surrounding landscape has not been properly considered through the site assessment process.

Flood Risk/Drainage

7. The Council's Interactive Map shows that part of the site is situated in Flood Zone 3b. Accordingly it is defined as a functional floodplain and comprises land where water has to flow or be stored in times of flood. Development should therefore be situated away from this area. In the remainder of the site, the Council will need to demonstrate that flood risk is not increased elsewhere either on the site or on the surrounding areas, many of which are already categorised as at flood risk (paragraph 103).

8. For example, our client's property (which sits opposite GADD2 on Ashby Road) cannot currently benefit from flood insurance due to the existing flood risk in the area. Despite Appendix 1 of the Local Plan proposing that a policy requirement ensuring mitigation measures against flood risk is provided at GADD2, it is contended that further robust investigation into surface water and foul drainage solutions is required before the Plan progresses any further. Without such investigation and supporting evidence it cannot be said that the allocation of the site has been properly justified in accordance with the requirements of the Framework.

Ecological Impact

9. In relation to biodiversity impacts, national policy states that the planning system should minimise impacts on biodiversity and provide net gains in biodiversity where possible (paragraph 109 of the Framework) and that local planning authorities should set criteria based policies against which proposals for any development affecting protected wildlife sites will be judged (paragraph 113 of the Framework). GADD2 is in close proximity to a number of Local Wildlife Sites (**LWS**), including Gaddesby Brook. Gaddesby Brook contains white clawed crayfish which are protected species. In order to comply with national policy, further information about the likely ecological impact of the development of GADD2 needs to be provided so a judgement about suitability of the site for development can be made.

Site Access

10. The accompanying wider site assessment confirms access will be taken off Ashby Road, but that further work is needed. Paragraph 32 of the Framework confirms that in highways terms, plans should take account of whether a safe and suitable access can be achieved for all people. The site's location opposite Gaddesby Primary School is a factor for consideration in determining whether this can be achieved. Without proper assessment there is little evidence to demonstrate how the site can be satisfactorily accessed and the impact this will have on the surrounding road network, including the Primary School.

RURAL HUB CLASSIFICATION

11. In the original draft Local Plan, Gaddesby was classified as a "rural supporter" (in accordance with the criteria set out in the Melton Local Plan Settlement Roles and Relationships of April 2015 (**MLPSRR**)).
12. The criteria adopted in the MLPSRR was more extensive and sophisticated than the simple "four-prong" test used in the latest draft Local Plan and it is our client's contention that there is no justification for this change in methodology.

13. In addition, and (where applicable) in the alternative), our client contends that, even if the “four-prong” test is considered sound, then Gaddesby does not meet the requisite three out of four criteria to be classified as a Rural Hub.
14. Gaddesby does not have access to employment opportunities because:
- a. there are only 2 employers in the village – the Cheney Arms public house and the Primary School both of which have limited opportunities (and not sufficient to service additional population of the numbers proposed); and
 - b. the village has very poor public transport links to Leicester and Melton. It has only one bus service (number 100) which runs infrequently and does not run on Sundays or bank holidays. Due to the location of Gaddesby, the majority of residents work in or towards Leicester (rather than Melton). The only suitable bus service to Leicester on a week day leaves Gaddesby at 07.49 and the last bus back from Leicester leaves at 17.10 meaning, in each case, the bus service is not a viable mode of transport for a resident working full time in Leicester.
15. Gaddesby does not have fast broadband. The current broadband service is sold as “up to” 56Mbps download speed however the actual delivered speed at the time of writing is 20Mbps, or 40% of the advertised maximum, which is the same as the pre-upgrade ADSL offering. Given this failure to perform under the existing load of the village and surrounding areas, any additional load is likely to make the service deteriorate further. Many existing residents have not yet upgraded to fibre broadband, which means that, when they do, this would increase the load further thereby reducing the actual delivered speed.

SOUNDNESS TESTS

16. In order to be considered sound, the Local Plan should meet a number of tests. These tests are set out at paragraph 182 of the National Planning Policy Framework.
17. The Local Plan, in relation to (A) its proposed allocation of GADD2 as a suitable site for development and (B) its proposed reclassification of Gaddesby as a Rural Settlement, is considered to be unsound because it fails to meet these tests, as set out below:

- **Justified** – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- **Effective** – the plan should be deliverable over its period
- **Consistent with national policy** – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework

18. A large number of constraints to development have been identified with respect to the allocation of GADD2. It is not apparent that a robust site assessment has been carried out by the Council, and without further technical information to support the allocation, the Local Plan should be considered unsound on the basis that it not justified or consistent with national policy.
19. The Plan is also considered to fail the ‘effective’ soundness test as it is not considered to be deliverable in its current form. The Council’s 2016 SHLAA Assessment concludes that GADD2 is deliverable, i.e. that it will come forward in the next 5 years, and this is confirmed by the Council’s Five Year Land Supply and Housing Trajectory Position (November 2016) which anticipates development starting onsite in 2021/22. GADD2 should not be regarded as deliverable in line with the definition provided at footnote 11 of the Framework. Whilst the site can be regarded as available it cannot be considered as deliverable because the lack of robust evidence relating to landscape, heritage, drainage, access and ecology means it cannot be considered to “offer a suitable location for development now”.
20. The reclassification of GADD2 as a Rural Hub from a Rural Supporter after unilaterally changing and then adopting the new the criteria and scoring methodology without a robust assessment of Gaddesby against those criteria means that the Local Plan should be considered unsound on the basis that it is not justified or consistent with national policy.
21. In view of the comments set out above, in order for the Local Plan to be considered ‘sound’ and meet the tests set out within the Framework, specifically in regard to Gaddesby, (A) the proposed allocation GADD2 should be removed and (B) Gaddesby should retain its classification as a Rural Settlement and should not be reclassified as a Rural Hub.