

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

10 April 2019

**AUTHOR/S:** Joint Director of Planning and Economic Development

### **AgriTech Appeal by SmithsonHill Ltd, S/4099/17/OL**

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#### **1 Purpose**

- 1.1 This report asks for the Planning Committee to endorse and agree to a number of planning matters associated with the proceedings for the Agri-Tech appeal.

#### **2 Background**

- 2.1 This application was reported with a recommendation of refusal to the Planning Committee on 7 March 2018. Planning Committee resolved to refuse the application on nine individual grounds. The decision notice refusing outline planning permission was issued on 13 March 2018 and is attached as appendix 1 to this report. The refusal of permission was subsequently appealed by SmithsonHill Limited (the appellant) in the autumn of 2018. The Council has appointed its appeal team to defend its case. The appeal is to be heard at a Planning Inquiry timetabled to start on 11 June 2019 and is anticipated to run for 12 days.

#### **3 Considerations**

##### Change in Adopted Policy Framework

- 3.1 Members will recall that the application for the agricultural technology park was made and determined in the context of the adopted South Cambridgeshire Development Control Policies DPD (2007), the South Cambridgeshire Core Strategy DPD (2007) and the draft South Cambridgeshire Local Plan 2014.
- 3.2 The Inspectors' Report into the new Local Plan was received on 29 August 2018 and the new local plan was subsequently adopted by South Cambridgeshire District Council on 27 September 2018. As such, the original decision notice includes a range of policies associated with the formally adopted 2007 policies which have now been superseded by the adoption of the South Cambridgeshire Local Plan 2018 (SCLP 2018) and therefore are no longer of effect.

- 3.3 The appeal programme required the submission of the Council's Statement of Case (SoC) at an early stage in proceedings and this was submitted on 12 Nov 2018. The SoC is attached to this report at appendix 2. The SoC sets out the policies and scope of evidence which the Council intends to use to defend the refusal of planning permission. It includes a comprehensive set of relevant SCLP 2018 adopted policies applicable to the appeal proposal. The SoC sets out that, excepting reason for refusal 2, the Council is of the view that the original reasons for refusal are supported by newly adopted policies. In relation to each reason for refusal, the relevant superseded and newly adopted and relevant policies for the purposes of the appeal are set out in table 1 at page 9 of the SoC.

#### Reason for Refusal 2

- 3.4 Reason for refusal 2 concerned the issue of prematurity to the emerging Local Plan, which Members will recall was at an advanced stage when the application was being considered by Planning Committee in March 2018. Now that the SCLP 2018 has been adopted, officers are of the view that paras. 49 and 50 of the NPPF (2019) are no longer engaged and prematurity falls away as an issue. NPPF advice regarding reasons for refusal on grounds of prematurity recommends their use in limited circumstances where a scheme would both:

a) be so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and

b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

- 3.5 Both of these factors for the application were engaged at the time when Committee considered the application in March 2018, before the adoption of the SCLP 2018. As such, and in accordance with Counsel advice, the Statement of Case submitted in November of last year, indicates that the Council will not be pursuing this reason for refusal as part of the Inquiry. Members are asked to endorse this decision.

#### Reason for Refusal 6

- 3.6 Reason for refusal 6, as it appears on the decision notice, contains drafting errors; it is incomplete and is missing text within the middle of the third sentence. The missing text is not fundamental to the basis of the objection or meaning of the refusal reason. The reason for refusal, with additional text underlined, should read as follows.
- 3.7 *Motorists would access the proposed development via the A1301 and a single access junction. The road network in this locality is already congested, as acknowledged in the submitted Transport Assessment (TA). A stage 1/2 Road*

*Safety Audit has not been carried out on all the submitted drawings to allow the Local Highway Authority to fully assess the scheme and the proposal would therefore be contrary to: paragraphs 7, 17 and 32 of the National Planning Policy Framework 2012 and Policies DP/1, DP/3 (1b), DP/4 and TR/2 of the South Cambridgeshire Development Control Policies DPD 2007.*

- 3.8 The appellants are not in any way prejudiced by the insertion of the relevant text.

#### Next Steps

- 3.9 The Council and the appellants are required to submit a joint Statement of Common Ground (SoCG) by 16 April 2019; the statement is intended to identify both areas of common ground and matters on which there remains disagreement and will assist in the preparation of proofs of evidence. It is also intended that a separate Statement of Common Ground relating to highways & transport matters will be submitted at the same time. These statements are the subject of current negotiation and discussion between the Council and the appellant and the County Council as highway authority.
- 3.10 The Council and the appellants are required to submit their Proofs of Evidence by 14 May 2019.
- 3.11 Notwithstanding and without prejudice to the outcome of the appeal, the Council and the appellants are required to work towards agreeing a list of conditions in the event that the appeal is allowed. The range of required conditions is to be indicated within the SoCG and a detailed list of conditions is to be presented to the Inquiry.
- 3.12 Notwithstanding and without prejudice to the outcome of the appeal, the Council and the appellants are required to work towards agreeing a range of CIL compliant S106 Heads of Terms within the SoC. These are to be embodied within a S106 legal agreement or unilateral undertaking presented to the Inquiry.

#### **4.0 To Note**

- 4.1 The Council was advised by the Planning Inspectorate on the 23 October 2018 that the appeal has been recovered for determination by the Secretary of State. This means that instead of himself reaching a decision on the appeal, the Inspector will prepare a report and recommendation, which will be forwarded to the Secretary of State for the Secretary of State's own determination. The reason given for this direction is that the appeal involves proposals for significant development within Green Belt.

#### **5.0 Consultations**

- 5.1 There has been no formal external consultation involved in the preparation of this report. It is being brought forward following advice received from appointed Counsel for the Inquiry and from the Council's solicitor.

## **6.0 Conclusion**

6.1 Officers are of the view that the newly adopted policies within the SCLP 2018 do not significantly alter the Council's case in defending the appeal. The range of applicable policies and how they relate to the appeal are fully set out in the Statement of Case and follow advice taken by Counsel in the preparation of the Council's evidence to the Inquiry. Reason for refusal 2 which concerned prematurity is evidently no longer capable of being pursued. Officers consider that the corrections to reason for refusal 6 are necessary and do not alter the substance of that reason for refusal.

6.2 Members are advised to accept the officer recommendations.

## **7.0 Recommendations**

7.1 Members of the Planning Committee are asked to **AGREE** to the following recommendations:

- a. to endorse the range of policies applicable to the reasons for the refusal contained within the SCLP 2018 as set out in the Statement of Case;
- b. to endorse the decision to longer pursue reason for refusal 2 as part of the Inquiry proceedings;
- c. to endorse the officer interpretation of the missing text associated with reason for refusal 6;
- d. to allow officers to pursue the submission of the Statement of Common Ground and proofs of evidence as required in accordance with Counsel's advice;
- e. to grant officers authority to agree to a set of planning conditions and planning obligations as part of the Inquiry proceedings;

## **8 Implications**

- (a) **Financial Implications:** None
- (b) **Staffing Implications:** None
- (c) **Equality and Poverty Implications:** None
- (d) **Environmental Implications:** None
- (e) **Procurement:** None
- (f) **Consultation and communication:** None
- (g) **Community Safety:** None

## **9 Report Author**

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## **10 Appendices**

Appendix 1: AgriTech Decision Notice 13 March 2018

Appendix 2: Statement of Case 12 November 2018