



## **Town and Country planning Act 1990**

### **S78 Appeal against the Refusal of Planning Permission**

**Rebuttal Proof:** Historic Environment (Archaeology)

**Witness:** Nicholas Crank BSc MCIfA

**Reference:**

PINS APP/Y0435/W/20/ 3251121

LPA 19/01818/OUT

**Appellant:** Appeal by HB (South Caldecotte) Limited

**Site:** South Caldecotte, Bow Brickhill

**Date:** 12<sup>th</sup> August 2020

## 1. Introduction

1.1 This rebuttal proof has been compiled in order to respond to paragraphs 4.2, 4.28 – 4.35 and & 4.36 – 4.50 in the Appellant’s Archaeology Proof of Evidence (CD HB 2.1) which examine both:

- The presence of high-status pottery<sup>1</sup>; and
- Evidence of substantial buildings including some of brick construction with tiled roofs<sup>2</sup>;

1.2 This proof should be read in conjunction with my main archaeology proof of evidence (CD MK2.1).

1.3 The above two headings in CD HB 2.1 are based on a list of key points made in my final consultation comments (CD J.43) in relation to the Proposal<sup>3</sup> and preceding a more detailed discussion of the evidence in CD J.43. The list of key points in CD J.43 is based on direct quotes from the final discussion section of the archaeological trial trenching report<sup>4</sup> and also supported by statements in the respective specialist reports on Roman brick and tile and Iron Age and Roman Pottery in the same document, as I will demonstrate below.

1.4 I have presented evidence from the Eaton Leys and Berryfields sites in paragraphs 5.3.1 and 5.3.2 of my main proof of evidence and in Appendices 7, 9 and 10 thereto.

1.5 In this rebuttal I now supplement that material with evidence relating to the archaeological trial trench evaluation and subsequent excavation of an Iron Age, Roman and Saxon settlement site of acknowledged<sup>5</sup> local to regional significance and rural character at area AZ1 of Lathbury Quarry, Milton Keynes in order to more fully respond to the assertions made and the examples provided in the Appellant’s proof

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<sup>1</sup> CD HB 2.1, 4.2 & 4.36 – 4.50

<sup>2</sup> CD HB 2.1, 4.2 & 4.28 – 4.35

<sup>3</sup> This Inquiry is into the refusal of a planning application (planning reference 19/01818/OUT, “**the Proposal**”) for land at South Caldecotte in Milton Keynes (“**the Site**”). The Proposal is for outline planning permission with all matters reserved except access. Details of the Site and the Proposal are already set out in documents before this appeal and will not therefore be repeated here.

<sup>4</sup> CD A.35, 75 & CD A.40, 75 e.g. para. 6 states: “*The pottery assemblage included a number of high status vessels including decorated samian wares.*”

<sup>5</sup> Barker, J 2020, Table 1, p. 11 - Appendix 2, this proof

in relation to the character and significance of pottery recovered and evidence for buildings including some of brick construction with tiled roofs in Area 2 of the Site.

1.6 The Lathbury evidence is adduced as, unlike the evidence presented in the Appellant's proof, it better illustrates the distinction between the artefactual evidence from a site of acknowledged local to regional significance and rural character (Lathbury) and the artefactual evidence from a site of high regional significance and urban character (Area 2 of the Site).

1.7 The evidence relating to both the Iron Age and Roman pottery and Roman brick and tile recovered from the above named sites are considered below both in relation to these respective assemblages from the Site and also in relation to the examples adduced in the Appellant's Archaeology Proof of Evidence (CD HB 2.1).

## **2. Significance of Iron Age and Roman Pottery**

2.1 In relation to pottery the Appellant introduces examples of pottery assemblages from sites in Heybridge, Essex<sup>6</sup> and Wixoe, Suffolk<sup>7</sup> in support of its contention that the sizable assemblage recovered from the 18ha of excavation at Heybridge is exceptional and not analogous to the assemblage recovered from the Site, which in its view has more in common with the unexceptional pottery assemblage recovered from the small Roman town at Wixoe.

2.2 It is not disputed that the example from Heybridge is indeed a sizable and important assemblage. However, as indicated above, it is derived from 3 seasons of excavation conducted over 3 years and amounting to 18ha in area. Consequently the sheer size of the area excavated and the assemblage recovered does not compare well with the assemblage recovered from the 3 to 4% sample by area of the Site examined by the trial trench evaluation. The Heybridge example also lacks the tabulated quantification data required to make a straightforward comparison with the assemblage from the Site, though some percentages of different wares/vessel forms are noted.

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<sup>6</sup> CD HB 2.1, 4.44 & Appendix 7

<sup>7</sup> CD HB 2.1, 4.46 & Appendix 11

2.3 The Wixoe example is similarly problematic and limited as a comparator as it too lacks the quantification table necessary to draw direct comparison with the assemblage from the Site and instead just reproduces part of the discussion of the evidence minus this quantification. As such the example of Wixoe as presented by the Appellant is of limited use or relevance as a comparator to the evidence from Area 2 of the Site as the detail required for a detailed comparison is omitted. Regarding this it is worth noting<sup>8</sup> that at Wixoe, in contrast to the evidence from Area 2 of the Site<sup>9</sup>, no evidence for pottery manufacture was found.

2.4 The excavation at area AZ1 at Lathbury comprised an area of c.3ha (Area 2 of the Site is c.3.5ha) and was preceded by a trial trench evaluation consisting of five 50m x 2m trenches<sup>10</sup>. The evaluation recovered a total of 132 sherds of late Iron Age and Roman pottery weighing 1.59kg<sup>11</sup>. Subsequent full excavation of this area in advance of mineral extraction yielded late Iron Age/early Roman wares (c.50 BC–AD 100) totalling 904 sherds (23.6kg)<sup>12</sup> and later Roman pottery totalling 1,323 sherds (36.8kg)<sup>13</sup>. It was noted in relation to the Roman pottery that it:

*‘represents a typical rural domestic assemblage, comprising mainly local shell and sand-tempered coarse wares, with a smaller proportion of regional wares and continental imports. The latter include samian, predominantly from Central Gaul and ranging in date from the pre-Flavian period to the mid-2nd century. A standard range of vessel forms occur: Jars of varying size and function, ranging from cooking pots to large storage-type vessels, are dominant, supplemented by bowls and beakers. A small number of ‘specialised’ forms—amphorae, mortaria and flagons—also occur.’*  
Appendix 2, 3.2.5,18

2.5 The above excavation assemblage of local to regional significance and rural/domestic character contrasts markedly with the 2,644 sherds of Iron Age and Roman pottery

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<sup>8</sup> CD HB 2.1, Appendix 11, 143

<sup>9</sup> CD A40, 57: “Three fragments (72g) of probable kiln bars were recovered from context (8527) [Trench 85, Area 2]. It is in an orange to brown sandy fabric with a soapy texture. These have been lightly fired and there are internal cracks. Pottery production using kiln bars dates from the post- Conquest to middle 2nd century.”

<sup>10</sup> Appendix 1, Figs. 14 & 15

<sup>11</sup> Appendix 1, tables 5 & 6, pp. 35-37, The late Iron Age component was poorly represented at only 5 sherds / 53g.

<sup>12</sup> Appendix 2, 3.2.4, 17

<sup>13</sup> Appendix 2, 3.2.5, 18

weighing 31.92kg recovered from the Site and described in the trial trenching report as representing:

*'a substantial collection and range of wares. The size of the assemblage is no doubt due to the presence of substantial occupation in the area, including the Roman street; while the character of the assemblage can certainly be seen to have been shaped by proximity to the Roman town of Magiovinium and close connections to this centre and others via the roadway.'* CD A40, 6.1, 44 [my emphasis]

- 2.6 As noted in section 5.3.1<sup>14</sup> of my main proof of evidence the bulk of the Iron Age and Roman pottery recovered from the Site derives from the trenches in Area 2. Both the overall quantity of pottery and the relative proportions of imported fabrics such as Samian ware and Amphora recovered from Area 2 contrast markedly with that from the Lathbury excavation where only a single sherd of Amphora was recovered, Samian was also limited in quantity at Lathbury (2.5% by weight at Lathbury<sup>15</sup> / 3.4% from the Site<sup>16</sup>) and, unlike Area 2 no stamped or decorated Samian sherds were found.
- 2.7 The overall quantity of pottery and relative proportions of Samian from the Site are also contrasted with the results from both the Eaton Leys site to the south of Magiovinium and the excavation of the relatively nearby regionally significant roadside settlement at Berryfields, Fleet Marston in sections 5.3.1 and 5.3.2 of my main proof of evidence<sup>17</sup>. Here, as above, it is demonstrated that both the quantity of Roman pottery and proportion of imported wares recovered from Area 2 of the site are above typical regional rural values and more typical of a Roman small town such as Magiovinium.

### **3. Brick and Tile / Substantial Buildings**

- 3.1 In relation to the evidence for substantial buildings, again the relative quantity of material in the form of Roman brick and tile recovered from the Site sets it apart from

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<sup>14</sup> CD MK2.1, 14

<sup>15</sup> Appendix 2, table 5, 17

<sup>16</sup> CD A40, table, 46

<sup>17</sup> CD MK2.1, 14-15

sites of lower local to regional significance such as Eaton Leys and Lathbury. The Lathbury trial trench evaluation of area AZ1 recovered just 3 fragments of Roman roof tile (0.259kg)<sup>18</sup>, increasing to 38 fragments (8.2kg)<sup>19</sup> on full excavation of the area.

3.2 That this contrasts markedly with the substantially higher 94 fragments (9.65kg)<sup>20</sup> recovered from the Site and principally Area 2, underlines the higher regional significance and urban character of the Area 2 assemblage and indicates that, on full excavation a truly substantial quantity of brick and tile is likely to be encountered. By way of further comparison the trial trench evaluation at Eaton Leys recovered a total of 30 fragments of brick and tile (1506g)<sup>21</sup>, on excavation of Area A of this site just 16 very abraded fragments of possible brick and tile were recovered from late Iron Age/Roman contexts<sup>22</sup>. No brick and tile was recovered from the other areas of excavation at Eaton Leys. That the quantity and quality of brick and tile recovered reduced on excavation of Area A at Eaton Leys may be explained in part by the avoidance of the more significant areas of archaeology within the site and adjacent to the scheduled monument (SM). These areas were avoided by the development and preserved in situ within its green infrastructure protecting both the underlying archaeology and serving to preserve the setting of the SM.

3.3 Section 4.29 of the Appellant's archaeology proof of evidence (HB 2.1) features an extract from the post-submission version<sup>23</sup> of the archaeological trial trenching report and states in a footnote<sup>24</sup> that the *'phraseology is substantially unchanged from the earliest draft'* meaning v.3 of the report<sup>25</sup>. The extract in HB 2.1 appears as follows:

*"...No evidence for substantial structural remains was present, as has been seen in the main parts of the Roman town. Evidence from other extra-mural excavations at Magiovinium have shown the presence of timber buildings, including possible shops and inns, fronting onto Watling Street (Hunn et al 1995), and it is possible that a similar*

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<sup>18</sup> Appendix 1, 5.4.2.2, 38

<sup>19</sup> Appendix 2, table 7, 19

<sup>20</sup> CD A40, 53

<sup>21</sup> CD MK 2.3, Appendix 9, 6.13, 32

<sup>22</sup> CD MK 2.3, Appendix 7, 6.3.1, 27

<sup>23</sup> v.5, C.D. A40

<sup>24</sup> CD HB 2.1, footnote 41, 18

<sup>25</sup> CD A.35

*pattern is being replicated here, albeit on a smaller scale along a less significant thoroughfare.”* HB 2.1, 4.29, 18

3.4 The extract as presented in HB 2.1 omits this key passage after ‘Roman town...’:

*“... though the presence of ceramic building material [indicates/suggests?] that such structure[s] may be present beyond the limit of the excavated trenches.”* CD A40, 7, para. 7, 75

3.5 Though missing a word, the implication of this passage from both versions of the report is abundantly clear, that there may be substantial structures present within the Site and specifically Area 2 lying in the unexcavated areas between the trial trenches. The suggestion that the ‘*phraseology is substantially unchanged*’ between v.3 and v.5 of the trial trenching report is questionable, as the same extract in v.3 of the report begins:

**“Evidence for structural remains was present....”**

3.6 The addition of the word ‘No’ at the start of this sentence in v.5 of the report may not substantially change the *phraseology*, but it does substantially change the *meaning*. Nonetheless, the subsequently modified report<sup>26</sup> still contains the omitted passage above (3.4) and the following unambiguous statement emphasising the potential for substantial structures within the Site due to the presence of a significant quantity of brick and tile and despite the absence of direct evidence within the trenches:

*“This quantity of Roman tile and brick, found in over 30 separate contexts is **significant**. This amount of brick and tile is **not usual for an evaluation** and suggests that there are **Romanised building(s) in the vicinity of the evaluation trenches and close to the street** constructed with tiles and brick.”* CD A40, 6.2, para 3, 53

#### **4. Conclusions**

4.1 The quantity, quality and range of both Roman pottery and brick and tile recovered from the Site and Area 2 in particular is significant and contrasts markedly with the

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<sup>26</sup> CD A40

evidence from rural settlement sites of lower (local to regional) significance such as the Lathbury Roman farmstead, or sites peripheral to Magiovinium Roman town such as Eaton Leys.

- 4.2 That the above two comparator sites are characterised as possessing local to regional significance indicates that the evidence in the form of the non-designated heritage assets of archaeological interest in Area 2 of the Site is of higher significance, and should be characterised as being of high regional significance verging on national significance, thus meriting increased weight when considering the heritage impact caused by their total loss as a consequence of the Proposal in accordance with NPPF 197 and policy HE1 (F) as cited in the Archaeology reason for refusal<sup>27</sup>.
- 4.3 Taking into account the above new evidence I maintain that the Proposal is not compliant with the conservation objectives of the NPPF and NPPF paragraph 197 in particular, and also does not comply with the development plan policies set out in Plan:MK (C.D. E.1) HE1 (F), SD1 (A19) and SD14 (C9) and that consequently the Archaeology RfR is reinforced and I therefore respectfully suggest that the appeal should be refused.

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<sup>27</sup> 1. *The proposal, by reason of the total loss of non-designated heritage assets of archaeological interest, failure to ensure that consideration is given to the historic environment in informing the site layout and the quantum of development and failure to demonstrate that the benefits of the development clearly outweigh the harm, taking into account the assets significance and importance, would be unacceptable, contrary to NPPF policy 197 and Plan:MK policies HE1 (F), SD1 (A19) and SD14 (C9).* C.D. D1



## Appendices

### Appendix 1:

Extracts from: Edmondson, G, 2000, *Land to the North of Home Farm, Lathbury, Bucks – Archaeological Field Evaluation*, Bedfordshire County Archaeology Service report 2000/55

### Appendix 2:

Extracts from: Barker, J, 2020, *Land to the North and East of Northampton Road, Lathbury, Milton Keynes - Assessment of Archaeological Potential and Updated Project Design*, Albion Archaeology report 2019/125