**Notes of Mrs Sue Malleson’s submission to South Caldecotte Planning Inquiry**

I am still concerned about Brickhill Street crossing the railway - where the appellants propose to narrow the carriageway - which in itself is going to cause new problems - but where we know that eventually we’ll need a bridge.

Little information has been presented to this inquiry about a bridge however the Council apparently completed a study into it, but refused to release the information to the appellant. This is apparent from doc I.19.

Luckily you have it in the documents. The Network Rail drawing and the drawings supplied by Miles White – BB’s independent transport consultant – who did ramp calculations are in the 2nd iteration of the SPD at at G.5.

Point 4.1 - coloured drawing on pdf page 19 - shows the bridge drawn by Network Rail in 2015 and sent to MKC in 2015 showing a much large land take than the landing strip volunteered by the appellant.

Scroll to page 119 – colour image again –the extent of the length of the ramp required if a bridge were to be on the line of Brickhill Street.

Turning to the S106 agreement schedule 7 which contains the Community Contribution sum of two hundred and fifty thousand pounds (£250,000) for facilities at the Hazard Alley Safety Centre. I have now had time to brush up on the CIL tests and this allocation doesn’t meet any of them. It is not necessary to make the development acceptable, it has no direct relationship to the development – it’s 8 and a half miles away. I understand this allocation was made at the insistence of the developers and that both parties know it fails to meet regulation 122. IMO that is unacceptable.

I also think there are also questions over schedule 5 which proposes works mainly outside the parish in which the development is located. It contains no element of provision to calm or mitigate the increased traffic that will result, in the most problematic area, namely the residential ribbon development that is Bow Brickhill. I think the Council needs to revisit S106 document to ensure its compliance.

My next point is the matter of Plan:MK policies. The place-making principles are there for a reason yet the council’s evidence showed that the Council applies a matter of balance which policies it chooses to apply and which it disregards. When it comes to SD14 and the upgrading of Brickhill Street – or the lack of it – it appears that because the Council doesn’t think that the policy is needed for this development, they will just ignore it.   
  
True there is balance to consider, but when you have to ride roughshod over so many policies, the balance eventually doesn’t actually come down on the side of the development – it falls on the site of upholding the examined and adopted plan.

Regarding the council officers’ authority to negotiating this application without going back to its Development Control Committee. Although council officers do have delegated powers to decide the preferred method for dealing with appeals and their conduct, these are limited powers. The scheme of delegation does not allow a delegated decision to be taken where the development is likely to be of a controversial nature taking into account a number of factors, including the likely level of public interest. How this internal council matter relates to this inquiry, I’m not sure, but since Mr Wald raised it earlier, I have had a look at the scheme of delegation and I am of the opinion this new scheme must be referred back to the DCC.

Turning to the appellants conduct   
They have always known that there could potentially be major constraints to the development of this site. The fact of Magiovinium was always know especially in view of Neal’s previous excavations. Anyone can log onto lidar with their phone and take a guess at the extent of the Roman town - similarly a quick look at Google satellite images shows ridge and furrow on the site and that a significant area is farmed in entirely different manner from the rest. If you know this rural area in the slightest you can guess Area 2 will contain some interesting ecology. None of the importance of this area came as any surprise to the appellants.

They knew of the constraints all along and particularly once the archaeological research was completed. They knew they were facing considerable difficulty with their original development layout.

They could have negotiated with the Council to reduce the floor area of the development. It seems the council is happy to pick and choose which bits of its local plan it sticks to so that would clearly not have been a problem. And in any case, the whole point of doing the detailed archaeological and ecological research is to ensure that priceless assets in an area are not lost forever. This surely cannot be a situation which has not occurred time and time again for developers of such schemes.

But no, instead of negotiating with the council to build a smaller scheme that would respect the site’s character, taking into account area 2, they chose plough on with a planning application and as much floor area as possible. The council will have notified them that it was going to be refused, but the appellants went ahead. Another chance to modify the scheme was lost.

Then instead of taking another change to negotiate an acceptable scheme that might be acceptable to the council, the appellants launched an appeal.

On the first day they attempted to introduce new evidence – something called the BWB report. I don’t pretend to know what that was about. I don’t think we ever got to see it.

Next the appellants asked for a change in the programme. The following day they in effect resubmitted a new scheme. Those members of the public, like me, were left scrabbling for documents - that they didn’t know they didn’t have access to - until we started to try and find them.   
  
I make no criticism of you because I could see from my screen that navigating this process has been extremely complex for you. Indeed I consider you have been more than fair in first accepting the BWB report for later consideration, then accepting the programme change and after that admitting the new scheme for consideration.

That’s when the real confusion began. Thinking back I cannot recall when I was asking the council’s planning officer about how he reconciled placemaking policies in Plan:MK with the application, whether I prefaced my question with specifying which scheme I was talking about – the old or the new. Maybe you can. That is just one of the problems with the process as it has unfolded.

The appellants’ move, to blindside the council with a new scheme changed what was under consideration and now it is hard to work out what documents exactly still form the application – the old scheme or the new. What I’m saying here is that the presentation of such a considerable change in the middle of the appeal has muddied the water in terms of the evidence given.

I do not think this is accidental. I believe that the appellants have used the appeal process to negotiate their way to avoiding a refusal of planning permission. That should not be the purpose of a planning appeal. The appellants have had repeated opportunities to modify their proposals. But they took a gamble to test their concept at appeal and when they saw that their arguments didn’t hold water, they decided to design a new scheme overnight. All through these proceedings the appellants have been moving goalposts.

It is no criticism of you and it is all credit to you that you have allowed so much new information as admissible. You have been more than just and fair to all parties, including me.

Had the appellants simply removed those buildings that were destined to stand on Area 2 I don’t think it could be described as a different scheme. They could have done that and aimed for a lower floor area which I’m sure the council would have accepted particularly now that East MK urban extension is coming forward thanks to the HIF bid, with the employment sites that it will bring to MK,

But they haven’t done that. With this new scheme much is altered. Can it even accord with the design and access statement? I don’t know. If the scheme ever met Plan MK policy SD1, paras 4 & 7 - and I would dispute that it ever did - it certainly doesn’t now.

And then we have late papers with the proposed S106 only became available on Friday last to members of the public and I understand also to my Parish Council. Again just another aspect about which previously, members of the public have been in the dark.

The appellants have attempted to negotiate within this appeal process until grounds for refusal are overcome. According to the rules of such things I understand that is not allowed. I knew nothing about Wheatcroft until it was mentioned; I have now had time to research it and I am quite sure that the judgement applies in this case.

The appellants have not followed the accepted and authorised process, by their lack of flexibility in negotiations with the Council before submitting a planning application, and then launching an appeal, their late preparation for the case (the BWB report) and then their late change of mind and I would make the case to you that through this entire process they have had more than one chance to change their plans. To do so at this late stage has put you, the local authority and members of the public at severe disadvantage in a way that which is not acceptable.   
  
ENDS