



Town and Country Planning Act 1990

**Proposed development of Land at Buckingham Road, Tattenhoe Roundabout
Standing way to Bottledump Roundabout, Milton Keynes**

**Appeal against the refusal of planning permission LPA reference 15/00619/FUL
by South West Milton Keynes Consortium (SWMK)**

Planning Inspectorate Reference APP/Y0435/W/20/3252528

**PROOF OF EVIDENCE (PLANNING MATTERS) ON BEHALF OF MILTON
KEYNES COUNCIL**

Page intentionally left blank

CONTENTS

1. Summary	4
2. Qualifications and Experience	6
3. The Appeal Site and Surroundings	7
4. Main Issues and Scope of this Proof	8
5. Relevant Development Plan Policies	13
6. Assessment Against the Development Plan	18
7. Other Material Considerations	22
• National Planning Policy Framework (NPPF)	22
• National Planning Practice Guidance (NPPG)	24
• EIA Regulations	25
• Planning Obligations	25
• Benefits of the Appeal Scheme	27
• Disbenefits of the Appeal Scheme	33
8. Conclusion on Material Considerations	36
9. The Appellants Case	38
10. Planning Balance and Conclusion	40

1. SUMMARY

- 1.1 My name is Paul Keen. I am employed by Milton Keynes Council as an area Team Leader in Development Management and I am the Council's witness on planning matters in this appeal.
- 1.2 My evidence considers: planning matters not covered by the other witness for the Council; relevant planning policy; the relevant benefits and dis-benefits of the appeal proposal; and the planning balance.
- 1.3 This document supersedes my earlier Proof of Evidence, sent on 15th September 2020.
- 1.4 My evidence should be read together with the evidence of the Council's highways witness, Mr James McKechnie.
- 1.5 Mr McKechnie's evidence sets out why MKC was right to refuse planning permission for the appeal scheme. There was insufficient evidence before Members at determination, and the new 2020 Transport Assessment (TA) (CD10/H/A), and Travel Plan (TP) (CD10/H/B), which includes a mass of subsequent material provided by the appellant at various stages since its submission for the appeal. The appeal documentation has been updated by the Appellant in January 2021 with the submission of Transport Response Notes, 1 (September 2020), 2 (December 2020) & 3 (January 2021) and associated Road Safety Audits & Designers' Response; and an ES Addendum updating Chapters 10-12 inclusive (Traffic & Transport, Noise and Air Quality) of the Environmental Statement (June 2020).
- 1.6 The new 2020 TA identifies additional mitigation requirements whilst also predicting unacceptable safety effects and a severe residual operational impact resulting from the development being considered by BC.
- 1.7 As such my evidence demonstrates that:-
 - i) The relevant development plan policies are up-to-date.

- ii) Full weight should be given to the relevant development plan policies for the purpose of this appeal.
 - iii) The appeal proposal is not in accordance with the development plan and relevant national policy, as it would lead to a severe highway safety impacts.
- 1.8 My evidence examines the range of planning benefits and dis-benefits of the appeal proposal, and I set out the weight, which in my opinion should be applied to each element of these. In carrying out the planning balance exercise, I explain that with reference to the three overarching objectives/dimensions of sustainable development as set out in NPPF paragraph 8, I consider that the appeal proposal would not comprise sustainable development for the purposes of the NPPF.
- 1.9 Taking the above matters together, my evidence concludes that the appeal proposal is not in accordance with the development plan and the material considerations in this case do not indicate that planning permission should be granted. Therefore, the Council’s decision to refuse the application was justified and this appeal should be dismissed.
- 1.10 I have worked with the Appellants planning witness to draft a Statement of Common Ground (SoCG) (CD19/E) which was provided to the Inspector on 1st April 2021.

2. Qualifications and Experience

- 2.1 My name is Paul Keen. I hold a Royal Town Planning Institute accredited Masters degree in Town Planning Policy and Practice from London South Bank University I am a Chartered Member of the Royal Town Planning Institute.
- 2.2 I have around 16 years' experience in Town Planning with local planning authorities in England. I have extensive experience in dealing with major planning proposals and appearing at informal appeal hearings and public inquiries.
- 2.3 Since June 2018 I have been a Team Leader (previously known as Deputy Development Management Manager) at Milton Keynes Council, leading a team of Development Management officers dealing with a wide range of planning applications and appeals, and providing pre-application planning advice.
- 2.4 I was the case officer for the refused planning application which is subject of this appeal. I am therefore familiar with the surrounding area, the appeal site and the appeal proposal, and the respective relevant material considerations and I have visited the area and the appeal site on a number of occasions.
- 2.5 I confirm that the evidence which I have prepared and provided for this appeal is true to the best of my knowledge and belief and it has been prepared and is given in accordance with the guidance of the RTPI, my professional institution. I confirm that the opinions expressed are my true and professional opinions.

3. The Appeal Site and Surroundings

- 3.1 The description of the appeal site and surroundings has been set out in the agreed Planning SoCG (CD19/E) between the Milton Keynes Council (MKC) and the Appellant (section 2).
- 3.2 It was and is relevant and necessary to consider material contained in the Environmental Statement (which relates to the larger development in BC¹ as well - to which the access proposals relate) and the totality of potential impacts that might be relevant to the highway proposals in MKC. This is not least because the adequacy of access proposals the subject of this appeal needs to be assessed, in part, in light of the environmental effects of the proposals in BC.
- 3.3 MKC did not devolve its powers to consider the highway elements within its administrative boundaries to BC. The description of the appeal proposal sets out what elements are to be considered by both LPA's, as set out in paragraph 2.7 of the Planning SoCG (CD19/E). MKC and this appeal only consider the highway works and implications within MKC's administrative boundary. The appeal proposal does not therefore extend to consider matters under consideration by Buckinghamshire Council (BC). That is a matter of common ground between MKC and the appellant.
- 3.4 MKC's decision to not devolve its powers to Aylesbury and Vale District Council (AVDC) (now known as BC), and to retain jurisdiction over determination of the appeal scheme are set out in both the agreed Planning SoCG (CD19/E) and MKC's Statement of Case (SoC) (CD12/O).
- 3.5 It is not therefore considered necessary to duplicate these matters here.

4. Main Issues and Scope of this Proof

¹ Of which the current revised scheme does not have a resolution to grant planning permission

- 4.1 The planning application made to MKC was refused permission on the 7th November 2019 for a single reason on the Council's decision notice, as follows:-

“That in the opinion of the Local Planning Authority there is insufficient evidence to mitigate the harm of this development in terms of increased traffic flow and impact on the highway and Grid Road network, with specific reference to Standing Way and Buckingham Road, thus this will be in contravention of Policies CT1 and CT2 (A1) of Plan:MK.”

- 4.2 MKCs decision was based on entirely different material contained within the 2016 TA (CD2/E*) than was has been accepted by all parties being relevant to this appeal. The 2016 TA is superseded by the new 2020 Transport Assessment (TA) (CD10/H/A) and Travel Plan (TP) (CD10/H/B), which includes a mass of subsequent material provided by the appellant at various stages since submission for the appeal.

- 4.3 As indicated at the Inspector's pre-inquiry conference meeting held on 3rd September 2020 (and CMCs on 20th November 2020, and on 9th February 2021), and confirmed in the subsequent Inquiry Case Management Conference (CMC) Notes, the key issues relating to the appeal case are as follows:

- i) *The main issues have been agreed as relating to the effect of the proposed development on the flow of traffic and congestion on the highway and Grid Road network, and in particular Standing Way and Buckingham Road. Also, the relevant planning policies and planning balance will be examined, and the appellant will need to address any additional matters raised by interested parties.*

- 4.4 Within the scope of this, MKC's reason for refusal raises points about the sufficiency of the information submitted with the application to demonstrate adequate mitigation of the severe highway impacts related the development currently being considered by Buckinghamshire Council.

MKC maintains this in its assessment of the new 2020 TA (CD10/H/A). The new material was considered by the Council and its position initially reached as set out in (paragraphs 16 and 62 especially) MKCs Statement of Case (SoC) (CD12/O). That assessment on an extensively different and new evidence base (and subsequent material considerations), along with the expert advice of Mr McKechnie (CD12/M) has provided the basis for me to change my position to one of objection to the proposed development, and to review the new information that the Council had not previously considered when reaching its decision to refuse planning permission. This position is also set out in MKCs letter (MKC – New evidence from Appellant) on 18th September 2020 (CD12/Q). Through the passage of time, the now redundant 2016 TA (CD2/E*) is out of date and not relevant to the assessment of this appeal. It has been superseded by the new 2020 TA.

- 4.5 The main issues relate to proposals which are solely within the administrative boundary of MKC, as agreed in the Statement of Common Ground between MKC and the Appellant. It is a matter of common ground that the description of development (as outlined in MKC's decision notice) is as follows:

Outline planning application for physical improvements to the Bottledump roundabouts and a new access onto the A421 (priority left in only) to accommodate the development of land in Aylesbury Vale District reference 15/00314/AOP (for Outline planning application with all matters reserved except for access for a mixed-use sustainable urban extension on land to the south west of Milton Keynes to provide up to 1,855 mixed tenure dwellings; an employment area (B1); a neighbourhood centre including retail (A1/A2/A3/A4/A5), community (D1/D2) and residential (C3) uses; a primary and a secondary school; a grid road reserve; multi-functional green space; a sustainable drainage system; and associated access, drainage and public transport infrastructure - EIA development).

- 4.6 For clarity, access is not a reserved matter for the appeal proposal (as is the case with proposed development within BC).
- 4.7 The appellants appeal submissions originally set out a revision which removed mitigation works to the Bottledump Roundabout. Further revisions in Transport Response Note 3 (TRN3) (CD16/C) submitted in January 2021 have since confirmed that mitigation works are now proposed at this junction.
- 4.8 The revised application being considered at Buckinghamshire Council (BC) also now includes 60 extra care units, and the description of that development has been amended accordingly.
- 4.9 My evidence should be read alongside the evidence presented by Mr McKechnie on matters relating to highway impact. His proof, as does my own, focusses only on matters within the administrative area of MKC. The evidence base for that assessment is the new 2020 TA (CD10/H/A) and not the 2016 TA (CD2/E*) on which MKC originally based its decision on. It is a matter of common ground that the new 2020 TA supersedes the 2016 TA (paragraph 4.12 – Planning SoCG). It is important to note that MKC considers the new 2020 TA to be a totally new analysis of the highway impacts associated with the development within BC, which is based on new data and a different model approach. MKCs position in relation to the submission of the new evidence base in the 2020 TA was set out in its Statement of Case, and as set out in MKCs letter (MKC – New evidence from Appellant) on 18th September 2020 (CD12/Q).
- 4.10 Unusually, since submission of the appeal in May 2020, the Appellant has submitted a mass of extensive further evidence which supersedes elements of the 2020 TA. Again this is set out in MKCs letter (MKC – New evidence from Appellant) on 18th September 2020 (CD12/Q) and non-compliance with the guidance in the NPPG, but further to this, even more evidence was submitted by the Appellant in January 2021, and all comprising of the following:

Submitted January 2021

- Transport Response Note 3 (TRN3)
- Road Safety Audit (RSA) Brief for junctions within BC
- RSA Brief for junctions within MKC
- RSA and Designer's Response (DR) for junctions within MKC
- An Addendum Environmental Statement (ES) Chapters 10, 11 and 12, covering traffic and transport, air quality, and noise and vibration

Submitted December 2020

- Transport Response Note 2 (TRN2)

Submitted September 2020

- Transport Response Note 1 (TRN1)

4.11 Meetings were held between MKC and the appellant in July, August and September 2020, with the addition of regular correspondence and meetings between Hydrock (on behalf of MKC) and WSP (on behalf of the Appellant) following the submission of new evidence by the Appellant. A more detailed chronology of meetings and correspondence between Hydrock and WSP is set out in paragraph 1.4 of James McKechnie's Proof of Evidence (PoE) (CD12/M). This demonstrates extensive attempts to work through the issues with the Appellant. In addition to the unreasonableness of late information and insufficiency of the information provided, the chronology also demonstrates that there have been delays in MKC receiving information when it has been requested.

4.12 The scope of this proof is to review the above issues, identify the benefits and dis-benefits associated with the appeal proposal, consider the weight to be afforded to each and assesses the planning balance and whether

the proposal represents a sustainable form of development for the purposes of the NPPF. Taking all these matters into account I then reach an overall conclusion within the statutory framework of section 70 of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004.

5. Relevant Development Plan Policies

Plan:MK 2019

- 5.1 Paragraph 31 onwards in MKC’s Statement of Case (SoC) (CD12/O) sets out the policy context for the appeal case, as does the agreed Planning Statement of Common Ground (SoCG) (CD19/E). Plan:MK is up to date and the policies contained within it carry full weight.
- 5.2 The proposed development is contrary to policies referred to in the reasons for refusal include CT1 and CT2 of Plan:MK 2019 (CD/5). An analysis of these policies is provided below:
- 5.3 Policy CT1 (Sustainable Transport Network) – states that the Council will promote a sustainable pattern of development on Milton Keynes, to minimise the need to travel by and reducing dependence on the private car. Policy CT1 requires:
1. The promotion of a safe, efficient and convenient transport system.
 2. Promotion of transport choice, including coherent and direct cycling and walking networks to provide a genuine alternative to the car.
 3. Improved access to key locations and services by all modes of transport.
 4. Manage congestion and provide for consistent journey times.
 5. Promotion and improvement of safety, security and healthy lifestyles.
 6. Stakeholder engagement in relation to sustainable transport and economic growth.
 7. Engagement with the National Infrastructure Commission in relation to strategic connections, including rail improvements.
 8. Promotion of shared transport schemes in the borough.
- 5.4 Mr McKechnie’s evidence finds that the appeal proposal is not supported by robust evidence in relation to items 1 - 5 above, and as such, granting planning permission for the proposal would not accord with CT1. I agree with that conclusion. The new 2020 TA (CD10/H/A) indicates that the proposed development would result in severe operational impacts (queuing and delay) and unacceptable safety implications. MKC

maintains that the new 2020 TA is not supported by adequate information to demonstrate that the proposed mitigation would work in practice.

5.5 The Reason for refusal (RfR) specifically refers to Policy CT2 (A1) (Movement and Access), which states:

'A. Development proposals will be required to minimise the need to travel, promote opportunities for sustainable transport modes, improve accessibility to services and support the transition to a low carbon future. Development proposals will be permitted that:

1. Integrate into our existing sustainable transport networks and do not have an inappropriate impact on the operation, safety or accessibility to the local or strategic highway networks.'

5.6 Non-compliance of the proposal with the matters in Policy CT1 of Plan:MK mentioned above, and harmful impacts that would take place, also engage other policy concerns in relation to Policy CT2. These relate to requiring adequate highway mitigation of the development; and to provide safe, suitable and convenient access for all potential users, potentially prejudicing the ability of other developments to come forward; suitable onsite layouts; the avoidance of inappropriate traffic generation or compromised highway safety; maximum flexibility in the choice of travel modes; protection/enhancement of Public Rights of Way; provision of strong public transport links; and, where possible, the promotion of shared and low-carbon transport modes. Based on Mr McKechnie's evidence (CD12/M) and conclusions in relation to his assessment on the new 2020 TA and the extensive information submitted by the Appellant to update it, I consider that the appeal proposal fails to comply with these other policy objectives contained within Policy CT2 of Plan:MK.

5.7 Whilst the Council's RfR do not refer to Policies CT3, CT5, CT8 and SD15 of Plan:MK (CD/5), it is agreed in the Planning SoCG that these policies are relevant to this appeal. Given the mass of new and amended

information which has been submitted by the Appellant with the appeal, I also consider it reasonable to revisit how the proposal performs against these policies. A detailed analysis of these relevant Plan:MK policies is set out below:

5.8 Policy SD15, (Place Making Principles for Sustainable Urban Extensions in Adjacent Local Authorities) – Policy SD15 is relevant to the appeal proposal, and is a matter agreed in the agreed Planning SoCG between MKC and the Appellant (CD19/E).

5.9 I consider that the appeal scheme is not in compliance with SD15 of Plan:MK (CD/5), specifically point B.6 of the policy which states:

A. It is expected that development proposals on the edge of Milton Keynes are likely to have significant impacts upon the infrastructure and services of Milton Keynes, particularly given the significant attractor Milton Keynes will be for any future residents.

B. When and if development comes forward for an area on the edge of Milton Keynes which is wholly or partly within the administrative boundary of a neighbouring authority, this Council will put forward the following principles of development during the joint working on planning, design and implementation.....:

6. Technical work should be undertaken to fully assess the traffic impacts of the development on the road network within the city and nearby town and district centres and adjoining rural areas, and to identify necessary improvements to public transport and to the road network, including parking.

5.10 As set out in Mr McKechnie's evidence, the appeal would have a severe impact on the highway network, based on the new 2020 TA (CD10/H/A) and supporting information. It follows that the scheme is in conflict with

this policy. The appeal package has subsequently been updated on a number of occasions by the Appellant (with the appeal submission and later in 2020), but most recently in January 2021 with the submission of Transport Response Notes, 1 (September 2020), 2 (December 2020) & 3 (January 2021) and associated Road Safety Audits & Designers' Response. Despite the mass of new evidence submitted with the appeal by the Appellant, MKC cannot come to a different view on the matter as the policy specifically deals with traffic impacts which may occur as a result of cross boundary developments, namely, the development within BC. Mr James McKechnie's assessment of the 2020 TA (and all of the subsequent updates since the appeal was first lodged) concludes that there would be a severe highway impact as a result of the development within BC, and that the evidence submitted with the new 2020 TA lacks detail to demonstrate adequate mitigation. I agree with his conclusions.

- 5.11 Policy CT3 (Walking and Cycling) - states that the 'Council will support developments which enable people to access employment, essential services and community facilities by walking and cycling.' It also emphasises the need to provide '...convenient' and 'safe' pedestrian and cycling routes, and therefore has a similar emphasis as found in Policies CT1 and CT2. The appeal scheme is for highways access works and improvements to facilitate the wider development in the BC area. Mr McKechnie's evidence identifies issues in relation to walking, cycling and safety more generally, which have the potential to increase levels of car use related to the site. Policy CT3 is therefore relevant to the appeal proposal, and is a matter of agreement in the agreed Planning SoCG between MKC and the Appellant (CD19/E).
- 5.12 This policy also has relevance to any financial mitigation related to the provision of cycle parking at Bletchley Rail Station that may be required to mitigate against the impact of the development.
- 5.13 Policy CT5 (Public Transport) - states that 'development proposals must be designed to meet the needs of public transport operators and users.' It

provides a similar emphasis as Policy CT1 and CT2 of Plan:MK, in terms of ensuring road layouts must include direct, convenient and safe public transport routes, as well as good public access to bus stops. Given that the appellant's evidence indicates severe operational issues, these impacts and lack of information to demonstrate adequate mitigation, would also have a direct impact on the movement of public transport vehicles on the local highway network. Policy CT5 is therefore relevant to the appeal proposal, and is a matter agreed in the agreed Planning SoCG between MKC and the Appellant (CD19/E).

5.14 Policy CT8 (Grid Road Network) – This policy predominantly deals with road pattern of new developments which are a ‘unique’ characteristic of Milton Keynes, so has less relevance to this appeal as it deals with changes and impacts to existing routes.

5.15 I have reviewed these policies and in particular their relevant parts in relation to this appeal in the context of NPPF paragraph 213, and I have found that they are consistent with the policies and provisions in the corresponding chapters of the NPPF. Accordingly, I consider that the relevant development plan policies CT1, CT2 and SD15 should be given full weight.

6. Assessment Against the Development Plan

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Section 70(2) of the Town and Country Planning Act 1990 requires that in the determination of a planning application consideration should be had to the development plan, so far as material to the application, and to any other material considerations. Also NPPF (CD8) paragraph 12 makes clear that *“the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making”*. It is the starting point for determining this appeal. Plan:MK (and specifically the relevant policies mentioned above) is up to date and therefore full weight can be afforded to the policies contained within.
- 6.2 The relevant Development Plan policies in this case are Plan:MK (2019) (CD5) policies CT1 and CT2(A1), as outlined in the Council’s reasons for refusal, and policy SD15 which in part requires an assessment on traffic impacts as a result of cross boundary applications.
- 6.3 The LPA’s highways witness, Mr McKechnie, sets out the Council’s case in detail in his Proof of Evidence (PoE) (CD12/M) of why the development being considered by BC will have a severe negative impact on the local highway network, and would lead to unacceptable harm. The evidence submitted with the appeal and subsequent updates, is insufficient and does not demonstrate how any harm identified in the new 2020 TA (CD10/H/A) could be successfully mitigated against.
- 6.4 Mr McKechnie’s evidence finds that the new 2020 TA (CD10/H/A) indicates that the proposed development would result in severe operational impacts (queuing and delay) and unacceptable safety implications. The new TA demonstrates that sustainable transport modes (buses in particular) would be impacted by the scheme, which would not

provide safe and suitable access for all users. The proposed mitigation would leave a severe residual cumulative impact on the road network, and an unacceptable (unmitigated) impact on highway safety. The proposal would lead to a 'severe' or 'unacceptable' impact which is likely to result, contrary policies CT1 and CT2 (and SD15) of Plan:MK and to NPPF (CD5) paragraph 109.

- 6.5 It is unusual for the evidence base of a TA to be changed prior to an appeal, which is something more appropriate and expected under a new planning application. A new TA (CD10/H/A) has been submitted with the appeal, with new modelling when compared to the 2016 TA (CD2/E*) submitted with the application and assessed by interested parties. Even more unreasonable was for further information and evidence to be submitted by the Appellant after submission of the appeal, contrary to clear Planning Inspectorate guidance causing extensive and unnecessary work at the appeal stage. MKC have also been asked to comment on an example of a Highways Works Delivery Scheme, despite the fact that the suggested condition 10 in Appendix 1 of the agreed Planning SoCG (CD19/E) clearly imposing the need for details to be submitted and agreed. This further demonstrates the unreasonable procedural path the Appellant has followed, and wasted time and work in responding to such requests.
- 6.6 It is important to note that Buckinghamshire Council (BC) are still considering the new information under a live application they are assessing. MKC on the other hand, have been expected to unreasonably entertain the new evidence base under this appeal, which indicates and demonstrates a lack of sufficient detail at the appeal stage in my opinion. MKC did not object to the principle of the development, and acknowledges that the development in BC is an allocation in the AVDC Local Plan, despite its continued objection to that development on highway impact grounds (CD12/P).

- 6.7 Mr McKechnie’s evidence identifies gaps in the new TA’s evidence base where it would be expected to find adequate mitigation for the harm identified by the Appellant’s evidence. As set out in Mr James McKechnie’s PoE (paragraph 1.4.2), despite several requests for further information (in addition to significant delays in the provision of information that has been received), some information has not been forthcoming from the Appellant, and to date, concerns raised by MKC remain unaddressed in the latest submissions. Similar concerns and conclusions are made in the consultation response sent to BC on 12th April 2021 (CD12/P).
- 6.8 The missing or potentially inaccurate information relates to the proposed geometric designs which have been designed on Ordnance Survey mapping rather than on topographical surveys. This was raised in my original proof of evidence, as it puts the accuracy of the drawings in question. It has also come to light in Mr McKechnie’s assessment and evidence, that some of the proposed mitigation works lie outside of the application red line site boundary, as shown in figures 6.4 and 6.5 (Tattenhoe Roundabout – page 25) and figures 6.6 and 6.7 (Bottledump Roundabout – page 27) of his evidence (CD12/M). This is concerning given that access is not a reserved matter, and detailed drawings would usually be expected at the planning stage and with all proposed works to be included within the application red line boundary, when access is a matter of consideration. The Appellants submissions lack detail in terms of gaps within the 2020 TA evidence based and detail within the geometric designs, and puts into question the deliverability of the proposals.
- 6.9 Furthermore, Mr McKechnie’s evidence (CD12/M) sets out that there is insufficient implementation, financial and mitigation commitments which would enable the new Travel Plan (TP) (CD10/H/B) to be relied on as a mitigator of traffic demand. He concludes that the TP has some potential to create modal shift away from private motor vehicles, but is concerned that there are insufficient specific commitments in relation to its implementation. On that basis, he considers there are not any potential

benefits from the new TP within his analysis that can be relied upon. Given it cannot be relied upon, I agree with his conclusions on that basis.

6.10 Given the above assessment, the proposals fail to comply with Policies CT1, CT2, and SD15 of Plan:MK (2019) (CD5).

7. Other Material Considerations

7.1 National Planning Policy Framework (NPPF)

7.2 Whilst the Council maintains that Plan:MK (CD5) is up to date and therefore the relevant policies to this appeal can be afforded full weight, the NPPF provides further guidance to demonstrate consistency or provide the basis for a robust assessment, and is a material planning consideration. I adopt this approach in my consideration of the relevant parts of the NPPF (CD8).

7.3 The requirements of Policies CT1 and CT2 (and SD15) echo the guidance within paragraphs 102 which states that:

'Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:

a) the potential impacts of development on transport networks can be addressed;

b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;

c) opportunities to promote walking, cycling and public transport use are identified and pursued;

d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and,

e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.

7.4 And paragraph 108 of the NPPF (CD8) states that:

'In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users; and

c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.'

7.5 Although the relevant Plan:MK (CD5) policies require an assessment to determine impacts on the highway network and sustainable modes of transport, they do not specifically set out what the tests of acceptability should be. The tests of acceptability in transport terms are however set out at NPPF paragraph 109 which states:

'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'

7.6 Paragraph 110 of the NPPF requires that developments *'allow for the efficient delivery of goods, and access by service and emergency vehicles'*, and paragraph 111 requires that *'all developments that will generate significant amounts of movement should be required to provide a travel plan...and...transport assessment so that the likely impacts of the development can be assessed'*. The NPPF Glossary defines a Transport Assessment as a *'comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies measures required to improve accessibility and safety for all modes of*

travel...and measures that will be needed to deal with the anticipated transport impacts of the development’.

7.7 The LPA’s highways witness, Mr McKechnie, sets out the Council’s case of why we consider that the development being considered by BC will have a severe impact on the local highway network, and unacceptable impact on highway safety. Mr McKechnie’s (CD12/M) evidence finds that the new 2020 TA (CD10/H/A) indicates that the proposed development would result in severe operational impacts (queuing and delay) and unacceptable safety implications. He agrees with those findings, and that adequate mitigation is therefore required reduce the impact of the development to an acceptable degree. The new 2020 TA demonstrates that sustainable transport modes (buses in particular) would be impacted by the scheme, which would not provide safe and suitable access for all users. The proposed mitigation would leave a severe residual cumulative impact on the road network, and an unacceptable (unmitigated) impact on highway safety. The proposal would lead to a 'severe' impact on the highway network and an 'unacceptable' impact on highway safety is likely to result, contrary policies CT1 and CT2 (and SD15) of Plan:MK (CD5) and to NPPF (CD8) paragraphs 108,109.

7.8 Again, despite several requests for further information to demonstrate otherwise, some information has still not been forthcoming from the appellant to date. This further demonstrates that MKC was right to refuse planning permission. This being that there is insufficient information to determine that the proposed mitigation would be adequate to overcome the harm identified in the new 2020 TA, because what information has been supplied by the Appellant demonstrates severe impact and unacceptable harm.

7.9 **National Planning Practice Guidance (NPPG)**

7.10 Section 2.3 of Mr McKechnie’s evidence sets out how the NPPG provides guidance of Travel Plans (TP) and Transport Assessments (TA), and the

requirements for them. Given his conclusions on how the TA performs against the requirements of the NPPF, it follows that the new TA fails to meet the with the requirements of the NPPG. I agree with this these conclusions.

7.11 EIA Regulations

7.12 It is the Appellant's assertion (paragraphs 8.3.34; 8.3.46; 8.3.54; and 8.3.62 of the new 2020 TA) that the predicted negative impacts (congestion) in the new 2020 TA (CD10/H/A) will not take place because people will reroute elsewhere on the highway network. Notwithstanding the fact that it is likely negative impacts (congestion) would need to have taken place before people would make a decision to reroute in the first instance, section 7.4 of Mr McKechnie's evidence (CD12/M) also outlines concerns that diverted traffic does not currently form the basis of the ES on highway impact in any case. I agree that such an assessment needs to be contained within the ES.

7.13 Mr McKechnie evidence also concerns with the Appellants suggestion that MKC should utilise its MKMMM strategic model to review the wider impacts of the scheme is contrary to the EIA regulations. I agree with this conclusion also, as it would be a different model base for assessment compared with what is currently contained within the ES.

7.14 Planning Obligations

7.15 It is understood that the current draft S106 agreement (CD10/K) for the development within BC currently includes the following obligations relevant to the impacts within MKC:

- Community infrastructure (Hospital - £1,990,057) contributions for Milton Keynes which have been agreed between MKC and the Appellant.

- A contribution of £25,000 towards enhanced cycle parking provision at Bletchley Station

7.16 The hospital contribution and the contribution towards enhanced cycle parking provision at Bletchley Station are welcome, and necessary to mitigate against the impacts of the development within MKC. As MKC is effectively a consultee to the development in BC and the fact that the development is not within MKC's administrative boundary, it is content in not being party to the S106 agreement on these matters as the appropriate mechanisms have been put in place in the S106 agreement to ensure these contributions are delivered to MKC.

7.17 Previously the draft S106 agreement also contained provisions towards the highway mitigation works required to the MKC highway network. However, those proposed highway mitigation contribution sums related to the previously assessed highways mitigation measures, relevant to the works required to be carried out within MKC's administrative boundary. However, given the current proposals in the new 2020 TA (CD10/H/A) the previously assessed sums do not reflect the current highways mitigation measures required. Furthermore, there appears to be a lack of progress on the BC application, which includes the s106 agreement and they will not have determined their application at the time of this appeal inquiry. MKC needs to be satisfied that the highway mitigation works required to the MKC highway network are secured at this appeal, without having to wait for the determination of the BC application. This is not a *volte face* on the part of MKC as suggested in the Appellant's costs application to PINs dated 3rd November 2020, but rather the need to provide certainty over the highway mitigation works as part of this appeal.

There has been a lack of progress with the application being considered by BC, As such, there have been discussions between MKC and the Appellant, and it has been agreed between the two parties, as set out in the Planning SoCG (CD19/E) that the most appropriate means to secure the highway mitigation works required in the administrative boundary of

MKC should be through a Grampian condition, which will as a result, require a section 278 agreement under the Highways Act to be entered into between MKC's highways authority and the Appellant. A condition has been agreed to that effect, and is set out in Appendix 1 (condition 10) of the Planning SoCG between MKC and the Appellant (CD19/E).

7.18 **Benefits of the Appeal Scheme**

7.19 Paragraph 7 of the NPPF defines the purpose of the planning system, which is to '*contribute to the achievement of sustainable development*', which is summarised as '*meeting the needs of the present without compromising the ability of future generations to meet their own needs*'.

7.20 Paragraph 8 of the NPPF identifies three overarching objectives and linked strands to sustainable development – economic, social and environmental objectives.

7.21 It is acknowledged that the development subject to this appeal is to facilitate the mixed used development within BC's administrative boundary. Notwithstanding the fact that MKC has raised an objection to the development being considered by BC (most recently to BC on 12th April 2021 – CD12/P), I also acknowledge the planning benefits put forward by the appellant in their statement of case, and I will deal with each of them below:

7.22 Social

- *Boost the supply of land for housing and provide high quality market and affordable housing on the edge of Milton Keynes;*

Although not within MKC and would not contribute to MKC's own housing supply, the neighbouring development in BC would provide social benefits

in the form of new housing (both market and affordable), particularly given that the site is allocated in part for those purposes.

I consider that significant weight can be afforded to this benefit.

- *Deliver up to 557 affordable dwellings, which equates to 30% of the total housing provision;*

Again, whilst not within MKC and not contributing to MKC's own affordable housing targets, there would be a clear social benefit of this part of the proposed development in BC, where I consider that significant weight can also be afforded to this benefit.

- *Generate additional funding from the New Homes Bonus;*

Whilst this might be a benefit to BC and the wider development could contribute to towards them achieving this, in my opinion it is not a unique planning benefit which can be afford more than limited weight.

- *Generate additional Council Tax and Business Rates which would directly enhance the future finances of the local authority.*

Apart from such funds generally being used to mitigate or facilitate occupants and services within BC, again, whilst this could be a benefit to BC, it is not uniquely planning related. Limited weight can be afforded to this in my opinion.

- *Provide a wide range of community and recreation facilities, including a local park and district park, formal sports pitches, tennis courts, games area, a skateboard park, children's play areas and allotments;*

These elements of the development being considered by BC are predominantly to mitigate or facilitate the housing part of the development. Although it is acknowledged that other residents not occupied in the new development may use these facilities, they are to ensure that the

development is policy compliant to meet the needs of future occupants. Limited weight can therefore be afforded to this benefit.

- *Provide a neighbourhood centre with retail and community facilities; and*

As above, this is to ensure that the development is policy compliant to meet the needs of future occupants and development as a whole. Limited weight can therefore be afforded to this benefit.

- *Provide land and funding for a primary school and secondary school.*

As above, this is to ensure that the development is policy compliant to meet the needs of future occupants and development as a whole. Limited weight can therefore be afforded to this benefit.

7.23 Environmental

- *Provide substantial areas of Green Infrastructure which include new habitats of native broadleaved woodland, species-rich grassland and wetland to enhance wildlife;*

Clearly this is a benefit in environmental terms, but it is unclear whether this has been put forward as part of the development to ensure policy compliance or to mitigate against the impact of the development, or if it goes above and beyond this. As such I attach only limited weight to this matter.

- *Provide additional strategic landscaping, woodland planting, green infrastructure and open space to enhance the surrounding landscape;*

As above, without any other evidence or justification, this is likely to be a requirement to mitigate against the visual impact of the development and to render the development acceptable in planning terms. I attach only limited weight to this matter.

- *Promote sustainable forms of transport by including walking, cycling and public transport infrastructure and facilities, which connect to the existing networks in the surrounding area;*

This would be a requirement for any new development on greenfield land to ensure policy compliance, and is not a unique benefit of the development. I attach only limited weight to this matter.

- *Developing a Framework Travel Plan to effectively manage and promote walking and cycling strategies in to and around the Site;*

Again this is required to render the application acceptable in policy terms, and is not a unique benefit of the development. Furthermore, Mr McKechnie's evidence sets out that there is insufficient implementation, financial and mitigation commitments which would enable the Travel Plan to be relied up as a mitigator of traffic demand. As such, I do not currently consider this to be a benefit of the development at this time.

- *Reduce commuting by car which would have positive benefits for air quality;*

Presumably this also relates to the travel plan. Notwithstanding the fact that an increased amount of development where currently it is absent will lead to more emissions, I also arrive at the same conclusions here as mentioned directly above. I do not consider this to be a benefit of the development as a result.

- *Contribute towards traffic calming in Newton Longville to discourage rat-running and high-speed traffic;*

Newton Longville is situated outside the administrative boundary of MKC. This is proposed to mitigate against the impact of the development to

render the application acceptable if found to be so. This is not considered to be a benefit of the development as a result.

- *Provide Grid Road Reserve land for a possible extension of the grid road so in the long term a connection can be made from the A421 to the A4146, which would assist in removing through traffic (including HGVs) from local villages.*

It is unclear whether this has been put forward as an offer from the appellant or if this is to ensure policy compliance and a requirement to ensure the proposal is acceptable in planning terms. I give no weight to this matter.

7.24 Economic

- *Provide employment opportunities during the construction phase;*

Whilst the benefits in terms of job creation (including for MKC residents) clearly has potential for the short term, knowing whether development of the quantum proposed will benefit local tradesmen and suppliers, is difficult. As such, it is considered that limited weight can reasonably be attributed to the job creation associated with the construction phase of the development. It will not be a long-term benefit of the development in any event.

- *Deliver employment opportunities at the employment area neighbourhood centre, and schools;*

Although not within MKC, delivery of the development would no doubt contribute in part to the delivery of AVDC's (BC) local plan objectives in this regard. It is acknowledged that it would present potential employment opportunities for MKC residents. Moderate weight can be given to this benefit in my opinion, as to some extent the employment areas and

commercial elements would be to facilitate the population growth generated by the development or to fulfil the allocation within the AVDC local plan.

- *Provide employees for local businesses and services in Buckinghamshire and Milton Keynes;*

As above, some of the new residents of the development could take up employment at the proposed employment uses contained within the development itself, or elsewhere within BC or MKC. I acknowledge that increased population provides confidence and potential inward investment if businesses have a competitive local labour market. I afford this limited to moderate weight in my opinion.

- *Support local businesses, services and facilities through additional expenditure of future residents;*

As above, it is agreed that future residents of the development would help support the local economy, whether in BC or MKC. As such, I attached limited to moderate weight to this.

- *Provide housing for employees of local businesses, services and facilities; and,*

This has been covered above in terms the local labour market, and therefore no further weight is attached here.

- *Reduce commuting distances.*

This presumably also relates to the local labour market, and therefore no further weight is attached to it here also.

7.25 Having considered the above benefits put forward by the appellant, and the amount and mix of development proposed in BC, the appeal scheme would facilitate the delivery of AVDC's (BC) local plan. Collectively the benefits are considered to be significant in my opinion.

7.26 **Disbenefits of the Appeal Scheme**

7.27 However, in accordance with the statutory s38(6) test and for the reasons set out in this Proof of Evidence, these material considerations are not considered to outweigh the conflict with the development plan, or adverse impacts associated with the development. The disbenefits are:

- *Severe impact on the highway network identified in the new TA, and lack of supporting information*

Mr McKechnie's evidence (CD12/M) and my own above, finds that the new 2020 TA (CD10/H/A) indicates that the proposed development would result in severe operational impacts (queuing and delay) and unacceptable safety implications. The new TA demonstrates that sustainable transport modes (buses in particular) would be impacted by the scheme, which would not provide safe and suitable access for all users. The proposed mitigation would leave a severe residual cumulative impact on the local road network, and an unacceptable (unmitigated) impact on highway safety. The proposal would lead to a 'severe' or 'unacceptable' impact which is likely to result, contrary policies CT1 and CT2 (and SD15) of Plan:MK (CD5) and to NPPF (CD8) paragraphs 108 and 109.

Mr McKechnie's evidence also concludes that there is insufficient information within the new 2020 TA, where some of the information requested has not been received.

- *Inadequate information submitted in Travel Plan*

Mr McKechnie's evidence (CD12/M) sets out that there is insufficient implementation, financial and mitigation commitments which would enable the new Travel Plan (TP) (CD10/H/B) to be relied up as a mitigator of traffic demand. He concludes that the TP has some potential to create modal shift away from private motor vehicles, but he raises concerns that there are insufficient specific commitments in relation to its implementation. On that basis, he considers there is not any potential benefits from the new TP within his analysis. I agree with this conclusion.

- 7.28 I agree with Mr McKechnie's assessment, and I consider that substantial weight should be given to the negative highway network impacts as they would be severe and lead to unacceptable harm. The available evidence in the Appellants appeal submissions suggests this, and without a proper basis to assess the proposed mitigation, MKC has no basis to know how severe the social, environmental and economic impacts will be.
- 7.29 Notwithstanding this, the issues presented within the appellant's evidence do indicate that the scheme would have unacceptable economic, social and environmental impacts, meaning that it fails to achieve the NPPF definition of sustainable development. Although not necessarily limited to, below are some likely impacts resulting from the proposed development without adequate mitigation, in my opinion:
- 7.30 Social – Delays in travel time and associated stress and inconvenience; public health implications; either direct highway safety impacts (as shown on the proposed physical mitigation) or increased likelihood of crashes as a result of congestion, and the overall consequences of any road traffic incidents. Higher fuel costs for private motor vehicles.
- 7.31 Environmental – Air quality (through increased fuel consumption), health, and visual impacts from stationary or rerouted traffic; rerouted congestion elsewhere into the countryside or other towns and villages.

- 7.32 Economic – Delays to travel times (to work, freight movement, to schools, to appointments for example) and associated impact on economic productivity and costs of goods and services; safety aspects leading to further congestion if an incident occurs; risks to inward investment and economic growth. Higher fuel costs for commercial and private motor vehicles.
- 7.33 The majority of the harm identified in the 2020 TA would be felt within the administrative boundary of MKC, and therefore in conflict with policies CT1, CT2 and SD15 of Plan:MK (CD/5).

8. Conclusion on Material Considerations

8.1 The appellant's case now sets aside the 2016 TA (CD2/E*) and focusses on the new 2020 TA (CD10/H/B). The above assessment outlines why the Council does not accept that the new TA addresses the reasons for refusal, and reaffirms therefore that the development is not in accordance with policies CT1 and CT2 (and SD15) of Plan:MK (CD5). Due to a lack of information, the new 2020 TA fails to demonstrate that any harm as result of the development can be successfully mitigated. Without this information, the Council (and the Inspector) cannot in my view properly assess the severity of any detrimental highway impacts in accordance with paragraph 109 of the NPPF (CD8). The insufficiency of evidence means that the development may have a 'severe' or 'unacceptable' transport impact, contrary to NPPF paragraph 109. Indeed on the available evidence it will do so, and as such, the new 2020 TA has failed to demonstrate or provide a basis for approval. Without a proper basis to assess the proposed mitigation, MKC has no alternative but to conclude that the proposal will have a severe social, environmental and economic impacts, particularly within MKC's boundary.

8.2 Although the Council does not raise an objection to other elements of the scheme subject to conditions (as set out in the agreed SoCG – CD12/E) and completion of the S106 agreement (being considered by BC) (CD10/K), I regard the proposals within MKC and subject to this appeal as failing to accord with the development plan (Plan:MK) when considered as a whole. NPPF paragraph 12 states:

“Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate the plan should not be followed”.

8.3 My assessment of the benefits and disbenefits of the appeal scheme above, set out why, in my opinion, the benefits (significant) of the proposal do not outweigh the disbenefits (substantial), and the development plan should be followed. Other material considerations do not exist to dictate otherwise. On the contrary, given that the principle of the development being considered by BC is not in question, this further emphasises that the substantial weight I have given to the severe impact and unacceptable harm identified, would not be in the interests of proper planning.

9. The Appellants Case

- 9.1 The appellants statement of case (SoC) includes extensive reference to the previous 2016 TA (CD2/E*), despite this now being superseded by the 2020 TA (CD10/H/B) which was submitted with this appeal (a matter of common ground). Reference is also made to the chronology of events leading up to the Council's decision, including that MKC officers had recommended the application for approval. A summary of these events is listed in the agreed Statement of Common Ground which has been provided for information purposes.
- 9.2 Although the majority of officer recommendations are agreed with, it is not abnormal either for a Council's planning committee to disagree with its officers recommendations. Furthermore, it is not abnormal for the LPA and decision maker to take into consideration third party representations. Indeed, it is required to do so by the Development Management Procedure Order 2015. Equally, it is up to the decision maker (in this case a panel of committee members) to attached appropriate weight where they see fit, based on the information and evidence before them.
- 9.3 It is therefore the decision of the Council which is relevant and not the recommendations given to the planning committee by its officers. Notwithstanding the fact that the recommendation to MKC committee was based on the now superseded 2016 TA (CD2/E*), the Council's committee were within their rights to disagree, to interpret the information before them and form their own view, and attached appropriate weight to other information before them.
- 9.4 Equally, whilst the Council would assume that any new TA (CD10/H/B) would form part of a new application, the appellant was within their rights to submit the appeal under consideration.
- 9.5 As case officer, I am able to come to a different view when new information has been submitted, and new material considerations are

made apparent. I am also able to rely on any subsequent fresh assessment and advice from experts on new material and findings.

9.6 But turning to the main issue, the Appellant’s statement of case (paragraph 5.16) asserts that there was no policy basis or empirical evidence to support the refusal in 2019. As is evidenced in Mr McKechnie’s evidence, the Council’s decision to refuse the application subject of this appeal was properly based on a lack of sufficient evidence provided by the appellant at that stage.

9.7 Most importantly, in considering the new 2020 TA (CD10/H/A), Mr McKechnie’s evidence (CD12/M) in relation to his assessment of the new TA, and the new Travel Plan, he concludes that the new TA identifies additional mitigation requirements whilst also predicting unacceptable safety effects and a severe residual operational impact, and a lack of evidence to come to a different view. I agree with his conclusions.

10. Planning Balance and Conclusion

- 10.1 Although significant weight can be attributed to the benefits of development proposed in BC's administrative boundary, substantial weight should be given to the negative highway network impacts as they would be severe. The appeal scheme is therefore contrary to both the up-to-date Development Plan (Plan:MK policies CT1, CT2 and SD15) and the NPPF in this regard.
- 10.2 Supported by the robust evidence put forward by Mr McKechnie, I consider that the dis-benefits of the development would, in planning terms, outweigh the benefits of the development. For these reasons I consider that the development is not supported by the provisions of paragraph 12 of the NPPF (CD8) in terms of material consideration dictating why the development plan should not be followed in this instance.
- 10.3 I therefore support the Council's decision to refuse planning permission, and respectfully request that the Inspector dismisses the appeal.