

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

Appeal against the refusal of planning permission reference 15/00619/FUL

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

OPENING STATEMENT ON BEHALF OF MILTON KEYNES COUNCIL

1. Milton Keynes Council (MKC) has considered the appeal proposal carefully and contend that the appeal should be dismissed. MKC has focussed, in particular, when it has considered the mass of new evidence produced by the Appellant since it made the appeal on the ‘main issue’ identified by the Inspector. This highlighted the effect of the proposed development on the flow of traffic and congestion on the highway and Grid Road network¹ as being of key importance.
2. That main issue requires, obviously, a clear understanding of the mitigation proposed to junctions and accesses as part of the material relied upon by the Appellant to justify the proposal in the context of applicable development plan and national policy.
3. The Decision notice dated the 15th November 2019 which refused the application that this appeal addresses related to a 2016 TA current at that stage². The suggestion by the Appellant that there was no basis to support the refusal has been robustly disposed of in the evidence MKC has produced. JM has demonstrated clearly³ that the Council

¹ Identified in the CMC notes from the 3.9.20 CMC

² CD 2/E – A TA produced by Mouchel and dated August 2016

³ See JM proof at p.8-9 especially

members were right to refuse the application at that stage on the basis of the insufficiency of information before them.

4. But the content of that earlier TA is of no relevance to the merits of this appeal as no one now seeks to suggest it is fit for purpose in light of current circumstances. It is now over 5 years old and is based on data which is considerably older.
5. The Appellant's case now entirely sets aside any reliance on the 2016 TA. The so called 'updated' TA which was produced in 2020⁴ was in fact a completely new analysis based on new data and a fundamentally different technical approach/methodology.
6. Insofar as MKC maintain the thrust of the objection contained in the refusal notice it has made it clear that it has reconsidered the position afresh in light of the new evidence now relied on by the Appellant. That has not been an easy task. Given the mass of new evidence and assessments produced during the course of the appeal process by the Appellant MKC has had to undertake numerous assessments that has necessitated a huge amount of additional work. It has set out its position and the basis upon which it objects in the context of this appeal (which has necessarily had to adapt to the changing position of the Appellant) clearly in the statement of case⁵, earlier proofs⁶, the subsequent proofs and in numerous meetings and written communications with the Appellant and other parties.
7. Indeed, even the 'new' TA (2020) relied upon by the Appellant when it made this appeal [CD10/H/A] has apparently now been superseded in large part by TRN 1-3⁷. The

⁴ CD10/H/A

⁵ CD12/O

⁶ CD12/M

⁷ CD16/A-C

technical evidence has reached a stage where it now requires a colour coded ‘*directory*’⁸ which reveals the extent to which large parts of the 2020 TA has – during this appeal process – been ‘*superseded*’ and replaced by new material, identifying new mitigation proposals directly relevant to the main issue this inquiry needs to consider.

8. Indeed, much of the material provided after the making of this appeal (for example in TRN1 which superseded parts of the 2020 TA that accompanied the appeal) has now itself been replaced by further material upon which the Appellant seeks to rely with further new mitigation proposals. TRN3 for example was only provided at the end of January 2021. It makes a number of material changes to the proposed mitigation which were not in the 2020 TA. Regrettably, even at the proof and rebuttal stage in the last few days MKC and other parties have received new evidence directly relevant to key issues. Some of this very late evidence has enabled the resolution of a number of issues which we will explain in our evidence to this inquiry.
9. The context of this appeal is obviously important. The appeal proposals are in essence for highway works and related mitigation proposals that seek to facilitate access to a much larger development proposal - the subject of a distinct planning application being dealt with by BC⁹. MKC support the principle of the larger development and the benefits it would bring. But it considers it crucial that such a proposal is delivered in a way that is sustainable. In the context of what is proposed by the Appellant in terms of highways access and mitigation in MKC this is plainly not the case.

⁸ MJ2

⁹ 15/00314/AOP

10. The adequacy of the access proposals in this appeal need to be assessed, in part, in light of the environmental effects of the proposal in BC. This appeal needs to focus to that extent on relevant highway works and implications of traffic within MKC's boundaries.
11. As amendments have been made to the BC application and in light of the mass of new highways evidence recently received BC, it appears, is not in a position to confirm they are satisfied the appeal proposal is acceptable. The BC position at this inquiry (it offers up officers views rather than a view of the Council) is another (I put it neutrally at this stage) unusual feature of this inquiry. But relevant members of the public and Council members and others will not have had time to assess the implications of the latest mitigation.
12. It is in any event clear to MKC that the proposals as they stand are unacceptable. The evidence relied upon by the Appellant remains insufficient. There remains a lack of suitable information to demonstrate that harm will be adequately mitigated. Further what now exists indicates in several instances unacceptable safety effects and a severe residual operational impact contrary to development plan and national policy. In opening I only summarise briefly some of the key issues that the evidence from MKC will address.
13. As JM will explain in his evidence, the proposed mitigation works will leave a residual severe operational impact on the A421. This is a route identified in development plan policy as one of MKC's '*key strategic transport arteries*'¹⁰ which the plan identifies as requiring upgrades to support growth¹¹. Development proposals should be enabling and

¹⁰ CD5:Plan: MK 12.34, p.173

¹¹ CD5 at p.9 objective 12

ensuring the fast, efficient and safe movement of people and goods and reducing congestion so as to promote sustainable development.

14. Despite what appear to be suggestions to the contrary in the evidence of the Appellant we will explain that the development plan context in MKC neither predicts nor seeks to accept severe or unacceptable transport impacts from development proposals. Nor is it the case that a number of the schemes that the Appellant identifies in evidence and which are described in the MKC Transport Infrastructure Delivery Plan¹² assist the case it seeks to make. None of the schemes are ready to proceed and the impact of them in relation to the appeal scheme is simply unknown and is unassessed in the TA and subsequent TRNs and related ES chapters.

15. The evidence presented to the inquiry by the Appellant conflicts with the aims and policy of the development plan and related strategies. The latest evidence still predicts extensive queuing post mitigation as a consequence of development traffic and MKC disagrees with the way in which – it appears – the Appellant seeks to characterize such queuing as acceptable.

16. MKC submits that the development related queue increases¹³ would be significant and would cause interaction between junctions on a key strategic route. The identified impacts are incompatible with the development plan objectives and policy CT1 which aims to inter alia ‘*manage congestion and provide for consistent journey times*’ and ‘*improve access*’.

¹² CD12/K

¹³ On, for example junctions 2, 15, 15, 17 & 18 as set out in TRN3

17. To the extent that the Appellant still appears to suggest that traffic would in reality divert onto alternative routes it is important to note that the Appellant has failed to provide any assessment of such rerouting and in that regard MKC further submit that the TA and related ES work is lacking.
18. A recent suggestion by the Appellant that MKC should or could take a view on the likely impact of the development rerouting using its own strategic modelling is, at best, strange – especially as the strategic model the Appellant appears to be referring to is not suitable for such purpose. The Appellant could and should have produced its own modelling in light of the results in the 2020 TA to assess the claimed redistribution. It has singularly failed to do so.
19. There are in addition a number of points relating to the design and layout of accesses (the A421 access and the Buckingham Road access) and junctions¹⁴ which MKC contend are not acceptable. These, no doubt, will be identified and discussed in the proposed round table session.
20. At this planning stage MKC submit that the issue that the decision maker needs to be clear about is whether the proposals identify the nature and scale of the works in a way that demonstrates they are deliverable and safe. MKC through JM will explain that there are multiple points that, at the very least, require demonstration by the Appellant that they can be safely delivered. Some of the proposed designs are not fit for purpose at this stage and indicate unacceptable safety impacts. Such matters cannot be left to the s278 stage.

¹⁴ Junctions 1, 2, 5, 6, 12, 14, 15, 16, 17 & 18 as numbered in TRN3

21. In light of such matters MKC contend that the proposals before the inquiry conflict with CT1, CT2 and SD15 as is explained in evidence by JM and PK. There would also be conflict with the NPPF (paragraphs 7-8, 102, 108 & 109). The proposals would not provide safe and secure access for all users and would leave a severe residual cumulative impact on the road network and an unacceptable impact on highway safety. As a result of the proposals there would obvious social, economic and environmental impacts that make the appeal proposals unsustainable.
22. MKC has considered the overall planning balance carefully. In light of the evidence demonstrating severe residual impacts and issues relating to safety that are plainly unacceptable it considers that the appeal should be dismissed.

Tom Cosgrove QC
Counsel for MKC

11th May 2021