

APPEAL UPDATE FOR SECOND QUARTER OF 2020-21

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1.0 INTRODUCTION

1.1 The report sets out a summary of key planning appeal results received in the second quarter of 2020-21 plus the first half of October 2020.

2.0 APPEALS UPDATE**2.1 Appeal Decisions**

During the past quarter the Planning Service has received the following appeals decisions of note:

19/01818/OUT- Land at Brickhill Street, South Caldecotte

Planning permission was refused by the Development Control Committee (DCC) on the 6th February 2020 for the development of the site for B2/B8 uses. The appeal was dealt with by a Public Inquiry between 24th August and 7th September 2020.

The appeal was allowed on 14th October 2020 and outline planning permission granted for the development of the site for employment uses, comprising of warehousing and distribution (Class B8) floorspace (including mezzanine floors) with ancillary Class E office space, general industrial (Class B2) floorspace (including mezzanine floors) with ancillary Class E office space, a small standalone office (Class E) and small café (Class E) to serve the development; car and HGV parking areas, with earthworks, drainage and attenuation features and other associated infrastructure, a new primary access off Brickhill Street, alterations to Brickhill Street and provision of Grid Road reserve to Brickhill Street.

Further work on highways impacts and mitigation measures was carried out before the Inquiry. A package of transport measures was substantially agreed between the Council and the appellant (subject to one outstanding matter which is discussed further below). The Council was satisfied that these measures could be secured through conditions and a s106 Agreement. Accordingly, reason for refusal (3) was not pursued. Having reviewed further modelling and suggested mitigation works in respect of the Kelly's Kitchen roundabout, Highways England indicated that planning permission could now be granted subject to appropriate conditions.

During the Inquiry discussions continued between the Council and the appellant on archaeology and biodiversity. It was agreed that the archaeology contained within

part of the site (known as Area 2) could be preserved in situ by leaving this area as open space. In order to give effect to this agreement the appellant submitted a revised Parameters Plan1 and a revised Land Use Plan.

The inspector agreed with the Council and the appellant that the appeal be determined on the basis of these revised plans, submitting that the tests for such an amendment established in case law would be met, noting that the revisions fell within the original description of development and would not alter the substance of the proposal and the developable area and the development footprint would be reduced. The detailed relationship of new structures to the site boundaries and nearby development would be controlled at reserved matters stage (as they would have been in the original proposal). In order to avoid Area 2, the appellant had to reduce the floorspace, as shown on the revised masterplan, from 241,548sqm to 185,800sqm. The final amount of floorspace would depend on matters such as the requirements of individual occupiers, but is likely to be somewhere at or around the figure set in Plan:MK (Policy SD14 seeks the delivery of a minimum of 195,000sqm).

Along with further amendments to the Proposed Access Roundabout plan and updates to offsite highway works at Kelly's Kitchen roundabout. There was no material change to the capacity or highway geometry of the access proposals. The changes to the Land Use Plan had the effect of reducing some impacts on biodiversity and increasing opportunities for biodiversity enhancements on site. This led to a reduced requirement for offsite biodiversity enhancement which both the Council and the appellant agreed that appropriate offsite biodiversity enhancement could be secured through a s106 Agreement. Therefore, subject to suitably worded conditions and planning obligations the Council withdrew its objection and the appellant agreed to pay the LPA's costs given the lateness of these revisions. Appeal Allowed 14th October

19/02988/CLUP- Land North and West of Wavendon Business Park, Ortensia Drive, Milton Keynes, MK17 8LX.

DCC decision to refuse the Certificate of Lawful Development (Proposed) for implementation of planning permission 15/02337/OUT and reserved matters application 18/01304/REM without compliance with condition 14 (deed of easement). Planning Inspector concluded that the addition of a condition to the reserved matters permission was not lawful. The Inspector noted that any condition that would have modified the permission should only have been applied at outline stage, and additionally that it is unlikely that such a condition would be lawfully applied, given it relies on third party agreement to the deed of easement. Appeal Allowed 18th August 2020.

16/00672/OUT- Land North of Cranfield Road Woburn Sands.

DCC decision contrary to officer recommendation. Outline application (all matters reserved except access) for residential development up to 203 dwellings, doctor's surgery, open space, landscaping, pedestrian, cycle and vehicular access from Newport Road and Cranfield Road and supporting infrastructure. Inquiry/Call in. Appeal dismissed on the basis the Council can demonstrate a deliverable 5.9 year housing land supply. Appeal Dismissed 25th June 2020.

Ongoing Appeals

2.2 The Planning Service is currently dealing with the following appeals of note:

19/02134/FUL- Site 2, Elmswell Gate Milton Keynes MK17 8US

Erection of drive-through restaurant (Class A3/A5) and 87-bed hotel (Class C1), with associated parking and landscape. Application refused due to principle issues in that the sequential test was not submitted with the application, as well as the absence of a Biodiversity Impact Assessment Metric Calculation, Sustainability Statement and on the lack of agreed S106 contributions. Statement sent on 24th August 2020 and to be determined under written representations.

19/02444/REM- Land To The East of Maltings Field, Castlethorpe

Reserved Matters, for the erection of 31 dwellings, relating to appearance, landscaping, layout and scale in respect of Outline Approval 17/01536/OUT refused under delegated powers. To be determined by Hearing 27th October.

19/00124/FUL- 42 Portland Drive

This is a linked appeal relating to Enforcement Notice 4 and the retrospective planning permission refused by the Development Control Committee in July 2019. The Planning Inspectorate have identified that the Public Inquiry will need to be postponed to a later date 15th January 2021.

19/02771/FULMMA- 1 Yeomans Drive

Planning permission was sought for the variation of the following conditions 1 (Approved Plans), 12 (HGV Operating Hours) and 19 (External Lighting). The application was refused under delegated powers. A start letter has not been received, but the Inspector has confirmed that a Hearing appeal procedure has currently been chosen and the appellant has submitted their Statement of Case.

15/00619/FUL – South West Milton Keynes (Salden Chase)

Application refused by the Development Control Committee and the appeal will be considered at a Public Inquiry, which will open on 9th February 2021.

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).

Significant additional information has been submitted by the appellant during the appeal. This amounts to a new Transport Assessment and the Council has written to the Planning Inspector suggesting that the appeal should be withdrawn.