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## Appeal Decision

Inquiry held on 20 November 2018 and 25 February to 1 March 2019

Site visit made on 21 November 2018

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10<sup>th</sup> April 2019**

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**Appeal Ref: APP/K0235/W/18/3203051**

**Land off Clapham Road and Manton Lane, Bedford**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Rushmoor School against the decision of Bedford Borough Council.
  - The application Ref 16/00111/MAO, dated 15 January 2016, was refused by notice dated 9 January 2018.
  - The development proposed is the construction of school buildings; indoor tennis courts and pavilion building; outdoor tennis courts; and rugby pitches.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of school buildings; indoor tennis courts and pavilion building; outdoor tennis courts; and rugby pitches at land off Clapham Road and Manton Lane, Bedford in accordance with the terms of the application ref 16/00111/MAO, dated 15 January 2016, subject to the conditions set out in the attached schedule.

### Applications for Costs

2. Applications for costs were made by Bedford Borough Council against Rushmoor School and by Rushmoor School against Bedford Borough Council. These applications are the subject of separate Decisions.

### Preliminary Matters

3. The application was made in outline with all matters except access reserved for further approval. However, schematic proposals are shown in the Design and Access Statement submitted with the application and updated in two Site Parameters plans submitted with the appeal (drawing refs 31146-02-SK-01 and 31146-02-SK-02). I have treated the Site Parameters plans as indicative.
  4. Following the submission of the appeal, the appellant proposed an amendment to the scheme to allow pupils of the proposed school to be dropped off and picked up from the Manton Lane access as well as from Clapham Road as originally proposed. The amendment involves only minor physical changes to the Manton Lane access, but does alter the distribution of the trips generated by the development.
  5. The amendment has been the subject of consultation with those consulted on the original application. A number of respondents have expressed additional
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- concerns about the change, but they do not say that the amendment should not be considered.
6. The amendment does not alter the substance of the scheme and the Council and others have had the opportunity to comment on it. Therefore, I consider that it would not prejudice interested parties to consider the appeal on the basis of the amended access arrangements. The appellant confirmed at the Inquiry that it wished the appeal to consider both the original (single access) and the amended (dual access) options.
  7. Prior to the opening of the Inquiry the Council sought an adjournment to allow it time to properly consider the additional highways modelling used in the appellant's evidence. This request was also made in writing at the opening of the Inquiry. The appellant did not object to the adjournment, subject to conditions on the co-ordination of further evidence. I found that proceeding with the Inquiry on the basis of the evidence available at the opening could have led to procedural unfairness. The Inquiry was, therefore, adjourned to allow further evidence to be prepared and submitted by both parties.
  8. A scheme of highways works, known as the Northern Gateway Scheme (NGS), is proposed in the vicinity of the appeal site. The NGS forms part of a wider programme of highways works called Bedford 2020. The NGS is planned to be completed in two phases by August 2021. Amongst other things, the additional evidence includes updated assessments of the effect of the proposal with the NGS in place. However, the appellant confirmed at the Inquiry that it wished the appeal to be considered on the basis that both phases of the NGS would be completed before the proposed school opens. This has implications for the timing of the opening of the school which I deal with in the section on conditions below.
  9. The Council has expressed concern over the changes to the appellant's case over time. I deal with this in the costs decisions. However, the main appeal decision is based on the most up to date positions of the parties and the latest evidence.
  10. When the Inquiry reopened the Council confirmed that the additional evidence submitted in the adjournment overcomes the part of the reason for refusal relating to the adequacy of the information submitted with the application. I have framed the main issue having regard to the above matters.
  11. A revised version of the National Planning Policy Framework (the Framework) was published during the adjournment. The parties agreed that the revisions do not materially affect the considerations in this appeal.

### **Main Issue**

12. The main issue is the effect of the original and amended proposals on the performance of the surrounding highway network with the NGS in place, including the effect on pedestrian and highway safety of the Manton Lane pick up and drop off arrangement (the dual access option).

## Reasons

### *Background*

13. The proposal is to construct new school buildings and sports facilities. The school buildings would house the relocation of the existing Rushmoor boys school and St Andrews girls school in a single complex. The proposal would also allow the existing combined capacity of the schools to increase by some 110 pupils to a total of 670 pupils. The Site Parameters plans show the school buildings close to Manton Lane in the south-east part of the site. The sports facilities would be available to the school during school time and to others outside of school time. A Unilateral Undertaking (UU) to control the use of the facilities has been submitted.
14. The part of the site where the school buildings would be located is allocated for employment use under Policy AD16 of the Council's Allocations and Designations Local Plan 2013 (AD). It is common ground that the proposal conflicts with this land use allocation. I deal with this matter in the Planning Balance below. The Council also considers that the proposal conflicts with criteria v.(c) and (e) of Policy AD16 which require the impact on the Manton Lane/Brickhill Drive junction to be assessed and the possibility of cycleway provision along Manton Lane to be investigated.
15. Policy BE30 of the Bedford Borough Local Plan (LP) sets out considerations for new development. The Council considers that the proposal conflicts with criteria (iv) with regard to the additional traffic generated by the development in relation to highway capacity, (v) on provision for cyclists and pedestrians and (vi) regarding the suitability of the access arrangements to and within the development for all members of the community. Criterion (v) also refers to public transport provision. However, there is nothing to suggest that the proposal would be deficient in this regard.
16. Paragraph 109 of the Framework states that development should be prevented on highways grounds only if it would have an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe. There is nothing to suggest that the development plan policy criteria set out above are inconsistent with the Framework and the parties agree that paragraph 109 provides the appropriate test for considering highways impacts.
17. It is agreed that the part of the network to be assessed comprises the Paula Radcliffe Way roundabout (PRR), the Shakespeare Road roundabout (SRR), the Manton Lane/Brickhill Drive priority junction (MLBH) and the links between them. The NGS would signalise all the arms on the two roundabouts, except the Shakespeare Road arm of the SRR, replace the MLBH traffic signals and introduce new signals on the existing Bedford Modern School access.
18. Both parties have produced VISSIM microsimulation models<sup>1</sup> to assess the effects of the proposal on the highway network with the NGS in place. The models evolved in the period leading up to the reopening of the Inquiry and, indeed, further information was produced during the Inquiry<sup>2</sup>. As a result, the models are fairly closely aligned and there is broad agreement that their outputs provide a suitable basis for assessing the proposal. Both parties have used average delay times, queue lengths and latent demand as measures of the

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<sup>1</sup> Produced by TPA on behalf of the appellant and Systra on behalf of the Council

<sup>2</sup> See list of Inquiry Documents (IDs)

impacts of the proposal. I deal with the remaining differences over these measures and the model outputs below.

19. In terms of the impacts on the highway network, the Council's concern is that the proposal would significantly reduce the benefits of the NGS in easing congestion and improving the reliability of journey times across the network, thereby leading to a severe residual impact. Its objections relate primarily to the single access option in the afternoon peak and the dual access in the morning peak.

#### *Model Inputs and Outputs*

20. There is broad agreement that the highway network is currently congested at peak times, although differences remain as to when peak demand occurs, particularly in the morning period. The Council considers that the lower flows recorded on the A6 southbound in the 0800-0900 period are due to the queuing which has built up earlier in the morning and which consequently curtails flows through the network. It, therefore, contends that peak demand occurs around 0745-0850, and that this is significant because it coincides with the time most trips to the school would take place.
21. However, as the appellant points out, queuing on the A6 southbound currently dissipates before 0900. Moreover, since the proposal is being assessed on the basis that the NGS would be complete before the school opens, establishing when peak demand currently occurs is meaningful to the extent that it informs an understanding of how the network would operate with the NGS and the school traffic in place. I deal below with the effect on queuing of the signalisation of the roundabouts. The access to the Bedford Modern School (BMS) would also be improved as part of the NGS. This should reduce the blocking on Manton Lane which backs up to the SRR and, therefore, contributes to queuing on the other approaches to that roundabout, the A6 southbound and the PRR. As such, I consider that the relationship between flows and queuing on the network would be materially different at the time the school would come into use.
22. The appellant has identified differences in the models relating to the timing of signals, lane discipline on the approach to roundabouts, vehicle speeds on the roundabouts and traffic flows. Of these, the signal timings used has the greatest effect on the model outputs. The NGS bid documents submitted<sup>3</sup> confirm that the scheme would use the MOVA traffic signal control system. This allows the 'green time' of each signal to be adjusted at every timing cycle, based on actual queue lengths monitored by sensors in the road. The system would, therefore, operate to optimise queue lengths across the network.
23. The effect of MOVA cannot be replicated in the VISSIM models. The timings in the Systra model have been adjusted through a series of iterations, but a single signal timing length is still used for the whole of the peak period. The TPA model uses VISSIG software, which allows signal timings to be adjusted during the course of the peak period, but does not respond to actual queue lengths. Therefore, although the TPA model does not fully replicate the efficiencies in the performance of the network which could be expected through the use of MOVA, its outputs are likely to be more realistic than the Systra model.

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<sup>3</sup> ID29

24. The Council has expressed concern that using average driver delays across the network as a measure of congestion does not identify instances where longer delays would occur at particular times and locations. However, since MOVA would help to optimise queue lengths, it would act to even out delays across the network. Consequently, although the full effect of MOVA has not been modelled, it would tend to support the use of average delays across in the network, rather than focussing on the specific delays identified in the Systra model in particular.
25. The Council argues that the MOVA system will be operated subject to strategic objectives for the wider network, rather than to deal with the effects of traffic generated by the proposed school. Nevertheless, it was not suggested that the strategic objectives would preclude the system from dealing with the school traffic. Indeed, it would be reasonable to expect those objectives to encompass the effect of the school once it opened. Moreover, one of the queues which the Council is most concerned about, on Shakespeare Road, is within an Air Quality Management Area and the Council's NGS bid document specifically identifies the benefit of MOVA in improving air quality at this location. On this basis, I consider that it is appropriate to take MOVA into account.
26. The Systra model includes instances where poor lane discipline by drivers leads to vehicles backing up on the approach to roundabouts. I have no reason to doubt the contention of the Council's highways witness that this behaviour occurs on the roundabouts at present. However, the introduction of traffic signals and associated road markings and signage should lead to better lane discipline when the NGS is complete. It is agreed that reducing the lane indiscipline included in the Systra model would not lead to its assessment showing substantial improvements in the operation of the network. Nevertheless, I find that in this site specific circumstance the model would be likely to overstate the problems on the network for that reason.
27. The parties agree that the differences in vehicle speeds at the roundabouts and traffic flows used in the models do not have a significant effect on the outputs.
28. Surveys of parents at the existing schools was used to establish the travel demand generated by the new school. Amongst other things, it found that some 60% of car trips to the schools were linked to other journeys. The traffic flows used in the models do not take these trips into account and there is no firm information on the destinations of the linked trips. However, it would be reasonable to expect some of them to pass through the part of the network under assessment. Similarly, the effects of the proposed Travel Plan and the additional convenience of allowing school buses to drop off and pick up pupils within the school site, rather than on the highway, are not taken into account in the models.
29. At the time that the NGS was being designed a new settlement of some 4500 dwellings was allocated in the emerging Local Plan at Colworth to the north-west of Bedford. Whilst a railway station was planned as part of the scheme, the Council's bid document for the NGS indicates that traffic generated by the development was expected to pass through the assessed network. The new settlement allocation has subsequently been omitted from the emerging Local Plan. As such, the network will not now need to accommodate the traffic from that development which had been factored into the NGS. Although neither this, nor the effect of linked trips, the Travel Plan or bus travel to the school have

been quantified, they provide an additional measure of assurance about the outputs of the models.

#### *Impact of the Single Access Option*

30. The Council considers that the impact of the single access option would be greatest in the afternoon peak. Its model finds an average delay of 53 seconds across the network over the 1600-1800 period, with delays reaching 100 seconds between 1600-1630. The appellant puts the figures at 24 seconds and 40 seconds respectively. Based on all the available evidence regarding the differences between the models, I consider that the appellant's assessment of the average delays are likely to be more realistic. I have also found that MOVA should help to equalise delays across the network. Therefore, whilst the Council has pointed to TPA modelling showing increases of up to 72 seconds in average journey times<sup>4</sup> in the 1700-1800 period, other journey times are found to increase to a lesser extent. Nor do these figures take into account the full effect of MOVA.
31. The delays should also be seen in the context of the effect of the NGS on the current level of delays. The Systra model finds that the NGS would reduce weighted average delays in the PM peak from an existing figure of 130 seconds to 84 seconds<sup>5</sup>.
32. The Systra model finds that the single access option leads to additional queues of around 300m at a number of locations early in the PM peak period, although they dissipate by 1715. The TPA model finds that significant additional queues are confined to Manton Lane (240m at 1645-1700), Great Ouse Way and A6 Clapham Road(east) (around 150m at 1615-1630). It also shows a marked reduction in the Great Ouse Way queue length in the 1715-1730 period. I have already noted that the Systra model uses a single signal timing length for the whole peak period. This is likely to lead to a poorer predicted network performance, including queue lengths, than would be the case using the dynamic timings of the proposed MOVA system. Again, therefore, I consider that the results of the TPA model give greater consistency in relation to the effects of the MOVA system.
33. Both models show latent demand (for vehicles waiting to access the assessed network and, therefore, not recorded in the average delay and queuing figures) increasing towards the end of the PM period. The TPA model finds that, compared with the NGS base, additional latent demand with the single access option is less than 50 vehicles. Whilst the number of vehicles is greater in the Systra model, for the reasons set out above, I consider that this overstates the issue in this site-specific circumstance.

#### *Impact of the Dual Access Option*

34. The Council's main concern in this case is the morning peak period. The Systra model shows an additional average delay of 9 seconds over the 0645-0845 period, although this increases to around 30 seconds in the 0830-0845 period when most trips to the school could be expected. The TPA model shows a slightly greater average delay over the 0800-0900 period<sup>6</sup> and a slightly smaller delay in the period 0845-0900. The Council also refers to an extension of the

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<sup>4</sup> ID24 Inbound journey 1

<sup>5</sup> Kim Healy Further Addendum Proof Appendix I, tables 6 and 10

<sup>6</sup> ID31

morning peak period as a result of the dual access option. However, even at its worst, the increase in average delay is relatively small and would amount to waiting for a period of less than a single cycle of the traffic signals.

35. Both models show that the additional queuing in the morning peak is most acute at Shakespeare Road. The Systra model shows a queue length of 437m whereas the TPA model puts the figure at 203m in the period 0745-0800, reducing to around 125m at 0800-0815 and falling to shorter lengths thereafter<sup>7</sup>. Again, the difference is largely due to the differing approaches to traffic signal timings, although the TPA model also specifically allows more time for vehicles on Shakespeare Road to enter the roundabout from this unsignalized arm. TPA has also found that these adjustments can be made without significantly affecting the rest of the network<sup>8</sup>. The appellant also points to alternative routes available to commuters travelling into Bedford from the west to avoid queues in Shakespeare Road.
36. The dual access option does not have a significant effect on journey times across the network, with the exception of the Shakespeare Road to Brickhill Drive route<sup>9</sup>. I have already referred to the proposed changes to the BMS access in the NGS which should also help to alleviate pressure on Manton Lane, as well as the SRR, the A6 and the PRR.

#### *Conclusion on the Impact of the Proposals on the Highway Network*

37. I consider it appropriate to take into account the benefits of the MOVA signal control system in assessing the performance of the network with the NGS in place. The TPA model does so to a greater extent than the Systra model and, therefore, its outputs are likely to be more realistic. Nevertheless, the TPA results do show that both the single and dual access options would reduce the performance of the network somewhat. However, significant impacts are limited to specific locations and/or relatively short periods of time. Even where the proposal would result in some additional congestion, there is no substantive evidence to suggest that either the single or the dual access option would materially reduce the reliability of journey times across the network, which is one of the main aims of the NGS.
38. I am also mindful that a number of factors, including the full extent of the efficiencies offered by the MOVA system, the deletion of the Colworth new settlement allocation and an allowance for linked trips to the school, have not been taken into account in the modelling, but would add to the robustness of the outputs. I agree with the Council that the proposal should be considered in the context of its potential to erode the benefits of the NGS. However, I find that the cumulative residual impact on the network as a whole would not be severe in the case of either the single or the dual access option.
39. As such, the proposal would not conflict with LP Policy BE30(iv) or Framework paragraph 109 with regard to the operation of the network. Nor would it conflict with AD Policy AD16v(c) insofar as the impact on the Manton Lane/Brickhill Drive junction has been adequately assessed.

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<sup>7</sup> ID30

<sup>8</sup> ID10

<sup>9</sup> ID24

### *Highway Safety*

40. The reason for refusal was based on the single access option and does not refer to highway safety. Nevertheless, it is evident from the Council's consultation responses on the application that it was concerned about the introduction into Manton Lane of trips to the school. This road serves as an access to an industrial estate, including a range of office, industrial and some warehouse uses. It is, therefore, used regularly by heavy goods vehicles. It is also subject to on-street parking which restricts two-way movements along some sections of the road.
41. The single access option would limit vehicle entry to the school premises from Manton Lane to staff, deliveries and visitors to the sports facilities. At the time that the application was being considered the TPA model, therefore, assumed that only 5% of vehicular trips to the school would use the Manton Lane access. The TPA model for the dual access option assumes that vehicular trips to the school would be split evenly between the Manton Lane and Clapham Road accesses.
42. However, notwithstanding the Council's concerns about the use of this road, no means of preventing access to the school by pedestrians and cycles was established when the single access scheme was considered at the application stage. Nor was any means of preventing parents from dropping off pupils along Manton Lane agreed. Whilst the modelling shows far greater use of Manton Lane by vehicles in the dual access option. Compared with the single access option, the dual access does have the virtue that parents using Manton Lane would be able to drop off pupils and turn around within the school grounds. This would help to reduce turning movements and avoid pupils being dropped off in Manton Lane.
43. The Council argues that congestion along Manton Lane would, nevertheless, lead parents to drop off pupils before reaching the school. I consider that, given the distance between the proposed school access and the MLBH, it is unlikely that many parents would drop off pupils in areas to the south of Brickhill Road. With regard to Manton Lane, having turned into the road, parents would be more likely to take advantage of the opportunity to drop off and turn around within the school than to perform those manoeuvres within the highway where other, non-school, traffic would be present. Moreover, pupils could walk or cycle to the school along Manton Lane equally whether the single or dual access option was implemented.
44. For pupils arriving from the areas to the east of the school, the distance to the Clapham Road access would be considerably longer than that to the Manton Lane access. Certainly, for pupils walking or cycling therefore, the choice of route is likely to be most influenced by the direction from which they are travelling. Even in single access option, parents coming from the east of the school to drop off by car may be tempted to avoid the additional journey time incurred by using the Clapton Road access and drop off along Manton Lane instead. In the absence of drop off and turning facilities within the school, such behaviour would, if anything, lead to the highway safety concerns that the Council has expressed regarding the dual access option.
45. Moreover, the dual access option would allow parents to form their own judgement on whether or not to use, or allow their children to use, the Manton Lane access having regard to safety concerns. Therefore, I consider that, in



practice, the dual access option would not pose a greater risk to highway safety than the single access option. The extent of the Council's highway safety concern over the single access option did not lead to that concern forming part of the reason for refusal.

46. The proposal provides for the creation of a footpath and cycle link along Manton Lane from the school access to the junction with Brickhill Drive. Application drawing 1612-13 PL01 shows, indicatively, this link on the east side of the road, whereas AD Policy AD16v(a) indicates that a new footway should be on the west side of the road. Nevertheless, the link could be secured by condition and it was agreed at the Inquiry that its positioning could be the subject of further discussion. The proposal would, therefore, accord with AD Policy AD16v(e) insofar as the link has been investigated and could be delivered. Whilst the link would cross side roads and access points whichever side of the road it is placed, it would provide a segregated route for pedestrians and cyclists for the full length of Manton Lane.
47. The introduction of school movements along a road where industrial traffic predominates may be uncommon. However, it is not unusual for schools to be located in areas where the roads are busy and may accommodate a mix of residential, commercial and through traffic. Since Manton Lane is a cul de sac it does not carry through traffic. Nor has the Council identified specific highway safety risks or provided firm evidence to show that comparable arrangements elsewhere have a poor safety record. Conditions could be used to secure schemes for safe crossing points to the proposed access and for the management of parking along Manton Lane in the interests of highway safety.
48. Overall therefore, I find that neither the single or the dual access options would have an unacceptable impact on highway safety. Consequently, the proposal would not conflict with LP Policy BE30 (v) or (vi) or Framework paragraph 109 with regard to highway safety.

#### *Other Matters*

49. The construction of the proposed Clapham Road access and drop-off facility would result in the loss of an area of 'ridge and furrow' earthworks. The Heritage Statement submitted with the application finds that the area affected forms a relatively small part of a much larger block of earthworks. However, these works are included on the Historic Environment Record as a non-designated heritage asset.
50. Policy BE24 of the LP requires regard to be had to the need to protect, preserve or enhance sites of archaeological interest. Where preservation of such assets is not justified, Policy B25 requires impacts to be minimised and arrangements made for their recording. Framework paragraph 197 requires a balanced judgement to be made on the effect of the proposal on the significance of non-designated assets, having regard to the scale of any harm. The scale of the loss in this case would be fairly small and could be partially mitigated by the implementation of an archaeological mitigation strategy. I weigh the remaining loss against the benefits of the proposal in the Planning Balance below.
51. Concern has been expressed that the Council's opposition to the scheme was based on political ideological considerations. However, I have determined the appeal on its planning merits.

### *Planning Obligation*

52. A UU has been submitted which sets out the terms under which the proposed sports facilities would be made available to community groups. Framework paragraph 92 supports the provision of sports facilities to enhance the sustainability of communities. The UU provides a suitable means of ensuring that community groups have access to the facilities on reasonable terms and that the facilities can be satisfactorily shared by those groups and the school. Consequently, I find that the UU is necessary to make the development acceptable in planning terms, directly related to the development and fairly related in scale and kind. As such, it meets the tests at Regulation 122 of the Community Infrastructure Levy Regulations 2010 and I have taken it into account.

### *Conditions*

53. The Council produced a set of suggested conditions which were discussed at the Inquiry<sup>10</sup>. I have considered them having regard to the tests set out in the Planning Practice Guidance (PPG). Given my findings on the main issue, a condition to limit the proposal to the single access option is not necessary.
54. Two versions of a 'Grampian' condition to control the timing of the opening of the school were suggested<sup>11</sup>. The appellant's preferred version would allow the school to open in September 2021 or when the NGS has been fully completed, whichever is the sooner. The Council's preferred version would allow the school to open only once the NGS is fully completed. The programme for the NGS anticipates that it will be completed in August 2021. Much discussion took place regarding the factors contributing to the programme and the risk of a delay in the completion date. The Council considers that there is no reason to expect a delay, but that factors affecting the programme, including works to the Bromham Road railway bridge and the renewal of committed funding for the NGS, are beyond its control. The appellant argues that the allowance made in the programme for the completion of the Bromham Road bridge and other schemes in the Bedford 2020 project are overly cautious and that, if anything, the NGS could be completed before August 2021.
55. Bearing in mind these matters, I consider that there is no substantive reason to expect the NGS programme to be delayed. Nor do I share the appellant's concern that the Council may seek to manipulate the programme in order to frustrate the school proposal. Nevertheless, in order to allow some leeway, the appellant has suggested that the time limit for the submission of reserved matters should be 5 years, rather than the standard three years. The Council does not object to this change and, under the circumstances, I agree that it would be reasonable. The version of the Grampian condition suggested by the Council would, therefore, accord with the advice in the PPG that such conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission<sup>12</sup>.
56. Furthermore, I have been asked to determine the appeal on the basis of the completed NGS. Whilst the Council has produced an assessment based on existing traffic conditions, that has not been tested. Consequently, it would be

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<sup>10</sup> ID37

<sup>11</sup> ID29

<sup>12</sup> Paragraph reference 21a-009-20140306

unsafe to assume that the effects of the proposal on the highway network would be acceptable before the NGS is completed. I will, therefore impose the version of the Grampian condition suggested by the Council.

57. A condition specifying the approved drawings is necessary in the interests of certainty. For the avoidance of doubt, the approval does not extend to the footpath/cycleway along Manton Lane shown on drawing reference 16112-13 PL01. A condition requiring full details of the proposed accesses is required in the interests of highway safety.
58. As agreed at the Inquiry, I will impose an additional condition requiring the reserved matters to be in conformity with the submitted Site Parameters plans. This is necessary to ensure that the proposal accords with the submitted Landscape and Visual Impact Assessment and safeguards the character and appearance of the area. A condition to limit the proposed buildings to two storeys is necessary for the same reason.
59. Suggested conditions 6 (details of external materials) and 7 (boundary treatments) are not necessary as these details would be covered by the reserved matters submissions. However, conditions requiring details of the slab levels of the buildings and ground contours, a landscaping scheme, landscaping maintenance and tree protection are necessary to safeguard the character and appearance of the area. A condition to secure an external lighting scheme is necessary for that reason and to safeguard the bio-diversity of the site.
60. A condition to ensure that the proposed buildings comply with the BREEAM 'very good' standard is necessary in the interests of Framework and development plan policies for sustainable energy use.
61. A condition to secure the submission of a waste audit is required to ensure the sustainable treatment of waste from the development. This condition would cover the requirements of suggested condition 32 on bin storage and collection, which is, therefore, not necessary. The submitted Preliminary Ecological Appraisal<sup>13</sup> includes habit enhancement proposals. A condition to require full details and delivery of these measures is necessary in the interests of bio-diversity. The PEA finds that, whilst bats are not currently roosting on the site, it contains trees and buildings with potential for bat roosts. A condition requiring buildings and trees to be resurveyed two years from the updated PEA is, therefore, necessary.
62. I have already referred to the need for an archaeological mitigation strategy which could be secured by a condition. Conditions to secure the provision of surface and foul water drainage schemes are necessary in the interests of flood protection and public health respectively. Conditions to secure footpath links across the site from Clapham Road to the John Bunyan Trail and from Clapham Road to the new school buildings are required to support national and development plan sustainable travel and recreation objectives.
63. A condition requiring the use of the existing school sites to cease prior to the new school being brought into use is necessary in the interests of highway safety.
64. The Council has suggested a condition requiring the provision of bus stops and shelters on Clapham Road. However, there are existing bus stops fairly close to

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<sup>13</sup> AE9

the appeal site and footpaths to them. Consequently, I consider that additional provision is not necessary. I have already referred to the need for conditions to secure a footway/cycleway along Manton Lane, safe crossing points on Manton Lane and Clapham Road and parking management on Manton Lane Industrial Estate and Clapham Road. Having regard to my findings on the use of Manton Lane by parents dropping off pupils, I consider that it is not necessary to extend the parking management scheme to the area to the south of Brickhill Drive.

65. Conditions to secure vehicle and cycle parking provision, control the use of gates at the accesses, ensure that the accesses are properly surfaced and to require the provision and implementation of a Construction Management Plan are necessary in the interests of highway safety. A condition limiting the number of pupils enrolled at the school and preventing pre-school and nursery provision is necessary to define the scope of the permission and ensure that the assessed effects of the development are not exceeded.
66. A condition to secure the provision and implementation of a Travel Plan is necessary in the interests of sustainable travel.

### **Planning Balance and Conclusion**

67. I have found that the proposal would have a less than severe impact on the performance of the highway network and would be acceptable with regard to highway safety. It would not, therefore, conflict with Framework or development plan policies on these matters.
68. However, it would conflict with AD Policy AD16 to the extent that it allocates part of the appeal site for employment use. Policy CP11 of the Council's Core Strategy and Rural Issues Plan 2008 (CS) seeks to protect allocated employment land unless retention is unnecessary and specific community and environmental benefits can be demonstrated. I deal with the community benefits of the proposal below. However, there is no substantive evidence to suggest that the employment allocation is unnecessary and, therefore, the proposal also conflicts with Policy CP11.
69. Part of the site outside of the Policy AD16 allocation falls within the countryside for the purposes of CS Policy CP13. This policy states that development in the countryside will only be permitted if it is consistent with national policy. It has not been shown that the proposal is consistent with national policy on development in the countryside. To that extent, it conflicts with Policy CP13. However, the school buildings would be confined to the area allocated for employment use and conditions could be used to control their height. Built development on the remainder of the site would be limited to sport-related facilities. The Landscape and Visual Impact Assessment submitted with the application found that the proposal would not cause significant harm to the landscape or result in an unacceptable visual impact. Subject to the use of conditions to secure suitable building, landscaping and lighting design, the Council does not dispute that finding. I see no reason to disagree. As such, the proposal's conflict with CS Policy CP13 would be limited.
70. There was some disagreement at the Inquiry regarding the degree to which there are deficiencies in school provision in the vicinity of the appeal site. Nevertheless, Framework paragraph 94 strongly supports ensuring sufficient choice in school places and seeks a positive and proactive approach. Local

planning authorities should give great weight to the need to create, expand or alter schools in planning decisions.

71. Whilst the emerging Local Plan makes provision for education development within the town centre and as part of two residential allocations, the development plan makes no allocations for education development and has no policies specifically supporting this form of development.
72. It is common ground that the proposed school would add to the capacity of school provision. Further that its 'diamond model' of mixed and single sex classes would be innovative and add to the range of provision locally. It is also agreed that the schools to be relocated are currently constrained and cannot expand on their current sites. Furthermore, the relocation of the existing schools out of their built up and heavily trafficked locations would help to alleviate congestion and pollution in those areas. The Council also accepts that alternative sites for the relocation of the school have been adequately investigated and discounted.
73. Consequently, I find that there is strong national policy support for the provision of the proposed school. Moreover, there is nothing indicate that this provision would be delivered through development plan or emerging plan policies or on other sites. These factors weigh heavily in favour of the proposal.
74. The proposal would provide a range of sports facilities that would improve the range and quality of provision in the area and would be available to community groups. Again, this provision is supported by the Framework and weighs in favour of the proposal. The appeal site falls within a Green Infrastructure Opportunity Zone under AD Policy AD24. The proposal would support the aims of this policy by delivering a new footpath link from Clapham Road to the existing John Bunyan Trail as well as the opportunity to strengthen the landscape structure of the site. These matters support the proposal.
75. I have already referred to the use of a condition to ensure the delivery of the habitat enhancements set out in the submitted PEA. This approach is supported by Framework paragraph 175(d). The construction of the proposed school and the release of the existing school sites for redevelopment would have economic benefits in construction expenditure and job creation, albeit for a limited period.
76. In summary therefore, I find that the proposal would provide very significant social and environmental benefits as well as some economic benefits. I consider that those benefits outweigh the harm caused by the loss of the employment allocation and the conflict with AD Policy AD16 and CS Policy CP11. They also outweigh the limited harms resulting from development in the countryside under CS Policy CP13 and the loss of the ridge and furrow earthworks.
77. For the reasons set out above, I find that material considerations indicate that the appeal should be determined other than in accordance with the development plan, even when judged using an unweighted balance. It is not, therefore, necessary to consider whether the tilted balance under Framework paragraph 11(d) should be applied. Accordingly, the appeal should be allowed.

*Simon Warder*

INSPECTOR

## **Appearances**

### FOR THE COUNCIL

Robert Williams of Counsel, instructed by the Council's Solicitor

He called

Kim Healy BA(Hons) Team Leader, Highways Development Control,  
Bedford Borough Council

Greg Logan BA, MA, MRTPI Senior Planning Officer, Bedford Borough Council

### FOR THE APPELLANT

Christopher Young of Queen's Counsel, instructed by Al Morrow of  
Phillips Planning Services

He called

Julian Clarke MCIHT Director, Transport Planning Associates

David Spencer RIBA Associate Director, Broadway Malyan Architects

Al Morrow BA(Hons), MRTPI Associate, Phillips Planning Services

## **Additional Evidence submitted during the adjournment**

AE1. Highway Statement of Common Ground January 2019

AE2. Second Addendum Proof of Evidence by Kim Healy

AE3. Addendum Proof of Evidence by Julian Clarke

AE4. Systra Technical Note 'Response to TPA Comments' dated 23 January 2019

AE5. Systra Technical Note 'Response to TPA Models' dated 15 February 2019

AE6. Systra Technical Note 'Analysis of TPA Models' dated 21 February 2019

AE7. Queue Length Locations Plan

AE8. TPA Technical Note TN/08 dated February 2019

AE9. Middlemarch Environmental Preliminary Ecological Appraisal dated January  
2019

AE10. Site Parameters Plan ref 31146-02-SK-01 'Land Use and Buildings'

AE11. Site Parameters Plan ref 31146-02-SK-02 'Access and Connectivity'

## **Inquiry Documents**

ID1. Full set of representations on the proposed amendment to the scheme

ID2. Addendum Proof of Evidence by Kim Healy

ID3. Additional Statement by Kim Healy

ID4. Council's chronology of events leading up to the Inquiry

- ID5. Judgement in Suffolk Coastal District Council v Hopkins Homes Ltd and another Richborough Estates Partnership LLP and another v Cheshire East Borough Council
- ID6. Correspondence on the adjournment request
- ID7. Correspondence on the Northern Gateway Scheme submitted by the appellant
- ID8. Council's written request for an adjournment
- ID9. Paper copy of Queue Length Locations Plan
- ID10. Revised version of Table 6.1 of Technical Note TN/08
- ID11. Appellant's table 'Comparison of overall average delays'
- ID12. Council and appellant's suggested conditions restricting the opening of the school
- ID13. Council's application form for funding of the NGS
- ID14. Email correspondence dated 17 July 2018
- ID15. Extract from Network Rail website on the Bromham Road bridge scheme
- ID16. Photograph and map relating to the Bromham Road diversion
- ID17. Network Rail overview of the Bromham Road bridge scheme
- ID18. Systra Draft Technical Note 'Manton Lane Local Model Area Validation Report'
- ID19. Email from Darren Parker dated 27 February 2019
- ID20. Systra Technical Note 'Manton Lane Clarification Note'
- ID21. Appellant's table summarising the primary cases of the Council and the appellant
- ID22. Screenshot from Network Rail website on Bromham Road bridge construction
- ID23. Extracts showing extent of TPA and Systra VISSIM models
- ID24. Updates to Tables 5.3 and 5.3 of Technical Note TN/08
- ID25. Council's 'Note on Impact of Network Rail works on Bromham Road'
- ID26. Council's table 'Flows vs Queues Comparison – Paula Radcliffe Way Roundabout'
- ID27. Witness Statement of Jonathan Shortland
- ID28. Council's note and bundle of documents attached to bid 'Transporting Bedford 2020 Funding'
- ID29. Revised suggested wordings for condition controlling school opening
- ID30. Revised graph 'Difference in average queue lengths between Scenario 2A and Scenario 3B - Morning peak' from Technical Note TN/08
- ID31. Update of Table 5.1 of Technical Note TN/08
- ID32. Council's costs application
- ID33. Council's closing statement
- ID34. Appellant's closing statement
- ID35. Appellant's table 'Summer 2018 Exam Timetable'
- ID36. Signed Unilateral Undertaking dated 28 February 2019

ID37. Revised list of suggested conditions

**Documents submitted after the Inquiry**

- AID1. Appellant's costs application
- AID2. Appellant's response to the Council's costs application
- AID3. Council's response to the appellant's costs application
- AID4. Council's final comments on its costs application
- AID5. Email correspondence on suggested condition limiting the proposal to a single access.

**Schedule of conditions attached to  
Appeal Ref: APP/K0235/W/18/3203051  
Land off Clapham Road and Manton Lane, Bedford**

- 1) No development shall take place until approval of the details of the layout, scale, appearance and the landscaping of the site (hereinafter called 'the reserved matters') has been obtained from the local planning authority in writing. The development shall thereafter be implemented in accordance with the approved details or particulars.
- 2) Application for approval of the reserved matters shall be made to the local planning authority in writing before the expiration of 5 years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters approved.
- 4) The development hereby approved shall be carried out in accordance with the approved application plan references 16-01 and 1612-13 PL02 Rev B and with application plan reference 1612-13 PL01 and insofar as it shows the site access only.
- 5) No development shall take place until full details of the schemes for the vehicle, pedestrian and cycle accesses on both Manton Lane and the C15 Clapham Road have been submitted, subject to a Stage 1 Safety Audit, and approved in writing by the local planning authority. The approved schemes shall be implemented and made available for use before the development is occupied.
- 6) The reserved matters submitted under condition 1 above shall be in conformity with the site parameters shown on drawing references 31146-02-SK-01 and 31146-02-SK-02.
- 7) No building on the site shall exceed two storeys in height.
- 8) The reserved matters applications referred to in condition 1 above, shall include drawings showing the existing and proposed slab and finished floor and ground levels for the development and finished ground contours. The development shall thereafter be implemented in accordance with the approved details.
- 9) The reserved matters applications referred to in condition 1 above, shall include a scheme of landscape works, which shall include details of the following:
  - a) A survey of existing trees, shrubs and hedges giving their species, location, height, spread and condition and indicating those which are to be retained and those to be removed;



- b) Planting proposals giving location, species, number, density and planting size;
  - c) The relationship of new planting to buildings, roads, footpaths, drains and location of all underground and over ground services;
  - d) Areas of grass turving or seeding and other surface materials;
  - e) Depth of topsoil to be provided where necessary and the measures to be taken to maintain the new planting for the required period;
  - f) Details of all hard works, paving materials, street furniture, bollards/bins etc;
  - g) Location and details of all play areas including equipment type, surfacing, fencing, seating etc;
  - h) Details of the long-term management and maintenance proposals for the new planting.
- 10) All planting, seeding or turving comprised in the approved details of landscape works shall be carried out in the first planting and seeding seasons following the completion of the development. Any trees or plants, which within a period of 5 years from the completion of the tree planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. For the purpose of this condition a planting season shall mean the period from November to February inclusive.
- 11) No development shall commence until a scheme for works for protective fencing of the retained trees and hedges identified within the survey approved pursuant to condition 9 including the appropriate working methods in accordance with BS 5837 2012 (Trees in Relation to Design, Demolition and Construction – Recommendations; or similar replacement standard) has been approved in writing by the local planning authority. The protection works shall be carried out in accordance with the approved scheme and no development shall commence without the works pursuant to the approved scheme having been completed.
- 12) As part of the reserved matters applications an external lighting scheme, which shall include details of the type, quantity, height and location of lighting (including contour plans and technical specifications as necessary), shall be submitted to and approved in writing by the local planning authority. The lighting scheme shall identify those areas and features of the site that are particularly sensitive for bats. The lighting installations shall be designed to minimise light spillage beyond the boundaries of the site. All external lighting shall be installed in accordance with the approved details and maintained in accordance with the scheme thereafter. If, within a period of 3 months following the first use of the approved lighting scheme, the local planning authority requires realignment or shielding of the lights to be adjusted this shall be carried out in accordance with an agreed scheme before the continuation of their use.
- 13) Applications for approval of the reserved matters submitted in respect of any non-residential buildings shall be accompanied by a written statement demonstrating that such proposals can achieve the 'very good' standard in a Building Research Establishment (BREAAAM) assessment. The statement shall be based upon a pre-assessment report (or design stage certificate with interim rating, if available) or any superseding document agreed with the local planning authority. Development shall only commence when the local planning authority

has confirmed in writing that the submitted details are acceptable for that part of the development and shall only proceed in accordance with the submitted details.

- 14) Applications for approval of the reserved matters submitted in respect of any building shall be accompanied by a Waste Audit. The development shall be implemented in accordance with the approved details or particulars.
- 15) Applications for approval of the reserved matters submitted in respect of the development shall be accompanied by a Biodiversity Enhancement Scheme which shall include details of protection and management of habitats and species and incorporate opportunities for the enhancement of existing and creation of new habitats on site, as detailed in the submitted Preliminary Ecological Assessment (prepared by Middlemarch Environmental dated 22 October 2015 and updated 3 January 2019).
- 16) No development shall take place until an archaeological strategy for evaluation and if necessary, a further mitigation strategy based on the outcome of the evaluation, have been submitted to and approved in writing by the local planning authority.

The archaeological mitigation strategy shall include a timetable and the following components (the completion of each to the satisfaction of the local planning authority will result in a separate confirmation of compliance for each component):

- a) Fieldwork and/or preservation "in situ" of archaeological remains;
- b) A post-excavation assessment report (to be submitted within six months of the completion of fieldwork);
- c) A post-excavation analysis report, preparation of site archive ready for deposition at a store approved by the local planning authority, completion of an archive report, and submission of a publication report (to be completed within two years of the completion of fieldwork).

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

- 17) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall be subsequently implemented in accordance with the approved details before the development is occupied.
- 18) No development shall take place until full details of foul water drainage of the site have been submitted to and approved in writing by the local planning authority including a timetable for the works. The works shall thereafter be carried out in accordance with the approved details.
- 19) No development shall take place until a scheme for a 3m wide dedicated public right of way running through the site linking Clapham Road with the John Bunyan Trail (public footpath no. 9) including a timetable for carrying out the works and details of its adoption by the Local Authority, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details or particulars.

- 20) No development shall take place until full details (to include routing, cross sections and materials) of the access path linking Clapham Road to the school campus including a timetable for carrying out the works has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details or particulars.
- 21) The Class D1 school development hereby permitted shall not be brought into use until the use of the existing Rushmoor and St. Andrews Schools sites (excluding the nursery at Walmsley House) has ceased for purposes under Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 22) The school development hereby permitted shall not be open to pupils until the highway improvement works for the Northern Gateway Scheme (as identified on drawing reference 979.03.0100.60, dated 14 December 2018 or any plan superseding that drawing) are full implemented.
- 23) No development above slab level shall take place until a scheme for a 3m wide footway/cycleway from the Brickhill Drive/Manton Lane junction to a safe crossing point in the vicinity of the access on Manton Lane has been submitted and approved in writing by the local planning authority. The approved scheme shall be implemented and made available for use before the development is occupied.
- 24) No development above slab level shall take place until schemes for safe crossing points for pedestrians and cyclists from the foot/cycleways on both Manton Lane and the C15 Clapham Road have been submitted and approved in writing by the local planning authority. The approved schemes shall be implemented and made available for use before the development is occupied.
- 25) The development shall not be brought into use until a scheme to manage vehicle parking and waiting in the Manton Lane Industrial Estate and the C15 Clapham road has been submitted and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is occupied.
- 26) The development shall not be brought into use until a scheme for vehicle and cycle parking has been submitted and approved in writing by the local planning authority. The approved scheme shall be implemented before the development is occupied and approved parking areas shall be maintained for that purpose thereafter.
- 27) Any vehicular access gates provided shall open away from the highway and be set back a distance of at least 6m from the nearside edge of the carriageway of the adjoining highway.
- 28) No building shall be occupied until the access to it has been surfaced in a stable and durable manner with a bonded material across the entire width of the access for a distance of 5m measured back from the carriageway edge. No surface water from the access shall drain to the public highway.
- 29) No development shall take place until a Construction Management Plan has been submitted and approved in writing by the local planning authority which will include information on:
  - a) The parking of vehicles;
  - b) Loading and unloading of plant and materials used in the development;
  - c) Storage of plant and materials used in the development;

- d) The erection and maintenance of security hoarding/scaffolding affecting the highway;
- e) Footpath/footway/cycleway or road closures needed during the development period;
- f) Measures on site to control the deposition of dirt/mud on surrounding roads during the development;
- g) Traffic management needed at the interface with the public highway during the development period;
- h) Times, routes (to include specific measures such as delivery ticket instructions and location of signage) and means of access and egress for construction traffic and delivery vehicles (including the import of materials and the removal of waste from the site).

The approved Construction Management Plan shall be adhered to throughout the development process.

- 30) The school development hereby permitted shall have no more than 670 pupils/students enrolled at any one time. The permission hereby granted shall at no time extend to pre-school/nursery provision.
- 31) Prior to the opening of the school hereby permitted, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall contain details of:
  - a) The establishment of a working group involving the school, parents and representatives of the local community;
  - b) Measures to minimise car use;
  - c) An action plan detailing targets and a timetable for implementing appropriate measures to improve sustainable travel by staff and pupils, annual monitoring and review for 5 years;
  - d) A commitment to undertake a staff and pupil travel survey within 3 months of first occupation.

The Travel Plan shall be operated in accordance with the approved timetables and shall continue in force for as long as the school is in use.