

**Planning Inspectorate Reference
APP/U3100/V/23/3326625**

**Application by Oxfordshire County Council
on land between A34 Milton Interchange and
B4015 north of Clifton Hampden**

Proof of Evidence of Gareth Roberts

On behalf of Mays Properties Ltd

Prepared by G R Planning Consultancy Ltd

29 January 2024

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1.0 Qualifications & Experience

- 1.1 My name is Gareth Roberts. I am a Director and sole practitioner of G R Planning Consultancy Ltd, which I set up in May 1999.
 - 1.2 I hold a BA (Hons) degree in Town Planning and I am a member of the Royal Town Planning Institute. Prior to setting up my practice I was a Director of Town Planning Consultancy Ltd (now part of the RPS Group) in its London and Cardiff offices.
 - 1.3 I have 40 years' planning experience, working initially in the public sector and then extensively in the private sector.
 - 1.4 I am instructed by Mays Properties Ltd ("**MPL**"). I have been advising MPL on planning matters for a number of years, in relation to various retail park and development sites that they own in England.
 - 1.5 I am well acquainted with Oxfordshire County Council's ("**OCC**") planning application for highway infrastructure on land between the Milton Interchange and Clifton Hamden ("**HIF1 Application**") and also with my client's own development proposals for their site at Milton Interchange.
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2.0 Scope of Evidence

- 2.1 I have prepared this proof of evidence on behalf of MPL. MPL is a Rule 6 party to the inquiry that will inform the determination of the called-in HIF1 Application.
- 2.2 The application by OCC sought full planning permission for new highway infrastructure and improvements on the A4130 (Milton Gate to Collett Roundabout), the A4197 Didcot to Culham Link Road and A415 Clifton Hampden bypass (reference R3.0138/21).
- 2.3 My evidence sets out MPL's planning case in relation to the impact of the HIF1 Application on their development site at Milton Interchange. I will structure my evidence as follows:
- a) Background and planning history of MPL development site
 - b) Engagement with OCC to secure delivery of MPL development site
 - c) MPL's preferred development scheme and public interest issues
 - d) Outstanding 'conditions' that MPL are seeking to resolve with OCC

These are dealt with in turn in Section 3.0 of my evidence.

- 2.4 A schedule of Core Documents has been agreed between the Applicant, OCC and Rule 6 parties. References to the Core Documents below are to the documents in this schedule.
- 2.5 The Appendices referred to in my evidence are attached separately. As will be apparent from my evidence, there are a large number of documents that relate to the HIF1 Application and my client's own development site. I have tried, therefore, to limit the Appendices to those that are central to MPL's planning case. Copies of other documents that I refer to can, of course, be provided, if needed.
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3.0 Mays Properties Case

a) Background and planning history of MPL development site

- 3.1 MPL are the freehold owners of a site that extends to 1.74 hectares located to the south of the A4130 and east of the Milton Interchange with the A34 (T). They purchased the site in 2014. The site is allocated in the Vale of White Horse Local Plan Part 1 ("**LPP1**") (G2.1 & G2.3) and Local Plan Part 2 ("**LPP2**") (G2.3 & G2.4) for roadside services in conjunction with the land to its south and southwest (owned by Minscombe Properties and MEPC respectively). This allocation had been carried forward from earlier local plans. In total the MPL site has been allocated for use as roadside services for 25 years. A site location and ownership plan is in **Appendix A** to my evidence (the land with the notation 'Hinton Properties Development' is the MPL site).
- 3.2 I have worked for MPL for 20 years on their various retail park sites. Whilst I originally advised indirectly on their Milton Interchange site, I became directly involved in 2016 when I was asked to assist them with an application for outline planning permission for roadside services that they had submitted to the Vale of White Horse District Council ("**Council**") in December 2015. That application had been submitted in conjunction with an outline application for similar roadside uses on Minscombe Properties land. The sites were promoted jointly, albeit in separate applications, as they would be served by the same access and the joined-up approach enabled a comprehensive masterplan to be put forward. At that stage, full planning permission already existed for a new T junction on the A4130 to serve MPL's site, the Minscombe Properties land, as well as the MEPC land (reference P14/V0087/FUL) ("**T Junction Consent**"). A material start on implementing the T Junction Consent was subsequently made on site.
- 3.3 In April 2017 outline planning permission for roadside services on the MPL site was granted by the Council. Subsequently, the Council approved a variation to that outline (reference P18/V2139/FUL) and then the approval of reserved matters (reference P20/V0657/RM) ("**Roadside Services Consent**"). The approved development comprised a hotel, restaurant (two) and drive-thru (two), with access from the T Junction Consent. Following the discharge of pre-commencement conditions, a material start on implementing the Roadside Services Consent was made on site. A copy of the approved indicative layout for that consent is also in **Appendix A** to my evidence.
- 3.4 During the latter stages of the Covid 19 pandemic and in response to changing market demand, MPL reviewed the deliverability of its Roadside Services Consent. Based on various concerns and very strong demand from new tenants (see CSP Retail's letter dated 10 January 2024 in **Appendix B** to my evidence), MPL submitted a new outline application for a revised mix of uses (reference P22/V1121/O). This comprised a supermarket, electric vehicle charging forecourt and drive-thru, with access again taken from the T Junction Consent. The Council have confirmed that they are minded to grant outline planning permission under delegated powers subject to the completion of a section 106 Agreement (**s.106**). The s.106 has now been agreed with OCC and once engrossed, the outline planning permission will be issued ("**Supermarket Scheme**"). A copy of the agreed indicative layout for the Supermarket Scheme is in **Appendix C** to my evidence.
- 3.5 This revised mix of uses is MPL's preferred development scheme for their site. I should explain that the purpose for obtaining outline planning permission for the Supermarket Scheme with the T Junction Consent was to reflect the fact that the HIF Application was not well advanced.

More importantly, it secured a legitimate fallback option for MPL in the event that, for whatever reason, OCC was unable to deliver access to my client's site from the HIF1 scheme.

- 3.6 In promoting this revised mix of uses my clients consistently made it clear to the Council and OCC that, once it had secured consent for the Supermarket Scheme, it would submit a further outline application for the same mix of uses with access taken from the HIF1 Application, and from what is referred to as the proposed Backhill Roundabout element of HIF1. That application has already been drafted and will be submitted to the Council once outline planning permission for the Supermarket Scheme has been issued ("**HIF1 Supermarket Scheme**"). A copy of the proposed indicative layout to accompany that application is in **Appendix D** to my evidence.
- 3.7 My evidence clearly indicates that MPL have worked intensively over the last 10 years to bring forward their site for development and are firmly committed to and well placed to deliver their preferred Supermarket Scheme comprising a supermarket, electric vehicle charging forecourt and drive thru with access from the proposed Backhill Roundabout.

b) Engagement with OCC to secure delivery of the MPL development site

- 3.8 When my clients first secured outline planning permission for roadside services development by way of the Roadside Services Consent (in April 2017), the HIF1 scheme had not been conceived. By June 2018, when pre-application discussions commenced with the Council over the submission of reserved matters for the Roadside Services Consent, initial discussions had commenced between MPL and OCC over the HIF1 scheme. Regular meetings were then held by my clients, their highway advisors (Glanville Consultants), Minscombe Properties and OCC over a 3-year period leading up to the submission of the HIF1 Application in October 2021. I have not collated the number of meetings, emails and telephone discussions that took place with OCC over this period, but I would simply say they were extensive.
- 3.9 Throughout those discussions, my clients reiterated their conditional support for accessing their development site from the proposed Backhill Roundabout. Within that 3-year period they sought, therefore, to agree with OCC the position and design of the new roundabout, the access links required to their development site and the extent of and means by which MPL would transfer land to OCC so they could deliver the new roundabout. This land transfer would involve a triangle of land in the north-eastern corner of the MPL site. MPL sought, amongst other matters, unfettered access to the new roundabout for their Roadside Services Consent scheme in exchange for relinquishing the benefit of their T Junction Consent. These discussions led to agreement with OCC over the positioning and design of the new roundabout, and also agreement to safeguard a 'sacrosanct line'. The 'sacrosanct line' is a line below which OCC agreed that no highway infrastructure works would be built and above which my clients agreed not to construct any development. The Roadside Services Consent, Supermarket Scheme and HIF1 Supermarket Scheme all safeguard this 'sacrosanct line'. In **Appendix E** to my evidence is a copy of an email from Glanville Consultants to OCC, dated 24 January 2020, confirming agreement to, amongst other matters, this 'sacrosanct line'. Also, a copy of a draft AECOM drawing prepared for OCC and dated 21 June 2021 which again clearly shows the agreed 'sacrosanct line'.
- 3.10 Following the submission of the HIF1 Application, OCC asked MPL to enter into an option agreement in relation to the land required to deliver the new roundabout, albeit they never prepared any draft for discussion. In response, my clients sought legal advice on what their

strategy should be moving forward. That led to my clients instructing Mr Henry Church, a Senior Director in Compulsory Purchase at CBRE, to negotiate an agreement with OCC (and their advisors, Gateley Hamer). Mr Church produced draft Heads of Terms (“**HOT**”) for a Conditional Land Sale Agreement (“**CLSA**”) which was sent to OCC and Gateley Hamer to agree. From February 2022 to August 2023 around 200 emails were exchanged between Mr Church and Gateley Hamer (with OCC copied in). There were also 15 meetings between MPL’s team and Gateley Hamer/OCC and 19 versions of the HOT’s produced. At the time of preparing this proof of evidence, the HOT’s, which is now up to version 29, had been agreed by MPL on the understanding that they had also been agreed by OCC, albeit no written confirmation of this has been received from OCC. Even so, MPL have instructed their solicitors, Blake Morgan LLP, to prepare the CLSA on this understanding.

- 3.11 Whilst I accept that these negotiations can take time to resolve, as I alluded to above, my clients discussions with OCC commenced in early 2018 and five years later they still have no formal written agreement with OCC. My evidence shows that this is not the fault of my clients, who have expended a considerable amount of time and costs in seeking to complete a CLSA and who, in fact, were in a position to sign an agreement in August 2023 based on the 19th version of the HOT’s. Unfortunately, the fault lies with OCC in taking unreasonable points, seeking requirements that the CLSA could not deliver (such as s.106 contributions), suggesting that important principles had been agreed when they had not, reneging on matters previously agreed, delaying their responses and failing to engage properly, which has necessitated my clients having to maintain their objection to the HIF1 Application to protect their interests.
- 3.12 For the above reasons, until such time as a CLSA has been concluded with OCC, my clients have serious concerns about the impact of the HIF1 Application on their development site. Those concerns relate to the agreement to safeguard the ‘sacrosanct line’, to respect the part implemented T Junction Consent, to provide unfettered access from the proposed Backhill Roundabout to their development site and to provide the flexibility for the HIF1 access to accommodate MPL’s preferred HIF1 Supermarket Scheme.

c) MPL’s preferred development scheme and public interest issues

- 3.13 My clients preferred strategy is the delivery of the HIF1 Supermarket Scheme (see my **Appendix D**). As the application for the HIF1 Supermarket Scheme will shortly be submitted to the Council, following the issuing of the outline consent for the Supermarket Scheme, I see no reason why outline planning permission should not be forthcoming for the HIF1 Supermarket Scheme with access from the proposed Backhill Roundabout.
- 3.14 The proposed access link from the Backhill Roundabout to my clients development site is shown on AECOM drawing No. 0001 Rev. PO3, titled ‘A4130 Widening General Arrangement Sheet 1 of 19 (“**Roundabout Plan**”)’. This shows two links from the arm of the new roundabout, the northernmost being the main site access and the southernmost being the service access for the proposed hotel that forms part of the Roadside Services Consent. The HIF1 Supermarket Scheme only requires a main site access, which as the plan in **Appendix D** confirms will replace the southern service access on the Roundabout Plan. The changes involved are minor and they will not affect the interests of any interested parties. On the contrary, they will represent a highway benefit by reducing the number of access links required and siting the main access further away from the new roundabout, thus reducing the potential for traffic to back up onto the roundabout.

- 3.15 These changes could be secured through OCC substituting the Roundabout Plan within the HIF1 Application with a revised drawing showing a single access link matching that shown on the HIF1 Supermarket Scheme. It is also a matter that can be tied up in the CLSA.
- 3.16 It is clear that the delivery of my client's preferred development scheme will contribute to and serve public interests by bringing forward a longstanding development plan allocation for roadside services and a new supermarket, for which there is an identified need. That need arises from Aldi and Lidl, both of whom are seeking representation on the west side of Didcot (see my **Appendix B**). The Council have accepted this need and in doing so also accepted that the MPL site is the preferred location sequentially within the catchment area to serve that need. That catchment area is extensive in that it extends up to Abingdon in the north, Didcot and beyond to the east and Wantage to the west. The need for this new supermarket would be met in a highly sustainable location that would complement and support existing and planned housing and economic growth within the nationally important Science Vale area.
- 3.17 The development will also secure significant planning benefits by, amongst other matters: increasing customer choice and competition; generating local jobs; securing Community Infrastructure Levy ("CIL") funding for local infrastructure; generating high levels of commercial rates receipts from the sites designation as part of the Didcot Growth Accelerator Enterprise Zone to be invested in local infrastructure; and the delivery of a state-of-the-art electric vehicle charging forecourt that will make an important contribution to national and OCC policies of achieving net zero emissions in the future.
- 3.18 As my evidence shows, the achievement of these planning benefits in the public interest will be frustrated by the current access links from the proposed Backhill Roundabout and from OCC's continuing inability to agree to my clients 'conditions' within a CLSA (see next section).

d) Outstanding 'conditions' that MPL are seeking to resolve with OCC

- 3.19 Our Statement of Case, dated 17 September 2023, set out these 'conditions', which were also summarised in our original representations on the HIF1 Application, dated 9 December 2021. I have updated these 'conditions' to reflect the Council's confirmation that it is minded to grant outline planning permission for the Supermarket Scheme, subject to completion of a s.106 and the subsequent submission of the application for the HIF1 Supermarket Scheme. The updated 'conditions' are:
- 1) OCC safeguarding the 'sacrosanct line' below which no highway infrastructure is to be built and above which no development will be constructed.
 - 2) OCC respecting MPL's part-implemented T Junction Consent, Supermarket Scheme and HIF1 Supermarket Scheme.
 - 3) OCC abiding by CPO and CIL principles so as not to undermine the commercial value of the MPL development land and consented road infrastructure.
 - 4) OCC providing unfettered and appropriate access links from the proposed Backhill Roundabout to MPL's land and preferred development scheme.
- 3.20 As I confirmed earlier, at the time of writing this proof of evidence, the 29th version of the HOT's had been agreed by MPL on the understanding that they had also been agreed by OCC. Although no written confirmation of this agreement had been received from OCC, MPL have, on this understanding, instructed their solicitors, Blake Morgan LLP, to prepare the CLSA.

- 3.21 I see no logical explanation as to why the CLSA has not been concluded to date or any reason why it cannot now be concluded immediately, thus allowing my client to withdraw its planning and CPO objections. Similarly, and mindful that my client will have to relinquish its part-implemented and eminently proceedable T Junction Consent to enable the HIF1 Application to proceed, I see no reason why the HIF1 Application cannot be amended to reflect the access links now required from the proposed Backhill Roundabout to serve the soon to be submitted HIF1 Supermarket Scheme.
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4.0 Summary of Evidence

4.1 My evidence can be summarised as follows:

- My client (MPL) is the freehold owner of a development site on the A4130 at Milton Interchange that benefits from a longstanding development plan allocation for roadside services and a part-implemented development of roadside services (Roadside Services Consent) and a new junction to the A4130 (T Junction Consent), all of which could be brought forward now to meet strong tenant demand and interest.
- My clients are firmly committed to and well placed in planning terms to deliver their preferred development scheme which comprises a supermarket, electric vehicle charging forecourt and drive thru. The Council have confirmed that they are minded to grant outline planning permission, under delegated powers, for the Supermarket Scheme subject to the completion of a s.106. As the s.106 has now been agreed with OCC, this outline consent is expected to be issued shortly. This will form the basis of a further outline application for the HIF1 Supermarket Scheme, with access taken from the proposed Backhill Roundabout element of the HIF1 Application. This application has already been drafted and will be submitted to the Council once the outline consent for the Supermarket Scheme has been issued.
- MPL and their advisors have engaged extensively with OCC (and their advisors Gateley Hamer) since June 2018 to agree various outstanding 'conditions' that would enable MPL to fully commit to the HIF1 Application and withdraw their planning and CPO objections. HOT to a CLSA have been discussed with OCC over a period of 2 years. The 29th version of the HOT have been agreed by MPL on the understanding that they have also been agreed by OCC. Although no written confirmation of the agreement to the 29th version of the HOT has been received from OCC, MPL have instructed their solicitors, Blake Morgan LLP, to prepare the CLSA on this understanding.
- The revised site access arrangements shown on MPL's preferred development, the HIF1 Supermarket Scheme, would require minor changes to the access links shown within the HIF1 Application and could be secured by substituting the Roundabout Plan with a revised drawing showing the single access link to match my clients HIF1 Supermarket Scheme.
- The delivery of MPL's preferred development scheme would contribute to and serve public interests by bringing forward a longstanding development plan allocation and a supermarket, for which there is an identified need on a site (the MPL land) which is the preferred site sequentially. The development would also secure various planning benefits including, amongst others, a significant CIL payment and Enterprise Zone commercial rates receipts, to fund local infrastructure.
- My client remains confident that a CLSA can be successfully concluded with OCC that addresses all their outstanding 'conditions', including OCC providing unfettered access links to its development site from the proposed Backhill Roundabout, the safeguarding of the agreed 'sacrosanct line' and respecting MPL's extant planning permissions including its part-implemented T Junction Consent.

4.2 I would respectfully urge the Inspector to support my client's objections and recommend to OCC that they seek to agree the outstanding 'conditions' with MPL through the completion of CLSA and also seek to agree the minor changes to the access links required so that the HIF1 Supermarket Scheme is not frustrated and can be delivered.