

Inquiry Day 8

Mr Howell Williams, Counsel for the Appellants, introduced Mr Michael Alderton, ARICS, Town Planner, 35 years' experience in logistics, distribution and manufacturing, particularly in Kent, currently retained as an adviser to ADL.

Mr Alderton confirmed that ADL was moving to Midlands, site tbc. He said that an earlier witness, Mr Cottage, had confused an area of search with an area of floor space, appearing to misunderstand the importance of location in terms of staff retention. Mr Cottage specialised in compulsory purchase orders (CPOs) ie. forced re-location, as opposed to re-location, usually for expansion and growth of a business. Mr Alderton did not agree with Mr Cottage's definition of "Mid Kent" and attempted to discredit Mr Cottage's evidence. He described the amount of speculative development currently in Kent due to high demand, and that this was expected to rise. He waxed lyrical about the positive attributes of Waterside Park.

Mr Alderton reiterated his view that Mr Cottage had only put forward sites within secondary industrial areas in remote locations. For example the site in Hermitage Lane was one in which he was currently advising DHL; but it was triangular in shape and too small for Scarab's requirements. Although on the market it was unclear when it would become available. Mr Howell Williams asked about the Aylesford Newsprint site. It was not yet on the market, he quoted from an article by KPMG, and was subject to a longer term strategy.

Mr Howell Williams read from Dr Brian White's evidence: a site at Paddock Wood. Mr Alderton was unclear as to the exact location of the site, perhaps the former Transfesa site, if so it was long, thin, curved and adjacent to the railway and therefore inappropriate. He added that Paddock Wood was also regarded as a secondary site far from a motorway.

Mr Neil Cameron said his cross examination fell into three sections: ADL search, demand in Kent and alternative sites. He said that Mr Alderton had identified mid Kent as a distinct area; Medway Gap/Maidstone/Aylesford (not as far north as Sittingbourne BUT his Proof of Evidence showed Mid Kent as including the Medway Towns (Sittingbourne) and also Tonbridge and Tunbridge Wells. Mr Alderton clarified Mid Kent as being a sub area of central Kent.

Mr Cameron asked Mr Alderton if he agreed that an area of search depended on an occupier's needs (agreed) therefore it followed that it's inappropriate to draw strict lines to produce rigid boundaries for an area of search.

Mr Cameron asked about competing priorities. Mr Alderton responded that an occupier will always have a variety of priorities but the greatest costs would always be labour and skills. Clients specify parameters and need to maximise asset values by not paying over the odds.

Mr Cameron subjected Mr Alderton to detailed questioning about ADL's original specification. Mr Alderton responded that the need was to stay in Kent and be near to the motorway network. However, the need to operate as a national distribution centre resulted in initial research extending beyond Kent. ADL had considered relocating its distribution centre outside Kent, whilst retaining its

head office function within the county. A discussion followed about the process involved in drawing up a shortlist of sites and search criteria. Mr Alderton agreed that property costs **were** relevant.

Mr Cameron took him through the positives and negatives of various alternative sites, making use of a document produced by ADL with input from Mr Alderton. Mr Alderton explained that ADL needed to be operational by January 2017 and that he had first been instructed by ADL in 2012, although he had previously provided informal advice about this site to Gallagher's. Mr Cameron asked if six months was the usual timescale for a company arriving on site to become fully operational. This was agreed, so ADL would have to be on site by June 2016. Initial discussions had taken place during early- mid 2012, instructed by ADL. If the timescale of 5-6 years suggested by Mr Etchells in earlier evidence was true then it must already have been too late, particularly as this excluded time required to obtain planning permission. However, Mr Alderton explained that Gallagher's would have a twin tracked process in place ie. sand removal for ADL's building first, then construction of ADL's building at the same time as removing sand from the Scarab site.

At what stage did it become apparent that it was too late for ADL ? The reality was that the January 2017 date could be changed. ADL could remain in Marden longer if necessary since Waterside Park was seen as the right site. Mr Dodgson, ADL, had said it was "essential" to have re-located and become operational by January 2017.

So, the building originally to have been occupied by ADL was now available . Mr Alderton said he used "Locate in Kent" for data about the number of businesses interested in buildings larger than 100,000 sq. ft., although he did not provide much detail. Mr Cameron pointed out that there were only three businesses of this size seeking property in the whole of Kent and Medway. Mr Alderton said that all three of these were looking in Maidstone. Mr Cameron pointed out that one was interested in Tonbridge & Malling, and two in Medway so maybe these were multiple searches. Mr Alderton said he did not know how these figures were produced BUT he agreed it was a document on which he relied. Mr Cameron said that this demonstrated that those looking in Maidstone were also looking over a wider area. Mr Alderton admitted looking over a wider area than first requested to ensure nothing was omitted. One of the alternative sites identified as a potential fall back was in Swale, G Park, Sittingbourne. Mr Alderton said that ADL did not go there because it was not a realistic option, adding that Mr Cameron should ask Mr Buckwell or Mr Dodgson because he was not the author of the report.

Mr Cameron had uncovered a discrepancy in Mr Alderton's definition of transport links. Mr Alderton replied that Maidstone was a strategic centre with J5-8, after all you don't locate at the other end of link roads such as the A249. He continued by highlighting difficulties of locating on Sheppey due to transport deficiencies – there was a reason why so many prisons were located there, because it was so difficult to get on and off the island.

Mr Cameron turned to the question of contracts, or rather, lack of. Mr Alderton explained it would be too complex to draw up contracts at this stage, a great many caveats and conditions would be required, rendering them effectively worthless.

Mr Cameron said Mr Alderton had been rather disparaging about Sittingbourne and Kingsnorth , and asked if **any business** would want to locate there. Mr Alderton said that neither ADL nor Scarab would wish to go there and, anyway, the sites had been available for years. Mr Cameron pointed out that developers had improved infrastructure in these areas, presumably expecting interest. Mr

Alderton said that those owners had bought at the top of the market and perhaps had not been well advised.

Mr Knox-Johnston's began his cross-examination by saying that the original policy at King's Hill had been to encourage a mix of industrial land, but this had evolved into both housing and office space, and was now finally moving towards even more housing. Mr Alderton explained this was due to higher land values for housing.

Mr Knox-Johnston then turned to J7, suggesting this was originally supposed to be for industrial development. "If you say so". Mr Knox-Johnston: "Now it's retail?" Mr Alderton: "It's hotel, offices, retail and Park & Ride". Mr Knox-Johnston: "J7 originally had planning permission for industrial use". "Don't know". "What about Hermitage Lane?" Mr Alderton agreed that overall the lack of employment space was due to residential land values being much higher than industrial or other employment sites.

Mr Knox-Johnston asked if he was aware of Operation Stack. "From the news, yes". "Are you aware of congestion on surrounding roads?" "Only aware from what I see on the news". Mr Knox-Johnston asked if Operation Stack was not a risk to this site. Mr Alderton replied that he had been involved with development at Buncefield, scene of a major fire a few years ago, and so was aware that any site could be subject to unforeseen circumstances. This site would be less affected by Operation Stack than others as it sat right on the motorway junction.

Mr Knox-Johnston asked if Mr Alderton was surprised at the height of the B2 buildings: 15.2 m. Mr Alderton said he didn't regard them as high, distribution centre sites being significantly higher. Mr Knox-Johnston: "But this isn't going to be a distribution centre. Scarab's current buildings are only 8 m high". "Yes, correct". "Doesn't this increase heating costs? Would you be surprised if Scarab put in a mezzanine floor? Have you assumed 24/7 working?" Mr Alderton responded that if consent were granted restrictions on hours of use would not be imposed. Mr Knox-Johnston pointed out the risk as he could not know for sure. "Yes, but there could be many other conditions also".

Mr Knox-Johnston queried the meaning of 'prestigious' offices. Mr Alderton responded: "good construction, good architectural practice, good materials and good surroundings. Like Kings Hill, not a mucky industrial estate like Sittingbourne or Kingsnorth." Mr Knox-Johnston asked whether such 'prestigious' offices needed to be on a green field site. Mr Alderton replied that for a sole UK facility and Head Office the right sort of image and environment was required. Mr Knox-Johnston asked if his advice to Scarab would be that it was too risky to get involved with Waterside Park. There was no guarantee that Scarab would occupy Waterside Park. Mr Alderton agreed there was no guarantee but evidence of Scarab's significant level of commitment had been both seen and heard. Mr Knox-Johnston persisted, suggesting development of this site could be entirely speculative and that no other named potential occupiers were known about at present.

Mr Knox-Johnston wondered if Mr Alderton was aware of the government's brownfield first policy. Mr Alderton said "Yes, both companies have undertaken significant investigations of brownfield sites but no other sites were available." Mr Knox-Johnston raised once again the issue of Aylesford Newsprint. Mr Alderton said he could not speak for KPMG. He confirmed he kept a continual eye on sites around the country, not just in Kent.

In re- examination, Mr Howell Williams returned to the issue of demand for sites in general, asking if there was a value to the Inspector in the use of terms such as Mid Kent, Central Kent etc. Mr Alderton assisted by explaining that he had divided the county into three main areas, all of which had sub markets eg. Mid Kent was a subset of Central Kent. He added that a survey of ADL staff had revealed that 83% wished to re-locate to Waterside Park, only 6% wished to go to Sittingbourne.

Mr Howell Williams introduced Mrs Evans, an Economist, as the Appellants' next witness. She was focussing on economic impacts, and had judged Waterside Park to be within the scope of Maidstone's draft EDS. She noted the level of support the proposal had from MBC together with national organisations. She had looked at various measures, for example direct job creation.

Did not both firms say they wished to take all their staff with them???

She said "There is a qualitative need and I agree with this". She went further to say she considered much of the 'need' had been understated. Sufficient sites were needed to provide choice, and **she highlighted what she thought were deficiencies in the GVA report, indeed she felt far more land was required for employment use.** She added there were insufficient industrial sites along the M20 corridor. She said she too a very positive view of MBC's draft EDS, at present a disproportionately large number of people were employed in the public sector, and there was an increasing reliance on out-commuting. At present the Maidstone economy was underperforming but such a boost would provide additional income from business rates.

No mention was made of any negative effects on tourism

Mr Cameron said he had no questions for Miss Evans but would draw attention to the GVA report and her evidence in his closing summary.

Mr Knox-Johnston had no questions either.

After lunch the Inspector said she had received a written statement from Bearsted Parish Council which would not be read aloud.

Mr Howell Williams introduced Mr Hancock, a senior historic buildings expert with CTMS, interested in historic buildings and conservation. He talked about the rural setting of historic assets. He felt that development of the Appeal site would lead to minor, less than substantial harm to Old Mill Farm. He refuted Mr Lash's rebuttal.

His Proof of Evidence included much discussion about Leeds Castle's evolution over centuries, and also its' inward looking nature, due to the low situation of the castle relative to much of the grounds. Most views therefore looked down on it. It appeared somewhat insular since the primary setting of the castle was the park and gardens rather than views outward. Its tranquillity was generated by the way the park and garden was laid out. He agreed with Mr Etchells that the only view looking down from the cricket pitch northwards was fleeting.

Mr Whale, Counsel for MBC, began his cross examination by encouraging Mr Hancock to agree that Old Mill Farm comprised a 'group' of buildings. He did, although he went on to say that there were some views from the group towards the site but these were quite limited.

Mr Whale wondered if the small amount of industrial and semi -industrial activity within some former agricultural buildings led Mr Hancock to believe that Waterside Park would just form an addition to this industry. Mr Hancock said “Not in terms of scale but in nature they were not without analogy”. He agreed that the ‘group’ was not within the transport corridor. In terms of effect on the setting of the group, Mr Hancock acknowledged some change would occur, and he recognised that some would have an adverse impact. He also acknowledged harm would be caused to the ‘group’. The difference in opinion between Mr Hancock and Mr Green was the degree of impact and harm. Mr Hancock agreed he had written his Proof of Evidence, together with an archaeological colleague.

Mr Whale suggested that such development would affect this non-designated ‘group’ therefore a balanced judgement would have to be taken. Mr Hancock said he had not struck an overall balance – that was for Mr Buckwell. “My view is that planning permission should be granted.” Mr Whale said that as Mr Hancock had not struck this balance then this last sentence should be struck out. Mr Hancock agreed and this was done.

In cross examination, Mr Knox-Johnston asked Mr Hancock if he was aware of the historical ownership of the Appeal site. Mr Hancock said he had researched things like tithe maps; there was a strong likelihood it once belonged to Leeds Castle. He had also looked at land use: mainly agricultural.

A lengthy discussion ensued about whether or not one might feel the route from the hotel to the Castle would be enhanced or diminished by a 14 m high grey building. In a sense it might feel more like an urban area since the primary character of the transport corridor would remain. Heavy reliance was placed on planting to screen off the site but this would take time to grow. Also discussed was whether or not one’s overall experience would change. Mr Knox-Johnston pointed out that Leeds Castle was a very significant heritage building and a national asset, adding “How many similar buildings do you have to pass through or by an industrial estate to get to them?” Mr Hancock said its significance was not necessarily diminished, highlighting the impact of the Shard and Cheesegrater.

Hang on – aren’t these located in a major urban area?

Mr Hancock concluded this section saying one needed to assess each setting in its place.

Mr Knox-Johnston asked Mr Hancock about his assessment of Brogden Farm, Brogden Barn and Brogden Farm Cottages, all grade 2 listed buildings. Mr Hancock said the point was that this is not a line of houses all enjoying the same view; some houses screened others. Mr Knox-Johnston said that from their gardens there was a complete uninterrupted view northwards.

Mr Knox-Johnston questioned Mr Hancock about Mr Etchells’ viewpoints. Mr Hancock did not think the proposal would affect the setting of the Castle, the fact that you arrive in a modern car or coach affords only a brief glimpse of the site.

Finally Mr Knox-Johnston drew the Inspector’s attention to the following three cases:-

1. Barnwell Court of Appeal Decision – para 28 referred to preserving the setting. This case overturned the Inspector’s decision.
2. Ford Fields Society – found against Sevenoaks Council
3. 12th May 2015 – A ruling in Partridge Green in West Sussex re improvement of a heritage site – copies of this would be made available to the Inquiry.

The Inspector asked about the definition of the word 'setting', suggesting much guidance was available from English Heritage. She asked Mr Hancock if she was correct in thinking he didn't think the Appeal site was within the setting of Leeds Castle. Mr Hancock said the setting was primarily the registered park and gardens, although it was correct to see it as a slightly wider area. He added he didn't feel the site made a positive contribution in its current form and so the development proposed would not affect the setting of Leeds Castle.

There was no re-examination by Mr Howell Williams.

After tea, **Mr Howell Williams introduced Mr Jonathan Buckwell, Director (Planning), DHA Planning.** His Proof of Evidence included reference to numerous housing applications where the planning officer had said ENV28 was out of date. He therefore did not see why the same logic could not apply to employment sites also. He highlighted several policies he felt were out of date and made a great deal out of the fact that Maidstone's draft Local Plan was still nowhere near completion. The NPPF's presumption in favour of sustainable development provided a very different scenario from anything which had gone before. Indeed, evidence had now moved away from dispersed economic development in villages such as Headcorn and Marden, towards allocating sites at motorway junctions. He said that on balance he judged the benefits of this scheme to outweigh the harm.

Very significant consultation had taken place with the parishes . Presentations by Scarab, ADL and Gallagher's had been made to Leeds, Thurnham and Bearsted Parish Councils at the Great Danes Hotel, followed by a Q&A session, then shortly afterwards a public exhibition had taken place at the same hotel. In addition, questions had been invited from Hollingbourne Parish Council at another consultation session.

Mr Buckwell confirmed responsibility for the alternative sites' assessment , liaising greatly with ADL and also representatives from Scarab. The resulting document gave a clear summary of their needs.

Mr Howell Williams asked when ADL had realised Waterside Park would not meet their timescales. Mr Buckwell responded that ADL management and staff had been very upset when planning permission was refused and so had to start their search for a new site. Its German parent company, Bilstein, was used to receiving support from LPAs.

Mr Howell Williams asked about development timescales. Mr Buckwell responded 5-6 years overall, although it could be 3-4 to completion of the first building.

Mr Howell Williams mentioned statutory duty to co-operate. Mr Buckwell said this was far more relevant to the Local Plan making process rather than development control.

Mr Howell Williams said that in his landscape evidence Leeds Castle had not specifically been mentioned. Mr Buckwell admitted it probably should have been. Landscape had to be valued by more than just one person.

In terms of the sustainability issue, Mr Buckwell said this proposal met:

1. Economic role – it would support a strong vibrant healthy economy including supporting and creating local jobs

2. Social role – provision of a high quality built environment, including community crèche and canteen facilities. In addition there was the possibility of providing a minibus for transporting workers to and from work, but between these times could be offered for use by a charity.
3. Environmental role – significant mitigation measures were proposed.

Mr Howell Williams asked if sustainable development should perhaps be located adjacent to urban boundaries? Mr Buckwell disagreed, saying one had to look at the bigger picture, particularly the significant benefits to be derived from being on a motorway junction.

Mr Howell Williams asked if the NPPF suggested the only way to be sustainable was to be adjacent to an urban area. Mr Buckwell said no as many factors had to be taken into account such as an appropriate location to enable efficient delivery of supplies.

To finish, Mr Buckwell confirmed that both he and MBC had undertaken detailed surveys of the land (MBC had confined its surveys to areas put forward for development eg. Woodcut Farm and Waterside Park) whilst DHA had carried out others also. The result had shown lesser effects on Waterside Park than Woodcut Farm.

The Inspector said that tomorrow's programme, commencing at 10 a.m., would be as follows:

Completion of evidence in chief by Mr Buckwell

Cross examination

Re-examination

Discussion of conditions and S106 payments

The Inspector would undertake a site visit to Marden on Thursday morning and closing submissions would commence at 2 p.m. These were expected to take about three hours in total.