

MILLER

DEVELOPMENTS



38.8 Proof of evidence of DAVID THOMAS MILLOY (for the Applicants) on Background to Omega Business Park and Site Context

Call-in by the Secretary of State of an application made by Omega St Helens Limited /
T J Morris Limited

Land To The West of Omega South & South Of The M62, Bold, St Helens

LPA REF : P/2020/0061/HYBR

PINS REF : APP/H4315/V/20/3265899

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1.0 Experience and Scope of Evidence

Qualifications and Experience

1.1 My name is David Thomas Milloy. I hold a Bachelor of Science Degree in Land Economics from the University of the West of Scotland (previously Paisley College of Technology). I was a Member of the Royal Institution of Chartered Surveyors for 32 years until I decided not to renew my membership two years ago.

1.2 I am the Managing Director of M2 Group Limited (trading as Miller Developments) which is a land and property development company. Omega St Helens Limited, one of the joint applicants, is a wholly owned subsidiary of M2 Group Limited.

I have 30 years experience in all aspects of property development and in particular the acquisition of land and securing all necessary consents required for its subsequent development.

1.3 I am currently responsible for Omega Business Park and its ongoing development and am fully conversant with its history and evolution having had an involvement with the project since its start.

Scope of Evidence

1.4 My evidence is concerned with the background, history and evolution of Omega Business Park to assist putting the application site in context, as well as providing details of all preparatory works we have undertaken and completed in advance to ensure the proposed development on Omega West can be commenced immediately, should planning consent be granted.

The evidence which I have prepared and provide for this appeal reference APP/H4315/V/20/3265899 in this proof of evidence is true and I confirm that the opinions expressed are my true and professional opinions.

2.0 Background

2.1 The land on which Omega Business Park has been developed was formerly a MOD airfield, commonly known as RAF Burtonwood (occupied by the United States Air Force during and after WW2). The base extended to 577 acres and the M62 carriageway follows the east/west alignment of the main runway. The airbase closed in 1991 and ownership of it transferred from the MOD to The Commission for New Towns (CNT) now known as Homes England, who had identified the site as a strategic regeneration and investment opportunity. The CNT funded the construction of a grade separated junction on the M62 ('Junction 8') to enable the site to have **direct** access to the motorway network.

2.2 Omega Warrington Ltd (OWL) is Homes England's development partner for Omega under a long-term Development Agreement. OWL was formed in 2002 as a 50/50 JV between a

subsidiary of the Miller Group and Royal Bank of Scotland (RBS). Miller acquired RBS's 50% interest in 2016. OWL was acquired by M2 Group Ltd following a management buyout (MBO) of various assets and companies from Miller Group. I was previously MD of Miller Developments, the commercial property division of the Miller Group, and as such have had an involvement in Omega since the outset. M2 Group Ltd formed a new company, Omega St Helens Ltd, to be the joint Applicant for the Omega West, in part to reinforce the St Helens location of the proposals.

- 2.3 Omega was originally envisaged as a strategic office park (Use Class B1), with ancillary storage & distribution uses (Use Class B8) on the north side of the M62. Out of town office parks were very popular in the UK in the late 1990's and early 2000's. However, the dot.com crash and changing working practices radically reduced demand for such accommodation. As a consequence, Omega was re-masterplanned to provide a mixture of B2 manufacturing / B8 logistics / residential uses and a reduced amount of B1(a) office use when it became clear there was not strong demand for offices in this location (see Previous Masterplan at Appendix 1).
- 2.4 After securing all necessary consents, OWL has completed in excess of £60m of infrastructure at Omega, including a 35 acre public park (the 'Green Heart'), developed more than 5.2 million sqft of logistics / manufacturing space and to date has sold four serviced residential sites to national housebuilders (which total around 775 plots out of a total of 1,400 consented on the site).
- 2.5 During 2019, a revised masterplan for the remaining development land at Omega South was produced by OWL (see Current Masterplan (excl Omega West) at Appendix 2). The interface between B2/B8 uses and the existing housing to the east of Burtonwood Road required careful analysis as it had become apparent that there was a need to design out future noise nuisance issues. The new masterplan:-
- i) removed the remaining B1(a) office component, given there was no demand;
 - ii) restricted the remaining commercial development to three B2/B8 units, all with single sided docking bays and service yards which were orientated towards the M62 to negate noise nuisance to surrounding residential properties; and
 - iii) increased the number of residential units together with a mixed use centre to provide necessary local facilities (see Residential Masterplan at Appendix 3). Neither of these uses will cause any noise nuisance issues.
- 2.6 A schedule of Building and Occupier Details is attached at Appendix 4 and illustrates:
- i) occupier identity;
 - ii) date of practical completion;
 - iii) whether the building was pre-let, turnkey or speculative;

- iv) size
- v) owner identity; and
- vi) employee numbers and job density

- 2.7 As a consequence of the financial crisis, there being no demand for offices in this location and the subsequent need to remasterplan, construction activity on Omega did not commence until 2012, when the first phase of infrastructure was built. Since then some 5.2m sqft of B2/B8 space has been developed by OWL which equates to an average of 520,000 sqft per annum over a continuous 10 year period. This clearly highlights the attractiveness of Omega to a wide range of occupiers and supports the view that Omega is the pre-eminent development of this type in the North West.
- 2.8 Furthermore, none of the buildings completed by OWL is currently available (one unit completed in early 2021 and another currently under construction are under offer to a single occupier). Nor have there ever been any vacancies - the first occupier of each building remains in occupation to this date (i.e. there has been zero turnover of occupiers and thus there has never been secondhand space available on Omega).
- 2.9 When discussions with T J Morris (TJM) first started in early 2019, their initial interest was for the site on Omega South that is immediately south of Skyline Drive and east of the Green Heart. However, despite looking at a number of options and configurations, OWL and TJM could not get a satisfactory layout to work (see Alternative Omega South TJM Layout at Appendix 5). The reasons were technical:
- a) because the TJM unit is cross-docked with two service yards we could not satisfy the acoustic condition in the existing outline planning permission and thus there was an insurmountable noise issue;
 - b) the scale and massing of the TJM unit would not have been acceptable to the Local Planning Authority given the proximity of existing residential accommodation;
 - c) the layout was compromised and did not meet key TJM operational requirements.
- 2.10 OWL then worked with TJM to produce a satisfactory layout on Omega West which resulted in the hybrid planning application being submitted to St Helens Council and subsequently registered in early 2020.
- 2.11 'Oven ready' is a term commonly used when describing potential development sites as the timescale to actual delivery of a completed building is of critical importance to many occupiers. However, the term is frequently used in the very loosest sense in the context of planning applications and speculative proposals.

- 2.12 It is important to note that there is much more to delivering B2/B8 accommodation than just obtaining an outline planning permission. In that sense, Omega West is genuinely deliverable. The following sections of my Proof highlight a number of issues that had to be resolved (directly or by obtaining consents from relevant authorities) before development could commence at Omega West. OWL and TJM took the decision to proactively deal with them in parallel with the planning application so that by the time a consent was secured construction could commence immediately. A number of the items are common issues that have to be resolved for any development site. The fact that Omega West has cleared them all confirms beyond any doubt that the site is deliverable and genuinely 'oven ready'. It is also acutely important to the project delivery programme of TJM.

3.0 Land Ownership

- 3.1 Through one of its subsidiaries, M2 Group Limited has secured contractual control of all the land required to deliver Omega West in its entirety. Similarly, a conditional contract (on planning consent being obtained) is in place with T J Morris Limited with regard to the delivery of Unit 1.

4.0 Access

- 4.1 As agreed with St Helens Council, Warrington Borough Council, Highways England, Merseyside Fire Service and Cheshire Fire Service, there will be a single point of vehicular access to Omega West via Catalina Approach, which connects to Skyline Drive by way of a roundabout junction. Skyline Drive then leads directly to Junction 8 of the M62, which provides all-ways access to the motorway network.
- 4.2 Catalina Approach currently serves four units occupied by Royal Mail (2 units), The Delivery Group and Jungheinrich. There is no access from Catalina to the unit occupied by The Hut Group to the north.
- 4.3 Catalina Approach was designed with Omega West in mind. In common with Skyline Drive, Catalina Approach incorporates a 10 metre wide carriageway capable of accommodating full 2 way HGV movements even if a broken down vehicle is blocking part of the live carriageway. A 3.5m wide shared path for pedestrians and cyclists runs the entire length of the road. At its eastern end, this shared path links to the wider network of shared paths that permeates Omega and the surrounding residential areas.
- 4.4 Catalina Approach is now complete, with the exception of a small section at its western end (between the access to the Jungheinrich yard and Warrington Borough Council's western administrative boundary). Detailed planning permission for this missing section already exists; it was obtained by OWL via WBC's approval of a Non-Material Amendment to

Planning Permission 2017/31212 on 08 October 2019 (see Catalina Approach Extension Drawing at Appendix 6).

- 4.5 OWL entered into a Dedication Agreement with WBC for the adoption of Catalina Approach on 13 February 2019 under s.38 of the Highways Act 1980. The road is now successfully through its defects period and WBC formally adopted the road in March 2021.
- 4.6 It was agreed between OWL and WBC that adoption of the most western section of Catalina Approach could be delayed for a period of time to allow for temporary construction accesses to be formed to the TJM unit on Omega West (if approved). A copy of the WSP plan showing the extent of Catalina Approach now adopted (Catalina Approach Adoption) can be found at Appendix 7).

5.0 Existing 132kV Power Lines

- 5.1 The Omega West site is currently bisected by 132 kV overhead transmission lines operated by Scottish Power Energy Networks (SPEN). The line initially enters the site from the north side of the M62 (from a steel pylon situated at the very western end of Omega North) and leads to a steel pylon in the north-east corner of the site (approximately 150m south of the northern boundary). At this point, the line splits into two separate lines (mounted on smaller 10m high wooden poles) with one line heading due south, and the other heading south-west. A plan showing the route of these lines and the associated clearance zones can be found at Appendix 8 (Constraints Plan).
- 5.2 When OWL started to investigate the feasibility of locating the TJM unit on Omega West, it became clear that these lines would prevent the construction of the TJM unit on the land immediately west of the HUT Group building. Even if the TJM unit was pushed as far west as possible (without breaching the structural planting belt which will extend the entire length of the Omega West western boundary), the most westerly of the two lines would still clash with the eastern end of the building (see Constraints Plan at Appendix 8).
- 5.3 SPEN indicated that the existing overhead lines could potentially be diverted around the periphery of the site (at the Applicants' cost) but the process would take several years due to the lead-in time for cabling and the scheduling of the requisite outages on the grid. This represented a fundamental clash with the TJM programme and the scheme could not proceed on this basis.
- 5.4 A solution was found whereby OWL entered into a contract with SPEN for (a) the Temporary diversion of part of the south western line and (b) the Permanent diversion of all the overhead cables. The Temporary diversion works were undertaken in 2020, following the grant of a s.37 consent by St Helens Council, and moved the lines far enough away from the

proposed building so as not to constrain its construction/operation pending the full diversion works. A plan showing the route of the “temporary diversion” can be found at Appendix 9 (SPEN Temporary Diversion 1).

5.5 Separately, OWL has entered into a contract with SPEN for alterations to the most easterly line (‘Temporary Diversion 2’) which will replace 3 existing wooden poles with 3 taller ones so as to allow a more generous clearance height at the entry point to Omega West). SPEN are due to complete them in late April / early May 2021 following a scheduled second outage.

5.6 A plan showing the proposed permanent diversion routes (which will involve replacing the existing steel pylon with one closer to the north-eastern corner of Omega West and then removing the existing wooden poles and undergrounding the entire length of the cables as they pass through the Application site) can be found at Appendix 10 (Permanent SPEN Diversions).

6.0 Utilities

6.1 All utilities – power, gas, water, telecoms and foul drainage (surface water being dealt with by a series of swales & basins before discharging to local watercourses) are present within Catalina Approach and terminate adjacent to the eastern boundary of Omega West.

6.2 All utilities within Catalina Approach have been designed and sized with the Omega West proposals in mind and therefore no further disruption to the existing road network is required in order to service the Application site.

6.3 In addition, no offsite utility reinforcement is required to provide sufficient capacity to service the entire proposed development at Omega West.

6.4 Power is singularly the most important utility in the context of large and very large B2/B8 units. This is driven by two trends in the market:

- a) The necessary move towards greater automation as a consequence of the Government’s Policy to reduce reliance on lower-skilled immigrant labour and improve productivity.
- b) Demand from occupiers for larger buildings to drive economies of scale to meet the increasing market share including for online activities; and

6.5 As the demand for bigger buildings and greater automation grows, so does the demand for power. OWL has already secured the power capacity required for both the TJM unit and the

floorspace proposed in outline for the balance of the Application Site. OWL have funded 2 primary sub stations on Omega to date and a third will be provided at Omega West. If not planned properly power reinforcement can take a considerable length of time to secure. Under the terms of their Licence from Ofgem (the Regulator) utility companies are subject to restrictions on investment in speculative developments, in order to ensure that these are not being funded by existing customers. Although utility companies also have a duty to monitor demand growth trends in their region and prepare strategic plans to enhance the network, such activity can lag behind the Development Plan process due to the Licence restriction.

7.0 Offsite Highway Improvements

7.1 To mitigate the impact of the proposed development on the highway network, St Helens Council (SHC) has proposed attaching conditions (22 and 23) to the draft Omega West planning permission requiring off site highway improvements. These reflect the conditions proposed by Highways England and WBC in their consultation responses:

22 Prior to the first occupation of Unit 1, mitigation including the widening works between M62 J8 and Skyline Drive / Fairchild Road roundabout, and remarking of M62 exit slip to provide two lanes to Skyline Drive (as outlined in drawing 11191042_SK326/A) should be implemented, to ensure the junction lane use and exit geometry is consistent with traffic modelling submitted.

23 No construction work relating to the proposed mitigation in Condition (22) above shall commence until the developer has submitted full design & construction details of the required improvements between M62 J8 and Skyline Drive / Fairchild Road roundabout and remarking of M62 exit slip; such details to be agreed by the LPA, in consultation with the Secretary of State and shown in preliminary form on drawing 11191042_SK326, including:

- i. How the scheme interfaces with the existing highway alignment, carriageway, markings and lane designations;*
- ii. Full signing and lighting details;*
- iii. Confirmation of full compliance with current Departmental Standards (DMRB) and Policies (or approved relaxations / departures from standards);*
- iv. Independent Stage 1 and Stage 2 Road Safety Audits carried out in accordance with current Departmental (DMRB) and Advice Notes.*

7.2 The Skyline Drive widening works between Junction 8 of the M62 and the new Skyline Drive / Fairchild Road roundabout are shown on a WSP drawing which can be found at Appendix 11 (Skyline Drive Widening).

7.3 Similarly, the changes to the westbound M62 exit slip are shown on a WSP drawing which can be found at Appendices 12A (Junction 8 Works (Markings) and 12B (Junction 8 Works (Signage)).

Progress to date

- 7.4 The Skyline Drive widening works, the detail of which was approved prior to construction starting by both WBC Highways and Highways England, commenced in October 2020, immediately after OWL completed the new Skyline Drive / Fairchild Road roundabout and associated realignment of Fairchild Road approved under WBC planning permission 2019/35647.
- 7.5 The Skyline Drive widening works were completed in January 2021 and, following the usual 12 months defects period, are to be adopted by WBC via an amended s.278 Agreement for the new Skyline Drive / Fairchild Road roundabout works. A copy of the amended Dedication Plan, which includes the widening works, can be found at Appendix 13 (Skyline Drive Adoption Plan).
- 7.6 The works that are required to be done at Junction 8 commenced on 8th March 2021. Following agreement between all parties, the works are being undertaken on behalf of the Applicants by Highways England's contractor, as part of a wider programme of resurfacing works on the M62 (between Junctions 8 and 9). The works are scheduled to last until 13th May 2021.

8.0 Pre-Commencement Conditions & Construction

- 8.1 Even in the case of detailed planning applications (as against outline), it is normal in developments of the type and scale proposed at Omega West for the Local Planning Authority to attach a number of pre-commencement conditions to any planning permission. These require the preparation of further information by the applicant for submission and approval by the LPA prior to any works commencing on site.
- 8.2 In the case of Omega West – and specifically in relation to the proposed TJM unit – enormous care was taken during the preparation and discussions during the application with St Helens Council to provide the requisite information in advance (so as to obviate the need for the imposition of the likely imposition of the numerous normal pre-commencement requirements) ahead of the application being presented to the Planning Committee. This was driven by the TJM programme and was done to ensure that the time period between a detailed planning permission being granted and work commencing on site was as short as possible.
- 8.3 The following matters, which would normally be addressed once planning permission had been granted, were dealt with during consideration of the Omega West application:
- Construction Environmental Management Plan
 - Operational Noise Management Plan

- Highways Management & Maintenance
- Control of Invasive Species
- Bat Mitigation Measures
- Woodland, Tree & Hedgerow Clearance
- Tree Protection Measures
- Landscape & Ecology Management
- Landscape Maintenance
- Drainage Outfall Method Statement
- Ecological Clerk of Works
- Site Biodiversity Champion
- Monitoring Well Decommissioning Strategy
- Local Employment Scheme (Construction)
- Local Suppliers of Services and Goods During Construction Phase

8.4 There are therefore **no** pre-commencement conditions proposed for the full element of the proposed development.

8.5 Furthermore, the Applicants have fully tendered the construction contracts for Unit 1 and associated infrastructure works and selected preferred contractors. Subject to planning permission being granted and receiving an instruction to proceed, these contractors can mobilise to site and commence construction works within 2-3 weeks.

9.0 Other Statutory Consents

9.1 In addition to a detailed planning consent, a number of other statutory consents are also required in order for the construction of the TJM unit and associated infrastructure works to proceed. These have all been obtained by the Applicants.

Highways England

9.2 Separate to their approval of the proposed offsite highways mitigation works at Skyline Drive and Junction 8 of the M62, Highways England's approval was required for the following matters:

- Structural approval for the M62 bridge ramp removal & Unit 1 piling
- Geotechnical approval for the M62 bridge ramp removal & Unit 1 piling
- RAMS for Contractor removing the M62 bridge ramp
- RAMS for the Unit 1 Contractor

Shell Pipeline

- 9.3 An existing Shell pipeline, carrying ethylene under high pressure, runs underground through the Application Site at the western end of the TJM plot for a distance of approximately 160 metres (see Constraints Plan at Appendix 8).
- 9.4 An HSE Consultation Zone exists on either side of this pipeline and both the HSE and Shell were consulted prior to – and during - the submission of the Planning Application. The detailed TJM proposals were designed with the pipeline and associated Consultation Zone in mind. As a consequence, neither the HSE nor Shell have any objection to the proposed development.

Watercourse Diversions

- 9.5 Two existing watercourses are present within the Application site:
- i) an Ordinary Watercourse (the ‘Barrow Brook’) which cuts through the north-eastern corner of the Application site; and
 - ii) a Major Watercourse (the ‘Whittle Brook’) which runs to the south of Unit 1 (outwith the Application site) and around Booth’s Wood before cutting diagonally across the outline portion of the Application site.
- 9.6 Both watercourses require diversion if the proposed development is built out generally in accordance with the Indicative Masterplan.
- 9.7 Permission to divert an Ordinary Watercourse takes the form of an Ordinary Watercourse Land Drainage Consent, granted by the Local Lead Flood Authority (LLFA). In the case of the Barrow Brook, the LLFA is St Helens Council. Consent for the diversion of the Barrow Brook was granted on 20 September 2020 (see Minor Watercourse Consent at Appendix 14).
- 9.8 Permission to divert a Major Watercourse is given by the Environment Agency and is given in stages. The proposed diversion of Whittle Brook is not required for the construction of Unit 1 and its associated infrastructure (the detailed planning application element) – it is only required to facilitate part of the outline planning application element. A full Water Framework Directive (WFD) assessment in support of the detailed planning application element has been completed. WFD screening and scoping stages have been completed for the outline planning application element. In its letter dated 16 September 2020 (SO/2020/120013/05-L01), which removed its holding objection and confirmed to the Local Planning Authority that planning permission could be granted subject to conditions, the Environment Agency sets out the matters which the full WFD Assessment for the outline

planning area should address when the detailed planning application for this area is submitted.

10.0 Conclusion

- 10.1 OWL have completed the development of 5.2m sqft of logistics/manufacturing space on Omega since 2012 which equates to an average of 520,000sqft per annum. This clearly highlights the attractiveness of Omega and supports the view that Omega is the pre-eminent development of this type in the North West. Furthermore, there are currently no buildings available with the most recent two under offer to a single occupier.

- 10.2 'Oven ready' is a term commonly used when describing potential development sites as the timescale to actual delivery of a completed building is of critical importance to many occupiers (and is to TJM). However, there is much more to delivering B2/B8 accommodation than just obtaining outline planning permission. OWL and TJM proactively sought to resolve as many issues as possible in parallel with the planning application so that construction could commence as soon as planning permission was obtained.

- 10.3 There are no outstanding technical matters that have to be cleared and similarly requisite information was provided to St Helens Council to obviate the need for any pre commencement conditions that would require to be discharged. This confirms beyond any doubt that Omega West is deliverable and genuinely 'oven ready'.