



Appeal Decision

Inquiry Held on 23 to 25 & 29 March 2022

Site visit made on 30 March 2022.

by S R G Baird BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 3 May 2022

Appeal Ref: APP/M0655/W/21/3288180

Land at Junction 11 of the M62 Motorway.

- 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 Extra MSA Group against the decision of Warrington Borough Council.
 - The application Ref 2019/35726, dated 30 August 2019, was refused by notice dated 17 June 2021.
 - The development proposed is for the erection of a Motorway Service Area including facilities building, up to 100 bedroom hotel, service yard, fuel filling station, electric charging station, parking facilities, landscaping and amenity areas and associated infrastructure and earthworks.
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Preliminary Matters

1. Accompanied by an indicative site plan, the application was submitted in outline with all matters other than access reserved.
2. The decision notice lists one reason for refusal (RfR), that the development would be inappropriate development in the Green Belt and very special circumstances do not exist to outweigh that conflict. In February 2022, the local planning authority (lpa), resolved that (a) the RfR would not be pursued and (b) it endorses the approach and conclusions contained in the June 2021 and February 2022 reports to the Development Management Committee. The lpa's position, reiterated in a statement made at the opening of the inquiry, is that other considerations clearly outweigh the harm to the Green Belt and any other harm such that very special circumstances exist to justify approval of the scheme.
3. The Council as lpa and highway authority (HA) has agreed Statements of Common Ground (SoCG) on Landscape, Biodiversity, General Matters and Transport. The appellant agreed SoCG with National Highways (NH) and HS2 Limited. Other than contributing to the inquiry sessions on suggested conditions, the S106 Agreement and matters of clarification, the lpa took no other part in the inquiry.
4. Further to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations), the application was accompanied by an Environmental Statement (ES) and supplemented by an Addendum. In coming to my conclusions, I have had regard to the contents of the ES and the Addendum.
5. A S106 Agreement was submitted.

Decision

6. The appeal is allowed and planning permission is granted for the erection of a Motorway Service Area including facilities building, up to 100 bedroom hotel, service yard, fuel filling station, electric charging station, parking facilities, landscaping and amenity areas and associated infrastructure and earthworks on land at Junction 11 of the M62 Motorway, Warrington in accordance with the terms of the application, Ref 2019/35726, dated 30 August 2019, and the plans submitted with it, subject to the conditions listed in the attached Schedule of Conditions.

Main Issues

7. The development plan includes the Local Plan Core Strategy (CS), July 2014, where the site is located within the Green Belt. For the purposes of engaging with the CS and the National Planning Policy Framework (Framework), it is accepted that a motorway service area (MSA) would constitute inappropriate development.
8. The main issues are:
 1. the effect on the Green Belt with particular reference to openness and the purposes for including land within it;
 2. the effect on (a) landscape character and visual impact, (b) the safety and free flow of traffic on the highway network, (c) biodiversity, and (d) agricultural land;
 3. whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Issue 1

Openness

9. Framework paragraph 137 identifies that the essential characteristics of Green Belts are their openness and permanence. Planning Practice Guidance¹ (PPG) advises that when assessing any impact on openness circumstances will vary depending on the proposal. Matters to be considered include spatial and visual aspects, duration of the development and the degree of activity generated.
10. The indicative site plan shows the fuel filling station located in the south-west corner and the hotel/facilities building positioned close to the north-western edge of the site. Buildings would range in height between 6.5 and 15m. To the east would be the parking areas for some 688 vehicles. The remainder of the site would comprise improvements to the roundabout junction, internal access roads and green infrastructure. The combination of built development and parking would occupy most of the site and whilst confined to the site, the loss of openness in spatial terms would be significant.

¹ Green Belt Paragraph 001, Reference ID: 64-9001-20190722.

11. Views of the site are largely contained by the M62 motorway, the substantial mound formed by the former Risley landfill site, the heavily treed and elevated former railway line that runs in arc from the M62 motorway in the east to Culcheth to the north-west of the landfill site. These features significantly restrict views into the site and across the wider landscape. Notwithstanding this visual containment, there would be significant harm to the visual aspect of openness through the scale of built development, car/lorry parking and the comings and goings albeit it would be localised. That said, the harm to the visual aspect of openness would be further mitigated through careful attention to layout, appearance, and landscaping, reducing the degree of harm to openness. Moreover, the proposed line of HS2, which would run in a tight arc immediately to the east and north of the site, would further reduce the visual loss of openness.

Effect on Green Belt Purposes.

12. Framework paragraph 138 lists the 5 purposes of the Green Belt. These are, (a) to check the unrestricted sprawl of large built-up areas; (b) to prevent neighbouring towns merging; (c) to assist in safeguarding the countryside from encroachment; (d) to preserve the setting and special character of historic towns, and (e) to assist in urban regeneration. As part of the evidence base for the review of the CS, the lpa undertook a review of the Green Belt². The study includes a detailed assessment of individual sites, including the appeal site (Parcel WR14). The study concludes that the appeal site performs weakly in terms of purposes (a) and (b), a moderate contribution to purpose (c), no contribution to purpose (d) and a moderate contribution to purpose (e). Overall, the site is judged to make a weak contribution the Green Belt. In assessing the effect of the application on the 5 purposes, the lpa agrees with the appellant that there would be some harm by reason of encroachment, purpose (c), but no harm to purposes (a), (b), (d) and (e).
13. *Purpose (a)*. Although appearance, landscaping, layout, and scale are reserved matters, the indicative layout provides shows how the MSA could be laid out. The facilities building would be viewed against the rising ground of the former tip to the west and the filling station viewed against Pestfurlong Hill to the south. The whole development would be contained by the green infrastructure on the north, eastern and southern boundaries. Moreover, cumulatively the former tip, the M62, the line of HS2 and the former railway are and will be significant durable boundaries and as such the MSA would not result in unrestricted sprawl of the built-up area. There would be no harm in relation to purpose (a).
14. *Purpose (b)*. Whilst development of the site would result in the actual and perceived gap between the built-up area of Warrington and Culcheth being reduced, it would not result in the built-up areas merging. Even with HS2, a significant area of open land would remain between Warrington and Culcheth, maintaining the separate identities of these settlements. There would be no harm to purpose (b).
15. *Purpose (c)*. The introduction of built development onto a site in open agricultural use would inevitably result in encroachment, albeit it would be contained by the former tip, the M62 and the green infrastructure that would

² Green Belt Assessment Final Report October 2016 & Addendum June 2017.

be developed on the northern, eastern, and southern boundaries. Thus, whilst there would be harm to purpose (c) it would be limited.

16. *Purposes (d) and (e)*. There are no historic towns in the vicinity of the site. For the reasons, I discuss at paragraphs 61 to 68, there are no alternative sites that could accommodate the development in the urban area or outside the Green Belt. There would be no harm to purposes (d) and (e).

Green Belt Conclusion

17. As inappropriate development, there would be harm by definition. There would be significant harm, albeit localised, to openness and limited harm to Green Belt purpose (c).

Issue 2

Landscape & Visual Impact

Landscape Character

18. CS Policies CC 2 and QE 7 are criteria based policies that seek to protect the countryside and achieve high quality places. CS Policy QE 3 seeks an integrated approach to the provision and management of Green Infrastructure. The lpa engaged independent landscape consultant to appraise the impact of the scheme. Their conclusion, which the lpa adopts, is that a scheme of suitable scale and design could be accommodated on the site without significant and visual harm. One objective of the Framework is to enhance the natural environment through recognising the intrinsic character and beauty of the countryside.
19. The ES and the Addendum includes a comprehensive Landscape and Visual Impact Assessment (LVIA) using industry standard methodologies. The LVIA undertook a general analysis of the landscape to assess the potential impact of the MSA on landscape and visual receptors, with reference to National Character Area (NCA) 60: Mersey Valley, and the local landscape types (LT) contained in the Warrington: A Landscape Character Assessment 2007. Here the site is located in LT (2) Mossland Landscape and more specifically Area 2.B Holcroft and Glazebrook Moss. The key characteristics of these areas are, a low lying open landscape of predominantly flat farmland with a regular field pattern; a range of habitats including remnants of semi-natural mossland; densely populated urban areas and a dense network of motorways and roads.
20. The wider landscape is distinctive largely due to the flat, open landscape and general absence of landscape features. However, the site and its immediate environs is heavily influenced by the rising topography of the former landfill site to the west, the man-made Pestfurlong Hill to the south, the heavily treed and elevated disused railway line to the east and north and the motorway. Thus, the site is well contained and if HS2 is built would be even more contained. As such, the site and its environs are not representative of the wider landscape character. Rather they sit as a locally distinct and highly contained area of landscape character with a medium to low landscape value and sensitivity.
21. The scheme would involve a large development on currently agricultural land, resulting in significant change. However, extensive mitigation is also proposed, which, over time, would mature and consolidate the containment of

the site within the immediate landscape. The potential for and impact of containment is amply demonstrated by the nearby Burtonwood MSA at Junction 8 that sits snugly within its wider landscape setting.

22. Given the expansiveness of NCA60, and the distinct landscape character of the site, the landscape impact of the development on this area would be negligible adverse. As to the effect on the local LTs, the existing containment of the site would be reinforced by the development and its mitigation. In this context, there would, at post-construction stage, be a medium degree of landscape change resulting in a moderate landscape effect. As the proposed mitigation matures, the overall effect on landscape character would reduce to moderate to minor adverse and would not be significant.

Visual Impact

23. The visual impact of the development was assessed from several public vantage points in the surrounding area. Given the location of the site and the containment formed by the landfill site, disused railway, the M62 and Pestfurlong Hill, the proposed development would be seen from few areas. From the public footpath³ that runs west from Holcroft Lane, views to the south-west are limited by the well treed embankment of the disused rail line. Whilst parts of the proposed scheme would be seen, albeit against the backdrop of the former landfill site, through gaps in the tree line on the disused railway, these views would be generally limited and could be reduced through mitigation. From these areas, the overall effect would be minor adverse and would in time reduce to negligible.
24. Pestfurlong Hill, to the south of the M62 is managed as a woodland area, with public access. The site contains substantial blocks of mature and maturing woodland with only limited views out towards the north to the site and beyond. Where views would be possible, the visual effect of the proposal would be moderate/minor reducing to minor adverse as the mitigation planting on the southern boundary matures.
25. The main visual impacts of the scheme would be experienced by users of diverted public footpath 13 (FP) and stretches of paths on the eastern edge of the former tip. These represent the worst case scenario in terms of visual impact. FP 13 would run along the southern edge of the site, loop northwards following the eastern boundary and then strike west along the northern boundary to connect with the existing public footpath network. Post construction, the buildings and parking areas associated with the MSA would be prominent resulting in a major adverse visual effect. However, with a carefully thought and a well-executed mitigation scheme, the green infrastructure established on the site would reduce the visual impact to moderate adverse.
26. The eastern edge of the former landfill site has on its eastern edge several paths running around and over the site. Through a combination of topography and maturing tree/shrub planting, views of the site vary in number and duration. However, for the most part, the development would be visible from the paths on the eastern edge of the site, several of which would be a close range. From these vantage points, the facilities building would be clearly visible and from higher vantage points views of parts of the car park

³ Culcheth & Glazebury 148.

area would also be obtained. Whilst the scheme proposes mitigation along the western boundary, the development, particularly the facilities building would be clearly visible, albeit in later years its appearance would be softened by maturing tree/shrub planting on the tip site and the proposed mitigation. Overall, the visual impact of the development from these locations, albeit they would be limited in number, would be major reducing to moderate adverse.

27. In coming to these conclusions on visual impact, it is noted that the MSA would be a 24-hour a day use, and lighting would be apparent from the limited number of residential properties to the north-east and those passing the site. However, with the visual containment of the site, the proposed mitigation, and the development of a suitable lighting specification, the effects would be minimised and local in effect.
28. Drawing the above together, the development would result in moderate to minor landscape and visual harm and as such, there would be limited conflict with the relevant parts of CS Policies CC 2, QE 3 and QE 7.

Traffic

29. The CS includes Policies CS 4 - Overall Spatial Policy Transport, MP 1 – General Transport Principles, MP 3 - Active Travel, MP 4 – Public Transport, MP 5 Freight Transport, MP 6 – Transport Infrastructure, MP 7 - Transport Assessments and Travel Plans and QE 6 Environment and Amenity Protection. Framework Paragraph 111 indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
30. The application was accompanied by a comprehensive Transport Assessment (TA) as part of the ES and an update in the Addendum. These assessments were supplemented by technical correspondence with NH who is responsible for the Strategic Road Network (SRN) and the Council as the local HA responsible for the local highway network.
31. As an off-line MSA, the main impacts would be on the local highway network, particularly the roundabout at junction 11, whose operation with the development has been thoroughly assessed along with weaving assessments of the M62 mainline and operational assessments of the signal controlled junctions at Birchwood Way/Daten Avenue/Moss Gate. In addition, assessments were undertaken relating to the traffic implications of construction of the HS2 rail link to the east and north of the site.
32. Subject to the imposition of appropriate conditions, the HA and NH have no objections to the scheme on highway safety or capacity grounds. HS2 Limited are content that the proposal would not prejudice the delivery of HS2. Nothing has been submitted in relation to the impact of this proposal on the SRN or local highway network that materially contradicts the conclusions of the highway/traffic assessments or suggests that the residual cumulative impacts on the road network would be severe.
33. Given the comprehensive and robust nature of the TA and the comprehensive suite of agreed planning conditions, there is no reason to disagree with the above conclusions. Accordingly, no material harm would occur to the free flow of traffic on the SRN and local highway network. Similarly, with the

proposed pedestrian and cycleway improvements at the roundabout, no material harm would occur to pedestrian/cyclist safety. The proposal would not conflict with CS Policies CS 4, MP 1, MP 3 to and QE 6 and the objectives of Framework Paragraph 111.

Biodiversity

34. CS Policy QE 3 lists the criteria proposals are assessed against. These include, improving the quality of existing provision, to increase its value as a habitat for biodiversity. CS Policy QE 5 seeks to protect and where possible enhance sites of recognised nature and geological value. Framework paragraph 180a indicates that where significant harm to biodiversity cannot be avoided, mitigated, or compensated for, permission should be refused. Framework paragraph 180d indicates that opportunities to include biodiversity benefits into development where this can secure biodiversity net gain should be taken. Whilst the provision is not yet in force, the Environment Act 2021 requires the biodiversity value attributable to a development to exceed pre-development biodiversity value by at least 10%.
35. Green infrastructure proposals include: the creation of a peatland-type habitat area; the reinforcement of the mature trees on the eastern and northern boundaries; native woodland/copse planting; the creation of landscape and ecological habitat areas to include, the diverted Silver Lane Brook and the creation of species rich neutral grassland habitat to complement the habitats on the restored landfill to the west.
36. The appeal site has been subject to a range of ecological surveys and desk-top assessments to identify and assess the biodiversity value of the site. These assessments were supplemented by technical correspondence with Natural England (NE) and the Greater Manchester Ecology Unit (GMEU).
37. Although some Priority habitat is present in the form of the Silver Lane Brook and small woodland blocks, none are high quality examples and effects on these habitats could be mitigated or compensated for. Other non-priority habitats are of limited importance. Most of the site is agricultural land and, other than use by a small number of farmland birds, is of limited value for fauna. Other habitats provide some limited foraging/commuting opportunities for bats, foraging Badgers, breeding birds, foraging Barn Owl and invertebrates.
38. In terms of statutory ecological designations, 2 components the Manchester Mosses Special Area of Conservation (SAC), lie some 1.15km to the south and 1km to the east. The non-statutory designation of Pestfurlong Moss/Silver Lane Risley Local Wildlife site (LWS) lies some 0.1km to the north-west.
39. The ES addresses potential effects on the SAC with particular attention paid to hydrological and air quality effects. This assessment concludes that no likely significant effects would occur. Based on the work done by the appellant, NE has no objection and confirms that the development would not have a likely significant effect on the Manchester Mosses SAC. GMEU concur with this conclusion. As to the LWS, the assessment concludes that hydrological links are absent and other potential effects can be addressed via mitigation measures covered by a comprehensive suite of construction management and landscape/biodiversity conditions.

40. The scheme would lead to direct losses of habitat centred on agricultural land, which is of low ecological value. The loss of other habitats includes grassland, broadleaved woodland, tall ruderal, a waterbody and a short length of the Silver Lane Brook. However, mitigation for losses is provided by way of the green infrastructure strategy described above. The re-routing of the Silver Lane Brook would result in an enhanced stream corridor of greater length.
41. Although the site is located within a peatland moss area, surface peat is almost completely degraded with the main deposits below the surface. Whilst some of these deposits would be disturbed, the most ambitious element of the green infrastructure mitigation is the creation of a Peat Habitat Zone (PHZ) on the eastern edge of the site. Through the implementation of a comprehensive Peatland Ecological and Construction Management Plan, the intention is to create a lowland bog type habitat. This is a high value habitat type and represents a significant ecological opportunity that would contribute to the aims of the Great Manchester Wetlands Nature Improvement Area where opportunities should be taken to restore degraded bogs. Whilst the creation of the PHZ, is a complex undertaking, and there is no guarantee of success, the proposed peatland management plan has been produced by experienced and competent operators. This suggests a strong likelihood of success and a significant biodiversity gain.
42. The Framework seeks the delivery of biodiversity Net Gain (BNG) and the scheme has been assessed using the DEFRA 3.0 Metric. This assessment, which included the PHZ, returns a BNG of 8.17%. This would be below the 10% BNG being sought through the Environment Act. However, whilst the lowland bog, is a habitat of exceptional biodiversity value, the value of recreating this habitat type is not reflected in the biodiversity unit value assigned to it in the Metric. This is due to the "difficulty of creation" negative multiplier included in the Metric. That said, I have no reason to disagree with the appellant's high degree of confidence in the deliverability of the PHZ.
43. Drawing the above together, whilst the proposal would have an impact on biodiversity, this could be appropriately mitigated through the imposition of a suite of relevant planning conditions. Moreover, there is the potential to re-create a high value lowland raised bog like habitat type resulting in a significant BNG. Accordingly, the proposal would not conflict with the objectives of the Framework or CS QE 3 and 5.

Agricultural Land

44. CS Policy CC 2 indicates that development proposals in the countryside that accord with Green Belt policy will be supported where, amongst other things, they relate to local enterprise and farm diversification, and where there would be no detrimental impact on agricultural interests. Framework paragraph 174 and PPG⁴ indicate that decisions should recognise the economic and other benefits of Best and Most Versatile (B&MV) agricultural land.
45. The standard method for determining agricultural land quality is the national Agricultural Land Classification (ALC). This places land into one of 5 grades. Grades 1, 2 and 3a are classed as being the B&MV. Whilst the CS Proposals Map, which relies on the ALC, shows the site as being Grade 1 this must be treated with caution. The ALC is not accurate at field scale. Rather, it is

⁴ Natural Environment Paragraph 001 Ref ID 8-001-20190721.

intended for strategic use as it does not identify variations in ALC grades in areas of less than 80ha. Furthermore, the mapping does not provide a subdivision of Grade 3 into Subgrade 3a (B&MV) and Subgrade 3b (non-B&MV). Accordingly, the ALC and CS cannot be used to accurately define the agricultural value of the site.

46. The quality of the land was assessed in 2006, 2019 and more recently the subject of a desk study and verification by an appropriately qualified agricultural assessor. This recent study confirms that most of the site comprises B&MV agricultural land. Whilst some of site would not be developed, it would be managed for ecological purposes. Effectively, the proposal would result in the permanent loss some 11.7ha of agricultural land of which 10.7ha falls within the classification of B&MV.
47. Whilst there is no definition of what would constitute a significant loss of B&MV land, NE is only required to be notified of proposals that would result in the loss of more than 20ha. This threshold gives the decision maker a steer as to when the degree of loss might be significant. Given the substantial amount of agricultural land surrounding Warrington, the amount of land permanently lost through this development would be minor. Moreover, there is nothing to suggest that the development would result in a cumulative loss of B&MV agricultural land. In terms of the economic impact on the existing farming operation, there is nothing to suggest that the loss of this field would have a material impact on the viability of the farm unit.
48. On this matter, whilst there would be no detrimental impact on agricultural interests, the proposal does not relate to a local enterprise and farm diversification. Accordingly, the proposal conflicts with CS Policy CC 2.

Other Matters

49. Amongst other things, interested parties have raised issues matters relating to flooding, drainage, heritage, retailing/hotel usage and the impact on air quality and noise in relation to neighbouring residents. These issues are addressed by the ES, the Addendum, and the provision of further information to the lpa and organisations consulted. On these matters, no material impacts have been identified that cannot be addressed through the imposition of appropriate planning conditions. Given the location of the site adjoining the M62 and the degree of separation to residential properties, particularly those to the south of Pestfurlong Hill, there would be no material impact on the living conditions of residents.

Need

50. The CS does contain specific policies regarding the provision of major roadside facilities. National policy for the provision of roadside services on the SRN is set out in Circular 02/2013 – Annex B. This indicates that, MSAs perform an important road safety function by providing opportunities for the travelling public to stop and take a break during their journey (paragraph B4); the network of MSAs on the SRN has been developed on the premise that opportunities to stop are provided at intervals of approximately 30 minutes (paragraph B5); it recommends that the maximum distance between MSAs should be no more than 28 miles (paragraph B6) and this distance is considered appropriate for all parts of the SRN and to be in the interests and

- for the benefit of all road users regardless of traffic flows or route choice (paragraph B8).
51. In 2010, the Highways Agency⁵ assessed the provision of MSAs across the whole SRN⁶. Gaps of more than 28 miles were highlighted, with gaps of 40 miles or more identified as Priority Locations. The proposed MSA would plug 4 gaps identified in the 2010 Study, of which 3 are highlighted as Priority Locations. The relevant gaps are, M6 Charnock Richards MSA to M62 Birch MSA (35 miles); M6 Charnock Richard MSA to the terminus of the M67 (47 miles); the M58 terminus to M62 Birch MSA (40 miles) and M58 terminus to the M67 terminus (52miles).
 52. The SoCG with NH confirms that need for a MSA is defined by Circular 02/2013, that the identified gaps are genuine gaps on the SRN and that the appeal proposal would meet any of the gaps identified by the 2010 study. Accordingly, NH submits that the decision maker should, *"...afford very significant weight to the need for and resultant highway safety benefits of the proposed development."* The Ipa's position on need is set out in the statement made at the opening of the inquiry. This indicates that, *"...there is a clear and demonstrable need for an MSA that the proposal would meet, when considered against the Government's policy in Circular 02/2013. It ...follows that there would be significant highway safety and welfare benefit delivered by the scheme."*
 53. Circular 02/2013 and the view of NH are material considerations. Established case law⁷ indicates that a decision maker should give the views of statutory consultees, in this case NH, *"great or considerable weight"* and that to depart from those views requires *"cogent and compelling"* reasons. Thus, the position of NH as set out in the SoCG attracts considerable weight.
 54. It is suggested that the Circular does not address the need for MSAs or how that need is to be assessed and how weight can be attributed to need. This is based on the view that the gaps identified by the 2010 Study are "policy gaps" rather than "real gaps". Thus, to establish whether there is a "real" need the assessment must be nuanced by looking at other factors, such as traffic flows, route choice and safety benefits. Superficially, this seems a sensible and plausible approach. However, it appears to suggest that the Circular is deficient and moreover it suggests that do so would lead the decision maker to go behind its simple logic and not reading it on its face.
 55. Annex B of the Circular starts by indicating that its purpose is to set out *"...policy on the provision...of..."* facilities on the SRN. Spacing starts from the premise that MSAs perform an important road safety function by providing drivers the opportunity to stop and rest during a journey (paragraph B4). This stems from the clear advice that for safety reasons drivers should stop and take a break of at least 15 minutes every 2 hours. I have no doubt that this simple advice is because accidents, particularly fatigue related accidents, on the SRN, have, not only severe and significant personal consequences, but

⁵ Now National Highways.

⁶ Spatial Planning Framework Review of Strategic Road Network Service Areas.

⁷ Shadwell Estates Limited and Breckland District Council and Pigeon (Thetford) Limited. [2013] EWHC 12 (Admin); Hart DC v Secretary of State for Communities and Local Government [2008] EWHC 1204 (Admin); Akester v Department for the Environment, Food and Rural Affairs [2010] EWHC 232 (Admin); Jones v Mansfield DC [2003] EWCA Civ 1408.

also very significant local and national economic consequences through delay and loss of productivity.

56. This simple road safety advice is translated by NH into a spacing recommendation of a maximum distance between MSAs of no more than 28 miles (paragraph B6). In identifying need, the Circular is, in my view unequivocal, when it states, that the 28-mile distance is, "*...considered appropriate for to all parts of the strategic road network and to be in the interests and for the benefit of all road users regardless of traffic flows or route choice. In determining applications for new or improved sites, local planning authorities should not need to consider the merits of the spacing of sites beyond conformity with the maximum and minimum spacing criteria established for safety reasons*". Moreover, given the imperative of NH to achieve zero harm by 2040⁸, it confirms the importance and the weight to be attached to the road safety function of MSAs.
57. It might appear counter-intuitive, to factor out traffic flows and route choice when assessing need and the weight to be attached to it. However, it strikes me as being both deliberate and sensible. Sensible, in relation to the starting premise, i.e., the important road safety function played by MSAs. Deliberate in that there is, as far as I am aware, no established methodology accepted by NH that identifies the level of flows on any stretch of the SRN. Indeed, the use of the Greater Manchester Traffic Model, promoted here, demonstrates this, simply because it is not constructed to identify routing across the strategic network. Moreover, its output, which shows zero vehicles travelling any of the gap routes must be treated with considerable caution. In addition, the model does not reflect the dynamic and behavioural nature of route choice and traffic flows, where a driver's perception of the route can change based on time of day, congestion or perception of congestion, roadworks, accidents and the weather. Taking all this, a plain reading of Annex B of the Circular sets out the basis for identifying need for an MSA and this conclusion is confirmed by NH in the SoCG.
58. I acknowledge that the Circular does not give advice on the weight to be attributed to the need. However, this is where the response of NH is important and the requirement of case law to give that response great/considerable weight. I do not believe for one moment that NH would have signed a SoCG that contains an unequivocal invitation to the decision maker to afford very significant weight to the need for and resultant highway safety benefits of this development without proper assessment.
59. The existence of gaps and their extent are factors that go to the attribution of weight to need. Several appeal decisions, whether allowed or dismissed, indicate that, on its own, a gap of more than 28 miles attracts significant/substantial weight⁹. Moreover, the Doncaster appeal decision¹⁰ highlights how the extent of the gap can influence weight. In that appeal decision, the gaps were between 29 to 31 miles and in each, the gap included stretches of trunk road with signed services. On that basis, it was concluded that the small excess over 28 miles (1 to 3 miles) reduced the weight attached to the identified need for an MSA. The corollary to this is the greater the gap the greater the weight to be attributed to need. In this case the, the

⁸ 2020: Our Journey so Far, Highways England.

⁹ APP/X0415/W/21/3272171; APP/k3605/A/95/260796; APP/E2734/W/20/3245778 & APP/Q4625/W/21/3275290.

¹⁰ APP/F4410/W/18/3197290.

excess ranges from 7 miles for Charnock Richard to Birch, 19 miles for Charnock Richard to the M67 terminus, 12 miles for the M58 terminus to Birch Services and 24 miles for the M58 terminus to the M67 terminus. Moreover, the gap for the last 3 in the list is more than 40 miles, which the 2010 study lists as priority gaps.

60. Drawing the above together, there is a demonstrable need for an MSA in this location.

Alternative Sites

61. The basis of this assessment is the identification of an Optimal Search Area (OSA). A fundamental and, in my view, wholly appropriate element of this approach was the identification of an area, within which the provision of a single MSA would plug all the gaps identified in the 2010 Study. Two areas within the OSA (land to the east of M62 Junction 11 and land to the south of putative M62 Junction 11a) and 3 sites outside the OSA (M6 Junction 21, the National Highways Depot off the M6 at Dean Wood and land at M6 Junction 23) have been assessed.
62. *M62 - Land East of Junction 11.* A stretch of the M62 between 2 and 4.5km east of Junction 11 is identified as an area that in-principle could accommodate an on-line MSA. The site is located within the administrative area of Salford City Council and comprises agricultural land in multiple ownerships located within the Green Belt. The emerging development plan intends to retain much of the site within the Green Belt, there is no MSA developer interest and no indication that the constraint of multiple land ownerships could be resolved. Given the Green Belt location, this site is not sequentially preferable and does not present itself as a realistic alternative to the appeal site.
63. *M62 - Land at Junction 11a.* The emerging Places for Everyone plan promoted by the Greater Manchester Combined Authority identifies land to the south of the M62 and currently allocated as Green Belt as an allocation for some 320,000 sq. m. of employment floorspace (JPA 29 Port of Salford Extension). Given the location next to the M62, there is potential for a new motorway junction and the draft plan refers to the North West Quadrant Study commissioned by NH to investigate options for network improvements in this area and the importance of coordinating the development of the Port Salford with any resulting proposals. That said, the need for a new junction is not explicitly referenced in the draft plan.
64. Whilst there is emerging policy support for the Port of Salford extension, the best information is that Places for Everyone is unlikely to be adopted before the end of 2023. As such limited weight can be placed on the potential availability of the suggested site. In-principle the allocation of the land for employment purposes might not preclude an MSA. However, in relation to the proposed junction 11a, the best information is that whilst work is ongoing there is nothing in relation to its design, funding or viability to indicate that potential sites would be available in the short term for an MSA to plug the gap in provision. Currently, this area does not represent a realistic alternative to the appeal site.
65. *M6 at Junction 21.* The site is in the Green Belt and was the subject of an application for an MSA, dismissed on appeal in 2002. More importantly, the

site is outside the OSA and would not address all the identified gaps. This site does not represent a realistic alternative to the appeal site.

66. *M6 National Highways Depot, Dean Wood*. Whilst this is a site with existing on-line motorway access, other than being in the Green Belt, it is an operational depot. There is no indication that it is surplus to requirements, and it is outside the OSA and as such would not address all the identified gaps. This site does not represent a realistic alternative to the appeal site.
67. *M6 Junction 23*. This is a Green Belt site allocated in the emerging St Helens Local Plan as Safeguarded Land for employment purposes. This allocation is the subject of objections as part of the Local Plan Examination and as such it attracts limited weight. Moreover, a recent application for use of the land as a logistics depot was dismissed on appeal because of significant harm to the Green Belt. Thus, considerable caution needs to be applied to the potential availability of this site on the basis that the proposed allocation may not survive the examination process. Again, the site is outside the OSA and would not address all the identified gaps. This site does not represent a realistic alternative to the appeal site.
68. Drawing the above together, the appellant has identified a realistic OSA to assess the suitability of alternative sites and the assessment is comprehensive and robust. There are no sequentially preferable sites suitable and/or available that would meet in full the objectives the 2010 review of the SRN.

Benefits

69. The ES undertook an assessment of economic and social impacts of the scheme. The estimates of benefits arising from construction, supply chain and operational jobs including training opportunities, direct investment and net additional GVA in the local economy are substantial. The scheme would create additional employment, particular part-time employment to suit the needs of families, in an area where the ES identifies neighbourhoods that experience sustained levels of deprivation and high levels of unemployment. In this context, significant weight attaches to the direct and indirect economic benefits of the scheme. This approach is consistent with the objective of the Framework to build a strong and competitive economy and the approach adopted by other Inspectors and the Secretary of State.
70. The proposal includes the construction of a permissive footpath along the southern and eastern boundary of the site to link with existing public rights of way (PRoW), a financial contribution towards PRoW improvements and works to the roundabout to provide improved and safer pedestrian and cycle access from south of the M62 to the PRoW network to the north. Through careful execution and management of these works, particularly the PRoW improvements to the north, this would be a significant positive benefit.
71. The proposal would provide the 83 lorry parking spaces required by Circular 02/2013. However, there is the potential to provide a further 23 spaces if it is considered justified. Local Transport Plan 4 provides a general statement that additional lorry parking may be required and Policy FM15 is equally general indicating that lorry parking facilities will be reviewed and if required potential locations identified.

72. In 2017 the Department of Transport undertook a National Survey of Lorry Parking, which, amongst other things, identified that the North-West, as a region, had an acceptable level of utilisation and contained the highest proportion of highly rated lorry parks¹¹. Having visited the Lymm Poplar 2000 Services, I can understand that conclusion. Lymm is a well provided and well used truck stop facility, albeit it is outside the OSA and not within the gaps identified in the 2010 Study.
73. The provision of lorry parking with associated facilities i.e., a budget hotel and welfare facilities for long distance lorry drivers, next to the SRN is consistent with Circular 02/2013. The hotel provision has significant public safety benefits and the ability to reduce the potential for inappropriate overnight parking in an area where there is a significant amount of commercial and logistics development. This provision attracts significant weight. Given the conclusions of the 2017 parking survey and the generality of the local transport plan, the weight to be attached to additional parking is limited.
74. The scheme would provide for 6 fast charge electric vehicle (EV) charging points with infrastructure to provide up to 50 along with provision to allow for the development of hydrogen refuelling station. The direction of Government policy is to move rapidly to the decarbonisation of private and commercial vehicle traffic. Whilst there is an appetite for a move to electric vehicles, particularly in the domestic sector, a significant constraint to this change is "range anxiety". The provision of EV charging facilities next to the SRN would go some way to address this constraint. Future proofing in terms of enhanced provision of EV charging and alternative fuels such as hydrogen is something that a prudent operator of a MSA should be considering. Overall, I attach moderate weight to these elements of the scheme.

S106 Agreement

75. The obligations provide for contributions of, £88,000 for the provision and implementation of a Travel Plan, £50,000 towards the refurbishment of the Encounter Statue at Junction 11 and £481,562 for improvements to pedestrian and cycle links. The Agreement provides the party responsible for the construction works/occupiers of individual units within the development to promote local employment opportunities for Warrington residents. Having regard to the CS and the Planning Obligations Supplementary Planning Document, these obligations are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development proposed. The Agreement meets the tests set out in the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 and taken into consideration.

ISSUE 3

The Green Belt Balance

76. The starting point is that an appeal should be determined in accordance with the development plan unless other material considerations indicate otherwise¹². Here, the CS defers consideration of proposals in the Green Belt to other policies in the plan and national guidance.

¹¹ Medium High and High End facilities.

¹² Framework paragraph 2.

77. Framework paragraphs 147, 148 and 149, set the context for making decisions on development proposals within the Green Belt. It is accepted that a MSA would be inappropriate development inappropriate. Framework paragraph 147 indicates that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances. Framework paragraph 148 says that the decision maker should ensure that substantial weight is given to any harm to the Green Belt and that very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
78. As inappropriate development in the Green Belt, the proposal is by definition harmful, there would be significant harm to the openness, albeit it would be localised and limited harm to the purpose of safeguarding the countryside from encroachment. The loss of B&MV agricultural land and the moderate reducing to minor adverse landscape and visual impacts are further negative factors. Accordingly, these harms attract substantial negative weight in the planning balance. The absence of adverse effects in relation to biodiversity and traffic attract neutral weight in the balancing exercise.
79. On the positive side, the MSA would provide investment and jobs and achieve social benefits. These economic and social, and environmental benefits, taken together, attract substantial weight. The proposal would meet a longstanding identified need for a MSA within sections of the SRN, provide for the safety and welfare of motorists, there are no sequentially preferable Green Belt sites or non-Green Belt sites available, and NH supports the development. Case law establishes great or considerable weight should be accorded to this support and that cogent and compelling are required to depart from that support. The provision of MSAs and the achievement of the objectives set out in Annex B of Circular 02/2013 relies on investment by the private sector. Here, there is nothing to suggest that appeal scheme would not be delivered and as such would meet the clear demonstrable need for an MSA on this part of the motorway network and as such attracts considerable weight. Accordingly, taking the case as a whole, the other considerations clearly outweigh the harm identified and very special circumstances exist which justify the development.
80. For the above reasons, and taking all other matters into consideration, the proposal would not conflict with the development plan and the Framework when read as a whole. Accordingly, the appeal is allowed.

Conditions

81. Following discussion at the inquiry, the lpa and the appellant provided a list of agreed conditions and the reasons for them. The conditions imposed and the reasons for them are listed in the attached Schedule of Conditions. To the limited extent necessary, the agreed conditions have been re-worded in the interests of precision and enforceability.

George Baird

Inspector

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town & Country Planning Act 1990.

2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission. The reserved matters submission shall include full details in the form of scaled plans and/or written specifications shall be submitted to and approved in writing by the local planning authority to illustrate the following:
 - a) proposed highway layout within the site including the highway boundary;
 - b) dimensions of any carriageway, cycleway, footway and verges;
 - c) visibility splays;
 - d) proposed buildings and site layout, including levels;
 - e) vehicular and pedestrian access points;
 - f) parking provision including cycle parking;
 - g) drainage and sewerage system;
 - h) all types of surfacing (including tactile paving), kerbing and edging;
 - i) full working drawings for any structures which affect or form part of the highway network as part of proposed section 278 and section 38 works.

The development shall be carried out in accordance with the approved drawings and details prior to first occupation of the development.

Reason: To enable the local planning authority to control the development in detail and to comply with Section 92 (as amended) of the Town & Country Planning Act 1990 and to ensure a satisfactory development of the site and a satisfactory standard of highway design and construction in the interests of highway safety and the amenity and convenience of highway users together with suitable means of drainage.

3. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

Reason: To ensure that the local planning authority retains the right to review unimplemented permissions and to comply with Section 92 (as amended) of the Town & Country Planning Act 1990.

4. The details submitted in pursuance of condition 2 shall include plans showing existing and proposed levels across the site and including finished slab levels of all buildings. Proposed plans shall include a level (e.g., highway or footpath) adjacent to the site that will remain fixed/unchanged.

Reason: No details of these matters have been submitted with the application and bearing in mind the topography of the site and to accord with Policy QE6 of

the Warrington Core Strategy and the Warrington Design and Construction SPD (2010).

5. The development shall be carried out in accordance with the following plans:
- (a) Site Location Plan Ref: RMS-519-ZZ-XX-DR-A-0740 P3;
 - (b) Development Cells Parameter Plan Ref: RMS-519-ZZ-XX-DR-A-0720 P10;
 - (c) Green Infrastructure Parameter Plan Ref: RMS-519-ZZ-XX-DR-A-0721 P10;
 - (d) Restrictive Zones Parameter Plan Ref: RMS-519-ZZ-XX-DR-A-0722 P4;
 - (e) Combined Parameter Plan Ref: RMS-519-ZZ-XX-DR-A-0703 P12;
 - (f) Submitted drawing No's ITM12377-SK-025 rev B (access) and ITM12377-SK-024 Rev E (signals) received on {23 October 2019}.

Reason: For the avoidance of doubt and to enable the local planning authority to control the development and to minimise its impact on the amenities of the local area and to conform with Policy QE 7 of the Adopted Local Plan Core Strategy.

6. No development shall take place until a Phasing Plan for the site has been submitted to and approved in writing by the local planning authority. Development shall take place in accordance with the approved phasing plan.

Reason: To clarify how the site is to be phased to assist with the approval of details required by subsequent conditions attached to this permission.

7. No building works for each building hereby approved shall be carried out until written and photographic details of the external roofing and facing materials (including manufacturer's details) for that building have been submitted to and approved in writing by the local planning authority. Materials samples shall be made available to view on site. Development shall be carried out in accordance with the approved details/samples.

Reason: To comply with Policy QE 7 of the Adopted Local Plan Core Strategy and the Warrington SPD: Design and Construction.

8. Full details of all surfacing materials to be used on all hard-surfaced areas of the development outside the buildings for each phase of development shall be submitted to and approved in writing by the local planning authority prior to any such works being undertaken on that phase. Development shall be carried out in accordance with the approved details.

Reason: To comply with Policy QE7 of the Adopted Local Plan Core Strategy and the Warrington SPD: Design and Construction.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) details of the position, type and height of all fences and walls to be erected on the site for each phase of development shall be submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To comply with Policy QE 7 of the Adopted Local Plan Core Strategy and the Warrington SPD: Design and Construction having regard to visual amenity and the surrounding area.

10. No more than 500 square metres of retail floorspace shall be provided within the Amenity building.

Reason: In accordance with the submitted application and having regard to Warrington Core Strategy Policy PV 5.

11. The development shall not exceed the total quantum of development as detailed below:

- Amenity Building containing no more than 4,500 square metres of gross internal floor space;
- Fuel Filling Station and Ancillary Forecourt Shop (maximum of 450 square metres of gross internal floor space);
- Hotel containing up to 100 bed spaces.

Reason: In accordance with the submitted application having regard to Adopted Local Plan Core Strategy Policy PV 5 and Policy CS5.

12. Except for site clearance and remediation, no development shall commence until a scheme for the design and construction of highway improvement works, including a timetable for implementation, has been submitted to and approved in writing by the local planning authority. For the avoidance of doubt, the works shall include:

- i. Installation of proposed traffic signal scheme at M62 J11 to the principles of i-Transport Drawing No. ITM12377-SK-024 Rev E including all works necessary to tie into existing footway and carriageway alignments;
- ii. Replacement/upgrade of street lighting necessary as part of the detailed design;
- iii. Drainage works necessary to facilitate the highway works.

The approved scheme shall include Road Safety Audit and subsequently be implemented prior to first occupation of the development.

Reason: To ensure that the sufficient measures are taken such that the highway network can accommodate the development and that the traffic generated does not exacerbate unsatisfactory highway or transportation conditions.

13. No development shall commence until a Construction, Highways & Environmental Management Plan (CHEMP) has been submitted to and approved in writing by the local planning authority. The CHEMP shall review all demolition and construction operations proposed on site including logistics. The CHEMP shall cover as a minimum the following areas of work on a phase by phase basis, identifying appropriate mitigation measures as necessary:

A. Highway and Traffic

- Construction traffic routes, including provision for access to the site.
- Entrance/exit from the site for visitors/contractors/deliveries.
- Temporary roads/areas of hard standing.
- Schedule for large vehicles delivering/exporting materials to and from site and details of manoeuvring arrangements. For the avoidance of

doubt all construction vehicles shall load/unload within the confines of the site and not on the highway.

- Details of street sweeping/street cleansing/wheel wash facilities.

B. Site layout and Storage

- Proposed locations of Site Compound Areas.
- Siting of temporary containers.
- Location of directional signage within the site.
- Parking for contractors, site operatives and visitors.
- Identification of working space and extent of areas to be temporarily enclosed and secured during each phase of demolition/construction.

C. Environmental Controls

- Proposed Construction Hours, proposed delivery hours to site, phasing of works including start/finish dates.
- Details of activity on site outside the stated construction hours, e.g., workers / security on site, movement, setting up or dismantling of equipment, lighting, installation of services, etc.
- Piling Operations Method Statement, to include the following details:
 1. Details of the method of piling.
 2. Days/hours of work.
 3. Duration of the pile driving operations (expected starting date and completion date).
 4. Prior notification to the occupiers of potentially affected properties.
 5. Details of the responsible person (e.g., site manager / office) who could be contacted in the event of complaint.
- Details for the recycling/storage/disposal of waste.
- Consideration for joining a Considerate Contractors Scheme.

Once approved in writing, all identified measures within the CHEMP shall be implemented in accordance with the requirements therein and shall be reviewed on a regular basis. The CHEMP and agreed requirements therein shall remain in force for the duration of all construction activities on site.

Any changes to the identified CHEMP mitigation measures from either the regular review process or following receipt of a complaint shall be forwarded to the local planning authority within 24 hours of a change being agreed or implemented.

The development shall be carried out in accordance with the approved plan, unless otherwise agreed in writing with the local planning authority.

Reason: To ensure that adequate on-site provision is made for construction traffic, including allowance for the safe circulation, manoeuvring, loading and unloading of vehicles, as well as parking, and to reduce impact on residential amenity and the general amenity of surrounding occupiers.

14. A scheme for the provision of electric vehicle charging points, or passive provision, shall be submitted to and approved in writing by the local planning

authority. The agreed scheme shall be provided prior to first occupation of the Amenity Building and Hotel and retained as such thereafter.

Reason: To ensure that appropriate provision for current and future electric and electric/hybrid vehicles and encourage more sustainable means of transport.

15. Any reserved matters application shall include details of how construction access to the future HS2 scheme can be achieved through the site.

Reason: To ensure a satisfactory development of the site and the wider area and a satisfactory standard of highway design and construction in the interests of highway safety and the amenity and convenience of highway users.

16. No development shall commence until full design and construction details of the required improvements to Junction 11 of the M62 Motorway have been submitted to and approved in writing by the local planning authority. The improvements shall be in accordance with the details shown in outline on submitted drawing number ITM12377-SK-024, including:

- a. how the scheme interfaces with the existing highway alignment, carriageway markings and lane destinations;
- b. full signing and lighting details;
- c. signal phasing plan for all signalised elements of the highway improvements;
- d. confirmation of full compliance with current Departmental Standards (DMRB) and Policies (or approved relaxations / departures from standards);
- e. an independent stage 2 Road Safety Audit (taking account of any Stage 1 Road Safety Audit recommendations) carried out in accordance with current Departmental Standards (DMRB) and Advice Notes.

Reason: In the interests of the operation of the Strategic Road Network

17. No part of the development shall be first occupied unless and until the highway improvements, as shown in outline on drawing number ITM12377-SK-024 and as furthermore agreed in detail in accordance with condition 16 above, has been implemented in accordance with the approved details.

Reason: In the interests of the operation of the Strategic Road Network.

18. No development shall commence until a detailed construction plan working method statement (including Risk Assessment Method Statement and reporting, in general accordance with CD 622) relating to site development earthworks and drainage alongside M62 has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of the operation of the Strategic Road Network.

19. No development shall take place until:

- (a) A plan showing the alignment and elevational treatment of a close boarded fence of not less than two metres in height to be erected along the

southern boundary of the development site alongside the M62 (or at least one metre from any part of the existing motorway fence where the boundary lies within one metre of this) has been submitted to and approved in writing by the local planning authority; and

- (b) The fence approved by part (a) of this condition has been erected in accordance with the agreed details. Thereafter, the fence shall remain in situ and only be repaired or replaced in accordance with the requirements of this condition.

Reason: In the interests of the operation of the Strategic Road Network.

20. No drainage from the proposed development shall connect into the motorway drainage system, nor shall any drainage from the site run-off onto the M62 motorway.

Reason: To ensure that the safety and integrity of the M62 motorway is not compromised.

Underground Storage Tanks

21. No development shall commence until a scheme to install and maintain the underground tanks has been submitted to and approved in writing by the local planning authority. The scheme shall include the full structural details of the installation, including details of: excavation, the tanks, tank surround, associated pipework and monitoring system. The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme.

Reason: To ensure that the underground storage tanks do not harm the water environment in line with paragraph 174 and 180 of the National Planning Policy Framework and Position Statement D2 of the 'The Environment Agency's approach to groundwater protection'.

Surface Water Drainage Scheme

22. No development shall commence until a scheme to dispose of surface water and install oil and petrol interceptors has been submitted to and approved in writing by the local planning authority. The scheme shall have regard to the management of the Peat Habitat Zone. Development shall be carried out in accordance with the approved scheme.

Reason: To ensure that the proposed forecourt, roadway, and car parking drainage does not harm groundwater resources in line with paragraph 180 of the National Planning Policy Framework and Position Statement G of the 'The Environment Agency's approach to groundwater protection'.

Water Framework Directive (WFD) Compliance

23. No development shall take place until a scheme to show the risks posed to Silver Lane Brook (a Main River) and the adjoining riparian corridor have been fully assessed and include sufficient information to ensure the scheme proposals meet the objectives of the North West River Basin Management Plan (RBMP). The detailed design for the proposed diversion of Silver Lane Brook

and adjoining riparian corridor shall be submitted to and approved in writing by the local planning authority and include:

- A full Water Framework Assessment;
- Sufficient cross-sections to represent all design proposals (i.e., any proposed in channel enhancements, channel meanders, straight sections of channel, sections of channel narrowing/widening, where and what type of new revetment proposed).
- Details of bed and bank substrate.
- Detailed proposals for any new structures within 8 m of the channel and any bed/bank protection and its installation.
- Timing of works.
- Access to banks and channel.
- Site supervision requirements.
- A pre and post construction monitoring plan for the Silver Lane Brook channel.

Reason: To cause no deterioration to Silver Lane Brook and ensure its ecological value and potential are fully considered and implemented in line with the National Planning Policy Framework and the requirements of the Water Framework Directive.

24. No development shall take place until a scheme for the provision and management of an undeveloped buffer zone alongside the proposed diverted watercourse Silver Lane Brook has been submitted to and approved in writing by the local planning authority. The undeveloped buffer zone should be at least 8 metres in width (on both sides of the river), measured from bank tops for the whole extent of Silver Lane Brook. Bank top is defined as the point at which the bank meets normal land levels as designated on a site plan.

Thereafter, the development shall be carried out in accordance with the approved scheme. The buffer zone scheme shall be free from built development including lighting, domestic gardens, and formal landscaping. The scheme shall include:

- plans and cross sections showing the extent and layout of the buffer zone;
- details of any proposed planting scheme;
- details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.

Reason: Land alongside watercourses is particularly valuable for wildlife and it is essential this is protected. The above approach is supported by paragraphs 174 and 180 of the National Planning Policy Framework which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. The condition is also supported by legislation set out in the Natural Environment and Rural Communities Act 2006 and Article 10 of the Habitats Directive which stresses the importance of natural networks of linked corridors

to allow movement of species between suitable habitats and promote the expansion of biodiversity.

Fish Rescue

25. Prior to commencement of development, a fish survey of Silver Lane Brook shall be submitted to and approved in writing by the local planning authority. The fish survey results shall identify species present and detail any necessary actions and mitigation to protect, rescue, remove or translocate any fish present.

Reason: To identify and protect any fish located within Silver Lane Brook prior to it being taken offline from the wider catchment and rerouted and avoid damaging the site's fisheries value in compliance with paragraphs 174 and 180 of the National Planning Policy Framework and Adopted Local Plan Local Plan policy QE 5 which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity.

Great crested newts

26. Prior to commencement of development, further analysis of the waterbodies WB1 – WB11 (shown on Wardell Armstrong Waterbody Location Plan SH11739/008 Rev B 22/07/2019) is required for the presence of Great Crested Newts (GCN) and the use of Reasonable Avoidance Methods. If GCN are found to be present in the ponds, then it will be necessary to consider whether the clearance of habitats can be achieved without the need for a Habitats Regulations' European Protected Species derogation licence. The Survey Report should be submitted to and approved in writing by the local planning authority and shall outline any changes to distribution and abundance of the species, along with details of any necessary changes to mitigation and compensation. The agreed changes should subsequently be implemented.

Reason: In the interests of protected species and their habitat in accordance with Circular 06/05, Wildlife and Countryside Act 1981 (as amended) and the Habitats (Natural Habitats, &c.) Regulations 2010 and to comply with the National Planning Policy Framework and Policy QE 5 of the Adopted Local Plan Core Strategy.

Badgers

27. Prior to commencement of development, a survey of the site and immediate area should be undertaken to check for the signs of Badgers. This survey should include an area of 30m from the application site boundary. The Survey Report should be submitted to and approved in writing by the local planning authority and shall outline any changes to distribution and abundance of the species. Any necessary changes to mitigation and compensation shall be agreed in writing by the local planning authority and shall then be implemented in accordance with the agreed details and agreed timescales.

Reason: In the interests of protected species and their habitat in accordance with Circular 06/05, Wildlife and Countryside Act 1981 (as amended) and the Habitats (Natural Habitats, &c.) Regulations 2010 and to comply with the

National Planning Policy Framework and Policy QE 5 of the Adopted Local Plan Core Strategy.

Water vole

28. Prior to commencement of development, a further water vole survey shall be undertaken. The survey Report shall be submitted to and approved in writing by the local planning authority and shall outline any changes to distribution and abundance of the species. Any necessary changes to mitigation and compensation shall be agreed in writing with the local planning authority and shall be implemented in accordance with agreed details and timescales.

Reason: In the interests of protected species and their habitat in accordance with Circular 06/05, Wildlife and Countryside Act 1981 (as amended) and the Habitats (Natural Habitats, &c.) Regulations 2010 and to comply with the National Planning Policy Framework and Policy QE 5 of the Adopted Local Plan Core Strategy.

Nesting birds

29. No removal of hedges, grassland, trees or shrubs or demolition of buildings or structures that may be used by nesting birds shall take place during the breeding season (1st March – 31st August inclusive (British Standard 42020:2013 condition D.3.2.1)) unless a competent ecologist has undertaken a detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided the local planning authority with written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site.

Reason: In the interests of protected species and their habitat in accordance with Circular 06/05, Wildlife and Countryside Act 1981 (as amended) and the Habitats (Natural Habitats, &c.) Regulations 2010 and to comply with the National Planning Policy Framework and Policy QE 5 of the Adopted Local Plan Core Strategy.

30. No development on a relevant phase shall commence until a detailed Invasive Species Management Plan for the removal/long-term management/control of invasive species identified on the site is submitted to and approved in writing by the local planning authority. The management plan shall include:
- measures that will be used to prevent the spread of invasive plant species plants during any operations e.g., mowing, strimming or soil movement; and
 - measures to ensure that any soils brought onto the site are free of the seeds/root/stem of any invasive plant covered under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended).

Development shall take place in accordance with the approved method statement.

Reason: Himalayan balsam and Japanese rose are present on the site.

Biodiversity Construction Environmental Management Plan (BCEMP) –

31. No development shall take place (including demolition, ground works, vegetation clearance) until a Biodiversity Construction Environmental Management Plan (BCEMP) has been submitted to and approved in writing by the local planning authority. The BCEMP shall incorporate the Soil and Peat Management Plan and the INNS Method Statement as well as the following:
- a) Risk assessment of potentially damaging construction activities;
 - b) Identification of "biodiversity protection zones";
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) Pollution control and specific working methodology for the following activities: -
 - closing of the Silver Lane Brook;
 - creation and the opening of a new brook channel and
 - peat handling/placement – including the Soil and Peat Management Plan as identified within the Peat Ecological and Construction Management Report;
 - construction phase surface water management plan;
 - breeding bird monitoring strategy for ground nesting species.
 - f) Detailed inspection of any trees to be felled as part of the scheme shall be carried out prior to any tree felling works by a suitability qualified ecologist to establish the potential of those trees to support bat roosts. Trees with 'moderate' or higher potential to support bat roosts shall be subject to survey as per the Bat Conservation Trust guidelines (Bat Surveys for Professional Ecologists – Good Practice Guidelines) with standard precautionary safeguards utilised for any trees with 'low' potential in line with the Guidelines. If bats are found to be present in a tree to be felled, a Habitats Regulations European Protected Species derogation licence will be obtained from Natural England prior to any felling works;
 - g) The times during construction when specialist ecologists may need to be present on site to oversee works;
 - h) Responsible persons and lines of communication;
 - i) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - j) Use of protective fences, exclusion barriers and warning signs.

The approved BCEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: In the interests of protected species and their habitat in accordance with Circular 06/05, Wildlife and Countryside Act 1981 (as amended) and the

Habitats (Natural Habitats, &c.) Regulations 2010 and to comply with the National Planning Policy Framework and Policy QE 5 of the Adopted Local Plan Core Strategy.

Landscape and Biodiversity

32. The landscape reserved matters details shall be submitted alongside the appearance and layout reserved matters.

Reason: It is considered necessary to consider these details together in the interests of visual amenity and character of the area.

33. The Landscape reserved matters shall include the following information:

- Further detailed baseline appraisal and analysis to prioritise design/mitigation measures;
- A clear description of how the detailed design of the site layout and buildings has responded to the landscape and visual baseline;
- A schedule of mitigation for construction and operational stages of the proposed development, including lighting design principles;
- A detailed landscaping masterplan that includes outline specification of planting and seeding works and management objectives;
- Planting specification of locally native species which would not compromise the establishment of the Peat Habitat Zone, by increasing risk of inappropriate colonisation of that habitat;
- A detailed assessment of residual landscape and visual effects as evidence of the efficacy of the design and mitigation measures, and the effect of the finalised design on the character, simplicity and openness of the landscape;
- Demonstration by recalculation of the Biodiversity Net Gain (using the Defra metric) that the submitted reserved matters landscape scheme achieves a minimum of +8.17 % net gain for habitats plus +39% net gain for hedgerows/ tree lines.

The submitted landscape scheme shall also include the following details as shown on the Illustrative Masterplan:

- scrub on High Pressure Gas Main, unless otherwise agreed in writing;
- PRow marking plans to manage visitor pressure on Silver Lane Ponds LWS;
- screening planting to help decrease disturbance particularly to winter farmland birds e.g., flocks 150+ lapwing

Reason: To ensure a satisfactory landscape scheme in the interests of visual amenity and integration with the surrounding landscape, having regard to Policies QE 3 and QE 7 of the Adopted Local Plan Core Strategy.

Landscape & Habitat Management Plan (LHMP)

34. Prior to the commencement of each phase of development, a Landscape and Habitat Management Plan (LHMP) shall be submitted to and approved in writing by the local planning authority. The LHMP shall include the following:

- Identification of working space and extent of areas to be temporarily enclosed and secured during each phase of demolition/construction;

- Temporary internal roads/areas of hard standing; Storage of materials and large/heavy vehicles/machinery on site;
- Description and evaluation of important landscape and habitat features to be retained, created and managed thereafter including the Peat Habitat Zone creation;
- Details of the aims and objectives of ongoing management, including ecological trends and constraints on the site that might influence management;
- A management work schedule (including an annual work plan capable of being rolled forward over a thirty-year period) demonstrating how the aims and objectives will be achieved; including details of ongoing monitoring; and setting out how remedial measures would be agreed and implemented if required;
- Details of the management body or organisation responsible for implementation of the LHMP, including details of how the legal and funding mechanism(s) will be secured to enable that body or organisation to deliver the long-term implementation of the plan;
- Details of interpretation signs relating to the Peat Habitat Zone (PHZ) to provide information relating to the long term management objectives of the habitat creation.

The LHMP shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of protected species and their habitat in accordance with Circular 06/05, Wildlife and Countryside Act 1981 (as amended) and the Habitats (Natural Habitats, &c.) Regulations 2010 and to comply with the National Planning Policy Framework and Policy QE 5 of the Adopted Local Plan Core Strategy.

35. No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved scheme.

Reason: In line with the guidance set out in Paragraphs 189 & 199, Section 16 (Conserving and Enhancing the Historic Environment) of the National Planning Policy Framework and Managing Significance in Decision-Taking in the Historic Environment, Historic Environment Good Practice Advice in Planning: 2 (Historic England 2015).

Contaminated Land - Characterisation & Remediation Strategy

36. No development in any identified phase (other than demolition and site clearance works) shall take place until the steps in Sections A and B below are undertaken:

A: CHARACTERISATION:

With specific consideration to human health, controlled waters and wider environmental factors, the following documents must be provided (as necessary) to characterise the site in terms of potential risk to sensitive receptors:

- Preliminary Risk Assessment (PRA or Desk Study);
- Generic Quantitative Risk Assessment (GQRA) informed by an Intrusive Site Investigation;
- Detailed Quantitative Risk Assessment (DQRA);
- Remedial Options Appraisal.

Completing a PRA is the minimum requirement. DQRA should only be submitted if GQRA findings require it.

B: SUBMISSION OF A REMEDIATION & VERIFICATION STRATEGY:

As determined by the findings of Section A above, a remediation strategy (if required) and verification (validation) strategy shall be submitted and approved in writing by the local planning authority. This strategy shall ensure the site is suitable for the intended use and mitigate risks to identified receptors. This strategy should be derived from a Remedial Options Appraisal and must detail the proposed remediation measures/objectives and how proposed remedial measures will be verified.

The actions required in Sections A and B shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

Reason: To mitigate risks posed by land contamination to human health, controlled water and wider environmental receptors on the site (and in the vicinity) during development works and after completion. In accordance with: Policy QE 6 of the Adopted Local Plan Core Strategy (July 2014); Paragraphs 174 (f) & 183 of the National Planning Policy Framework, and Section 4 of the Environmental Protection Supplementary Planning Document (May 2013).

Contaminated Land - Completion

37. No individual phase of the development shall be taken into use until the following requirements have been met and required information submitted to and approved in writing by the local planning authority:

A: REMEDIATION & VERIFICATION:

Remediation (if required) and verification shall be carried out in accordance with an approved strategy. Following completion of all remediation and verification measures, a Verification Report must be submitted to the local planning authority for approval.

B: REPORTING OF UNEXPECTED CONTAMINATION:

All unexpected or previously unidentified contamination encountered during development works in that phase must be reported immediately to the local planning authority and works halted within the affected area(s). Prior to site works recommencing in the affected area(s), the contamination must be

characterised by intrusive investigation, risk assessed (with remediation/verification measures proposed as necessary) and a revised remediation and verification strategy submitted in writing and agreed by the local planning authority.

C: LONG-TERM MONITORING & MAINTENANCE:

If required in the agreed remediation or verification strategy, all monitoring and/or maintenance of remedial measures for that phase shall be carried out in accordance with the approved details.

The site (or any individual phase therein) shall not be taken into use until remediation and verification are completed. The actions required to be carried out in Sections A to C above shall adhere to the following guidance: CLR11 (Environment Agency/DEFRA, 2004); BS10175 (British Standards Institution, 2011); C665 (CIRIA, 2007).

Reason: To mitigate risks posed by land contamination to human health, controlled water and wider environmental receptors on the site (and in the vicinity) during development works and after completion. In accordance with: Policy QE 6 of the Adopted Local Plan Core Strategy (July 2014); Paragraphs 174 (f) & 183 of the National Planning Policy Framework, and Section 4 of the Environmental Protection Supplementary Planning Document (May 2013).

External Lighting Assessment

38. Prior to installation, details of a highways lighting scheme and an external lighting proposal for the exterior of the service area, hotel and other structures within the development shall be submitted to the local planning authority and approved in writing. The scheme shall show levels of illumination around the site (isolux drawings) and any overspill lighting beyond the physical site boundary. Mitigation measures or installation requirements shall be clearly identified within the scheme as shall control measures such as time clocks/light sensors or other control methods. Once approved, the agreed scheme shall be implemented in full for that phase of the site prior to the commencement of use of that lighting and shall be retained as approved thereafter.

Reason: In the interests of the amenities of the area, biodiversity and to minimise unnecessary light spillage above and outside the development site. In accordance with: Policies QE 5, QE 6 of the Adopted Local Plan Core Strategy (July 2014); and Paragraph 185(c) of the National Planning Policy Framework; and Section 5 of the Environmental Protection Supplementary Planning Document (May 2013).

Odour abatement

39. Any hot food outlet shall have odour abatement fitted in compliance with the requirements of the 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems EMAQ+ 2018, BESA Specification for Kitchen Ventilation Systems DW/172 and Building Regulations Part F' prior to the commencement of trading. The installed equipment shall thereafter be operated and maintained in accordance with the manufacturer's instructions and shall be always used when any cooking activities are occurring.

Reason: To safeguard the local environment from disturbance or loss of amenity caused by odour, fumes, food droplets to nearby properties. In accordance with: Policy QE 6 of the Adopted Local Plan Core Strategy (July 2014); and Section 3 and 6 of the Environmental Protection Supplementary Planning Document (May 2013)

Noise - Externally Located Plant or Equipment

40. Any externally located plant or equipment for any individual phase and cumulatively across the entire site shall not cause an increase in the ambient background noise level at the boundary of any nearby residential properties prefixed as ESR within the Noise Monitoring and Existing Sensitive Receptors Location Plan contained within the 'Wardell Armstrong Warrington Motorway Service Area J11 M62 Environmental Statement, Part 2, Noise and Vibration Technical Paper 7'. Any equipment not able to meet this requirement shall be acoustically treated prior to the commencement of the use hereby permitted. For the avoidance of doubt calculated rated noise levels from any externally mounted plant or equipment at the boundary of the nearest noise residential property should not exceed the existing background level in accordance with the results of a BS4142:2014 noise assessment.

On completion of any phase of development and within one month of that completion, a validation report shall be submitted to the local planning authority demonstrating that ambient noise levels have not increased at the nearest residential properties from external plant and equipment at that phase, or on completion of the entire development, cumulatively from all such equipment.

Reason: To prevent an increase in background noise levels and protect the amenity of any residents. In accordance with: Policy QE6 of the Adopted Local Plan Core Strategy (July 2014); and Paragraphs 174 (e) & 185(a) of the National Planning Policy Framework; and Section 6 of the Environmental Protection Supplementary Planning Document (May 2013).

41. No development shall take place in any part of the area shown edged red on the Safeguarding plans [Plan SG-02-113] being an area subject to safeguarding directions dated 7 October 2020 made by the Secretary of State for Transport unless and until detailed design and method statements for all works, proposed to be constructed on the Site to provide access to the HS2 compound from Junction 11 of the M62 have been submitted to, and approved in writing by, the local planning authority. The detailed design for the works on the Site must be supported by appropriate traffic modelling which demonstrates that Junction 11 of the M62 will [safely] accommodate the overall level of traffic anticipated during the construction of HS2 works, including the HS2 construction traffic which will access Junction 11 from the Site and from the compound off Silver Lane South, and that waiting times at the proposed traffic signals on the Junction will be acceptable to the local highway authority. The Development shall be carried out in accordance with the approved detailed design and method statements.

Reason: In the interests of the interfaces with the HS2 safeguarded area.

Utility Construction Zone

42. No development shall take place in any part of the area shown edged red on the Safeguarding Plans [SG-02-113] being an area subject to safeguarding directions dated 7 October 2020 made by the Secretary of State for Transport ("the Utility Safeguarded Area") unless and until the Utility Construction Zone Assessment undertaken by National Grid on behalf of HS2 Limited has been completed and either:
- (a) HS2 has confirmed in writing that the Utility Safeguarded Area is not required for any works relating to HS2; or
 - (b) Detailed design and method statements for all works proposed in respect of the Utility Construction Zone Assessment affecting the Site which allow for the necessary HS2 Utilities Works to be undertaken have been submitted to, and approved in writing by, the local planning authority. The Development shall be carried out in accordance with the detailed design and method statements so approved.

Reason: In the interests of the interfaces with the HS2 safeguarded area.

43. No development shall take place in any part of the area shown edged red on the Safeguarding Plan [SG-02-113] being an area subject to safeguarding directions dated 7 October 2020 made by the Secretary of State for Transport ("the Ecology Safeguarded Area") unless and until the Ecological Mitigation Assessment undertaken on behalf of HS2 Limited has been completed and either:
- (a) HS2 has confirmed in writing that the Ecology Safeguarded Area is not required for any works relating to HS2; or
 - (b) Detailed design and method statements for all works proposed in respect of the Ecological Mitigation Assessment affecting the Site which allow the necessary HS2 ecological mitigation works to be carried out have been submitted to, and approved in writing by, the local planning authority.

Development shall be carried out in accordance with the detailed design and method statements so approved.

Reason: In the interests of the interfaces with the HS2 safeguarded area.

44. There shall be no communal lounge or bar and no conference room facilities as part of the hotel.

Reason: In accordance with the submitted application and having regard to Adopted Local Plan Policy PV 5.

APPEARANCES

FOR THE APPELLANT

Satnam Choongh of Counsel instructed by Shoosmiths LLP.

He called:

David Rolinson BA (Hons), Dip PEL, MRTPI.
Chairman, Spawforths.

Greg Jones, BA (Hons), MSc, MCIHT.
Associate Partner, i-Transport LLP.

Gary Holliday BA (Hons), MPhil, FLI.
Director, FPCR Environment and Design Limited.

Alistair Baxter BA (Hons), MA (Oxon), MSc, CEcol, CEnv, MCIEEM.
Senior Director, Aspect Ecology.

FOR THE LOCAL PLANNING AUTHORITY

Sarah Reid QC instructed by Matthew Cumberbatch, Director of Law and Governance, Warrington Borough Council.

She called:

Martha Hughes MA, Dip TP, MRTPI.
Principal Planning Officer Warrington Borough Council*.

*Appeared in relation to conditions and S106 Agreement.

FOR MOTO HOSPITALITY LIMITED

Peter Dixon of Counsel instructed by Smith Jenkins Planning and Heritage.

He called:

Jennifer Smith BSc (Hons), Dip TP, MRTPI.
Managing Director, Smith Jenkins Limited.

INTERESTED PERSONS

Mr P Black MRTPI.
Blackfryers Planning & Environmental Consultants for Culcheth and Glazebury and Croft Parish Councils.

Mrs J M Johnson.
Resident & Warrington District Representative, CPRE Cheshire.

Mr M Stafford MRTPI.
Associate Planning Director, Land & Communities, Peel L & P.

DOCUMENTS SUBMITTED DURING THE INQUIRY

- Doc 1 - Statement by Mr Black for Culcheth & Glazebury Parish Council and Croft Parish Council.
- Doc 2 - Statement by Mrs Johnson, local resident.
- Doc 3 - Statement by Mrs Johnson, Warrington District Representative, Cheshire CPRE.
- Doc 4 - Plan No CT-06-327, HS2 Proposed Scheme, MA05 Risley to Bamfurlong.
- Doc 5 - Additional written statement by Mr Smith.
- Doc 6 - Statement by Mr Stafford for Peel L & P.
- Doc 7 - List of suggested conditions.
- Doc 8 - Certified copies Parts 1, 2 & 3 of a signed Counterpart S106 Agreement.