



Department for Levelling Up,
Housing & Communities

Our ref:APP/M0655/W/17/3178530RD

Colin Griffiths
Satnam Planning Services Ltd
17 Imperial Square
Cheltenham
GL50 1QZ

9 November 2021

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY SATNAM MILLENIUM LTD
LAND AT PEEL HALL, WARRINGTON
APPLICATION REF: 2016/28492**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Christina Downes BSc DipTP MRTPI who held a public local inquiry on 14-22 September 2020 and 9-26 March 2021 into your client's appeal against the decision of Warrington Borough Council to refuse your client's application for planning permission for a new residential neighbourhood including C2 and C3 uses; local employment (B1 use); local centre including food store up to 2000m², A1-A5 (inclusive) and D1 use class units of up to 600m² total (with no single unit of more than 200 m²) and family restaurant/ pub of up to 800m² (A3/ A4 use); site for primary school; open space including sports pitches with ancillary facilities; means of access and supporting infrastructure in accordance with application Ref 2016/28492, dated 11 July 2016.
2. On 25 July 2017 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.
3. The Secretary of State initially issued his decision in respect of the above appeal by way of his letter dated 20 December 2018. That decision was challenged by way of an application to the High Court and was subsequently quashed by order of the Court dated 8 October 2019. The appeal has therefore been redetermined by the Secretary of State, following a new inquiry into this matter. Details of the original inquiry are set out in the 20 December 2018 decision letter.

Inspector's recommendation and summary of the decision

4. The Inspector recommended that that the appeal be allowed.
5. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to allow the appeal

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and grant planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

6. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. Having taken account of the Inspector's comments at IR28-30 the Secretary of State is satisfied that the Environmental Statement and addendum provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

Costs

7. An application for a full and partial award of costs was made by Warrington Borough Council ('the Council') against your client (IR3). This application is the subject of a separate decision letter.

Policy and statutory considerations

8. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
9. In this case the development plan consists of the Local Plan Core Strategy for Warrington ('the CS'). The Secretary of State considers that relevant development plan policies include those set out at IR34-41.
10. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance') as well as the adopted Planning Obligations Supplementary Planning Document (January 2017) (IR42).

Emerging plan

11. The emerging plan comprises the Warrington Proposed Submission Version Local Plan. The Secretary of State considers that the emerging policies of most relevance to this case include those set out at IR44.
12. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. The emerging Plan has not yet been submitted for examination, and is subject to delay, so the Secretary of State considers that it is at an early stage of preparation, and as such gives very little weight to its policies, in line with the Inspector at IR523.

Main issues

The effect of the proposed development on the safety and efficiency of the local and strategic highway network and character of the area to the south of the site

13. For the reasons given at IR350-352 the Secretary of State agrees with the Inspector at IR352 that there is no evidence that there are any viable alternative strategies to access the site apart from that currently being proposed (Option A). He further agrees for the reasons given at IR353-355 with the Inspector at IR362 that the concerns of the previous Inspector have been addressed.
14. For the reasons given at IR356-362 the Secretary of State agrees with the Inspector's conclusions on traffic modelling.
15. The Secretary of State agrees, for the reasons set out at IR363-369, that while the development traffic would be responsible for some extension to peak conditions, but that the evidence indicates minor increases overall in terms of journey time delay.
16. For the reasons given at IR370-379, the Secretary of State agrees that the proposed mitigations, except where noted below, are necessary as stated at IR371, 372 & 374 and provide appropriate mitigation as set out in IR372. However, the Secretary of State agrees, for the reasons given at IR375-377, that the £35,000 contribution in the s106 Agreement would not comply with Regulation 122 of the CIL Regulations. As such he has given it no weight in reaching his conclusions.
17. For the reasons given at IR380-387 the Secretary of State agrees that there would be adverse impacts to the SLW, the SLW roundabout and approach roads that would arise from development traffic. However, he further agrees that given the localised and relatively limited nature of the impacts, which would affect a small part of the overall network, that while they would weigh very significantly against the scheme, they would not pass the threshold of 'severe' when considered in the terms of paragraph 111 of the Framework (IR387).
18. For the reasons set out at IR388 to 390 the Secretary of State agrees that development traffic could be adequately accommodated at the A49/SLW/Cromwell Avenue Roundabout.
19. The Secretary of State agrees, for the reasons given at IR391-402, that even with mitigation a number of residential roads to the south of the site would become busier, noisier and less pleasant places though which to travel on foot bicycle or car, and that this would be materially worse as a result of the appeal development (IR402). He further agrees that this would be an adverse impact to be considered in the planning balance.
20. Overall, he agrees for the reasons given at IR406 that there would not be a material degree of harm to the safety and efficiency of the highway network apart from within the vicinity of the SLW roundabout. However, he further agrees that the development would be likely to result in an increase in the level of congestion on the approach roads during peak periods and lead to an increase in peak spreading. He agrees that this would lead to the risk of increased queues and consequent delays to road users, including buses, and that this is particularly relevant to a local community where car ownership is relatively low. He further agrees, for the reasons given at IR407 that while the proposed mitigation would ameliorate the impact on the safety of residential streets to the south of the site, there would be some harm to the character of the area due to traffic flows generated by the development. He agrees that overall the appeal scheme would not result in severe residual cumulative impacts on the road network. However, he also agrees that there would be a very significant impact and conflict with development plan policies, in particular MP7 and QE6 of the CS. The Secretary of State affords this harm very significant weight.

21. For the reasons given at IR403-405 he concludes that the other highway matters raised would be neutral in the planning balance.

The effect of the proposed development on the noise environment both within the site and in the surrounding area

22. For the reasons set out at IR408-430, the Secretary of State agrees (IR431) that with conditions there would be no unacceptable adverse effect on the noise environment both within the site and in the surrounding area. He further agrees that planning conditions would ensure a satisfactory living environment for the future residential occupiers of the site, and that the future operation of the kennels and cattery at Peel Hall Farm would not be unreasonable constrained. He therefore agrees that there would be no interference with the rights afforded under Article 8 of the Human Rights Act or Article 1 of the First Protocol. He further agrees that the proposal would comply with policies QE6 and QE7 in the CS in this respect.

The effect of the proposed development on local air quality

23. For the reasons set out at IR432-449, the Secretary of State agrees that, subject to conditions, there would be no unacceptable adverse effect on air quality both within the site and the surrounding area. He therefore agrees (IR449) that the appeal proposal would comply with policies QE6 and QE7 of the CS and paragraph 186 of the Framework.

The contribution the site would make to the housing land supply in the short to medium term

24. The Secretary of State acknowledges (IR450) that Council's housing requirement and policies relating to that requirement have been quashed. He agrees, for the reasons set out at IR450, that the Council can demonstrate no more than 3.4 years of deliverable sites, and has failed all 3 requirements of the Housing Delivery Test. For the reasons given at IR451-454 the Secretary of State agrees that the proposal would accord with spatial strategy in policies CS2 and SN1. For the reasons given at IR455-456 the Inspector agrees that the proposal would be in accordance with policy SN2 of the CS. For the reasons given at IR522 agrees that the provision of 1,200 houses is a consideration of very substantial weight. For the reasons given at IR523 the Secretary of State further agrees that the 1,200 dwellings that would be provided on the site is a matter of considerable importance. He further agrees (IR524) that the provision of affordable housing attracts very substantial weight, for the reasons given.

Other matters

25. For the reasons given at IR457-461 the Secretary of State agrees that the proposed development would accord with policy QE4 in the CS and policies in the Framework relating to flood risk. For the reasons set out at IR462-466 the Secretary of State agrees with the Inspector's conclusions on climate change. For the reasons given at IR467-472 the Secretary of State agrees with the Inspector's conclusions on accessibility. The Secretary of State agrees, for the reasons given at IR473-485, that the option of using the appeal site to plant trees is not a material consideration to be taken into account, and that the ecology and wildlife interest of the site would not be unduly harmed (IR.486). As such he agrees (IR486) that the proposal would accord with policy QE5 in the CS and Framework policies relating to the natural environment. The Secretary of State agrees, for the reasons given at IR487-493, that the proposal would accord with the policies in the Framework relating to open space and recreation (IR493).

Other public benefits

26. For the reasons given at IR525, the Secretary of State agrees that the economic benefits including employment during the construction period and after, and increased spending in the local economy, attract significant weight. For the reasons given at IR526 the Secretary of State agrees that the provision of sports facilities, local centre and open spaces attract significant weight.

Planning conditions

27. The Secretary of State has given consideration to the Inspector's analysis at IR494-495 the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex A should form part of his decision.

Planning obligations

28. Having had regard to the Inspector's analysis at IR496-519, the planning obligation dated 10 May 2021, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given at IR518 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the

Framework, other than those listed IR519 and described at IR499-506 & IR516, which the Secretary of State has not taken into account in reaching his decision.

Planning balance and overall conclusion

29. For the reasons given above, the Secretary of State considers that while there is conflict with policies MP7 and QE 6 (in respect of highways and character of the area), the appeal scheme is in accordance with policies MP7 and QE 6 (in respect of air quality and noise), QE4, QE 5, CS2 and SN1 and SN2 of the CS, and is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
30. As the Council cannot demonstrate a 5 year housing land supply and has failed all three requirements of the Housing Delivery Test, paragraph 11(d) of the Framework indicates that planning permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework taken as a whole.
31. Weighing against the appeal, the Secretary of State affords very significant weight to the impact on the efficiency of the local road network and the resultant harm to the area's character.
32. In favour of the appeal the Secretary of State gives very substantial weight to the delivery of market housing. He gives further very substantial weight to the delivery of affordable housing. He gives further significant weight to the employment created during construction and thereafter, and the spending in the local economy. The provision of sports facilities, a local centre and open spaces attract significant weight.
33. For the avoidance of doubt, he concludes that the provision of highway improvements, bus services, school facilities and off-street parking are necessary to mitigate adverse impacts, and are thus neutral in the planning balance.
34. The Secretary of State considers that there are no protective policies which provide a clear reason for refusing the development proposed and that the adverse impacts of granting permission do not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
35. Overall the Secretary of State considers that the material considerations in this case indicate a decision in line with the development plan – i.e. a grant of permission.
36. The Secretary of State therefore concludes that that the appeal should be allowed, and planning permission granted, subject to conditions.

Formal decision

37. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex A of this decision letter for a new residential neighbourhood including C2 and C3 uses; local employment (B1 use); local centre including food store up to 2000m², A1-A5 (inclusive) and D1 use class units of up to 600m² total (with no single unit of more than 200 m²) and family restaurant/ pub of up

to 800m² (A3/ A4 use); site for primary school; open space including sports pitches with ancillary facilities; means of access and supporting infrastructure in accordance with application Ref 2016/28492, dated 11 July 2016.

38. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

39. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

40. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

41. A copy of this letter has been sent to Warrington Borough Council and the Save Peel Hall Campaign Group and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Phil Barber

This decision was made by the Minister of State for Housing on behalf of the Secretary of State, and signed on his behalf

Annex A List of conditions

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") in any phase shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase begins and the development shall be carried out as approved.
2. Application for approval of the first reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission, and application for approval of all remaining reserved matters shall be made within ten years from the date of this permission.
3. The development hereby permitted shall begin no later than two years from the date of approval of the first of the reserved matters to be approved, and development of any subsequent phase shall begin no later than two years from the date of approval of the final reserved matters for that phase.
4. The number of dwellings to be constructed on the site shall not exceed 1,200.
5. The local centre hereby approved shall be limited to a food store (A1) of up to 2,000m², up to 600m² of additional units in use classes A1/A2-5 and D1 with no single unit exceeding 200m², and up to 800m² for family restaurant/public house (use classes A3/A4).
6. The development hereby permitted shall be in accordance with drawing numbers: 140367-D-002 Rev B; 1107 30/H; 1107 11/L; 1107 9/M; 1107 10/N; 1107 08/P; 1107 12/Q.
7. Any reserved matters applications shall be in accordance with the details shown on the approved Parameters Plan (drawing no:1820_35 Rev A) and Landscape Masterplan (drawing no: 1820_36).
8. Prior to the submission of any reserved matters application, a detailed Masterplan and Design Code covering the entire site shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall be formulated having regard to the principles established by the submitted Design and Access Statement, having regard to the *National Design Guide* and *National Model Design Code* and the following plans:

Illustrative Local Centre Family Pub Masterplan Option A 140367-B-012 Rev B;
Illustrative Proposed School Site Masterplan Option A 140367-B-015 Rev A;
Indicative Sports and Recreation Provision 1820_28 Rev J.

Thereafter, any reserved matters application(s) for any phase of development shall comply with the approved Masterplan, Design Code and the requirements of Condition 7.

9. Prior to the submission of any reserved matters application, a detailed phasing plan for the development shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall identify the stages at which each element of the proposed development shall be commenced and made available for use.

The elements shall include the affordable housing, the local centre, the open space, the replacement and new sports pitches, the community building and associated car parking, all equipped areas of play, the primary school, the public house, the care

home, the roads and emergency access, the Greenway Network (including walking and cycling measures) and the bus measures including the Bus Gate.

The development shall thereafter be carried out in full accordance with the approved phasing plan.

10. Prior to the submission of any reserved matters application, a Sports Strategy shall be submitted to and approved in writing by the Local Planning Authority.

The Sports Strategy shall be informed by the *Warrington Council Playing Pitch Strategy & Action Plan* (January 2020), or any update of that document. The Sports Strategy shall apply to the replacement playing fields and the Radley Common Recreation Ground as shown indicatively on Drawing No: 1820_28 Rev J and include details of the evidence of demand for each pitch type and ancillary facility.

A detailed scheme including scaled plan(s) shall subsequently be submitted to and approved in writing by the Local Planning Authority. This shall show the location and dimensions of each sports facility and pitch and shall be in accordance with the approved Sports Strategy. The development shall thereafter be carried out in accordance with the approved scheme within the timeframes set out in the phasing plan for the development approved under condition 9.

11. No development shall take place on the Mill Lane playing fields (as identified on drawing 140367-D-002 Rev B) until the replacement playing fields have been completed in accordance with the details approved under condition 10.
12. Prior to the submission of any reserved matters application for development of the Mill Lane playing fields, the following documents shall be submitted to and approved in writing by the Local Planning Authority:

- a) An Agronomy Report containing a detailed assessment of ground conditions (including drainage and topography) of the land proposed for the replacement playing field, which identifies all constraints that could affect playing field quality;

- b) A detailed scheme, which takes account of the above assessment and ensures that the replacement playing field will be provided to the Football Association's Performance Quality Standards. The scheme shall include a written specification and detailed plan of soil structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and maintenance.

The approved scheme shall be completed prior to the commencement of any development of the existing Mill Lane playing fields. The replacement playing field land shall thereafter be made available and maintained in accordance with the scheme.

13. Prior to the submission of any reserved matters application, a Public Open Space Scheme for the whole site, to include detailed proposals for all elements of public open space (excluding sports pitches) to be provided within the site, shall be submitted for to and approved in writing by the Local Planning Authority.

The Public Open Space Scheme (excluding equipped children's play space) shall be based on the areas shown as open space/ landscaping on the Parameters Plan 1820_35 Rev A and the approved phasing plan for the site.

The Public Open Space Scheme shall be in accordance with the standards set out in the *Open Space Audit 2016* and the *Planning Obligations Supplementary Planning Document (2017)* (or any replacement documents) It shall include the quantum of area, technical specification, design and layout of the works to be carried out in

relation to the public open space (excluding sports pitch provision) on each phase of the development and shall specify the location of Locally Equipped Areas for Play (LEAPs) and Neighbourhood Equipped Areas for Play (NEAPs) throughout the development.

Not more than 50% of the dwellings in any phase shall be occupied until the relevant open space for that phase has been laid out in accordance with the approved Public Open Space Scheme. These areas shall be retained as approved for the lifetime of the development.

14. No residential dwellings, care homes, children's nurseries or schools shall be permitted within 30m of the M62 boundary on any individual phase of development.
15. The new access points shall be completed in accordance with the drawings approved under condition 6 prior to the first occupation of the relevant phase(s) accessed from them.
16. The following off-site highway works shall be completed before any dwelling is first occupied or use commenced:
 - a) A mitigation scheme at the Hilden Road/A50 junction in accordance with the principles of Drawing Number: 1901/24/C (see Document POE 13, Appendix DT25);
 - b) The provision of Keep Clear markings at the Golborne Road/ Myddleton Lane junction in accordance with the principles of Drawing No. 1901/10 (see Appendix 22 to the Transport Assessment Addendum);
 - c) Implementation of a carriageway widening scheme at the junction of A49 Winwick Road/A574 Cromwell Avenue in accordance with the principles of Drawing No. 1901/27/B (see Document POE 13, Appendix DT24).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Road Safety Audits and any Traffic Regulation Orders required.

17. The following off-site highway works shall be completed before the occupation of the 300th dwelling:
 - a) Widening works and provision of a ghost right turn lane at the A49/Golborne Road junction, in accordance with the principles of Drawing No. 1901/08 (see Appendix 22 to the Transport Assessment Addendum);
 - b) Implementation of a traffic signal scheme at the junction of Myddleton Lane/Delph Lane in accordance with the principles of Drawing No. 1901/11 (see Appendix 22 to the Transport Assessment Addendum).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Road Safety Audits and any Traffic Regulation Orders required.

18. The following off-site highway works shall be completed before any dwelling to be accessed from Birch Avenue is occupied:

- a) Keep Clear markings at the Birch Avenue junction with the southbound A49 in accordance with the principles of Drawing No. 1107/79 (see Appendix 22 to the Transport Assessment Addendum).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Road Safety Audits and any Traffic Regulation Orders required.

19. The following off-site highway works shall be completed before the occupation of the 600th dwelling:

- a) Strategic highway improvement works to the M62 Junction 9/ A49 in accordance with the principles of Drawing No: 1901 28 (see Appendix 5 to Mr Tighe's Supplementary Proof of Evidence VISSIM Matters).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Stage 1 and Stage 2 Road Safety Audits.

20. Except for site clearance and remediation no development shall be carried out on a particular phase until full details and construction phasing of the internal highway network for that phase have been submitted to and approved in writing by the Local Planning Authority. Such details shall include:

- a) the proposed highway layout, including the highway boundary;
- b) the dimensions of any carriageway, cycleway, footway and verges;
- c) the visibility splays;
- d) the drainage system;
- e) the surfacing (including tactile paving), kerbing and edging; and
- f) any structures which affect or form part of the internal highway network.

The development shall thereafter be completed in accordance with the approved drawings, details and phasing schedule.

21. No dwelling on any phase shall be occupied or use commenced until a detailed scheme for the design and construction of the Bus Gate in the location indicated on the Parameters Plan has been submitted to and approved in writing by the Local Planning Authority. The Bus Gate shall be implemented in accordance with the approved scheme and phasing plan in condition 9 and shall be retained for the lifetime of the development.
22. Prior to the submission of the reserved matters application(s) for a particular phase, a scheme for the provision of electric vehicle charging points, or passive provision within that phase and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved scheme and timetable. The electric charging points shall be retained thereafter.
23. No dwelling on any phase shall be occupied or use commenced until a Travel Plan Coordinator for the whole site has been appointed. The Travel Plan Coordinator shall be responsible for the implementation, delivery, monitoring and promotion of the Travel Plan for each phase, including the day-to-day management of the steps

identified to secure the sustainable transport initiatives set out therein. The details (name, address, telephone number and email address) of the Travel Plan Coordinator shall be notified in writing to the Local Planning Authority upon appointment and written notification shall be given of any changes to those details or personnel.

24. Prior to the first occupation of each phase that includes residential uses, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall be in accordance with the submitted Framework Travel Plan (HTp/1107/FTP/01 January 2018). The Residential Travel Plan shall contain immediate, continuing and long-term measures to promote sustainable travel choices and encourage modes of transport other than the private car.

The Residential Travel Plan shall include:

- a) Information on existing transport policies, services and facilities, travel behaviours and attitudes;
- b) Resource allocation, including for the Travel Plan Coordinator and budget;
- c) Details for the production and distribution of an information pack for residents detailing travel options other than the private car, and how to access them on the site and in the wider locality;
- d) Other appropriate measures and actions to reduce car dependence and encourage sustainable travel;
- e) A marketing and communications strategy; and
- f) An action plan, with a timetable, to include mechanisms for implementation, monitoring and review.

The Residential Travel Plan shall be implemented as approved in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

25. A Non-Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority for each of the following uses before that use commences:

the foodstore; the public house/ family restaurant; the care home; the primary school (if it is to be provided on-site).

Each Non-Residential Travel Plan shall be in accordance with the submitted Framework Travel Plan (HTp/1107/FTP/01 January 2018) and contain immediate, continuing and long-term measures to promote sustainable travel choices and encourage modes of transport other than the private car.

Each Non-Residential Travel Plan shall include:

- a) Information on existing transport policies, services and facilities, travel behaviours and attitudes;
- b) Resource allocation, including for the Travel Plan Coordinator and budget;
- c) Details of appropriate measures and actions to reduce car dependence and encourage sustainable travel, including details of access to modes of transport other than the private car;
- d) Targets for modal share;

- e) A car parking management strategy;
- f) A marketing and communications strategy, including details of how employees will be involved with its implementation; and
- g) An action plan, with a timetable, to include mechanisms for implementation, monitoring and review.

Each Non-Residential Travel Plan shall be implemented as approved in accordance with the timetable contained therein and shall remain in place as long as the use to which it relates remains operative.

- 26. The gradient of the vehicular access points shall not exceed 1 in 40 for the first 15m into the site measured from the nearside edge of the carriageway of the adjacent highway.
- 27. No development shall be carried out until a close boarded fence of not less than 2m in height has been erected along the northern boundary of the development site or at least one metre from any part of the existing motorway fence where the boundary lies within one metre of it. The fence shall be in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. These details shall show the alignment and elevational treatment of the fence and shall be designed to ensure no vehicular or pedestrian access can take place between the site and the motorway network.

Thereafter, the fence shall remain in place and only be repaired or replaced in accordance with the requirements of this condition or replaced by the acoustic barrier approved under condition 40.

- 28. No development shall be carried out until a Surface Water Drainage Strategy incorporating a sustainable drainage system (SuDS) for the whole of the development site has been submitted to and approved in writing by the Local Planning Authority. The Surface Water Drainage Strategy shall be based upon sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and in accordance with the approved Flood Risk Assessment (ref: 1506-45/FRA/01 Rev B, dated June 2016). The Surface Water Drainage Strategy shall, as a minimum:
 - a) Provide details of how the proposed on site drainage systems (including watercourses) and any flood risk infrastructure shall be maintained and managed for the lifetime of the development following completion including:
 - the arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a Management Company; and
 - Arrangements concerning appropriate funding mechanisms for performance inspections, asset condition assessments, operational costs, on-going maintenance, access arrangements, remedial works and if necessary the replacement of the onsite drainage systems.
 - b) Provide details of how existing and future on-site flood risk from all sources will be mitigated/managed as part of the development and demonstrate that there will be no increase in flood risk downstream or to adjacent areas as a result of the development.

- c) Undertake an assessment of the condition of all existing watercourses on site and their ability to discharge surface water run-off from the development.
- d) Provide details of improvement works to all on-site watercourses, ditches and ponds.
- e) Identify any surface water drainage infrastructure connections including the volume of flows between the different phases or plots of the development.
- f) Identify the source of the Spa Brook upstream and the potential for flooding should local groundwater abstractions eventually cease.
- g) Set out a timetable for implementation.

The development shall be carried out in accordance with the approved Surface Water Drainage Strategy and its timetable.

29. No development shall be carried out until a site-wide Foul Water Drainage Strategy for the whole of the development site has been submitted to and approved in writing by the Local Planning Authority. The site-wide Foul Water Drainage Strategy shall include:

- a) Details of how the proposed on-site drainage infrastructure shall be maintained and managed for the lifetime of the development following completion including the arrangements for adoption by an appropriate public body or statutory undertaker or by a Management Company.
- b) Details of a strategy to minimise the requirement for foul sewerage pumping stations across the site.
- c) Identification of those parts of the site where the pumping of foul sewerage will be necessary.
- d) Details of all foul sewerage pumping station arrangements.
- e) A timetable for the implementation of the foul water drainage works.
- f) The means to ensure that foul and surface water will be discharged to separate drainage systems.

The development shall be carried out in accordance with the approved Foul Water Drainage Strategy and its timetable.

30. A detailed surface water drainage scheme for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on that phase. The detailed strategy shall comply with the site-wide Surface Water Drainage Strategy approved under condition 28. The surface water drainage scheme shall include:

- a) details of all new retention ponds and linking sustainable drainage infrastructure, which shall be designed in accordance with the latest version of the CIRIA SuDS manual or subsequent guidance and include new wetland habitat creation.
- b) details of any new surface water drainage works associated with the Spa Brook waterbody and ecological network.
- c) details of how the scheme shall be maintained and managed following completion.

The detailed surface water drainage scheme shall be carried out in accordance with the approved details prior to first occupation.

31. There shall be no surface water connections between plots or phases of development other than those identified in the site-wide Surface Water Drainage Strategy or phase related surface water drainage schemes and approved by the Local Planning Authority under conditions 28 and 30.
32. No drainage from the development shall connect into or compromise the M62 motorway drainage system.
33. No development shall be carried out until a quantitative and qualitative risk assessment and mitigation strategy with respect to ground water protection, including details of any extra protection measures necessary to manage the risk of pollution to public water supply and the water environment during and after construction, has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall be based on the source-pathway-receptor methodology. It shall identify all possible contaminant sources and pathways for the lifetime of the development and provide details of measures required to mitigate any risks to groundwater and public water supply from the development. The development shall thereafter be completed, maintained and managed in accordance with the approved details.
34. Prior to the submission of the reserved matters application(s) for a particular phase, details of the mix of any market housing in that phase, including the size and type, shall be submitted to and agreed in writing by the Local Planning Authority. Development of that phase shall be carried out in accordance with the approved housing mix.
35. Prior to the submission of the reserved matters application(s) for a particular phase, a scheme shall be submitted to and approved in writing by the Local Planning Authority that demonstrates how the objectives of the Secured by Design Guides have been addressed in that phase. Development of that phase shall be carried out in accordance with the approved scheme.
36. No development shall take place on any phase until a programme of archaeological work for that phase, in accordance with a written scheme of investigation and including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. Development of that phase shall be carried out in accordance with the approved scheme and timetable.
37. Prior to the submission of the reserved matters application(s) for a particular phase, a design and layout led scheme, informed by the principles of Professional Practice Guidance (ProPG): *Planning & Noise* (May 2017) (or revisions/ replacements thereof) for insulating residential dwellings from noise sources, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take account of any transportation, industrial, commercial and entertainment noise both within and outside the residential properties and be based on findings from an appropriate noise assessment.

The scheme shall achieve the following noise levels in habitable rooms and outdoor areas as set out in BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings* and the WHO *Guidelines for community noise*:

Daytime Noise (0700 to 2300):

- a) Living Rooms & Bedrooms - 35dB $L_{Aeq,16h}$

- b) Dining areas - 40dB $L_{Aeq,16h}$
- c) Outdoor Amenity Areas - 50dB $L_{Aeq,16h}$. 55dB $L_{Aeq,16h}$ may be accepted in exceptional cases where normal mitigation cannot reach the 50dB level.

Night-time noise (2300-0700):

- d) Bedrooms - 30dB $L_{Aeq,8h}$
- e) Bedrooms – 45dB L_{Amax} no more than 10- 15 times per night

The indoor levels should be capable of being achieved with windows open (except for short term purge ventilation) or as a last resort with passive ventilation systems in the open position. For the purposes of calculation, noise insulation achieved by a partially open window should be assumed to be 15dBA.

If the above levels cannot be achieved in a design and layout led scheme with open windows or with ventilators open, then the scheme shall identify how the potential for overheating of affected residential buildings during warmer months will be mitigated in accordance with the principles of ProPG and *Acoustics Ventilation and Overheating- Residential Design Guide* (Jan 2020).

38. Prior to the submission of the reserved matters application(s) for any phase that includes dwellings within 250m of the boundary of Peel Hall Farm, a noise assessment shall be undertaken. This shall assess levels of noise emanating from the kennel use at a proposed residential receptor through the use of measured and/or calculated noise levels. The assessment methodology shall be first agreed in writing by the Local Planning Authority.

The noise assessment shall identify all necessary acoustic mitigation measures to protect both residential amenity and to ensure no adverse impacts to the operation of the Peel Hall Farm kennels. The mitigation measures shall consider the standards contained within BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings* and the WHO *Guidelines for community noise* or any other relevant guidance agreed by the Local Planning Authority.

39. Prior to the first occupation of any dwelling on a phase of development to which conditions 37 or 38 apply, a validation report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the inclusion of the acoustic mitigation measures approved for that phase under those conditions. The approved mitigation measures shall be retained and maintained in accordance with the manufacturer's instructions thereafter.

40. Prior to the commencement of construction on the site, an Acoustic Barrier Design and Method Statement (ABDMS) shall be submitted to and approved in writing by the Local Planning Authority. The ABDMS shall include:

- a) The specification, design, appearance, height and route of the acoustic barrier. These shall take account of the location of the services infrastructure, watercourse and land ownership in the area to the south of the M62 Motorway. They shall also have regard to the full requirements of the *Design Manual for Roads and Bridges standard CG300 "Technical Approval of Highway Structures"*, including the requirement for technical approval by a competent, independent Technical Approval Authority appointed by the Appellant.
- b) Comprehensive risk assessments relating to the existing services infrastructure.
- c) The construction phasing of the acoustic barrier.

- d) The way in which different sections will be effectively joined and how the edges of each section will be treated to ensure effective noise attenuation.
- e) The arrangements for the long-term maintenance of the acoustic barrier.
- f) The identification of any parts of the acoustic barrier that will replace the close boarded fence approved and erected by virtue of condition 27.

The acoustic barrier shall be constructed and maintained in accordance with the approved ABDMS and shall be retained for its intended purpose for the lifetime of the development.

41. Prior to the construction of the spine road on the eastern side of the site, a scheme for a noise barrier and associated landscaping to provide appropriate noise attenuation to the residential properties to the north shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include arrangements for the long-term maintenance of the noise barrier.

The noise barrier shall be constructed and the landscaping shall be carried out in accordance with the approved scheme before the commencement of the construction of the spine road. It shall thereafter be retained and maintained as approved for the lifetime of the development.

42. Any building plant or externally located equipment shall be acoustically insulated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of its use. The scheme shall ensure that the rated noise level at the boundary of the nearest extant or proposed noise sensitive property will not increase above the existing background noise level in accordance with the BS4142:2014 *Guidance on sound insulation and noise reduction for buildings* methodology. Any mitigation measures proposed to attain this level shall be clearly identified.

The scheme shall be implemented as approved prior to the commencement of use of the plant or equipment and shall be retained and maintained in accordance with the manufacturer's instructions for the duration of the use.

43. No development shall take place on a particular phase until an Invasive Species Management Plan for the removal, control and long-term management of invasive plant species (if present on that phase) has been submitted to and approved in writing by the Local Planning Authority. In this context, invasive species means any invasive plant referred to under section 14 and Schedule 9 of the *Wildlife and Countryside Act 1981* (as amended). The Invasive Species Management Plan shall include:

- a) Measures to prevent the spread of invasive plant species during any operations, such as mowing, strimming or soil movement; and
- b) Measures to ensure that any soils brought onto the site are free of the seeds, root or stem of any invasive species.

Development of that phase shall take place thereafter in accordance with the Invasive Species Management Plan.

44. No development shall take place on a particular phase until a Demolition and Construction Environmental Management Plan (DCEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The DCEMP shall provide for:

- a) Mechanisms to ensure the ongoing integrity of the M62 motorway embankment with particular reference, including a Risk Assessment Method Statement, to site development earthworks and drainage alongside the M62;
- b) The location of site compounds and the identification of working space and extent of areas to be temporarily enclosed and secured during each phase of demolition and construction;
- c) Provision to be made for the loading and unloading of plant and materials within the site;
- d) Access points to and from the site for visitors, contractors and deliveries;
- e) Parking for contractors, site operatives and visitors;
- f) Areas on the site for the storage of materials, large vehicles and machinery;
- g) Hours of construction and deliveries to the site;
- h) Measures to protect surrounding properties from construction noise and vibration in accordance with the standards in BS5228: *Code of practice for noise and vibration control on construction and open sites. Noise*;
- i) Measures for controlling dust and maintaining air quality on site, including details of street sweeping, street cleansing and wheel washing facilities;
- j) Evidence of joining the Considerate Constructors Scheme for the lifetime of the construction period;
- k) Location of temporary internal roads and areas of hard standing along with directional signage within the site;
- l) Siting of temporary containers;
- m) Provision for the recycling and disposal of waste resulting from demolition and construction works;
- n) Measures to protect existing utility assets and infrastructure;
- o) Start and finish dates of construction;
- p) Details of security hoardings;
- q) Site contact details

The approved DCEMP shall be adhered to throughout the demolition and construction period of that phase.

45. No development shall take place (including demolition, ground works or vegetation clearance) until a Biodiversity Demolition and Construction Environmental Management Plan (Bio DCEMP) has been submitted to and approved in writing by the Local Planning Authority. The Bio DCEMP shall include:
- a) A risk assessment of potentially damaging construction activities;
 - b) The identification of biodiversity protection zones;
 - c) Practical measures, including both physical measures and sensitive working practices, to avoid or reduce impacts during construction. These may be provided as a set of method statements;

- d) The location and timing of sensitive works to avoid harm to biodiversity features;
- e) Provision to be made for the prior detailed inspection of any trees to be felled by a suitably qualified ecologist to establish the potential of those trees to support any bat roosts. Trees with the potential to support bat roosts shall be subject to a survey in accordance with Bat Conservation Trust guidelines. If bats are found to be using features in any tree for roosting purposes, a license shall be obtained from Natural England in order to comply with wildlife legislation and the terms of the license shall be complied with. Where potential roosting features are present but no evidence of roosting bats is found, the trees shall be felled under a Precautionary Working Method Statement, which shall be submitted to the Local Planning Authority for written approval prior to any works being undertaken. The tree felling shall be carried out in accordance with the approved Precautionary Working Method Statement;
- f) Confirmation that no tree felling, vegetation clearance work or other works that may affect nesting and breeding birds will be undertaken during breeding bird season (March to August, inclusive), unless the absence of nesting birds has been established by a breeding bird check undertaken by an experienced and qualified ecologist.
- g) Details of the times during demolition and construction periods when specialist ecologists may need to be present on site to oversee works.
- h) Details of the responsible person(s) and lines of communication to include an ecological clerk of works or similarly competent person.
- i) Details of the use of protective fences, exclusion barriers and warning signs.

The approved Bio DCEMP shall be adhered to throughout the demolition and construction period.

46. No development shall take place on a particular phase until a Landscape and Ecological Management Plan (LEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:
- a) A description and evaluation of important landscape and habitat features to be retained, created and managed thereafter;
 - b) Details of the aims and objectives of ongoing management, including ecological trends and constraints on the site that might influence management;
 - c) A management work schedule, including an annual work plan capable of being rolled forward over a ten-year period. This shall demonstrate how the aims and objectives will be achieved, including details of ongoing monitoring and set out how remedial measures will be agreed and implemented if required;
 - d) Details of the management body or organisation responsible for implementation of the LEMP, 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.

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

47. No equipment, machinery or materials shall be brought onto the site until measures to protect the retained trees and hedges on that phase are in place in accordance with a scheme to be first approved in writing by the Local Planning Authority. The protective measures, including tree protection fencing, shall be in accordance with BS 5837:2012 *Trees in relation to Design, Demolition and Construction – Recommendations* (or replacement thereof).

Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition. The ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made without prior written approval of the Local Planning Authority.

The protective measures shall be carried out as approved and shall remain in place during the construction period for the phase and until all equipment, machinery and surplus materials have been removed from the site.

48. A pre-works badger survey shall be undertaken by a suitably qualified ecologist no more than 3 months prior to the commencement of any works on a particular phase in order to establish use of that part of the site by badgers. If required, a license shall be obtained from Natural England and any mitigation shall be carried out in accordance with the terms of the license. Where a badger sett is present and no license is required, a precautionary working method statement shall be developed in order to protect the sett. This shall be submitted to and approved in writing by the Local Planning Authority before any works on that phase are commenced and the approved statement shall be adhered to thereafter.
49. No development shall take place (including demolition, ground works, vegetation clearance) until a scheme for offsetting biodiversity impacts to achieve net gain shall be submitted to and approved in writing by the Local Planning Authority. The proposed offsetting scheme shall:
- a) be based on prevailing DEFRA guidance;
 - b) comply with prevailing regulatory standards and policy requirements which are in force and applicable to this site;
 - c) include details of the offset requirements of the development in accordance with the current DEFRA biodiversity metric;
 - d) include the identification of a receptor site or sites;
 - e) include the evidence of arrangements with the relevant landowner that secures the delivery of the offsetting scheme;
 - f) include a management and monitoring plan (which shall include for the provision and maintenance of such offsetting measures);
 - g) Timetable for implementation.

The biodiversity offsetting measures shall be carried out in accordance with the approved scheme and timetable.

50. Prior to the first occupation or commencement of use of the foodstore, the public house/ family restaurant, the care home, the sports hub and the primary school (if it is to be provided on-site) a Servicing and Waste Management Strategy shall be implemented in accordance with details that have first been approved in writing by the Local Planning Authority.

The Servicing and Waste Management Strategy shall provide details of how servicing, storage, transfer and collection of goods and waste will be achieved to ensure that no layovers or waiting of heavy goods vehicles will occur on the public highway.

51. No development shall take place on a particular phase until a Lighting Design Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Lighting Design Strategy shall address potential impact on biodiversity and sensitive residential receptors and shall include:

- a) The identification of those areas of the site that are of particular importance to nocturnal animals, including bats. In particular this concerns breeding sites, resting places and important routes used to access key areas of territory and/or for foraging;
- b) Details of the external lighting to be installed with appropriate lighting contour plans and technical specifications to demonstrate that nocturnal animals, including bats would not be adversely affected;
- c) Details of the external lighting to be installed with appropriate lighting contour plans and technical specifications to demonstrate that there would be no adverse impacts on nearby residential uses either within the Peel Hall site or outside it.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved Lighting Design Strategy and shall be retained and maintained in accordance with the manufacturer's instructions thereafter.

52. No development (other than demolition and site clearance works) on a particular phase shall take place until the steps in Sections A and B below have been undertaken for that individual phase:

A: CHARACTERISATION: With specific consideration to human health, controlled waters and wider environmental factors, the following documents shall 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 Intrusive Site Investigation
- Detailed Quantitative Risk Assessment (DQRA)
- Remedial Options Appraisal

Completing a PRA is the minimum requirement. A DQRA should only be submitted if the 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 to and agreed in writing by the Local Planning Authority. This strategy shall ensure the site can be made suitable for the intended use and set out how any risks to identified receptors will be mitigated. This strategy should be derived from the Remedial Options Appraisal and shall detail the proposed remediation measures/objectives and how the proposed remedial measures will be verified.

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

53. Prior to the first occupation of a particular phase the requirements in Sections A-C below shall be undertaken for that phase:

A: REMEDIATION & VERIFICATION: Remediation (if required) and verification shall be carried out in accordance with the strategies approved under condition 52. Following completion of all remediation and verification measures, a Verification Report shall be submitted to and approved in writing by the Local Planning Authority.

B: REPORTING OF UNEXPECTED CONTAMINATION: All unexpected or previously unidentified contamination encountered during development works shall 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 strategy and verification strategy submitted to and agreed in writing by the Local Planning Authority. The strategies shall be carried out as approved.

C: LONG-TERM MONITORING & MAINTENANCE: If required in the agreed remediation or verification strategy, all monitoring and/or maintenance of remedial measures shall be carried out in accordance with the approved details.

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



The Planning Inspectorate

Report to the Secretary of State for Housing, Communities and Local Government

by **Christina Downes BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Date 10 August 2021

TOWN AND COUNTRY PLANNING ACT 1990

WARRINGTON BOROUGH COUNCIL

Appeal made by

SATNAM MILLENIUM LTD

Inquiry held: 14-18, 21, 22 September 2020 and 9-12, 16-19, 25, 26 March 2021
Site visits held: 20, 30 August 2020, 16 October 2020 and 20, 21 May 2021

Land at Peel Hall, Warrington

File Reference: APP/M0655/W/17/3178530RD

CONTENTS

	Page
Abbreviations list	2
Procedural matters	3
The site and surroundings	5
The proposal	6
Environmental Statement	8
Relevant planning history	8
Planning policy	8
The case for Satnam Millenium Ltd	11
The case for Warrington Borough Council	34
The case for the Rule 6 Party: Peel Hall Campaign Group	42
Other oral representations	54
Written representations:	62
Consultee responses	64
Planning conditions	66
Planning Obligation by Agreement	72
Inspector's conclusions	77
Inspector's recommendation	114
Annex One: Appearances	115
Annex Two: Documents and plans	117
Annex Three: Conditions schedule	127

ABBREVIATIONS LIST

	Acronym
Air Quality Assessment Level	AQAL
Air Quality Management Area	AQMA
Annual average daily traffic flow	AADT
Department of Food and Rural Affairs	DEFRA
Do Minimum traffic modelling scenario	The DM scenario
Do Something traffic modelling scenario	The DS scenario
Environmental Statement	ES
Flood Risk Assessment	FRA
Institute of Air Quality Management	IAQM
Lead Local Flood Authority	LLFA
Local Air Quality Management Technical Guidance 16	TG16
Local Plan Core Strategy for Warrington	The CS
National Planning Policy Framework	The Framework
Planning Obligation by Agreement	The S106 Agreement
Satnam Millenium Ltd	The Appellant
Statement of Common Ground	SCG
Strategic Housing Land Availability Assessment	SHLAA
Supplementary Planning Document	SPD
The Community Infrastructure Levy Regulations	The CIL Regulations
The Professional Practice Guidance on Planning and Noise	ProPG
The roundabout junction at Sandy Lane West, Sandy Lane, Cotswold Road and Cleveland Road	The SLW roundabout
The Warrington Fourth Local Transport Plan	LTP 4
The Warrington Proposed Submission Version Local Plan	The emerging Local Plan
Warrington Borough Council	The Council
World Health Organisation	WHO

File Ref: APP/M0655/W/17/3178530
Land at Peel Hall, Warrington

- 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 Satnam Millenium Ltd against the decision of Warrington Borough Council.
- The application Ref 2016/28492, dated 11 July 2016, was refused by notice dated 24 February 2017.
- The development proposed is a new residential neighbourhood including C2 and C3 uses; local employment (B1 use); local centre including food store up to 2000m², A1-A5 (inclusive) and D1 use class units of up to 600m² total (with no single unit of more than 200 m²) and family restaurant/ pub of up to 800m² (A3/ A4 use); site for primary school; open space including sports pitches with ancillary facilities; means of access and supporting infrastructure.
- This report supersedes that issued on 20 December 2018. That decision on the appeal was quashed by order of the High Court.

Summary of Recommendation: That the appeal be allowed

PROCEDURAL MATTERS

1. The appeal was recovered for determination by the Secretary of State on 25 July 2017. The reason was that it involved a development of over 150 units, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.
2. A 12-day inquiry was held in April, May and July 2018 (the previous inquiry). The conclusions of my colleague are a relevant material consideration insofar as they do not relate to matters that were quashed by order of the High Court on 8 October 2019. By letter dated 18 December 2019 the Secretary of State required a new inquiry because there may have been significant changes in circumstances, fact or policy since his decision in December 2018 that may be material to the redetermination of the proposal (**Documents CD OD 16; CD APP 20**).
3. A costs application was made by Warrington Borough Council against the Appellant, Satnam Millenium Ltd. This is the subject of a separate Report.
4. Save Peel Hall Campaign Group (the Rule 6 Party) was granted Rule 6 status and took a full party as a main party in the inquiry proceedings.
5. The inquiry was adjourned on 22 September in order to allow further highway (VISSIM) modelling by the Appellant to take place. The Rule 6 Party, Ms Charlotte Nichols MP and other local objectors, did not agree with an adjournment and considered that the inquiry should proceed on the basis of the submitted evidence. After due consideration I determined that it would not be in the public interest to continue on the basis of known flaws in the modelling evidence. A strict timetable was imposed for the VISSIM work to be completed and this also allowed a period for review by the Council and Highways England and preparation of further evidence by all main parties. The inquiry resumed on 9 March and sat for a further 11 days (**Document CD APP 18**).
6. By the close of the inquiry the Planning Obligation by Agreement (the S106 Agreement) had not been completed. The main issue was that a portion of the site was owned by Homes England. This had caused difficulty at the earlier

inquiry because Homes England were not a party to the S106 Agreement and my colleague, correctly in my opinion, did not consider that the matter could be resolved through imposition of a planning condition. I was told that negotiations had moved forward and that now Homes England had agreed to sell the land to the Appellant rather than develop it themselves. As these negotiations were said to be at an advanced stage, I allowed a further 6 weeks for the matter to conclude to resolution. At the end of this period the Appellant confirmed that contracts between the parties for the sale of the land had been exchanged and that Homes England was now a signatory to the S106 Agreement. I consider this document later in my Report (**Document INQ 41/A**).

7. I conducted a number of unaccompanied site visits and the main parties provided helpful itineraries and maps. These included walking over the site itself and along the public right of way running through it. I also visited Radley Plantation, Radley Common and Peel Hall Park. I experienced the surrounding residential areas, both the estate developments to the south of the site and the new developments built by the New Town Corporation to the east. I also observed the traffic flows and disputed junctions. In order to experience the traffic conditions in the most representative way possible, I undertook the final site visit on 20 and 21 May and observed the situation during the morning and evening peaks when some of the restrictions imposed during the COVID-19 pandemic had been lifted (**Document INQ 62**).
8. Revisions to the National Planning Policy Framework were published on 20 July 2021. The 3 main parties were given a two week period in which to submit any comments that they considered of relevance to their case. Responses were received from the Council and the Appellant. These have been added to each case as appropriate (**Documents INQ 64/A; INQ 64/B**).

THE VIRTUAL FORMAT

9. The inquiry was originally scheduled to commence on 9 June 2020. A telephone Case Management Conference (CMC) was held on 25 March to discuss the arrangements. However, the inquiry was subsequently postponed until 14 September due to the COVID-19 pandemic. A second CMC was held on 3 June to discuss how the inquiry could be moved forwards having regard to the Written Ministerial Statement of 13 May. This requires all parties involved in the planning process to engage proactively and indicates that virtual inquiries are the default position other than in exceptional circumstances. I was satisfied that a virtual inquiry would be appropriate in this case and explained at the CMC how I envisaged that it would work (**Documents CD APP 13; CD APP 14**).
10. Save Peel Hall Campaign Group (the Rule 6 Party) was vehemently opposed to this approach. Following the CMC, representations were also received from the Council and Ms Charlotte Nichols MP also expressing their disquiet. The fundamental reason for the objection related to the fairness of the process where there had already been a high level of public engagement. It was said that many people were not comfortable with digital technology and would not engage with the process in this way (**Document CD APP 15**).
11. Many local people also considered that they were disadvantaged through holding a virtual event as was made clear in their representations, both oral and written. The concerns were not just about the participation itself but also the

difficulty of examining the documentation beforehand due to the restrictions imposed during the COVID-19 pandemic (**Document INQ 23**).

12. The Planning Inspectorate did explore the possibility of holding a physical event with the Council. Considerable work and effort was put in to finding a suitable venue and the Council was confident that it could host a COVID-secure event. However, it was not able to offer a virtual facility whereby those with medical conditions or those who were not confident attending in person would still be able to take part. I was also concerned that if there were to be local restrictions imposed there would be no certainty of such an event proceeding. I therefore decided that the only secure way to proceed was by means of a virtual format (**Document APP 15**).
13. Whilst the objections were not withdrawn, it is to everyone's credit that they made great effort to make the process work successfully. I was told that some local people did not speak who would otherwise have done so. Whilst this is regrettable, I heard from a great many people on the first Friday of the inquiry. The local Member of Parliament also spoke, and the Rule 6 Party represented their local community.

THE SITE AND SURROUNDINGS

14. There are descriptions of the appeal site and its surroundings in the Planning Statement of Common Ground, the Updated Ecological Appraisal and Impact Assessment and the Landscape and Visual Impact Assessment. The latter document also has a number of useful photographs, aerial views and plans (**Documents CD APP 5A; CD APN 30; CD APN 9**).

The main points are:

15. The appeal site is about 5 km north of Warrington Town Centre. It comprises some 69 hectares of land that is essentially landlocked and falls away in a southerly direction from its northern boundary with the M62 motorway. It mainly consists of species poor improved grassland, tall ruderal habitats and scrub. There are also fragmented hedgerows, reed beds, scattered trees and areas of broad-leaved plantation woodland. Several small ponds can be found within the site along with a number of ditches and the vegetated Spa Brook crosses north to south with culverts at either end.
16. To the south of the site is the densely populated residential area of Poplars and Hulme. The site boundary abuts the rear gardens of dwellings on Poplars Avenue, Newhaven Road, Windermere Avenue and Grasmere Avenue. To the east is the housing served by Ballater Drive and an area of individual frontage houses along Mill Lane and Radley Lane within the area known as Houghton Green. Radley Lane runs into the site as a narrow tarmac road to provide access to Peel Hall Farm, which is a private residence with a boarding kennels and cattery. The lane is also a public right of way. This skirts around the southern boundary of Peel Hall Farm and runs along the northern site boundary as far as the overbridge where it crosses the M62, continuing in a north-westerly direction towards Winwick village. There is a Medieval moat within an area of woodland and scrub to the south-west of Peel Hall Farm.
17. Between Mill Lane and Ballater Drive is a rectangular section of the site that

currently comprises the amenity land of the Mill Lane Playing Fields. The site contains a further area of amenity land in its south-eastern corner adjacent to Grasmere Avenue, which is known as the Radley Common Recreation Ground. It includes a community centre, car parking area and children's playground. To the north of this, and outside the site boundary is Radley Plantation, Radley Common and Peel Hall Park.

18. On its western side, the site has a common boundary with the rear gardens of dwellings on Elm Road and Birch Avenue, which is a cul-de-sac off the A49. This is a primary route into Warrington from junction 9 of the M62 Motorway. The site also wraps around The Alders, which is an NHS care facility for children and adolescents. To the north-east of this, close to the boundary with the motorway is a United Utilities pumping station, which is accessed along a track from Elm Road. An underground high-pressure gas main runs into the site from Birch Road and crosses the northern side in an easterly direction.
19. A short distance to the north-east of the appeal site is the junction of the M62 and M6 Motorways. Either side of the M6 and south of the M62 is the 1970's housing and employment areas built by the Warrington New Town Development Corporation, including Birchwood, Gorse Covert, Locking Stumps and more recently Cinnamon Brow. The final housing area by the Development Corporation before it was wound up in the 1980's was Ballater Drive.

THE PROPOSAL

20. The proposal is for a residential extension to the northern side of Warrington. There would be 5 new points of vehicular access into the site. The Birch Avenue access would serve up to 20 dwellings at the western end of the site. The western Poplars Avenue access would entail the demolition of 2 residential properties and would serve up to 150 dwellings on the western side of the site. The eastern Poplars Avenue access would entail the demolition of 4 residential properties and serve up to 180 dwellings, the local centre, school and care home. The Blackbrook Avenue access would include a new roundabout and serve up to 700 dwellings. The Mill Lane access would serve up to 150 dwellings on the north eastern side of the site. There are detailed application drawings of these new access points (**Document CD APN 122**).
21. The application is in outline form with all matters save for access reserved for future consideration. The proposals are for "up to" 1,200 dwellings and thus give the potential for a lesser number. However, that cannot be assumed at this stage and no evidence was provided by the Appellant to support any specific reduction in quantum. In the circumstances, it is necessary to base the consideration on a development of 1,200 houses. A similar point applies to the number of dwellings to be served by each access point. Included in the scheme would be 30% affordable housing.
22. The application drawings include a Parameters Plan. This indicates the location of different uses, including the open spaces, recreation areas and local centre. An ecology park is shown as a buffer zone along the northern site boundary adjoining the M62 motorway. To the south of this is a zone shown for apartment buildings up to 4 storeys in height (12m). The remaining residential area would be subdivided into smaller sections by hedgerows, woodlands and the Spa Brook corridor. The Parameters Plan indicates that buildings would be up to 3 storeys

in height (9.5m). Buildings would be 2 storeys in height at the boundaries with existing housing (**Document CG4 attached to Document POE 19**).

23. The Parameters Plan shows the Local Centre within the southern section of the central part of the site. The application description indicates a number of commercial uses. These include a foodstore of up to 2,000m² and a family restaurant/ public house of up to 800m². In addition, there would be some smaller units for use as shops, small offices or institutional uses. A site would also be reserved for a single form entry primary school.
24. The existing playing fields at Mill Lane, currently owned by Homes England, would be developed for housing. It is proposed to provide new facilities to the east of the school site with 2 full sized grass football pitches and a youth pitch. This would be part of a new sports hub with the Council owned Radley Common Recreation Ground off Grasmere Avenue. Here there would be a new community facility along with car parking and a new full-sized grass football pitch and a youth pitch. The existing multi-use games area and local equipped area for play would be retained (**Document CG6 attached to Document POE 19**).
25. Between the Radley Plantation and Peel Hall Farm, which are both outside the appeal site, is an area of open space that would link up to the ecology area and public footpath and M62 overbridge. This would include wooded open space around the archaeological moat feature. Various attenuation ponds would provide wildlife havens within the site.
26. There are several illustrative drawings, including a Landscape Masterplan and illustrative layouts for the school site and sports hub. The scheme remains largely as it was when considered by the previous Inspector and the Secretary of State. In response to concerns about the potential for the use of residential streets to the south by heavy lorries, the employment area has been removed. Other changes include the addition of allotments on the open area north of Radley Plantation and an acoustic fence along the northern edge of the site instead of the previously proposed bund. There was new traffic and air quality modelling, further information on noise and new ecological surveys were carried out (**Documents CG5, CG9, CG11 attached to Document POE 19**).
27. The application description relating to the outline proposal was revised in March 2020 by agreement of the 3 main parties as follows (**Document CD APP 5/A, page 3**):

A new mixed use neighbourhood comprising residential institution (residential care home – Use Class C2); up to 1,200 dwelling houses and apartments (Use Class C3); local centre, including food store up to 2,000 m2 (Use Class A1); financial and professional services; restaurants and cafes; drinking establishments; hot food takeaways (Use Classes A2-A5 inclusive); units within Class D1 (non-residential institution of up to 60 m2 with no single unit more than 200 m2; and family restaurant/ pub up to 800 m2 (Use Classes A3/ A4); primary school; open space including sports pitches with ancillary facilities; means of access (including the demolition of 344, 346, 348, 458 and 460 Poplars Avenue) and supporting infrastructure.

ENVIRONMENTAL STATEMENT (ES)

28. There is no dispute that the appeal proposal is Environmental Impact Assessment development. An ES and ES Addendum were submitted with the application and prior to the previous inquiry.
29. A Further Addendum to the ES was produced to reflect the amendments outlined in paragraph 26 above and minor changes were also made to the landscape, socio-economic and policy chapters, including an update to reflect the 2019 version of the National Planning Policy Framework (the Framework). It is to be noted that the 2021 version was published following the close of the inquiry but has been taken into account where relevant in my Conclusions (**Document CD APN 6**).
30. It was agreed that the Environmental Impact Assessment would be considered under the *Town and Country Planning (Environmental Impact Assessment) Regulations 2011* because the request for the scoping opinion was made prior to 16 May 2017 and the transitional provisions under the 2017 Regulations would therefore apply. Publicity proved to be difficult on account of the COVID-19 pandemic. However, following the *Town and Country Planning (Local Planning, Development Management Procedure, Listed Buildings etc.) (England) (Coronavirus) (Amendment) Regulations 2020* this was able to be undertaken electronically and a press notice went out on 4 June 2020. I am satisfied that the ES and its two Addenda are procedurally and legally correct.

RELEVANT PLANNING HISTORY

31. Whether the appeal site was originally intended for housing as part of the land developed by the New Town Corporation is not agreed by the main parties. It was recommended as a housing allocation by the Inspector in his Report on the Warrington Local Plan in 1998 but this was not confirmed by the Council.
32. There have been various past planning applications and appeals for the residential development of the area of land off Mill Lane, which forms part of the present appeal site. The most recent was an appeal, which was dismissed in 2013 on the grounds that there was limited scope to achieve sustainable development. There were also planning applications in the early 1990's for residential development and a local centre on a similar site to that currently being proposed. These were refused on grounds including prematurity and potential highway impact. These various schemes have little relevance to the current appeal proposal.

PLANNING POLICY

33. The development plan includes the **LOCAL PLAN CORE STRATEGY FOR WARRINGTON** (the CS), adopted in July 2014. In February 2015 a successful High Court challenge to its adoption means that there is no housing requirement for the plan period. It also removed the Omega strategic allocation and those parts of the supporting text relating to it. The statement of common ground (SCG) on planning matters provides a full list of relevant policies. Whilst these have all been taken into account, the ones that are considered particularly pertinent to this proposal are set out below (**Documents CD LP 1; CD OD 1; CD APP 5/A, section 4**).

34. On the **Key Diagram** the appeal site is shown as part of the Suburban Areas. The Green Belt is shown to the north of the M62.
35. The CS policies provide the overall spatial strategy and strategic opportunities. **Policy CS1** establishes the general principles for delivering sustainable development. **Policy CS2** sets out the broad locations to which new development should be directed, seeking to prioritise brownfield land and maintain the Green Belt. The majority of new residential development is directed to the Inner Warrington area.
36. **Policy CS3** indicates that where the Council fails to maintain an adequate supply of developable housing land it will bring forward additional housing sites as required, encouraging re-use of brownfield land and avoiding sites in the Green Belt where possible. **Policy CS4** sets out initiatives to support the role of Warrington as a regional transport gateway and interchange. Amongst other things it seeks to locate development to reduce the need to travel, especially by car, and enable people to meet their needs locally where possible.
37. The SN policies seek to strengthen neighbourhoods and ensure a home for all. **Policy SN 1** aims for 80% of new homes to be built on previously developed land. 60% of new homes will be focused within the centre of Warrington and 40% in the suburban areas and defined settlements. Within the suburban areas, proposals are supported that present an opportunity to widen the type, size and affordability of housing in sustainable locations, amongst other things. **Policy SN 2** seeks to secure mixed and inclusive neighbourhoods through a variety of housing types and tenures. On greenfield sites of 15 or more dwellings, 30% affordable housing should be provided with half being social rent and half intermediate tenures. The presumption is that this will be provided on the site.
38. The QE policies seek to achieve a high quality environment. **Policy QE 4** states that proposals will only be supported where the risk of flooding has been fully justified by an agreed Flood Risk Assessment (FRA). **Policy QE 5** aims to protect and, if possible, enhance sites of recognised nature and geological value. Proposals affecting protected sites, wildlife corridors, key habitats or priority species should be accompanied by information proportionate to their value. Conditions and planning obligations may be used to ensure protection and enhancement of a site's conservation interest.
39. **Policy QE 6** indicates that development should not adversely affect the surrounding area or the amenity of existing or future occupiers. Amongst other things consideration will be given to the effect on air quality, noise, light pollution and traffic movements. The use of conditions or planning obligations will be considered to ensure appropriate mitigation of impacts on these considerations. **Policy QE 7** seeks to ensure high quality places through design to create inclusive, accessible and safe environments, amongst other things.
40. The MP policies are directed to making places work through the connection of people and places. **Policy MP 1** seeks to ensure that new development reduces the need for private car use and considers demand management measures. It should meet relevant parking standards and mitigate the impact of development on, or improve the performance of, the transport network. **Policy MP 3** gives high priority to the needs and safety of pedestrians and cyclists in new development, including appropriate segregation of users. It seeks to increase

accessibility through enhancements and improvements, recognising the potential environmental, social and health benefits that ensue.

41. **Policy MP 4** reiterates the need to locate development in areas with easy access to public transport, ensuring that it is a viable and attractive alternative to the private car. Additional public transport infrastructure should be provided where existing facilities are in need of improvement. **Policy MP 7** sets out the requirement for Transport Assessments and Travel Plans for major schemes. It requires all developments to demonstrate that they will not significantly harm highway safety and that additional trips can be adequately served by the transport network and provide appropriate mitigation. **Policy MP 10** aims to ensure that development proposals are supported by the timely delivery of necessary transport, utility, social and environmental infrastructure, through planning obligations and the Community Infrastructure Levy. Development should minimise the need for new infrastructure provision, by maximising the benefits of existing provision.
42. **THE PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING DOCUMENT** was adopted in January 2017. It sets out the justification for financial contributions and other requirements relating to education, healthcare, open space, sports facilities and playing pitch provision (**Document CD LP 14**).
43. **THE WARRINGTON PROPOSED SUBMISSION VERSION LOCAL PLAN** (the emerging Local Plan) has not yet been submitted for examination. The Regulation 19 consultation was completed in June 2019, but further work has been paused due to the impact of the COVID-19 pandemic, the planning reforms proposed by the Government and its new housing calculation methodology. It is anticipated that work will proceed in Summer 2021 and the Council anticipates that the draft plan will be submitted for examination in Spring 2022 (**Documents POE 30, section 1; POE 23, appendix 3; INQ 64/B**).
44. **Draft policy MD4** allocates the 69 hectares Peel Hall site for a sustainable community of around 1,200 new homes and a range of infrastructure. Paragraph 10.4.11 classifies it as developable on account of the lack of an agreed package of transport mitigation measures. Completions from the site will not be relied upon within the first 5 year period of the Plan (**Document CD LP 26, section 10.4**).
45. The **NATIONAL PLANNING POLICY FRAMEWORK** (2021) (the Framework) establishes that the purpose of the planning system is to achieve sustainable development. Of particular relevance in this case is **Section 5** concerning the delivery of sufficient homes; **Section 8** seeking to promote healthy and safe communities; **Section 9** aiming to promote sustainable transport; **Section 12**, achieving well-designed places; **Section 14** relating to climate change and flooding; and **Section 15** concerning the natural environment, including air pollution, noise and biodiversity; **THE PLANNING PRACTICE GUIDANCE** is a web-based resource and provides further relevant advice in respect of the above matters.

THE CASE FOR SATNAM MILLENIUM LTD

The Appellant's case is fully set out in its evidence, including its opening and closing submissions (Documents INQ 61/A and INQ 61/B).

The main points are:

46. Following a lengthy planning history spanning several decades, it is common ground between the Appellant and the Council that there should be 1,200 houses on the appeal site. That is perhaps unsurprising given the current level of housing need in the Council's area and the fact that the appeal site lies within the designated suburban area of Warrington on the CS Key Diagram. There is no other protective or constraining notation at all, whether for planning purposes, landscape purposes, ecological purposes or any other.
47. The principle of residential-led development of the appeal site has long been accepted by the Council. The Council also accepts that the appeal scheme will be sustainable development and that it will make an important contribution to the Council's housing land supply. Indeed, the development of the appeal site for 1,200 houses is critical to the Council's housing land supply and as the Council accepts it is the only significant undeveloped site remaining within the existing urban area of the Borough¹.
48. The Council accepts that the appeal site is developable in terms of the Framework, which means that it is in a suitable location for housing development. This is notwithstanding that it is within a traffic congested area, in common with almost everywhere in Warrington. Indeed, it is acknowledged that existing traffic conditions, including on the roads to the south of the appeal site, were taken into account when the appeal site was classified as developable². The Council has also allocated the appeal site for 1,200 houses in its emerging Local Plan, notwithstanding its cognisance of existing traffic conditions (**Document POE 28, paragraph 2.12**).
49. The Council has not identified any alternative access strategy for the appeal site that would enable the contended impact on highways to be avoided. In those circumstances, the effect of the Council's remaining highway objection is to call in to question the principle of a residential-led development of the appeal site. In that regard the objection is entirely illegitimate, given the Council's longstanding acceptance of that principle.

PLANNING POLICY CONTEXT

50. The appeal scheme accords with the development plan and so planning permission should be granted:
 - a) In its decision in 2017 the appeal scheme was said to fail to accord with the development plan in terms of its impact on highways and consequent air quality and traffic noise effects and in terms of community provision (**Document POE 20, appendix 2**).

¹ These points were accepted by Mrs Hughes in cross-examination by Mr Lockhart-Mummery.

² This point was accepted by Mrs Hughes in cross-examination by Mr Lockhart-Mummery.

- b) Following the quashing of the subsequent appeal decision by the High Court and the submission of further technical information, the Council agreed that the original reasons for refusal had been superseded by events. It resolved on 1 July 2020 to continue to defend the appeal on highway grounds, acknowledging that the air quality and noise concerns had been overcome (**Document POE 20, appendix 3, Report pages 5, 23 and Transcript page 14**).
- c) The Council identifies only a limited degree of conflict with the development plan concerning aspects of CS policies QE 7, MP 1, MP 3 and MP 7. It was accepted that if the appeal scheme was found to be acceptable in highway terms there would be compliance with the development plan as a whole³. It has been demonstrated that there would not be unacceptable or severe impacts on the highway network or the surrounding environment. It follows that there would be no conflict with the development plan (**Document POE 19, paragraphs 5.11-5.12**).
51. There are no material considerations that indicate that planning permission should be withheld, notwithstanding the appeal scheme's compliance with the development plan. In particular paragraphs 2 and 218 of the Framework are a material consideration and indicate that planning permission should be granted.
- a) The Council is unable to demonstrate a five year supply of deliverable housing sites and has also failed all three components of the housing delivery test⁴. Parts of the CS were quashed by the High Court in 2015 but the remaining policies for the supply of housing are "out-of-date". It is agreed that paragraph 11d)ii. of the Framework, which sets out the tilted balance, applies to the determination of this appeal (**Documents CD APP 5/A, paragraphs 4.3, 4.4; CD APP 45, page 4; CD OD 2; POE 23, section 2.2 and appendix 2**).
- b) The question, therefore, is whether the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against Framework policies taken as a whole. It is plain that they would not.

BENEFITS OF THE APPEAL SCHEME

52. The Council in its 2017 report recognises that the appeal scheme is capable of bringing significant potential benefits as a sustainable urban extension to the northern edge of Warrington, without intruding into the Green Belt. It acknowledges the potential to make a valuable contribution in terms of new homes, jobs, local services and supporting social and other infrastructure. It is agreed it would result in very substantial, positive transformational change in an area that is ranked in the bottom 10, 20 and 30 per cent of the most deprived in England. This 2017 analysis of the benefits of the appeal scheme is not superseded⁵. Indeed, at the inquiry the Council recognised that substantial, positive weight should be given to the contribution to the Council's housing land

³ This point was accepted by Mrs Hughes in cross-examination by Mr Lockhart-Mummery.

⁴ This point was accepted by Mrs Hughes in cross-examination by Mr Lockhart-Mummery.

⁵ Mrs Hughes confirmed in cross-examination by Mr Lockhart-Mummery that the 2017 Officer's report still stood in terms of the planning background.

supply and that the provision of 30% affordable housing carried significant weight (**Documents POE 20, appendix 1, pages 5, 35; POE 28, paragraph 5.1, 5.6**).

Housing contribution

53. The contribution that the appeal site would make to housing land supply in the short to medium term is more than valuable or important, it is vital. There is no dispute that the housing land supply stands, at most, at 3.4 years⁶. The extent of the shortfall is important as explained in the Solihull judgement⁷ (**Document POE 23, paragraph 2.1.2**).
54. The emerging Local Plan was published in March 2019. It assumes that all of the Strategic Housing Land Availability Assessment (SHLAA) and urban capacity sites are developed for housing within the plan period, to accommodate 13,726 new homes. That assumption includes the appeal site, which is proposed as an allocation for about 1,200 houses under draft policy MD4 (**Documents POE 19, Paragraph 5.30; CD LP 26, paragraph 4.1.9 and page 200**).
55. The need for housing within the Council's area is so acute that, following a comprehensive assessment of urban capacity, the emerging Local Plan also proposes substantial Green Belt release to accommodate 7,064 new homes once the plan is adopted. The large Green Belt release sites will be entirely unable to contribute any meaningful quantum of housing during the early years of the plan period because they all require major infrastructure to come forward. None of the requisite major pieces of infrastructure are committed at present⁸ (**Documents CD LP 26, paragraph 4.1.9; POE 19, paragraph 5.3.2**).
56. The risk of the Borough running out of housing land before the emerging Local Plan process is complete has been significantly heightened by the delay that has occurred in its programme. The Council confirmed that it does not currently have an anticipated date for submission to the Secretary of State. It accepted that it is therefore impossible at present to know when planning permission might be granted for the major housing sites or when development will commence on them⁹. Indeed, the revision to paragraph 22 of the Framework requires local plans that seek to allocate large areas for development, such as the Garden Village to the south-east of the town, to plan for at least 30 years to account for delivery in such areas. This will require significant amendment and cause further delay to the progress of the emerging local plan. The land supply position is therefore likely to deteriorate further (**Documents POE 23, section 2.3; INQ 64/A**).
57. It is therefore critical to the ongoing existence of Warrington's housing land supply that development of the appeal site commences without delay. The Council accepted that the appeal site is the only significant housing site in Warrington, within the existing urban area, that does not require strategic

⁶ The Appellant's position is that it stands at 3.35 years (**Document POE 23, paragraph 2.1.2**).

⁷ (1) *Gallagher Homes Limited* (2) *Lioncourt Homes Limited v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin).

⁸ This point was accepted by Mrs Hughes in cross-examination by Mr Lockhart-Mummery.

⁹ These points were accepted by Mrs Hughes in cross-examination by Mr Lockhart-Mummery.

highway infrastructure and is known to be viable. If the appeal scheme does not come on-stream, either the Council's housing land supply would reduce very nearly to zero or the Council will have to look for additional housing land in the Green Belt. The latter scenario would cause further delays to the emerging Local Plan (**Document POE 19, paragraph 5.33**).

58. The appeal site is located within a wider urban area and surrounded on three sides by existing residential development. The highway impacts in the remaining reason for refusal are the inevitable consequence of its necessary development. Having regard to the vital role that the appeal site plays in the Council's planned forward supply of housing the question is simply whether those inevitable impacts can be adequately mitigated, where they are significant enough to require mitigation. That was the approach taken by the Council in 2016 to the proposal for up to 1,100 new homes together with a local centre at Omega South. This was in effect, an urban extension to west Warrington. The Council acknowledged that the area suffered with traffic congestion but accepted that the impacts on the local highway network could be acceptably mitigated (**Document CD OD 9, pages 4, 17 and 28**).
59. The approach is also supported by the development plan. CS policies CS 2 and SN 1 direct 60% of new residential development to the defined Inner Warrington area and 40% to the town's suburbs and defined settlements so as to preserve the Green Belt. The provision made in the CS for housing growth in Warrington's suburbs in effect acknowledges that the appeal site is the right location in principle for residential development.

Affordable housing

60. The overall need for affordable housing in Warrington is 377 dwellings per annum. The affordable housing delivery figures, which have not been challenged, show that the Council has failed to deliver sufficient affordable housing every year since 2009/10. The cumulative under-delivery since that date now stands at over 2,200 units (**Document POE 19, paragraph 5.34.2 and CG7 paragraphs 5.3, 5**).
61. Against the above context of a woeful level of provision in relation to defined need, the appeal scheme would provide 360 affordable housing units. In the three-year period 2016/2017 to 2018/19 only 270 units were provided across the whole Borough. This contribution is a substantial benefit to weigh in the overall planning balance, as the Council has accepted (**Document POE 28, paragraph 5.6**).

Economic benefits

62. The Council did not dispute that there would be positive benefits to the local economy as follows (**Document CG8 attached to Document POE 19**):
- a) The injection of about £150m of private sector investment into Warrington's economy for the construction of the site alone, which could sustain 124 full time equivalent construction jobs directly and a further 187 full time equivalent jobs indirectly.

- b) The generation of about £18.1m of direct and indirect gross value added per annum during the construction phase of the appeal scheme.
- c) The non-residential elements are likely to sustain 315 jobs or 239 full time equivalent once operational.
- d) Residents of the new homes are likely to generate around £6.6m of first occupation expenditure. The total net additional expenditure of new residents is also estimated at around £13m per year, which could sustain a further 146 full time equivalent jobs in retail, leisure, hospitality, catering and other service sectors.

Sport and recreation

- 63. It is common ground with the Council that there is a qualitative and quantitative shortfall in sports provision in the part of the Borough where the appeal site is located. It is agreed that the proposed measures relating to sport and recreation, including the new and replacement playing pitches and changing rooms, would result in a significant improvement for current and future residents of north Warrington (**Document CD APP 5/A, paragraph 6.30**).
- 64. The Council does not dispute that the replacement of the Mill Lane pitches to the centre and south of the appeal site would be appropriate. Sport England also raises no objection to that proposal (**Document CD APP 5/A, paragraphs 6.11, 6.31**).

Open space

- 65. The open space strategy for the appeal scheme is to create an extension to the existing Peel Hall Park, which lies to the south-east, up through the centre of the appeal site. It would include and adjoin the improved Radley Common Recreation Ground, the new on-site community sports pitches, Radley Plantation and the wood to the south of Peel Hall Farm farmhouse. It would link to the pedestrian recreational routes alongside and over the motorway to the countryside beyond. It is agreed between the Appellant and the Council that the provision of this area of open space, which would be available to both existing and future residents, would be a significant material consideration (**Document CD APP 5/A, paragraphs 6.28, 6.29; POE 19, CG5**).
- 66. The proposals relating to sports, recreation and open space provision accord with the healthy living objectives in section 8 of the Framework.

Other benefits

- 67. The following benefits should be afforded moderate weight in the planning balance (**Document POE 19, paragraph 11.4.2**):
 - a) The provision of additional and enhanced bus services in the local area.
 - b) The provision of new and up-to-date shopping and other facilities in an area where there is a lack of such outlets.
 - c) The provision of off-street parking for residents of Birch Avenue.

- d) The creation of ecological enhancements in the area.
68. The following benefits should be afforded limited weight in the planning balance (**Document POE 19, paragraph 11.4.2**):
- e) The provision of new and improved school facilities.
- f) The removal of site conditions that currently attract unneighbourly and antisocial behaviour.
69. If the Secretary of State is satisfied that the mitigation measures proposed in relation to the area to the south of Poplars Avenue meet the requirements of Regulation 122 of the Community Infrastructure Regulations (the CIL Regulations), those measures would be of significant benefit to the wider area and should be afforded moderate weight in the overall planning balance¹⁰.
70. The Council has confirmed the view previously expressed in the 2017 Officer's report that the appeal scheme would be a sustainable urban extension. It considers that the proposal to bring forward significant sustainable development on the appeal site has the potential to deliver substantial transformational benefits and very substantial, positive transformational change. Very substantial positive weight should be accorded in the overall planning balance to the range of potential benefits that the appeal scheme would provide¹¹ (**Document POE 20, appendix 1, page 6**).

EFFECT ON THE SAFETY AND EFFICIENCY OF THE HIGHWAY NETWORK

Context

71. The CS sets out the ambitions for growth in a car dependant town, with inevitable traffic growth especially in peak periods. The *Warrington Fourth Local Transport Plan* (December 2019) (LTP 4) the Council's LTP4 refers to a town with a background of continued economic success despite high car dependency and congestion. Over recent years very substantial commercial and residential development has been permitted, despite the congested network. No highway objection has been sustained in relation to any of these proposals, apart from at the appeal site. Development needs plainly override the inevitable increase in traffic congestion (**Documents CD LP 1, paragraph 2.36; POE 16, paragraph 2.2; POE 17, appendix 2**).
72. There is the need for substantial further housing growth to meet housing requirements even though the programme for its delivery is now completely up in the air. When it is eventually provided, the increased congestion resulting will inevitably not prevent these developments (**Document CD APP 45, figure 3**).
73. Peel Hall is by far the largest undeveloped site in the urban area, and a critical component of future housing land supply. Its status as developable for 1,200 houses has taken full account of the highway testing that was undertaken for

¹⁰ It is the Appellant's case that these mitigation measures do not comply with Regulation 122.

¹¹ These points were accepted by Mrs Hughes in cross-examination by Mr Lockhart-Mummery. <https://www.gov.uk/planning-inspectorate>

purposes of the emerging Local Plan. At the previous inquiry in 2018 substantial evidence was provided as to the traffic flows on local roads from the Saturn model. Those flows were substantially the same as those now being assessed. Notwithstanding that, the proposed allocation in the emerging Local Plan was made in accordance with the 2018 assessment (**Documents CD LP 26; CD LP 34, page 225**).

74. As the Saturn results clearly demonstrate, the major contributor to traffic in the area local to the appeal site is background growth from rat running traffic coming from outside the area but going through it (**Documents POE 12, table 11.3; POE 18, appendix 5**).
75. The agreed Saturn study area for the appeal proposal is substantial. There is only one means of access available for the development. It is reasonable to emphasise that the areas of concern to the Council are very few and far between. This is doubtless due to a number of factors, including the ability for traffic to disperse over many route options, which results in very modest additional flows, with marginal increases of vehicles per minute and impacts always in the area of 2%. Furthermore, there is extensive agreed mitigation (**Document POE 16, appendix 1**).

Relative VISSIM expertise

76. The expertise of the Council's witness¹² in VISSIM modelling seems to be marginal, dating from some fifteen years ago. As appeared from the technical notes he was very much a latecomer to this case. He made clear that his proof was not even an attempt to provide a balanced assessment of the position. His mission was to paint all of the negative aspects. There was not a single word provided as to the manifest benefits of the effects of the proposed mitigation and considerable improvements to traffic flows through the modelled network. This witness made unsubstantiated assertions, misled the inquiry and dwelt on points of no consequence. He provided no professional assistance at all to a proper and balanced understanding of this complex material (**Documents INQ 45A-G; INQ 61/B, paragraph 33**).
77. Expertise in this area is important. The Appellant's expert has specialised in VISSIM during his entire career. He has constructed and applied hundreds of VISSIM models. He gave balanced evidence and where very small additional delays were identified they were duly pointed out. His explanation of the difficult relationship between Saturn and VISSIM results is reliable.

The Saturn Model

78. This was the agreed modelling package for assessment of the appeal scheme and the results are fully agreed. They show flows at every link and junction under scrutiny. The future flows make no allowance for modal shift ambitions in the emerging Local Plan or for the potential effects of post COVID-19 working patterns. By comparing the 2032 without and with development outputs (the DM and DS scenarios), it can be seen that in 2032 the A49 corridor is shown to

¹² Mr G Rowland appeared for the Council and Mr L Best for the Appellant.
<https://www.gov.uk/planning-inspectorate>

have no worsening in the evening peak following development¹³. The same is true of the links and junctions on the residential roads to the south of the site. The material also shows that the link delays in seconds with development in place would be very small (**Document POE 17, appendix 4, pages 74, 80 and 69, 75**).

79. As a result of the Saturn modelling, a lengthy list of junctions requiring further modelling was agreed with the Council. The roundabout junction of Sandy Lane West, Sandy Lane, Cotswold Road and Cleveland Road (the SLW roundabout) is not included. The Council also agreed the scope of the VISSIM modelling but never asked for the modelling to be extended to include the SLW roundabout or beyond (**Document POE 12, paragraph 4.3-4.6**).
80. The Saturn outputs show a very modest scale of development traffic on Sandy Lane West amounting to about 1.5 vehicles a minute in the peak periods. There was no forecast development impact at the A49/ Sandy Lane West junction in terms of delay or volume over capacity. Across the relevant network as a whole the changes resulting from the development would be marginal and always acceptable. Likewise, the model shows development trips heading to Sandy Lane West as distributed across the three approach arms of Cotswold Road, Cleveland Road and Sandy Lane at about one vehicle every two minutes. The Council took no issue with these results (**Document POE 16, paragraphs 4.5-4.7, 4.11**).
81. Any assessment of these matters must necessarily take into account and balance the Saturn results and the VISSIM results. As to the former, it plainly could not be contended that the evidence comes anywhere near to the Framework test of severe residual cumulative impact.

The area to the south

82. There has been considerable evidence presented as to the theoretical capacity of relevant roads by reference to standards. However, those living in the area will be more concerned about the increases in traffic in terms that they can see and feel, which typically relates to vehicles per minute.
83. In the 2032 peak hours the impact of development traffic would be very low on Sandy Lane and Howson Road at around 1 vehicle every 2-4 minutes. There would be low increases of around 40 to 80 vehicles in the peak hours (around one vehicle per minute) on Cotswold Road, Greenwood Crescent and Statham Avenue. Larger impacts are forecast on Cleveland Road and Sandy Lane West of around 110 to 170 vehicles in the peak hours (about 2 to 3 vehicles per minute). On Capesthorpe Road and Poplars Avenue this would increase to between 250 to 450 vehicles in the peak hours (around 4 to 7 vehicles per minute) (**Documents POE 12, Tables 11.1-11.5, figures 11.1, 11.2, paragraphs 11.6, 11.7; POE 13, appendix 19**).
84. The detailed assessments, including accident records, indicate that development traffic flows would be too low to have any significant impact on capacity,

¹³ The Junction Nine retail park junction is shown to change from up to 75% volume over capacity to up to 85% volume over capacity, which is considered acceptable (**Document POE 16, paragraph 4.6v**).

congestion or highway safety. However, if it is considered essential then the impact can be cost-effectively mitigated to an acceptable degree (**Document POE 12, paragraphs 11.13-27**).

85. The accident rate in the relevant area was less than in comparable areas relied on by the Council. If the exercise is undertaken by reference to accidents per vehicle kilometre, the pattern is likewise of less concern in the local area. That evidence may be thought to be inconclusive either way. If this is so, greater weight should be given to the very low recorded accident rates. If there is residual concern, the offered mitigation should offset it. These measures are included within the Section 106 Agreement and would be available to be implemented, subject to compliance with Regulation 122 of the CIL Regulations (**Documents POE 12, paragraphs 5.14, 11.14-11.26; POE 15**).
86. The Council's attitude to the suggested extension of the 20 mph limit is typically negative. It would be subject to a Traffic Regulation Order, which could not be assured at this stage. However, such speed restrictions are of wide application these days, including in the major Warrington development sites. If, as in such other cases, the Council sees the virtue in such a speed restriction, the making of a Traffic Regulation Order would be in its hands.
87. The scale of rat running can readily be seen in the levels of background growth of flows within the area to the south. On Sandy Lane West between 2022 and 2032 there would be an increase in annual average daily traffic flows of 3,551 vehicles without development. This is rat running traffic. AECOM¹⁴ confirmed that the four loading zones in question did not relate to the appeal development. This shows that in 2032, less than a quarter of traffic on Sandy Lane West in the peak hours originated from the area to the south of the appeal site. This material also shows that the traffic from the appeal development would only account for between 14% and 21% of total flows on Sandy Lane West in 2032 in the evening and morning peak hours respectively (**Documents POE 18, appendix 5; INQ 46/A**).
88. AECOM suggested that additional zones were not related to traffic from the appeal development but that it was a judgment call as to which were relevant in that regard. The Council has not attempted such a judgement or undertaken any alternative exercise. The inevitable conclusion is that a substantial proportion of traffic in the area is coming from outside of it, and that the proposed development traffic would make only a modest contribution to future flows (**Document INQ 46/B**).

Alternative access strategies

89. The Council contend that in order to avoid the alleged impacts on the road network to the south, alternative access strategies would be required. The possibilities of such alternatives have been explored by the Council and the Appellant for many years. Major interventions such as a bridge over the M62 are clearly fanciful (**Documents POE 24, appendix 1, penultimate page; POE 20, appendix 3, paragraph 10.4**).

¹⁴ AECOM own and run the Saturn Model on behalf of the Council.

90. The form of development described as Option B incorporated a new access onto the A49 and Poplars Avenue. The Council was very negative towards this option. It was tested and this exercise showed Option B to be completely unworkable for a series of reasons, not least due to its proximity to Junction 9 of the M32. In any event, it would achieve no net benefit to the area to the south. A variant of Option B, Option B2 was likewise explored, and rejected for similar reasons. Option C suggested a huge cul-de-sac, which would be unacceptable on that basis alone. It would have its own acute impacts on the area to the east and provide no net benefit to the area to the south (**Documents POE 12, paragraph 11.40-11.47; CD APN 120/A, appendix 35**).
91. Despite the build up by the Council to this suggestion of an alternative access strategy, the point has now been abandoned. There was not a word in its evidence and the above points remain unchallenged. The inevitable conclusion is that there is only one access strategy available. The implications are significant as the site is an essential component of future housing supply and the principle of development has been accepted. The present access strategy was the one tested for the emerging Local Plan evidence base. The necessary development of the appeal site will therefore have the inescapable, albeit modest, consequences for the area to the south.

VISSIM generally

92. The methodology is agreed with the Council. It specified that the area of interest was the A49 corridor itself and the model had to be cordoned to the required A49 area only. The modelled network was subsequently extended by agreement along Cromwell Avenue and Long Lane. It was not extended beyond the 300m of Sandy Lane West (**Document INQ 37, paragraph 1.6 and appendix 1; POE 17, appendix 1**).
93. The results over the modelled network have not been disputed by the Council. The results indicate truly marginal adverse effects in 2032 and a considerable number of net benefits. None of them could remotely constitute a severe impact. Faced with these results the Council resorted to the topic of latent demand. However, the figures presented are worthless and tell nothing about delay and nothing within the context of overall demand. It is, after all, the additional delay to one's journey that constitutes the relevant impact (**Document POE 18, tables 3.1-3,7; POE 26, table GR3.1**).
94. The effect of latent delay in 2032 following development is shown as an additional 83 seconds in the morning peak, and 35 seconds in the afternoon peak. These would be truly marginal increases over a network exceeding 3.5 km. The Council agreed that the percentage differences in latent delay between the do minimum and do something scenarios in the 2027 and 2032 peak periods ranged from 1.26% and 3.1%¹⁵. In terms of the proportion of traffic not being able to access the modelled network within the peak hour, it was accepted that

¹⁵ This is the number of vehicles stored outside the network (line 3 of table GR3.2) as a percentage of the total demand (line 4). The am peak do minimum figure for 2027 is 0.04% and do something figure is 1.3%. The difference between them is 1.26%, which is the impact. The same calculation was done for the pm peak and both peaks in 2032. This was agreed by Mr Rowland in cross-examination by Mr Lockhart-Mummery.

there would be a 3% impact. This would also be marginal (**Document POE 26, table GR3.2**).

Junction 9 of the M32

95. Highways England is now satisfied that the impacts can be mitigated and has withdrawn its objection, subject to planning conditions that have been agreed. (**Document INQ 51**).
96. Junction 9 was always in the scope of both Saturn and VISSIM. Saturn shows that development traffic would typically add some 2% to flows at the junction. The VISSIM model shows flowing conditions, with hardly any development vehicles. It was based on fixed time signals, notwithstanding that MOVA operates. The modelled results at 2032 are not contested. It is agreed that MOVA, depending on conditions, could achieve up to 10% further efficiency (**Document CD APP 38¹⁶; POE 18, paragraphs 4.14-4.24**).
97. It is Department for Transport policy in Circular 02/2013 that the national road network is to be tested with full development at the year of opening, which is 2022 in this case. As a matter of policy, developers are not responsible for growth beyond. At 2022 the maximum queue on the eastbound off-slip was advised as some 70m, with the slip road (including the protected diverge on the approach) of some 700m. Plainly there would be ample spare. The same relationship would apply to the westbound off-slip. Accordingly, the Secretary of State need have no concern as to the impact on the national road network.

Sandy Lane West and the network beyond 300m

98. As pointed out above, the Council did not seek to extend the network for VISSIM purposes beyond the SLW roundabout. The Council place heavy reliance on the theoretical queue on the artificial link extension of 1,400m and equally on the level of latent demand. This is zero in the morning peak but is specified as being 98 vehicles in the evening peak. There is plainly a significant tension between the figures from VISSIM and the detailed Saturn results, which show no such volume of traffic present (**Document POE 26, table GR3.3**).
99. The real picture lies somewhere between the two models. By virtue of the uprating methodology from Saturn to VISSIM, there is some 50% more traffic in VISSIM over Saturn. In reality there will not be anything like the level of traffic shown in VISSIM and it needs interpretation. Thus considering how much of the 1,400m would be as a result of the appeal development, the Saturn model would suggest between 14 and 21% (**Document POE 18, appendix 5, table 3**).
100. For these reasons, the 98 vehicles would just not be there. The residential area in contrast to the A50 would not have that much growth. The proportion due to the appeal scheme would be likely to be in the range of 14-21%. Taking a mid-point of 17%, the queue on each of the three approach roads attributable to the appeal development would be likely to be 80m and likewise of the 98 vehicles only 6 would be attributable over each approach¹⁷. These indications make no

¹⁶ See the memory stick of VISSIM model runs. Choose M4V files.

¹⁷ The computation is 17% of 1,400 and 17% of 98 divided by 3 to take account of the 3 approach roads to the SLW roundabout.

allowance at all for existing queues.

101. As would be expected, there are currently conditions of slow-moving traffic in this area in peak hours. The Google data provides some indication, albeit that these conditions reflect depressed COVID-19 conditions. The TomTom data is from April 2019, and again shows slow moving conditions. The approach to Sandy Lane West is by no means the only realistic route available for traffic heading towards the south. For example, alternatives include Howson Road-Fisher Avenue-A50; Sandy Lane-School Road-A50; and Poplars Avenue-A50 (**Documents POE 16, figure 4.1; CD APP 36, pages 1-4, POE 17, appendix 1**).
102. Some development impact on the approaches to Sandy Lane West would be inevitable but the figures make clear that the increase in delay would be marginal. The evidence does not come near to constituting a severe residual cumulative impact.

The signalised junctions

A49/A50

103. This is no longer an issue. VISSIM shows a truly marginal increase in delay along the length of the A50 of 46 seconds. The agreed mitigation (MOVA) would provide acceptable conditions (**Documents INQ 37, paragraphs 5.1, 5.2; POE 27, paragraphs 2.1, 3.1, 4.1, 5**).

A49/Sandy Lane West

104. The Council was clear that the signalised junction was not the reason for constrained flows along Sandy Lane West. In terms of the efficient operation of green time the problem was not too much traffic but too little¹⁸. The modelling included traffic flows in 2027 and 2032 and showed that the roundabout junction would operate efficiently with the optimised junction timings proposed. The Council accepted that there was no contrary evidence that it could put forward¹⁹. The vast junction that it suggested as mitigation would be wholly unnecessary (**Documents POE 18, pages 32-36; POE 25, appendix C**).
105. Despite the above points being agreed by the Council's signals engineer, it was still asserted that even though junction grid lock was not evident it remained an operational concern of the Council. The assertion that the network is not capable of accommodating development related traffic on to the roundabout is wrong (**Documents POE 25, paragraphs 3.15, 4.1; POE 26, paragraphs 3.5.43, 4.1.1**).

The A49/ Cromwell Avenue junction

106. The alleged concerns about conditions on Cromwell Avenue have fallen away. This stretch of road is not presently subject to an untoward accident rate. There would be a reduction in merge movements in any event. The lane widening proposals on the northbound approach are subject to an agreed Road Safety Audit and VISSIM has been modelled with the lane markings shown on the drawing (**Documents POE 17, appendices 6, 7; POE 18, paragraph 4.10; CD APP 43¹⁶**).

¹⁸ This point was accepted by Mr Rostron in cross-examination by Mr Lockhart-Mummery.

¹⁹ This point was accepted by Mr Rostron in cross-examination by Mr Lockhart-Mummery.

Conclusions on highway impacts

107. Whilst there would inevitably be some localised impacts, the evidence overall fails to demonstrate that there would be a severe residual cumulative impact. It further indicates that there would be no conflict with the MP policies in the CS.

EFFECT ON THE NOISE ENVIRONMENT BOTH WITHIN THE SITE AND IN THE SURROUNDING AREA

108. There is agreement with the Council that subject to the imposition of appropriate planning conditions, there are no noise reasons for refusing the appeal scheme. That position accords with that reached by the previous Inspector who was also satisfied that noise could be addressed satisfactorily by condition (**Documents CD APP 8, paragraph 3.2; OD 15, IR paragraph 13.4**).

109. The following points are additionally expressly agreed with the Council (**Document CD APP 8, section 3**):

- a) The methodology used in the noise assessment, the modelling methodology, the baseline noise data and assessment locations are all appropriate.
- b) The Appellant's assessment work has properly judged the significance of the impacts of the appeal scheme in noise terms.
- c) The mitigation measures proposed for the appeal site are appropriate.

110. It is also agreed with the Council that the following conclusions drawn in the noise chapter of the ES are correct (**Document CD APN 128, volume 8, chapter 11**):

- a) With appropriate acoustic design and acoustic mitigation, the appeal site would be suitable for housing.
- b) With appropriate mitigation in the form of a barrier, operational traffic from the appeal scheme would not have a significant impact on the existing residential properties off Mill Lane, in noise terms.
- c) The appeal scheme would provide some reduction in noise levels within the surrounding area as it would shield existing properties from motorway noise.

111. The Council and the Appellant also agree that the results from the VISSIM modelling are irrelevant to the assessment of potential noise impacts (**Document INQ 4, paragraph v**).

112. The Rule 6 Party confirmed that its noise evidence was not given with any academic or professional noise qualifications or experience. Rather it derived from the perspective of concerned local residents. It gave an opinion on the Appellant's noise assessment work and recognised that it had been scrutinised by the Council's professional Principal Environmental Protection Officer²⁰.

²⁰ These points were all agreed by Mrs Steen in cross-examination by Mr Lockhart-Mummary.
<https://www.gov.uk/planning-inspectorate> Page 23

Monitoring and modelling methodology

113. The Rule 6 Party's stance is that it is unacceptable to rely on noise modelling in relation to the appeal site. This is considered to be partial data and it is contended that measurements should have been used instead. However, computer noise modelling is a recognised way by which to assess large sites for noise propagation. Its utility is expressly recognised by the *Professional Practice Guidance on Planning and Noise* (ProPG). It is relied on for all major housing and infrastructure schemes. Furthermore, the monitoring and modelling methodology deployed here is agreed as appropriate by the Council and is commonplace for noise assessments with a single dominant noise source, which is the M62 in this case (**Documents POE 36, paragraph 3.45; POE 6, paragraphs 3.23-3.25, 3.43-3.44; CD CF 47**).
114. The detailed criticisms of the Rule 6 Party are answered as follows:
- a) Variations in the appeal site's topography along its northern boundary were taken into account in the modelling using Department for Food and Rural Affairs (DEFRA) Lidar data (**Documents POE 36, paragraphs 3.22, 3.39, 3.40; POE 6, paragraph 3.41-3.42**).
 - b) ProPG requires noise assessment work to describe noise levels over a 24-hour period; it does not require monitoring to be undertaken for that period of time. Whilst there was concern that no monitoring was done on busy days, it is typical to measure road traffic noise midweek (**Documents POE 36, paragraph 3.23; POE 6, paragraphs 3.27, 3.33**).
 - c) Additional modelling within the appeal site would not have generated any useful data to inform the noise model (**Documents POE 36, paragraph 3.24; POE 6, paragraphs 3.29, 3.30**).
 - d) Three monitoring points were used (MP01, MP02 and MP04). That number of monitoring points was sufficient to obtain measured data that accurately reflected the typical vehicle mix for day and night for the relevant stretch of the M62. Monitoring at MP04 gave a good account of noise levels at night along this section of motorway and it was unnecessary to monitor at other points. It is not practically possible to record the quantities of different vehicle types at different times of the day and night on a busy motorway such as this (**Documents POE 36, paragraph 3.36; POE 6, paragraphs 3.38-3.40; CD APN 128, volume 9, figure 11.3, page 506**).
115. The Rule 6 Party contended that the night-time assessment was inaccurate because it included the night of 23–24 May 2019 when there were closures on the M62. The appeal site lies between Junctions 9 and 10. Highways England confirmed that the motorway was closed eastbound between Junctions 10 and 12. The Junction 9 eastbound entry slip was also closed but traffic already on the M62 prior to Junction 9 could continue to travel eastbound between Junctions 9 and 10. Westbound traffic was entirely unaffected. The closure was in place between 20:44 and 04:20. The measured noise levels between Junctions 9 and 10 were what would be expected for an operational motorway overnight. The measurements also correspond well to DEFRA's predicted noise mapping. Despite the roadworks to the east of Junction 10, traffic flows past the

appeal site on the night of 23–24 May were typical and the night-time monitoring data is therefore appropriate for its purpose (**Documents INQ 11; POE 6, section 8 and figure 3**).

The acoustic barrier

116. Prediction of noise levels using an indicative acoustic barrier location is a standard methodology for outline planning applications for residential sites. The noise modelling has assumed an acoustic barrier of 4m height along its entire length and has taken account of the fact that it will not be possible for the acoustic barrier to extend beyond the boundaries of the appeal site for land ownership reasons. It has been assumed that the acoustic barrier will achieve a 10dB reduction in noise levels and not the 25dB reduction that the Rule 6 Party erroneously asserts has been assumed (**Documents POE 6, paragraphs 4.19, 4.22, 8.7; POE 4, paragraph 3.22**).
117. There is no evidence that a continuous acoustic barrier capable of blocking the line of sight could not be achieved in the indicative location shown on the Parameters Plan. The exact location and the final design of the acoustic barrier are matters for the detailed design stage. The concerns of the Rule 6 party would be addressed by the proposed planning conditions, which require:
- a) The acoustic barrier to be brought forward and maintained in accordance with an Acoustic Barrier Design and Method Statement (condition 40).
 - b) The appeal scheme to be constructed in accordance with an approved scheme that achieves the noise levels specified (condition 37).
 - c) All agreed acoustic mitigation measures to be validated by the Council prior to first occupation (condition 39).

On-site noise levels

118. The noise mapping referred to in the Rule 6 Party's evidence does not show the appropriate metric and is derived from traffic flows rather than from direct measurement. Furthermore, *Planning Policy Guidance 24* is no longer an extant guidance document (**Documents POE 36, pages 7 and 8; POE 6, paragraphs 3.1-3.8, 7.1**).
119. It is contended that the ES shows that noise levels at the most exposed residential receptors within the appeal scheme would result in a significant adverse effect. However, the 22dB of reduction identified as necessary by the Rule 6 Party would be achieved using façade mitigation. With this in place, the ES concludes that there would not be a significant residual effect. The locations of the modelled residential receptors are shown on the Parameters Plan (**Documents POE 36, paragraphs 3.7-3.10; POE 6, paragraphs 3.11-3.14**).
120. There is a dispute with the Rule 6 Party as to the appropriate noise levels to be achieved in the private outdoor space. It considers there should be a maximum of 50dB $L_{Aeq,16h}$ in reliance primarily on World Health Organisation (WHO) guidelines. However, BS 8233:2014 *Guidance on sound insulation and noise reduction in buildings* is derived from the WHO guidelines. It states that for traditional external areas that are used for amenity space, such as gardens and

patios, it is desirable that the external noise level does not exceed 50dB, with an upper guideline value of 55dB. It goes on to recognise that such guideline values are not achievable in all circumstances where development might be desirable. In higher noise areas, including adjoining the strategic transport network, development should be designed to achieve the lowest practicable levels in external amenity spaces, but should not be prohibited (**Documents POE 36, paragraph 2.3; POE 38, section 5; POE 6, section 2; CD CF 48, paragraph 7.7.3.2**).

121. In any event reliance is not being placed on the appeal site's location within a higher noise area. Rather, the guideline values set out in BS 8233:2014 will be achieved on-site. That is because the design target for the appeal scheme will be 50dB $L_{Aeq,16h}$ in residential gardens. Planning condition 37 currently allows 55dB $L_{Aeq,16h}$ to be accepted in exceptional cases where normal mitigation cannot reach the 50dB level. The condition does not allow for relaxation beyond the upper guideline value that is set in the guidance (**Document POE 6, paragraph 2.3**).
122. There is thus no conflict in this regard with BS 8233:2014. Nor is there any conflict with either ProPG or the Council's *Environmental Protection* SPD, which both take the same approach as BS 8233:2014. The recommendations from these and other relevant documents have been used to assess on-site noise conditions (**Documents POE 36, paragraph 3.16; POE 6, paragraphs 3.16, 3.17; CD APN 128, volume 8, chapter 11, paragraph 11.2.13**).

Building massing

123. The Rule 6 Party is concerned that the long build-out period for the appeal site as a whole would mean that building massing would not effectively reduce on-site noise levels. However, this would be addressed by the planning conditions referred to above.
124. The noise mapping referred to as an example of noise penetration levels at Cinnamon Brow shows an inappropriate metric and is calculated at an inappropriate height. There is no evidence as to the reasons behind the choice of set-back distances at Cinnamon Brow and Locking Stumps. They could reflect land ownership, for example. In any event, the relevant question is not whether the set-back distances proposed for the appeal scheme are greater or smaller than those elsewhere but whether noise levels at the appeal site would be acceptable. The evidence demonstrates that they would (**Documents POE 36, paragraph 5.6.1; POE 6, paragraph 5.5**).

Peel Hall Farm Kennels

125. The Rule 6 party contends that the noise assessment is incomplete because it has not assessed the existing noise from these premises. As was accepted, the previous Inspector was satisfied that the relationship between the appeal scheme and the kennels could be dealt with at reserved matters stage and was not a reason to refuse planning permission²¹ (**Document CD OD 15, IR paragraph 13.93**).
126. These concerns would be met by the planning conditions. Condition 38 requires a noise assessment to be undertaken, prior to the submission of any reserved

²¹ This was accepted by Mrs Steen in cross-examination by Mr Lockhart-Mummery.
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matters application on a phase including residential properties within 250m of the kennels. This must identify all necessary acoustic mitigation measures to protect both residential amenity and to ensure no adverse impacts to their operation. It was accepted that this would be a logical approach²². It would enable the position to be assessed on the basis of the most up-to-date and accurate position as regards noise from the kennels. Even if noise from the kennels had been included in the noise assessment, the condition would still have been necessary to avoid it being outdated at the point that the appeal site is built out (**Document POE 6, paragraphs 9.2, 9.3**).

Off-site noise conditions

127. The significant effect where the new road is proposed at the eastern end of the site is describing the position without the mitigation from the proposed acoustic barrier. With that in place the outcome would be below 3dB and not significant. The Rule 6 Party agreed that a change in noise levels of 3dB is only just perceptible²³ (**Documents POE 38, section 15; POE 4, paragraphs 3.26, 3.28, 3.29**).
128. It was said that Dundee Close would be particularly affected by noise from the proposed roundabout in that location. In reality there would be a 0.1dB change and that would not be remotely perceptible (**Document POE 5, appendix 12**).

Conclusions

129. It is contended that the appeal scheme would deny the residents of the appeal scheme their Article 8 rights under the *European Convention on Human Rights*. It was accepted however that the human rights of future residents would be protected through compliance with ProPG and BS 8233: 2014²⁴. Compliance with those standards has been demonstrated in the noise assessment work that is set out in the ES. It will be repeated at detailed design stage (**Documents POE 36, section 10; POE 6, paragraph 10.1**).
130. The criticisms of the noise assessment work are unfounded. That assessment work is robust and has entirely satisfied the Council's noise professional. There is no planning policy conflict from a noise perspective and there is no reason to refuse the appeal scheme on noise grounds.

THE EFFECT OF THE PROPOSED DEVELOPMENT ON LOCAL AIR QUALITY

131. There is agreement with the Council that subject to the imposition of two planning conditions, there are no air quality reasons why planning permission should be refused for the appeal scheme. Residential development is prevented from being built within 30m of the edge of the M62 motorway (condition 14) and the submission of a Demolition and Construction Environmental Management Plan is required to prevent dust nuisance from construction works (condition 44).
132. The following points are additionally expressly agreed with the Council (**Document CD APP 7, section 3**):

²² This was accepted by Mrs Steen in cross-examination by Mr Lockhart-Mummery.

²³ These points were accepted by Mrs Steen in cross-examination by Mr Lockhart-Mummery

²⁴ This was accepted by Mrs Steen in cross-examination by Mr Lockhart-Mummery

- a) The majority of Warrington has good air quality and meets national air quality objectives. There are locations within the Council's area where the annual mean objective for NO₂ is not met, which are close to major roads. There are no identified locations within the Council's area where short-term air quality objectives are exceeded.
 - b) The Borough-wide air quality assessment produced by AECOM on behalf of the Council includes the appeal site and concludes that NO₂ levels are expected to improve (**Document CD LP 44**).
 - c) The air quality on the appeal site is good, save for the area within 30m of the M62 motorway. Here, at some locations, there may be a risk of exceeding the annual mean objective limit for NO₂. However, it is not proposed to locate any houses within that part of the appeal site.
 - d) The methodology, baseline air quality data, receptor locations and air quality dispersion model that have been used within the air quality assessment work are all appropriate.
 - e) The Appellant's assessment work has properly judged the significance of the impacts of the appeal scheme on local air quality, in accordance with guidance issued by the Institute of Air Quality Management.
133. The following points about the traffic data is also agreed with the Council:
- a) The results from the VISSIM modelling are irrelevant for the assessment of air quality. The Statement of Common Ground on air quality does not need to be reconsidered in relation to the impact of the VISSIM modelling (**Documents INQ 3, paragraph v; INQ 47, paragraph 5**).
 - b) The difference between the annual average daily traffic flow (AADT) figures contained in the SATURN and VISSIM traffic models is not significant in air quality terms to an extent that would cause an air quality issue or change the conclusions of the air quality assessment (**Document INQ 47, paragraph 1**).
 - c) The air quality levels on Long Lane, Poplars Avenue, Sandy Lane West, Cotswold Road, Cleveland Road and Sandy Lane are significantly below the national objectives (**Document INQ 47, paragraph 2**).
 - d) The air quality assessment has correctly applied the DEFRA *Local Air Quality Management Technical Guidance 16* (TG16) (**Documents INQ 47, paragraphs 3, 4; CD OD 35**).
134. The Rule 6 Party confirmed that its air quality evidence was not given with any academic or professional noise qualifications or experience but rather from the perspective of concerned local residents. It gave an opinion on the Appellant's noise assessment work and recognised that it had been scrutinised by the Council's professional Environmental Protection Officer²⁵.

²⁵ These points were agreed by Mr Sullivan in cross-examination by Mr Lockhart-Mummery.
<https://www.gov.uk/planning-inspectorate> Page 28

135. The Rule 6 Party's reliance on the previous Inspector's report is misplaced. It was accepted that the disagreement with the Council at that time related to the adequacy of the evidence on air quality. It did not advance a positive case that there would be significant adverse air quality impacts. The previous Inspector did not conclude that there would be adverse air quality impacts, either. Instead he concluded that the Appellant had failed to demonstrate an absence of adverse impacts. In any event, the Appellant is not relying on any of the air quality evidence that was provided to the previous Inspector²⁶ (**Documents POE 41, section 4; CD OD 15, IR paragraphs 7.1, 13.64-13.67**).
136. The Rule 6 Party accepted that the health impacts of air pollution have long been recognised and that the UK has an established framework for considering the matter in relation to planning applications. The relevant limit values and objectives for air pollutants are those set out in the *Air Quality Standards Regulations 2010*, which implement EU directives on air quality²⁷. Neither the UK Government nor the EU has considered it necessary to give full effect to the WHO guidelines to which the Rule 6 Party refers. It was accepted that the domestic and EU standards are based on recommendations by WHO amongst others²⁸ (**Documents POE 41, section 4; POE 3, paragraphs 8.3, 8.4**).
137. The position is that expert consideration of the effects of pollutants on public health has resulted in legislation that imposes limit values and objectives. Those limit values and objectives then inform national planning policy as referred to in paragraph 186 of the Framework. At the local level, it is the limit values and the objectives that have resulted in Warrington's Air Quality Management Areas (AQMA) and are in its *Air Quality Action Plan* (**Document CD LP 46**).
138. The appeal site is not unusually sensitive as contended by the Rule 6 Party. In particular, the appeal scheme would not have a significant impact on existing levels of air quality within the M62/M6/M56 AQMA at the locations of relevant receptors. A relevant receptor comes from the DEFRA and the Institute of Air Quality Management (IAQM) guidance and refers to receptors at which the relevant air quality objective applies.
139. The Rule 6 Party has exaggerated the number of people affected by poor air quality because the relevant DEFRA technical guidance in TG16 indicates that the annual average objective for NO₂ does not apply to people travelling through the AQMA, nor to most workplaces within the AQMA. It applies only at the façades of residential properties, schools, hospitals and care homes. It was accepted that the Rule 6 Party's approach required a departure from TG16²⁹. It should also be acknowledged that the Council's evidence indicates that air quality in the area is improving and the Rule 6 Party accepted that some improvement was shown³⁰ (**Documents POE 41, paragraph 2; POE 3, section 60**).
140. The Rule 6 Party sought to demonstrate significant weaknesses in the air quality modelling as follows (**Document POE 41, paragraph 1.2**):
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²⁶ These points were agreed by Mr Sullivan in cross-examination by Mr Lockhart-Mummery.

²⁷ These points were agreed by Mr Sullivan in cross-examination by Mr Lockhart-Mummery.

²⁸ This point was agreed by Mr Sullivan in cross-examination by Mr Lockhart-Mummery.

²⁹ This point was accepted by Mr Sullivan in cross-examination by Mr Lockhart-Mummery.

³⁰ This point was accepted by Mr Sullivan in cross-examination by Mr Lockhart-Mummery.

- a) Objections to the traffic modelling, which provided an input to the air quality model. This has been addressed above.
 - b) Concern that the settings for the air quality model had not been provided in sufficient detail. This was not pursued, and it was conceded that the model's focus on percentage change relative to the air quality assessment level (AQAL) was the approach advocated by the IAQM³¹ (**Documents 43, paragraph 2.3; POE 1, paragraph 3.21**).
 - c) Allegation that the appeal scheme would breach four of the five priorities set out in the Council's *Air Quality Action Plan*. Paragraph 186 of the Framework indicates that planning decisions should ensure that any new development in AQMAs and Clean Air Zones is consistent with the local air quality action plan. Such consistency falls to be measured against the actions, which are the operative part of the plan. The air quality action plan includes a summary of the 17 measures. In contrast, the statement of priorities are not themselves the operative part of the plan by reference to which consistency falls to be assessed. It is given effect by the 17 actions (**Documents POE 41, section 6; CD LP 46, page iii, page 9, table 5.1 and paragraph 3.5**).
 - d) The appeal scheme is not inconsistent with any of the 17 actions set out in the Air Quality Action Plan. It is wholly consistent with the plan and the requirements of the Framework are satisfied.
 - e) Concern that site construction traffic had been omitted from the air quality assessment work. This criticism is without foundation. First, the dust assessment assumed a higher level of HGV movement than would actually occur. Second, the impacts of construction traffic would be insignificant. The ES makes clear that with the recommended mitigation measures in place, the residual effects would be negligible during the construction phase. Dust would be controlled through the Demolition and Construction Environmental Management Plan (**Documents POE 41, section 8; POE 3, paragraphs 5.2, 5.6, 7.2; CD APN 128, volume 8, tab 12, paragraphs 12.5.5, 12.7.1**).
141. The Appellant's assessment work has been undertaken on a precautionary basis. Background levels of all pollutants have been held at levels measured during 2018/2019 and the evidence indicates that levels have improved since then. Similarly, vehicle emission factors have been held at 2019 levels, but emissions are expected to decrease year-on-year. Modelling has been completed as though the appeal scheme would be fully built-out and operational in 2022, which would not in reality be the case. The air quality assessment takes no account of the beneficial impact on concentrations of NO₂ and PM₁₀ within the appeal site that the acoustic barrier would have³² (**Document POE 1, paragraph 3.11**).
142. The arguments raised by the Rule 6 Party on air quality are without foundation.

³¹ This point was conceded by Mr Sullivan in cross-examination by Mr Lockhart-Mummery.

³² Mr Sullivan accepted that the approach could fairly be described as precautionary in cross-examination by Mr Lockhart-Mummery.

The appeal scheme would not result in any significant adverse air quality effects. It follows that there would be no planning policy conflict from an air quality perspective and there is no reason to refuse planning permission for the appeal scheme on air quality grounds.

CONCLUSIONS AS TO THE ADVERSE IMPACTS OF THE APPEAL SCHEME

143. The only adverse impacts identified by the Council are those that it contends would result to the safety and efficiency of the highway network and consequently to residential amenity in, and character of, the surrounding area. Whilst there would inevitably be some localised impacts on the highway network, there would not be a severe residual cumulative impact or conflict with the relevant CS policies. The appeal scheme would result in so few additional vehicles passing through the area to the south of the appeal site that there would not be any material impact in terms of residential amenity or character.
144. The ES sets out a useful summary of predicted residual effects and was not challenged by the Council. The adverse impacts would be remarkably few for a development of this scale, both in number and magnitude. The Council is satisfied that any impacts relating to landscape in the operational phase could be adequately mitigated and net gain achieved in relation to ecology. Other adverse impacts identified by the Rule 6 Party are not supported by the Council. The response is set out below (*Documents CD APN 128, volume 8, tab 15, tables 15.2, 15.3; CD APP 5/A, paragraph 6.37*).

Green Belt

145. No part of the appeal site is within the Green Belt. As the CS Policies Map shows, the southern boundary of the Green Belt lies at the M62 motorway to the north of the appeal site. That has been the statutory extent of the Green Belt in Warrington since the CS was adopted in 2014. This is confirmed by the Council (*Documents POE 28, paragraph 4.6; CD APP 5/A, paragraph 2.7*).

Hydrology, drainage and flooding

146. The Council agrees that the drainage requirements of the appeal scheme would be capable of delivery through the reserved matters and planning conditions. The drainage and flood risk strategy that has been agreed with the Lead Local Flood Authority, the Environment Agency and United Utilities is acceptable and robust. They raise no objections to the appeal scheme, subject to the imposition of planning conditions. The Rule 6 Party accepted that the three agencies were competent to review the FRA work for its adequacy and robustness³³ (*Documents POE 22, appendix 5; CD APP 5/A, paragraph 6.39*).

Climate change

147. The Rule 6 party's central argument on climate change is that the appeal scheme would be car dependent and result in emissions that contribute to climate change. It is not considered that this would be the case. The Council accepts that it would be sustainable development as defined in the Framework. The development would have its own local centre and would be served by

³³ This was accepted by Mr Sawyer in cross-examination by Mr Lockhart-Mummery. <https://www.gov.uk/planning-inspectorate>

extended bus routes.

148. Even if it were justifiable to describe the appeal scheme as car dependent, an overall planning balance is required between the benefits of the scheme and its adverse impacts. The evidence has established that it is critical that the quantum of housing that is proposed be brought forward without delay. It is neither national nor local policy that large residential developments should not accommodate parking for private cars. Indeed, local policy requires a minimum quantum of car parking to be provided on the site. North Warrington is not Ghent, and several local residents explained that they had to travel to their workplace by private car. It is policy-compliant for a large residential development such as the appeal scheme to contain substantial car parking provision within it.

Ecology

149. The assertions that the appeal site is the last great green wild space of North Warrington and genuinely wild habitat have no status in any local ecological policy³⁴. The Rule 6 Party also recognised the expertise of the witnesses³⁵ and agreed that they undertook their surveys and documented the process with professionalism in their evidence to the inquiry³⁶. The extent and thoroughness of the survey work was also recognised by the Greater Manchester Ecology Unit, the Council's independent consultants. The Rule 6 Party confirmed that it was not questioning the ecological assessment work, the adequacy and results of the breeding bird surveys or the evidence base and professional assessment presented relating to the breeding bird evidence³⁷ (**Documents CD APN 130; POE 10; POE 11, appendix 11**).
150. The position accepted by all main parties to the appeal is therefore:
- a) Following mitigation, the overall direct adverse impact on habitats during the construction phase would be moderate. There would not be any indirect impact on habitats during construction. There would not be any significant adverse impact on habitats overall during the operational phase. Indeed, the overall outcome for Radley Plantation and Pond Local Wildlife Site would be beneficial in the long-term (**Document POE 7, paragraphs 6.7, 6.9**).
 - b) No residual impacts on species more significant than slight have been identified in relation to either the construction or operational phase (**Document POE 7, paragraphs 6.13-6.24**).
 - c) The appeal scheme would not conflict with the development plan as regards ecology (**Document POE 7, paragraph 9.8**).
 - d) There would be a moderate adverse effect on breeding birds during the

³⁴ This point made in Mr Settle's evidence (**Document POE 47, paragraphs 3.1, 8.1**) was accepted by him in cross-examination by Mr Lockhart-Mummery.

³⁵ Mr Ryding and Ms McKee, the Appellant's witnesses on breeding birds and ecology respectively.

³⁶ This point was accepted by Mr Settle in cross-examination by Mr Lockhart-Mummery.

³⁷ This point was agreed by Mr Settle in cross-examination by Mr Lockhart-Mummery.

construction phase, which might reduce to slight adverse through mitigation. During the operational phase the appeal scheme would have a negligible-low effect on breeding birds. There would be no conflict with the development plan in terms of breeding birds (**Document POE 10, paragraphs 3.8, 3.9, 3.18, 5.17**).

Loss of amenity

151. The Rule 6 Party's evidence regarding the population calculation for the appeal development was withdrawn³⁸. (**Document POE 22, appendix 6, section 2; POE 49, paragraphs 3.1-3.10**).
152. In quantitative terms, the overall amount of outdoor sports provision would remain unchanged. However, in qualitative terms, capacity would increase from 5 Match Equivalent Sessions sports pitches per week to 22 Match Equivalent Sessions sports pitches per week, which was not disputed³⁹. This would be more than 2½ times the combined existing capacity and likely future need that would result from the residents of the appeal development (**Document POE22, appendix 6, paragraphs 3.3, 3.16**).
153. The Rule 6 Party accepted that⁴⁰:
- a) The Council and Sport England are the statutory bodies responsible for oversight of outdoor sports provision. Both have rigorous policies for protecting outdoor sports provision and requirements for new development.
 - b) The Council regards the proposals for outdoor sports provision as an improvement.
 - c) Sport England likewise raises no objection to the appeal scheme in terms of either open space or outdoor sports provision. There is no objection to the quantum, location or quality of the proposals.

THE HEALTH CONTRIBUTION

154. The contribution must meet the requirements of Regulation 122 of the CIL Regulations. It is clear from the *Holmes Chapel Road* appeal decision that if the details of where and on what the money would be spent are absent, it is impossible to conclude that a healthcare obligation is directly related to the proposed development in question. The Council's evidence comes nowhere near to establishing these details. It was confirmed that neither GP practice has even an outline business case for its expansion plans at present. It was also accepted that neither practice has determined its future estate requirements⁴¹ (**Document POE 20, appendix 12, paragraph 27-31**).
155. Padgate Medical Centre has not yet progressed the possibility of a joint building scheme with the Council, who owns land adjacent to Padgate's current practice

³⁸ Mr Parr withdrew the evidence on population impact in his evidence-in-chief having seen the rebuttal evidence from the Appellant.

³⁹ This point was agreed by Mr Parr in cross-examination by Mr Lockhart-Mummery.

⁴⁰ These points were agreed by Mr Parr in cross-examination by Mr Lockhart-Mummery.

⁴¹ These points were confirmed by Mr Armstrong in cross-examination by Mr Lockhart-Mummery.

building. There is no evidence that Fearnhead Medical Centre has applied to its landlord for consent to expand its practice. The GPs have yet to determine a procurement route. Padgate still needs to select an external investor/ developer and to complete work on site acquisition matters. Neither practice has a building design, albeit that Fearnhead has some aged plans from a previous proposal. No detailed assessment of costs has been undertaken. Consultation with patients and the public has not yet happened. No timescales for the expansion projects have been prepared or approved.

156. Moreover, future residents of the appeal site would be able to receive GP services from existing practices. There are about 25 GP practices in Warrington and the surrounding settlements to the north, all of which presently have open patient lists. The Council has not produced any evidence to dispute that position. Importantly, there is a duty to provide GP services in any event, as the Council accepted⁴². There would therefore be no risk of there being no immediately available GP services.
157. Whether Padgate and Fearnhead could have done anything more during the past year to progress their expansion ambitions is irrelevant. There is nothing to demonstrate how or when the contribution would be used. The two practices wish to improve their services and are looking into the feasibility of doing so. However, whether they will decide that they should actually expand in the manner and at the locations that the Council contends is wholly unknown. It is relevant to note that the two practices previously spent some 3-4 years looking into the possibility of a joint new facility, only for that proposal ultimately to fall away. The healthcare contribution cannot be shown to be directly related to the appeal scheme and therefore the requirements of Regulation 122 of the CIL Regulations are not met.

OVERALL PLANNING BALANCE AND CONCLUSIONS

158. The appeal proposals would result in genuinely transformational change that the Council itself wishes to see brought about. It is right to recognise that the appeal scheme would result in substantial positive benefits, including a vital and very substantial contribution to the housing land supply. Very substantial positive weight should be given to those benefits in the overall planning balance.
159. The appeal scheme accords with the development plan and no material considerations indicate that planning permission should be withheld. In particular, the very considerable benefits of the appeal scheme are manifestly not outweighed by the minimal adverse impacts of the appeal scheme.

THE CASE FOR WARRINGTON BOROUGH COUNCIL

*The Council's case is fully set out in its evidence, including its opening and closing submissions (**Documents INQ 60/A and INQ 60/B**).*

The main points are:

160. The concerns are focused principally upon the effect of the proposal on the

⁴² This point was agreed by Mr Armstrong in cross-examination by Mr Lockhart-Mummery. <https://www.gov.uk/planning-inspectorate> Page 34

safety and efficiency of the highway network. New traffic information has now been provided and objections are no longer sustained in terms of insufficient information. Whilst there were objections at the last inquiry to issues of noise and air quality, these have since been resolved (**Document POE 28, paragraphs 3.33, 3.36**).

161. None of the appeal site is within the Green Belt. Winwick Farm was an anomaly following the quashing of the UDP Proposals Map insofar as it related to the land owned by the Appellant at Peel Hall. At the time Winwick Farm was in separate ownership and no application was made by the then owner to remove it from the Green Belt. The 2007 High Court judgement made clear that the general extent of the Green Belt was fixed by the Cheshire 2001 Structure Plan. The Key Diagram to that plan shows the boundary north of the M62. The Policies Map to the CS is consistent with this and policy CS 5 makes clear that the boundaries are as shown on that map. No subsequent challenge was made to this position (**Document POE 29**).
162. The following matters are not disputed:
- a) The housing land supply is 3.4 years and therefore the “tilted balance” should be applied (**Document INQ 54**).
 - b) There is a significant need for affordable housing in the Borough (**Documents CD APP 5/A, paragraphs 6.6-6.10; POE 28, paragraph 4.11**).
 - c) The Council has failed the 3 requirements of the Housing Delivery Test (**Document CD APP 45**).
 - d) There is no objection in principle to the development of the appeal site for housing. It is listed within the SHLAA as a developable site and allocated in the draft Local Plan for 1,200 dwellings (**Document POE 28, paragraphs 4.14-4.15**).
 - e) The emerging Local Plan is the subject of delay and does not provide any clear roadmap out of the present difficulties in respect of housing land supply. The Regulation 19 draft consultation is expected to take place in Autumn 2021, subject to Cabinet approval, with submission for examination in Spring 2022. The requirement in paragraph 22 of the Framework to look ahead 30 years was anticipated based on the earlier consultation and has been taken into account in the work done on the draft plan. It is not therefore anticipated that there will be further significant delay (**Documents CD APP 5/A, paragraphs 4.11-4.14; INQ 64/B**).
 - f) The site lies within a part of the urban area that is expected to provide 40% of housing requirements (**Document CD APP 5/A, paragraph 4.2**).
 - g) The site is the only significant land in the urban area that is available for development.
 - h) The retail proposal in the new local centre would be acceptable in terms of the Framework’s sequential and impact tests (**Document POE 28, paragraph 4.16**).

- i) There are various benefits, including the provision of market and affordable housing, new social infrastructure, employment opportunities and increased expenditure in the local economy (**Document POE 28, paragraph 5.6**).

Nevertheless, this does not justify permitting the appeal proposal. This raises a the very real prospect of severe residual impacts upon the local road network and is in conflict with key development plan policy MP 7 in the CS.

- 163. The Appellant has sought to emphasise that whilst this site has been allocated in the emerging Local Plan, no alternative access solution has been advanced by the Council. That is correct but the soundness of the allocation will be scrutinised as part of the local plan process. It is not for the Council to propose an alternative access solution as part of this inquiry. The sole issue, for the purposes of this appeal is whether the solution to access promoted as part of this appeal is acceptable. The fact of the site's draft allocation at this stage does not mean that it is.
- 164. There are no objections to the proposal by reference to landscape, ecology, hydrology, air quality or noise. That in turn means that there would not be conflict with most relevant development plan polices. However, policy MP 7 in the CS, which requires that development will not significantly harm highway safety and that trips could adequately be served by the highway network, would be offended. This is a key development plan policy and is consistent with paragraph 111 of the Framework, which would also be offended.
- 165. The proposal would conflict with other CS policies with a highways dimension, albeit that they refer to matters that arise under policy MP 7 in any event:
 - a) Policy QE 6 includes a provision that adverse impacts on the environment or amenity of existing or future occupiers through the effect and timing of traffic movement to, from and within the site will not be supported.
 - b) Policy QE 7 looks positively on proposals that create inclusive, accessible and safe environments.
 - c) Policy MP 1 will support development that mitigates its transport impact.
 - d) Policy MP 3 seeks to address the needs and safety of pedestrians and cyclists.
- 166. Whether the development complies with the development plan is a qualitative judgment. Sometimes conflict with one policy is enough to render a scheme non-compliant and sometimes it is not. Here, policy MP 7 is of key importance. No scheme that has unacceptable impacts upon highway safety and traffic movement would be acceptable in planning terms. Certainly, that is the case in respect of the area to the south of the appeal site, which already suffers a relatively high accident rate in respect of vulnerable road users and severe congestion. The highway concerns here are essentially twofold. The first is that there would be unacceptable safety impacts and impacts upon the amenity of residents to the south of the appeal site. The second is that there would be

likely unacceptable impacts by reference to congestion and delay on Sandy Lane West and the related roads.

167. The previous Inspector indicated that he had made many car journeys around the affected highway network. He noted that the area in which the appeal site is located already suffers from high levels of congestion and was of the opinion that the concerns of the Council, Highways England, Cheshire Constabulary and local residents in relation to highway safety and efficiency were readily understandable. He concluded that the evidence did not entitle a conclusion that policy MP 7 and the Framework were not compromised. He also concluded an adverse impact on local character as the area became busier and, for pedestrians at least, noisier to travel through. It is important to note that the accident analysis was not available at that time as it is new evidence (**Documents CD OD 15, IR paragraphs 13.8, 13.9, 13.44; POE 24, paragraphs 5.18-5.25 and Appendix E; POE 28, paragraphs 4.18-4.23; INQ 44**).

HIGHWAY SAFETY CONCERNS

168. Within the study area around Peel Hall for the five years to December 2019, the analysis concludes that the proportion of casualties in the pedestrian and cyclist groups was 24.6% higher than the average for the Borough as a whole. In addition, the number of under 16 year olds involved in accidents was 66.6% higher. The Appellant claimed that this exercise was unhelpful insofar as it involved comparing areas with different characteristics. However, the study area contains primary as well as residential roads together with workplaces and retail opportunities, akin to the Borough overall. Nonetheless, accident statistics for the Peel Hall Study Area have been compared to the residential area bounded by the A49/A50 Long Lane/Mill Lane-Blackbrook Avenue. This shows that in the latter, pedestrian and cyclist accidents equated for 35.5% of the total, which was higher than the Borough average of 24.4% or the Peel Hall Study Area average of 30.4%. The percentage of under 16 year olds is also comparatively significantly higher in the wider residential area. Driver error appears to be the main culprit (**Documents POE 24, paragraphs 5.19-5.26 and appendix E; INQ 44**).
169. The Appellant did not dissent from these figures or the proposition that putting more cars through the residential area would be likely to generate an increase in accidents⁴³.
170. It was claimed that the provision of extensive formalised verge parking would improve matters. However, verge parking occurs extensively now and therefore the benefits associated with it are unlikely to be particularly great. Moreover, there is a risk that the removal of on-street parking would encourage drivers to increase their speed. The Appellant's answer was a proposed extension of the 20 mph limit. However, that would require a Traffic Regulation Order, which may or may not be made. This would have to be consulted upon and it is known that the residents are unconvinced by it and the Highway Authority is concerned that extending the 20 mph zone could dilute its benefits. The outcome of such a process cannot be second-guessed. There is therefore no reason to believe that the proposed package of mitigation could actually be delivered.

⁴³ This was accepted by Mr Tighe in cross-examination by Mr Manley.
<https://www.gov.uk/planning-inspectorate>

171. In addition, it was claimed that the increase in traffic would not be as great as appears as the area already suffers from rat-running and some of this would be displaced by the development traffic. Even if this is correct it gives little comfort given the possibility that such traffic would be displaced onto other residential roads. The amount of additional traffic that would be introduced onto local roads by the development proposal should not be underestimated. The increases in the morning and evening peaks on most links would be very significant, but the following merit emphasis (**Document POE 24, tables 2-4**):

Link name	AM/PM peak 2032 increase in 2-way flow with devt	Increase in AADT flows in 2032 with devt
Capesthorpe Rd (Greenwood Cres-Blackbrook Ave)	463/398	3,856
Capesthorpe Rd (Poplars Ave-Humber Rd)	343/382	3,521
Cleveland Road	110/116	1,246
Cotswold Road	43/49	502
Poplars Avenue (east of central site access)	258/297	3,066
Poplars Ave (Greenwood Cres-Capesthorpe Rd)	244/339	3,220
Poplars Avenue (south of Capesthorpe Rd)	194/78	1,494
Sandy Lane West	137/168	1,682

172. As a result of the development, the AADT flows along Capesthorpe Road and Poplars Avenue would increase very significantly. In 2032, parts of Poplars Avenue would carry over 16,000 vehicles a day and parts of Capesthorpe Road would carry almost 13,000 vehicles per day. These are unclassified roads but would be carrying more traffic than the classified A50 within the study area. The forecast flows would be well above the guideline figure of 10,000 vehicles per day described in Manual for Streets. Such significant increases in traffic through residential roads, which already suffer a relatively high accident rate, is a cause for concern. The Appellant recognises this, as shown by the attempts to mitigate the impact and dilute the significance of the numbers as follows (**Document POE 24, paragraphs 5.10-5.17**):

a) Applying the *Design Manual for Roads and Bridges* TA/79/99.

However, *Manual for Streets* indicates that the application of *Design Manual for Roads and Bridges* is not appropriate for most streets, which is no doubt why it was withdrawn as guidance. Nothing is achieved by seeking to contextualise anything by reference TA/79/99⁴⁴ (**Document POE 28, paragraphs**

⁴⁴ See Manual for Streets 1, paragraph 1.4.4 and Manual for Streets 2, page 9. These parts of the manuals are not inquiry documents.

5.1-5.5).

- b) Arguing that a significant amount of the existing traffic is rat-running and that this would be displaced.

This is a largely unevidenced assertion. Reference has been made to AECOM loading point data, but the information used by the Appellant in this respect is incomplete and unquantified. The use of the 4 loading points was misguided. What should have been used was the origin and destination data from Saturn. It was conceded that this would be one way of looking at rat-running and would give the most definite answer⁴⁵. The claim of significant rat-running appears counterintuitive. If there are already long peak hour traffic queues along Sandy Lane West, Cleveland Road and Poplars Avenue then it is hard to understand why drivers from out of the immediate locality would seek to join the queues. It cannot be concluded, on a balance of probabilities, that the development traffic would not simply be a net addition to flows. Conversely it cannot be concluded that there would be losses to base flows from lost rat-running. Moreover, and as the Appellant agreed, the Saturn modelling accounts for traffic lost as a consequence of development and re-assigns it anyway⁴⁶ (**Documents INQ 46/A; INQ 46/B**).

- c) Relying upon the Local Transport Plan's ambition to achieve a 14% reduction in car usage over the life of the plan.

This is a Borough-wide aspiration and the Appellant accepted that Orford Ward has low levels of vehicle ownership and relatively high levels of reliance on public transport⁴⁷ (**Document POE 17, appendix 2**).

- d) Relying on a KPMG study to suggest pandemic changes in travel patterns may be here to stay.

The document itself notes there is room for debate and its views are not reflected in any formal Government guidance (**Document POE 17, appendix 8**).

173. Paragraph 110 of the Framework specifically indicates that transport elements of development proposals should reflect current national guidance including the National Design Guide. Two of the elements in this document relate to context and movement. The former refers to improvements to access, movement and accessibility and their function beyond the site boundary. The latter refers to a pattern of streets that is safe and accessible for all and functions efficiently within the site and beyond its boundaries. The proposal would result in negative impacts both in terms of movement and safety for the reasons given.

DELAY AND CONGESTION ON SANDY LANE WEST, SANDY LANE, COTSWOLD ROAD, CLEVELAND ROAD AND THE SLW ROUNDABOUT

174. The VISSIM model shows a queue of circa 1,400m back from the stop line of

⁴⁵ This was agreed by Mr Tighe and Mr Best respectively in cross-examination by Mr Manley.

⁴⁶ This was agreed by Mr Tighe in cross-examination by Mr Manley.

⁴⁷ This was accepted by Mr Tighe in cross-examination by Mr Manley.

Sandy Lane West. The 1,400m queue is a quirk of the modelling. It is actually unknown how it would be distributed on the approaches to the roundabout. The Saturn model shows no problem with the Sandy Lane West link. The Appellant opined that the true picture probably lay between the two with Saturn showing too little flow and VISSIM showing too much. However, it was the Appellant's choice to use VISSIM to give a more detailed and realistic picture of what was most likely to happen. It cannot therefore fall back on the Saturn evidence as the more reliable. In any event, it was conceded that there would be congestion as is shown in the Google maps evidence and that the development traffic would make a bad situation worse⁴⁸ (**Documents POE 18, paragraphs 3.47, 3.50; POE 26, paragraphs 3.4.26-3.4.32, 4.1.1**).

175. A Transport Assessment should thoroughly assess the impacts of a development. The SLW roundabout sits at the centre of important bus routes along Sandy Lane and Cotswold Road. It plays an important role linking the wider residential area south of the appeal site to the A49. However, the impact of the 90 or so additional westbound afternoon peak movements is unknown. The concern is that the roundabout would fail to function properly, and buses would be held up in gridlocked queues. The Appellant said it was confident that if the roundabout was modelled as a freestanding junction it would be shown to work well. However, it cannot be so modelled as all the exits would not be clear. It is unclear why the Appellant considers there would be little value in network microsimulation⁴⁹. What is clear is that there is a significant and serious unknown (**Document POE 26, paragraphs 3.4.25, 4.1.2**).
176. The Appellant presented evidence of adjusted signal timings at the Sandy Lane West/ A49 junction with 50% more green time in the morning 2032 peak and 70% more in the afternoon 2032 peak. Why this was done is a mystery because it was agreed that the changes would not really make a difference and that it had not been assumed these would be the exact timings used⁵⁰. It was conceded that the signal changes would make matters tight on the A49 roundabout, but not unsafe. This is disputed and the VISSIM model runs should be watched carefully. The reason that altering the timings would have little impact on Sandy Lane West is because the traffic does not platoon from the stop line but rather approaches it in a broken fashion due to the four junctions over the 295m of its length. The Appellant's attempts to find a solution reveal an awareness of quite serious problems at this point (**Documents CD APP 37¹⁶; POE 26, paragraphs 3.5.48-3.5.50; POE 27, paragraphs 3.2, 4.2**).
177. The Appellant said that the Council never asked for the Option A⁵¹ scheme to be the subject of VISSIM modelling. That is true, but the Appellant did it because it was thought necessary. It was also pointed out that the Council never asked for modelling beyond the length of Sandy Lane West. That is also true, but

⁴⁸ These points resulted from answers given by Mr Best in cross-examination by Mr Manley.

⁴⁹ These points were made by Mr Tighe in cross-examination by Mr Manley.

⁵⁰ In answer to my questions, Mr Best said it had been an attempt to improve the situation on Sandy Lane West but had not really made a difference.

⁵¹ At the previous inquiry an Option B scheme was discussed, which included an access direct from the A49 along Poplars Avenue into the appeal site. This was withdrawn at the inquiry following objections from Highways England and the local highway authority.

problems with queuing back were raised by the Council's Highway consultants at an early stage. It is quite normal for a modeller to follow the data bearing in mind that modelling is, of necessity, an iterative process. The Appellant's modelling consultants did not actually visit the area until after lockdown. If they had, they may have seen the necessity of looking further at the roundabout related issue.

178. Much time at the inquiry was spent on the matter of latent demand and the 98 vehicles that the model shows to be stuck outside the cordoned area and unable to access the network on Poplars Avenue. The Appellant doubts that this would exist but could not be sure. It was agreed that increased peak spreading would be undesirable⁵². The evidence shows very significant increases to it and the concern is that its effect on the area south of the appeal site has not been properly analysed (**Document POE 26, paragraphs 3.4.4-3.4.22**).
179. In conclusion the Secretary of State is invited to conclude that:
- a) The safety risks associated with the increased traffic flows through the residential area to the south of the site would be unacceptable; and
 - b) There would be clear risks of unacceptable harm to the flow of traffic and public transport along Sandy Lane West, Cotswold Road, Sandy Lane, Cleveland Road and Poplars Avenue. Those harms would be likely to manifest themselves in severe delays and/or rat-running through residential areas.

THE HEALTH CONTRIBUTION

180. Regulation 122 of the CIL Regulations requires that planning obligations must be necessary to make the development acceptable in planning terms; directly related to the development; fairly related in scale and kind to the development. The contribution meets all of those requirements.
181. The sum requested is calculated by reference to the *Planning Obligations* SPD. It is moreover clear that both the Padgate and Fearnhead Medical Centres are very heavily oversubscribed with patients whether by reference to national or Council averages. There is no serious doubt that they urgently need more space or that these are the practices new residents would largely look to for health support (**Document POE 30, paragraphs 3.3-3.6**).
182. The Appellant's main concern seems to be that the solutions to the capacity problems are unclear with many questions yet to be answered. That is true, but the evidence is clear that both practices are actively developing plans to increase capacity and doing all they reasonably can during a national health emergency which has, understandably, directed resources elsewhere. The development would generate a large number of people needing healthcare facilities. Until the outcome of the appeal is known, there is no certainty with which to inform the business case. The practices need to know how many new patients to plan for and how much money will be available to them if they have to plan for the appeal development. None of this is unreasonable as the

⁵² This was agreed by Mr Best in cross-examination by Mr Manley.
<https://www.gov.uk/planning-inspectorate>

previous Inspector found (**Documents POE 30, paragraph 3.9; POE 31**).

183. If the contribution is not forthcoming and the appeal is allowed, patients would have to go to facilities elsewhere in either Warrington or even adjacent Districts. That would be unacceptable. The previous Inspector concluded that the payments are needed, and the sums fairly and reasonably relate to the scale of the appeal development (**Documents POE 28, paragraphs 3.22-3.27; POE 30, paragraph 3.10**).

CONCLUSION AND PLANNING BALANCE

184. Minimal weight should be attached to the proposed allocation in the emerging Local Plan. This is not included as a deliverable site within the first 5 years of the plan period. The conclusions of the previous Inspector hold substantial weight where they were not related to the High Court Challenge. The market and affordable housing provision would be a benefit of substantial weight. The social infrastructure, including the primary school and sports facilities and new sports hub would attract moderate weight as would the employment benefits and increased expenditure in the local economy. However, the benefits would be outweighed by the severe adverse impact on the safety and efficiency of the highway network and the harmful effect on residential amenity and local character. In the circumstances this would not be a sustainable form of development and the appeal should be dismissed (**Document POE 28, section 5**).

THE CASE FOR THE RULE 6 PARTY: PEEL HALL CAMPAIGN GROUP

*The Rule 6 Party's case is fully set out in its evidence, including its opening and closing submissions (**Documents INQ 59/A; INQ 59B**).*

The main points are:

GREEN BELT

185. The Unitary Development Plan Proposals Map showed the appeal site as Green Belt. However, following a successful High Court Challenge by the Appellant in 2007 the eastern part of the appeal site was removed from the designation. However, the western part, known as Winwick Farm, remained as Green Belt as it was not within the site owned by the Appellant until it was purchased in 2008 (**Document POE 39**).
186. At the CS examination the Council's evidence was that there was no sound reasons or exceptional circumstances to change the boundaries of the Green Belt and this was accepted by the Inspector. There was no public consultation to remove Winwick Farm from the Green Belt and Policy CS 5 makes no mention of changes apart from a small revision to the boundary at Glazebury. There is no documentary evidence that Winwick Farm has been removed from the Green Belt and the Council confirmed that no boundary assessment was undertaken for the 2014 CS (**Document POE 39**).

HYDROLOGY

187. Hydrology is a significant concern for local people, who understand only too well the need for some land to be kept back from building to act as a sponge for exceptional weather events. The UK suffered over 20 major storm events in the

four years preceding the inquiry and February 2020 was the wettest year on record in the UK. The current climate emergency means that many catchments routinely experience a 1 in 100 year flood almost every year, making accounting for climate change imperative. There have been two recent major storm events, namely Storm Alex in October 2020 and Storm Christoph in January 2021. Storm Christoph caused major flooding throughout the Sankey Valley catchment and the appeal site itself demonstrated substantial evidence of flooding (**Documents POE 24, paragraphs 7.14-7.18; INQ 34/A, sections 2-4**).

188. There was flooding during these major storm events across the appeal site. In view of the submitted comments and photographs Warrington's Lead Local Flood Authority (LLFA) has introduced a number of additional requirements into the proposed strategy for surface water drainage. These reflect the concerns around pockets of surface water risk, flow paths across the site and the potential for flooding downstream as a result of the development. The LLFA has also flagged up certain matters relating to the Spa Brook culvert itself, in particular its capacity relative to the appeal site. It is therefore vitally important that both on-site and downstream conditions are taken into account as part of the surface water drainage strategy for the appeal site, which the Appellant has singularly failed to do to date (**Documents INQ 34/A, section 5; INQ 34/C**).
189. A number of watercourses downstream from the appeal site that are intended to be used for the disposal of surface water were again unable to cope with the sheer volume of water generated by Storm Christoph. Mill Brook, Dallam Brook and Sankey Brook all caused widespread flooding throughout north Warrington on a scale not seen in recent times and Densham Avenue, located immediately downstream from the appeal site, experienced flooding to properties and businesses for the third time since October 2019 (**Document INQ 34/A, section 6**).
190. The Appellant's current FRA contains a substantial number of errors of a general nature including omissions, incorrect statements and out of date references. These omissions call into question the thoroughness of this work and the Appellant's commitment to this most important discipline (**Document POE 44, sections 4, 5 and paragraphs 7.1-7.8**).
191. There are a number of unresolved concerns about the proposal to use Spa Brook to discharge surface water from the site. These include the potential for flooding if groundwater abstractions upstream eventually cease; the potential for flooding downstream via the use of a long and fixed diameter culvert to discharge surface water from the site; the potential for groundwater flooding across the site; discharge and the location of two critical drainage areas downstream; and the potential to cause additional flooding within these areas. The Appellant's response in each case was simply to state that even more attenuation could be provided. There were at least five references to the provision of additional on-site storage across the site, including expanding the capacity of the Spa Brook and the retention and controlled release of flood water within the site itself. The original FRA identified the requirement for eleven attenuation ponds. There are therefore serious questions about exactly how much storage will actually be needed should the site be developed, and whether such mitigations would be feasible (**Document POE 44, paragraph 7.9**).
192. Given these pressing concerns over hydrology there should be a moratorium on all house building throughout the Sankey Brook catchment until a full drainage

investigation has been completed. It is not considered that the appeal site is an appropriate location for the construction of 1,200 houses and there is confidence that a comprehensive drainage investigation across the catchment will confirm this.

193. Over forty years ago Warrington New Town's proposals for the appeal site started out as a major scheme to construct 900 residential properties for purchase and rental but ended up as a much smaller project of some 175 houses on Ballater Drive. The current proposal relies on the use of Spa Brook to discharge surface water from the site, and yet as early as 1977 the New Town's Peel Hall Action Area Team dismissed this idea on the basis that there was no spare capacity for any increase in flow. A lengthy drainage review followed, which concluded that this could not be resolved and that the bulk of the site should remain as farmland. This decision removed over 700 programmed dwellings from the very same land where 1,200 are now proposed. The decision by Warrington New Town was based on an objective assessment of the hydrology risks associated with this site and lends weight to the common-sense view that building these homes would worsen the already dire flood risk for many families (**Document POE 24, section 3 ,paragraphs 7.21-7.25, section 8**).

CLIMATE CHANGE

194. This is the biggest problem facing the world and irreversible climate change is certain if significant emission reductions are not made. Central Government and Warrington Borough Council are agreed there is a Climate Change Emergency. This emergency requires urgent intervention. The eyes of the world are on Britain in 2021 as it hosts the COP26 summit to implement the Paris Agreement. Individual planning decisions must play their part too (**Document POE 45, paragraphs 3.1-3.5**).
195. The appeal proposal is blind to climate change. The Appellant has not provided figures on climate change gas generated by the development in terms of transport or from occupation. The ES does not make a single reference to climate change apart from a quote from the Framework on its importance, which is then ignored. The low-density sprawl would encourage travel, including by private vehicles that are largely responsible for transport sector climate change gas emissions. Cars are the biggest source of greenhouse emissions in the UK and transport the only sector not to have cut emissions since the 1990s. A large part of the problem is low-density housing estates, akin to this proposal (**Document POE 24, section 5 and paragraphs 3.5-3.6, 7.4**).
196. One of the three overarching objectives in the Framework includes *mitigating and adapting to climate change, including moving to a low carbon economy*. The proposal would fail on all these aims. It would increase rather than mitigate climate change gas emissions. It would fail to adapt, and nothing could be worse than building a housing estate in a swamp as the climate gets wetter. The estate itself would be based on minimum legal insulation targets with another thousand gas boilers when Government policy is to phase them out. This simply entrenches high carbon lifestyles. Opportunities for renewable energy from solar panels, wind turbines and air or ground-source heat pumps would be lost.
197. The proposal fails to consider public transport, walking or cycling properly thereby contravening both local and national policy. It would be hard to find a

site in Warrington that was worse for active travel. In Warrington bus use has almost halved in six years. The modest, tortuous, slow bus route would not attract new residents to public transport. Rail use at Birchwood or Warrington Central would all involve a slow, unreliable bus journey. Any car or taxi journeys would add to local congestion and danger. Cycle routes are indirect, inconvenient, and dangerous (**Document POE 24, paragraphs 5.3-5.6**).

198. In climate change terms this is a dinosaur development. If we are serious about addressing climate change, this development cannot go ahead. New housing should be placed in areas of potential high public transport accessibility and at densities that encourage walking and cycling. The compact city model produces much higher densities, greater accessibility and a better quality of life. Ghent, which is comparable to Warrington, created a car free centre and a substantial reduction in climate emissions (**Document POE 24, section 6**).
199. There are many sites due to become available in accessible locations. The emerging Local Plan is the right forum to consider these matters, including the repurposing of the town centre. The majority of the site could be used as a forest park for north Warrington and become a large carbon sink thus contributing to combatting climate change and benefitting the local population (**Document POE 24, section 6**).

ECOLOGY

200. Peel Hall is a large site of 69 hectares, known as *the last great green wild space of North Warrington*. Surrounded by dense housing, local people spend their leisure time appreciating its wildlife and habitat. It is seen as their special place. The landscape consists of a tapestry of woodlands, ponds, hedges, and grassland, surrounded by the extremely busy M62 and A49. The recent COVID-19 pandemic has demonstrated the need and benefits of Peel Hall. During lockdown people were out every day using footpaths that they have walked for decades, unchallenged. Residents spoke to the Inspector that their mental and physical health have been helped by being in this place. The land is no longer farmed or managed in the interests of wildlife and there was outrage when the landowner ploughed up the footpaths in April 2020 (**Document POE 47, section 3, paragraphs 4.1-4.6 and Appendix A**).
201. The site is home to 60 species of bird⁵³, 84 different flowering plants, 4 types of fungi, 7 types of beetle, 14 types of butterfly, 4 types of dragonfly, 6 types of bee, 6 types of moth, 2 types of grasshopper, 31 types of bug, 101 types of fly, 2 types of mollusc, and 7 species of mammal. Of the 60 species of bird, the Skylark and Grey Wagtail are on the critical Red list. Such birds face severe decline across the UK. Loss or fragmentation of habitat because of the proposed plans would be likely to affect the local population status of at least some of these species by reducing opportunities for feeding and nesting. The purpose of the so-called ecology park is unclear and the benefits it would have to wildlife, given its proximity to the M62 (**Document POE 47, paragraphs 4.9-4.18, 6.2**).
202. Peel Hall is in the newly designated Northern Forest and would be an excellent

⁵³ The final position on birds was revised from that in the proof to reflect the evidence of Mr Ryding, which was not disputed in this respect.

place to be part of the vision to plant 50m trees between Liverpool and Hull (**Document POE 47, paragraph 7.2**).

NOISE

203. The appeal site is on the southern side of the M62 motorway between junction 9 and junction 10, which provides the interchange to the M6. Due its good road connectivity, Warrington plays an important part in the UK distribution industry. At junction 8 of the M62, the Omega site provides a large-scale distribution centre for companies such as Royal Mail, Hermes Parcelnet and Asda who all operate on a 24-hour basis and 7 days a week. This part of the M62 carries about 120,000 vehicles a day. It is currently being upgraded to a smart motorway, which will allow higher speeds and thus noisier traffic flows. The whole of the appeal site suffers from constant noise from the passing traffic (**Documents POE 36, paragraph 3.31; POE 38, paragraph 6.1; INQ 13, pages 1, 2**).

The noise assessment

204. The noise assessment, which fed the Appellant's model of noise was flawed. Lane closures and speed reductions were in place on the M62 on the night when the noise assessment was undertaken. This was confirmed by Highways England at the inquiry. The appellant's noise consultant was unaware of these restrictions until this was highlighted in the evidence. The noise modelling did not take account of this significant shortcoming (**Documents INQ 11; INQ 13, pages 4-6; POE 36, section 8**).

205. The daytime noise monitoring that was undertaken was from only 3 points within the site adjacent to the Highways England boundary fence. This was inadequate for a boundary that stretches almost a mile and a site of this size. In addition, the time periods were short and did not capture the peak flows. The width of the embankment between the motorway edge and the site boundary varies between 2.5m and 25m and its height varies between 3m below the motorway to 7.5m above it. The Highways England fence therefore varies in its distance from the noise source. Reliance on modelling is therefore insufficient and real time monitoring across the whole site is necessary to ensure a full and robust outcome (**Documents POE 36, paragraphs 3.21-3.30; POE 38, paragraphs 6.2, 7.2, 7.3; INQ 13, pages 2, 3**).

The acoustic noise barrier

206. The Appellant proposes to erect an acoustic barrier to mitigate the noise hazard from the M62 motorway. However, the modelling work that underpins the submitted barrier design is flawed to such a degree that it should not be accepted.

207. In relation to the motorway noise, the ES clearly states that existing noise levels at the most exposed residential receptors will have a significant adverse effect. The location of a noise barrier is pivotal and the further the barrier from the noise source, the less attenuation achievable as agreed by the Appellant's expert⁵⁴. The modelled noise assessments were based on a 4m high noise barrier, located at the existing site boundary. However, this could not be

⁵⁴ This was agreed by Mr Wilson in cross-examination by Mrs Steen.

achieved due to the existence of the gas main and 12m wide no-build zone, which runs the entire length of the northern boundary, although its exact route or position is not presently known (**Documents INQ 13, pages 9-13; POE 36, paragraphs 3.8-3.10; POE 38, paragraph 8.1-8.7**).

208. The noise modelling was based on the noise barrier being located at the site boundary, which was a grave error. Cadent Gas, the utility company responsible, was not consulted by the Appellant about the location of the gas main, despite this being a free service. The distances between the motorway noise, the noise barrier and the first dwelling facade determine the noise levels that would be experienced by residents. The Appellant built a noise model on an inaccurate assumption of the location of the barrier, which renders the submitted noise impact model unsound.
209. The Appellant suggested that if a continuous 4m noise barrier could not be constructed, a broken/ overlapped design could be used. However, without knowing where either a continuous or broken/ overlapped barrier could be constructed, the necessary noise attenuation is in doubt. Further, a broken/ overlapped design would include gaps in the barrier, which would place the health, safety and well-being of new residents at risk through noise hazards.
210. For the reasons given above, the noise barrier would have to be built in the area currently proposed as the amenity area using the broken/ overlapped design. This would mean that the amenity area would be subject to the full noise and air quality hazards from the motorway. A staggered noise barrier would also create areas unsafe for children and potentially become a personal security hazard by creating hidden areas for criminal activity.
211. In the Appellant's noise evidence, it was claimed that the full noise barrier would be completed in years 1 to 3. However, the planning evidence indicated that the barrier would be built by various developers, as and when a phase came forward. The completion of the appeal development would take at least 10 years and possibly 15. The Appellant would have no control of the sequence of development on any part of the site. The noise barrier and the apartment massing would be relied upon to reduce the excessive noise from the M62 to a level suitable for development, but there is no evidence to be confident that this could be achieved (**Document INQ 13, page 13, 14**).
212. The noise barrier should be built, and its effectiveness independently verified, before any construction takes place. This should be uncontroversial because if the Appellant is confident in the efficacy of the planned barrier then this would present no risk. It would also address the concern that the development might proceed in piecemeal fashion by multiple developers over a long time period.

Building massing

213. The Appellant recognises that the proposed noise barrier alone would not be sufficient to reduce the noise to an acceptable level. It is therefore proposed to have a second noise barrier in the form of building massing, using 12m high apartments. There was conflicting evidence from the Appellant on building massing. The Parameters Plan indicates a continuous flow of 4 storey apartments. The ES proposed that all plots immediately south of the barrier should be four stories tall, in a tight configuration, to allow building massing to

- provide a further noise barrier (**Document INQ 13, page 15**).
214. This would result in a fortress like development of about 600 apartments, which would harm the area's character and contain half of the total number of dwellings proposed on the site. It would not be a suitable place in which to live. If that is not to be the case the gaps between the buildings would allow noise to penetrate into the site as happens with the gap at Spittle Brook in Cinnamon Brow (**Documents POE 36, paragraph 5.6.1-5.6.2; POE 38, paragraph 9.1-9.3**).
215. When the Appellant was questioned about the volume of apartments needed to cover the entire north boundary, it was contended that this volume was neither proposed nor desired⁵⁵. However, no information was forthcoming on the number of apartment blocks needed for the noise attenuation. In addition, the evidence failed to identify how the noise would be reduced in the gaps between apartment blocks, and in those areas where no apartments are proposed, for example to the rear of Peel Hall Farm. Massing is either needed for noise attenuation or it is not, and the Appellant cannot have it both ways (**Document POE 36, paragraphs 5.5-5.6**).
216. The proposal includes a stand-off distance of 40-50m between the edge of the M62 and the nearest residential dwelling with the barrier in place. Cinnamon Brow and Locking Stumps, which were built by the New Town Development Corporation, have a far greater distance of between 140-150m (**Documents INQ 13, pages 6-8, 17; POE 36, paragraphs 5.9-5.19; POE 38, paragraph 7.1**)

Peel Hall Boarding Kennels

217. The second existing noise source, which would impact upon the living conditions of future occupiers of the site, is the boarding kennels at Peel Hall Farm. This noise source would become even more significant with the acoustic barrier in place. However, it was excluded from the ES as the baseline conditions established a study area that was entirely within the red line of the appeal site. Whilst it was recognised that Radley Lane is a Public Right of Way and provides access to Peel Hall Farm, the operation of the kennels was completely ignored and the effect of the noise is therefore unknown (**Documents INQ 13, page 17; POE 36, section 9**).
218. In the Noise SCG, a planning condition was suggested that a noise assessment should be undertaken before submission of any reserved matters application within 250m of the existing kennels. However, this agreed position is undermined by the evidence that the closest proposed receptors to the kennels would be approximately 40-55m to the west and comprise apartment buildings up to 12m in height (**Documents INQ 13, pages 18-19; POE 38, paragraph 14**).
219. The boarding kennels are protected by the Agent of Change principle, which does not include using 12m high massing to surround the existing business. Existing businesses wanting to develop and grow and should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established (**Document POE 36, Section 9**).

⁵⁵ This was confirmed by Mr Wilson in cross-examination by Mrs Steen.
<https://www.gov.uk/planning-inspectorate>

Mill Lane area

220. There has been no monitoring at the existing Mill Lane Playing Fields despite the assessment indicating that a significant increase in noise would ensue on account of the new access road. The proposed mitigation in the form of a bund or fence is solely on the basis of modelling. Dundee Close would be particularly affected by noise as it is opposite the proposed new roundabout. No mitigation is proposed here.

LOSS OF AMENITY

221. The Mill Lane playing fields are used and have been used for over 30 years for informal sports, formal sports (primarily football) and most noticeably as a place of social recreation either by individuals or small groups of dog walkers. These fields are especially cherished by the older and more vulnerable members of the community. They may feel nervous about venturing further afield from their homes through parks and wooded areas. With their tree canopies such areas are made darker and more menacing places to be, especially for people walking alone. It is not right that they should lose this space and potentially what little freedom they have (**Document POE 49, paragraph 2.1**).
222. The provision of new recreational facilities sees the playing fields relocated from Cinnamon Brow/Houghton Green to Orford – some 1km away. Young children frequently use the playing fields informally as an open space that is inherently safe and a sensible distance from their homes. The proposal would mean the relocation of the playing facilities 1km away from the existing fields. This would be prohibitive to local children being able to play and yet another thing they would no longer be able to do. The claims of children gathering outside shops and on the corners of streets that there is nothing else to do may sadly be right. In the past 20 years play equipment and timber goal posts have been removed from both Enfield Park and Peel Hall Park. The facilities at the Orford Hub, Jubilee Way, were under water in January 2021 due to poor drainage. This is another example of a facility managed by the Council. Now the last open green space to play safely at Mill Lane is about to follow suit.
223. The appeal development would remove a cherished community asset – this does not accord with paragraph 185 of the Framework as follows:

Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.

AIR QUALITY

224. The harm that air pollution causes to health, including heart and lung diseases, acute respiratory infection and the increased risk of premature death are well documented. Pollutants include particulates (PM₁₀ and PM_{2.5}) and nitrogen

- oxides (NO_x) from vehicle emissions, including NO₂ (**Documents POE 41, sections 4, 5; POE 42, Appendix 1**).
225. The appeal site is unusually sensitive with regards to air quality. It borders two AQMAs. The Appellant claims that this is not dissimilar to other urban areas in Warrington and that the newly built homes would be outside the two AQMAs. However, the traffic that would emanate from this development would contribute to the already serious air quality issues that are well documented. First, there would be a significant increase in car journeys as a direct result of this car-dependent development. This would add to the trips that already encroach on the A49 AQMA through the surrounding road network. Second, there would be increased congestion leading to more idling and slow-moving traffic, which would again exacerbate the poor air quality currently present in the surrounding network.
226. One AQMA runs alongside the M62. This is currently unpopulated and stretches the entire length of the Peel Hall site. It should remain so, and people should not live alongside this busy motorway. The homes planned for this site would need to be built in a manner that would mitigate noise and air pollution. In reality, these would be lockdown apartments. Many would be in unacceptable proximity to the M62 and would have windows that could not be opened. This is not the standard of housing to aspire to in the 21st century.
227. The second AQMA runs along the A49, cutting through an extremely densely populated area. This impacts Poplars & Hulme and Orford wards, which is home to over 24,500 people who presently suffer significant health inequalities. Families actually live within this AQMA and many are in locations that currently breach the WHO threshold for dangerous levels of air pollution. It is these families who are placed in current and persistent risk of ill health and premature death through no fault of their own but simply because of where they live. This is unacceptable and the proposed development would exacerbate these conditions because it would lead to increased poor air-quality, induced illness and premature death. It is as serious as that (**Document POE 41, section 7**).
228. Warrington has an *Air Quality Action Plan* that defines the town's response to this urgent health risk. This has 5 priorities and the appeal proposal would conflict with all of them. It would therefore be in direct opposition to this plan (**Documents CD LP 46, paragraph 3.5; POE 41, section 6**).
229. The Appellant's evidence refers to a slight improvement in air quality levels in Warrington over the past few years. The Appellant also mentions the growth in electric vehicles. These will have a beneficial impact on air pollution over time, although it is expected that national air quality standards will also change to reflect this. Global standards and expectations in air quality have consistently improved. For example, the level of NO₂ that currently breaches WHO thresholds is one eighth the level that applied in 1958. The WHO states clearly that there is no level of air pollution that can be considered safe. What the current thresholds do is merely to define politically acceptable levels at a particular time (**Document POE 42, appendix 1**).
230. The 24 receptor points in the Appellant's assessment are only a small sample of the data outputs from the model, which total nearly 13,000. There are over 1,000 locations where the percentage change of NO₂ following development

relative to AQAL⁵⁶ would exceed 5% and 251 locations where it would exceed 10%. Particularly significant are the 195 locations where existing NO₂ levels are below 40µ/m³ but would be above this level following development. The 24 receptor points in the assessment do not correspond to the data points. The data points within the vicinity of the receptor points show significant variations over a short distance, which means that the assessment is not robust. These are all areas which are densely populated and where there are proximate churches and schools. Furthermore, the receptor points do not correspond with any of the grid points in the model output (**Document POE 43, paragraphs 2.3-2.21**).

231. Heavy construction vehicles would pass through the area and the AQMAs but they have not been included in the future flows in the traffic model either during the 10 year construction period or thereafter in association with the local centre, school or care home, for example. The ES indicates that dust during the demolition and construction phases would be high with medium risks to human health. The implications have not been properly assessed and there has been no modelling of NO₂, PM₁₀ or PM_{2.5} levels over the 10 year construction period (**Document APN 128, tab 12, table 12.22**).
232. The Appellant claims that residents of the proposed new homes would use public transport and cycling to get to work but has presented no evidence that such usage would be significant. Commitment has only been secured for three years from Warrington's Own Buses to extend the number 20 and 25 services into the site. Extensive evidence has been presented of the existing low levels of bus service utilisation and a sharp decline in bus usage. The rail stations are not well served by buses from the appeal site. The Appellant suggests that people would cycle to Padgate, Central or Bank Quay stations but its own traffic survey shows that only 0.266% of journeys in the surrounding road network are undertaken by bicycle. This is because the roads in this area were not designed with cyclists in mind. They are choked with traffic and widely perceived as hazardous. There is no reason to think that people living in the proposed development would use anything other than cars on a daily basis. This would therefore become yet another unsustainable car reliant estate that would add to the poor air pollution that is already being suffered.
233. The Appellant's air quality evidence rests solely on mathematical modelling work. There are two clear weaknesses in this approach:
- a) The underlying assumptions are based on the traffic modelling work, which remains largely unresolved. The Appellant has failed to demonstrate the rigour and accuracy of its traffic models for queuing on the A49 and surrounding network. This, in turn, means that the inputs to the air quality data modelling work must be regarded as questionable, which should cause the validity of the air quality modelling itself to be questioned.
 - b) Very large numbers of exceedances of the threshold levels are discounted because they occur, according to the model, on the road itself and stay

⁵⁶ The AQAL is an air quality objective or target value. In this case the annual mean level for NO₂ is 40µ/m³ (DEFRA National Air Quality Objectives).

there. Spikes in pollution are shown to precisely follow the roads and never to stray onto the pavement, into homes or schoolyards. Mathematical models should be used as a tool to help plan, but when they contradict empirical evidence some caution should be applied to their findings. It is in the nature of air to move. Those pollutants will reach pedestrians, homes and schoolyards.

234. In weighing the air quality evidence the Secretary of State is asked to consider current air quality levels, health inequalities in the affected area, the questionable traffic inputs to the air quality model and the likelihood of polluted air behaving impishly and leaving the narrow tracks defined for it by the Appellant's mathematical model.

HIGHWAYS AND TRANSPORT

235. This is the greatest weakness of the proposal because the site is landlocked and just not readily accessible. In order to gain access from Poplars Avenue, existing houses would need to be demolished, thereby changing the character of the existing area. In addition, Mill Lane would see its road traffic increase by 300%, based on the existing 50 houses in the village rising to about 200. Birch Avenue would see an overall increase in housing of circa 40%, all of which would gain access to and from the A49 along a narrow, congested section of road.
236. There are a number of busy routes within the Winwick and Orford areas in particular where no up-to-date surveys have been undertaken to assess the impact that the appeal development would have. The Appellant's VISSIM witness had undertaken one site visit that comprised a total of one hour driving around the area in between morning and evening peak periods. The evidence was that he ran hundreds of unsuccessful models until managing to deliver one he was happy with. That model generates queuing traffic of 1.4 km with latent demand of circa 500m extending beyond this queue at peak times (**Documents POE 32, paragraph 3.10; POE 33, appendix 2**).
237. The Appellant's highway witness provided anecdotal evidence of his shopping visits being done on foot and that in his experience people prefer to cycle on the road rather than cycle paths. However, that experience may not have involved cyclists having to negotiate their way through 1.4 km of crawling traffic in an area identified by the Council's highway witness as the "*most dangerous in Warrington*". It was said that Poplars Avenue, a residential street, would see over 16,000 trips per day by 2032.
238. As has already been explained above, this would be a car-based development and few journeys would be undertaken by cycling, walking or public transport. For someone unable to drive, the nearest health centres, for example, would involve catching 2 buses. These would probably result in a longer journey than the 40 minutes it would take to walk and would not be acceptable for someone who should find themselves ill. The existing buses involve lengthy journeys and the extension of routes into the appeal site would make this worse (**Documents POE 32, section 5; POE 33, appendices 25, 27**).
239. The Appellant's reliance upon the use of Google Maps to provide congestion data, rather than using human observers is a cause for concern. This resulted in an incredible estimate of existing queueing traffic which bears no resemblance

to daily experience. A combination of Google data, COVID-19 travel conditions and poorly defined TomTom journey time information, results in serious concerns about the rigour of the traffic modelling undertaken (**Document POE 35, section 3**).

240. The package of mitigation proposals would add no real value in terms of alternative sustainable transport means and improved accessibility. Mitigation principally relies on using signalised junction timings to achieve improvements in journey times in a network that the Council has spent many years optimising. The underlying problem is a huge volume of traffic in a network with inadequate capacity. Tweaking an already optimised network will not yield the benefits forecast. If these adjustments could yield such benefits, they could be implemented without the development taking place (**Documents POE 32, section 6; POE 33, paragraphs 1.67-1.68; POE 34, paragraphs 1.22-1.26**).
241. The continued absence of an adequate east to west cross-town route linking the Birchwood and Westbrook Districts means that large amounts of traffic in the north of the town still utilise a number of minor estate roads to complete that journey. In that respect Poplars Avenue, Cleveland Road and Sandy Lane West are not a rat run as the Appellant has claimed. Neither are there hundreds of ways in which motorists can pass through this part of Warrington. In reality, there are very few routes available to motorists wishing to make the east to west journey across the north of Warrington, and this is probably the best of a bad lot. The Appellant contends that the traffic from the appeal development would displace existing rat running traffic onto the wider network. This would merely increase the detrimental impact on other residential roads (**Document POE 34, paragraphs 1.53-1.54; POE 35, paragraphs 2.7-2.9**).
242. Transport is undoubtedly the elephant in the room. It has been discussed at great length at the inquiry, and rightly so. The impacts of the proposed development would have a severe and irreparable impact on congestion and highway safety that would likely blight the small part of the town that we love for, quite possibly, forever. The impacts have not been proven to not be severe, in fact quite the opposite. For this reason, it fails to meet Paragraph 111 of the Framework and this scheme should be dismissed.

CONCLUSIONS AND PLANNING BALANCE

243. This development is not wanted by the vast majority of local people. The Appellant has owned this land for 30 years and during this time has done nothing positive with it. Rather, there has been rough ploughing and destruction of trees in an attempt to deter walkers and wildlife. The Appellant has made no contribution in the local community such as turning out to help pick litter, thin out the nearby woods or tidy up the park. During the inquiry it placed a disgusting mound of earth, waste and old metal drums as its boundary fence on Birch Avenue. This is the respect which has been shown to the local community. The transformational benefits that the Appellant and to a lesser extent the Council believe to ensue, were dismissed by the previous Inspector.
244. The appeal site is not allocated for development and the emerging Local Plan carries little weight at the present time. Events have rapidly moved on and the plan needs re-writing. The crises of climate change and biodiversity are recognised, retail in the town centre has collapsed, site availability in

sustainable locations has rapidly risen and the COVID-19 pandemic has resulted in significant changes (**Document POE 51, paragraphs 2.31-2.33**).

245. Warrington needs new homes, but delivery is improving and the estimate for 2021/2 is twice that required by the national methodology. Many homes have been granted permission in the town centre and large sites such as Warrington Hospital, the Unilever site and the Fiddler's Ferry power station site will become available. The town centre is the obvious location due to the focus on public transport, concentration of facilities within walking distance and the opportunity to build at higher densities. More sites will become available as retail uses contract. The 1,200 houses on a car-dependent, low density estate is afforded moderate negative weight (**Document POE 51, paragraph 2.28**).
246. This development would worsen the lives of people living in the vicinity and result in adverse impacts as detailed in the sections above. It would conflict with the development plan and the Framework on many issues. The harm to the highway network would justify refusal in its own right. Including the other issues too, the harm would significantly and demonstrably outweigh any benefits of granting planning permission.

OTHER ORAL REPRESENTATIONS TO THE INQUIRY

There was considerable local objection to the holding of the inquiry virtually and also to allowing additional time for the Appellant to submit further VISSIM traffic modelling. Those concerns have been reported in the Procedural Matters section at the beginning of this Report and have not been repeated below.

*Where people spoke at the last inquiry, I have not reported those comments but have given the reference in my colleague's report where their comments can be found. All other oral representations can be found at **Document CD OD 15, IR section 10**. It can be noted that some who spoke individually last time are now members of the Rule 6 Party.*

The main points are:

247. **Ms C Nichols MP** represents Warrington North and the appeal site is in her constituency. She strongly opposes the appeal development. North Warrington was developed as a New Town and the area has borne the brunt of new housing development over the last 50 years. Sites such as the Fiddler's Ferry redundant power station, will soon become available and take pressure away from such greenfield sites as Peel Hall. It is the last undeveloped publicly accessible open space left. It is of strategic importance as a green open space and important environmental asset. Local opposition to the development is very strong. Local infrastructure, including schools and GP services, are at breaking point. Planning should be about managing change that is properly justified. That is not the case here. The Appellant has been attempting to develop the site for over 30 years and has ignored the strongly held opposition of the local people who would be affected.
248. The appeal scheme would have a huge adverse impact on the character of the area and the quality of life for its people would be changed forever. The loss of this much-loved open space, which is widely used by local people for informal recreation and as a wildlife habitat, would cause harm to the health and

wellbeing of the local community. In 2018 the Government published *A Green Future*, which is a 25 year plan to improve the environment. A recent report by Public Health England indicated that living in a greener environment helped reduce health inequalities and resulted in better mental health outcomes. This is even more important at the time of the COVID-19 pandemic.

249. About 2,400 additional cars would be generated by the proposed development. This would result in an unacceptable burden on the local roads that are routinely choked with traffic. The A49 is severely congested in and outside peak times and junction 9 to the M62 is busy all day. An accident on nearby sections of the M62 and M6 brings traffic in Warrington to a standstill. Traffic entering or leaving the appeal site would add to these problems on a distressed road network.
250. The Orford Estate is a self-contained area of social housing served by a network of interconnected streets with the homes facing onto the roads. This is a densely populated area and the roads were not designed to accommodate further traffic from a future major development. The inevitable increase in traffic flows would make these streets less pleasant routes to walk, cycle and drive. This was recognised by the previous Inspector in his Report. The use of Mill Lane as a main access into the site would put pedestrians at risk. It would also mean that the playing fields would have to be relocated and that people would have to travel further to access them. There are safety concerns about the use of Radley Lane for construction traffic. Also, with the use of Birch Avenue, which is narrow residential road that has heavy on-street parking and provides access to The Alders facility.
251. Noise from the M62 is constant. The increased traffic from the development would add to the noise impacts. There would be greater air pollution, which would cause further harm to the environment and health. The appeal site is in a sensitive location between 2 AQMAs either side of Peel Hall and car emissions are a big contributory factor in air pollution. Climate change is increasing rainfall levels and flooding. The development would upset the natural drainage of the site and increase flood risk to adjoining areas. The present climate emergency indicates that action must be taken now, and the Government is committed to a green economy with net zero emissions by 2050. It is incumbent on developers to show how their developments would impact on the UK commitment to tackle global warming in accordance with the Paris Agreement.
252. The Orford estate would not be transformed by the appeal development. What is needed is increased economic prosperity, better health and social care, good public services and enhanced educational opportunities. This would not be provided by the Appellant. For all these reasons the appeal should be dismissed (**Document INQ 15**).
253. **Mrs T Dutton** has lived in Birch Avenue for over 30 years. She owns a transport business and therefore has first-hand knowledge of the road network. All roads to the south of the site would become very busy as the development traffic tries to find routes through the residential area to the A49, A50 and M62. There is already serious congestion and if there is an accident on the M62, M6 or M56 the town becomes gridlocked. On rugby match days at the Halliwell Jones Stadium travel becomes impossible and the extension to Albany Retail

- Park has added to congestion on the A49. Cars from another 1,200 houses could not be accommodated from this land locked site.
254. Birch Avenue and Elm Road cannot sustain more traffic. There are already dangerous access points such as Newton Road, which is very close to the A49 junction. There are 28 homes along Elm Road and 18 along Birch Avenue. In addition, The Alders NHS facility has 20-50 vehicles coming and going each day. It is estimated that if each new house has 2.5 vehicles, the total using Birch Avenue would be over 250. The emergency services and other large vehicles often find it difficult to gain access. The road is only 4.8m wide and there is a lot of on-street parking. The piece of land that was used for informal parking and reduced on-street parking was removed by the Appellant. Birch Avenue would become even more dangerous and chaotic if the development goes ahead.
255. Mrs Dutton also recounted how she enjoyed the fields at Peel Hall during her childhood, with her own children and for dog walking. She also gave evidence at the previous inquiry (*Documents INQ 16; CD OD 15, IR paragraphs 10.22-10.30*).
256. **Councillor C Mitchell** represents Winwick ward. She objects to the development based on its traffic impact on Delph Lane, Myddleton Lane and other roads used to access the M62 in this direction. These routes are already under significant pressure and become saturated if there is disruption on the wider network. There are other developments in the pipeline too, including Parkside. It is the volume of traffic that is the problem and so traffic calming would have little effect. She also spoke at the last inquiry (*Documents INQ 17; CD OD 15, IR paragraph 10.98*).
257. **Councillor J Kerr-Brown** represents the Poplars and Hulme ward and also spoke on behalf of his fellow ward councillors, Councillor Cooksey and Councillor Maher. He is concerned about the major traffic impact on the local roads to the south. Since the construction of Aldi on Sandy Lane West, congestion is a major issue and there are long delays, which would become intolerable with further increases in traffic. The queues to the junction with the A49 are a longstanding and serious issue. Many people use the residential streets as short cuts through to the A49. To the east, the Mill Lane access would create further traffic disruption as the street can only accommodate relatively small traffic flows. There are also serious problems along Delph Lane.
258. There is great concern about air quality and noise, which has a serious effect on health and wellbeing. Air quality on Winwick Road is one of the worst in the region and more traffic would result in even greater deterioration. The schools in the area are full and there is a major issue with healthcare as GPs surgeries are over stretched. The development would be unsustainable. Councillor Kerr-Brown also spoke at the previous inquiry (*Documents INQ 18; CD OD 15, IR paragraphs 10.1-10.6*).
259. **Councillor D Friend** represents the Poulton North ward and has lived in the area all her life. She also sits on Poulton and Fearnhead Parish Council and Winwick Parish Council. She is heavily involved in local issues. There are a number of developments that will increase traffic generation including the recently approved Omega industrial area to the west of Warrington, which is likely to use junction 8 of the M62. Parkside Colliery is proposed as a large industrial estate and has been called-in by the Secretary of State. Most of its

traffic is likely to head south through Winwick to junction 9 of the M62 and junction 22 of the M6. These are already congested areas and pressure on the road network will be increased (**Document INQ 19**).

260. **Councillor G Friend** represents the Poulton North ward and sits on Poulton and Fearnhead Parish Council and Winwick Parish Council. He has lived in this part of Warrington for about 20 years. He sits on the Council's planning committee. The appeal site is not within the ward he represents but is immediately to the west and would have a big impact on it. The case of the Rule 6 Party is not repeated but is completely supported.
261. Many towns suffer from traffic problems but not like north Warrington, which adjoins two very busy sections of motorway. Winwick Road to the west is reported to have some of the highest pollution rates outside London mainly because it suffers from large amounts of slow moving or stationary traffic. There is supposed to be a link road to accompany the Parkside Colliery development but when this will be built is not known. St Helens Council is unlikely to have the money especially since the COVID-19 pandemic. There is also a permitted scheme for over 600 houses on a brownfield site at Kingswood, close to junction 8 of the M62. Along with the Omega expansion, these developments will put a huge strain on the road network, including the M62 and Winwick Road. Traffic will consequently use the alternative route of Myddleton Lane, Delph Lane, Mill Lane and Blackbrook Avenue, which is a well-known rat run to avoid the A49 and junction 9 of the M62. This route is very narrow in places, especially along Delph Lane. To add more traffic would be madness.
262. If there is an accident on the M62 or M6 traffic will come off the motorways and cut through Warrington. This seems to be an increasingly regular occurrence. Houses are needed in Warrington but in the right places where the roads can sustain them, not in the Peel Hall area where they cannot (**Document INQ 20**).
263. **Mr A MacDonald** is a local resident. He and his wife have lived in Cinnamon Brow, close to the eastern end of the appeal site for several years and value the proximity to friends and family as well as the available local facilities nearby. The scheme would result in the loss of green space that is highly valued for dog walking and informal recreation and exercise. This has been particularly important during the COVID-19 pandemic for many residents in terms of their mental health. The Government is committed to the 25 year plan to improve the environment entitled *A Green Future*. Improvement of health and wellbeing by connecting people to the environment is one of the objectives. The provision of new housing and protecting the environment are not mutually exclusive.
264. The area is already heavily congested at peak periods in routes to the motorways or public transport hubs. Any accident on the motorways often cause gridlock throughout the town. The additional traffic that would arise from the appeal development would have a huge effect on congestion at peak times and would cause more accidents, traffic noise and air pollution (**Document INQ 21**).
265. **Mrs K Robinson** played an audio recording of birdsong and motorway noise, heard from her property, to the inquiry. Warrington is the third most polluted area in the north-west after Liverpool and Manchester. This is the last green space in Warrington and provides a place for children to play and people to exercise. In a speech in July 2020, the Environment Secretary advised doctors

- to prescribe time in green spaces to boost mental and physical wellbeing and ease the burden on the NHS. This is routine in New Zealand and if the green spaces are lost so is the opportunity to benefit the community's health and wellbeing. There are many brownfield sites and this green space is not needed.
266. Mrs Robinson has observed at first hand the pressure on the existing local road infrastructure through the commute to her place of work via Capesthorne Road, Long Lane and Hawleys Lane. These roads are single carriageway and often cars are parked on either side. The addition of 2,400 cars from the appeal site would be unthinkable, especially bearing in mind further planned housing in the villages. More traffic would mean more air pollution and consequent harm to health and wildlife. Children need somewhere green and clean to play and it would be great if the Council could allow the site to become part of the Mersey Valley Forest or purchase it to gift to the Woodland Trust. Peel Hall is home to many wildlife species, and they would be driven away. She also spoke at the last inquiry (**Document INQ 22; CD OD 15, IR paragraph 10.90**).
267. **Mr M Higginson** has lived in Warrington since 1979. The site is currently an island with no access from existing main roads. The northern boundary is the M62, which is congested with standing traffic emitting diesel fumes in the morning peak. This is also the last green space in Warrington with thriving wildlife. It has been vital for daily walks during the COVID-19 lockdown and would make a wonderful country park. The natural habitat has regularly been destroyed by the Appellant's actions. Although the plan looks good with new trees and hedgerows, the cost means that they would never be planted.
268. All of the new access points would have major problems, which are detailed in the representation⁵⁷. Poplars Avenue is part of an old local authority housing development built before everyone had cars. Most parking is along the road, which is of limited width and carries a bus route. The access from Blackbrook Avenue would be a roundabout onto a very busy section of road. There is an existing roundabout only about 100m to the south that serves as an access to the Birchwood and Risley employment areas. Access from Mill Lane was rejected at the first appeal and circumstances have not changed.
269. Warrington is a town with traffic problems. The Manchester Ship Canal and River Mersey prevents the through flow of traffic. This comes in and out from the M6, M56 and M62 and fills existing roads to unacceptable levels. East to west movement is particularly difficult. Vehicles from the development would try and access the main employment areas, which are at opposite sides of the town along roads not designed to take the traffic they carry. The proposed development would be a disaster for the local area (**Document INQ 23**).
270. **Mrs S Kavanagh** is a longstanding resident of Warrington and currently lives in Birch Avenue. The appeal site is land locked and 5 houses in Poplars Avenue would be demolished for access. The traffic that would be generated on Poplars Avenue, Cotswold Road and Sandy Lane would be horrendous. At the moment the traffic in and around North Warrington is unsustainable. A breakdown on the motorways or elsewhere causes gridlock in the town. The new houses would

⁵⁷ Inspector's Note: There would be no proposal for a through route between Poplars Avenue and the A49. The industrial element is no longer part of the appeal scheme.

also be close to the M62 and research shows the effect of air pollution on asthma and lung conditions in children. Those living on the site would need cars and this would also add to the problem. The World Health Organisation indicate that Warrington has the worst pollution problems in the North West.

271. The combined drain for Birch Avenue is prone to flooding during heavy rainfall along with the overflow of sewerage. The drains would be placed under more pressure with more homes being built. United Utilities state that foul and surface water should drain into separate systems but that would not be possible if drainage was to Birch Avenue. The attenuation pond within the buffer area would be at the top of the slope and may have the potential to overflow onto the M62.
272. Birch Avenue is a narrow road, 4.8m in width. There is an NHS health unit at the eastern end. At present residents of Birch Avenue have to park on the pavement to allow access and for the emergency services to get through. If the Government make pavement parking illegal, lives will potentially be put at risk. Objections to the development at Peel Hall have been going on for 30 years and it is hoped that the many previous objections will be taken into account.
273. The western part of the appeal site, known as Winwick Farm, is Green Belt. More families within this area would result in extra pressure on local facilities, including schools and the local hospital. Mrs Kavanagh also spoke at the previous inquiry (*Documents INQ 24; CD OD 15, IR paragraphs 10.31-10.34*).
274. **Ms S Sawyer** lives close to the proposed eastern access with Poplars Avenue. Warrington was designated as a New Town in the late 1960s. It was intended that the new housing areas would be interconnected by expressways. These were never completed and so there is no adequate road network to link the various parts of the old and new towns together. The lack of an adequate east to west cross-town route means that a large amount of traffic uses minor residential estate roads to complete their journey. Poplars Avenue, Cleveland Road and Sandy Lane West is the choice of route for many motorists.
275. A number of developments have been built or expanded. These include the Halliwell Jones rugby league stadium, 24-hour Tesco Extra store and the Junction Nine Retail Park, all of which have access onto Winwick Road. In addition, the Gemini Retail Park is approximately 2 miles further to the west. It is home to the flagship stores of IKEA and Marks and Spencer, amongst others. Poplars Avenue and Long Lane provide direct routes to these facilities and outlets for those living to the north east and consequently volumes of traffic have greatly increased. There are also serious traffic tailbacks along Sandy Lane West for similar reasons that extend back to Sandy Lane and Cleveland Road. Those using the new Aldi store along Sandy Lane West often find it difficult to get out of the site and add to the traffic problems.
276. The 2 new accesses onto Poplars Avenue would serve a large number of houses, a care home, a large supermarket, a public house and a school. The traffic would flood the many estate roads and would lead to an unsustainable and intolerable increase in traffic movements on these streets. The area already suffers from noise, particularly from the M62 and A49. The increase in traffic from the proposal would only make this worse. The proposed supermarket, pub and fast-food outlets are not needed as the area is well provided with these

facilities already. There have been a barrage of planning applications for the development of this site and people are fearful for the future if the proposal goes ahead. The demolition of good quality houses to provide access to the site is personally offensive (**Document INQ 25**).

277. **Mr S Mann** lives to the north of the site and is a longstanding resident of Winwick village. Since the last inquiry there have been a number of developments resulting in increased traffic affecting Winwick Village. These include the progression of the Parkside plans, additional houses approved on the Omega site and additional homes permitted to the north of B&Q off Delph Lane. Over the last 33 years there have been over 400 more houses in the parish. Bus services have been cut back, but the road system is similar to the 1930's.
278. During the peak periods traffic along Myddleton Lane and Golborne Road is at a standstill and results in massive bottlenecks around the junction of the M62 and M6. Accidents and congestion on the motorways lead to drivers seeking alternative routes and these often involve diversions through Winwick village. A large number of houses would exit from the eastern side of the site. Those wishing to go to the M6 or M62 for work would cut through Winwick village up Myddleton Lane. The roads here are already at breaking point. There has been no local investment in local road infrastructure, and none is proposed as part of the development. The appeal scheme would trap residents of Winwick village in their driveways waiting to get out because of the sheer volume of traffic using the already saturated road network. Mr Mann also spoke at the previous inquiry (**Documents INQ 26⁵⁸; CD OD 15, IR, paragraphs 10.70-10.76**).
279. **Mr W Tasker** has lived and worked in the area for over 20 years. He has used Peel Hall and the Mill Lane playing fields with his children and grandchildren for exercise, dog walking and bird watching. It is the last piece of Green Belt land in north Warrington and has for many years been a place for recreation, wildlife and a trap for pollution. The previous Inspector took a lot of time and effort to conclude that the land was not suitable for development as it was so close to many busy roads. The Government's 25 year plan *A Green Future* promises more green space for local residents and improvement to the quality of life and health. There are many local brownfield sites for more housing and the Green Belt should be left alone (**Document INQ 27**).
280. **Ms M Farmer** is 9 years old and read a poem to the inquiry that she had written. This sets out why she loves Peel Hall and enjoys running free across its green open spaces with clean fresh air. She mentions the wildlife, including flowers, birds, trees as well as butterflies, moths and bees. She finishes by saying that she wants it to be kept as it is (**Document INQ 28**).
281. **Mr and Mrs Wernham** are longstanding residents of the Grasmere Estate to the south of Radley Common. An accident on Winwick Road or the M62 results in traffic, including heavy vehicles, travelling to and from the Fearnhead, Birchwood and Cinnamon Brow areas taking a shortcut through these relatively quiet residential streets. A mix of people live in this densely populated area including the elderly, young families and those in poor health. Some have

⁵⁸ Inspector's Note – An animation showing traffic movements, which was played to the inquiry, is available with the electronic copy of the PowerPoint presentation.

breathing difficulties and dust and pollution from a building site would make this much worse. If the development goes ahead, Grasmere Avenue would become a main shortcut to Birchwood. The area has problems with crime, and it is feared that this would become worse if Peel Hall becomes a construction site.

282. Mr and Mrs Wernham were also concerned about the effect of noise on those living in the new flats close to the M62. They comment that at quiet times they can hear the traffic noise in their home and that is at a considerable distance from the motorway with woodland in between. There would also be an impact on the wildlife of Radley Common and Radley Plantation. These areas have been very important during lockdown as places for people to take their daily exercise close to home. If the development goes ahead there would be no option but to move elsewhere after many years within the area with its quiet green spaces and wildlife. Mrs Wernham spoke at the last inquiry (**Documents CD OD 15 IR, paragraphs 10.95-10.97; INQ 29**).
283. **Ms J Burke** lives at Cinnamon Brow and the quickest route to get to work is along Delph Lane. She recounted a frightening experience in March 2020 when a large lorry tried to squeeze past on the narrow section on the northern side of the motorway bridge. There was insufficient road width and the whole of one side of her car was damaged and the lorry did not stop. As a new driver this put her off driving for several months and she will not use this route for fear of it happening again. Delph Lane is used by a variety of large vehicles, including tractors, as a short cut. This would get worse if the appeal development goes ahead, not just for Delph Lane but for all other roads in North Warrington.
284. Peel Hall provides a great place to explore and see wildlife for children, families, grandparents and dog walkers close to where they live. She comments that at 21 years old she is unable to find somewhere affordable to live. There are already many houses that are too expensive for people to afford and more are not needed. There are also already plenty of pubs and restaurants within walking distance. Another one is not required and could either threaten existing jobs or just be a facility that no-one wanted to go to. What is needed is improvement to the existing area rather than new building (**Document INQ 30**).
285. **Ms L Bennett** lives to the south of the appeal site with her family. The additional traffic would create chaos on the network of small residential streets adjoining the site. Even a small incident on the M62 results in diversions through the residential areas of Orford, Padgate and Winwick. There would be several main accesses serving the proposed residential area, sports pitches, local centre and other facilities. The resulting traffic would spill out onto the existing bottle-neck estate of Orford. This is contrasted to Chapelford Village where 2,100 homes and facilities have been built around many access points, which lead onto through roads with the capacity to accommodate the traffic. The main entrance to the site would be immediately opposite St Andrews primary school on Poplars Avenue.
286. The development would involve building on fields and ponds filled with wildlife, which is well used by local people for recreation. Many people within this part of Warrington struggle disproportionately with poorer life opportunities. Orford is densely populated and a deprived area with many large families living in poverty. The increase in vehicles would put lives at risk as well as causing an increase in air pollution both during construction and afterwards. The whole

area is prone to flooding and the development of the site, which is a natural flood plain, would be likely to cause overspill of flood water to the adjoining estates. This will only get worse with global warming (**Document INQ 31**).

287. **Ms L McLoughlin** and her family are purchasing a property bordering Radley Common due to its remoteness and the beauty of the land surrounding it. She works with disadvantaged children and young people and will be offering support from home so that they can benefit from the natural surroundings. Radley Lane is a quiet road with limited traffic. This would change when the new access to the east of the Peel Hall site is constructed and people are likely to drive along the cul-de-sac and turn at the end by her property, causing more pollution and unnecessary stress to her family and the young people she works with. There would be noise and air pollution during construction, and this would spoil the tranquillity of the location, sense of remoteness and wildlife (**Document INQ 32**).
288. **Mrs Jennings** has lived in Mill Lane for many years. The roads in the area were mainly built in the 1950's when there were few cars. The Mill Lane junction with Delph Lane is already dangerous, especially turning right because of poor sight lines. A new roundabout and access into the site are proposed a short distance to the south. Although the speed limit is 30 mph here, it is derestricted a little further to the north and across the overbridge, before a 40 mph restriction nearer to Myddleton Lane.

WRITTEN REPRESENTATIONS

289. The written representations to the planning application are summarised in the Planning Officer's report to Committee of 23 February 2017. The written representations to the appeal up until the previous inquiry are summarised in the Inspector's report (**Documents POE 20, appendix 1, pages 14-19; CD OD 15, IR section 11**).
290. Subsequently there have been a considerable number of objections to the appeal scheme. These are available from the electronic case file and the main points are summarised below.
- a) The Appellant has been trying to develop this land for 30 years without any regard for the local community.
 - b) The development would be far too big for the size of the area.
 - c) The development would result in the loss of the last remaining green open space in North Warrington. This provides valuable breathing space for the local community within a densely populated area and has been invaluable to wellbeing during the COVID-19 pandemic.
 - d) Winwick Parish Council should use the money it gets from Council Tax to buy back the site and return it to agricultural use
 - e) The proposed development would disrupt wildlife.

- f) The loss of the Mill Lane playing fields would be a travesty. This recreation space is well used for football, jogging, dog walking, kite flying and as a meeting place for young people.
- g) Warrington is well served by sports facilities and does not need more.
- h) Within this area the water table is high, and it is prone to flooding. The appeal site is very wet and covering it with roads and concrete would make matters worse.
- i) The site is land locked with inadequate roads and infrastructure to support it. Existing roads are already struggling to cope with the increasing levels of traffic, which uses the residential streets as a rat run, especially at peak times. More cars on the roads could not be tolerated.
- j) There is an increase in the size and weight of vehicles using the local roads, which were not constructed for such use. Local shops are gradually being replaced by chains that use large delivery vehicles. The appeal development would also include shops and other facilities that would be supported by bulk deliveries. The impact would be detrimental to local residents and the environment.
- k) Heavy goods vehicles rat run through the area from the M6 into the town.
- l) If there is an incident on the M62 the roads throughout the town become gridlocked.
- m) No housing should be accessed from Birch Avenue or Elm Road as they are too narrow and not suitable for further traffic.
- n) Delph Lane used to be a quiet country lane. Traffic continues to increase and there is frequent grid lock in the morning and evening peaks. The additional traffic would make matters worse, along with an increase in accidents.
- o) There has been a decline in public transport over the years.
- p) More traffic would be forced through Winwick village, which is already heavily congested by drivers trying to get to the M6 and M62. The children at Winwick primary school would suffer exposure to more traffic pollution.
- q) Warrington is already one of the worse areas in the North West for air pollution. 1,200 houses and their traffic would make matters worse.
- r) The site is close to the M62 and it cannot be justifiable to build houses and a school that would suffer from fumes and pollution. This would be an ideal area for more tree planting to combat pollution.
- s) There would be years of construction noise, dirt, dust and waste inflicted on the surrounding residential area.

- t) Houghton Green is one of the few small villages remaining in North Warrington. It would be destroyed by the new houses and roundabout.
- u) There are insufficient services to support the development. Policing is already insufficient. Hospitals, schools, doctors' and dentists' surgeries are stretched to capacity.
- v) More housing is not needed in this area. There are many new developments, including at Chapelford on the old army base. There are many brownfield sites including in the town centre, which should be used first.
- w) There are already plenty of affordable houses for sale and rent. The inclusion of affordable housing would be detrimental to the value of private housing in the area.
- x) The location of the houses would not be compatible with the existing boarding kennels at Peel Hall Farm. The development would not be in accordance with Article 8 or Article 1 of the First Protocol of the Human Rights Act. It would also fail to accord with paragraph 17 of the Framework requiring a good standard of amenity for all existing and future occupants.
- y) The Peel Hall site is of historical and archaeological interest and the pre-medieval activity is in need of investigation.

CONSULTEE RESPONSES

- 291. The consultee responses to the original application are summarised in the Planning Officer's report to Committee on 23 February 2017 (**Document POE 20, appendix 1, pages 19-23**).
- 292. An update, where relevant, was included in the Planning Officer's report to Committee on 1 July 2020 (**Document POE 20, appendix 3, pages 8-14**).
- 293. In some cases, there have been further updates. I have sought to summarise the most up-to-date position for each consultee in the following paragraphs.
- 294. **Homes England** is the owner of Mill Lane playing fields. I was told at the inquiry that rather than develop the site itself, Homes England has decided to sell the land to the Appellant. This transaction was still incomplete by the close of the inquiry and it was agreed that a further period should be given to enable the legalities to be completed. The Section 106 Agreement was submitted on 10 May in accordance with my timetable. It has been confirmed that contracts have now been exchanged with Homes England and it is therefore a signatory to the S106 Agreement (**Documents CD APP 50; INQ 63**).
- 295. **Highways England** did not have Rule 6 status at the inquiry. However, it played an important part and provided helpful input throughout, including at the session on planning conditions. Although it initially raised objections in terms of the effect on the strategic road network, these were later withdrawn. Its final position was that it was content for planning permission to be granted, subject to conditions relating to improvements to junction 9 of the M62 and A49. It also sought conditions relating to motorway drainage, the motorway fence, the acoustic barrier and construction management (**Document INQ 51**).

296. **United Utilities** has raised no objections, subject to a number of conditions. It has pointed out that its water main and public sewer crosses the site and that unrestricted access will be required for operation and maintenance. It also refers to its pumping station and vehicular access, which lie within the site boundary (**Documents CD APP 53; INQ 39F**).
297. **Sport England** raises no objections subject to revisions to the draft S106 Agreement and the imposition of planning conditions. It is satisfied that the loss of the Mill Lane playing fields would be compensated by the provision of the proposed new playing fields to the north of the existing Radley Common Recreation Ground. Conditions are required to ensure that the new sports hub meets the required design standards and that a management and maintenance scheme is in place to meet local demand and ensure a good standard of provision. A sports strategy is required to ensure that the additional demand arising from the appeal development is met and implemented (**Document CD APP 52**).
298. **The Environment Agency** has raised no objections in principle and welcomes the intention to retain and enhance key wildlife corridors and integrate new sustainable drainage systems as part of the overall scheme. Conditions are requested to achieve these aspirations (**Document POE 22, appendix 5**). **The Lead Local Flood Authority** has raised no objections, subject to a condition regarding the design of the surface water layout and attenuation (**Document POE 22, appendix 5**).
299. **The Greater Manchester Ecology Unit** was satisfied that the latest ecological surveys were acceptable and that further surveys should not be necessary prior to determination of the appeal. A buffer zone should be provided around Radley Plantation although there was concern about indirect effects from human disturbance and lighting. The majority of the most important habitats would be retained or recreated although they would become more fragmented by built development. Unless suitably mitigated this is likely to reduce the feeding resource for local bat populations and the feeding and nesting resource for a number of important bird species. Loss to the mature broad-leaved woodland behind Windemere Avenue and off Radley Lane should be avoided. The landscaping along the northern boundary is likely to function mainly as a noise and landscape screen rather than for public recreation or wildlife. Various conditions were suggested to protect nature conservation interests (**Document POE 11, appendix 11**).
300. **Warrington Council Education Officer** indicates that the preferred school for expansion would be Meadowside Primary and the maximum contribution would be £4.5m in accordance with the formula in the Planning Obligations SPD. The land for the new primary school would be required at nil cost in addition to the contribution. The secondary school identified for expansion is Padgate Academy or Beamont Collegiate Academy. The maximum contribution would be £3.492m (**Document POE 20, Appendix 3, page 24**).
301. **Warrington Council Archaeology Officer** has raised no objections, subject to a condition requiring a written scheme of investigation (**Document POE 20, appendix 1, page 22**).

302. **The Woodland Trust** withdrew its objection in relation to the impact of the proposed development on Radley Plantation on account of the proposed buffer planting. It has requested a contribution to mitigate the effect of increased public usage (**Document POE 20, appendix 1, page 23**).

PLANNING CONDITIONS

303. A schedule of planning conditions was drawn up by the Council and Appellant and comments were submitted by the Rule 6 Party. All main parties and Highways England took part in the conditions discussions, which took place at several round table sessions of the inquiry. In considering the conditions I have taken account of the various comments made as well as paragraph 56 of the Framework and advice in the Planning Practice Guidance. I have changed the suggested wording in some cases to ensure that the conditions are precise, focused, comprehensible and enforceable (**Documents INQ 39/A; INQ 39/B; INQ 39/C; INQ 51**).
304. The conditions that I commend to the Secretary of State if he wishes to grant planning permission are set out in Annex Three. The numbering does not accord with that within the aforementioned schedule as some conditions have not been recommended as I explain below. For the avoidance of doubt the condition numbers used hereinafter concur with those in Annex Three.
305. The Appellant has given written agreement to the pre-commencement conditions in the schedule but not to the suggestion of the acoustic barrier being erected at the outset. I discuss this below. In fact, the legislation states that a *pre-commencement condition* does not include a condition imposed on a grant of outline planning permission⁵⁹. In this case therefore written agreement would not be required (**Document INQ 39/L**).
306. It should be noted that since the close of the inquiry it has been confirmed that contracts have been exchanged for the Mill Lane playing field land between Homes England and the Appellant and that the former is now a signatory to the S106 Agreement. It may be recalled that the deliverability of the scheme was an issue at the previous inquiry and I expressed serious concerns about the suggested condition that sought to bind the interests in this land prior to any development commencing on the appeal site. Such a condition is not now necessary and so deliverability is no longer a concern.
307. **Conditions 1-3** are the required standard conditions for outline planning permissions. They have been adjusted to reflect the phased nature of the build-out and the intended 10 years construction period. **Condition 4** is necessary to ensure that the number of dwellings does not exceed the 1,200 specified in the planning application and on which the Environmental Impact Assessment was based.
308. For similar reasons, **Condition 5** sets out the floorspaces of the various commercial uses in the local centre. It requires the individual units not to exceed 200 m² and this is necessary to ensure that they would remain small-scale local facilities. The Rule 6 Party favoured a specific requirement for a Class

⁵⁹ Section 100ZA(8) of the *Town and Country Planning Act 1990*.
<https://www.gov.uk/planning-inspectorate>

D1 community use. However, as the Appellant pointed out, the sports hub would include a community centre. In these circumstances such a requirement could not be justified. The Rule 6 Party also did not consider that 200 m² would be sufficient in size for a medical centre. However, it is not intended that this facility would be provided within the local centre. It will be noted that the condition refers to use classes A and D, which no longer exist⁶⁰. This is because the planning application was made prior to the material date that the new provisions came into force and is thus subject to the transitional arrangements.

309. **Condition 6** sets out the plans to be approved at this stage, including the site location plan and the 6 plans showing details of the various access points into the site. Notwithstanding that this is an outline proposal, specification is necessary as access is to be determined at this stage. The Parameters Plan and Landscape Masterplan are not intended to be illustrative and they identify important elements of the scheme, which have been assessed in the Environmental Impact Assessment. To some extent they are indicative because they are not scalable plans. Nonetheless, **condition 7** is necessary to ensure that the detailed development accords generally with their provisions.
310. This will be a large urban extension on the northern side of Warrington. The Appellant is not a housebuilder and so the site is intended to be built out by a number of developers in phases. It will be noted that many of the conditions therefore refer to details specific to individual phases. Individual areas will undoubtedly develop their own identity, but it is also important to ensure that the development works well as a whole, both in its own right and also in terms of its integration with the residential area it adjoins. **Condition 9** therefore requires a phasing plan to present an overall picture of how the open spaces, affordable housing and play areas will be delivered across the site as a whole as well as the individual elements such as the local centre, sports facilities and community facilities.
311. The development plan does not include any policies relating to Design Codes. However, the Framework makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. The recently published *National Design Guide* and *National Model Design Code*, both referred to in paragraph 128 of the Framework, illustrates how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice. With that in mind it is necessary to require a detailed Masterplan and Design Code for the site having regard to the illustrative plans submitted for the local centre, primary school and sports provision. **Condition 8** suggested by the parties required formulation in accordance with the principles in the Design and Access Statement. This dates back to 2016 when the application was submitted. Whilst its principles would still be relevant, it seems to me to be appropriate to bring matters up-to-date by reference to the Government's publications referred to above.

⁶⁰ These use classes are now incorporated into Class E under the *Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020*. Under Regulation 4, they do not apply to an application made before 1 September 2020.

312. The proposal includes the relocation of the Mill Lane playing fields to a new site on the eastern side of the local centre. In order that local people do not suffer from a loss of recreation space, **Condition 11** is necessary to ensure that the new playing field is in place before the existing site is redeveloped for housing. Also, in advance of that redevelopment, **Condition 12** requires detailed information about ground conditions to ensure that the replacement playing field meets Sport England's quality standards. **Condition 10** applies to both the new playing field and the existing Radley Common Recreation Ground, which is to be upgraded. It requires a Sports Strategy that includes a detailed scheme for provision that is informed by the Council's playing pitch guidance. This will ensure that the pitches will not only be provided to the appropriate specification but will also reflect local need.
313. **Condition 13** requires a scheme to ensure the provision and retention of the public open spaces on the site other than the playing fields. This applies to the site overall to ensure a co-ordinated approach. The areas in question are shown on the Parameters Plan and detailed in the schedule in **Document INQ 9**. The location of children's play space would be included although the details of provision would be addressed at reserved matters stage.
314. The M62 AQMA extends about 50m into the northern part of the site. However, for the reasons given in paragraph 444 below I consider that it is only necessary for **condition 14** to require sensitive uses to be 30m away from the M62 boundary in order to ensure no undue risk of pollutant exposure (**Document INQ 39/G**).
315. **Condition 15** requires the new accesses to be in place before the development served by them is first occupied. This is necessary to ensure that new homes are provided with a satisfactory connection to the public highway. **Conditions 16-19** relate to off-site highway works at various junctions, including junction 9 of the M62. The need for this mitigation is considered in Consideration One of my Conclusions. The main parties and Highways England agreed to my suggestion that Grampian style conditions would be most appropriate. This avoids the Appellant having to submit details to the Council that would have to be provided to the local highway authority in connection with the Section 278 Highway Agreements. The conditions also include trigger points that relate to the point at which the mitigation is agreed to become necessary. **Condition 26** controls the gradient of all vehicular accesses in the interests of highway safety. The suggested condition requiring details of turning facilities is not necessary as this will be dealt with at reserved matters stage.
316. **Condition 20** covers the internal roads on a phased basis, mainly in terms of the technical details, which are needed in the interests of highway safety. The actual routes and connections to individual plots would be included in the reserved matters relating to layout. The Bus Gate is an important feature needed to ensure that buses can move through the site as part of the accessibility improvements. However, it is important to ensure that it does not become a through route between Blackbrook Avenue and Poplars Avenue by those seeking to avoid congestion further south. **Condition 21** is required to ensure that these purposes will be fulfilled in the interests of highway safety.
317. In order to encourage sustainable solutions and comply with the Government's objective of moving towards zero emission road transport, the provision of

electric charging points is necessary. This is covered by **condition 22**. Travel Plans are management strategies that seek to encourage sustainable travel. In particular they include measures to reduce the number of journeys that people make by car and encourage the use of other modes such as walking, cycling and the bus. A Framework Travel Plan was submitted in 2018, which sets out high level objectives and how they will be monitored and managed. **Conditions 24 and 25** sets out the requirement for detailed Travel Plans on a phased basis for residential and non-residential uses. These conditions are required as a means of improving the accessibility credentials of the site. A Travel Plan Coordinator is essential to ensure consistency and integration across the various plans.

Condition 23 requires the appointment to be on a site-wide basis. The Council offers such a service, but it not unreasonable for the Appellant to choose to use an alternative provider if it wishes to do so.

318. At the present time there is a post and rail fence along the boundary of the appeal site and the M62. This would not be adequate once the site is developed and Highways England is concerned to ensure that there is no pedestrian or vehicular access onto the motorway for safety reasons. **Condition 27** thus requires a 2m close boarded fence along the whole of this boundary before any development is commenced.
319. **Conditions 28-33** relate to drainage and ground water protection. Separate conditions address surface water and foul water drainage and it is made clear that the two systems should remain separate. In terms of surface water, condition 28 requires a site-wide strategy whilst condition 30 concerns the details for each individual phase. Condition 28 was discussed in some detail at the inquiry and a more focused form of wording was agreed by the Council and Appellant. The Rule 6 Party subsequently suggested further insertions, most of which I have included. These conditions are required to ensure that a sustainable system of drainage is achieved and that there is no increased risk of flooding to adjoining residential areas. Furthermore, Highways England require assurance that there is no compromise to the motorway drainage system for reasons of highway safety. The conditions take account of the comments of United Utilities, the Lead Local Flood Authority and Highways England (**Documents INQ 39/F; INQ 39/I; INQ 39/J; INQ 51**).
320. The January 2018 ES Addendum undertook a preliminary assessment to consider whether the proposed development would have an adverse effect on water quality in accordance with the Water Framework Directive. This assessment concluded positively. **Condition 33** is required to carry this forward and ensure that there would be no adverse effect on the water environment that may impact aquatic habitats and species, amongst other things.
321. **Condition 34** is necessary to ensure that each phase includes a housing mix that reflects housing needs identified by the most up-to-date *Strategic Housing Market Assessment*. The Rule 6 Party considered that the mix should be fixed in advance in order to ensure that there is an appropriate blend of affordable housing. However, that will be controlled through the S106 Agreement and the condition relates solely to the market housing. It seems to me reasonable to allow approval of the mix on a phased basis so that each housebuilder can submit their proposals. It is for the Council to ensure that this is reflective of housing needs before it gives approval. The terms of the S106 Agreement

ensure that the affordable housing will not be sited all in one place or concentrated on the noisiest parts of the site adjacent to the motorway.

322. **Condition 35** seeks to secure a safe and secure environment for future occupiers and users. The Design and Access Statement has indicated that the outline layout has been designed to accord with *Secured by Design: New Homes 2010*. However, this has been updated and there is also another guide for commercial premises. I have adjusted the wording of the condition accordingly. **Condition 36** is necessary to ensure that archaeological assets are properly investigated. The ES identified remains of local and possibly regional significance. There is no evidence to suggest that these have the potential to be nationally significant and therefore in situ preservation would be unlikely to be necessary. Whilst normally this would require a pre-commencement site-wide condition, I was informed by the Council that the Cheshire Archaeology Planning Advisory Service was content in this case for the investigation and recording to be undertaken on a phased basis.
323. It is necessary to ensure that future residents do not suffer from an adverse noise environment within their homes and outdoor amenity areas. The issue of noise and its mitigation is addressed under Consideration Two of my Conclusions. **Condition 37** sets out the noise levels to be achieved in accordance with the WHO guidelines and BS 8233:2014. The condition requires a design and layout led scheme informed by the principles of ProPG. The Rule 6 Party considered that the noise levels for outdoor amenity areas should be no greater than 50dB $L_{Aeq,16h}$. However, whilst BS 8233:2014 indicates that such a level is desirable it does not set a categorical limit but rather a guideline with an upper value of 55dB $L_{Aeq,16h}$, which could be acceptable in noisier environments. This is reflected in condition 37, which refers to exceptional cases where the higher level may be accepted (**Document INQ 39/E**).
324. **Condition 38** relates to the assessment and mitigation of noise from Peel Hall Farm Kennels, having regard to the Agent of Change principle and the need to ensure that the business operation is not unreasonably fettered. **Condition 39** requires a validation report for any dwelling to which these two conditions apply. Whilst the suggested condition only applied to condition 37 it seems to me that validation should also apply to condition 38 as well. I have changed the wording accordingly.
325. **Condition 40** requires the erection of an acoustic barrier to deflect noise from the M62. There was a great deal of debate at the inquiry about whether the structure should be erected prior to any development taking place or whether it should be phase related. The Rule 6 Party were strongly of the former view whereas the Appellant favoured the latter position. The Council was also content with a phased construction.
326. I can appreciate that not all areas would need the barrier in place to benefit from an acceptable noise environment. The southern parts of the site and the Mill Lane playing field area are likely to be cases in point. In the circumstances, it is difficult to conclude that the erection of the barrier in total at the start of the development process would be reasonable or necessary. This is especially in view of the safeguards provided by condition 37. In the circumstances I consider that the condition agreed by the Council and the Appellant, which requires submission of a method statement that would establish the parameters

for construction, phasing and future maintenance, would be satisfactory for the reasons given in paragraph 418 below.

327. A new access is proposed from Blackbrook Avenue, which would serve up to 700 dwellings. The noise evidence has confirmed that mitigation would be required between this road and the northern site boundary which adjoins residential properties along Mill Lane and Radley Lane. **Condition 41** includes the necessary provisions for a suitable noise barrier to be provided in advance of the construction of the road. The Rule 6 Party wish to see a provision that the barrier is independently tested to ensure that it provides the relevant attenuation before it is constructed. This seems to me to be unnecessary because the condition specifically requires that the Council approve the scheme that provides the necessary level of attenuation. Clearly if that attenuation is not provided by the barrier once constructed then the development will be in breach of the condition and action can be taken to ensure compliance (**Document INQ 39/K**).
328. **Condition 42** is required to ensure that the plant and equipment associated with commercial premises within the local centre are sound insulated to avoid harmful impacts to nearby residential properties. This includes the pumping station, which is also within the site boundary. The provision would apply to new homes as well as existing dwellings close to the site boundary.
329. There are invasive species on the site, including Japanese Knotweed and Himalayan Balsam. These are notifiable species that need to preferably be eradicated or otherwise strictly controlled to prevent spread into residential environments, amenity spaces and watercourses. **Condition 43** includes the necessary provisions.
330. The Appellant anticipates that the development would take 10 years to build out. This is a long period of time for those living within the adjoining residential areas who would inevitably be subject to disruption and inconvenience. The impacts cannot be eliminated but they can be made more tolerable if they are properly managed. **Condition 44** requires a Demolition and Construction Management Plan to be submitted for approval for each phase. Amongst other things this will control the hours of working and deliveries; where plant and materials are unloaded; provision for the parking of site operatives; how dust is managed and streets are kept clean; and how existing houses are to be protected from undue noise and vibration. The building contractors should also belong to the Considerate Constructors Scheme, which itself contains certain safeguards as its title suggests. The site contact details should be clearly evident in order that any issues arising can be promptly dealt with.
331. Construction can also have an adverse effect on sensitive habitats and ecology and there are several conditions that seek to address this. **Condition 45** requires a Biodiversity Demolition and Construction Environmental Management Plan to be submitted for approval on a site-wide basis prior to any development or site clearance taking place. **Condition 47** seeks to ensure that in each phase the retained trees and hedges are protected. Although a badger survey has been undertaken, it is recommended by the Appellant's ecologist that there is an updated check and this is covered by **condition 48**. In view of the length of the construction period, it makes sense for this to be on a phased bases to ensure that it is current for each stage of the development.

332. **Condition 46** requires a Landscape and Ecological Management Plan to be submitted for each phase to ensure that once construction has taken place important features are retained or created and subsequently managed and maintained. There is no reason why the wildlife interest of the site should not be enhanced in the longer term. Whilst a Habitat Management Plan was also suggested it was agreed that this was unnecessary as it was largely repetitive of the provisions in condition 46. **Condition 49** requires a biodiversity offsetting scheme to achieve net gain in accordance with paragraph 174 of the Framework.
333. **Condition 50** requires a Servicing and Waste Management Strategy to be submitted. It was clarified that this related to the commercial elements of the scheme. As some phases may include both residential and commercial uses it was agreed that the wording should be made specific to the particular uses in question. The requirement is necessary to ensure that the site is properly managed, residential amenity is protected and public health risks are avoided. External lighting can be particularly harmful to bats and other nocturnal animals as well as causing detriment to nearby residential occupiers. **Condition 51** requires a Lighting Design Strategy for each phase, which identifies sensitive areas and how adverse impacts will be ameliorated. **Conditions 52 and 53** relate to contamination and require a series of actions depending on what is revealed. The ES identifies a low risk due to the past use being mainly for agriculture, although it identifies small pockets where contamination may be present. The approved strategy will include the removal of asbestos in a safe manner as raised by the Rule 6 Party. The conditions adopt a precautionary approach, which is justified in view of the future residential use of the site (**Document INQ 39/E**).

THE PLANNING OBLIGATION BY AGREEMENT (the S106 Agreement)

334. The planning obligations are contained within a fully executed Deed dated 10 May 2021. The signatories include Warrington Borough Council, the Appellant company and Homes England. They also include the freehold owners of the residential properties in Poplars Avenue required to be demolished for the purposes of providing access. The various interests are explained in clause 3 (**Document INQ 63**).
335. Clauses 7.11 and 7.12 contain the "blue pencil" clauses whereby a planning obligation will cease to have effect if the Secretary of State concludes that it does not comply with the CIL Regulations. The Council has adopted a *Planning Obligations* SPD, which includes justification for the financial and other obligations that the Council seeks in order to support development within the Borough. This document has been subject to consultation and was adopted in January 2017 (**Document CD LP 14**).
336. I am satisfied that the S106 Agreement is legally correct and is fit for purpose. It can therefore be relied upon to deliver its commitments. However, a consideration of whether the obligations meet the statutory requirements and can be taken into account in any grant of planning permission, will be considered within my conclusions at Consideration Six.

337. There are 6 schedules and 6 plans and appendix 1 contains the Council's precedence nomination agreement. The main obligations are in schedules 4-6 as set out below.

FOURTH SCHEDULE: THE OWNERS' COVENANTS

338. There are various covenants relating to the payment of financial contributions:

- a) **Primary School Contribution** – up to £4.5m (calculated in accordance with the Planning Obligations SPD formula and the number of completed dwellings in the phase with at least 2 bedrooms)

50% to be paid prior to or on occupation of 350 dwellings

50% to be paid prior to or on occupation of 600 dwellings

- b) **Secondary School Contribution** – up to £3.492m (calculated in accordance with the Planning Obligations SPD formula and the number of completed dwellings in the phase with at least 2 bedrooms)

No dwellings in a phase can be occupied until the Council has been requested to provide an Educational Review to determine the capacity of non-fee paying schools in the area. The relevant contribution for the phase will be paid within 20 working days of completion of the Educational Review for the phase.

- c) **Off-site Primary School Contribution** – up to £4.5m (calculated in accordance with the Planning Obligations SPD formula, the number of completed dwellings in the phase with at least 2 bedrooms and the existing capacity in the area)

This will be payable if the primary school is not being provided on-site. No dwellings in a phase can be occupied until the Council has been requested to provide an Educational Review to determine the capacity of non-fee paying schools in the area. The relevant contribution for the phase will be paid within 20 working days of completion of the Educational Review for the phase.

- d) **Highways Contribution**

A49 Contribution - £50,000 (calculated in accordance with actual costs of provision)

A50 Contribution - £90,000 (calculated in accordance with actual costs of provision)

These contributions are to be paid prior to the occupation of the 300th dwelling. The A49 works entail works to the junction with Winwick Road and Long Lane including MOVA supply and validation, works to the controller, civils ducting and loop cutting and traffic management. The A50 works entail works to the junction with Hallfields Road and include the same items.

Delph Lane Contribution - £35,000 (calculated in accordance with actual costs of provision)

This contribution is to be paid prior to first occupation of the development for highways improvements such as priority working, signing and lighting.

There is a specific clause that these 3 contributions must be expressly confirmed by the Secretary of State as compliant with Regulation 122.

- e) **Bus Infrastructure Contribution** - £50,000 (calculated in accordance with actual costs of provision)

This relates to provision of bus stops, passenger waiting facilities and bus priority measures within the development to deliver quality extensions to the Number 20 and 25 bus services.

The contribution is to be paid within 10 working days of occupation of the development.

- f) **No 20 Bus Contribution** - £585,000 (less any income) (calculated in accordance with actual costs of provision)

£117,000 to be paid prior to the occupation of the 180th Poplars Avenue dwelling, as defined on Plan 5 of the Deed. A further 4 similar contributions to be paid annually thereafter. This is to extend or create a bus service into the development via Poplars Avenue.

- g) **No 25 Bus Contribution** - £530,000 (less any income) (calculated in accordance with actual costs of provision)

£106,000 to be paid prior to the occupation of the 180th Mill Lane dwelling, as defined on Plan 5 of the Deed. A further 4 similar contributions to be paid annually thereafter. This is to extend or create a bus service into the development via Mill Lane/ Blackbrook Avenue.

- h) **Health Contribution** – up to £925,000 (calculated in accordance with the Planning Obligations SPD formula and the number of completed dwellings)

To be paid on a phased basis for the purposes of providing or contributing towards a health centre within usable distance or its future expansion or services. There is a specific clause that it must be expressly confirmed by the Secretary of State as compliant with Regulation 122.

The payments are to be on a phased basis on the basis of £771 per dwelling. The sum is to be paid no later than the occupation of 50% of dwellings in the phase.

339. There are various other covenants as follows and the main points are:

- a) **Affordable Housing**

30% of dwellings are to be affordable within the site and to be delivered in

accordance with a delivery plan which establishes the amount, size, type, tenure mix and distribution in each phase. The tenure mix overall is affordable rent and intermediate dwellings in equal proportion. The delivery plan must be submitted and approved before any housing construction begins.

Each phase is also required to submit its own delivery plan and should aim for a minimum of 30% per phase. Any under provision on a phase must be made up over the scheme as a whole by the completion of development.

Delivery is related to the occupation of 50% of the market housing on the phase. There are also provisions relating to the transfer to a Registered Provider.

b) Off-site affordable housing

This provision only comes into effect if the Council and Owners are in agreement. It relates to land on the corner of St Austins Lane and Barbauld Street within the town centre that is in the ownership of the Owners.

In order to trigger this provision, planning permission must have been granted for the development of affordable housing on the site. A maximum of 100 units could be provided and off-set against the on-site provision. The tenure mix would be the same as for the on-site provision. There would also be a requirement that the off-site units should be built and transferred to a Registered Provider before any more than 50% of the market homes on the appeal site are occupied. This would all be controlled through a separate legal agreement between the Owners and the Council.

c) Public open space

Provision is made for a **Management Company** to manage and maintain the public open space and SuDS unless any of these areas are adopted by a statutory undertaker or public body. The details, including funding measures, are to be submitted for prior approval by the Council.

Provision is made for public use of the **open space** and provisions for its management on a phased basis with a management scheme to be approved by the Council. These provisions do not include the sports pitches or playing fields. Once completed it is to be inspected by the Council and a certificate issued that the various details required by the planning conditions relating to quality and standard have been achieved.

Once the **sports pitches and the replacement playing fields**, treated separately, have been completed, they shall be inspected by the Council and a certificate issued that the various details required by the planning conditions relating to quality and standard have been achieved. Thereafter the facilities shall be transferred to the Council to manage and maintain for the benefit of the public.

The community building and changing facilities shall be completed prior to the occupation of more than 400 dwellings. From this point these facilities will be operated and maintained by the Council for public use.

d) The School

The primary school site shall be reserved for that purpose during the construction period. There is the provision to move it elsewhere within the site if the Council (to include in this section a school operator or Government body) and Owners agree, apart from on the Homes England land.

No occupation shall take place until the Owners have requested whether the Council require the primary school to be delivered on the site and the response is required within 6 months otherwise the occupation restriction falls away. If the Council does not require the site or does not respond within 18 months, then the site reservation provision falls away. In these circumstances the Owners will pay the Off-Site Primary School Contribution (see paragraph 335 c) above).

If the Council confirms a primary school is required on the site, the prepared and serviced land should be transferred before more than 350 dwellings are occupied. The Council will endeavour to seek Government funding for the construction of the school. The Primary School Contribution is to be paid in accordance with the relevant instalments (see paragraph 335 a) above). Once the final number of dwellings on the site is secured, the Owners can request a contribution review and a settlement accordingly.

The school site can be used for any purpose that does not entail a permanent building until it is needed for the school.

e) TCAT Schools Works

TCAT means The Challenge Academy Trust and its schools are Beaumont Collegiate Academy and Padgate Academy. In this section it can also mean other TCAT schools or another school operator, if the Council agrees.

Before any development of the appeal site is commenced, the Owners, TCAT and the Council must enter into a separate Deed to secure an agreed schedule of works. If this does not happen, the Secondary School Contribution is triggered (see paragraph 335 b) above).

Financial contributions will be made to secure the works involved in the schedule, up to a maximum of £3,492,000. The first payments will be made for 12.5% of the agreed cost within 20 working days of occupation of the 100th dwelling. Thereafter 12.5% will be paid after occupation of each further 100th dwelling. The final payment will relate to the occupation of the 800th dwelling.

f) Off-Site Highway Mitigation Scheme

This relates to works associated with possible impacts to an area to the south of the appeal site defined on Plan 6. Suggested mitigation works includes legal orders to extend the 20 mph speed limit; road humps; traffic calming signage; verge parking bays; uncontrolled crossing points; carriageway cycle markings and road safety audits amongst other things.

The mitigation scheme is to be submitted and approved before any dwellings are occupied

FIFTH SCHEDULE: THE COUNCIL'S COVENANTS

340. Compliance with the various obligations relating to the holding, use and repayment of the financial contributions that it receives.
341. Accept the transfer of the sports pitches and playing fields.
342. Where it confirms that the primary school is to be located on the site, it will accept the transfer of the land, complete the school and commence its use no later than the occupation of the 900th dwelling. Where the Council is unable to construct or procure construction of the primary school despite its best endeavours, the land will be transferred back to the Owners and the Primary School Contribution will be applied (see paragraph 335 a) above).
343. Provide evidence from the bus operator that the bus contributions have been used for the purposes specified in the Deed.
344. Carry out the Education Review, Primary School Contributions Review and issue any required certificates, expeditiously.
345. Grant all necessary access rights to the Owners where necessary to comply with obligations in the Deed.

INSPECTOR'S CONCLUSIONS

The numbers in square brackets refer back to earlier paragraph numbers of relevance to my conclusions

346. Taking account of the oral and written evidence to the inquiry and my site observations, the main considerations in this appeal are as follows:
 - **Consideration One: The effect of the proposed development on the safety and efficiency of the local and strategic highway network and the character of the area to the south of the site**
 - **Consideration Two: The effect of the proposed development on the noise environment both within the site and in the surrounding area**
 - **Consideration Three: The effect of the proposed development on local air quality**
 - **Consideration Four: The contribution that the site would make to housing land supply in the short to medium term**
 - **Consideration Five: Other matters**
 - **Consideration Six: Whether any conditions and planning obligations are necessary to make the development acceptable**
 - **Consideration Seven: Overall conclusions and planning balance to determine whether the proposal would be a sustainable form of development**

PRELIMINARY MATTERS

347. The Rule 6 Party, the local MP and many objectors were opposed to holding the inquiry virtually. I considered that this was the only way to proceed with any

certainty. I am satisfied that the process was open, fair and transparent and whilst it was not everyone's choice to proceed in this way, it is to the credit of all participants that they engaged with the process positively. Whilst there will undoubtedly be some who were unable or unwilling to give their views on-screen, it seems likely that there would have been others unprepared to risk attending a face-to-face event. I am confident that I heard and understood all of the evidence necessary for me to produce a complete and soundly reasoned Report and recommendation to the Secretary of State [9-13].

348. It became clear from very early on in the inquiry that there was an issue with the Appellant's VISSIM highway modelling and that the matter was not going to be resolved before its planned close. There was opposition from objectors to allowing the Appellant more time to sort things out. I can understand their frustration, especially as there had been a lengthy adjournment allowed at the previous inquiry for further highway work. However, I concluded that it would not be in the public interest to continue on the basis of known flaws in the modelling and that the opportunity should be afforded to the Appellant to correct the errors. For this reason, I agreed to adjourn the inquiry until March 2021, although evidence on other matters was heard as planned. I am satisfied that the process was open, fair and transparent and that no-one was unduly prejudiced [5].
349. The Rule 6 Party considers that the western part of the appeal site, formerly Winwick Farm, is within the Green Belt for the reasons given in its evidence. However, the Unitary Development Plan is no longer extant as it has been superseded by the CS. The Policies Map to this document clearly shows the Green Belt boundary running north of the M62. Furthermore, these boundaries are referred to in policy CS 5. It is clear that there was no consultation or a review of the Green Belt boundary in respect of Winwick Farm as part of the evidence base to the CS. However, this of little relevance now because there was no legal challenge to the plan on these grounds following its adoption in 2014. It seems to me that Winwick Farm was recognised as an anomaly following the removal of most of the appeal site from the Green Belt as a result of a successful High Court Challenge in 2007. Indeed, the judgement made it clear that the extent of the Green Belt had been fixed by the higher-level Cheshire 2001 Structure Plan, which shows it to the north of the M62 corridor. In the circumstances it is unsurprising that the situation was rectified by the CS. None of the appeal site lies within the Green Belt and there is now no recourse in law to review that position [145; 161; 185; 186].

CONSIDERATION ONE: THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE SAFETY AND EFFICIENCY OF THE LOCAL AND STRATEGIC HIGHWAY NETWORK AND THE CHARACTER OF THE AREA TO THE SOUTH OF THE SITE

Introduction

350. The Council's objections to the appeal scheme now relate solely to highway matters⁶¹. It has two main concerns. The first relates to the effect of increased congestion and delay on Sandy Lane West and roads off the SLW roundabout.

⁶¹ This is other than the issue of the healthcare contribution, which I consider in paragraphs 498-503 below.

The second relates to the effect on the safety, efficiency and character of the road network within the residential area to the south of the site. These concerns were endorsed by the evidence of the Rule 6 Party and the impact of more traffic was also a matter raised by many local people who spoke at the inquiry or submitted written objections. The overall conclusion was that the proposed development would have an unacceptable impact on highway safety with severe cumulative impacts on the road network. It was consequently considered contrary to the development plan and paragraph 111 of the Framework [166].

351. It is clear that Warrington is a town that has experienced considerable growth and also suffers from a congested road network, especially in peak periods. The A49 provides a main route from the M62 to the town centre and access to a number of major traffic generators, including the Halliwell Jones rugby stadium and Junction Nine Retail Park. Traffic build up along its length is well documented. The Warrington Fourth Local Transport Plan (LTP4) records problems of congestion, higher than average levels of car use and longer journey times than many other adjacent authorities. Local people who spoke at the inquiry referred to these issues and particular problems affecting the wider road network when accidents or hold-ups occur on the motorways [71; 249; 253; 261; 262; 264; 269; 270; 281; 285].
352. Various access strategies relating to the appeal site have been considered as an alternative to what is now proposed. These have included a route through the site connecting the A49 and Mill Lane (Option B); access from the A49 and Mill Lane with no through route (Option B2); and a single access off Blackbrook Avenue with an internal loop road (Option C). These options have all been rejected for various reasons by the Council and Highways England and the situation has not changed since the scheme was considered at the previous inquiry. There is no evidence that there are any viable alternative strategies to access the site apart from that currently being proposed (Option A) [89-91].

The previous Inspector's concerns

353. At the previous inquiry there was detailed evidence given on highway matters. The Inspector's primary concern was that the traffic modelling was out-of-date. This was because the bespoke transport model (the Peel Hall Saturn model) was based on origin destination data within the superseded Warrington Multi Modal Transport Model 2008 (WMMTM 2008). As I understand it the updated version of this model (WMMTM 2016), became available shortly before the start of that inquiry. This used more up-to-date survey material and formed part of the evidence base for the emerging Local Plan. On the basis of the evidence he had before him, my colleague concluded there was insufficient certainty that the traffic impact arising from the proposed development would not have unacceptable impacts on the safety and efficiency of the highway network. [167].
354. He was also concerned about the effect of the additional traffic on those roads leading in and out of the residential area to the south of the site. He considered that some would become busier, noisier and maybe more difficult to cross and hence less pleasant routes along which to walk or cycle. He commented on the change in nature of the traffic as a result of heavy vehicles generated by the development. He was unconvinced by the proposed extension of the 20 mph speed limit due to the uncertainty in securing it. [167].

355. There were also comments about the suitability of Birch Avenue to access the 20 dwellings on the western part of the site. The conclusions that were reached on highways matters were not successfully challenged and are therefore a material consideration to be taken into account.

The traffic modelling

356. The Appellant has now submitted new traffic evidence based on the use of the Council's WMMTM 2016 Saturn model, cordoned around an agreed study area (the Peel Hall WMMTM 16). It uses the most recent origin destination data and trip distributions for the cordoned area. Commitments have been included such as Junction 9 Retail Park, Parkside Phase 1 and Birchwood Park. However, this will be an evolving picture and other projects will undoubtedly come on-stream as time goes on. The future year scenarios are 2022 (the assumed opening year), 2027 and 2032 (the assumed completion year). For each year there is an assessment without and with development (the DM and DS scenarios). A Transport Assessment Addendum was submitted in March 2020 and this reflects the Appellant's updated transport work [78].
357. The trip rates for the proposed development are derived from the TRICS database and are similar to those used in the development of Omega South at junction 8 of the M62. It should be noted that these are higher than the trip rates for the adjoining area to the south of the appeal site where car use is relatively low. The trip generation during the morning and evening peak periods and its assignment to the various site accesses were agreed with the Council. It is to be noted that there has been no discount for potential modal shift as a result of the Travel Plan measures or the bus mitigation. This is considered further in paragraphs 467-472 below.
358. A number of junctions were agreed with the Council for more detailed stand-alone modelling⁶². The Council is satisfied with the junction capacity models and there is no evidence that this assessment is anything but robust. The modelling indicated that most of the junctions would operate well within capacity in the DS 2032 scenario. For those where the ratio of flow to capacity was above 85% a package of mitigation measures is proposed. These include junctions at Myddleton Lane/ Delph Lane and Hallfields Road/ A50. Also included is the roundabout at Hilden Road/ A50 / Poplars Avenue. I consider the justification for the mitigation below. The Council is satisfied that the various improvements would satisfactorily address the development impact on those junctions [78].
359. The 3.5 km section of the A49 corridor either side of junction 9 of the M32 was modelled separately using a cordoned VISSIM microsimulation model. This allowed the interaction between its various junctions and intersections to be assessed, including queueing and delays during the weekday morning and evening peak periods⁶³. The VISSIM model is based on data from the Peel Hall WMMTM 16. At an early stage the cordon was extended with the agreement of the Council to include a larger section of the A50 to the roundabout junction

⁶² These did not include the junctions in the VISSIM network.

⁶³ The weekday morning peak is defined as 0800-0900 with a warm-up from 0700 and a cool-down until 0930. The evening weekday peak is defined as 1700-1800 with a warm-up from 1600 and a cool-down until 1830.

with Hilden Road and along Cromwell Avenue for a stretch of about 1 km. I was told at the inquiry that this was to allow demand to enter the model on account of existing delays on these sections of the network. The 2019 base VISSIM model was agreed by Highways England and the Council as fit for purpose in November 2020 [92].

360. The 2032 VISSIM modelling indicated that generally the primary and strategic road network coped satisfactorily in the DS scenarios. However, development impacts were identified at a small number of junctions. Proposed mitigation includes an upgrade to the traffic lights at the A49/ A50 junction; improvements to the A49/ Cromwell Road junction; widening of the eastbound on-slip to junction 9 of the M62 and associated works; provision of a ghost right turn lane to the A49 at the Golborne Road junction. I consider the justification for the mitigation below. The Council is satisfied that the various improvements would address the impact on those junctions. [93].
361. The Council raised concerns about the outputs on the link between Junction NINE Retail Park and Sandy Lane West. Here the VISSIM model produces negative results in the future year scenarios whereby the total number of trips assigned, which include the trips arising from the proposed development, were smaller than the trips from the proposed development alone, even though they included them. There was no clear explanation as to why this unexpected outcome happened. It seems to me reasonable to surmise that on this particular link the very low number of trips and consequent relatively high proportionate growth in the future year scenarios without the development has resulted in an unexpected result that should not be relied upon. There is no allegation that this situation has occurred in any other of the links and despite raising it in evidence, the Council concluded that it was a technical issue and not a substantive point that would affect the outcome of the appeal. I therefore consider it no further.
362. A great deal of time was spent at the inquiry considering the extensive amount of highways evidence as it now stands. In most respects I am satisfied that the future year's modelling is fit for purpose and can therefore be confidently used in assessing the impact and proposed mitigation of the proposed development in terms of the safety and efficiency of the highway network. In this regard it is considered that the concerns of the previous Inspector have been addressed. However, there is an issue with reconciling the growth assigned by the two models. This has implications for the assessment of impacts on the SLW roundabout, as I explain further below.

Setting the scene

363. Traffic movement through North Warrington is constrained by the lack of main routes between the eastern and western side of the town. When the New Town was conceived over 50 years ago, the plan was to link the new housing and employment areas to the existing road system by a dual carriageway expressway running east to west. However, this was never built. Traffic movement between communities such as Cinnamon Brow, Birchwood and Locking Stumps and connections to the employment and retail areas west of the A49 and south of the M62, therefore relies on a road network that was not designed for the level of traffic that it now carries. [725 241; 269; 274; 276; 288].

364. The agreed traffic flows are derived from the Peel Hall WMMTM 16 cordon model operated by AECOM on behalf of the Council. The forecast flows within this area is shown to increase substantially in the DM scenario by 2032. The supposition is that a large part of this growth is derived from trips originating outside the local area for the reasons given above. The Appellant sought to demonstrate this by reference to 4 loading zones, which were considered to capture the main points where traffic travelling south in the 2032 DM scenario was likely to enter the network. In the 2032 morning peak hour the modelling indicates that on Sandy Lane West only about 23% of trips will originate from within the local area. In the 2032 afternoon peak hour the figure will be about 15% [74; 78; 87; 88; 171; 172].
365. The question was raised as to whether the four loading zone nodes chosen for this exercise were sufficient or whether traffic could enter the network from other zones. Indeed, I queried this myself. However, the choice of loading node zones was made by AECOM and as it commented, the zones that are considered relevant are a matter of judgement. The 4 loading zones in question looked to me to provide a reasonable coverage of where traffic travelling south is likely to enter the network and it was confirmed by AECOM that they did not include development traffic. I heard no evidence that led me to believe that AECOM's judgement was unsound in this respect. Whilst the Council considered that the best way to find out where the traffic is coming from was by using origin destination data, I am satisfied that the assessment undertaken is sufficient to demonstrate that much of the forecast growth will derive from outside the network area [87; 88; 172].
366. There was some objection to calling this "rat-running" traffic because that carries a connotation that it derives from drivers taking a short cut and should not be there. In reality there is little choice in terms of east to west movement and many journeys have few available choices for the aforementioned reasons [241].

The effect of the proposed development on the safety and efficiency of the highway network

367. In terms of assessment, the 2032 scenario is the most informative. On the assumption that development would commence in 2022 with a 10 year build out period, this would be the time when the full development impact would be evident.
368. Journey times and how long it takes to travel from one place to another is of particular importance in the real world. The Peel Hall WMMTM 16 provides an overall picture of forecast delays over the whole cordoned network in 2032 with and without the proposed development. Overall, the increase in average journey time as a result of the development in 2032 would be relatively small. It would be greatest in the morning peak hour and amount to about an additional 24 seconds or an increase of around 5%. However, there is no dispute that on certain routes congestion and journey time delays would be much more noticeable [75].
369. A great deal of time was spent at the inquiry on the issue of latent delay, which is delay to traffic stuck outside the network. Across the modelled VISSIM network as a whole it was agreed that the impact as a result of the development

would be about 3%. This would be relatively small over a length of highway 3.5 km in extent. Whilst the development traffic would thus be responsible for some extension to peak conditions, the evidence indicates minor increases overall in terms of journey time delay [93; 94; 98; 178; 236].

The strategic route

370. The M62 is the responsibility of Highways England. It initially objected to the appeal proposal in terms of impacts on the motorway as a result of increased congestion at junction 9. However, during the inquiry its objections were withdrawn, and it is satisfied that the proposed mitigation would satisfactorily address the impact of development traffic on the strategic highway network. Condition 19 requires widening of the eastbound slip road and associated works, including Road Safety Audits [95; 96; 295; 315].
371. It is to be noted that Highways England uses the 2022 scenario, which assumes full development traffic in the opening year. This is in accordance with Department of Transport Circular 02/2013 *The Strategic Road Network and the Delivery of Sustainable Development*. The proposed mitigation is necessary to ensure that the safe operation of the strategic network is protected following development [97].

The primary routes

372. These comprise the A49 and the A50. Generally, the VISSIM modelling indicates that the development traffic would have very little impact on forecast traffic flows. As mentioned above there are a small number of junctions where improvements are proposed. In the S106 Agreement there are contributions of £50,000 and £90,000 towards works to upgrade the MOVA traffic signals on the A49/ A50 junction and the A50/ Hallfields Road junction. The Council supplied a schedule of costs for each scheme and I have no reason to dispute its contents. Delays along the A50 would be relatively small as a result of the development traffic. Nevertheless, it seems to me from the evidence I was given that these works would be a necessary response and provide appropriate mitigation [103].
373. The proposed improvement to the A49/ Cromwell Road junction would be controlled through condition 16. It would entail the provision of lane widening on the northbound approach from the A49 thus encouraging safer movement at the junction with Calver Road. From the evidence I am satisfied that there is justification for such improvement in the interests of highway safety [106].
374. Keep clear markings are proposed at the junction of the A49 and Goldborne Road. Whilst the TAA indicates that this mitigation cannot be modelled it is considered necessary to assist the clearance of right turning traffic from Goldborne Road travelling northwards. Whilst the development traffic would only play a relatively small part in the increase in forecast flows at this point there would be an impact that it is reasonable to mitigate. The improvement is controlled by condition 17.

The local network: Delph Lane and Myddleton Road

375. There have been longstanding local concerns about traffic issues in the Winwick area and particularly Delph Lane and Myddleton Road. The Council has indicated that it is in the process of considering a variety of traffic management and

traffic calming schemes in the area, including Traffic Regulation Orders to prohibit heavy lorries [259; 278; 315].

376. Delph Lane is a relatively narrow road with a limited corridor width and several nasty bends. There are footways in places, but they are often overgrown. The speed limit is partly 40 mph and partly unrestricted. I drove down it on several occasions in both directions and appreciate its shortcomings. Several local residents who spoke at the inquiry indicated that it was frequently used by heavy lorries seeking a shortcut and large agricultural vehicles. They also commented that it becomes congested with queueing at peak periods [256; 257; 261; 283].
377. The Council submitted a drawing for a scheme of traffic calming measures along Delph Lane⁶⁴. This has been costed at £95,000 and includes making legal orders and a road safety audit. It is appreciated that there are difficulties with a proposal of this nature because access for agricultural and emergency vehicles has to be maintained. The main problem though is the justification for the £35,000 contribution in the S106 Agreement. Whilst the Council has done its best with producing a cost estimate, there is no explanation as to why this proportion of the total would be fair or reasonable. It might be too much, but it also might be too little. Furthermore, it would appear that the works are likely to happen regardless of the development and it is therefore difficult to conclude that the obligation passes the test of necessity. Finally, I am far from clear whether this particular scheme will go ahead as its final design and extent does not appear to have been finalised. In the circumstances I cannot conclude that the obligation would comply with Regulation 122 of the CIL Regulations.
378. The evidence indicates that the priority junction with Myddleton Lane is already operating at capacity in the morning peak hour and that by 2032 there would be a substantial increase in queueing. This would happen as a result of traffic growth but would also be made materially worse as a result of development traffic, notwithstanding that the higher proportion of development related traffic would travel south from the eastern site accesses. It is proposed to provide a signalised junction and, whilst this would not eliminate queueing it would reduce it and increase junction capacity. The works would be controlled by condition 17 and seem to me to be necessary as mitigation of the development impact.
379. The junction of Golbourne Road and Myddleton Road is already operating at capacity with significant queueing during the morning peak hour in particular. In 2032 this would increase considerably as a result of traffic growth and conditions would be likely to worsen as a result of development traffic. Condition 17 includes widening to provide a ghost right turn lane, which would increase capacity and result in improvements to traffic flows through this junction.

The local network: Sandy Lane West, the SLW roundabout and the approach roads

380. For development traffic travelling in a westerly direction, the shortest way to reach the primary road network would be along Sandy Lane West. An alternative but longer route would be via the A50. These two entry points take road users south into the town centre, north to the motorway network or west

⁶⁴ Document INQ 57.

to the various employment and retail areas.

381. In the 2032 DS scenario, the Peel Hall WMMTM 16 indicates westbound flows along Sandy Lane West of about 503 movements in the morning peak hour and 638 in the evening peak hour. The development traffic would amount to some 107 movements in the morning peak hour and about 91 movements in the evening peak hour or about 21% and 14% of the total respectively. These would be similar proportions to those derived from within the local area. Put another way, the appeal development would add about 1.5-1.8 vehicular movements per minute on the basis of the modelled outputs. Even with the development in place, this indicates that most of the increase in journey time would result from the growth in through traffic [**80; 99**].
382. The Peel Hall WMMTM 16 shows no queues along Sandy Lane West or the roads leading into the SLW roundabout during the 2032 peaks either with or without development. However, it is clear from empirical evidence, including that given by local people and the Rule 6 Party, that there is congestion within this area at the present time and that slow moving and queuing traffic stretches back along the entry roads to the SLW roundabout at busy periods. [**101; 239; 257; 275**]
383. VISSIM paints a rather different picture. In the DS 2032 scenario, it indicates a 1,400m queue from the Sandy Lane West stop line along Cleveland Road and into Poplars Avenue. Furthermore, at the end of the evening peak hour the model shows a further 98 vehicles at the back of the queue waiting to get into the network. However, the agreed model network only extends for the 300m link of Sandy Lane West. Beyond the roundabout it merely assigns all traffic to a straight-line link. The 1,400m queue is thus an artificial construct and, in reality, traffic would be distributed between Cotswold Road, Cleveland Road and Sandy Lane and the side roads connecting to them. Furthermore, the 98 vehicles waiting to access the network would similarly be distributed. The problem is that VISSIM gives no indication as to the details of this distribution [**98; 174; 178; 236**].
384. The Council opined that the VISSIM model should have been extended in order to investigate this issue. The Appellant countered that the main purpose of VISSIM was to assess the impacts on the primary and strategic routes. The extent to which this includes local roads feeding into this network though seems to me to be a matter of judgement. Whether or not the extension was requested by the Council, I consider that it would have been a good idea as there was clearly an issue to resolve. Furthermore, there has been no stand-alone modelling of this roundabout. The Appellant's assertion that had there been this would have shown the junction to operate satisfactorily and within capacity is largely unevicenced [**98; 175; 177**].
385. A particular concern of the Council was that the SLW roundabout would block as a result of the queuing along the approaches. Cotswold Road and Sandy Lane are bus routes for the 20 and 21 services, which serve a wide residential area, including that to the south of the appeal site [**175**].
386. The Peel Hall WMMTM 16 presents the flows on each of the links feeding in to the SLW roundabout for the DM and DS scenarios. It shows that the development flows as a proportion of the total in the 2032 peaks would be relatively low. However, as indicated above this model does not suggest an

issue with queuing either now or in the future, despite the fact that it currently exists. It became clear from the evidence to the inquiry that the outputs from the 2 models were not easily interchangeable. The differences appeared to arise from the different base years and the application of a growth factor to VISSIM in order to try and reconcile the two sets of flows. The Appellant's expert witness indicated that VISSIM contained about 50% more traffic than the Peel Hall WMMTM 16. He thought the true position was likely to be somewhere between the two but was unable to define the extent of the difference [80; 99; 174].

387. Drawing this together it is clear that within this discrete part of the local network there are existing queues, which are likely to get considerably worse by 2032. The VISSIM modelling does not indicate how the additional traffic or any latent delay would be distributed along the approach arms to the SLW roundabout and the side roads during peak periods. Nevertheless, the evidence suggests that a great deal will be due to traffic growth, particularly from traffic originating outside of the network area. The contribution from the appeal development is only likely to be between about 14% and 21%. The evidence does though indicate that it may be disproportionately responsible for an increase in peak spreading, which was agreed not to be a favourable outcome. Delays will inevitably impact on bus services on which many living in this residential area rely for transport. There would therefore be adverse impacts that would arise from the development traffic as outlined above. However, it is relevant to take account of the localised and relatively limited nature of the impacts, which would affect a small part of the overall network. Whilst they weigh very significantly against the scheme, in my judgement they would not pass the threshold of "severe" when considered in the terms of paragraph 111 of the Framework [100; 175].

The A49/ Sandy Lane West/ Cromwell Avenue roundabout

388. The queues along Sandy Lane West are not primarily due to constraints at the stop line but rather because of interruptions to traffic flow further back. There are a number of side roads feeding into it over its relatively short 300m length. In particular these include Gough Avenue and the entrance to a retail park containing a small parade of shops, an Aldi foodstore, a Costa café and drive thru and a pub restaurant called The Stonemill. The two accesses are almost opposite each other and the evidence indicates that these are relatively busy junctions. What happens as a consequence is that platoons are broken up so that there is not a continuous queue at the stop line. In effect too little traffic arrives to make the most of the green time at the traffic lights. [104; 176; 275].
389. The VISSIM modelling for 2032 included changes to traffic signal timings to allow more green time to Sandy Lane West. The Council objected to this because it said that the signal timings are already optimised for this at-capacity junction. In 2032 there will be traffic growth plus the development traffic. The evidence indicates that Saturn will alter the future flow distributions resulting in changing traffic patterns around the modelled area. It is therefore not unreasonable to surmise that there may be scope for improving signal optimisation to accommodate these re-distributed flows in the forecast scenarios. [176].
390. As it happens, the changes in signal timings that were included in the 2032 modelling showed little, if any, improvement on modelled flows through the

junction. Nevertheless, there is insufficient evidence that circulatory traffic would become blocked or result in detriment to flows of through traffic along the A49. Indeed, the model run indicates a smooth flow or a so-called "green wave" through the various signal sequences. I am therefore satisfied that the development traffic could be adequately accommodated at this junction. [105].

Effect on the residential roads to the south of the site

391. I spent a considerable amount of time driving around North Warrington, including the residential area to the south of the appeal site. I also walked along several of the streets, including the tree lined Poplars Avenue with its wide grass verges. Overall, this is a densely developed residential area of frontage housing. Streets interconnect with each other and in many places kerbside parking is prevalent [250].
392. The appeal site is effectively landlocked. Two new accesses are proposed off Poplars Avenue, which would entail the demolition of existing housing. The eastern of these would also serve the local centre. The Appellant asserted that the traffic generated by the appeal development would effectively displace through traffic as drivers from outside the area would find other more favourable routes along which to reach their destination. I do not consider that there is sufficient evidence to support such a conclusion, especially as the choice of routes is ultimately restricted as explained above. Even if it did, this would increase traffic levels on other residential roads, and it could not be assumed that it would be so widely dispersed as to be of negligible concern [171; 172; 235; 241; 267; 270; 276].
393. The Peel Hall WMMTM 16 link distributions make clear that most residential streets would be little affected as drivers from the site would have little reason to use them. The greatest impact from the development would be on the same routes used by the through traffic to access the primary road network. Poplars Avenue and Capesthorpe Road would be particularly affected with an additional 4-7 vehicles a minute in the peak hours and Cleveland Road and Sandy Lane West with an additional 2-3 vehicles a minute. In terms of daily flows there would be about 3,800 more vehicles on the Greenwood Crescent to Blackbrook Avenue link of Capesthorpe Road and over 3,000 more vehicles on two of the Poplars Avenue links [82; 83; 171; 172; 249; 264; 266; 270; 276; 285].
394. The DMRB guidance: *Traffic Capacity of Urban Roads* (TA 79/99) indicates that variable standard roads carrying mixed traffic with frontage accesses and 30-40 mph speed limits would fall within category UAP3. For such roads the capacities would be 900 or 1,300 vehicles per busiest hour. The Appellant's assessment indicates that in the 2032 DS scenario, the busiest flows would be well within the guidelines for all of the roads in the residential area to the south of the site. This advice has now been withdrawn but, in any event, I am not convinced that the streets in question are a particularly good fit to category UAP3. Not only are a number of them restricted to 20 mph but they also have different characteristics, including a prevalence of on-street parking and numerous private driveways [172].
395. *Manual for Streets* (2007) recommends a limit of at least 10,000 vehicles per day for streets with frontage accesses and a 30 mph speed limit. This was on the basis that its research found that very few accidents occurred from vehicles

turning in and out of driveways. Furthermore, it indicated that where speeds are 20 mph or less even fewer accidents occurred and that this should be the aim in residential areas. This advice indicates that the 10,000 vehicle figure could be raised further, although I note that Warrington's policy is not to do so. It is clear that some streets would exceed this daily level by 2032 specifically as a result of the development.

396. The Council's evidence indicated that the residential area bounded by the A49, the A50 and Blackbrook Avenue had a significantly higher proportion of pedestrian and cyclist casualties than the Borough or the Peel Hall WMMMTM 16 cordoned area as a whole over the last 5 years. The proportional difference was even greater in terms of those under 16 years of age although this is not totally unexpected when considering that young people are more reliant on walking and cycling to get around. Whilst such comparisons may give a general picture it is more helpful to consider the accident rate for the particular roads that would be the most likely to be affected [168].
397. The roads that are forecast to become busiest in terms of traffic flows arising from the development are Poplars Avenue, Capesthorpe Road, Cleveland Road and Sandy Lane West. The reported personal injury accidents over the last 5 years were as follows. In Poplars Avenue there were 10 such accidents, of which 2 involved a pedestrian and 5 involved a cycle. In Capesthorpe Road there were 2 such accidents involving a cyclist and a further 2 at the roundabout with Poplars Avenue involving a pedestrian. In Cleveland Road there were 2 such accidents. Sandy Lane and Sandy Lane West are grouped together and there were 11 such accidents in total. One involved a pedestrian, 4 involved a cycle and 2 involved a motorcycle. Most of the accidents were classified as "slight". Whilst any accident is regrettable, it is difficult to conclude from the above that the roads in question are presently places of high accident risk [85].
398. Nevertheless, there is a great deal of evidence to link traffic volumes with accident levels. The Appellant contends that this will happen as a result of the general level of traffic growth. However, for all of the reasons I have given it seems to me that the development traffic would also have a significant effect. In view of that conclusion, I turn to consider the package of measures put forward by the Appellant. I do not agree with its conclusion that the mitigation would not be required in view of the detrimental impacts I have identified [169].
399. The S106 Agreement now includes provision for an Off-Site Highway Mitigation Scheme within 2 specified areas that are bounded by Poplars Avenue, Cotswold Road, Sandy Lane and Statham Avenue; Greenwood Crescent and Capesthorpe Road. The scheme is not specific but rather makes provision for a number of possible options that will be determined following further detailed work on the nature of the impacts. The making of a Traffic Regulation Order to extend the existing 20 mph speed limit through Poplars Avenue and Capesthorpe Road would seem to me to provide an obvious benefit. The Council was not keen on this on the grounds that it would make the existing restricted areas less effective. However, there was inadequate reasoning to support this contention. I note that the previous Inspector discounted this suggested mitigation on the grounds that there was no certainty that the necessary legal requirement could be secured. I was not able to ascertain whether it was included in the S106 Agreement before my colleague as it is now. I acknowledge that there would

need to be public consultation, but it is difficult to see why it would be resisted in the face of the benefits to safety as expounded in *Manual for Streets* [86; 170].

400. Traffic calming measures are also included to complement or improve those already existing. Speed tables are not the only option and changes in surface treatments and the introduction of pinch points could also be effective in reducing traffic speeds. Improvements to the pedestrian and cycle environment along Poplars Avenue could include drop kerbs and tactile paving across road intersections and cycle carriageway markings and warning signs, especially near junctions.
401. The potential mitigation includes other options such as providing verge parking laybys in Poplars Avenue. These would replace the existing haphazard areas of verge parking but would also have the potential to reduce the level of kerbside parking. The Rule 6 Party objected to this measure and did not consider that there would be sufficient space between driveways for it to be accommodated successfully. It also queried whether traffic speeds would actually increase if carriageway parking was reduced. From the submitted evidence and my observations I consider that such parking bays could be satisfactorily provided and that along with the speed reduction measures there would be the potential to provide a safer road environment for road users, pedestrians and cyclists [170].
402. Whilst the mitigation would help to provide a safer environment, there is no doubt that a number of roads would become busier, noisier and less pleasant places through which to travel whether on foot, bicycle or car. Whilst this would happen as a result of general traffic growth it would be made materially worse as a result of the appeal development. The previous Inspector came to a similar conclusion and this would be an adverse impact to be considered in the planning balance. [167; 173].

Other highway matters

403. There were local objections to the new access onto the northern part of Mill Lane, which would serve around 150 dwellings. This was considered by an Inspector in relation to an appeal in 2013 for a discrete development of 150 dwellings on this part of the site. Whilst this was dismissed on other grounds, my colleague did not object on highway grounds. From my site observations and also in consideration of the technical evidence, I do not take a different view. [235; 250; 257; 288].
404. The current proposal has been revised with a view to addressing several matters raised by the previous Inspector. The employment area has now been deleted. Whilst there would also be some larger vehicles associated with deliveries to the proposed local centre, these would be relatively small in number. In addition, condition 50 requires a strategy for servicing and waste to be approved, and this would include details as to how large vehicles associated with the local centre and commercial uses would be managed.
405. Birch Avenue would provide access for 20 dwellings but there would be no through route to other parts of the site. The proposed access drawing (drawing no: 1107 08/P) indicates two parking areas to provide 15 spaces, which would

be for the use of existing residents. This measure was not before the previous Inspector. It would remove the need for kerbside parking thus improving traffic flow, especially for emergency vehicles. With the mitigation in place, there is no evidence that Birch Avenue would be insufficient in terms of capacity to accommodate the relatively small amount of additional traffic shown to be generated. I note that it is also proposed to install a keep clear box at the A49 junction, which would aid all those exiting Birch Avenue at busy times [235; 250; 254; 272].

Conclusions

406. Drawing the above points together, I do not consider that there would be a material degree of harm to the safety and efficiency of the highway network, apart from within the vicinity of the SLW roundabout. Here, on the available evidence the development would be likely to result in an increase in the level of congestion on the approach roads during peak periods and lead to an increase in peak spreading. This would lead to the risk of increased queues and consequent delays to road users, including buses. This is particularly relevant to a local community where car ownership is relatively low.
407. The proposed mitigation would ameliorate the impact on the safety of residential streets to the south of the site. However, there would be some harm to the character of the area due to the traffic flows generated by the proposed development. Whilst it is appreciated that forecast growth would be largely responsible for such impact, the effect of the development traffic would make matters materially worse. Overall, the appeal scheme would not result in severe residual cumulative impacts on the road network. Nevertheless, there would be a very significant adverse impact and conflict with development plan policies, in particular policies MP 7 and QE 6 in the CS in this respect.

CONSIDERATION TWO: THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE NOISE ENVIRONMENT BOTH WITHIN THE SITE AND IN THE SURROUNDING AREA

408. Noise was not a matter to which the High Court Challenge related. The previous Inspector did not highlight it as a main concern and his overall conclusion appears to have been that any impacts could be dealt with by means of planning conditions or at reserved matters stage. He did express a concern about dwellings with non-opening windows and mechanical ventilation but did not reach a conclusion that this could not be resolved through the position and orientation of the buildings [125].
409. The noise analysis relied on at the previous inquiry has now been superseded. A new assessment has been undertaken of the suitability of the site for future residential development. As well as new monitoring and modelling, an acoustic barrier is now proposed along the northern boundary with the M62 and north of the spine road on the eastern part of the site. The Council raise no objections on noise grounds and presented no evidence to the inquiry on this matter [108-110].

The noise assessment

410. Noise data for the baseline survey was provided by monitoring at three locations

adjacent to the northern boundary with the M62 Motorway. This is the dominant noise source as was readily apparent from my site visits. Two of the monitors were attended on 22 May 2019 between approximately 1100 and 1415. The ES indicates a target period of 3 hours, but one of the monitors was about 10 minutes short, purportedly to avoid confrontation, although no further explanation was given. I note that the Rule 6 Party considered that the monitoring should have been done for longer and in more places to capture peak flows. However, such periods often result in congestion with slow moving or stationary traffic, which would give rise to lower noise levels [114; 205].

411. There is no evidence that the results were not representative of the existing noise environment or had led to a sub-optimal assessment. It is of considerable relevance that the Council's Environmental Health Officer, who is both experienced in this field of work and independent of the process, did not raise the monitoring or modelling methodology or approach as an issue [114; 205].
412. The third monitor was placed towards the eastern end of the northern boundary and measured night-time noise levels between 1200 on 23 May 2019 and 0800 the following day. Highways England has indicated that road works were being undertaken between 2044 and 0420 and the eastbound carriageway was closed between junctions 10 and 12, as was the junction 9 entry slip. Logistics and other delivery traffic continue throughout the night, but it is reasonable to surmise that under normal conditions traffic flows are considerably lower at this time [115; 204].
413. There is likely to have been some reduction in the eastbound traffic flows between 2300 and 0420. However, the evidence suggests that the morning peak starts to build up from around 0500 and I agree with the Appellant's point that these early morning flows are likely to have overwhelmed any reduction in flow caused by the closures. It is therefore not unreasonable to conclude that the road works did not unduly influence the average night-time noise levels recorded by the monitor [115; 204].
414. The information from the monitors provided an input to the noise model. Lidar data took account of topographical differences, including the variation in the land levels along the boundary and differences in the distance of the site from the motorway edge. An acoustic barrier with a consistent height of 4m above ground level was included as embedded mitigation. The model was used to calculate an acceptable stand-off distance between the M62 and a residential occupier within the nearest apartment. Whilst I appreciate that the Rule 6 Party considered that the degree of monitoring was insufficient and objected to the use of a computer noise model to assess the effect of noise, this is not unusual in major schemes of this nature and is recognised as a legitimate approach by ProPG. For all of the reasons given above, I am satisfied that the modelling is fit for purpose and provides a suitable basis for assessing the noise impacts and how they can be mitigated [115; 205].

Mitigation

415. The noise levels to be achieved within residential properties and external amenity spaces are derived from BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings*. The values are similar to WHO standards in *Guidelines for Community Noise* (1999) and are also adopted by ProPG. The

evidence indicates that compliance within the dwellings would be achieved with a façade level of 67dB(A), taking account of sound reduction glazing, acoustic trickle ventilation and suitable external wall and roof construction. The model indicated that such a level would be achieved with a 40-50m stand-off distance from the motorway and this has informed the Parameters Plan [**124; 216**].

416. The recommended internal levels for living rooms and bedrooms are 35dB $L_{Aeq,16h}$ in the daytime and 30dB $L_{Aeq,16h}$ for bedrooms at night. For gardens and external balconies, the recommended level is 50dB $L_{Aeq,16h}$. However, the guidance recognises that there may be some higher noise areas, and proximity to the strategic transport network is given as an example, where this may not be possible. I note that the Rule 6 Party do not agree that any higher allowance should be made, but a maximum level of 55dB $L_{Aeq,16h}$ is not unreasonable in exceptional cases in my opinion. Condition 37 establishes that these noise requirements must be met and that this must be demonstrated through a noise assessment on each phase containing residential uses. The means by which the required noise levels would be achieved would be through various forms of mitigation as considered in the following paragraphs [**120; 121; 324**].

Design and massing

417. The nearest buildings to the predominant noise source are proposed to be 4 storey apartment blocks as shown on the Parameters Plan. The Appellant made clear that these would not form a continuous wall of built development but rather individual buildings with spaces between. Nevertheless, the massing would provide a degree of sound attenuation to the buildings and spaces further south and in any event noise levels would be reduced with increased distance from the noise source. Clearly spaces between buildings would allow sound to penetrate and the layout and orientation of dwellings to the south of the apartment blocks would be critical in achieving a satisfactory noise environment for gardens and balconies [**123; 213-215**].
418. A design-led approach would be required to ensure that internal layouts placed the main habitable rooms furthest from the noise source. This would particularly apply to the apartment blocks but also potentially to dwellings further to the south. This would mean that bedrooms, living areas and dining spaces would be in positions where an acceptable internal noise environment could be achieved with an open window.

The acoustic barrier

419. An effective acoustic barrier is crucial and would be of key importance to the creation of a successful place where people want to live. The Appellant is not a housebuilder and the site would be built out in a number of phases by individual developers. They would be required to submit a noise assessment to demonstrate the necessary mitigation to achieve the required noise levels discussed above. This may or may not entail construction of a section of the noise barrier, depending on which part of the site the phase relates to. The Appellant told the inquiry that the barrier would not be built on any of the housing parcels but rather on the amenity land on the northern part of the site held within its control. As I understand it, the cost would be reflected in the price paid for the land in any particular phase. There is therefore no reason why a developer would be financially penalised by this requirement [**117; 325**].

420. The Appellant anticipates the noise barrier being fully completed by year 3. However, the indicative Highways Build Out Plan shows a large part of the northern section of the site not being completed until year 10. It is not unusual for developers to want to build out the most visible parts of the site first and this would be unlikely to be the land at the back, adjacent to the motorway. It therefore cannot be assumed that the barrier would be built out at an early stage of the development [211].
421. The Rule 6 Party contended that the acoustic barrier should be erected and fully tested for efficacy before any further development took place. However, the Appellant considered a pre-commencement condition to be both unreasonable and unnecessary. The Council was content that condition 40, which requires the barrier to be constructed in accordance with a previously approved design and method statement, would provide the necessary safeguards and provide the necessary mitigation. In my opinion the most certain way of ensuring the barrier is completed expeditiously and in a co-ordinated manner would be to erect it at the start. However, it is difficult to conclude that this would be necessary. There are parts of the site such as the Mill Lane Playing Field land or the southern parcels where mitigation would be unlikely to include a section of acoustic barrier. In the circumstances I cannot conclude that a pre-commencement condition would be necessary [117; 212; 325].
422. The exact position of the acoustic barrier or the noise attenuation that it would achieve would depend on its design, height and location. Whilst the modelling has assumed a stand-off distance for the apartment blocks of 40-50m from the site boundary this is on the assumption that the barrier would run along the northern boundary. From the evidence I heard this seems to me doubtful not least because of the presence of the high-pressure gas main and its easements. The precise position of this feature and what is allowed within the easements around it are currently unknown. If the barrier were to be moved further from the noise source, the attenuation provided could be reduced and the stand-off distance could decrease. Condition 40 requires these matters to be clarified and taken into account before any development takes place. [117; 207; 208].

Secondary mitigation

423. As indicated in paragraph 412 above, secondary forms of mitigation would include the use of sound reduction glazing, acoustic trickle ventilation and suitable external wall and roof construction. It is relevant to note that this would not include mechanical ventilation or windows fixed shut. However, that does not mean that compliance would be achieved with an open window. This was a specific concern of the previous Inspector who considered that non-opening windows would not provide optimum living conditions. I agree with this point and it is therefore all the more important to ensure that non-habitable rooms occupy the parts of buildings that have the noisiest façade conditions. As noise levels will reduce with distance from the noise source, it seems to me that particular care would need to be paid to the design and layout of the apartment blocks [119].
424. The main way of achieving acceptable noise levels in private amenity spaces would be by siting them on the side of the building shielded from the noise source. However, fences and other form of garden enclosure would also provide a degree of attenuation.

425. It is appreciated that developments undertaken by the New Town Development Corporation, including Cinnamon Brow, have far greater stand-offs from the motorway and employ tree covered bunds rather than acoustic barriers. However, whether this related to a noise assessment is not known and there is no evidence that a greater distance is necessary to achieve a satisfactory noise environment. Furthermore, it is apparent that these developments suffer from noise penetration in places. The previous Inspector considered that noise should be addressed before the reserved matters stage to provide a clear basis for the design to be taken forward. The current evidence indicates that planning conditions could provide the necessary safeguards to achieve an acceptable residential environment [124; 216].

Peel Hall Farm boarding kennels and cattery

426. Peel Hall Farm is at the north-western end of Mill Lane and includes a residential property as well as a cattery and boarding kennels for dogs. Barking dogs can cause a high level of noise during unsocial hours and can often be unpredictable in occurrence. This can cause considerable annoyance to residential occupiers and often results in complaints. The Agent of Change principle is relevant as set out in paragraph 187 of the Framework. This makes clear that a new development is required to provide mitigation if the incumbent use could have a significant adverse impact [219].

427. The assessment has not addressed the issue of noise emanating from the kennels. The Appellant considers that this should be left to reserved matters stage when any expansion of the business can be taken into account. Condition 38 requires a noise assessment that specifically addresses the kennel noise on phases that contain dwellings within 250m of Peel Hall Farm. There was some debate at the inquiry about whether this should be measured from the edge of the farm holding or from the kennels themselves. In order to account for expansion of the business and the Agent of Change principle it seems most appropriate to measure from the site boundary. The 250m distance was considered sufficient through the Appellant's technical evidence and there was no alternative suggested. In fact, the distance would probably be considerably more as the condition relates to the whole phase and this would be likely to be more extensive than 250m [125; 126; 217; 218; 219; 324].

Character of the area and existing living conditions

428. The noise model assessed the effect of operational traffic and forecast predictions were made with and without development at the opening year and 15 years afterwards. I am satisfied from the evidence that the changes to the VISSIM modelling made no difference to the traffic data used in the noise model, which was taken from the Peel Hall WMMTM 16 cordoned model. The assumption was that all of the traffic would be present at year one and this would therefore represent a worse-case scenario as the proposal involves a 10-year construction period. A comparison was made between the model outputs with and without the development in place and it was found that in general increases in noise as a result of increased traffic generated by the development would not result in perceptible noise effects on nearby residential properties [111].

429. The exception would be at receptor points in Mill Lane, where there would be

adverse impacts arising from the new access road into the site. However, mitigation in the form of a 2m high bund or acoustic barrier was shown to provide an acceptable level of mitigation. The Rule 6 Party was critical that these conclusions rested solely on modelling and that no noise monitoring had been undertaken within this part of the site. However, again I have no evidence that this is a flawed approach and it is noteworthy that the Council's Environmental Health Officer was satisfied with it [127; 220; 327].

430. The Rule 6 Party was also concerned about increase noise to housing in Dundee Close, which would be near to the main roundabout access off Mill Lane. The modelling indicates a negligible impact on these dwellings [128; 220].

Conclusions

431. Drawing together the above points I conclude that with the various conditions I have referred to above, there would be no unacceptable adverse effect on the noise environment both within the site and in the surrounding area. It seems to me that the planning conditions would ensure a satisfactory living environment for future residential occupiers and that the future operation of the kennels and cattery at Peel Hall Farm would not be unreasonably constrained. In such circumstances I am satisfied that there would be no interference with the rights afforded under Article 8 of the Human Rights Act or Article 1 of the First Protocol. The appeal proposal would therefore comply with policies QE6 and QE7 in the CS in this respect [129; 291].

CONSIDERATION THREE: THE EFFECT OF THE PROPOSED DEVELOPMENT ON LOCAL AIR QUALITY

432. Air quality was one of the matters that was raised at the previous inquiry. The Inspector, and consequently the Secretary of State who adopted his conclusions on the matter, was concerned about the robustness of the air quality assessment. He was not satisfied that there was sufficient evidence to demonstrate there would not be an adverse effect on local air quality, taking a precautionary approach. It is to be noted that the Council had similar concerns, including about the traffic data which provided an important input to the model. For the reasons I have given in Consideration One, I am satisfied that the traffic data now being relied upon by the Appellant is reliable. I am also satisfied that the difference between the Saturn and VISSIM models in terms of traffic outputs is not material to the air quality conclusions [133; 135; 233; 234].

433. I heard no evidence to satisfy me that the air quality modelling, on which the conclusions on this issue will be based, is other than robust. The modelling that was presented to the previous inquiry is no longer being relied upon. I place considerable weight on the fact that the Council's air quality expert is satisfied with it. I also found the Appellant's expert witness and the evidence that she gave to be credible and authoritative. I appreciate that the Rule 6 Party has very strongly held concerns about air quality and did not consider that it had sufficient information at the outset. However, this was provided on request and as far as I could ascertain the Rule 6 Party accepted that the modelling process itself was sound. It is to be noted that the ES has been completely updated and there is a new chapter on air quality and that this has been appropriately publicised [132; 135; 141; 234].

434. The Council's *Air Quality Action Plan* states that generally Warrington has good air quality. The 2 AQMAs in the vicinity of the appeal site have been designated on account of the failure to meet the annual average national objective for NO₂. They are focused on the main roads that run through this part of north Warrington, namely the M62 and the A49. It should be noted that the other relevant limit values, including the one-hour average for NO₂ and the relevant limit values for PM₁₀ and PM_{2.5} are being met within the Borough. The latest monitoring data indicates that annual average NO₂ levels along the A49 have been decreasing significantly since 2015. This is not unexpected with technological advances in terms of engine efficiency, the move away from diesel vehicles and improvements to electric powered vehicles [132; 139; 229].

Air quality standards

435. A part of the northern part of the appeal site, 50m in width, is within the AQMA associated with the motorway. Paragraph 186 of the Framework makes clear that planning policies and decisions (my underlining) should contribute towards relevant limit values or national objectives for pollutants. The appropriate objectives to use in this case are those adopted by the Government through legislation⁶⁵, which have been derived from medical and scientific evidence. The Rule 6 Party refers to more stringent guidelines published by the WHO, including a PM_{2.5} annual mean value of 10 µg/m³. However, it is important to realise that these are based solely on the impacts to human health and are intended to inform the process of setting national standards alongside policy discussions and other considerations. I understand that DEFRA does intend to tighten the PM_{2.5} objective but that is not the position at present. For the purposes of this appeal, the standards to be applied are those set out in national legislation at the present time [136; 137; 229].

436. There is no dispute that air pollution has serious impacts on human health and is therefore a matter that must be taken very seriously indeed. The adjoining wards of Poplars & Hulme and Orford, which are to the south of the site, are densely populated with narrow roads that carry significant traffic flows. The population suffers from relatively high levels of deprivation and many have poor health outcomes. This is a sensitive area in terms of air quality management. However, the relevant issue is whether the proposed development would be likely to make matters significantly worse and whether it would result in a material increase in the number of people exposed to poor air quality [136; 224; 222; 251; 270].

Whether the development would make matters significantly worse

437. The Appellant's air quality assessment establishes the position with and without development in 2022. For various reasons, it seems to me that a relatively conservative approach has been taken. The ES records that vehicle emission factors and background pollutant levels were held at 2019, although it can reasonably be expected that levels will have decreased over time. Furthermore, the assumption has been made that the development would be fully operational

⁶⁵ *The Air Quality Standards Regulations* (2010) transpose into English Law the requirements of *Directive 2008/50/EC* of the European Parliament and the Council. DEFRA publishes the national air quality objectives.

- by 2022 whereas the build-out period would be over a 10 year period [**141**].
438. Lorry movements during the construction period have not been included. This is because the traffic assessment has estimated that the AADT would not exceed 25 HGV movements. The IAQM guidance advises that such a change does not need to be taken into account in air quality assessment because it would not represent a significant change. Whilst the guidance refers to HDV movements it seems unlikely that buses would be used in construction activity and so in this case HDV and HGV movements are likely to be similar⁶⁶. The effect of dust emissions during construction have been considered in the ES. Whilst there would be significant impacts of dust soiling and on human health these can be mitigated through an effective Demolition and Construction Environmental Management Plan under condition 44 [**131; 140; 231; 330**].
439. The DEFRA publication TG16 makes clear that the annual objective for NO₂ applies to places where members of the public might be regularly exposed to the pollutant, such as at the facades of dwellings, schools and hospitals. It does not apply to roadways or kerbside sites. Even though people will travel along the local road network, they will be moving through it rather than being subject to consistent exposure as would be the case within a dwelling. It is to be noted that the short term (one-hour) average for NO₂ is being met even within the AQMAs. It is appreciated that air and therefore the pollutants it contains is not static. However, concentrations will decrease with distance from the source. Furthermore, annual NO₂ levels will not necessarily exceed the limit value in all parts of the AQMA. Indeed, the evidence indicates that at some receptor points close to the A49, the levels would remain below 40 µg/m³ in 2022 following development [**133; 138; 139; 227; 233; 234**].
440. The Rule 6 Party has pointed out that there are grid points within the data sheets that show 5% and 10% increases in AQAL in the "with development" scenario. Further information submitted by the Appellant shows that these individual grid points are within the road environment, along Poplars Avenue, Capesthorpe Road, Blackbrook Avenue and the intersecting roundabout junctions. In addition, there is a cluster at the SLW roundabout. There is also a small group at one of the new access points. Whilst some of these may be above the 40 µg/m³ limit value these are not places where the public would be regularly exposed, and the limit value would not therefore apply [**230**].
441. Attention has also been drawn to a number of grid points where the annual mean level of NO₂ is below 40 µg/m³ at present but would rise above it in the "with development" scenario. I noted that in some of these cases the difference was relatively small but in others it was more significant. However, as outlined above, the grid points were not within locations where the limit values would apply. They were mainly within the A49 corridor but also at some of the same junctions referred to above with a small cluster along Orford Green. Whilst increased levels of annual NO₂ are not ideal, they are also not unexpected with a development of this scale [**230**].
442. 24 receptor points have been selected as sensitive locations around the boundaries of the site and within the residential hinterland. They represent

⁶⁶ Heavy delivery vehicles (HDV) include heavy goods vehicles (HGV) and buses.
<https://www.gov.uk/planning-inspectorate>

locations where members of the public may be regularly exposed to the pollutants in question (NO₂, PM₁₀ and PM_{2.5}) and thus the limit values apply. I have no evidence that they are other than representative of the residential area overall and I note that the Council considers them appropriate as confirmed in the SCG on air quality [230].

443. The Rule 6 Party questioned why none of these receptor points were included in the data file of grid points. The answer appears to be that they were recorded in a separate data file. In the ES there is a table showing the annual average level for each of the 3 air pollutants "with development" and "without development" at each receptor point. This indicates that there are none that would exceed the relevant limit values and the impact in all cases was classed as "negligible" apart from the NO₂ value at one receptor, which was classed as "slight". In assessing the impact at each receptor point, the ES followed the descriptors endorsed in the aforementioned IAQM guidance. These relate to the % change in annual average concentration level relative to AQAL. This is the measure endorsed by the professional institute of air quality professionals and I find no reason to diverge from it [140; 230].
444. The Council's *Air Quality Action Plan* was published in 2018 and covers the period 2017-2022. It sets out the actions the Council will take to tackle its air quality issues in areas within its control. These particularly relate to the annual mean NO₂ levels in the AQMAs but also seek to reduce levels of PM_{2.5}. There are 5 key priorities, which include reducing traffic volumes and improving flows, reducing exposure to the most vulnerable and ensuring that future development is designed to reduce exposure and improve air quality. There are 17 action measures that explain how the priorities will be achieved and these seem to me to be the operative part of the plan. The appeal scheme would not be inconsistent with these measures. Pollutant reduction will need to happen within the context of providing the development required to meet the Borough's needs, including housing as recognised by the first action measure [137; 140; 228].
445. Air quality modelling was undertaken by AECOM as part of the evidence base for the emerging Local Plan. This sought to show what air quality would be like over the next 20 years with the growth envisaged in the plan. This included the appeal site and showed a significant fall in pollutant concentrations, especially NO₂. For all of these reasons it is not considered that the appeal development would be likely to make air quality significantly worse [132].

Whether there would be a material increase in the number of people exposed to poor air quality

446. The northernmost section of the appeal site is within the AQMA surrounding the M62 where annual average concentrations of NO₂ exceed the national objective. Although the boundary of the AQMA includes approximately 50m of land within the site, this was established as a precautionary measure in 2002. Taking account of the improvements in pollutant levels over the last 5 years in particular, the Council's evidence from monitoring is that there would be no risk of annual NO₂ exceedance at distances up to 30m on the appeal site south of the motorway [132; 226].
447. I appreciate that the Council is not intending at the present time to change the boundaries of its AQMA but equally it is also the case that there is no

moratorium on development within an AQMA. In terms of air quality, the evidence indicates that a 30m zone would be sufficient stand-off for sensitive uses and this is controlled by condition 14. Subject to this I do not consider that new residents would need to keep their windows shut in order to experience a satisfactory environment in terms of air quality. Although the ecology park with public access would be within the 30m zone, people would be moving through it rather than suffering longer term exposure to NO₂. It is noted that the one hour average objective for NO₂ would not be breached [131; 226].

448. The remainder of the site is shown to be well within the objective levels following development. The modelling also shows that the pollutant levels in sensitive locations would remain below the national objectives following development. There would therefore be no reason why there would be an increase in the number of people exposed to poor air quality.

Conclusions

449. Drawing together the above points I conclude that with the various conditions I have referred to above, there would be no unacceptable adverse effect on air quality both within the site and in the surrounding area. It is relevant to bear in mind that the conclusions on air quality did not rely on modal shift that may come about as a result of the proposed Travel Plan and bus improvement measures, for example. The appeal proposal would therefore comply with policies QE 6 and QE 7 in the CS and paragraph 186 of the Framework in this respect [232].

CONSIDERATION FOUR: THE CONTRIBUTION THAT THE SITE WOULD MAKE TO HOUSING LAND SUPPLY IN THE SHORT TO MEDIUM TERM

450. A successful High Court Challenge by the Appellant to the adoption of the CS in 2015 means that its housing requirement and policies relating to that requirement have been quashed. On the basis of the Government's standard methodology, there is no dispute that at best the 5 year housing land supply at February 2021 stood at 3.4 years of deliverable sites. The Council has also failed all 3 requirements of the Housing Delivery Test [33; 53; 162].
451. The most recent SHLAA (April 2020) includes the appeal site as a developable site for delivery of 1,200 homes from year 6 of the housing trajectory. It sets out a review of all sites that the Council has identified as being available or becoming available over the subsequent 15 years. It includes sites identified through the Council's urban capacity work and there is also a small sites allowance in recognition of their past contribution to supply. At the time of writing the 2020 SHLAA provides the most up to date assessment of housing sites and identifies land for 10,430 dwellings in total against a requirement, including a 20% buffer, of 1,026 dwellings a year. Furthermore, it is also obvious that with things as they stand, the Council will be unable to meet its housing commitments over the next 15 years [54; 162; 321].
452. The emerging Local Plan is still at a relatively early stage in the adoption process. The latest information indicates that, subject to Cabinet approval, the Council anticipates submission for Examination in Spring 2022. Whilst the Appellant considers that the requirement in paragraph 22 of the Framework will herald further delay, the Council is confident that this will not be the case. The

current version, which was produced on the basis of the 2018 SHLAA and the 2018 Urban Capacity Statement, indicates that there will need to be significant Green Belt land releases to meet the housing requirement. It is understood that these rely on substantial infrastructure investment and so it is unlikely that they will make any meaningful contribution until later in the trajectory [55; 56; 162].

453. Of course, the picture is not static. Local objectors referred to new opportunities coming forward such as Fiddler's Ferry, and this may well be the case. However, it is also possible that some sites will not progress as anticipated but instead fall away. The SHLAA provides a snapshot in time and currently provides the most up to date evidence of housing supply that is available for decision making. On the basis of this, more sites will be needed both to address housing needs in the short, medium and long terms. In consequence, this is not a Borough that can afford to lose large sites such as the appeal site from its supply or the 1,200 dwellings that it would provide [199; 244; 245; 247; 290].
454. The evidence indicates that this is the only significant area of land within the Borough's urban area that does not rely on significant upfront infrastructure improvements and without any viability issues. It seems to me that the proposal would accord with the spatial strategy in policies CS 2 and SN 1 where 40% of new residential development is directed to the suburban areas and defined settlements so as to avoid building on the Green Belt and the Council itself confirms that there is no objection to the principle of housing on the appeal site [35; 37; 57; 59; 162].
455. The Government's Affordable Homes Update was made in the form of a Written Ministerial Statement on 21 May 2021. There was also an update on First Homes in the Planning Practice Guidance in May 2021. First Homes are to be considered as a form of affordable housing and the guidance and policy sets out the details relating to its provision. This was introduced following the close of the inquiry. However, the transitional arrangements will apply because the planning application was determined in 2017 and therefore well before 28 December 2021 when the policy in this case would become effective.
456. The appeal proposal would provide 30% of the housing as affordable homes. This would be in accordance with policy SN 2 of the CS, which also requires an even split of social rent and intermediate tenure homes. It is appreciated that the area to the south and east of the appeal site comprises large areas of social housing. However, the Borough overall has a considerable level of need and the rate of provision is nowhere near meeting it. This means that year-on-year the availability of affordable housing for those unable to access market housing is deteriorating. The appeal scheme would provide 360 units, which is considerably more than the 270 units delivered across the Borough in the three year period between 2016 and 2019 [37; 60, 61; 162; 290].

CONSIDERATION FIVE: OTHER MATTERS

Flooding

457. The planning application was accompanied by a FRA and a FRA Addendum. It indicates that the site is in Flood Zone 1, which means that it has less than 0.1% chance of flooding from the river or sea in any particular year. There are also lower lying parts of the site where some surface water flooding does occur.

458. The Rule 6 Party has raised a number of objections to the scheme on the grounds of flooding and flood risk. It is appreciated that there is historical evidence that indicates that the New Town Corporation considered that the drainage of the site was problematical and that of the 900 houses originally planned for Peel Hall only 175 were eventually constructed at what is now Ballater Drive. However, since that time the emphasis is on environmental sustainability with advancement in the design of drainage systems to mirror the natural water environment [193].
459. It is of particular importance that objections have not been raised by the Environment Agency, the Council as Local Lead Flood Authority or United Utilities as the statutory provider of water and wastewater services. The Rule 6 Party questioned the thoroughness and veracity of the FRA. However, at the inquiry it did not dispute that the relevant authorities were supplied with the documents and were competent to review them for adequacy and robustness [146; 296; 298].
460. The proposed drainage strategy will be designed to ensure that the discharge of surface water into Spa Brook or other drainage ditches would not exceed the existing greenfield runoff rate plus a 30% allowance for climate change. As things stand no detailed surface water drainage strategy has been developed. This is not unusual for an outline application but planning condition 28 requires that this be submitted for the whole site before any development commences. There are a number of requirements to be met, including to demonstrate that the development will cause no risk of flooding downstream from any source as a result of the development. In addition, the potential for flooding should groundwater abstractions eventually cease must be identified. Planning condition 30 requires that details are submitted for approval to show how the overall strategy is to be applied to each phase of the development. It seems to me that these conditions would ensure that a drainage system is provided to protect the site and surrounding areas from any flood risk [146; 191; 271; 320].
461. There have been a number of relatively recent storms and it is appreciated that Warrington has suffered from localised flooding. Indeed, parts of the site itself, including the Radley Common Recreation Ground were underwater as a result of Storm Christoph. It is likely that such storm events will become more frequent as a result of climate change. However, this has been taken into account by applying an allowance for such increases in the severity of flood events. There was a considerable amount of discussion at the inquiry about the aforementioned planning conditions and additions to the wording of condition 28 were made at the request of the Rule 6 Party. It is to be noted that the Council is satisfied with the drafting of conditions 28 and 30. For all of the above reasons, it is considered that the proposed development would accord with policy QE 4 in the CS and policies in the Framework relating to flood risk [36; 187; 188; 189; 271; 319].

Climate change

462. There is no doubt that climate change is a global, national and local issue of great importance. In June 2019, the Council declared a Climate Change Emergency whereby carbon emissions will be reduced to zero by 2030. About three quarters of all local authority's in the UK have made similar declarations and they follow a national declaration to be carbon neutral before 2050. Britain

is hosting the 26th climate change conference in November 2021 (COP 26), which will seek to bring nations together to accelerate the goals in the international treaty on climate change within the 2016 Paris Agreement. The Rule 6 Party's main argument in this respect is that the proposal runs against all of these objectives because it would be a low density, car dependant housing estate [147; 194; 195; 238; 251].

463. Transport is the biggest source of carbon emissions in the UK and I have little doubt that those living in the new development would rely on car travel for many of their journeys. Indeed the Appellant's own Transport Assessment work indicates a relatively low proportion of trips by modes other than the private car. However, there is the opportunity for significant modal shift and I consider this further in the next section.
464. People need places to live and it is clear from my consideration of the housing situation in Warrington that it is not going to be possible to meet all requirements through high density development on the most accessible town centre sites. Creating a car-free town centre would not negate the need for developments elsewhere. The appeal site will be needed and at the present time the Council has no other alternatives to meeting its housing commitments. Its reason for resisting this development is not on account of the effect on climate change but rather on grounds of the effect of the traffic on highway safety and the character of the adjoining residential environment [148; 198].
465. The Framework states that the purpose of the planning system is to contribute to achieving sustainable development. Whilst moving to a low carbon economy is one of the environmental objectives, ensuring that homes are provided to meet the needs of present and future generations is one of the social objectives. The proposal is at present in outline form. Construction would have to adhere to the Building Regulations in force at the time, which have their part to play in reducing carbon emissions in buildings. Furthermore, various planning conditions have been imposed to ensure that green infrastructure is created and properly managed and that sustainable drainage systems are provided and maintained [196].
466. At the present time Warrington is not well placed to adopt the radical solutions suggested by the Rule 6 Party, which are not supported in Council policy. The emerging Local Plan provides the opportunity for discussion of alternative models, but unfortunately at the present time this is a document on which very little reliance can be placed [198].

Accessibility

467. The planning application was accompanied by a Framework Travel Plan, which seeks to reduce car travel and encourage other modal choices. It sets out some high level objectives but each phase will be expected to produce its own detailed Travel Plan to promote sustainable travel choices. A Travel Plan Co-Ordinator will be appointed for the whole development to ensure that a joined-up approach is achieved, and these matters will be controlled through conditions 23-25.
468. It is proposed to extend local bus services into the site, and this would also be an attractive means of connecting the local centre to more distant parts of the

site. The bus strategy has been considered afresh since the last inquiry. I was told that following discussions with Warrington Own Buses, extensions to the Number 20 and 25 services was the preferred option. The contribution, which would be split into staged payments would relate to the cost of providing the extended service. Whilst I was told that Warrington Own Buses could opt out after 3 years, the requirement in the Deed is for funding to be provided for 5 years. Plan 5 in the S106 Agreement shows that the Number 20 route would be accessed from Poplars Avenue and the Number 25 route from Blackbrook Avenue. The contribution would be first triggered prior to the occupation of the 180th dwelling in each area. The Appellant considered this would be at around year 4 or 5 [67; 151; 232].

469. The Rule 6 Party were sceptical about the benefits that would derive from the bus provision. It pointed out that Warrington Own Buses has stopped various services to places such as Birchwood and Locking Stumps and it was expected that this would happen at the appeal site further in the future. It seems to me that much will depend on whether or not the bus service is supported by the new population. If the service is successful and becomes self-supporting then it is likely to continue to operate [197; 232; 238; 277].
470. I observed that the locality is relatively well served in terms of day-to-day shopping provision. There is an Aldi off Sandy Lane West as well as several local shopping parades with smaller supermarkets. An example near to the appeal site is at the junction of Poplars Avenue and Capesthorpe Road. I also noted a number of pub/ restaurants in this locality such as The Millhouse on Ballater Drive and The Stonemill on Sandy Lane West. A number of local people spoke at the inquiry about the good local provision of places to shop, eat and drink.
471. The site itself proposes a new local centre with a supermarket, some additional small units in Use Classes A or D uses and a new pub/ family restaurant. This would further widen the available offer for both existing and new residents. Whilst some speakers were concerned that the proposed provision could threaten the livelihood of existing businesses, the planning system does not operate to restrict competition. The detailed layout of the site would be determined at reserve matters stage and there is no reason why it should not offer good internal routes for cyclists and pedestrians to enable many to access the local centre on foot or by cycle [147; 197; 284].
472. Even if a car were to be used, there are trips that would involve only a short journey. I do not therefore agree with the Rule 6 Party that this scheme has failed to consider accessibility and modal choice [147; 197; 240].

Ecology

473. Many local objectors commented on the wildlife value of the site and its importance as a green space. It is appreciated that it has been used for informal recreation and dog walking over the years. Furthermore, during the COVID-19 pandemic the area has clearly been of great value for the mental and physical wellbeing of adjoining communities. I heard many personal accounts of the benefits that people had gained from having open space on their doorstep. I do not detract from those tributes, but nonetheless I am obliged to point out that apart from the Mill Lane playing fields and the Radley Common Recreation Ground, this land is privately owned. There are no public rights of access apart

from the public footpath along Radley Lane and to the south and west of Peel Hall Farm. Whilst the owners generally appear not to have stopped such access from taking place, that does not mean that it exists as of right [**200; 227; 248; 255; 263; 265; 267; 279; 280; 282; 283; 285; 287**].

Surveys

474. The most recent ecological surveys were undertaken during 2019 and 2020 as recorded in the updated Ecological Appraisal and Impact Assessment (January 2020). No objections to these were raised by the Council or the Greater Manchester Ecology Unit, its advisers on ecology. The Rule 6 Party also accepted the adequacy and results of the surveys [**149; 299**].
475. The Phase 1 Habitat Survey found that the site was generally species-poor, comprising mainly grassland, hedgerow, scrub, reed and ruderal vegetation. It also identified areas of plantation woodland although some could be classified as planted scrub species. The habitats were classified as generally poor or fairly poor and evidence was also found of human activity, including fly tipping and antisocial use. Bats were confirmed to use the site for foraging and commuting; water voles were not found to be present; there were a low population of Great Crested Newts using the site and ponds adjacent to it for breeding purposes; no badger were not found to be present. There were no hedgerows classed as being important under the 1997 Hedgerow Regulations.
476. Surveys of birds were undertaken in 2013, 2017 and 2019. These recorded commonly found birds that are typical of the area and judged to be of Local/District nature conservation value but not of County importance. The Greater Manchester Ecology Unit referred in its consultation to 8 priority species but these were derived from the County database. This records birds within 1 km squares but is not specific to the appeal site and hence includes a much greater range of species than the Appellant's site-specific nesting birds survey. In the same consultation the Unit accepted that the 2019 survey provides an up-to-date bird record. In the circumstances the evidence indicates that the birds found on the site are not of County level importance. The criteria for selection as a Local Wildlife Site would not be met [**149; 150; 201**].

Biodiversity Offsetting

477. Based on the current largely indicative plans, the Biodiversity Offsetting Study judged the loss resulting from the development would be around 20% of habitat units. Objectors consider that the site has been deliberately mismanaged in order to impoverish it and thus reduce its baseline wildlife value. The Appellant's ecologist explained that the site comprises former arable fields and that the past use of fertiliser had raised nutrient levels with consequent reduction in species diversity. More recently it is understood that spraying and ploughing the land was necessary to stop the grassland being succeeded by ruderal vegetation and scrub. However, it was explained that such management was stopped to allow a representative biodiversity baseline to be established. This expert evidence was not disputed and therefore I am satisfied that the baseline is correct.
478. The Framework encourages opportunities to secure biodiversity improvements and Policy QE 5 in the CS also seeks to enhance a site's conservation interest. The topic of net gain and offsetting is relatively new and at the present time

there is no specific percentage requirement in either national or local planning policy. The proposal is to achieve a 10% biodiversity gain, which is in line with the draft recommendations of DEFRA. I was told that offsetting was unlikely to be wholly on site, although actions such as removal of invasive species and creation of allotments would make a contribution. It is understood that habitat unit value decreases with distance from the site and so it is likely that with local stakeholder involvement, the off-site gains would be achieved nearby.

479. It is understandable that full details are not available at this stage, partly because the proposal is in outline form and also because of the relative newness of the concept of net gain. The way in which the off-setting can be achieved will become clearer at reserved matters stage when details of the development, including its landscaping and layout is provided. This would be controlled through condition 49 that also requires the offset requirements to accord with the prevailing DEFRA biodiversity metric. This would allow the 10% gain to be captured if this is the proportional increase that is adopted at the time development takes place [331].
480. The Rule 6 Party suggested that a 10% gain should be specified and that there should be no net loss after 30 years. However, at the present time there is no policy requirement for the extent of the gain. The condition requires a management and maintenance plan to be included but there is no specific evidence to endorse the suggested period of 30 years.

Radley Plantation and Pond Local Wildlife Site

481. In order to avoid damage to this area, the Parameters Plan includes a 15-20m wide buffer zone where development areas adjoin the Local Wildlife Site. This was agreed with the Woodland Trust who manage the designated area. It consequently withdrew its objection in terms of the impact of the scheme on the woodland [302].
482. There was though a request for a financial contribution to mitigate the effect of increased public usage. It is not clear on what such a contribution would be based, how much it would amount to or its justification in terms of planning policy. In the circumstances such a contribution would not pass the tests set out in the CIL Regulations. Nevertheless, I acknowledge the concern that the proximate new population would be likely to cause increased pressure on this designated site and woodland as it would be an attractive place for informal recreation. This was a point that the Greater Manchester Ecology Unit raised. Mitigation is proposed through proposed habitat enhancements and the raising of public awareness about the habitats in the plantation. Overall, therefore I am satisfied that the overall effect on the Radley Plantation and Pond Wildlife site would be benign and I note that the Council has not raised objections in this respect [299; 302].

Mitigation

483. There are various planning conditions to protect wildlife interests, including the protection of retained trees and hedgerows (condition 47). New badger surveys will be undertaken before works are commenced on any phase, in recognition of the mobile nature of this species (condition 48). If evidence is found of a badger sett the necessary licence must be obtained and works approved by the Council

to protect it. The updated Ecological Appraisal and Impact Assessment includes a mitigation strategy for Great Crested Newts, bats and hedgehogs, amongst other species [298; 331].

484. These measures would take effect through the planning conditions relating to a Biodiversity Demolition and Construction Environmental Management Plan (condition 45) and a Landscape and Ecological Management Plan (condition 46). Conditions would also provide protection from the effects of lighting, which can adversely affect nocturnal species such as bats (condition 51) and invasive plant species would be controlled (condition 43) [329; 331-333].

Conclusions

485. Warrington is within the area covered by the new Northern Forest project, which seeks to plant 50m new trees. I noted a number of representations from both the Rule 6 Party and local people that the site should be planted with trees, which would provide a sink for carbon emissions. There was also the suggestion of use as a forest park. Whilst I appreciate that these alternatives would be welcomed by the adjoining communities they are not being proposed as part of this appeal and are not therefore a material consideration to be taken into account [202; 266; 267].
486. Drawing all of the above points together it is concluded that the ecology and wildlife interest of the site would not be unduly harmed. The proposed development would therefore accord with policy QE 5 in the CS and the Framework in terms of its policies relating to the natural environment.

Amenity space

487. The vicinity around the appeal site includes large areas of open amenity space, including Radley Plantation, Peel Hall Park and Radley Common. It is appreciated that many local people have expressed concern about the loss of the site as informal open space. However, as commented previously much of the site that people use is in fact private land. The proposed development would include extensive areas of open space and the Council has raised no objection in terms of the proposed provision. This would be available for use by existing residents as well as occupiers of the development. In terms of detail, condition 13 requires an open space scheme to be provided, including the location of play areas, prior to the submission of any reserved matters application. As this would be required before any reserved matters applications are submitted there would be a co-ordinated approach to provision. Details of the children's play spaces would be provided with the reserved matters for each relevant phase [313; 223; 247, 248; 255; 265; 267; 279; 280; 282; 287].
488. An area of open space would be provided on the northern part of the site adjacent to the motorway. The Parameter Plan terms this an ecology park. It seems to me that its attractiveness for informal recreation would depend on the way it is laid out and its perceived safety. In terms of layout there is no reason why a landscaping scheme could not be devised that is attractive to wildlife as well as those using the facility. Low level lighting could be employed to provide security. However, perhaps the most important element in the success of this space for recreation would be the position and design of the acoustic barrier. Special care would be needed to ensure that if there are overlapping sections or

gaps to provide access to the footbridge, for example, these are designed with security in mind. The details pursuant to condition 40 will have to address this matter carefully [326].

489. The evidence shows that in quantitative terms the outdoor sports provision would remain unchanged. The Mill Lane playing fields are 3.2 hectare and the proposal includes a new playing field of the same size to the north-west of the Radley Common Recreation Ground. I observed that the Mill Lane facility is a large grassed open space that is used for informal recreation but is not presently laid out with formal pitches. The Radley Common facility is in poor condition and again not laid out for formal play. The proposal would undoubtedly result in a qualitative improvement through the creation of a new Sports Hub and community building with changing rooms. There would also be a parking area provided. The existing and new sports grounds would be laid out and the illustrative plans show 3 full sized grass football pitches and 2 youth pitches. The quality of provision would significantly increase as would the capacity for match provision. There is no reason why informal recreational use should not take place within this area too [152].
490. The Council and Sport England are the responsible authorities for open space and sport. Both are satisfied that the proposed provision and improvements are sufficient to meet existing demand as well as additional demand from the proposed development. Neither objects to the scheme, subject to planning conditions to ensure that the pitches to be provided are of a high quality and remain as such. Condition 10 requires a Sports Strategy to be provided at the outset with evidence of current demand for each pitch type and details of their provision. It is also important that the new playing fields are available for use before development is commenced on the Mill Lane part of the site and this is controlled through condition 11. Furthermore, before reserved matters for the Mill Lane site are submitted, condition 12 requires a detailed assessment of the ground conditions, soil structure, grass cultivation and maintenance to make sure that the replacement playing fields are of the necessary quality [153; 297; 312].
491. The Rule 6 Party consider that the future maintenance of the sports facilities and playing fields should be funded by the Appellant. However, the Council, who is the owner of the Radley Common Recreation Ground, wish to take the totality of the sports facilities into its own management portfolio. From my observations, the existing sports facilities in the locality have not been well maintained and I can therefore understand the Rule 6 Party's concerns. However, the Council as a responsible public authority must be expected to properly manage the upkeep of its estate and the S106 Agreement includes the relevant covenants to enable the transfer. It is for the Council to decide how it manages its local finances. In this case it has decided that it wishes to take responsibility for the sports pitches. It no doubt recognises that the proposals include a facility that will not only benefit new residents but also the existing community and that its Council Tax receipts will substantially increase as a result of the new population [341].
492. A further concern of the Rule 6 Party is that the loss of the Mill Lane Playing fields would significantly affect those living within the Cinnamon Brow and Houghton Green area who use it for a variety of informal leisure pursuits. The

new facility would be a considerable distance away and the shortest route would involve walking through unlit pathways and woodland across Radley Common. This would particularly affect children and older people who enjoy the existing facilities. I appreciate that for those who live nearby this would result in a disbenefit. However, there would also be many people living to the south of the site who would have new and improved facilities closer at hand [221; 222].

493. For all the above reasons it is considered that the proposal would accord with the policies in the Framework relating to open space and recreation. The Rule 6 Party mention paragraph 185 of the Framework and protecting tranquil areas prized for their recreational and amenity value. This is particularly in the context of pollution and due to its proximity to the M62, many parts of the appeal site would not be regarded as tranquil, in my opinion [223].

CONSIDERATION SIX: WHETHER ANY CONDITIONS AND PLANNING OBLIGATIONS ARE NECESSARY TO MAKE THE DEVELOPMENT ACCEPTABLE

Planning conditions

494. The planning conditions are at Annex Three and the justification is provided in paragraphs 307-333 of the Report and also in various parts of my conclusions.

495. It is considered that the conditions are reasonable, necessary and otherwise comply with Paragraph 56 of the Framework and the provisions of the Planning Practice Guidance.

The S106 Agreement

496. A fully executed Deed, dated 10 May 2021, has been submitted at **Document INQ 63**. This contains planning obligations for the purposes of Section 106 of the 1990 Act. The S106 Agreement and its provisions were fully discussed at the inquiry. I am satisfied that it is legally correct and fit for purpose. A summary of its main provisions is provided at paragraphs 338 and 339 of the Report.

497. Policy MP 10 in the CS seeks to ensure that future growth is supported by the necessary infrastructure. Amongst other provisions it seeks negotiation to secure S106 Agreements to meet the infrastructure needs directly arising from development when viable to do so. The *Planning Obligations Supplementary Planning Document (SPD)* provides guidance on the use of planning obligations and how contributions will be derived.

498. It is necessary to consider whether the obligations that have been made would meet the statutory requirements in Paragraph 122 of the CIL Regulations and the policy tests in Paragraph 57 of the Framework in order to determine whether or not they can be taken into account in any grant of planning permission. The requirements are that the obligations must be necessary, directly related and fairly and reasonably related in scale and kind to the development in question. It is noted that the Deed contains a "blue pencil" clause that the obligations are conditional on the Secretary of State finding that they comply with the CIL Regulations.

Affordable housing

499. This is provided in accordance with the provisions of policy SN 2 in the CS both

in terms of quantum and mix. There is a further covenant whereby up to 100 units could be delivered on a site within the town centre owned by the Appellant. The policy indicates that affordable housing should be provided on the site unless it does not accord with priority needs or the nature of the site is unsuitable. In such circumstances the policy indicates that a commuted payment would be required.

500. The Planning Obligations SPD indicates that where exceptional circumstances exist and where the Council is satisfied that it would deliver a better more sustainable outcome, off-site provision will be considered. The Council indicated that it wished to see all affordable homes delivered on the site. Nevertheless, the provision in the Deed would only come into effect with the agreement of both parties. I agree with the previous Inspector that there would be no harm arising from the flexibility that the provision provides. However, I do not consider that there is any evidence of exceptional circumstances that would provide the necessary justification. I do not therefore consider that the obligation would comply with Regulation 122.

Health Contribution

501. This is a sum of £925,000 and is based on a payment of £771 per dwelling on a phased basis. The sum is derived from a formula in the Planning Obligations SPD which relates to the cost of providing a health centre and the population that it would serve. Clearly the proposed development would generate a need for healthcare facilities. New occupiers would have a choice as to where to register but proximity to home is an important consideration. The 2 nearest surgeries are Padgate and Fearnhead and I was told that both are at capacity and urgently in need of more space. [181].
502. At the time of the last inquiry the proposal was to join the practices together in a new shared venture. However, now it is intended that each practice will expand individually. I understand that the existing Padgate facilities do not lend themselves to expansion and that a new build on another site is favoured. I was told that this is being explored with developers and the Council has also been approached to discuss developing onto land adjoining the existing surgery, which is within its ownership. Fearnhead has drawn up proposals to expand its existing site and appears to be in the process of discussing this with its landlords.
503. The reason given for the lack of progress in advancing these proposals was that resources were tied up with the COVID-19 pandemic. This is a reasonable explanation but not one that will satisfy the statutory requirements of Regulation 122. It was also said that the practices were waiting for the outcome of the appeal in order to gain more certainty of the capacity requirement from the development. However, in order for the obligation to be directly related to the development it is necessary for there to be a reasonable degree of certainty that a project is in hand to deliver the capacity to meet the healthcare needs of the new population. [181].
504. As far as Padgate is concerned there is no evidence of agreement with the Council to develop on the adjoining land or with a developer to build elsewhere. Fearnhead does seem to have some expansion plans drawn up although the extent of the landlord's agreement is unclear. It seems clear from the evidence

that there is no settled timescale for these projects and no outline business case prepared. Even if the Fearnhead project was considered sufficiently advanced to meet the Regulation 122 requirement I do not consider that this is the case for Padgate. The obligation relates to provision of the healthcare facilities in Padgate and Fearnhead and there is no evidence that the need could be met with just one of them. [154; 155].

505. For all of these reasons I do not consider that the obligation would meet the requirements of Regulation 122. I acknowledge that the previous Inspector came to a different conclusion. However, he had a different proposition before him and was satisfied there was a clear active strategy in place to provide it. It is appreciated that this means that the need for healthcare would not be addressed by the development. This was clearly a point that troubled the previous Inspector.
506. However, there is provision in the S106 Agreement for the contribution, so it is not the case that the Appellant has refused to make it. The point is that there is a legal impediment to doing so for the reasons I have given. In such circumstances it is difficult to see how it would be fair to penalise the Appellant. Clearly the two nearest practices would not be able to accommodate the new population as things stand. However, there is also no evidence that the planned expansion to Padgate and Fearnhead surgeries would not go ahead anyway and that alternative funding would not be sought. Even if that did not happen there is an obligation for the relevant health authority to provide sufficient GP services to meet the needs of the local population. There is no evidence that this could not be achieved elsewhere within a reasonable distance of the site [156; 183].

Education

507. The contributions towards primary and secondary education is worked out by means of a formula set out in the SPD. The Council's Education Officer has set out the necessary contributions accordingly. There is a requirement in the Deed for the Council to produce a review to first determine the capacity of non-fee paying schools in the area. [300].
508. For primary education the Deed provides the option for the school to be delivered on site if the Council so wish. Alternatively, a contribution of the same amount would be paid to make the provision elsewhere. For secondary education the need would be accommodated through expansion to Padgate Academy or Beamont Collegiate Academy. Provisions are made for the schedule of works to be agreed with the provider (TCAT) or another school operator.
509. The measures are explained in paragraph 339 d) and e) above. They are necessary to meet the needs of the development.

Open space

510. The provision of public open space on the site is addressed through condition 13. The obligations make provision for the public use of the open space and its future maintenance. A Management Company would be set up for this purpose unless the areas are to be adopted by a statutory undertaker or public body. There is a requirement to agree the details and funding measures for the Management Company, if it is to be established, with the Council.

511. The provision of the sports pitches and playing fields is addressed through conditions 10 and 12. The obligations make provision for the facilities to be transferred to the Council once completed for future management and maintenance. There is no reason why this should not be a satisfactory arrangement as I have explained in paragraph 491 above.
512. The Deed makes provision for a community building of up to 700 m² in association with the sports pitches. Details will be submitted as part of the reserved matters and in accordance with the phasing plan in condition 9. Once completed this facility will be handed to the Council to manage and maintain.
513. The above provisions are all necessary and proportionate in order to ensure that the open spaces and sports provision are properly looked after for the lifetime of the development and provide the necessary amenity to occupiers of the site in perpetuity.

Bus and bus infrastructure

514. The bus contribution would provide an extended service to the two local bus routes as explained in paragraph 468 above. This is a part of the package to reduce car dependency and encourage modal choice. The scheme has been agreed with Warrington Own Buses with a 3 year break clause. Nonetheless, the obligation would provide staged payments for a total of 5 years and there is provision for a different operator to become involved if necessary. In my experience 5 years would allow sufficient time for the services to become established and self-supporting. The contribution would begin before the occupation of the 180th dwelling so that there would be sufficient customers to support the services initially.
515. The bus infrastructure contribution has been costed in order to provide the necessary facilities within the site for the bus service to operate. This will include bus stops and waiting facilities for passengers. The Bus Gate will be provided under condition 21.

Highway provisions

516. The contributions provide mitigation that is necessary in order to satisfactorily ameliorate the impact of the development traffic at various junctions. The A49 and A50 contributions and how they directly relate to the development are discussed in paragraph 372-374 above. The Delph Lane contribution is discussed in paragraph 377. I have concluded that the latter would not be compliant with Regulation 122 for the reasons I have given.
517. The off-site highway mitigation scheme relates to various forms of mitigation within the residential area to the south of the site. These have been discussed in paragraphs 399-401 and I have concluded that they are necessary and otherwise comply with Regulation 122.

Conclusions

518. Drawing together the above points, I conclude that all of the planning obligations other than those specifically referred to in the paragraphs above constitute a reason for granting planning permission in accordance with Regulation 122 of the CIL Regulations.

519. For the avoidance of doubt, I do not consider that the following obligations meet the tests in Paragraph 122 of the CIL Regulations. They have not been taken into account in my recommendation to the Secretary of State:

- The off-site affordable housing provision
- The Health Contribution
- The Delph Lane Contribution

CONSIDERATION SEVEN: OVERALL CONCLUSIONS AND PLANNING BALANCE TO DETERMINE WHETHER THE PROPOSAL WOULD BE A SUSTAINABLE FORM OF DEVELOPMENT

For the sake of clarity, I have used the following scale when weighing the benefits and harms in the planning balance, from lowest to highest. Significant, very significant, substantial, very substantial.

520. The appeal proposal is EIA development. In reaching my conclusions and making my recommendation to the Secretary of State I have taken full account of the environmental consequences as established in the information provided within the Environmental Statement, its Addenda and the evidence to the inquiry [28-30].

521. There is no dispute that the Council does not have a 5 year housing land supply or that it has failed the Housing Delivery Test on several counts. In such circumstances the presumption in favour of sustainable development applies under paragraph 11 of the Framework. There are no policies that protect areas or assets of particular importance relevant to this appeal. This means that paragraph 11d) ii) is engaged and that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

522. The provision of 1,200 houses is a consideration of very substantial weight in this case. The Council's housing land supply position, at just 3.4 years, is very serious indeed. I was given no evidence as to how it intends to deliver the homes that Warrington needs, at least in the short to medium term. The appeal site is included in the most recent SHLAA as a developable resource and contributes to the 10,430 dwellings that it has identified. With an annual requirement for over 1,000 homes (including a 20% buffer), it is clear that there is nothing like a 15 year supply of housing sites in the pipeline.

523. The emerging Local Plan is subject to delay and the Council concedes that it does not provide a solution out of the present difficulties. Whilst it can be given very little weight at the present time it is relevant to note that many of the larger draft housing allocations rely on Green Belt releases and have significant infrastructure requirements. Conversely the appeal site, which is also included as a draft allocation, is relatively unconstrained. It lies within the urban area and the 1,200 dwellings that it would provide is thus a matter of considerable importance.

524. The proposal also includes a 30% policy compliant level of affordable housing. In a Borough where the rate of delivery relative to need is poor by any

- standards and is getting worse year on year, the affordable housing from the appeal scheme should also be given very substantial weight.
525. There would be a considerable number of new jobs both during the lengthy construction period and thereafter. The latter would include employment within the supermarket and other commercial uses in the local centre as well as the care home and potentially the new school if it were to be built on the site. Spending in the local economy would be boosted both during construction and by the new population during the operative phase. I give these benefits significant weight.
526. The sports facilities would result in qualitative improvements to what exists at present and these would be available for use by the existing communities in North Warrington. The local centre would also offer more choice in terms of shopping opportunities. Open spaces on the site would be available for use by existing residents and the aim is to extend those at Peel Hall Park and Radley Plantation through the site. I give these benefits significant weight. [61; 63].
527. A number of the provisions including the highway improvements, the extended bus services, the new and improved school facilities and the off-street parking provision in Birch Avenue are to my mind necessary to mitigate adverse impacts. I do not consider them as benefits.
528. I have concluded that the development would be harmful to the efficiency of the part of the local road network that includes the SLW roundabout. Furthermore, the roads within the residential area to the south of the site would become busier and less pleasant places to the detriment of that area's character. The development would not result in a severe residual cumulative impact on the road network, but it would result in harm and conflict with policies MP 7 and QE 6 in the CS. This is a matter to which I give very significant negative weight.
529. I appreciate that there are long held local objections to the appeal development and that my conclusions will be very disappointing for many local people who took the time to give me their views and engage with the inquiry. Similarly, for the Rule 6 Party who clearly invested a great deal of energy and resource in setting out their case so coherently. I have considered carefully all of the points that were raised against the scheme and explained where I have reached a different view. For all the reasons I have given I have not concluded adverse impacts in relation to these other material factors, other than in relation to highway issues.
530. Drawing all of this together my overall conclusion is that the very substantial benefits would outweigh the very significant level of harm. For this reason, the adverse impacts would not significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.
531. I have identified some conflict with the development plan but there is also considerable compliance with its policies, including those relating to strategic objectives. I consider that the development would therefore accord with the development plan as a whole. Even if CS Policy MP 7 and QE 6 were sufficient on its own to reach a different conclusion, there are very substantial material considerations in this case that indicate that the decision should be made otherwise than in accordance with the development plan. For all these reasons

my overall conclusion is that the appeal proposal would be a sustainable form of development.

INSPECTOR'S RECOMMENDATION

532. That the appeal be allowed, subject to the conditions in Annex C.

Christina Downes

INSPECTOR

ANNEX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr David Manley	Of Queen's Counsel, instructed by the head of Legal Services, Warrington Borough Council
<i>He called:</i>	
Mr M Taylor PGDip	Team Leader of the Transport Development Control Team at Warrington Borough Council
Mr D Rostron BSc MPhil CEng MIET	UTMC, Town Centre CCTY and Parking Manager at Warrington Borough Council
Mr G Rowland BEng(Hons)	Technical Director of WSP Transport Planning and Framework Director for the Warrington Transportation and Public Realm Consultancy Framework
Mrs M Hughes MA DipTp MRTPI	Principal Planning Officer at Warrington Borough Council
*Mr P Clisby	Solicitor to the Council

*Participating in the Planning Obligations sessions only

FOR THE APPELLANT:

Mr Christopher Lockhart-Mummery	Of Queen's Counsel
Ms Heather Sargent	Of Counsel, both instructed by Satnam Planning Services
<i>They called:</i>	
Mr C Griffiths BA(Hons) MRTPI	Managing Director of Satnam Planning Services
Mr D Tighe CEng MICE DipTpEng	Director of Highgate Transportation
Mr L Best	Group Director of the Modelling Group Ltd
Mrs L Goodall MSc MIAQM MCIEH	Director of Miller Goodall Ltd
Mr M Wilson BSc MSc MIOA	Senior Acoustic Consultant at Miller Goodall Ltd
Ms L McKee BSc(Hons) MSc GradCIEEM	Project Ecologist at The Appleton Group
Mr I Ryding	Director of Pennine Ecological
*Mr S Tewis-Allen	Senior Associate with Town Legal

*Participating in the Planning Obligations sessions only

FOR THE RULE 6 PARTY:

Mr J Sullivan	Local resident who gave evidence on air quality
Mr J Parr	Local resident who gave evidence on transport matters and loss of amenity

Mrs M Steen	Local resident and joint owner of Peel Hall Kennels and Cattery who gave evidence on Green Belt and Noise
Mr P Black MRTPI	Director at Blackfryers Consultants who gave evidence on climate change and planning matters
Mr D Sawyer	Local resident and retired civil engineer who gave evidence on hydrology, drainage and flood risk
Mr G Settle	Local resident and Chair of the Warrington Nature Conservation Forum who gave evidence on ecology

INTERESTED PERSONS:

Ms Charlotte Nichols MP Councillor Cathy Mitchell	Member of Parliament for Warrington North Borough Councillor for the Burtonwood & Winwick Ward and Deputy Leader of Warrington Borough Council
Councillor John Kerr-Brown	Borough Councillor for the Poplars and Hulme Ward
Councillor Diana Friend	Borough Councillor for the Poulton North Ward and a member of Poulton with Fearnhead Parish Council and Winwick Parish Council
Councillor Graham Friend	Borough Councillor for the Poulton North Ward and a member of Poulton with Fearnhead Parish Council and Winwick Parish Council
Mrs T Dutton	Local resident
Mrs K Robinson	Local resident
Mr and Mrs MacDonald	Local residents whose submission was read by Mr MacDonald
Mr M Higginson	Local resident
Mrs S Kavanagh	Local resident
Mrs S Sawyer	Local resident
Mr S Mann	Local resident
Mr W Tasker	Local resident
Ms M Farmer	Local resident
Mr and Mrs G Wernham	Local residents whose submission was read by Ms W Johnson-Taylor
Ms J Burke	Local resident whose submission was read by Ms W Johnson-Taylor
Ms L Bennett	Local resident
Ms L McLoughlin	Prospective local resident
Ms L Jennings	Local resident

ANNEX B: DOCUMENTS AND PLANS

CORE DOCUMENTS

The Core Documents relating to the 2018 inquiry have not been listed. Some are available in hard copy, including the Environmental Statement and Transport Assessment.

The additional Core Documents for the new 2020 inquiry are listed below. Most are available in hard copy.

Further Core Documents were added for the resumed inquiry in March 2021. These are available in hard copy.

There is a USB stick with all Core Documents from the 2018 inquiry and the 2020 part of the new inquiry. There is a separate USB stick with the Core Documents for the resumed inquiry in March 2021.

There is a further USB stick with extracts from the VISSIM model addressed at the resumed inquiry in March 2021.

APN: Application documents

APN 1-APN 28 and APN 101-119 (relate to the 2018 inquiry)
APN 29
APN 120 Transport Assessment Addendum (March 2020)
APN Appendices 1-36 to the Transport Assessment Addendum
120/A
APN 122 Access plans
APN 123 Highway mitigation plans
APN 124 Biodiversity Offsetting Study
APN 127 VISSIM modelling received 6.8.20
APN 128 Environmental Statement and Addenda (10 volumes)
APN 129 Flood Risk Assessment Addendum
APN 130 Updated ecological appraisal and impact assessment

APP: Appeal submission documents

APP 1-APP 6 (relate to the 2018 inquiry)
APP 5A Statement of Common Ground – Planning Matters
APP 7 Statement of Common Ground – Air Quality
APP 8 Statement of Common Ground – Noise
APP 12 File of Representations (2018 Inquiry)
APP 17 Warrington Borough Council Scoping Report 2019/34768
APP 20 Letters to and from PINS re new Inquiry (late 2018/early 2020)
APP 22 File of Representations (2020 Inquiry)
APP 23 M62 Junction 9 Proposed Mitigation Scheme Road Safety Audit Stage 1 2018
APP 24 M62 Junction 9 Proposed Mitigation Scheme RSA Stage 1 Designer's Response 2018

- APP 26 Statement of Common Ground on Highways and Transport Matters September 2020
- APP 27 A50/Hilden Road Proposed Mitigation Scheme Road Safety Audit Stage 1 September 2020
- APP 28 A50/Hilden Road Proposed Mitigation Scheme RSA Stage 1 Designer's Response September 2020
- APP 29 VISSIM Base Model v6 (Submitted 16th October 2020)
- APP 30 VISSIM Changes Registry (Submitted 16th October 2020)
- APP 31 VISSIM Base Model v6 Audit Review – Highways England/Atkins
- APP 32 VISSIM Base Model Review (TN11)- WBC/WSP and Associated Correspondence
- APP 33 VISSIM Future Years Model (Submitted 2 December 2020)
- APP 34 VISSIM Future Years Modelling v6 Audit Review – Highways England/Atkins and Associated Correspondence
- APP 35 VISSIM Future Years Model V6 Audit Review (TN12) WBC/WSP
- APP 36 TN/28 Technical Notes on Traffic Flows
- APP 37 VISSIM video 1700_SLW_TEST01
- APP 38 VISSIM video 0830_M62J9_TEST02
- APP 39 VISSIM video 0830_A49A50_TEST03
- APP 40 Decision Notice 2012/20795; Highways Comments 22/02/13; Additional Highways Comments 07/03/13
- APP 41 Meeting note from highways meeting 24/09/20
- APP 42 Transcript of highways meeting 18/01/21
- APP 43 VISSIM video 1730_CromAve_Merge_001
- APP 44 WBC HDT AP Jan 2020
- APP 45 WBC HDT AP Oct 2020
- APP 46 Mike Taylor (WBC) email of 16.02.21
- APP 47 Notes of CMC 25.01.21
- APP 48 Notes of CMC 30.03.20
- APP 49 Notes of CMC 03.06.20
- APP 50 Homes England Position Statement 10.09.20
- APP 51 Email Town Legal to Paul Clisby 12.02.21 re S106
- APP 52 Position Statement of Sport England (16 June 2020)
- APP 53 United Utilities comments of further ES Addendum (3 e-docs)
- APP 54 Comments of Traffic Management Officer, Cheshire Constabulary (2 July 2020)
- APP 55 Highways England Supplementary Update (25 June 2018)
- APP 56 Email 02.02.21 Peel Hall, Healthcare Contribution

NP: National policy documents

- NP 1-NP 10 (relate to the 2018 inquiry)
- NP 11 IAQM (2014 Assessment of dust from demolition and construction)
- NP 12 DCLG (updated Nov 2019) Planning Practice Guidance (air quality)
- NP 13 Noise Policy Statement for England (March 2010)

LP: Local policy documents

- LP 1-LP 25 (relate to the 2018 inquiry)
- LP 26/ OD 21 Warrington Local Plan (proposed submission version March 2019)
- LP 27 Development Options and Site Assessment Technical Report March 2019
- LP 33 Local Plan Air Quality Report
- LP 34 Responding to Representations Report 2019
- LP 36 Strategic Housing Land Availability Assessment
- LP 37 Site Assessment Proformas – Site Peel Hall, South of M62 SHLAA Ref 150
- LP 38 Strategic Flood Risk Assessment
- LP 39 Sustainability Appraisal SA Report March 2019
- LP 41 Warrington Fourth Local Transport Plan (December 2019)
- LP 42 WBC (September 2019) 2019 Air Quality Annual Status Report
- LP 43 WBC Diffusion Tube Monitoring Results Spreadsheet
- LP 44 AECOM (October 2018) Warrington Borough Council Local Plan Air Quality Modelling, Executive summary and Technical Report
- LP 45 Air Quality Consultants (January 2020) Nitrogen Oxide Trends in the UK 2013 to 2019
- LP 46 WBC (February 2018) Air Quality Action Plan 2017 – 2022
- LP 47 WBC (May 2013), Environmental Protection Supplementary Planning Document
- LP 48 GL Hearn Warrington Local Housing Needs Assessment (March 2019)
- LP 49 Warrington Borough Council Playing Pitch Strategy Assessment Report (2018)
- LP 50 WYG (August 2015) Warrington Retail Leisure Study
- LP 51 Warrington Health and Wellbeing Strategy (2019 – 2023)
- LP 52 Urban Capacity Extracts Assessment
- LP 53 2012 SHLAA Extracts

OD: Other documents

- OD 1-OD 14 (relate to the 2018 inquiry)
- OD 15 Appeal Decision APP M0655/W/17/3178530 20 December 2018
- OD 16 Appeal APP M0655/W/17/3178530 High Court Judgement 08 October 2019
- OD 18 Revised National Planning Policy Framework published on 19th February 2019
- OD 19 Revised PPG, published on 22nd July 2019, including updated Chapters on Housing and economics needs assessment, Housing and economic land availability assessment and Housing Supply and Delivery
- OD 20 Government response to the Technical Consultation on updates to national planning policy and guidance, published on 19th February 2019

- OD 21 Submission Version Warrington Local Plan (March 2019)
- OD 23 MHCLG Housing Delivery Test Results 2019 (spreadsheet)
- OD 24 HCA Employment Densities Guide (2015)
- OD 25 HCA (2014) Additionality Guide Fourth Edition
- OD 26 The Health Impact of Spatial Planning Decisions, The Kings Fund and NHS London Healthy Urban Development Unit, 2009

- OD 27 Appeal Decision Tiptree Colchester
APP/A1530/W/19/3223010
- OD 28 Appeal Decision Wheatley Campus Wheatley
APP/Q3115/W/19/3230827
- OD 29 Appeal Decision Long Melford Suffolk
APP/D3505/W/18/3214377
- OD 30 Appeal Decision Land north of Nine Mile Ride
Finchampstead, Berkshire APP/X0360/W/19/3238048
- OD 31 Committee Report WBC DMC 1 July 2020
- OD 32 Transcript of WBC DMC – Peel Hall 1 July 2020
- OD 33 Podcast of WBC DMC Meeting 1 July 2020 – NOT A DOCUMENT – CAN BE ACCESSED VIA A LINK
- OD 34 Pre-Application Meeting 11.02.2019 Agenda and agreed Minutes
- OD 35 LAQM document;
- OD 36 Warrington’s ASR

CF: Documents referred to in Council proofs

- CF 1-CF 44 (relate to the 2018 inquiry)
- CF 45 WBC Design Guide: Residential and Industrial Estate Roads (2008)
- CF 46 DEFRA – Local Air Quality Management Policy Guidance (PG16) (April 2016)
- CF 47 ProPG: Planning and Noise, New Residential Development, May 2017
- CF 48 BS8233:2014: Guidance on sound Insulation and noise reduction for buildings
- CF 49 Design Manual for Roads and Bridges LA111 Noise and Vibration Rev 0, Nov 2019
- CF 50 Planning Practice Guidance – Noise March 2014 (updated July 2019)
- CF 51 World Health Organisation (WHO) document, Guidelines for Community Noise (1999)
- CF 52 CRTN, Department of Transport, Welsh Office, 1988
- CF 53 BS5228:2009+A1:2014 Code of practice for noise and vibration control on construction and open sites
- CF 54 BS4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound
- CF 55 HG email (Fiona Bennett) with alternative mitigation layout, 6th August 2020
- CF 56 WBC position statement to PINS, 14th September 2020 (M Hughes email)

- CF 57 Email chain relating to meeting 24th September 2020 (M Taylor email 6th October)
- CF 58 RSA1 A49/ Cromwell Ave
- CF 59 RSA A49/ Cromwell Ave Designer's response

R6: Rule 6 documents

- R 61 Email exchange with R6 re CD List 09.06 – 27.07.20
- R 62 WBC Local Flood Risk Management Strategy 2017-2023 – Full document
- R 63 WBC Strategic Flood Risk Vol.II- SFRA Technical report - Full Document
- R 63 WBC Strategic Flood Risk Vol.II- SFRA Technical report - Full Document

PROOFS OF EVIDENCE

Appellant

- POE 1 Mrs Goodall's proof of evidence on air quality
- POE 2 Mrs Goodall's appendices
- POE 3 Mrs Goodall's rebuttal proof
- POE 3A Maps relating to air quality modelling provided in response to Mr Sullivan's rebuttal air quality evidence
- POE 4 Mr Wilson's proof of evidence on noise
- POE 5 Mr Wilson's appendices
- POE 6 Mr Wilson's rebuttal proof
- POE 7 Ms McKee's proof of evidence on ecology
- POE 8 Ms McKee's appendices
- POE 9 Ms McKee's rebuttal proof
- POE 10 Mr Ryding's proof of evidence on breeding birds
- POE 11 Mr Rydings's appendices
- POE 12 Mr Tighe's proof of evidence on transport
- POE 13 Mr Tighe's appendices DT/1-DT/31
- POE 14 Mr Tighe's rebuttal proof to the Rule 6 Party's transport evidence
- POE 15 Mr Tighe's rebuttal proof to the Council's transport evidence
- POE 16 Mr Tighe's supplementary proof of evidence on VISSIM matters
- POE 17 Mr Tighe's supplementary appendices DT/V1-DT/V8
- POE 18 Mr Best's proof of evidence and appendices on VISSIM matters
- POE 19 Mr Griffiths' proof of evidence on planning matters
- POE 20 Appendices 1-15 to Mr Griffiths' proof of evidence
- POE 21 Attachments CG3-CG11 to Mr Griffiths' proof of evidence
- POE 22 Mr Griffiths' rebuttal proof of evidence, appendices and additional air quality plans
- POE 23 Mr Griffiths' supplementary proof of evidence

Council

POE 24	Mr Taylor's proof of evidence and appendices on transport
POE 25	Mr Taylor's supplementary proof of evidence on VISSIM matters
POE 26	Proof of evidence of Mr Rowland on VISSIM matters
POE 27	Proof of evidence of Mr Rostron on traffic signals relating to VISSIM matters
POE 28	Mrs Hughes' proof of evidence and appendices on planning matters and CIL compliance
POE 29	Mrs Hughes' rebuttal proof on Green Belt
POE 30	Mrs Hughes' Addendum proof of evidence
POE 31	Mr Armstrong's proof of evidence on healthcare matters

Rule 6 Party

POE 32	Mr Parr's proof of evidence on Transport
POE 33	Mr Parr's appendices
POE 34	Mr Parr's rebuttal proof
POE 35	Mr Parr's rebuttal proof on VISSIM matters
POE 36	Mrs Steen's proof of evidence on noise
POE 37	Mrs Steen's appendices
POE 38	Mrs Steen's rebuttal proof
POE 39	Mrs Steen's proof of evidence on Green Belt
POE 40	Mrs Steen's appendices on Green Belt
POE 41	Mr Sullivan's proof of evidence on air quality
POE 42	Mr Sullivan's appendices
POE 43	Mr Sullivan's rebuttal proof on air quality
POE 44	Mr Sawyer's proof of evidence on hydrology, drainage and flood risk
POE 45	Mr Sawyer's appendices
POE 46	Mr Black's proof of evidence and appendix on climate change
POE 47	Mr Settle's proof of evidence on ecology
POE 48	Mr Settle's appendices
POE 49	Mr Parr's proof of evidence on loss of amenity
POE 50	Mr Parr's appendices
POE 51	Mr Black's rebuttal proof to the Appellant's planning evidence

DOCUMENTS SUBMITTED DURING THE INQUIRY

INQ 1	Council's Position Statement on the VISSIM Modelling and suggested deadline for further model runs
INQ 2	Rule 6 Party view on whether further VISSIM evidence should be permitted
INQ 3	Agreed statement by the Council and the Appellant about the role of VISSIM in the air quality assessment
INQ 4	Agreed statement by the Council and the Appellant about the role of VISSIM in the noise assessment

- INQ 5 Additional plans referred to by Mrs Goodall in her oral air quality evidence, submitted by Ms Sargent
- INQ 6 Position Statement and comparison of existing and proposed sports pitch capacity, submitted by Sport England (Also at Document APP 52)
- INQ 7 Response to the Sport England Position Statement by the Rule 6 Party (20 September 2020)
- INQ 8 Letter from NHS Halton and Warrington Clinical Commissioning Groups in respect of the Feasibility and Options Appraisal for Fernhead and Padgate Medical Centres (15 September 2020)
- INQ 9 Table showing a breakdown on the proposed semi-natural green space proposed at the site, submitted by Mr Lockhart-Mummery
- INQ 10 Comments by the Council's Principal Ecologist on the ecology evidence submitted to the inquiry by the Appellant and Rule 6 Party, submitted by Mr Manley
- INQ 11 Correspondence from Highways England, the Appellant and the Rule 6 Party about road closures on the A49 and M62 during the period of the noise monitoring
- INQ 12 Noise Review by the Council of the Updated Addendum to the Environmental Statement dated 15 June 2020, submitted by Mr Black during the inquiry
- INQ 13 Mrs Steen's oral evidence-in-chief on noise, on behalf of the Rule 6 Party
- INQ 14 Clarification by Mrs Goodall about the AQMA at Sandy Lane West, submitted by Ms Sargent
- INQ 15 Representations made to the inquiry by Ms Charlotte Nichols MP
- INQ 16 Representations made to the inquiry by Mrs T Dutton
- INQ 17 Representations made to the inquiry by Cllr C Mitchell
- INQ 18 Representations made to the inquiry by Cllr J Kerr-Brown on his own behalf and on behalf of Cllers Cooksey and Maher
- INQ 19 Representations made to the inquiry by Cllr D Friend
- INQ 20 Representations made to the inquiry by Cllr G Friend
- INQ 21 Representations made to the inquiry by Mr & Mrs MacDonald
- INQ 22 Representations made to the inquiry by Mrs K Robinson
- INQ 23 Representations made to the inquiry by Mr M Higginson
- INQ 24 Representations made to the inquiry by Mrs S Kavanagh
- INQ 25 Representations made to the inquiry by Mrs S Sawyer
- INQ 26 Representations made to the inquiry by Mr S Mann
- INQ 27 Representations made to the inquiry by Mr W Tasker
- INQ 28 Poem read to the inquiry by Ms M Farmer
- INQ 29 Representations made to the inquiry by Ms Johnson-Taylor on behalf of Mr & Mrs Wernham
- INQ 30 Representations made to the inquiry by Ms Johnson-Taylor on behalf of Ms J Burke
- INQ 31 Representations made to the inquiry by Ms L Bennett
- INQ 32 Representations made to the inquiry by Ms L McLoughlin

INQ 33	Inspector's question on the noise barrier and the responses of the main parties
INQ 34/A	Additional representation by the Rule 6 Party on hydrology
INQ 34/B	Appellant's response to the Rule 6 Party's hydrology representation
INQ 34/C	Council (as LLFA) response to the Rule 6 Party's hydrology representation
INQ 34/D	Appellant's comment regarding the planning condition suggested by the Council
INQ 35	Council's breakdown of the costings for the signalisation contribution in the Planning Obligation
INQ 36	Email from Highways England regarding the VISSIM modelling (12 January 2021) and Atkins Technical Note of 14 December 2020
INQ 37	Statement of Common Ground between the Appellant and the Council on VISSIM matters
INQ 38/A	Highways England email setting out its position regarding proposed mitigation (4, 5, 8 March 2021)
INQ 38/B	Appellant's response to Highway England's email of 5 March 2021
INQ 39/A	Draft list of planning conditions following discussion at the inquiry on 22 September 2020 agreed by the Council and Appellant
INQ 39/B	Council's explanatory note on updates to conditions following conditions session on 22 September 2020
INQ 39/C	Rule 6 Party's notes on the conditions
INQ 39/D	Suggested acoustic barrier condition agreed by the Council, Appellant and Highways England
INQ 39/E	Council's response to the Rule 6 Party's comments on noise, contamination and air quality conditions
INQ 39/F	Comments on the drainage conditions from United Utilities (23 December 2020)
INQ 39/G	Council's comments on the air quality condition
INQ 39/H	Condition relating to off-site highway works, agreed between the Council and the Appellant
INQ 39/I	Council's suggested surface water drainage strategy condition
INQ 39/J	Further comments by the Rule 6 Party on the surface water drainage condition
INQ 39/K	Suggested condition and comments for noise attenuation to the spine road at the eastern end of the appeal site.
INQ 39/L	Appellant's agreement to the pre-commencement conditions on the schedule (Document INQ 39/A)
INQ 40	Comments from the Designing out Crime Officer with Cheshire Constabulary on the acoustic barrier following an email from a local resident (8 March 2021)
INQ 41	Unused
INQ 42/A	Information concerning journey time validation on Sandy Lane West provided by the Appellant
INQ 42/B	Information concerning journey time validation on Sandy Lane West provided by the Council

- INQ 43 Note provided by WSP to further explain Technical Issue 1 in Mr Rowland's proof of evidence (12 March 2021)
- INQ 44 Further information provided by Mr Taylor to clarify traffic flow information in his proof of evidence and accident data in the local area referred to in oral evidence
- INQ 45/A WSP Technical Note 1 (24 January 2020)
- INQ 45/B WSP Technical Note 2 (8 April 2020)
- INQ 45/C WSP Technical Note 5 (19 June 2020)
- INQ 45/D WSP Technical Note 7 (12 August 2020)
- INQ 45/E WSP Technical Note 8 (28 August 2020)
- INQ 45/F WSP Technical Note 9 (28 August 2020)
- INQ 45/G WSP Technical Note 10 (23 September 2020)
- INQ 46/A Appellant's question to AECOM about loading points in the Peel Hall Saturn model and AECOM's response
- INQ 46/B Council's question to AECOM about loading points in the Peel Hall Saturn model and AECOM's response
- INQ 47 Agreed statement by the Council and Appellant relating to the VISSIM traffic flows and air quality evidence
- INQ 48 Emails on 27 August 2020 between the transport consultants relating to the database error
- INQ 49 Clarification requested by the Inspector about the function of the Warrington Multi Modal Transport Model (WMMTM16) and the Peel Hall WMMTM16 Cordon Model
- INQ 50 Mr Black's proof of evidence concerning Planning Balance
- INQ 51 Withdrawal of objection by Highways England and suggested planning conditions relating to the strategic road network (22 March 2021)
- INQ 52/A Full costs application by Mr Manley on behalf of the Council
- INQ 52/B Partial costs application by Mr Manley on behalf of the Council
- INQ 53/A Reply to the full costs application by Mr Lockhart-Mummery on behalf of the Appellant
- INQ 53/B Reply to the partial costs application by Mr Lockhart-Mummery on behalf of the Appellant
- INQ 54 Warrington's Strategic Housing Land Availability Assessment 2020
- INQ 55 Appellant's comments and sketch options for the acoustic barrier at the junction with the footbridge
- INQ 56 Correspondence between the Council and Appellant regarding the need for VISSIM modelling (9/10 October 2019)
- INQ 57 Council's justification for the Delph Lane S106 financial contribution
- INQ 58 Council's response to the Inspector's query about whether the healthcare contribution would include dental facilities
- INQ 59/A Opening submissions by Mr Black on behalf of the Rule 6 Party
- INQ 59/B Closing submissions by Mr Sullivan on behalf of the Rule 6 Party
- INQ 60/A Opening submissions by Mr Manley on behalf of the Council
- INQ 60/B Closing submissions by Mr Manley on behalf of the Council

- INQ 61/A Opening submissions by Mr Lockhart-Mummery on behalf of the Appellant
- INQ 61/B Closing submissions by Mr Lockhart-Mummery on behalf of the Appellant
- INQ 62/A Site visit maps and schedule – visit 1 (20 & 30 August 2020)
- INQ 62/B Site visit maps and schedule – visit 2 (16 October 2020)
- INQ 62/C Site visit maps and schedule – visit 3 (20/21 May 2021)
- INQ 63 Executed Planning Obligation by Agreement dated 10 May 2021
- INQ 64/A Comments on the 2021 revision to the National Planning Policy Framework by the Appellant (26 July 2021)
- INQ 64/B Comments on the 2021 revision to the National Planning Policy Framework by the Council (2 August 2021)

PLANS

- A Application plans
- B Illustrative plans
- C Parameters plan including the 250m isochrone from the kennels and boundary of Peel Hall Farm

ANNEX C: SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") in any phase shall be submitted to and approved in writing by the Local Planning Authority before any development in that phase begins and the development shall be carried out as approved.
2. Application for approval of the first reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission, and application for approval of all remaining reserved matters shall be made within ten years from the date of this permission.
3. The development hereby permitted shall begin no later than two years from the date of approval of the first of the reserved matters to be approved, and development of any subsequent phase shall begin no later than two years from the date of approval of the final reserved matters for that phase.
4. The number of dwellings to be constructed on the site shall not exceed 1,200.
5. The local centre hereby approved shall be limited to a food store (A1) of up to 2,000m², up to 600m² of additional units in use classes A1/A2-5 and D1 with no single unit exceeding 200m², and up to 800m² for family restaurant/public house (use classes A3/A4).
6. The development hereby permitted shall be in accordance with drawing numbers: 140367-D-002 Rev B; 1107 30/H; 1107 11/L; 1107 9/M; 1107 10/N; 1107 08/P; 1107 12/Q.
7. Any reserved matters applications shall be in accordance with the details shown on the approved Parameters Plan (drawing no:1820_35 Rev A) and Landscape Masterplan (drawing no: 1820_36).
8. Prior to the submission of any reserved matters application, a detailed Masterplan and Design Code covering the entire site shall be submitted to and approved in writing by the Local Planning Authority. The Masterplan and Design Code shall be formulated having regard to the principles established by the submitted Design and Access Statement, having regard to the *National Design Guide* and *National Model Design Code* and the following plans:

Illustrative Local Centre Family Pub Masterplan Option A 140367-B-012 Rev B;
Illustrative Proposed School Site Masterplan Option A 140367-B-015 Rev A;
Indicative Sports and Recreation Provision 1820_28 Rev J.

Thereafter, any reserved matters application(s) for any phase of development shall comply with the approved Masterplan, Design Code and the requirements of Condition 7.

9. Prior to the submission of any reserved matters application, a detailed phasing plan for the development shall be submitted to and approved in writing by the Local Planning Authority. The phasing plan shall identify the stages at which each element of the proposed development shall be commenced and made available for use.

The elements shall include the affordable housing, the local centre, the open space, the replacement and new sports pitches, the community building and

associated car parking, all equipped areas of play, the primary school, the public house, the care home, the roads and emergency access, the Greenway Network (including walking and cycling measures) and the bus measures including the Bus Gate.

The development shall thereafter be carried out in full accordance with the approved phasing plan.

10. Prior to the submission of any reserved matters application, a Sports Strategy shall be submitted to and approved in writing by the Local Planning Authority.

The Sports Strategy shall be informed by the *Warrington Council Playing Pitch Strategy & Action Plan* (January 2020), or any update of that document. The Sports Strategy shall apply to the replacement playing fields and the Radley Common Recreation Ground as shown indicatively on Drawing No: 1820_28 Rev J and include details of the evidence of demand for each pitch type and ancillary facility.

A detailed scheme including scaled plan(s) shall subsequently be submitted to and approved in writing by the Local Planning Authority. This shall show the location and dimensions of each sports facility and pitch and shall be in accordance with the approved Sports Strategy. The development shall thereafter be carried out in accordance with the approved scheme within the timeframes set out in the phasing plan for the development approved under condition 9.

11. No development shall take place on the Mill Lane playing fields (as identified on drawing 140367-D-002 Rev B) until the replacement playing fields have been completed in accordance with the details approved under condition 10.

12. Prior to the submission of any reserved matters application for development of the Mill Lane playing fields, the following documents shall be submitted to and approved in writing by the Local Planning Authority:

- a) An Agronomy Report containing a detailed assessment of ground conditions (including drainage and topography) of the land proposed for the replacement playing field, which identifies all constraints that could affect playing field quality;

- b) A detailed scheme, which takes account of the above assessment and ensures that the replacement playing field will be provided to the Football Association's Performance Quality Standards. The scheme shall include a written specification and detailed plan of soil structure, proposed drainage, cultivation and other operations associated with grass and sports turf establishment and maintenance.

The approved scheme shall be completed prior to the commencement of any development of the existing Mill Lane playing fields. The replacement playing field land shall thereafter be made available and maintained in accordance with the scheme.

13. Prior to the submission of any reserved matters application, a Public Open Space Scheme for the whole site, to include detailed proposals for all elements of public open space (excluding sports pitches) to be provided within the site, shall be submitted for to and approved in writing by the Local Planning Authority.

The Public Open Space Scheme (excluding equipped children's play space) shall be based on the areas shown as open space/ landscaping on the Parameters Plan 1820_35 Rev A and the approved phasing plan for the site.

The Public Open Space Scheme shall be in accordance with the standards set out in the *Open Space Audit* 2016 and the *Planning Obligations* Supplementary Planning Document (2017) (or any replacement documents) It shall include the quantum of area, technical specification, design and layout of the works to be carried out in relation to the public open space (excluding sports pitch provision) on each phase of the development and shall specify the location of Locally Equipped Areas for Play (LEAPs) and Neighbourhood Equipped Areas for Play (NEAPs) throughout the development.

Not more than 50% of the dwellings in any phase shall be occupied until the relevant open space for that phase has been laid out in accordance with the approved Public Open Space Scheme. These areas shall be retained as approved for the lifetime of the development.

14. No residential dwellings, care homes, children's nurseries or schools shall be permitted within 30m of the M62 boundary on any individual phase of development.
15. The new access points shall be completed in accordance with the drawings approved under condition 6 prior to the first occupation of the relevant phase(s) accessed from them.
16. The following off-site highway works shall be completed before any dwelling is first occupied or use commenced:
 - a) A mitigation scheme at the Hilden Road/A50 junction in accordance with the principles of Drawing Number: 1901/24/C (see Document POE 13, Appendix DT25);
 - b) The provision of Keep Clear markings at the Golborne Road/ Myddleton Lane junction in accordance with the principles of Drawing No. 1901/10 (see Appendix 22 to the Transport Assessment Addendum);
 - c) Implementation of a carriageway widening scheme at the junction of A49 Winwick Road/A574 Cromwell Avenue in accordance with the principles of Drawing No. 1901/27/B (see Document POE 13, Appendix DT24).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Road Safety Audits and any Traffic Regulation Orders required.

17. The following off-site highway works shall be completed before the occupation of the 300th dwelling:
 - a) Widening works and provision of a ghost right turn lane at the A49/Golborne Road junction, in accordance with the principles of Drawing No. 1901/08 (see Appendix 22 to the Transport Assessment Addendum);

- b) Implementation of a traffic signal scheme at the junction of Myddleton Lane/Delph Lane in accordance with the principles of Drawing No. 1901/11 (see Appendix 22 to the Transport Assessment Addendum).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Road Safety Audits and any Traffic Regulation Orders required.

18. The following off-site highway works shall be completed before any dwelling to be accessed from Birch Avenue is occupied:

- a) Keep Clear markings at the Birch Avenue junction with the southbound A49 in accordance with the principles of Drawing No. 1107/79 (see Appendix 22 to the Transport Assessment Addendum).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Road Safety Audits and any Traffic Regulation Orders required.

19. The following off-site highway works shall be completed before the occupation of the 600th dwelling:

- a) Strategic highway improvement works to the M62 Junction 9/ A49 in accordance with the principles of Drawing No: 1901 28 (see Appendix 5 to Mr Tighe's Supplementary Proof of Evidence VISSIM Matters).

The works shall include the replacement/upgrade of street lighting necessary as part of the detailed design and any drainage works necessary to facilitate the highway works and shall include Stage 1 and Stage 2 Road Safety Audits.

20. Except for site clearance and remediation no development shall be carried out on a particular phase until full details and construction phasing of the internal highway network for that phase have been submitted to and approved in writing by the Local Planning Authority. Such details shall include:

- a) the proposed highway layout, including the highway boundary;
- b) the dimensions of any carriageway, cycleway, footway and verges;
- c) the visibility splays;
- d) the drainage system;
- e) the surfacing (including tactile paving), kerbing and edging; and
- f) any structures which affect or form part of the internal highway network.

The development shall thereafter be completed in accordance with the approved drawings, details and phasing schedule.

21. No dwelling on any phase shall be occupied or use commenced until a detailed scheme for the design and construction of the Bus Gate in the location indicated on the Parameters Plan has been submitted to and approved in writing by the

Local Planning Authority. The Bus Gate shall be implemented in accordance with the approved scheme and phasing plan in condition 9 and shall be retained for the lifetime of the development.

22. Prior to the submission of the reserved matters application(s) for a particular phase, a scheme for the provision of electric vehicle charging points, or passive provision within that phase and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved scheme and timetable. The electric charging points shall be retained thereafter.
23. No dwelling on any phase shall be occupied or use commenced until a Travel Plan Coordinator for the whole site has been appointed. The Travel Plan Coordinator shall be responsible for the implementation, delivery, monitoring and promotion of the Travel Plan for each phase, including the day-to-day management of the steps identified to secure the sustainable transport initiatives set out therein. The details (name, address, telephone number and email address) of the Travel Plan Coordinator shall be notified in writing to the Local Planning Authority upon appointment and written notification shall be given of any changes to those details or personnel.
24. Prior to the first occupation of each phase that includes residential uses, a Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall be in accordance with the submitted Framework Travel Plan (HTp/1107/FTP/01 January 2018). The Residential Travel Plan shall contain immediate, continuing and long-term measures to promote sustainable travel choices and encourage modes of transport other than the private car.

The Residential Travel Plan shall include:

- a) Information on existing transport policies, services and facilities, travel behaviours and attitudes;
- b) Resource allocation, including for the Travel Plan Coordinator and budget;
- c) Details for the production and distribution of an information pack for residents detailing travel options other than the private car, and how to access them on the site and in the wider locality;
- d) Other appropriate measures and actions to reduce car dependence and encourage sustainable travel;
- e) A marketing and communications strategy; and
- f) An action plan, with a timetable, to include mechanisms for implementation, monitoring and review.

The Residential Travel Plan shall be implemented as approved in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

25. A Non-Residential Travel Plan shall be submitted to and approved in writing by the Local Planning Authority for each of the following uses before that use commences:

the foodstore; the public house/ family restaurant; the care home; the primary school (if it is to be provided on-site).

Each Non-Residential Travel Plan shall be in accordance with the submitted Framework Travel Plan (HTp/1107/FTP/01 January 2018) and contain immediate, continuing and long-term measures to promote sustainable travel choices and encourage modes of transport other than the private car.

Each Non-Residential Travel Plan shall include:

- a) Information on existing transport policies, services and facilities, travel behaviours and attitudes;
- b) Resource allocation, including for the Travel Plan Coordinator and budget;
- c) Details of appropriate measures and actions to reduce car dependence and encourage sustainable travel, including details of access to modes of transport other than the private car;
- d) Targets for modal share;
- e) A car parking management strategy;
- f) A marketing and communications strategy, including details of how employees will be involved with its implementation; and
- g) An action plan, with a timetable, to include mechanisms for implementation, monitoring and review.

Each Non-Residential Travel Plan shall be implemented as approved in accordance with the timetable contained therein and shall remain in place as long as the use to which it relates remains operative.

26. The gradient of the vehicular access points shall not exceed 1 in 40 for the first 15m into the site measured from the nearside edge of the carriageway of the adjacent highway.
27. No development shall be carried out until a close boarded fence of not less than 2m in height has been erected along the northern boundary of the development site or at least one metre from any part of the existing motorway fence where the boundary lies within one metre of it. The fence shall be in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. These details shall show the alignment and elevational treatment of the fence and shall be designed to ensure no vehicular or pedestrian access can take place between the site and the motorway network.

Thereafter, the fence shall remain in place and only be repaired or replaced in accordance with the requirements of this condition or replaced by the acoustic barrier approved under condition 40.

28. No development shall be carried out until a Surface Water Drainage Strategy incorporating a sustainable drainage system (SuDS) for the whole of the development site has been submitted to and approved in writing by the Local Planning Authority. The Surface Water Drainage Strategy shall be based upon

sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development and in accordance with the approved Flood Risk Assessment (ref: 1506-45/FRA/01 Rev B, dated June 2016). The Surface Water Drainage Strategy shall, as a minimum:

- a) Provide details of how the proposed on site drainage systems (including watercourses) and any flood risk infrastructure shall be maintained and managed for the lifetime of the development following completion including:
 - the arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a Management Company; and
 - Arrangements concerning appropriate funding mechanisms for performance inspections, asset condition assessments, operational costs, on-going maintenance, access arrangements, remedial works and if necessary the replacement of the onsite drainage systems.
- b) Provide details of how existing and future on-site flood risk from all sources will be mitigated/managed as part of the development and demonstrate that there will be no increase in flood risk downstream or to adjacent areas as a result of the development.
- c) Undertake an assessment of the condition of all existing watercourses on site and their ability to discharge surface water run-off from the development.
- d) Provide details of improvement works to all on-site watercourses, ditches and ponds.
- e) Identify any surface water drainage infrastructure connections including the volume of flows between the different phases or plots of the development.
- f) Identify the source of the Spa Brook upstream and the potential for flooding should local groundwater abstractions eventually cease.
- g) Set out a timetable for implementation.

The development shall be carried out in accordance with the approved Surface Water Drainage Strategy and its timetable.

29. No development shall be carried out until a site-wide Foul Water Drainage Strategy for the whole of the development site has been submitted to and approved in writing by the Local Planning Authority. The site-wide Foul Water Drainage Strategy shall include:
 - a) Details of how the proposed on-site drainage infrastructure shall be maintained and managed for the lifetime of the development following completion including the arrangements for adoption by an appropriate public body or statutory undertaker or by a Management Company.
 - b) Details of a strategy to minimise the requirement for foul sewerage pumping stations across the site.
 - c) Identification of those parts of the site where the pumping of foul sewerage will be necessary.

- d) Details of all foul sewerage pumping station arrangements.
- e) A timetable for the implementation of the foul water drainage works.
- f) The means to ensure that foul and surface water will be discharged to separate drainage systems.

The development shall be carried out in accordance with the approved Foul Water Drainage Strategy and its timetable.

30. A detailed surface water drainage scheme for each phase shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development on that phase. The detailed strategy shall comply with the site-wide Surface Water Drainage Strategy approved under condition 28. The surface water drainage scheme shall include:
- a) details of all new retention ponds and linking sustainable drainage infrastructure, which shall be designed in accordance with the latest version of the CIRIA SuDS manual or subsequent guidance and include new wetland habitat creation.
 - b) details of any new surface water drainage works associated with the Spa Brook waterbody and ecological network.
 - c) details of how the scheme shall be maintained and managed following completion.

The detailed surface water drainage scheme shall be carried out in accordance with the approved details prior to first occupation.

31. There shall be no surface water connections between plots or phases of development other than those identified in the site-wide Surface Water Drainage Strategy or phase related surface water drainage schemes and approved by the Local Planning Authority under conditions 28 and 30.
32. No drainage from the development shall connect into or compromise the M62 motorway drainage system.
33. No development shall be carried out until a quantitative and qualitative risk assessment and mitigation strategy with respect to ground water protection, including details of any extra protection measures necessary to manage the risk of pollution to public water supply and the water environment during and after construction, has been submitted to and approved in writing by the Local Planning Authority. The risk assessment shall be based on the source-pathway-receptor methodology. It shall identify all possible contaminant sources and pathways for the lifetime of the development and provide details of measures required to mitigate any risks to groundwater and public water supply from the development. The development shall thereafter be completed, maintained and managed in accordance with the approved details.
34. Prior to the submission of the reserved matters application(s) for a particular phase, details of the mix of any market housing in that phase, including the size and type, shall be submitted to and agreed in writing by the Local Planning Authority. Development of that phase shall be carried out in accordance with the approved housing mix.

35. Prior to the submission of the reserved matters application(s) for a particular phase, a scheme shall be submitted to and approved in writing by the Local Planning Authority that demonstrates how the objectives of the Secured by Design Guides have been addressed in that phase. Development of that phase shall be carried out in accordance with the approved scheme.
36. No development shall take place on any phase until a programme of archaeological work for that phase, in accordance with a written scheme of investigation and including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. Development of that phase shall be carried out in accordance with the approved scheme and timetable.
37. Prior to the submission of the reserved matters application(s) for a particular phase, a design and layout led scheme, informed by the principles of Professional Practice Guidance (ProPG): *Planning & Noise* (May 2017) (or revisions/ replacements thereof) for insulating residential dwellings from noise sources, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall take account of any transportation, industrial, commercial and entertainment noise both within and outside the residential properties and be based on findings from an appropriate noise assessment.

The scheme shall achieve the following noise levels in habitable rooms and outdoor areas as set out in BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings* and the WHO *Guidelines for community noise*:

Daytime Noise (0700 to 2300):

- a) Living Rooms & Bedrooms - 35dB $L_{Aeq,16h}$
- b) Dining areas - 40dB $L_{Aeq,16h}$
- c) Outdoor Amenity Areas - 50dB $L_{Aeq,16h}$. 55dB $L_{Aeq,16h}$ may be accepted in exceptional cases where normal mitigation cannot reach the 50dB level.

Night-time noise (2300-0700):

- d) Bedrooms - 30dB $L_{Aeq,8h}$
- e) Bedrooms – 45dB L_{Amax} no more than 10- 15 times per night

The indoor levels should be capable of being achieved with windows open (except for short term purge ventilation) or as a last resort with passive ventilation systems in the open position. For the purposes of calculation, noise insulation achieved by a partially open window should be assumed to be 15dBA.

If the above levels cannot be achieved in a design and layout led scheme with open windows or with ventilators open, then the scheme shall identify how the potential for overheating of affected residential buildings during warmer months will be mitigated in accordance with the principles of ProPG and *Acoustics Ventilation and Overheating- Residential Design Guide* (Jan 2020).

38. Prior to the submission of the reserved matters application(s) for any phase that includes dwellings within 250m of the boundary of Peel Hall Farm, a noise

assessment shall be undertaken. This shall assess levels of noise emanating from the kennel use at a proposed residential receptor through the use of measured and/ or calculated noise levels. The assessment methodology shall be first agreed in writing by the Local Planning Authority.

The noise assessment shall identify all necessary acoustic mitigation measures to protect both residential amenity and to ensure no adverse impacts to the operation of the Peel Hall Farm kennels. The mitigation measures shall consider the standards contained within BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings* and the WHO *Guidelines for community noise* or any other relevant guidance agreed by the Local Planning Authority.

39. Prior to the first occupation of any dwelling on a phase of development to which conditions 37 or 38 apply, a validation report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the inclusion of the acoustic mitigation measures approved for that phase under those conditions. The approved mitigation measures shall be retained and maintained in accordance with the manufacturer's instructions thereafter.
40. Prior to the commencement of construction on the site, an Acoustic Barrier Design and Method Statement (ABDMS) shall be submitted to and approved in writing by the Local Planning Authority. The ABDMS shall include:
 - a) The specification, design, appearance, height and route of the acoustic barrier. These shall take account of the location of the services infrastructure, watercourse and land ownership in the area to the south of the M62 Motorway. They shall also have regard to the full requirements of the *Design Manual for Roads and Bridges standard CG300 "Technical Approval of Highway Structures"*, including the requirement for technical approval by a competent, independent Technical Approval Authority appointed by the Appellant.
 - b) Comprehensive risk assessments relating to the existing services infrastructure.
 - c) The construction phasing of the acoustic barrier.
 - d) The way in which different sections will be effectively joined and how the edges of each section will be treated to ensure effective noise attenuation.
 - e) The arrangements for the long-term maintenance of the acoustic barrier.
 - f) The identification of any parts of the acoustic barrier that will replace the close boarded fence approved and erected by virtue of condition 27.

The acoustic barrier shall be constructed and maintained in accordance with the approved ABDMS and shall be retained for its intended purpose for the lifetime of the development.

41. Prior to the construction of the spine road on the eastern side of the site, a scheme for a noise barrier and associated landscaping to provide appropriate noise attenuation to the residential properties to the north shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include arrangements for the long-term maintenance of the noise barrier.

The noise barrier shall be constructed and the landscaping shall be carried out in accordance with the approved scheme before the commencement of the construction of the spine road. It shall thereafter be retained and maintained as approved for the lifetime of the development.

42. Any building plant or externally located equipment shall be acoustically insulated in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority prior to the commencement of its use. The scheme shall ensure that the rated noise level at the boundary of the nearest extant or proposed noise sensitive property will not increase above the existing background noise level in accordance with the BS4142:2014 *Guidance on sound insulation and noise reduction for buildings* methodology. Any mitigation measures proposed to attain this level shall be clearly identified.

The scheme shall be implemented as approved prior to the commencement of use of the plant or equipment and shall be retained and maintained in accordance with the manufacturer's instructions for the duration of the use.

43. No development shall take place on a particular phase until an Invasive Species Management Plan for the removal, control and long-term management of invasive plant species (if present on that phase) has been submitted to and approved in writing by the Local Planning Authority. In this context, invasive species means any invasive plant referred to under section 14 and Schedule 9 of the *Wildlife and Countryside Act 1981* (as amended). The Invasive Species Management Plan shall include:

- a) Measures to prevent the spread of invasive plant species during any operations, such as mowing, strimming or soil movement; and
- b) Measures to ensure that any soils brought onto the site are free of the seeds, root or stem of any invasive species.

Development of that phase shall take place thereafter in accordance with the Invasive Species Management Plan.

44. No development shall take place on a particular phase until a Demolition and Construction Environmental Management Plan (DCEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The DCEMP shall provide for:

- a) Mechanisms to ensure the ongoing integrity of the M62 motorway embankment with particular reference, including a Risk Assessment Method Statement, to site development earthworks and drainage alongside the M62;
- b) The location of site compounds and the identification of working space and extent of areas to be temporarily enclosed and secured during each phase of demolition and construction;
- c) Provision to be made for the loading and unloading of plant and materials within the site;
- d) Access points to and from the site for visitors, contractors and deliveries;
- e) Parking for contractors, site operatives and visitors;

- f) Areas on the site for the storage of materials, large vehicles and machinery;
- g) Hours of construction and deliveries to the site;
- h) Measures to protect surrounding properties from construction noise and vibration in accordance with the standards in BS5228: *Code of practice for noise and vibration control on construction and open sites. Noise*;
- i) Measures for controlling dust and maintaining air quality on site, including details of street sweeping, street cleansing and wheel washing facilities;
- j) Evidence of joining the Considerate Constructors Scheme for the lifetime of the construction period;
- k) Location of temporary internal roads and areas of hard standing along with directional signage within the site;
- l) Siting of temporary containers;
- m) Provision for the recycling and disposal of waste resulting from demolition and construction works;
- n) Measures to protect existing utility assets and infrastructure;
- o) Start and finish dates of construction;
- p) Details of security hoardings;
- q) Site contact details

The approved DCEMP shall be adhered to throughout the demolition and construction period of that phase.

45. No development shall take place (including demolition, ground works or vegetation clearance) until a Biodiversity Demolition and Construction Environmental Management Plan (Bio DCEMP) has been submitted to and approved in writing by the Local Planning Authority. The Bio DCEMP shall include:
- a) A risk assessment of potentially damaging construction activities;
 - b) The identification of biodiversity protection zones;
 - c) Practical measures, including both physical measures and sensitive working practices, to avoid or reduce impacts during construction. These may be provided as a set of method statements;
 - d) The location and timing of sensitive works to avoid harm to biodiversity features;
 - e) Provision to be made for the prior detailed inspection of any trees to be felled by a suitably qualified ecologist to establish the potential of those trees to support any bat roosts. Trees with the potential to support bat roosts shall be subject to a survey in accordance with Bat Conservation Trust guidelines. If bats are found to be using features in any tree for roosting purposes, a license shall be obtained from Natural England in order to comply with wildlife legislation

and the terms of the license complied with. Where potential roosting features are present but no evidence of roosting bats is found, the trees shall be felled under a Precautionary Working Method Statement, which shall be submitted to the Local Planning Authority for written approval prior to any works being undertaken. The tree felling shall be carried out in accordance with the approved Precautionary Working Method Statement;

- f) Confirmation that no tree felling, vegetation clearance work or other works that may affect nesting and breeding birds will be undertaken during breeding bird season (March to August, inclusive), unless the absence of nesting birds has been established by a breeding bird check undertaken by an experienced and qualified ecologist.
- g) Details of the times during demolition and construction periods when specialist ecologists may need to be present on site to oversee works.
- h) Details of the responsible person(s) and lines of communication to include an ecological clerk of works or similarly competent person.
- i) Details of the use of protective fences, exclusion barriers and warning signs.

The approved Bio DCEMP shall be adhered to throughout the demolition and construction period.

46. No development shall take place on a particular phase until a Landscape and Ecological Management Plan (LEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include:

- a) A description and evaluation of important landscape and habitat features to be retained, created and managed thereafter;
- b) Details of the aims and objectives of ongoing management, including ecological trends and constraints on the site that might influence management;
- c) A management work schedule, including an annual work plan capable of being rolled forward over a ten-year period. This shall demonstrate how the aims and objectives will be achieved, including details of ongoing monitoring and set out how remedial measures will be agreed and implemented if required;
- d) Details of the management body or organisation responsible for implementation of the LEMP, 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.

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

47. No equipment, machinery or materials shall be brought onto the site until measures to protect the retained trees and hedges on that phase are in place in accordance with a scheme to be first approved in writing by the Local Planning Authority. The protective measures, including tree protection fencing, shall be in

accordance with BS 5837:2012 *Trees in relation to Design, Demolition and Construction – Recommendations* (or replacement thereof).

Nothing shall be stored, disposed of, or placed, nor fires lit, in any area fenced in accordance with this condition. The ground levels within these areas shall not be driven across by vehicles, altered, nor any excavation made without prior written approval of the Local Planning Authority.

The protective measures shall be carried out as approved and shall remain in place during the construction period for the phase and until all equipment, machinery and surplus materials have been removed from the site.

48. A pre-works badger survey shall be undertaken by a suitably qualified ecologist no more than 3 months prior to the commencement of any works on a particular phase in order to establish use of that part of the site by badgers. If required, a license shall be obtained from Natural England and any mitigation shall be carried out in accordance with the terms of the license. Where a badger sett is present and no license is required, a precautionary working method statement shall be developed in order to protect the sett. This shall be submitted to and approved in writing by the Local Planning Authority before any works on that phase are commenced and the approved statement shall be adhered to thereafter.
49. No development shall take place (including demolition, ground works, vegetation clearance) until a scheme for offsetting biodiversity impacts to achieve net gain shall be submitted to and approved in writing by the Local Planning Authority. The proposed offsetting scheme shall:
- a) be based on prevailing DEFRA guidance;
 - b) comply with prevailing regulatory standards and policy requirements which are in force and applicable to this site;
 - c) include details of the offset requirements of the development in accordance with the current DEFRA biodiversity metric;
 - d) include the identification of a receptor site or sites;
 - e) include the evidence of arrangements with the relevant landowner that secures the delivery of the offsetting scheme;
 - f) include a management and monitoring plan (which shall include for the provision and maintenance of such offsetting measures);
 - g) Timetable for implementation.

The biodiversity offsetting measures shall be carried out in accordance with the approved scheme and timetable.

50. Prior to the first occupation or commencement of use of the foodstore, the public house/ family restaurant, the care home, the sports hub and the primary school (if it is to be provided on-site) a Servicing and Waste Management Strategy shall be implemented in accordance with details that have first been approved in writing by the Local Planning Authority.

The Servicing and Waste Management Strategy shall provide details of how servicing, storage, transfer and collection of goods and waste will be achieved to ensure that no layovers or waiting of heavy goods vehicles will occur on the public highway.

51. No development shall take place on a particular phase until a Lighting Design Strategy for that phase has been submitted to and approved in writing by the Local Planning Authority. The Lighting Design Strategy shall address potential impact on biodiversity and sensitive residential receptors and shall include:
- a) The identification of those areas of the site that are of particular importance to nocturnal animals, including bats. In particular this concerns breeding sites, resting places and important routes used to access key areas of territory and/or for foraging;
 - b) Details of the external lighting to be installed with appropriate lighting contour plans and technical specifications to demonstrate that nocturnal animals, including bats would not be adversely affected;
 - c) Details of the external lighting to be installed with appropriate lighting contour plans and technical specifications to demonstrate that there would be no adverse impacts on nearby residential uses either within the Peel Hall site or outside it.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved Lighting Design Strategy and shall be retained and maintained in accordance with the manufacturer's instructions thereafter.

52. No development (other than demolition and site clearance works) on a particular phase shall take place until the steps in Sections A and B below have been undertaken for that individual phase:

A: CHARACTERISATION: With specific consideration to human health, controlled waters and wider environmental factors, the following documents shall 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 Intrusive Site Investigation
- Detailed Quantitative Risk Assessment (DQRA)
- Remedial Options Appraisal

Completing a PRA is the minimum requirement. A DQRA should only be submitted if the 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 to and agreed in writing by the Local Planning Authority. This strategy shall ensure the site can be made suitable for the intended use and set out how any risks to identified receptors will be mitigated. This strategy should be derived from the Remedial Options Appraisal and shall detail the proposed remediation measures/objectives and how the proposed remedial measures will be verified.

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

53. Prior to the first occupation of a particular phase the requirements in Sections A-C below shall be undertaken for that phase:

A: REMEDIATION & VERIFICATION: Remediation (if required) and verification shall be carried out in accordance with the strategies approved under condition 52. Following completion of all remediation and verification measures, a Verification Report shall be submitted to and approved in writing by the Local Planning Authority.

B: REPORTING OF UNEXPECTED CONTAMINATION: All unexpected or previously unidentified contamination encountered during development works shall 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 strategy and verification strategy submitted to and agreed in writing by the Local Planning Authority. The strategies shall be carried out as approved.

C: LONG-TERM MONITORING & MAINTENANCE: If required in the agreed remediation or verification strategy, all monitoring and/or maintenance of remedial measures shall be carried out in accordance with the approved details.

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

End of conditions 1-53



Ministry of Housing, Communities & Local Government

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RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.